

As Bad as *Citizens United*

The Court just stacked the deck in favor of parties over voters—and laid the groundwork for yet more polarization.

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Today's Supreme Court ruling that the Constitution doesn't bar even extreme partisan gerrymandering is the worst election-related decision since *Citizens United*, which in 2010 opened the floodgates for corporate money in campaigns. The Court just stacked the deck in favor of parties over voters—and laid the groundwork for yet more polarization.

Most congressional districts are not competitive. Right now, according to *The Cook Political Report*, of the 435 districts in the House, only 21 are true “toss-ups,” whereas 344 are considered safe seats. (The rest lean in one direction or the other.) In this climate, electoral survival means aligning with base voters to protect your flank, left or right. Compromise isn’t a virtue; it’s an invitation to a primary.

This state of affairs is the result in part of “natural” residential sorting patterns. For many Americans, though certainly not all, where we live is a choice, and we often choose to live in ideologically homogeneous neighborhoods. David Wasserman from *Cook* notes that there are now two types of congressional districts: Whole Foods districts and Cracker Barrel districts. In 2016, Donald Trump won 76 percent of counties that had a Cracker Barrel, and only 22 percent of counties that had a Whole Foods. Politically, at least, we are where we shop.

But the congressional map isn’t a purely organic expression of political-geographic proclivities; it’s also an expression of political shenanigans, in which elected officials choose their voters rather than vice versa. State officials draw districts to protect incumbents of their parties. They may, for instance, lump as many opposing voters as possible into as small a number of districts as possible, and then spread just enough co-partisans (say, 51 percent) into as large a number of districts as possible.

The mapmakers are political Picassos sketching abstract art. For example, the old Seventh Congressional District of Pennsylvania, in the suburbs and exurbs of Philadelphia, was nicknamed “Goofy Kicking Donald Duck.” It scooted around Democratic neighborhoods and looped in Republican neighborhoods. The result? Contours that vividly resembled two Disney characters locked in mortal combat—and a safe seat for the GOP. Last year, the Pennsylvania Supreme Court struck down the state’s gerrymandered congressional lines and adopted a new map in the 2018 elections. The previous delegation had five Democrats and 13 Republicans. The current delegation has nine Democrats and nine Republicans.

Gerrymandering isn’t new, of course. It was first used in 1812 to draw Massachusetts state legislative districts that were signed into law by then-Governor and future Vice President Elbridge Gerry. What is relatively new is the repudiation of compromise by the very large number of incumbents who fear a primary over a general-election challenge. Today’s Supreme Court decision will give those incumbents no reason to change that calculus, and in fact could embolden them and further inflame the partisan divide.

We both served in Congress, on opposing sides, and each felt these pressures every day we were in office.

The good news is that the process is being corrected at the state and local levels.

Grassroots efforts have persuaded several states to adopt better redistricting standards. Arizona, California, Hawaii, Idaho, Iowa, Montana, New Jersey, and Washington all currently have independent or nonpartisan redistricting rules in place. Colorado, Michigan, Missouri, Ohio, and Utah will have either commissions or new practices ready for the next round of redistricting.

Still, today's Supreme Court decision is an enormous setback; the conservative majority has given a green light to partisan gerrymandering in every state that has not acted independently to curb this activity.

The next redistricting process in state capitals begins after the 2020 census and the 2020 elections. Which is why the first question in every presidential, gubernatorial, and state legislative debate should be: "Will you support fair and independently drawn districts?"

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