

★ Chapter 4 ★

# Race and Southern Politics

## The Special Case of Congressional Districting

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AS V. O. KEY NOTED at the outset of his monumental work on southern politics, “In its grand outlines the politics of the South revolves around the position of the Negro. It is at times interpreted as a politics of cotton, as a politics of free trade, as a politics of agrarian poverty, or as a politics of planter or plutocrat. Although such interpretations have a superficial validity, in the last analysis, the major peculiarities of southern politics go back to the Negro. Whatever phase of the southern political process one seeks to understand, sooner or later the trail of inquiry leads to the Negro” (Key 1949, 5). Changes since the publication of *Southern Politics in State and Nation* have altered much of the South’s political landscape, and the race issue has taken a different form and direction as a result. It is generally safe to say, however, that the vast majority of research on southern politics over the past half century has addressed the issue of race to some extent and on some level. Herein lies the main challenge to anyone writing about the literature on race and southern politics.

First, as Richard Scher laments in his chapter on the civil rights movement and southern politics, the literature is simply too huge and scattered over too many topical areas to be reduced to the space of one chapter in one book. Race is addressed at length by most of the standard works on the evolution of southern politics during the post–World War II period, all of which have been included extensively in discussions in the other chapters: Havard (1972), Bartley and Graham (1975), Bass and DeVries (1976), Lamis (1984, 1999), Black and Black (1987, 1992,

2002), Swansbrough and Brodsky (1988), Aistrup (1994), Scher (1997), Bullock and Rozell (1998), and Lublin (2004), to name a few. Additionally, there is a large literature more narrowly focused on specific elements of race and southern politics (see, for example, Matthews and Prothro 1966; Moreland, Steed, and Baker 1987; Glaser 1996; Fenno 2000; and Streb 2002). Within the electoral arena, the Praeger series on presidential elections in the South from 1984 through 2000 (Steed, Moreland, and Baker 1985; Moreland, Steed, and Baker 1991; Steed, Moreland, and Baker 1994; Moreland and Steed 1997; Steed and Moreland 2002) documented the continuing importance of race as a variable in analyzing campaign strategy and voting patterns in the region. This very partial listing does not even address those works such as Thomas and Mary Edsall's *Chain Reaction* (1991), which examined southern politics and race (and the related issues of taxes and welfare) in the post-Key period within the context of national political patterns. In short, the massive literature is beyond the scope of one essay.

Second, inasmuch as the race issue extends into almost every area of southern politics, much of the key work is addressed to some degree in other chapters in this book; reviewing those works again here would be repetitious. This chapter focuses on the literature of one significant contemporary component of race and southern politics, the issue of racial redistricting (and, by extension, the issue of electoral consequences and governmental representation). This topic illustrates the continuing importance—even centrality—of race in current southern politics, and it addresses one of the key outcomes of the civil rights struggle that has been given a great deal of attention by political scientists.

### **Race, Voting, and Congressional Districting**

A striking change in the racial politics of the South occurred in the post-1990 round of redistricting. The concept of “racial redistricting” took on a new meaning. Instead of referring to the past practice of designing districts to impede the election of African Americans, it is now used to refer to efforts to design districts to facilitate their election. Any recent study that has “racial redistricting” or a similar expression in its title no doubt deals with these affirmative efforts to include African Americans in legislative bodies, rather than exclude them.

This form of racial redistricting, like the previous one, occurs across the United States, but the attention it receives tends to be focused

primarily on the South.<sup>1</sup> This is not surprising, given the intense role race has played in the region, in the past and today. As Earl and Merle Black quickly inform the readers of *The Rise of Southern Republicans*, race has been and continues to be “the central political cleavage” in the region (2002, 4). One manifestation of this cleavage is racial divisions in voting. These divisions have tended to be pronounced when voters were presented with a choice between or among African American and white candidates. African Americans demonstrate in their voting behavior a distinct preference to be represented by people from within their own group, as do whites. The efforts to facilitate the election of African Americans therefore has focused on creating districts in which African Americans can be expected to constitute a comfortable majority of the voters.

The resulting “majority-African-American” districts have been the subject of considerable scholarly attention. Studies focusing on such districts, especially in the South, have proliferated. One set of scholars recently observed, quite accurately, that “the literature on racial redistricting is large, contested, and evolving rapidly” (Smith, Kedrowski, and Ellis 2004, 797). Much of this work entails normative and legal concerns raised by these districts. When it comes to their partisan consequences, there is no debate about whether these districts have increased the descriptive representation of African Americans, for they surely have. And the African Americans elected in these districts are invariably Democrats, which is the party of preference for African Americans across the country (see Frymer 1999). The studies focus, instead, on what are called their perverse effects, consequences that raise questions about the extent to which such districts benefit African Americans. The critical fact stimulating these concerns has been the growth in the number of Republicans elected to legislative bodies along with the African American Democrats, and the relationship between the two phenomena.

African Americans in the South, like those across the United States, are predominantly Democratic in their partisan identifications and voting behavior (Black and Black 2002; Lublin 2004, 134–71). They are said to feel “completely unwelcome” in the Republican Party (Lublin 2004, 145). Changes in the partisan preferences of whites in the region, however, have favored the Republicans, which has resulted in a change in the southern party system from one of Democratic dominance to one that is two-party competitive. In this competitive context, “the racial divide remains the most important partisan cleavage” (Black and Black

2002, 244). With party and race so entwined in the South, the partisan impact of additional majority-African-American districts has been a major issue in redistricting.

