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

The 1994 Elections

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

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

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

Bernard Grofman and Lisa Handley undertook such a study. Rather than focusing on adjacent districts, they conducted a statistical analysis to estimate how the overall distribution of changes in the racial composition of districts affected the probability of Democrats’ being elected, regardless of the location of the districts. Their method allowed them to disaggregate the estimated effects attributed to the racial composition of districts from the effects due to changes in voting behavior. They employed data for the U.S. House districts in all eleven states of the South, so districts in Arkansas, Tennessee, and Mississippi, where Republicans gained five seats despite there being no new majority-African-American districts, have an impact on the outcomes. When they compared the changes in 1994 to the situation in 1990, they concluded that “as few as 2 to 5” of the seats lost by the Democrats in 1994 can be attributed to changes in the racial composition of districts (1998, 53, 56–57). A separate analysis comparing the changes in 1992 with the situation in 1990 resulted in an estimate that places the range of Democratic losses due to racial redistricting at “a little under 4 seats” to 8 (ibid., 58n15). It is unclear how much overlap there may be in the results for the two elections, but they, like the more focused analyses, certainly offer no support for assertions like Swain’s that the number is seventeen or more.

Likewise, Kevin Hill and Nicol Rae created multivariate models to predict the percentage of the vote won by Democratic candidates in the 1992 and 1994 House elections. These models included the African American percentages in all the districts in the South (again including Arkansas, Tennessee, and Mississippi) for 1992 and 1994. When the 1990 figures were substituted in order to estimate “what would have happened without race-based redistricting,” they concluded that in 1992
the Democrats would have retained Georgia’s First and Third districts (but not the Fourth and not Alabama’s Sixth), and in 1994 Georgia’s Third and Eighth and North Carolina’s Second and Third (Hill and Rae 2000, 16). Again, discarding the adjacency requirement and looking at all the districts, regardless of where they were located, the number of seats won by Republicans because of the racial differences is well below seventeen.

If the large number of Republican gains is not attributable to the districts themselves, then what does account for them? In the words of Grofman and Handley, “Almost all of the Democratic congressional loss in the South from 1990 to 1994 can be attributed to one simple fact: namely, Republican candidates made substantial vote gains in virtually all districts” (1998, 67). Few will argue with this conclusion. Indeed, this is the obvious (and now standard) explanation for the partisan seat changes in the South. As Jonathan Knuckey has noted, “Any search for an explanation of southern Republican congressional gains in the 1990s requires a focus on the dramatic change in the vote choice of white southerners” (2001, 259). Beachler likewise writes, “Clearly the major source of the Democrats’ problems in southern House elections is the growing percentage of southern whites who vote Republican” (1995, 78; see also Lublin 2007, 112; Engstrom’s comments on Georgia and North Carolina in 1995, 46). In another article Beachler presented exit poll data indicating that white southerners’ support for Democratic candidates in U.S. House elections dropped from 50 percent in 1990 to 47 percent in 1992 and then to 35 percent in 1994 (2001, 359). John R. Petrock and Scott Desposato have added, in their analysis of the changes in districts, that the direct effect of majority-African-American redistricting was trivial; it was, rather, the indirect effect of Democratic incumbents’ taking on many voters who had not previously been in their districts and with whom they would not have the normal incumbency advantage. They maintain that Democratic-friendly redistricting in the South would have given the advantages to the Democrats had it not been for the pro-Republican electoral tide (1998, 630). This GOP surge, they concluded, was “the critical factor” in the Democratic losses (ibid., 616).

Against the Republican tide, spreading African American voters around to preserve Democratic districts would be “little more than a finger in the dike” (Squire 1995, 231; see also Beachler 1995, 79; Knuckey 2001, 259).

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

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

The Post-1994 Round of Redistricting

The new voting rights districts were controversial. Some people objected to enhancing the opportunities of minority voters to elect representatives of their choice by manipulating the electoral system in this way. The districts were viewed by many whites as the product of an affirmative action policy. Objections were also made to their shapes, which in many instances were bizarre. And objections were made to their perceived partisan consequences. The expected simultaneous advantages they provided Republicans were viewed, of course, as a negative by many Democrats.
The districts were also judicially challenged. Some whites took their objections to them to court, where they were very successful. The Supreme Court put these districts in serious jeopardy when, in 1993 in Shaw v. Reno (509 U.S. 630), it held that such districts could constitute violations of the equal protection clause of the Fourteenth Amendment (on the Shaw litigation, see Yarbrough 2002). This five-to-four decision held that, if race was the “predominant factor” in the creation of a district, the district was to be considered a “racial gerrymander.” This was a district-specific notion of a gerrymander that was not based on the votes of any group, racial or partisan, being diluted by district lines. If a district was found to be a racial gerrymander, then it had to be reviewed by a court under the “strict scrutiny” standard for assessing compliance with the equal protection clause. Compliance under this standard requires that a state show that the application of the racial criterion was “narrowly tailored” to achieve a “compelling governmental interest” (Shaw at 658). Though the precise meaning of these words is not clear, this elevated test is popularly referred to as “strict in theory, fatal in fact.”

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

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

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

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

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

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

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

No additional majority-African-American congressional districts were created in the South, or anywhere in the country, following the 2000 census. Racial residential patterns would have made creating more very difficult, especially in light of Shaw, its progeny (see, for example, Miller v. Johnson, 515 U.S. 900 [1995]) and other Supreme Court decisions that made it more difficult to deny Section 5 preclearance to redistricting plans (Reno v. Bossier Parish School Board, 520 U.S. 471 [1997] and 528 U.S. 320 [2000]). African Americans, however, continued to be elected in 2002 and 2004 elections in the eleven districts that can be traced back to the post-1990 voting rights districts.

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

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

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

Notes

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

2. For more on these provisions of the VRA, see Engstrom 1998. Party reactions to this “club” no doubt differed between Democrats and Republicans in some settings. Depending on the state and the residential patterns therein, Republicans could expect to gain seats as a result of concentrating African American voters in majority-African-American districts. Indeed, in some states, Republicans did support African American demands for such districts. When courts handled redistricting issues, Republicans in some states placed the maximum number of majority-minority districts in their plans as part of an effort to win their preferred districts in the rest of the state.

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