

**INTRODUCTION TO REDISTRICTING:
PERSPECTIVES FOR LATINOS**

BY

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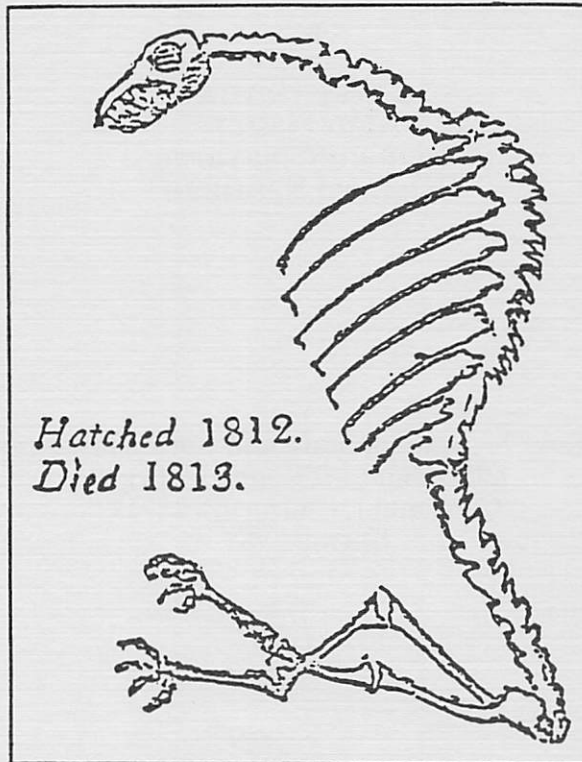
**The Rose Institute of State and Local Government
Claremont McKenna College
Claremont, California 91711
Spring 1989**

OLD GERRYMANDERING
ONE



DEATH IN ONE YEAR
1812 - 1813

Gerrylanders Don't Last Forever
1813 Skeleton of 1812 Gerrymander



PREFACE

This publication is one of a series planned by the Rose Institute on the redistricting process, both in California and nationally.

“Introduction to Redistricting: Perspectives for Latinos” consolidates two previous conference pamphlets and emphasizes material especially pertinent to Latino concerns.

For an introduction to redistricting a California citizen needs a brief background to the development of redistricting. In turn, the redistricting practices are important. Section 1 covers the background. Section 2 reviews techniques to create redistricting legislation and the technological revolution. Section 3 highlights key aspects of the gerrymander. Section 4 notes various proposals of reform for redistricting¹.

Gerrymandering — or the effort to gain partisan or incumbent advantage from drawing jurisdictional lines — is as old as the single-member district system. Even before 1812, when the process was named for Massachusetts’ Elbridge Gerry, Patrick Henry had attempted to redistrict James Madison out of a seat in the First Continental Congress. In the past quarter-century, however, the scale and effectiveness of gerrymandering have outgrown all precedents.

Decisions of the U.S. Supreme Court of the 1960s — the one-man-one-vote opinions in Reynolds v. Sims and Wesberry v. Sanders — revolutionized the rules for drawing district lines. Prior to that time, partisan advantage in districting was largely a product of malapportionment. Passive or silent gerrymanders developed by the failure to redraw boundaries to reflect population change. Formerly a district was Republican or Democratic, safe or marginal, depending on more or less permanent geopolitical features reflected in county boundaries.

After the Warren Court decisions, states were required to redistrict to reflect population change. Unable to secure party or incumbent advantage through malapportionment, majority parties turned to active gerrymandering on an unprecedented scale. And, because equal population was now judicially mandated as the paramount criterion, redistricters were free to ignore county boundaries and other traditional constraints on district composition.

In the 1970s, the reach for political advantage in the redistricting process was increased by the development of computerized geographic retrieval systems. Guesswork in district creation was minimized. Legislators could hire computer technicians at public expense to sum the political consequences of each line as it was entered on the map. Today, without procedural control, redistricting has become a technique of unprecedented power. The extent to which power has been abused — and the range of adverse consequences for representative government — are nowhere better demonstrated than in California. California, of course, is not alone in the redistricting dilemma. Current efforts of California citizens to establish procedural controls have great importance for national redistricting reform.

The Rose Institute is indebted to the McKenna Foundation for providing funds to improve its technical capabilities in redistricting analysis: empirical tests of guidelines, on which some of the conclusions in this publication are based, were performed using an improved version of the Institute’s REDIS system. We are pleased to record our gratitude, also, to the Haynes Foundation, which had what we believe to be the foresight, and what all will recognize as the courage, to support research in an area of intense controversy. Of course, neither these foundations nor the Governors of the Rose Institute are responsible for the opinions expressed herein.

1. Full coverage of the reform proposals is available on request.

**CURRENT GERRYMANDERING
A SCHOOL (SEVERAL)**



**CONTINUOUS RE-ELECTION 1982 - 88
ONE CONGRESSIONAL SEAT SHIFTS
MILLIONS SPENT BY REPUBLICANS AND DEMOCRATS**

FOR WHAT?

SECTION 1: HISTORICAL BACKGROUND TO REDISTRICTING IN CALIFORNIA

In California, as elsewhere, the reach for political advantage via districting has historical roots. California was no stranger to problems of representative government. Plagued by malapportionment in the first half of the Twentieth Century, it was in 1951 that California first experienced an aggressive partisan action to enhance the dominant party's power. Republicans, who then controlled the state legislature and the governorship, seized the lion's share of the seven new congressional seats apportioned to California. In 1952, 19 Republicans were elected to the 30-member delegation. Similar results were initially achieved on the state legislative level. The grossly malapportioned State Senate, with the further advantages of cross-filing, continued to be overwhelmingly Republican. By 1958, however, the initially effective gerrymanders of 1951 were unravelling at the polls: in that year's election, Republicans won only 14 of the 30 seats. Control shifted to the Democrats in both houses of the state legislature.

In 1961, California was apportioned eight new congressional seats. This time the Democrats controlled the state legislature and the governorship. Playing a tit-for-tat game, Democrats used their power to assure that only 13 Republicans were elected to the 38-seat delegation in 1962. Similar gains were achieved in the State Assembly. By 1966, however, Democratic gerrymanders, too, could not prevent shifts in public opinion from having electoral consequences. Republicans won 17 seats to the Democrats 21 in the congressional elections of that year. By 1968, Republicans took control of the state legislature despite the interim juggling for incumbent (especially Democratic) advantages following the 1964 court rulings.

California's first congressional redistricting under the "one-man-one-vote" occurred in 1967. Philip Burton, Democratic Congressman and San Francisco power broker, masterminded a bipartisan, or "sweetheart" strategy with a series of gerrymanders to the advantage of, and satisfaction of, most incumbents. The interchange of territory between incumbents of both parties produced some of the most extreme, but effective gerrymanders ever conceived by man. The districts orchestrated by Burton and his colleagues in 1967 protected all of California's 38 congressmen in the next three elections.

In 1971, when five new congressional seats were apportioned in California, redistricting became the focus of a furious partisan struggle, in which both sides relied heavily on the new computer technology. Slim Republican legislative majorities in 1968 were replaced in 1971 by narrow Democratic legislative control. Only a Republican governor could protect Republicans against unified Democratic legislative majorities.

After Governor Ronald Reagan vetoed Democratic plans in 1971 and 1973, the Supreme Court entrusted the redistricting tasks to three court masters. Although borrowing some elements from the Democrats' legislation, the "Masters' Plan," unveiled in 1973, provided a fairly even playing field for the two parties, with almost a quarter of its districts proving competitive. In 1974, in the wake of Watergate, most of the competitive districts swung to the Democrats. Republicans elected only 15 of the 43 person delegation, five fewer than their 1972 totals. Later in the decade, however, following the triumph of Jarvis' Prop 13 and the setbacks of the Carter Presidency, the Masters' plan allowed a major Republican comeback: the 1980 election gave Republicans 21 seats to 22 for Democrats.

The 1980's.

This to-and-fro history, in which gerrymanders yielded brief advantages to the redistricting party, came to an end with California gerrymanders of 1981 and 1982. The 1981 congressional districts provided an extreme demonstration of the partisan advantages of "one-man-one-vote," and a blatantly affront to any pretense of responsible action by representatives of the people. Cutting across city and county boundaries, breaking up communities of interest, jumping natural geographic boundaries, using the narrowest of corridors to link widely separated centers of population, the districts were nevertheless equal in population. Indeed, exact population equality became the rationale for what the late Philip Burton proclaimed as "my contribution to modern art."

Redistricting legislation involving three plans (congressional, assembly, and state senate) was signed into law by Governor Jerry Brown in September 1981. Shortly thereafter three referenda qualified for the June, 1982 primary election ballot.

