III

CASE STUDIES IN THE OLD AND NEW MILLENNIA

8

The Art of the Dummymander: The Impact of Recent Redistrictings on the Partisan Makeup of Southern House Seats[1]

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Effective gerrymandering can increase/decrease the number of seats captured by a particular party, but gerrymandering cannot produce miracles; it cannot turn water into wine, or Republicans into Democrats. A lifeboat metaphor is useful in understanding districting.

The carrying capacity of any lifeboat is limited. If you try to overload it, the boat may sink, or at least tip over, washing a number of people overboard.[2] The carrying capacity of a party's voting strength is limited. If you try to make it carry too much weight (spread the party's voting strength too thin among too many districts) the lifeboat will probably go under in bad (electoral) weather, even if it is afloat when skies are blue and the ocean calm. Moreover, if some of the logs holding up the lifeboat are going to be knocked away by the waves (i.e., realignment trends are reducing a party's voting strength, key incumbents who play a vital role in holding on to marginal seats are likely to retire), then a party that fails to take such uncomfortable longer-term realities into account will discover that, even if the lifeboat does not sink initially, it is bound to founder later in the decade.

Since blacks are such loyal Democrats, the creation of black majority seats that soak up blacks (and also often have substantial proportions of white Democrats in them, who live in close proximity to black areas) has been blamed for a good part of the Democratic congressional losses after the 1990s round of redistricting. Yet black majority seats are really not that different from other seats that are packed with Democrats. If you waste Democratic votes in some districts that means that you have to be very careful about how you parcel out the remaining Democratic strength. Especially when margins are thin, the effect of electoral tides on partisan representation is nonlinear. There can be a huge tipping effect in a particular election; a

high proportion of those on the lifeboat can be washed away (i.e., if you try cutting the margins too thin, the partisan balance in a state can change *very* rapidly).

Both foresight and ruthlessness are needed. If a party overestimates the carrying capacity of its lifeboat, it risks having it sink, thus ending the (political) lives of all (or most) on board. But recognizing the problem is not enough. Party leaders must be ruthless enough (and have enough political clout) to sacrifice some people (loyal party members, often with years of sterling service) who are desperate to get on board the lifeboat. In Spockspeak: "The good of the many must outweigh the good of the few."

We can illustrate these points with a discussion of congressional districting in the Deep South in the 1990 and 2000 rounds of redistricting, focusing on Alabama, Georgia, Mississippi, North Carolina, and South Carolina. We will argue that, in a number of these states, the result of failing to understand the carrying capacity of the lifeboat on the part of the party controlling the districting process and/or its reluctance or inability to take the appropriate measures, is what we will call a *dummymander*. A *dummymander* is a gerrymander by one party that, over the course of the decade, benefits the other party, and actually looks as if it was designed by that party rather than the party in power.

ALABAMA

The Alabama congressional plan adopted in 1992 was proposed by Republicans and ordered into effect by a federal court. It created a 68 percent black majority in a new 7th district. Barone and Ujifusa blame this district for the subsequent victories of Republicans in two seats, "the once-competitive 2nd and the previously Democratic 6th, from which tens of thousands of blacks had been removed to raise the black percentage in the 7th."[3]

The probable partisan outcomes over the course of the 1990s can be prognosticated by the distribution of the 1992 presidential vote across the seven Alabama House districts shown in table 8.1 (the first two columns).[4] The 1992 plan creates a *very* packed Republican seat in the 6th and a reasonably safe Republican seat in the 2nd, as well as two other likely Republican seats, the 1st and the 4th; the Democrats, in contrast, have the certainty of only one seat, the black majority 7th, and a shot at holding two more of the seven House seats in the state, the 5th and the 3rd. Over the course of the decade, Democratic losses mounted. In 1990 the split was 6D, 1R; in 1992 and 1994 it was 4D, 3R; by 1998 it was 2D, 5R. In 2000 it stayed 2D, 5R, with all incumbents retaining their seats.

In the 2000 round of redistricting the size of Alabama's House delegation remained at seven. Now the Democrats controlled the process. Hop-

Table 8.1. 1992 and 2000 Presidential Results by Congressional District: Alabama

1992 Presidential		*2000 Presidential*	
District	*Clinton Percent/ Bush Percent*	*District*	*Gore Percent/ Bush Percent*
1	−15	1	−23
2	−18	2	−24
3	−6	3	−5
4	−11	4	−24
5	−3	5	−10
6	−38	6	−49
7	43	7	34

ing to improve on their performance in the 1990s, they passed a congressional redistricting plan that targeted the 3rd congressional district as a possible Democratic pick up by doubling the number of African Americans in that district.[5] Paralleling our analysis for the 1990 redistricting round, we break down the presidential vote from the 2000 election by the new congressional district lines. From the table we can see that the Democrats still have one safe (packed) district, the 7th; however, in 2002 they continued to control the 5th congressional district, even though the district leaned Republican.