The perverse effect, at least from the African American perspective, is an increase in the election of Republicans due to the election of African Americans. This is attributed to the so-called packing of African American voters into black districts, which leaves the adjacent districts with higher percentages of whites. These “bleached” districts are viewed as especially hospitable to Republican candidates. As Byron Shafer and Richard Johnston have observed, “It has become commonplace to note that the process of creating these [majority-African-American districts in the South] is also a process of advantaging Republican candidates overall” (2001, 616–17). (Indeed, many believe, not surprisingly, that when Republicans supported new majority-minority districts, they fully intended this consequence.) The increase in Republican legislators is said in turn to produce another consequence, which is the decline in legislative support for the policy preferences of African Americans. A conservative Republican who does not include African Americans in his or her “reelection constituency” (which “contains all voters who support or might support the member”; Fenno 2003, 7) is not expected to be sensitive to African American concerns, so if the Republicans’ gains in legislative seats exceed those of African Americans, an increase in the descriptive representation of African Americans may well be at the expense of their substantive representation (see especially Lublin 1997; also Cameron, Epstein, and O’Halloran 1996). It is even common to hear that the spillover effect of the new African American districts in the South was a major cause of the Republicans’ gaining control of the U.S. House of Representatives in 2004 (see, for example, Swain 1995, 227, 232; McKee 2002, 123), something few African Americans would consider to be beneficial to them (as only about 10 percent of African Americans in the South cast their votes for Republican House candidates; see Black and Black 2002, 370–71); and it is also common to hear that these districts continue to impede the electoral success of the Democratic Party in the South. See, for example, the comments of Thomas Schaller in Walsh (2005, 25).

This review of the literature addressing these partisan consequences will focus exclusively on studies concerning the U.S. House of Representatives, which constitute almost all the studies concerning this linkage (for an exception, which deals with state legislatures in the South,

see Lublin and Voss 2000b). This concentration of attention on the U.S. House is no doubt driven by the deep partisan division within that body, a division that can be affected by the way House districts are drawn, especially in the South, where the growth of the Republican Party has been the greatest. Indeed, the southern focus to this literature is reinforced by the fact that all but one of the thirteen new majority-African-American U.S. House districts created following the 1990 census were established in southern states. Incidentally, the exception was the Fourth District in Maryland. As David Lublin noted, “In the North, large numbers of white Democrats live in close proximity to blacks, so racial redistricting does not usually make surrounding districts more likely to elect Republicans” (1997, 97).

A careful reading of the studies examining the relationship between the election of African Americans and Republicans reveals that this linkage tends to be exaggerated. The Republicans gained nine southern seats overall in the House in 1992, the same number of seats that southern states gained in the new apportionment based on the 1990 census. In 1994 the Republicans gained another sixteen overall, which resulted in the southern delegation to the House being, like the House itself, majority Republican (64 of 125). The extent to which these Republican gains can be “blamed” on the new African American districts is limited, however. Even authors who argue forcefully for the empirical presence of this linkage present specific findings that reveal a more modest impact (Lublin 1997; Lublin and Voss 2000a; Hill and Rae 2000; McKee 2002).

### **Voting Rights Districts**

One might wish to attribute the change in districting practices to the recognition by white state legislators and other whites participating in the redistricting process of the benefits of more inclusive legislative bodies. But this would conflict with reality. Legal requirements, based primarily on the Voting Rights Act (VRA), were perceived to mandate an “if you can, you must” approach to the new lines. This statute—and its enforcement—was widely interpreted during the post-1990 redistricting to require that if new majority-African-American districts could be drawn, they must be included in the plan adopted. Section 2 of the VRA, as amended in 1982, prohibits the dilution of African American voting strength through electoral arrangements, including district lines. And

Section 5, the coverage of which is geographically targeted primarily at the South, was viewed as precluding the implementation of districting arrangements that did the same (covered by Section 5 are Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia, and specified counties in Florida and North Carolina). Whereas Section 2 placed the burden of challenging what were viewed as dilutive districting arrangements on plaintiffs in federal courts, Section 5 blocked implementation of any districting plan in a covered jurisdiction unless the jurisdiction demonstrated to the Department of Justice or a three-judge federal district court in Washington, D.C., that there was no racially discriminatory purpose or effect in the design or the expected consequences of the new districts. The Justice Department was widely viewed at this time as requiring that all possible majority-minority districts be included in a plan as a condition for Section 5 “preclearance” (see, for example, Bullock 1995b; Hill 1995, 385–86). When districts were redrawn, therefore, white legislators and others involved in the process did so with a “legal club” over their heads (Bullock 1995a, 22).<sup>2</sup>

Districts established in response to these legal provisions are frequently referred to as voting rights districts. Redistricting plans in place for the 1992 U.S. House elections in the South, as noted above, contained twelve new majority-African-American districts (see table 4.1). African Americans in the South tend to live in geographical concentrations, but these concentrations themselves are dispersed across each state. Districts that would include a sufficient number of African Americans to constitute a majority, along with the other political considerations that infect redistricting, usually required boundaries that were more contorted than those of previous districts, which themselves were far from models of compactness. The shapes of these voting rights districts attracted considerable attention, stimulating names for them such as the “mark of Zorro district” for Louisiana’s Fourth, the “I-85 district” for North Carolina’s Twelfth, and the “Sherman’s march district” for Georgia’s Eleventh (Hill 1995, 386; see also Engstrom 2001, 4).

The immediate purpose of these districts was to provide African Americans with opportunities to elect representatives of their choice. On this criterion they worked superbly, as an African American Democrat was elected in each. The number of African Americans in the southern congressional delegation therefore increased from five to seventeen in one election (with the election of an African American in Maryland’s new Fourth District as well, there was an overall increase of African

**Table 4.1: The New Majority-African-American Districts**

<i>State</i>	<i>District Number</i>	<i>African American % of Total Population</i>	<i>African American % of Voting Age Population</i>
Alabama	7	67.5	63.5
Florida	3	55.0	50.6
	17	58.4	54.0
	23	51.6	45.7
Georgia	2	56.6	52.3
	11	64.1	60.4
Louisiana	4	66.4	62.6
North Carolina	1	57.3	53.4
	12	56.6	53.3
South Carolina	6	62.2	58.3
Texas	30	50.0	47.1
Virginia	3	64.1	61.2

*Source:* Engstrom 1995.

*Note:* The Florida Twenty-third and Texas Thirtieth were not majority-African-American in voting age population (VAP) but were considered to be majority-minority districts because of the Hispanic VAP within them. Three new majority-Hispanic districts were also created, two in Texas and one in Florida. These districts are not usually included in the studies dealing with the unintended partisan consequences of redistricting and therefore are not addressed in this chapter.