Before the voting, however, the issue entered the legal arena. Democrats sought counteraction to the referenda in the State Supreme Court, presided over by Rose Bird, in the case of Assembly v. Deukmejian. Burton and the Democratic leaders of the state legislature challenged the referenda on grounds of alleged violations of petition circulation procedures. Governor Deukmejian and Republican leaders asked for a stay in use of the districts that would be voided by the referenda. The Court, although rejecting the Democratic challenge to the referenda, refused to stay the use of the districts. The districts, however, were then rejected by popular vote. Ironically, although the districts were overturned by the June referenda, the districts were used in the November elections. In that election, the gerrymanders achieved their goal: the party balance of 22 Democrats and 21 Republicans was replaced by 28 Democrats and 17 Republicans.

The state's legislative districts also were voided by the people in June, but the districts returned Democratic majorities in November. The newly elected Legislature, taking office in December of 1982, focused its energies on consolidating their gains. The voided districts rejected by popular vote in 1981, had to be redesigned. The legislature elected by the voided districts now had the opportunity to realign their districts.

Time was of the essence. The Democratic governor who had approved the districts rejected by the public was leaving office in January 1983. Acting quickly to solidify their own districts, Democratic leaders left to the Republican minority the option of drawing their own districts from what was left. Recognizing the inevitability of their fate, Republican incumbents joined Democrats in carving districts which gave legislators of both parties districts of greater mutual security.

On the congressional level, Democratic technicians further fine-tuned the districts which had yielded the Democrats their huge electoral advantage. The new congressional districts, together with the "sweetheart" legislative districts, were signed into law by outgoing Governor, Jerry Brown, on January 2, 1983.

In June of 1983, an initiative sponsored by Assemblyman Don Sebastiani, qualified for the 1984 ballot. The proposal was unique for its comprehensive detail, which contained boundaries for 40 state senate, 80 assembly, and 45 congressional districts. The initiative-cum-maps constituted a unique challenge to traditional redistricting practices, as well as to the power structures of both parties. Many competitive districts would have been created. Again, the issue came before the California Supreme Court. Again, the Court acted to protect the existing districts. The initiative was declared unconstitutional because district lines would have been redrawn a second time in the same decade. The Court had removed from the ballot an initiative which had easily qualified. To the party faithful a joyful Speaker Willie Brown commented: "Sister Rose and the Supremes took care of that little matter [the Sebastiani incident]."

In June of 1984, a second redistricting initiative, under the direct sponsorship of Governor Deukmejian, was qualified for the November ballot. The proposal sought to reform the process by which district lines are drawn. Redistricting was to be taken out of the hands of the Legislature. A board would have been made up composed of retired appellate court judges, with power to create new districts in 1986. In November, it went down to defeat at the polls, the victim of a campaign against "politicizing the judiciary."

Although Republicans filed a suit (Badham v. Eu) in federal courts to challenge the congressional district lines, the Democratic gerrymanders continued to work their intended effects. Unlike many of their predecessors, their partisan advantages continued through the decade. Democrats maintained a huge majority of seats won in 1982 when, as in 1984, they earned less than a majority of the votes, but only one congressional district shifted.

Incumbents of both parties can also take comfort from the continuing effectiveness of the congressional districts. In 1986 and 1988, not only did all of California's House members secure re-election, but only two were returned with less than a 15 percent vote margin. A U.S. Supreme Court 1989 action with respect to *Badham v. Eu* virtually assures current districts will continue to work their incumbent magic in 1990.

Latinos and Redistricting:

Conference attendees will have an entire day to hear experts on Latino redistricting. Their analysis and insights will quickly replace this broad overview of the problem. However, a brief synopsis is appropriate.

Latino redistricting begins in 1961 when Latinos undertook to challenge the establishment by organizing. In 1962 Roybal won a new congressional district in Los Angeles and became California's first Latino representative on the national level. In the same year Soto won an assembly district formerly represented by an Anglo, only to be replaced by a Republican in 1966. Moreno also won an assembly seat in 1962. With new State Senate districts in urban areas after 1965, Alaya and Garcia won seats in the upper house. Alatorre, Chacon and Torres won seats in the 1970's. All of the breakthroughs in the 1960s, however, were not the result of Latino activity on the redistricting level. The districts were won by hard, arduous campaign leg-work by Latinos who organized themselves to win potential Latino districts.

By 1971 Latinos were demanding more representation. Only a court ordered redistricting in 1974 somewhat opened up the system to Latino opportunities. Unfortunately, opportunities were often coopted by incumbents with the advantages of incumbency.

As 1981 approached Latino leaders were better prepared, especially because of the formation of Californos for Fair Representation. Undoubtedly their efforts forced more considerations, but the pickings were slim. Only in the 34th Congressional District was a Latino elevated from a new district deliberately created by the Burton steamroller. As Section 3 explains in more detail, the success came as a result of eliminating two Republican incumbents to project a Latino into the House of Representatives.

Latino energy was focused on lower political levels (city and county) during much of the remainder of the decade. The breakthroughs were not insignificant. A Latino won a Los Angeles city council district for the first time since Ed Roybal's departure. Court actions forced creation of another Latino district in Los Angeles City. Los Angeles County supervisorial districts came under court scrutiny at the end of the decade.

Most significant the Watsonville decision calling for single-member districts offers boundless opportunities in California areas where Latinos constitute significant clusters of the population. The Texas breakthroughs are a demonstration of what opportunities and organization can do.

Redistricting occurs on most levels of government. Most governmental units offer potential opportunities, especially under new court rulings.

Read the section on gerrymandering carefully. The issues are important. Latinos must learn how gerrymanders are formed and control opportunities. Do Latinos want to be concentrated or dispersed? What is the most effective method to gain empowerment? We must seriously consider our options and our potential impact on the system. Redistricting is not a cure-all; indeed, other techniques may be even more effective.

The conference agenda will give you insight into future redistricting problems. As 1991 approaches the challenges and prizes are more lucrative than ever before. What are we going to do to be effective?

SECTION 2: TECHNIQUES TO CREATE REDISTRICTING LEGISLATION AND THE TECHNOLOGICAL REVOLUTION

A review of the principal strategies which lead to the conception of gerrymanders should proceed the analysis of the gerrymanders themselves.

Bipartisan or Partisan Approaches to Redistricting Legislation:

Organizing a legislative majority to pass redistricting legislation is no different from other types of legislative strategy. Legislation is passed by majorities in both houses. The sponsor must accumulate 41 votes in the Assembly and 21 votes in the State Senate. The Governor's approval must be obtained.

The key difference is the political impact on the career of each person voting on the legislation. The interest in the legislation is directly personal. The strategy adopted by the sponsor depends on the division of authority between the executive and legislature, or potentially between the state senate and the state assembly, or the partisan nature of the legislators.

Gerrymanders are created by power holders as efforts to perpetuate or add to their power. If power is divided, a bipartisan strategy is likely. Or if the legislature operates under a non-partisan aura, the divisions are more likely to be on the basis of conservative or liberal dispositions within the dominant group. In the latter cases the struggle will usually proceed in a comradely spirit of give and take between legislators who have common interests, regardless of the party divisions.

If a party or legislative group has majority control in the legislative and also control the governorship, the partisan strategy is more likely.

With a bipartisan, or non-partisan, environment the bipartisan strategy becomes an incumbent survival program.

The partisan strategy has the prime aim of maintaining or adding to the number of seats held by the majority party. Again, it is a useful over-simplification to distinguish two principal techniques of doing so. The first is by concentration of the voters of the minority party in as few districts as possible: these districts will then produce large majorities for minority party representatives, but at the price of preventing or limiting effective minority party competition in other districts. Alternatively, the wasting effect may be achieved by dispersal of the voters of the opposition party: by dividing up concentrations of minority party strength among a number of districts, but assuring that the minority voters will always fall short of a majority in these districts, the majority party wins additional seats. Statistically, the tell-tale sign of a partisan strategy is that the percentage of the seats held by the majority party in the legislature is significantly higher than its percentage of the two-party vote in the preceding election. In terms of shape, a frequent characteristic of both partisan and bipartisan strategy is the presence of narrow corridors or elongated "necks" of territory, often with an infinitesimal population.

The variety of techniques to enhance power by redistricting is not suggested by this simple account. Thus, bipartisan strategies are sometimes built onto concentration gerrymanders beneficial to incumbents of both parties. This was the case of the 1982 amendments to the 1981 plan for California's state legislative districts—the former assuring the greater electoral security of all survivors of the latter. Similarly, many of the most successful gerrymanders incorporate elements of both concentration and dispersal: from a technical perspective, this is the principal reason for the long-running success of the 1982 gerrymander of California's congressional districts. Republicans were concentrated in an extreme manner and Democrats judiciously dispersed with fine finesse.

THE TECHNOLOGICAL REVOLUTION IN REDISTRICTING:

Only a few short years ago, before computer technology came to have a major impact on politics, politicians and their staffs usually spread out maps on their office floors and, using adding machines to work their arithmetic, slowly built new districts from census tracts and precincts or just "seat of the pants" confidence.

