



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 79 | Number 5

Article 9

6-1-2001

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Recommended Citation

Changler Davidson, *White Gerrymandering of Black Voters: A Response to Professor Everett*, 79 N.C. L. REV. 1333 (2001).
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WHITE GERRYMANDERING OF BLACK VOTERS: A RESPONSE TO PROFESSOR EVERETT

CHANDLER DAVIDSON*

Professor Robinson Everett's paper focuses on the 1990s' gerrymandering of districts in North Carolina which enabled the state's black voters to elect black U.S. Representatives for the first time in the twentieth century. In Shaw v. Reno, Everett persuaded the U.S. Supreme Court that these racial gerrymanders violated the Equal Protection Clause. In my response, I claim that white legislators' racial gerrymandering, to the disadvantage of black voters, has been widely used in Southern states from the First Reconstruction well into the Second Reconstruction. This is the main reason so few blacks won elective office until the Voting Rights Act, and 1970s and 1980s federal case law provided a remedy for black descriptive under-representation. The Act, I argue, is still needed to overcome the effects of white gerrymandering, although future efforts to increase black descriptive representation may, in some instances, conflict with the goal of maximizing black substantive representation.

Professor Robinson Everett's paper¹ combines a description of the legal background of *Shaw v. Reno*² and, most recently, *Hunt v. Cromartie*³ with his reminiscences as a plaintiff and plaintiff's counsel. A reader unaware of the history of racial gerrymandering in America might infer from Everett's paper that the practice came into existence in 1992, when two oddly shaped majority-black districts drawn by the North Carolina General Assembly offended the state's white voters and prompted them to file suit against the redistricting plan. While Everett surely did not intend to encourage such an inference, the

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1. Robinson O. Everett, *Redistricting in North Carolina—A Personal Perspective*, 79 N.C. L. REV. 1301 (2001).

2. 509 U.S. 630 (1993).

3. 526 U.S. 541 (1999).

historical record is so decisively at odds with it that an explicit statement of that fact is warranted. Briefly put, whites have ruthlessly, systematically, and pretty much without hindrance gerrymandered African-American voters in this country from Reconstruction to the modern era.⁴

In the spirit of Everett's paper, I shall indulge in some reminiscences of my own as a prelude to sketching the outlines of racial gerrymandering over the centuries. I grew up as the civil rights revolution unfolded, graduating from high school in 1954, the year the Supreme Court decided *Brown v. Board of Education*.⁵ I remember the division created in the Baptist church I attended as a college freshman when the pastor, Lory Hildreth, courageously asked the white congregation to support a public statement welcoming people of all races into our midst. The unsuccessful opposition was led by a University of Texas law student who, while a Republican appellate judge in Houston years later, was instrumental in organizing fundamentalists to take control of the Southern Baptist Convention and to politicize their religious agenda.⁶

In 1962, while I was writing for *The Texas Observer* in Austin, Willie Morris, the editor, excitedly discussed with me the implications for black representation of *Baker v. Carr*⁷ after the decision was announced. I was in graduate school when the Civil Rights Act of 1964⁸ and the Voting Rights Act of 1965⁹ were passed and when presidential candidate Barry Goldwater embarked on the Republican "Southern strategy"—using race as a wedge issue to lure southern whites angered by federal anti-discrimination laws away from the Democratic Party and into the GOP.¹⁰

As a young researcher studying African-American politics in Houston a few years later, I interviewed many remarkable people in the city's black community. One was a sprightly dentist in the predominantly black Fifth Ward, Dr. Lonnie Smith, the named plaintiff in *Smith v. Allwright*,¹¹ the lawsuit argued by Thurgood

4. J. MORGAN KOUSSER, *COLORBLIND INJUSTICE: MINORITY VOTING RIGHTS AND THE UNDOING OF THE SECOND RECONSTRUCTION* 25–31 (1999).

5. 347 U.S. 483 (1954).

6. CHANDLER DAVIDSON, *RACE AND CLASS IN TEXAS POLITICS* 215 (1990).

7. 369 U.S. 186 (1962).

8. Pub. L. No. 88–352, 78 Stat. 241 (1964) (codified as amended at 28 U.S.C. § 1447 and in scattered sections of 42 U.S.C. (1994)).

9. Pub. L. No. 89–110, 79 Stat. 437 (1965) (codified as amended at 42 U.S.C. §§ 1971, 1973 (1994)).

10. DAVIDSON, *supra* note 6, at 226–34.

11. 321 U.S. 649 (1944).