From table 8.1 we can also see that Democrats in the 2000 round did not go far enough in reshaping the 3rd congressional district in a Democratic direction in the light of the fact that support for Bush 43 in 2000 was greater than what it had been for Bush 41 in 1992, in that the district was only minusculely less pro-Republican than before (and assuming that the majority of Perot supporters would otherwise have voted Republican). Prior to the 2002 election, Bob Riley, the incumbent in the 3rd, vacated his congressional seat to run for Governor. The Republicans ran Mike Rogers, who won the seat with 51.1 percent of the vote. His opponent was Joe Turnham, who is a white Democrat and a long time Alabama Democratic Party activist. (In 2000, in the old district 3, Riley, the Republican incumbent, had won with no Democratic opposition.)

After the 2002 election, in the 108th Congress, the delegation remained 5 to 2 in favor of the GOP. 2002 was probably the Democrats' best opportunity to pick up a seat, in that Representative Rogers will now, as the incumbent, have an opportunity to increase his visibility in the 3rd, and the 3rd is the only district that might realistically be a pickup for the Democrats. Thus we expect that, over the course of the decade the Alabama delegation will remain with a 5 to 2 Republican edge, although a further loss of one seat for the Democrats is not out of the question in an especially good Republican year.

GEORGIA

Writing before the 1994 Republican takeover of the House, Barone and Ujifusa's discussion of Georgia's 1992 congressional redistricting specifically blames the Voting Rights Act (VRA) for Democratic congressional losses in Georgia in the 1992 election, and anticipates more such losses in the future.[6] They characterize the VRA as "requiring the maximum number of majority-black districts." In Georgia, the Department of Justice insisted that that a third black majority seat be drawn when the state legislature submitted for preclearance a plan that only had two black majority seats in it.[7] In Georgia, Barone and Ujifusa assert that the VRA, "required the maintenance of the black majority 5th in Atlanta and the creation of a new black majority 11th, stretching from Atlanta to Savannah, which diverted Democratic voters from the 1st district, subsequently captured by a Republican. It also required the maximization of the black percentage in the 2nd district in southwest Georgia, siphoning off Democratic votes from the 3rd District, which went Republican." They go on to note that, in 1992, "of nine Democratic incumbents, three were reelected, three retired, and three were defeated."

Barone and Ujifusa end their discussion of 1992 congressional redistricting in Georgia with the prescient observation: "All eight of the white-majority districts could conceivably be seriously contested by Republicans some time in the decade."[8] In fact, all eight of these seats went Republican in 1994, so that the partisan balance in Georgia's congressional delegation went from 9D, 1R in 1990 to 7D, 4R in 1992 to 3D, 8R in 1994.[9] It was 3D, 8R again in 1998. The Georgia delegation stayed 3D, 8R in 2000, with all incumbents winning reelection. In 1994 and throughout the rest of the decade, the only Democratic House members in Georgia were African-Americans elected from the three districts that were drawn as black majority in 1992 (albeit two of these were redrawn with considerably lower black percentages later in the decade[10]).

But are the Democratic defeats in Georgia really to be blamed solely on the VRA? Well, in our view, not really. A good part of the blame must be attached to the white Democrats in Georgia who suffered from two psychological ailments common among the young: the belief that because you seem healthy now, you'll never get sick, and the belief that it is good to be as thin as possible as long as you still remain breathing. Democrats doing the congressional redistricting in Georgia may be said to have suffered from what we will call "bulimia-inducing anorexia," i.e., a regurgitation reflex in which districts designed to be won by slim margins (so as to maximize the number of seats under party control) are then tossed into the waiting hands of members of the other party in a year when the electoral tides (or incumbent resignations) run against you.

If you look at the distribution of Democratic support in Georgia's eleven congressional districts (table 8.2) as shown by 1992 election results, you will see that the 1990s Georgia congressional districting plan appears to be a classic *Republican* gerrymander. Based on the presidential vote in 1992, we would expect that three districts would be won by Democrats in a runaway (thus packing the Democratic vote); one seat (held in 1990 by Newt Gingrich) should be a very safe Republican seat; three districts ought to be Republican seats (but with some chance of staying Democratic if there was a popular Democratic incumbent in place and a weak Republican challenger), and four seats should be competitive seats near certain to trend Republican over the course of the decade (although some of these seats might be held onto by the Democrats as long as popular Democratic incumbents are running in them). Yet this districting was not done by Republicans or by a court; it was done in a state with Democrats running both chambers of the legislature and holding the governorship! Thus, in substance, the 1990s Georgia congressional redistricting plan looks like a dummymander—a pro-Republican partisan gerrymander that was actually drawn by Democrats.

