ARTICLES

Reinventing Black Politics: Senate Districts, Minority Vote Dilution and the Preservation of the Second Reconstruction

By TERRY SMITH*

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 Associate Professor of Law, Fordham University School of Law. A.B., Brown University, 1986; J.D., New York University School of Law, 1989. I would like to thank the faculty of Washington University School of Law for hosting me at its workshop and offering valuable criticism. In addition, I have received valuable comments from Peggy Davis, Jill Fisch, Robert Kaczorowski, Pamela Karlan, Karen Porter, and Barbara Phillips Sullivan. I owe a debt of gratitude to the Southern Regional Counsel (including demographer Mekonnen Gessesse, Executive Director Wendy Johnson, and Interim Director Earl Shinhoster), which provided technical support in the creation of the illustrative Senate districts used in this Article. The Information Systems Department at Fordham Law School, Frank Pirrone in particular, also facilitated creation of the maps. Finally, but not least, I received outstanding research assistance during the various stages of this project from Emily Alexander, Mary Godfrey, Tricia McGrath, Paul Miller, Julie Min, Doug Royce, and Chad Sjoquist.

> "[T]here's no black senator from Georgia or anyplace else down there. It wasn't meant to be."[1]
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> — N.A.A.C.P. Chairman Julian Bond, reflecting on the absence of Black United States Senators from the South.

Consider the following events in the recent history of the United States Senate:

In 1996, Senator Trent Lott of Mississippi was elected Majority Leader of the Senate.[2] Lott, who represents a state that is more than 35% Black,[3] had previously voted against passage of the Martin Luther King, Jr. federal holiday[4] and had supported tax breaks for racially segregated schools.[5] No, Lott did not take these positions during the Jim Crow era, which might have allowed him to argue that he was simply practicing the politics of the times; these votes occurred in 1983 and 1982, respectively.[6] Lott did, however, receive his political tutelage from a devout segregationist, Congressman William Colmer,[7] perhaps destining his politics to a time warp. Remember, Lott is the Majority Leader of what many consider to be the most powerful legislative body in the world, the United States Senate.[8]

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1. Steven A. Holmes, *N.A.A.C.P. Post Gives Julian Bond New Start*, N.Y. TIMES, Feb. 28, 1998, at A6.

2. *See* Donna Cassata & Jackie Koszczuk, *Election-Year Politics Puts Added Pressure on Lott*, 54 CONG. Q. WKLY. REP. 1643, 1643 (June 15, 1996).

3. *See* U.S. DEP'T OF COMMERCE, STATE AND METROPOLITAN DATA BOOK 1991 xiv (1991) (Mississippi's population is 35.6% Black).

4. *See* Nadine Cohodas, *To Reach Blacks, Lott Is Thinking Creatively*, 46 CONG. Q. WKLY. REP. 132 (Jan. 16, 1988).

5. *See* Ronald Smothers, *The Race for Congress: Surging Republican Threatens to Cement Two-Party System in Mississippi*, N.Y. TIMES, Oct. 21, 1988, at A17; *see also* Neil A. Lewis, *Profiles: A Forceful Conservative as G.O.P. Whip, a Clinton Ally to Lead Democrats—Trent Lott*, N.Y. TIMES, Dec. 3, 1994, at A10.

6. *See* Cohodas, *supra* note 4, at 132; Lewis, *supra* note 5, at A10.

7. *See* Curtis Wilkie, *Secret History*, GEORGE, June 1997, at 84.

8. *See, e.g.*, Charley Reese, *In Free Society, No One Has Right to Demand Approval of Others*, ORLANDO SENTINEL, Sept. 19, 1996, at A14 (referring to the Senate as "the most powerful single body in the world's last superpower"); Stephen Green, *Robert Byrd Poised*

Also in 1996, Jeff Sessions was elected to the United States Senate from the State of Alabama.[9] Sessions's previous encounter with the Senate involved his nomination by President Reagan to the federal district court in Alabama.[10] The nomination was withdrawn after revelations that Sessions had attacked the NAACP and ACLU as "un-American" and "Communist inspired" and had said of the Ku Klux Klan, "I used to think they're O.K."[11] The upshot: Sessions's remarks made him unfit to sit on the federal bench but not to be elected to the Senate which confirms that bench.

At the same time Sessions was being elected to the Senate, Senator Jesse Helms of North Carolina, a renowned race-baiter,[12] was breezing to re-election in a contest against a Black opponent in a state that is 22% Black.[13] Harvey Gantt, Helms's opponent, was the lone Black general election candidate for a Senate seat in 1996. During the previous election cycle, in 1994, both of the two Black candidates—one in Washington State, the other in Missouri—lost in the general election.[14]

Despite the much heralded revolution in voting rights, the results of the 1996 elections left the Senate as disproportionately White as ever, with one Black Senator (1% of the Senate), two Asian-Americans and Pacific Islanders (2% of the Senate), one Native American (1% of the Senate), and no Hispanics.[15] Yet Blacks constitute 12.1% of the nation's population, Asians 2.92%, Native Americans 0.79%, and Hispanics 8.99%.[16]

In 1991, Clarence Thomas became the second Black American confirmed to the United States Supreme Court.[17] Although his fitness

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to Sink Balanced-Budget Amendment, SAN DIEGO UNION-TRIB., Feb. 19, 1995, at A33 (referring to the Senate as "the most powerful upper chamber in the world today").

9. *See* Rhodes Cook et al., *Senate Profiles*, 55 CONG. Q. WKLY. REP. 31 (Jan. 4, 1997).

10. *See id.* at 31.

11. Richard L. Berke, *Trent Lott and His Fierce Freshmen*, N. Y. TIMES, Feb. 2, 1997, § 6 (magazine), at 44; *see also* Philip Shenon, *Senator Urges Withdrawal of Judicial Nomination*, N.Y. TIMES, Mar. 20, 1986, at A22.

12. *See* Alan Greenblatt & Robert Marshall Wells, *Senate Steps to the Right as G.O.P. Expands Majority*, 54 CONG. Q. WKLY. REP. 3233, 3235 (Nov. 9, 1996) (noting that "Helms proved willing to play the race card against Democrat Harvey B. Gantt, a black former mayor of Charlotte"). Helms captured 52.6% of the vote to Gantt's 45.9%. *See id.* at 3255.

13. *See* U.S. DEP'T OF COMMERCE, *supra* note 3, at xiv.

14. *See* Donna Cassata, *Freshman Class Boasts Resumes to Back Up 'Outsider' Image*, 52 CONG. Q. WKLY. REP. 9, 11 (Supp. to No. 44, Nov. 12, 1994).

15. *See Minorities in Congress*, 55 CONG. Q. WKLY. REP. 28 (Jan. 4, 1997).

16. *See* U.S. DEP'T OF COMMERCE, *supra* note 3, at xiv-xv.

17. *See Clarence Thomas Wins Senate Confirmation*, CONG. Q. WKLY. REP. ALMANAC 274 (1991).

for office became suspect after allegations of sexual misconduct,[18] although he possessed relatively meager qualifications for the highest court in the land,[19] and although Democrats, nominally the friends of Black Americans, controlled the Senate, Thomas's nomination was confirmed by a margin of four votes.[20] His margin of victory was attributable to a handful of White Southern Democrats who depended heavily for their own elections on Black votes.[21] In a nomination shrouded by racial politics, White Democrats could not critically assess Thomas's claims that he was being subjected to a "high-tech lynching"[22] and racism.[23] Nor were they bold enough to acknowledge that Thomas's conservative politics foreshadowed the votes he would cast as a member of the Supreme Court. Black leaders, on the other hand, openly voiced their suspicions that Thomas, if confirmed, would depart radically from the liberal legacy of the first Black justice confirmed to the Court, Thurgood Marshall.[24] They proved correct.[25] But there were no Black members of the United States Senate then, and thus, no one in a position to vote on the Thomas nomination who could challenge him *from the perspective of an African-American.* It was important that Thomas be questioned from this vantage point, not merely because the presence of an African-American voice is valuable in and of itself, but because many observers suspected that President George Bush had cynically nominated Thomas primarily on the basis of his race.[26]

Something is terribly amiss about the United States Senate. Its composition does not reflect all the citizens it purports to represent. And, as the above examples portray, nor does its politics. It has, in

18. *See id.* at 280.

19. *See id.* at 276 (noting that while most nominees in the past decade were rated "well-qualified," Thomas received a rating of only "qualified" from the American Bar Association's Standing Committee on Federal Judiciary).

20. *See id.* at 274.

21. *See id.* at 285.

22. *See id.* at 284.

23. *See id.* ("Democrats, clearly unnerved by Thomas's injection of racism charges into the proceedings, made little effort to counterattack or defend [Anita] Hill," the woman who accused Thomas of sexual harassment).

24. *See id.* at 274. The N.A.A.C.P., for instance, opposed Thomas' confirmation. *See id.*

25. *See* Christopher Smith, *Clarence Thomas: A Distinctive Justice*, 28 SETON HALL L. REV. 1, 4 (1996) (from 1991 through 1995, Thomas' vote coincided with the Court's most conservative member, Antonin Scalia, 90.1% of the time).

26. *See* Maureen Dowd, *Conservative Black Judge, Clarence Thomas, is Named to Marshall's Court Seat*, N.Y. TIMES, July 2, 1991, at A1 (stating that "[i]n choosing a black [sic] nominee, Mr. Bush seemed to be aiming toward the less ambitious goal of insulating himself against charges that he is hostile to blacks.").

fact, often been denigrated as a "white male club,"[27] with racial minorities rarely among its members. In its 208-year history, the Senate has had only four African-American members.[28] Asian-American Senators, hailing mostly from Hawaii, number a mere five in more than 200 years.[29] And only three Senate seat holders appear to have Hispanic surnames.[30]

The paucity of color in the Senate is remarkable when contrasted with the House of Representatives, where members are elected from districts rather than entire states. There, the proportion of minority members of Congress more closely approximates the percentage of minorities in the general population.[31] The Voting Rights Act of 1965 ("the Act"),[32] and the majority-minority districts created pursuant to its mandates, can claim much of the credit for integrating the House. Prior to the 1990 decennial redistricting, Blacks made up only 4.9% of Congress compared with a voting age population of 11.1%, and Hispanics constituted only 2.5% compared to a voting age population of 7.3%.[33] On the heels of efforts by state legislatures and federal and state courts to comply with the Voting Rights Act, the number of majority-Black and majority-Hispanic congressional districts nearly doubled and the number of Black and Hispanic representatives increased 50% and 38%, respectively, between 1990 and 1993.[34]

It is no wonder that the Voting Rights Act has been hailed as the centerpiece of the second Reconstruction, the era during which voting

27. Clarence Page, *Taking A Chance On Thomas—A Model For Success*, ORLANDO SENTINEL TRIB., Sept. 17, 1991, at A11. *See also* Richard S. Dunham, *Congress' Rookies Will Be Ready To Rock*, BUS. WK., Sept. 14, 1992, at 57 (discussing the common perception of the United States Senate as a "white-male club" and noting that the presence of only two female senators — a number which has since increased — was mere tokenage).

28. In addition to Senator Carol Moseley-Braun, elected in 1992 from Illinois, two Blacks were seated during Reconstruction: Hiram Rhodes Revels and Blanche Kelso Bruce. *See* 4 ROBERT C. BYRD, THE SENATE 1789-1989: HISTORICAL STATISTICS 1789-1992 299 (Mary Sharon Hall ed., 1988). During the late 1960s and throughout the 1970s, Senator Edward William Brooke represented the State of Massachusetts. *See id.*

29. *See* BYRD, *supra* note 28, at 83, 98.

30. *See id.* at 145 (listing three Senators with Hispanic surnames); BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS: 1774-1989 (1989) (also listing three Senators with Hispanic surnames).

31. Eight percent of House members are Black, 4% Hispanic, 1% Asian and .2% Native American. *Minorities in Congress*, *supra* note 15, at 28. This compares in part to voting age populations of 11.1% for Blacks and 7.3% for Hispanics. *See* Parker, *infra* note 33 and accompanying text.

32. 42 U.S.C. § 1973b (1994).

33. *See* Frank R. Parker, *Shaw v. Reno: A Constitutional Setback for Minority Presentation*, POL. SCI. & POL., Mar. 1, 1995, at 47.

34. *See id.*

rights reforms gave life to the moribund Fourteenth and Fifteenth Amendments to the United States Constitution and eliminated barriers to the right to vote.[35] Architects of the second Reconstruction, however, appear to have assumed that the Senate is off-limits for what has been the remedy of choice in voting rights litigation: majority-minority single-member districts.[36] This unstated presupposition has had a strikingly ironic consequence: the Senate, shielded from the voting rights revolution, has confirmed a federal bench that has stunted the progress of the second Reconstruction.[37] Consider the Supreme Court's decision in *Shaw v. Reno*.[38] *Shaw* held that White voters state an equal protection claim where they demonstrate that a Black-majority congressional district has been created for reasons of race and in derogation of traditional districting criteria such as geographic compactness.[39] *Miller v. Johnson*[40] subsequently clarified that while race may be considered in districting, it may not constitute the predominant factor.[41] Companion cases *Bush v. Vera*[42] and *Shaw v. Hunt*[43] analyzed whether a state's compliance with section 2 of the Voting Rights Act of 1965, a provision aimed at protecting minorities from vote dilution,[44] constitutes a compelling reason for subordinating traditional districting criteria in order to draw a majority-minority district. The Court assumed that compliance with section 2 sufficed as a compelling interest but held that the districts' lack of geographic compactness—a necessary element of a vote dilution claim under section 2—meant that the states had failed to use the least restrictive means

35. *See* Chandler Davidson, *The Voting Rights Act: A Brief History, in* CONTROVERSIES IN MINORITY VOTING: THE VOTING RIGHTS ACT IN PERSPECTIVE 7 (Bernard Grofman and Chandler Davidson eds., 1992).

36. *See* LANI GUINIER, THE TYRANNY OF THE MAJORITY 53-54, 91 (1994) (discussing the centrality of the single-member district to Black electoral success theory).

37. *See infra* notes 38-48 and accompanying text.

38. 509 U.S. 630 (1993).

39. *Id.* at 649.

40. 515 U.S. 900 (1995).

41. *Id.* at 914.

42. 517 U.S. 952 (1996).

43. 517 U.S. 899 (1996).

44. 42 U.S.C. § 1973b. For a discussion of vote dilution, *see infra* notes 74-86 and accompanying text. A shorthand definition of the term is as follows:

> [A] process whereby election laws or practices, either singly or in concert, combine with systematic bloc voting among an identifiable group to diminish the voting strength of at least one other group. Ethnic or racial minority vote dilution is a special case, in which the voting strength of an ethnic or racial minority group is diminished or canceled out by the bloc vote of the majority.

Chandler Davidson, *Minority Vote Dilution: An Overview*, in MINORITY VOTE DILUTION 4 (Chandler Davidson ed., 1984).

available to advance their presumptively compelling interests.[45] And finally, the Court in *Abrams v. Johnson*[46] delivered its *coup de grace* of the 1996-97 term. Having invalidated two of Georgia's three majority-Black congressional districts pursuant to *Miller*, the *Abrams* Court concluded that it was not possible to create a second, let alone a third, compact majority-Black district without violating the Equal Protection Clause.[47] This in effect meant that the Equal Protection Clause restricted Georgia's 27% Black population[48] to 9% of the state's congressional seats.

Lost amid the voting rights community's focus on House seats and local elections is a simple reality: the Senate offers an avenue for the protection of civil rights in general and voting rights in particular that is singularly unique because it must confirm the federal judges who decide such cases.[49] During the 1960s and 1970s, electoral anomalies, like conservative Idaho's election of the very liberal Frank Church,[50] may well have diverted the attention of civil rights advocates from the relationship between the way Senators are elected and the politics of the Senate. The current Senate, however, is not the product of such progressive aberrations. To the contrary, its Republican majority has been described as "the most rambunctious, conservative and independent-minded group of Senators in nearly 70 years."[51] And even during different times, with Democratic majorities, the Senate has turned a blind eye to Black interests on critical votes, as evidenced by Justice Thomas's confirmation. In short, the Senate is sorely in need of more Black and Brown influence, and, as with the House of Representatives, the Voting Rights Act and the creation of

45. *See Bush*, 517 U.S. at 979; *See Hunt*, 517 U.S. at 914.

46. 117 S. Ct. 1925 (1997).

47. *Id.* at 1934-35.

48. *See* STATE RANKINGS 442 (Morgan Quitino ed., 1997) (placing Georgia's Black population at 27.5%).

49. *See* U.S. CONST. art II, § 2, cl. 2. The constitutional role of the Senate in confirming Supreme Court justices is particularly important to the interests of racial minorities. Because the Supreme Court is the final arbiter of statutory and constitutional anti-discrimination laws, it is essentially free to interpret those provisions in a manner that is detrimental to minority interests and preservative of majoritarian privilege. *See* Girardeau A. Spann, *Color-Coded Standing*, 80 CORNELL L. REV. 1422, 1424-25 (1995). Thus, the racial sensibilities of the Senators who exercise the advice and consent authority of the Constitution is a first line of defense against the diminishment of minority rights.

50. *See* Matt Pinkus, *Church: Counting on Democratic Stalemate*, 34 CONG. Q. WKLY. REP. 612-13 (1976) (noting that Church was the first Democrat from Idaho to be re-elected to the Senate).

51. Berke, *supra* note 11, at 40.

majority-minority or minority-enhanced districts thereunder appear to be the most effective vehicle for achieving this goal.

Senators, of course, are currently elected on a statewide, at-large basis.[52] I have argued elsewhere that the Constitution generally permits states voluntarily to create United States Senate districts.[53] The states' volitions aside, however, the Voting Rights Act applies to congressional races and Senate contests alike. States can thus be judicially compelled to create Senate districts in order to remedy minority vote dilution. Such a remedy finds support not merely in the text and legislative history of the Act but also in the legislative history of the Seventeenth Amendment, which instituted the direct elections of Senators.[54]

Legal commentators have explored various dimensions of the Seventeenth Amendment, such as its effects on the separation of powers[55] and federalism.[56] Absent from the legal literature, however, is any exploration of a counter-intuitive yet compelling fact about the Seventeenth Amendment: its passage reaffirmed the Fifteenth Amendment's prohibition against racial discrimination at the polls.[57] Because the 62nd Congress that passed the Seventeenth Amendment did so with the expectation that Congress would retain all powers allowed under the Fifteenth Amendment to protect the Black franchise in Senate elections,[58] the Seventeenth Amendment affords Congress at least as much authority to create remedial Senate districts as it has to create remedial House districts. Congress has already exercised that authority by broadly prohibiting vote dilution in section 2 of the Voting Rights Act of 1965. Thus, where a plaintiff successfully demonstrates vote dilution in Senate races, the remedy of single-member districts should presumptively be available under section 2.

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52. *See* Terry Smith, *Rediscovering the Sovereignty of the People: The Case for Senate Districts*, 75 N.C. L. REV. 1 (1996).

53. *See id.* at 6.

54. *See* U.S. CONST. amend. XVII, cl. 1 ("The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof . . . .").

55. *See generally* Vikram David Amar, *Indirect Effects of Direct Election: A Structural Examination of the Seventeenth Amendment*, 49 VAND. L. REV. 1347 (1996).

56. *See generally* Jay S. Bybee, *Ulysses at the Mast: Democracy, Federalism, and the Sirens' Song of the Seventeenth Amendment*, 91 NW. U. L. REV. 500 (1997).

57. *See* U.S. CONST. amend. XV, §1 ("The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."). *See also infra* notes 89-118 and accompanying text.

58. See *infra* notes 114-118.

Shaw v. Reno and its progeny, moreover, do not insulate the Senate from race-conscious districting. To begin with, the Seventeenth Amendment's re-ratification of the Fifteenth Amendment contradicts many of *Shaw*'s underlying premises as they would be applied to Senate districts. In any event, even assuming the applicability of these premises, Senate districts present facts distinguishable from those in *Shaw*. They are more likely to satisfy the *Miller* test because, in contrast to House districts, the existence of only two Senate districts per state creates a fusion between partisan gerrymanders—which the Court has virtually insulated from constitutional attack[59]—and race-conscious districting. In a state in which Blacks constitute a disproportionate share of the Democratic Party and partisan affiliation is racially stratified, Blacks must comprise a disproportionate share of one of the two Senate districts in order to achieve a partisan gerrymander. Thus, unlike House districts, as to which it is widely believed that maximizing the number of Black voters in a single district reduces Democratic seats overall, Senate districting equates race and partisanship in a co-dependent fashion.[60] Even failing *Miller*, however, Senate districts are more likely to withstand strict scrutiny because they do not face the same geographic compactness requirement as House districts.[61]

This Article advocates applying section 2 of the Voting Rights Act to Senate elections in order to prevent minority vote dilution and to preserve the progress of the second Reconstruction by re-conceiving the Voting Rights Act's possibilities. Part I demonstrates that Congress, in enacting the Seventeenth Amendment's provision for the direct election of United States Senators, intended to prevent minority vote dilution in Senate elections to the same extent as in any other, thereby making the remedy of single-member districts presumptively applicable to such elections. Part II measures *Shaw* and its progeny against the original intent of the 61st and 62nd Congresses that debated and passed the Seventeenth Amendment. I argue that remedial Senate districts must be evaluated not under *Shaw*, but instead under the fundamentally different conception of race-based remedies that these Congresses appear to have contemplated. Part III, in contrast, assumes the applicability of *Shaw* to remedial Senate districts and sets forth in more detail *Shaw*'s guidelines for drawing districts to remedy minority vote dilution. I apply these guidelines to a set of illustrative

59. *See infra* notes 254-55, 262-64 and accompanying text.
60. *See infra* notes 262-91 and accompanying text.
61. *See infra* notes 292-306 and accompanying text.

Senate districts in five states—Georgia, Arkansas, Mississippi, South Carolina, and Alabama—in order to demonstrate that remedial Senate districts are more likely to pass constitutional muster than are race-conscious House districts.

I. Busting the White Male Millionaires' Club: The Seventeenth Amendment and the Re-Ratification of the Fifteenth Amendment

The Seventeenth Amendment to the United States Constitution provides for the direct election of United States Senators, stating in relevant part:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.[62]

The Amendment's text is silent as to whether districts are permissible, and no state has ever formally elected Senators by district since the Amendment's passage.[63] The quiet of the Amendment on this score and the negative force of its post-enactment history[64] appear to have led voting rights advocates to accept the Senate as "a white male club"[65] or "a gentlemen's club"[66] in which both wealth[67] and "Whiteness" are the normal prerequisites for entry.[68]

The history of the Seventeenth Amendment, however, demonstrates that such resignation is uncalled for. It explicitly reaffirms the Reconstruction Amendments, in particular the Fifteenth Amendment,[69] whose enabling clause is the constitutional authority for the

62. U.S. CONST. amend. XVII, § 1.

63. Prior to passage of the Amendment, some states, either informally or by statute, elected Senators under districting arrangements. *See* Smith, *supra* note 52, at 19.

64. *See infra* notes 142-158 and accompanying text.

65. *See* Page, *supra* note 27, at A11.

66. Maureen Dowd, *Candidate Dole's Place in Literature*, NEWS & OBSERVER (Raleigh, N.C.), Oct. 28, 1996, at A11.

67. *See* C.H. Hoebeke, The Road to Mass Democracy: Original Intent and the Seventeenth Amendment 190 (1995) (characterizing the Senate as "the Rich Man's Club"). This characterization is not necessarily exaggerated. About 40% of Senators have a net worth of more than $1 million. *See* Rachel Van Dongen & John Mercurio, *40% of Senate Looks Like a Million Bucks—New Disclosures Show an Increase in Upper-Chamber Millionaires*, ROLL CALL, June 16, 1997, available in LEXIS, NEWS Library, ROLLCL file.

68. The only case challenging at-large United States Senate elections under the Voting Rights Act appears to be *NAACP v. Fordice*, Civil Action No. J92-0251(W)(C) (S. D. Miss. Apr. 29, 1992), *dismissed without prejudice*, July 20, 1993.

69. The Fifteenth Amendment provides:

Voting Rights Act of 1965,[70] under which single-member districts have been employed as remedies for minority vote dilution. Congress has, in fact, already exercised its remedial prerogatives in section 2 of the Voting Rights Act, which prohibits minority vote dilution in all electoral contests. Moreover, the drafters of the Seventeenth Amendment intended that the Fourteenth and Fifteenth Amendments apply to Senate elections in the same manner as any other, thus permitting Congress, in the exercise of its remedial authority under the Fifteenth Amendment, to authorize the creation of Senate districts where necessary to prevent minority vote dilution.[71]

There are no special constitutional reasons for exempting federal Senate elections from the Voting Rights Act's prohibition against vote dilution or, more specifically, from the remedy of single-member districts.[72] To the extent that one attempts to rely on post-enactment history to find an exemption, that history tells a complex but ultimately pro-remedial story. The Seventeenth Amendment's post-enactment history—a history which does not include formal Senate districts—parallels that of the Fourteenth and Fifteenth Amendments, the Seventeenth Amendment incorporating the latter two and ratified at a time when the legislative intent of the Reconstruction Amendments was being actively undermined.[73] We should, therefore, view its post-enactment history with the same skepticism with which we have come to view the early post-enactment history of the Reconstruction Amendments. Just as the early post-enactment history of the latter Amendments neglected the ameliorative goals of their drafters, the Seventeenth Amendment has suffered a similar disconnection between ameliorative legislative purpose and counter-ameliorative post-enactment practice. But, as will be seen below, even if one credits the post-enactment history of the Seventeenth Amendment, that history supports Senate districts because it includes specific congressional legislation that would in time grant states broad options as to the manner in which they could elect Senators.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

U.S. CONST. amend. XV.

70. *See* South Carolina v. Katzenbach, 383 U.S. 301, 328 (1966).

71. *See discussion infra* at notes 115-19.

72. *See discussion infra* at in Part I.B.

73. *See discussion infra* at in Part I.C.

A. Racism and Constitutional Reform as Strange Bedfellows: The Words and Deeds of the Seventeenth Amendment

Though the relationship between the Fifteenth and Seventeenth Amendments—in particular, the extent to which the latter protected the former from implied repeal—is not self-evident, their kinship argues for full applicability of section 2 of the Voting Rights Act to Senate elections. That is because the Seventeenth Amendment incorporates the same remedial authority that Congress possesses under the Fifteenth Amendment to prevent minority vote dilution. Thus, remedies available the under the Fifteenth Amendment—specifically, single-member, majority-minority districts created pursuant to the Voting Rights Act—are presumptively applicable to Senate elections.

As amended in 1982, section 2 of the Voting Rights Act of 1965 [hereinafter "the Act"] provides:

> No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color . . . .[74]

The Act is modeled after the Fifteenth Amendment to the Constitution, which provides that the "right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."[75] The Act was enacted pursuant to the Enabling Clause of the Fifteenth Amendment: "Congress shall have power to enforce this article by appropriate legislation."[76] The fundamental distinction between section 2 of the Act and the Fifteenth Amendment is that section 2 does not require proof of discriminatory intent. Plaintiffs need only show that, under the totality of the circumstances,

> [T]he political processes leading to nomination or election [in the State or political subdivision] are not equally open to participation by members of a [protected class] . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.[77]

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74. 42 U.S.C. § 1973 (1994).

75. U.S. CONST. amend. XV, § 1.

76. U.S. CONST. amend. XV, § 2. *See also Katzenbach*, 383 U.S. at 277 ("Congress exercised its authority under the Fifteenth Amendment in an inventive manner when it enacted the Voting Rights Act of 1965.").

77. Thornburg v. Gingles, 478 U.S. 30, 43 (1986) (quoting section 2 of the Voting Rights Act). The Court concluded that "[the Senate Report on the 1982 amendments to

In its landmark decision in *Thornburg v. Gingles*,[78] the Supreme Court set forth the preconditions for establishing a claim of vote dilution in violation of section 2 of the Act:

> First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district . . . . Second, the minority group must be able to show that it is politically cohesive. If the minority group is not politically cohesive, it cannot be said that the selection of a multimember electoral structure thwarts distinctive minority group interests. Third, the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances, such as the minority candidate running unopposed—usually to defeat the minority's preferred candidate.[79]

While not required under the Act, the remedy of choice for section 2 violations has become the creation of majority-minority single-member districts.[80] A paradigmatic section 2 case involves a jurisdiction employing an at-large scheme to elect members to a multi-member legislative body.[81] In such a case, minority plaintiffs contend that their largely cohesive votes are submerged by a White majority's bloc vote so as to usually defeat the minority-preferred candidate.[82] The

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the Act] dispositively rejects the position of the plurality in *Mobile v. Bolden*, 446 U.S. 55 (1980) . . . which required proof that the contested electoral practice or mechanism was adopted or maintained with the intent to discriminate against minority voters." *Id.* at 43-44 (footnote omitted). Subsection (b) of section 2 of the Act describes a plaintiff's burden of proof:

> A violation of subsection (a) . . . is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) . . . in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

42 U.S.C. § 1973 (emphasis in original).

78. 478 U.S. 30 (1986).

79. *Id.* at 50-51 (citations and footnotes omitted).

80. *See* Lani Guinier, *The Representation of Minority Interests: The Question of Single-Member Districts*, 14 CARDOZO L. REV. 1135, 1167 (1993).

81. *See, e.g., Gingles*, 478 U.S. at 50-51. Another common type of section 2 case involves a jurisdiction which employs single-member districts to elect representatives to a multi-member body but is accused of having manipulated district lines so as to fragment minority voters among several districts or cumulate them in one or a small number of districts, in each instance reducing their electoral influence. *See, e.g.*, Voinovich v. Quilter, 507 U.S. 146, 153 (1993). In the latter type of action, the *Gingles* preconditions of compactness, cohesiveness and white bloc voting remain applicable.

82. *See Gingles*, 478 U.S. at 34-35.

single-member district removes this disadvantage by subdividing the at-large electorate and placing the minority plaintiffs in a district in which they constitute a majority and are therefore more likely to control the outcome of the election.[83]

As in the above example, United States Senators are elected to a multi-member legislative body, with two distinctions. First, the body to which Senators are elected is a national chamber. Second, the election of each of the two Senators from each state is usually staggered, occurring two to four years apart.[84] Neither of these differences alter the section 2 liability paradigm, however.[85] Moreover, nothing in either section 2 of the Voting Rights Act or the Fifteenth Amendment suggests that Congress's full authority to remedy vote dilution does not extend to Senate elections. As matter of statutory construction, section 2, as originally enacted:

> [p]rotected the right to vote, and it did so without making any distinctions or imposing any limitations as to which elections would fall within its purview. As Attorney General [Nicholas] Katzenbach made clear during his testimony before the House

83. *See id.* at 68.

84. *See* U.S. CONST. art. I, § 3, cl. 2 (prescribing the sequence of elections for Senators).

85. In recent years, controversy has arisen over the "single-member office" doctrine. Under this theory, elections to fill offices that are incapable of simultaneous occupancy by more than one person within a jurisdiction–for example, mayor or governor-cannot be challenged under section 2 of the Voting Rights Act. *See* Pamela S. Karlan, *Undoing the Right Thing: Single-Member Offices and the Voting Rights Act*, 77 VA. L. REV. 1, 3-4 (1991). The Supreme Court has declined to completely exempt single-member offices from the scope of the section's coverage. *See* Houston Lawyers' Ass'n v. Attorney Gen., 501 U.S. 419, 426 (1991). However, where plaintiffs challenge a jurisdiction's right to maintain a single-member office-as where, for example, plaintiffs seek to transform a county executive position into a multi-member county commission-the Court has precluded the use of section 2. *See* Holder v. Hall, 512 U.S. 874, 881-82 (1994). In *Holder*, the Court concluded:

> With respect to challenges to the size of a governing authority, respondents fail to explain where the search for reasonable alternative benchmarks should begin and end, and they provide no acceptable principles for deciding future cases. The wide range of possibilities makes the choice inherently standardless, and we therefore conclude that a plaintiff cannot maintain a section 2 challenge to the size of a government body . . . .

Id. at 885 (citations and quotations omitted).

Neither the single-member office doctrine nor the concerns of *Holder* foreclose challenges to vote dilution in United States Senate contests. A United States Senate seat is no more a single-member office than the position of state senator. *See* Karlan, *supra*, at 18 ("[N]o court has ever suggested that the position of state senator is a single-member office."). Moreover, the *Holder* Court's concern that no benchmark for measuring vote dilution is available where the office is occupied singularly is inapposite in Senate elections; plaintiffs challenging these elections would not be attempting to increase the size of a government body, but rather only the system of voting.

> [concerning the 1965 Act], "[e]very election in which registered electors are permitted to vote would be covered" under § 2.[86]

From its inception, then, the Act was intended to be "interpreted in a manner that provides the broadest possible scope in combating racial discrimination."[87] And the manifest purpose of the 1982 amendments to section 2, which removed any requirement of proof of discriminatory intent, was to broaden the Act's protection even further.[88] Thus, there is no statutory impediment to a vote dilution claim challenging at-large Senate elections.

Notwithstanding section 2's intended coverage, it is possible to argue that the Constitution exempts the Senate from that provision's most common remedy—single-member, majority-minority districts. This argument is rooted in precepts of state sovereignty and in a long history of statewide, at-large Senate elections.[89] These arguments for a constitutional exemption, however, shed their persuasiveness when one examines the valiant efforts made during the 61st and 62nd Congresses to ensure that the remedial auspices of the Fifteenth Amendment—of which majority-minority districts under the Voting Rights Act is one—remained available in Senate contests. The 62nd Congress which enacted the Seventeenth Amendment was as concerned about the repeal of the Fifteenth Amendment as it was about the direct election of Senators.[90] Indeed, it may be argued that this Congress, as well as the 61st, re-ratified the Fifteenth Amendment in the course of its debates. Thus, Congress's remedial power under the Fifteenth Amendment presumptively affords it as much, *if not greater*, authority to prevent vote dilution in Senate elections as it has in other elections.

The Seventeenth Amendment was ratified in 1913, a period during which Blacks and others were forced to acquiesce in the failure of the first Reconstruction.[91] The first Reconstruction had collapsed under the weight of Southern violence, fraud, structural discrimination, statutory suffrage restrictions, and constitutional disenfranchisement.[92] Moreover, the United States Supreme Court had effectively

86. Chisom v. Roemer, 501 U.S. 380, 392 (1991) (applying section 2 to judicial elections) (citations and footnotes omitted).

87. *Id.* at 403 (internal quotations omitted).

88. *See id.* at 403-04.

89. *See* Smith, *supra* note 52, at 24.

90. *See infra* notes 91-119 and accompanying text.

91. *See infra* notes 92-93 and accompanying text.

92. *See* J. Morgan Kousser, *The Voting Rights Act and the Two Reconstructions, in* CONTROVERSIES IN MINORITY VOTING: THE VOTING RIGHTS ACT IN PERSPECTIVE 141 (Bernard Grofman and Chandler Davidson eds., 1992).

sanctioned the emasculation of the Fifteenth Amendment in a series of decisions limiting Congress's enforcement powers.[93] These events figured prominently in the congressional debates on the Seventeenth Amendment. Having successfully abrogated the Fifteenth Amendment in practice, Southern congressional Democrats now sought its de jure repeal in United States Senate elections. Their efforts shaped the contours of the debates, and, ultimately, the text of the Seventeenth Amendment to the Constitution.

The Seventeenth Amendment was nearly sent to the states for ratification two years earlier but became mired in Civil War rhetoric during the 61st Congress. The core proposal for the direct election of Senators was simple enough: "The Senate of the United States shall be composed of two Senators from each State, elected by the peoples thereof, for six years . . . ."[94] Sensing an opportunity to weaken the Reconstruction Amendments and curtail future interference in Southern elections,[95] however, the Democrats sought to amend the Elections Clause of Article I, Section 4, Clause 1, which provided that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."[96] Under the Democrats' proposal, the federal government would no longer retain oversight authority in Senate elections: "[t]he times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof."[97] Although the language of the Democrats' proposal, which eventually became known as the "race rider,"[98] did not mention the Fifteenth Amendment, the Democrats were remarkably unsubtle about their intentions, even as they tried to dissemble them. The South did not intend to disenfranchise the former slaves, according to Senator Davis of Georgia, but the Fifteenth Amendment had given to "the ignorant, vicious, half barbaric Negroes

93. *See generally* D. Grier Stephenson, Jr., *The Supreme Court, The Franchise, and The Fifteenth Amendment: The First Sixty Years*, 57 UMKC L. REV. 47, 48-60 (1988) (detailing Supreme Court decisions narrowly construing Congress' enforcement powers under Section 2 of the Fifteenth Amendment).

94. *See* 1 ROBERT C. BYRD, THE SENATE 1789-1989: ADDRESSES ON THE HISTORY OF THE UNITED STATES SENATE 389, 403 (Mary Sharon Hall ed., 1988) (quoting proposed amendment).

95. *See infra* notes 98-102 and accompanying text.

96. U.S. CONST. art. I, § 4, cl. 1.

97. 46 CONG. REC. 847 (1911) (statement of the Secretary).

