Geographic Representation and the U.S. Congress

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With respect to political representation, it often seems that the U.S. stands in relation to other democracies around the world today in the position that England stood relative to the colonial U.S. During the colonial era, Americans debated ideas about representation with great energy and attempted political reforms with a constant eye toward bringing practice into line with theory. Colonial reformers extended the franchise, demanded more frequent elections, increased the size of representative assemblies, adopted secret ballots, and required periodic reapportionment.¹ In Britain during the same period, Members of Parliament were elected with restricted franchises, no electoral districts had been added or subtracted for 100 years, and the crown and private individuals owned "pocket boroughs."² The English attitude toward change can be summed up by Lord Braxfield who in 1793 sentenced Thomas Muir, an advocate of parliamentary reform, to fourteen years' exile in Australia: "The British constitution is the best that ever was since the creation of the world and it is not possible to make it better."³

Today, democracies all around the world experiment with and seek to improve upon their representative institutions, while the U.S. seems to have taken Braxfield's posture: no improvements needed or wanted. Even compared to the other long-

¹ Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (New York: W.W. Norton, 1969), 165-171.

² Samuel Beer, *British Politics in the Collectivist Age* (New York: Random House, 1965), 19-32.

³ G. D. H. Cole and Raymond Postgate, *The Common People*, 1746-1946 (London: Methuen, 1971), 155.

established democracies sharing English institutions and traditions, the U.S. is markedly resistant to changes in representational form. At their start, all the English-speaking democracies used first-past-the-post elections in single member districts for their legislative elections. Australia embraced preference voting for its House in 1919 and a form of proportional representation (PR) for its Senate 60 years ago; New Zealand adopted PR for its unicameral House of Representatives in 1996; even Great Britain created regional parliaments for Scotland, Wales, and Northern Ireland in the 1990s, all of them using some kind of PR. Looking around the world, most democracies do not elect legislators from single-member geographic districts at all, and those that still use them for some legislative seats choose others by different means to ensure fairer representation of voters' party preferences.⁴ But the U.S. still elects members to Congress by plurality vote from geographic constituencies, the oldest form of democratic representation involving elections.

Aside from the expanded franchise, the only improvement the U.S. has made on the pure territorial representation in use in Restoration England is that the Constitution requires one chamber of Congress to reapportion once every 10 years to adjust representation in accordance with the principle of one person, one vote. The U.S. Senate, however, still cleaves to the old method of representing "trees and acres."⁵ Unless a new state is added, the Senate is never reapportioned, no matter how extreme its divergence from democratic equality. Given that Wyoming's 509,294 residents and California's 36 million each receive equal Senate representation while Washington, DC's 550,521

⁴ Many studies have documented that plurality voting in single member districts produces significant distortions in party representation. As a general matter, the system inflates the number of seats held by the largest party. See Douglas Rae, *The Political Consequences of Electoral Laws* (New Haven: Yale University Press, 1971).

⁵ *Reynolds* v. *Sims*, 377 U.S. 562.

inhabitants have none at all, that divergence is extreme enough to put to the pre-reform House of Commons to shame.

Relative to the rest of the world, the U.S. system of representation seems decidedly anachronistic. Geographic constituencies hearken back to a time of small, isolated, rural communities where communication and travel was difficult. It was a representational system designed for a time in which geographic location spoke to an individual's most important political interests. It predates modern cities, political parties, the welfare state, the national-security state, multi-ethnic democracy, industrial and now post-industrial society. In a world that grows more interconnected all the time, the U.S. electoral system continues to puts supreme emphasis on the protection of local interests. Today nearly all democracies have implicitly acknowledged that political parties are more important as expressions of voters' values and interests than their geographic location and local concerns, and hence have adopted some form of PR.

This essay will briefly examine consequences of geographic representation for congressional representation and policymaking. The effects examined here by no means exhaust the importance of the subject for U.S. politics. Among others, this type of electoral system also affects the number of effective political parties, the level and extent of party competition, voter turnout, and the style of political campaigns. The system also fails to register voters' party preferences in fair proportion to their presence in the electorate.⁶ But less attention has been paid to the way the system affects how representatives see their roles as legislators and how it affects policy outcomes. In particular, the effects of giving equal representation to all states in the Senate remain not

⁶ For a wide ranging treatment of how the single-member plurality system used in the U.S. affects electoral politics, see Douglas J. Amy, *Real Choices, New Voices* (New York: Columbia University Press, 1993).

widely understood or appreciated.⁷ Issues raised by the Senate's composition go far beyond democratic theory and the principle of "one person, one vote." Our eighteenthcentury system of representation has many twenty-first century consequences for internal legislative politics and policy outcomes.

