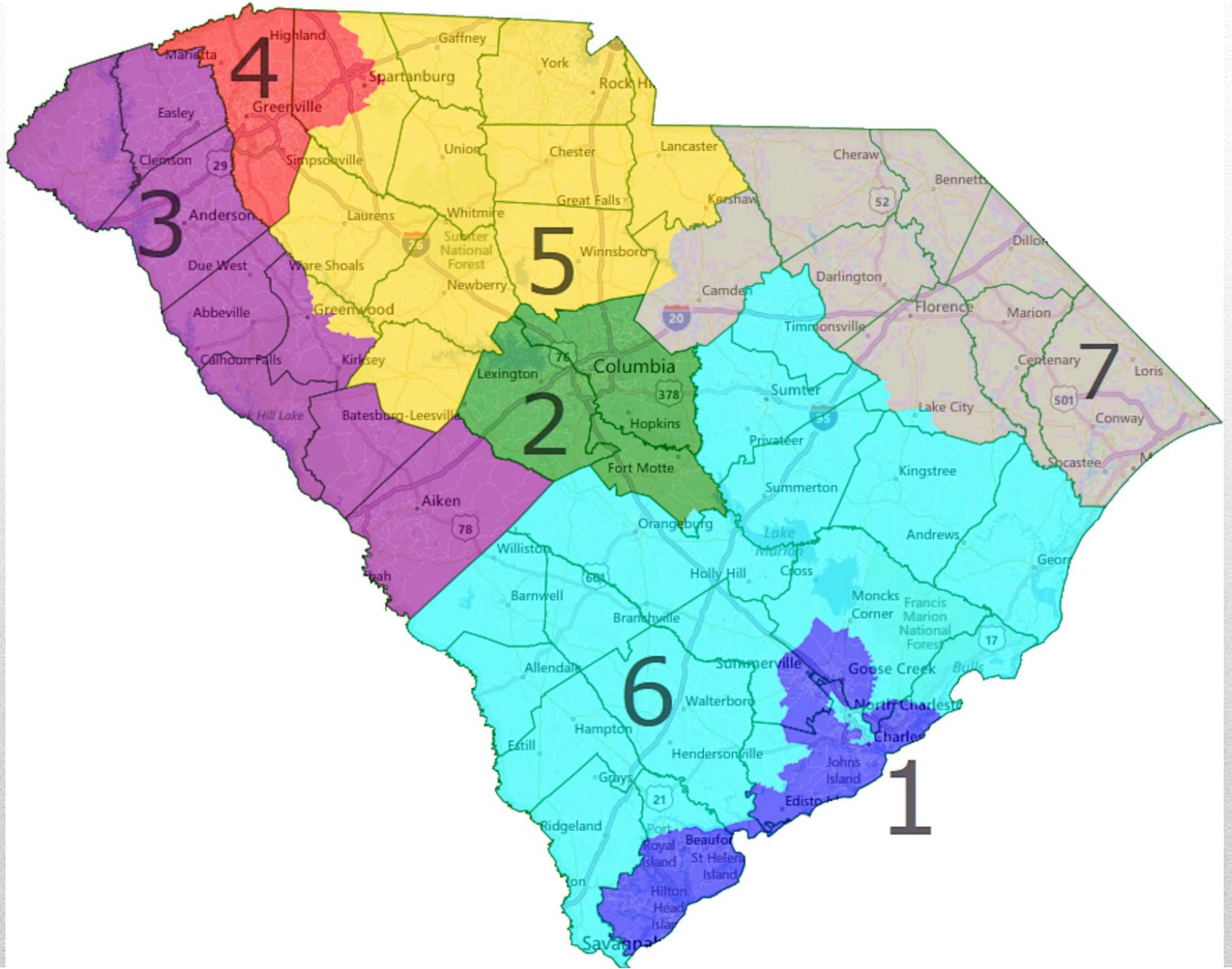


Gerrymandering in South Carolina

Holley Ulbrich



A Gerrymandering Trail in the U.S.