98. *See, e.g.*, 47 CONG. REC. 1483, 1889, 1899 (1911) (statement of Sen. Smith).

of the South the right to vote and the right to hold office."[99] Such indirection, however, no longer posed difficulty for the South, for "[f]ew [Negroes] care to vote and none ask to hold office, except when stirred by this same disturbing element of the Republican Party, usually imported from the North or East. . . ."[100]

The South's opposition to federal control over Senate elections resembled its opposition forty years earlier to the Fifteenth Amendment, which, along with the Enforcement Acts passed under it, had been effective for a decade or so.[101] Indeed, Southern Democrats in the 61st Congress remembered vividly the federal intervention wrought by the Amendment. As Senator Rayner of Maryland explained:

> If you give Congress the right to override the regulations of a State as to the manner of electing Senators, then you give Congress the power to pass a bill like the force bill or any bill substantially similar. I object to putting the power in the hands of the Federal Congress.[102]

Although the Republicans opposed the race rider for various reasons, none was more resonant than their charge that the Democrats were attempting to repeal the Fifteenth Amendment. One Republican encapsulated his party's concerns:

> Not content with a success obtained in suppressing the negro vote through a curious variety of State constitutional provisions and legislative devices, certain Senators now seek to absolutely deprive the General Government of all power to guard and protect the elections of Members of this body not only from the consequences of the provisions and devices suggested, but also from such fraud, violence, or corruption as may taint a Senatorial election North or South. The adoption of the amendment would give substantial though limited national sanction to the disenfranchisement of the Negroes in the Southern States. In their disenfranchisement we now passively acquiesce, but with this supine attitude some Senators are not content; they ask us to actually strip Congress of the power to question election methods and actions in so far as the election of United States Senators may be concerned, and by way of inducement to the

99. 46 CONG. REC. 1635 (1911) (statement of Sen. Davis).

100. *Id.*

101. *See* Kousser, *supra* note 92, at 139 ("The Fifteenth Amendment and the Enforcement Acts were more effective than many scholars contend, and extensive black voting continued long after 1877.").

102. 46 CONG. REC. 1162 (1911) (statement of Sen. Rayner). The force bill, which substantially increased penalties for violent obstruction of the right to vote and prohibited excessive poll taxes, passed the House in 1875, but was never acted on in the Senate. *See* Kousser, *supra* note 92, at 139.

> Congress and the Nation to consent to the permanent suppression of more than a million votes at elections to choose Senators.[103]

Whether or not the Republicans' assessment of the Democrats' motives was accurate, their suspicions shifted the focus of the debate from the merits of directly electing Senators to the question of whether the Fifteenth Amendment should apply in Senate elections.[104] If Republicans succeeded in defeating the race rider, it was, to their minds, tantamount to a re-ratification of the Fifteenth Amendment.[105] A re-ratification in this context would have particularly significant ramifications for assessing the scope of the remedies available to Congress in order eliminate racial discrimination in Senate elections. Absent any evidence that the 61st and 62nd Congresses

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103. 46 CONG. REC. 1218-19 (1911) (statement of Sen. Carter); *id.* at 1335 (statement of Sen. Depew):

> When the Democratic friends of the proposed amendment [to the Elections Clause] are asked why they want this provision of our Constitution, which has existed for 122 years, repealed, their answer is that under it the right has been claimed for Congress to interfere with the elective franchise in the several States. In other words, under it Congress has endeavored to so legislate, though that legislation has never been passed, as to permit the Negro to vote in the Southern States, and that under it may be found, when the question comes before the Supreme Court of the United States, authority to declare the laws, which in one form or another disenfranchises the Negro vote in some of the States, unconstitutional.

See also id. at 2426 (statement of Sen. Curtis):

> For some reason, at this time, a majority of the committee have reported the resolution to the Senate with an amendment which may well be termed a "rider" or "joker," and which should, in my judgment, be defeated, for it has not been considered by the people, and if agreed to, it might be used by the States that so desire as recognizing their right to disfranchise [sic] the colored voters.

104. For their part, Southern Democrats were placed in the contradictory position of claiming, on the one hand, that Congress maintained authority under the Reconstruction Amendments to prevent Negro disenfranchisement while arguing, on the other hand, that the failure to amend the Elections Clause impermissibly endowed Congress with the authority to interfere in Southern elections—an act that might be necessary to protect the Negro franchise. *Compare* 46 CONG. REC. 2759 (1911) (statement of Sen. Rayner) ("How in the world is there a conflict between a resolution which gives the States the right to determine upon the manner of electing Senators and the fifteenth amendment of the Constitution of the United States?") *with id.* at 2129 (statement of Sen. Percy) (characterizing the extant Elections Clause, as applied to direct Senate elections, as "a substantial, a vital power.").

105. Contemporaneous news accounts reflect the racialized tenor of the congressional debates and the centrality of the attempted repeal of the Fifteenth Amendment. *See, e.g.*, *Root Rouses Senate on Elections Issues*, N.Y. TIMES, Feb. 11, 1911, at 3 (reporting that Southern Democrats feared that federal control of Senate elections would nullify restrictions on the Negro franchise); *Fails to Force Vote on Direct Elections*, N.Y. TIMES, Feb. 18, 1911, at 2 (reporting on the efforts of Republicans to maintain federal control of Senate elections because they believed "there was no desire forever to deprive the negro [sic] of the protection of the general Government.").

intended that the Fifteenth Amendment and any congressional remedies promulgated thereunder operate differently in Senate elections, one must conclude that they are to apply in the same manner as other elections. Thus, measures Congress may take to prevent minority vote dilution in, for instance, House elections—such as the creation of majority-minority districts under the Voting Rights Act—may likewise be taken with respect to Senate contests.

Republicans viewed the race rider with a mix of realism and idealism. They acknowledged, realistically, that the Fifteenth Amendment was not then currently being enforced in the South[106] but deemed this inertia insufficient reason to repeal the ideal and promise of the Fifteenth Amendment. Speaking to the permanency of the disenfranchisement that would be wrought by passage of the race rider, Senator Depew of Pennsylvania stated:

> I can conceive of nothing which would affect them [Northern Blacks] so deeply and arouse them so thoroughly as a permanent constitutional disenfranchisement of their brethren by the votes of Republican Senators . . . . This resolution virtually repeals the fourteenth and fifteenth amendments to the Constitution. It validates by constitutional amendment laws under which citizens of the United States, constituting in the aggregate more than one-tenth of the electorate, are to be permanently deprived of the right of suffrage. There is no pretense that any conditions may arise in the future under which these laws will be liberalized and the growing intelligence of the Negro electors will be recognized. These laws have their origin in a fear of the Negro vote in those States where it is equal to the white vote or larger than the white vote.[107]

Senator Root of New York similarly recognized that preventing implied repeal of the Fourteenth and Fifteenth Amendments was nec-

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106. Nor, for that matter, was the Amendment being enforced in the North. Senator Borah of Idaho charged Northern Republicans with outright hypocrisy for opposing the race rider:

> I do not know, Mr. President, how long the North is going to play the hypocrite or the moral coward on this Negro question. The North always assumes when we come to discuss the Negro question that there is in the North a superiority of wisdom and judgment and of virtue and of tolerance with reference with dealing with that question which is not found in other parts of the country. Call the roll in this Senate Chamber of States where they have a Negro population and present the record with reference to the manner in which the North has dealt with this question, and tell me what authority any man has to stand upon the floor of the Senate and chide any part of this Union about the manner in which it deals with this question.
>
> The Northern States have exhibited the same animosity, the same race prejudice and race hatred that has been developed in the other parts of the Union.

46 CONG. REC. 2656 (1911) (statement of Sen. Borah).

107. Id. at 1336 (1911) (statement of Sen. Depew).

essary, not so that Congress could take immediate action to protect the Black franchise (which it had no intention of doing), but so that "if it shall ever come that the spirit of lynching and peonage denies to those poor people the protection that these amendments of the Constitution were designed to give them, then the reserve power will be reenergized."[108] Thus, even as they acknowledged the failure of the Fifteenth Amendment to integrate former slaves into the political infrastructure of the country, Republicans sought its preservation in Senate elections on the future possibility that the government might give effect to the Amendment. The political price of protecting the Fifteenth Amendment in Senate elections was the defeat of the direct elections proposal in the 61st Congress.[109]

The 62nd Congress offered fresh possibilities for passage of a direct elections proposal, but the race rider re-emerged and, with it, the ghosts of the Civil War. Republicans continued to cast their arguments in terms of preserving the Fifteenth Amendment:

> You southern Democrats believe that if you can insert in the Constitution, as you are now proposing, the following provision, "the times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof," that this may be construed as a partial repeal of the fifteenth amendment, and whether it so operates as a matter of theoretical law, you know that you intend that it shall operate so in fact.[110]

And Democrats continued to incriminate themselves on the charge:

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108. *Id.* at 2260 (statement of Sen. Root).

109. *See* Smith, *supra* note 52, at 42.

110. 47 CONG. REC. 2430 (1911) (statement of Rep. Mann). *See also id.* at 1483, 1889, 1899 (statements of Sen. Smith) (accusing Southern Democrats of proposing the race rider to avoid federal interference with the South's disenfranchisement of Blacks); *id.* at 2418 (statement of Rep. Moon) (charging that Southern Democrats were attempting to undo the national supremacy won as a result of the Civil War); *id.* at 219 (statement of Rep. Miller):

> We are frankly told by gentlemen from the other side of the Chamber that the main purpose of this section is to prevent, on the part of the Federal Government, interference with disfranchisement of the negro, now practically complete, in all the Southern States. Such a statement condemns the [race rider] and gives emphatic reason why it should not become a part of the Constitution.

See also id. at 241 (statement of Rep. Jackson) (implying that passage of the race rider would require representatives from Northern states to give a special explanation to their Black voting constituents); *id.* at 2425 (statement of Rep. Madden) ("It takes no superior intelligence to understand their purpose. Their motive is that certain well known States may have unlimited and unrestricted power to destroy the franchise of the negro[sic]. They want him while ostensibly free to remain the chattel of the designing politicians of the South"). Representative Prouty of Iowa put it most bluntly: "Men only fear interference when they are contemplating some wrong." *Id.* at 2425.

> The object of the Bristow amendment [eliminating the race rider] is to wrest the political power of Mississippi and every other Southern State from the virtue and intelligence of the people and vest it in the ignorant and vicious class of the State. In short, the object is to destroy the civilization of the South . . . .
>
> It is perfectly clear that the ground of Republican contention in the Bristow amendment is to overthrow white supremacy and to reinstate negro domination in the Southern States. The Republican position, clearly expressed throughout the debate, full of malignant tirades against the South, and breathing the bitterness of hate toward the southern people, does not even pretend to limit the operation of the Bristow amendment to the control of the time and manner of the election throughout the Union, but boldly warn [sic] us that the object and aim of the amendment is negro rule in the South.[111]

Even when the Democrats framed their objections to federal control of Senate elections in terms of state sovereignty—an idea associated with the Senate from its inception[112]—this formulation, too, was molded by the Southern legislators' fears of Reconstruction-style intervention in federal Senate elections.[113] The fate of the Seventeenth

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111. 47 CONG. REC. 2415 (1911) (statement of Rep. Witherspoon). The Democrats never acknowledged that they intended to repeal the Fourteenth or Fifteenth Amendment. One has difficulty, however, reconciling such reticence with statements clearly conveying an unmistakable intent to continue repressing Blacks. *See, e.g., id.* at 215 (statement of Rep. Tribble) (equating federal control of Senate elections with Reconstruction-style intervention while assuring Congress that the South had "patiently and faithfully borne the burden of an inferior race"). *See also id.* at 240 (statement of Rep. Sherley):

> We in the South have had confronting us a very grave and very serious problem—a problem that, according to the best judgment of the southern people, involved the supremacy of the white race in those States. Out of much of turmoil, out of much that might not be defended in the cold forum of law, has come now a solution that has been upheld by the courts and that today is making for the future prosperity and safety of the entire land. We are not willing, many of us, to endanger that status, believing it to be most vital, by giving a power as to elections more extensive than now belongs to the Federal Government.

Underscoring the racialized opposition to federal control of Senate elections, Democrats mocked the effort to rid the direct election proposal of the race rider:

> In the last Congress it was what is known as the Sutherland amendment, and it was voted down in the Senate, and the very Senator who is the author of this amendment [to purge the race rider] in the Senate this Congress, a Senator from Kansas, voted against this proposition, then known as the "Sutherland amendment." When he returned home to Kansas meetings were held and certain organizations of colored voters demanded that Congress pass this amendment, and the Senator from Kansas offered it again and became its chief champion.
>
> So this might well be dubbed "the Kansas Negro amendment to the Constitution."

Id. at 6347-48 (statement of Rep. Bartlett)

112. *See* Smith, *supra* note 52, at 24.

113. *See, e.g.*, 47 CONG. REC. 226 (1911) (statement of Rep. Sisson) (referring to the concept of state sovereignty in the context of the federal government refraining from

Amendment literally rested not on the merits of directly electing Senators—which was hardly discussed by the 62nd Congress—but rather on competing conceptions about what the absence of federal control would mean for the operation of the Fifteenth Amendment in Senate elections. After a tense stalemate, the advocates of federal control prevailed, passing the Seventeenth Amendment without a modicum of doubt that the Fifteenth Amendment would be applied to Senate elections.[114]

Thus, the debates of both the 61st and 62nd Congresses simply cannot be read in a race-neutral fashion. They are inundated with references to Negro oppression and the Fifteenth Amendment. Those debates and the defeat of the race rider reaffirmed the promise of the Fifteenth Amendment, even as the letter of that provision lay moribund at the time. In preserving the Fifteenth Amendment's application to Senate elections, however, what if anything did the 61st and 62nd Congresses decide about *how* the Amendment would apply? How do we reconcile the racially-charged debates of the 61st and 62nd Congresses with the placid, race-neutral language of the Seventeenth Amendment in determining the permissibility of remedial Senate districts? Although the Amendment does not speak to the question of districts, the debates themselves intimate how the prospect of remedial districts should be evaluated.

I make no claim that in reaffirming the Reconstruction Amendments the 61st and 62nd Congress's specifically contemplated the use of districts to remedy vote dilution in Senate elections. The Fifteenth Amendment was being actively undermined with little hope of rejuvenation in 1913, and Congress had no occasion to contemplate such a

"lay[ing] violent hands" upon that sovereignty); *id.* at 2424 (statement of Rep. Randell) (equating Reconstruction with rights Republicans seek to confer on federal government in Senate elections); *id.* at 240 (statement of Rep. Sherley) (discussing state control of Senate elections as a matter of state sovereignty and claiming that state control had led to a "solution" in the challenge to the "supremacy of the white race"); *id.* at 2411 (statement Rep. Dickinson) (citing the special appointment of marshals and other Reconstruction-style federal intervention as unjust encroachments on the rights of states); *id.* at 2414 (statement of Rep. Witherspoon) (recalling the Reconstruction and opposing federal control over Senate elections as a tool "to enable the Republican Party to destroy southern civilization whenever sectional conditions may so change that it can gratify its malignant feelings toward the South without danger of being turned out of office"); *id.* at 2421 (statement of Rep. Cannon) (accusing Southern Democrats supporting the race rider of "harking back to the graveyard [of the Civil War] and conjuring up ghosts and then running from the ghosts"); *see also* Smith, *supra* note 52, at 44 n.235.

114. *See* 47 CONG. REC. 1923 (1911).

step.[115] More importantly, the Supreme Court did not recognize the modern paradigm of vote dilution and its accompanying remedy of single-member districts until 1969, ninety-nine years after the enactment of the Fifteenth Amendment.[116] Thus, it is futile to argue that the 61st and 62nd Congress's failure to consider the specific remedy of single-member districts precludes such a remedy; remedial districts were not contemplated with respect to any office until nearly one hundred years after the ratification of the Fifteenth Amendment.[117] It is Congress's broad enforcement power under the Fifteenth Amendment, not a specific intent regarding Senate districts, which empowers it to create Senate districts as a remedy for vote dilution.

A central premise of the Republicans' efforts to preserve the Fifteenth Amendment was the need to maintain remedial power should the nation ever experience a change of thinking with respect to Negro disenfranchisement. They understood well that they could not foresee all the circumstances that might necessitate application of Congress's authority:

> I concede that in the placid days through which we are passing there is no pressing need for a vigorous exercise of the power of Congress to control the elections of Senators or Members of the

115. However, at-large voting schemes were being used to dilute Black voting strength, *see* Davidson, *supra* note 35, at 25, and there is no reason to believe that the 61st and 62nd Congresses were not aware of this.

116. *See* Allen v. State Bd. of Elections, 393 U.S. 544, 569 (1969). In *Allen*, the Court concluded that a locality's change from a district to an at-large system for electing county supervisors fell within the terms of section 5 of the Voting Rights Act, which requires covered jurisdictions to pre-clear changes to a "voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting." 42 U.S.C. § 1973 (1994). The Court wrote:

> The right to vote can be affected by a dilution of voting power as well as by an absolute prohibition on casting a ballot. Voters who are members of a racial minority might well be in the majority in one district, but in a decided minority in the county as a whole. This type of change could therefore nullify their ability to elect the candidate of their choice just as would prohibiting some of them from voting.

Allen, 393 U.S. at 569. *See also* Chandler Davidson, *The Recent Evolution of Voting Rights Law Affecting Racial and Language Minorities, in* QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965-1990 22, 32-33 (Chandler Davidson & Bernard Grofman eds. 1994) (recognizing *Allen* as the first case holding that the Voting Rights Act covered laws which dilute minority voting strength).

117. It is likely that the drafters of the Fifteenth Amendment intended the Amendment to cover claims of vote dilution. Because racial gerrymanders and other dilutive measures were in force at the time of the Fifteenth Amendment's enactment, this is a reasonable construction of the Fifteenth Amendment's command that the right to vote shall not be "abridged . . . on account of race . . . ." U.S. CONST. amend. XV, § 1. *See* Kousser, *supra* note 92, at 137 (noting that legislative history of Fifteenth Amendment is silent on the meaning of abridgment, but arguing that the term is broad and prophylactic).

> House of Representatives; but the centuries will bring curious conditions of which we now can have little conception .... The Congress will, as time goes on, determine the appropriate action, if any, to be taken.[118]

Having exercised its power by enacting the Voting Rights of 1965, it would be anomalous to exempt Senate elections from the Act's remedies when the 61st and 62nd Congresses specifically strove to ensure that federal authority under the Fifteenth Amendment would extend to Senate elections. Since the scope of section 2 of the Act undeniably reaches Senate elections, and since the debates of the 61st and 62nd Congresses manifest no intention to limit Congress's ability to apply a provision like section 2 to such elections, section 2's most common remedy—single-member, majority-minority districts—should be available in Senate elections.[119]

B. Special Reasons for Exempting Senate Elections

Assuming the validity of the claim that the 62nd Congress passed the Seventeenth Amendment with the express objective of preserving the full force of the Fifteenth Amendment in Senate elections—including, majority-minority single-member districts created under the Voting Rights Act—there may nevertheless be special constitutional reasons for exempting Senate elections from Congress's remedial authority. In other words, until now, I have focused solely on the relationship between the Seventeenth Amendment and the Reconstruction Amendments to prove the permissibility of remedial Senate districts. This account is most convincing, however, if it is reconcilable with other parts of the Constitution as well as with post-enactment developments under the Seventeenth Amendment itself.

The Constitution is simply silent as to districts of any sort, be they for Senators or Congressmen.[120] I have argued, however, that such silence with respect to districts for Representatives supports Senate districting, because the Seventeenth Amendment is modeled after Ar-

118. 46 CONG. REC. 2766, 2768 (1911) (statement of Sen. Carter).

119. My argument for the permissibility of remedial Senate districts does not presuppose that the Fifteenth Amendment itself reaches vote dilution claims such that a plaintiff may sue thereunder on a vote dilution theory. *See* City of Mobile v. Bolden, 446 U.S. 55, 65 (1980) (plurality opinion) (limiting scope of constitutional claims under the Fifteenth Amendment to a "purposefully discriminatory denial or abridgment by government of the freedom to vote"). However, once it is established that the enabling authority of the Fifteenth Amendment permits Congress to recognize vote dilution claims, *see supra* notes 74-76 and accompanying text, remedial Senate districts are placed on a par with all other remedies available under the Voting Rights Act.

120. *See* Smith, *supra* note 52, at 2.

ticle I, Section 2, Clause 1 of the Constitution, which provides for the election of Congressmen.[121] This parallel, as well as the language of other relevant provisions,[122] supports the permissibility of voluntary Senate districting by states. Whether or not one is convinced of this, for purposes of the present argument, it is sufficient that no provision of the Constitution expressly forbids Senate districts.

On the other hand, the Constitution as a whole arguably implies that the Senate is to function as an instrument of each state's sovereign voice.[123] Certainly that was one vision of the Framers in creating an upper house.[124] However, even if the twentieth-century Senate does act as a guardian of state sovereignty, the sovereign has changed, and so too can the means of representing it. The very notion of the Senate representing the sovereign interests of states evolved during a period when racial minorities were legally precluded from speaking for the sovereign. They could neither vote for nor be elected Senators.[125] Indeed, the Framers could not have possibly intended that a state's sovereign interests include the interests of Blacks, most of whom were counted as only three-fifths of a human being.[126] Thus, the participation of minorities in the electorate of the sovereign vastly transforms the functional role of an institution devoted to its protection.[127]

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121. *See id.* at 10-11. The Seventeenth Amendment provides:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

U.S. CONST. amend. XVII, cl. 1. Similarly, Article I, Section 2, Clause 1 of the Constitution states that: "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." U.S. CONST. art. I, § 2, cl. 1.

Other commentators have noted that "[a]lthough the Seventeenth Amendment does specify that the 'two Senators from each state' are to be 'elected by the people thereof,' this language is arguably consistent with the division of a state into single-member Senate districts of equal population." Lynn A. Baker & Samuel H. Dinkin, *The Senate: An Institution Whose Time Has Gone?*, 13 J.L. & POL. 21, 43-44 n.72 (1997).

122. *See* Smith, *supra* note 52, at 13-19.

123. *See id.* at 19.

124. *See id.* at 24, 26-34. While I have refuted some historical components of the state sovereignty argument elsewhere, *see id.*, I relent momentarily for purposes of supposition.

125. *See id.* at 57 n.282.

126. U.S. CONST. art. I, § 2, cl. 3, amended by U.S. CONST. amend. XIV, § 2.

127. Moreover, the increasing heterogeneity of each state's electorate renders ever more elusive a sufficiently unitary definition of what constitutes a state's sovereign interests.

The Madisonian expectation that shifting majorities would rule at different intervals does not address the problem of representation posed by the changes in the sovereign's electorate.[128] In theory, since different majorities within a state will prevail in different Senate elections, the increased heterogeneity of the electorate will not make equitable representation of the state in its sovereign capacity impossible. By taking turns at power-sharing, the whole of the state will be represented over time, though perhaps not at any single point in time.[129] Moreover, the increased heterogeneity of the state's electorate will theoretically encourage the broadest possible consensus in order to be successful at the polls. However, as evidenced by racial bloc voting, racial minorities have fit uneasily, if at all, into the Founders' paradigm of coalition-building.[130]

The prevalence of racial bloc voting belies any notion that the White majority is too diffuse and disorganized to effectively counter the political advantages that some, most notably public choice theorists, presume accrue to the benefit of discreet and insular minorities:

> For masses of white voters to consistently reject minority candidates in successive elections and jurisdictions, a simple and direct behavioral cue must be at work.
>
> Given the centrality of the racial divide in American history, from slavery forward, the race card is the perfect mechanism to overcome the collective action problem in moving broad masses to act in a disciplined fashion. Race is the perfect cue: it is a simple call and it elicits intensely held beliefs and values. Race serves more than perhaps any other single issue in contemporary American life as a defining ideological bellwether.[131]

Senate districts remedy the failure of Madisonian democracy by insisting that states give voice to significant populations in the sovereign which are otherwise shut out.[132] In so doing, Senate districts also address what Professor Lani Guinier has termed the "deliberative ger-

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128. *See* GUINIER, *supra* note 36, at 3-6. As Guinier explains:

> The conventional case for the fairness of majority rule is that it is not really the rule of a fixed group—The Majority—on all issues; instead it is the rule of shifting majorities, as the losers at one time or on one issue join with others and become part of the governing coalition at another time or on another issue .... I call a majority that rules but does not dominate a Madisonian Majority.

Id. at 4.

129. *See id.*

130. *See id. See also* Richard H. Pildes, *Principled Limitations on Racial and Partisan Redistricting*, 106 YALE L.J. 2505, 2512 n.23 (1997) (noting that bloc voting remains especially prevalent in the South).

131. Samuel Issacharoff, *Polarized Voting and the Political Process: The Transformation of Voting Rights Jurisprudence,* 90 MICH. L. REV. 1833, 1889 (1992).

132. Unlike the House of Representatives, under present circumstances,

rymander"—the transfer of the White bloc voting problem from the electorate to the legislature.[133] Because legislative action in the Senate often requires the vote of a supermajority, the "bargaining power to all numerically inferior or less powerful groups, be they black, female, or Republican," is enhanced.[134]

Finally, remedial Senate districts are entirely consistent with the purposes of according states sovereign power. As the Supreme Court has stated:

> The Constitution does not protect the sovereignty of States for the benefit of the States or state governments as abstract political entities, or even for the benefit of the public officials governing the States. To the contrary, the Constitution divides authority between federal and state governments for the protection of individuals. State sovereignty is not just an end in itself: "Rather, federalism secures to citizens the liberties that derive from the diffusion of sovereign power."[135]

The liberty-protecting function of sovereignty is therefore implicit in Article V's command that "no State, without its Consent, shall be

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> [s]ince each state comprises a single Senate district, the approval of minority voters is not likely ever to be sufficient, and will often not even be necessary, for a Senate candidate to be elected. Thus, to the extent that race-based group interests may exist or arise, racial minorities might often expect not to find any representation of their interests in the Senate. House districts, in contrast, comprise only one-ninth of a state, on average. Thus, the approval of minority voters is much more likely to be necessary or sufficient for a candidate to be elected to the House than to the Senate. Therefore, a racial minority is likely to find that her group interests are more often represented, and consistently better represented, in the House than in the Senate.

Baker & Dinkin, *supra* note 121, at 43 (footnotes omitted).

133. *See* GUINIER, *supra* note 36, at 65.

134. *Id.* The filibuster exemplifies this point. Only a vote of cloture can prevent a Senator from speaking for an unlimited amount of time, potentially killing legislation that she dislikes. *See* CONGRESSIONAL QUARTERLY, INC., CONGRESS FROM A TO Z 144 (1988). And even with the availability of cloture, which can be time-consuming to invoke, an individual Senator might use the mere threat of a filibuster to affect the course of legislation. *See* JAMES A. MILLER, RUNNING IN PLACE INSIDE THE SENATE 160-63 (1986).

Other rules also uniquely empower individual Senators in determining the fate of legislation or presidential appointees. A Senator, for instance, might object to consideration of a bill on the Senate floor, refusing to give her "unanimous consent." Such a refusal requires a debatable motion on whether to consider the bill. *See id.* at 36. And, as the recent controversy surrounding Massachusetts Governor William Weld's nomination to become United States Ambassador to Mexico illustrates, a Senate committee chairman also possesses unusual power in preventing disfavored presidential nominees from reaching the Senate floor for consideration. *See* Steven L. Meyers, *Helms to Oppose Weld As Nominee for Ambassador*, N.Y. TIMES, June 4, 1997, at A1 (noting that Senator Jesse Helms "has sweeping powers as committee chairman to hold up nominations" and "has often used that power to force concessions from his opponents on a range of issues").

135. New York v. United States, 505 U.S. 144, 181 (1992) (citations omitted).

deprived of its equal Suffrage in the Senate."[136] The Senate was created to protect geographic minorities.[137] In the absence of Madisonian democracy, however—that is, where there is racial bloc voting—this constitutional guarantee cannot be realized. Compare Mississippi's population to California's. California is nearly nine times larger,[138] yet, as is the command of Article V of the Constitution, both states enjoy equal representation in the Senate.[139] Where there is racial bloc voting, however, only White Mississippians receive the protections of Article V, and only they are represented equally. Surely the equal representation command of Article V cannot be read with a formalism that sanctions racial bloc voting.[140]

It is precisely because the notion of state sovereignty must coexist with the remedial commands of the Fifteenth Amendment that the Court has sustained the constitutionality of the Voting Rights Act against charges that it infringed state sovereignty:

> [T]he Fifteenth Amendment supersedes contrary exertions of state power. "When a State exercises power wholly within the domain of state interest, it is insulated from federal judicial review. But such insulation is not carried over when state power is used as an instrument for circumventing a federally protected right."[141]

In sum, remedial Senate districts are neither expressly forbidden by the Constitution nor impliedly prohibited by notions of state sovereignty. To the contrary, Senate districts, upon the requisite showing of

136. U.S. CONST. art. V.

137. *See* Smith, *supra* note 52, at 57.

138. *See* STATE RANKINGS 418 (Morgan Quitino ed., 1996) (California has 8.76% of the total U.S. population and Mississippi has 1.21%).

139. *See supra* note 136 and accompanying text.

140. The creation of majority-minority or minority-enhanced Senate districts may pose an equal protection problem that is unrelated to *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny. Because such districts will tend to exaggerate minority voting strength in one of a state's two districts, minorities are presented with a greater opportunity to elect a Senator than their statewide numbers would ordinarily allow. In the illustrative district for Mississippi, for instance, although Blacks make up only 35% of the state's population, the proposed Senate district might give them effective control over 50% of that state's Senate seats. *See* discussion *infra* part II.B. The Supreme Court appears to have rejected this type of equal protection claim in *Johnson v. De Grandy*, 512 U.S. 997 (1994). In *De Grandy*, the Court held that the failure to maximize minority representation is not the measure of vote dilution under section 2 of the Voting Rights Act. *See id.* at 1017. But if section 2 does not entitle minorities to maximum numerical strength, neither should the Constitution entitle Whites to such a fringe benefit. In any event, the alternative to the Mississippi scenario would be the status quo, in which Whites, who constitute only 65% of the state, have effective control over 100% of the Senate seats.

141. Katzenbach, 383 U.S. at 325 (quoting Gomillion v. Lightfoot, 364 U.S. 339, 347 (1960)).

vote dilution, facilitate the very purposes for which sovereignty exists: the protection of individual rights.

C. The Perils of Post-Enactment History

Although textual and sovereignty arguments fail to exempt Senate elections from the modern vote dilution paradigm, it is possible to glean evidence of a contrary intent from the post-enactment history of the Seventeenth Amendment. No state currently elects Senators by districts,[142] and all states have used an at-large system since the passage of the Seventeenth Amendment. Such post-enactment history may be the strongest evidence that Senate districts of any kind are constitutionally impermissible. Post-enactment history is also, however, the least probative evidence of original intent because "there can be no guarantee that a later lawmaker's understanding in fact bears on the intent animating an earlier enactment."[143] Post-enactment history lends itself to revisionism even when congressional actions interpreting a constitutional provision are relatively close in time to the provision's ratification.[144]

To the extent one can reasonably rely on the post-enactment history of the Seventeenth Amendment, there is specific support for Senate districts. Although there is currently no federal statutory requirement for the statewide election of Senators,[145] at-large elections were apparently encouraged by passage of a 1914 federal law which temporarily provided for statewide elections. That measure, passed by the 63rd Congress, provided in relevant part:

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142. *See* Smith, *supra* note 52, at 2.

143. Steven G. Calabresi & Saikrishna B. Prakash, *The President's Power to Execute the Laws*, 104 YALE L.J. 541, 554 (1994).

144. *See id.* at 558. *See also* Jack Rakove, ORIGINAL MEANINGS 9 (1996) (arguing that "the understanding of the ratifiers is the preeminent and arguably sole source for reconstructing original meaning"). *Cf.* Harmelin v. Michigan, 501 U.S. 957, 980 (1991) (stating that actions of the First Congress are only persuasive evidence in interpreting the Bill of Rights, which was adopted by that Congress); Marsh v. Chambers, 463 U.S. 783, 788-90 (1983) (also stating that post-enactment actions of Congress are only persuasive evidence of original intent).

145. Federal law governs only the timing of senatorial elections:

> At the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people thereof for the term commencing on the 3d day of January next thereafter.

2 U.S.C. § 1 (1997). In contrast, House districts are specifically mandated by federal law. *See* 2 U.S.C. § 2(c) (1997).

> Sec. 2. That in any State wherein a United States Senator is hereafter to be elected either at a general election or at any special election called by the executive authority thereof to fill a vacancy, until or unless otherwise specially provided by the legislature thereof, the nomination of candidates for such office not heretofore made shall be made, the election to fill the same conducted, and the result thereof determined, as near as may be in accordance with the laws of such State regulating the nomination of candidates for and election of Members at Large of the National House of Representatives:
>
> *Provided*, That in case no provision is made in any State for the nomination or election of Representatives at Large, the procedure shall be in accordance with the laws of such State respecting the ordinary executive and administrative officers thereof who are elected by the vote of the people of the entire State . . . .
>
> Sec. 3. That section two of this Act shall expire by limitation at the end of three years from the date of its approval.[146]

The 1914 law was enacted as an interim measure to fill the gaps of state laws which did not address the popular election of Senators.[147] The debate on its passage is remarkable for its tendency to confirm that the Seventeenth Amendment itself decided noting about the specific manner in which Senators would be elected—only that they would be elected by the people. While no one expressly challenged the sponsor of the bill's premise that Senators should be elected at-large,[148] legislators were compelled to acknowledge that "Senators differ gravely concerning the import of the [Seventeenth Amendment]"[149] and that the Amendment is not "self-executing."[150] Moreover, the provisions of the 1914 Act only corroborated the interstitial discretion that many legislators believed the Seventeenth Amendment vested in the states and Congress.[151] If the Seventeenth Amendment was self-executing, it was unnecessary to specify a statewide require-

146. Act of June 4, 1914, ch. 103, 38 Stat. 384.

147. *See* 48 CONG. REC. 509 (1913) (statement of Sen. Sutherland).

148. *See id.* at 1335 (statement of Sen. Sutherland) (equating the election of a Senator with the election of a member of Congress at-large or a governor).

149. *Id.* at 1347 (statement of Sen. Robinson).

150. *Id.* at 1339 (statement of Sen. Bradley).

151. *See, e.g., id.* at 3271 (statement of Sen. Borah):

> [W]hile I have no doubt as to the power of the Congress to pass this kind of a law [the 1914 Act], I have always been very much in favor of leaving the question of elections entirely to the States. It is for that reason that I opposed the Bristow amendment and the Sutherland amendment [which retained in the federal government override authority regarding the time and manner of Senate elections]. I have always felt that the States could better deal with these matters and that they are peculiarly local.

ment in the 1914 Act. Equally significant, if statewide elections were a constitutional command, it would be peculiar to make this requirement merely temporary, while the remainder of the statute would be permanent.[152] These provisions are persuasive proof that states, after expiration of the statute, could elect Senators by district.

The temporary at-large requirement in the 1914 statute is best explained as an act of self-interest on the part of Senators who supported it. Twenty-five of the Senators voting on the 1914 Act were up for re-election the following November.[153] Most had supported the Seventeenth Amendment.[154] Those incumbent Senators who had not supported the Amendment still enjoyed statewide name recognition and possessed power and resources sufficient to mount a statewide campaign. These incumbents thus had nothing to fear, and much to gain, from statewide elections.[155] Those who supported the Seventeenth Amendment would be celebrated as heroes. Those who opposed it, while perhaps at a disadvantage, still stood to benefit from the statewide constituencies they had cultivated. In the end, twenty-three of the twenty-five incumbents won re-election.[156]

Self-interest in the context of the 63rd Congress also meant White interest. The 63rd Congress passed the 1914 Act at a time when the Fourteenth and Fifteenth Amendments had been effectively abrogated for Blacks. Because African-Americans were largely shut out of the political process, it is entirely unsurprising that the 63rd Congress did not implement a Senate electoral scheme, such as districting, more conducive to Black interests. This historical neglect, however, shackles no constraints upon the modern polity. We are often loath to

152. Section 1 of the 1914 law pertained to the timing of Senate elections. It is currently memorialized, as amended, in 2 U.S.C. § 1 (1997).

153. *See* HOEBEKE, *supra* note 67, at 190 (1995). The 1914 Act originated in the Senate and its provisions were largely shaped by that body. *See* 48 CONG. REC. 8460 (1913) (statement of Rep. Rucker) ("[T]his is a Senate bill in which every Senator is profoundly interested and to which the Senate has given careful consideration."). The primary role of the House was to insist on an amendment that made the at-large provision of the statute temporary. *See id.* at 9195 (reading of the conference report by Clerk); *id.* at 9214 (statement of Sen. Walsh); *id.* at 9382 (colloquy between Reps. Rucker and Barlett); *id.* at 9434 (reading of final conference report by the Vice President).

154. Of the twenty-five Senators seeking re-election, seventeen had supported the Seventeenth Amendment. *Compare* 46 CONG. REC. 1925 (1911) (roll call vote on Amendment) *with* GUIDE TO U.S. ELECTIONS 457-81 (1975) (Richard A. Diamond ed.) (listing terms of senators).

155. *See* HOEBEKE, *supra* note 67, at 190 (citing Senator Boies Penrose of Pennsylvania as an example of a machine politician who opposed the Seventeenth Amendment but nevertheless won popular reelection).

156. *See id.*

look to the early post-enactment history of the Reconstruction Amendments to determine their proper application today.[157] Early post-enactment history of the Fourteenth Amendment, for instance, would support adherence to the doctrine of separate-but-equal announced in *Plessy v. Ferguson*.[158] We clearly now reject that doctrine. If we refuse to permit ourselves to be bound by the racially-tainted post-enactment history of the Reconstruction Amendments, we must likewise resist an identical outcome in interpreting the Seventeenth Amendment, which, after all, reaffirmed the Reconstruction Amendments.

