

TENTH EDITION

THE POLITICS OF CONGRESSIONAL ELECTIONS

GARY C. JACOBSON • JAMIE L. CARSON



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For Marty and Karen

For Tammy

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Preface



FOR THIS TENTH EDITION of *The Politics of Congressional Elections*, Gary Jacobson and Jamie Carson extend the ongoing analysis of congressional elections initiated with the first edition published back in 1983. This new edition includes

- Updated coverage through the 2018 elections, including analysis of key 2018 House races that contributed to changes in partisan control of the chamber
- Thorough examination of the increasing nationalization of electoral politics that has produced more president- and party-centered congressional elections and a striking decline in the incumbency advantage
- Expanded and updated analysis of campaign finance in light of record candidate spending and analysis of voter turnout, which was the highest for a midterm in more than a century
- Enhanced analysis of congressional elections data extending back to the pre–Civil War era

The tenth edition is also available in a full-color e-book, and instructors will have access to PowerPoints of all tables and figures.

Like the previous nine editions, this book is about congressional election politics, broadly understood. In writing it, Jacobson and Carson have kept in mind that elections are means, not ends in themselves. What happens during campaigns or on election days is, of course, fascinating and important, and the authors do not neglect congressional candidates, campaigns, and voters. But campaigns and elections are more than curious rituals only because they reflect deeper structural patterns and currents in

American political life and help determine how—and how well—we are governed. Part of the book is therefore devoted to tracing the connections between the electoral politics of Congress and other important political phenomena. Examining congressional election politics in this way inevitably raises fundamental questions about representation and responsibility, and these are the central normative concerns of the book. The intent here, then, is to offer a systematic account of what goes on in congressional elections and to show how electoral politics reflect and shape other basic components of the political system, with profound consequences for representative government.

Research on congressional elections continues to thrive, and it will quickly become clear to the reader how much the authors have learned from the work and ideas of other scholars. Information on congressional voters, candidates, and campaign finances becomes richer with each passing election as well. The indispensable American National Election Studies time series continues, but only for presidential election years. When the National Science Foundation declined to finance midterm election studies a decade ago, other academic research teams picked up the slack, most notably with the Cooperative Congressional Election Study, which now delivers data on samples large enough to support inferences about state and district electorates. Innovative large-scale data collections on campaign advertising and campaign contributors have now been added to the mix as well. These developments, along with the remarkable upheavals produced by the congressional elections of the early 1990s and the rapid shifts in party fortunes recorded between 2006 and 2018, continue to make thinking and writing about congressional elections an intellectual pleasure.

Jacobson remains deeply indebted to the many friends and colleagues who have guided and stimulated his thinking about congressional election politics. The genesis of this book was his work as a member of the Committee on Congressional Election Research of the Board of Overseers of National Election Studies, which designed the congressional component included in American National Election Studies since 1978. Everyone he worked with on the committee contributed to it in some way: Alan Abramowitz, David Brady, Heinz Eulau, Richard Fenno, John Ferejohn, Morris Fiorina, Barbara Hinckley, Malcolm Jewell, Jack Katosh, James Kuklinski, Thomas Mann, David Mayhew, Warren Miller, Glenn Parker, Barbara Sinclair, Michael Traugott, Raymond Wolfinger, and Gerald Wright.

Subsequently, continuing association with the National Election Studies Board helped keep him in touch with other scholars who contributed in various ways to his understanding of congressional elections and politics: Larry Barrels, Richard Brody, Stanley Feldman, William

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Jacobson is also grateful to past and present colleagues at the University of California, San Diego, for providing an environment wonderfully conducive to scholarly work. Samuel Kernell read and commented on several chapters and has shared some of the research reported in the book. Jacobson also enjoyed instructive and stimulating conversations with Nathaniel Beck, Amy Bridges, Peter Cowhey, Gary Cox, Scott Desposato, Elizabeth Gerber, Seth Hill, Thad Kousser, Richard Kronick, David Laitin, Skip Lupia, Mathew McCubbins, John Mendeloff, Keith Poole, and Samuel Popkin. Mo Fiorina, Herbert Jacob, Burdett Loomis, Tom Mann, and Steve Rosenstone read the entire manuscript of the first edition, and their service continues to register down the years. Jon Bond, Garrett Glasgow, Franco Mattei, Timothy Nokken, Lynda Powell, Priscilla Southwell, Michael Tofias, Darrell West, and many anonymous scholars reviewed previous editions; this new one benefited from the reviews of John Bertalan, Matthew Childers, Jason MacDonald, David W. Romero, and Wayne Steger. The book is better for their suggestions and probably the worse for the authors' not having heeded more of them.

Jacobson is obliged to Denise Gimlin, Edward Lazarus, Del Powell, and David Wilsford for helping gather some of the data analyzed in chapter 6. Greg Bovitz, Mike Dimock, Tommy Kim, and Jeff Lazarus helped with earlier revisions in various important ways (whether they know it or not). He is grateful, too, to colleagues who have generously shared data with him: James E. Campbell, George W. Edwards III, Michael Malbin, Nolan McCarty, Norman J. Ornstein, Keith T. Poole, and Howard Rosenthal.

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the original collectors of the data nor the consortium bear any responsibility for the analyses and interpretations presented here, and the same, of course, holds for anyone else the authors have mentioned.

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Finally, Jacobson and Carson want to thank the folks at Rowman & Littlefield—Traci Crowell and Deni Remsberg—for their assistance in pulling together the tenth edition of this book. They have been great to work with, and we appreciate their ideas and inspiration along the way.

About the Authors



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1

Introduction



ELECTIONS STAND AT THE CORE of American political life. They provide ritual expression of the myth that makes political authority legitimate: we are governed, albeit indirectly, by our own consent. Elections are also the focus of thoroughly practical politics. They determine who will hold positions of real power in the political system and, by establishing a framework in which power is pursued, profoundly affect the behavior of people holding or seeking power. The mythical and practical components of elections meet at the point where electoral constraints are supposed to make leaders responsive and responsible to the public. How comfortably they fit together has deep consequences for the entire political system. Almost any important development in American political life will be intertwined with the electoral process.

Congressional elections in particular are intimately linked to many basic phenomena of American politics. In countless ways, obvious and subtle, they affect the performance of Congress and, through it, the entire government. At the same time, they reflect the changing political landscape, revealing as well as shaping its fundamental contours.

The basic questions to be asked about congressional elections are straightforward: Who gets elected to Congress and how? Why do people vote the way they do in congressional elections? How do electoral politics affect the way Congress works and the kinds of policies it produces? What kind of representation do congressional elections really provide? Every answer has further implications for the workings of American politics, and we must trace many of these out in order to grasp the deeper role of congressional elections in the political process.

This book aims to explain what goes on in congressional elections and to provide an understanding of how they connect in myriad

ways with other aspects of American political life. It also has a more pointed intention: to use a careful examination of the complex, multifaceted business of electing Congress to help elucidate why politicians in Washington find it so difficult to fashion measured solutions to pressing national problems.

A central theme in earlier editions of this book was that Congress's institutional performance suffered from an electoral process that gave senators and representatives every reason to be individually responsive but little reason to be collectively responsible. Since the third edition was published, the chickens of collective irresponsibility have come home to roost. First, the 1992 elections brought the highest turnover of House seats in fifty years. Then the 1994 elections put Republicans in control of both houses of Congress for the first time in forty years. Republicans maintained power by narrow margins (though losing the Senate for a time in the 107th Congress because of a party switcher) until the 2006 election, when public dissatisfaction with the Republican regime put Democrats back in control. The brief period of unified government after the 2008 election ended dramatically in 2010, when unhappiness with a Democratic president and Congress gave Republicans their largest House majority since 1946. That majority became even larger after 2014, when Republicans also regained control of the Senate. Despite winning the presidency in 2016, Republicans lost seats in both the House and Senate, but not enough to create divided government. Following the referendum on President Trump in 2018, Democrats gained control of the House while Republicans shored up control of the Senate.

Meanwhile, party loyalty and ideological polarization in Congress have grown apace, and imposing collective responsibility on its members has become far more feasible. But the consequence of stronger, more unified parties has been not responsible party government but rather legislative stalemate and partisan gridlock. These developments have raised many new questions and opened many new possibilities for analysis, and we spend a good deal of time in this edition examining their electoral bases.

Congressional elections are complex, multifaceted events. This is evident in the number of different perspectives from which we can examine congressional elections. Consider the alternative ways to answer the question "How's the congressional election going?" A candidate or campaign manager would immediately begin talking about what was going on in the district or state, who was ahead, what groups were supporting which candidate, how much money was coming in, what issues were emerging, what the campaign ads were saying, and so on. A national party leader—the president, for example—would respond in terms of how many seats the party might gain or lose in the House and Senate and what that might

mean for the administration's programs. A private citizen might grumble about the hot air, mudslinging, and general perfidy of politicians—or be scarcely aware that an election was taking place.

Similarly, political scientists and other people who study congressional elections do so from a variety of research orientations. Some study voters: Why do people vote the way they do? Why do they vote at all? Others study candidates and campaigns: Who runs for Congress and why? What goes on in campaigns? How is money raised and spent—and what difference does it make? How do national parties and independent spending groups affect campaigns? Or they explore the aggregate results of congressional elections: What accounts for the changes in the distribution of House and Senate seats between the two parties? Still others are interested in representation: How are the performance of Congress as an institution and the activities of its members connected with what goes on in elections? These and other questions deserve individual attention. But it is no less essential to understand how they all interrelate.

People involved in congressional elections are at least implicitly aware of the connections between the different levels of analysis. Voters were once interested primarily in the candidates and campaigns in their state or district, but many are now conscious of the broader political context and may, for example, adapt their congressional voting decision to their feelings about presidential candidates or presidents. Presidents worried about the overall makeup of the Congress are by no means indifferent to individual races and sometimes involve themselves in local campaigns. Candidates and other congressional activists are mindful of national as well as local political conditions that they believe influence election outcomes, and of course they spend a great deal of time trying to figure out how to appeal effectively to individual voters.

