Ways & Means Transcript—S2E3—Crazy Districts, Lopsided Elections

Emily Hanford (EH): From Duke University Sanford School of Public Policy, this is Ways and Means. We spotlight bright ideas for how to improve human society. I'm Emily Hanford.

Henry Frye (HF): I went to my hometown of Ellerbe in the Sandhills of North Carolina to register to vote.

EH: This is Henry Frye. He's 84. He remembers the exact day he went to register to vote because it was his wedding day. August 25th, 1956.

HF: The person began asking me lots of questions about signers of the Declaration of Independence and various parts of the Constitution and so forth and I had looked at the qualifications beforehand and I said, "Well, why are you asking me all these questions?" And the person said, "Well, these questions are right here in the book." He kept asking these questions. He said, "If you don't answer them, I'm not gonna register you to vote." And, I wouldn't answer them so he said "You didn't pass, so you're not registered."

EH: Back in 1956, Black voters in North Carolina had to pass a literacy test. By law, they had to read parts of the U.S. Constitution and copy passages by hand; but the law did not require voters to memorize the Constitution, and Henry Frye knew his rights.

HF: After I got outside, I got to thinking about it, so I went back in and asked if he had any questions about my residence and he said, "No, I know your parents." And, in fact, called one of their names and said, I said, "And tell me again why I can't register to vote." And he told me again that I didn't answer these questions and that if I didn't answer them I couldn't register, so I left again.

EH: Henry Fry had finished college. He'd served two years in Japan and Korea as an officer in the United States Air Force. He was getting ready to go to law school.

HF: And to come back to my hometown and the man tell me that he knew my parents and that he's not gonna let me register to vote. So, I didn't like it at all.

EH: The Voting Rights Act of 1965 did away with literacy tests and greatly expanded voter protections, but politicians have found other ways to influence election results. Coming up on this episode of Ways and Means, we look at gerrymandering. That's when politicians draw up voting districts to favor one political party over another. We'll hear about how politicians do it, and how reformers across the nation are trying to restore the power of your vote.

Al Gore (AG): Your vote really, really, really counts a lot.

EH: You probably know who this is- Al Gore.

AG: You can consider me as an Exhibit A of that group.

EH: He narrowly lost the 2000 race for president because of a huge fight over which votes counted in the state of Florida. Gore lost because of controversy over the way ballots were counted, but in many elections the outcome is pretty much predetermined before a single vote is even cast. Because of gerrymandering, voters in many places across America aren't really picking the politicians who will represent them. It's the other way around.

Dan Boylan (DB): It's something that the 2011 man, to voters, right? I mean, you look at this thing, I remember, look at North Carolina. Is that serious- that the voters, who didn't pay enough attention that you created these bacon-strip districts.

EH: Bacon-strip districts. That's what political reporter Dan Boylan calls North Carolina's oddly-shaped congressional districts. At least two districts were long and skinny, like strips of bacon. He was talking during a press conference earlier this year. Drawing districts to favor one political party over another is nothing new. Politicians were doing it back in the 1800's, but gerrymandering has reached a whole new level in recent decades.

Tom Ross (TR): In the early 1990's, the Democrats drew a minority district, the 12th district.

EH: This is Tom Ross.

TR: It was often called "the snake" or "the I-85" district and it ran from, you know, the triangle area all the way to Mecklenburg County and essentially cherry-picked black precincts all along the way in order to create a large majority of African Americans in one district.

EH: Tom Ross is the Terry Sanford Distinguished Fellow at Duke University. The district he's talking about, North Carolina's 12th, ran in a skinny line along miles of Interstate 85. Legislators first drew it like that because of the Voting Rights Act. The law says there must be some districts where minority voters can "elect a candidate of their choice", and the 12th district has regularly chosen an African American to represent them. But though the district was created to comply with the Voting Rights Act, legal challenges say the district was also manipulated in order to make nearby districts safer for Republicans. And North Carolina's 12th is not alone; many other states have these weird-looking, manipulated districts.