Why did this dummymander happen? Well, one reason, but far from the only reason, is that this was a plan subject to the important legal constraint of needing to draw three black majority seats to obtain DOJ preclearance approval.[11] One way to make sense of this districting from a Democratic perspective is to see it as looking at things from the most optimistic perspective possible—an attempt to hold on to a maximum of 10 seats in the short run and 7 seats in the long run. But such optimism risked the downside possibility of being held to only 3 seats (the black majority seats) if electoral tides

Table 8.2. 1992 and 2000 Presidential Results by Congressional District: Georgia

1992 Presidential		*2000 Presidential*	
District	*Clinton Percent/ Bush Percent*	*District*	*Gore Percent/ Bush Percent*
1	−11	1	−29
2	41	2	−2
3	−11	3	−5
4	−6	4	41
5	42	5	42
6	−26	6	−38
7	−8	7	−44
8	−5	8	−40
9	−14	9	−35
10	−8	10	−42
11	43	11	−4
12		12	9
13		13	16

went against the Democrats. With the advantage of hindsight, it is obvious that redistricting as if the 1990s were going to be as good for Georgia Democrats as the 1980s had been was not a smart move! Indeed, it doesn't take hindsight to see the Democrat's folly. Any realistic look at the steady decline in Democratic support among white southerners over the past 40 or so years should have revealed how badly such optimism was misguided.

Georgia Democrats would have been far better off to concede 4 seats to the Republicans (and to pack them with Republicans to the greatest extent possible), and to put as many Democrats as possible in the remaining seven seats. Had they done this they could, in my view, have held on to a 7 to 4 advantage for the rest of the decade. Even if you do not believe that Democratic strength could have sustained 7 seats, it surely was concentrated enough to have sustained 6 seats, keeping a Democratic majority in the delegation.

Why wasn't this "casting pearls before elephants"[12] a feasible strategy for the Georgia Democrats? Well, in a nutshell, they had too many incumbents to protect. Of the nine Democratic incumbents in 1990, only three retired. This meant that Democrats had to try to draw districts to reelect these six incumbents (5 white, 1 black) at the same time as they were putting large numbers of black (and some white) Democrats in the two new black-majority seats. In short, they had to try to draw at least 8 Democratic seats (3 with black-majorities) if they were both to keep their incumbents happy and satisfy the Department of Justice. Yet, as the top-down realignment in the South worked its way down to the level of U.S. House seats, given the partisan trends among white voters, Georgia Democrats simply did not have the electoral support base to hold on to eight (of their previous nine) House seats for ten more years.

And, if they did not have the votes to hang on to eight (of their previous nine) seats, they certainly did not have the votes to hang on to all nine of these seats. And, if they didn't have the votes to hang on to nine seats, they certainly didn't have the votes to hang on to their previous nine seats *and* pick up a new seat as well. Yet, from the distribution of Democratic voting strength across districts, it appears that Democrats attempted not just to hold on to the nine seats they held in 1990, but to give themselves the possibility of picking up a tenth seat. The only seat they truly conceded to the Republicans was the seat held by Newt Gingrich.

The only way to describe the Georgia Democrats' congressional redistricting leading to a dummymander is in terms of "criminal optimism." To return to our lifeboat metaphor, the carrying capacity of the Democratic lifeboat in Georgia was limited. If you tried to overload it, it would eventually tip over. At least one white Democratic incumbent had to be sacrificed of the five running for reelection. If this incumbent were not thrown overboard (i.e., his district made heavily Republican), and if Democratic strength were not con-

centrated in no more than 7 districts, the whole Democratic congressional ship (the U.S.S. Georgia) would eventually sink—and, in 1994, sink it did.

Hoping to recoup some of the losses from their miscalculations of the 1990 round, the Georgia Democrats enacted another ambitious plan for the 2002 elections in which they hoped to pick up four seats (the two new seats Georgia received after apportionment, CD 12 and CD 13, and two seats held by Republicans, CD 3 and CD 11). The Democratic strategy in Georgia was to concede six seats to Republicans (Districts 1, 6, 7, 8, 9, and 10) and draw boundaries that packed white voters into those districts, a tactic some termed "bleaching." This allowed for Black voters to be spread more evenly among the remaining districts than they had been in the 1990s plan.

The two Republican incumbents targeted by the Democrats were Bob Barr in the 11th district and Saxby Chambliss in the 3rd district. Both of these incumbents vacated their districts in reaction to the new political landscape that they faced. Of the four targeted seats the Democrats only managed to win two—one new seat, the 13th district, won by David Scott and one seat with a previous Republican incumbent, the 3rd, won by Jim Marshall. Republican Representative Barr, whose new district was the 11th ran in the new 7th district but lost to another Republican incumbent, John Linder, in the primary. Ironically the 11th district was held by the Republicans, with newcomer Phil Gingrey winning by a narrow margin (51.6 percent of the vote). Chambliss ran for the Senate and upset incumbent Max Cleland (D), although the Democrats were able to take Chambliss' vacated congressional district, with Jim Marshall winning by just 1,500 votes.