In sum, post-enactment history, like textual and sovereignty arguments, supports applying the full remedial breadth of the Fifteenth Amendment and, by extension, the Voting Rights Act, to Senate elections.

II. Fleeing the Re-Ratification: *Shaw v. Reno's* Clash with Original Intent

If I am correct that Congress, in enacting the Seventeenth Amendment, intended also to re-affirm the Reconstruction Amendments—the Fifteenth in particular—then it follows that we should evaluate remedial Senate districts in light of the 61st and 62nd Congresses' understanding of the Reconstruction Amendments. That understanding differs radically from *Shaw v. Reno*,[159] the Supreme Court's incipient reverse-racial gerrymandering decision. Thus, the Seventeenth Amendment can reinvent Black politics by returning the Court to the original intent of the re-enactors of the Reconstruction Amendments.

Below I explain *Shaw* and its progeny and discuss three ways in which the Court's holdings are inconsistent with the re-ratification of the Fifteenth Amendment. First, and principally, the Court ignores the Fifteenth Amendment, construing the right to vote in the comparative context of the Fourteenth Amendment rather than in the substantive contours of the Fifteenth, and thus ignoring the possibility that the right, in order to be equally exercised, may require different schemes of implementation, such as majority-minority districts. Second, the Court inverts the 61st and 62nd Congresses' concern with invidious discrimination against racial minorities by recognizing a cause of action, the effects of which resembles invidious discrimina-

157. *See* Calabresi & Prakash, *supra* note 143, at 557.
158. *See id.*
159. 509 U.S. 630 (1993).

tion. Third, *Shaw* and its progeny ignore a principle of deference to congressional judgments regarding federal elections that was widely relied on throughout the debates leading to the re-ratification of the Fifteenth Amendment.

A. The Forgotten Amendment

Shaw v. Reno marked the first case in which the Supreme Court permitted voters to assert a claim of invidious discrimination in districting without alleging a cognizable injury.[160] There, White voters in North Carolina complained that two majority-Black congressional districts created as a result of the 1990 redistricting constituted impermissible racial gerrymanders.[161] One of the two districts was created at the insistence of the United States Department of Justice, which was charged with enforcing section 5 of the Voting Rights Act.[162] Section 5 required North Carolina and several other "covered" jurisdictions to submit redistricting plans to the Justice Department for pre-clearance.[163] The Justice Department then reviewed the proposed redistricting to ensure that it "[did] not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color."[164] Despite the famously contorted shapes of the two new Black districts,[165] the Justice Department pre-cleared North Carolina's redistricting plan, and its legislature enacted it into law.[166] As a result of the new districts, North Carolina sent Black Representatives to Congress for the first time since Reconstruction.[167]

The 1990 redistricting left White voters as a majority in 83% of North Carolina's congressional districts, even though Whites constituted only 76% of the state's total population.[168] Thus, the White plaintiffs in *Shaw* could not claim that their votes had been diluted, a cognizable constitutional injury.[169] Instead, they complained that the bizarre shapes of the districts made it self-evident that they had been constructed along racial lines.[170] This, according to the Court, was injury enough, because the classification of citizens based on race

160. *See id.* at 663 (White, J., dissenting).
161. *See id.* at 633-34, 638.
162. *See id.* at 630.
163. *See id.* at 634 (citing 42 U.S.C. § 1973c).
164. 42 U.S.C. § 1973c.
165. *See Shaw*, 509 U.S. at 635.
166. *See id.*
167. *See id.* at 659 (White, J., dissenting).
168. *See id.* at 666 (White, J., dissenting).
169. *See id.* at 666-67 (White, J., dissenting).
170. *See id.* at 645-46.

"threaten[s] to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility."[171] Thus, the Court concluded that the plaintiffs stated a cognizable claim under the Equal Protection Clause of the Fourteenth Amendment.[172]

In locating the injury to White voters in *Shaw* under the Equal Protection Clause of the Fourteenth Amendment rather than the Fifteenth Amendment, the Court perpetuated a conflict that has long inhered in its redistricting and reapportionment cases. Unlike the Fourteenth Amendment, the Fifteenth Amendment directly addresses voting, prohibiting denials *and abridgments* of the right to vote.[173] Moreover, the Fifteenth Amendment, unlike the Fourteenth, is race-conscious, prohibiting denials or abridgments of the right to vote "on account of race."[174] The Fourteenth Amendment does not mention race; it merely forbids the state to "deny to any person within its jurisdiction the equal protection of the laws."[175] Thus, the scope of the Fifteenth Amendment's language lends itself to affirmative action-type measures such as majority-minority districts, particularly in jurisdictions where there is a prior history of voting discrimination.[176] Yet treating Black voters differently from Whites by consciously creating Black districts may violate the equality norms embodied in the Fourteenth Amendment's equal protection guarantee.[177] *Shaw* does nothing to resolve this conflict and instead builds on it.

Shaw's exclusive reliance on the Fourteenth Amendment to afford a remedy to White voters challenging a redistricting scheme is problematic from both a historical and doctrinal standpoint. First, the drafters of the Fourteenth Amendment intentionally excluded the right of suffrage from the Amendment's scope.[178] Second, even as the Supreme Court began to interpolate political rights and matters of

171. *Id.* at 643.

172. *Id.* at 642.

173. The Fifteenth Amendment provides that "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." U.S. CONST. amend. XV, § 1.

174. *Id.*

175. U.S. CONST. amend. XIV, § 1.

176. *See* Emma Coleman Jordan, *Taking Voting Rights Seriously: Rediscovering the Fifteenth Amendment,* 64 NEB. L. REV. 389, 440-42 (1985) (arguing that the Fifteenth Amendment permits remedial districting intended to correct present effects of past discrimination).

177. *See id.* at 441 (noting that commentators have argued that the creation of safe districts for minorities but not for all other voters violates the Constitution's equality norms).

178. *See* Robert J. Kaczorowski, *Revolutionary Constitutionalism in the Era of the Civil War and Reconstruction*, 61 N.Y.U. L. REV. 863, 881-82 (1986).

voting into its Fourteenth Amendment jurisprudence, it did so "by referring to earlier fifteenth amendment race discrimination precedents."[179] Thus, quite apart from the deliberations of the 61st and 62nd Congresses, it is difficult to justify *Shaw*'s surrender of the Fifteenth Amendment.

A fair reading of the 61st and 62nd Congresses' debates on the re-ratification of the Fifteenth Amendment demonstrates that these legislators viewed that Amendment as an essential—if not the exclusive—source of the protection of the right to vote. Some lawmakers viewed the race rider as an assault on both the Fourteenth and Fifteenth Amendments, but saw it as more directly aimed at the latter. Such appeared to be the view of Senator Carter of Montana, who argued that the race-rider had been improperly joined at the hip with the proposal to directly elect senators:

> It may well be taken for granted that an overwhelming majority of the voters and members of the legislature of the State might favor the election of Senators by popular vote and at the same time stand unalterably opposed to the permanent disfranchisement of the colored man in such States as might think proper to deny him a voice in the selection of United States Senators. Had the committee joint resolution *proposed the repeal of the fifteenth amendment* to the Constitution in conjunction with the proposal for the election of Senators by popular vote, uniting the question so as to make them indivisible, how many Senators would approve the dual amendment if submitted . . . .
>
> A state desiring to avoid accountability to the Senate under *the fourteenth or fifteenth amendments* would of course choose United States Senators at special elections to be held at such times and conducted in such manner as the State authorities might see fit to approve.[180]

Other legislators focused specifically on the Fifteenth Amendment, as did Representative Mann of Illinois:

> They [supporters of the race rider] are afraid that Congress may interfere to prevent the disfranchisement of the Negro vote in the South. They are in favor of repeal of the fifteenth amendment to the Constitution, which says that "the right of citizens of the United States to vote shall not be denied or abridged by the

179. James U. Blacksher & Larry T. Menefee, *From* Reynolds v. Sims *to* City of Mobile v. Bolden*: Have the White Suburbs Commandeered the Fifteenth Amendment?,* 34 HASTINGS L.J. 1, 9 (1982) (discussing the derivation of the Fourteenth Amendment's one-person, one-vote standard).

180. 46 CONG. REC. 1217-18 (statement of Senator Carter) (emphasis added). *See also id.* at 2260 (statement of Senator Root) (describing the race-rider as "the surrender by the Government of the United States of the power necessary effectively to enforce the fourteenth and fifteenth amendments").

> United States or by any State on account of race, color, or previous condition of servitude."[181]

Regardless of whether they also recognized the Fourteenth Amendment implications of their position, opponents of the race rider viewed their cause as nothing less than the preservation of the franchise for the Negro, and, more importantly, viewed retention of the Fifteenth Amendment as crucial to their endeavor. How, then, could *Shaw* legitimately ignore the Fifteenth Amendment in finding that White voters may state a cognizable constitutional claim for race-conscious redistricting intended to benefit racial minorities? Professor Barbara Phillips explains the untoward consequences of this oversight:

> In *Shaw v. Reno*, described by Justice O'Connor as presenting one of "the most complex and sensitive issues this Court has faced in recent years," the Court revealed its dysfunctional approach to minority vote dilution by placing the claim within the Fourteenth Amendment analysis rather than within the Fifteenth Amendment analysis. The primary complex and sensitive issue in the case was "the meaning of the constitutional right to vote," and a second issue was described as "the propriety of race-based state legislation designed to benefit members of historically disadvantaged racial minority groups." This characterization of the second issue reflects underlying premises such as: (a) non race-based state redistricting legislation exists; (b) a decision not to create *Shaw*'s challenged district would have been neutral and not race-based; (c) redistricting legislation that is not designed to benefit members of historically disadvantaged racial minority groups is constitutionally preferable to ameliorative legislation; and (d) the concept of "benefitting" members of historically disadvantaged racial minority groups implies a favoritism at the expense of the dispreferred group.[182]

Professor Phillips, like Professor Emma Coleman Jordan before her, seeks to relocate the right to vote back into the substantive contours of the Fifteenth Amendment rather than the comparative strictures of the Fourteenth.[183] The debates of the 61st and 62nd Congresses support this approach. *Shaw*'s insistence that all voters be treated comparatively equal by forcing the state to adhere to tradi-

181. 47 CONG. REC. 2430 (statement of Rep. Mann).

182. Barbara Y. Phillips, *Reconsidering Reynolds v. Sims: The Relevance of Its Basic Standard of Equality to Other Vote Dilution Claims,* 38 How. L.J. 561, 581 (1995).

183. *See* Jordan, *supra* note 176, at 441 (arguing that the Fifteenth Amendment is the correct source of the right to participate in the political process free of discrimination and that this Amendment permits race-conscious districting because "[t]rue equality of political participation can best be achieved by preserving meaningful access for racial and ethnic minorities").

tional districting criteria and not to otherwise categorize voters based on race may conflict with the substantive command of the Fifteenth Amendment where departures from tradition or uses of race may be necessary to ensure that minority votes are not abridged. Moreover, even if one views the source of constitutional protection of the right to vote as hybrid—emanating from both the Fourteenth and Fifteenth Amendments—*Shaw*'s grant of standing to voters who cannot satisfy the Fifteenth Amendment's requirement of a denial or abridgment of the right to vote effectively displaces the Fifteenth Amendment, contrary to the clear intentions of the 61st and 62nd Congresses.[184]

Thus, a principal way in which *Shaw* abrogates the re-ratification of the Fifteenth Amendment is by ignoring it entirely. But the prospect of remedial Senate districts should be evaluated in accordance with the original intent of those who enacted the Seventeenth Amendment. These legislators intended, contrary to *Shaw*, that the remedial contours of the Fifteenth Amendment play a primary role in assessing steps taken to ensure equal participation in Senate contests.

B. The Inversion of Invidiousness

Cast against the backdrop of the debates of the 61st and 62nd Congresses, *Shaw*'s teachings are paradoxical. *Shaw* required North Carolina to justify the creation of its Black districts under strict scrutiny if it could not demonstrate reasons other than race for their creation.[185] The difficulty with this holding is twofold. It assumes that strict scrutiny is a means for finding justifications rather than an end in itself. In fact, however, the Court has never upheld a race-based remedy under strict scrutiny.[186] Thus, *Shaw* began the development of a strict scrutiny web that would ensnarl primarily Black and Hispanic

184. In this regard, the *Shaw* Court's validation of a Fourteenth Amendment attack on majority-minority districts at the expense of the Fifteenth Amendment resembles the Court's earlier elevation of its Fourteenth Amendment one-person, one-vote principle over comparable claims of minority vote dilution. *See* Blacksher & Menefee, *supra* note 179, at 62 (criticizing as an "intolerable inversion of constitutional and historical priorities" the greater quantum of proof required to demonstrate minority vote dilution compared to plaintiffs' burden in the population malapportionment cases). Any argument that the Court respects Fifteenth Amendment remedial principles by allowing the state to justify the creation of majority-minority districts under strict scrutiny is belied by both the ease with which strict scrutiny is applied to such districts and the virtual impossibility of their passing muster under this exacting standard. *See infra* Part II.B.

185. *See Shaw*, 509 U.S. at 657.

186. *See* Girardeau A. Spann, *Affirmative Action and Discrimination*, 39 How. L.J. 1, 22-23 & nn.104-05 (1995) (noting that no racial classification has survived strict scrutiny since the Supreme Court's decision in the now-discredited case of *Korematsu v. United States*, 323 U.S. 214 (1944), which did not involve the remedial use of race).

districts. And hence the second and even more serious problem: the elimination of Black and Hispanic districts can be characterized as invidious discrimination just as easily as their creation. Yet, given the ease with which the Court has allowed strict scrutiny to be applied and the virtual impossibility of a state passing muster under it, *Shaw* and its progeny have facilitated an inversion of the invidious discrimination that the 61st and 62nd Congresses foresaw that they might need to prevent in the future. Harms which Congress may rightly seek to curtail are results that the plaintiffs in *Shaw* and its progeny can, with relative ease, employ the courts to achieve.

The Court in *Shaw* predicated its recognition of a constitutional claim for White plaintiffs on the stigmatic harm caused when voters are assigned to districts based on their race. But the Court's invocation of stigma was as elliptical as it was inapposite. Precisely who was stigmatized by the creation of the two Black-majority districts? To the extent that Black North Carolinians themselves were stigmatized, it was anomalous that White plaintiffs would be permitted to assert the injury of minorities. To the extent that Whites suffered injury, the proper plaintiffs were those Whites "segregated" in a White district rather than the relatively integrated ones challenged in *Shaw*.[187] Moreover, under the Court's definition of stigma, if Whites were indeed stigmatized by the creation of Black districts, the stigma could not be eliminated, only transferred. If the creation of some majority-minority districts stigmatizes Whites, the failure to create these same districts may be equally stigmatizing to minorities.[188] The message conveyed by a colorless Congress can be described in terms similar to

187. *See* Deval L. Patrick, *What's Up is Down, What's Black is White*, 44 EMORY L.J. 827, 833-34 (1995) (noting that North Carolina's Twelfth District, under attack in *Shaw*, was 55% Black and 45% White, thereby making it one of "the most integrated congressional districts in the country").

188. *See* Pamela S. Karlan, *Just Politics? Five Not So Easy Pieces of the 1995 Term*, 34 HOUS. L. REV. 289, 307 (1997). Karlan writes:

> [I]n seeking to avoid one expressive harm, the Court inflicted another. When the Court simply presumes that deviations from traditional districting principles "cause constitutional harm insofar as they convey the message that political identity is, or should be, predominantly racial," the Court denigrates the choices made by those black voters who voluntarily affiliate themselves along racial lines.

Id. (footnotes omitted). Elsewhere, Karlan with Daryl J. Levinson argues:

> If the intentional creation of a predominantly one-race district by itself gives rise to representational harms, then every voter assigned to a district where members of a different race predominate is prone to such injuries. It would follow, then, that black voters in majority-white districts (a group that comprises the majority of black Americans) as well as white residents of majority-black districts could cry constitutional foul, making every district in an area with a significant nonwhite population vulnerable to constitutional challenge.

those the Court used to describe the injury to the White plaintiffs in *Shaw*—that minorities are unqualified to share equally in the governance of the country's affairs and that their perspectives are unwelcome.[189] Moreover, lack of a significant minority presence perpetuates racial stratification, making it difficult for Blacks and Whites to ignore race where the presence of Blacks in the nation's polity remains a novelty. Finally, the absence of a significant minority presence in the body politic of the nation is far more evocative of "political apartheid"[190] than any concerted effort to include minorities. Sidestepping the double-edged sword of stigma, however, the Court in *Shaw* simply transferred stigmatic injury from Whites to Blacks. Thus, a harm that one may reasonably infer that the 61st and 62nd Congresses would have intended to avoid is given constitutional sanction by the Court's holding in *Shaw*.

Miller v. Johnson[191] muted some of *Shaw*'s rhetoric but did not change the outcome. As in *Shaw*, White voters in *Miller* challenged the creation of two new majority-Black congressional districts for Georgia.[192] Like *Shaw*, the United States Attorney General's enforcement powers under section 5 were brought to bear in the creation of those districts.[193] Finally, as in *Shaw*, the districts at issue possessed odd shapes, though less distorted than those in *Shaw*.[194] The issue confronting the *Miller* Court was whether the plaintiffs had presented sufficient evidence to warrant the application of strict scrutiny to Georgia's districting plan.[195] Rejecting the suggestion that race could never be used in a districting plan without subjecting that plan to heightened constitutional review, the *Miller* Court held that so called traditional districting factors, such as geographic compactness, could not be subordinated to race.[196] Where race predominated in the creation of a district, the state had to proffer a compelling interest

Pamela S. Karlan & Daryl J. Levinson, *Why Voting Is Different*, 84 CAL. L. REV. 1201, 1212 (1996).

189. "[I]n putting forward the idea that white voters within a predominantly black district suffer 'special' harms (that black voters within an oddly shaped white district have presumably managed to escape), the Court communicates that legislators elected from predominantly black communities are less even-handed and public-regarding than their white-elected counterparts." *See* Karlan, *Just Politics*, *supra* note 188, at 307.

190. *See Shaw*, 509 U.S. at 647.

191. 515 U.S. 900 (1995).

192. *See id.* at 910.

193. *See id.* at 905-08.

194. *See id.* at 917.

195. *See id.* at 901.

196. *See id.* at 916.

narrowly tailored to satisfy the Equal Protection Clause.[197] The Supreme Court's predominance test, however, was as amorphous as any "totality of the circumstances" inquiry that American jurisprudence has recently seen. The Court conceded that "[t]he distinction between being aware of racial considerations and being motivated by them may be difficult to make."[198] It nevertheless offered this guidance:

> The plaintiff's burden is to show, either through circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district. To make this showing, a plaintiff must prove that the legislature subordinated traditional race-neutral districting principles, including but not limited to compactness, contiguity, respect for political subdivisions or communities defined by actual shared interests, to racial considerations.[199]

Aside from its general vagueness,[200] the predominance standard suffers from the same misallocation-of-injury problem as *Shaw*. The test is premised on the assumption that since legislators engaging in redistricting are always aware of race, race cannot be eliminated entirely from the decision-making process.[201] Hence, a little race is tolerable, a significant amount objectionable. Once race is recognized as an inevitable part of the districting process, however, judicial efforts to quantify the acceptable amount will inevitably create a constitutional double-standard. Absent patterns of residential segregation that characterize historically Black congressional districts, legislators will usually have to consciously employ more race to create a majority-minority district than is used to create a White district. This is simply a mathematical reality: the smaller the numbers, the greater the efforts to achieve a majority in a given district; the greater the numbers, the less the effort.[202] The result is that majority-minority districts will

197. *See id.* at 920.

198. *Id.* at 916.

199. *Id.*

200. *See, e.g.,* Samuel Issacharoff, *The Constitutional Contours of Race and Politics*, 1995 SUP. CT. REV. 45, 56 (1995) (criticizing the predominance test for failing to convey a concrete level of causation).

201. *See Miller*, 515 U.S. at 916 ("[r]edistricting legislatures will . . . almost always be aware of racial demographics. . ."); *see also id.* at 928-29 (O'Connor, J., concurring) (noting that the vast majority of congressional districts are free of constitutional infirmity under *Shaw* "even though race may well have been considered in the redistricting process").

202. *See* Karlan, *Just Politics*, *supra* note 188, at 309 ("A group whose districting possibilities are more constrained is, of course, more likely to find itself left out. By imposing a compactness requirement on deliberately created majority-nonwhite districts, and no one

inevitably be challenged with more regularity and greater success than majority-White districts, which have seemingly been insulated from constitutional attack.[203]

It is highly unlikely that members of the 61st and 62nd Congresses would have sanctioned a constitutional test (be it predominance or strict scrutiny upon a showing of predominance) that so easily invalidated Black districts. Concededly, these Congresses did not specifically address remedial districts of any sort for Blacks. This is unsurprising since Blacks had been stripped of the rudimentary liberty of access to the polls, a prerequisite to larger aspirations of actual influence. But rather than confine its authority one way or the other, these Congresses sought to keep in tact the broad remedial powers of the Fifteenth Amendment for application as future Congresses would see fit.[204]

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else, the Court has impose[d] a special disability upon [Blacks and Hispanics] alone within the redistricting process.") (alterations in original) (footnotes and internal quotations omitted).

203. *See id.* at 307. A second and related defect of the predominance test is procedural in nature. The findings of lower courts that race predominated in the creation of a district have been reviewed with deference. *See Miller*, 515 U.S. at 918 (applying "clearly erroneous" standard). Thus, even when the Supreme Court has acknowledged the permissibility of a different outcome, it has felt constrained to let the lower court findings stand. *See* Bush v. Vera, 517 U.S. 952, 963 (1996) ("Several factors other than race were at work in the drawing of the [challenged majority-minority] districts."). *Bush* in particular is testament to the folly of the federal courts' incursion into the fact-and-politics-laden inquiry of predominance. While the Supreme Court refused to overturn the lower court's finding that race predominated in the creation of two Black districts and one Hispanic district in Texas, on remand to the lower court, the two Black districts were not significantly altered. District 11 went from 49% to 44% Black voting-age population, and District 30 was reduced from 47% to 42%. *See* Kevin Sack, *Victory of Five Redistricted Blacks Recasts Gerrymandering Dispute*, N.Y. TIMES, Nov. 23, 1996, at A1. Indeed, the three-judge court to which the case was remanded boasted that the reconfigured districts were designed to "include large numbers of minority voters." Vera v. Bush, 933 F. Supp. 1341, 1350 (S.D. Tex. 1996). But how could race have predominated so as to offend equal protection if the challenged districts changed only marginally in their recompositions? And if it was legitimate for the court to include "large numbers" of minorities in the redrawn districts, why was it not proper for the Texas legislature to do the same? The waste and futility of the *Miller* predominance test could not be more self-evident.

204. *See supra* note 118 and accompanying text. *See also* 47 CONG. REC. 2430 (1911) (statement of Rep. Mann):

> We are not willing to abandon national sovereignty and national preservation and forsake the race which we set free. The slave power of the South in its palmiest days was no more imperious and impudent in its demands than you [Southern Democrats seeking passage of the race rider] are in this demand to-day. But there will come an awakening. I repeat there will come an awakening. You will not always be permitted to stamp derisively upon the colored race which is making a heroic struggle for proper place and position.

Moreover, three features of the 61st and 62nd Congresses' debates demonstrate that *Shaw* and its progeny have departed long and far from the concept of invidiousness that the re-enactors of the Fifteenth Amendment contemplated. First, the debates are emphatically and unmistakably about protecting a disenfranchised racial minority—not members of a politically and numerically dominant race. Relatedly, in referring to federal measures which might in the future be enacted to benefit Blacks, there was no indication in the congressional debates that such measures would be subjected to the same legal standard as the discriminatory laws they were meant to correct. Indeed, this approach would not have made sense to a group of men who were witnessing the subjugation of Blacks. Race was not repugnant to the Republicans of the 61st and 62nd Congresses; racism was. Accordingly, every statement in defense of the Fifteenth Amendment manifested a distinction between the harms at which the Amendment was directed and the potential race-based remedies that might be enacted to mitigate those harms. Finally, contrary to the Court's inability to distinguish invidious from benign discrimination in the absence of strict scrutiny, Republicans in the 61st and 62nd Congresses needed no special test (nor implied that courts should use one) to distinguish from remedies harms.

A court evaluating the permissibility of remedial United States Senate districts must do so not within the strictures of *Shaw*, but instead consistently with the legislative history of the Seventeenth Amendment. That history is substantially at odds with the Court's propensity to apply strict scrutiny to (and thereby hasten the demise of) majority-minority districts. To apply the legislative history of the Seventeenth Amendment is to exempt Senate districts from the strict scrutiny web so misguidedly constructed for House and other districts.

C. The Neglect of Deference

The debates of the 61st and 62nd Congresses are evocative of a constitutional principle that the Supreme Court has recognized yet failed to apply in its *Shaw* line of cases: when the federal government exercises its remedial powers under the Reconstruction Amendments, the courts must defer to its reasonable judgment.[205] The principle is at its greatest force when Congress legislates with respect to federal of-

205. *See, e.g.*, City of Boerne v. Flores, 117 S. Ct. 2157, 2172 (1997) ("It is for Congress in the first instance to determine whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment, and its conclusions are entitled to much deference.") (internal quotations omitted).

fices, for the Constitution expressly establishes federal legislative superiority: "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; *but Congress may at any time by Law make or alter such Regulations* . . . ."[206]

The 61st and 62nd Congresses both reaffirmed and expanded these principles of deference. First, in striving to preserve federal authority over federal elective offices in the face of efforts to enact the race rider, these Congresses staked a claim of federal supremacy. "[W]hy should not the Federal Government have power to regulate, when it may be necessary to regulate, the election of its own officers?"[207] Republicans asked insistently.

More importantly, however, the imperative of federal control was even greater with respect to United States Senate seats, for "a Senator of the United States, while he may be . . . a representative of the State, is more a representative of the United States than is a Member of the House."[208] Thus, the greater national scope of the Senator's duties, from the confirmation of judges to the passage of treaties, made federal control over the manner of his election even more important than federal supervision of House elections.[209]

The Supreme Court in *Miller v. Johnson* expressly declined to defer to the Justice Department's determination that the Voting Rights Act of 1965 required Georgia to create two additional Black-majority districts.[210] In so doing, the Court intimated that even if the Justice Department had correctly interpreted congressional intent in maintaining that the Voting Rights Act required the creation of these districts, the Act itself might be unconstitutional.[211] But at no point does it reconcile its position with (or even acknowledge) the principle of federal superiority over federal elective offices re-affirmed by the 61st and 62nd Congresses. Remedial Senate districts, however, must be assessed in light of these Congresses' determinations regarding federal supremacy, and, more importantly, in light of the special relationship between Congress's regulatory authority and the national scope of Senators' duties.

206. U.S. CONST. art. I, § 4, cl. 1 (emphasis added).

207. 47 CONG. REC. 2407 (statement of Rep. Olmstead) (1911).

208. 47 CONG. REC. 1488 (statement of Sen. Sutherland) (1911).

209. *See* Smith, *supra* note 52 at 51.

210. 515 U.S. 900, 921 (1995).

211. *See id.* at 926 ("The Justice Department's maximization policy seems quite far removed from [section 5's legislative purposes]. We are especially reluctant to conclude that § 5 justifies that policy given the serious constitutional concerns it raises.").

In sum, if I am correct that the Seventeenth Amendment, because it is coterminous with the Fifteenth, permits the creation of remedial Senate districts, then it is also true that such districts must be assessed according to the expectations and understandings of the legislators who passed the Seventeenth Amendment. Because these legislators' understanding of race-based remedies with respect to federal elective offices differs from both *Shaw*'s and its progeny's understanding, the difficulties encountered by House districts under *Shaw* should be avoided by Senate districts under the remedial warrant of the Seventeenth Amendment.

III. Reinventing Black Politics: Are Senate Districts Really Different?

Alas, suppose Senate districts must comport with the authority of the *Shaw v. Reno*[212] line of cases, the effect which has been to erect an obstacle to the remedial use of race-based districting. Assuming Senate districts can be created upon a finding of vote dilution, are they any more likely than House districts to avoid or ultimately survive the strict scrutiny web created by *Shaw*?

A systematic answer requires, first, an analysis of how *Shaw* has affected section 2 vote dilution litigation. Specifically, the level of scrutiny to be applied to remedial districts created pursuant to section 2 of the Voting Rights Act is central to determining the viability of Senate districts because the Supreme Court has yet to uphold a race-based remedy to which it has applied strict scrutiny.[213] Also required is a comparison of House districts and Senate districts. Senate districts are more likely to evade strict scrutiny because there is a greater probability of demonstrating that race has been used for partisan purposes rather than for its own sake. Even barring such a showing, Senate districts are more likely to survive strict scrutiny because they are not constrained by a narrow definition of compactness, a standard which has defeated claims by states that their race-conscious districting furthered a compelling interest in complying with section 2 of the Voting Rights Act.[214] Below I undertake both these inquiries in order to show that Senate districts, even under the strictures of *Shaw*, are probably more viable than majority-minority House districts.

212. 509 U.S. 630 (1993).

213. *See* Spann, *supra* note 186, at 22-23 & nn.104-05.

214. *See infra* notes 292-306 and accompanying text.

A. Section 2 in the Shadows of *Shaw v. Reno*

The full impact of *Shaw* and *Miller v. Johnson*[215] on section 2 vote dilution claims remains ominously unclear. The *Shaw* Court declined to answer an important question relevant to the continued viability of section 2 remedial districts. The Court stated:

> It is unnecessary for us to decide whether or how a reapportionment plan that, on its face, can be explained in nonracial terms successfully could be challenged. Thus, we express no view as to whether the intentional creation of majority-minority districts, without more, always gives rise to an equal protection claim.[216]

Subsequently, in *Bush v.* Vera,[217] a majority of the Court held that states have a compelling interest in complying with section 2 of the Voting Rights Act, a provision which often requires the intentional creation of majority-minority districts.[218] The Court's plurality opinion admonished that strict scrutiny does not apply to "all cases of intentional creation of majority-minority districts"[219] and that the decision to create a majority-minority district is not "objectionable in and of itself."[220]

However, while the Supreme Court appears to have clarified that compliance with section 2 of the Voting Rights Act is a compelling state interest, it has not announced clear guidelines for when strict scrutiny must be applied to a district created pursuant to section 2.[221] This indeterminacy has unfolded in the lower courts in two distinct ways. First, in section 2 cases brought by minority plaintiffs, courts are divided over whether a district proposed as a section 2 remedy must be subjected to strict scrutiny. The Fifth[222]and Tenth Circuits[223]have declined to adopt a strict scrutiny per se approach, instead appearing to hold that a section 2 district which does not subordinate traditional

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215. 515 U.S 900 (1995).

216. *Shaw*, 509 U.S. at 649.

217. 517 U.S. 952 (1996).

218. *See id.* at 994 (O'Connor, J., concurring); *id.* at 1989 (Stevens, J., dissenting) (joined by Justices Ginsburg and Breyer); *id.* at 1065 (Souter, J., dissenting) (joined by Justices Ginsburg and Breyer). *See also* Diaz v. Silver, 978 F. Supp. 96, 128 (E.D.N.Y. 1997) (noting that a majority of five justices believe that compliance with the Voting Rights Act is a compelling state interest).

219. *Bush*, 517 U.S. at 958.

220. *Id.* at 962.

221. *But see* Dewitt v. Wilson, 856 F. Supp. 1409 (E.D. Cal. 1994) (sustaining race-conscious districting plan that adhered to California's traditional redistricting principles), *aff'd in part and appeal dismissed in part*, 515 U.S. 1170 (1995).

222. *See* Clark v. Calhoun County, 88 F.3d 1393 (5th Cir. 1996).

223. *See* Sanchez v. Colorado, 97 F.3d 1303 (10th Cir. 1996).

districting principles to race will pass constitutional muster.[224] Other courts adjudicating section 2 claims have essentially conflated the statutory liability inquiry of vote dilution with the equal protection inquiry under *Shaw*.[225]

The second procedural context in which the Supreme Court's admonitions regarding strict scrutiny have played out is in equal protection claims challenging majority-minority districts. With respect to majority-minority congressional seats created as a result of the 1990 decennial census, these admonitions have proven to be paper tigers, for courts have liberally applied strict scrutiny to such districts and have, in most instances, found them unconstitutional.[226] These are cases, like *Shaw* itself, in which (1) states covered by section 5 of the Voting Rights Act created majority-minority districts in order to satisfy or foreclose Justice Department objections to their decennial redistricting;[227] (2) the districts were found to have been drawn predominantly for racial reasons;[228] and (3) the states in turn proffered compliance with section 2 of the Voting Rights Act as a compelling state interest.[229] Mimicking *Bush v. Vera*'s treatment of compactness,[230] however, courts have found that nothing in section 2 requires the creation of a non-compact majority-minority district[231]and that the districts therefore fail the narrow tailoring prong of the strict scrutiny test.[232]

224. *See Clark*, 88 F.3d at 1408 (section 2 district satisfying *Gingles* test "exemplifies the narrowly tailored district"). *See also Sanchez*, 97 F.3d at 1328 ("[S]tates may intentionally create majority-minority districts and otherwise take race into consideration without coming under strict scrutiny so long as traditional districting criteria are not subordinated.") (citations omitted); Theriot v. Parish of Jefferson, 966 F. Supp. 1435, 1447 (E.D. La. 1997) (upholding a section 2 district against a *Shaw* attack: "While race, through the force of § 2 of the Voting Rights Act, provided the genesis for the majority minority district, it did not dictate the eventual boundaries of District 3."); Dillard v. City of Greensboro, 946 F. Supp. 946, 951-52 (M.D. Ala. 1996) (recognizing, in the context of a § 2 case, that as long as a § 2 district does not subordinate traditional districting criteria to race, it will avoid strict scrutiny).

225. *See, e.g.*, Gause v. Brunswick County, 1996 WL 453466, **4 (4th Cir. Aug. 3, 1996) ("[A] plaintiff seeking to meet its burden of showing compactness under the first *Gingles* precondition should not be permitted to rely on a plan which, if subsequently adopted by the Court after a finding of a Section 2 violation, would have no chance of being found to be narrowly tailored to redress the violation.") (citation omitted).

226. *See, e.g.*, Diaz v. Silver, 978 F. Supp. 96 (E.D.N.Y 1997); Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va. 1997).

227. *See, e.g., Diaz*, 978 F. Supp. at 128; *Moon*, 952 F. Supp. at 1141.

228. *See, e.g., Diaz*, 978 F. Supp. at 128; *Moon*, 952 F. Supp. at 1141.

229. *See, e.g., Diaz*, 978 F. Supp. at 128; *Moon*, 952 F. Supp. at 1141.

230. *See infra* notes 292-301 and accompanying text.

231. *See, e.g., Diaz*, 978 F. Supp. at 128; *Moon*, 952 F. Supp. at 1141.

232. *See, e.g., Diaz*, 978 F. Supp. at 128; *Moon*, 952 F. Supp. at 1141.

The Court recently forefeited an opportunity to clarify the relationship between section 2 and the Equal Protection Clause in *Abrams v. Johnson*.[233] There, Black voters challenged the redrawing of Georgia's majority-Black Second and Eleventh congressional districts, which had been reconfigured as majority-White districts on remand from *Miller*.[234] The minority intervenors argued that the lower court's redrawing of the districts diluted their voting strength in violation of section 2.[235] This claim, however, was destined for failure because the lower court had also determined, and the Supreme Court had agreed, that to create a second Black-majority district would require the subordination of traditional districting policies to race.[236] Thus, the *Abrams* Court in effect applied strict scrutiny to the Black voters' proposed section 2 districts. Following a familiar tact, the Court found the districts unable to satisfy the first of three threshold requirements for a showing of vote dilution—compactness.[237] Once again, the Court's hopeful caveats that the intentional creation of a majority-minority district would not instantly trigger strict scrutiny was overshadowed in *Abrams* by the reality of the restrictions it has placed upon the creation of such districts.

In sum, *Shaw* and its progeny have not invalidated the Voting Rights Act. However, while it remains unclear when remedial congressional districts created pursuant to section 2 will be subjected to strict scrutiny, the trend is decidedly in favor of its application.

B. Comparing House and Senate Districts

Majority-minority or minority-enhanced Senate districts would not share the same characteristics as House districts. It is in this way that Senate districts can reinvigorate the second Reconstruction and thereby reinvent Black politics. Application of the principal criteria from the *Shaw* line of cases—the non-proxy principle and compactness—to illustrative Senate districts demonstrates this potential.

1. The Non-Proxy Principle

In applying strict scrutiny to majority-minority congressional districts, and thus hastening their demise, the Supreme Court has frequently cautioned that race may not be used as a "proxy" for

233. 117 S. Ct. 1925 (1997).
234. *See Abrams*, 117 S. Ct. at 1929.
235. *See id.* at 1930.
236. *See id.* at 1931.
237. *See id.*

accomplishing otherwise permissible ends in districting.[238] This prohibition is only slightly more instructive than *Miller v. Johnson's* predominance test,[239] of which it is a variant. In *Bush v. Vera*,[240] the Court acknowledged that race may correlate with political and socio-economic data in a manner which renders it possible to explain the creation of a majority-minority district in non-racial terms.[241] The Court recognized that

> [i]f district lines merely correlate with race because they are drawn on the basis of political affiliation, which correlates with race, there is no racial classification to justify, just as racial disproportions in the level of prosecutions for a particular crime may be unobjectionable if they merely reflect racial disproportions in the commission of that crime.[242]

Thus:

> [i]f the State's goal is otherwise constitutional political gerrymandering, it is free to use . . . precinct general election voting patterns, precinct primary voting patterns, and legislators' experience . . . to achieve that goal regardless of its awareness of its racial implications and regardless of the fact that it does so in the context of a majority-minority district.[243]

Nor does conscious allocation of Black voters to particular districts to secure the election of a Democratic incumbent or to achieve a partisan gerrymander offend equal protection.[244] On the other hand, the Court cryptically admonished that "to the extent that race is used as a proxy for political characteristics, a racial stereotype requiring strict scrutiny is in operation."[245] But when is race an acceptable correlation versus an impermissible proxy?