Hedrick Smith (HS): There's one in Maryland that zig-zags all over the place. A Justice ruling on the case said it looked like a dragon flying backwards. I mean, it's almost impossible to describe it, it has no recognizable shape.

EH: This is Hedrick Smith, a Pulitzer Prize-winning journalist who now works on political reform.

HS: There was one in Virginia that looked like a snake, one of those kids' toys, snaking its way down a staircase. Basically, it was just connected by water. Now, under the Constitution,

they're supposed to be connected by land, they're supposed to be compact, they're supposed to be reasonably-shaped and keep communities together, not this kind of crazy thing.

EH: In most states, state legislators are responsible for drawing districts. Every ten years, when the Census comes out, they draw new districts. It's like asking a fox to guard the hen-house. Tom Ross says gerrymandering has gone out of control, and it's having major consequences.

TR: We allow the people that are being elected to draw their own districts, you know. So, they're sort of able to fix the districts in a way that benefits them individually or certainly benefits their political party and their views. What's happened now is they've become so carefully-drawn to be safe districts for one party or the other that voters have lost their voice to a certain extent, and I think that's truly hurting democracy.

EH: Journalist Hedrick Smith puts it more bluntly.

HS: The whole point of having elections it to have them competitive so that voters have a choice, but what the politicians have done- Democrats in some states and Republicans in others- is to organize and map the districts so they're monopolies. They're party monopolies; it's actually designed to deny voters a choice.

EH: Tom Ross is trying to help voters in his home state understand they aren't stuck with this broken system. One option is a bi-partisan, redistricting panel. So, Ross put together a mock panel to show how it might work. More on that a little bit later. But, first, to understand what's at stake and what it means for voters, let's consider North Carolina's long history of redistricting disputes. North Carolina's voting maps have been legally challenged more than 30 times since 1980. That's 30 times in less than 40 years. Some of the cases were about Congressional districts, others focused on state legislative districts. Even local city and county districts have landed in the courts. The last Congressional redistricting in North Carolina took place in 2011.

TR: Five years after the plans were drawn, we were still in litigation. We still have pending lawsuits both for legislative and Congressional districts. You know, whoever's in control, the other party challenges them.

EH: Historically, many of the disputes hinged on the treatment of black voters, who tend to be democrats.

TR: We're a diverse state, both in terms of race and ethnicity, but in terms of political views. I mean, we're a state that most people would call "purple". That is, you know, we're not clearly Republican or clearly Democrat. We go back and forth; and, so, the parties have a stronger motivation- both parties- to gerrymander for their own protection, so they can stay in power.

EH: Earlier this year, a federal appeals court found two unconstitutional, including that 12th district, the snakey one. The court says legislators packed too many black voters into these two districts, way more than needed to allow them to "elect a candidate of their choice", as

required by the Voting Rights Act. The court said voters were indeed able to elect a candidate of their choice in those two districts, but if those same black voters had been spread across more districts their votes would have had even more influence on who the state sent to Congress. In other words, the court said racially-motivated gerrymandering unfairly limited black voters' influence in Congressional elections across the state. The decision by the Federal Appeals Court forced legislators in North Carolina to re-draw the state's entire map, and to say goodbye to that infamous I-85 district. In these new districts, that meant a special Congressional primary election had to be held. It took place in June of this year; all the other primaries had been decided in March. Voter turnout at that June primary- it was dismal, less than 8%. "Voters were confused and discouraged by the odd timing of the primary", says Rhoda Billings.

Rhoda Billings (RH): People are getting tired of having elections that don't count because the map they were voting under was declared unconstitutional.

EH: Billings is a Republican. She's also a former North Carolina Supreme Court Justice. She co-chaired that mock-commission we mentioned earlier, the one put together to show there are other ways to do redistricting.

RH: When you have a primary that people get totally confused about, and then they have a second primary and they don't know whether they've already voted in that race or not, I think the public is probably going to be a little more aware of this problem now than they had been in the past.