Americans in the House from twenty-five to thirty-eight). These were the first African Americans to be elected to the U.S. House in the twentieth century in five of these states (Alabama, Florida, North Carolina, South Carolina, and Virginia). These districts were in place for both the 1992 and 1994 U.S. House elections, except in Louisiana, where the new majority-African-American district was extensively redrawn in a way that lowered the African American percentage of the voting age population within it from 62.6 to 54.5 percent (see Engstrom and Kirksey 1998, 255–63).

### **The Perverse Partisan Effects Thesis**

Reading the literature concerning majority-African-American districts gives one the impression that a positive relationship between African American districts and Republican districts is virtually axiomatic. It is as if the creation of African American districts automatically results in an in-

crease in Republican districts. While the relationship is certainly plausible and has intuitive appeal, there is nothing inevitable about it (see Shotts 2001). It depends, of course, on geographical residential patterns, but also, and perhaps more important, on the discretion those in control of the redistricting process have in where they place the lines. Even when residential patterns might lead one to expect the linkage, “it is sometimes possible by creative cartography to create new black Democratic districts while holding constant (or even increasing) the total number of districts held by Democrats of either race” (Brace, Grofman, and Handley 1987, 183).

Some of the post-1990 congressional redistricting plans adopted in the South themselves offer evidence of this. Louisiana was the only southern state to lose a U.S. House seat in the new apportionment. The state already had one majority-African-American district, the Second, created in 1983 after a federal court invalidated its prior plan for splitting the African American vote in New Orleans in violation of Section 2 of the VRA (see Engstrom 1986). The creation of a second majority-African-American district in 1992, the Fourth, came at the expense of the Republicans, not the Democrats. Before redistricting, the state’s House delegation was split evenly, four Democrats and four Republicans. The new apportionment meant one party would have to lose at least one seat (see Engstrom, Halpin, Hill, and Caridas-Butterworth 1994, 117–20).

From the many possible arrangements that contained two majority-African-American districts in Louisiana, the state chose one that paired two Republican incumbents in a district adjacent to the new voting rights district. The result was that the Democrats retained four seats, and the Republicans dropped to three. It could have been worse for the Republicans. The state senate at one point adopted another plan with two majority-African-American districts that placed three Republican incumbents in one district. The four-to-three partisan split was repeated in 1994 when a vastly different yet still majority-African-American Fourth District was used (Engstrom 1995, 24, 46).<sup>3</sup>

Virginia was another state in which a new majority-African-American district resulted in the Republicans losing a seat. An additional seat was allocated to Virginia as a result of reapportionment. The voting rights district, the Third, was created out of two previously Republican districts and therefore, unlike the case in Louisiana, was not just a loss for Republicans but a gain for the Democrats as well (see Lublin 1997, 110, 123; Lublin and Voss 2000a, 429, 431, 433). (On Virginia’s congressional redistricting, see Hagens 1998, 328–29, 332, 336).

David Lublin has identified post-1990 congressional redistricting plans in four southern states as pro-Democratic gerrymanders. The plans in all these states created new majority-African-American districts. These states included Texas and North Carolina as well as Louisiana and Virginia (Lublin 1997, 109–10). Many others agree that these plans were pro-Democratic arrangements. The Texas plan has been described by Donald Beachler, for example, as “an excellent example of simultaneous racial and partisan gerrymandering” (1998, 6). It was even selected by Michael Barone and Grant Ujifusa for the facetious “Phil Burton Award,” named for a California Democrat famous for being the architect of a pro-Democratic gerrymander of California congressional districts following the 1980 census (1993, 1209). No Democratic incumbent in a district adjacent to a new majority-African-American district lost his seat under the Texas plan. When the state’s Republicans in 2003 pushed through a second post-2000 redistricting of the House districts in that state, they argued that the plan used in 2002, a federal court’s revision of the 1991 plan, was a continuation of this gerrymander (see Gaddie 2004).

The North Carolina congressional plan adopted in 1992 was said to be a “stroke of political genius”; it left all the Democratic incumbents with “a good chance of winning reelection” despite its containing two new majority-African-American districts (Gronke and Wilson 1999, 161, 169). The plan reportedly made Republicans “apoplectic” (Sellers, Canon, and Schousen 1998, 280). It was itself the subject of a partisan gerrymandering case in which Republicans complained that its primary purpose was “to further the interests of white Democratic Congressmen in avoiding competitive elections.” A federal district court held, however, that this was not grounds for invalidation (Engstrom 1995, 46). The plan worked as Democrats had intended in 1992: all six of the Democratic incumbents were reelected, as were two African American Democrats, the result being an overall increase of one Democrat (Engstrom 1995, 46; Lublin and Voss 2000a, 432). When the Republican vote expanded in 1994 in North Carolina, however, four of the six white Democratic incumbents were defeated (Engstrom 1995, 46).<sup>4</sup>

### **Assessing the Partisan Effects of the New Districts**

The congressional elections of the 1990s, especially those in 1992 and 1994, took a serious toll on the Democratic Party in the South. The Republicans’ overall gain of nine seats in 1992, and another sixteen in 1994,

resulted in their having a majority of the southern members of the House for the first time since Reconstruction. These elections have been said to constitute, for the Democrats, a “debacle,” an “implosion,” an “electoral disaster,” a “political ‘earthquake,’” and a “sudden electoral flashpoint” (Bullock 1995b, 33; Hill and Rae 2000, 6, 9; Knuckey 2001, 258; McKee 2002, 126). But how much of this debacle can be attributed to another phenomenon: the election of twelve African American Democrats from new majority-African-American districts? How many of these twenty-five seats gained by Republicans can be attributed to the packing of African Americans, the most reliable supporters of the Democratic Party, into these twelve districts?