Scholars, too, are fully aware that, although research strategies dictate that the congressional election terrain be subdivided into workable plots, no aspect of congressional elections can be understood in isolation. It is essential to integrate various streams of investigation to obtain a clear account of what is going on. This is no simple task. One difficulty is quite familiar to students of the social sciences: how to connect the accounts of individual behavior to large-scale social phenomena. The problem is one of coordinating the micro- and macro-level accounts of political behavior (there are middle levels, too, of course). But it turns out to be a most fruitful problem. Its solution is a rich source of insight into congressional election processes and their consequences.

This book examines congressional elections from several perspectives while attending throughout to the interconnections among them. Chapter 2 sets out the legal and institutional context in which congressional elections take place. This formal context is easily taken for granted and overlooked,

but it is, on reflection, fundamental. The very existence of congressional elections depends on this structure, which shapes them in a great many important ways. Chapter 2 also surveys briefly the rich variety of social, economic, and ethnic mixes found among states and congressional districts, for this diversity underlies many distinctive aspects of congressional election politics.

Chapters 3 and 4 examine, respectively, congressional candidates and campaigns. The pervasive if variable and, at present, declining effects of incumbency inject a theme common to both of these chapters. The resources, strategies, and tactics of candidates vary sharply, depending on whether a candidate is an incumbent, a challenger to an incumbent, or running for an open seat where neither candidate is an incumbent. They also differ between House and Senate candidates in each of these categories. These chapters explore the strategies of candidates in different electoral situations and the consequences of diverse strategies, as well as the influences of campaign money, organization, campaign activities and tactics, the national parties, outside advocacy groups, and the local political context. Campaigns both reflect and work to reinforce candidates' assumptions about the electorate, and they are also closely linked to the behavior in office of those elected.

Chapter 5 deals with voting in congressional elections. Information about who votes and what influences the voting decision is valuable in its own right, but such knowledge is even more important as a means of understanding what congressional elections mean—what they can and cannot accomplish. The way voters react is tied closely to the behavior of candidates and the design and operation of campaigns—and to what members of Congress do in office.

Chapter 6 examines congressional elections as aggregate phenomena. When all the individual contests are summed up over an election year, the collective outcome determines which party controls each chamber and with how large a majority. It also strongly influences the kinds of national policies that emerge; it is at this level that the American people impose, or fail to impose, collective responsibility on their national legislature. Congressional elections clearly respond to aggregate political conditions. But aggregate outcomes are no more than the summation of individual voting decisions in the districts to election results across all districts. The path that leads from aggregate political conditions to individual voting decisions to aggregate congressional election outcomes is surprisingly complicated; candidates' strategies turn out to provide a critical connecting link. Reviews of each biennial election from 1992 through 2018 illustrate the points in this chapter.

Finally, of course, congressional elections are important for how they influence the behavior of elected leaders and therefore the success

or failure of politics. In fact, the knowledge that they are elected officials is the key to understanding why members of Congress do what they do in office. It matters not only that they are elected but how. How candidates mount campaigns and how voters choose between them has a crucial effect on what members of Congress do with their time and other resources and with the quality, quantity, and direction of their legislative work. Electoral necessities enhance or restrict in predictable ways the influence of individuals, groups, parties, congressional leaders, and presidents. And all these things affect the performance of Congress as a policy-making institution. Chapter 7 argues these points and also explores the electoral basis of the record levels of partisan polarization observable in both chambers, considers proposed congressional reform, and speculates about the elections of 2020 and beyond.

2

The Context



SINCE THE EARLY 1990S, the growing influence of national partisan forces has challenged the ascendant importance of individual candidates and campaigns that characterized the electoral politics of Congress from the 1960s through the 1980s. Elections during the last decade have, as we shall see, set new records for partisan electoral coherence across states, districts, and federal offices. Nonetheless, congressional campaigns themselves continue to be largely candidate- rather than party-focused affairs. Even as national forces have come to exert a powerful influence on the results, their effects continue to vary according to how they are exploited locally. National party organizations have greatly expanded their efforts to recruit and finance candidates, but their ability to produce victories still depends to an important extent on the decisions of politicians operating as individual political entrepreneurs. Despite the strong financial support that the most promising congressional aspirants can now expect from national parties and independent organizations, individual candidates still absorb the balance of the risks, pains, and rewards of mounting a campaign. Most instigate their own candidacies, raise the bulk of their own resources (at least the crucial early money that signals a viable candidacy), and put together their own campaign organizations. Their skills, resources, and strategies continue to have an important effect on election outcomes. Although voters exhibit growing partisan loyalty, ideological consistency, and attentiveness to national issues and leaders, their assessments of the particular candidates running in their states and districts continue to strongly influence their decisions.

This chapter reviews some of the features of American electoral institutions that encouraged and facilitated candidate-centered electoral politics during the twentieth century and continue to contribute an

irreducible local component to congressional elections, even in an era of strongly partisan and nationalized electoral politics. It examines the constitutional, legal, and political contexts in which elections take place—for these are fundamental sources of the electoral habits and practices that characterize the uniquely American process for electing a national legislature, and it cannot be understood apart from them.

THE CONSTITUTIONAL FRAMEWORK

Whether to have an elected legislature was never a question during the Constitutional Convention that met in Philadelphia in 1787. The influence of British parliamentary tradition and colonial experience was decisive—all thirteen colonies had legislatures with at least one popularly elected house. Beyond question, the new government would have one. But not much else about it was certain. Delegates disagreed about how the legislative branch would be organized, what its powers would be, and how its members would be selected.

The matter of selection involved several important issues. The most crucial was the basis of representation: How were seats in the legislature to be apportioned? Delegates from large states naturally preferred representation according to population; otherwise, their constituents would be underrepresented. Those from smaller states were convinced that their interests would be in jeopardy if only numbers counted, so they proposed equal representation for each state. The controversy coincided with another unsettled and unsettling issue: Was the government to be a national one representing a national citizenry or a federal one representing sovereign states?¹

A quintessential political deal resolved the conflict. General sentiment strongly favored a bicameral legislature,² and this made a solution easier. Each side got what it wanted. Seats in one chamber, the House of Representatives, would be apportioned by population; each state's representation would be determined by its share of the population as measured in a decennial census (Article I, Section 2 of the U.S. Constitution). In the other chamber, the Senate, states would enjoy equal representation, each choosing two senators (Article I, Section 3).

This “great compromise,” as it has been called, opened the way for resolving another dispute. At issue was the extent of popular participation in electing officials in the new government. Most delegates were skeptical of democracy as they conceived it, but to varying degrees. A bicameral legislature allowed different levels of popular involvement in

¹See James Madison, Alexander Hamilton, and John Jay, *The Federalist*, ed. Edward Meade Earle (New York: Modern Library, 1937), nos. 37 and 39.

²Ten of the thirteen colonies and, of course, Britain had bicameral legislatures.

choosing members of Congress. Representatives were to be “popularly”³ chosen in frequent elections. Biennial elections were the compromise choice between the annual elections proposed by many delegates and the three-year term advocated by James Madison.⁴ Broad suffrage and short terms were meant to ensure that one branch of government, the House, remained as close as possible to the people.

The framers designed the Senate, in contrast, to be much more insulated from momentary shifts in the public mood. They set the term of office at six years (another compromise, as terms of three, four, five, six, seven, and nine years had been proposed).⁵ Election of one-third of the Senate’s membership every two years enhanced continuity. Furthermore, state legislatures rather than voters chose the senators. The Senate could thus act as a stable and dispassionate counterweight to the more popular and radical House, protecting the new government from the volatility thought to be characteristic of democracies. Its structure could also embody the elements of state sovereignty that remained.⁶

The opposition to popular democracy embodied in the indirect election of senators diminished during the nineteenth century. Restrictions on suffrage were gradually lifted, and more and more offices came to be filled by popular election. The Civil War effectively settled the issue of national sovereignty. By the beginning of the twentieth century, most Americans had come to view the constitutional method of choosing senators as undemocratic and corrupt; the Seventeenth Amendment (ratified in 1913) replaced it with popular election. Members of both houses of Congress are now chosen in elections in which nearly every citizen eighteen years and older is eligible to vote.⁷

CONGRESSIONAL DISTRICTS

The Constitution itself apportioned seats among states for the first Congress (Article I, Section 3). Following the initial census in 1790, membership of the House was set at 105, with each state given one seat for every thirty-three thousand inhabitants. From that point on, until 1911, the

³The Constitution specifies, “Electors in each State shall have the Qualifications requisite for the Electors of the most numerous Branch of the State Legislature” (art. 1, § 2). Property and other qualifications were, in fact, common in the early years of the nation; universal suffrage was a long time in arriving.

⁴*Electing Congress* (Washington, DC: Congressional Quarterly Press, 1978), 135.

⁵*Electing Congress*, 135.

⁶Madison, Hamilton, and Jay, *The Federalist*, No. 62.

⁷The exceptions are people in penal and other institutions and, in many states, former felons. Senate seats vacated because of retirement, death, or resignation before the end of the term may be filled by special gubernatorial appointment until the next regular general election; vacated House seats are filled by special elections.

House grew as the population increased and new states joined the nation. Congress added seats after each decennial census to limit the politically painful reductions in representation faced by states suffering unfavorable population shifts. Eventually, however, its leaders concluded that further growth could seriously impair the House's efficiency. Membership was set at 435 after the 1910 census, and there developed a strong opposition to any further increase.

A crisis thus arrived with the 1920 census results. Large population shifts between 1910 and 1920 and a fixed House membership would mean that many states—and members of Congress—would lose seats. Adding to the turmoil was the census's revelation that, for the first time, a majority of Americans lived in urban rather than rural areas. Reapportionment was certain to increase the political weight of city dwellers and reduce that of farmers. The result was an acrimonious stalemate that was not resolved until 1929, with passage of a law establishing a permanent system for reapportioning the 435 House seats after each census; it would be carried out, if necessary, without additional legislation.⁸

The new system took effect after the 1930 census. Because twenty years had passed since the last apportionment, unusually large shifts occurred, with twenty-seven seats redistributed from slower to faster growing states; the big winner was California, which went from eleven to twenty districts. Subsequent shifts have not been so dramatic, but the beginning of each decade still ushers in a period of heightened uncertainty and anxiety among congressional incumbents.