Marshall which led the Supreme Court in 1944 to declare the white primary unconstitutional.¹² Another was George Nelson, known locally as “Mr. NAACP,” a black barber whose shop was located on a spot now occupied by the Alley Theater, a downtown landmark. Nelson had helped raise money for the plaintiffs in *Smith* and in its wake helped organize black voter registration drives. He kept a scrapbook on the Houston civil rights movement for his customers to leaf through while waiting their turn in the barber’s chair.¹³ Another was Christia Adair, a precinct judge and NAACP official in the city’s Third Ward whose activities on behalf of black rights sometimes led to bomb threats against her.¹⁴ Long before then, in the 1910s, Adair had marched as a suffragette for the women’s vote. Yet, as a black woman, she could not cast a ballot in the Democratic primary until the *Smith* decision.¹⁵

I interviewed Barbara Jordan in her office on Lyons Avenue in 1966, the year she became the first black candidate to win a Texas senate seat since 1881.¹⁶ I met Curtis Graves, one of the two black state representatives elected the same year who in 1969 would challenge the incumbent mayor of Houston in his bid for re-election.¹⁷

In 1972, my book on racial politics in the South was published, and I was asked to testify as an expert witness in a challenge to an at-large election scheme in Houston—a city that had been virtually without black representation in city government since Reconstruction. As an expert on racial politics, I later testified in a number of lawsuits challenging minority vote dilution. In the years that followed, the outlines of the South’s racial politics became clearer to me, and I would like to sketch them now, drawing in part on historical research I conducted for Texas’ unsuccessful defense of its 1990s redistricting plan in *Bush v. Vera*.¹⁸ It should be noted that Texas, like North Carolina, despite its grim history of slavery and caste oppression, has been among the more racially progressive states of the former Confederacy.¹⁹

12. *Id.* at 666.

13. Interview with George Nelson by Chandler Davidson, 1966.

14. Nancy Baker Jones, *Christia V. Daniels Adair*, in 1 THE NEW HANDBOOK OF TEXAS 21 (1996) [hereinafter HANDBOOK].

15. Interview with Christia Adair by Chandler Davidson, 1966.

16. ALWYN BARR, BLACK TEXANS: A HISTORY OF NEGROES IN TEXAS, 1528–1970, at 179 (1973).

17. TEX. OBSERVER, May, 27, 1966, at 6 (noting that Graves was one of two black state representatives elected in 1966); TEX. OBSERVER, Nov. 21, 1969, at 1 (reporting Graves’ challenge to the mayor of Houston).

18. 116 S. Ct. 1941 (1996).

19. V.O. KEY, JR., SOUTHERN POLITICS IN STATE AND NATION 206, 254 (1949).

Gerrymandering in Texas began during Reconstruction, only a few years after blacks were enfranchised.²⁰ Drawn by whites and targeted at heavily black counties in East Texas, racial gerrymanders sharply reduced African-American representation in legislative and judicial bodies.²¹ In 1876, 117 years before *Shaw*, an Austin newspaper said that districts in the black-belt counties “were ‘Gerrymandered,’ the purpose being, in these elections, and properly enough, to disfranchise the blacks by indirection.”²² As the twentieth century began, the state’s blacks were indeed disfranchised, not simply by the indirection of gerrymanders, but directly through murderous violence, the poll tax, and the white primary.²³ A similar story can be told of North Carolina as well.²⁴

With the abolition of the white primary in 1944, Texas blacks again began voting. But almost no African Americans were elected to office over the next two decades. On the eve of passage of the Voting Rights Act in 1965, there were estimated to be less than seven black elected officeholders above the level of voting-precinct official in any of the hundreds of political jurisdictions in Texas.²⁵ This was in a state with over one million blacks—the largest number in any Southern state—at a time when blacks were going to the polls in growing numbers and voting with increasing sophistication. Additionally, Texas had many large concentrations of black voters, from which several well-qualified black candidates had run for office. Yet only a minuscule number had won election by 1965.

Why? The answer is simple. The majority of whites were not

20. LAWRENCE D. RICE, *THE NEGRO IN TEXAS: 1874–1900*, at 132 (1971).

21. J. MASON BREWER, *NEGRO LEGISLATORS OF TEXAS AND THEIR DESCENDANTS: A HISTORY OF THE NEGRO IN TEXAS POLITICS FROM RECONSTRUCTION TO DISENFRANCHISEMENT* 41–42, 69 (1935); BARR, *supra* note 16, at 70–71.

