

Rigging Elections

Michael Sean Winters | Jan. 25, 2013 | Distinctly Catholic

I noted at the beginning of the year that one of the principal difficulties President Barack Obama and the Democrats will face in the coming years is a difficulty of their own making. The inability of Democrats to prepare for, use their get-out-the-vote machine, and defend the policies they had enacted in advance of the 2010 midterm elections not only cost them control of the House of Representatives, but more importantly, ceded control of state legislatures and governorships in several key states, including Michigan, Pennsylvania and Wisconsin. Losing any influence in these large states was bad enough, as witnessed by the various efforts to curtail union rights. But, to lose control of those states in a year when redistricting would be undertaken, that was almost unforgivable.

[Now those states, and Virginia](#) [1], which flipped back to the GOP in 2011, are considering a change in the way their states allocate electoral votes. Currently, only Maine and Nebraska award electoral votes to which ever candidates win each individual congressional district. The overall winner of the state gets the two electoral votes that represent the state's senators. So, for example, in 2008, President Obama won a single electoral vote in Nebraska by taking one of that state's congressional districts, and Sen. John McCain took the rest. Since 2008, however, after the census in 2010, Republicans got to redrawn district lines in many states. This is why Republicans maintained control of the House of Representatives even though Democratic candidates received more than 1.1 million more votes nationwide than Republican candidates.

Gerrymandering congressional districts is almost as old as the Republic. The process of drawing districts to favor one party or the other is named for one of the founding fathers, Eldridge Gerry, a signer of the Declaration of Independence and Vice President to James Madison. As Governor of Massachusetts in 1812, he signed the law enacting new carefully drawn districts that enhanced his party's chances of winning more seats in Congress. Since then, both parties, whenever they could, have used the census data and the constitutional power they have to redraw districts. Now, however, is the first time that this process is being employed as a way to rig a presidential election.

'Rig' is not too strong a word here, which is why the Republicans need to be careful. In the last election, President Barack Obama won the Commonwealth of Virginia by almost 150,000 votes, 1,971,820 votes to Governor Mitt Romney's 1,822,522 votes, or 51% to 47%, a reasonably large margin for one of the swingiest of the swing states. President Obama took all of the state's 13 electoral votes. But, under the plan introduced this past week, Obama would have only garnered four of the state's electoral votes and Mr. Romney would have taken the other nine. Unlike Nebraska and Maine, the proposed Virginia law would award the two at-large electoral college votes to whichever candidate wins the most congressional districts, denying even the two at-large votes to Obama even though he won the state handily.

Re-districting is the most obvious instance of a determination by the founding fathers that strikes most people as strange, the determination to leave political decisions like this to the political branches themselves. It seems an invitation to shenanigans, does it not, to entrust the running of elections to a partisan official, as most states do

in having a partisan Secretary of State conduct election? It seems equally strange to permit state legislators the ability to gerry-rig congressional districts and, now, a presidential contest. But, that was what the founders clearly permitted. There is no doubt the plans being floated by Republicans in Virginia, Michigan, Pennsylvania and Wisconsin are constitutional. But, the constitution permits many things that are ill-advised. And, here, the GOP risks a real backlash. Voters, especially centrist voters, will not take kindly to having their votes manipulated in such a way, and it is strange indeed to see conservatives, so mindful of the importance of tradition and so allergic to excessive government action, embracing these proposals. Shame on them.

Politicians are often willing to accept a bit of shame if it advances their goals, hoping that a distracted electorate will move on to other issues by the time of the next election. In 2003, then-Congressman, now convicted felon, Tom DeLay, successfully got the Texas legislature to undertake a second round of redistricting that would favor Republican candidates. In 2001, the Democratic-controlled Texas legislature had enacted new districts based on the results of the 2000 census. This was the first time that a mid-decade re-districting, not tied to the census, had been undertaken. And, guess what? It worked and Republicans gained control of the state's congressional delegation in the next election and have held it ever since. And Delay paid no real political price for his bold move.

But, Texas in 2003 was a different place from Pennsylvania or Virginia in 2013. This "power grab" regarding the electoral college runs the risk of backfiring, just as GOP efforts to restrict voting backfired in 2012. People do not like having their votes treated as property of any class of politicians, and the smarter politicians in these states will think twice before signing off on such a bald attempt to rig the game. Those same 1,971,820 Virginia voters who voted for Obama three months ago might, if they thought their verdict was being tampered with, show up this coming November and throw out the GOP.

The issue of gun control will also be affected by similar constitutional provisions. Our political system vastly inflates the power of rural voters. Wyoming, with only 568,158 people according to the census, has the same numbers of senators as California with its 37,691,912 people. Senate Majority Leader Harry Reid comes from a state, Nevada, that likes its guns. If guns continue to flood the streets of Chicago, or Camden, or Los Angeles, it won't affect his re-election prospects in the least.

The constitution was designed in Philadelphia, not in Heaven, and it can be abused as any political arrangement can be abused. I am distressed by those who make of the constitution an idol. It is an imperfect document today as it was then, and only the electorate can monitor abuses of its provisions. In the late eighteenth century, when the electorate was small, white, male, property-owning and largely educated, such monitoring might have been enough for the founding fathers to assume their handiwork would not be abused. It is no longer the case. We can say, well, if the voters don't turn out for a midterm election, they have no one to blame but themselves, and there is some truth in that. But, I am hoping, not betting but hoping, that these efforts to rig the game will backfire and plenty more Democrats and swing voters will come out in the next round of midterms. And, I hope that President Obama's team uses their GOTV infrastructure this time round. And, I hope they do not, if they win, do what DeLay did in Texas in 2003, because abuse of the system by Democrats is as foul as abuse of the system by Republicans. That is a lot of hope, but if the GOP thinks people are going to stand by while someone tries and takes their vote, I think they might be in for a surprise.

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[1] http://www.washingtonpost.com/politics/republicans-in-virginia-other-states-seeking-electoral-college-changes/2013/01/24/430096e6-6654-11e2-85f5-a8a9228e55e7_story.html