**Supreme Court to hear case testing the limits of partisan gerrymandering**

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**JEFF GREENFIELD:** On a recent Tuesday evening, dozens of Wisconsin voters gathered in a Milwaukee public library, to hear about a campaign — aimed not at protecting the right to vote, but about where those votes are cast.

The featured speakers were Dale Schultz and Tim Cullen, both former state senators, both leaders of opposing political parties in the state senate — but with a common cause: redistricting.

**TIM CULLEN, (D) FORMER STATE SENATOR:** He’s Republican and I’m a Democrat — a lot of things we don’t agree on. We agreed that this issue was a problem. It was just inherently wrong that you can use your raw political power to guarantee yourselves a job. And guarantee yourselves power.

**DALE SCHULTZ, (R) FORMER WISCONSIN STATE SENATOR:** We need to put the people first. Give them the opportunity to pick their representatives. That’s what this boils down to. And it’s the difference between being a good partisan as opposed to a good patriot.

**JEFF GREENFIELD:** They’re talking about “gerrymandering”— when legislative maps are drawn to advantage one party over the other during redistricting… which happens every 10 years after the census.

It’s a practice almost as old as our country. In 1812, Massachusetts Governor Elbridge Gerry signed off on a highly misshapen district that a newspaper lampooned as a salamander, and labeled it a “gerrymander.”

In Wisconsin, the power to redistrict hadn’t belonged to one party for 100 years…

But in 2010, Republicans won control of the state assembly, the state senate, and the governor’s office, and like parties have done throughout American history, they used that power to maximize their political advantage.

Listening at the library meeting was retired school principal Helen Harris. She lives on the northwest side of the city with her husband, Curt. The 2011 redistricting plan placed their heavily democratic Milwaukee neighborhood into a Republican-leaning district that stretches far to the northwest past the suburbs into farm country.

**HELEN HARRIS:** We live in the city. And now we — our little neighborhood — I think it’s like six or seven thousand people were taken and attached to a very strongly Republican district.

**JEFF GREENFIELD:**The new district line was just two blocks from her house.

So when the district line was redrawn, anything this side of it was moved into the new district?

**CURT HARRIS:** That’s correct.

**HELEN HARRIS:** Mmm-hmm.

**JEFF GREENFIELD:** In the 2012 election for her district, the Republican candidate ran unopposed – winning almost 99 percent of the vote.

**HELEN HARRIS:**I don’t feel that I have a voice in this district. If every single Democrat in this district voted, it wouldn’t change anything. And many of the districts have been specifically aligned and created so that that Democratic voice will not be heard.

**JEFF GREENFIELD:** Moving the Harris’s from a Democratic, Milwaukee district into a larger Republican area was part of a strategy known as “packing and cracking.” Heavily Democratic Milwaukee voters were “packed” together in fewer districts, while other sections of Milwaukee were “cracked” and added to several Republican districts… diluting that Democratic vote. The result? Three fewer Democrats in the state assembly representing the Milwaukee area.

In 2015, Helen Harris and eleven other Wisconsin Democrats sued in federal court, alleging the partisan gerrymandering was unconstitutional and deprived their candidates of a fair chance to win. The plaintiffs won in Wisconsin and now the Supreme Court will decide whether the maps went too far.

In 2011, Republican leadership hired consultants to use mapping software to draw new district lines behind closed doors — in secrecy — and without any input from any Democrats. Even when Republican assembly members were shown their new districts, they had to sign non-disclosure agreements.

The impact was clear in 2012, when Republicans won 49 percent of the votes for the state assembly, but captured 61% of the seats. Republican State Senator Dale Schultz voted for the plan, but he’s since had a change of heart.

**DALE SCHULTZ, (R) FORMER WISCONSIN STATE SENATOR:** When I realized the Democrats had won by over 100,000 votes in Wisconsin and yet in the State Assembly the Republicans ended up with 60 seats. It just didn’t make sense to me.

**JEFF GREENFIELD:**Helen Harris’ former state representative, Democrat Fred Kessler, was drawn out of his district. He decided to move to stay in the assembly.

