

Testimony of

# Professor Theodore S. Arrington

May 16, 2006

Testimony of  
Theodore S. Arrington, Ph.D.  
On the Reauthorization of the Voting Rights Act

Before the United States Senate Committee on the Judiciary

16 May 2006  
Washington, D.C.

Thank you Mr. Chairman for inviting me to testify before the Committee. Let me begin by stating that the Voting Rights Act is still needed and therefore should be reauthorized with some clarifications made necessary by the Supreme Court decisions in *Georgia v. Ashcroft* and *Bossier Parish II*. I will focus my comments on *Georgia v. Ashcroft* and the continuing impact of racially polarized voting on minority participation.

My curriculum vita is attached to this short summary of my opinions about the reauthorization of the Voting Rights Act. I am currently Chairman of the Political Science Department at the University of North Carolina at Charlotte. I have been a student of politics and an active participant since 1960. I have been an expert witness in more than 30 voting rights cases. In my consulting I have been retained by units of government, Republican Party affiliated groups, Common Cause, the National Association for the Advancement of Colored People, The American Civil Liberties Union, and the Federal Courts. Most recently I have been retained by the United States Department of Justice in a number of both §2 and §5 cases in several states and advised them on preclearance of legislative districts in North Carolina. I have been involved in redistricting cases in North Carolina, South Carolina, Georgia, Florida, Mississippi, Louisiana, Montana, New York, Connecticut, Alabama, Maryland, Illinois, and Prince Edward Island Canada. Some of my cases or redistricting work has involved African-American minorities, while other cases have involved Hispanics or Indians.

There is no question that we have come a long way since 1965. The Voting Rights Act, National Voter Registration Act, and other statutes have removed many barriers to voter registration by minorities. However, we still have a long way to go. Substantial disparities in both registration and turnout remain for many minorities, particularly Asian and Hispanic voting age citizens. Even where those disparities may not be present, such as for African-American voters in some areas, minority vote dilution is still a problem. It is still a problem because voting throughout the country is still strongly racially or ethnically polarized, as I

have discovered in my expert testimony in voting rights cases throughout the country. When the candidates chosen by minority voters and those chosen by the majority group differ, election systems and arrangements must be able to provide equal opportunity for the minority voters to elect representatives of their choice. Section 5 of the Voting Rights Act requires covered jurisdictions to consider whether minority voters have such an equal opportunity. Section 2 of the Voting Rights Act provides a mechanism for assuring such equal opportunity throughout America. Both parts of the Voting Rights Act are still needed because seemingly racially-neutral election procedures such as at-large voting, majority vote requirements, and anti-single-shot provisions may combine with racially polarized voting to erect effective barriers to the ability of minority voters to have an equal opportunity to participate in the political process and an equal opportunity to elect representatives of their choice.

I enclose with this testimony a paper I presented to a roundtable at the Annual Meeting of the American Political Science Association. In that paper I discuss the effect of implementation of the Voting Rights Act on partisan gerrymandering, a subject I first broached in my testimony before the Federal District Court in the case that became *Thornburg v. Gingles* in the mid 1980s. Prior to *Gingles* many jurisdictions with heavy minority populations had districting arrangements (e.g., at-large or countywide elections) that favored the Democratic Party. Minority populations were disbursed across many districts in such a fashion as to enable the election of white Democratic candidates, but with few or no districts having sufficient minority population for the election of representatives of

choice of minority voters. Because Re-publican voters are more homogeneous in terms of race, ethnicity, and (at that time) class, Republican districts were easily packed with more Republican voters than are needed to win. It does not matter whether this arrangement, which favored white Democrats over Republicans and minority candidates, was intentional or the result of what are often called "traditional districting principles." The effect was the same. Minority voters were denied equal participation in the political process because they did not have an equal opportunity to elect representatives of their choice, and Republican voters were underrepresented. This pattern was most clearly illustrated in the failure of six southern states (Alabama, Florida, Louisiana, North Carolina, South Carolina, and Virginia) to elect any black representatives to Congress between the end of Reconstruction and the 1990 round of redistricting.

2

With the more complete implementation of §5 of the Voting Rights Act in the 1990 reapportionment and redistricting cycle, this Democratic Party bias was reduced or eliminated in many jurisdictions. As my paper for the APSA shows, the districts for the U.S. House of Representatives in the 1990s had greatly reduced Democratic Party bias. In short, the implementation of the Voting Rights Act in the 1990 redistricting cycle ended some de-facto Democratic Party gerrymanders, while moving us toward equal participation in the political process for minority voters. The number of African-American representatives at all levels - local, state, and national - has increased enormously since the passage of the Voting Rights Act in 1965. The enclosed article tracks this change for the U.S. House of Representatives. While direct barriers to voting began to crumble right after the passage of the Voting Rights Act, real progress in giving minority voters an equal opportunity to elect representatives of their choice began after the Gingles case, which provided a framework for §2 litigation, and the 1990 redistricting cycle when the Justice Department vigorously enforced §5. These more recent actions were necessary to deal with vote dilution.

Georgia v. Ashcroft is an unworkable standard that undermines the ability of minority voters to have an opportunity to elect representatives of their choice. In that case, a narrow 5 to 4 majority of the U.S. Supreme Court concluded that a jurisdiction could satisfy §5 (and perhaps by implication §2) by substituting what are called "influence districts" to provide "substantive representation" instead of creating or maintaining districts in which minority voters have a reasonable opportunity to elect representatives of their choice. There are a number of problems with this. First, there are no clear guidelines for measuring influence districts or substantive representation. Like the Court's decisions about district shape in Shaw v. Reno and its progeny, we are left with no clear guidelines for drawing districts; there is no way to know how to comply with the Court's mandate. This is quite unlike the one-person-one-vote standard, which can be mathematically determined as the districts are being drawn. At what level of minority concentration, short of a reasonable opportunity to elect representatives of their choice, does a district provide "influence"? Do minority voters have influence over a representative they voted against and whose policies they oppose? How many influence districts are equal to one opportunity to elect district in providing equal participation? The right to vote is not based on substantive representative, but an equal and meaningful right to participate and elect representatives of choice as the Congress has recognized in §2 of the Voting Rights Act.

3

Second, to the extent that I can imagine what measures would be used to determine whether substantive representation or influence has been enhanced to prevent retrogression, these measures amount to simply helping Democratic Party candidates. In virtually every state legislature, in the Congress, and in many local jurisdictions, minority representatives - especially African Americans - are strongly allied with the Democratic Party. Helping Democratic Party candidates would be argued to be equivalent to increasing minority voter influence and helping minority substantive representation. In other words, influence districts, if seen as a replacement for opportunities for minority voters to elect representatives of their choice, would become simply a rationale for creating Democratic Party gerrymanders. This takes us back to the situation before Gingles when minority voters did not participate equally in the political process and Re-publican voters were underrepresented.

So far in my testimony I may have annoyed some Democratic members of this Committee. What I am about to say may annoy some Republican members. Just as failure to construct minority districts can result in a Democratic Party gerrymander, so too, the packing of minority voters can be used to create a Republican Party gerrymander. Qualified experts usually rely on court rulings that specify that minority voters in the district must have a "reasonable opportunity to elect representatives of their choice, even if their choice happens to be a member of that minority." Notice that the standard is a reasonable opportunity, not a certainty. There is no certainty in politics. Packing a district with more minority voters than are needed to provide a reasonable opportunity weakens the participation of minority voters in surrounding districts, and could be used to unfairly favor Republican Party candidates, creating a Republican Party gerrymander. The concentration of minority voters necessary to provide a reasonable opportunity to elect varies from place to place and from office to office, and requires intense jurisdiction specific investigation. Substantive representation is often contrasted with what is called "descriptive representation," which means that only a black person can represent African-American voters, only women can represent female voters, and so forth. The

concept of descriptive representation is a straw man. The Voting Rights Act does not require the election of minorities, and I know of no competent expert or voting rights lawyer who has argued that it does. Indeed, Congress expressly rejected descriptive representation in its 1982 amendments to §2. Nevertheless, the Voting Rights Act should require that minority voters have an equal opportunity to elect representatives of their choice. The fact derived from extensive analysis of voting pat-

4

terns shows that minority voters, like everybody else, usually prefer candidates who are like themselves in race, ethnicity, and partisanship. This is not descriptive representation, it is just giving minority voters the same opportunity that Anglo voters have to elect their choice. If minority voters are restricted to choosing among Anglo candidates, they cannot be said to be participating equally in the political process.

The opinion of the five-member majority in *Georgia v. Ashcroft* fails to clarify some important political distinctions. Experts have developed procedures for determining whether a district offers minority voters a reasonable opportunity to elect representatives of their choice - an "opportunity district" - and this can be known as the districts are drawn. In some places such a district requires that more than a majority of the voters should be members of the minority group - a "majority-minority district." In some jurisdictions there may be an opportunity to draw what are sometimes called a "coalition district." This is a district where a working coalition between minority voters and sympathetic whites or Anglos is a political reality. In such a district the minority voters have to make compromises, but are able to elect representatives they freely choose. These kinds of districts are distinct from "influence districts." Any reasonable interpretation of the phrase "equal opportunity to elect representatives of their choice" must mean creation of opportunity districts, where this is possible, and coalition districts in places where true opportunities to elect the minority choice is not possible without coalition partners. A jurisdiction specific inquiry is necessary in order to determine where opportunities can be found and where a real coalition among equals is possible.

Expert witnesses in voting rights cases are an essential part of the process because litigation involving §2 and the preclearance process of §5 are fact intensive efforts. In the *Gingles* case, the United States Supreme Court specifically authorized the use of bivariate ecological regression analysis (BERA) to measure the extent of racially polarized voting. The Court authorized this technique and the plurality opinion specifically rejected what is called "multivariate analysis" because the probative questions in voting rights litigation involve the extent to which minority and majority voters differ in their choice of candidates to represent them. BERA, and some newer types of bivariate analysis, give us estimates of the extent to which each race or ethnic group favors one set of candidates or another. In other words, BERA can tell us whether the voting is racially polarized and the extent to which minority voters are cohesive in their voting. Multivariate techniques do not give us that information. Multivariate analysis is an attempt to determine whether race or some other factor is the "cause" of the way people vote. The plurality opinion of the Court

5

specifically, and rightfully, rejected such causal analysis even if it is possible statistically. More recently, some Circuits permit consideration of causality, especially at the phase of the hearing where the "totality of the circumstances" is being considered. The Voting Rights Act as reauthorized provided for an "effects test." Does a voting practice have the effect of preventing minority voters from having an equal opportunity to elect representatives of their choice? Multivariate analysis does not answer this question.

Racially polarized voting continues to be a pervasive feature of American politics. Race, ethnicity, and partisanship are inextricably intertwined, as every student in an Introductory American Politics course knows. Some experts for defendants in voting rights cases argue that partisanship or some other variable related to race or ethnicity is the "true cause" of how people vote. Or they may argue that minority voters' identification with a particular party is the "true cause" of their lack of representation. But this ignores the fact that race or ethnicity cannot be caused by any other variable. If race or ethnicity is related to socio-economic status (SES) or partisanship, then we must conclude that race or ethnicity affects SES and partisanship. It cannot be the other way around. Being poor or identifying with the Democratic Party cannot cause a person to have a particular race or ethnic identification. Race or ethnicity must be the root cause.

