

Some people would say that U.S. Congressional Elections are not very competitive. Discuss and evaluate the validity of this claim. What possible reforms could be adopted to encourage greater competition? Would this be desirable?

In this essay, I will quickly agree that most Congressional elections are uncompetitive and assess some of the reasons why. Then I will weigh up the advantages and disadvantages of uncompetitive Congressional elections and study possible courses of reform by comparison to other democratic systems.

In the 2006 Mid-term election, only 6% of incumbent Senators running were not re-elected¹. Both houses of Congress have consistently high rates of re-election. Senator John Byrd from West Virginia, for example, has been re-elected nine consecutive times². As one opinion-editorial piece put it in the Washington Post after the 2000 election, "57 of the House's 435 seats were decided by margins of 10 percent or less – an astoundingly low 13 percent"³. There are no Constitutional limits on the number of terms a Congressman may serve. On the other hand, Congressmen have extensive access to polling data in their own districts, and if they are sure they cannot be re-elected, they may choose not to run, skewing the statistics. Nevertheless, most Congressmen, once elected, stand a very good chance of re-election.

There are a number of good reasons for the non-competitive nature of Congressional elections. Soon after the creation of the United States, two dominant political parties emerged (though not the same as the ones still surviving today). Today, most districts and even states are 'safe' for one or either of the two major political parties, the Grand Old Party or the Democratic Party. Millions of Americans align themselves with one or either party according to economic, social, one could even say tribal factors, and of course political convictions. The two party system dominates American politics. In both chambers of Congress, there are only two independent

1 CNN, America Votes 2006, available online at <http://www.cnn.com/ELECTION/2006/pages/results/senate/> (accessed 22nd Nov 2007)
2 U.S. Senator Robert Byrd: About Me, available online at <http://byrd.senate.gov/biography/story/story.html> (accessed 22nd Nov 2007)
3 Washington Post: "Safe But Sorry; The Way We Redistrict Destroys the Middle Ground." December 2, 2001, available online at <http://www.fairvote.org/redistricting/reports/remanual/ianews.htm#safe> (accessed 22nd Nov 2007)

representatives, and even so, both of them align with the Democratic party. In other words, it is very difficult to be elected without the endorsement of a major political party. This is a hurdle to overcome for potential challengers in safe districts, as to stand any chance of election they must convince loyal party members in a primary election that they, an unknown quantity, have a better chance of success than the proven incumbent. Only when Congressmen retire, die or run for other offices is there an open contest.

All over the country, elections are decided by the 'First Past the Post' or 'Plurality' system. Very simply, the winner is the candidates with the most votes. Therefore, even if a third party might be otherwise attractive to a large minority of voters, it has no reasonable chance of attracting more votes than either of the more popular parties. The Plurality system has the effect of producing only two viable parties, both of whom must compete for the centre votes: this is known as Duverger's Law⁴. The democracies of New Zealand, the Republic of Ireland and Israel to name a few, all use different proportional representation electoral systems. This allows smaller parties to become viable alternatives, since it reduces the proportion of votes needed to be given representation. If the political grouping of areas were allowed to become more diverse than red or blue, Congressional seats would very likely become more competitive.

Even if we accept the context of a two party system, it is important to recognise two crucial barriers to successfully running for Congress, especially against an incumbent. These are districts and money. In the House of Representatives, the lines separating districts from one another are redrawn every ten years (to reflect a Constitutionally mandated census). However, unlike in the United Kingdom, where the non-partisan Electoral Commission decides the constituency boundaries, in the United States the lines are re-drawn according to State law. This may be a non-issue in the case of South Dakota's one district, but in many states the partisan state legislatures decide on the redistricting.

This power is often abused, named 'Gerrymandering' after the state legislature districts of

4 Dahl, A. How Democratic is the American Constitution?, Yale University Press, 2003, pp. 61

Massachusetts in 1812 (see Picture 1). This can take two forms, 'packing' more of your opponent's voters than he needs to win into one district, wasting his excess votes, and 'cracking' members of a social or racial group thinly among several districts so that they cannot form a plurality in any of them. Gerrymandering has become more complex and effective in recent years, with extensive data available on registered voters. It is in the interests of both parties to keep incumbents in office.

There are several possible ways to make redistricting fairer. The problem is that reforming redistricting is in the interests of exactly no elected politicians. One way to solve the issue is to assign the job of redistricting to a bipartisan group. Some states have already given the power of redistricting to an independent group. This would be the simplest method of reform, and should increase fairness. Alternatively, all House districts could be enlarged, perhaps to encompass the whole state, creating multi-member districts. An alternative voting system would then be used whereby the voter (using the list system, for example) expresses a preference for a party, and the party would receive a proportion of the available representatives according to the proportion of the whole vote. This would have the unfortunate side effects of abolishing the link between a citizen and his representative in the House. Instead, any citizen would have up to fifty-five representatives (in California). This could be seen as undesirable because individual candidate's accountability would be heavily eroded.