It hardly needs to be said, of course, that “not *all* Republican gains in the South were related to racial redistricting” (Hill 1995, 400). Many Republican victories occurred in areas not affected, at least directly, by the new black districts. The Republican surge in electoral support was far from limited geographically to areas around these districts. It may be, as one author has stated, “difficult, if not impossible, to determine how many seats underwent partisan change because of race conscious redistricting” (Beachler 1995, 76; see also Bullock 1995b, 35). But a careful examination of the published studies that address this question points to a surprising consensus among the authors—far fewer seats than might be thought. Research designs employed in pursuing the answer to this question vary from a “commonsense head count,” which requires authors to “dirty their hands” with the particular details of the different election contests (Lublin and Voss 2000a, 428), to the more sophisticated statistical analyses in which numerous U.S. House elections serve as the units of analysis and patterns across these elections are examined. Despite these differences, when one focuses on the results for southern districts in these studies the conclusions vary little.

In assessing the partisan consequences of the new voting rights districts, it is important to keep the question clear. The question is not how much better the Democrats might have done if the states had not felt compelled to adopt new majority-African-American districts. There is little doubt, if any, that the new districts could have been more favorable to the Democrats “had African-American voters in the South been treated as ‘sandbags’ and optimally deployed to protect Democratic beachheads from the Republican tide” (Grofman and Handley 1998, 62). The magnitude of the benefit, however, might well be debated (*ibid.*, 59). The question, rather, is how many of the Republican gains are attribut-

able to the twelve new black districts? These questions are sometimes confused, and districts that Republicans retained but might have been won by the Democrats had more African Americans been included in them are counted as losses along with those that the Democrats actually lost to the Republicans (see, for example, Bullock 1995b, 35; Lublin and Voss 2000a, 430–31).

It is common for the studies of racial redistricting in the South to include all eleven states of the Confederacy in the analysis. It is important, therefore, in counting how many Republican gains can be attributed to new African American districts to exclude the Republican gains in the three southern states—Arkansas, Mississippi, and Tennessee—that did not adopt a new majority-African-American district following the 1990 census. The Republicans picked up one seat in Arkansas in 1992 and two each in Mississippi and Tennessee in 1994. This means the maximum number of Republican gains due to the new districts, at least theoretically, is twenty rather than twenty-five.

As I noted earlier, some if not most of the Republican gains in the southern states that did adopt new African American districts were not due to these new districts. The perverse partisan effects thesis, if taken literally, concerns districts *adjacent* to these majority-African-American districts that were bleached as a consequence of them.<sup>5</sup> The number of Republican gains in the South in these types of districts is what is at issue and about which there seems to be more consensus than debate.

The 1992 election was held under a new apportionment of congressional seats based on the 1990 census. This reapportionment awarded ten new seats to five southern states; Florida gained four, Texas gained three, and Georgia, North Carolina, and Virginia each gained one. This complicates partisan effects analyses because new African American districts may be viewed as the new seats (and, therefore, at least theoretically, they did not cost any incumbents their seats in some of these states) and because drastic changes in district lines can cause problems deciding which new districts are to be matched with which old ones. In Florida and Texas the number of new seats exceeded the number of new African American districts, and in Virginia these numbers were equal. It can be difficult to determine whether Republican gains resulted from new seats or new voting rights districts, or a combination of the two, in these states. Indeed, African American districts could be a gain for the Democrats while costing Republicans a proportional, but not an absolute, decline in seats in these states. In Georgia and North Carolina, in contrast, the

number of new majority-African-American districts exceeded the number of new seats, as was the case in Louisiana as well. These differences do not, however, clearly separate the states that Lublin says gerrymandered in favor of the Democrats from those that did not.

Given the amount of attention that the new majority-African-American districts generated, and the popularity of the perverse partisan effects thesis among commentators, we may be surprised at how few analysts have placed a number on how many times Republicans replaced Democrats because of them. Many studies note the rise in the number of both African American Democrats and Republicans being elected and attribute this to the perverse relationship without identifying any specific instances of the two being connected. The most extreme example is Carol Swain's claim that "since the race-conscious redistricting of the 1990s, the loss of *no fewer than 17* Democratic seats can be directly attributable to the creation of majority-black districts in the South" (1995, 227, emphasis added). These districts are not identified, and no evidence is offered to substantiate the claim. This tendency may be a reflection of the fact that "it is difficult to determine what share of the explanation for GOP success is uniquely attributable to redistricting" (Bullock 1995b, 35).

### The 1992 Elections

The most widely cited study of the 1992 congressional elections focusing on the perverse effects thesis is Kevin Hill's examination of the eight southern states that adopted new majority-African-American districts (1995).<sup>6</sup> On the basis of both an examination of the racial changes in districts and their election outcomes and a multivariate analysis that included variables reflecting the racial composition of the districts, Hill concluded that four of the nine seats gained by the Republicans were attributable to bleaching that resulted from the newly created majority-African-American districts. These were identified by Hill as the Alabama Sixth District, adjacent to the new majority-African-American Seventh District, and the Georgia First, Third, and Fourth Districts, which were adjacent to one or both of the new majority-African-American districts, the Second and Twelfth, in that state (1995, 388, 391, 397). None of these districts, it should be noted, is a part of a plan that Lublin identified as a pro-Democratic gerrymander.

These districts were the ones Lublin identified as the southern dis-

tricts Republicans gained because of majority-African-American districts in 1992. Although he ultimately concluded that racial redistricting accounted for “five to six” Democratic losses, he included in this number the failure of Democrats to pick up a Republican seat in Alabama and another one in Florida, which he found only “minimally” linked to racial redistricting (1997, 111–12). Lublin and Stephen Voss revisited this issue in another article and identified seven districts they considered to be Democratic losses, the same four as Hill identified and three districts in which the Democrats failed to pick up Republican seats, including the one that Lublin previously found to be only minimally related to racial redistricting (Lublin and Voss 2000a, 430–31). Seth McKee likewise has concluded that the Sixth Alabama and First, Third, and Fourth Georgia are the districts Republicans gained in 1992 owing to the bleaching of districts adjacent to new majority-African-American districts (2002, 133–34),<sup>7</sup> and Charles Bullock also appears to have reached the same conclusion, assuming his reference to a district in Mississippi is meant to be the Alabama Sixth District (1995b, 35).