The 12th district was also created so that a Democrat could win—Al Gore carried the district by 10 percentage points in 2000. However, the Democrats ran Charles Walker Jr., son of a prominent black Georgia state legislator. Walker's campaign was fraught with ethics problems, and Max Burns ended up beating Walker by 10 percent because of these issues.

Going into the 2000 round the delegation was split 8 Republicans and 3 Democrats. The ambitious Democratic plan posited a potential swing of the delegation to 6 Republicans and 7 Democrats, but the actual split after the 2002 election was 8 Republican and 5 Democrats. Democrats had made gains, but not as many as they had hoped.

From the data in Table 8.2 we see that there are four seats "in play"—districts 2, 3, 11, and 12. Over the course of the decade, the Democrats will have their hands full trying to wrestle the additional two seats they planned on getting from the Republicans, but some further gains are not impossible. The key problem for Democrats is that the two most Democratic districts are among the most packed—Gore carried districts 4 and 5 by more than 40 percentage points. These votes could have been spread out more efficiently. The Democrats had their chance in the 2000 round, when they controlled the districting process. It is unlikely that the stars will ever again

be in such a favorable alignment for them. Still, in the 2000 round the Democrats did a much better job of packing Republicans to compensate for their own packed seats than they had in the previous decade.

MISSISSIPPI

Writing just after the 1994 elections, Barone and Ujifusa blame the VRA-mandated drawing of a 63 percent black seat (the 2nd, initially held by Mike Espy) for the 1994 Republican win in the 1st congressional district (when Democratic incumbent Jamie Whitten retired), *and* predicted that the concentration of black voting strength in the 2d could lead to the loss of the three remaining white Democratic House seats in Mississippi later in the decade.[13] Barone and Ujifusa also make an important point about conflicts between black legislators and civil rights groups: "Ironically, Espy wanted to hold down the black percentage in the 2d in the 1991 plan, because he was winning white votes and he wanted more black influence in other districts. But civil rights apparatchiks said no."[14]

Looking at the 1992 presidential vote (table 8.3), we see that the Mississippi congressional redistricting produced two seats that looked as if they should certainly go Republican over the course of the decade, two that leaned Republican, and the black-majority 2nd that should be Democrat until the cows came home. What looked like a Republican gerrymander was drawn by a Democratic legislature intent on protecting its incumbents. When the plan was drawn in 1991 the state still had a Democratic governor. In 1990, the Mississippi delegation was 5D, 0R; in 1992 it was again 5D, 0R, and in 1994 it was 4D, 1R. In 1996, with a party switch by one Democratic incumbent and a retirement by another, it became 2D, 3R. In 1998, with a seat regained by the Democrats it was 3D, 2R. In 2000 it stayed that way, with all five incumbents reelected, each by very considerable margins.

As with Georgia, some have blamed the severity of the two (and, at one point, three) Democratic congressional losses in Mississippi on the VRA. But it is not really the VRA; in fact, in Mississippi, unlike elsewhere in the deep South, we saw relatively far-sighted decisions on the part of white Democrats!

Since Mississippi was one of the most heavily Republican southern states in presidential voting in 1988 and 1992 and since it had a Republican governor elected in 1991, it helps to think about Mississippi in lifeboat terms. It should have been obvious to Democratic party leaders in the 1990s round of redistricting that there weren't enough loyal Democrats to create five Democratic House seats in Mississippi that would last the decade. And apparently, unlike in Georgia, the obvious actually was obvious to the Mississippi Democrats. In Mississippi the Democrats chose to draw two House seats that

Table 8.3. 1992 and 2000 Presidential Results by Congressional District: Mississippi

1992 Presidential		*2000 Presidential*	
District	*Clinton Percent/ Bush Percent*	*District*	*Gore Percent/ Bush Percent*
1	−8	1	−20
2	21	2	16
3	−24	3	−30
4	-9	4	−33
5	−22	5	

were clearly going to go to the Republicans (at least once the present incumbents retired), and they concentrated their own voting strength in three districts. Of course, two of those three were still districts that leaned Republican, and one did go Republican in 1996; but, Democrats did capture one of these districts and recapture the other, so that, with the black majority seat, they retained a majority of the state's congressional delegation in 1998 and 2000— making Mississippi the only state in the seven states of the deep South covered by the Voting Rights Act (Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Virginia) where Democrats still controlled a majority of the congressional delegation at the end of the decade.[15]