Charlotte Holmes

1788 - Virginia's 5th District

- No term "gerrymander" used,
- Prior to the U.S. Constitution taking effect,
- Redistricting already being employed for political gain.

Just after Virginia voted to ratify the Constitution and join the union, former Governor Patrick Henry persuaded the state legislature to remake the 5th Congressional District, forcing Henry's political enemy James Madison to run against the formidable James Monroe. The ploy failed and Madison won anyway.

1812 - A PHRASE IS COINED

Gerry + Salamander

Elbridge Gerry, Massachusetts governor, signed a law to redistrict benefiting his political party.

First printing of the term by Federalist-leaning Boston Gazette on March 26, 1812 alongside a cartoon described the newly formed district in Essex County, said to resemble the shape of a salamander.

The name Gerrymander stuck.

Essex County Massachusetts District Cartoon - Boston Gazette – 1812



1840 – Census - Reform / Reapportionment

The Apportionment Act of 1842

Following this census, the Apportionment Act of 1842 required:

- ✓ Congressional districts be contiguous and compact,
- ✓ A ratio of 1/70,680 residents,
- ✓ Size of House of Reps. decreased from 240 to 223 seats.

Prior to this, many states elected House members "at large," allowing for majority party to elect all the congressmen.

For the first time:

- States split into congressional districts according to the number of representatives allotted to them and,
- A single representative elected from each district.

1889, The Dakota Territory

Electoral College Rules for Representation

- **Regardless of population, each state received at least three electoral votes.**
- **So Republicans, who controlled Congress, could dramatically increase their presidential chances by promoting the admission of more states in territories leaning toward their party.**
- **Thus, the Dakota Territory entered the union as North and South Dakota.**

1913-1961 - Texas' 4th District

- Even though the constitutionally intended purpose of re-districting should maintain proper apportionment of elected representatives, several states, didn't bother to adjust their district boundaries.
- Result, in Texas, a powerful rural legislator, House Speaker Sam Rayburn, could represent some 200,000 voters, while the adjacent Dallas district, Bruce Alger represented roughly 900,000.
- Rayburn served as the 43rd Speaker of the House for nearly 17 years.

1962 - The Supreme Court

The Fourteenth Amendment

“Equal Protection of the Laws”

Court ruled that malapportionments violated the Fourteenth Amendment’s guarantee of “the equal protection of the laws.” One of the dissenters, Justice Felix Frankfurter, warned against judges entering a “political thicket.” The high court subsequently ignored him.

1965 - STATE-SANCTIONED GERRYMANDERING

The Voting Rights Act - “Affirmative Gerrymandering”

- Voting Rights Act passed - some states created “majority-minority” districts, in which the majority were non-white, based on Census data.
- Practice, known as “affirmative gerrymandering,” intended to remedy historic discrimination and elect minority politicians.
- **Section 5** - stipulated that some states -- all of which had created districts that systematically disadvantaged minority voters, -- and were in the Deep South -- had to get the Department of Justice’s approval on any redistricting plan.



1980s

Georgia House District 117

The Court took umbrage at the re-districting orchestrated by Georgia Democrats and their leader, state Representative Joe Mack Wilson, flatly declared, “I don’t want to draw nigger districts.”

1990s - Shifting Precedents

North Carolina, 12th District - 1996

Compactness, Contiguity and Community

- NC's 12th district was described as a “wormy creature of such narrowness that a person driving down Interstate 85 with doors open on both sides could kill people in two districts.”
 - Justice Sandra Day O'Connor - “appearances do matter.” Supreme Court decreed in 1996 – “districts drawn to maximize minority representation should retain “compactness, contiguity and respect for political subdivisions.”
 - 12th district was “most litigated district in the country during ‘90s and was the focus of no fewer than 4 cases that went to the Supreme Court.”
-

1993 & 1999 - Supreme Court

North Carolina's 12th District

Shaw vs. Hunt, 1993

Hunt vs. Cromartie, 1999

- 1993 *Shaw vs. Hunt*, U.S Supreme Court found NC's legislature violated the Constitution - using race as the predominant factor But,
- 1999 *Hunt vs. Cromartie*, Court found that a redrawn 12th was constitutional because it was legal partisan gerrymandering -- designed to create a safe Democratic seat -- rather than illegal racial gerrymandering.”