This anxiety is not misplaced. In 2002, redistricting gave thirty-six members the choice of retiring or facing another incumbent in the primary or general election. Some retired; eight ended up losing contests to other incumbents. The 2012 election produced a similar upheaval, with about forty members forced out by redistricting, including fourteen who lost to other incumbents.⁹ As in past decades, the new distribution of House seats following the 2010 census reflected population shifts since the previous census, redistributing power among states and regions. States in the East and Midwest lost a total of eleven seats to states in the South and West. Texas gained four seats; Florida gained two; and Arizona, Georgia, Nevada, South Carolina, Utah, and Washington gained one each. Ohio and New York lost two seats each, and Illinois, Iowa, Massachusetts, Michigan, Missouri, New Jersey, and Pennsylvania each lost one seat.

⁸*Congressional Quarterly's Guide to U.S. Elections* (Washington, DC: Congressional Quarterly Press, 1976), 530–34.

⁹Sundeeep Iyer, "Redistricting and Congressional Control Following the 2012 Election," Brennan Center for Justice, November 28, 2012, <http://www.brennancenter.org/analysis/redistricting-and-congressional-control-following-2012-election>, accessed February 18, 2015.

Louisiana also lost a seat—a consequence of outward migration following Hurricane Katrina in 2005. [Table 2.1](#) displays the distribution of House seats for 2012 to 2020 resulting from these changes.

At first, federal law fixed only the number of representatives each state could elect; other important aspects of districting were left to the states. Until 1842, single-member districts were not required by law, and a number of states used multimember or at-large districts. Thereafter, apportionment legislation usually required that states establish contiguous single-member districts, and in some years it required that they be of roughly equal populations and even “compact” in shape. Such requirements were never (when ignored by mapmakers) successfully enforced. Single-member districts became the overwhelming norm by the 1870s, but districts composed of “contiguous and compact territory . . . containing

Table 2.1 The Apportionment of House Seats after the 2010 Census

State	2010 Seats	Change from 2000	State	2010 Seats	Change from 2000
California	53	0	Louisiana	6	–1
Texas	36	4	Connecticut	5	0
Florida	27	2	Oklahoma	5	0
New York	27	–2	Oregon	5	0
Illinois	18	–1	Arkansas	4	0
Pennsylvania	18	–1	Iowa	4	–1
Ohio	16	–2	Kansas	4	0
Georgia	14	1	Mississippi	4	0
Michigan	14	–1	Nevada	4	1
North Carolina	13	0	Utah	4	1
New Jersey	12	–1	Nebraska	3	0
Virginia	11	0	New Mexico	3	0
Washington	10	1	West Virginia	3	0
Arizona	9	1	Hawaii	2	0
Indiana	9	0	Idaho	2	0
Massachusetts	9	–1	Maine	2	0
Tennessee	9	0	New Hampshire	2	0
Maryland	8	0	Rhode Island	2	0
Minnesota	8	0	Alaska	1	0
Missouri	8	–1	Delaware	1	0
Wisconsin	8	0	Montana	1	0
Alabama	7	0	North Dakota	1	0
Colorado	7	0	South Dakota	1	0
South Carolina	7	1	Vermont	1	0
Kentucky	6	0	Wyoming	1	0

Source: U.S. Bureau of the Census, http://www.census.gov/population/apportionment/data/2010_apportionment_results.html.

as nearly as practicable an equal number of inhabitants,” in the words of the 1901 Reapportionment Act, did not.¹⁰

Many states continued to draw districts with widely differing populations. In 1930, for example, New York’s largest district (766,425) contained nearly nine times as many people as its smallest (90,671). As recently as 1962, the most populous district in Michigan (802,994) had 4.5 times the inhabitants of its least populous (177,431).¹¹ Rural populations were usually overrepresented at the expense of people living in cities and suburbs. The Supreme Court’s 1964 ruling in *Wesberry v. Sanders*,¹² however, applied the principle of one person, one vote to congressional districts, and since then malapportioned districts have, under the watchful eye of the courts, become extinct. Surprisingly, however, the question of which persons should count for redistricting purposes remained unresolved until recently. Conservative activists—who want only eligible voters, not the entire population, to be included in the calculations—have challenged the common use of whole populations for years. They aim to produce a larger share of Republican-dominated districts by eliminating noncitizens, most of them Latino, from the count. After years of avoiding the issue, the Supreme Court took up the question and in 2016 decided unanimously that the entire population was to be counted.¹³ In 2018, the Trump administration took another crack at diminishing the political strength of regions with an abundance of noncitizens by proposing that the 2020 census ask about individuals’ citizenship status, a step that would lead many of the ten million or so undocumented U.S. residents to avoid the census and thus be left out of the count. In late June of 2019, the Supreme Court halted the move toward including a question about citizenship on the 2020 census on the ground that the administration’s justification for doing so had been disingenuous; a firm deadline for printing the census forms left no time for another justification to be prepared and reviewed in court, compelling the administration to abandon the effort.

Partisan Gerrymandering

The requirement of equal district populations encouraged another old political custom: gerrymandering. District boundaries are not politically neutral. Parties controlling state governments are naturally tempted to draw district lines to maximize the number of seats they can win, given the number and distribution of their usual voters. The idea is to concentrate the opposing party’s voters in a small number of districts that it can win by wide margins, thus “wasting” many of its votes, and to create as many districts as possible where the controlling party has a secure, though not

¹⁰*Congressional Quarterly’s Guide to U.S. Elections*, 528.

¹¹*Congressional Quarterly’s Guide to U.S. Elections*, 528.

¹²376 U.S. 1 (1964).

¹³*Evenwel v. Abbott*, 578 U.S. ____ (2016).

overwhelming, majority.¹⁴ Forced by the Court's strict standard of equality to ignore community boundaries in drawing districts, legislators are freer to pursue naked partisan advantage. Modern computer technology allows precise integration of partisan with egalitarian objectives.

Partisan gerrymanders are easier to calculate than to carry out, however. Arrangements that might add to a party's share of seats often conflict with other political necessities, particularly the protection of incumbents unwilling to increase their own electoral risks to improve their party's collective welfare.¹⁵ Voters more attuned to candidates than to parties have sometimes frustrated partisan schemes.¹⁶ But given the opportunity, state legislators routinely try to draw lines favoring their party's House candidates—and they often succeed. The redistricting activity that followed the 2010 census offers an example of how effective partisan gerrymandering can be.

The Republicans' sweeping national victory in 2010 provided ample opportunities for subsequent gerrymandering. They controlled the redistricting process in eighteen states, with a total of 202 House seats, including nine states in which the allocation of seats changed (four lost seats; five gained seats). Democrats controlled the process in only six states, with a total of forty-seven seats; only two had a change in seat allocation. (In twelve of the remaining states, the parties shared control; seven were redistricted by commissions, and seven were single-district states.) Republicans exploited this opportunity to shore up some of their marginal districts, adding Republican voters where their seats were most vulnerable.¹⁷ This is clear from an analysis of Charlie Cook's Partisan Voting Index (PVI), computed for 2012 as the difference between the average district-level presidential vote in 2004 and 2008 and the national presidential vote averages for these elections.¹⁸ For example, with the national average of the Democratic presidential vote in these two elections at 51.2 percent, a district in which the average was 54.2 percent would have a PVI of +3, whereas a district in which the average was 48.2 percent would have a PVI of −3.

As the data in [table 2.2](#) reveal, the Republicans already enjoyed a major advantage by this measure before the 2012 redistricting, with 210

¹⁴Bruce E. Cain, *The Reapportionment Puzzle* (Berkeley: University of California Press, 1984), 148–50.

¹⁵Cain, *Reapportionment*, 151–57.

¹⁶Richard Born, "Partisan Intentions and Election Day Realities in the Congressional Redistricting Process," *American Political Science Review* 79 (1985): 317.

¹⁷Jamie L. Carson, Michael H. Crespín, and Ryan D. Williamson, "Re-evaluating the Effects of Redistricting on Electoral Competition, 1972–2012," *State Politics & Policy Quarterly* 14 (2014): 162–74.

¹⁸David Wasserman, "Introducing the 2012 Cook Political Report Partisan Vote Index," *Cook Political Report*, October 11, 2012, <http://cookpolitical.com/house/pvi>, accessed October 15, 2012.

Table 2.2 Control of Redistricting and Changes in the District Partisan Balance, 2010–2012

Control of Redistricting		District Partisan Advantage (from Cook PVI)		
		Democrat >2	Balanced	Republican >2
All districts	2010	175	50	210
	2012	170	44	221
	Change	–5	–6	+11
Republican control	2010	51	24	123
	2012	50	13	139
	Change	–1	–11	+16
Other control	2010	124	26	87
	2012	120	31	82
	Change	–4	+5	–5

Source: David Wasserman, “Introducing the 2012 Cook Political Report Partisan Vote Index,” *Cook Political Report*, October 11, 2012, <http://cookpolitical.com/house/pvi> (accessed October 15, 2012).

Republican-leaning districts (defined here as having a PVI less than –2), compared with 175 Democratic-leaning districts (PVI greater than 2); the remaining fifty districts were balanced with PVIs between –2 and +2. After redistricting, there were eleven more Republican-leaning districts, five fewer Democratic-leaning districts, and six fewer balanced districts. This result was obviously intended; where Republicans controlled redistricting, the party gained sixteen favorable districts, the Democrats lost one, and balanced districts were reduced by eleven. Where Republicans did not control the process, both parties lost a few favorable districts, and the number of balanced districts increased by five.¹⁹

Once the votes were counted, House election results matched district leanings as measured by the PVI with great consistency (table 2.3). Only ten Democrats won Republican-leaning districts in 2012, and not a single Republican won in a Democratic-leaning district. The balanced districts were divided almost evenly. Not much changed in 2014, despite a fairly strong pro-Republican national trend, with Republicans gaining only four seats in Democratic-leaning districts while reducing the number of Democrats in Republican-leaning districts by a like number and picking up five of the balanced districts.²⁰ Even fewer candidates won against the partisan grain in 2016 (two Republicans and three Democrats).

¹⁹Democrats enjoyed favorable redistricting in Illinois (controlled by Democrats) and in California and Arizona (done by commissions), or they would have been in even worse shape under the new configurations.

²⁰Note that the PVI is updated every four years to include only the two most recent presidential elections: 2014 and 2016 include the 2008 and 2012 presidential votes; 2018 includes the 2012 and 2016 presidential votes.