EH: Even so, more confusion may lie ahead for North Carolina voters. That's because the appeals court decision that lead to the June primary, it's now going to the U.S. Supreme Court. North Carolina might have to redraw its Congressional map yet again. North Carolina has become a poster-child of sorts for redistricting problems, but that state's not alone and part of the issue is that redistricting in all states has become a fine art- or more like a fine science, especially with the addition of powerful computer programs. Drawing districts was one thing when we lived in a paper-and-pencil world.

TR: I remember when I used to be a judge, and when I was a judge, I was asked to draw the judicial districts for my county, and we did it on a legal path.

EH: This is Tom Ross again, from Duke. He says computers have done more than simply streamline an old-fashioned process.

TR: When you allow partisan politics to be the primary consideration of drawing districts, then computer's a great tool because you can really refine it and make even more safe districts, and I think that's the progression we've seen- in both parties, by the way. There's no blame here from one party to the other. They both are very good at it.

EH: Hedrick Smith, the journalist whose been looking into this, agrees.

HS: The software of computers has now gotten so sophisticated that strategists for either party can go in and they can analyze the voting records and the voting patterns literally neighborhood by neighborhood, or street by street, and they can figure out in great detail exactly where to draw the lines to their maximum advantage.

EH: In 2010, Republicans figured out how to put all that computing power to use with something called The REDMAP Project". Two years earlier, Barack Obama had won the presidency. Democrats has expanded their control in the House and the Senate, and Republicans were looking for ways to regain power in Washington, so they invested $30 million in state legislative races across the country.

HS: Republicans figured if they could control more legislatures, they could draw the district lines to their advantage, and they succeeded beyond anybody's expectations.

EH: Republicans gained 675 legislative seats nationwide, giving them control of a huge percentage of state legislatures just in time to control the 2010 Congressional Redistricting. They redrew the maps to favor Republicans.

HS: The whole REDMAP strategy played out in the 2012 congressional elections. In that year, Democratic candidates for the House of Representatives all across the country got a million and a half more votes than the Republican candidates, but the Republicans emerged with a 33-seat majority in the house of representatives. I mean, it was striking.

EH: Just to repeat, Democrats got more votes, but because of the way Republicans had drawn district lines, they were able to win more seats in the U.S. House. "The scope of the REDMAP project was unprecedented", says Hedrick Smith.

HS: Never before has gerrymandering been done on a national basis. Each state would do gerrymandering itself; and to a certain extent, I guess you could argue that Democratic gerrymandering was offset by Republican gerrymandering and vice-versa, but when you have one party that actually pulled a surprise attack on another party and did it nationwide, it's had an impact on voters, on elections, on the Congress, and on policy outcomes for a decade. I mean, that's a really long impact because they were smart to figure this out- the Republicans, that is- and the Democrats didn't realize what hit them.

EH: Now, even some state legislators are saying they've gotten too good at gerrymandering. In North Carolina for example, home to those "bacon" and "snake" districts, members of both political parties have co-sponsored bills to assign re-districting to appointed bi-partisan panels. Critics say such panels would still be vulnerable to party influence because partisan legislators would appoint the panel members. But Tom Ross from Duke thinks it's possible to get above politics. To try to prove it, he created that mock-independent redistricting commission we've been referring to. Ross joined forces with the non-profit Common Cause North Carolina and drafter ten retired judges and justices, five Republicans and five Democrats.

TR: You know, we have five former chief justices of the Supreme Court, we have another associate justice, two members of the Court of Appeals, two trial judges- these people have served the state in public office, some elected in one party, some elected in the other, but they're highly-regarded people who have independent judgement and I think that's the kind of people you would like to have on commission.