A specific application of the non-proxy principle to the facts of *Bush v. Vera* sheds some light. In *Bush*, the State of Texas defended

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238. *See Miller*, 515 U.S. at 912.

239. *See supra* notes 191-203 and accompanying text for a discussion of the predominance test.

240. 515 U.S. 952 (1996).

241. *See Bush*, *id.* at 964.

242. *Id.* at 968 (citation omitted).

243. *Id.* (citations omitted).

244. *See id.* ("And the fact that, as it happens, many of the voters being fought over by the neighboring Democratic incumbents were African-American, would not, in and of itself, convert a political gerrymander into a racial gerrymander, no matter how conscious redistricters were of the correlation between race and party affiliation.") (citations and internal quotes omitted). While this practice was condemned by the lower court, that court ultimately held that the practice did not render the districts of White Democratic incumbents unconstitutional. *See* Vera v. Richards, 861 F. Supp. 1304, 1344 (S.D. Tex. 1994). This ruling was not challenged in the Supreme Court.

245. *Bush*, 517 U.S. at 968.

the creation of a majority-Black congressional district, District 30, in part on the ground that the district was a permissible political gerrymander.[246] While acknowledging that partisan gerrymanders generally are not constitutionally objectionable,[247] the Court determined that District 30 was not protected by this principle and that it was not clear error for the lower court to disbelieve the state's explanation.[248] Although District 30 was both a Black district and a Democratic stronghold, the Court suspected that partisanship was merely a post-hoc rationalization put forward to rescue the district, given that much of the data on which Texas now relied was not available to it at the time it created District 30.[249] Moreover, the state made inconsistent claims about the preeminence of race in the creation of District 30, at times conceding that it had attempted to "'maximize the voting strength for [the] black community in Dallas County.'"[250] The state's use of race-sensitive computer technology and the shape of District 30 only reinforced its own admission.[251] Finally, the configuration of some of District 30's boundaries undercut the state's claim of partisan gerrymandering because these boundaries contained far more Republican-leaning precincts than Democratic precincts.[252] Against this factual backdrop and constrained by a deferential standard of review of the trial court's findings of fact, the Court left undisturbed the trial court's determination that race, not partisan affiliation, predominated in the creation of District 30.[253]

The Court's fact-bound analysis conspicuously avoided addressing the inherent tension between *Shaw* and partisan gerrymandering. The *Bush* plurality was forced to accept that race must be employed even in a partisan gerrymander, given the correlation between race and partisanship. Thus, even as it acknowledged the "intensive and pervasive use of race . . . to protect the political fortunes of adjacent [White Democratic] incumbents,"[254] it did not suggest that the incumbents' districts, like District 30, were unconstitutional racial gerrymanders.[255] White politicians would be permitted to benefit from the

246. *See id.* at 963.
247. *See id.* at 968.
248. *See id.* at 970.
249. *See id.* at 966-67.
250. *Id.* at 969 (citations omitted).
251. *See id.* at 970.
252. *See id.* at 971.
253. *See id.* at 970.
254. *Id.* at 972-73.
255. *But see id.* at 998 (Kennedy, J., concurring) ("District 30 also involved the illicit use of race as a proxy when legislators shifted blocs of African-American voters to districts of

conscious use of race because they could attach a benign name to it—partisan gerrymandering—but Black voters would be denied the same benefit, even though the intentional creation of a Black district results in a partisan gerrymander. The difference in outcome is purely formalistic, and, as with the predominance test, imposes a disproportionate burden on minorities to justify receiving the same political treatment that flows to Whites as a matter of course.

The Republican Party, for instance, has few Blacks.[256] Thus, to a draw a Republican district is essentially to draw a White district. Under the Court's reasoning, however, this outcome does not matter as long as the legislature is stealthy enough not to state it is acting with the intent of creating a White district. Of course, the legislature need not profess this aim because its intended result will follow from the partisan gerrymander anyway. Thus, the difference between a partisan gerrymander and a racial gerrymander in this context is in name only. And, unlike coincidental racial disproportions in, for example, the level of prosecutions for a particular crime that has a higher rate of commission by a certain minority group, district line drawers affirmatively exploit racial disproportions in voting to achieve their legislative objective—a partisan gerrymander. Again, once the use of race is recognized as permissible to any degree, judicial efforts to quantify the acceptable amount only create a constitutional double-standard. The Court nevertheless rested its equal protection analysis on the sophistic assumption that race can always be sorted from partisanship and that the purported aim of achieving a partisan gerrymander is quantitatively more color-blind than explicitly racial goals.[257]

Lower court decisions applying *Bush* have essentially mimicked the Court's approach, allowing that "[i]f the creation of a safe black district can be said to favor a particular political party, the law does not condemn political partisanship," but then eschewing the task of

incumbent Democrats in order to promote partisan interests.") (citations omitted). It is unclear why the intentional allocation of minority voters to a White Democratic district would render the majority-Black district from which these voters were taken an unconstitutional racial gerrymander. On the contrary, the districts of White Democratic incumbents who benefited from the raid on Black voters would appear to be the source of the constitutional offense. Yet neither the lower court nor the Supreme Court held that these districts infringed the Equal Protection Clause.

256. *See* R.W. Apple Jr., *GOP Tries Hard To Win Black Votes, But Recent History Works Against It*, N.Y. TIMES, Sept. 19, 1996, at B11 (stating that recent polls showed that only 3% of Blacks intended to vote for the Republican ticket in the 1996 presidential elections).

257. *See* Karlan & Levinson, *supra* note 188, at 1209 (describing the Court's distinction between racial and partisan gerrymanders as "incoherent in theory and unadministerable in practice").

distinguishing race from partisanship.[258] Commentators, on the other hand, have weighed in more thoughtfully. Richard Briffault, who has argued for a "political motivation" defense to *Shaw* claims, has written:

> It is difficult to see why, in places in which a racial divide is politically central and race functions like party in organizing electoral groups and dividing political opinion, a jurisdiction ought to be barred from using a "politically fair" plan to assure appropriate representation of racial minorities . . . . The case for permitting polities to use race in a nondilutive way when race is, in fact, politically salient is at least as strong as the case for . . . voluntary bipartisan gerrymandering.[259]

Briffault would require jurisdictions asserting the political motivation defense to prove, through the use of established statistical methods, that race correlates with partisanship and that there is a significant political chasm between the minority and majority groups.[260] While this approach would in some respects mirror the vote dilution inquiry under section 2 of the Voting Rights Act, it would in substance constitute an independent justification for the creation of a majority-minority district.[261]

Briffault's political motivation defense finds support in decades of Supreme Court decisions which have held that states have an important interest in the maintenance of a stable two-party political system.[262] States have been permitted to further this interest through the districting process since "[t]he very essence of districting is to produce . . . a more 'politically fair' result than would be reached with elections at large, in which the winning party would take 100% of the legislative seats."[263] Thus, parties are free to use a "political fairness principle" to achieve rough partisan balance in districting, and such arrangements are generally insulated from constitutional attack.[264] Where partisan balance cannot be achieved in the absence of race-consciousness, courts should be reluctant to find that race predomi-

258. Moon v. Meadows, 952 F. Supp. 1141, 1148 (E.D. Va. 1997).

259. Richard Briffault, *Race And Representation After* Miller v. Johnson, 1995 U. CHI. LEGAL F. 23, 74-75 (1995).

260. *See id.* at 76-77.

261. *See id.*

262. *See, e.g.*, Timmons v. Twin Cities Area New Party, 117 S. Ct. 1364, 1374 (1997) ("States . . . have a strong interest in the stability of their political systems . . . . [This] permits them to enact reasonable election regulations that may, in practice, favor the traditional two-party system . . . and that temper the destabilizing effects of party-splintering and excessive factionalism.") (citations omitted).

263. Gaffney v. Cummings, 412 U.S. 735, 753 (1973).

264. *See id.* at 750.

nates or has otherwise been over-used, since race in this instance is central to the state's acknowledged interest in political fairness between the two major parties.

The political motivation defense or political fairness principle is best illustrated by Senate districts because such districts present line drawers with a two-district dilemma. Though the practice of maximizing Black voters in given districts to create majority-minority constituencies was a constitutional death knell in the *Shaw* line of cases, a dispositive distinction exists between House and Senate districts. In the case of the former, it was never demonstrated that it was necessary to maximize the number of Black voters in order to achieve a partisan gerrymander.[265] Indeed, although their assumptions have been questioned, partisans have long viewed majority-minority districts as antithetical to Democratic partisan interests.[266] Although not uniform in their estimates of the magnitude of Republican gains, political scientists have found that the more Black voters are aggregated in a single district, the greater the electoral success of the Republican Party because of the reduced opportunities to elect moderate White Democrats.[267] Thus, a frequent assumption in congressional districting is

265. *See, e.g., Bush*, 517 U.S. at 971 (finding that parts of District 30, a majority-Black congressional district, were "tailored perfectly to maximize minority population . . . whereas it is far from the shape that would be necessary to maximize the Democratic vote . . .").

266. Many have observed that the reason Republicans, not otherwise known for their support of racial preferences, have aggressively pursued the creation of majority-minority districts, is that these districts have the effect of reducing the number of Democratic-leaning or toss-up seats and increasing the number of Republican seats. *See, e.g.,* Steven A. Holmes, *For Very Strange Bedfellows, Try Redistricting*, N.Y. TIMES, July 23, 1995, at A16 ("Democrats want to curb the number of Black-majority districts, on the ground that concentrating Black voters in a few districts means removing blacks from adjacent districts, in turn making these districts more vulnerable to Republicans. Conversely, Republicans want an abundance of black districts.") Civil rights activists increasingly view districting as a choice between maximizing the number of minority seats at the expense of increasing Republican seats, or dispersing the Black vote to enable moderate White Democrats to be elected to Congress. *See id. But see* Lani Guinier, *Don't Scapegoat the Gerrymander*, N.Y. TIMES, Jan. 8, 1995, sec. 6 (magazine), at 36 (noting that "Democrats did no worse in the nine states that drew new black districts after the 1990 Census than in states with no new black districts," and pointing to other factors for the 1994 Democratic loss of the House of Representatives to the Republicans); REPORT OF THE NAACP LEGAL DEFENSE & EDUCATIONAL FUND, THE EFFECT OF SECTION 2 OF THE VOTING RIGHTS ACT ON THE 1994 CONGRESSIONAL ELECTIONS 3 (1994) (disputing arguments that the creation of majority-minority congressional districts contributed significantly to the 1994 Republican takeover of Congress and concluding that "[t]oo few Democratic voters was the Democrats' problem in the mid-term election, not the arrangement of those voters into districts").

267. *See, e.g.*, Charles S. Bullock, III, *Winners and Losers in the Latest Round of Redistricting*, 44 EMORY L.J. 943, 952-57 (1995) (presenting empirical evidence linking the creation of Black congressional districts in the South to the corresponding increase in the

that Black districts reduce overall Democratic representation.[268] Whether or not this assumption is true, Senate districting would often proceed on the opposite assumption, requiring the aggregation of Black voters and creating a fusion of the partisan gerrymander and concerns of racial justice.

Blacks are overwhelmingly Democratic. In the eight House elections prior to 1996, an average of 87% of Blacks have voted Democratic, while the Republican share of Black votes has not exceeded 21%.[269] Nowhere is this polarization more pronounced than in the South. Throughout the 1980s in this region, the Republican share of the Black vote never surpassed 12%.[270] Meanwhile, the shift among Whites to the Republican Party has been dramatic. By 1992, the once solidly Democratic South had equal numbers of White Democrats and Republicans.[271] This shift translated into substantial, even lopsided, Republican electoral victories. By 1994, Republicans held a majority of both the Senate and congressional seats in the South.[272] And from 1980 to 1992, Republicans Ronald Reagan and George Bush won 71% of southern congressional districts in their presidential bids.[273] Most importantly, Republicans managed this feat with virtually no Black support, while the bloodline of the Democratic Party in the South became increasingly Black:

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number of Republican seats); Kevin A. Hill, *Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States*, 57 J. POL. 384, 400 (1995) (finding that nearly half of nine districts that changed from Democratic to Republican hands in 1992 did so because of the loss of significant numbers of Blacks to majority-Black districts and concluding that "the link between the rising fortunes of blacks and Republicans as a result of redistricting is [sic] unmistakable"). *But see* Kimball Brace et al., *Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?*, 49 J. POL. 169, 177 (1987) (concluding that "helping blacks will help Republicans when creating majority black districts almost inevitably creates 'packed' Democratic districts").

268. *See supra* notes 266-67 and accompanying text.

269. *See Portrait of the Electorate: Who Voted for Whom in the House*, N.Y. TIMES, Nov. 13, 1994, at A24. In 1996, most Republicans in congressional elections received Black support of only between 10 to 18%. *See* Nancy E. Roman, *Black Republicans Assail Party's Efforts; Candidates See GOP as 'Insensitive'*, WASH. TIMES, Nov. 25, 1996, at A7 (placing Black support of GOP congressional candidates at 10 to 15%); Jonathan Tilove, *Million Man March Got Out the Vote; More Black Men Made It to Polls*, TIMES-PICAYUNE, Nov. 24, 1996, at A21 (reporting that GOP congressional candidates received 18% of the Black vote).

270. *See* JAMES M. GLASER, RACE, CAMPAIGN POLITICS, AND THE REALIGNMENT IN THE SOUTH 9 (1996).

271. *See id.* at 10.

272. *See id.* at 12-13.

273. *See id.* at 13.

> While the South has produced more examples of biracial coalition than any other region, the general thrust in the South is a steady movement toward a politics of Black and White. The Republican party, especially for the younger voters of the region, is becoming the political party of the White South. In some of the deep southern states, in turn, Blacks are steadily moving toward majority status in Democratic primaries, and very few Whites are prepared to be part of a coalition in which they are a minority. ABC election-day exit polls in 1988 showed that young, White voters, ages 18-29, lined up with the Republican party over the Democratic party by a margin of 56% to 30%, with the remaining 14% describing themselves as independent. Blacks, young and old, describe themselves as Democratic by a margin of 88% to 6%. Looked at another way, among young Mississippi Democrats between ages 18 to 29, 62% were Black and 38% were White. Virtually all Republicans in Mississippi were White. These kinds of divisions are an open invitation to those seeking to build a political majority on the basis of racial polarization.[274]

Accordingly, Southern Democrats cannot win unless they enjoy overwhelming Black support, and Republicans cannot prevail without a substantial majority of the White vote.[275] While this state of affairs requires Democrats to strategically disperse minority voters in order to remain politically competitive in House contests,[276] precisely the opposite would be true for Senate districts. Because Blacks are overwhelmingly Democratic, Senate districts created in states where the

274. THOMAS BYRNE EDSALL & MARY D. EDSALL, CHAIN REACTION 259-60 (1991) (footnotes omitted). So pronounced is the Democrats' dependence on Black support that in 1989, Joe Reed, the chairman of the Alabama Democratic Conference, a Black political group, sued the Alabama Democratic Party, demanding racial parity in control of the party: "'Blacks are 50 percent of the party in Alabama,' Reed argued . . . ." *Id.* at 271. *See also Attempts to Link Campbell with Bribery May Goad Him into Senate Race*, WHITE HOUSE BULL., Apr. 21, 1997 (noting that Blacks make up as much as 25% of the Democratic presidential primary vote).

275. *See generally* Edward Carmines & Robert Huckfeldt, *Party Politics in the Wake of the Voting Rights Act*, *in* CONTROVERSIES IN MINORITY VOTING: THE VOTING RIGHTS ACT IN PERSPECTIVE 117-34 (Bernard Grofman & Chandler Davidson eds., 1992) (presenting a historical analysis of the convergence of race and party in the South). *See also* Bernard Grofman & Lisa Handley, *1990s Issues in Voting Rights*, 65 MISS. L.J. 205, 268 (1995) ("Increasingly, in the South, the Republicans have become the party of white voters and the Democratic party has become the party of black voters"); ABIGAIL M. THERNSTROM, WHOSE VOTES COUNT? 234 (1987) ("[u]nless unopposed, Democrats could not win in district that contained few blacks . . . .").

276. *See, e.g.*, *Bush*, 517 U.S. at 972-73 (describing the disbursement of minority voters in order to secure the election of White incumbent Democrats); Pamela S. Karlan, *Loss and Redemption: Voting Rights at the Turn of a Century*, 50 VAND. L. REV. 291, 304-05 (1997) (describing the 1990 process of Democrats allocating their voters through redistricting).

parties are racially stratified—as in Southern states—must concentrate Blacks into a single district if that state is to have a Democratic-leaning district. In such jurisdictions, it is impossible to employ partisanship as a districting criterion without including race. Thus, the reality of the correlation between race and partisanship that the Court recognized, but eschewed, in *Bush v. Vera* is presented more intractably in the Senate districting context because there is a greater need to exploit that correlation.

An illustration from the 1996 elections will illuminate this proposition. Democrat Max Cleland survived an exceedingly close election in Georgia to replace retiring Democratic Senator Sam Nunn. Black votes constituted one quarter of the 2,260,953 votes cast.[277] Exit polls revealed that Cleland had captured 85% of the Black vote, or 480,452 votes.[278] This number constituted more than 43% of Cleland's 1,103,492 votes.[279] Because fewer than 28,000 votes separated Cleland from his Republican opponent,[280] and because only two Senate districts can exist per state, a partisan gerrymanderer seeking a Democratic-leaning district or seeking to secure Cleland's reelection would be wise, if not compelled, to keep intact the Black vote and place Black voters in a single district. This, in turn, would lead to a Senate district that is substantially more Black than Georgia's statewide average of 27%.[281] Of course, a Democratic gerrymanderer might attempt to shed Black voters in exchange for White Democrats, but these substitute voters may prove difficult to find. Only 38% of White Georgians voted for Cleland.[282] Moreover, these substitute voters are unlikely to be as loyal as Black Georgians, who, like Black Democrats nationally, have consistently voted in overwhelming numbers for Democratic candidates.[283] Here, the racial gerrymander and the partisan gerrymander converge in a manner that leaves little doubt about their co-dependence. Similar disproportions in the racial composition

277. *See* Mark Sherman, *Election '96: Georgia*, ATLANTA J. & CONST., Nov. 7, 1996, at 3C.

278. *See id.*

279. *See id.*

280. *See id.*

281. *See* STATE RANKINGS, *supra* note 138, at 442 (noting that Georgia is 27.5% Black).

282. *See* Sherman, *supra* note 277, at 3C.

283. *See, e.g.*, Leonard Pallats, *Georgia Voters Split Evenly on Parties*, CHATTANOOGA FREE PRESS, Dec. 1, 1996, at C1 (noting that Georgia Blacks remain "strongly Democratic despite continued efforts by the GOP to reach them"); Nancy E. Roman, *Georgia GOP Seeks to Pick Democratic Lock on Blacks*, WASH. TIMES, Dec. 27, 1996, at A8 (stating that polls showed that 95% of Georgia's Blacks voted Democratic in the November 1996 elections).

of winning statewide Democratic coalitions would dictate similar disproportions in the racial composition of Democratic-leaning Senate districts.[284] Unlike District 30 in *Bush v. Vera*, then, these districts could be justified as partisan gerrymanders and thereby escape strict scrutiny.

We need not limit proof of this race/partisanship dependence to the 1996 Georgia Senate race. Figure 1 is a county map of Georgia containing a proposed minority-enhanced Senate district. The minority-enhanced District 1 increases the voting-age Black population from 24.6% to 39.8%, and increases the overall Black population from a statewide figure of 27% to a district proportion of 43.1%.

While the proposed district does not achieve majority status for Blacks—a result I defend in Part III.C.[285]—the voting behavior of the counties contained in the Black-enhanced district are substantially Democratic and those of the White district are substantially Republican. In other words, the districts are unmistakable partisan gerrymanders which also empower Black voters.

Appendix A confirms this characterization. Using county vote returns for select statewide elections, I have sought to estimate the partisan voting behavior of counties included in the minority-enhanced district versus the White-enhanced district. I have included in the appendix tables only the results of competitive statewide contests—those decided by a 10% margin or less—for major offices.[286] This limitation is necessary because electoral landslides, where there is by definition only nominal partisan competition, would tell us little about the partisan predilections of voters in each of the districts. Also, in order to avoid the skew of examining too small a time period, I have culled statewide elections, including presidential contests, dating back to 1970. Figure 2 summarizes the results for Georgia.

In the contests surveyed, Democrats took 55.21% of the overall votes in District 1, the minority-enhanced district, and won 78.10% of the counties.[287] In District 2, the White-enhanced Senate district,

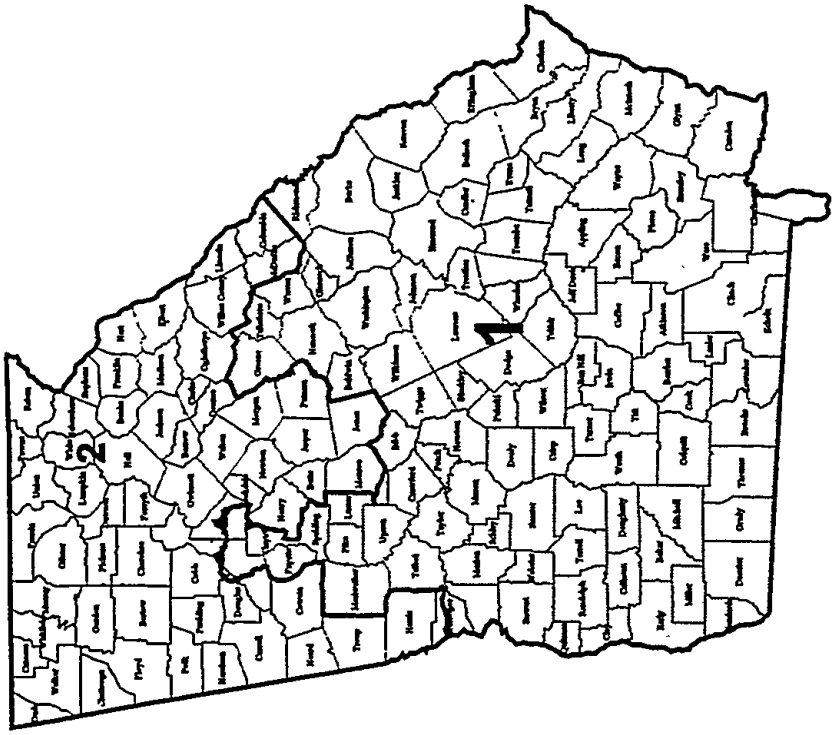
284. *See, e.g.*, Stephanie Grace, *Black Turnout Boost Landrieu*, TIMES-PICAYUNE, Nov. 6, 1996, at A11 (reporting that Democratic Senator-elect Mary Landrieu captured 92% of the Black votes while receiving only 37% of the White vote).

285. *See infra* notes 307-17 and accompanying text.

286. I adopt the 10% figure because scholars of congressional elections ordinarily view a winning percentage of 55% or more as a "safe" congressional seat. *See* Charles M. Tidmarch et al., *Interparty Competition in the U.S. States: Legislative Elections, 1970-1978*, *in* 11 LEGIS. STUD. Q. 353, 361-62 (1986); Thomas M. Holbrook & Emily Van Dunk, *Electoral Competition in the American States*, 87 AM. POL. SCI. REV. 955, 956 (1993).

287. As is evident from the map of Georgia, both the Black-enhanced and White-enhanced districts contain split counties. The splitting of counties was necessary in order to

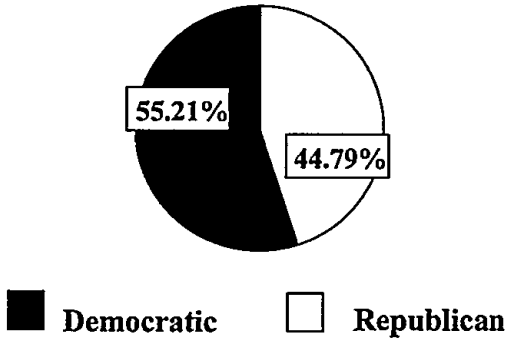
Figure 1



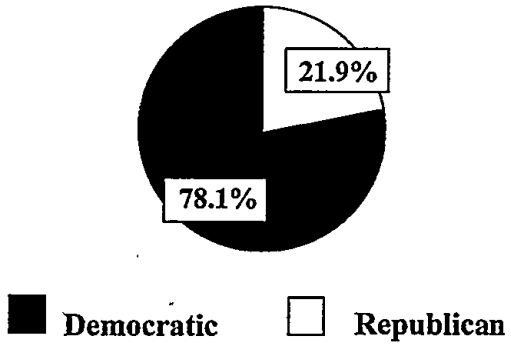
USENATE	POPULATION	DEVIATION	WHITE	WHITPERCENT	BLACK	BLKPERCENT	VAPTOT	WHITE_18	WHTVAPER	BLACK_18	BLKVAPER
1	3239175	0.00	1787908	55.2	1395684	43.1	2324979	1361620	58.6	924967	39.8
2	3239041	0.00	2812240	86.8	350881	10.8	2425934	2128794	87.8	243175	10.0
Total	6478216	--	4600148	71.0	1746565	27.0	4750913	3490414	73.5	1168142	24.6

Figure 2

Estimated Distribution of Votes: Georgia District 1



Estimated Distribution of Victories: Georgia District 1



Republicans captured 53.57% of the votes of the counties included and won 60.81% of the counties. These illustrative Georgia Senate districts are suggestive of the two-district dilemma in Senate districting. Unless the Democratic vote in a jurisdiction is so overwhelming that Democrats can gerrymander both districts in their favor, or unless

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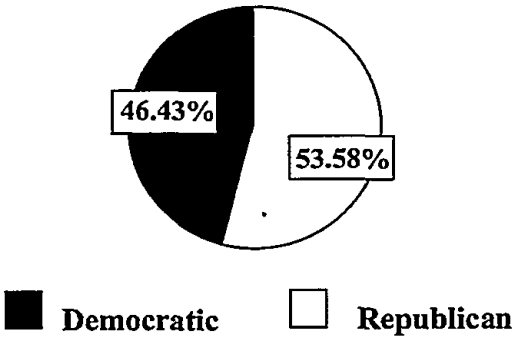
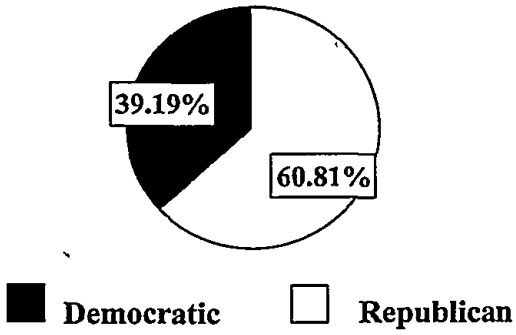
equalize the populations between districts. For purposes of estimating the voting behavior of the hypothetical districts, the entire population of a split county was placed in the Senate district where most of its voting age population would be located. This results in an underestimation of the Democratic and Republican voting patterns for the minority-enhanced and White-enhanced districts, respectively. Subdividing the split counties and placing each of their separated populations into the respective district in which they actually reside would increase the relative Democratic and Republican partisan indices for Districts 1 and 2, respectively. District 1, the minority-enhanced district, would actually be more Democratic than the estimate indicates because the split county populations actually residing in District 1 contain substantially more minority voters than the split county populations actually residing in District 2, the White-enhanced district. A similar methodology, and hence a similar undercounting of partisan behavior, obtains with respect to Arkansas and Mississippi, discussed in the text. Information regarding the split counties, including the racial breakdown of the splits, are on file with the author and at the Southern Regional Counsel in Atlanta, Georgia.

Figure 2 Continued

Estimated Distribution of Votes: Georgia District 2



Estimated Distribution of Victories: Georgia District 2



the Black vote is so small as not to figure significantly in either party's electoral success, one would expect a Democratic gerrymanderer to aggregate as many Black voters in a single district as would be necessary to create a safe Democratic seat. One would also expect that this number would reflect the party's traditional reliance on a disproportionate Black vote as well as the constraint of having only two districts. Unlike House districting, which usually presents line drawers with more than two choices with which to maximize partisan advantage, partisan maximizing assumptions in the two-district dilemma will demand the type of race aggregation that raises suspicions of the gratuitous use of race in the House context. Thus, in the two-district context, it would not be surprising to find that a partisan gerrymander has resulted in a majority-minority district, or at least a district containing an overwhelming majority of the minorities in the state, as is the case in the Georgia example.

Georgia and other Southern jurisdictions provide the most compelling proof of both the utility and feasibility of Senate districts be-

cause racial bloc voting is most prevalent in the South.[288] Some Southern states, of course, are more Democratic than others, some are more Republican, and some are more evenly split. This affects the degree of electoral competition in the state and possibly affects the interdependence of race and partisan gerrymanders. Georgia, for example, is one of the most competitive two-party states in the South and represents the two-district dilemma in a highly emulous context.[289] Arkansas, on the other hand, had been one of the least competitive Southern jurisdictions until 1996, when it elected its first Republican Senator since Reconstruction and appointed a Republican governor.[290] Arkansas represents a historically Democratic-leaning Southern state. Figure 3 is a county map of Arkansas containing a Black-enhanced district that increases the Black voting age population from 13.73% statewide to 25.40% in the proposed district.

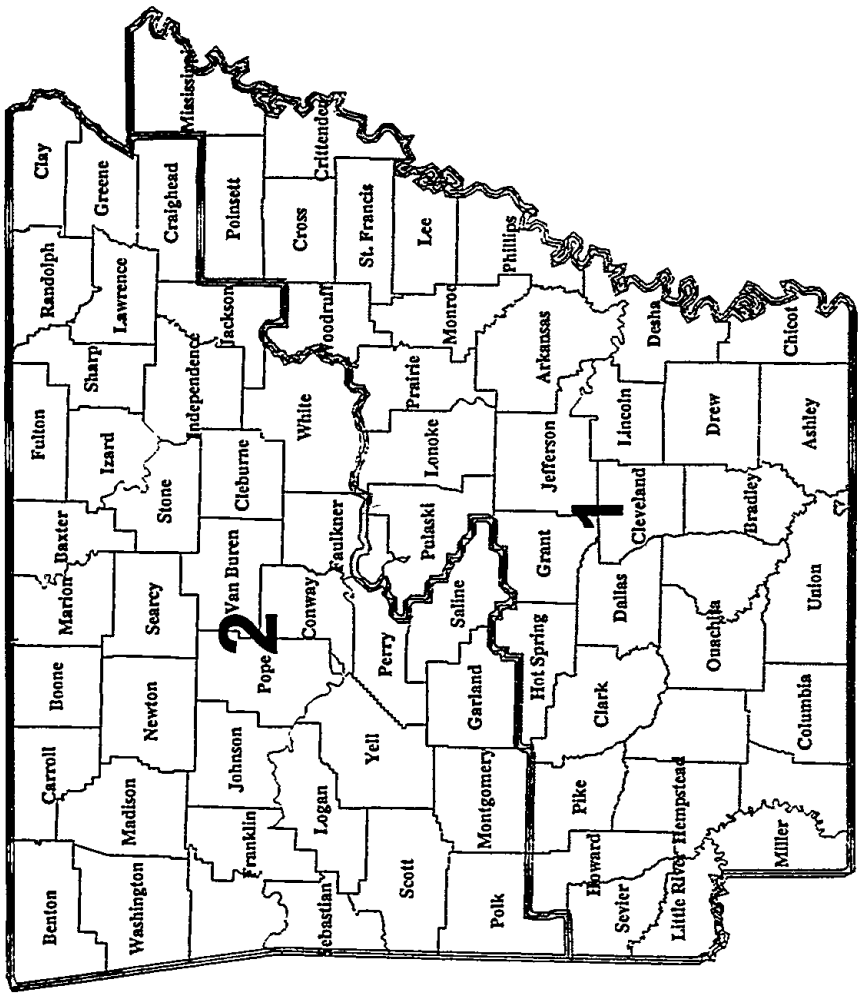
Here again, partisanship correlates with race. Using the same methodology as applied to Georgia, in the counties included in the minority-enhanced district, District 1, Democrats took 55.88% of the votes and won 83.82% of the counties. Conversely, in the White-enhanced district, District 2, Republicans captured 55.21% of the vote and won 66.46% of the counties. Figure 4 summarizes these results, and Appendix B contains the underlying data.

288. *See* Pildes, *supra* note 130, at 2512 n.23.

289. *See* MICHAEL BARONE & GRANT UJIFUSA, ALMANAC OF AMERICAN POLITICS 327 (1994) ("Georgia has become not just the center of the South, but also a center of vibrant, competitive two-party politics in the South . . . .").

290. *See* Alan Greenblatt, *Ex-Rep. Lincoln to Seek Bumpers' Senate Seat*, 55 CONG. Q. WKLY. REP. 1825, 1887 (1997) (noting that "[t]he state GOP has broken the longtime Democratic stranglehold on Arkansas politics . . . .").

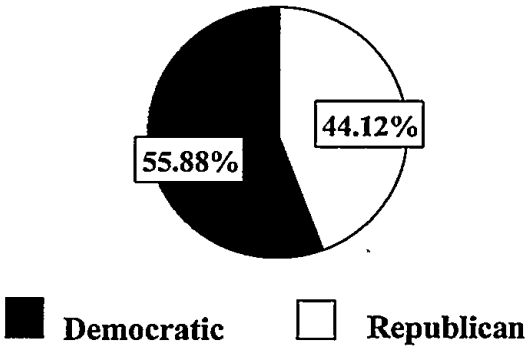
Figure 3



USENATE	POPULATION	DEVIATION_	COUNT	WHITE	WHPER	BLACK	BLPER	Total_VAP	WHITE_18	WHVAPER	BLACK_18	BLVAPER
1	1175730	0.03	1224	822791	69.98	340824	28.99	847654	623812	73.59	215344	25.40
2	1174995	-0.03	1152	1121953	95.49	33088	2.82	881940	846399	95.97	22158	2.51
Total	2350725	--	--	1944744	82.73	373912	15.91	1729594	1470211	85.00	237502	13.73

Figure 4

Estimated Distribution of Votes: Arkansas District 1



Estimated Distribution of Victories: Arkansas District 1

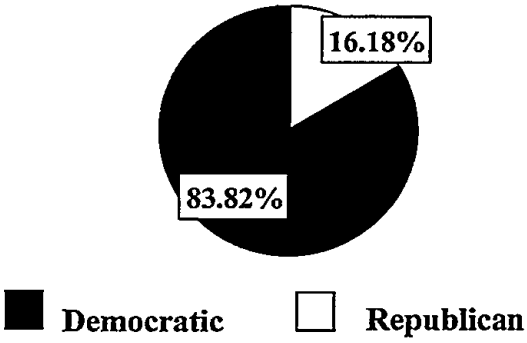
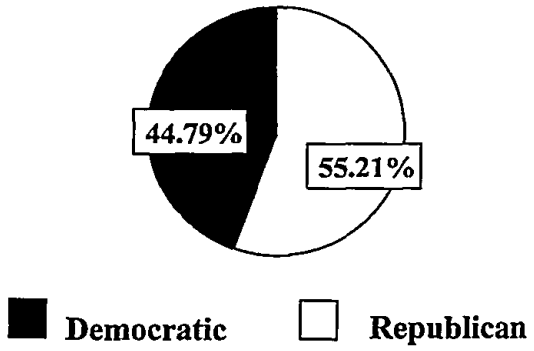
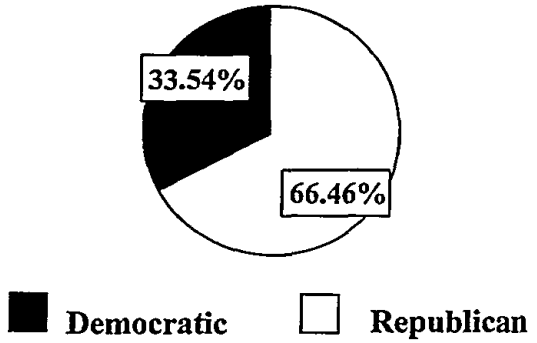


Figure 4 Continued

Estimated Distribution of Votes: Arkansas District 2



Estimated Distribution of Victories: Arkansas District 2

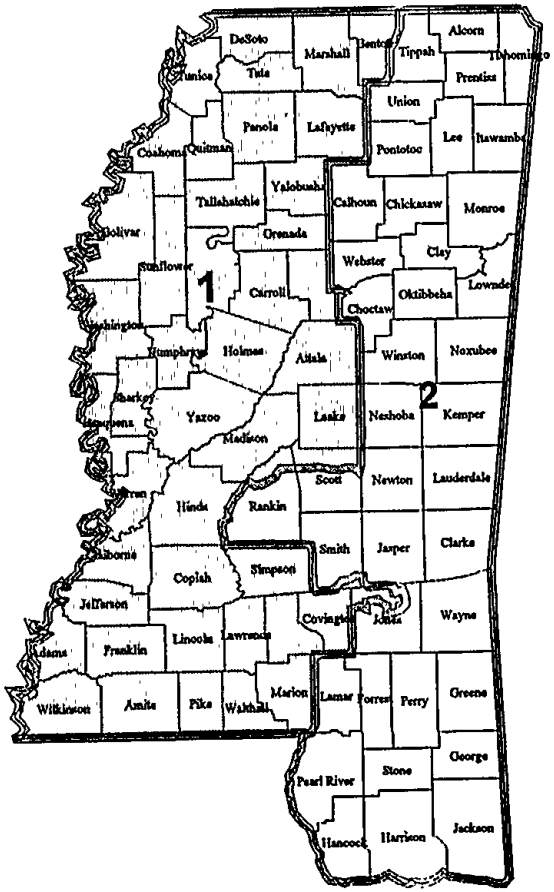


Mississippi, as one of four out of twelve Southern states with two Republican Senators and a Republican governor, reflects the two-district dilemma in a Republican-leaning jurisdiction.[291] Mississippi is also a significant indicator because it contains a higher proportion of Blacks than any other state in the nation. Figure 5 is a county map of Mississippi that contains a minority-enhanced district, District 1, which increases the Black voting-age population from 31.63% statewide to 42.46% and increases the overall Black population from 35.56% to 47.17%. Figure 6 summarizes the data contained in Appendix C with respect to Mississippi.