Table 2.3 District Partisanship and House Election Results, 2012–2018

Cook PVI Advantage	Won by Democrat	Won by Republican	Number of Districts
2012			
Democrat >2	170	0	170
Republican >2	10	211	221
Balanced	21	23	44
Total	201	234	435
2014			
Democrat >2	166	4	170
Republican >2	6	215	221
Balanced	16	28	44
Total	188	247	435
2016			
Democrat >2	178	2	180
Republican >2	3	210	213
Balanced	13	29	42
Total	194	241	435
2018			
Democrat >2	178	1	179
Republican >2	21	196	217
Balanced	36	3	39
Total	235	200	435

Note: The Cook PVI Advantage is described in the text; it is based on the 2004 and 2008 presidential votes for 2012, on the 2008 and 2012 votes in 2014 and 2016, and on the 2012 and 2016 votes in 2018. The 2018 configuration differs slightly from 2016 because of a state court-ordered redistricting of Pennsylvania between the elections.

Source: Compiled by the authors.

The Democrats' largest gains in amidst the pro-Democratic wave in 2018—they won a national vote share of 54.4 percent, up from 49.4 percent in 2016 and 47.5 percent in 2014—came in the balanced districts, but they also succeeded in winning twenty-one of the Republican-leaning districts. They might have done even better if the Republican gerrymanders had not proven so effective in several states. In Ohio, the Democrats' share of House votes cast rose from 40 percent to 48 percent between 2014 and 2018, but they still won only the same four of the state's sixteen seats; in North Carolina, their vote share rose from 44 percent to 49 percent, but their seat share remained unchanged at three of thirteen; in Wisconsin, the Democratic vote rose from 47 percent to 54 percent without reducing the Republicans' 5–3 seat advantage.²¹

²¹The North Carolina gerrymander was declared unconstitutional, but it was too late to redraw the districts for 2018; a different map will be in place in 2020.

In Pennsylvania, by contrast, after the state supreme court determined that the Republican gerrymander had violated the state constitution and compelled new districts to be drawn, the Democrats ended up winning nine of the state's eighteen seats, up from four in 2014, as their vote share rose from 44 percent to 55 percent.

Partisan gerrymanders were litigated for several decades before the Supreme Court finally determined in 2019 that “partisan gerrymandering claims present political questions beyond the reach of the federal courts.”²² An earlier Court had declared in 1986 (*Davis v. Bandemer*²³) that a sufficiently egregious partisan gerrymander could be unconstitutional, but it set no standard for determining what would qualify. In 2004, the Court rejected a challenge to the 2002 Republican gerrymander in Pennsylvania in a 5–4 decision (*Vieth v. Jubelirer*²⁴), with four justices concluding that partisan gerrymandering could never be subject to court challenge on the grounds that no coherent standard could be drawn to establish its constitutional limits. A fifth, Justice Anthony Kennedy, left open the possibility of finding a standard while rejecting the challenge in the Pennsylvania case. Each of the four dissenters proposed a different set of criteria, underlining the problem that led the first four to throw up their hands. With Kennedy's departure and replacement by Brent Kavanaugh in 2019, the dissenting view became the opinion of the Court. Free of federal court supervision, the states' partisan configurations and redistricting procedures will determine the extent of partisan gerrymandering after the 2020 census.

Redistricting between Censuses

The issue of partisan gerrymandering arose in another guise when Colorado's Republican government, newly elected in 2002, redrew the state's new court-imposed House districts to make two formerly competitive seats safely Republican, aiming to solidify the party's 5–2 majority in the delegation. However, the state's supreme court voided the move on the grounds that the Colorado constitution specified that redistricting take place only once every decade.

Texas Republicans were more successful. They won full control of the Texas state government in the 2002 elections and, at the behest of House Majority Leader Tom DeLay, proposed new district lines that would thoroughly dismantle several House Democrats' districts. The effect would be to give these Democrats largely unfamiliar, more conservative constituencies; to force them to move by placing them in districts with other

²²*Rucho v. Common Cause*, No. 18-422, 588 U.S. (2019).

²³478 U.S. 109 (1986)

²⁴541 U.S. 267 (2004).

Democratic incumbents; or, in two cases, to pit them against incumbent Republicans in new, overwhelmingly Republican districts. With nothing in federal or Texas law standing in the Republicans' way, Democrats in the state legislature twice tried to thwart the remap by fleeing the state en masse (once to Oklahoma, once to New Mexico) to prevent action by denying legislative quorums while avoiding arrest under a Texas statute aimed at preventing just this tactic.²⁵ It took five months and two special legislative sessions before the Democrats capitulated.

The Texas lawmakers did not overestimate the stakes. Prior to the 2003 redistricting, Republicans held fifteen of Texas's thirty-two House seats. After enactment of the new map, one House Democrat (Ralph T. Hall) defected to the Republican Party, another retired, another was defeated in a primary, and four lost in the general election. Only one targeted Democrat, Chet Edwards, managed to survive; he dodged defeat until 2010. After the 2004 election, Republicans held twenty-one of Texas's seats, a gain of six. The Texas gerrymander survived U.S. Supreme Court review in 2006 (*League of United Latin American Citizens v. Perry*²⁶); the Court ruled that states were free to redistrict as often as they liked, but it did require Texas to adjust several district boundaries because one district was found to discriminate against Latinos in violation of the Voting Rights Act. Substantively, the new Texas map could hardly be tagged unfair, for it actually reversed a court-drawn plan that had amounted to a pro-Democratic gerrymander; in 2002, Democrats had won 53 percent of the Texas seats with 45 percent of the vote in a state where Al Gore had won 41 percent in 2000.

In redrawing new gerrymandered districts between censuses, Texas was actually reviving a practice once common in many states. For example, Ohio redrew its district map seven times between 1878 and 1892 as control of its government switched back and forth between the parties.²⁷ This practice coincided with a period, not unlike the present, of heated partisan competition for control of Congress. But obstacles, such as the state constitutional barrier that thwarted the new Colorado gerrymander, make widespread imitation of Texas's example unlikely.

Racial Gerrymandering

In a 1986 decision (*Thornburg v. Gingles*²⁸), the Supreme Court construed the Voting Rights Act to require that legislative district lines not

²⁵DeLay sought help from federal agencies to track the missing Democrats, a move that earned him a formal admonishment from the House Ethics Committee.

²⁶548 U.S. 399 (2006).

²⁷Erik J. Engstrom and Samuel Kernell, "Manufactured Responsiveness: The Impact of State Electoral Laws on Unified Party Control of the Presidency and House of Representatives, 1840–1940," *American Journal of Political Science* 49 (July 2005): 535–37.

²⁸478 U.S. 30 (1976).

discriminate, even unintentionally, against racial minorities. The decision was widely interpreted as requiring mapmakers to design districts in which racial or ethnic minorities comprised a majority of voters wherever residence patterns made this feasible. Assiduous pursuit of this goal, backed by modern computer technology, produced some of the strangest-looking districts on record.

Gerrymandering often produces bizarrely shaped districts; the term itself comes from a cartoon depicting an odd, salamander-like creature suggested by a district drawn under the administration of Elbridge Gerry, an early governor of Massachusetts. Perhaps the most audacious modern example of partisan gerrymandering was Philip Burton's redrawing of the 6th District of California for his brother, John (who surprised everyone by retiring from Congress before he could enjoy it). The district comprised three sections connected only by the waters of San Francisco Bay; just a narrow strip of land underlying some railroad yards linked two parts of one section.

Racial gerrymandering after 1990 inspired some equally creative artwork; the 12th District of North Carolina, for example, stitched together African American communities in several of the state's larger cities, using Interstate 85 (northbound lanes in one county, southbound lanes in another) as the thread. Racial gerrymandering was typically far more effective than partisan gerrymandering: the 1992 elections raised African American representation in the House from twenty-five to thirty-eight and Hispanic representation from ten to seventeen. In 1993, however, a more conservative Court ruled (in *Shaw v. Reno*²⁹) that bizarrely shaped districts designed to concentrate minority voters might violate the constitutional rights of white voters. The Court went further in 1995 (*Miller v. Johnson*³⁰), striking down Georgia's districting on the grounds that any mapping in which race was the "predominant factor" violated the Constitution's guarantee of equal protection.³¹ Subsequent court decisions forced the modification of racially gerrymandered districts in Florida, Georgia, Louisiana, New York, Texas, and Virginia, but every minority incumbent running in a redrawn district won. The only casualty was Cleo Fields, who did not seek reelection after his Louisiana district fell from 55 to 28 percent black.³²

Shaw v. Reno did not overturn *Thornburg v. Gingles*, and the Court decreed in *Hunt v. Cromartie*³³ that race could be considered in drawing districts if the primary motive was to achieve a partisan rather than racial

²⁹509 U.S. 630 (1993).

³⁰515 U.S. 900 (1995).

³¹Holly Idelson, "Court Takes a Harder Line on Minority Voting Blocs," *Congressional Quarterly Weekly Report*, July 1, 1995, 1944–46.

³²Michael Barone and Grant Ujifusa, *The Almanac of American Politics 2000* (Washington, DC: National Journal, 1999), 697.

³³526 U.S. 541 (1999).

concentration.³⁴ The Court's restrictions on racial gerrymandering work to the disadvantage of Republicans, because most minority voters are Democrats. The careful creation of minority-majority districts after the 1990 census had helped Republican candidates elsewhere; racial gerrymandering was responsible for as many as ten of the seats Republicans gained in the South in 1992 and 1994.³⁵

During the current decade, courts have required adjustments to districts judged to be impermissible racial gerrymanders in Virginia, North Carolina, and Texas. The Republican-controlled legislature in North Carolina responded to an adverse 2017 Supreme Court ruling by recasting its racial gerrymander as a partisan gerrymander—easy to do because African Americans in North Carolina vote overwhelmingly for Democrats. As its legislative designer put it, “I think electing Republicans is better than electing Democrats. So I drew this map to help foster what I think is better for the country.”³⁶ The recasting worked. A panel of federal judges disagreed and ruled on August 27, 2018, that the districts violated First and Fourteenth Amendments rights (although later deciding that it was too late to redraw the lines before the 2018 election, as the primary had been in May). The Supreme Court's 2019 decision rejected the lower court's constitutional arguments, letting the Republican gerrymander stand.