Parochialism

"Since each representative is beholden to a specific geographical area, issues that are important to a particular neighborhood or region are sure to have a champion."⁸ The U.S. system of representation guarantees that each geographic part of the country will have a representative. It also ensures that all members see themselves as "attorneys for their constituencies," as well as national legislators.

Geographic representation makes parochialism normative for members of Congress. Legislators in political systems that take greater cognizance of party do not face the same representational trade-offs as members of Congress. In PR systems, candidates run as members of a party, and once in office they are representatives of the party—its interests and ideological commitments. The role of the Member of Congress is not so clear. Members must find a way to navigate the representational difficulties of serving as both a national legislator and a local advocate.

In many respects, the U.S. system tilts the balance in favor of the local. Members who behave as party mavericks tend to perform better electorally than loyal partisans.⁹

⁷ For a wide-ranging treatment of this topic, see Frances E. Lee and Bruce I Oppenheimer, *Sizing Up The Senate: The Unequal Consequences of Equal Representation* (Chicago: The University of Chicago Press, 1999).

⁸ Douglas J. Amy, *Behind the Ballot Box: A Citizen's Guide to voting Systems* (Westport, CT: Praeger, 2000), 31.

⁹ Jamie L. Carson, Gregory Koger, and Matthes Lebo, "The Electoral Consequences of Party Loyalty in Congress," presented at the Annual Meeting of the Midwest Political Science Association, 2006.

Studies of legislative decision-making have shown that members of Congress "consider the constituency interest first."¹⁰ Rank-ordering electoral systems worldwide on the basis of legislators' incentives to cultivate their local constituencies, Carey and Shugart concluded that only one type of electoral system (that used in the Philippines) extant in the world better rewards localism than the U.S. Congress.¹¹ Members of Congress have every incentive to give preference to local over national interests when the two conflict. An economist may be able to simultaneously conclude that free trade is good for the national economy but that it creates difficult economic dislocations for particular areas. But rare is the member of Congress who can even acknowledge that local interests might not be identical to national interests. Members of Congress who believe that the North American Free Trade Agreement is bad for their constituents' interests typically maintain that free trade is bad national policy, as well.

Reconciling the Irreconcilable

The U.S. system attempts to sustain a legal fiction that all members of a geographic constituency can be represented by a single member. In most cases, of course, congressional constituencies are not meaningful communities of interest. Constituents grouped together in most congressional districts have little or nothing in common. Constituencies can be highly heterogeneous in terms of economic interest, religion, race, class, ethnicity, urbanization, and economic development. The largest states are microcosms of the nation. Constituencies may be narrowly divided in terms of partisanship and ideology. Members attempt to uphold the legal fiction that they

¹⁰ John W. Kingdon, *Congressmen's Voting Decisions* (New York: Harper and Row, 1981).

¹¹ John M. Cary and Michael Soberg Shugart, "Incentives to Cultivate a Personal Vote: A Rank Ordering of Electoral Formulas," Electoral Studies 14 (4, 1995), 417-439.

represent everyone in their constituency by seeking a "lowest common denominator" form of representation. They emphasize their personal accessibility to constituents and narrow, highly localized issues.¹² They run vacuous campaigns focusing solely on their personal qualities and never mentioning their party affiliation or issue positions.

Some members find themselves representing states or districts that are tilted against them in terms of ideology and partisanship. Such members have no secure coalition of political support. Members facing this difficult political challenge may attempt to reconcile the irreconcilable by avoiding national issues as much as possible. They champion legislation that caters to local concerns. They concentrate on casework, office hours, pork barrel projects. A number of studies have shown that electorally vulnerable members secure more federal projects for local constituents.¹³ Sen. Mary Landrieu, a Democratic senator representing a state that voted for President Bush's reelection by a nine-percentage point margin, narrowly won in 2004 with a slogan, "We need a senator who will put Louisiana *first*." The nature of their geographic constituency often renders such members only able to effectively fulfill the role of attorney for the constituency. By contrast, members of legislatures in PR systems are not saddled with politically debilitating, hostile constituencies. Their constituencies are their supporters.