In District 1, the Black-enhanced district, Democrats received 52.16% of the votes and carried 70.07% of the counties. District 1, then, is clearly a Democratic-leaning district and a near-majority Black district. By contrast, District 2, with a voting age population that is 77.72% White, is solidly Republican. Republicans took 55.46% of the votes in constituent counties and carried 60.93% of the counties.

291. To be precise, Mississippi is most Republican-leaning in its senatorial and presidential politics. *See* BARONE & UJIFUSA, *supra* note 289, at 709.

Figure 5



Proposed U.S. Senate Districts MISSISSIPPI

(By Block Group)

Split Counties

1. Scott
2. Rankin
3. Smith
4. Jones

Proposed By

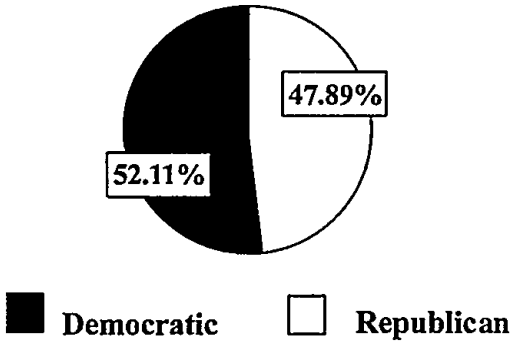
Southern Regional Council
Voting Rights Programs

Southern Regional Council

USENATE	POPULATION	DEVIATION_	WHITE	WHTPER	BLACK	BLKPER	TOTVAP	WHITE_18	WHVAPER	BLACK_18	BLVAPER
1	1286652	0.00	672358	52.26	606939	47.17	900435	512987	56.97	382304	42.46
2	1286564	0.00	961103	74.70	308118	23.95	926020	719700	77.72	195365	21.10
Total	2573216	–	1633461	63.48	915057	35.56	1826455	1232687	67.49	577669	31.63

Figure 6

Estimated Distribution of Votes: Mississippi District 1



Estimated Distribution of Victories: Mississippi District 1

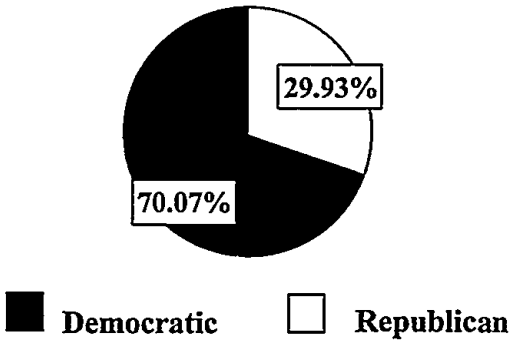
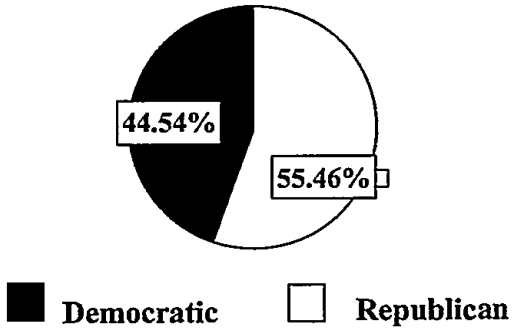
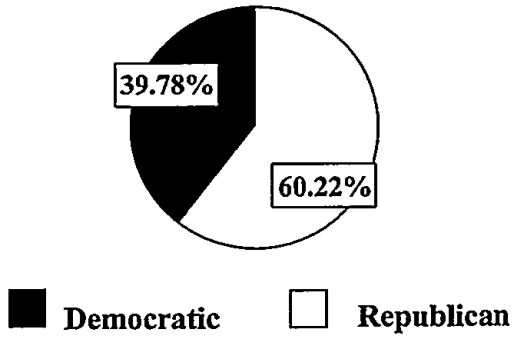


Figure 6 Continued

Estimated Distribution of Votes: Mississippi District 2



Estimated Distribution of Victories: Mississippi District 2



The data for Georgia, Arkansas and Mississippi is not presented to prove that a given set of district lines must mirror the illustrative maps in order to be an effective partisan gerrymander in a two-district setting. The data does indicate, however, that the populations included in the Black districts have Democratic voting tendencies, while the counties included in the White districts have voted largely for Republicans in the contests surveyed. While other combinations of counties with a reduced Black population might also yield Democratic-leaning districts in any of the three states, *Bush v. Vera* imposes no requirement that a state draw the "Whitest" district possible in seeking to remedy minority vote dilution. A state need only approach districting with partisan objectives in mind at the inception. Nor must a state seeking to effectuate a partisan gerrymander demonstrate that it has drawn optimal lines for achieving that purpose. The political fairness principle defers to the judgment of the states on such matters.

Thus, given the constraints of compactness and the well-documented reliance of the Democratic party on a disproportionate share of Black votes for electoral success in the South, districts such as those

proposed for Georgia, Arkansas, and Mississippi should be deemed permissible racial gerrymanders because they are allowable partisan gerrymanders. In some cases, perhaps even these specific cases, the latter may compel the former. Because Senate districts and the two-district dilemma present the most credible case of the partisan gerrymander that permissibly employs race, these districts, unlike District 30 in *Bush v. Vera*, will more easily escape strict scrutiny.

2. *Compactness*

When majority-minority districts have not escaped heightened scrutiny, they have met their demise due to a lack of compactness, which has emerged as the most important inquiry in evaluating the constitutionality of such districts. Compactness plays two roles, both of which have engendered confusion. First, in each of the Supreme Court cases striking down a majority-minority district, the district's lack of geographic compactness has weighed heavily in the Court's determination that the district was created for predominantly racial reasons. Hence, lack of geographic compactness has substantially contributed to the decision to apply strict scrutiny. Second, compactness affects the narrow tailoring inquiry of the strict scrutiny test itself.

In *Bush v. Vera* and *Shaw v. Hunt* (*"Shaw II"*), the Court assumed, without deciding, that compliance with section 2 of the Voting Rights Act constituted a compelling state interest. Earlier, however, *Thornburg v. Gingles* held that a minority group seeking section 2 relief must first show that it "is sufficiently large and geographically compact to constitute a majority in a single-member district."[292] Transforming this first *Gingles* requirement from a statutory criterion into a constitutional talisman, the Court in *Bush* and *Shaw II* held that because the majority-minority districts in question were not geographically compact, the states had failed to narrowly tailor their districting to achieve their stated interest in preventing minority vote dilution in violation of section 2.[293]

Nowhere in the *Shaw* line of cases has the Court defined precisely what is meant by geographic compactness. In *Bush*, Justice O'Connor, writing for a plurality of three, insisted that

> A [section] 2 district that is reasonably compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries,

292. Thornburg v. Gingles, 478 U.S. 30, 50 (1985).

293. *See Bush*, 517 U.S. at 979 ("[Section] 2 does not require a State to create, on predominantly racial lines, a district that is not 'reasonably compact.'").

> may pass strict scrutiny without having to defeat rival compact districts designed by plaintiffs' experts in endless "beauty contests."[294]

Rather than defining compactness, the *Bush* Court's opinion is festooned with tautologies such as "reasonably compact,"[295] "far from compact,"[296] and "bizarrely shaped."[297] In his separate concurrence, Justice Kennedy added to the cacophony by distinguishing the compactness required for the creation of a section 2 district from the compactness required to satisfy the Court's equal protection inquiry.[298] According to Justice Kennedy, "The first *Gingles* condition refers to the compactness of the minority population, not to the compactness of the contested district."[299] But Justice Kennedy's opinion also begged the question: how geographically compact must a majority-minority district be in order to survive constitutional scrutiny? In the absence of specific guidance from the Court, district-line drawers and lower courts have employed a wide range of definitions of compactness, from comparisons to the districts in *Shaw*[300] to mathematical measurements.[301]

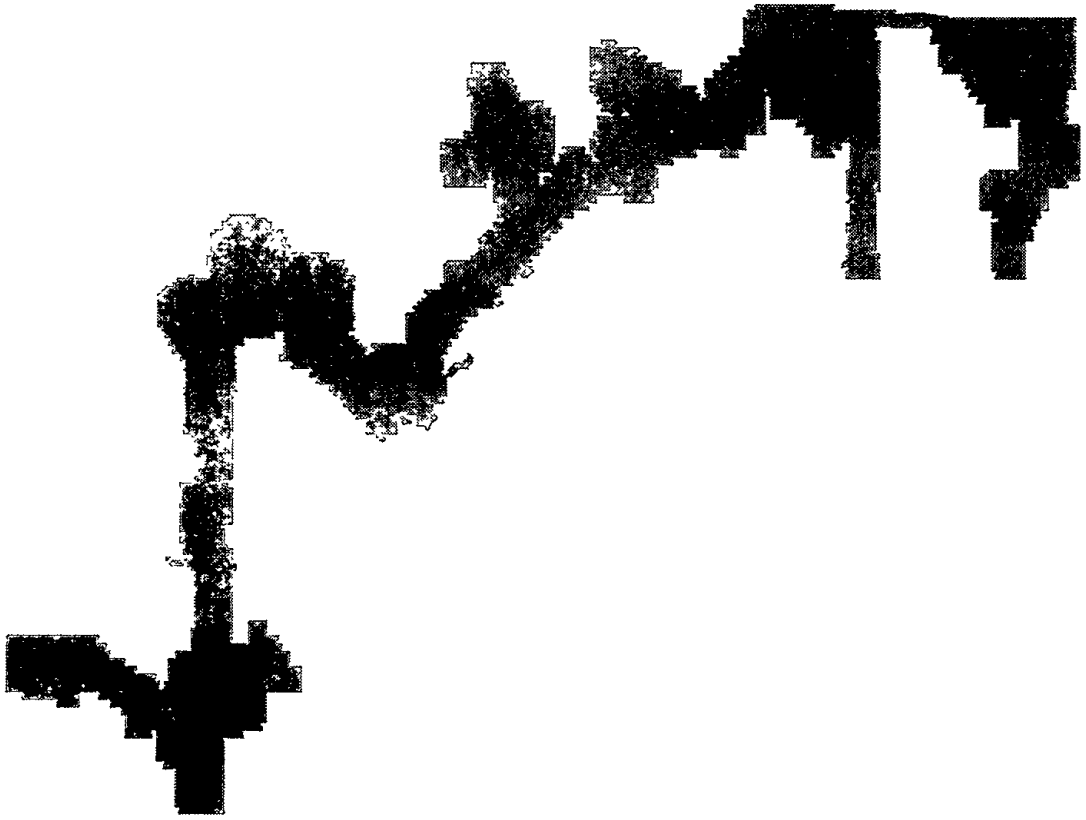
Senate districts would more easily satisfy equal protection compactness requirements than would House districts because it is indisputable that a very different definition of compactness would apply to Senate districts.[302] There can, after all, be only two Senate districts per state into which roughly equal populations must be placed.[303] Thus, "the benchmark for compactness must be the geographic contours, demographics and population dispersion of the entire state; smaller electoral units are simply inapposite."[304] For instance, the Court in *Miller v. Johnson* struck down Georgia's Eleventh congressional district because it spanned too much of the state, "connecting the black neighborhoods of metropolitan Atlanta and the poor black populace of coastal Chatham County, though 260 miles apart in dis-

294. *Id.* at 977.
295. *Id.* at 979.
296. *Id.*
297. *Id.*
298. *See id.* at 997 (Kennedy, J., concurring).
299. *Id.*
300. *See, e.g.*, Clark v. Calhoun City, 21 F.3d 92, 95-96 (5th Cir. 1994).
301. *See, e.g.*, NAACP v. Austin, 857 F. Supp. 560, 575 n.15 (E.D. Mich. 1994).
302. *See* Smith, *supra* note 52, at 64.
303. *See id.*
304. *Id. Cf.* Burton v. Sheheen, 793 F. Supp. 1329, 1366 (D.S.C. 1992), *vacated sub nom* (for reasons other than compactness) (recognizing that compactness considerations for the 124-seat South Carolina House of Representatives would differ from those for the six Congressional districts of South Carolina).

tance and worlds apart in culture."[305] But, as Figure 1 indicates, a Senate district in the same State may have to do precisely what the Eleventh district did if it is to satisfy the constitutional requirements of one-man, one-vote, not to mention the other legitimate aims of districting. The effect of Senate districts is to necessitate the consolidation of minorities too dispersed to form a House district but too proximate to be deemed non-compact in an enlarged electoral unit.

The illustrative maps of Georgia, Arkansas, and Mississippi indicate that compactness is more easily attained for Senate districts, where greater population and topography must be accounted for. Compare these districts to North Carolina's District 12 from *Shaw*, contained in Figure 7.

Figure 7



The dissimilarities could not be greater. Georgia's districts run along a north/south axis, while Arkansas's diagonally divide the state, and Mississippi's Black-enhanced district is largely composed of the historically Black Delta area in the southwestern region of the state. For another perspective on the relative compactness of these pro-

305. *Miller*, 515 U.S. at 908.

posed districts, compare them to the congressional districts for New Hampshire (Figure 8) and Nevada (Figure 9).

Figure 8

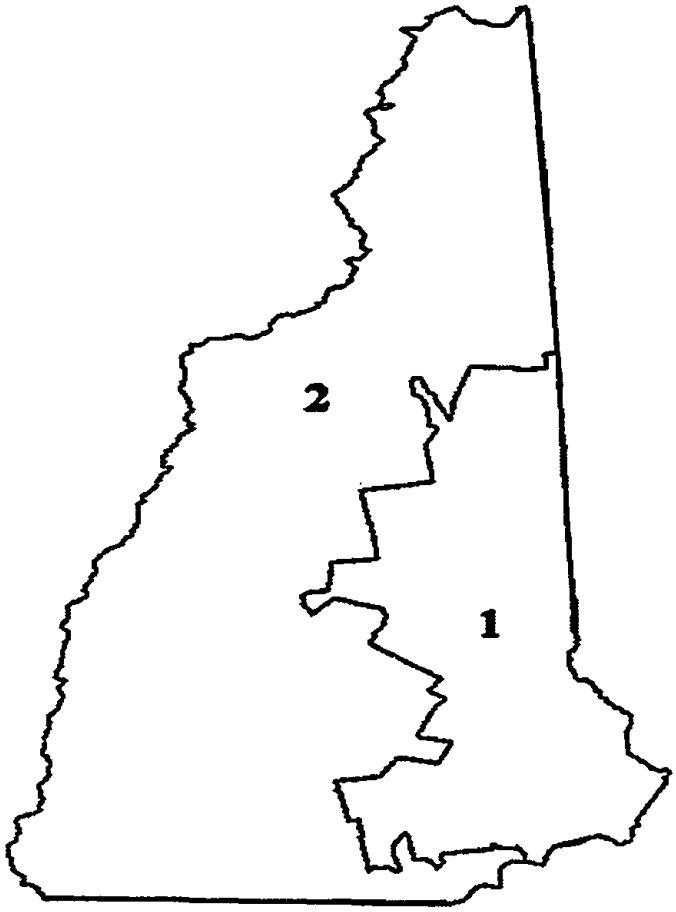
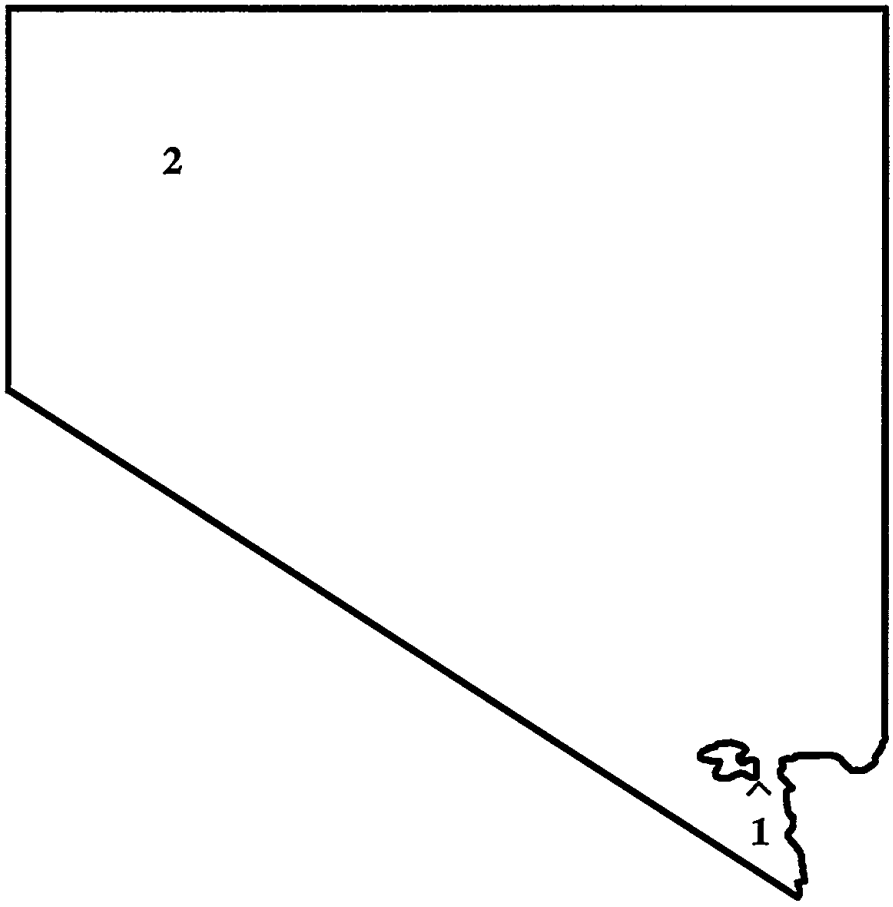


Figure 9



The juxtaposition is, of course, appropriate because states which have only two Congressmen essentially undertake the equivalent of Senate districting when they draw congressional lines. Certainly the proposed Senate districts for Georgia, Arkansas, and Mississippi are no odder in shape than the congressional districts for New Hampshire and Nevada.

Compact Senate districts can also be created in other Southern states with relatively dispersed Black populations. Figures 10 and 11 contain proposed districts for Alabama and South Carolina. These states have been selected because they contain some of the highest concentrations of minorities in the country, as well as dispersed minority populations placed into congressional districts which have been challenged under *Shaw*. Like Georgia, the districts proposed for Alabama run along a north/south axis. South Carolina's districts run along an east/west axis. In each of the state's minority-enhanced districts, the Black voting age population is increased substantially, rising by nearly 12% in Alabama and 10% in South Carolina. These increases would have more than offset the margin by which two ultra-

Figure 10

Proposed U.S. Senate Districts ALABAMA

(by Block Group)

Split Counties

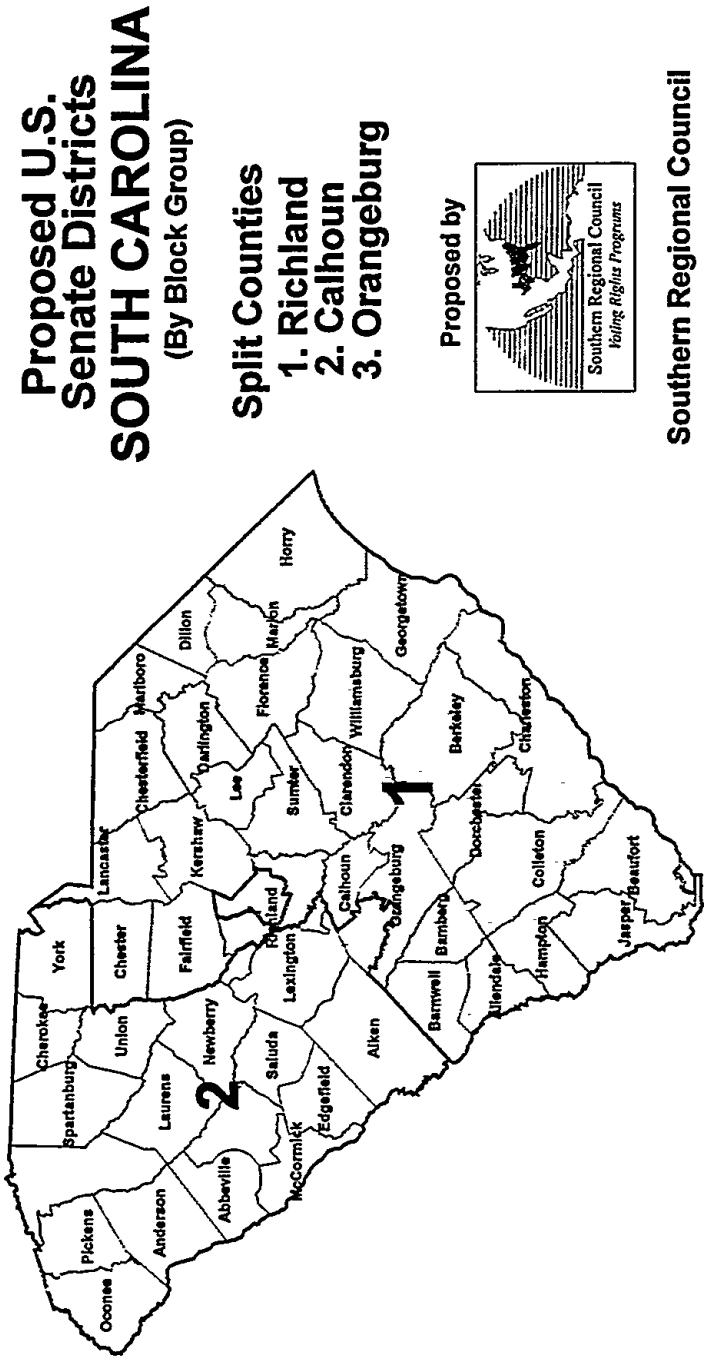
1. Pickens
2. Hale
3. Perry
4. Shelby
5. Jefferson
6. Talladega

Proposed by

Southern Regional Council

USENATE	POPULATION	DEVIATION_	WHITE	WHPER	BLACK	BLPER	TOTAL_VAP	WHITE_18	WHVAPER	BLACK_18	BLVAPER
1	2020112	-0.01	1223926	60.59	774703	38.35	1465179	940114	64.16	510036	34.81
2	2020475	0.01	1751871	86.71	246002	12.18	1516620	1333731	87.94	167645	11.05
Total	4040587	--	2975797	73.65	1020705	25.26	2981799	2273845	76.26	677681	22.73

Figure 11



USENATE	POPULATION	DEVIATION_	WHITE	WHPER	BLACK	BLKPER	VAPTOT	WHITE_18	WHVAPER	BLACK_18	BLVAPER
1	1743748	0.02	1026859	58.89	696203	39.93	1258923	786217	62.45	458241	36.40
2	1742955	-0.02	1380115	79.18	343681	19.72	1307573	1061261	81.16	232799	17.80
Total	3486703	--	2406974	69.03	1039884	29.82	2566496	1847478	71.98	691040	26.93

conservative Republicans won these states' most recent Senate elections.[306]

In sum, whether or not Senate districts avoid strict scrutiny, their geographic peculiarities distinguish them from House districts and allow states to assert compliance with section 2 of the Voting Rights Act as a compelling interest for the creation of a Black-majority or Black-enhanced district.

C. A Note on Influence Versus Majority-Minority Districts: Too Little and Too Much Influence

The districts proposed above are, of course, illustrative. The existence of vote dilution in any state is a matter to be determined in litigation. The illustrative districts are intended to demonstrate that constitutional remedies are possible.

Minorities do not constitute a majority in any of the exemplary districts. Rather, these are so-called "influence districts," in which minorities constitute a substantial percentage short of a majority. While the Supreme Court has not decided whether influence districts are a cognizable remedy in section 2 litigation, it has recently intimated its approval of such claims.[307] Moreover, the validity of influence districts flows inextricably from the predominance test of *Miller v. Johnson*. If race is an acceptable districting criterion only when used in moderation, then a majority-minority district will sometimes be impossible without running afoul of the predominance rule. However, when traditional districting principles are not subordinated to race, the result will often be influence districts. Indeed, in the *Shaw* line of cases, most of the districts redrawn as a result of the Court's rulings became influence districts.[308] Thus, the Supreme Court has implicitly endorsed this type of remedy for vote dilution.

The proposed districts may be attacked simultaneously as affording racial minorities too much and too little influence. As is true in the case of House districts, districting to enhance minority representation in one district reduces minority influence in adjacent districts. In this regard, critics might charge that the creation of the minority-enhanced districts are a net loss for racial minorities because the representative in the White-enhanced district will now be free to ignore

306. Republican Strom Thurmond won by 9.2% in South Carolina. *See* Greenblatt & Wells, *supra* note 12, at 3256. Republican Jeff Sessions won by 6.2% in Alabama. *See id.* at 3250.

307. Smith, *supra* note 52, at 61 n.306.

308. *See* Sack, *supra* note 203, at A1.

minority concerns. Unless one posits that Senators are inherently more responsive to minorities than Congressmen, however, there is inferential evidence that minority concerns are being ignored even in the absence of Senate districts. As Grofman and Handly concluded in their 1995 study of the effects of the Voting Rights Act on House elections:

> Because it [is] clear that blacks are unlikely to have voted for the Republican candidate, the Republican representative has no incentive to take black interests into account. *Indeed, there is no relationship between the percentage black of a district and support for issues endorsed by blacks among southern Republican House members—southern Republicans in the 1990s are simply uniformly very conservative.*[309]

Moreover, the actual outcomes of Senate contests in the South belie claims that Blacks have significant influence in the current system of at-large elections. Conservative White Republicans now outnumber Democrats in the South's Senate delegation by three to one.[310] And even in recent contests where moderate, Black-supported candidates have prevailed, they have done so by only the narrowest of margins.[311] Senate districts, by contrast, would create safer Democratic seats—and hence more secure Black influence scenarios—than presently exist.

If minority-enhanced districts over-aggregate minority influence in a single district, some will argue alternatively that these same districts do not provide enough influence. Although majority-minority Senate districts are certainly feasible,[312] the illustrative districts, which reflect states with some of the highest concentrations of racial minorities, suggest that Senate districting would tend to produce more influence than majority-minority districts. In this sense, Senate districts may be said to provide too little influence. This criticism, however, simply underscores the modesty of my proposal and the likelihood that Senate districting can be accomplished without over-using race in

309. Grofman & Handley, *supra* note 275, at 258 (emphasis added).

310. There are eight Democrats out of the twenty-four Senators from the South. *See* Greenblatt & Wells, *supra* note 12, at 3238.

311. *See id.* at 3234 ("The razor-thin victories of [Mary] Landrieu and [Max] Cleland—neither won more than 50 percent of the vote—masked a greater-underlying Republican trend in the South. Republicans defended eight Southern seats, most with relative ease, and won seats in Alabama and Arkansas that had long been held by Democrats.").

312. For instance, by combining the Black and Hispanic populations of southern Texas, a majority-minority Senate district can be drawn in that state. Because of the size of Texas, it is not possible to display the proposed Senate district graphically. However, the underlying data for such a district is on file with the Southern Regional Counsel in Atlanta, Georgia.

violation of *Shaw v. Reno*. Moreover, the criticism is misplaced. Even if a majority-minority district is always preferable to an influence district, where it is not possible to create the former, surely critics of influence districts would not prefer the status quo.

While minority-enhanced Senate districts do not assure the election of a minority candidate, as is characteristic of majority-minority districts, such districts can increase the opportunity to elect a minority candidate in less apparent, yet still significant, ways. For example, minority candidates seeking statewide office often have difficulty raising sufficient campaign funds.[313] This burden is lessened by having to run in half the state rather than in an entire jurisdiction. Similarly, because minority candidates often lack the name recognition of their White opponent, running in a smaller geographic area may allow them to overcome this handicap more easily. I do not suggest that either of these variables is as important as race. In assessing the likely effect of a minority influence Senate district, however, we should not overlook these considerations.

Setting aside the race of the eventual winning candidate, minority-enhanced Senate districts would reinvent Black politics by making Southern White Democrats elected to the Senate more responsive to Black concerns. An anomaly of race and partisanship in the South is that while victorious White Democrats often owe their elections to overwhelming Black support, their voting patterns will not necessarily reflect this fact. In a 1995 study of congressional roll call votes on issues of particular importance to Blacks, Charles Cameron, David Epstein, and Sharyn O'Halloran concluded that districts in the South containing a Black population of between 25 to 35 percent did not significantly improve White representatives' responsiveness to Black

313. The ill-fated Senate bid of former governor Douglas L. Wilder, the nation's first Black elected governor, amply illustrates the limitations of transferring success at obtaining one office to obtaining a Senate seat. *See* Kent Jenkins, Jr., & Robert O'Harrow, Jr., *Wilder, In Exchange for Endorsement, Asks Robb for Help Paying His Debts*, WASH. POST., Oct. 21, 1994, at D1 (stating that Wilder had to lend his Senate campaign $54,000 of his own money and ended up $50,000 in debt). *See also* Kenneth J. Cooper, *More Blacks Run for Statewide Offices*, WASH. POST, Oct. 29, 1994, at A12 (noting the fund-raising difficulties of two Black Senate candidates—United States Representative Alan Wheat and Ron Simms, a county commissioner in Washington state—who had previously represented predominantly White constituencies); *U.S. Senate Struggles with Campaign Finance Reform; Complex Plan to Set Spending Limits Spurs Bickering Between Democrats, GOP*, ARIZ. REPUBLIC, June 14, 1993, at A1 (reporting view of Hispanic congressman who contends that minority representatives have difficulty raising money from individual contributors).

interests.[314] Thus, the authors concluded, "there is no reason to have districts that are between 25 and 35 percent black, as those voters could be usefully allocated in other districts."[315] In contrast, when the Black population is increased to the 35% to 50% range, "significant improvements in representation occur."[316] Extrapolating these findings to the Senate, it is significant that, with the exception of Arkansas, each of the proposed minority-enhanced districts caused an increase in the minority voting age population to within the range where the authors of the study observed a significant increase in responsiveness to minority concerns. As for Arkansas, the 35% to 50% optimal range model does not imply that Senate districting would not be beneficial to minorities in that state. Rather, this model simply suggests that the minority-enhanced district should contain less than the 25.40% Black voting age population proposed.

Finally, if the failure to focus on the Senate holds any lessons for voting rights advocates it is that the long term is as important as the short term. By the middle of the twenty-first century, racial minorities will comprise nearly one-half the nation, and the possibilities for creating majority-minority Senate districts will be correspondingly greater.[317]

Conclusion

The second Reconstruction is the product of daring, innovative litigation and legislative stratagems by civil rights advocates. Its preservation and advancement will require nothing less. Some may argue that the time and attention of the voting rights community should be devoted to surer bets than Senate districts, but *Shaw* and its progeny demonstrate that there are no sure bets anymore. A right achieved one day is just as likely to be deprived the next unless minorities play a meaningful role in constituting the Senate, which confirms the judiciary that enforces and interprets federal rights.

If Senate districts sound novel, it is because legal scholars have heretofore under-appreciated the significance of the Seventeenth Amendment. Debates regarding the Amendment are substantially discussions about race and remedies, and a fair reading of the legislative history reveals that the 62nd Congress which enacted the Amend-

314. *See* Charles Cameron et al., *Do Majority-Minority Districts Maximize Black Representation in Congress?* 29 (March 1995) (unpublished manuscript on file with author).

315. *Id.*

316. *Id.*

317. *See* Smith, *supra* note 52, at 62 n.314.

ment was as concerned about the possible implied repeal of the Fifteenth Amendment as it was about the direct election of Senators. The enabling authority of the Fifteenth Amendment is the constitutional basis for the Voting Rights Act under which courts have imposed single-member districts on a variety of at-large electoral schemes. The Fifteenth Amendment and the Voting Rights Act empower courts to do the same with respect to at-large Senate contests.

It is highly unlikely that the 61st and 62nd Congresses intended that the remedial powers that Republicans fought so hard to preserve under the Fifteenth Amendment could be as easily invalidated under the Fourteenth Amendment as *Shaw v. Reno* and its progeny have allowed. *Shaw v. Reno* simply does not apply to Senate districts. Even assuming its applicability, however, the characteristics of race-based districting that have imperiled House districts—namely a supposed over-use of race and a lack of geographic compactness—do not threaten the constitutionality of Senate districts. Partisan gerrymanders for Senate districts will in most instances correlate with racial gerrymanders. And because Senate districts, by necessity, are larger and more populous than House districts, they are not constrained by the restrictive definitions of compactness that have been applied to House districts.

It is appropriate to end where I began. Perhaps the Senatorial prerogative most directly relevant to the preservation of the second Reconstruction is the Senator's role in selecting members of the federal bench. Since 1840, it has been customary for Senators of the same party as the President to select the federal district judges for their states.[318] This is no small source of power, for despite widely-held beliefs to the contrary,

> district judges do make lots of law, not only in their opinions but, perhaps more importantly, in the basic fact-finding they perform . . . . The trial record critically determines whether an appellate court will sustain a ruling that prison conditions are unconstitutionally cruel or inhumane; that market power exists in an antitrust suit; or that Title VII sexual harassment has occurred.[319]

More broadly, in recent times, the Senate's advice and consent has proved pivotal in the shaping of law that profoundly affects racial minorities. Recall that Justice Clarence Thomas was confirmed by only four votes, an outcome which might have been altered had the

318. *See* JOSEPH P. HARRIS, THE ADVICE AND CONSENT OF THE SENATE 314-25 (1953).

319. Patricia M. Wald, *Random Thoughts on a Random Process: Selecting Appellate Judges*, 6 J.L. & POL. 15, 15-16 (1989).

Southern Democrats who provided his margin of victory been elected from Senate districts, or had there been more minorities in the Senate. Perhaps the seeds of *Shaw v. Reno* and the beginning of the demise of the second Reconstruction were planted in the Senate with this vote. *Shaw* and its progeny were decided by votes of five to four, with Justice Thomas, the lone person of color, voting in the majority.