Bipartisan Gerrymanders

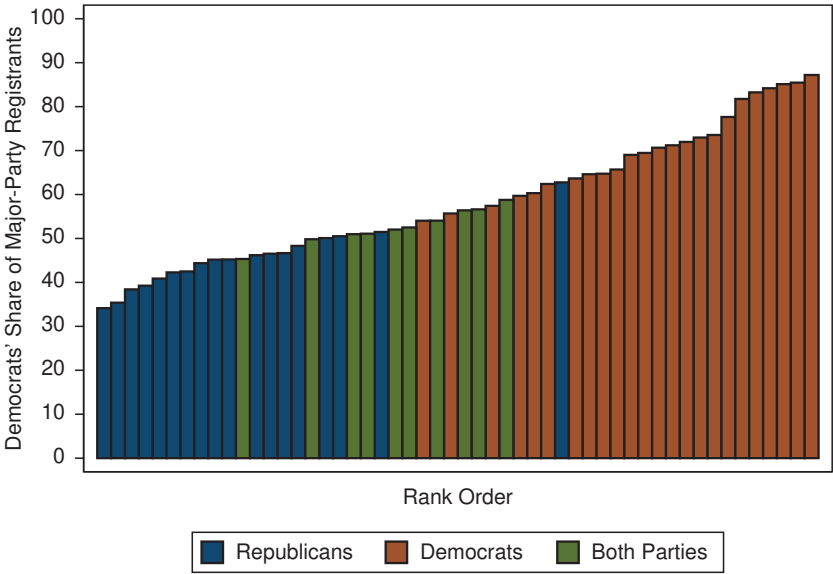
States sometimes draw district lines to favor incumbents of both parties, a practice that depresses competition by giving both parties safer seats. The most egregious recent example is from California, where a redistricting scheme for 2002 to 2010 endorsed by both parties left not a single one of the state's fifty-three House districts truly competitive. [Figures 2.1a and 2.1b](#) illustrate what happened. [Figure 2.1a](#) shows the California House districts as they existed in 2000, ranked in order of the Democratic percentage of major-party registrants, and indicates the pattern of party control for the 1992–2000 reapportionment cycle. Notice that

³⁴Caroline E. Brown, “High Court Upholds Minority Districts,” *Congressional Quarterly Weekly Report*, May 22, 1999, 1202.

³⁵Kevin A. Hill, “Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States,” *Journal of Politics* 57 (1995): 384–401. Professor Hill kindly provided the 1994 update (personal communication). John W. Petrocik and Scott W. Desposato argue that the damage to Democrats from racial gerrymandering was largely indirect (forcing incumbent Democrats to run in new districts with many new constituents) and contingent on the strong pro-Republican tide among white southerners in 1992 and 1994; see John W. Petrocik and Scott W. Desposato, “The Partisan Consequences of Majority-Minority Redistricting in the South, 1992 and 1994,” *Journal of Politics* 60 (1998): 613–33.

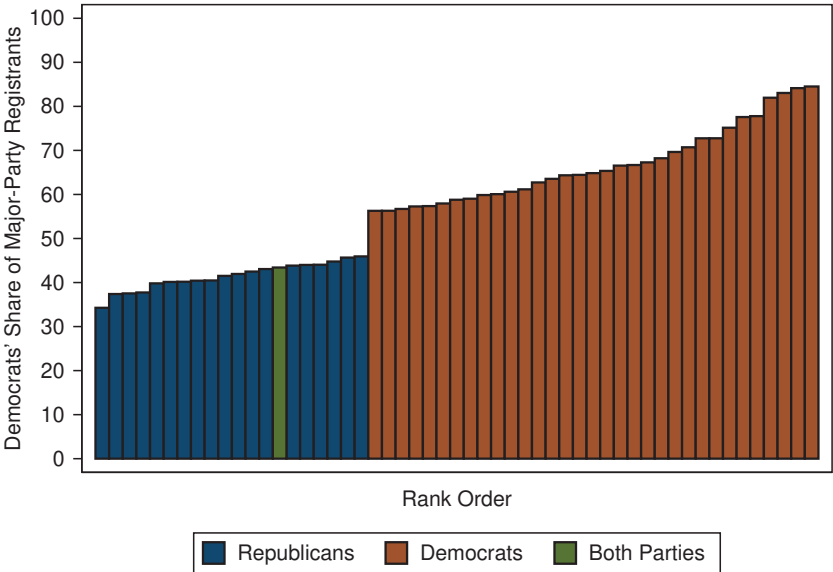
³⁶Armand Emamdjomeh, Ann Gerhart, and Tim Meko, “Why North Carolina's House District Lines Have Been Upended—Again,” *Washington Post*, August 31, 2018, at https://www.washingtonpost.com/graphics/2018/politics/north-carolina-redistricting/?noredirect=on&utm_term=.3ae9c6a5a1f4.

Figure 2.1a Registration and Party Control of California House Seats, 1992–2000

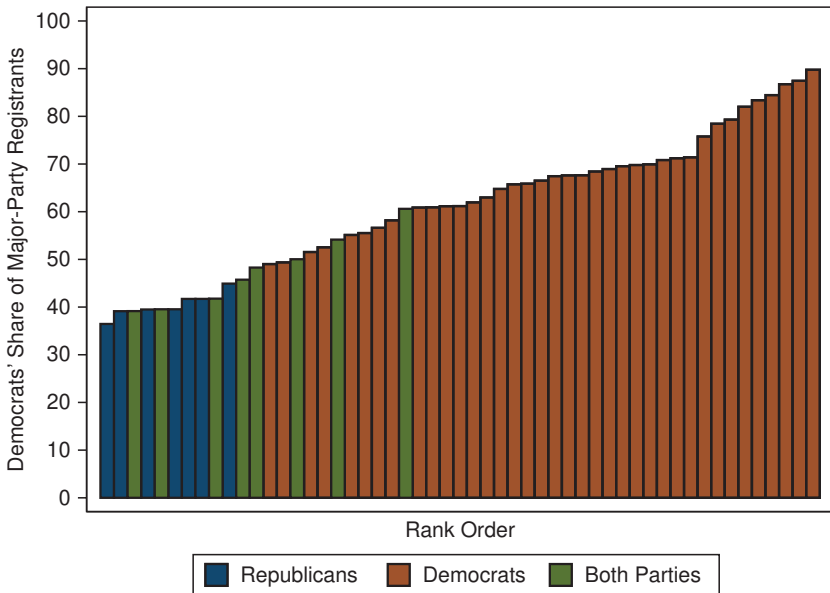


Source: Gary C. Jacobson, “All Quiet on the Western Front: Redistricting and Party Competition in California House Elections,” in *Redistricting in the New Millennium*, ed. Peter Galderisi (Lanham, MD: Lexington Books, 2005), 230.

Figure 2.1b Registration and Party Control of California House Seats, 2002–2010



Source: Gary C. Jacobson, “All Quiet on the Western Front: Redistricting and Party Competition in California House Elections,” in *Redistricting in the New Millennium*, ed. Peter Galderisi (Lanham, MD: Lexington Books, 2005), 230.

Figure 2.1c Registration and Party Control of California House Seats, 2012–2018

Source: Calculated by the authors.

the competitive range—where both parties could win—generally falls within 46 to 58 percent Democratic registration. After redistricting, not a single district with registration between 46 and 56 percent Democratic remained (figure 2.1b).³⁷ In the 265 House contests held in California from 2002 through 2010, only one of these seats changed party hands: Republican Richard Pombo, beset by personal scandal and a modest increase in Democratic registration in his 11th District, was defeated in 2006. This stasis inspired a ballot initiative, adopted by California voters in 2008, that handed congressional redistricting chores to a citizens’ commission chosen by a comically Byzantine process meant to insulate it from political considerations.³⁸ Among other restrictions, the commission was forbidden to consider party registration figures, voting patterns, or incumbency in drawing the new lines for 2012. The commission’s work did produce a number of potentially competitive seats, with ten falling into the previously empty 46 to 56 percent Democratic registration range (figure 2.1c). But because the California electorate had become

³⁷Gary C. Jacobson, “All Quiet on the Western Front: Redistricting and Party Competition in California House Elections,” in *Redistricting in the New Millennium*, ed. Peter F. Galderisi (Lanham, MD: Lexington Books, 2005), 217–44.

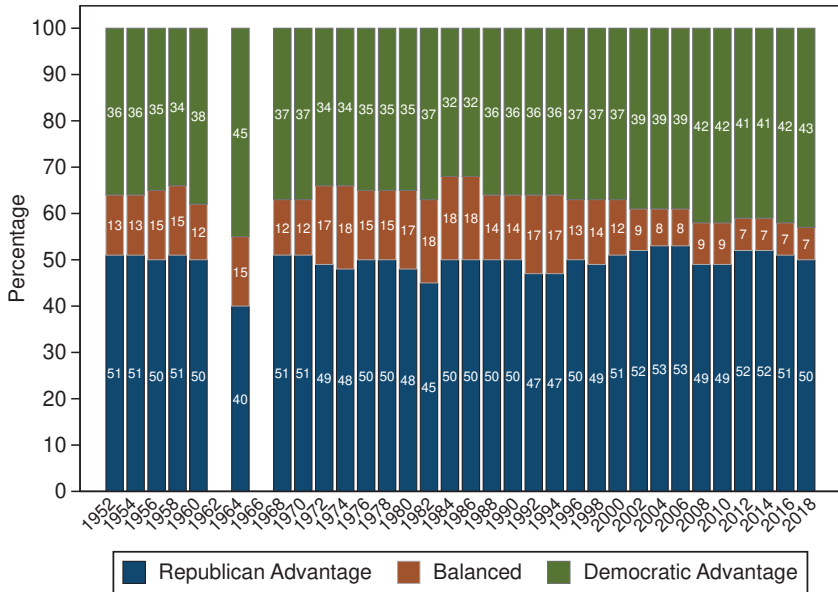
³⁸For a description of the process, see the California Citizens’ Redistricting Commission website (<http://wedrawthelines.ca.gov>).

increasingly Democratic over the decade, the number of districts with Democratic registration exceeding 56 percent, thirty-three, was the same before and after redistricting. The increase in competitive districts was thus almost entirely at the expense of Republicans who had backed the reform out of fear that Democratic legislative majorities would draw an even more unfavorable map. Since 2012, every district has become more Democratic in registration and, through 2018, all of the seats that changed parties went to Democrats. After their rout in the 2018 midterm, Republicans held only seven seats in California, all in what had been the most solidly Republican districts. Nonpartisan redistricting turned out to be no defense against Donald Trump's extreme unpopularity in the state; Democrats took all forty-six districts Hillary Clinton had won in 2016, while Republicans held onto the seven won by Trump.