After the 2000 census Mississippi's congressional delegation was reduced from five seats to just four. Again the Democrats completely controlled the districting in the state but lawmakers could not agree on a plan, with a main bone of contention being how to shape the new district that presumably would merge the area now represented by Mississippi's two freshmen representatives, Charles "Chip" Pickering, a Republican from the 3rd District, and Ronnie Shows, a Democrat from the 4th District. There were sufficient internal rivalries and sectional disputes within the Democratic Party that the party simply could not come to an agreement on a map. As a result, several lawsuits were filed, and a federal court ended up enacting a plan that combined two incumbents, Pickering and Shaw, one of each party, in a district titled 3rd congressional district—i.e., with a Republican incumbent. All three federal judges were Republican appointees. The district that they drew was 30 percent black, but the white composition of the district was such as to leave the district with a clear overall Republican preponderance. Indeed, in 2002, "Chip" Pickering beat Democrat Ronnie Shows by more than 30 points. Thus, the delegation went from a 3 to 2 Democrat advantage in 2000, to a split delegation with two seats controlled by each party, in 2002.

The data in Table 8.3 indicate that while one district is safely theirs, the Democrats are lucky to currently hold even two districts in Mississippi. There is a good chance that they will lose one of these districts over the course of the decade, the 4th district, currently represented by Gene Taylor (D), which

voted overwhelmingly Republican in the 2000 presidential election. Taylor has represented this district since 1989 and is likely the Democrats best hope of holding on to the seat. The other two districts in the state appear safely Republican.

NORTH CAROLINA

North Carolina in the 1990s round of redistricting is another textbook case of Democrats trying to hold on to more House seats than they had votes, succeeding in the first postredistricting election (with the aid of incumbency and some help from a winning Democratic presidential candidate), and then losing big thereafter. In other words, North Carolina in the 1990s is a textbook dummymander. In North Carolina in the 1990s, as in Georgia in the 1990s, the problem for the Democrats was too many House incumbents and not enough realism. Bowing to the inevitable the Democrats drew the 6th, 9th and 10th, seats that had previously elected Republicans, as solid Republican districts. But, considering the constraints imposed by the two heavily Democratic black majority seats that had been drawn under threat of DOJ preclearance denial (one a newly added seat, the 12th), it just didn't makes sense for Democrats to try to hold on to *all* the remaining House seats, even though these seats were previously held by white Democrats. The distribution of the 1992 presidential vote across these 12 districts is shown in table 8.4.

Table 8.4. 1992 and 2000 Presidential Results by Congressional District: North Carolina

1992 Presidential		*2000 Presidential*	
District	*Clinton Percent/ Bush Percent*	*District*	*Gore Percent/ Bush Percent*
1	32	1	15
2	−5	2	−7
3	−8	3	−30
4	−8	4	8
5	0	5	−33
6	−19	6	−35
7	0	7	−4
8	−2	8	−8
9	−19	9	−27
10	−21	10	−31
11	0	11	−19
12	41	12	15
13		13	0

If the Democrats had created another two really safe Republican seats in which to pack Republican strength, they could have survived the decade with a majority of the North Carolina congressional delegation. As it was, although 7D, 4R in 1990, and 8D, 4R in 1992, in 1994 the North Carolina House delegation shifted to 5D, 7R; and it remained with that partisan complexion in 2000. As to why the Democratic legislature did not concede another one or two Republican seats, can be attributed to the need to protect existing white Democratic incumbents, of whom there were six running for reelection in 1992, and/or to overoptimism. In particular, the Democrats tried to keep the 11th district, a competitive seat in the 1980s (with a Republican incumbent in 1990), as a competitive seat in 1992. In the long run, they should probably have conceded this seat to the Republicans by increasing the proportion of Republican-leaning voters in it (via juggling the boundaries between the 11th and the 9th and 10th districts and other districts), and using the Democrats this freed up elsewhere (e.g., to shore up the Democratic incumbent in the 8th, Bill Hefner, who ended up squeaking through in 1994 with only 52 percent of the vote) in a district that ultimately went Republican.

North Carolina was the beneficiary of the 2000 reapportionment by narrowly besting Utah for the 435th seat in the House of Representatives.[16] The Democrats again controlled the redistricting process in the state and had learned some useful lessons from their 1990s mistakes. Paralleling our earlier results for the 1990 redistricting round, we show in Table 8.4 the partisan distribution (based on the 2000 two-party presidential vote) of the thirteen North Carolina House seats redrawn after the 2000 census.

From Table 8.4 we see that the Democrats packed the Republicans more heavily than in the prior round of districting—districts 3, 5, 6, 9, and 10, and to a slightly less extent, district 11, all voted Bush by very large margins in 2000. By packing these seats, and conceding them to the Republicans, Democrats gave themselves some chances in the remaining seats. In particular, Democrats created the new 13th district to lean Democratic, and were able to win that seat in the 2002 election. The Democrats also targeted the 8th congressional district, where Robin Hayes (R) had been the incumbent since 1998, but in 2002 Representative Hayes managed to hold on to the seat.

