

What Is Gerrymandering? And How Does It Work?

Here's what you need to know about the legal battle over the rigging of district maps to entrench a governing party's political power.

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The Supreme Court ruled on Thursday that the federal courts cannot decide a question with momentous political consequences: Whether congressional district maps in Maryland and North Carolina that were drawn specifically to tilt political power in favor of one party — a practice known as partisan gerrymandering — are acceptable.

District courts had thrown the maps out as unconstitutional, but the decisions were appealed. When the Supreme Court heard arguments in the two cases in March, the justices seemed divided on partisan lines over key issues, much as they had during an earlier hearing on the Maryland case last year.

In the end, the Supreme Court decided, 5-4, that the question of partisan gerrymandering was a political one that must be resolved by the elected branches of government, and not a legal question that the federal courts should decide.

Here are answers to some common questions about rigged electoral maps, and the Revolutionary patriot for whom they are (perhaps unfairly) named.

What is gerrymandering?

It is a way that governing parties try to cement themselves in power by tilting the political map steeply in their favor. The goal is to draw boundaries of legislative districts so that as many seats as possible are likely to be won by the party's candidates. Drafters accomplish it mainly through two practices commonly called packing and cracking.

A packed district is drawn to include as many of the opposing party's voters as possible. That helps the governing party win surrounding districts where the opposition's strength has been diluted to create the

packed district.

Cracking does the opposite: It splits up clusters of opposition voters among several districts, so that they will be outnumbered in each district.

An efficiently gerrymandered map has a maximum number of districts that each contain just enough governing-party supporters to let the party's candidates win and hold the seat safely, even during "wave" elections when the opposition does especially well. And it packs the opposition's supporters into a minimum number of districts that the opposition will win overwhelmingly.

Where is gerrymandering most notable now?

Currently, rigged maps tend to be most prevalent, and most tilted, in states under Republican control. That is in part because Republicans did exceptionally well in the 2010 elections, giving the party far wider control of state legislatures, which oversaw redistricting after the 2010 census. The national Republican Party had poured money and expertise into state legislative races with the specific aim of gaining control over redistricting; the Democratic Party had not.

Many political scientists consider the House maps in Republican-controlled states like North Carolina, Michigan, Ohio and Texas to have the most pronounced partisan slants. (Pennsylvania was also on the list until its map was redrawn last year.) Among Democratic-held states, Maryland, Illinois and — to some observers — California are regarded as the most tilted. Illinois is especially notable for its "pizza slice" division of metropolitan Chicago, using generous helpings of urban Democrats to offset the heavily Republican suburbs in district after district.

Perhaps the most notable recent example is the Wisconsin State Assembly, whose members are all elected every two years. Wisconsin is a battleground state that swings from Republican to Democratic and back again in statewide elections for governor, United States senator and other offices.

After the Republican majority redrew the Assembly district map in Wisconsin in 2011, the party won a supermajority in the chamber. Then in 2018, Republicans retained that supermajority, even as Democrats won every statewide office.

Why did the issue come before the Supreme Court?

Opponents have argued in a string of lawsuits dating back decades that extreme partisan gerrymanders violate the Constitution. But while the Supreme Court has struck down gerrymanders that were based on voters' race, it had yet to invalidate a map based on party. That was largely because the justices have not been able to agree on a legal standard that would let them distinguish between illegally partisan maps and acceptable ones.

The challenges to the House maps in North Carolina and Maryland emphasized new legal arguments against partisan gerrymandering, primarily that the practice punishes voters for choosing a particular party.

Many people considered the Maryland and North Carolina cases the court's last opportunity for a generation to break the legal impasse over partisan gerrymanders.

What did the Supreme Court say?

The majority opinion, written by Chief Justice John G. Roberts Jr. and joined by four other conservative justices, said that in order for judges to evaluate claims of partisan gerrymandering, they would need "a limited and precise standard" that would be "clear, manageable, and politically neutral." But no one had proposed one, the court said.

The court noted that it was not condoning or endorsing partisan gerrymandering. Rather, it said that Congress and the states had the power to deal with the issue.

The decision seemed likely to hasten the efforts already underway to challenge tilted maps in state courts. Some state constitutions offer more favorable legal grounds for attacking gerrymanders than the national Constitution does. The Pennsylvania Supreme Court invalidated the state's Republican-drawn congressional map last year based solely on the State Constitution, and Democrats went on to score major gains in the 2018 House elections in the state.

It will probably also give new momentum to citizen-led campaigns to take map-drawing away from state politicians entirely, and give the task to independent redistricting commissions instead. Ballot initiatives last year in Ohio, Michigan, Missouri, Colorado and Utah overhauled the redistricting process in those states, and advocacy groups are preparing

similar campaigns in Virginia and elsewhere.

Where did the name ‘gerrymandering’ come from?

Some historians trace partisan mapmaking to Patrick Henry, who is said to have drawn a Virginia House district for the first congressional election, in 1789, to ensure the defeat of his rival, James Madison (other historians take issue with that claim). But the practice takes its name from Elbridge Gerry, another figure from the Revolution, who later served as Madison’s vice president.

When he was governor of Massachusetts in 1812, Mr. Gerry signed a bill allowing his party to draw State Senate districts that were meant to favor its candidates over the rival Federalists. One serpentine district looked to some like a salamander; a Boston editorial cartoonist drew it with a head and claws and labeled it the “gerry-mander.”

Some footnotes to that history: Mr. Gerry may have been unfairly tarred; there is no clear evidence that he supported the maps his party drew. And they did not help his party for very long: the Federalists won control of the Senate the following year.

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