EH: You heard from Republican co-chair Rhoda Billings earlier. The other co-chair, Democrat Henry Fry, the man who was asked to recite part of the constitution when he tried to register to vote back in 1956. That experience propelled Henry Fry into politics. He became a state representative and a state senator; and then, in 1983, he became the first African-American Justice on the North Carolina Supreme Court. He says being denied the right to vote 60 years ago sparked his life-long passion for fairness in voting.

HF: When I was called and asked if I would serve on this panel, I didn't let the person finish the sentence. I said, "Yes! I'm ready! Come on, let's do it!" One of the things I did while I was in the legislature was trying to make it easier for people to be able to register to vote, and so that trend of making it easier was continued for a long time; and, lo and behold, in the last few years, the legislature has been trying to make it more difficult for people to be able to register to vote, and I don't like that.

EH: The task before the panel of 10 judges and Justices was this: create Congressional districts that have nearly equal numbers of voters and are geographically compact. Avoid splitting cities, counties, and precincts. And don't look at voters' party registration or voting history. The commission ended up creating 13 districts. None of them looked like "a snake" or "a piece of bacon", or a "dragon flying backwards". Only when they were all done did the commissioners decide to look at how people in these districts might actually vote in an election. Would the commission's hypothetical districts produce an outcome that was more reflective of the voters in the state? As it turns out, yes. Under the previous maps, North Carolina had sent 10 Republicans and 3 Democrats to Washington. Using their new map and voting records from the last 6 elections, the commissioners figured out they had drawn 6 districts likely to go Republican, 4 districts likely to go democrat, and 3 districts that were toss-ups. So, with the exact same voters but different district lines, the election results would be dramatically different; 6 districts sending Republicans to Washington, not 10; 4 districts sending Democrats, not 3; and 3 genuinely contested districts, where politicians would have to fight it out, and every vote really could make a difference. Here's Tom Ross again, speaking at the press conference to announce the results in the state legislative building.

TR: Um, you know, we believe these are both fair to the public, more consistent with how the people of the state vote, but more importantly, the map is compact, it complies with the law and does so without taking into account partisan politics, either registration or voting history. Many of us hear about people being tired of the division between parties and the constant fighting and struggling and we've got people from both parties here that have stood up and said, you know, "enough of this, we're gonna work together to fix this problem so that the voters of North Carolina are the winners."

EH: "Redistricting reform efforts like the one in North Carolina, they're bubbling up all over", says Hedrick Smith.

HS: At least 10 states have moved away from the idea that legislatures should be allowed to do the mapping for the next election. They've turned over the task and the responsibility for drawing the district maps to independent commissions. There are now lawsuits in 6 or 7 states challenging the gerrymandering by both Democrats and Republicans.

EH: Reformers insist it's not just sour grapes on the part of Democrats who are on the losing end of the historic Republican REDMAP strategy. In GOP-led Florida, for example, voters passed a referendum making partisan gerrymandering unconstitutional.

HS: There's ferment on this issue in 25 of the 50 states. It's amazing- more and more people are recognizing that this is such a serious distortion of the whole idea of competitive elections, the whole idea of popular vote, the whole idea of competition in politics, that something fundamental has to be done. This is not a partisan issue, it's a national issue.

EH: The North Carolina Redistricting Simulation was an educational project of a new center at Duke University called POLIS, the Center for Political Leadership, Innovation, and Service. People at the center are hopeful their project will inspire legislators to change how redistricting is done in North Carolina. Allison Jones, Carol Jackson, and Karen Kemp produce ways and Means. Thanks also to Joel Luther, who provided research help on this episode, and to John E. Vincevans and Monitor Studios for engineering help. Catherine M. Zhou creates the art for our episodes. For more information about redistricting efforts nationwide, please visit our website, waysandmeansshow.org. You'll find resources including POLIS, ReclaimTheAmericanDream.org (Hedrick Smith's website), and the REDMAP project. We're a production of the Sanford School of Public Policy at Duke University and we thank you for listening. If you like our podcast, please subscribe on iTunes or Stitcher, and tell your friends. We're also now on Google Play. Until next time, I'm Emily Hanford.