

Book review. By: Emenhiser, JeDon A., *Congress & the Presidency*, Autumn 1994, 21 (2): 151-152.

Rush, Mark E. *Does Redistricting Make a Difference?: Partisan Representation and Electoral Behavior*. Baltimore, MD: Johns Hopkins University Press, 1993. Pp. 172. \$32.50, hardbound.

Most students of Congress and the presidency accept the hypothesis, largely based on anecdotal data, that partisan gerrymandering affects the election of legislators and distorts the popular will. Not the way you might expect, says Mark Rush, an assistant professor of politics at Washington and Lee University. Using the literature of voting behavior and his own regression analyses of elections in Massachusetts and Connecticut, the author rejects the prevailing paradigm.

In its place he presents a new argument that partisan gerrymandering, "denying representational opportunity to a partisan group," is impossible to prove since its impact can not be documented. The inadequate proof, Rush contends, results from the absence of a coherent theory of group representation and the lack of a clear definition of a political group. Rush concludes that the adverse effect of a partisan gerrymander varies in relation to the likelihood that a voter will cast a consistently partisan ballot.

Rush makes an important distinction between the party-in-the-electorate and the party-in-government. Gerrymandering, he observes, may threaten the latter but not the former, while only the former deserves constitutional protection. He criticizes the U.S. Supreme Court for entering the political thicket of partisan gerrymandering. The jurisprudence of *Davis v. Bandemar* (1986), he argues, rests on the false assumption of cohesion and endurance of the party-in-the-electorate. Although the Court recognized that underrepresentation, however defined, is not equivalent to a denial of representational opportunity, it "seems," Rush says, "to have assumed that equal protection standards to ensure the equality of individual voters can also be . . . [applied to] equality of group representation." "This," Rush flatly states, "is not the case" (13). The Court may prevent discrimination against individuals, but it is not capable of assuring representation of groups, especially groups such as the party-in-the-electorate that lack cohesion and endurance. Further, Rush remarks that the judicial process can not guarantee that a "fair plan" will assure fair representation.

Here is where Rush parts company with many other students of districting. For example, in 1968 Robert Dixon pointed out that "representation cases are not franchise cases," but he still assumed that groups were predictably cohesive in their voting behavior. Likewise, Rush challenges the assumption of various metrics of partisan representation, including Backstrom's base-race, Niemi's seats-votes ratio, and Butler's and Van Beck's swing ratio. Much of the cottage

industry surrounding current districting, Rush suggests, is like manufacturing and distributing placebos. Gerrymandering analysis has ignored the realities of partisan electoral behavior, resulting in a redistricting process that is ". . . riddled with contradictions and inconsistencies. . ." (126).

Only if voters are party loyalists, Rush claims, can gerrymandering be considered a denial of representational opportunity. His dialogue with the scholars of voting behavior and his mathematical modeling convincingly demonstrate that party loyalty is not always the rule. From Key, Campbell, Converse, Nie, Burnham, and Pomper, Rush constructs an hypothesis of the electoral environment that he tests with data from two states. In addition to ticket-splitting, of which most of us are aware, Rush provides convincing evidence from numerous elections in his study that factors other than party, including incumbency, influence voting. He concludes that partisan profiles of districts are variables not constants.

The data he uses to test his model are the votes for Congress and state senate in 470 towns whose boundaries remained the same but which may have moved from one legislative district to another from 1972 to 1986. He finds those towns that voted Democratic for Congress when they were in a district with a Democratic incumbent voted Republican when they were redistricted with a Republican incumbent, but continued to vote Democratic for state senate where the senate districts were not redrawn.

Rush adds some fuel to the debate over the merits of the single-member district plurality system versus proportional representation. He rejects the idea that there is a constitutional standard for fair representation in an SMP electoral system, although the courts have sometimes acted as if there is. SMP always over represents the plurality. He points out that if the Court pursues *Bandemar*, which it has not necessarily shown signs of doing lately, it could question the constitutionality of the single-member plurality system. Rush suggests that the SMP and PR are both constitutional. Their differences are strictly policy choices, he says. The strength of SMP is to achieve the desirable goal of creating governing coalitions rather than, perhaps, an equal goal of representing every faction however small, which is the purpose of PR. Additionally, with the recent interest in cumulative voting sparked by Guinier's *Tyranny of the Majority* in the wake of *Shaw v. Reno* (1993), Rush's discussion of limited voting as a possible middle ground between SMP and PR is especially timely.

My only negative evaluation of the book is related to its abbreviated explanation of the dense mathematical model, which is really a number of models embedded in one equation. With further explanation, I believe Rush could provide valuable assistance to those who wish to replicate his work in other states. Perhaps he will publish a methodological article detailing his technique. There are two minor concerns. First, he attributes the phrase "one person, one vote" to *Reynolds v.*

Sims (1964), when it appeared earlier in the Georgia county unit system case, *Gray v. Sanders* (1963). Second, his comment that "the constitution entrusts . . . states with the responsibility of equitably redrawing district lines" (1), may, I suppose, be implied from *Baker v. Carr* (1962). But the constitution does not mention districts in its text, and representatives were often chosen statewide until the statute of 1842. Rush is not too sanguine about his findings. He realizes that Massachusetts and Connecticut are not the whole, that his conclusions are limited to a 14-year period in only two states.

In one sense Rush displays a tour de force in representational theory, constitutional law, voting behavior, and mathematical modeling that any scholar can appreciate. In another sense Rush is speaking to a practical problem that scholars and practitioners alike need to hear. Constitutional lawyers, judges, legislators, legislative staff, political scientists, mathematical modelers, and journalists will all benefit from reading this book. Overall it is a superb work. Although by no means definitive, it should become a classic in generating debate about districting and in tempting others to test its hypothesis and to replicate its findings.

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