Republicans now hold a 7 to 6 seat advantage in the North Carolina House delegation, but that is still an improvement for Democrats over the 7 to 5 result from 2000. Since there are a few seats potentially in play in the state, it is hard to prognosticate which party will hold the majority of the North Carolina delegation in 2010 (although if we were forced to bet, we would bet on the Republicans); what can be safely said is that the Republicans are very unlikely to fall below six of the thirteen seats at any time over the remainder of this decade.

SOUTH CAROLINA

Barone and Ujifusa's observe that the creation of a black majority seat in South Carolina in 1992 "made the 1st, 2nd, 3rd, and 5th districts more Republican."[17] They regarded South Carolina in the 1990s as pretty much a lost cause for the Democrats once that black majority House seat had been drawn.

A look at the distribution of the 1992 Presidential vote in South Carolina's congressional districts (Table 8.5) shows that they were quite right. There was really one seat, the black majority district, which Democrats could have expected to win with any certainty in the districts created in the 1990s redistricting round. In 1990, the South Carolina House delegation was 4D, 2R; in 1992 it was 3D, 3R; but by 1994 it was 2D, 4R; in 1998 and again in 2000 the results were again 2D, 4R. In 1994, while a popular white Democratic incumbent in District 5 was holding on to that district by the skin of his teeth, the retirement of another popular white Democratic incumbent cost the Democrats District 3. Barone and Ujifusa (2000) attribute the ability of the Democrats to hold on to District 5 throughout the decade of the 1990s , sometimes even winning it by large margins, to the popularity of the incumbent Democrat (and his superb campaigning skills); but no incumbent can live forever.[18]

For the 2000 round of redistricting, there were no changes in the size of South Carolina's House delegation. Going into the 2002 election the delegation was 4 to 2 in favor of the Republicans. The Republicans in the state legislature drew a congressional map that Democratic Governor Jim Hodges vetoed. With the state deadlocked, a federal panel of judges then drew a map that was very similar to the plan inked by the Republican state legislators.

One major change from the 1990s plans was to Representative Jim Clyburn's (D) 6th district. He is the only African American representative in the congressional delegation from South Carolina. The district was trimmed

Table 8.5. 1992 and 2000 Presidential Results by Congressional District: South Carolina

1992 Presidential		*2000 Presidential*	
District	*Clinton Percent/ Bush Percent*	*District*	*Gore Percent/ Bush Percent*
1	−20	1	−21
2	−16	2	−20
3	−16	3	−29
4	−21	4	−32
5	−23	5	−12
6	31	6	18

of some of its African American voters. It went from being 65 percent Black VAP to 54 percent. Representative Clyburn was not too displeased with this, even going to far as saying that he could "live with 43 percent." The court gave as its reason for the reduction in African American voters the need to make the district more compact by smoothing out the edges of the district. Representative Clyburn, like each of the other incumbents in South Carolina, did not have any trouble holding on to his seat in 2002.

Paralleling our data for the 1990 redistricting round, we show in Table 8.5 the partisan distribution (based on the 2000 two-party presidential vote) of the six South Carolina House seats. From this data we see that the Democrats most optimistic scenario under the present plan is to remain at the present 4R to 2D split. The 6th district is still very safe, confirming Representative Clyburn's intuition about his ability to hang on to his seat even after the black percentage in it was lowered, but Representative John Spratt (D) is winning a seat that leans to the Republicans. That seat might shift to the Republican column. Indeed, even breaking up the present black majority seat and using blacks as sandbags, it is hard to see how Democrats could win more than two (or at most three) of the House seats in South Carolina. When it comes to federal elections, there just are not that many Democratic-voting whites in the state!

DISCUSSION

The potential political consequences attributable to congressional redistricting have increased greatly in the last round of redistricting over what was found in earlier redistricting periods. This greater importance of redistricting stems from a combination of three factors.

The first factor is the nearly even partisan balance nationwide, demonstrated, for example, by the vote in the presidential election of 2000, and, since 1994, by the unusually close partisan balance (by historical standards) between Republicans and Democrats in the House. The second factor is the small number of competitive seats in the U.S. House of Representatives left after the redistricting that followed release of the 2000 Census data—accentuating a trend that was already readily visible following the last several reapportionment cycles. The third factor is the dramatic rise in ideological polarization between the parties.[19] This development greatly increases the perceived stakes in control of Congress. The growing partisan rancor and decline in bipartisan compromise observed in Congress over the past decade means that the difference between a party's winning 49 percent and 51 percent of House seats is now vast. Given the absence of a "moderating center" in either party, the party that is in the minority is truly the "out" party, having little or no influence on outcomes. A

minority party in the House can be effectively shut out of the political process.[20]