Appendix A

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
APPLING	1980	Senate	3,098		1,622			
	1990	Governor	1,988		1,483			
	1992	President	2,455		2,514			
	1992	Senate	2,413		2,616			
	1992	Senate**	1,255		1,493			
	1994	Governor	1,550		2,417			
	1996	President	2,070		2,572			
	1996	Senate	2,068		2,275			
TOTAL			16,897	49.86%	16,992	50.14%	25.00%	75.00%
ATKINSON	1980	Senate	1,517		531			
	1990	Governor	844		607			
	1992	President	1,056		779			
	1992	Senate	1,059		533			
	1992	Senate**	611		413			
	1994	Governor	629		672			
	1996	President	823		784			
	1996	Senate	929		625			
TOTAL			7,468	60.17%	4,944	39.83%	87.50%	12.50%
BACON	1980	Senate	2,047		1,021			
	1990	Governor	1,072		745			
	1992	President	1,423		1,301			
	1992	Senate	1,441		1,129			
	1992	Senate**	636		665			
	1994	Governor	726		916			
	1996	President	1,360		1,580			
	1996	Senate	1,724		1,312			
TOTAL			10,429	54.61%	8,669	45.39%	62.50%	37.50%
BAKER	1980	Senate	1,253		178			
	1990	Governor	722		346			
	1992	President	864		391			
	1992	Senate	881		308			
	1992	Senate**	669		205			
	1994	Governor	565		331			
	1996	President	955		408			
	1996	Senate	933		367			
TOTAL			6,842	72.97%	2,534	27.03%	100.00%	0.00%
BALDWIN	1980	Senate	4,176		3,926			
	1990	Governor	4,473		3,241			
	1992	President	5,813		4,262			
	1992	Senate	5,956		4,006			
	1992	Senate**	3,492		2,982			
	1994	Governor	4,313		4,031			
	1996	President	5,740		4,570			
	1996	Senate	6,096		4,182			
TOTAL			40,059	56.22%	31,200	43.78%	100.00%	0.00%
BEN HILL	1980	Senate	3,149		1,225			
	1990	Governor	1,908		1,357			
	1992	President	2,348		1,476			
	1992	Senate	2,796		1,404			
	1992	Senate**	1,334		733			
	1994	Governor	1,605		1,249			
	1996	President	2,198		1,516			
	1996	Senate	2,330		1,399			
TOTAL			17,668	63.04%	10,359	36.96%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
BERRIEN	1980	Senate	3,254		1,225			
	1990	Governor	1,709		1,211			
	1992	President	2,103		1,637			
	1992	Senate	2,797		1,771			
	1992	Senate**	1,391		851			
	1994	Governor	1,861		1,636			
	1996	President	2,066		1,950			
	1996	Senate	2,863		1,754			
TOTAL			18,044	59.99%	12,035	40.01%	100.00%	0.00%
BIBB	1980	Senate	23,979		19,610			
	1990	Governor	22,686		13,653			
	1992	President	28,070		19,847			
	1992	Senate	32,778		19,799			
	1992	Senate**	19,688		14,098			
	1994	Governor	21,171		16,279			
	1996	President	26,727		20,778			
	1996	Senate	29,024		19,718			
TOTAL			204,123	58.67%	143,782	41.33%	100.00%	0.00%
BLECKLY	1980	Senate	2,290		1,098			
	1990	Governor	1,268		1,238			
	1992	President	1,710		1,570			
	1992	Senate	1,995		1,272			
	1992	Senate**	1,040		947			
	1994	Governor	1,074		1,570			
	1996	President	1,365		1,632			
	1996	Senate	1,694		1,339			
TOTAL			12,436	53.83%	10,666	46.17%	75.00%	25.00%
BRANTLEY	1980	Senate	2,146		725			
	1990	Governor	1,461		684			
	1992	President	1,883		1,541			
	1992	Senate	2,000		1,437			
	1992	Senate**	982		932			
	1994	Governor	958		1,639			
	1996	President	1,464		1,739			
	1996	Senate	1,715		1,555			
TOTAL			12,609	55.16%	10,252	44.84%	75.00%	25.00%
BROOKS	1980	Senate	2,418		1,146			
	1990	Governor	1,503		1,230			
	1992	President	1,895		1,779			
	1992	Senate	2,163		1,418			
	1992	Senate**	1,297		1,045			
	1994	Governor	1,533		1,268			
	1996	President	1,977		1,738			
	1996	Senate	1,982		1,471			
TOTAL			14,768	57.10%	11,095	42.90%	100.00%	0.00%
BRYAN	1980	Senate	1,977		1,066			
	1990	Governor	2,198		1,303			
	1992	President	2,031		2,789			
	1992	Senate	2,207		2,933			
	1992	Senate**	1,176		1,714			
	1994	Governor	1,795		2,580			
	1996	President	2,152		3,577			
	1996	Senate	2,520		3,379			
TOTAL			16,056	45.36%	19,341	54.64%	25.00%	75.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
BULLOCK	1980	Senate	4,937		3,325			
	1990	Governor	4,126		3,614			
	1992	President	4,903		5,690			
	1992	Senate	5,839		6,349			
	1992	Senate**	3,161		3,790			
	1994	Governor	4,350		4,626			
	1996	President	5,396		6,646			
	1996	Senate	6,413		6,440			
TOTAL			39,125	49.15%	40,480	50.85%	25.00%	75.00%
BURKE	1980	Senate	3,334		1,343			
	1990	Governor	2,345		1,665			
	1992	President	3,647		2,390			
	1992	Senate	2,866		2,853			
	1992	Senate**	2,052		2,049			
	1994	Governor	2,214		2,137			
	1996	President	3,915		2,590			
	1996	Senate	3,635		2,464			
TOTAL			24,008	57.85%	17,491	42.15%	100.00%	0.00%
CALHOUN	1980	Senate	1,581		479			
	1990	Governor	941		452			
	1992	President	1,301		464			
	1992	Senate	1,617		434			
	1992	Senate**	1,049		221			
	1994	Governor	950		458			
	1996	President	1,217		541			
	1996	Senate	1,307		512			
TOTAL			9,963	73.67%	3,561	26.33%	100.00%	0.00%
CAMDEN	1980	Senate	2,019		1,107			
	1990	Governor	1,737		1,119			
	1992	President	2,952		3,517			
	1992	Senate	2,970		3,041			
	1992	Senate**	1,247		1,817			
	1994	Governor	2,026		2,363			
	1996	President	3,644		4,222			
	1996	Senate	3,144		4,236			
TOTAL			19,739	47.96%	21,422	52.04%	25.00%	75.00%
CANDLER	1980	Senate	1,501		830			
	1990	Governor	1,028		618			
	1992	President	1,192		1,014			
	1992	Senate	1,224		1,052			
	1992	Senate**	711		752			
	1994	Governor	909		894			
	1996	President	1,097		1,131			
	1996	Senate	1,230		1,061			
TOTAL			8,892	54.74%	7,352	45.26%	75.00%	25.00%
CHARLTON	1980	Senate	1,284		543			
	1990	Governor	782		482			
	1992	President	1,127		1,333			
	1992	Senate	1,043		790			
	1992	Senate**	395		681			
	1994	Governor	724		769			
	1996	President	1,386		1,374			
	1996	Senate	1,131		1,253			
TOTAL			7,872	52.14%	7,225	47.86%	50.00%	50.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
CHATHAM	1980	Senate	28,027		28,728			
	1990	Governor	28,843		16,935			
	1992	President	31,533		31,925			
	1992	Senate	33,189		32,633			
	1992	Senate**	21,424		21,143			
	1994	Governor	25,149		22,865			
	1996	President	35,781		31,987			
	1996	Senate	35,097		29,719			
TOTAL			239,043	52.54%	215,935	47.46%	75.00%	25.00%
CHATTA-HOOCHEE	1980	Senate	442		268			
	1990	Governor	378		120			
	1992	President	604		413			
	1992	Senate	525		403			
	1992	Senate**	250		196			
	1994	Governor	389		228			
	1996	President	565		398			
	1996	Senate	463		420			
TOTAL			3,616	59.65%	2,446	40.35%	100.00%	0.00%
CLAY	1980	Senate	928		201			
	1990	Governor	547		247			
	1992	President	778		264			
	1992	Senate	769		295			
	1992	Senate**	493		137			
	1994	Governor	569		218			
	1996	President	787		293			
	1996	Senate	564		294			
TOTAL			5,435	73.61%	1,949	26.39%	100.00%	0.00%
CLAYTON	1980	Senate	15,422		23,123			
	1990	Governor	20,016		15,296			
	1992	President	25,890		23,965			
	1992	Senate	28,682		26,766			
	1992	Senate**	15,119		14,111			
	1994	Governor	18,372		16,015			
	1996	President	30,687		20,625			
	1996	Senate	30,653		21,449			
TOTAL			184,841	53.39%	161,350	46.61%	87.50%	12.50%
CLINCH	1980	Senate	1,264		440			
	1990	Governor	688		353			
	1992	President	759		790			
	1992	Senate	892		440			
	1992	Senate**	394		357			
	1994	Governor	598		440			
	1996	President	973		789			
	1996	Senate	953		613			
TOTAL			6,521	60.70%	4,222	39.30%	87.50%	12.50%
COFFEE	1980	Senate	3,885		2,523			
	1990	Governor	3,246		2,869			
	1992	President	3,275		3,778			
	1992	Senate	3,582		2,996			
	1992	Senate**	1,975		1,870			
	1994	Governor	2,505		3,117			
	1996	President	3,407		3,934			
	1996	Senate	4,128		3,364			
TOTAL			26,003	51.54%	24,451	48.46%	62.50%	37.50%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
COLQUITT	1980	Senate	5,631		3,179			
	1990	Governor	3,318		4,033			
	1992	President	3,891		4,680			
	1992	Senate	4,779		4,463			
	1992	Senate**	3,047		2,701			
	1994	Governor	3,852		4,202			
	1996	President	4,135		4,847			
	1996	Senate	5,053		4,222			
TOTAL			33,706	51.04%	32,327	48.96%	50.00%	50.00%
COOK	1980	Senate	2,597		1,138			
	1990	Governor	1,396		971			
	1992	President	1,731		1,318			
	1992	Senate	2,327		1,364			
	1992	Senate**	1,301		690			
	1994	Governor	1,523		1,011			
	1996	President	1,780		1,354			
	1996	Senate	2,177		1,234			
TOTAL			14,832	62.03%	9,080	37.97%	100.00%	0.00%
CRAWFORD	1980	Senate	1,705		617			
	1990	Governor	1,277		704			
	1992	President	1,648		974			
	1992	Senate	1,745		939			
	1992	Senate**	1,029		733			
	1994	Governor	1,202		935			
	1996	President	1,534		1,290			
	1996	Senate	1,593		1,165			
TOTAL			11,733	61.46%	7,357	38.54%	100.00%	0.00%
CRISP	1980	Senate	3,662		1,480			
	1990	Governor	2,083		1,917			
	1992	President	2,610		2,253			
	1992	Senate	3,050		1,899			
	1992	Senate**	1,646		1,172			
	1994	Governor	2,161		1,919			
	1996	President	2,504		2,321			
	1996	Senate	2,919		2,068			
TOTAL			20,635	57.86%	15,029	42.14%	100.00%	0.00%
DECATUR	1980	Senate	3,687		2,107			
	1990	Governor	2,360		2,561			
	1992	President	3,198		3,142			
	1992	Senate	3,566		2,650			
	1992	Senate**	1,921		1,903			
	1994	Governor	2,252		2,280			
	1996	President	3,245		3,035			
	1996	Senate	3,022		2,665			
TOTAL			23,251	53.34%	20,343	46.66%	75.00%	25.00%
DODGE	1980	Senate	5,004		1,492			
	1990	Governor	2,280		1,718			
	1992	President	3,002		2,287			
	1992	Senate	3,313		1,705			
	1992	Senate**	1,768		1,310			
	1994	Governor	1,877		2,287			
	1996	President	2,696		2,478			
	1996	Senate	3,270		1,995			
TOTAL			23,210	60.31%	15,272	39.69%	87.50%	12.50%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
DOOLY	1980	Senate	2,473		690			
	1990	Governor	1,606		912			
	1992	President	1,993		1,034			
	1992	Senate	2,004		702			
	1992	Senate**	1,712		549			
	1994	Governor	1,416		826			
	1996	President	1,951		990			
	1996	Senate	1,728		965			
TOTAL			14,883	69.06%	6,668	30.94%	100.00%	0.00%
DOUGHERTY	1980	Senate	12,882		13,577			
	1990	Governor	11,976		9,025			
	1992	President	15,236		12,455			
	1992	Senate	17,355		13,225			
	1992	Senate**	10,687		8,660			
	1994	Governor	12,992		8,650			
	1996	President	15,600		11,144			
	1996	Senate	17,121		10,850			
TOTAL			113,849	56.52%	87,586	43.48%	87.50%	12.50%
EARLY	1980	Senate	2,768		864			
	1990	Governor	1,455		1,139			
	1992	President	1,970		1,457			
	1992	Senate	2,718		1,111			
	1992	Senate**	1,314		586			
	1994	Governor	1,469		957			
	1996	President	1,648		1,374			
	1996	Senate	1,954		1,258			
TOTAL			15,296	63.62%	8,746	36.38%	100.00%	0.00%
ECHOLS	1980	Senate	602		160			
	1990	Governor	305		170			
	1992	President	312		361			
	1992	Senate	439		227			
	1992	Senate**	154		158			
	1994	Governor	237		233			
	1996	President	308		335			
	1996	Senate	343		300			
TOTAL			2,700	58.14%	1,944	41.86%	75.00%	25.00%
EFFINGHAM	1980	Senate	2,984		2,321			
	1990	Governor	3,127		1,916			
	1992	President	2,690		3,814			
	1992	Senate	3,070		4,197			
	1992	Senate**	1,673		2,473			
	1994	Governor	2,103		3,149			
	1996	President	3,031		5,022			
	1996	Senate	3,711		4,625			
TOTAL			22,389	44.86%	27,517	55.14%	25.00%	75.00%
EMANUEL	1980	Senate	3,838		1,865			
	1990	Governor	2,555		1,787			
	1992	President	2,951		2,662			
	1992	Senate	2,480		2,676			
	1992	Senate**	1,324		1,772			
	1994	Governor	1,961		1,900			
	1996	President	2,947		2,451			
	1996	Senate	2,787		2,131			
TOTAL			20,843	54.72%	17,244	45.28%	75.00%	25.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
EVANS	1980	Senate	1,617		850			
	1990	Governor	1,327		732			
	1992	President	1,230		1,244			
	1992	Senate	1,281		1,296			
	1992	Senate**	721		796			
	1994	Governor	993		898			
	1996	President	1,117		1,206			
	1996	Senate	1,225		1,024			
TOTAL			9,511	54.17%	8,046	45.83%	50.00%	50.00%
FAYETTE	1980	Senate	3,789		7,666			
	1990	Governor	7,423		11,239			
	1992	President	8,430		17,576			
	1992	Senate	10,149		20,375			
	1992	Senate**	5,765		12,542			
	1994	Governor	8,743		13,385			
	1996	President	9,875		21,005			
	1996	Senate	11,257		20,004			
TOTAL			65,431	34.58%	123,792	65.42%	0.00%	100.00%
FULTON*	1980	Senate	82,652		109,513			
	1990	Governor	88,499		60,151			
	1992	President	147,459		85,451			
	1992	Senate	155,972		95,001			
	1992	Senate**	90,022		53,965			
	1994	Governor	100,894		62,824			
	1996	President	143,306		89,809			
	1996	Senate	139,636		93,106			
TOTAL			948,440	59.34%	649,820	40.66%	87.50%	12.50%
GLASCOCK	1980	Senate	774		283			
	1990	Governor	342		456			
	1992	President	316		516			
	1992	Senate	310		476			
	1992	Senate**	149		379			
	1994	Governor	182		434			
	1996	President	348		532			
	1996	Senate	468		410			
TOTAL			2,889	45.32%	3,486	54.68%	25.00%	75.00%
GLYNN	1980	Senate	6,531		9,898			
	1990	Governor	6,978		6,701			
	1992	President	8,581		11,242			
	1992	Senate	10,100		12,299			
	1992	Senate**	5,161		7,888			
	1994	Governor	5,526		10,179			
	1996	President	8,058		12,305			
	1996	Senate	8,796		12,239			
TOTAL			59,731	41.92%	82,751	58.08%	12.50%	87.50%
GRADY	1980	Senate	3,485		1,398			
	1990	Governor	1,964		1,700			
	1992	President	2,520		2,370			
	1992	Senate	2,851		2,050			
	1992	Senate**	1,684		1,362			
	1994	Governor	2,266		1,736			
	1996	President	2,862		2,674			
	1996	Senate	2,825		2,405			
TOTAL			20,457	56.59%	15,695	43.41%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
GREENE	1980	Senate	2,866		758			
	1990	Governor	1,694		829			
	1992	President	2,259		1,307			
	1992	Senate	2,464		1,454			
	1992	Senate**	1,299		814			
	1994	Governor	1,904		1,092			
	1996	President	2,115		1,702			
	1996	Senate	2,180		1,807			
TOTAL			16,781	63.22%	9,763	36.78%	100.00%	0.00%
HANCOCK	1980	Senate	1,576		546			
	1990	Governor	1,272		433			
	1992	President	2,461		506			
	1992	Senate	1,875		398			
	1992	Senate**	1,200		275			
	1994	Governor	1,326		431			
	1996	President	2,135		438			
	1996	Senate	1,755		502			
TOTAL			13,600	79.40%	3,529	20.60%	100.00%	0.00%
HOUSTON	1980	Senate	9,975		11,219			
	1990	Governor	11,299		8,844			
	1992	President	12,270		14,119			
	1992	Senate	16,426		15,035			
	1992	Senate**	7,875		10,311			
	1994	Governor	11,720		11,509			
	1996	President	12,760		17,050			
	1996	Senate	16,031		15,941			
TOTAL			98,356	48.60%	104,028	51.40%	50.00%	50.00%
IRWIN	1980		Senate	1,969		646		
	1990	Governor	1,034		923			
	1992	President	1,366		973			
	1992	Senate	1,688		853			
	1992	Senate**	1,101		470			
	1994	Governor	1,082		893			
	1996	President	1,225		1,085			
	1996	Senate	1,462		882			
TOTAL			10,927	61.90%	6,725	38.10%	100.00%	0.00%
JEFF DAVIS	1980	Senate	2,184		1,014			
	1990	Governor	1,323		1,012			
	1992	President	2,031		1,947			
	1992	Senate	1,862		2,056			
	1992	Senate**	774		1,074			
	1994	Governor	1,247		1,435			
	1996	President	1,576		1,796			
	1996	Senate	1,760		1,595			
TOTAL			12,757	51.68%	11,929	48.32%	37.50%	62.50%
JEFFERSON	1980	Senate	3,039		1,355			
	1990	Governor	2,430		1,834			
	1992	President	3,220		2,077			
	1992	Senate	2,603		2,256			
	1992	Senate**	1,801		1,768			
	1994	Governor	2,303		1,972			
	1996	President	3,404		2,077			
	1996	Senate	3,160		1,840			
TOTAL			21,960	59.13%	15,179	40.87%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
JENKINS	1980	Senate	1,847		615			
	1990	Governor	769		871			
	1992	President	1,401		929			
	1992	Senate	1,133		1,195			
	1992	Senate**	611		696			
	1994	Governor	835		807			
	1996	President	1,336		955			
	1996	Senate	1,215		944			
TOTAL			9,147	56.61%	7,012	43.39%	50.00%	50.00%
JOHNSON	1980	Senate	2,186		862			
	1990	Governor	1,143		903			
	1992	President	1,473		1,314			
	1992	Senate	1,821		928			
	1992	Senate**	1,010		1,045			
	1994	Governor	775		1,189			
	1996	President	1,194		815			
	1996	Senate	855		1,049			
TOTAL			10,457	56.34%	8,105	43.66%	62.50%	37.50%
LAMAR	1980	Senate	2,337		1,339			
	1990	Governor	1,792		1,203			
	1992	President	2,065		1,707			
	1992	Senate	2,293		1,774			
	1992	Senate**	1,397		1,198			
	1994	Governor	1,897		1,391			
	1996	President	2,125		1,988			
	1996	Senate	2,462		1,973			
TOTAL			16,368	56.56%	12,573	43.44%	100.00%	0.00%
LANIER	1980	Senate	1,164		329			
	1990	Governor	689		349			
	1992	President	811		600			
	1992	Senate	870		429			
	1992	Senate**	450		287			
	1994	Governor	758		330			
	1996	President	818		519			
	1996	Senate	826		485			
TOTAL			6,386	65.74%	3,328	34.26%	100.00%	0.00%
LAURENS	1980	Senate	7,232		3,997			
	1990	Governor	4,917		4,229			
	1992	President	6,184		6,146			
	1992	Senate	6,858		4,375			
	1992	Senate**	3,838		3,667			
	1994	Governor	4,503		5,904			
	1996	President	5,792		6,118			
	1996	Senate	5,757		5,517			
TOTAL			45,081	53.02%	39,953	46.98%	75.00%	25.00%
LEE	1980	Senate	1,876		1,708			
	1990	Governor	1,798		1,847			
	1992	President	1,811		3,061			
	1992	Senate	2,466		3,167			
	1992	Senate**	1,372		1,929			
	1994	Governor	1,801		2,272			
	1996	President	2,005		3,983			
	1996	Senate	2,740		3,669			
TOTAL			15,869	42.31%	21,636	57.69%	12.50%	87.50%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
LIBERTY	1980	Senate	2,849		1,488			
	1990	Governor	2,837		1,502			
	1992	President	3,853		2,832			
	1992	Senate	3,565		2,935			
	1992	Senate**	2,117		1,602			
	1994	Governor	3,153		2,464			
	1996	President	4,462		3,042			
	1996	Senate	4,297		2,862			
TOTAL			27,133	59.16%	18,727	40.84%	100.00%	0.00%
LONG	1980	Senate	1,181		506			
	1990	Governor	821		477			
	1992	President	874		719			
	1992	Senate	838		745			
	1992	Senate**	491		370			
	1994	Governor	575		658			
	1996	President	936		791			
	1996	Senate	1,003		734			
TOTAL			6,719	57.33%	5,000	42.67%	100.00%	0.00%
LOWNDES	1980	Senate	7,070		7,336			
	1990	Governor	6,626		6,158			
	1992	President	9,019		10,276			
	1992	Senate	11,300		10,289			
	1992	Senate**	5,908		6,372			
	1994	Governor	7,024		7,269			
	1996	President	9,470		10,578			
	1996	Senate	10,968		10,362			
TOTAL			67,385	49.54%	68,640	50.46%	37.50%	62.50%
MACON	1980	Senate	2,672		959			
	1990	Governor	1,960		910			
	1992	President	2,491		944			
	1992	Senate	2,322		967			
	1992	Senate**	1,722		705			
	1994	Governor	1,920		901			
	1996	President	2,618		1,006			
	1996	Senate	2,223		1,030			
TOTAL			17,928	70.72%	7,422	29.28%	100.00%	0.00%
MARION	1980	Senate	1,058		501			
	1990	Governor	1,019		546			
	1992	President	1,145		711			
	1992	Senate	1,165		698			
	1992	Senate**	727		435			
	1994	Governor	814		514			
	1996	President	977		678			
	1996	Senate	1,026		749			
TOTAL			7,931	62.14%	4,832	37.86%	100.00%	0.00%
McINTOSH	1980	Senate	1,929		861			
	1990	Governor	1,822		571			
	1992	President	1,925		1,027			
	1992	Senate	1,858		1,120			
	1992	Senate**	1,095		739			
	1994	Governor	1,684		1,205			
	1996	President	1,927		1,219			
	1996	Senate	2,090		1,166			
TOTAL			14,330	64.44%	7,908	35.56%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
MERIWETHER	1980	Senate	3,910		1,765			
	1990	Governor	3,589		1,733			
	1992	President	4,002		2,364			
	1992	Senate	4,535		2,731			
	1992	Senate**	2,440		1,489			
	1994	Governor	3,825		2,398			
	1996	President	3,492		2,259			
	1996	Senate	3,659		2,486			
TOTAL			29,452	63.10%	17,225	36.90%	100.00%	0.00%
MILLER	1980	Senate	1,547		401			
	1990	Governor	604		626			
	1992	President	934		826			
	1992	Senate	1,206		590			
	1992	Senate**	564		351			
	1994	Governor	437		760			
	1996	President	909		847			
	1996	Senate	969		678			
TOTAL			7,170	58.54%	5,079	41.46%	75.00%	25.00%
MITCHELL	1980	Senate	4,167		1,549			
	1990	Governor	2,680		1,790			
	1992	President	3,052		1,917			
	1992	Senate	4,095		1,778			
	1992	Senate**	2,688		955			
	1994	Governor	3,024		1,345			
	1996	President	3,165		2,033			
	1996	Senate	3,806		1,929			
TOTAL			26,677	66.74%	13,296	33.26%	100.00%	0.00%
MONTGOMERY	1980	Senate	1,930		598			
	1990	Governor	957		720			
	1992	President	1,185		1,009			
	1992	Senate	1,265		1,033			
	1992	Senate**	592		731			
	1994	Governor	774		909			
	1996	President	1,233		1,163			
	1996	Senate	1,456		1,104			
TOTAL			9,392	56.38%	7,267	43.62%	100.00%	0.00%
MUSCOGEE*	1980	Senate	15,391		21,565			
	1990	Governor	23,505		12,498			
	1992	President	25,476		21,386			
	1992	Senate	28,164		21,568			
	1992	Senate**	15,773		13,860			
	1994	Governor	19,724		12,258			
	1996	President	24,867		19,360			
	1996	Senate	25,584		19,234			
TOTAL			178,484	55.74%	141,729	44.26%	87.50%	12.50%
PEACH	1980	Senate	3,401		1,840			
	1990	Governor	2,901		1,753			
	1992	President	3,677		2,327			
	1992	Senate	4,061		2,204			
	1992	Senate**	2,635		1,842			
	1994	Governor	2,815		2,142			
	1996	President	3,582		2,676			
	1996	Senate	3,778		2,464			
TOTAL			26,850	60.89%	17,248	39.11%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
PIERCE	1980	Senate	2,173		846			
	1990	Governor	1,518		973			
	1992	President	1,852		1,899			
	1992	Senate	2,241		1,659			
	1992	Senate**	1,100		1,072			
	1994	Governor	1,200		1,700			
	1996	President	1,420		2,319			
	1996	Senate	1,610		2,178			
TOTAL			13,114	50.91%	12,646	49.09%	50.00%	50.00%
PIKE	1980	Senate	1,912		1,126			
	1990	Governor	1,459		1,316			
	1992	President	1,651		1,822			
	1992	Senate	1,822		2,071			
	1992	Senate**	1,001		1,276			
	1994	Governor	1,334		1,685			
	1996	President	1,475		2,054			
	1996	Senate	1,686		2,102			
TOTAL			12,340	47.84%	13,452	52.16%	25.00%	75.00%
PULASKI	1980	Senate	2,318		856			
	1990	Governor	1,293		915			
	1992	President	1,756		1,075			
	1992	Senate	2,005		893			
	1992	Senate**	1,245		653			
	1994	Governor	1,123		989			
	1996	President	1,554		1,196			
	1996	Senate	1,633		1,061			
TOTAL			12,927	62.86%	7,638	37.14%	100.00%	0.00%
QUITMAN	1980	Senate	520		185			
	1990	Governor	370		125			
	1992	President	523		284			
	1992	Senate	417		217			
	1992	Senate**	217		150			
	1994	Governor	485		184			
	1996	President	514		224			
	1996	Senate	378		215			
TOTAL			3,424	68.37%	1,584	31.63%	100.00%	0.00%
RANDOLPH	1980	Senate	2,183		510			
	1990	Governor	1,564		707			
	1992	President	1,756		887			
	1992	Senate	1,979		762			
	1992	Senate**	1,226		402			
	1994	Governor	1,115		635			
	1996	President	1,438		816			
	1996	Senate	1,415		881			
TOTAL			12,676	69.36%	5,600	30.64%	100.00%	0.00%
RICHMOND	1980	Senate	21,128		24,254			
	1990	Governor	18,382		15,593			
	1992	President	28,910		24,227			
	1992	Senate	29,608		28,439			
	1992	Senate**	16,199		19,627			
	1994	Governor	19,751		18,023			
	1996	President	30,738		23,670			
	1996	Senate	32,019		23,020			
TOTAL			196,735	52.66%	176,853	47.34%	87.50%	12.50%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
SCHLEY	1980	Senate	668		362			
	1990	Governor	468		451			
	1992	President	601		511			
	1992	Senate	618		491			
	1992	Senate**	341		307			
	1994	Governor	579		439			
	1996	President	576		470			
	1996	Senate	534		466			
TOTAL			4,385	55.63%	3,497	44.37%	100.00%	0.00%
SCREVEN	1980	Senate	2,291		1,208			
	1990	Governor	1,566		1,205			
	1992	President	1,940		1,705			
	1992	Senate	1,569		1,765			
	1992	Senate**	998		1,174			
	1994	Governor	1,437		1,276			
	1996	President	2,087		1,862			
	1996	Senate	2,010		1,683			
TOTAL			13,898	53.92%	11,878	46.08%	75.00%	25.00%
SEMINOLE	1980	Senate	2,313		604			
	1990	Governor	1,273		849			
	1992	President	1,193		850			
	1992	Senate	1,783		923			
	1992	Senate**	741		427			
	1994	Governor	935		808			
	1996	President	1,265		1,003			
	1996	Senate	1,468		944			
TOTAL			10,971	63.13%	6,408	36.87%	100.00%	0.00%
SPALDING	1980	Senate	6,359		5,972			
	1990	Governor	5,788		4,994			
	1992	President	6,392		7,262			
	1992	Senate	6,292		8,019			
	1992	Senate**	3,380		5,069			
	1994	Governor	4,952		5,824			
	1996	President	6,017		7,376			
	1996	Senate	6,127		7,325			
TOTAL			45,307	46.64%	51,841	53.36%	25.00%	75.00%
STEWART	1980	Senate	1,223		539			
	1990	Governor	1,019		393			
	1992	President	1,540		1,186			
	1992	Senate	1,183		556			
	1992	Senate**	928		370			
	1994	Governor	940		407			
	1996	President	1,537		525			
	1996	Senate	1,147		595			
TOTAL			9,517	67.55%	4,571	32.45%	100.00%	0.00%
SUMTER	1980	Senate	4,781		3,191			
	1990	Governor	3,014		2,976			
	1992	President	4,489		3,616			
	1992	Senate	4,717		3,202			
	1992	Senate**	2,739		1,841			
	1994	Governor	3,527		2,333			
	1996	President	4,239		3,358			
	1996	Senate	4,197		3,158			
TOTAL			31,703	57.25%	23,675	42.75%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
TALBOT	1980	Senate	1,306		637			
	1990	Governor	1,025		565			
	1992	President	1,768		671			
	1992	Senate	1,274		590			
	1992	Senate**	874		431			
	1994	Governor	1,100		549			
	1996	President	1,579		652			
	1996	Senate	1,258		680			
TOTAL			10,184	68.08%	4,775	31.92%	100.00%	0.00%
TALIAFERRO	1980	Senate	674		177			
	1990	Governor	402		214			
	1992	President	755		269			
	1992	Senate	676		374			
	1992	Senate**	355		172			
	1994	Governor	680		306			
	1996	President	615		235			
	1996	Senate	559		232			
TOTAL			4,716	70.44%	1,979	29.56%	100.00%	0.00%
TATTNALL	1980	Senate	3,341		1,538			
	1990	Governor	2,512		1,427			
	1992	President	2,360		2,566			
	1992	Senate	2,649		2,338			
	1992	Senate**	1,437		1,384			
	1994	Governor	1,840		2,152			
	1996	President	2,369		2,518			
	1996	Senate	2,896		2,111			
TOTAL			19,404	54.75%	16,034	45.25%	62.50%	37.50%
TAYLOR	1980	Senate	1,934		620			
	1990	Governor	1,372		876			
	1992	President	1,508		1,078			
	1992	Senate	1,789		1,000			
	1992	Senate**	878		728			
	1994	Governor	1,050		860			
	1996	President	1,450		1,002			
	1996	Senate	1,616		1,013			
TOTAL			11,597	61.77%	7,177	38.23%	100.00%	0.00%
TELFAIR	1980	Senate	3,326		748			
	1990	Governor	1,581		1,203			
	1992	President	2,238		1,324			
	1992	Senate	2,160		1,031			
	1992	Senate**	1,161		653			
	1994	Governor	1,321		1,154			
	1996	President	1,856		1,143			
	1996	Senate	1,897		1,053			
TOTAL			15,540	65.16%	8,309	34.84%	100.00%	0.00%
TERRELL	1980	Senate	2,188		946			
	1990	Governor	1,524		916			
	1992	President	1,942		1,143			
	1992	Senate	2,024		907			
	1992	Senate**	1,398		620			
	1994	Governor	1,213		869			
	1996	President	1,509		1,111			
	1996	Senate	1,485		1,013			
TOTAL			13,283	63.84%	7,525	36.16%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
THOMAS	1980	Senate	5,699		4,100			
	1990	Governor	3,639		3,879			
	1992	President	4,841		5,500			
	1992	Senate	5,840		5,913			
	1992	Senate**	3,174		3,638			
	1994	Governor	4,590		3,695			
	1996	President	5,183		5,649			
	1996	Senate	6,047		5,343			
TOTAL			39,013	50.84%	37,717	49.16%	37.50%	62.50%
TIFT	1980	Senate	4,402		3,380			
	1990	Governor	2,858		3,140			
	1992	President	3,930		4,485			
	1992	Senate	4,575		4,387			
	1992	Senate**	2,847		2,505			
	1994	Governor	3,554		3,756			
	1996	President	4,198		5,613			
	1996	Senate	5,154		4,897			
TOTAL			31,518	49.49%	32,163	50.51%	50.00%	50.00%
TOOMBS	1980	Senate	3,806		2,315			
	1990	Governor	2,565		2,413			
	1992	President	2,648		3,609			
	1992	Senate	2,584		3,737			
	1992	Senate**	1,421		2,735			
	1994	Governor	2,463		3,280			
	1996	President	2,763		3,646			
	1996	Senate	3,038		3,573			
TOTAL			21,288	45.69%	25,308	54.31%	12.50%	87.50%
TREUTLEN	1980	Senate	1,542		500			
	1990	Governor	945		530			
	1992	President	1,116		898			
	1992	Senate	1,123		728			
	1992	Senate**	700		492			
	1994	Governor	652		816			
	1996	President	912		723			
	1996	Senate	1,033		675			
TOTAL			8,023	59.94%	5,362	40.06%	100.00%	0.00%
TURNER	1980	Senate	2,384		596			
	1990	Governor	1,126		722			
	1992	President	1,669		936			
	1992	Senate	1,978		836			
	1992	Senate**	1,039		388			
	1994	Governor	1,079		847			
	1996	President	1,272		924			
	1996	Senate	1,561		887			
TOTAL			12,108	66.37%	6,136	33.63%	100.00%	0.00%
TWIGGS	1980	Senate	2,215		603			
	1990	Governor	1,534		569			
	1992	President	2,097		853			
	1992	Senate	2,517		830			
	1992	Senate**	1,392		628			
	1994	Governor	1,264		850			
	1996	President	1,927		958			
	1996	Senate	2,017		941			
TOTAL			14,963	70.60%	6,232	29.40%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
UPSON	1980	Senate	5,010		2,631			
	1990	Governor	3,188		2,545			
	1992	President	3,740		4,053			
	1992	Senate	4,682		4,290			
	1992	Senate**	2,119		2,190			
	1994	Governor	2,876		3,127			
	1996	President	3,491		3,783			
	1996	Senate	4,084		3,874			
TOTAL			29,190	52.42%	26,493	47.58%	37.50%	62.50%
WARE	1980	Senate	6,224		3,710			
	1990	Governor	3,551		2,466			
	1992	President	4,573		4,573			
	1992	Senate	5,224		3,741			
	1992	Senate**	2,841		2,986			
	1994	Governor	2,963		3,451			
	1996	President	4,171		4,746			
	1996	Senate	4,824		4,718			
TOTAL			34,371	53.07%	30,391	46.93%	57.14%	42.86%
WARREN	1980	Senate	1,438		626			
	1990	Governor	756		623			
	1992	President	1,239		751			
	1992	Senate	986		722			
	1992	Senate**	672		609			
	1994	Governor	859		617			
	1996	President	1,230		735			
	1996	Senate	1,103		645			
TOTAL			8,283	60.86%	5,328	39.14%	100.00%	0.00%
WASHINGTON	1980	Senate	3,489		1,564			
	1990	Governor	2,432		1,617			
	1992	President	3,508		2,384			
	1992	Senate	3,609		2,020			
	1992	Senate**	2,239		1,588			
	1994	Governor	2,711		1,826			
	1996	President	4,057		2,348			
	1996	Senate	3,630		2,254			
TOTAL			25,675	62.20%	15,601	37.80%	100.00%	0.00%
WAYNE	1980	Senate	3,421		2,331			
	1990	Governor	2,459		2,244			
	1992	President	3,052		3,381			
	1992	Senate	3,399		4,019			
	1992	Senate**	1,960		2,082			
	1994	Governor	2,051		3,344			
	1996	President	2,734		3,709			
	1996	Senate	3,742		3,361			
TOTAL			22,818	48.25%	24,471	51.75%	25.00%	75.00%
WEBSTER	1980	Senate	639		170			
	1990	Governor	398		202			
	1992	President	600		208			
	1992	Senate	502		172			
	1992	Senate**	346		125			
	1994	Governor	324		190			
	1996	President	529		235			
	1996	Senate	412		245			
TOTAL			3,750	70.79%	1,547	29.21%	100.00%	0.00%

GEORGIA DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
WHEELER	1980	Senate	1,963		456			
	1990	Governor	550		459			
	1992	President	880		601			
	1992	Senate	912		524			
	1992	Senate**	399		326			
	1994	Governor	589		567			
	1996	President	751		460			
	1996	Senate	813		478			
TOTAL			6,857	63.92%	3,871	36.08%	100.00%	0.00%
WILCOX	1980	Senate	2,160		498			
	1990	Governor	1,071		778			
	1992	President	1,365		916			
	1992	Senate	1,678		696			
	1992	Senate**	875		451			
	1994	Governor	698		971			
	1996	President	1,067		882			
	1996	Senate	1,228		751			
TOTAL			10,142	63.05%	5,943	36.95%	87.50%	12.50%
WILKENSON	1980	Senate	2,050		1,096			
	1990	Governor	1,747		878			
	1992	President	2,286		1,232			
	1992	Senate	2,166		1,087			
	1992	Senate**	1,594		906			
	1994	Governor	1,603		1,310			
	1996	President	2,278		1,332			
	1996	Senate	2,221		1,206			
TOTAL			15,945	63.80%	9,047	36.20%	100.00%	0.00%
WORTH	1980	Senate	2,884		1,508			
	1990	Governor	2,230		2,077			
	1992	President	2,578		3,244			
	1992	Senate	3,527		2,500			
	1992	Senate**	2,200		1,446			
	1994	Governor	2,219		1,979			
	1996	President	2,300		2,752			
	1996	Senate	2,893		2,401			
TOTAL			20,831	53.77%	17,907	46.23%	100.00%	0.00%
TOTALS			3,819,879	55.21%	3,099,548	44.79%	78.10%	21.90%

* - Split County placed in district where majority of voting age population is located.
** - Senate Run Off Election.