It would be absurd to conclude that the right of minority voters to have the opportunity to elect representatives of their choice does not apply if they choose to vote for Democrats while white or Anglo voters choose to vote for Republicans. According to the U.S. Supreme Court in the *Gingles* case, the voting must be racially polarized in order to prove a §2 violation. In order for partisan elections to be polarized, one group must favor the Democratic candidate while the other group favors the Republican. Some who comment on voting rights would like to set up a "catch 22" which would prevent enforcement of voting rights. If the general election is not polarized there would be no §2 violation. If it is polarized, then "it is just partisanship."

I will use three examples of cases in which I have consulted or testified to illustrate judicial findings of racially polarized voting involving three different groups of minority voters protected by §2 and § 5. Two of these examples are from §5 jurisdictions.

In *DeGrandy v. Wetherell*,<sup>1</sup> I provided affidavit and courtroom testimony to the Special Master appointed to draw legislative and congressional plans for Florida following the 1990 Census. The three-

6

judge court noted that "the results of Florida's legislative elections over the past ten years established the presence of racially polarized voting."<sup>2</sup> The Court highlighted the impact that racially polarized voting had on minority success in Florida, including: the absence of African-Americans elected to Congress since the end of Reconstruction and only one Latino Congressman during that period; no African-American state senator until 1982; and no Latino state senator until 1988. Relying upon this compelling evidence, the court observed, "The approach of fracturing the African-American community in order to create influence districts does not further Congress's intent of completely remedying the prior dilution of minority voting strength and providing a meaningful opportunity to participate in the political process."<sup>3</sup> The court therefore adopted a congressional redistricting plan that created two African-American and two Latino majority districts and one African-American coalition district, where there was evidence that African-American voters had a meaningful opportunity to elect their candidates of choice. This finding illustrates my point that influence districts are neither a proper nor a workable solution to racially polarized voting.

I testified as an expert witness for the Department of Justice in *United States v. Blaine County, Montana*,<sup>4</sup> a §2 challenge to the County's at-large method of electing its three member Board of Commissioners. Blaine County is not covered by §5. However, it demonstrates the impact of racially polarized voting when combined with certain election practices and why the inquiry must focus on the results of voters' choices, and not reasons to explain away those choices. The court acknowledged that despite comprising over one-third of the County's population, no American Indian had served as a County Commissioner in the County's 86-year history. The appellate court found that there was substantial evidence of white bloc voting that defeated American Indian candidates of choice.<sup>5</sup> In reaching this conclusion, the court rejected the County's arguments that the racially polarized voting could be ignored because there was no evidence American Indians had distinct political concerns or that white voters had discriminatory motives. The court reasoned:

Blaine County's at-large voting system enhances the possibility that a bloc of white voters will prevent American Indians from electing candidates of their choice. In challenges

1 794 F. Supp. 1076 (N.D. Fla. 1992),

2 794 F. Supp. at 1079.

3 794 F. Supp. at 1085.

4 363 F.3d 897 (9th Cir. 2004), cert. denied, 544 U.S. 992 (2005).

7

to multimember districts, evidence of racial bloc voting provides the requisite causal link between the voting procedure and the discriminatory result .... Accordingly, the district court did not err by declining to inquire into the divisive and irrelevant issue of whether white voters in Blaine County are motivated by discriminatory motives.<sup>6</sup> A contrary conclusion would "place an impossible burden on the plaintiffs" that is "contrary to the plain language of §2's results test."<sup>7</sup> Otherwise, it invites jurisdictions and courts to overlook even the most compelling evidence of racially polarized voting as the results of politics or other reasons not germane to the question of whether minority voters have an equal opportunity to elect their chosen candidates.

I also was the testifying expert for the Department in *United States v. Charleston County, South Carolina*.<sup>8</sup> In that case, the United States challenged the County's at-large partisan method of electing its nine member County Council. The evidence showed that although African-Americans comprised over one-third of the County's population, only three had been elected to the Council out of 41 members who served since 1970. All three ran as Republicans and received "overwhelming support from white voters and minimal support from minority voters."<sup>9</sup> In the Fourth Circuit's opinion by Judge J. Harvey Wilkinson, the court concluded that "voting in Charleston County elections is severely and characteristically polarized along racial lines."<sup>10</sup> Judge Wilkinson rejected the County's argument that politics, not race, explained the polarized voting, observing that the County's own expert, Dr. Ron Weber, agreed that "partisanship and race as determinants of voting are 'inextricably intertwined.'"<sup>11</sup> As Judge Wilkinson explained:

[L]ooking at County Council elections since the early 1990s, white Democrats have at least occasionally won, while minority Democrats have invariably lost. Although minority voters give more cohesive support to minority Democratic candidates than to white Democratic candidates, the opposite is true among white voters. This is consistent with the parties' evidence that white and minority voters are more often racially polarized in

5 363 F.3d at 900-01, 909-13.

6 363 F.3d at 912 n.21.

7 363 F.3d at 912.

8 316 F. Supp.2d 268 (D.S.C. 2003), aff'd, 365 F.3d 341 (4th Cir.), cert. denied, 543 U.S. 999 (2004).

9 365 F.3d at 349.

10 365 F.3d at 350.

8

Council general elections involving at least one minority candidate. Thus even controlling for partisanship in Council elections, race still appears to play a role in the voting patterns of white and minority voters in Charleston County.<sup>12</sup> Racially polarized voting, combined with an at-large method of election, a large county size (Charleston County is the largest county in South Carolina), staggered terms, residency districts, and the primary nominating system, had a clear effect on African-American voters. Regardless of party, they could not elect their candidates of choice. I have attached copies of the opinions of Judge Wilkinson and Judge Duffy from the Charleston County case.

As these three cases demonstrate, the Voting Rights Act is still necessary to protect the opportunity of minority citizens to elect representatives of their choice in the face of racially polarized voting. The right of minority citizens to an equal opportunity to elect representatives of their choice is not dependent on the nature of that choice. They can choose to elect liberals, conservatives, black people, brown people, Democrats, or Republicans. Their choice is up to them.

The reauthorization of the Voting Rights Act should make it clear that influence districts and substantive representation are not acceptable substitutes for districts in which minority citizens have a reasonable opportunity to elect representatives of their choice.

11 365 F.3d at 352.

12 365 F.3d at 353.

9

Affirmative Districting

and the

Partisan Seats/Votes Relationship:

1972-2002

Theodore S. Arrington

Professor and Chair

Department of Political Science

University of North Carolina at Charlotte

9201 University-City Blvd

Charlotte, North Carolina 28223-0001

(704)687-2574

tarrngtn@email.uncc.edu

Paper presented in preparation for the Roundtable on Redistricting, Representation, and American Political Institutions, 100th Annual Meeting of the American Political Science Association, Philadelphia, 28-31 August 2003.

[The author wishes to thank Jamie Privznak for collecting the data for this paper.]

10

Abstract of

Affirmative Districting

and the

Partisan Seats/Votes Relationship:

1972-2002

The Voting Rights Act, Supreme Court decisions, and improvements in geographic information technology have changed the redistricting process. An important question is how the partisan aspects of Congressional districting changed in the three reapportionment cycles since the one-person-one-vote rulings of the Supreme Court.

Especially interesting are changes in the 1990 cycle, as affirmative districting became an important element in the process. The 1990 redistricting cycle did not give Republicans an unfair advantage in the seats/votes relationship nationwide or in the southern states, but it reduced the previous Democratic bias nationwide and in the south.

11

Affirmative Districting

and the

Partisan Seats/Votes Relationship:

1972-2002

The Voting Rights Act of 1965 (VRA), various Supreme Court decisions since the 1960s, and improvements in geographic information technology have changed and continue to change the redistricting process. An important question is how the partisan aspects of elections changed in the three reapportionment cycles since the one-person-one-vote rulings of the U.S. Supreme Court in *Wesberry vs. Sanders* (376 U.S. 1, 1964). Especially interesting are changes in the 1990 cycle as affirmative districting became an important element in the redistricting process.

Various authors argue that the 1990 round of redistricting was "maximization whatever the cost" (Cunningham 2001). They contend that the Republican administration of President George H.W. Bush used the Voting Section of

the Civil Rights Division of the Department of Justice in combination with some black politicians, Republican operatives in the states, and G.O.P. judges to create the maximum number of minority packed districts. This effort, in turn, helped create a Republican gerrymander in an era when the Republicans were putting forth re-newed efforts in the southern states and had greater control of the redistricting process in the north.

The question of whether such concentration of minority voters in some districts hurts Democrats is widely studied (e.g., Brace, Grofman and Handley 1987; Hill 1995; Petrocik and Desposato 1998). The theory is quite simple.

Minority

12

voters, especially blacks, are the most reliable Democratic voters. Therefore, the concentration of minority voters in a district assures the election of a Democrat in that district. But it "bleaches" the surrounding districts, making them more likely to elect Republicans.

Shotts (2001, 2002) presents a theoretical model of the effects of affirmative districting on partisan outcomes. He concludes that VRA requirements have varying effects depending on which party controls the redistricting process.

Engstrom and Ulbig's (2001) data point to the same conclusion. If Shotts, Engstrom, and Ulbig are right, then fair and responsive districts are compatible with affirmative districting. A comparison of the seats/votes relationship in the 1970, 1980, and 1990 redistricting cycles should provide a test of this contention.

Many authors have examined the redistricting cycles in the 1970s, 1980s, and 1990s using a variety of methods.<sup>1</sup> Some of these authors made assessments of the partisan effects of the districts without complete data on the five elections held after each cycle. No authors have used a consistent methodology to compare the results of all three post-Wesberry cycles using five elections for each decade.

How Should the 1990 Redistricting Cycle

Change the Seat/votes Relationship?

The VRA, as interpreted by the Supreme Court, produced an increase in the number of minority districts. The number of majority-minority districts more

13

than doubled in the 1990 round of redistricting, and did not decline after the 2000 round despite changes in Supreme Court policy in *Shaw v. Reno* (509 U.S. 630, 1993) and its progeny (Table 1). Districts in which minorities were more than 55% and 60% of the population also more than doubled after the 1990 redistricting round. The surprising lack of retrenchment in the 2000 districting cycle, despite *Shaw*, is a reflection of the increase in Latino districts (shown in Table 2).

Given the scholarship on the racial and partisan aspects of redistricting, what should we expect to have happened after the 1990 round of redistricting, which would be different from the 1970 and 1980 rounds?

First, we would expect that the number of unopposed Congressional contests in both parties would go up after the 1990 round. The process of concentrating minority voters (especially in the supermajorities common in 1991-2) would produce minority districts in which the Republicans would be noncompetitive. The surrounding districts would be bleached of the most reliable Democratic voters and therefore uncompetitive for the Democrats. This change should quickly be seen by both parties, potential candidates would not run, and unopposed elections will result. This effect could be offset, however, by the conscious effort of the Republicans to contest more elections in the south during the 1990s. So we might expect an increase only in unopposed Republicans.

Second, we would expect that the swing ratio would be lower after the 1990 round of redistricting. The creation of more districts, which are heavily Democratic (minority districts) and more districts which are heavily Republican

14

(bleached districts) would necessarily reduce the swing ratio because a healthy swing ratio requires that more districts be constructed in the competitive range.