Districting commissions are popular among reformers but not necessarily in partisan legislatures. Republican legislators in Arizona, eager to use their large majorities to draw districts more favorable to their candidates, challenged the constitutionality of that state's independent redistricting commission, adopted by voters in 2000, on the grounds that its creation by ballot initiative was illegitimate. They argued that the Constitution gives state legislatures authority to determine the "times, places, and manner of holding elections for senators and representatives" (Article I, Section 4), which includes drawing district lines. The Supreme Court disagreed and upheld the commission in a 5–4 decision that disappointed Arizona Republicans but no doubt inspired a sigh of relief among their California counterparts.

THE REPUBLICAN ADVANTAGE IN HOUSE DISTRICTS

As the data in [table 2.2](#) displaying the distribution of Democratic- and Republican-leaning districts reveal, Republicans enjoy a major structural advantage in the competition for House seats. This advantage arises because their regular voters are distributed more efficiently across House districts than are regular Democratic voters. Although Republican gerrymanders reinforced this advantage through redistricting after the 2000 and 2010 censuses, it is nothing new—for its roots are demographic. Democrats win a disproportionate share of minority, single, young, secular, highly educated, and LGBTQ voters, who are concentrated in urban districts that deliver lopsided Democratic majorities. Republican voters are spread more evenly across suburbs, smaller cities, and rural areas, so that fewer Republican votes are "wasted" in highly skewed districts. [Figure 2.2](#) illustrates the consequences. During the past four decades, a substantially larger proportion of House seats have leaned Republican than have leaned Democratic (with "leaning" estimated as having the district vote for their

Figure 2.2 District Partisan Advantage, 1952–2018

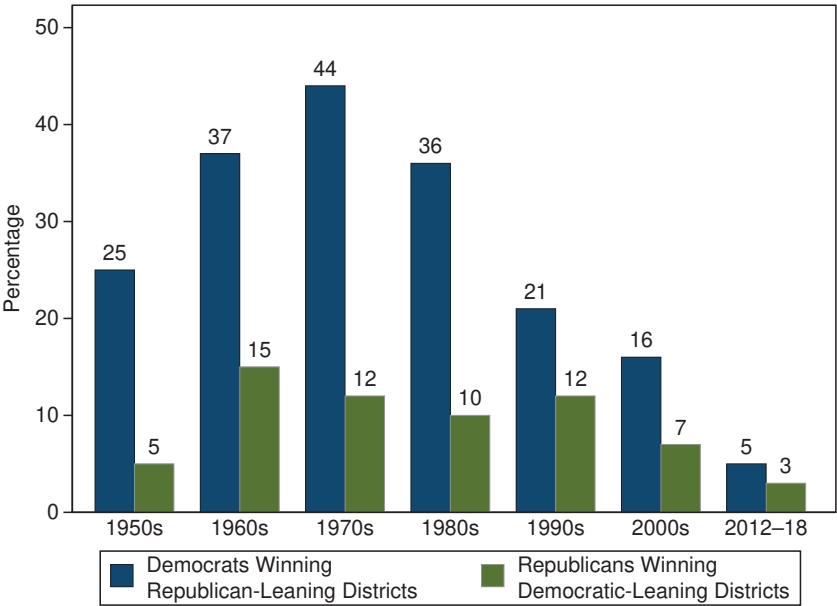
Source: Calculated by the authors.

party's presidential candidate at least two points above the national average for that year or, for midterms, for the previous presidential election).

As later chapters will show, the Republicans' structural advantage has grown more consequential over time with the increase in party-line and straight-ticket voting among district electorates. The consequences were apparent in 2012 and 2016. In 2012, although the Democratic presidential candidate, Barack Obama, won 52 percent of the major-party vote and nearly five million more votes than Republican candidate Mitt Romney, Romney nonetheless outpolled Obama in 226 of the 435 House districts, while Obama ran ahead in only 209. In 2016, Hillary Clinton won 2.86 million more votes than Trump, but Trump won the most votes in 228 districts and Clinton in 207 districts. There are currently 219 districts where Trump ran at least two percentage points ahead of his national major-party share (48.9 percent) and only 186 where Clinton ran more than two points ahead of her national share; the thirty remaining districts fall in between. This means that even if Democrats win all of the Democratic-leaning districts and all of the balanced districts (by this measure), they are still two seats short of a majority (218). They thus had to make inroads into Republican turf to win control of the House in 2018—no easy task in the current era of high party-line voting.

In past decades, Democrats were able to win a substantial proportion of Republican-leaning districts—as high as 44 percent in the 1970s (figure 2.3). For reasons examined in chapters 5 and 6, their ability to win such seats has dropped dramatically since the 1980s. Republicans have never done particularly well in Democratic territory and remain less successful than Democrats in this regard, but this is not a problem for them at present because their structural advantage can deliver Republican House majorities, even if they win none of the balanced or Democratic-leaning districts. Figure 2.2 also shows that the proportion of closely balanced districts (delivering presidential results within two percentage points of the national vote) has shrunk by nearly two-thirds since the 1980s and after 2010 was down to 6.9 percent; thus very few representatives (thirty to be precise) now serve districts without a clear partisan tilt. Although critics blame partisan gerrymandering for the trend, it stems mainly from changes in the behavior of voters, discussed in detail in later chapters.³⁹

Figure 2.3 Winning against the Partisan Grain, by Decade



Note: Leaning districts are defined as those in which the district-level presidential vote was at least two percentage points higher than the national average for that election; decades are defined by the reapportionment cycle (e.g., 2000s is 2002–10).

Source: Compiled by the authors.

³⁹Gary C. Jacobson, “Competition in U.S. Congressional Elections,” in *The Marketplace of Democracy: Electoral Competition and American Politics*, eds. Michael P. McDonald and John Samples (Washington, DC: Brookings Institution, 2006), 34–38.

States as Electoral Units

For the Senate, “districts” are fixed by state boundaries, and the question of reapportionment never arises. It is easy to find examples of state boundaries that, like House district lines, cut across natural economic units—greater New York City, with suburbs in Connecticut and New Jersey, forms such a unit—and of states that are sharply divided into distinct and conflicting political regions (Tennessee, for example). But this matters less than for House districts because states are, after all, important political units for purposes other than Senate elections. Indeed, this is an important basis for some of the differences, spelled out in later chapters, between House and Senate elections.

States form an odd set of electoral units for another, quite obvious, reason: their great diversity in population. A senator from California represents more than sixty-nine times as many people as a senator from Wyoming. The nine largest states are home to 51 percent of the population but elect only 18 percent of the Senate; the smallest twenty-six states control 52 percent of the Senate but hold only 18 percent of the population. The “great compromise” endowed citizens of small states with a perpetual political advantage—equal weight in one chamber, superior weight in the other.

Research into the potential electoral bias introduced by unequal state population suggests that it has varied over time. During the post-Civil War era, it favored Republicans.⁴⁰ Since the advent of popular election of senators, the bias has generally favored whichever party is in the minority nationally: the Democrats between 1914 and 1930, and the Republicans during the New Deal realignment and from 1956 through the present. It also currently produces a bias against ideological liberals and racial minorities.⁴¹

By allowing the minority party to win a share of seats significantly larger than its share of votes, Senate malapportionment makes it harder for popular majorities to rule, just as the framers of the Constitution intended.⁴² Indeed, without it, Republicans would not have held the Senate in the early 1980s; they won majority control by taking a disproportionate

⁴⁰ An exception may be the years 1876 to 1892, when Republicans were able to win the Senate more consistently than the House or the White House by winning a disproportionate share of newly admitted, less populous states in the West. See Charles H. Stewart III, “Lessons from the Post-Civil War Era,” in *The Politics of Divided Government*, eds. Gary Cox and Samuel Kernell (Boulder, CO: Westview Press, 1991), 203–38.

⁴¹ John D. Griffin, “Senate Apportionment as a Source of Political Inequality,” *Legislative Studies Quarterly* 31 (2006): 405–32; David Wasserman, “The Congressional Map Has a Record-Setting Bias against Democrats,” *FiveThirtyEight*, August 7, 2017, at <https://fivethirtyeight.com/features/the-congressional-map-is-historically-biased-toward-the-gop/>.

⁴² Frances E. Lee and Bruce I. Oppenheimer, “Senate Apportionment: Competitiveness and Partisan Advantage,” *Legislative Studies Quarterly* 22 (1997): 3–24.

share of the smaller states, winning twenty-two of thirty-four Senate contests in 1980 while winning less than a majority of Senate votes cast nationwide.⁴³ Today, with the two parties nearly even in popular support nationally, the Republicans enjoy the same sort of structural advantage in Senate as in House elections. In 2012, Obama, with five million more votes than Romney, won barely more than half the states (twenty-six); in 2016, Clinton won 51 percent of the vote but only twenty of the fifty states.

ELECTION LAWS

The diversity that once characterized state election laws has gradually given way to substantially greater uniformity, but important differences remain. Congress was given the constitutional power to regulate all federal elections (Article I, Section 4) but was in no hurry to do so. Initially, states were allowed to go entirely their own way. For example, at one time many states elected members of Congress in odd years; the practice did not entirely end until 1880. The date of federal elections was not fixed as the first Tuesday after the first Monday in November until 1845, and states could still hold elections on different dates if their constitutions so required. For a time, some states required the winner of a congressional election to receive a majority of all votes cast; now all states except Louisiana permit election by plurality, at least in general elections. (Louisiana requires a runoff if no candidate receives an absolute majority.)

