

The following is an opinion column published in the Beacon newspapers, which reflects a portion of the verbal testimony I provided to the Reapportionment Commission at the hearing on October 21, 2021. Steven Frias

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### **DRAWING A LINE AGAINST GERRYMANDERING**

How district lines are drawn can decide an election. Currently, a commission composed of legislators and legislative appointees are developing a redistricting plan for the General Assembly. In redistricting, gerrymandering sometimes occurs. Gerrymandering is the manipulation of district lines to favor a particular candidate or political party in an election. Although Rhode Island legislators have previously engaged in gerrymandering, it is unpopular, unlawful, at times ineffective, and can potentially backfire.

Gerrymandering is very unpopular. For example, in 2012, 82 percent of Providence voters approved an amendment to the Providence City Charter which prohibited districts from being drawn to favor any candidate or political party, and prohibited the residence of any incumbent or political candidate from being considered in the drawing of districts. In 2020, 71 percent of Cranston voters approved a similar amendment to the Cranston City Charter.

Gerrymandering is unlawful. In 1966, the R.I. Supreme Court declared “the political gerrymander was an evil” that violated the state constitution. The Court stated that in a redistricting plan “any deviation ... from natural, historical, geographical and political lines for purposes of achieving a political gerrymander is constitutionally prohibited” and “deviations must be explainable by rational and legitimate considerations.” In 1982 and 1983, various state and federal courts ruled that a Senate redistricting plan was unconstitutional because it created districts that crossed highways, broke up neighborhoods, and split municipalities in order to protect some incumbents and punish others.

Gerrymandering can be ineffective. For instance, between 1930 and 1940 Republicans and Democrats took turns redistricting the R.I. House of Representatives and, in turn, being accused of gerrymandering. Although the focus of these redistricting plans was Providence, the election results showed little change. In 1928, Providence elected 17 Democrats, and 8 Republicans to the House. In 1940, Providence elected 18 Democrats, and 7 Republicans to the House.

Gerrymandering was even less successful in Newport. In 1936, a lame-duck Democrat controlled General Assembly redistricted Newport’s representative districts. But in the 1938 election, Newport elected 3 Republicans and 1 Democrat to the House. In 1940, the Newport Representative Council (City Council) appointed a bipartisan commission to redistrict Newport’s representative districts. The commission developed a plan with districts that used straight lines, drawing praise from the Providence Journal editorial board. However, the plan caused Republican Rep. Clara Smith to be redistricted out of her district. When the plan was introduced in the General Assembly, Smith declared “the bill does not come out of committee unless I like it.” The plan was significantly altered so Smith would remain in her district. It passed the Republican controlled General Assembly. Governor William Vanderbilt did not veto it stating, “we can’t expect the Legislature to legislate out of existence one of its own members.” But in the 1940 election, Newport voted Smith out of office, electing 3 Democrats and 1 Republican to the House.

Gerrymandering can backfire on those who engage in it. In 1982, due to a loss of population, Providence had to lose a senate seat. Senate Majority Leader Rocco Quattrocchi and his allies decided to place two Senate dissidents, Senators Lila Sapinsley and Richard Licht, into the same district. The redistricting plan was challenged in court. A R.I. Superior Court judge declared that the plan was an unconstitutional gerrymander. After losing an appeal at the R.I. Supreme Court, Quattrocchi and his Senate allies adopted a new plan again placing Sapinsley and Licht in the same district. A new lawsuit was filed, and a federal court ordered the senate election postponed. In 1983, a federal court ruled that the Senate redistricting plan violated the state constitution, and it approved a new redistricting plan with a special election for June 1983. Republicans campaigned against “Rocco and his robots” and Republicans went from having 7 Senate seats to 21. Shortly thereafter, Quattrocchi was forced out as Majority Leader.

Sometimes gerrymandering backfires indirectly. In the fall of 2000, Senator William Irons ousted Senator Paul Kelly from the post of Majority Leader. In 2002, the Senate was required to redistrict and to downsize from 50 to 38 senators. Kelly and his backers, specifically Senator William Enos, accused Irons of using redistricting to push them out of office. Iron and his allies passed their redistricting plan, but Enos apparently got his revenge. According to Common Cause Executive Director H. Philip West Jr.’s memoir Secrets and Scandals, in December 2003, “Enos revealed to the Providence Journal” that “Irons had been earning commissions from CVS and Blue Cross” while blocking legislation they opposed. On New Year’s Day, Irons resigned as Senate President.

Senator Joseph Montalbano, who had managed the Senate’s redistricting plan, became Senate President. A few months later, Montalbano settled a federal lawsuit over the Senate redistricting plan by making changes to the various senate districts. One of the largest changes was to Montalbano’s own district, which would now encompass more of Lincoln, a Republican leaning community. In 2008, Montalbano lost reelection. Redistricting had not only pushed Kelly and Enos out of the Senate, but it also indirectly pushed out Irons and Montalbano as well.

Redistricting without gerrymandering is possible. In 1909, voters approved a state constitutional amendment that required municipalities with more than one representative to elect their representatives by district rather than city or town-wide. General Charles Brayton, the Republican machine boss, boasted of packing Democratic voters into a few seats so that Democrats would never win more than 25 out of 100 seats in the House and only 5 of the 25 Providence House seats. However, Governor Aram Pothier wanted the state redistricted “with absolute fairness.” In 1910, at the urging of Pothier, the General Assembly passed legislation creating a redistricting commission appointed by the governor. Resisting pressure from Brayton and his allies, Pothier appointed a bipartisan group of individuals who were not legislators or political operatives. When the commission published its proposed plan, the Providence Journal editorial board, a critic of Pothier and state house Republicans, declared: “there had been no gerrymandering and all the districts had followed natural lines.” The General Assembly passed the plan with few changes. In the 1910 election Democrats made dramatic gains in the House going from 8 out of 72 seats to 38 seats out of 100 seats and winning 16 of the 25 Providence House seats.

Redistricting should not be used as a means for legislators to ensure their re-election. Rather than drawing lines to protect incumbents, a line should be drawn against gerrymandering.