And, third, we would expect that the 1990 redistricting cycle would produce a Republican bias. While the creation of minority districts creates "sure-fire" Democratic districts, it also creates heavily Republican districts. Many scholars have argued that the latter will outnumber the former. Moreover, the Republicans controlled the redistricting process in more states in the 1991-2 cycle, and should have been able to design the districts to their advantage, especially in conjunction with affirmative districting.

Methods

To determine how the Congressional election system as a whole translates votes into seats between the parties requires an examination of the seats/votes relationship (Kendall and Stuart 1950, Linehan and Schrodt 1978, Schrodt 1981, Taagepera 1973, Theil 1969). As Niemi (1990, 171) asserts ". . . if the Supreme Court is to consider squarely the question of gerrymandering sooner or later it will have to take a position on the significance of the relationship between votes and seats won by each political party" (see also Niemi 1985, 191).

Tufte (1973) advocated using simple OLS regression as a technique to relate the percentage of the votes that a party wins to the percentage of the seats won. (Also see Grofman 1983; Cain 1985; Niemi and Deegan 1978; and Niemi

and Fett 1986 for related techniques.) Two measures are obtained from this kind of analysis. First, the slope of the regression line is called the "swing ratio." It tells us the extent to which the distribution of seats is responsive to changes in the

15

vote. King and Browning (1987) formalize the theory of how seats and votes can be related. They point out that a swing ratio of 1.0 would mean that the districting system was producing proportional representation. A swing ratio greater than 1.0 is a majoritarian system giving a bonus to the majority party.

Secondly, the OLS regression can also tell us whether the system has a partisan bias, which can be taken to mean that it is a gerrymander. To determine the bias, one simply computes the value of the dependent variable (percentage of seats) when the independent variable (percentage of votes) is 50% using the regression equation. An unbiased system would be one where the regression line crosses 50% on both the X and Y axis.

One problem is that the theoretical relationship of seats and votes is an "S" curve, not a line (Campagna and Grofman 1990; Theil 1969, Taagepera 1973, Grofman 1983, King and Browning 1987). An examination of the possible curves presented by King and Browning (1987), however, shows that in the region where real competition actually occurs -- 40% to 60% on each variable -- the possible "curves" straighten out. Thus, OLS regression should provide unbiased estimates within this competitive range.

To use the procedure, however, requires "numerous elections over at least a decade to make a confident determination about the degree of bias and type of representation" (King and Browning 1987, 1267). While it is possible to estimate the seats/votes relationship before votes are cast for the new districts (e.g., Gary King's Judgeit software provides one method for doing so), the most valid measure of bias and swing ratio requires examination of the results of ac-

16

tual elections held using the districts. Therefore, analysis of the impact of the 1990 redistricting round is only possible now that we can look at the entire decade from 1992 to 2000.

Much of the literature appropriately concentrates on comparisons of the redistricting process using states as the units of analysis. But redistricting for the Congress should also be examined for what it is: the creation of a national legislature. In this paper I will look at the seat/votes relationship for the entire country with years as the units of analysis and then do separate analyses for the eleven states of the old confederacy and the states covered under the pre-clearance requirements of §5 of the VRA. A list of the data sources used for this paper is in the appendix.

The dependent variable in the regression is the Democratic percentage of the seats held by the two parties.

Candidates who ran as independents are not counted as belonging to either party, even though they may later caucus with one party or the other.

Determining the percentage of the two-party votes received by each party (the independent variable) requires attention to two questions. The first question is how to count Louisiana elections. If there was no run-off election between a Democrat and a Republican in a Louisiana district, I counted the first election in the district (normally held in October, but held in November of 2002) as the election. The Democratic vote in such elections is the total vote for all Democratic candidates, and the Republican vote is the vote for all Republican candidates. If

17

there is a run-off election between a Democrat and a Republican, I counted that as the election.

A second question is what to do with unopposed contests. I define an unopposed contest as one in which there was both a Republican and a Democratic candidate. If the vote in unopposed elections is included, it inflates the total for the party that had the most unopposed candidates because an opponent would have received at least some votes. If the vote of the unopposed candidate is excluded, the vote of the party with the most unopposed candidates is understated because an unopposed candidate would undoubtedly receive a substantial majority of the votes if he/she were opposed.

One solution to this problem is to substitute the vote of some other set of candidates in districts where the Congressional candidate is unopposed. But on a nation-wide basis the only office available for that job is the Presidency, and that is only available in half the Congressional elections. Moreover, this is exactly the wrong office to use. The presidential contest is the most unlike any other election. People know more about presidential candidates, care more about them, and often vote for president contrary to their Congressional party inclinations. Votes for U.S. Senate or Governor could be substituted into unopposed races, but this also has problems. Voters typically also know more about candidates for these offices, only 33 or 34 of the states have a Senate election in any year, and most governors now have four-year terms.

My solution to this problem is to estimate the vote that each party would receive in unopposed contests and add this to the vote in the opposed races.

18

The formula for the adjustment of the vote for each party is in Figure 1. Tables 3 and 4 give the figures for each of the

variables used in the formula nation-wide for each election from 1972 to 2002. The logic here is that we can vary the per-centage of the vote that we would expect unopposed candidates would have received, on average, if they had been opposed. This would certainly be well above 50%. The presumed strength of the unopposed candidate is what con-vinces potential candidates in the other party not to run. I assume that the turnout in unopposed districts would be the same as the average turnout in opposed contests. I present a number of models using various estimates for the vote divi-sion and report data for both these models and unadjusted vote totals of various kinds. If the results I obtain are consistent in the various models, I would have strong evidence that the findings are reliable.

Table 5 shows analysis in which the proportion of the vote candidates in unopposed elections would have received if they had been opposed ( $v$ ) is varied from .55 to .85 to test various models. The 80% model ( $v = .8$ ) gives the best cor-relation between seats and votes for the entire 1972-2002 period ( $R^2 = .914$ ), but all of the correlations are quite high.

#### Data Presentation

Table 4 presents evidence on the expectation that unopposed Congres-sional candidacies will increase in the 1990 redistricting cycle. In comparison to the 1970 and 1980 cycles, the number of unopposed contests actually declined in the 1990s. The number of unopposed Democrats was reduced by more than half (from about 53.2 in the 1980s to 23.4 in the 1990s), however, the number of

19

unopposed Republicans rose from an average of 18.4 in the 1980s to an average of 30.8 in the 1990s. We could take the increase in the number of unopposed Republicans to be a result of the creation of more bleached districts, and the de-crease in the number of unopposed Democrats could be the result of Republican recruitment activity especially in the south. In any case, affirmative districting was not incompatible with an overall increase in opposed elections.

Table 4 also shows why it is so important to have a reliable procedure for dealing with unopposed races. The number of unopposed candidates in each party varies widely. The number of unopposed candidates ranged from ten to 58 unopposed Democrats and eight to 54 unopposed Republicans. There is only a slight, insignificant negative relationship between the number of unopposed con-tests in each party ( $R^2 = .113$ , significance = .102).

The swing ratio increased as a result of the 1990 cycle and was substan-tially greater than following either the 1970 or the 1980 cycles (Table 6). The swing ratio was at its lowest in the 1980 period. There are very few differences in the swing ratio between the various kinds of unadjusted figures and the various estimation models. No matter what assumptions we make about the unopposed candidacies, we find that the swing ratio increased after the 1990 redistricting cy-cle. More opposed contests and higher swing ratios equals more party competition at the same time that affirmative districting became a factor in the process.

An examination of changes in bias is also shown in Table 6. Did the 1990 round of redistricting help the Republicans?

Yes. Did it provide an unfair advan-

20

tage? That is, did the 1990 process, including a tremendous increase in majority-minority districts, produce a Republican bias (which would indicate a G.O.P. ger-rymander)? No. The Democratic bias that is apparent in the 1970s and 1980s is reduced after 1990. In some of the models tested a slight Democratic bias re-mains, and in others a slight Republican bias is present. But none of these biases is very large, except in the unrealistic model in which unopposed results are included without any adjustment (Democratic bias = 6.163). I conclude that there was no "severe" bias in the 1990 redistricting cycle as required by the Su-preme Court in *Davis v. Bandemer* (478 U.S. 190, 1986).

Although this article focuses on the Congressional districting system at the national level, it is useful to examine the same data for the southern states. This is the region, which has experienced the greatest change in partisan and racial politics in the last 30 years. Moreover, the majority of the affirmative districting in the 1990 round focused on this region, and most of these states are covered by the pre-clearance provisions of §5 of the VRA. Of the 69 districts in the 2002 elections which had more than 50% minority population, 31 of them were in the eleven states of the old Confederacy; of the 57 districts with more than 55% mi-nority population, 28 were in the south; and of the 47 districts with more than 60% minority population, 24 were in the southern states.

Table 7 shows the number of unopposed contests in the eleven states of the old Confederacy. Throughout this period (1972-2000), the majority of unop-posed contests in the nation were in the south. The pattern of change is the same as in the nation as a whole. The number of unopposed Republicans in-

21

creases four-fold from the 1970s to the 1990s, and the number of unopposed Democrats decreases to almost one-third of the 1970s level. But the total number of unopposed elections in the south declines from a mean of 35 in the 1970s to 31.8 in the 1990s.

The swing ratios and bias estimates for the Confederate states are given in Table 8. Again, we see the national



pattern repeated. The 1990 cycle clearly increased the swing ratio, and reduced the Democratic bias that existed in the 1970s and 1980s. No matter which model we use, a Democratic bias remained in Congressional elections in the south after the 1990 cycle.

I performed the same analysis using those states covered by the pre-clearance provisions of §5 of the VRA.<sup>1</sup> The results were indistinguishable from the results presented here for the old Confederacy. Affirmative districting in the 1990s was compatible with increases in competition, districts which are more re-sponsive to changes in voter sentiment, and reduced partisan bias.

#### Discussion

Republicans may use the fig leaf of affirmative districting to cover a naked gerrymander, especially if they are allowed to pack minority districts with higher concentrations of minority voters than is necessary for minority citizens to elect a representative of their choice. However, there is nothing about affirmative districting which is necessarily incompatible with responsive, competitive, fair districts or even a Democratic gerrymander. The 1990 redistricting did not create a Republican gerrymander for the U.S. Congress as a whole or in the south where the activity of the Voting Section of the Department of Justice was concentrated.

22

Lublin and Voss (1998, 769) note: ". . . racial redistricting not only made it possible for the Republicans to win more seats with the same number of votes, but it actually caused the Republicans to win a larger share of the vote." Lublin adds (1999, 186): "Thus racial redistricting alters not only the aggregation of votes but also the quality of candidates presented, such that it indirectly boosts the Republican share of votes and seats by undercutting Democratic prospects." Downs (1957) mentions the hypothesis that quality candidates and other re-sources will gravitate to the party that is most likely to win the district.

It may be, as Lublin argues, that the 1990 redistricting cycle gave Republicans a boost in winning votes. Did it give them an unfair advantage? The assumption -- and this is a necessary assumption -- is that when we draw the districts in such a fashion as to fairly translate votes into seats, this will produce a level playing field in terms of partisan advantages and disadvantages that are sensitive to district composition. Both parties will be equally enabled or impeded in their campaigns by the district lines.