A third avenue of redistricting reform is the role of the judiciary. The Supreme Court has ruled that gerrymandering on racial grounds violates the Fourteenth Amendment in the cases *Shaw v. Reno*⁵ and *Miller v. Johnson*⁶, but that drawing districts to advantage an incumbent or party does not violate the Constitution in *Hunt v. Cromartie*: "Accepting the political explanation as true... even if it so happens that the most loyal Democrats happen to be black Democrats and even if those responsible for drawing the district are *conscious* of that fact."⁷ Given the current

5 Supreme Court of the United States Syllabus *Shaw v. Reno*, available online at <http://www.law.cornell.edu/supct/html/92-357.ZS.html> (accessed 22nd Nov 2007)

6 Supreme Court of the United States Syllabus *Miller v. Johnson*, available online at <http://supct.law.cornell.edu/supct/html/94-631.ZS.html> (accessed 22nd Nov 2007)

7 Supreme Court of the United States Syllabus *Hunt v. Cromartie*, available online at <http://www.law.cornell.edu/supct/html/98-85.ZS.html> (accessed 22nd Nov 2007)

make-up of the Supreme Court, and this recent sanctioning of gerrymandering, it is unlikely that the Supreme Court will soon reverse their decision in the interest of letting voters, not cartographers, elect the House of Representatives.

Even when the challenging party has little or no support (sometimes Congressmen are unopposed), the amount of money available for campaign spending is can be important because of internal threats in primaries. In more competitive districts where an election campaign could potentially draw more voters than usual out of their homes, or sway the minds of independents, how much money a candidate has to spend is quite significant. Some districts are quite large, requiring continual transportation of the candidate and his staff around the district. Advertisements in the news media, as well as radio and, crucially, television, are both influential and expensive.

Unlike in the United Kingdom, the parties do not run and fund their candidates' campaigns. In the spirit of American liberty, political campaigns are run from private funds and private donations. A very wealthy individual could fund his own political campaign, but most candidates must raise and spend thousands if not millions of dollars. In money raising, sitting Congressmen have a huge advantage over any challengers as interest groups and lobbyists use donations as a way of gaining access to Congressmen. Naturally, they will receive a better chance of return on their investment if they donate to a sitting Congressmen, rather than an unknown upstart challenger.

There has been some success in the limiting of money in elections; the creation of the Federal Election Commission in 1975 allows anyone with an internet connection to find out any candidate's receipts and disbursements. Loopholes in campaign finance reforms do exist, however, and perhaps always will. Besides which, opponents of electoral finance reform argue that money caps are a limit on free speech, political expression, and the free market. Other democracies have publicly funded election campaigns, or prohibit political advertisements, but this would be a very radical and unpopular change to American politics.

Uncompetitive elections can be seen as undesirable because it devalues the role of the voter and political debate. In a very safe state or district an individual voter, whatever their preference, may feel with some justification that their input into the political system will not affect the result. This leads to voter apathy and may depress turnout. It also creates the peculiar situation in Presidential elections that voters in 'swing' or 'battleground' states receive more attention and, arguably, power, than uncompetitive states (see Picture 2⁸).

However, there are advantages to having uncompetitive Congressional elections, that should not be overlooked. In the first instance, for every uncompetitive Congressional election, there is a Congressman with a majority of popular support, sometimes with over 70% approval. It hardly seems right to criticise most those representatives with the greatest democratic mandate. Indeed, were the elections as competitive as possible, with the winner only receiving one more vote than his opponent, his or her democratic mandate would be very weak. Uncompetitive elections could reflect widespread approval of the district's representative.

Congressmen who are returned to office over a number of terms will gain experience and, arguably, competence in their job. The Committee system in the two chambers encourages specialisation of knowledge. It is important that the Legislature is informed and knowledgeable on the topic under review, which can often be very complicated. Although every representative is expected to adopt a position on every issue or Bill, it is impractical that an individual man, even with the dedicated staff that American politicians enjoy, can have expert knowledge on every topic. Therefore, it is important that Congressmen may have years of specialisation in a particular area so they can inform their party colleagues and help establish a position. In the House of Representatives, terms are only two years, so a stable Congress should be somewhat insulated from trends of popularity and election-minded policy making. At the same time, a Congressman risks his seat (if only through a primary challenge) if he votes against his constituents' interests.

⁸ Toles, T. The Country Where Every Vote Counts, available online at <http://www.washingtonpost.com/wp-srv/opinion/tolesv1.html?name=Toles&date=20041018> (accessed 22nd Nov 2007)

Uncompetitive elections, and the two party system, tend to lead to stable government.

Although the majority party in each chamber does change from time to time, only one party is needed to maintain majority control of the chamber. This is somewhat undermined by divided government, when control of the House, Senate or Presidency belong to different parties, and by weak party whips, but still leads to far stronger and stable party government than in other democracies. For example, the Northern Ireland Assembly was suspended by the British Parliament in 2002 when the main political parties failed to form a coalition government⁹.

To conclude, most Congressional elections, whether for the House or Senate, are very uncompetitive. There are major barriers in place protecting incumbents, but there is hope that more state legislatures will work to reduce the number of wasted votes among their citizens by giving the task of drawing districts to independent bodies ignorant of partisan grouping. Proportional representation or other major electoral reform, while valid alternatives to the problems of uncompetitive districts and money-raising, are too different to the current American political system for their adoption to be likely. There are advantages to long-standing members of Congress, but constant review of America's democratic credentials and flawed political system is necessary if citizens' votes are to make a difference.

⁹ BBC News, Timeline: Northern Ireland Assembly, available online at http://news.bbc.co.uk/1/hi/northern_ireland/2952997.stm (accessed 22nd Nov 2007)

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Picture 1



Picture 2