Such a procedure was not only laborious, it also prevented the full reach for political advantage. The redistricting team might start out at one end of the state, for example, build satisfactory districts until they reached the other end, and then find that they were short of majority party registrants or had miscalculated the population needed for the final districts. The task of "rippling" additional voters from one end of the state to the other presented huge difficulties in non-automated redistricting. Often, the plans would be built on the basis of the most primitive political and demographic information. Politicians backed their hunches after "eyeballing" a few statistics, or simply guessed what the political impact might be of adding or subtracting territory from districts.

In redistricting, most decisions must be made sequentially: one boundary change requires another, which requires yet another, and so forth. The computer is able to speed each decision and accelerates the whole process. More alternatives with an infinite variety of input information can be considered.

Many computerized redistricting systems were created during the 1960s. They aimed to optimize goals such as equality of population, district compactness, and various demographic standards. Most of these systems were designed to operate with population and demographic data, but not with vote history or registration data. Only one system — the Kaiser-Nagel system — had extensive practical use.

These different modelling systems were not widely employed in actual redistrictings because they failed to meet the political needs of legislative users. Moreover, the systems failed to capitalize fully on the major advantage of the computer in the redistricting process: namely, the ability to sample and present information from a very extensive demographic and political data base. The earlier data bases represented only one single time-period, i.e., the party counts, election results, and demographic figures for a particular year. As a result, the political decision maker could develop only a limited understanding of how an area would vote; he had no information, for example, about shifting voting characteristics in an area.

Today, computers are useable for redistricting decisions from the beginning of the district formation to the final analysis and evaluation of the effect. Inputs and outputs can be presented in tabular data and graphic data. They accept interrogations in the form of geographic areas of interest and produce results in the form of geographic display. The user can see the facts and also what areas they represent.

The systems can be made user-oriented—tailored to the specific needs and interests of legislative users. Extensive data bases, including those used in statewide election campaigns with large quantities of politically relevant information can be made available within seconds. The political data can be combined to incorporate advanced software systems, generalized data management systems, and a variety of advanced equipment (digitizers, plotters, graphic display units, etc.).

The greatest advance has been in the area of geographic retrieval, with data-systems which can determine accurate values (population or political and demographic characteristics) for any geographic area, no matter how large, or as small as an individual precinct or a fraction of a census tract. Generally, geographic retrieval is accomplished by entering a map area on a digitizer—a table with x and y axis scales read by an electro-optical encoder which can transmit to the computer the x and y positions by a tracing stylus. This function is particularly useful in the decisional stage on district boundaries, when large areas are being traded between proposed districts, and at the fine tuning stage, when very small areas are being moved in order to achieve equality of population (without losing the desired political characteristics of the districts involved).

Modeling and simulation functions are possible on the new systems. For example, projections can be made for an entire district based on specific criteria. Assessments can be made of future voting behavior in different political circumstances. Search functions are also incorporated in the new systems. The user can have the ability to determine the areas in the state that possess certain specified characteristics. Search results can be listed and at the same time be plotted to indicate geographic patterns to the user.

SECTION 3: TERMINOLOGY AND REDISTRICTING:

Part of the confusion about redistricting and gerrymanders stems from the loose, interchangeable use of terminology. The late Professor Robert Dixon, Jr. observed that any redistricting is a gerrymander because any line drawn on a political map represents an electoral advantage for someone. Fifteen years earlier Dr. Ivan Hinderaker had said basically the same thing in relationship to the California redistricting of 1951. Similar observations could be, and are being made, today.

But to say that all redistricting is gerrymandering is to confuse the issue. A common political term is made meaningless as a device to refine political and legal thinking. Gerrymanders are a form of political manipulation similar to bribery, vote stuffing, etc. To say gerrymanders occur under any circumstances, or everyone does it, is to claim gang rape is not rape because everyone did it. When discussing areas of gerrymander infestation such as those in Indiana and California, the issue is the rape of representative government.

Control of gerrymandering practices requires an analysis of the species and delineation of its variations. More precise terminology in relation to the gerrymander technique will distinguish it from other forms of electoral manipulation. Courts and citizens will be able to confront its worst features realistically.

The following classification is suggested to clarify thinking about gerrymanders—the major abuse of current redistricting.

I. Former Species—Prehistoric Monsters of Twenty Years Ago

A. Silent Gerrymanders

1. Inaction
2. Constitutional

II. Current Species

A. Composition

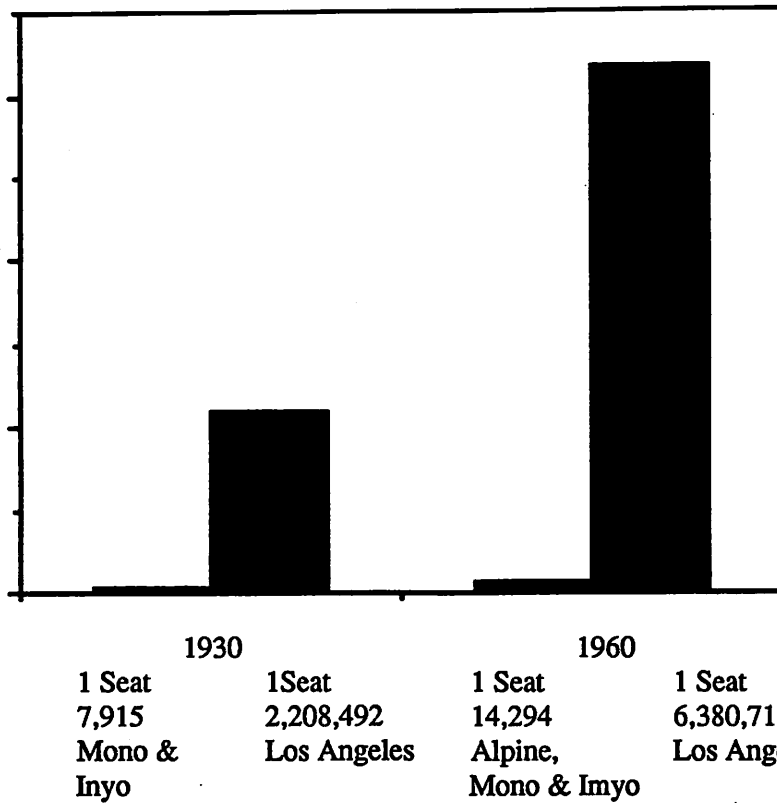
1. Concentration-of-them
2. Concentration-of-us
3. Dispersal-of-them
4. Dispersal-of-us

B. Form

1. Elongation or Shoestring

C. Purpose

1. Elimination/Isolation
2. Projection



GERRYMANDERS BY COMPOSITION—CONCENTRATION:

A concentration gerrymander consolidates a political party or an ethnic group’s strength in a district, or in a few districts, normally to minimize representation for opposition voters [the concentration-of-them-gerrymander].

In less common situations, the redistricting party may concentrate its own supporters in an area where the other party predominates [the concentration-of-us-gerrymander].

Ethnic politics since the 1960’s have brought about another sub-species of the concentration gerrymander: the minority concentration gerrymander. This type is often called the “affirmative action” gerrymander. As a gerrymander device it can be used to promote ethnic representation or it can be used to concentrate ethnic groups in a “benevolent” manner, while at the same time minimizing their political influence by concentrating the ethnic group in a minimum number of districts.

CONCENTRATION-OF-THEM GERRYMANDERS

Illustration #1

Republicans’ redistricting in 1951 concentrated Democrats in the 26th C.D. Note necks and the arrow indicating an incumbent’s home in an affluent neighborhood.

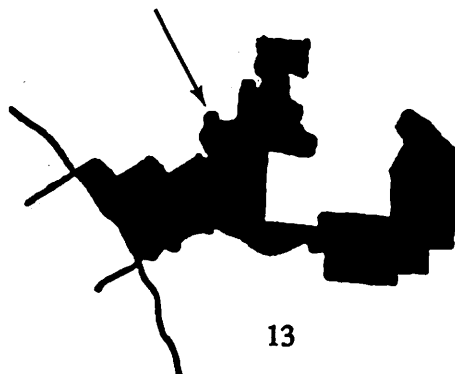


Illustration #2

Democrats' redistricting in 1961 concentrated Republicans in three assembly districts making up the 28th C.D. Note neck which at high tide almost separated the districts.

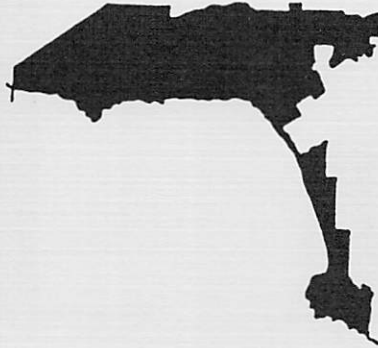


Illustration #3

Democrats' redistricting in 1981 concentrated Republicans in the 42nd C.D. The district was rejected by voters in a 1982 referendum.