The 2000 round of districting, however, may be quite different. Analysis of the 2000 redistricting cycle is just beginning to be made based on the 2002 election or on voting data from the 1990s. One early reporter (Hirsch 2003) argues that the 2000 round gave the Republicans an unfair advantage. He argues that this is due to the greater Republican control of state legislatures in several large competitive states. He also notes that this latest round of redistricting was the most incumbent-friendly in history. Given the Republican bias evident in Michigan, Pennsylvania, and now Texas, it is possible that the data for the first decade

23

of this century will show a marked Republican bias in Congressional districts. But this cannot be blamed on affirmative districting provisions of the Voting Rights Act.

24

#### Endnotes

1. For the pre-1970 period see: Cox and Katz (1999). For the 1970 redistricting cycle see: Glazer, Grofman and Robbins (1987) and Squire (1985). For the 1980 cycle see: Squire (1995), Campagna and Grofman (1990), King and Browning (1987). For the 1990 cycle see: Cannon (1999), Grofman and Handley (1998), Lublin and Voss (1998), McDonald (1995), McDonald, Neimi and Abramowitz (1994), Swain, Borrelli, and Reed (1998), Hill (1995).

2. The list of states included in the §5 analysis is slightly from the states of the Old Confederacy. Arkansas and Tennessee are not covered by §5, and were excluded from this separate analysis. Arizona is covered by §5 and is included in this analysis. North Carolina and Florida are included in the §5 set, although only some counties in these two states are covered. In practice, these covered counties cause entire Congressional district plans from these states to be affected by pre-clearance. Other states that are partially covered are excluded from this separate analysis. These states have only one Congressional District (Alaska, New Hampshire, South Dakota, and Wyoming), or have such limited coverage that pre-clearance does not affect entire Congressional district plans (California, Colorado, Connecticut, Hawaii, Idaho, Massachusetts, Michigan, and New York).

25

#### References Cited

Brace, Kimball; Bernard Grofman; and Lisa Handley. 1987. "Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?" *Journal of Politics* 49(February):143-156.

Cain, Bruce E. 1985. "Simple vs Complex Criteria for Partisan Gerrymandering: A Comment on Niemi and Grofman." *U.C.L.A. Law Review* 33(October): 213-226.

Campagna, J. and Bernard Grofman. 1990. "Party Control and Partisan Bias in the 1980s Congressional Redistricting." *Journal of Politics* 52(November): 1242-1258.

- Canon, David T. 1999. *Race, Redistricting, and Representation: The Unintended Consequences of Black Majority Districts*. Chicago, IL: University of Chicago Press.
- Cox, Gary W. and Johathan N. Katz. 1999. "The Reapportionment Revolution and Bias in U.S. Congressional Elections." *American Journal of Political Science* 43(July):812-842.
- Cunningham, Maurice T. 2001. *Maximization Whatever the Cost: Race, Redistricting, and the Department of Justice*. Westport, CT: Praeger.
- Downs, Anthony. 1957. *An Economic Theory of Democracy*. New York: Harper.
- Engstrom, Richard N. and Stacy G. Ulbig. 2001. "Democratic Losses and Redistricting: The Impact of Legislative and Court Drawn Plans." Paper presented at the Southern Political Science Association Annual Meeting, Savannah, GA. November.
- 26
- Epstein, David and Sharyn O'Halloran. 1999a. "A Social Science Approach to Race, Redistricting, and Representation." *American Political Science Review* 93(March):187-191.
- Epstein, David and Sharyn O'Halloran. 1999b. "Measuring the Electoral and Policy Impact of Majority-Minority Districts: Candidates of Choice, Equal Opportunity, and Representation." *American Journal of Political Science* 43(April):367-95.
- Glazer, Amihai; Bernard Grofman; and Marc Robbins. 1987. "Partisan and Incumbency Effects of 1970s Congressional Redistricting" *American Journal of Political Science* 31(July):680-708.
- Grofman, Bernard. 1983. "Measures of Bias and Proportionality in Seat-Votes Relationships." *Political Methodology* 9:295-327.
- Grofman, Bernard and Lisa Handley. 1998. "Estimating the Impact of Voting-Rights-Related Districting on Democratic Strength in the U.S. House of Representatives." in *Race and Redistricting in the 1990s*. Bernard Grofman (ed.) New York: Agathon Press, 51-66.
- Hill, Kevin. 1995. "Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States." *Journal of Politics* 57(May):384-401.
- Hirsch, Sam. 2003. "The United States House of Unrepresentatives: What Went Wrong in the Latest Round of Congressional Redistricting." *Election Law Journal* 2(November):179-216.
- Kendall, M.G. and A. Stuart. 1950. "The Law of Cubic Proportion in Election Results." *British Journal of Sociology* 1(March):83-97.
- 27
- King, Gary and Robert X. Browning. 1987. "Democratic Representation and Partisan Bias in Congressional Elections." *American Political Science Review* 81(December):1251-1276.
- Linehan, William J. and Philip A. Schrodt. 1978. "A New Test of the Cube Law." *Political Methodology* 4(2):353-367.
- Lublin, David. 1999. "Racial Redistricting and African-American Representation: A Critique of 'Do Majority-Minority Districts Maximize Substantive Black Representation in Congress?'" *American Political Science Review* 93(March):183-186.
- Lublin, David and D. Stephen Voss. 1998. "The Partisan Impact of Voting Rights Law: A Reply to Pamela S. Karlan." *Stanford Law Review* 50(February):765-777.
- Lublin, David and D. Stephen Voss. 2000. "Boll-Weevil Blues: Polarized Congressional Delegations into the 21st Century." *American Review of Politics* 21(Winter):427-450.
- McDonald, Laughlin. 1995. "The Counterrevolution in Minority Voting Rights." *Mississippi Law Journal* 65(Winter):271-314.
- Niemi, Richard G. 1985. "The Relationship Between Seats and Votes: The Ultimate Question in Political Gerrymandering." *U.C.L.A. Law Review* 33(October):185-212.
- Niemi, Richard G. 1990. "The Swing Ratio as a Measure of Partisan Gerrymandering." in Bernard Grofman (ed.) *Political Gerrymandering and the Courts*. New York: Agathon Press, 171-177.
- Niemi, Richard G. and Alan I. Abramowitz. 1994. "Partisan Redistricting and the 1992 Congressional Elections." *Journal of Politics* 56(August):811-118.
- 28
- Niemi, Richard G. and John Deegan, Jr. 1978. "A Theory of Political Districting." *American Political Science Review* 72(December):1304-1323.
- Niemi, Richard G. and Patrick Fett. 1986. "The Swing Ratio: An Explanation and Assessment." *Legislative Studies Quarterly* 11(February):75-90.
- Petrocik, John R. and Scott W. Desposato. 1998. "The Partisan Consequences of Majority-Minority Redistricting in the South 1992 and 1994." *Journal of Politics* 60(August):613-633.
- Schrodt, Philip A. 1981. "A Statistical Study of the Cube Law in Five Electoral Systems." *Political Methodology* 7(1):31-53.

Shotts, Kenneth W. 2001. "The Effect of Majority-Minority Mandates on Partisan Gerrymandering." *American Journal of Political Science* 45(January):120-136.

Shotts, Kenneth W. 2002. "Gerrymandering, Legislative Composition, and National Policy Outcomes." *American Journal of Political Science* 46 (April):398-414.

Squire, Peverill. 1985. "Results of Partisan Redistricting in Seven U.S. States During the 1970s." *Legislative Studies Quarterly* 10(May):259-266.

Squire, Peverill. 1995. "The Partisan Consequences of Congressional Redistricting." *American Politics Quarterly* 23(July):229-241.

Swain, John W.; Stephen A. Borrelli; and Brian C. Reed. 1998. "Partisan Consequences of the Post-1990 Redistricting for the U.S. House of Representatives." *Political Research Quarterly* 51(December):945-970.

Taagepera, Rein. 1973. "Seats and Votes: A Generalization of the Cube Law of Elections." *Social Science Research* 2:257-275.

29

Theil, H. 1969. "The Cube Law Revisited." *Journal of the American Statistical Association* 56:323-341.

Tufte, Edward R. 1973. "The Relationship Between Seats and Votes in Two-Party Systems." *American Political Science Review* 67(June):540-554.

30

#### Appendix -- Data Sources

America Votes 24. 2000. Washington Government Institute, Congressional Quarterly.  
(Used to collect remainder of Number of Unopposed Candidates for 1998-2002)

Dubin, M. 1998. *United States Congressional Elections*. Jefferson: McFarland & Company Inc.  
(Used to collect Number of Unopposed Candidates for 1972-1996)

Techpolitics, The House Financial Services Committee  
<http://congress.techpolitics.org/houseofreps.htm>  
(Used to collect data on 2002 Congressional districts)

U.S. Bureau of the Census - American Factfinder  
Summary Information Tables - General Population and Housing Characteristics by Congressional District  
<http://factfinder.census.gov>  
(Used to collect Number of Minority Seats - Percent Non-Hispanic White for 1982-2002)

U.S. Bureau of the Census. 1982. *1980 Census of Population - Supplementary Reports Vol. 1-14, 9-18. Summary Table - 98th Congress, Population by Age, Race, and Residents, 1980, and Votes Cast for Congress 1982*  
(Used to collect Number of Minority Seats - Percent Non-Hispanic White for 1972-1980)

U.S. House of Representatives, Office of the Clerk  
[http://clerk.house.gov/members/election\\_information/elections.php](http://clerk.house.gov/members/election_information/elections.php)  
(Used to collect Total Votes Cast data for 1972-2002)

U.S. House of Representatives, Office of the Clerk  
[http://clerk.house.gov/histHigh/Congressional\\_History/index.php](http://clerk.house.gov/histHigh/Congressional_History/index.php)  
(Used to collect Seats Won in House of Reps by Each Party data for 1972-2002)

31

#### Figure 1

Formulas for the Adjustment of the National Vote of Each Party  
to Account for Unopposed Elections

$$d = x + amv + bm(1 - v)$$

$$r = y + bm v + am(1 - v)$$

Where:

d = adjusted vote, showing estimate of what the Democratic vote would be if all 435 districts had opposed contests in that year

r = adjusted vote, showing estimate of what the Republican vote would be if all 435 districts had opposed contests in that year

x = vote for all opposed Democratic candidates that year

y = vote for all opposed Republican candidates that year

a = the number of unopposed Democratic candidates that year

b = the number of unopposed Republican candidates that year

m = the mean number of votes cast for both Republican

and Democratic candidates in opposed contests that year

v = the proportion of the vote that unopposed candidates would have received if they had been in an opposed contest

32

Table 1

Number of Minority Congressional Districts

in 1972, 1982, 1992, and 2002

Year

Number of Districts with Less than 50% Non-Hispanic White Population

Number of Districts with Less than 45% Non-Hispanic White Population

Number of Districts with Less than 40% Non-Hispanic White Population

1972-1980\*

50

42

36

1982-1990

36

34

28

1992-2000

81

73

65

2002-

91

78

66

\*Because the Census did not provide the racial and ethnic data in a convenient fashion in the 1970 Census, we assumed that all "Hispanics" were white to compute the figures for the 1972-1980 period.