**FRED KESSLER, (D) STATE REPRESENTATIVE:** We had about a 3,500 square foot house, brand new, that we built in 2005, and then they put the whole subdivision out. And my border was four blocks away. We had to sell a house and we had to buy another house and I know it was deliberate on their part.

**JEFF GREENFIELD:** Helen Harris’ new representative was Republican Don Pridemore, who lives near the town of Hartford, 20 miles west of Milwaukee County. He said he was pleased his district included sections of the city.

**DON PRIDEMORE, (R) FORMER STATE REPRESENTATIVE:** Some people in the district admitted to me that they were Republicans, but they were they didn’t want me to let anybody know that especially their neighbors. But that’s just the way it is the Republicans in those wards. We’re very happy now that they had somebody to represent them, even though they may have been in the minority.

**JEFF GREENFIELD:** And Pridemore says gerrymandering is just normal part of politics.

**DON PRIDEMORE, (R) FORMER STATE REPRESENTATIVE:** I have no doubt that Democrats would do the same thing, if not even a little worse than what was done, when we had the opportunity.

**JEFF GREENFIELD:** Across the country, state legislatures in the majority use mapping software to protect their incumbents and enable their candidates to win as many seats as possible.

So, in some states where Republicans dominate — like North Carolina, Ohio, Michigan, and Pennsylvania — gerrymandering has helped Republicans win a greater percentage of seats than their statewide share of votes. It’s happened in democratically drawn states too, like Maryland and Massachusetts.

The Supreme Court has allowed partisan gerrymandering in the past, as long there was no intent to racially discriminate, and districts had roughly the same number of people.

Wisconsin’s Republican Attorney General, Brad Schimel, thinks the case is motivated by sour grapes.

**BRAD SCHIMEL, (R) WISCONSIN ATTORNEY GENERAL:** That’s what Democrats in Wisconsin are doing is using this as a tool to try to convince voters, ‘Hey, Republicans aren’t really winning because of their message or because their candidates, they’re winning because they cheated.

**JEFF GREENFIELD:** In winning their case in Wisconsin, attorneys for Helen Harris and her fellow plaintiffs convinced the district court of the republican majorities intent.

They also introduced a new metric called the efficiency gap, which measures the number of so-called “wasted” votes in each district, in other words, the number of votes beyond the majority needed to win an election plus the votes cast for the loser. It attempts to quantify the amount of “packing and cracking” in a legislative map.

The argument was designed to appeal to Supreme Court justice Anthony Kennedy, who wrote in a 2004 redistricting case that “… We have no basis on which to define, clear, manageable, and politically neutral standards…”

**JEFF GREENFIELD:** If a state legislature chooses to draw the lines to maximize its political advantage, are there any circumstances under which that would cross a constitutional line?

**BRAD SCHIMEL, WISCONSIN ATTORNEY GENERAL:** Well the United States Supreme Court hasn’t found that line. The majority of the court has concluded that political consequences are both predictable and intended in redistricting efforts. So as long as the legislative body follows traditional redistricting principles like compactness, avoiding dividing municipalities, population equity. The fact that there’s a political gain built into it as well is not problematic from the Court.

**JEFF GREENFIELD:** As for that split between the statewide vote and the large Republican majority in the assembly, Schimel says that’s because of “clustering”—Democrats win by massive majorities in Milwaukee and Madison, while Republican votes are spread out more evenly.

**BRAD SCHIMEL, WISCONSIN ATTORNEY GENERAL:**It is very much a factor that people choose to live in particular places that they are with people who vote like them. I live in the very Republican county of Waukesha. I’m glad that we aren’t close in my county.

**JEFF GREENFIELD:** Schimel also argues — if the Supreme Court adopts the efficiency gap as a standard for measuring partisan gerrymandering, it would create chaos for legislative maps all over the country.

**BRAD SCHIMEL, WISCONSIN ATTORNEY GENERAL:** One third of the maps drawn across the last 45 years across America would fail. Those consequences are enormous. The litigation will be endless and fruitless. And we’ll constantly be back in the court looking at it again, and again, and again until you satisfy whatever judge or judges you’re in front of.

**JEFF GREENFIELD:**The Supreme Court will hear the case this week. And a decision could have implications not only here in Wisconsin, but across the country.