22. RICE, *supra* note 20, at 26. By describing gerrymandering as disfranchising blacks “by indirection,” this Reconstruction-era writer captured the essence of race-based redistricting targeted at a black minority population under conditions of extreme racial polarization: It “disfranchises” not directly—by preventing blacks from voting—but indirectly, by preventing blacks from electing fellow blacks to legislatures where almost all the whites are unsympathetic to black interests. Under these circumstances, gerrymandering nullifies the influence of blacks’ ballots almost as surely as vote denial.

23. Chandler Davidson, *African Americans in Politics*, in *HANDBOOK*, *supra* note 14, at 53.

24. KOUSSER, *supra* note 4, at 26–27; William R. Keech & Michael P. Siström, *North Carolina*, in *QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT, 1965–1990*, at 155–57 (Chandler Davidson & Bernard Grofman eds., 1994) [hereinafter *QUIET REVOLUTION*].

25. Robert Brissetto et al., *Texas*, in *QUIET REVOLUTION*, *supra* note 24, at 233, 270.

predisposed to vote for black candidates.²⁶ This was not a matter of white partisan preferences, for most of the contests involving black candidates occurred either in the Democratic primaries or in nonpartisan local contests.²⁷ In either case, election districts with black majorities were extremely rare. The white bloc vote thus trumped the black one when black candidates ran for office. Re-enfranchised African Americans were once again, to use the apt words of the journalist in 1876, “disfranchised by indirection.”²⁸

Perhaps the most vivid demonstration of racial gerrymandering’s effects in Texas during this period was Barbara Jordan’s efforts to win election to the state House of Representatives from a majority-white multi-member Houston district in 1962 and 1964. At the time, blacks constituted almost twenty percent of the district.²⁹ Jordan was a formidable campaigner—eloquent, smart, personable, and hard-working. As an undergraduate during the Jim Crow era at Texas Southern University,³⁰ she had been a star debater.³¹ By 1962, she had earned a law degree from Boston University.³²

After returning to Houston, Jordan worked energetically for the Democratic Party and campaigned for its nomination to a state House seat in both 1962 and 1964.³³ She lost both primary races to whites—the first, for an open seat; the second, against a weak incumbent—by over twenty points in racially polarized elections.³⁴ Despite strong support in black precincts, she was overwhelmed by the white bloc vote.³⁵

In 1966, Jordan overcame this obstacle and won election to the

26. *Id.* at 244.

27. CLIFTON MCCLESKEY, *THE GOVERNMENT AND POLITICS OF TEXAS* 43 (2d ed. 1966) (reporting that in state and county elections, winning in the Democratic primaries in most cases was tantamount to election); *id.* at 292 (noting that cities of all sizes in Texas used the nonpartisan ballot).

28. RICE, *supra* note 20, at 26; Brischetto et al., *supra* note 25, at 243.

29. Davidson, *supra* note 23.

30. Texas Southern University began as a school specifically created for blacks in a futile attempt to prevent the integration of the University of Texas Law School. See Marguerite L. Butler, *The History of Texas Southern University, Thurgood Marshall School of Law: “The House that Sweatt Built,”* 23 T. MARSHALL L. REV. 45, 45 (1997).

31. As a member of the TSU debate team, Jordan teamed with Otis King, who would later become Houston’s first black city attorney, to tie the Harvard debate team when it came to town. See BARBARA JORDAN & SHELBY HEARON, *BARBARA JORDAN: A SELF-PORTRAIT* 82 (1979); Todd Ackerman, *Barbara Jordan, 1936–1996; TSU Remembers Famous Alumna; Oratory Skills Helped Stake Debate Team’s Reputation*, HOUSTON CHRON., Jan. 18, 1996, at A13.