Because the consequences of districting have risen, more attention than ever has been paid to the redistricting process both from a scholarly and a journalistic perspective. In this essay we have focused on the 1990s and 2000 rounds of redistricting in five deep southern states. The popular view of the partisan consequences of U.S. redistricting in the 1990s is that Republican gains in the House were concentrated in the Deep South, where the "affirmative gerrymandering" that was supposedly forced on states covered by Section 5 of the VRA by a Department of Justice insistent on "max-black" plans created black majority districts in which Democrats had been packed, and in the process, "bleached" the remaining districts of enough loyal black Democrats that white Democratic candidates could no longer stand up against the onrushing Republican tide. Many activists and many journalists (and some academics) have blamed the Democrats' loss of control of the U.S. House of Representatives in 1994 on VRA-related districting. However, we believe that picture is too simplistic.

First, even without strict VRA enforcement, Democratic strength in the South was on the wane. Given the conservatism of most white Democratic voters, the "Solid (Democratic) South" made little sense. It was entirely an artifact of the Civil War. When the North finally won the Civil War, in 1964 and 1965, when the Second Reconstruction (most notably, the passage of the Civil Right Act of 1964 and the Voting Rights Act of 1965[21]) put an end to Jim Crow practices, as Lyndon Johnson had foreseen,[22] Democratic dominance in the South would be the price the Democrats would have to pay for this victory.[23]

Second, to call something racial gerrymandering only when districts are drawn to *aid* minority representation, or to imply that race was not a major factor in previous redistrictings in the South, is to neglect history. Once blacks were enfranchised in significant numbers, Democrat-controlled legislatures in the South had often deliberately used black voters as "sandbags" to shore up Democratic seats, with care taken that there were enough blacks in the districts to guarantee a Democratic win, but not so many that a black candidate would have a realistic chance to win the Democratic primary. Moreover, even when few blacks were registered, in anticipation of the possibility of future black suffrage gains, black concentrations were often divided among several districts or, at the local level, at-large election methods were put in place to assure the long-run control of white majorities.[24]

Third, Voting Rights Act enforcement in the 1990s by the U.S. Department of Justice did not really follow a max-black strategy,[25] although in a few states (e.g., Georgia), at least at the congressional level, it was hard to call it anything else.[26]

Fourth, Democratic losses in 1994 occurred throughout the country, not just in the Deep South. Still, we argue that the partisan effects of redistricting mistakes made by Democrats in the South alone mattered enough to have affected partisan control of the House later in the decade when the House was even more closely divided between the two major parties.[27]

Fifth, and finally, as we have attempted to show here, for the 1990s, at least for Georgia and North Carolina (and, we suspect, several other states as well), the mistakes made by the Democrats in drawing lines for the U.S. House of Representatives were not compelled by the need to draw additional minority seat. If only the Democrats had been brave enough to seize the nettle and concede a number of seats to the Republicans by making them very safe Republican seats, and then done a better job in distributing the remaining Democratic voting strength they would have been in much better shape. The 1990s Congressional plans in these three states were, to a greater or lesser extent, dummymanders. Of the three deep South states we have examined that were in the 1990s under Democratic control of the redistricting process, only in Mississippi did the Democrats in control of redistricting display any real smarts.[28]

When we turn to the 2000 round of redistricting in these five Southern states we see that Democratic losses of the 1990s largely persist. In South Carolina and Mississippi the Democrats are doing about as well as they could ever hope to do given the changes in political sentiments in those states. In Georgia and North Carolina there were limited Democratic gains, but nothing like a return to the Democratic glory days is ever going to be possible given the new political realities in the South. We would emphasize, however, that Democratic gains in these two states can be attributed in large part to redistricting, with Democrats having learned not to completely repeat the mistakes of their 1990s dummymanders. But, in the next (post 2010 census) round of redistricting, if the Republicans were to control the redistricting in these states (or a Court that is influenced by Republican-drawn plans does the map drawing), then look to see even these limited Democratic gains reversed.[29]

NOTES

1. An earlier (single-authored) version of this paper was presented at the University of California, Irvine Center for the Study of Democracy Conference on Comparative Redistricting, December 6–8, 2001. The first-named author is indebted to helpful conversations over the years with Chandler Davidson, Lisa Handley and James Loewen; and to Clover Behrend for bibliographic assistance. We also owe a special thanks to Clark Bensen for help with recent election data.

2. Remember the "Titanic"—the lifeboat scenes in the movie, that is.

3. Michael Barone and Grant Ujifusa, *The Almanac of American Politics* (Washington, D.C.: The National Journal, 1996), 7.

4. We have a table for each state with data from both 1992 and 2000 presidential elections. These are broken down by the congressional districts after the 1990 round and 2000 round respectively.