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
BANKS	1980	Senate	2,199		660			
	1990	Governor	1,341		981			
	1992	President	1,530		1,551			
	1992	Senate	1,814		1,729			
	1992	Senate**	856		902			
	1994	Governor	1,176		1,555			
	1996	President	1,538		1,925			
	1996	Senate	1,894		2,082			
TOTAL			12,348	52.03%	11,385	47.97%	37.50%	62.50%
BARROW	1980	Senate	3,878	2,475				
	1990	Governor	3,615	2,681				
	1992	President	3,991	4,328				
	1992	Senate	4,473		5,027			
	1992	Senate**	2,321	2,491				
	1994	Governor	3,134	3,607				
	1996	President	3,928	5,342				
	1996	Senate	4,454		5,516			
TOTAL			29,794	48.63%	31,467	51.37%	25.00%	75.00%
BARTOW	1980	Senate	6,133		3,771			
	1990	Governor	5,675		3,879			
	1992	President	6,675		7,742			
	1992	Senate	6,657		7,986			
	1992	Senate**	3,847		4,192			
	1994	Governor	5,327		6,292			
	1996	President	6,853		9,250			
	1996	Senate	7,771		9,521			
TOTAL			48,938	48.18%	52,633	51.82%	25.00%	75.00%
BUTTS	1980	Senate	2,733		1,198			
	1990	Governor	2,042		1,398			
	1992	President	2,448		1,768			
	1992	Senate	2,781		1,894			
	1992	Senate**	1,544		1,093			
	1994	Governor	1,769		1,668			
	1996	President	2,271		2,027			
	1996	Senate	2,433		2,132			
TOTAL			18,021	57.76%	13,178	42.24%	100.00%	0.00%
CARROLL	1980	Senate	8,256		7,441			
	1990	Governor	7,354		6,919			
	1992	President	8,404		10,750			
	1992	Senate	10,009		11,742			
	1992	Senate**	5,506		6,570			
	1994	Governor	7,424		8,082			
	1996	President	8,438		11,157			
	1996	Senate	9,845		10,779			
TOTAL			65,236	47.04%	73,440	52.96%	25.00%	75.00%
CATOOSA	1980	Senate	4,544		6,167			
	1990	Governor	5,868		3,121			
	1992	President	4,817		7,599			
	1992	Senate	4,867		9,322			
	1992	Senate**	2,239		5,563			
	1994	Governor	5,047		4,903			
	1996	President	5,185		8,237			
	1996	Senate	4,454		9,834			
TOTAL			37,021	40.34%	54,746	59.66%	25.00%	75.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
CHATTOOGA	1980	Senate	4,175		2,255			
	1990	Governor	2,836		1,624			
	1992	President	2,976		2,439			
	1992	Senate	3,114		3,064			
	1992	Senate**	1,562		1,704			
	1994	Governor	2,572		1,980			
	1996	President	3,003		2,513			
	1996	Senate	3,341		2,883			
TOTAL			23,579	56.09%	18,462	43.91%	87.50%	12.50%
CHEROKEE	1980	Senate	5,471		6,417			
	1990	Governor	7,926		9,409			
	1992	President	8,113		16,054			
	1992	Senate	9,639		18,203			
	1992	Senate**	5,502		10,147			
	1994	Governor	9,245		13,736			
	1996	President	10,802		24,527			
	1996	Senate	12,382		24,422			
TOTAL			69,080	35.98%	122,915	64.02%	0.00%	100.00%
CLARKE	1980	Senate	7,525		11,838			
	1990	Governor	9,907		8,418			
	1992	President	15,403		10,459			
	1992	Senate	15,444		10,881			
	1992	Senate**	9,873		7,118			
	1994	Governor	12,352		7,509			
	1996	President	15,206		10,504			
	1996	Senate	14,545		10,757			
TOTAL			100,255	56.41%	77,484	43.59%	87.50%	12.50%
COBB*	1980	Senate	29,213		70,293			
	1990	Governor	38,250		67,709			
	1992	President	63,960		103,734			
	1992	Senate	73,213		115,558			
	1992	Senate**	37,469		62,071			
	1994	Governor	55,858		72,861			
	1996	President	73,750		114,188			
	1996	Senate	78,352		111,822			
TOTAL			450,065	38.52%	718,236	61.48%	0.00%	100.00%
COLUMBIA	1980	Senate	4,783		7,475			
	1990	Governor	6,441		8,393			
	1992	President	7,115		16,657			
	1992	Senate	7,639		19,686			
	1992	Senate**	3,508		13,041			
	1994	Governor	6,921		13,499			
	1996	President	8,601		21,291			
	1996	Senate	10,563		20,121			
TOTAL			55,571	31.62%	120,163	68.38%	0.00%	100.00%
COWETA	1980	Senate	4,783		5,821			
	1990	Governor	5,815		5,813			
	1992	President	7,093		9,814			
	1992	Senate	8,404		11,405			
	1992	Senate**	4,238		6,303			
	1994	Governor	6,494		8,096			
	1996	President	7,794		13,058			
	1996	Senate	8,863		13,145			
TOTAL			53,484	42.13%	73,455	57.87%	0.00%	100.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
DADE	1980	Senate	1,561		1,894			
	1990	Governor	1,389		697			
	1992	President	1,782		2,191			
	1992	Senate	1,208		2,459			
	1992	Senate**	578		1,557			
	1994	Governor	1,281		1,530			
	1996	President	1,737		2,295			
	1996	Senate	1,430		2,725			
TOTAL			10,966	41.67%	15,348	58.33%	12.50%	87.50%
DAWSON	1980	Senate	1,146		652			
	1990	Governor	1,232		896			
	1992	President	1,399		1,696			
	1992	Senate	1,704		2,013			
	1992	Senate**	771		977			
	1994	Governor	1,439		1,581			
	1996	President	1,434		2.343			
	1996	Senate	1,701		2,390			
TOTAL			10,826	46.32%	12,548	53.68%	25.00%	75.00%
DEKALB*	1980	Senate	50,883		115,684			
	1990	Governor	71,835		56,899			
	1992	President	124,559		70,282			
	1992	Senate	130,372		77,573			
	1992	Senate**	76,313		47,702			
	1994	Governor	82,345		48,224			
	1996	President	137,903		60,225			
	1996	Senate	133,463		62,912			
TOTAL			807,673	59.95%	539,501	40.05%	87.50%	12.50%
DOUGLAS*	1980	Senate	6,420		8,059			
	1990	Governor	8,202		7,317			
	1992	President	8,869		13,349			
	1992	Senate	10,626		14,931			
	1992	Senate**	5,205		7,129			
	1994	Governor	8,128		9,332			
	1996	President	9,631		14,495			
	1996	Senate	10,596		14,687			
TOTAL			67,677	43.11%	89,299	56.89%	12.50%	87.50%
ELBERT	1980	Senate	4,323		1,862			
	1990	Governor	2,345		1,339			
	1992	President	3,025		2,372			
	1992	Senate	3,549		2,227			
	1992	Senate**	1,339		1,586			
	1994	Governor	2,878		1,562			
	1996	President	2,900		2,393			
	1996	Senate	3,361		2,452			
TOTAL			23,720	60.03%	15,793	39.97%	87.50%	12.50%
FANNIN	1980	Senate	2,235		3,435			
	1990	Governor	3,282		2,310			
	1992	President	2,902		3,255			
	1992	Senate	2,764		4,248			
	1992	Senate**	1,401		2,151			
	1994	Governor	2,849		3,072			
	1996	President	2,741		3,373			
	1996	Senate	2,691		4,026			
TOTAL			20,865	44.65%	25,870	55.35%	12.50%	87.50%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
FLOYD	1980	Senate	11,391		12,230			
	1990	Governor	10,529		8,054			
	1992	President	11,614		12,378			
	1992	Senate	13,595		13,424			
	1992	Senate**	9,399		8,917			
	1994	Governor	9,904		10,000			
	1996	President	10,464		12,426			
	1996	Senate	11,732		12,531			
TOTAL			88,628	49.63%	89,960	50.37%	37.50%	62.50%
FORSYTH	1980	Senate	3,955		3,973			
	1990	Governor	5,318		4,953			
	1992	President	4,936		8,652			
	1992	Senate	6,314		10,133			
	1992	Senate**	3,306		5,105			
	1994	Governor	5,504		7,383			
	1996	President	5,957		15,013			
	1996	Senate	6,872		15,196			
TOTAL			42,162	37.45%	70,408	62.55%	12.50%	87.50%
FRANKLIN	1980	Senate	3,550		1,260			
	1990	Governor	2,158		1,222			
	1992	President	2,505		2,391			
	1992	Senate	3,222		2,544			
	1992	Senate**	1,133		1,428			
	1994	Governor	2,089		2,201			
	1996	President	2,338		2,364			
	1996	Senate	2,737		2,588			
TOTAL			19,732	55.23%	15,998	44.77%	0.00%	100.00%
GILMER	1980	Senate	1,956		2,161			
	1990	Governor	2,100		1,587			
	1992	President	2,311		2,661			
	1992	Senate	1,998		2,911			
	1992	Senate**	1,734		1,988			
	1994	Governor	1,661		2,115			
	1996	President	2,464		3,121			
	1996	Senate	2,494		3,188			
TOTAL			16,718	45.87%	19,732	54.13%	12.50%	87.50%
GORDON	1980	Senate	4,336		3,947			
	1990	Governor	3,736		2,731			
	1992	President	4,103		5,265			
	1992	Senate	4,323		5,291			
	1992	Senate**	2,341		2,899			
	1994	Governor	3,696		3,740			
	1996	President	4,239		5,232			
	1996	Senate	4,556		5,434			
TOTAL			31,330	47.56%	34,539	52.44%	12.50%	87.50%
GWINNETT	1980	Senate	16,939		36,074			
	1990	Governor	40,307		51,755			
	1992	President	44,253		81,822			
	1992	Senate	51,543		92,467			
	1992	Senate**	26,205		47,523			
	1994	Governor	39,556		55,383			
	1996	President	53,819		96,610			
	1996	Senate	57,838		96,668			
TOTAL			330,460	37.18%	558,302	62.82%	0.00%	100.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
HABERSHAM	1980	Senate	3,967		2,656			
	1990	Governor	2,775		2,979			
	1992	President	3,098		4,569			
	1992	Senate	3,819		4,709			
	1992	Senate**	2,185		2,830			
	1994	Governor	2,874		4,018			
	1996	President	3,170		4,730			
	1996	Senate	3,729		4,994			
TOTAL			25,617	44.86%	31,485	55.14%	12.50%	87.50%
HALL	1980	Senate	10,451		10,275			
	1990	Governor	10,167		10,012			
	1992	President	11,214		16,108			
	1992	Senate	14,476		17,298			
	1992	Senate**	7,178		9,310			
	1994	Governor	10,107		13,961			
	1996	President	10,362		19,280			
	1996	Senate	12,766		18,504			
TOTAL			86,721	43.04%	114,748	56.96%	25.00%	75.00%
HARALSON	1980	Senate	3,683		2,393			
	1990	Governor	2,647		2,385			
	1992	President	3,281		3,142			
	1992	Senate	3,859		3,493			
	1992	Senate**	1,988		1,836			
	1994	Governor	2,635		2,736			
	1996	President	2,850		3,260			
	1996	Senate	3,368		3,323			
TOTAL			24,311	51.86%	22,568	48.14%	75.00%	25.00%
HARRIS	1980	Senate	2,197		2,433			
	1990	Governor	2,488		1,762			
	1992	President	2,679		3,316			
	1992	Senate	2,805		3,294			
	1992	Senate**	1,502		2,338			
	1994	Governor	2,378		2,380			
	1996	President	2,779		3,829			
	1996	Senate	2,976		3,570			
TOTAL			19,804	46.35%	22,922	53.65%	12.50%	87.50%
HART	1980	Senate	4,221		1,430			
	1990	Governor	2,966		1,582			
	1992	President	3,614		2,607			
	1992	Senate	3,503		2,329			
	1992	Senate**	1,359		1,711			
	1994	Governor	2,529		2,247			
	1996	President	3,486		2,884			
	1996	Senate	3,343		2,875			
TOTAL			25,021	58.62%	17,665	41.38%	87.50%	12.50%
HEARD	1980	Senate	1,669		674			
	1990	Governor	1,271		656			
	1992	President	1,456		1,190			
	1992	Senate	1,721		1,369			
	1992	Senate**	854		617			
	1994	Governor	1,043		843			
	1996	President	1,248		1,170			
	1996	Senate	1,495		1,247			
TOTAL			10,757	58.07%	7,766	41.93%	100.00%	0.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
HENRY	1980	Senate	5,904		5,797			
	1990	Governor	7,506		7,421			
	1992	President	7,817		12,634			
	1992	Senate	9,424		14,381			
	1992	Senate**	5,065		7,936			
	1994	Governor	7,394		10,628			
	1996	President	9,498		16,968			
	1996	Senate	10,926		16,676			
TOTAL			63,534	40.73%	92,441	59.27%	25.00%	75.00%
JACKSON	1980	Senate	4,862		2,326			
	1990	Governor	3,952		2,952			
	1992	President	3,792		3,976			
	1992	Senate	4,405		4,328			
	1992	Senate**	2,494		2,523			
	1994	Governor	3,334		3,429			
	1996	President	3,746		4,782			
	1996	Senate	4,310		4,934			
TOTAL			30,895	51.37%	29,250	48.63%	25.00%	75.00%
JASPER	1980	Senate	1,721		764			
	1990	Governor	1,308		820			
	1992	President	1,485		1,153			
	1992	Senate	1,509		1,191			
	1992	Senate**	1,026		872			
	1994	Governor	1,234		901			
	1996	President	1,553		1,423			
	1996	Senate	1,528		1,428			
TOTAL			11,364	57.06%	8,552	42.94%	100.00%	0.00%
JONES	1980	Senate	3,497		1,882			
	1990	Governor	3,147		1,788			
	1992	President	3,338		2,770			
	1992	Senate	3,964		2,617			
	1992	Senate**	2,269		2,096			
	1994	Governor	2,799		2,669			
	1996	President	3,195		3,272			
	1996	Senate	3,840		2,970			
TOTAL			26,049	56.49%	20,064	43.51%	87.50%	12.50%
LINCOLN	1980	Senate	1,767		689			
	1990	Governor	1,013		830			
	1992	President	1,327		1,149			
	1992	Senate	1,378		1,527			
	1992	Senate**	577		890			
	1994	Governor	1,022		1,044			
	1996	President	1,334		1,391			
	1996	Senate	1,559		1,360			
TOTAL			9,977	52.91%	8,880	47.09%	50.00%	50.00%
LUMPKIN	1980	Senate	1,857		1,202			
	1990	Governor	1,820		1,298			
	1992	President	2,010		1,972			
	1992	Senate	2,395		2,430			
	1992	Senate**	1,205		1,232			
	1994	Governor	1,753		1,770			
	1996	President	1,949		2,576			
	1996	Senate	1,559		1,360			
TOTAL			15,326	50.37%	15,101	49.63%	37.50%	62.50%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
MADISON	1980	Senate	3,392		1,942			
	1990	Governor	2,207		1,913			
	1992	President	2,393		3,351			
	1992	Senate	2,696		3,138			
	1992	Senate**	1,359		2,340			
	1994	Governor	2,062		2,952			
	1996	President	2,571		3,992			
	1996	Senate	2,762		4,114			
TOTAL			19,442	45.02%	23,742	54.98%	25.00%	75.00%
McDUFFIE	1980	Senate	2,314		2,081			
	1990	Governor	1,637		2,258			
	1992	President	2,640		2,955			
	1992	Senate	2,579		3,119			
	1992	Senate**	1,352		2,521			
	1994	Governor	1,920		2,652			
	1996	President	2,725		3,254			
	1996	Senate	3,158		3,207			
TOTAL			18,325	45.39%	22,047	54.61%	12.50%	87.50%
MONROE*	1980	Senate	2,070		1,367			
	1990	Governor	2,609		1,603			
	1992	President	2,774		2,423			
	1992	Senate	3,420		2,554			
	1992	Senate**	1,924		1,790			
	1994	Governor	2,409		2,294			
	1996	President	2,768		3,054			
	1996	Senate	3,290		2,900			
TOTAL			21,264	54.18%	17,985	45.82%	87.50%	12.50%
MORGAN	1980	Senate	2,425		1,190			
	1990	Governor	1,726		1,369			
	1992	President	2,057		1,797			
	1992	Senate	2,369		1,969			
	1992	Senate**	1,412		1,190			
	1994	Governor	1,765		1,567			
	1996	President	2,111		2,118			
	1996	Senate	2,268		2,098			
TOTAL			16,133	54.82%	13,298	45.18%	87.50%	12.50%
MURRAY	1980	Senate	2,622		1,993			
	1990	Governor	2,596		1,328			
	1992	President	2,764		3,256			
	1992	Senate	2,789		4,075			
	1992	Senate**	1,048		1,709			
	1994	Governor	2,200		2,444			
	1996	President	2,861		3,289			
	1996	Senate	2,660		4,247			
TOTAL			19,540	46.66%	22,341	53.34%	25.00%	75.00%
NEWTON	1980	Senate	5,326		3,642			
	1990	Governor	5,095		3,878			
	1992	President	5,811		5,804			
	1992	Senate	6,498		6,468			
	1992	Senate**	3,979		3,574			
	1994	Governor	5,001		4,808			
	1996	President	6,759		7,274			
	1996	Senate	7,200		7,505			
TOTAL			45,669	51.53%	42,953	48.47%	75.00%	25.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
OCONEE	1980	Senate	2,150		2,112			
	1990	Governor	2,257		2,701			
	1992	President	2,745		4,125			
	1992	Senate	3,222		4,410			
	1992	Senate**	2,038		2,828			
	1994	Governor	2,975		3,231			
	1996	President	2,992		5,116			
	1996	Senate	3,510		4,975			
TOTAL			21,889	42.60%	29,498	57.40%	12.50%	87.50%
OGLETHORPE	1980	Senate		1,865	966			
	1990	Governor	1,361		1,106			
	1992	President	1,491		1,590			
	1992	Senate	1,573		1,848			
	1992	Senate**	862		1,230			
	1994	Governor	1,378		1,338			
	1996	President	1,570		1,826			
	1996	Senate	1,719		1,923			
TOTAL			11,819	49.98%	11,827	50.02%	37.50%	62.50%
PAULDING	1980	Senate	4,904		2,753			
	1990	Governor	4,641		3,519			
	1992	President	5,212		7,180			
	1992	Senate	6,027		8,350			
	1992	Senate**	2,791		3,816			
	1994	Governor	4,384		6,120			
	1996	President	5,699		10,152			
	1996	Senate	6,665		10,041			
TOTAL			40,323	43.71%	51,931	56.29%	25.00%	75.00%
PICKENS	1980	Senate	2,360		1,556			
	1990	Governor	2,043		1,540			
	1992	President	2,359		2,332			
	1992	Senate	2,521		2,459			
	1992	Senate**	2,346		1,999			
	1994	Governor	2,118		1,836			
	1996	President	2,693		3,041			
	1996	Senate	2,916		3,018			
TOTAL			19,356	52.12%	17,781	47.88%	75.00%	25.00%
POLK	1980	Senate	5,403		3,107			
	1990	Governor	3,710		3,034			
	1992	President	4,872		4,158			
	1992	Senate	5,141		4,350			
	1992	Senate**	3,041		2,483			
	1994	Governor	3,902		3,523			
	1996	President	4,298		4,130			
	1996	Senate	4,831		4,151			
TOTAL			35,198	54.88%	28,936	45.12%	100.00%	0.00%
PUTNAM	1980	Senate	2,014		1,041			
	1990	Governor	1,918		1,137			
	1992	President	2,149		1,756			
	1992	Senate	2,354		1,830			
	1992	Senate**	1,412		1,167			
	1994	Governor	1,870		1,616			
	1996	President	2,340		2,306			
	1996	Senate	2,657		2,419			
TOTAL			16,714	55.74%	13,272	44.26%	100.00%	0.00%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
RABUN	1980	Senate	1,986		1,462			
	1990	Governor	1,812		1,450			
	1992	President	1,878		1,902			
	1992	Senate	2,059		2,092			
	1992	Senate**	1,412		1,167			
	1994	Governor	1,796		1,308			
	1996	President	1,943		2,213			
	1996	Senate	2,122		2,364			
TOTAL			15,0008	50.50%	14,709	49.50%	37.50%	62.50%
ROCKDALE	1980	Senate	4,138		5,833			
	1990	Governor	6,686		7,931			
	1992	President	7,003		11,945			
	1992	Senate	8,362		13,544			
	1992	Senate**	4,862		7,650			
	1994	Governor	6,964		8,849			
	1996	President	7,656		13,006			
	1996	Senate	8,919		12,805			
TOTAL			54,590	40.09%	81,563	59.91%	0.00%	100.00%
STEPHENS	1980	Senate	3,996		2,480			
	1990	Governor	2,286		2,414			
	1992	President	2,976		4,047			
	1992	Senate	3,371		3,971			
	1992	Senate**	1,618		2,463			
	1994	Governor	2,498		3,243			
	1996	President	3,072		3,890			
	1996	Senate	3,116		4,132			
TOTAL			22,933	46.26%	26,640	53.74%	12.50%	87.50%
TOWNS	1980	Senate	1,539		1,699			
	1990	Governor	1,799		633			
	1992	President	1,487		1,674			
	1992	Senate	1,660		1,732			
	1992	Senate**	786		883			
	1994	Governor	1,529		1,037			
	1996	President	1,664		2,030			
	1996	Senate	1,919		2,057			
TOTAL			12,383	51.32%	11,745	48.68%	12.50%	87.50%
TROUP	1980	Senate	7,231		6,211			
	1990	Governor	5,906		4,651			
	1992	President	6,412		8,118			
	1992	Senate	7,981		8,744			
	1992	Senate**	3,620		5,096			
	1994	Governor	5,893		6,855			
	1996	President	5,940		8,716			
	1996	Senate	6,778		8,322			
TOTAL			49,761	46.74%	56,713	53.26%	25.00%	75.00%
UNION	1980	Senate	1,775		1,538			
	1990	Governor	2,227		1,194			
	1992	President	2,304		2,533			
	1992	Senate	2,526		2,781			
	1992	Senate**	1,270		1,472			
	1994	Governor	2,232		1,792			
	1996	President	2,175		2,685			
	1996	Senate	2,427		2,876			
TOTAL			16,936	50.10%	16,871	49.90%	37.50%	62.50%

GEORGIA DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
WALKER	1980	Senate	6,379		7,489			
	1990	Governor	6,050		3,446			
	1992	President	6,217		8,489			
	1992	Senate	5,856		10,546			
	1992	Senate**	2,806		6,589			
	1994	Governor	4,945		6,150			
	1996	President	6,743		8,817			
	1996	Senate	5,947		11,109			
TOTAL			44,943	41.78%	62,635	58.22%	0.00%	100.00%
WALTON	1980	Senate	4,529		2,643			
	1990	Governor	4,669		3,290			
	1992	President	4,821		5,619			
	1992	Senate	5,250		5,973			
	1992	Senate**	3,287		3,498			
	1994	Governor	4,499		4,957			
	1996	President	5,618		7,934			
	1996	Senate	6,152		8,310			
TOTAL			38,825	47.90%	42,224	52.10%	25.00%	75.00%
WHITE	1980	Senate	1,874		1,371			
	1990	Governor	1,720		1,421			
	1992	President	1,756		2,477			
	1992	Senate	2,067		2,922			
	1992	Senate**	1,114		1,612			
	1994	Governor	1,934		2,064			
	1996	President	1,864		2,959			
	1996	Senate	2,360		2,915			
TOTAL			14,689	45.29%	17,741	54.71%	25.00%	75.00%
WHITFIELD	1980	Senate	7,497		8,878			
	1990	Governor	6,019		5,854			
	1992	President	7,335		12,003			
	1992	Senate	7,782		13,815			
	1992	Senate**	3,398		7,093			
	1994	Governor	6,093		7,979			
	1996	President	7,720		1,268			
	1996	Senate	6,963		13,984			
TOTAL			52,807	42.70%	70,874	57.30%	25.00%	75.00%
WILKES	1980	Senate	2,241		1,233			
	1990	Governor	1,685		1,264			
	1992	President	1,955		1,535			
	1992	Senate	1,749		1,518			
	1992	Senate**	1,164		1,181			
	1994	Governor	1,657		1,219			
	1996	President	1,971		1,417			
	1996	Senate	1,819		1,391			
TOTAL			14,241	56.97%	10,758	43.03%	87.50%	12.50%
TOTALS			3,406,313	46.42%	3,931,437	53.58%	39.19%	60.81%

* - Split County placed in district where majority of voting age population is located.
** - Senate Run Off Election.

Appendix B

ARKANSAS DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
ARKANSAS	1980	President	4,303		3,409			
	1980	Governor	5,278		3,301			
	1982	Governor	4,717		3,402			
	1996	Senate	3,443		2,914			
TOTAL			17,741	57.66%	13,026	42.34%	100.00%	0.00%
ASHLEY	1980	President	4,552		3,960			
	1980	Governor	4,389		4,269			
	1982	Governor	4,416		3,776			
	1996	Senate	4,485		3,337			
TOTAL			17,842	53.77%	15,342	46.23%	100.00%	0.00%
BRADLEY	1980	President	3,139		1,650			
	1980	Governor	2,925		2,000			
	1982	Governor	2,939		1,918			
	1996	Senate	2,427		1,569			
TOTAL			11,430	61.56%	7,137	38.44%	100.00%	0.00%
CALHOUN	1980	President	1,438		896			
	1980	Governor	1,056		1,438			
	1982	Governor	1,392		1,130			
	1996	Senate	1,252		1,114			
TOTAL			5,138	52.88%	4,578	47.12%	75.00%	25.00%
CHICOT	1980	President	3,445		2,239			
	1980	Governor	3,804		1,841			
	1982	Governor	3,502		1,644			
	1996	Senate	3,043		1,506			
TOTAL			13,794	65.61%	7,230	34.39%	100.00%	0.00%
CLARK	1980	President	6,122		2,743			
	1980	Governor	6,129		3,266			
	1982	Governor	5,358		3,029			
	1996	Senate	4,896		3,254			
TOTAL			22,505	64.68%	12,292	35.32%	100.00%	0.00%
CLEVELAND	1980	President	1,856		1,124			
	1980	Governor	1,410		1,797			
	1982	Governor	1,796		1,313			
	1996	Senate	1,633		1,434			
TOTAL			6,695	54.15%	5,668	45.85%	50.00%	50.00%
COLUMBIA	1980	President	4,445		5,259			
	1980	Governor	3,814		5,397			
	1982	Governor	4,124		4,103			
	1996	Senate	3,750		3,820			
TOTAL			16,133	46.48%	18,579	53.52%	25.00%	75.00%
CRITTENDEN	1980	President	7,022		6,248			
	1980	Governor	7,378		5,057			
	1982	Governor	8,108		4,888			
	1996	Senate	6,771		5,453			
TOTAL			29,279	57.49%	21,646	42.51%	100.00%	0.00%
CROSS	1980	President	3,471		2,895			
	1980	Governor	3,610		3,131			
	1982	Governor	3,490		2,425			
	1996	Senate	3,195		2,764			
TOTAL			13,766	55.11%	11,215	44.89%	100.00%	0.00%
DALLAS	1980	President	2,838		1,596			
	1980	Governor	2,306		2,320			
	1982	Governor	2,512		1,858			
	1996	Senate	1,824		1,455			
TOTAL			9,480	56.74%	7,229	43.26%	75.00%	25.00%

ARKANSAS DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
DESHA	1980	President	3,748		2,057			
	1980	Governor	3,998		1,763			
	1982	Governor	4,169		1,846			
	1996	Senate	2,503		1,604			
TOTAL			14,418	66.48%	7,270	33.52%	100.00%	0.00%
DREW	1980	President	3,757		2,272			
	1980	Governor	3,878		2,423			
	1982	Governor	3,488		2,502			
	1996	Senate	3,116		2,406			
TOTAL			14,239	59.72%	9,603	40.28%	100.00%	0.00%
GRANT	1980	President	3,078		2,007			
	1980	Governor	2,452		2,922			
	1982	Governor	2,721		2,343			
	1996	Senate	2,716		2,689			
TOTAL			10,967	52.40%	9,961	47.60%	75.00%	25.00%
HEMPSTEAD	1980	President	4,671		3,852			
	1980	Governor	4,601		4,147			
	1982	Governor	4,715		2,686			
	1996	Senate	4,277		3,143			
TOTAL			18,264	56.91%	13,828	43.09%	100.00%	0.00%
HOT SPRING	1980	President	6,897		3,561			
	1980	Governor	5,353		5,363			
	1982	Governor	6,491		3,871			
	1996	Senate	4,864		2,966			
TOTAL			23,605	59.96%	15,761	40.04%	100.00%	0.00%
HOWARD	1980	President	2,564		2,386			
	1980	Governor	1,952		3,085			
	1982	Governor	2,068		2,234			
	1996	Senate	2,598		1,965			
TOTAL			9,182	48.71%	9,670	51.29%	50.00%	50.00%
JEFFERSON	1980	President	17,292		10,697			
	1980	Governor	17,232		11,541			
	1982	Governor	19,345		9,864			
	1996	Senate	15,720		9,608			
TOTAL			69,589	62.52%	41,710	37.48%	100.00%	0.00%
LAFAYETTE	1980	President	1,947		1,756			
	1980	Governor	1,714		2,460			
	1982	Governor	1,983		1,750			
	1996	Senate	2,194		1,544			
TOTAL			7,838	51.07%	7,510	48.93%	75.00%	25.00%
LEE	1980	President	3,103		1,711			
	1980	Governor	3,434		1,712			
	1982	Governor	3,621		1,955			
	1996	Senate	3,155		1,314			
TOTAL			13,313	66.55%	6,692	33.45%	100.00%	0.00%
LINCOLN	1980	President	2,517		1,243			
	1980	Governor	2,446		1,516			
	1982	Governor	2,563		1,460			
	1996	Senate	2,405		1,329			
TOTAL			9,931	64.16%	5,548	35.84%	100.00%	0.00%
LITTLE RIVER	1980	President	2,631		2,272			
	1980	Governor	2,592		2,512			
	1982	Governor	2,771		1,821			
	1996	Senate	3,170		1,864			
TOTAL			11,164	56.86%	8,469	43.14%	100.00%	0.00%

ARKANSAS DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
LONOKE	1980	President	5,605		5,619			
	1980	Governor	5,464		6,287			
	1982	Governor	6,302		5,197			
	1996	Senate	6,832		9,226			
TOTAL			24,203	47.90%	26,329	52.10%	25.00%	75.00%
MILLER	1980	President	5,996		6,770			
	1980	Governor	5,609		7,787			
	1982	Governor	5,531		5,277			
	1996	Senate	6,522		6,002			
TOTAL			23,658	47.80%	25,836	52.20%	50.00%	50.00%
MISSISSIPPI	1980	President	8,908		7,170			
	1980	Governor	8,491		8,058			
	1982	Governor	10,356		6,324			
	1996	Senate	6,419		5,266			
TOTAL			34,174	56.03%	26,818	43.97%	100.00%	0.00%
MONROE	1980	President	2,686		2,027			
	1980	Governor	2,837		2,086			
	1982	Governor	3,140		1,789			
	1996	Senate	2,007		1,376			
TOTAL			10,670	59.45%	7,278	40.55%	100.00%	0.00%
NEVADA	1980	President	2,631		1,697			
	1980	Governor	2,537		2,185			
	1982	Governor	2,557		1,546			
	1996	Senate	2,299		1,503			
TOTAL			10,024	59.12%	6,931	40.88%	100.00%	0.00%
OUACHITA	1980	President	7,152		4,329			
	1980	Governor	5,837		5,878			
	1982	Governor	7,320		4,501			
	1996	Senate	6,405		4,568			
TOTAL			26,714	58.09%	19,276	41.91%	100.00%	0.00%
PHILLIPS	1980	President	6,642		4,270			
	1980	Governor	7,543		3,840			
	1982	Governor	6,371		3,471			
	1996	Senate	4,746		2,796			
TOTAL			25,302	63.77%	14,377	36.23%	100.00%	0.00%
PRAIRIE	1980	President	1,928		1,855			
	1980	Governor	1,992		2,158			
	1982	Governor	2,628		1,635			
	1996	Senate	1,847		1,695			
TOTAL			8,395	53.34%	7,343	46.66%	75.00%	25.00%
PULASKI	1980	President	54,839		52,125			
	1980	Governor	64,159		50,339			
	1982	Governor	64,787		46,511			
	1996	Senate	64,343		62,028			
TOTAL			248,128	54.04%	211,003	45.96%	100.00%	0.00%
ST. FRANCIS	1980	President	5,816		4,485			
	1980	Governor	5,627		4,490			
	1982	Governor	5,587		3,983			
	1996	Senate	5,355		3,348			
TOTAL			22,385	57.86%	16,306	42.14%	75.00%	25.00%
UNION	1980	President	6,852		9,401			
	1980	Governor	5,832		10,117			
	1982	Governor	7,875		8,196			
	1996	Senate	7,252		7,463			
TOTAL			27,811	44.15%	35,177	55.85%	0.00%	100.00%

ARKANSAS DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
WOODRUFF	1980	President	2,452		1,204			
	1980	Governor	2,551		1,351			
	1982	Governor	2,855		1,078			
	1996	Senate	1,816		887			
TOTAL			9,674	68.16%	4,520	31.84%	100.00%	0.00%
TOTAL			837,451	55.88%	661,158	44.12%	83.82%	16.18%

ARKANSAS DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
BAXTER	1980	President	4,789	9,684				
	1980	Governor	5,693	9,526				
	1982	Governor	5,063	7,546				
	1996	Senate	6,323	9,215				
TOTAL			21,868	37.81%	35,971	62.19%	0.00%	100.00%
BENTON	1980	President	9,231	18,830				
	1980	Governor	11,939	17,400				
	1982	Governor	10,081	16,241				
	1996	Senate	12,224	33,369				
TOTAL			43,475	33.62%	85,840	66.38%	0.00%	100.00%
BOONE	1980	President	4,576	6,778				
	1980	Governor	5,249	6,457				
	1982	Governor	4,595	5,726				
	1996	Senate	5,028	7,076				
TOTAL			19,448	42.76%	26,037	57.24%	0.00%	100.00%
CARROL	1980	President	2,977	4,273				
	1980	Governor	2,954	4,336				
	1982	Governor	2,275	4,248				
	1996	Senate	3,498	5,331				
TOTAL			11,704	39.15%	18,188	60.85%	0.00%	100.00%
CLAY	1980	President	3,985	3,091				
	1980	Governor	3,144	4,164				
	1982	Governor	4,294	2,537				
	1996	Senate	3,444	2,283				
TOTAL			14,867	55.18%	12,075	44.82%	75.00%	25.00%
CLEBURNE	1980	President	4,021	4,042				
	1980	Governor	4,215	4,330				
	1982	Governor	4,329	3,837				
	1996	Senate	4,163	5,345				
TOTAL			16,728	48.80%	17,554	51.20%	25.00%	75.00%
CONWAY	1980	President	4,698	4,145				
	1980	Governor	4,626	4,773				
	1982	Governor	4,984	3,309				
	1996	Senate	3,464	3,717				
TOTAL			17,772	52.71%	15,944	47.29%	50.00%	50.00%
CRAIGHEAD	1980	President	9,231	11,010				
	1980	Governor	8,747	12,161				
	1982	Governor	10,980	9,040				
	1996	Senate	11,893	12,676				
TOTAL			40,851	47.65%	44,887	52.35%	25.00%	75.00%
CRAWFORD	1980	President	3,948	8,542				
	1980	Governor	3,723	9,216				
	1982	Governor	4,088	7,454				
	1996	Senate	5,255	10,523				
TOTAL			17,014	32.25%	35,735	67.75%	0.00%	100.00%
FAULKNER*	1980	President	8,528	7,544				
	1980	Governor	8,199	7,949				
	1982	Governor	8,949	6,879				
	1996	Senate	8,581	13,314				
TOTAL			34,257	48.98%	35,686	51.02%	75.00%	25.00%
FRANKLIN	1980	President	2,716	3,448				
	1980	Governor	2,362	4,421				
	1982	Governor	2,726	3,379				
	1996	Senate	2,746	3,426				
TOTAL			10,550	41.83%	14,674	58.17%	0.00%	100.00%