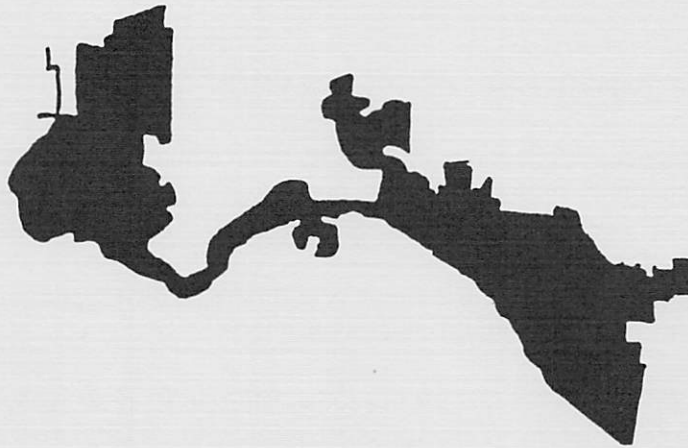
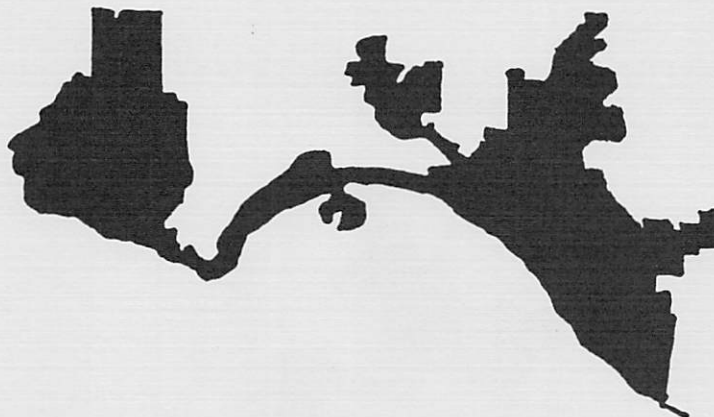
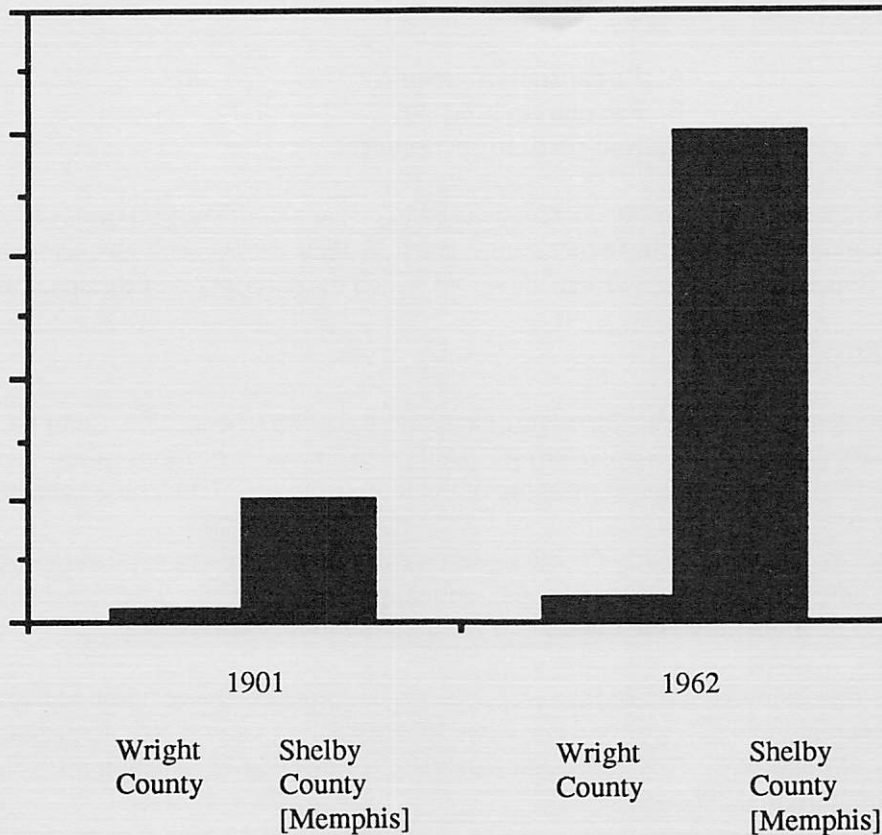


Illustration #4

Democrats' redistricting in 1982 concentrated Republicans in the 42nd C.D. The district was "corrected" after voters rejected the early monstrosities. Compare the districts. Note the necks and the elongations.





SILENT GERRYMANDERS BY CONSTITUTIONAL MANDATES

Often the legislative refusal to adjust districts to new population shifts [rural to urban] was sanctioned by constitutional clauses which limited a county's representation.

In many cases the constitutional gerrymanders were the result of 19th Century constitutions which predated a major rural-urban conflict. The silent gerrymanders simply grew as demographic change accelerated and the constitutions were not altered.

In other cases the constitutional gerrymander was the last desperate effort of rural forces to stem urban influence, often rationalized in terms of the values of rural life in contrast to urban culture with its influx of foreign values.

California in the early 20th Century was a prime example of a rural and sectional society in crisis. As population flooded into the urban areas and into southern California a system based on population in both legislative houses threatened the status quo establishment of San Francisco and northern California. The solution in the 1920s stalemate was a constitutional change limiting any county to one senator in the upper house and no more than three counties in any one senatorial district. Reynolds v Sims in 1964 declared such constitutional changes unconstitutional. Legislatures were to represent persons—one man, one vote—not acres and trees.

III. Breeding Grounds

- A. Bi-partisan environment
- B. Partisan environment
- C. Non-partisan environment

In each case, the adjective describes the technique used to create a political gain or advantage. Any effort to control gerrymanders, or to eliminate them, must consider their nature, their characteristics and their purposes. Of equal importance is the environment within which the conception of the species is spawned.

The Spawning Environment:

Another basic problem in analyzing redistricting stems from the interchangeable use of the terms "reapportionment", "redistricting", and "gerrymandering". Gerrymanders are distortions of representation by redistricting practices. This was the original meaning of the term, from the Massachusetts example of 1812.

In the late nineteenth century and early twentieth century the term was often applied to inaction by the legislature or the inability to act because of constitutional provisions. Thus, what was being discussed was not redistricting. The problem was the failure, or the inability to redistrict.

The trilogy cases (see below) eliminated the reapportionment problem and required redistricting. Thus gerrymanders re-emerge as a political problem because redistricting takes place. Legislators, for a multitude of reasons, returned to gerrymanders (more comparable to the original 1812 action that originally prompted the use of the term gerrymander).

An understanding of gerrymandering will be assisted by a perusal of examples of the various types.

PREHISTORIC GERRYMANDERS:

Silent gerrymanders caused the major distortion of representation prior to the trilogy cases² of the Warren Court in the 1960s. Silent gerrymanders were of two types:

1. Silent gerrymanders by legislative inaction; and
2. Silent gerrymanders by constitutional provisions.

SILENT GERRYMANDERS BY LEGISLATIVE INACTION

A silent gerrymander resulted from the failure of a redistricting body (normally the legislature) to redistrict the state despite significant population changes. Two classic "political question" cases centered on legislative inaction. *Colegrove v. Green* [1946] concerned the failure of the Illinois legislature to change congressional districts after 1901. *Baker v Carr* challenged the Tennessee legislature's inaction in state legislative districts after 1901. The Supreme Court had refused to take jurisdiction in the *Colegrove v. Green* [1946] case. But in 1962 the Supreme Court ordered lower courts to review their previous decisions and the so-called reapportionment revolution began.