Table 2

Hispanic and African-American Congressional Districts

in the 2002 Election

Percent Black Population

Number of Districts

Percent Hispanic Population

Number of Districts

50% Plus

24

50% Plus

24

45% Plus

28

45% Plus

29

40% Plus

34

40% Plus

35

33

Table 3

Values of Variables Used in the Calculation of Adjusted Vote

for Democratic and Republican Congressional Candidates

from 1972 to 2002

Year

Vote for Democratic Candidates in All Opposed Contests ( x )

Vote for Republican Candidates in All Opposed Contests ( y )

Mean Turnout in Opposed Contests

( m )

1972

32,884,963

31,410,227  
172,373  
1974  
26,458,102  
20,591,512  
127,852  
1976  
36,680,332  
30,404,466  
175,615  
1978  
25,736,895  
22,904,533  
133,264  
1980  
35,317,202  
35,637,761  
186,233  
1982  
31,031,314  
26,732,814  
155,280  
1984  
36,866,639  
37,537,063  
203,846  
1986  
27,800,900  
24,879,591  
144,330  
1988  
36,772,400  
35,023,843  
198,332  
1990  
29,013,174  
24,581,723  
152,258  
1992  
46,259,160  
41,113,572  
219,529  
1994  
30,110,935  
32,650,082  
163,016  
1996  
42,038,703  
41,184,529  
205,998  
1998  
28,112,105  
27,170,264  
161,644  
2000  
41,613,697  
41,936,827

225,204

2002

29,227,397

29,892,618

171,861

34

Table 4

Number of Unopposed Democrats and Republicans

Running for Congress 1972-2002

Year

Number of Unop-posed Democ-rats

( a )

Average for the Decade

Number of Unop-posed Republi-cans

( b )

Average for the Decade

Total Number of Major Party Candi-dates Unop-posed

Average for the Decade

1972

45

48.2

16

12.6

61

60.8

1974

58

9

67

1976

45

8

53

1978

53

17

70

1980

40

13

53

1982

52

53.2

11

18.4

63

71.7

1984

58

12

70

1986

54

16

70

1988

57  
16  
73  
1990  
45  
37  
82  
1992  
19  
23.4  
17  
30.8  
36  
54.2  
1994  
17  
32  
49  
1996  
10  
20  
30  
1998  
38  
54  
92  
2000  
33  
31  
64  
2002  
37  
54  
91  
35

Table 5

Adjusted Pearson's Correlation Squared Between  
the Percentage of the Seats Won by the Democrats and  
the Percentage of the Votes they Received with  
Various Adjustments for Unopposed Candidacies  
Including Swing Ratios and Bias Estimates  
for Elections 1972-2002

Assumption that Unopposed Candidates Would Have Received This Percentage of the Two-Party Vote If the Election  
Had been Contested (v)

Bias to

Democrats

Swing Ratio

Adjusted R<sup>2</sup>

Correlation

Between Seat/Votes

55%

1.82%

2.967

.789

60

1.45

2.813

.845  
 65  
 3.86  
 2.136  
 .880  
 Unopposed candidates votes and seats won Included  
 (i.e., no adjustment)  
 4.91  
 1.772  
 .887  
 70  
 1.12  
 2.447  
 .901  
 75  
 1.02  
 2.268  
 .911  
 77.5  
 1.03  
 2.184  
 .913  
 80  
 1.02  
 2.103  
 .914  
 82.5  
 1.03  
 2.026  
 .914  
 85  
 1.00  
 1.952  
 .913  
 36  
 Table 6  
 Bias and Swing Ratios of the Seat/Vote Relationship  
 United States Congress by Districting Cycle 1972-2000  
 Comparing Unadjusted Figures and An Array of Adjustment Models  
 Model  
 1972-1980  
 1982-1990  
 1992-2000  
 Bias %  
 \*  
 Swing  
 Ratio  
 Bias %  
 \*  
 Swing  
 Ratio  
 Bias %  
 \*  
 Swing  
 Ratio  
 Unopposed contests excluded from both percent votes and seats  
 3.046



1.992

3.662

1.630

0.340

2.33

Unopposed contests excluded from percent votes not per-cent seats

5.741

2.063

8.471

0.725

-0.65

2.41

Unopposed contests included in both percent votes and per-cent seats

4.861

1.926

8.411

0.517

6.163

2.21

55% Model ( $v = .55$ )

5.029

2.317

7.993

0.932

-0.41

2.65

60% Model ( $v = .60$ )

4.410

2.223

7.473

0.976

-0.20

2.58

65% Model ( $v = .65$ )

3.859

2.136

7.006

0.997

0.056

2.50

70% Model ( $v = .70$ )

3.300

2.054

6.665

0.984

0.273

2.42

75% Model ( $v = .75$ )

2.807

1.978

6.498

0.929

0.436

2.34

80% Model ( $v = .80$ )

2.350

1.907

6.516  
0.832  
0.656  
2.25  
85% Model ( $v = .85$ )  
1.946  
1.841  
6.785  
0.705  
0.819  
2.17

\*Positive number indicates a Democratic bias, negative number indicates a Re-publican bias.

37

Table 7

Number of Unopposed Democrats and Republicans

Running for Congress 1972-2002 Old Confederacy States Only

Year

Number of Unop-posed Democ-rats

( a )

Average for the Decade

Number of Unop-posed Republi-cans

( b )

Average for the Decade

Total Number of Major Party Candi-dates Unop-posed

Average for the Decade

1972

35

29.6

3

5.4

38

35.0

1974

37

0

37

1976

29

4

33

1978

28

10

38

1980

19

10

29

1982

26

29.6

7

11.4

33

41.0

1984

37

14  
51  
1986  
29  
9  
38  
1988  
30  
11  
41  
1990  
26  
16  
42  
1992  
9  
11.8  
8  
20.0  
17  
31.8  
1994  
7  
23  
30  
1996  
3  
11  
14  
1998  
24  
36  
60  
2000  
16  
22  
38  
2002  
17  
27  
44  
38

Table 8

Bias and Swing Ratios of the Seat/Vote Relationship United States Congress by Districting Cycle 1972-2000  
Comparing Unadjusted Figures and An Array  
of Adjustment Models Old Confederacy States Only

Model

1972-1980

1982-1990

1992-2000

Bias %

\*

Swing

Ratio

Bias %

\*

Swing

Ratio  
Bias %  
\*

Swing  
Ratio

Unopposed contests excluded from both percent votes and seats

1.754

3.034

9.477

1.228

4.640

2.86

Unopposed contests excluded from percent votes not per-cent seats

15.30

1.409

14.56

0.649

1.502

2.84

Unopposed contests included in both percent votes and per-cent seats

8.945

1.261

7.865

1.097

8.011

2.43

55% Model ( $v = .55$ )

10.47

2.683

13.37

1.087

1.766

3.10

60% Model ( $v = .60$ )

6.593

2.838

12.15

1.168

2.572

2.96

65% Model ( $v = .65$ )

5.766

2.47

10.97

1.217

3.276

2.80

70% Model ( $v = .70$ )

6.601

1.997

9.937

1.214

3.807

2.63

75% Model ( $v = .75$ )

7.773

1.600

9.379  
1.152  
4.243  
2.46  
80% Model ( $v = .80$ )  
8.919  
1.302  
9.252  
1.034  
4.606  
2.30  
85% Model ( $v = .85$ )  
9.856  
1.081  
9.598  
0.882  
4.904  
2.15

\*Positive numbers indicate a Democratic bias.

39

#### CURRICULUM VITAE

THEODORE S. ARRINGTON

OFFICE ADDRESS, PHONE, FAX, E-MAIL, AND WEB SITE

Department of Political Science

The University of North Carolina at Charlotte

9201 University City Blvd.

Charlotte, NC 28223-0001

(704) 687-2574

FAX (704) 687-3497

E-MAIL [tarrngtn@uncc.edu](mailto:tarrngtn@uncc.edu)

<http://www.uncc.edu/tarrngtn>

#### EDUCATION

The University of New Mexico, B.A. Magna Cum Laude, Senior Honors Thesis titled Bernalillo County in Statewide Elections in New Mexico, September 1963-June 1967.

The University of Arizona, M.A. Thesis titled Grass Roots Organization: A Study of Precinct Committeemen, September 1967-December 1968.

The University of Arizona, Ph.D. Dissertation titled Belief Systems in Political Party Stratarchies, January 1971-August 1973.

#### PROFESSIONAL EXPERIENCE

The University of New Mexico, Teaching Assistant, Department of Political Science, September 1966-June 1967.

Research Assistant to Professor Harry Stumpf, Director of a study of the Office of Economic Opportunity Legal Services Program in the San Francisco Bay Area of California, June 1967-August 1967.

The United States Army, Military Police, February 1969-January 1971.

The University of Arizona, Graduate Associate, Department of Government, June 1973-July 1973.

The University of North Carolina at Charlotte:

Assistant Professor of Political Science, July 1973-June 1978

40

Associate Professor of Political Science, July 1978-June 1985

Professor of Political Science, July 1985-present.

The University of North Carolina at Charlotte, College of Social and Behavioral Sciences, Coordinator of Internships, October 1974-August 1977.

President of the Faculty of The University of North Carolina at Charlotte, July 1983-June 1984.

Delegate to The University of North Carolina Faculty Assembly, July 1984-June 1989.

Assistant to the Vice-Chancellor for Faculty Affairs at The University of North Carolina at Charlotte, August 1986-July 1987.

Chairman of the Department of Political Science at The University of North Carolina at Charlotte, July 1987-June 1995, May 1997-present.

Co-Chairman, Self-Study of The University of North Carolina at Charlotte for re-accreditation by the Southern Association of Colleges and Schools, January 1990-August 1992.

#### BOOKS

Applied Political Inquiry (with Terrel Rhodes and Robert Mundt), Washington: University Press of America, 1983.

Elections, Parties, and Politics in Mecklenburg County (with William B.A. Culp, Jr. and Gerald Ingalls), Charlotte: Charlotte-Mecklenburg Board of Elections, Department of Geography and Earth Sciences and the Urban Institute at The University of North Carolina at Charlotte, 1988.

Who Votes and Why: A Review of American Electoral Behavior (with Schley R. Lyons) New York: The Robert A. Taft Institute for Two-Party Government, 1988.

#### JOURNAL ARTICLES

Comment on David Nexon's "Asymmetry in the Political System: Occasional Activists in the Republican and Democratic Parties: 1956-1964," The American Political Science Review 66 (March, 1972) 183-184.

Some Aspects of Political Experience on Issue Consciousness and Issue Partisanship Among Tucson Political Activists, The American Journal of Political Science 19 (November, 1975) 695-702.

41

Amateurs and Professionals Among Tucson Party Activists, Georgia Political Science Association Journal 4 (Fall, 1976) 79-89.

Comment on Christopher H. Achen's "Mass Political Attitudes and the Survey Response," The American Political Science Review 70 (December, 1976) 1230-1231.

Equal Rights Amendment Activists in North Carolina (with Patricia Kyle), Signs: Journal of Women in Culture and Society 3 (Spring, 1978) 666-680.

Machiavellianism of Political Activists, Georgia Political Science Association Journal 6 (Spring, 1978) 99-109.

Partisan Campaigns, Ballots, and Voting Patterns: The Case of Charlotte, Urban Affairs Quarterly 14 (December, 1978) 253-261.

Some Paradoxes of Campaign Finance Reform, Commonsense: A Republican Journal of Thought and Opinion 2 (Fall, 1979) 56-72.

The Advantages of a Plurality Election of the President (with Saul Brenner), Presidential Studies Quarterly 10 (Summer, 1980) 476-482.

Some Effects of Ideology and Threat Upon the Size of Opinion Coalitions on the United States Supreme Court (with Saul Brenner), Journal of Political Science 8 (Fall, 1980) 49-58.