5. In contrast, the seven House incumbents (5 Republicans and 2 Democrats) endorsed an incumbent protection plan that made as few changes as possible.

6. Barone and Ujifusa, *The Almanac* (1994), 331.

7. Holmes, "Reapportionment Strategies in the 1990s: A Case of Georgia," in *Race and Redistricting in the 1990s*, ed. Bernard Grofman (New York: Agathon Press, 1998).

8. Barone and Ujifusa, *The Almanac* (1994).

9. Georgia gained a House seat in 1990.

10. Holmes, "Reapportionment Strategies."

11. In *Miller v. Johnson*, (515 U.S. 900, 1995) the Supreme Court repudiated the view that Section 5 required the drawing of three black majority House districts in Georgia.

12. We thank A Wuffle (personal communication, April 1, 2001) for suggesting this phrase.

13. Barone and Ujifusa, *The Almanac* (1996), 748.

14. Barone and Ujifusa, *The Almanac* (1996), 748.

15. In Texas, the Democrats also managed to keep a substantial majority of the state's congressional delegation.

16. This was a seat allocation that was not without controversy. The Supreme Court heard an appeal from the state of Utah (*Utah v. Evans*).that centered around the imputation of people in the census that gave North Carolina this seat. In 2001, the Court resolved the case in favor of North Carolina.

17. Barone and Ujifusa, *The Almanac* (1996), 1198.

18. Barone and Ujifusa, *The Almanac* (2000).

19. It is our view that the increased demographic and political homogeneity among districts—changes related to redistricting practices developed since *Baker v. Carr*—has contributed substantially both to reduced competitiveness at the district level and to increased polarization in the House. Even if greater political homogeneity is merely a byproduct of a bipartisan gerrymander designed to protect incumbents, it can contribute to partisan polarization. Incumbents representing politically homogeneous constituencies need not appeal to independents or voters of the other party to win reelection and so are free to adopt relatively extreme ideological positions.

20. If, on the basis of the districts as they have been configured, a party can reasonably expect to be in majority control of a legislature for the course of a decade, then almost certainly its leaders will be less inclined to engage in political compromise with members of the other party.

21. J. Morgan Kousser, "The Voting Rights Act and the Two Reconstructions," in *Controversies in Minority Voting,* ed. Bernard Grofman and Chandler Davidson (Washington D.C.: The Brookings Institution, 1992).

22. Chandler Davidson, "The Voting Rights Act: A Brief History," in *Controversies in Minority Voting,* ed. Bernard Grofman and Chandler Davidson (Washington, D.C.: The Brookings Institute, 1992).

23. Of course, the South could never become as solidly Republican in the future as it had been solidly Democratic in the past because of the presence throughout the South of substantial numbers of enfranchised black voters who are loyal Democrats.

24. See various essays in Chandler Davidson and Bernard Grofman, eds., *Quiet Revolution in the South* (Princeton, Nj: Princeton University Press, 1994).

25. Mark Posner, "Post-1990 Redistrictings and the Preclearance Requirement of Section 5 of the Voting Rights Act," in *Race and Redistricting in the 1990s*, ed. Bernard Grofman (New York: Agathon Press, 1998). And also see Bernard Grofman, "Would Vince Lombardi Have Been Right if He Had Said, 'When it Comes to Redistricting, Race Isn't Everything, It's the Only Thing'?" *Cardoza Law Review* 14, no. 5 (1993): 1237–76.

26. It is also important to point out that the Department of Justice did not see itself as having an obligation to monitor the shape of the districts being created in response to Section 5 concerns. DOJ would not seek to require a jurisdiction to draw an additional majority-minority district unless it felt that such a district could reasonably be drawn, but if, for reasons of its own, the jurisdiction chose to draw the district in a contorted or amoeba-like fashion, that was regarded as none of DOJ's business as long as the district created a realistic opportunity to elect minority candidates of choice. In particular, DOJ cannot be blamed for the peculiar configuration of the North Carolina 12th Congressional district; much of the irregularities were due to concerns to protect the seat of a white Democratic incumbent in a neighboring district. See Grofman, "Vince Lombardi," 1993.

27. Bernard Grofman and Lisa Handley, "Estimating the impact of voting-rights-act-related districting on Democratic strength in the U.S. House of Representatives," in *Race and Redistricting in the 1990s*, ed. Bernard Grofman (New York: Agathon Press, 1998), 51–67.

28. In Alabama and in South Carolina in the1990s there was a court-drawn plan. However, in both, the plan tracked Republican proposals.

29. Since the Texas Republicans succeeded in their mid-cycle endeavors to redraw the state's congressional lines, expect to see substantial Republican gains in that state. Redistricting does matter, albeit, as we said in the opening of this paper; it "cannot turn water into wine, or Republicans into Democrats."