2. *Baker v Carr* (1962), *Reynolds v Sims* (1964), and *Wesberry v. Sanders* (1964)

CONCENTRATION-OF-US GERRYMANDERS

California Democrats redistricting in 1961;

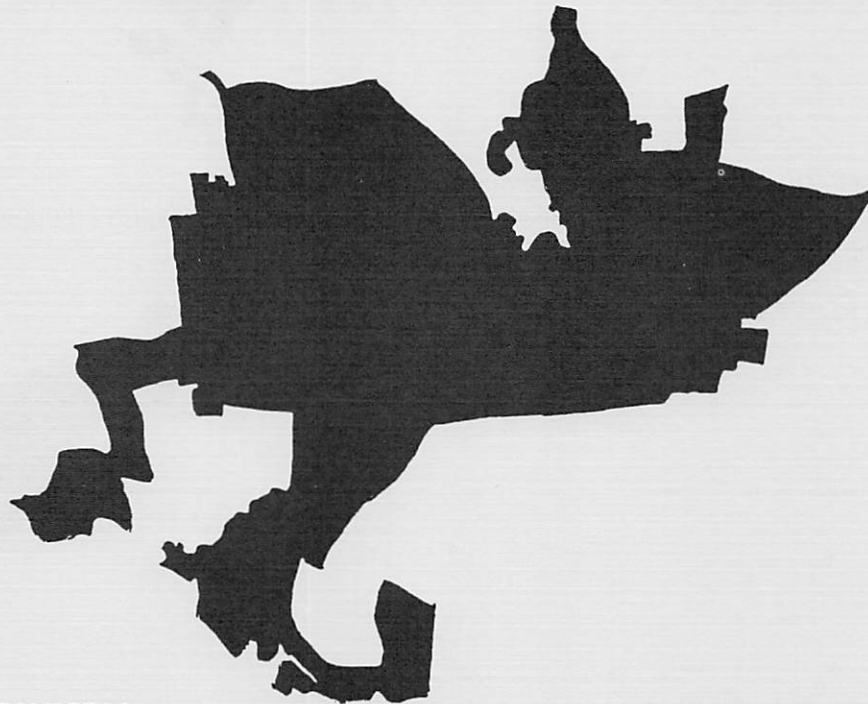
Black Democrats concentrated by Democrats in the 28th C.D. in a sea of white Republicans and Democrats:

Illustration #5



Illustration #6

Democrats realign the concentration of themselves in San Diego's 44th C.D. to meet voters' protests in the 1982 referendum.



GERRYMANDERS BY FORM: ELONGATED OR SHOE-STRING GERRYMANDERS

Such a district implies that the boundaries of the constituency are long and rambling, with narrow connections ["necks"]. If such a district is created for a political purpose—hence, properly called a gerrymander—it usually is done to concentrate voters of one party.

Look back at the 1951 California 26th C.D. [Illustration #1, page 13] Note the necks and the bump.

Look at the 1961 California 28th C.D. [Illustration #2, page 14] Note the necks.

Look back at the 1981 California 42nd C.D. [Illustration #3 and #4, page 14] Note the necks.

GERRYMANDERS BY COMPOSITION: DISPERSAL GERRYMANDERS

A dispersal gerrymander is the reverse of the concentration gerrymander. An effort is made to divide one party's strength [dispersal-of-them] and to overwhelm it by the more dominant vote of the other party. Or, a dominant party's strength is diffused [dispersal-of-us] into as many districts as possible to ensure election of its candidates.

Now, consider the districts which surrounded the concentrated Republican 42nd C.D. and the subtle re-tuning lines to disperse Democratic strength.

Illustration #7—DISPERSAL #1

27th C.D. [1981] defeated by referendum. Note the necks:



Illustration #8—DISPERSAL #1 Revised for "improvement"

Would you say an improvement was made in response to the voters' expressed opposition to Illustration #7
Compare the necks in #7 to #8

27th C.D. [1982] "corrected" to meet the public's objections:

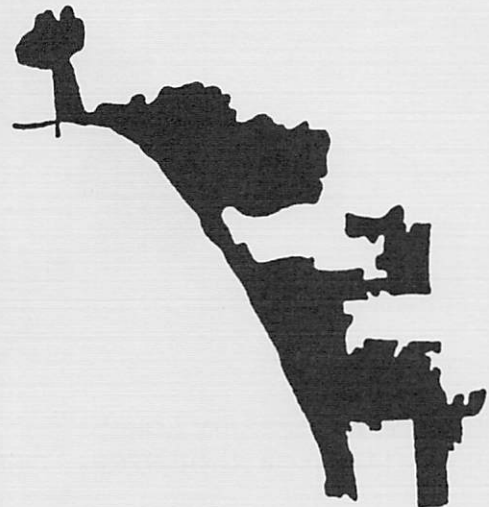
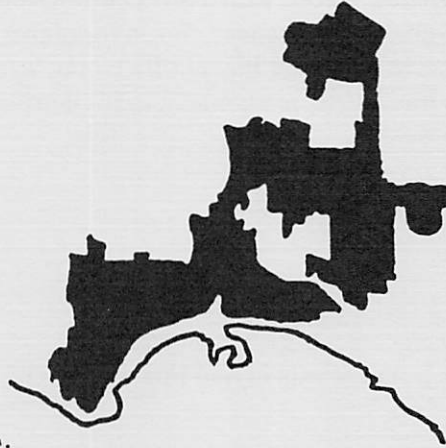


Illustration #9—DISPERSAL #2

32nd C.D. [1981] defeated by referendum. Note the necks:



Illustration #10—DISPERSAL #2 Revised for “improvement” in response to voters’ objections.
Compare the necks in #9 to #10.



SOME FUNDAMENTAL QUESTIONS:

Note the additional neck in the “improved” district—500 yards wide for 4 miles. Was this what the public wanted when it defeated overwhelmingly the 1981 districts by referendum?

Did this alteration create a more responsive district?

How can citizens organize in this district?

How are the voters reached in this district? Who benefits from this district?

True, the percentage of Latinos increased somewhat in the 32nd C.D.; but what happened in the 29th C.D.? The Latino percentage dropped. WHY? Where can the greatest Latino growth be expected to occur? Whose opportunities were improved?

Illustration #11—DISPERSAL #3

38th C.D. [1981] defeated by referendum. Note the necks. Incumbent re-elected by 52.4% in 1982.



Illustration #12—DISPERSAL #3

Compare the necks in #11 to #12

38th C.D. [1982] to “correct” for the public’s objections. Note the additional extensions, necks, and the crossing of a county line:



GERRYMANDERS BY PURPOSE—ELIMINATION:

Dispersal and concentration of voters are also employed to create a fifth type of gerrymander. The elimination gerrymander is designed for the purpose of isolating an incumbent from his base of support to make re-election unlikely or more difficult. Faced with a difficult re-election battle, the incumbent may retire rather than put up a fight under adverse circumstances, or run for higher office. Sometimes the strategy of elimination may backfire. Or success in a race for higher office may lead to greater accomplishments. President McKinley, faced with his fourth district realignment to his detriment, ran for the governorship of Ohio, which promoted his presidential bid.

Most Californians have been less successful.

Illustration #13

Republicans redistricting in 1951:

The 1941 District frequently elected a liberal Democrat.

The 1951 District shifted the political axis in San Francisco. The liberal was defeated in 1952.

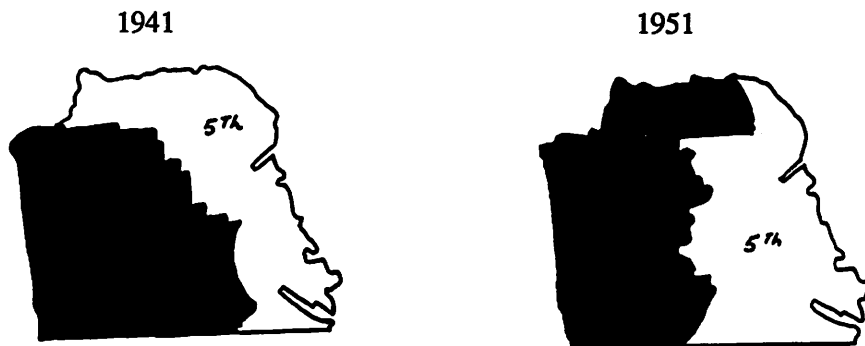


Illustration #14

Democrats' redistricting in 1961:

The 1951 District elected a conservative Republican in 1960. The 1961 District removed Republican territory. The conservative was defeated in 1962 by a Democratic assemblyman who voted for the redistricting bill.