Donald W. Beachler identified only two districts as Republican gains due to the new voting rights districts. These were the Alabama Sixth and Georgia Third (1995, 74–77). It is not clear why Georgia’s First was not included, but as for Georgia’s Fourth, he stated in another article that the district had a “racial balance that was not substantially altered by redistricting” and reported a change in its African American percentage from 13 percent in 1988 to 12 percent in 1992 (1998, 10). This may be a comparison of the 1980 census figure with the 1990 figure, which would thereby miss the growth in the African American population over the decade.

There is a clear consensus about the number of Republican gains attributable to the new voting rights districts in 1992. The number is four, and the districts were the Alabama Sixth and the Georgia First, Third, and Fourth. It must also be remembered, however, that the Republicans lost seats in Louisiana and Virginia because of the creation of new African American districts. And the elections of new African American Democrats in some states no doubt constituted Democratic gains in 1992. The reapportionment of the U.S. House across the states resulted in five southern states gaining ten seats, and all these states created at least one new majority-African-American district. North Carolina, for example, has been identified as a state in which one of the new minority districts constituted a Democratic gain in a new seat (Lublin and Voss

2000a, 432). The new majority-African-American districts created in the South following the 1990 census were certainly not as devastating, at least through the 1992 elections, as many have thought.

### The 1994 Elections

The 1994 congressional elections used the same districts in seven of the states that adopted new majority-African-American districts. Louisiana was the only state to revise its districts between the elections, adopting a new version of its majority-African-American Fourth District (see Engstrom and Kirksey 1998, 253–60). The twelve new African American members of the House from the South were all reelected, as were the five previously elected to that body.<sup>8</sup> There was no additional growth in the African American representation from the region. There were, however, more Republicans elected. The 1994 elections were more beneficial to the Republicans than those in 1992: they gained sixteen additional seats to add to the nine gained in 1992.

Given the larger gain by the Republicans, and their new majority status within the region's congressional delegation (as well as the House itself), one might be surprised that few studies have addressed the extent to which these additional gains could be attributed to the voting rights districts. Only districts in North Carolina have been identified as districts in the South that were won by Republicans in 1994 as a consequence of bleaching resulting from the creation of one of the new majority-African-American districts. Lublin identified the Second and Third Districts in North Carolina as lost by the Democrats for this reason (1997, 114). He and Voss later added the North Carolina Fourth to the list of losses (Lublin and Voss 2000a, 431, 433). The Fourth District, however, was not bleached. It actually gained a percentage point in African American population in the post-1990 plan (*ibid.*). Donald Beachler, in a study examining only Texas, Georgia, and North Carolina, concurred with the identification of North Carolina's Second and Third Districts, but not the Fourth, noting that it had not undergone a significant change in its racial composition (1998, 12). The Democratic incumbent in the Fourth District won reelection in 1992 with over 64 percent of the vote but lost by less than a percentage point in 1994. In 1996 he won the seat back with just under 55 percent of the vote. It seems as if only two of the sixteen Republican gains in 1994 are attributable to the spillover effects from the new majority-minority districts. Added to the four gains in 1992, this

results in a total of only six districts that are consistent with the perverse effects thesis, far fewer than the seventeen or more claimed by Swain.<sup>9</sup>

It may be that focusing on bleached districts adjacent to majority-African-American districts is too narrow an approach to test properly the perverse effects notion. As a Louisiana congressman stated in regard to creating a new majority-African-American district in that state, "How you shape it shapes all the others" (quoted in Engstrom and Kirksey 1998, 243). The more distant a district is from an African American district, however, the more likely it is that factors other than race play the dominant role in its design. But the domino effect that districting cartographers are so familiar with might necessitate a broader search.

Bernard Grofman and Lisa Handley have undertaken such a study. Rather than focusing on adjacent districts, they conducted a statistical analysis to estimate how the overall distribution of changes in the racial composition of districts affected the probability of Democrats being elected, regardless of the location of the districts. Their method allowed them to disaggregate the estimated effects attributed to the racial composition of districts from the effects due to changes in voting behavior. They employed data for the U.S. House districts in all eleven states of the South, so districts in Arkansas, Tennessee, and Mississippi, where Republicans gained five seats despite there being no new majority-African-American districts, have an impact on the outcomes. When they compared the changes in 1994 to the situation in 1990, they concluded that "as few as 2 to 5" of the seats lost by the Democrats in 1994 can be attributable to changes in the racial composition of districts (1998, 53, 56–57). A separate analysis comparing the changes in 1992 with the situation in 1990 resulted in an estimate that places the range of Democratic losses due to racial redistricting at "a little under 4 seats" to six (*ibid.*, 58n15). It is unclear how much overlap there may be in the results for the two elections, but they, like the more focused analyses, certainly offer no support for assertions like Swain's that the number is seventeen or more.

Likewise, Kevin Hill and Nicol Rae have created multivariate models to predict the percentage of the vote won by Democratic candidates in the 1992 and 1994 House elections. These models included the African American percentages in all the districts in the South (again including Arkansas, Tennessee, and Mississippi) for 1992 and 1994. When the 1990 figures were substituted in order to estimate "what would have happened without race-based redistricting," they concluded that in 1992

the Democrats would have retained Georgia's First and Third Districts (but not the Fourth and not Alabama's Sixth), and in 1994 Georgia's Third and Eighth and North Carolina's Second and Third (Hill and Rae 2000, 16). Again, discarding the adjacency requirement and looking at all the districts, regardless of where they were located, the number of seats won by Republicans because of the racial differences is well below seventeen.<sup>10</sup>