2001 - CHICAGO-STYLE POLITICS - OBAMA EDITION -

With Democrats in control of Illinois redistricting, then state Senator Barack Obama was able to reshape his district.

The district maintained the Hyde Park base, but the new district was whiter, more prosperous, more Jewish, less blue-collar, and better educated.

2003 - TOM DELAY, TEXAS, 11th District - “The Killer Ds” and the “Texas Eleven”

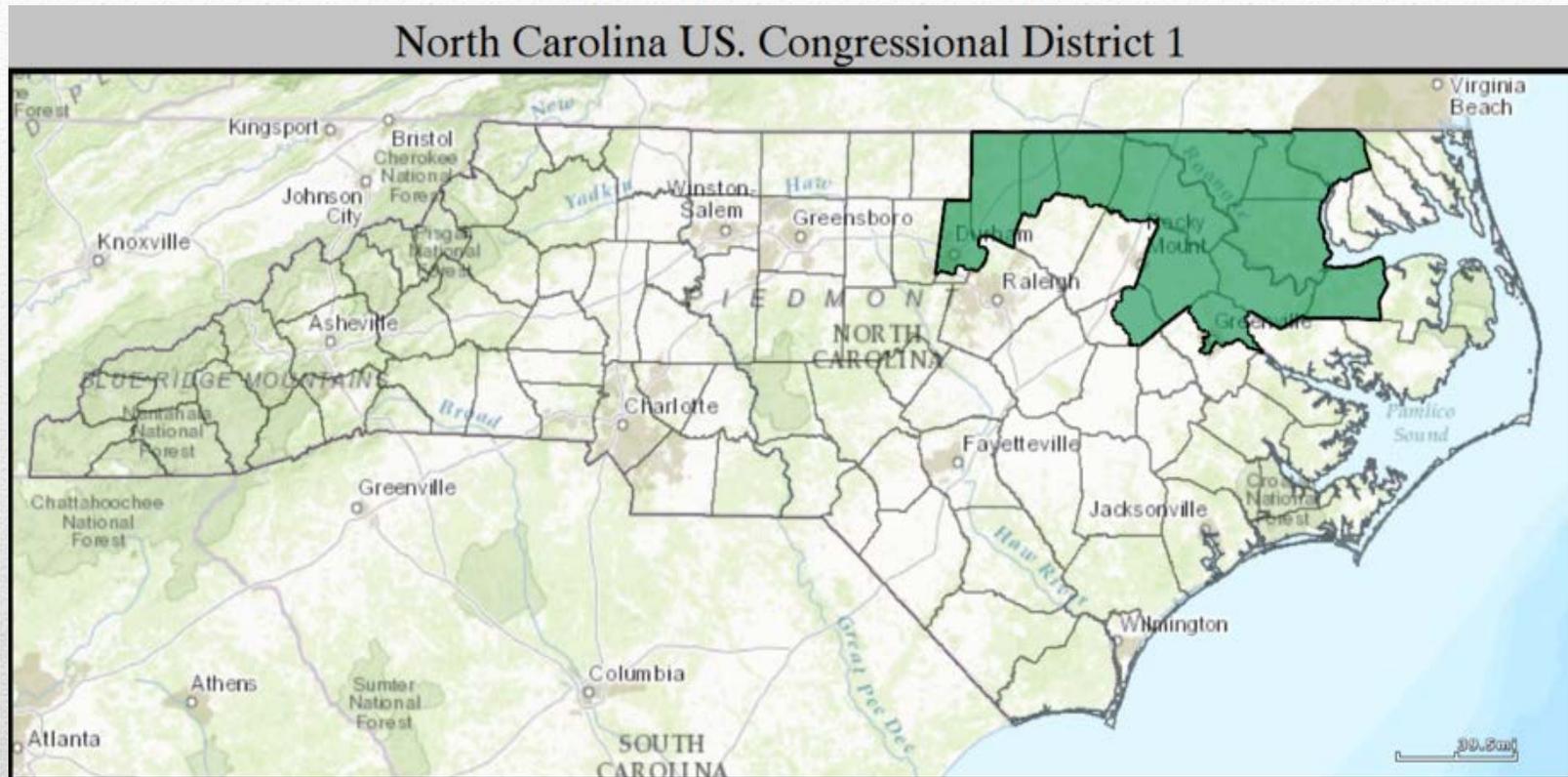
- Congressional Districts already Census-adjusted in 2001.
- But, before an indictment for money laundering forced him to resign in 2006, House Majority Leader Tom Delay played a role in the redistricting process. He supported Republican majority to seize the state assembly to redraw the lines.
- Outraged Democrats claimed it was illegal. 51 House Democratic **representatives** (“**Killer Ds**”) fled to Oklahoma to avoid a quorum. Then in summer, some Democratic state **senators**, (“**Texas Eleven,**”) went to New Mexico for the same reason.
- The Republicans prevailed. 10 Democratic congressional districts changed, with 5 losing in the 2004 elections. Case reached the Supreme Court - justices ruled redistricting plan constitutional except 1 new district was illegally racially gerrymandered.