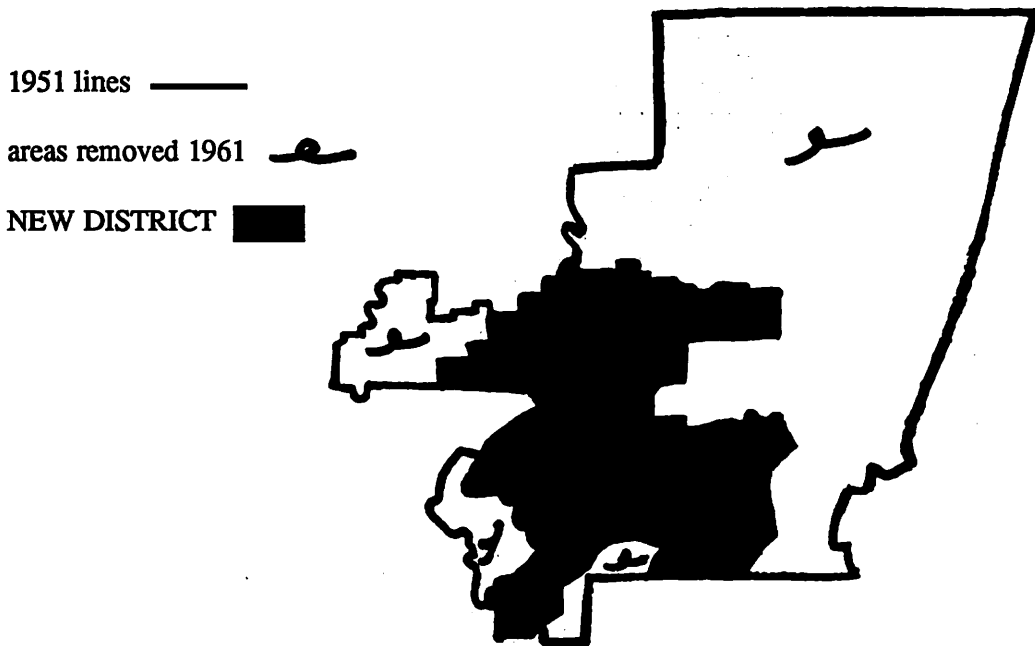
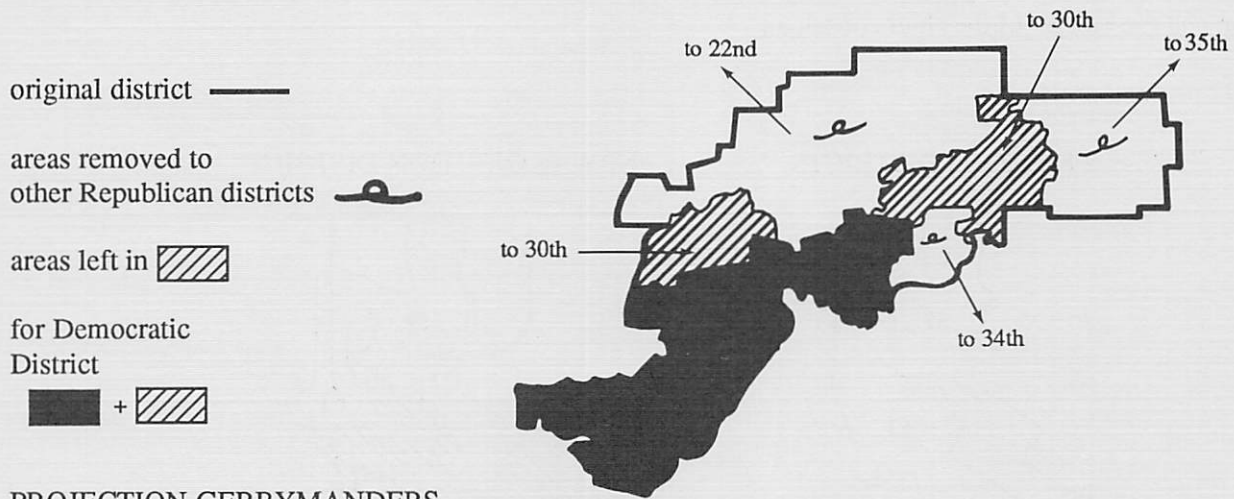


Illustration #15

In the 1970s the same conservative returned to Congress from another district. In 1981 his district is consolidated with another district and he is defeated in 1982.



PROJECTION GERRYMANDERS

Often related to the elimination species is the projection gerrymander—a district designed to fulfill the political ambitions of an individual. A legislator may be such a person. He will have a vote on the redistricting legislation.

Numerous legislators have found redistricting a vehicle for their congressional ambitions. In 1951 Republican Gubser moved to Washington. Assemblyman Grant was not so successful. Under cross-filing Republican Grant won the Democratic nomination in the primary but lost his Republican nomination; therefore he was ineligible for the Democratic nomination. He returned to the Assembly in 1954. Even Democrats Hagen, Moss and Condon made the big time under less favorable circumstances.

Democrats Leggett, Hawkins, Cameron, Brown, Wilson and Hanna became Congressmen in 1962, and were soon joined by Burton and Rees. In 1982 Assemblymen Berman, Levine, Lehman and Bosco became Congressmen.

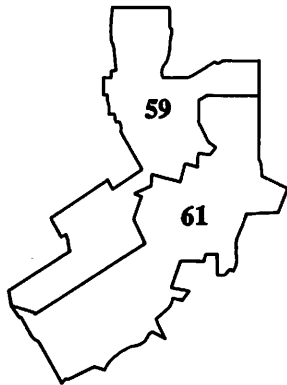
Illustration #16

One other 1971 effort at projection was notable.

In an area of population decline, which normally would lose a district, or require the expansion of a district, a new district suddenly appeared with the prospective candidate a political ally of the reapportionment chairman and the brother of the chief consultant.

1971 planned projection:

PREVIOUS DISTRICTS



NEW PROJECTION DISTRICT

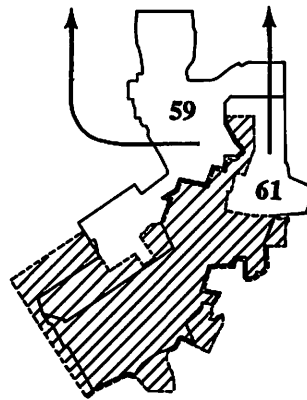


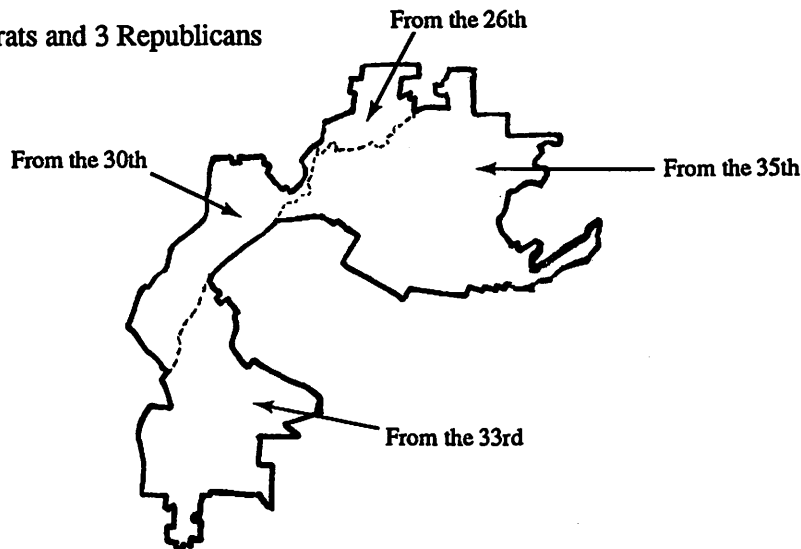
Illustration #17

The one district specifically created to project a Latino into office is instructive both as an illustration of the elimination gerrymander and of the projection gerrymander.

Beginning point: 3 Democrats and 4 Republicans

Demographic realities: No significant population increase was available for an additional district; therefore to gain a seat someone had to be eliminated. The 4 Republican districts were consolidated into 2. One Democratic district [30th C.D.] absorbed part of the Republican 26 C.D. [see Illustration #15 above] and moved into Democratic areas to the south and west. A new district was created from portions of the old Democratic 30th C.D. and Democratic portions of the former Republican districts [26th, 33rd, and the 35th]

Result: 4 Democrats and 3 Republicans



THE CHALLENGE OF THE FUTURE:

This will be the subject of the Redistricting Workshop at the Conference.

The focus on this brief introduction is upon congressional districts, but the same factors are equally important in state legislative districts. The same questions are pertinent whatever governmental level is being considered.

At the present time three Latino congressional districts exist in Los Angeles County (the 25th, 30th, and 34th). Without precise 1990 census data and with the numbers of Latinos depending significantly on the census count [a topic for the Census Workshop], any estimates are imprecise and speculation merely opinion.

One can note, however, the present configurations of the 25th, 30th, and 34th congressional districts [see below]. The zip code areas outside the district boundaries indicate areas of significant Latino population [see the Rose Institute's Maps for more specific detail].

Illustration #18

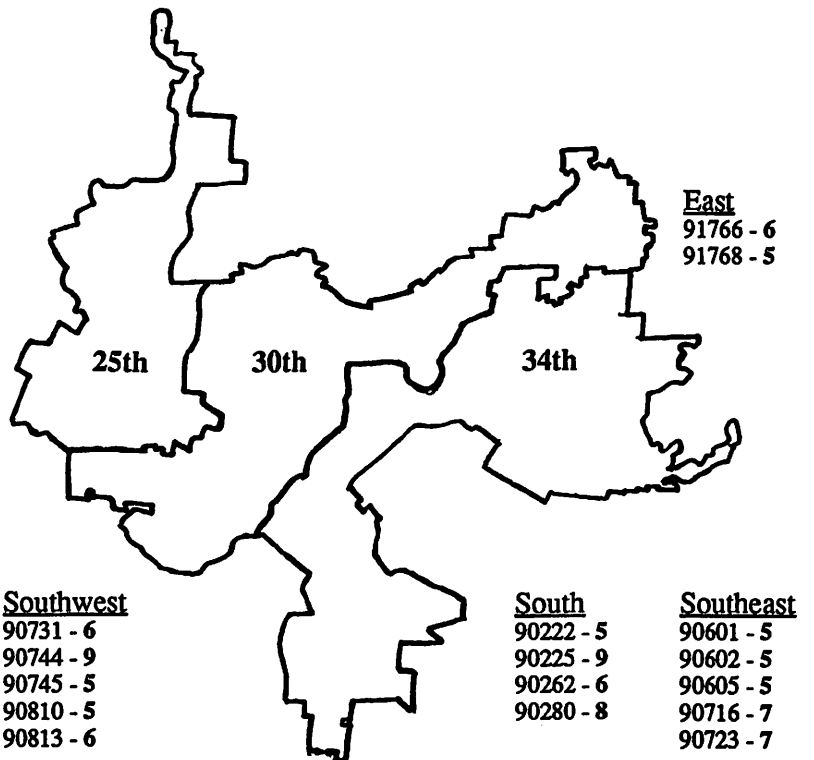
1991 - What's next?