Comment on Richard F. Bensel's "Creating the Statutory State: The Implications of the Rule of Law Standard in American Politics" The American Political Science Review 75 (June, 1981) 460-461.

Financing Local Election Campaigns (with Gerald Ingalls), in Warren Jake Wicker (ed.) Urban Growth and Urban Life, 1981 Proceedings: The Third Annual Urban Affairs Conference of The University of North Carolina (Chapel Hill: Urban Studies Council, 1981) 387-397.

Political Socialization of the Deaf (with Andrew Conrad), Journal of the North Carolina Political Science Association 2 (Winter, 1981-2) 91-95.

Willingness to Pay Per Capita Costs as a Measure of Support for Urban Services (with David Jordan), Public Administration Review 42 (March/April, 1982) 168-170.

William O. Douglas: Consistent Civil Libertarian or Parabolic Supporter? (with Saul Brenner), The Journal of Politics 45 (May, 1983) 490-496.

42

Effects of Campaign Spending on Different Types of Local Elections: The Charlotte Case" (with Gerald Ingalls), American Politics Quarterly 12 (January, 1984) 117-127.

Age, Race and Voter Mobilization in White Charlotte Neighborhoods, Politics and Policy 4 (Spring, 1984) 81-85.

Should the Electoral College be Replaced by the Direct Election of the President? A Debate (with Saul Brenner), PS 17 (Spring, 1984) 237-250.

Another Look at Approval Voting (with Saul Brenner), Polity 17 (Fall, 1984) 118-144.

Race and Local Campaign Finance in Charlotte, N.C. (with Gerald Ingalls), Western Political Quarterly 37 (December, 1984) 578-583.

CONGRESS Takes You On a Presidential Quest, Rainbow Magazine 4 (June, 1985) 195-196.

Advanced and Full-Featured, CMODEM Is a Comparable Terminal Program Rainbow Magazine 4 (July, 1985) 196-198.

How to Predict Election Turnouts, Campaigns and Elections 7 (May-June, 1986) 11-14.

Unanimous Decisionmaking on the United States Supreme Court: The Role of Case Stimuli and Judicial Attitudes (with Saul Brenner), Political Behavior 9 (Number 1, 1987) 75-86. Reprinted in Harold J. Spaeth and Saul Brenner (eds.) Studies in U.S. Supreme Court Behavior (New York: Garland Publishing, Inc. 1990) 207-220.

The Role of Gender in Local Campaign Financing: The Case of Charlotte, North Carolina (with Gerald Ingalls), *Women and Politics* 11 (Number 2, 1991) 61-90.

The Election of Blacks to School Boards in North Carolina (with Thomas Watts), *Western Political Quarterly* 44 (December, 1991), 1099-1105.

Outreach Programs and Voter Registration in North Carolina (with Timothy D. Mead), *State and Local Government Review* 24 (Number 3, Fall 1992) 113-116.

When Money Doesn't Matter: Campaign Spending for Minor Statewide Judicial and Executive Offices in North Carolina, *The Justice System Journal* 18 (Number 3, Summer 1996) 257-266.

43

The Limited Vote Alternative to Affirmative Districting (with Gerald Ingalls), *Political Geography* 17 (Number 6, April 1998) 701-728.

Party Registration Choices as a Function of the Geographic Distribution of Partisanship: A Model of 'Hidden partisanship' and an Illustrative Test (with Bernard Grofman), *Political Geography* 18 (Number 2, February 1999) 173-185.

Ideological Voting on the U.S. Supreme Court: Comparing the Conference Vote and the Final Vote with the Segal/Cover Scores (with Saul Brenner), *Jurimetrics* 41 (Summer, 2001) 505-512.

Measuring Salience on the Supreme Court (with Saul Brenner), *Jurimetrics* 43 (Fall, 2002) 99-113.

Strategic Voting for Damage Control on the Supreme Court (with Saul Brenner), *Political Research Quarterly* 57 (December, 2004) 565-573.

#### BOOK REVIEWS

Jack Fleer, *North Carolina Government and Politics*, Lincoln: University of Nebraska Press, 1994 for *Publius: The Journal of Federalism*, 25 (Number 1, Winter 1995) 126-127.

Maurice T. Cunningham, *Maximization, Whatever the Cost: Race, Redistricting, and the Department of Justice*, Westport: Praeger, 2001 for *American Review of Politics*, 22 (Spring & Summer 2001) 129-131.

William W. Lammers and Michael A. Genovese, *The Presidency and Domestic Policy: Comparing Leadership Styles, FDR to Clinton*, Washington: CQ Press, 2000 for *Politics and Policy*, 31 (Number 3, 2003) 561-562.

#### PAPERS

Equal Rights Amendment Activists in North Carolina (with Patricia Kyle), Panel on Women and Public Policy, Annual Meeting of the American Political Science Association, San Francisco, California, 1-6 Sep 1975.

The Size Principle and Supreme Court Decision-Making (with Saul Brenner), Panel on Supreme Court Behavior, Annual Meeting of the Southern Political Science Association, Nashville, Tennessee, 6-8 November 1975.

Interdependence in the Third World: A Study of Bloc Voting Cohesion in the U.N. General Assembly, 1965-1976 (with Patricia Kyle), International Studies Association Convention, St. Louis, Missouri, 19 March 1977.

44

Participation in Elections: A Study of Voter Mobilization in Charlotte, N.C., Panel on North Carolina Electoral Behavior, Annual Meeting of the North Carolina Political Science Association, Chapel Hill, North Carolina, 30-31 March 1979.

Financing Local Level Election Campaigns (with Gerald Ingalls), Panel on Citizen Participation, Third Annual Urban Affairs Conference of The University of North Carolina titled "Perspectives on Urban Growth and Urban Life," Charlotte, N.C., 1-3 April 1981.

Financing Local Elections: Who Gives What to Whom? (with Gerald Ingalls), Annual Meeting of the Southeastern Division of the Association of American Geographers, Atlanta, Georgia, 22-24 November 1981.

Financing Local Election Campaigns: Does Neighboring Help Raise Money? Does Money Win Elections? (with Gerald Ingalls), National Meeting of the Association of American Geographers, San Antonio, Texas, 26-28 April 1982.

A Method for Predicting Voter Turnout in Elections, Annual meeting of the North Carolina Political Science Association, Mars Hill, N.C., 18-19 April 1986.

A Teaching Model of a Responsible Two-Party System, Annual meeting of the North Carolina Political Science Association, Mars Hill, N.C., 18-19 April 1986.

Urbanization, Management Capacity and the Impact of the 1965 Voting Rights Act (with Timothy D. Mead), Annual meeting of the Urban Affairs Association, Akron, Ohio, 22-25 April 1987.

Is Campaigning at the Polls Effective? A Quasi Experiment Using the 1989 Charlotte Mayoral Election, Annual meeting of the North Carolina Political Science Association, Cullowhee, 20 March 1992.

Alternatives to Affirmative Gerrymandering: Limited Voting as One Option (with Gerald Ingalls), Annual Meeting of the Southeastern Division of the Association of American Geographers, Virginia Beach, 20-22 November 1994.

The Use of Limited Voting in the United States: Potential and Practice (with Gerald Ingalls), Annual Meeting of the Association of American Geographers, Chicago, Illinois, 18 March 1995.

Is Mandatory HMO Enrollment for Dependent Populations Acceptable? Public Opinion and Its Evolution Since the Backlash Against Managed Care (with William P. Brandon and Nancy Schoeps), Annual Meeting of the American Political Science Association, Washington, D.C., August 1997.

45

Public Opinion About Mandatory HMO Enrollment Under Medicaid, Medicare, Veterans, and Employer Payment Programs (with William P. Brandon and Nancy Schoeps), Annual Meeting of the American Public Health Association, Indianapolis, November 1997.

Affirmative Districting and the Partisan Seats/Votes Relationship: 1972-2002, Annual Meeting of the American Political Science Association, Philadelphia, PA, September 2003.

The Rational Losing Litigant Model and Measuring Ideology of the U.S. Supreme Court (with Saul Brenner), Annual Meeting of the American Political Science Association, Washington, DC, September 2005.

#### SELECTED PRESENTATIONS

Chairman of the panel Toward Explaining Women's Political Patterns, Annual meeting of the Southern Political Science Association, Atlanta, Georgia, 4-6 November 1976.

Discussant on the panel on Evaluation of the Carter Administration, Annual meeting of the North Carolina Political Science Association, Greensboro, N.C., 6-8 April 1978.

Chairman of the panel on American Politics, Annual meeting of the North Carolina Political Science Association, Asheville, N.C., 18-19 April 1980.

Chairman of the Seventh Annual Undergraduate Awards Competition, Annual meeting of the North Carolina Political Science Association, Asheville, N.C., 18-19 April 1980.

Chairman of the Thirteenth Annual Undergraduate Awards Competition, Annual meeting of the North Carolina Political Science Association, Mars Hill, N.C., 18-19 April 1986.

Participant in the Roundtable on North Carolina Elections, Annual meeting of the North Carolina Political Science Association, Greensboro, North Carolina, 8-9 April 1988.

Discussant at the panel on The Politics of Governing, Annual meeting of the North Carolina Political Science Association, Salisbury, North Carolina, 30-31 March 1990.

Change for Whom? Three Decades of Electoral Change and Continuity in North Carolina Elections (with Gerald Ingalls), a presentation at the Conference on

46

Empowering Political and Economic Transformation, sponsored by the University of Colorado and the Political Geography Specialty Group of the American Association of American Geographers, Boulder Colorado, 15-18 April 1992.

Discussant on the panel on North Carolina and the 1992 Elections, Annual meeting of the North Carolina Political Science Association, Durham, North Carolina, 2-3 April 1993.

Discussant on the panel on Congressional politics, Annual meeting of the North Carolina Political Science Association, Charlotte, North Carolina, 18-19 March 1994.

Discussant on the Symposium on Redistricting in Theory and Practice After Shaw Versus Reno, Annual Meeting of the American Association of Geographers, Charlotte, North Carolina, 12 April 1996.

Invited presentation for The Kenelm Foundation-Campbell University Series at the Weymouth Center in Southern Pines, N.C. Two workshops on redistricting titled "From Gingles to Shaw -- The Role of North Carolina in the Formation of Districting Principles in the United States." One workshop for the public and one for honors students. September 1996.

Invited presentation in the series "The American Presidents and the American Presidency" sponsored by the Caldwell Community College and Technical Institute at the J.E. Broyhill Civic Center in Lenoir, N.C. Presentation titled "Clinton or Dole -- Choosing the Lesser of Two Evils or the Evil of Two Lessers." October 1996.

Chairman and discussant on the panel American National Politics, Annual meeting of the North Carolina Political Science Association, Boone, 3-4 April 1998.

Discussant on the Roundtable on Declining Enrollments in Political Science, Annual meeting of the North Carolina Political Science Association, Boone, 3-4 April 1998.

Testimony before the Subcommittee on the Constitution, Committee on the Judiciary, United States House of Representatives. Hearing on H.R. 1173, the "States' Choice of Voting Systems Act" Thursday, 23 September 1999, 2:00 p.m. in 22267 Rayburn House Office Building.

Member, Roundtable on Redistricting, Representation, and American Political Institutions, 100th Annual Meeting of the American Political Science Association, Philadelphia, 28-31 August 2003.

47

Written Testimony on the Reauthorization of the Voting Rights Act before the Committee on the Judiciary of the United States House of Representatives, 2 November 2005.