2010 - Census

North Carolina's 1st & 12th Districts

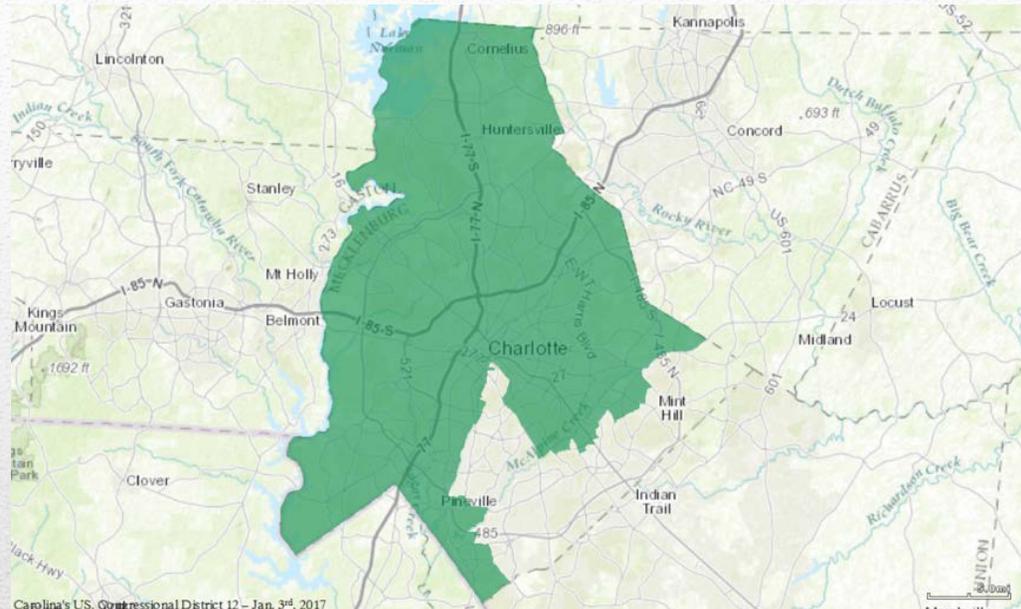
- Census and subsequent 2011 legislative redrawing - group of voters and advocacy groups sued the state to overturn those maps.
- Feb. 5, a three-judge federal court panel did, saying that lawmakers unconstitutionally packed too many black voters into the state's 1st and 12th Congressional Districts, [The court ordered the state to redraw the maps.](#)
- Some states **use an independent commission** to redraw the districts, North Carolina, like a majority of states, leave the job to state lawmakers.