ARKANSAS DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
FULTON	1980	President	2,037	2,101				
	1980	Governor	1,760	2,572				
	1982	Governor	1,984	1,754				
	1996	Senate	2,289	1,860				
TOTAL			8,070	49.34%	8,287	50.66%	50.00%	50.00%
GARLAND	1980	President	12,515	15,739				
	1980	Governor	14,153	15,279				
	1982	Governor	15,378	12,614				
	1996	Senate	16,449	19,243				
TOTAL			58,495	48.20%	62,875	51.80%	25.00%	75.00%
GREENE	1980	President	5,996	4,514				
	1980	Governor	5,072	5,825				
	1982	Governor	8,205	4,381				
	1996	Senate	6,106	5,475				
TOTAL			25,379	55.69%	20,195	44.31%	75.00%	25.00%
INDEPENDENCE	1980	President	5,683	5,076				
	1980	Governor	5,265	5,988				
	1982	Governor	6,196	4,061				
	1996	Senate	5,543	6,122				
TOTAL			22,687	51.64%	21,247	48.36%	50.00%	50.00%
IZARD	1980	President	2,750	2,266				
	1980	Governor	2,628	2,667				
	1982	Governor	3,017	1,989				
	1996	Senate	2,794	2,326				
TOTAL			11,189	54.75%	9,248	45.25%	75.00%	25.00%
JACKSON	1980	President	4,651	3,191				
	1980	Governor	3,920	4,175				
	1982	Governor	5,324	2,799				
	1996	Senate	3,980	2,472				
TOTAL			17,875	58.58%	12,637	41.42%	75.00%	25.00%
JOHNSON	1980	President	3,709	3,619				
	1980	Governor	3,243	4,614				
	1982	Governor	3,439	3,558				
	1996	Senate	2,883	3,689				
TOTAL			13,274	46.16%	15,480	53.84%	0.00%	100.00%
LAWRENCE	1980	President	3,547	3,245				
	1980	Governor	2,615	4,624				
	1982	Governor	4,132	2,660				
	1996	Senate	3,385	2,717				
TOTAL			13,679	50.80%	13,246	49.20%	75.00%	25.00%
LOGAN	1980	President	4,098	4,511				
	1980	Governor	3,708	5,402				
	1982	Governor	3,954	4,623				
	1996	Senate	3,393	4,605				
TOTAL			15,153	44.19%	19,141	55.81%	0.00%	100.00%
MADISON	1980	President	2,434	3,180				
	1980	Governor	2,500	3,321				
	1982	Governor	2,188	2,731				
	1996	Senate	2,147	3,076				
TOTAL			9,269	42.96%	12,308	57.04%	0.00%	100.00%
MARION	1980	President	2,046	3,059				
	1980	Governor	2,277	3,291				
	1982	Governor	2,081	2,869				
	1996	Senate	2,468	3,093				
TOTAL			8,872	41.88%	12,312	58.12%	0.00%	100.00%

ARKANSAS DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
MONTGOMERY	1980	President	1,878	1,585				
	1980	Governor	1,577	2,023				
	1982	Governor	1,655	1,612				
	1996	Senate	1,664	1,780				
TOTAL			6,774	49.18%	7,000	50.82%	50.00%	50.00%
NEWTON	1980	President	1,436	2,423				
	1980	Governor	1,621	2,514				
	1982	Governor	2,079	2,549				
	1996	Senate	1,640	2,525				
TOTAL			6,776	40.36%	10,011	59.64%	0.00%	100.00%
PERRY	1980	President	1,606	1,459				
	1980	Governor	1,474	1,878				
	1982	Governor	1,752	1,365				
	1996	Senate	1,586	1,753				
TOTAL			6,418	49.86%	6,455	50.14%	50.00%	50.00%
PIKE	1980	President	2,094	1,916				
	1980	Governor	1,679	2,530				
	1982	Governor	1,844	1,962				
	1996	Senate	2,188	2,013				
TOTAL			7,805	48.10%	8,421	51.90%	50.00%	50.00%
POINSETT	1980	President	4,894	4,040				
	1980	Governor	3,749	5,510				
	1982	Governor	5,784	3,265				
	1996	Senate	4,213	3,167				
TOTAL			18,640	53.84%	15,982	46.16%	75.00%	25.00%
POLK	1980	President	2,617	3,993				
	1980	Governor	3,000	4,012				
	1982	Governor	2,969	3,358				
	1996	Senate	2,429	3,943				
TOTAL			11,015	41.85%	15,306	58.15%	0.00%	100.00%
POPE	1980	President	6,364	7,217				
	1980	Governor	5,980	8,770				
	1982	Governor	7,021	6,618				
	1996	Senate	6,982	11,415				
TOTAL			26,347	43.64%	34,020	56.36%	25.00%	75.00%
RANDOLPH	1980	President	3,070	2,579				
	1980	Governor	2,289	3,590				
	1982	Governor	3,181	1,925				
	1996	Senate	2,896	2,492				
TOTAL			11,436	51.93%	10,586	48.07%	75.00%	25.00%
SALINE	1980	President	10,398	8,330				
	1980	Governor	10,138	9,830				
	1982	Governor	10,761	8,030				
	1996	Senate	8,159	12,510				
TOTAL			39,456	50.48%	38,700	49.52%	75.00%	25.00%
SCOTT	1980	President	2,236	2,228				
	1980	Governor	1,475	3,150				
	1982	Governor	1,833	2,270				
	1996	Senate	1,899	2,348				
TOTAL			7,443	42.68%	9,996	57.32%	0.00%	100.00%
SEARCY	1980	President	1,536	2,459				
	1980	Governor	1,562	3,041				
	1982	Governor	2,066	2,655				
	1996	Senate	1,396	2,122				
TOTAL			6,560	38.96%	10,277	61.04%	0.00%	100.00%

ARKANSAS DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
SEBASTIAN	1980	President	10,141	23,403				
	1980	Governor	11,895	24,010				
	1982	Governor	11,422	20,566				
	1996	Senate	8,017	17,332				
TOTAL			41,475	32.71%	85,311	67.29%	0.00%	100.00%
SEVIER	1980	President	2,854	2,502				
	1980	Governor	2,778	2,763				
	1982	Governor	3,066	1,917				
	1996	Senate	2,446	1,929				
TOTAL			11,144	55.02%	9,111	44.98%	100.00%	0.00%
SHARP	1980	President	2,774	3,420				
	1980	Governor	2,969	3,768				
	1982	Governor	3,439	2,714				
	1996	Senate	3,367	3,661				
TOTAL			12,549	48.06%	13,563	51.94%	25.00%	75.00%
STONE	1980	President	1,968	1,793				
	1980	Governor	1,736	2,470				
	1982	Governor	2,409	1,530				
	1996	Senate	2,101	2,196				
TOTAL			8,214	50.69%	7,989	49.31%	50.00%	50.00%
VAN BUREN	1980	President	2,968	3,090				
	1980	Governor	3,005	3,453				
	1982	Governor	3,220	2,920				
	1996	Senate	3,339	3,508				
TOTAL			12,532	49.14%	12,971	50.86%	25.00%	75.00%
WASHINGTON	1980	President	12,276	20,788				
	1980	Governor	16,223	18,334				
	1982	Governor	14,299	15,406				
	1996	Senate	16,957	29,931				
TOTAL			59,755	41.43%	84,459	58.57%	0.00%	100.00%
WHITE	1980	President	8,750	8,079				
	1980	Governor	8,743	9,245				
	1982	Governor	9,552	7,913				
	1996	Senate	8,370	11,829				
TOTAL			35,415	48.86%	37,066	51.14%	50.00%	50.00%
YELL	1980	President	3,702	3,187				
	1980	Governor	3,127	4,465				
	1982	Governor	3,643	3,310				
	1996	Senate	3,256	3,325				
TOTAL			13,728	49.00%	14,287	51.00%	50.00%	50.00%
TOTALS			795,958	44.79%	981,078	55.21%	33.54%	66.46%

* - Split County placed in district where majority of voting age population is located.

Appendix C

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
ADAMS	1976	President**	6,664		6,210			
	1980	President**	7,515		7,467			
	1987	Governor	6,334		4,465			
	1988	Senate	8,876		6,929			
	1991	Governor	6,631		4,554			
	1992	President	8,255		5,831			
	1996	President	8,218		5,378			
TOTAL			52,493	56.25%	40,834	43.75%	100.00%	0.00%
AMITE	1976	President**	2,499		2,226			
	1980	President**	3,175		2,596			
	1987	Governor	2,624		2,133			
	1988	Senate	3,533		2,947			
	1991	Governor	2,097		2,552			
	1992	President	2,608		2,561			
	1996	President	2,824		2,521			
TOTAL			19,360	52.47%	17,536	47.53%	71.43%	28.57%
ATTALA	1976	President**	4,040		3,116			
	1980	President**	4,102		3,954			
	1987	Governor	3,076		3,101			
	1988	Senate	3,611		4,214			
	1991	Governor	2,384		3,269			
	1992	President	3,015		3,520			
	1996	President	3,092		3,130			
TOTAL			23,320	48.97%	24,304	51.03%	28.57%	71.43%
BENTON	1976	President**	2,341		771			
	1980	President**	2,051		1,219			
	1987	Governor	1,606		941			
	1988	Senate	2,117		1,333			
	1991	Governor	1,755		861			
	1992	President	2,402		1,253			
	1996	President	2,944		993			
TOTAL			15,216	67.37%	7,371	32.63%	100.00%	0.00%
BOLIVAR	1976	President**	7,561		5,136			
	1980	President**	8,659		4,955			
	1987	Governor	6,633		4,060			
	1988	Senate	7,695		6,036			
	1991	Governor	5,146		3,062			
	1992	President	8,801		4,752			
	1996	President	8,670		4,027			
TOTAL			53,165	62.41%	32,028	37.59%	100.00%	0.00%
CARROLL	1976	President**	1,566		1,561			
	1980	President**	2,024		2,027			
	1987	Governor	2,362		2,263			
	1988	Senate	1,891		2,517			
	1991	Governor	1,295		1,789			
	1992	President	1,182		1,695			
	1996	President	2,041		2,629			
TOTAL			12,361	46.05%	14,481	53.95%	28.57%	71.43%
CLAIBORNE	1976	President**	2,603		1,068			
	1980	President**	3,011		3,283			
	1987	Governor	3,449		1,365			
	1988	Senate	3,263		1,185			
	1991	Governor	3,045		1,057			
	1992	President	3,302		935			
	1996	President	3,739		784			
TOTAL			22,412	69.84%	9,677	30.16%	85.71%	14.29%

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
COAHOMA	1976	President**	5,222		3,706			
	1980	President**	6,771		4,344			
	1987	Governor	5,418		3,494			
	1988	Senate	6,058		4,589			
	1991	Governor	5,452		2,704			
	1992	President	6,409		4,120			
	1996	President	5,776		3,441			
TOTAL			41,106	60.89%	26,398	39.11%	100.00%	0.00%
COPIAH	1976	President**	4,196		4,097			
	1980	President**	5,470		4,435			
	1987	Governor	4,675		3,078			
	1988	Senate	5,187		4,423			
	1991	Governor	3,703		4,212			
	1992	President	4,397		4,600			
	1996	President	4,415		4,138			
TOTAL			32,043	52.51%	28,983	47.49%	71.43%	28.57%
COVINGTON	1976	President**	2,819		2,584			
	1980	President**	2,913		3,444			
	1987	Governor	2,528		2,846			
	1988	Senate	3,036		3,993			
	1991	Governor	2,270		3,948			
	1992	President	2,775		3,525			
	1996	President	2,628		3,129			
TOTAL			18,969	44.70%	23,469	55.30%	14.29%	85.71%
DESOTO	1976	President**	7,700		6,193			
	1980	President**	6,185		9,457			
	1987	Governor	4,719		3,207			
	1988	Senate	7,592		13,348			
	1991	Governor	9,993		5,486			
	1992	President	8,833		16,104			
	1996	President	10,282		18,135			
TOTAL			55,304	43.47%	71,930	56.53%	42.86%	57.14%
FRANKLIN	1976	President**	1,547		1,712			
	1980	President**	2,034		2,003			
	1987	Governor	1,700		1,599			
	1988	Senate	2,285		1,871			
	1991	Governor	1,187		1,933			
	1992	President	1,587		1,942			
	1996	President	2,381		1,586			
TOTAL			12,721	50.15%	12,646	49.85%	57.14%	42.86%
GRENADA	1976	President**	3,208		3,526			
	1980	President**	4,116		3,948			
	1987	Governor	4,275		3,038			
	1988	Senate	4,421		4,938			
	1991	Governor	2,728		2,758			
	1992	President	4,203		4,721			
	1996	President	4,402		4,527			
TOTAL			27,353	49.91%	27,456	50.09%	28.57%	71.43%
HINDS	1976	President**	28,293		45,544			
	1980	President**	36,168		44,692			
	1987	Governor	36,250		32,718			
	1988	Senate	46,145		48,412			
	1991	Governor	34,574		32,399			
	1992	President	43,434		45,031			
	1996	President	45,410		35,653			
TOTAL			270,274	48.72%	284,449	51.28%	42.86%	57.14%

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
HOLMES	1976	President**	4,581		2,430			
	1980	President**	5,412		2,689			
	1987	Governor	5,069		2,347			
	1988	Senate	5,774		2,621			
	1991	Governor	4,179		1,873			
	1992	President	4,092		1,694			
	1996	President	4,720		1,536			
TOTAL			33,827	69.01%	15,190	30.99%	100.00%	0.00%
HUMPHREYS	1976	President**	2,139		1,423			
	1980	President**	2,858		1,747			
	1987	Governor	3,216		1,640			
	1988	Senate	2,987		1,857			
	1991	Governor	1,838		1,482			
	1992	President	2,696		1,721			
	1996	President	2,305		1,382			
TOTAL			18,039	61.59%	11,252	38.41%	100.00%	0.00%
ISSAQUENA	1976	President**	524		306			
	1980	President**	586		341			
	1987	Governor	559		316			
	1988	Senate	551		371			
	1991	Governor	421		338			
	1992	President	550		298			
	1996	President	546		269			
TOTAL			3,737	62.53%	2,239	37.47%	100.00%	0.00%
JEFFERSON	1976	President**	2,521		777			
	1980	President**	2,816		731			
	1987	Governor	2,566		639			
	1988	Senate	2,893		639			
	1991	Governor	2,799		716			
	1992	President	2,796		562			
	1996	President	2,531		489			
TOTAL			18,922	80.60%	4,553	19.40%	100.00%	0.00%
JEFFERSON	1976	President**	2,740		1,863			
DAVIS	1980	President**	3,828		2,267			
	1987	Governor	2,767		2,047			
	1988	Senate	3,416		2,598			
	1991	Governor	2,313		2,324			
	1992	President	2,991		2,228			
	1996	President	2,663		1,890			
TOTAL			20,718	57.65%	15,217	42.35%	100.00%	0.00%
JONES*	1976	President**	10,092		11,053			
	1980	President**	11,113		12,893			
	1987	Governor	8,918		10,788			
	1988	Senate	7,666		16,764			
	1991	Governor	5,760		12,568			
	1992	President	8,035		13,824			
	1996	President	7,360		13,020			
TOTAL			58,944	39.33%	90,910	60.67%	0.00%	100.00%
LAWRENCE	1976	President**	2,216		2,092			
	1980	President**	2,676		2,767			
	1987	Governor	2,523		1,987			
	1988	Senate	3,485		2,958			
	1991	Governor	2,745		3,149			
	1992	President	2,582		2,689			
	1996	President	2,481		2,392			
TOTAL			18,708	50.92%	18,034	49.08%	57.14%	42.86%

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
LEAKE	1976	President**	3,389		2,956			
	1980	President**	3,908		3,597			
	1987	Governor	2,910		2,777			
	1988	Senate	3,228		3,878			
	1991	Governor	3,119		3,760			
	1992	President	3,333		3,943			
	1996	President	2,902		3,017			
TOTAL			22,789	48.78%	23,928	51.22%	42.86%	57.14%
LEFLORE	1976	President**	5,313		5,010			
	1980	President**	6,945		5,432			
	1987	Governor	5,899		5,311			
	1988	Senate	6,109		6,123			
	1991	Governor	5,554		3,932			
	1992	President	6,374		5,298			
	1996	President	6,853		4,456			
TOTAL			43,047	54.76%	35,562	45.24%	85.71%	14.29%
LINCOLN	1976	President**	3,988		6,064			
	1980	President**	5,180		7,269			
	1987	Governor	6,154		5,440			
	1988	Senate	6,401		7,560			
	1991	Governor	3,488		6,423			
	1992	President	4,744		7,040			
	1996	President	4,294		5,960			
TOTAL			34,249	42.81%	45,756	57.19%	14.29%	85.71%
MADISON	1976	President**	5,441		4,498			
	1980	President**	7,760		5,951			
	1987	Governor	8,425		7,011			
	1988	Senate	8,266		10,685			
	1991	Governor	7,414		8,216			
	1992	President	9,386		12,810			
	1996	President	9,354		14,467			
TOTAL			56,046	46.83%	63,638	53.17%	42.86%	57.14%
MARSHALL	1976	President**	6,728		2,230			
	1980	President**	7,089		3,408			
	1987	Governor	5,657		2,577			
	1988	Senate	7,244		4,118			
	1991	Governor	4,871		1,835			
	1992	President	7,913		3,847			
	1996	President	7,521		3,272			
TOTAL			47,023	68.84%	21,287	31.16%	100.00%	0.00%
MONTGOMERY	1976	President**	2,387		2,246			
	1980	President**	2,680		2,421			
	1987	Governor	2,266		1,740			
	1988	Senate	2,401		2,344			
	1991	Governor	1,741		1,749			
	1992	President	2,076		2,324			
	1996	President	1,970		1,943			
TOTAL			15,521	51.24%	14,767	48.76%	57.14%	42.86%
PANOLA	1976	President**	5,048		3,307			
	1980	President**	6,040		4,118			
	1987	Governor	5,264		3,143			
	1988	Senate	6,017		5,523			
	1991	Governor	4,173		2,955			
	1992	President	6,066		4,644			
	1996	President	5,408		3,701			
TOTAL			38,016	58.12%	27,391	41.88%	100.00%	0.00%

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
PIKE	1976	President**	5,821		5,782			
	1980	President**	6,440		6,451			
	1987	Governor	6,341		4,449			
	1988	Senate	9,005		6,072			
	1991	Governor	4,189		5,161			
	1992	President	6,279		6,005			
	1996	President	6,302		5,403			
TOTAL			44,377	53.02%	39,323	46.98%	71.43%	28.57%
QUITMAN	1976	President**	2,586		1,274			
	1980	President**	2,836		1,639			
	1987	Governor	2,391		1,437			
	1988	Senate	2,965		1,716			
	1991	Governor	2,047		1,187			
	1992	President	2,422		1,451			
	1996	President	2,186		1,121			
TOTAL			17,433	63.96%	9,825	36.04%	100.00%	0.00%
SHARKEY	1976	President**	1,217		968			
	1980	President**	1,883		958			
	1987	Governor	1,933		997			
	1988	Senate	1,686		1,127			
	1991	Governor	1,202		1,164			
	1992	President	1,526		1,008			
	1996	President	1,566		906			
TOTAL			11,013	60.71%	7,128	39.29%	100.00%	0.00%
SIMPSON	1976	President**	3,585		4,292			
	1980	President**	4,027		5,234			
	1987	Governor	3,855		4,435			
	1988	Senate	4,038		5,644			
	1991	Governor	2,904		5,052			
	1992	President	3,213		5,358			
	1996	President	2,851		4,455			
TOTAL			24,473	41.52%	34,470	58.48%	0.00%	100.00%
SUNFLOWER	1976	President**	4,259		3,420			
	1980	President**	5,021		3,690			
	1987	Governor	4,689		3,398			
	1988	Senate	5,863		4,210			
	1991	Governor	3,871		3,068			
	1992	President	5,050		3,726			
	1996	President	4,960		2,926			
TOTAL			33,713	57.97%	24,438	42.03%	100.00%	0.00%
TALAHATCHIE	1976	President**	2,124		1,748			
	1980	President**	3,434		2,163			
	1987	Governor	3,151		2,191			
	1988	Senate	3,696		2,369			
	1991	Governor	2,861		2,230			
	1992	President	2,902		2,213			
	1996	President	2,990		1,676			
TOTAL			21,158	59.19%	14,590	40.81%	100.00%	0.00%
TATE	1976	President**	3,695		2,465			
	1980	President**	3,852		3,303			
	1987	Governor	2,372		1,638			
	1988	Senate	3,591		4,297			
	1991	Governor	3,752		3,495			
	1992	President	3,519		4,196			
	1996	President	3,195		3,694			
TOTAL			23,976	50.94%	23,088	49.06%	57.14%	42.86%

MISSISSIPPI DISTRICT 1

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
TUNICA	1976	President**	1,667		934			
	1980	President**	2,168		938			
	1987	Governor	1,417		789			
	1988	Senate	1,522		905			
	1991	Governor	1,427		452			
	1992	President	1,451		693			
	1996	President	1,263		557			
TOTAL			10,915	67.45%	5,268	32.55%	100.00%	0.00%
WALTHALL	1976	President**	2,614		2,063			
	1980	President**	2,928		2,668			
	1987	Governor	2,255		1,872			
	1988	Senate	3,319		2,628			
	1991	Governor	1,556		2,066			
	1992	President	2,476		2,728			
	1996	President	2,240		2,239			
TOTAL			17,388	51.67%	16,264	48.33%	71.43%	28.57%
WARREN	1976	President**	5,568		8,234			
	1980	President**	7,323		9,950			
	1987	Governor	8,060		6,820			
	1988	Senate	7,874		10,722			
	1991	Governor	6,090		3,925			
	1992	President	8,175		10,209			
	1996	President	8,774		9,261			
TOTAL			51,864	44.72%	64,121	55.28%	14.29%	85.71%
WASHINGTON	1976	President**	9,165		3,005			
	1980	President**	10,345		8,588			
	1987	Governor	8,889		5,990			
	1988	Senate	10,223		9,483			
	1991	Governor	5,889		5,357			
	1992	President	10,588		7,598			
	1996	President	10,053		6,762			
TOTAL			65,152	58.21%	46,783	41.79%	100.00%	0.00%
WILKINSON	1976	President**	2,502		1,268			
	1980	President**	2,962		1,432			
	1987	Governor	1,137		828			
	1988	Senate	3,035		1,450			
	1991	Governor	1,944		1,069			
	1992	President	3,210		1,399			
	1996	President	2,807		1,016			
TOTAL			17,597	67.53%	8,462	32.47%	100.00%	0.00%
YALOBUSHA	1976	President**	2,586		1,794			
	1980	President**	3,399		2,197			
	1987	Governor	2,266		1,841			
	1988	Senate	3,139		2,353			
	1991	Governor	2,489		1,651			
	1992	President	2,617		2,179			
	1996	President	2,437		1,711			
TOTAL			18,933	57.97%	13,726	42.03%	100.00%	0.00%
YAZOO	1976	President**	3,993		4,237			
	1980	President**	5,373		4,679			
	1987	Governor	5,352		3,782			
	1988	Senate	4,956		4,746			
	1991	Governor	3,858		4,243			
	1992	President	4,880		5,113			
	1996	President	4,754		4,152			
TOTAL			33,166	51.73%	30,952	48.27%	57.14%	42.86%
TOTAL			1,502,887	52.16%	1,378,491	47.84%	70.07%	29.93%

** - Pre-1984 Mississippi Presidential results for electors, figure represents mean tally.

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
ALCORN	1976	President**	6,914	3,430				
	1980	President**	6,236	5,159				
	1987	Governor	4,809	3,029				
	1988	Senate	7,281	4,676				
	1991	Governor	3,070	3,216				
	1992	President	6,373	6,249				
	1996	President	4,964	4,960				
TOTAL			39,647	56.34%	30,719	43.66%	85.71%	14.29%
CALHOUN	1976	President**	2,689	1,874				
	1980	President**	3,237	2,504				
	1987	Governor	2,362	2,263				
	1988	Senate	3,223	2,626				
	1991	Governor	2,612	3,208				
	1992	President	2,462	3,191				
	1996	President	2,178	2,470				
TOTAL			18,763	50.85%	18,136	49.15%	57.14%	42.86%
CHICKASAW	1976	President**	2,838	2,559				
	1980	President**	3,535	2,468				
	1987	Governor	2,747	2,235				
	1988	Senate	4,115	2,568				
	1991	Governor	2,657	2,691				
	1992	President	3,220	3,150				
	1996	President	2,971	2,535				
TOTAL			22,083	54.81%	18,206	45.19%	85.71%	14.29%
CHOCTAW	1976	President**	1,519	1,561				
	1980	President**	1,727	1,918				
	1987	Governor	2,014	1,349				
	1988	Senate	1,851	2,035				
	1991	Governor	1,611	1,354				
	1992	President	1,435	2,026				
	1996	President	2,247	1,715				
TOTAL			12,404	50.92%	11,958	49.08%	50.00%	50.00%
CLARKE	1976	President**	2,758	2,843				
	1980	President**	3,271	3,283				
	1987	Governor	3,324	3,253				
	1988	Senate	2,981	3,961				
	1991	Governor	1,755	3,967				
	1992	President	2,259	4,207				
	1996	President	2,337	3,470				
TOTAL			18,685	42.79%	24,984	57.21%	28.57%	71.43%
CLAY	1976	President**	3,488	2,967				
	1980	President**	4,188	3,406				
	1987	Governor	3,375	2,649				
	1988	Senate	5,444	3,009				
	1991	Governor	3,131	2,192				
	1992	President	4,620	3,297				
	1996	President	4,267	2,948				
TOTAL			28,513	58.21%	20,468	41.79%	100.00%	0.00%
FORREST	1976	President**	7,848	10,730				
	1980	President**	8,275	12,601				
	1987	Governor	8,030	8,795				
	1988	Senate	7,053	14,751				
	1991	Governor	7,371	10,072				
	1992	President	8,333	12,432				
	1996	President	7,965	11,278				
TOTAL			54,875	40.49%	80,659	59.51%	0.00%	100.00%

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
GEORGE	1976	President**	2,948	1,890				
	1980	President**	2,735	3,020				
	1987	Governor	2,330	2,031				
	1988	Senate	2,427	4,453				
	1991	Governor	2,119	2,352				
	1992	President	2,650	4,141				
	1996	President	1,888	3,311				
TOTAL			17,097	44.65%	21,198	55.35%	28.57%	71.43%
GREENE	1976	President**	2,100	1,533				
	1980	President**	1,732	1,757				
	1987	Governor	1,395	1,846				
	1988	Senate	1,416	3,022				
	1991	Governor	1,372	1,884				
	1992	President	1,664	2,406				
	1996	President	1,347	1,947				
TOTAL			11,026	43.37%	14,395	56.63%	14.29%	85.71%
HANCOCK	1976	President**	3,839	3,736				
	1980	President**	3,546	5,098				
	1987	Governor	4,729	3,371				
	1988	Senate	3,984	8,110				
	1991	Governor	6,278	3,437				
	1992	President	4,651	6,422				
	1996	President	4,303	5,820				
TOTAL			31,330	46.54%	35,994	53.46%	42.86%	57.14%
HARRISON	1976	President**	16,360	19,294				
	1980	President**	16,198	24,964				
	1987	Governor	20,901	15,254				
	1988	Senate	16,275	33,149				
	1991	Governor	21,520	13,629				
	1992	President	15,268	25,049				
	1996	President	18,775	25,486				
TOTAL			125,297	44.41%	156,825	55.59%	28.57%	71.43%
ITAWAMBA	1976	President**	4,466	2,141				
	1980	President**	4,833	2,877				
	1987	Governor	3,449	3,301				
	1988	Senate	5,048	2,920				
	1991	Governor	2,421	2,598				
	1992	President	3,635	4,142				
	1996	President	2,987	3,490				
TOTAL			26,839	55.56%	21,469	44.44%	71.43%	28.57%
JACKSON	1976	President**	12,397	17,222				
	1980	President**	12,027	22,360				
	1987	Governor	16,979	13,777				
	1988	Senate	11,204	31,074				
	1991	Governor	14,955	13,986				
	1992	President	13,017	25,321				
	1996	President	13,598	24,918				
TOTAL			94,177	38.78%	148,658	61.22%	28.57%	71.43%
JASPER	1976	President**	3,109	2,356				
	1980	President**	3,801	2,769				
	1987	Governor	3,676	2,777				
	1988	Senate	3,584	3,501				
	1991	Governor	2,234	3,409				
	1992	President	3,059	2,789				
	1996	President	3,170	2,615				
TOTAL			22,633	52.82%	20,216	47.18%	85.71%	14.29%

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
KEMPER	1976	President**	2,436	1,680				
	1980	President**	2,601	1,822				
	1987	Governor	1,932	1,696				
	1988	Senate	2,488	2,002				
	1991	Governor	1,628	2,272				
	1992	President	2,243	1,830				
	1996	President	2,048	1,439				
TOTAL			15,376	54.69%	12,741	45.31%	85.71%	14.29%
LAFAYETTE	1976	President**	4,320	3,692				
	1980	President**	4,838	4,339				
	1987	Governor	3,275	3,887				
	1988	Senate	4,819	5,267				
	1991	Governor	3,233	3,594				
	1992	President	5,224	5,251				
	1996	President	4,646	4,753				
TOTAL			30,355	49.65%	30,783	50.35%	28.57%	71.43%
LAMAR	1976	President**	3,072	4,021				
	1980	President**	2,912	5,170				
	1987	Governor	3,236	5,569				
	1988	Senate	2,853	9,096				
	1991	Governor	2,892	6,706				
	1992	President	3,208	8,259				
	1996	President	3,169	8,609				
TOTAL			21,342	31.03%	47,430	68.97%	0.00%	100.00%
LAUDERDALE	1976	President**	9,207	13,780				
	1980	President**	9,852	14,620				
	1987	Governor	9,692	9,269				
	1988	Senate	9,532	16,458				
	1991	Governor	6,936	12,395				
	1992	President	8,489	17,098				
	1996	President	8,668	15,055				
TOTAL			62,376	38.73%	98,675	61.27%	14.29%	85.71%
LEE	1976	President**	7,475	6,568				
	1980	President**	9,253	7,867				
	1987	Governor	6,939	10,243				
	1988	Senate	10,583	9,841				
	1991	Governor	7,146	8,028				
	1992	President	7,710	12,231				
	1996	President	8,438	11,815				
TOTAL			57,544	46.36%	66,593	53.64%	42.86%	57.14%
LOWNDES	1976	President**	6,127	7,986				
	1980	President**	6,167	9,969				
	1987	Governor	6,420	7,222				
	1988	Senate	7,460	10,367				
	1991	Governor	7,182	6,518				
	1992	President	6,552	10,509				
	1996	President	6,220	9,169				
TOTAL			46,128	42.76%	61,740	57.24%	14.29%	85.71%
MARION	1976	President**	5,236	5,292				
	1980	President**	5,356	5,178				
	1987	Governor	5,062	4,189				
	1988	Senate	5,335	6,374				
	1991	Governor	3,278	5,170				
	1992	President	4,654	5,776				
	1996	President	4,334	5,023				
TOTAL			33,255	47.33%	37,002	52.67%	28.57%	71.43%

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
MONROE	1976	President**	5,929	4,635				
	1980	President**	6,911	4,722				
	1987	Governor	3,874	3,819				
	1988	Senate	7,138	4,864				
	1991	Governor	3,962	3,665				
	1992	President	4,933	5,994				
	1996	President	5,184	5,206				
TOTAL			37,931	53.55%	32,905	46.45%	71.43%	28.57%
NESHOBA	1976	President**	3,891	3,859				
	1980	President**	3,847	5,133				
	1987	Governor	3,501	4,061				
	1988	Senate	4,069	5,795				
	1991	Governor	2,324	5,105				
	1992	President	3,090	6,135				
	1996	President	2,646	4,545				
TOTAL			23,368	40.29%	34,633	59.71%	14.29%	85.71%
NEWTON	1976	President**	2,741	3,813				
	1980	President**	3,375	4,269				
	1987	Governor	2,844	3,967				
	1988	Senate	2,852	5,120				
	1991	Governor	2,366	4,828				
	1992	President	2,146	5,128				
	1996	President	2,163	4,223				
TOTAL			18,487	37.10%	31,348	62.90%	0.00%	100.00%
NOXUBEE	1976	President**	2,067	1,854				
	1980	President**	3,338	1,928				
	1987	Governor	2,802	2,207				
	1988	Senate	3,100	1,804				
	1991	Governor	3,192	1,608				
	1992	President	3,188	1,623				
	1996	President	2,801	1,287				
TOTAL			20,488	62.47%	12,311	37.53%	100.00%	0.00%
OKTIBBEHA	1976	President**	4,274	5,156				
	1980	President**	5,977	6,268				
	1987	Governor	4,478	4,504				
	1988	Senate	6,116	6,497				
	1991	Governor	5,103	4,333				
	1992	President	5,726	6,381				
	1996	President	5,923	6,142				
TOTAL			37,597	48.90%	39,281	51.10%	14.29%	85.71%
PEARL RIVER	1976	President**	5,048	4,297				
	1980	President**	4,969	6,750				
	1987	Governor	4,833	4,898				
	1988	Senate	4,143	9,455				
	1991	Governor	5,386	5,895				
	1992	President	4,683	7,726				
	1996	President	4,892	8,212				
TOTAL			33,954	41.82%	47,233	58.18%	14.29%	85.71%
PERRY	1976	President**	1,949	1,457				
	1980	President**	1,947	2,242				
	1987	Governor	1,533	2,179				
	1988	Senate	1,393	3,316				
	1991	Governor	1,086	2,502				
	1992	President	1,490	2,538				
	1996	President	1,413	2,178				
TOTAL			10,811	39.71%	16,412	60.29%	14.29%	85.71%

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
PONTOTOC	1976	President**	4,014	2,188				
	1980	President**	4,466	3,169				
	1987	Governor	2,735	3,832				
	1988	Senate	4,574	3,490				
	1991	Governor	2,195	3,968				
	1992	President	2,965	4,595				
	1996	President	2,597	4,289				
TOTAL			23,546	47.98%	25,531	52.02%	42.86%	57.14%
PRENTISS	1976	President**	4,384	2,332				
	1980	President**	4,832	3,264				
	1987	Governor	3,989	2,653				
	1988	Senate	5,123	2,876				
	1991	Governor	2,159	2,272				
	1992	President	3,385	4,317				
	1996	President	3,053	3,473				
TOTAL			26,925	55.96%	21,187	44.04%	71.43%	28.57%
RANKIN*	1976	President**	6,938	11,114				
	1980	President**	7,935	16,575				
	1987	Governor	9,599	13,218				
	1988	Senate	8,902	20,836				
	1991	Governor	9,042	18,775				
	1992	President	8,155	24,537				
	1996	President	8,614	24,585				
TOTAL			59,185	31.34%	129,640	68.66%	0.00%	100.00%
SCOTT*	1976	President**	3,632	3,620				
	1980	President**	3,950	4,618				
	1987	Governor	3,450	4,000				
	1988	Senate	4,000	5,163				
	1991	Governor	2,555	4,285				
	1992	President	3,349	5,268				
	1996	President	3,163	4,018				
TOTAL			24,099	43.76%	30,972	56.24%	0.00%	100.00%
SMITH*	1976	President**	2,417	3,143				
	1980	President**	2,450	3,746				
	1987	Governor	2,473	3,443				
	1988	Senate	2,409	4,393				
	1991	Governor	1,652	4,321				
	1992	President	1,968	4,106				
	1996	President	1,858	3,371				
TOTAL			15,227	36.47%	26,523	63.53%	0.00%	100.00%
STONE	1976	President**	1,648	1,575				
	1980	President**	1,801	1,868				
	1987	Governor	2,382	1,934				
	1988	Senate	1,668	3,064				
	1991	Governor	1,809	2,234				
	1992	President	1,447	2,295				
	1996	President	1,551	2,288				
TOTAL			12,306	44.65%	15,258	55.35%	14.29%	85.71%
TIPPAH	1976	President**	4,260	1,887				
	1980	President**	3,842	3,234				
	1987	Governor	2,932	2,323				
	1988	Senate	4,473	3,540				
	1991	Governor	2,265	2,512				
	1992	President	3,475	4,444				
	1996	President	2,992	3,249				
TOTAL			24,239	53.36%	21,189	46.64%	57.14%	42.86%

MISSISSIPPI DISTRICT 2

County	Year	Office	Democrat	% Dem. Votes	Republican	% Rep. Votes	% Dem. Victory	% Rep. Victory
TISHOMINGO	1976	President**	3,590	1,921				
	1980	President**	4,542	2,408				
	1987	Governor	4,338	2,246				
	1988	Senate	5,302	1,983				
	1991	Governor	2,228	1,775				
	1992	President	3,910	3,393				
	1996	President	2,709	2,766				
TOTAL			26,619	61.75%	16,492	38.25%	87.71%	14.29%
UNION	1976	President**	4,993	2,480				
	1980	President**	4,819	3,501				
	1987	Governor	3,189	3,428				
	1988	Senate	4,885	4,070				
	1991	Governor	2,408	3,366				
	1992	President	3,714	5,173				
	1996	President	3,316	4,375				
TOTAL			27,324	50.87%	26,393	49.13%	42.86%	57.14%
WAYNE	1976	President**	3,293	3,005				
	1980	President**	3,438	3,826				
	1987	Governor	3,081	3,570				
	1988	Senate	2,825	5,123				
	1991	Governor	2,366	4,505				
	1992	President	3,064	3,874				
	1996	President	2,652	3,219				
TOTAL			20,719	43.31%	27,122	56.69%	14.29%	85.71%
WEBSTER	1976	President**	2,198	1,926				
	1980	President**	2,142	2,341				
	1987	Governor	1,588	2,472				
	1988	Senate	2,383	2,379				
	1991	Governor	1,461	2,508				
	1992	President	1,746	2,791				
	1996	President	1,379	2,254				
TOTAL			12,897	43.62%	16,671	56.38%	28.57%	71.43%
WINSTON	1976	President**	3,823	3,650				
	1980	President**	4,378	3,934				
	1987	Governor	3,951	3,428				
	1988	Senate	4,968	4,806				
	1991	Governor	2,748	3,341				
	1992	President	3,953	4,311				
	1996	President	3,489	3,498				
TOTAL			27,310	50.32%	26,968	49.68%	57.14%	42.86%
TOTAL			1,251,597	44.54%	1,558,158	55.46%	39.78%	60.22%

* - Split County placed in district where majority of voting age population located.
** - Pre-1984 Mississippi Presidential results for electors, figure represents mean tally.