Northwest

- 91331 - 7
- 91340 - 9
- 91342 - 5
- 91345 - 5
- 91352 - 6
- 91411 - 5
- 91502 - 6
- 91601 - 5
- 91605 - 5
- 91606 - 5

West

- 90004 - 5
- 90005 - 5
- 90006 - 7
- 90007 - 7
- 90015 - 9
- 90017 - 8
- 90026 - 7
- 90028 - 5
- 90029 - 6
- 90038 - 5



Legend:

- 5** 30 - 44.9
- 6** 45 - 59.9
- 7** 60 - 74.9
- 8** 75 - 89.9
- 9** 90% And Over

Southwest

- 90731 - 6
- 90744 - 9
- 90745 - 5
- 90810 - 5
- 90813 - 6

South

- 90222 - 5
- 90225 - 9
- 90262 - 6
- 90280 - 8

Southeast

- 90601 - 5
- 90602 - 5
- 90605 - 5
- 90716 - 7
- 90723 - 7

It is upon similar 1990 information, when it is available, that the future of Latino representation will depend; hence, the importance of accurate population counts. One perspective might be to include as many Latinos in a redistricting "pot" and then divide the resources into four districts, or five, or more. What is the magic strategy for empowerment? It is a question which Latinos must face with realistic facts and realistic political insights.

What would be the consequences for others in the political system? Other ethnic and racial groups? For incumbents?

Would reforms being suggested offer more opportunities for Latinos or other groups? If so, which one? One is the current system which produced the examples in this pamphlet. Remember, these are real, life gerrymanders which determine your future.

Latinos can continue the three existing districts and possibly gain a fourth district in which their percentages would be significant and offer opportunities for the future [1992, or later as Latino percentages and participation increase]. On the other hand, if the three existing districts were realigned with additional population in the adjacent areas, four districts might be created with considerable chance of success in all four. If one is a gambler, the Latino strength might be divided further into five districts with significant Latino strength in all five.

The basic rules are:

1. The more concentrated the districts the more guarantee of Latino success, but the more limited are the number of districts likely to elect Latinos.
2. Or the reversal, the more dispersed the Latino strength the more opportunities for positions but the odds against success are higher.
3. If the second option is selected, the work for Latinos is cut out: organization and participation.

SECTION 4: REDISTRICTING REFORM:

Nearly a quarter of a century ago, Chief Justice Earl Warren asserted the proper goal of apportionment to be "fair and effective representation for all citizens." Unhappily, the abuse of malapportionment, at which the Reynolds and Wesberry decisions were aimed, has been replaced by redistricting abuses which are as unconscionable and as unacceptable as the previous practices.

The courts have established the criterion for reapportionment. Population equality has been defined as the basis for redistricting. Strategies for adopting redistricting legislation have, however, impeded fair and effective representation.

The citizens of California's computer-rigged, politically stacked, equipopulous districts have little chance to change their representatives, or even to influence incumbents who are securely locked in place. Serious challengers are deterred from running, because cities, counties and legislative districts (the home bases of effective local opponents such as city councilmen, county supervisors and state legislators) are deliberately fragmented by congressional district boundaries. Election after election affirms the lack of effective electoral competition.

The development of a tenure system in California's congressional and legislative districts has created a tenure system for legislators, with an extensive staff bureaucracy. In the worst of cases, notably redistricting, this staff bureaucracy becomes totally irresponsible without legislative supervision. The bureaucratic technician becomes the controlling element in the system.

California may be "Number One" among the states in uncompetitive politics, but the curse of the gerrymander is national in scope and California's struggle has far-reaching importance. When incumbents are so safe, all the winds of political change are muted as they blow through the halls of Congress. Safe incumbents, fearing nothing in the general election, facing their only electoral risks in primaries, are sheltered from the pressures of mainstream public opinion and become as secure in their jobs as legislative bureaucrats. Challengers are deterred from matching resources with incumbents who are stacked and packed into their districts. Money flows to PAC and political consultants (or to the use of initiatives at the state level) rather than the open politics of campaigns.

Campaigning itself is dominated by the electronic media and computerized direct mail, for these are the prominent technologies used to reach districts that sprawl across the map. How can one organize effective primary or general grass-roots campaigns? Voters have less and less reason to bother with races whose

outcomes are foreordained: in 1986, only 33 percent of all eligible voters cast ballots in U.S. House races, the lowest turnout since 1942.

Can California, the nation's most extensively gerrymandered state, now take the lead in redistricting reform? It is a question that could affect the health of representative institutions far beyond the boundaries of the Golden State.

TYPES OF REFORM

The decennial census conducted by the U.S. Bureau of the Census will occur in 1990. In 1991 or 1992, the great majority of the states will redistrict. But throughout the 1980s speculation on 1991 has become common. The sense of suspense has not abated; indeed, it has become intense in 1989, two years before the event. Redistricting is a major public issue.

A national movement of "redistricting reform" is under way that seeks to take redistricting out of the hands of state legislatures. Before the end of the current decade it is likely that "anti-gerrymandering" constitutional amendments will be pressed in many states. In most cases, intense legislative resistance to such initiatives is inevitable because the same self-interest which allowed and produced the gerrymanders has not changed. Recognition of lack of angelic qualities in man leads to the conclusion that redistricting will not change until redistricting has been removed from the political arena.

Three types of redistricting reform are currently being suggested:

1. the commission option;
2. criteria and guidelines; and
3. a systematic neutralization procedure.

These reform proposals in one form or another challenge the results of legislative controlled redistricting under current practices. Fundamental is the belief that an inherent "conflict-of-interest" exists when state legislators are allowed to draw their own district lines.

As the gerrymander analysis in Section 3 suggests "incumbent" protection is the purpose of each gerrymander and the basis upon which redistricting managers develop a winning strategy for passage of the redistricting legislation.

Such an inclination on the part of political actors is inherent in human character ["If men were angels, no government would be necessary"—Madison, Federalist 51]. The results of recent redistrictings prove the point. Ludicrous districts only highlight the hypocrisy of any pretense of representative motivation.

Critics argue that legislatively-conducted redistricting undermines two-party competition beginning with individual safe districts which in turn influence state and national politics. Parties are weakened by the security of office-holders. Entrenched incumbents of both parties, secure in their political fiefdoms, can have little concern for the state or national party's success. Incumbents can ride out all but the most massive electoral tides in the safety of their safe districts.

It is difficult to obtain opposition candidates either in the primary or the general election. Top-notch candidates are not inclined to fight losing battles and seek other outlets for their talents. Powerful rejuvenation blood is denied the political system by the strangleholds created by gerrymander necks.

In turn another phenomenon occurs. Districts top-heavy with registrants of one party tend to elect candidates who represent extreme, ultra-loyalist wings of their respective parties. The ideologues from safe districts do

who represent extreme, ultra-loyalist wings of their respective parties. The ideologues from safe districts do not have to respond to the crucial "brokerage" functions in the American party and legislative systems.

Incumbent safety, lack of strong opposition, and ideological blinders in turn begin to lessen responsiveness to public opinion by the individual office-holders and legislative leaders.

The result is stagnation of the policy process. Electoral coalition building is superfluous to legislators from safedistricts. Groups not already in the establishment [including ethnic minorities] are shut out of the policy process by party-controlled redistricting.

The overall indictment embraces many facets of the representative system — its competitiveness or its responsiveness, the quality of representation, its capacity to produce effective policy, and the adequacy of group participation in politics.

In the earlier conference pamphlets the various approaches were reviewed in considerable detail.³

Here only the major proposals are noted.

THE COMMISSION OPTIONS:

The National Common Cause Commission:

Common Cause has long headed the movement of "reapportionment reform" via commission. The national Common Cause approach has three main elements: establishment of an independent, non-partisan redistricting commission in every state; strict anti-gerrymanders standards; and prompt judicial review.