32. JORDAN & HEARON, *supra* note 31, at 98.

33. See *id.* at 110–17.

34. See *id.* at 112–17.

35. See *id.* at 115–17.

Texas State Senate after defeating a white incumbent.³⁶ This was not simply the result of her persistence, however. Thanks to redistricting following *Reynolds v. Sims*³⁷ and guided by the mandates of *Kilgarlin v. Martin*,³⁸ one Texas senatorial district was created with a combined black and Hispanic population of about fifty percent.³⁹

Barbara Jordan's experiences reflected the larger truth: Given widespread racial gerrymandering and white bloc voting, blacks and Hispanics had little chance of winning office in Texas. This was true in the other Southern states as well—and certainly in North Carolina.⁴⁰ The drawing of majority-white districts, combined with the tendency of whites to bloc vote for white candidates, prevented blacks from electing candidates of their choice. After the 1970s redistricting, a labor and civil rights lawyer, David Richards, filed suits on behalf of black and Hispanic clients in federal district court challenging a number of racially gerrymandered multi-member districts. One, *Graves v. Barnes*,⁴¹ was brought by the aforementioned black state representative, Curtis Graves. Richards argued that the districts diluted minority votes, and in doing so violated the Fourteenth Amendment's Equal Protection Clause. In 1973, the Supreme Court agreed with this argument and struck down Texas's legislative redistricting plan.⁴²

Briefly put, a history of racial gerrymandering drawn by whites against blacks beginning during the First Reconstruction and continuing into the 1980s⁴³ was a grim prelude to *Shaw*. Then, in the latter half of the Second Reconstruction, *White* provided blacks with some protection against dilution of their votes.⁴⁴ Further, in 1982 Congress amended section 2 of the Voting Rights Act—a feature applying to the entire nation—prohibiting political processes having either the purpose or effect of preventing minorities of race or color from electing representatives of their choice, and the U.S. Supreme Court four years later found the amendment to be constitutional in *Thornburg v. Gingles*.⁴⁵ These developments raised the hopeful

36. *See id.* at 130, 134.

37. 377 U.S. 577 (1964).

38. 252 F. Supp. 404, 410 (S.D. Tex. 1966) (invalidating Texas's apportionment statute mandating a limit of one state senator per county).

39. Brischetto et al., *supra* note 25, at 244.

40. *See Keech & Sistrom, supra* note 24, at 162–63.

41. 343 F. Supp. 704 (1972).

42. *White v. Regester*, 412 U.S. 755, 765 (1973).

43. KOUSSEK, *supra* note 4, 25–31.

44. 412 U.S. at 765.

45. 478 U.S. 30 (1986).

possibility that for the first time in American history, a decennial redistricting would occur in which not only equal protection for blacks under the one-person, one-vote principle would be ensured, but also protection from other race-based gerrymandering schemes designed by whites to “disfranchise by indirection.”

Even before the 1990s redistricting, the combined effects of *White*, the Voting Rights Act, and *Gingles* were remarkable. My colleagues and I discovered a sharp increase in black office-holding in the South between 1965 and 1990.⁴⁶ The focus of our study, the total number of black state legislators and U.S. representatives in the eight Southern states, increased from two in 1964 to 160 in 1990.⁴⁷ In Texas, the number of black elected officials increased from less than seven to 312.⁴⁸ As late as 1966, there were no blacks in either the 120-member North Carolina House of Representatives or 50-member Senate.⁴⁹ By 1990 there were thirteen and five, respectively.⁵⁰ Our research found that litigation under *White*, *Gingles*, and sections 2 and 5 of the Voting Rights Act exerted a strong direct influence on the ability of black voters to overcome the effects of widespread white racial gerrymandering—a finding that applied to the seven other states in our study as well, including North Carolina.

Black office-holding improved throughout the region during the past decade. Indeed, some of the states whose percentage of black officeholders comes closest to equaling the black percentage in the population are Southern states with the worst history of racial oppression. For example, in 1999 23.9% of Alabama’s voting-age population was black, as was 16.5% of its elected officials. The equivalent figures for Mississippi were 33.3% and 17.9%; for Louisiana, 29.6% and 14.1%; for South Carolina, 27.8% and 13.7%; and for Virginia, 19.0% and 8.1%.⁵¹

Of particular interest is the presence today of African-American U.S. Representatives in the eleven-state South,⁵² which is about 19%

46. See Bernard Grofman & Chandler Davidson, *The Effect of Municipal Election Structure on Black Representation in Eight Southern States*, in QUIET REVOLUTION, *supra* note 24, at 319–21.

47. Davidson & Grofman, *The Voting Rights Act and the Second Reconstruction*, in QUIET REVOLUTION, *supra* note 24, at 381.