Restrictions on suffrage once varied from state to state; constitutional amendments, court decisions, and federal laws have now eliminated almost every restriction on suffrage for citizens who have passed their eighteenth birthday and have not been convicted of felonies.⁴⁴ Partisan politics naturally permeated the historical battles over extensions of the right to vote, for alterations in the makeup of the electorate tend to favor one party over the other. Laws enacted since 2006 by Republican legislatures requiring people to show picture identification before being permitted to vote are a contemporary example. Those citizens without driver's licenses, passports, or other acceptable forms of identification are more likely to be poor, minority, and elderly, and thus Democrats, and insofar as these requirements discourage participation by raising the cost (in the form of the fees, time, and effort needed to acquire picture IDs

⁴³John T. Pothier, "The Partisan Bias in Senate Elections," *American Politics Quarterly* 12 (1984): 89–100.

⁴⁴Felons are denied the right to vote temporarily in most states and permanently in some. In 2018, Florida voters passed a referendum re-enfranchising more than one million former felons who had completed their sentences. Because they were disproportionately African American, the effect will be to boost the proportion of Democratic voters in this closely balanced state, although by how much remains to be seen.

from state bureaucracies), they are expected to have a disproportionate depressive effect on the Democratic vote. That is, of course, their purpose; the Republican proponents of ID requirements have produced very little evidence that the problem they are supposed to address, voter fraud by impersonation, is other than extremely rare.⁴⁵ The ID requirements in several states have been set aside by courts because of their disproportionate effect on minorities; their actual effectiveness in discouraging voting has yet to be determined.⁴⁶

The trend toward more uniform election laws is not merely of historical interest. A single date for all federal elections encourages national campaigns, party tickets, and coattail effects. Each election is more than an isolated, idiosyncratic event, or at least voters can treat it as such. The removal of formal and informal barriers to voting has substantially altered the political complexion of some areas, notably in the Deep South, where formerly excluded black voters are now an important political force. Lowering the voting age to eighteen has made the student vote a key factor in districts encompassing large university towns, such as Ann Arbor, Michigan, and Madison, Wisconsin.

The process of voting itself has undergone important changes. Prior to the 1890s, each local party produced its own ballots listing only its own candidates, which were handed to voters outside the polling place. The party ballots were readily distinguishable; voting was thus a public act. Because local parties printed the ballots, internal party rivalries were sometimes fought with multiple or competing party ballots, frustrating state party leaders' pursuit of electoral unity and control.⁴⁷ The system invited voter intimidation and other forms of corruption, and it was expensive for the parties to administer. A remarkable burst of reform between 1888 and 1896 led to about 90 percent of the states adopting what was called the Australian ballot (after the country of its origin). An Australian or secret ballot is produced by the government, lists candidates from all parties, and is marked in the privacy of a voting booth.

⁴⁵Mike Turzai, majority leader of the Pennsylvania House of Representatives, was candid about the goal of the state's new law, boasting (inaccurately, as it turned out) at a state Republican event in 2012, "Voter ID . . . is gonna allow Governor Romney to win the state of Pennsylvania." See Suevon Lee, "Everything You Ever Wanted to Know about Voter ID Laws," *ProPublica*, November 5, 2012, <http://www.propublica.org/article/everything-youve-ever-wanted-to-know-about-voter-id-laws>, accessed February 24, 2015.

⁴⁶The evidence is mixed; the Government Accountability Office (GAO) review reported that of ten studies, four found a significant negative effect of voter ID requirements on turnout, five found no effect, and one found a positive effect; see GAO, "Elections: Issues Related to State Identification Laws," September 2014, <http://www.gao.gov/assets/670/665966.pdf>, accessed February 24, 2015.

⁴⁷Lisa A. Reynolds, "Reassessing the Impact of Progressive Era Ballot Reform" (PhD diss., University of California, San Diego, 1995), 23–27.

Although the Australian ballot has been blamed for weakening party loyalty by making it easier for voters to vote for different parties' candidates for different offices,⁴⁸ in some forms it increased partisan loyalty, at least initially. In states that adopted the *party-column* ballot, which lists candidates by party, ticket splitting diminished. Beyond using the party-column format, the ballot could foster straight-ticket voting by allowing voters to mark a single spot (or pull a single lever on a voting machine) to vote for all a party's candidates. On the other hand, where states adopted the *office-bloc* ballot, which lists candidates by office, ticket splitting was facilitated. The search for partisan advantage led some states to switch back and forth between the two forms, depending on which party or faction was in power.⁴⁹ Differences among ballot types and their consequences persist to this day, although fewer than ten states still use party-column ballots.⁵⁰ The technology of voting continues to evolve to varying degrees across states and sometimes with considerable controversy. Absentee and early balloting have grown increasingly common, Oregon now conducts all elections exclusively by mail, and the debate over the security and accuracy of computerized touch-screen voting—as well as of older rival balloting systems—has yet to be resolved.

Again, variations in formal procedures can be politically consequential. The effects of ballot formats that make ticket splitting easier run counter to those of uniform election dates. Easier ticket splitting weakens coattails and other partisan links between candidates by making it easier to focus the election on candidates rather than on parties.⁵¹ Early and absentee balloting stretch the crucial part of the campaign period when voters are making their final decision, favoring candidates with enough resources to spread their campaign advertising over a longer period; in 2018, 30 percent of voters cast ballots before the official election day.⁵²

⁴⁸Jerrold G. Rusk, "The Effects of the Australian Ballot Reform on Split Ticket Voting: 1876–1908," in *Controversies in Voting Behavior*, eds. Richard G. Niemi and Herbert F. Weisberg (San Francisco: W. H. Freeman, 1976), 485–86.

⁴⁹Reynolds, "Progressive Era Ballot Reform," 77–106.

⁵⁰Rusk, "Australian Ballot Reform," 493–509; Angus Campbell et al., *The American Voter* (New York: John Wiley, 1960), 276.

⁵¹Rusk, "Australian Ballot Reform," 1232; Jason M. Roberts, "Bicameralism, Ballot Type, and Split Ticket Voting" (manuscript, University of North Carolina, Chapel Hill, October 16, 2009).

⁵²Zach Montellaro, "A Staggering 36 Million People Have Voted Early, Setting the Stage for Big Midterm Turnout," *Politico*, November 5, 2018, <https://www.politico.com/story/2018/11/05/early-voting-turnout-2018-electionsmidterms-963149>. The 2018 general election turnout exceeded 111.5 million; see Michael P. McDonald, "2018 General Election Turnout Rates," United States Election Project, December 18, 2018, <http://www.electproject.org/2018g>, accessed January 30, 2019.

POLITICAL PARTIES

Without question, the most important additions to the institutional framework established by the Constitution have been political parties. The parties, along with the system of presidential elections that inspired their development, are the formal institutions that contribute most to making congressional elections something other than purely local festivals and politicians something other than purely independent political entrepreneurs. The long-term atrophy of party organizations and the weakening of partisan ties from the 1950s through the 1970s thus contributed to the detachment of congressional elections from national political forces and to the rise of candidate-centered campaigns. For the same reason, the emergence of more vigorous national party organizations in recent decades has contributed to a complete reversal of these trends over the past twenty years (see chapter 4 for more on this topic).

The decline of parties stemmed from a variety of causes; several of the most important ones are discussed later. A fundamental factor, however, was clearly institutional: the rise and spread of primary elections as the method for choosing party nominees for the general election. Nineteenth-century parties nominated candidates in caucuses, and later conventions. Often dominated by self-elected party elites, these came under increasing criticism when the United States entered into a period of sectional one-party dominance following the election of 1896. Parties faced with serious competition found it prudent to nominate attractive candidates; without this constraint—with the assurance of victory because of an overwhelming local majority—they could freely nominate incompetent hacks or worse. With the nomination tantamount to election in so many places, the general election, and therefore the voter, seemed increasingly irrelevant.

The direct primary election was introduced as a way to weaken party bosses by transferring the right to choose the party's nominees to the party's voters and to allow people to cast meaningful votes despite meaningless general elections. It was also an effective method for settling disputes over who was the party's official candidate, which became necessary when states adopted the Australian ballot. In the South, where one-party dominance was most pronounced, most states eventually established a second, runoff primary between the two candidates receiving the most votes when none won a majority on the first ballot. Today, election laws in every state provide for primary elections for House and Senate nominations—although the rules governing them vary from state to state—and party leaders are able to control the nomination in very few places. They and their interest-group allies can, however, help direct the flow of campaign money to favored candidates, providing an edge if not always a victory. A few states still hold nominating conventions that

exercise some control—usually incomplete—over access to the ballot. In 2010, for example, the Utah Republican convention denied renomination to third-term senator Robert F. Bennett by giving two other Republican candidates, Mike Lee and Tim Bridgewater, more delegate votes than Bennett (under Utah’s rules, only the top two convention vote-getters make the primary ballot). Although a solid conservative, Bennett had offended the conservative Republican base by voting for the 2008 bailout of the financial industry and Obama’s 2009 economic stimulus package; Lee, a Tea Party favorite, won the nomination and election.⁵³

Scattered modern instances of party-machine control over congressional nominations can still be found. When the congressman who represented the 5th District of Illinois (in Chicago) died in 1975, State Representative John Fary “was called into Mayor Richard J. Daley’s office. At 65, Fary had been a faithful servant of the machine; and he thought the Mayor was going to tell him it was time to retire. Instead, he was told he was going to Congress.”⁵⁴ He did, declaring on the night of his special-election victory, “I will go to Washington to help represent Mayor Daley. For twenty-one years I represented the Mayor in the legislature, and he was always right.”⁵⁵ When, in 1982, Fary ignored the party’s request that he retire, he was crushed in the primary. More recently, veteran Illinois congressman William Lipinski announced he would not seek reelection only days before the August 26, 2004, deadline for a party to replace any candidate who had withdrawn. Among the local political leaders who gathered to pick his replacement were Lipinski himself, John Daley, son of the late Mayor Daley and brother of the then current Mayor Daley, and a number of long-standing stalwarts of Chicago’s legendary Democratic organization. To no one’s surprise, their unanimous choice was Lipinski’s son, Daniel, a political scientist on the faculty of the University of Tennessee who had not lived in Illinois for fifteen years.⁵⁶

Fary’s tale and Lipinski’s sudden ascent from seminar room to Capitol Hill are noteworthy because they are so atypical. The local party organization’s influence on congressional nominations varies but is typically feeble. Few congressional candidates find opposition from the local party leaders to be a significant handicap; neither is their support very helpful. National party leaders control much greater resources and hence potential influence. In the past, the parties used their resources

⁵³Michael Barone and Chuck McCutcheon, *The Almanac of American Politics 2012* (Chicago: University of Chicago Press, 2011), 1627.