If the large number of Republican gains is not attributable to the districts themselves, then what does account for them? In the words of Grofman and Handley, "Almost all of the Democratic congressional loss in the South from 1990 to 1994 can be attributed to one simple fact: namely, Republican candidates made substantial vote gains in virtually all districts" (1998, 67). Few will argue with this conclusion. Indeed, this is the obvious (and now standard) explanation for the partisan seat changes in the South. As Jonathan Knuckey has noted, "Any search for an explanation of southern Republican congressional gains in the 1990s requires a focus on the dramatic change in the vote choice of white southerners" (2001, 259). Beachler likewise writes, "Clearly the major source of the Democrats' problems in southern House elections is the growing percentage of southern whites who vote Republican (1995, 78; see also Lublin 1997, 112, and Engstrom's comments on Georgia and North Carolina in 1995, 46). In another article Beachler presented exit poll data indicating that white southerners' support for Democratic candidates in U.S. House elections dropped from 50 percent in 1990 to 47 percent in 1992 and then to 35 percent in 1994 (2000, 359). John R. Petrocik and Scott Desposato have added, in their analysis of the changes in districts, that the direct effect of majority-African-American redistricting was trivial; it was, rather, the indirect effect of Democratic incumbents taking on many voters who had not previously been in their districts and with whom they would not have the normal incumbency advantage. They maintain that Democratic-friendly redistricting in the South would have given the advantage to the Democrats, had it not been for the pro-Republican electoral tide (1998, 630). This GOP surge, they concluded, was "*the* critical factor" in the Democratic loses (ibid., 616). Against the Republican tide, spreading African American voters around to preserve Democratic districts would be "little more than a finger in the dike" (Squire 1995, 231; see also Beachler 1995, 79; Knuckey 2001, 259).<sup>11</sup>

The new majority-African-American districts in the South have been

alleged to be accountable for far more than they deserve. This has extended into assertions that they were responsible for the Republicans' gaining control of the U.S. House after the 1994 elections. Swain stated in 1995, for example, that had the Democrats held the seventeen or more districts in the South that she asserts they lost owing to the new majority-African-American districts, "the Democrats would still control the House" (1995, 232). For this reason and on the basis of the counts focused on adjacent districts, the number of districts won by the Republicans is not close to enough to have caused this. And even the statistical analyses that ignore the adjacency requirement do not agree. The study coming closest to this view is that by Hill and Rae. On the basis of their counterfactual models, which also indicated that far fewer than seventeen districts went to the Republicans by 1994 because of racial redistricting, they concluded that Republican control of the House came two years earlier than it would have without the racial changes in the districts. According to them, "It would have happened anyway," even if there been no race-based redistricting (2000, 17–18). Grofman and Handley, however, concluded on the basis of their analyses that "given the scope of the Republican 1994 tidal wave, even had no new black majority seats been drawn in the 1990s districting round, the Republicans would still have gained control of the House" by 1994 (1998, 62), a conclusion with which Lublin and Voss agree (2000a, 433).

The creation of twelve new majority-African-American districts in the South following the 1990 census did benefit the Republicans, but the studies of these districts that examine the perverse partisan effects thesis concluded that this benefit was not nearly as great, or as consequential, as many commentators have assumed.

### **The Post-1994 Round of Redistricting**

The new voting rights districts were controversial. Some people objected to enhancing the opportunities of minority voters to elect representatives of their choice by manipulating the electoral system in this way. The districts were viewed by many whites as the product of an affirmative action policy. Objections were also made to their shapes, which in many instances were bizarre. And objections were made to their perceived partisan consequences. The expected simultaneous advantages they provided Republicans were viewed, of course, as a negative by many Democrats.

The districts were also judicially challenged. Some whites took their objections to them to court, where they were very successful. The Supreme Court put these districts in serious jeopardy when, in 1993 in *Shaw v. Reno* (509 U.S. 630), it held that such districts could constitute violations of the equal protection clause of the Fourteenth Amendment (on the *Shaw* litigation, see Yarbrough 2002). This five-to-four decision held that, if race was the “predominant factor” in the creation of a district, the district was to be considered a “racial gerrymander.” This was a district-specific notion of a gerrymander that was not based on the votes of any group, racial or partisan, being diluted by district lines. If a district was found to be a racial gerrymander, then it had to be reviewed by a court under the “strict scrutiny” standard for assessing compliance with the equal protection clause. Compliance under this standard requires that a state show that the application of the racial criterion was “narrowly tailored” to achieve a “compelling governmental interest” (*Shaw* at 658). Though the precise meaning of these words is not clear, this elevated test is popularly referred to as “strict in theory, fatal in fact.”

Under the *Shaw* precedent, several of the new majority-African-American districts were invalidated. These included Louisiana’s Fourth, Georgia’s Second and Eleventh, North Carolina’s Twelfth, Florida’s Third, Texas’s Thirtieth, and Virginia’s Third. Revised districts were in place for the 1996 elections in Florida, Georgia, Texas, and Louisiana, and for the 1998 elections in North Carolina and Virginia. African Americans sought reelection in all these districts except Louisiana’s Fourth.<sup>12</sup> Only the new Virginia district was above 50 percent in total African American population (53.6), while the African American percentages of the total populations in the others ranged from 35.6 to 47.0 percent. Yet all the incumbents in these districts who sought reelection were successful. This was taken by some critics of these districts as further evidence that the voting rights districts had been unnecessarily packed with African Americans (Bullock and Dunn 1999; see also Bullock and Dunn 2003).<sup>13</sup> Less attention was placed, however, on the fact that at the same time that African American incumbents were being reelected, so were the Republicans who had benefited from the bleaching of their previous districts. (North Carolina’s Second District had already reverted to the Democrats in 1996, before the change in that state’s districts.) African Americans were more broadly dispersed among districts, some of which were now “unbleached,” yet no Democrats replaced Republicans in these districts.

Although incumbency advantages may have had a role in this result, this may also be attributed to the Republican surge. White flight to the Republican Party has resulted in fewer whites participating in Democratic primaries, which has permitted African American candidates to win the Democratic nomination in districts where African Americans are in the minority. The Democratic nomination may stimulate enough crossover support from white Democrats that, when combined with typically solid African American support, it is sufficient for victory (see Voss and Lublin 2001, 171–72). But the election of African Americans, especially in open seats, can be placed at risk by shaving these districts, while the tradeoff—more white Democrats being elected from the other white districts—may not occur, given the Republican dominance of the white electorate.

Finally, one of the voting rights districts, at least in its reincarnated form, was still the subject of U.S. Supreme Court attention a year after the 2000 census was taken. On April 18, 2001, the Court handed down its last redistricting decision, *Easley v. Cromartie* (532 U. S. 234), before the post-2000 round of redistricting began. At issue was the Twelfth District in North Carolina, which had been adopted by that state in 1997 but never used in an election because it was twice found to be an unconstitutional “racial gerrymander” by federal courts in North Carolina. This was the fourth time that the role that race played in the post-1990 congressional redistricting in North Carolina was before the Supreme Court (*Shaw* was the first); ironically, even if the district was approved, it was not to be used in the 2002 election because it was based on the 1990 census. This version of the Twelfth district was 47 percent African American in voting age population (VAP).