48. Brischetto et al., *supra* note 25, at 270.

49. See Keech & Siström, *supra* note 24, at 190.

50. See *id.*

51. DAVID A. BOSITIS, BLACK ELECTED OFFICIALS: A STATISTICAL SUMMARY, 1999, at 12 (2000).

52. Included in this definition of the South are Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia—those states defined by KEY, *supra* note 19, at 6–7, as constituting the South.

black.⁵³ While blacks are still underrepresented in nine of those states, the 1990s redistricting brought significant gains, as demonstrated in table 1. The remaining underrepresentation, moreover, is not solely the result of racial gerrymandering by whites. Various other factors in the district-based, winner-take-all election system—particularly small geographic concentrations of blacks and small numbers of seats in various jurisdictions—contribute to the disproportionately small number of black elected officials.⁵⁴

**Table 1: Black United States Representatives
in the Eleven-State South, Year 2000**

State	Population*		Representatives			Proportional
	Total #	Black %	Total #	Black #	Black %	Representation %
Alabama	4,352	25.2	7	1**	14.3	57
Arkansas	2,538	15.9	4	0	0.0	00
Florida	14,916	13.6	23	3**	13.0	96
Georgia	7,642	26.9	11	3	27.3	101
Louisiana	4,369	30.8	7	1	14.3	46
Mississippi	2,752	35.6	5	1	20.0	56
N. C.	7,546	22.0	12	2**	16.7	76
S. C.	3,836	29.8	6	1**	16.7	56
Tenn.	5,431	15.9	9	1	11.1	70
Texas	19,760	11.9	30	2	6.7	56
Virginia	6,791	18.8	11	1**	9.1	48
Total	79,933	19.0	125	16***	12.8	67

* Estimated 1998 population in thousands.

** In these states, no blacks were elected to Congress between the Reconstruction era and the 1990s round of redistricting.

*** None of these black representatives was initially elected to Congress from a majority-white district, although a few have been re-elected from districts that became majority-white in the wake of the *Shaw* litigation.

Source: Michael Barone & Grant Ujifusa, *The Almanac of American Politics* (2000).

In spite of the gains, the continued tendency of many whites to bloc vote for white candidates makes the Voting Rights Act a

53. Calculated from black population estimates in the eleven states in MICHAEL BARONE & GRANT UJIFUSA, *THE ALMANAC OF AMERICAN POLITICS 2000* (1999).

54. DAVID BOSITIS, *REDISTRICTING AND REPRESENTATION: THE CREATION OF MAJORITY-MINORITY DISTRICTS AND THE EVOLVING PARTY SYSTEM IN THE SOUTH 6-7* (1995); Bernard Grofman and Lisa Handley, *Black Representation: Making Sense of Electoral Geography At Different Levels of Government*, XIV LEGIS. STUD. Q. 2 (1989).

necessary tool for ensuring fair minority representation. Even before *Shaw* was decided by the Supreme Court, however, it was obvious to many observers that solutions to minority vote discrimination afforded by the Act raise new problems.

One of the most controversial issues in the civil rights community is whether a significant trade-off sometimes exists between the number of black elected office-holders and the size of the Democratic margin in legislative bodies. Because blacks are solidly Democratic⁵⁵ and because there are sharp differences between Democrats of whatever color and Republicans on policy issues concerning race,⁵⁶ such a trade-off could present an agonizing dilemma—the choice between black office-holders and the enactment of black-preferred policy. The dilemma would be all the more exquisite if the creation of black seats cost Democrats actual control of a legislative chamber at the state or national level. This choice is usually referred to as that between “descriptive” and “substantive” representation. After having waged a long and difficult struggle to achieve a notable black presence in legislative bodies, blacks could, depending on the circumstances, face the prospect of foregoing further gains in descriptive representation—or even ceding some of the gains already made—in order to achieve substantive representation.

The likelihood and extent of such trade-offs would depend on the particular context, including the demographic and political facts in different locales. Richard Pildes has laid out the major issues to be resolved in clarifying the question.⁵⁷ Several scholars, including some attending this conference, have since addressed them, with varying results, generally suggesting that at the very least trade-offs exist in some circumstances.⁵⁸

