

Jay K. Dow. *Electing the House: The Adoption and Performance of the U.S. Single-Member District System.* Lawrence KS: University Press of Kansas, 2017. 304 pp. (\$45.00, cloth, 24.95 paper, \$24.95 ebook).

This is at least two books in one. The historical part explores how the states experimented with different procedures for electing their representatives to the US House until the single-member district (SMD) system became compulsory in 1842. The normative part evaluates the performance of the system, ending with “an affirmative argument for SMD elections” (title of chapter 9). The historical part is the more successful.

As Dow shows, a variety of systems were used in the early republic, and a sort of learning curve led to the uniformity imposed in 1842. Apart from SMD, states experimented with at-large (AL) elections and general ticket (GT). In both of these, voters could vote statewide for at least one Representative (AL); in the limit, each voter had as many votes as there were seats (GT). To us, the implication of GT is obvious – that the party with a plurality of support in the state could win every seat. It took a while for politicians to get up this curve. The weak parties of the day faced a coordination problem. How could the parties decide, in a state with n seats, to ensure that their supporters voted for just n candidates? Or, from a voter perspective, how could a partisan coordinate with fellow partisans so that just n candidates were viable? Table 4.5 shows that, in New Hampshire, the coordination problem was solved by 1806. The state had five seats. The top five Republicans each got between 5,773 and 5,123 votes; the next Republican got 934. The top five Federalists each got between 3865 and 2825 votes; the next Federalist got 132. The Republicans won all five seats. In the face of such overwhelming evidence of coordination, it does not matter whether it was the politicians or the voters who did it. It was done. Hence, it is not necessary to postulate anything more than partisan self-interest to explain the Whigs, who controlled both houses, successfully mandating SMD in the Apportionment Act 1842. Dow offers a regression model (Table 5.6), but admits that it “tells us little more than the corresponding two-by-two table” (p. 136), which shows that it was a straight party-line vote.

Overarching this is a grander narrative. It is that in the founding era there were two normative accounts, which Dow labels the Federalist and the Anti-Federalist. The Federalist aim, in Madison’s words, is to ensure that “fit characters” are elected, under a system which delivered “the greater probability of a fit choice.” The Anti-Federalist aim was a true democracy, in which, according to Melancton Smith, “the fundamental principle of a free government [is] that the people make the laws by which they were to be governed” (Madison, at p. 59; Smith, at p.61). The universal adoption of SMD, according to Dow, ensured that the Anti-Federalist vision triumphed. The system is better at representing homogeneous districts than at electing fit characters.

This is intriguing but poorly argued. Like so many historians, Dow reifies (especially) the Anti-Federalists by wrongly assuming that they all wanted the same thing. The clue is in the name. They agreed on what they were against, but not on what they were for. Dow takes this reification further. No previous scholar, as far as I know, has noticed George Mason’s “enthusiasm for popular sovereignty” (p.53). Like the Pennsylvania populists, he opposed the Constitution; but for opposite reasons.

Nor were the Federalists a unitary actor. Indeed, even James Madison was not a unitary actor. Scholars should carefully distinguish Federalist 10, which says what Madison really believed, from Federalist 45-57, which say what Madison believed necessary to persuade New Yorkers to ratify.

Other infelicities seem to be just mistakes, but worrying ones. The non-existent Framer Roger Wilson is quoted at p.47 and appears twice in the index. The real James Wilson, who said the words here attributed to Roger, is cited indirectly once. Image 4.1, which is of a Delaware Democratic-Republican broadsheet of 1807, is captioned as being a Maryland Federalist broadsheet.

For many readers, the most problematic part of the book will be the last two chapters, in which Dow offers his support for SMDs. He is on good ground when he accuses Lani Guinier and other advocates of electoral reform of using a concept of representation which begs the question: by assuming that the point is to secure microcosmic representation of the people, proportional representation advocates invalidate ex ante the concept of district representation. Etymologically, “representation” can validly mean either. But it cannot simultaneously mean both.

But if district representation is inevitable in the USA, is the present situation optimal? Few, either scholars or activists, would share Dow’s optimism. Two issues that he mishandles are gerrymandering and bias. He is good at showing the politics of removing a compactness criterion for districting from the Apportionment Act 1929; less good at either the math or the normative justification for compactness. Elementary geometry explains that the ideal benchmark cannot be a circle (p.202). It could (should) be a hexagon. If there were a compactness criterion, which other districting rules including the UK’s manage to incorporate, then the famous and extravagant partisan gerrymanders of House district boundaries discussed in every book including this one could not occur.

The discussion of bias fairly points out that there have been eras when it worked to Democrats’ advantage, in contrast to the present era when it works to Republicans’. But this is another way of saying that when the Democrats control most state houses, they win the gerrymander; when, as now, the Republicans control most states, they win the partisan gerrymander of the House. These are well-known facts; but this book curiously underplays them. The United Kingdom, Canada, and Australia can avoid partisan gerrymanders. Some jurists seem willing to enter the “thicket” of challenging partisan gerrymandering against which Justice Frankfurter famously warned. If they do, they will learn more from the comparative districting literature than they will from this book.

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