The issue was whether race had predominated in the creation and adoption of the district, or whether the district’s makeup was the product of partisan politics. The issue clearly illustrates the entwined nature of race and partisan politics in the South. Plaintiffs claimed that the predominant purpose was race, while the state maintained it was designed to be a safe Democratic district and was part of a statewide plan intended to maintain the partisan balance in the state’s congressional delegation at that time. Noting the high correlation between race and party in North Carolina, the majority of the Court concluded it could not determine which motive prevailed and, given the burden of persuasion that was on the plaintiffs, upheld the plan.

## Conclusion

The adoption of the voting rights districts in the post-1990 round of congressional redistricting constituted, according to Lublin, “the greatest upheaval in congressional district boundaries” since the adoption of the one-person-one-vote rule (1997, 6). These districts were controversial and contested, and court-ordered revisions in them necessitated a round of “re-redistricting” in six southern states. The feature of these districts that created the most attention, after their shapes, was their widely assumed partisan effects. They have been viewed as the cause of numerous southern Democratic members of Congress (as many as seventeen or more, as we have seen) losing their seats and of making it possible for the Republicans to gain control of the House in 1994.

The perverse effects thesis held that the spillover effect of creating these districts was the bleaching of adjacent districts, making these districts favorable to Republican candidates. African American districts, it was said, beget Republican districts. This thesis was certainly plausible, and it was popular and continues to be so. Yet the actual impact of these voting rights districts was not as perverse as widely proclaimed. Serious analyses demonstrate that the Republican Party would have controlled the House by 1995, or at least by 1997, even without its southern gains, impressive as they were.

The voting rights districts did accomplish their immediate purpose, to enhance the descriptive representation of African Americans in the U.S. House. And many analysts continue to believe that there are numerous benefits to descriptive representation, to having African Americans representing and working for African American constituents in Congress (see especially Canon 1999 and Tate 2003). The question of whether this has come at the expense of their substantive representation is a contentious one and will certainly remain so as long as the evidence for less substantive representation relies exclusively on roll call votes in Congress (see especially Canon 1999, 30–31, 149–51, 172–77).

No additional majority-African-American congressional districts were created in the South, or anywhere in the country, following the 2000 census. Racial residential patterns would have made creating more very difficult, especially in light of *Shaw*, its progeny (see, for example, *Miller v. Johnson*, 515 U.S. 900 [1995]) and other Supreme Court decisions that made it more difficult to deny Section 5 preclearance to redistricting plans (*Reno v. Bossier Parish School Board*, 520 U.S. 471 [1997]

and 528 U.S. 320 [2000]). African Americans, however, continued to be elected in 2002 and 2004 elections in the eleven districts that can be traced back to the post-1990 voting rights districts.

In examining the issue of political representation and its partisan effects, we are reminded once again of the importance of race in post-World War II southern politics. Throughout this period, even as the de jure Jim Crow system was attacked and largely dismantled and African Americans were allowed more fully into the political process, the issue continued to have both emotional and practical components.

The emotions associated with the South's racial history have surfaced in numerous ways and have been intertwined with such issues as the design of Georgia's state flag, the public presence of monuments to Confederate soldiers, and the economic boycott promoted by the NAACP in South Carolina over the proper placement of the Confederate battle flag on the state capitol grounds. Indeed, a recent book, *Confederate Symbols in the Contemporary South*, edited by J. Michael Martinez, William D. Richardson, and Ron McNinch-Su (2000), demonstrated the continuing emotional racial undercurrent of politics in the region.

Ultimately, to scholars of southern politics, the race issue is important because it has a host of political consequences. Who gets to participate in the decision-making process, and how and to what end, is at the heart of southern (and all) politics. The large literature on the related questions of districting and representation addresses this principle vividly.

## Notes

1. Unless otherwise specified, in this chapter the South comprises the eleven states of the Confederacy: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

2. For more on these provisions of the Voting Rights Act, see Engstrom 1988. Party reactions to this "club" no doubt differed between Democrats and Republicans in some settings. Depending on the state and the residential patterns therein, Republicans could expect to gain seats as a result of concentrating African American voters in majority-African-American districts. Indeed, in some states, Republicans did support African American demands for such districts. When courts handled redistricting issues, Republicans in some states placed the maximum number of majority-minority districts in their plans as part of an effort to win their preferred districts in the rest of the state.

3. The Republicans did gain two seats following that election, however, when white Democrats Billy Tauzin and Jimmy Hayes switched their party af-

filiation to Republican in 1995. Tauzin's party switch could not have had much to do with electoral security, however, given that he was unopposed for reelection in 1992 and won with 76.2 percent of the vote in 1994. Hayes was reelected in 1992 with 73.0 percent of the vote, but in 1994 (when he faced a former Republican congressman) he won with only 53.0 percent. It was not until the 1996 election, when the new voting rights district was dismantled completely and Louisiana was back to only one majority-African-American district, that the Republican Party, with Tauzin now running as a Republican incumbent, won a majority of the seats on election day (Engstrom and Kirksey 1998).

4. A study projecting the partisan strength of the new congressional districts adopted after the 1990 census provides additional evidence of Democratic incumbents' being protected in these gerrymandered states. Projecting partisan strength on the basis of the 1988 and 2000 House elections and the 1988 presidential election, it predicts partisan gains when all incumbents are running for reelection and when all the seats are open. These predictions, with and without incumbents running, were +6 Democrats versus +2 Republicans in Texas, +3 Democrats versus +1 Republican in Virginia, and +1 Republican versus +2 Republicans in North Carolina. (Louisiana was not included in the study.) For the four states not identified as gerrymandered by Lublin, these numbers are no change versus +2 Republicans in Alabama and South Carolina, +2 Republicans versus +1 Republican in Georgia, and +7 Republicans versus +2 Republicans in Florida (Swain, Borrelli, and Reed 1998, 954–55).

