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A Simple Proposal to Abolish Gerrymandering

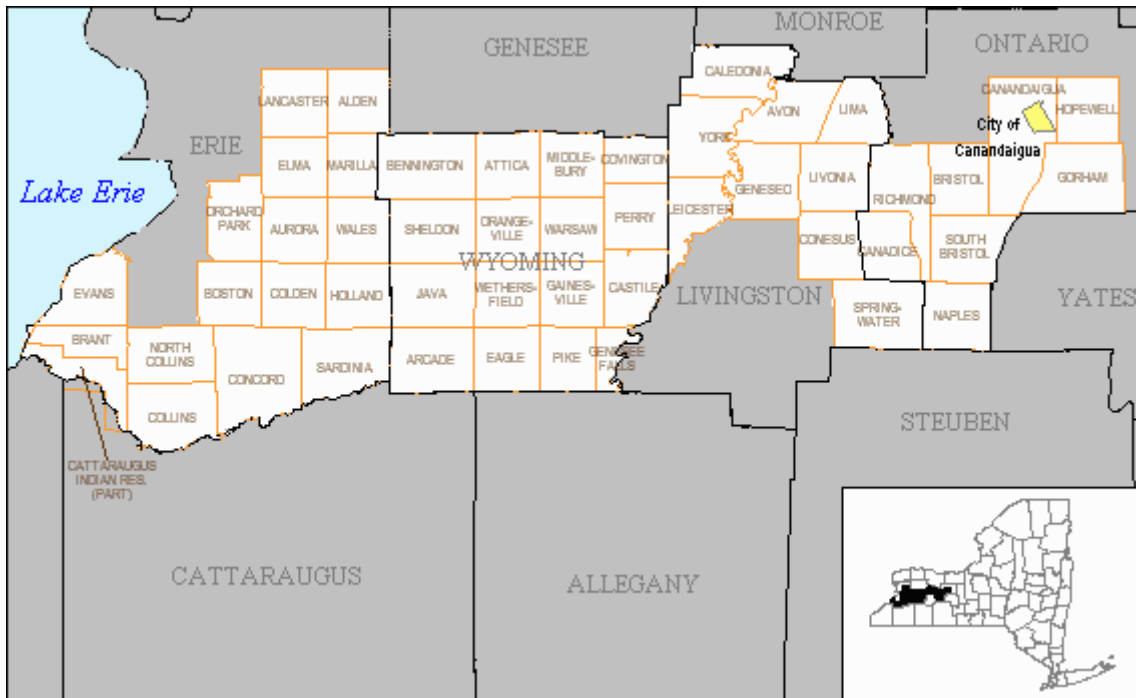
By James Ostrowski

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Gerrymandering is one way that incumbents stay in power in spite of the wishes of the electorate. Gerrymandering is the manipulation of redistricting for nefarious purposes such as racial, religious or ethnic discrimination or to protect incumbents from challengers.

In a prior [study](#),¹ Free New York identified gerrymandering as an important means that incumbents use to discourage potential challengers from running against them. We used the 59th Senate District now held by Dale Volker to illustrate the tactic of *geographic* gerrymandering. We argued that it would be difficult for any challenger to muster support throughout a district that snakes across four counties.

¹ [Free New York News Alert No12](#)



The result of the recent Republican primary election between Dale Volker and Leonard Roberto precisely illustrates and confirms this thesis. In Erie County, where Roberto is well known, he received 48 percent of the vote. However, he fared poorly in the three other counties and was defeated [63-37 percent](#).²

Even the results within Erie County suggest that the less compact a district is, the harder it is to defeat the incumbent. In the more suburban parts of the district—the contiguous area more or less around the center of the county (Alden, Lancaster, Elma, Orchard Park, Aurora and Boston), Roberto received an astonishing 55 percent of the vote. In the more rural areas of the county—which wrap around the more suburban areas, he lost, 63-37 percent. Roberto heavily advertised on WBEN radio which is popular among suburban commuters. He presumably lacked funds to advertise on radio stations across the huge district. In contrast, Senator Volker spent nearly \$200,000 to keep his seat.

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http://publicbroadcasting.net/wbfo/news.newsmain?action=article&ARTICLE_ID=967029§ionID=1

Volker/Roberto Results in Erie County

(source: Buffalo News)

<i>Town</i>	<i>Roberto</i>	<i>Volker</i>
Alden	194	172
Aurora	387	345
Boston	138	117
Brant	34	88
Colden	52	66
Collins	28	47
Concord	85	159
Elma	332	294
Evans	134	162
Holland	27	33
Lancaster	507	432
Marilla	148	189
North Collins	25	56
Orchard Park	453	317
Sardinia	108	325
Wales	94	144
Erie County	2,746	2,946

As stated below, any reform of the redistricting process must include some notion of geometric compactness in its formula. If Volker had been challenged in a compact, predominantly suburban district within Erie County, it is likely he would have lost. Thus, gerrymandering converts democracy from a system in which the voters choose their representatives to one in which the representatives choose their voters so they can remain in power indefinitely.