The argument for the approach was summarized in the Common Cause publication, "Reapportionment: A Better Way":

The purpose of political gerrymandering is to shut people out of the political process. Reapportionment reform is designed to benefit the public by broadening political participation and increasing electoral competition. Reapportionment reform is designed to strengthen the political process by providing an incentive for political parties to bring new ideas and new people into the process. By reforming the reapportionment process and improving state legislatures, states may increase public respect for state government and strengthen the role of state government in our federal system.

Other Commission Efforts:

Proposition 14 which appeared on the November 1982 ballot proposed a commission. The proposal was defeated by 3,065,072 votes (45.5%) to 3,672,301 (54.5%).

Proposition 39 was sponsored by Governor Deukmejian in 1984. The proposed commission was defeated by 3,995,762 (44.8%) vote to 4,919,860 (55.2%).

In Indiana a public plan commission has been proposed by Norman S. Primus. A neutral administrator would be responsible for:

- *securing population data and maps and preparing them for public use in map drawing.
- *establishing schedules
- *selecting the final plans from public submissions as the result of applying "quantitative criteria".

3. Related sections can be made available to interested parties by contacting the Rose Institute, Claremont McKenna College, Claremont, CA, 91711. The first detailed monographs on California Redistricting will be available shortly.

The quantitative criteria are: population deviation, compactness (measured in terms of boundary lengths), and city integrity (determined by number of splits).

STRUCTURAL CHANGES AND STANDARDS OR GUIDELINES

In California, where the commission concept has twice been rejected by the voters, recent reform attention has tended to focus on methods to improve legislatively-conducted redistricting. A number of structural changes have been proposed or are possible:

The Supermajority:

The idea of a super-partisan legislative vote of two-thirds is advocated to limit party strategies. Unless associated with other changes, however, the supermajority could easily prove to be a recipe for bipartisan strategies.

The theory supporting the idea is that a simple majority can be made more responsible because it must seek a supermajority. One party would normally have to obtain approval of the other party [therefore, have to bargain] to secure a supermajority.

Supporters of the theory ought to review carefully the California experiences of 1951 and 1961. In both cases the majority party (Republicans in 1951 and Democrats in 1961) had little difficulty in obtaining an unnecessary 2/3 by bargaining with some members of the opposite party.

Equally instructive are the stalemate experiences in the early 1970s. If the two houses do not agree, or if the legislature and the executive do not agree, the redistricting process may be transferred elsewhere to the courts or a commission. The results may be not less political despite assumptions otherwise.

Often outsiders without benchmarks for equity simply choose between legislative proposals which are hardly non-political in their content. Often the courts or a commission merely ratify the partisan programs of the legislature. In other cases bureaucratic staffs become the decision-makers for judges or commission members who are inexperienced or already overworked.

Public Hearings and Time Limits:

Negotiations of gerrymanders are time consuming exercises. People bargaining over political matters, which are subject to various interpretations, prefer negotiation conducted behind closed doors which can be unveiled late in the legislative session, when little can be done to prevent enactment. Crisis pressures legislators to agree with almost anything to complete an action which vitally involves their futures. In such an environment legislators have little chance to review what their technicians have created. The height of irresponsibility occurred in 1982 when bureaucratic technicians merely rewrote the technical language to match their agenda rather than what the legislature actually approved.

The solution proposed to check such secret decision-making is to require public hearings and a time limit (e.g., 60 or 90 days after receipt of census data, or passage into law prior to June 30) to inhibit gerrymanders. Such delay would facilitate referenda. In turn, the threat of a referendum might bring about a degree of restraint, because of the uncertainty of a referendum outcome, which would encourage the legislative majority to avoid that possibility. Currently, by delaying action on the redistricting legislation, the majority can prevent filing of a referendum if legislation is passed so late in the year that the courts (as in 1982) may allow the next election to take place in the challenged districts.

Mandatory Referenda or Review and Redistricting by Initiative:

In order to check blatant gerrymanders, redistricting plans could be subjected to an automatic vote of the people. Such a device, however, would probably require mechanisms for the establishment of interim plans for the next succeeding elections. An alternative device would permit redistricting by initiative to occur within a certain period after the initial redistricting. The approach, of course, imposes some strain on the initiative process. Critics point out that voters would choose between the lines of different maps. Decisions would require evaluation of complex information, but in the process interested citizens would have second thoughts about legislative gerrymanders.

A number of standards or guidelines could also be used to improve the process.

District "Nesting":

"Nesting" refers to grouping two assembly districts in one state senatorial district, and sometimes with congressional and board of equalization districts. Competitive districts would be more likely. Citizens would find the "nested" districts more understandable.

To nest congressional districts with state legislative districts, however, could not be achieved without altering the number of legislative districts. If, for example, California had 50 congressional districts, 50 state senate districts would be created and two assembly districts would be created in each congressional/state senate district. Because congressional districts change in number each decade the size of the state legislature could not be kept at 40 state senate and 80 assembly districts.

Under any "nesting" proposal the political tasks of redistricting would become more complicated and prolong the process, if not create stalemate. To nest districts would require state senatorial lines to match assembly district lines.

Where would the process begin? With state senate districts as the beginning point, the state senate would control what the assembly could do. If assembly districts were the beginning points, the state senate would be dependent on the assembly. In a bicameral system, in which each house jealously controls its agenda, especially in relationship to redistricting, any agreement to subservience is unlikely.

The complications with congressional districts are even more horrendous to contemplate. Although an appealing idea, which basically prevailed until the 1960s, the implementation of nesting is unlikely without a neutralized procedure.

Compactness:

Many measures, both simple and complex, can be used to determine compactness: the aggregate length of boundaries (e.g. the Common Cause concept that the aggregate length of all district lines should not exceed by more than 5% their shortest possible aggregate length); use of measures of population density and the proximity of population to the district's center; the number of times that lines drawn between opposite extremities cross district boundaries; and so forth.

The asserted advantages of these formulae are objective and measurable standards. The problem centers on what formula is most objective and best measures compactness. Different formula are asserted to have subtle partisan implications, but the empirical evidence is questionable and certainly not objective or measurable.

The concept is also challenged because it ignores county, city, and other community boundaries.

County/City Integrity:

In reaction to the rambling lines which arbitrarily split cities and counties at the expense of community integrity in 1981 and 1982, and which were foreshadowed by the ludicrous proposals of 1971 and 1973, proposals have been made to limit the number of times county or city boundaries may be crossed. At the same time that units of local government would be protected, incumbents could be challenged by local office holders with their political communities intact, rather than blatantly divided for the advantage of incumbents.

Some proposals simply require that only one district may cross the common boundary of any two counties, or that cities with less population than that of a district must not be divided (unless it is necessary to do so to achieve population equality).

District Numbering:

The state constitution provides that districts will be numbered from north to south in the state. Odd numbered state senatorial districts are elected in different years than even numbered districts. Political games can be played with district numbers.

To control the adolescent games that grown persons play on the advice of their bureaucratic technicians, proposals have been made to regulate the numbering system. One proposal even requires the election of all state senators following each redistricting.

Community Unit Sequencing:

A new reform proposal, resulting from the Haynes Grant to the Rose Institute, requires the sequencing of counties, cities, or other such community units.

In essence the reform deprives redistricters of human discretion by changing redistricting into a procedure controlled by sequencing of redistricting units, with a variable beginning point. Districts with "necks", the life sustaining anatomy of the gerrymander, are not possible based on political considerations.

The proposal is called "A.C.T.I.O.N. Guidelines" which is an acronym for A Constructive Technique In Organizing Neutralization of Redistricting. The systematic program includes many of the reforms mentioned above. A.C.T.I.O.N. Guidelines involve:

1. Redistricting units are defined by major freeways and arterial highways so as to guarantee the city and community unification when population equality permits;
2. Guarantee unification of counties and cities when procedurally possible within the one-man, one-vote principle;
3. Sequencing of the compact, contiguous, community oriented units guarantees commonsense compactness, contiguity and community based districts without complex formulae incomprehensible to the average citizen;
4. Public hearings, time limits, potential referenda are provided; the procedures will be open;
5. Nesting is provided for state senatorial, assembly and board of equalization districts. Congressional districts will nest as close as procedures permit. Approximately every eighth congressional district will correspond to a state senatorial district and most other districts will be closely aligned on the basis of procedures rather political intrigue.

6. Districting numbering becomes automatic with the sequencing and the variable beginning point;

PROCEDURES REPLACE POLITICS BECAUSE SEQUENCING AND THE VARIABLE BEGINNING POINT NEUTRALIZE THE PROCESS.

FUTURE PUBLICATIONS ON REDISTRICTING

An Introduction to A.C.T.I.O.N. Guidelines will be available shortly. The Introduction will be followed by additional monographs of which the first three will be:

1. Monograph #1 Implementation of Guidelines
2. Monograph #2 Gerrymanders: The Species, Their Conception, Spawning Grounds and Eradication
3. Monograph #3 A Political Westside Story and Its Implication for American Government