## CONSULTING

Gingles vs. Edmisten, 590 F. SUPP. 345 (E.D.N.C.) 1984. Employed by plaintiffs, courtroom and affidavit testimony that the use of multimember districts for the N.C. General Assembly impedes the election of blacks and Republicans. Affirmed by the United States Supreme Court *Thornburg vs. Gingles*, 478 U.S. 30 (1986).

Alexander vs. Martin, Civil Action No. 86-1048-CIV-5 (E.D.N.C.) 1987. Employed by plaintiffs. Affidavit testimony that the use of multimember districts and state-wide elections for Superior Court Judges in North Carolina impedes the elections of black candidates.

Republican Party of North Carolina vs. Hunt, Civil Action No. 88-263-CIV-5 (E.D.N.C.) 1988-1996. Employed by plaintiffs. Affidavit and deposition testimony that the procedure of statewide elections of Superior Court judges dilutes the votes of Republicans consistently degrading the votes of Republican voters and also degrades their influence on the political process as a whole in violation of constitutional rights.

Person vs. Moore County, Civil Action No. C-89-135-R (M.D.N.C.) 1990. Employed by defendants. Affidavit and deposition testimony supported the contention that the local governing bodies in this county were in compliance with the Voting Rights Act.

Ward vs. Columbus County, Civil Action No. 90-20-CIV-7-BR (E.D.N.C.) 1990. Retained by defendants. Affidavit, courtroom, and deposition testimony that black and American Indian voters were not cohesive in their voting patterns in this county.

Lake vs. State Board of Elections of North Carolina, Civil Action No. 2:91CV00254 (M.D.N.C.) 1991. Employed by the plaintiffs. Affidavit testimony on aspects of holding a special election in two counties to remedy irregularities in election for Associate Justice of N.C. Supreme Court in 1990.

Stafford vs. Burnick, Civil Action No. 2:91CV00542 (M.D.N.C.) 1991. Employed by the plaintiffs. Affidavit testimony about whether the options proposed in a referendum to be held in Guilford County North Carolina concerning consolidation of the school boards there would violate the Voting Rights Act.

48

Consultant for a coalition of groups objecting to preclearance of General Assembly and Congressional redistricting for North Carolina in 1991. Affidavit testimony to the United States Justice Department that the proposed districts were not consistent with the Voting Rights Act.

Consultant for a coalition of groups objecting to preclearance of General Assembly and Congressional redistricting for Georgia in 1991. Affidavit testimony to the United States Justice Department that the proposed districts were not consistent with the Voting Rights Act. This work was related to *Jones vs. Miller*, Civil Action No. 1-92-CV-330-JOF (N.D.GA) in which I would have been an expert witness for plaintiffs if that case had gone to trial.

Burton vs. Sheheen, Civil Action No. 3-91-2983-1 (The South Carolina Senate Defendant-Intervenors); South Carolina Reapportionment Advisory Committee vs. Campbell, Civil Action No. 3-91-3310-1; and Blanton vs. Sheheen, Civil Action No. 2-91-3635-1 (D.C.S.C. Columbia Division). Employed by plaintiffs in 1991-2. Affidavit and courtroom testimony that election for Congress and state legislature in South Carolina are racially polarized, that timely known and agreed to districts are important to minority candidates election, that the 1982 districts in the state are malapportioned, and comparison of proposed plans for redistricting.

Re MacKinnon and Government of Prince Edward Island (1993). Before the Supreme Court of Prince Edward Island, Canada. In the Matter of the Canadian Charter of Rights and Freedoms and in the matter of sections 147-151 of the Elections Act, R.S.P.E.I. 1988 Chapter E-1. 101 D.L.R.(4th) 362. Written and courtroom testimony for petitioner (City of Charlottetown) that it is practical and desirable to draw districts for the Legislative Assembly of the Province of P.E.I. that have a low population deviation. Included construction of districts with a total deviation of 4.9%, and presentation of those districts to the court.

Hines vs. Callis, Civil Action No. 89-62-CIV-2-BO (E.D.N.C.) 1992. Courtroom testimony that the town council election scheme offered by the Town of Ahoskie N.C. is a reasonable remedy for the admitted deficiencies in their system of at-large elections and would be sufficient to meet the requirements of the Voting Rights Act. Also see *Hines vs. Mayor and Town Council of Ahoskie* (Fourth Circuit United States Court of Appeals #92-2593) 15 July 1993.

Degrandy vs. Wetherell, Civil Action No. 92-40015-WS (N.D.FL) and Florida State Conference of NAACP Branches vs. Chiles, Civil Action No. 92-40131-WS (N.D.FL) 1992. Consultant for Common Cause of Florida, amicus curiae in the case. Affidavit and courtroom testimony before the Special Master appointed by the Court to aid in the construction of legislative and Congressional districts for the State of Florida.

49

Appointed in 1992 as the expert to aid Special Master Frederick B. Lacey in drawing Congressional districts for the State of New York. Lacey was appointed by the Court considering the case of Puerto Rican Legal Defense and Education Fund, Inc. and Corchado vs. Gantt, CV-92-1521(SJ) (E.D.N.Y.) and Waring vs. Gantt, CV-92-1776(SJ) (E.D.N.Y.).

Appointed in 1992 as the expert to aid Special Master Frederick B. Lacey in drawing state legislative districts for New

York. Also retained to directly advise the Court on methodological questions. The cases were: The Fund for Accurate and Informed Representation, Inc. vs. Weprin, 92-CV-283 (N.D.N.Y.); Norman vs. Cuomo, 92-CV-720 (N.D.N.Y.); and Scaringe vs. Marino, 92-CV-0593. Writ-ten and courtroom testimony.

Willis vs. Town of Trenton, North Carolina, 92-CIV-4-H (E.D.N.C.) 1993. Re-tained by defendants to outline for the Court the evidence plaintiffs must present to prove their claim that the town election procedures impede the election of blacks. Testified by report to the Court.

Retained by plaintiff National NAACP in the combined cases of National Associa-tion for the Advancement of Colored People, et al. vs. Schaefer, et al. (S-92-1409) and Marylanders for Fair Representation vs. Schaefer, et al. (S-92-510) in the Federal District Court for Maryland, 1993. Report, deposition, and courtroom testimony that the voting for General Assembly in Maryland is racially polarized, the minority community is politically cohesive, and the districts drawn by the State of Maryland provide less of an opportunity for minority citizens to partici-pate in the political process than the districts drawn by plaintiffs.

Cane, et al. vs. Worcester County, Maryland, et al., Y-92-3226 (United States District Court, Maryland District) 1993. Retained by plaintiffs. Testified by report, deposition, and in court that the elections in Worcester County are racially polar-ized and that minority candidates of choice cannot win in the at-large elections for County Commission even if the minority community is strongly cohesive in their voting patterns. Also see Fourth Circuit United States Court of Appeals (#94-1579) 16 September 1994.

In 1992, consultant to the Cleveland County (N.C.) Board of Commissioners to formulate a plan to move from at-large to a mixed at-large district system in order to increase minority participation. Newly elected commissioners decided not to submit the new plan to the U.S. Justice Department for preclearance. This re-sulted in legal action: Campbell and National Association for the Advancement of Colored People vs. Cleveland County Board of Commissioners et al., 4:94-CV-11 (W.D.N.C., Shelby Division) in 1994. Testified by affidavit, but not as expert re-tained by any party to the legal action.

50

In 1992, Co-Chair of the Blue Ribbon County Governance committee, appointed by the Mecklenburg County (N.C.) Commission to study possible changes in election procedures for the county commission. Proposed a new expanded Commission and new set of districts. Co-chair of the District Proposal Election Committee, which campaigned for the new proposal, which was adopted by the voters in November 1992. In 1993 the North Carolina General Assembly revised those districts and mandated that the revised districts be used for school board elections. In Daly et al. vs. Hunt et al. 3:93CV371-MU (W.D.N.C. Charlotte Divi-sion) during 1994 the state districts were challenged on one-person-one vote grounds. Testified, in a joint affidavit with Gerry F. Cohen of the N.C. General Assembly staff, about both sets of districts.

United States of America vs. Anson County Board of Education et al. 3:93CV210-P (W.D.N.C.) 1994. Retained by the United States Department of Justice. Testified by declaration that elections in Anson County are racially polar-ized, the African-American community is politically cohesive, and any at-large seats on the school board would dilute the vote of minority citizens because whites vote as a bloc to prevent minority candidates from winning election.

Charles T. Sutherland vs. Everett H. Hyde et al. 3:94CV00451 (M.D.N.C.) 1995. Retained by plaintiff to testify by affidavit about the effects of the ballot order of names in primaries on the results of elections. Ballot order does affect the out-come of some primary elections in North Carolina. This case became Charles T. Sutherland, Jr. vs James Hunt, et al. 1:97-CV-1123 (M.D.N.C.).

Thurman Gause et al. vs. Brunswick County, North Carolina et al. CA-93-80-7-D (E.D.N.C.). Retained by defendants (Brunswick County) in 1994 to testify about polarized voting and the dispersal of minority citizens within the county. While I did not testify, I was deposed by plaintiff's attorneys. Also see Fourth Circuit Court of Appeals (No. 95-3028) 13 August 1996.

Consultant on election systems and redistricting for Albemarle, N.C. City School District (1988); Hickory, N.C. City School District (1991); City of Hickory (1991); Winston-Salem/Forsyth, N.C. School District (1991); Moore County, N.C. Com-mission (1991); Mecklenburg County, N.C. Commission (1991-2); Reidsville, N.C. City Council (1992); Rowan-Salisbury N.C. Board of Education (1992); plaintiffs bringing legal action against Mt. Olive, North Carolina (1993); plaintiffs bringing legal action against Launenburg N.C. (1993); Albemarle N.C. County Commission (1993). City of Charlottetown et al. and The Government of Prince Edward Island . (1996) Court File GSC-14198 before the Supreme Court of Prince Edward Is-land, Canada. In the matter of the Canadian Charter of Rights and Freedoms and in the matter of Sections 2, 3, 4, 5, 17(2) and the Schedule of the Election Boundaries Act, (S.P.E.I. 1994, Cap. 13, Bill No. 100). As a result of MacKinnon vs. Government of Prince Edward Island (see above), the Provincial legislature

51

was forced to redistrict itself. The City of Charlottetown argued that the Province did not fully comply with that decision, and they brought suit to change the dis-tricts. Retained by City of Charlottetown, testified by report and at

trial that the districts were a rural gerrymander.

Wayne Cook, et al. vs. Marshall County, Mississippi, et al. and United States of America Defendant Intervenor. (1996) CA 3:05 CV 155-D-A (N.D.MS.). Retained by the United States Department of Justice to prepare testimony on polarized voting, minority cohesion, the effects of low socio-economic status on political participation, and traditional districting practices. In this case the Justice Department defended the districts used to elect county supervisors against a challenge by white plaintiffs. Testified by report.

Cleveland County Association for Government by the People, et al. vs. Cleveland County Board of Commissioners, et al. (1997) CA 96-1447-SSS (U.S. District Court for D.C.). Retained by plaintiffs to testify about possible districting arrangements. Testified by affidavit that it is not possible to draw a majority minority district in a five district plan for Cleveland County, N.C. that would be considered "geographically compact" as defined by the Supreme Court in Shaw vs. Hunt given the size and dispersion of the African-American population in that jurisdiction.