Gerrymandering, from a *technical* point of view, is not difficult to eliminate. The problem is strictly *political*. That is, in order to eliminate gerrymandering, those who benefit from it must abolish their own security

blanket. While there is no easy answer as to how to persuade them to do so, it is worth outlining a proposal that would eliminate gerrymandering if they were so inclined.

Here is a simple proposal to eliminate gerrymandering.

1. Mandate that districts may not be drawn on the basis of racial, religious, or ethnic considerations or party affiliation or the residence of incumbent office holders or their potential challengers, or any other political factor.
2. Mandate that districts must be based on neutral mathematical or geometric principles such as compactness or the “[shortest splitline algorithm](#).”³
3. Mandate that every bill to redistrict one house of the legislature originate in the other house and that the house voting on its own redistricting plan may only approve or disapprove the plan and not modify it. If it is rejected, it must go back to the originating house for reconsideration.
4. Allow any citizen to have standing to challenge in court a plan that violates any of these principles.
5. The burden of proof would be on the plaintiffs but the presumption of constitutionality should be removed.

Point four—standing—appears to be a restatement of current law. However, the potential positive impact of citizen court action has often been

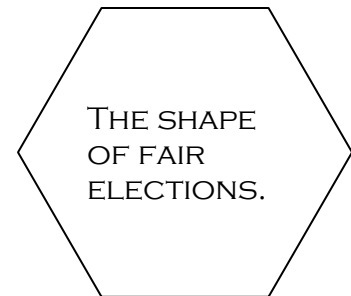
³ http://en.wikipedia.org/wiki/Gerrymandering#Shortest_splitline_algorithm:

1. “Start with the boundary outline of the state.
2. Let $N=A+B$ where A and B are as nearly equal whole numbers as possible. (For example, $7=4+3$.)
3. Among all possible dividing lines that split the state into two parts with population ratio $A:B$, choose the *shortest*.
4. We now have two hemi-states, each to contain a specified number (namely A and B) of districts. Handle them recursively via the same splitting procedure.”

thwarted by the presumption of constitutionality, a truly nebulous concept not susceptible of precise definition. Hence, we propose to abolish it for present purposes.

The other reason why citizen suits have often been fruitless is the sheer complexity of present redistricting rules such as rules related to keeping counties and towns intact. The more complex the redistricting rules, the more likely gerrymandering is to occur and the more likely it is to be upheld by courts based on deference to the legislative balancing of competing and complex rules. In contrast, the great virtue of the present proposal is its sheer simplicity. This will make gerrymandering more difficult and court challenges more likely to succeed.

The most geometrically compact shape is the circle. The problem with circles is that they do not fit together with other circles. “Of all the regular polygons, there are only three that will fit together perfectly: the equilateral triangle, square, and regular hexagon, because theirs are the angles that divide evenly into 360 degrees.”⁴ Of the three, the hexagon is the most compact. We can expect compact districts to be roughly hexagonal in shape.⁵



Using geometry to redistrict eliminates the possibility of racial or other insidious discrimination. Such discrimination has generated numerous and expensive lawsuits as well as ill will and distrust among minorities.⁶

Some reform proposals involve the creation of an alleged nonpartisan commission to do the initial redistricting work. There are several problems with this approach. First, it is a futile attempt to remove politics from the process. However, *all such commissions are appointed by politicians* so this proposal does not eliminate the politics; it just disguises it. Second, under

⁴ <http://www.punahou.edu/acad/sanders/geometrypages/GP07Tessellations.html>

⁵ See, Rick Gillman, “Geometry and Gerrymandering,” <http://www.valpo.edu/mathcs/ResearchPapers/gerryandtables.pdf#search=%22geometric%20compactness%20definition%20gerrymandering%22>

⁶ See, http://artvoice.com/issues/v5n37/una_voz

our form of government, elected officials are responsible for such decisions and the commission concept is really designed to remove that responsibility from elected officials who can be held accountable in elections and give it to unelected officials who are not accountable to the public in any way. Third, commissions involve unnecessary expense, legal complexity and delay. Fourth, the *how* of redistricting is more important than the *who*. If we precisely define how redistricting is to be done, it matters less who does it, particularly since court review is available.

Note that our proposal does not guarantee that counties, cities, towns and villages would be wholly within state legislative districts.⁷ However, given the guiding principle of *compactness*, this would in most cases turn out to be the case anyway. The problem with mandating such a result in advance is that it allows too much discretion to creep into the system, opening the door to the very gerrymandering we are trying to abolish. Complexity = discretion = gerrymandering.

Undoubtedly, defenders of districts such as Volker's would claim they are the result of the Constitution's complex rules for keeping counties intact. Counties, however, unlike towns and cities, are not shaped around organic communities, but rather are artificial and administrative creations of state law. Who really cares if counties remain intact in state legislative districts? How has that served the interests of real citizens?

It is no doubt true than even a system based on mathematical principles is subject to manipulation. Different mathematicians could conceivably apply similar principles in different ways to achieve different results. But at least such disputes would be restricted to battles over math rather than battles over race, party affiliation and politics.

Gerrymandering must be abolished if we are to have true representative government and truly competitive elections in New York State.

We hope that this proposal stimulates further discussion of this important issue throughout the state.

⁷ See, NY Constitution, Art. III, Section 4.