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Book Review: The Reapportionment Puzzle. by Bruce E. Cain.

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THE REAPPORTIONMENT PUZZLE. By Bruce E. Cain.¹ Berkeley and Los Angeles: University of California Press. 1984. Pp. xii, 201. \$24.50.

*Ward Elliott*²

California has been the scene of many battles in a bloody, costly, reapportionment war that has intensified since 1981, and whose outcome may determine who runs the California legislature for the rest of the century. The combatants have been strategists and incumbents of both parties; blacks, Hispanics, and community representatives all clamoring for more power; and coteries of technical experts plying their computers, maps, and data bases to hold or gain as much ground as they could for their respective employers.

The author of this book, a professor of political science, was one of the technical experts, a protege and employee of Democratic Assemblyman Richard Alatorre, chairman of the Assembly Elections and Reapportionment Committee. What he sees and what he misses are decisively influenced by his experience on Alatorre's committee.

What he sees and explains effectively, though sometimes repetitiously, are the technical problems of reapportionment and the problems of getting Democratic assemblymen to assent to the committee's plan. He writes knowledgeably of ripple effects and displacement, of uses and abuses of demographic data, of the dynamics of packing or dispersing voters of various groups to enhance or diminish their effective votes, and of the inevitable tradeoffs of some kinds of districting objectives against others. He has a good stock of war stories of how different Democratic legislators came to terms with Alatorre and his staff, with most wanting safe seats, but some also wanting a home, a relative, or a favorite bar incorporated into their new district. He discusses bargaining strategies for vote trading, including two instances in which Alatorre and Speaker Willie Brown, with the cooperation of their staffs, faked or suppressed information to bring a fellow

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Democrat into the fold.³ He sagely warns that “[a] legislator who is informed about such things has a much stronger position.”⁴ He also hazards some hypotheses about the bargaining process and concludes, unsurprisingly, that incumbents are “risk-averse and cautious” and “choose their voters so as to increase their chances of winning.”⁵

What he misses, for the most part, are (1) the other five-sixths of the reapportionment battle of 1981: the Republican side of the Assembly apportionment, the Senate apportionment, and, most controversial, the Congressional apportionment; (2) the blitz of initiatives, court hearings, and public outcry that the 1981 apportionments provoked from 1982 to 1984; and (3) the question of what kind of reapportionment system these might commend.

The Reapportionment Puzzle is, as one chapter title puts it, “A Tale of One Reapportionment,” that of the California Assembly, of one political perspective, Democratic, and of one year, 1981. The other two apportionments of 1981, Senate and Congressional, though more controversial than that of the Assembly, receive only cursory treatment. The analysis of the Republican side is a caricature compared to that of the Democratic. And one would never guess from reading the book that California voters in June, 1982 passed three initiatives to undo the 1981 reapportionments by lopsided majorities, nor that three more initiatives were introduced in 1982, 1983, and 1984 to put reapportionment in other hands than those of a self-serving legislature. The 1982 Common Cause initiative (Proposition 14) would have set up a hybrid bipartisan/non-partisan commission with appeal to the California Supreme Court. The voters rejected it. The 1983 Sebastiani initiative would have asked for a yes or no on alternative districting plans. Democratic leaders spoke of it as “Armageddon,” and the California Supreme Court, voting on straight party lines, struck it down. The 1984 Deukmejian initiative calls for a commission of four former judges from each party, but had not been voted on at this writing. The districts themselves were slightly modified after the 1982 elections, but are essentially the same as those created by Professor Cain’s committee in 1981 and roundly rejected by the California voters in 1982. One can hardly fault a book published in 1984 for not covering a 1984 initiative, and perhaps missing those of 1983 and 1982 is more the publisher’s fault than the au-

3. B. CAIN, *THE REAPPORTIONMENT PUZZLE* 114, 129 (1984).

4. *Id.* at 133.

5. *Id.* at 118-19.

thor's. But missing the aftermath is a serious shortcoming in a book that tenders guidance on policy questions.

Something about the districts created in 1981 by Professor Cain and other California Democrats (especially Congressman Philip Burton) rubbed California voters the wrong way in 1982. That something might be grossly misshapen gerrymanders, spread across mountains, deserts, and bays, chopping up cities and counties, and spliced together with narrow strips of beach or highway dividers. Or perhaps the districters, especially Burton, were too brazen in their efforts to favor their own and to punish their opposition, or in their inclination to boast about it. "Who will stop us?" Burton asked.