2011 - NC's 1st Cong. District



Top 10 in the US for **contorted lines** and the number of counties it includes

2017 - NC's 12th Cong. District



Carolina's U.S. Congressional District 12 - Jan. 3rd, 2017



2005, 2007, 2009, 2010 - Tennessee

Rep. John Tanner tried to interest his colleagues in redistricting-reform bill. Introduced his bill in 2005 - Republicans controlled the House - 2007 and 2009, Democrats in charge. But he said, “the hard left and the hard right don’t want it.”

Tanner said that redistricting **evolved over time**, from creating **safe seats for incumbents** to creating rigid conservative and liberal districts, thus primary contests are a race to the extremes and the general elections are preordained – in 100 of the 435 seats.”

“A parliamentary model on a representative system,” Tanner went on. So what that’s done is two things:

1. It’s made it virtually impossible to compromise.
2. It’s damn near abolished the ability and responsibility of Congress to hold the executive branch of the same party accountable. “We’re totally **abdicating our responsibility of checks and balances.**”

2010 – Texas

When the Texas House redistricting vice chair, said, “Well, the Texas legislature basically told me, ‘We’re Texas, and we’re gonna handle our maps...’ when you have a **population increase of 4 million**, and the **majority is minority**, you’d better take that into consideration.” Those new historically Demo-leaning residents were:

- **2.8 million are Hispanic (42% growth rate)**
- **Half a million are African American (22% growth rate)**
- **White Texans (4.2% growth rate)**

Without minority growth, Texas would not have received a single new district. Yet redistricting in 2012 resulted in **net gain of four districts for Republicans - none for the minorities.**

Texas maps have spent **more than a year in three federal courts**, including the Supreme Court. **Legal uncertainty** has national ramifications.

2010 – Texas continued

These Statistical realities left Republican-controlled state legislature and Governor Rick Perry with three choices when it came to redistricting:

- 1. Bow to demographics, draw three or four new “minority-opportunity districts” and, as Governor George W. Bush did, appeal to the state’s fastest-growing population.**
 - 2. Or they could opt for the middle ground and create one or two such districts.**
 - 3. Or, “they could use the redistricting process to cling to what power they have and hang on for as long as they can.”**
-

2010 – Texas continued

- Texan and House Judiciary Committee Chairman Lamar Smith and others saw it better to preserve the existing seats by funneling the minority population into a new district.
 - **Otherwise**, each of the half dozen--plus Republican members of Congress in the Metroplex **would have to absorb increasing numbers of minority voters** — meaning once-safe GOP districts might become swing districts by the end of the decade.
-

Gerrymander of the Decade?

Pennsylvania

- Plenty of good candidates for the "**Gerrymander of the Decade Award**" this **2010** census cycle.
- BUT Republicans in Pennsylvania took a state that was two or three points more Democratic than the country as a whole,
- They created 12 districts (out of 18) that were more **Republican** than the country as a whole.
- They created a group of Rorschach-ink-blot districts in southeastern Pennsylvania.

Pennsylvania's 7th District

- **Every 10 years, PA party leaders redraw state House and Senate districts. Its U.S. boundaries are subject to an often-partisan vote by the Legislature before going to the governor.**
- **Has led to districts that resemble Rorschach test ink blots. 7th congressional district looks like "Goofy kicking Donald Duck."**
- **Lawmakers/citizens groups fought for decades to reform the system. This year, an effort to change the state constitution gained traction in the Legislature.**
- **LWV of PA is the plaintiff.**