The United States of America vs. New Roads Louisiana (1997) CA 96-7315-B-M2 (M.D.LA). Retained by the United States Department of Justice to prepare testimony on polarized voting, minority cohesion, and the effects of low socio-economic status on the political participation of minority citizens in New Roads Louisiana. Testified by declaration.

Consultant in 1999 to the United States Department of Justice, Civil Rights Division, Voting Section on various aspects of Cromartie et al. vs. James B. Hunt, et al. 99-1864 (E.D.N.C.) and Smallwood et al. vs. Cromartie et al. 99-1865 (E.D.N.C.). The United States elected not to intervene in these cases.

Dean Butch Wilson et al. vs. John W. Jones Jr. et al. (1999) CA 96-1052-BH-M. in the United States District Court, Southern District of Alabama, Northern Division. Retained by the United States Department of Justice to prepare a four district plan for Dallas County (Selma), Alabama. Testified by declaration, at trial, and at a meeting of Commissioners about the principles used to draw the plan.

Randy Royal, et al. vs. The State of North Carolina and the North Carolina Board of Elections 99 CV 13020 (2000), in the General Court of Justice, Superior Court Division, County of Wake, State of North Carolina. Retained by Plaintiffs to examine the effects of campaign spending on General Assembly elections. Testified in writing. 52

The United States of America vs. Blaine County Montana (2000) CV 99-122-GF-DWM (MT), in the United States District Court for the State of Montana. Retained by the United States Department of Justice to prepare written testimony on polarized voting, minority cohesion, and the effects of low socio-economic status on the political participation of minority (American Indian) citizens in Blaine County Montana. Also drew a three single-member district plan for election of commissioners to show that Indians are numerous enough and geographically concentrated enough to form a majority in one of the districts. Testified by deposition and at trial.

The United States of America vs. Charleston County Council (2001) CA 2-01-0155-11 (SC), in the United States District Court for the State of South Carolina. Retained by the United States Department of Justice to prepare testimony on polarized voting, minority cohesion, and the effects of low socio-economic status on the political participation of minority (African-American) citizens in Charleston, South Carolina. Also drew nine single-member districts for Charleston County Council to show that African-Americans are numerous enough and geographically concentrated enough to form a majority in three single-member districts in that county. Testified in writing, by deposition, and at trial during July 2002.

During the 2001 cycle of reapportionment I was consultant for the minority caucus of the Connecticut State Senate. I also drew Charlotte City Council Districts for the Alliance for a Better Charlotte and presented those districts to the City Council Redistricting Committee. My districts for the Charlotte/Mecklenburg Board of Education and Mecklenburg County Commissioners, drawn in my capacity as consultant to these bodies, were adopted.

Retained to advise the Minority Caucus of the Illinois House of Representatives and the Majority Caucus of the Illinois Senate. This resulted in several reports or declarations, including written and oral testimony before the Illinois State Redistricting Commission on 20 September 2001. The Commission enacted districts were challenged in Campuzano, et al. vs. Illinois State Board of Elections et al. in the United States District Court for the Northern District of Illinois, Western Division, Civil Action No. 01-C-50376. I was expert witness for plaintiffs in that case, and presented the districts for the Illinois General Assembly that I drew with Dr. Richard Engstrom in a declaration and at trial.

Retained by the Speaker of the South Carolina House of Representatives and the Majority Leader of the South Carolina Senate to advise them on redistricting. Since there was a deadlock between the General Assembly and the Governor of that state, the case went directly to Federal Court. The cases are Colleton County Council et al. vs. Glenn F. McConnell, et al. (Civil Action No. 3:01-3581-10); Leatherman et al. vs. Glenn F. McConnell, et al. (Civil Action No. 3:01-3609-10); and Marcharia, et al. vs. James H. Hodges et al. (Civil Action No. 3:01-3892-10) all in the United States District Court for the District of South Carolina Colum-

53

bia Division. In the legal action I was retained by plaintiffs and testified by declaration, deposition, and at trial.

I was retained at various times during the year to advise the North Carolina Re-publican Party on developing redistricting issues, and wrote to the General Assembly Redistricting Committee and the United States Department of Justice about certain aspects of Congressional redistricting in North Carolina. The Congressional redistricting was challenged in The United States District Court for the Eastern District of North Carolina, Eastern Division in the case of Foreman, et al. vs. Bartlett et al. (Civil Action No. 4:01-CV-166-B0(4). I was retained by plaintiffs in that case, and testified by declaration.

The Louisiana House of Representatives, et al. vs. John Ashcroft, Attorney General of the United States (Civil Action No. 1:02CV00062) in the United States District Court for the District of Columbia. In 2002 I was retained by the Department of Justice to examine whether the proposed districting plan for the Louisiana House of Representatives was retrogressive under §5 of the Voting Rights Act. Prepared written and deposition testimony including proposed districts for Orleans and Baton Rouge parishes.

Working Families Party, et al. vs. New York City Board of Elections, et al. (Civil Action No. 03-3701) in the United States District Court for the Eastern District of New York. Retained by the Brennan Center at New York University, representing plaintiffs. Testified that votes in New York City, especially those of minority citizens, are lost because the New York City Board of Elections disabled or failed to reactivate the sensor latch on the 7,000 lever voting machines used in the city.

State of North Carolina vs. John Ashcroft, et al. (Civil Action No. 1:03 CV 02477 [RBW MG RCL]) in the United States District Court for the District of Columbia. In 2004 I was retained as consultant and then as potential expert witness for the Department of Justice to examine whether the proposed plans for the North Carolina General Assembly were retrogressive under §5 of the Voting Rights Act. Prepared a report for the Department.

United States of America vs. Osceola County, Florida (Civil Action No. 6:05-cv-01053-GAP-DAB) in the United States District Court for the Middle District of Florida. Currently retained as an expert witness by the Department of Justice to examine whether the at-large voting for County Commissioners violates §2 of the Voting Rights act by denying Hispanic citizens an equal opportunity to elect representatives of their choice and participate equally in the political process.

United States of America vs. Ike Brown, et al. (Civil Action No. 4:05-CV-33) in the United States District Court for the Southern District of Mississippi. Currently retained as an expert witness by the Department of Justice to examine whether various election practices, contrary to State and Federal law, in Noxubee County,

54

Mississippi violate §2 of the Voting Rights Act by denying white citizens an equal opportunity to elect representatives of their choice and participate equally in the political process.

#### AFFILIATIONS

The American Political Science Association, 1966-present

Pi Sigma Alpha, 1967-present

The Southern Political Science Association, 1974-present

North Carolina Political Science Association, 1974-present

Vox Pop (parties and interest group studies group), 1981-present

Legislative Studies Group, 1982-present

Presidency Studies Group, 1982-present

Representation and Electoral Systems Studies Group, 1984-present

Phi Kappa Phi, 1991-present

#### GRANTS AND AWARDS

National Defense Education Act Title IV Fellowship awarded by the Department of Political Science, The University of Arizona, September 1967-December 1968 and renewed for January 1971-August 1972, \$7,200.

Dissertation year research grant awarded by the Department of Political Science, The University of Arizona, September 1972-August 1973, \$2,400.

Summer research grant awarded upon recommendation of the Faculty Grants Committee from funds established for research by the Foundation of The University of North Carolina at Charlotte and the North Carolina General Assembly, to pursue a study of ticket splitting behavior, Summer 1978, \$1,000.

Summer research grant awarded upon recommendation of the Faculty Grants Committee from funds established for research by the Foundation of The University of North Carolina at Charlotte and the North Carolina General Assembly, to pursue a study of campaign finance, Summer 1980, \$1,000.

Summer research grant awarded upon recommendation of the Faculty Grants Committee from funds established for research by the Foundation of The University of North Carolina at Charlotte and the North Carolina General Assembly, to pursue a study of attitudes among elite African-Americans, Summer 1996, \$8,196.

Faculty Service Award Recipient for 2000 from the UNC Charlotte Alumni Association for career accomplishments and service to the community.

## POLITICAL ACTIVITY

President, Teen-Age Republicans, Bernalillo County, N.M., 1963-64

Vice President, Young Republicans, Bernalillo County, 1963-64

President, Young Republicans, University of New Mexico, 1964-65

Republican Precinct Chair, Bernalillo County, 1966

Precinct election official, Pima County, Arizona, 1968 and 1972

Republican Precinct Chair, Mecklenburg County, N.C., 1974-76

Precinct Supervisor, Mecklenburg County Republican Party, 1975-76

Vice Chair, Mecklenburg County Republican Party, 1976-77

Republican Nominee, Charlotte City Council, 1977

Information Chair, Mecklenburg County Republican Party, 1977-79

Ceased work for the Republican Party to assume a position on the Mecklenburg County Board of Elections: Member,

July 1979-July 1991, Chair of the Board, July 1985-July 1991

After leaving the Board of Elections, I became a registered unaffiliated voter (that is, an independent).

## MEDIA PRESENTATIONS AND MEDIA CONSULTING

Articles, appearances, and background consulting for television, radio, and print media. These include over one hundred different media including: The Advo-cate, American Broadcasting Network News, Asheville Citizen-Times, Associated Press, Atlanta Constitution, Boston Globe, British Broadcasting Corporation World News Service, Business Journal, Business Week Magazine, CBS Televi-sion ("Today" and "60 Minutes"), Cable News Network, C-Spann Network, Canadian Broadcasting Corporation, Capitol Reporter, Charlotte Observer, Chi-cago Tribune, Christian Broadcasting Network News, Christian Science Monitor, City Journal (NY City), Congressional Quarterly, Copley News Service, Cox Newspaper Chain, Dailey News (Washington, DC), Dallas Morning News, Dan-ville Virginia Register and Bee, Detroit Free Press, Durham Herald-Sun, The Economist (London), Fox News Network, Freedom Newspaper Chain, Gannett News Service, The Gaston Gazette, Greensboro News and Record, Greenville News (S.C.), Hearst Newspaper chain, The Herald Tribune (S.E. Florida), Hick-ory Daily Record (NC), The Hill Newspaper, Houston Chronicle, The Independent (London), The Independent (Durham), Inside Congress, The Irish Times (Dub-lin), Keene Sentinel (NH), Kepplinger Newsletter, Los Angeles Herald Examiner, Los Angeles Times, MSNBC Network, Media General Newspaper Chain, Na-tional Journal, National Public Radio All Things Considered, New Orleans Times Picayune, New York Daily News, New York Times, New York Times Magazine, Newhouse News Service, Newsday (New York), Newsweek, North Carolina Pub-lic Radio, People Magazine, Philadelphia Inquirer, Philadelphia Tribune, Raleigh News and Observer, Record and Landmark (Statesville, NC), Richmond Times,

56

Roll Call News, Sacramento Bee, San Diego Union Tribune, Scholastic News, Shelby Star (NC), Southan News of Canada, St. Louis Post Dispatch, St. Peters-berg Times, Stateline.org, Thompson Newspaper Chain, Tampa Tribune, Time-Warner Cable, Time Magazine, Toledo Blade, USA Today, Virginia Pilot, Wash-ington Post, Washington Times, Wall Street Journal, Wilson Daily Times (NC), Winston-Salem Journal, UNC Television Network, United Press International, U.S. News and World Report, Washington Times, Winston-Salem Journal, Women's Voice.

LATEST UPDATE -- May 15, 2006

57