5. The perverse partisan effects thesis is typically expressed as concerning the districts that are "adjacent to," "surrounding," "bordering," or "neighboring" a new majority-African-American district (see, e.g., Bullock 1995a, 22, and 1995b, 33; Overby and Cosgrove 1996, 541; Knuckey 2001, 258; Black and Black 2002, 197; McKee 2002, 124, 131, 137).

6. A study of the 1992 elections by Richard Niemi and Alan Abramowitz concluded that "Republicans did better, in the sense of gaining seats relative to votes, in states *not* required to obtain Justice Department approval" (1995, 814). This study does not provide a test of the perverse effects thesis, however, or a South versus non-South comparison. It does not concern the linkage between the majority-African-American districts and the election of Republicans, and it compares states covered even partially by Section 5 of the VRA (which include Arizona, California, and New York), as well as most of the southern states, with those that are not so covered, which include Arkansas and Tennessee.

7. It should be noted that one of these districts, the Georgia Fourth, does not appear to have been seriously bleached in McKee's table 6 (2002, 134). This district is listed as having an African-American voting age population (VAP) of 11.0 percent in 1990, and one of 10.8 percent in 1992, a loss of only 0.2 percentage points. Hill, however, lists this district as having a total population that was 25 percent African American in 1990, which declined to 12 percent in 1992 (1995, 388). Lublin reports (1997, 111) the same figures as Hill. This discrepancy is due to McKee's reporting the 1980 VAP for this district (as reported in Barone and Ujifusa 1989, 304) and Hill's and Lublin's reporting the 1990 figure for total population (as reported in Barone and Ujifusa, 1991, 311). The African

American presence in the district no doubt increased substantially between the 1980 and the 1990 censuses. The 2002 version of the district is reported to be, based on the 1990 census, 12 percent African American in total population and 11 percent in VAP (Barone and Ujifusa 1993, 341), which indicates a substantial bleaching of the district. In Lublin's latest work, however, he states that attributing the loss of the Fourth District to racial redistricting may be "dubious," given that "the black population declined by slightly more than 1 percent" (2004, 106).

8. Eva Clayton won a special election to fill a vacancy in North Carolina's First District on November 2, 1992, the same day she won the identical district in the regular general election. She is not identified here as a previous member.

9. In his latest book Lublin included a table reporting that the Democrats "lost" ten districts through 1994 because of racial redistricting (2004, 109), but four of them concern the failure to pick up Republican seats owing to the drop in African American population in them. Six districts were Democratic seats lost to Republicans. Given the states in which these losses occurred, they were, no doubt, Alabama Sixth, Georgia First, Third, and Fourth, and North Carolina Second and Third.

10. Another study that disregarded whether districts are adjacent to majority-African-American districts and that included all eleven southern states in the analysis reported counterintuitive findings about the 1994 elections. The votes for white Democratic southern incumbents who had been reelected in 1992 varied with the change in the African American percentages in their districts, but not in a positive way, as expected, but rather in a negative way. The more the African American percentage of their district declined, compared to their 1990 districts, the more their vote increased (Overby and Brown 2002, with suggested explanations at 345, 347; see also Petrocik and Desposato 1998, 624).

11. In 1995 the Republicans gained five additional seats as a result of party switching. In addition to the two Louisianans, Tauzin and Hayes (see note 3 above), one Democrat each from Georgia, Texas, and Mississippi changed parties. These were Nathan Deal, Greg Laughlin, and Mike Parker, respectively. Deal was elected in 1992 with 59.2 percent of the votes and reelected in 1994 with 57.9 percent, Laughlin was reelected in 1992 with 68.1 percent and again in 1994 with 55.6 percent, and Parker was reelected with 67.3 percent and 68.5 percent in these two elections.

12. The incumbent in the Louisiana Fourth District, Cleo Fields, was reelected in 1994 in a revised district that was reduced from 62.6 percent African American in VAP to 54.5 percent. The second revision, before the 1996 election, dismantled the voting rights district and placed Fields in a new Sixth District that was only 29.4 percent African American in VAP, and which also contained a second incumbent, a white Republican. Fields, not surprisingly, chose not to seek reelection in this district (see Engstrom and Kirksey, 1998).

13. A study of the 1992 U.S. House elections by Charles Cameron, David Epstein, and Sharyn O'Halloran (1996) is frequently cited as supporting the idea that majority-African-American districts were not needed to elect African

Americans to the House in the South (presumably defined as the eleven states of the Confederacy). They contended that African Americans had an equal opportunity, that is, a fifty-fifty probability, to elect a representative of their choice (operationalized as African American Democrat) in a district in which African Americans constituted only 40.3 percent of the VAP, and they concluded that “black candidates seem to have a fair chance of winning, even in districts with a white majority (so called minority-minority districts)” (1996, 804). Their analysis, however, excluded the presence of Hispanics, which is critical to their estimate (see Lublin 1999). This is because the districts that no doubt had the greatest impact on the estimates (the three with the smallest African American VAP to elect an African American in 1992—the Eighteenth and Thirtieth in Texas and the Twenty-third in Florida) were 48.6, 47.1, and 45.7 percent African American in VAP, respectively. These were all *majority-minority* districts, however, when the Hispanic VAP within them was added to that of African Americans. There were only two districts in the South in which the VAP was in the 30 percentage point range (Mississippi’s Fourth at 36.5 percent and Virginia’s Fifth at 30.7 percent). In their response to Lublin’s analysis, Epstein and O’Halloran found the inclusion of Hispanics in their analysis still resulted in equal opportunity points of 48.6, 46.6, and 42.5 for the 1992, 1994, and 1996 elections (1999, 188). But these estimates concerned the probability of electing an African American or a Hispanic and did not address the issue that Lublin raised, which concerned what it takes to elect an African American. It also needs to be noted that the concept of an “equal opportunity to elect” in the analysis concerns the opportunity within a district within a plan, not within a plan itself, which is the referent for equal opportunity in Section 2 of the Voting Rights Act.

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