PA's Redistricting Reform

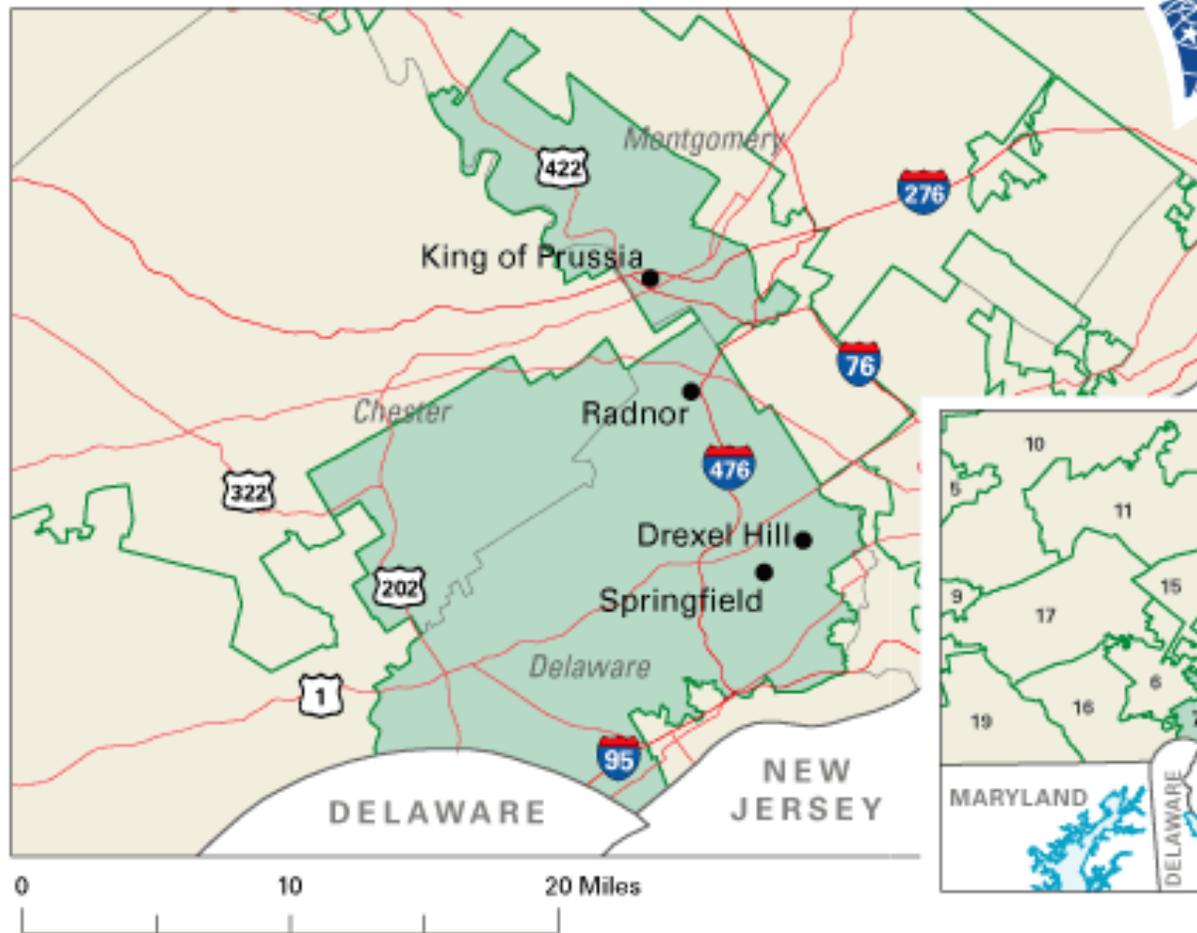
PA LWV Vice President Kuniholm pointed to lack of general-election challengers to incumbents in last election. Entrenchment due to safe districts leads to disenfranchisement and mistrust of the system, she said, "Once people hear what's happening, they say this is wrong and they want it fixed."

Two-pronged approach:

1. Constitutional amendment - to address redistricting process,
 2. Lawsuit – Challenge the state's districts lines being prepared by the Philadelphia-based Public Interest Law Center. Similar challenges have led to courts throwing out district lines in NC and Wisconsin.
-

PA's 7th District (112th Congress prior to redistricting)

Congressional District 7



7 Congressional District
Delaware County



Pennsylvania (19 Districts)

2017 - Supreme Court North Carolina, *Cooper v. Harris*

“You don’t see a Kagan-Breyer-Ginsburg-Sotomayor-Thomas majority often in U.S. Supreme Court decisions, but today (May 22, 2017) that quintet joined together to deal a blow to North Carolina Republicans.