¹² For an analysis of members facing this representational difficulty, see Richard F. Fenno, *Home Style: House Members in Their Districts* (Boston: Little, Brown, 1978), especially pp. 91-99 and 102-114.

¹³ See Robert M. Stein and Kenneth N. Bickers, *Perpetuating the Pork Barrel: Policy Subsystems and American Democracy* (New York: Cambridge University Press, 1995) and Frances E. Lee, "Geographic Politics in the U.S. House of Representatives: Coalition Building and Distribution of Benefits," *American Journal of Political Sicence* 47 (4, 2003): 713-727.

Side payments

Geographic representation means that members always have at least two bases for decision making on national policy: "What is best for the nation?" and "What is in it for my constituency?" When Congress adopts national policies, it should ideally do so on the basis of what at least a majority of members believe is in the national interest. But geographic representation creates a systematic reason for legislators to decide questions of national policy for reasons that are irrelevant to national interests.

Coalition leaders frequently exploit this second criterion for decision making to build majorities. By targeting special benefits for members' constituencies, they can induce members to vote for policies that they are reluctant to support on their merits.¹⁴ In the summer of 2006, for example, the Republican Senate leadership sought to secure support for a broad tax reduction package by specifically including extra write-offs for timber extraction in order to win the votes of three timber-state lawmakers, including Senators Mark Pryor (D-Ark.), Maria Cantwell (D-Wash.) and Patty Murray (D-Wash.).¹⁵ Whenever important legislation is hard-fought, media reports of similar deals appear. The outcomes of national policy can thus be decided whenever a pivotal number of members are willing to exchange their political support in order to secure side payments for their constituencies.

¹⁴ Diana Evans, *Greasing the Wheels: Using Pork Barrel Projects to Build Majority Coalitions in Congress* (New York: Cambridge University Press, 2004).

¹⁵ Jeffrey H. Birnbaum, "An Estate Tax Twist Reverse Party Roles on Minimum Wage," *Washington Post*, (August 3, 2006), A1.

Distributive Outcomes

The geographic basis of representation makes members of Congress exquisitely sensitive to the local effects of policies. Members are highly alert to their parochial stakes when considering policies that distribute federal dollars geographically. Because every member of Congress has an equal vote, they tend to see a "fair distribution" of federal dollars as something approximating equal distribution across constituencies. In both chambers, Congress has shown itself unable to target funding in programs to areas of greatest need. The tendency in both chambers is to spread benefits widely across states and districts, diluting program effectiveness whenever targeting is needed. The problem is most evident in programs supporting infrastructure (transportation, water and sewer grants) and regional economic development (enterprise zones, model cities).¹⁶

Because of its basis of representation, in the House "fairness" usually means a distribution that tracks population. For senators, however, "fairness" tends towards equality across states. The Senate's basis of representation, however, creates unique and serious problems. For purposes of policymaking, state population is not just one of many important state characteristics, such as "area," "climate," or "economic development." Instead, state population is, generally speaking, the single best predictor of a state's funding needs. States with more people need more money for school lunches, job training, water treatment, transportation, and so on. States at high risk of terrorist attack areas are highly populated ones. The basis of House representation—and its associated definition of "fairness"—thus presents fewer problems for policy design.

¹⁶ R. Douglas Arnold, *Congress and the Bureaucracy: A Theory of Influence* (New Haven, CT: Yale University Press, 1990), chapters 7 and 8.

Within the confines of the Senate, a senator is only one vote, no matter how many constituents she represents. The logic of Senate coalition-building thus dictates the pursuit of the "cheap" votes of small-state senators.¹⁷ When senators write formulas to distribute federal funds they find that a one dollar per capita cut from California's share (\$36 million) will go a long way toward increasing the funding to many small states. In the process, a coalition builder loses California's two senators' votes but gains those of a greater number of small-state senators. Senator James Inhofe (R-Okla.), chair of the Senate Committee on Environment and Public Works, described the typical approach during a 2004 floor debate on the transportation bill: We "pacify some sixty [senators] by giving them whatever they want in the percentage of the overall, and as to the rest, who cares: we have our 60 votes and we run." The "rest" usually includes most of the senators from the most populous states, who represent most Americans.