⁵⁴Michael Barone, Grant Ujifusa, and Douglas Matthews, *The Almanac of American Politics 1980* (New York: E. P. Dutton, 1979), 246.

⁵⁵Alan Ehrenhalt, ed., *Politics in America: Members of Congress in Washington and at Home* (Washington, DC: Congressional Quarterly Press, 1981), 333.

⁵⁶Michael Barone with Richard E. Cohen, *The Almanac of American Politics 2006* (Washington, DC: National Journal, 2005), 567–68.

sparingly in primaries and were often thwarted when they did so. In 2010, for example, several Republican Senate candidates associated with the party's radically conservative Tea Party faction upset candidates favored by the party's conventionally conservative establishment. Three of them then went on to lose potentially winnable seats in the general election.⁵⁷ Similar problems probably cost Republicans another two Senate seats in 2012.⁵⁸ Absorbing the lesson, Republican Senate leader Mitch McConnell and his financial allies took vigorous preemptive action in 2014 against Tea Party challenges to him and two other Republican senators. McConnell's predication that "we are going to crush them everywhere"⁵⁹ turned out to be accurate. In 2018, both national parties intervened in the 2018 West Virginia Republican primary to choose Democratic senator Joe Manchin's challenger—Republicans to prevent the nomination of a coal executive who had served time in prison for his role in a deadly mine disaster, and Democrats to prevent the nomination of a congressman they thought would be Manchin's strongest opponent. Both succeeded; Manchin held onto the seat by a narrow margin in November.⁶⁰

In 2018, under the guidance of then House Minority Leader Nancy Pelosi, national Democratic organizations made their preferences clear in a number of races. Outrage at the Trump administration had inspired a huge upsurge in Democratic candidacies, and party leaders wanted to ensure that the most electable of the multiple aspirants rose to the top, especially in winnable Republican districts. This was particularly crucial in California, with its top-two "jungle primary" (described later), where multiple Democratic candidates might split the vote so evenly that two Republicans could come out on top. Candidates who did not win the party's favor and their supporters naturally complained, but Pelosi was unmoved. "I hope for a wave, but I believe you make your wave," she said in February. "This is a cold-blooded, strategic, focused campaign to win the Congress for the American people. We don't waste time. We don't waste energy, we don't waste resources."⁶¹

⁵⁷Gary C. Jacobson, "The Republican Resurgence in 2010," *Political Science Quarterly* 126 (Spring 2011): 39.

⁵⁸Gary C. Jacobson, "How the Economy and Partisanship Shaped the 2012 Presidential and Congressional Elections," *Political Science Quarterly* 128 (Spring 2013): 30–31.

⁵⁹Carl Hulse, "Leading Republicans Move to Stamp Out Challenges from Right," *New York Times*, March 8, 2014, <http://www.nytimes.com/2014/03/09/us/politics/leading-republicans-move-to-stamp-out-challenges-from-right.html>, accessed February 24, 2015.

⁶⁰Alexander Burns and Jonathan Martin, "6 Takeaways from Tuesday's Primary Elections," *New York Times*, May 9, 2018, <https://www.nytimes.com/2018/05/09/us/politics/primary-results-west-virginia-ohio.html>.

⁶¹Ella Nilsen, "The DCCC's Controversial Meddling in the 2018 Primaries, Explained," VOX, May 3, 2018, <https://www.vox.com/policy-and-politics/2018/5/3/17290902/dccc-2018-midterms-primaries-democrats-nancy-pelosi-laura-moser>.

The introduction of primary elections deprived local parties of a crucial source of influence over elected officials: control of access to the ballot and therefore to political office. And if the party cannot determine who runs under its label, it cannot control what the label represents. Although attempts by national party organizations to influence nominations in competitive states and districts are now common and often successful, party leaders do not threaten primary challenges to keep their current legislators in line for fear of losing seats to the opposition following divisive intraparty battles.⁶² For example, even Lincoln Chaffee of Rhode Island, the least loyal Republican in the Senate, got full national-party backing when challenged in the 2006 primary (Chaffee won the primary 54–46 but lost his seat to a Democrat in the general election—just the result the party had sought to avoid). Thus the primary system has long been an important barrier to strong party discipline in Congress. American parties lack a crucial sanction available to some of their European counterparts—namely, the ability to deny renomination to uncooperative members. Hence House Speaker Paul Ryan, Republican leader in the 115th Congress (2017–18), had great difficulty keeping his disruptive Freedom Caucus faction in line in part because he could not credibly threaten electoral damage to members who ignored his wishes.

The primary election system also complicates the pursuit of a congressional career. Candidates must be prepared to face two distinct, if overlapping, electorates. Primary electorates are more partisan and prone to ideological extremity than general election voters, and the need to please them is one force behind party polarization in Congress (see chapter 7). Indeed, the main threat to renomination today comes not from party leaders punishing disloyalty but from outside groups bent on imposing ideological purity. In addition to Utah's Bennett, another recent victim was Richard Lugar of Indiana, a moderately conservative Republican senator who lost to an immoderately conservative Tea Party challenger in his 2012 primary. And an even sharper example was the surprise primary defeat in 2014 of Republican majority leader Eric Cantor by a Tea Party-aligned economics professor in Virginia's 7th District.

Differences in primary election laws underlie much of the diversity among congressional election processes across states. The date of the general election may be fixed, but primaries are held at any time from February through September. The runoff primary used in ten states (nine of them in the South) has already been mentioned; now that two-party competition has become the norm, candidates must occasionally win three serious contests to gain office. Washington and California recently joined

⁶²Hans J. G. Hassell, *The Party's Primary: Control of Congressional Nominations* (New York: Cambridge University Press, 2017).

Louisiana in adopting a “top-two” or “jungle” primary system, in which all candidates regardless of party compete in the same primary; if no candidate receives an absolute majority of votes, the top two vote-getters compete in the general election—even if they are from the same party.⁶³

Rules governing access to the ballot also differ. Some states require only a small fee and allow virtually anyone to run; others require a larger fee or some minimum number of signatures on a petition. Challenges to incumbents, as well as third-party or independent candidacies, are thus encouraged or discouraged to differing degrees; top-two primaries in particular make it almost impossible for other than major-party candidates to get on the general election ballot.

This discussion of the legal and institutional framework of congressional elections has necessarily been brief; filling in all the details would demand volumes. But it is sufficient to point out some of the important ways in which the formal context shapes the activities of candidates, voters, and other participants in congressional elections.

It is important to remember that the formal context does not arrive mysteriously from somewhere outside the political system. Politically active people consciously create and shape rules and institutions to help them achieve their goals. Rules that allow members of Congress to pursue their aims independently of their party evolve when politicians thrive on independence; when loyal partisanship becomes more conducive to political success, rules are altered to encourage party cohesion. Although in the short view it seems that the formal framework establishes a set of independent parameters to which political actors must adapt, it does not. Rather, the framework itself reflects the values and preferences prevalent among politically active citizens, and it changes as those values and preferences change.

SOCIAL AND POLITICAL CONTEXTS

The rules and customs that control districting and primary elections may contribute to the idiosyncratic component of congressional elections, but the contribution is hardly decisive. Idiosyncrasy is deeply rooted in the cultural, economic, and geographical heterogeneity of the United States. A few short examples will suggest the astonishing variety of electoral conditions that would-be candidates must be prepared to face. States and

⁶³In the 2018 general election in California, two Democrats faced off in three districts, two Republicans in a fourth; there had been seven intra-party matchups in both 2014 and 2016. Louisiana treats the November election as the jungle primary, with the top two candidates facing off in a December runoff if no candidate wins more than 50 percent of the November vote.

districts vary in geography, population, economic base, income, communications, ethnicity, age, and political habits.

- *Geography:* Simple geography is an abundant source of variation. Current House districts are as small as New York's 10-square-mile 13th District and as large as Alaska's 586,000 square miles, in which campaigning by airplane is essential and occasionally fatal.⁶⁴ Even Michigan has a district that is more than 450 miles from end to end (the 1st). The range in geographical size among states is smaller but still enormous. The purely physical problems of campaigning in or representing constituencies differ greatly and can be quite severe.
- *Population:* Obviously, states vary widely in population, and both districts and states also vary in population density. Imagine the problems faced by California's senators, who are expected to represent nearly 40 million people living more than 2,500 miles from Washington, DC. Alaska's senators serve only 723,000 people, but they are even further from the U.S. capital and are scattered over a far larger area. Rhode Island, in contrast, is a "tiny little city state,"⁶⁵ compact, with barely 1 million inhabitants.
- *Economic base:* The high-tech companies of Silicon Valley dominate the economic life of California's 18th District; 80,000 workers in and around Washington's 9th District get their paychecks from Boeing; Wyoming's prosperity rises and falls with that of the energy and mining sectors; West Virginia's largest private employer is Walmart; Maryland's 3rd District includes more than 160,000 federal workers and retirees.⁶⁶ Delaware is the home of DuPont, which has far greater revenues than the state government. At the other extreme are states and districts with thoroughly heterogeneous local economies.
- *Income:* Kentucky's 5th District is the second poorest in the nation; its median family income in 2018 was \$31,731. The wealthiest is Virginia's 10th, with a median family income of \$122,092. The Kentucky district gave Donald Trump 82 percent of its votes in 2016 and is represented in the House by a Republican; the Virginia district gave Hillary Clinton 55 percent and is represented by a

⁶⁴House Majority Leader Hale Boggs and Alaska congressman Nick Begich were killed in a plane crash while campaigning in that state in 1972.

⁶⁵Barone and Ujifusa, *Almanac of American Politics* 2000, 2410.

⁶⁶Barone and McCutcheon, *The Almanac of American Politics* 2012, 192–93, 1796, 1849–51; Janet Kopenhaver, "Population of Federal Employees by Congressional District and County (2014)," Eye on Washington, http://eyeonwashington.com/few_map_2014/index.html, accessed February 20, 2015.