55. Edward T. Kantowicz, *Voting and Parties*, in *THE POLITICS OF ETHNICITY* 63 (Michael Waltzer et al. eds., 1982).

56. DAVID LUBLIN, *PARADOX OF REPRESENTATION* 67–69 (1997).

57. Richard H. Pildes, *The Politics of Race*, 108 *HARV. L. REV.* 1359, 1388–89 (1994).

58. Among the burgeoning literature on this subject, see, e.g., LUBLIN, *supra* note 56, 98–119; CAROL M. SWAIN, *BLACK FACES, BLACK INTERESTS: THE REPRESENTATION OF AFRICAN AMERICANS IN CONGRESS 205–06* (1993) (arguing that creating black districts likely drains black voters from other districts, thereby electing blacks but diluting Democratic power); Kimball Brace et al., *Does Redistricting Aimed to Help Blacks Necessarily Help Republicans?*, 49 *J. POL.* 169, 169–85 (1987) (exploring why plans that advantage black representation also advantage Republicans); David Epstein & Sharyn O'Halloran, *Measuring the Electoral & Political Impact of Majority-Minority Voting Districts*, 43 *AM. J. POL. SCI.* 367, 367–95 (1999); Kevin Hill, *Does the Creation of Majority Black Districts Aid Republicans? An Analysis of the 1992 Congressional Elections in Eight Southern States*, 57 *J. POL.* 384, 399 (1995); David Lublin & D. Stephen Voss, *Racial Redistricting and Realignment in Southern State Legislatures*, 44 *AM. J. POL. SCI.* 792, 793 (2000) (concluding that racial redistricting harmed the black voters' party, although the

This accords with the views of various Republican redistricting strategists who, since the 1980s, have encouraged blacks and other minorities covered by the Voting Rights Act to maximize the number of minority seats at the expense of the Democratic margin.⁵⁹ Indeed, Rep. Thomas M. Davis III of Virginia, chair of the National Republican Congressional Committee, stated in early 2001 that Republicans were preparing lawsuits against Democratic efforts to “unpack” majority-minority districts, labeling such efforts as retrogressions in minority voting strength prohibited by Section 5 of the Voting Rights Act.⁶⁰ The irony of this strategy, of course, is that the party which since the 1960s has made race a wedge issue in the South in order to convert white Democrats to the G.O.P. is at the forefront of a movement to protect safe minority seats. For these “Southern strategists,” the trade-off between black seats and Democratic seats in many venues is seen as an obvious reality.⁶¹

In conclusion, the struggle for African-American political representation has been long and hard. Black disfranchisement has been the primary weapon of white racism since slavery times, and in the years when southern blacks could vote—during Reconstruction and again during the Second Reconstruction a century later—the use of the gerrymander has been a secondary, albeit effective, weapon. Since the 1960s, the Voting Rights Act and voting rights case law invoking the Fourteenth Amendment gradually have limited the extent of white gerrymandering. However, *Shaw v. Reno*, the handiwork of Professor Everett, has placed limits on the extent to

white-voter shift to the Republican Party was the main force driving the increasing strength of the Republican Party). In an oblique way, Bernard Grofman, Lisa Handley, and David Lublin’s paper at this conference, *Drawing Effective Minority Districts*, also addresses the trade-off issue by arguing that districts without a supermajority of black voters and, in some cases, districts containing even less than a mere majority of black voters may have a fair chance to elect black officials in spite of low white crossover voting. 79 N.C. L. REV. 1383 (2001).

59. Michael Kelly, *Segregation Anxiety*, NEW YORKER, Nov. 20, 1995, at 43–48.

60. Thomas B. Edsall, *Parties Play Voting Rights Role Reversal*, WASH. POST, Feb. 25, 2001, at A4.

61. However, the first major redistricting case following the 2000 census offers some hope to both minority voters and Democrats that the goal of increased minority office-holding need not conflict with an increase in the Democratic legislative margin, even in situations where such conflict might appear likely. A federal court in New Jersey found that a proposed plan favored by Democratic officials and black leaders, in which existing black-majority districts were divested of some black voters, did not violate either the U.S. Constitution or the Voting Rights Act because there were sufficient white cross-over voters remaining to enable the election of black candidates in those districts. See *Page v. Bartels*, F. Supp. 2d, No. Civ. A. 01-1733, 2001 WL 505187 (D.N.J. May 7, 2001) (three-judge court) (per curiam). But Republican officials have appealed the case to the U.S. Supreme Court.

which blacks can remedy the effects of white gerrymandering with gerrymandering of their own. In addition, the perverse effects of at least some of the “affirmative” gerrymanders the *Shaw* jurisprudence still allows present blacks with yet one more challenge in their continuing quest for full and fair representation.