Though he does not mention the 1982 initiatives, the author does mention media and Republican complaints about "ugly," noncompact districts, chopped-up cities, and favoritism towards incumbents and the dominant party. He presents prim, hypothetical examples⁶ to show that compactness, contiguity, and proportionality can conflict with other goals of arguably equal value, such as "affirmative action" to enhance the power of the [Democratic] weak, blacks and Hispanics,⁷ and "stability," "coherence," "cooperation," and "continuity" to enhance the power of the [Democratic] strong.⁸

A comparison of a Cain hypothetical districting (Fig. 1) with a district actually created by the Alatorre committee (Fig. 2) and one designed by Philip Burton and adopted by the Alatorre committee (Fig. 3) may say more than words about the "aesthetics" of compactness and contiguity.

As for protecting incumbents and Democrats, it has been normal for a party that controls the districting to deal itself 30-40% more seats per vote in close elections than a party that does not. It has also been normal to protect the seats of most incumbents, including those of the minority party. Republicans controlled the districting in the 1950's; Democrats have controlled it since 1961, occasionally hindered by a Republican governor, as they were in 1970 and are now, but helped by a Democratic state supreme court. They have profited plentifully from their control and perpetuated it from one decade to the next. There have been years, such as 1966, 1968, and 1980, when Republicans won a majority of votes cast for congressional seats, but only a minority of seats.

6. *Id.* at 34-42.

7. *Id.* at 166-77.

8. *Id.* at 50-51, 187-88.

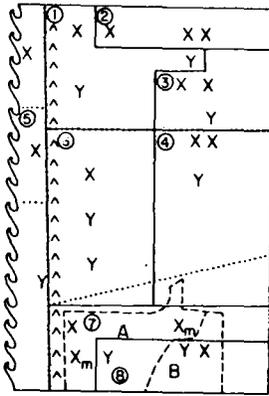


Figure 1

AD72

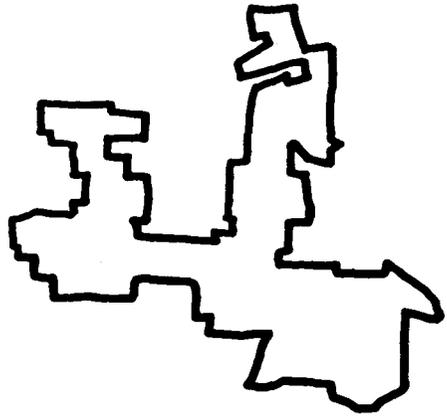
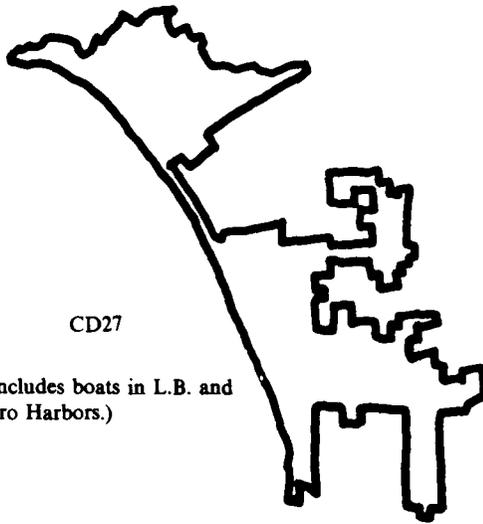


Figure 2



CD27

(also includes boats in L.B. and S. Pedro Harbors.)

Figure 3

But the Burton reapportionment was more greedy than normal. In 1982, the Democrats, with only 2.8% more votes (the two-party percentages were 51.4% Democratic, 48.6% Republican), won 165% more seats: 28 to the Republicans' 17. Stated differently, each Democratic vote was good for half again as many seats as each Republican vote.

Public attitudes may be changing. Many in California believe that the net result of years of "normal" gerrymandering has

been a lessening of competitiveness, a lessening of turnover, a movement of both parties' legislators away from the center, a lessening of legislative responsiveness to changes in public opinion, and an increased recourse to initiatives and referenda to compensate for legislative inaction. If these beliefs are true, they are highly pertinent to the question raised in the opening and closing chapters of *The Reapportionment Puzzle*: what should we do about reapportionment? One should also consider the alternative apportionment systems that have since been broached to California voters as would-be or actual initiatives. But none of them figure in the book as live alternatives. The author concludes from his limited, 1981 evidence that reapportionment is "best treated in a political manner" by letting pluralism rule inside the legislature (but not outside of it) and with no partisan bickering after the job is done.⁹ Absent attention to the California aftermath, or to the experience of other states, this conclusion comes across as narrow, self-serving, and thinly supported. It looks too much like an appeal for an "affirmative action gerrymander" for all groups, weak or strong, that the author favors. A case could be made for letting legislators continue to draw their own districts to their own advantage, as they do in most states, as the least lousy of available alternatives. But *The Reapportionment Puzzle* does not make it.

9. *Id.* at 77, 188-91.