In the decision in *Cooper v. Harris*, the **eight-member pre-Gorsuch roster upheld a district court’s ruling** that two congressional districts (1 and 12) in North Carolina were unconstitutional racial gerrymanders, putting an end to one part of a six-year saga that began with redistricting in 2011 and the 2010 midterms.”

Wasted Votes and the Efficiency Gap

LWV files Amicus Brief
in Wisconsin Case

Eleanor Hare

Quantifying Political Distortion of Political Districts

50% + 1 of votes cast required to elect

Wasted votes are:

- Excess votes for the winner
- All votes for the loser

Example 1

20 votes are cast. 11 votes needed to win.

Sam receives 14 votes. 3 are wasted

V V V V V V V V V V V W W W

Judy receives 6 votes. All are wasted

W W W W W W

Example 2

3rd SC District, US Congress, 2016

Total votes cast: 272,481

Votes needed to win: 136,241

Votes for R: 198,431

Votes wasted: 62,190 (198,431 – 136,241)

Votes for D: All 73,766 are wasted.

Efficiency Gap

2016 SC Congressional Districts

Wasted Votes:

Republicans: 300,926

Democrats: 651,174

Efficiency Gap: 17%

$$((651,174 - 300,926) / 2,039,462) * 100$$

One Way to Make Democracy Work

**Create Districts That Can Have
Competitive Elections!**

CeCe Parker

- 
- **Independent Non-partisan Commissions**
 - **Criteria that create competitive districts**
-

Independent Commissions

- **H.3339** introduced 1/10/17 - Members chosen by Dem and Rep caucuses and the Governor. The commission creates the criteria for creating districts and reapportionment plan.
 - States that use Independent Commissions
 - Problems?
-

Independent Commissions

- **S.341** introduced 2/1/17 - Constitutional amendment provides for creation of independent commission.
 - Nine members selected by a three member Applicant Review Panel which is...
 1. Appointed by the State Inspector General.
 2. Commission and Panel free of conflicts of interest
 3. Impartial and possess analytical skills
 4. Appreciation for SC demographics and geography.
 - **Problems?**
-

Effective Criteria

Example of criteria in S.341

- contiguous and compact
 - respect integrity of city, county, neighborhood, or communities of interest
 - cannot use residence of incumbent or candidate
 - cannot favor or discriminate towards an incumbent, candidate, or party
-

Other criteria examples

Rejection of...

1. Lines that dilute voting strength of minorities
 2. Political affiliation of registered voters
 3. Previous election returns
 4. Demographic info other than population
-

In order to be effective...

- ◆ **Criteria must be protected**
- ◆ **It must be put into statutes**
- ◆ **It must be measurable**
- ◆ **There must be data to prove whether criteria is being violated...**

Thus leading to OR avoiding court cases

Racial vs Political Gerrymandering

- **Voting Rights Act of 1964**
 - **Criteria to defend against partisan gerrymandering**
 - **SCOTUS says partisan G. unconstitutional, BUT...**
 - **No good test to determine**
 - **Wisconsin plaintiffs using “efficiency gap”**
-

Five Year Plan

- Advocate for laws with an independent commission
 - Form a coalition and develop a strategy
 - Educate ourselves and the public
 - Make sure the Census is adequately funded
 - Build relationships with other interested parties
 - Learn what software draws the lines
 - Raise money for the extra cost
 - Attend any public meetings or legislative hearings
 - Note your local redistricting
 - Prepare to challenge the redistricting in court
 - Celebrate!
-

What Local Leagues Can Do

- Volunteer to educate others (e.g., speak to civic groups, an event just for government and civics teachers, write letters to the editor)
 - Advocate with your legislators and local officials to draw lines that make every vote count
 - Advocate specifically on bills for an independent commission and for criteria
 - Stay NONPARTISAN. This is not about electing more people from a particular
 - Work simultaneously on encouraging voter turnout, starting with the June primaries
-

For More Information on Gerrymandering

<http://lwvcharleston.org>

(Click on: “**Redistricting Reform**”)

For a copy of this PowerPoint,

<http://www.clemsonarea.sc.lwvnet.org>