In short, when funding needs track population, the Senate typically distributes funds on a basis other than need. The result: close to 40% of Homeland Security grant dollars under existing formulas are distributed equally across states. Equally, in other words, between South Dakota and California, between Vermont and New York.

With population increasingly skewed across the states, Senate representation significantly distorts policy design. Despite conventional wisdom to the contrary, the House of Representatives does not offset the Senate small-state bias. The House provides no representational bonus for large states. Even when the House and Senate compromise on spending, the outcome tilts toward small states. A small-state bias can thus be found in most intergovernmental grant programs. When the Senate allocates federal dollars,

¹⁷ Frances E. Lee, "Senate Representation and Coalition Building in Distributive Politics," *American Political Science Review* 94 (March, 2000):59-72.

whether for transportation, community development, environmental quality, disaster assistance, or infrastructure, small-population states typically win and large-population states lose. The bias is most evident in the programs over which Congress retains greatest control.¹⁸

Dim Prospects for Reform

The Constitution undoubtedly presents a formidable obstacle to political reform.¹⁹ But the paralysis of representational reform in the U.S. is only partly a consequence of the great difficulty of amending the U.S. Constitution. With respect to the House of Representatives, the Constitution does not require the use of plurality elections in singlemember geographic districts. Instead, Article I, Section 2 merely specifies how the number of representatives will be apportioned among the states and that eligible voters to fill those seats will be the same as those for "the most numerous branch of the State legislature." Under the Times, Places, and Manner Clause,²⁰ Congress could adopt a different method or permit states to experiment with alternatives. Indeed, Congress first required the use of single-member districts in 1842²¹ as a reform measure to stop, "general-ticket representation," an anti-democratic practice that many states had used "to negate political opportunities for minority parties that had sufficient power to be

²⁰ U.S. Constitution, Article I, §4, clause 1.

¹⁸ Frances E Lee, "Representation and Public Policy: The Consequences of Senate Apportionment for the Geographic Distribution of Federal Funds." *The Journal of Politics* 60 (1998): 34-62.

¹⁹ See Daniel Lazare, *The Frozen Republic: How the Constitution is Paralyzing Democracy* (New York: Harcourt Brace & Company, 1996 and Sanford Levinson, *Our Undemocratic Constitution: Where the Constitution Goes Wrong* (New York: Oxford University Press, 2006), 159-166.

²¹ The Apportionment Act of June 25, 1842, 5 Stat. 491.

competitive in single-member districts by allowing a majority party to win most, if not all, seats through a statewide election."²²

Reform of Senate representation, however, is an entirely different matter. Article V exempts Senate representation even from the normal, extremely arduous amendment process, stating that "no state, without its consent, shall be deprived of its equal suffrage in the Senate," apparently requiring complete unanimity to reform Senate representation. This may be one section of the U.S. Constitution that is, literally, unamendable.

America's rigid adherence to geographic representation probably stems from sources beyond the institutional barriers to change. There is a notable lack of any ferment for constitutional reform among elites in the contemporary era. The narrow divisions of party control in the Congress and in presidential elections may have encouraged a risk-aversion among both parties. That only a small increment of support stands between either party and power may have encouraged the leaders of both to think incrementally and to eschew larger agendas or sweeping political reforms. But the American public itself unquestionably has a long-standing and well-established conservatism about U.S. institutions of government. At all levels, Americans still conceptualize representation in geographic terms. And despite their dissatisfaction with the operation of politics and political institutions, overwhelming majorities of Americans persist in believing that the U.S. constitutional system is the best in the world.²³

 ²² James Thomas Tucker, "Redefining American Democracy: Do Alternative Voting Systems Caputer the True Meaning of 'Representation'?" Michigan Journal of Race and Law 7 (Spring 2002), 357-438.
²³ John R. Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy: Public Attitudes Toward American Political Institutions* (New York: Cambridge University Press, 1995).