

## *White Voters, Black Representatives, and Candidates of Choice*

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The challenge of minority representation is an important area of public policy that relies heavily on the work of political scientists. Minority voting rights in the United States encompasses not just access to the ballot, but also guarantees that the ballot has meaning in areas with historic discrimination. In this paper we explore the nomination and election of African-American congressional representatives, with an emphasis on the unsuccessful primary re-nomination fight of Cynthia McKinney. Relying on both precinct level racial participation data and also unique, voter-level information on the partisanship of all white primary participants, we ascertain the extent to which the African-American incumbent's loss to an African-American challenger was a product of strategic voting by white Republicans under Georgia's open primary law. We also draw conclusions about the implications of such strategic white voting for the election of African-American candidates of choice, and discuss the implications of those conclusions for the interpretation of section 2 of the Voting Rights Act.

Redistricting produces some of the most vicious partisan fights found in American legislatures because the results can terminate otherwise secure political careers. Drawing new districts can also create opportunities for the minority party, the minority race (Bullock and Gaddie 1993) and women (Pritchard 1992; but see Bullock and Gaddie 1993 for conflicting results on gender). Many gains registered by African Americans in legislative seats have come in the wake of redistricting.

Because of the impact that shifting district lines can have on legislative personnel, new plans have received careful review by courts and from the U.S. Department of Justice (DOJ) in states subject to the trigger mechanism of the Voting Rights Acts. During the 1970 and 1980 rounds of redistricting, DOJ relied on Section 5 of that legislation to reject plans guilty of retrogression defined as reducing existing minority concentrations. After the 1990 census, DOJ combined its Section 5 authority to review redistricting plans from states that had histories of voter discrimination with Section 2 that had been amended in 1982. Under this new provision, DOJ demanded that, when possible, states increase the numbers of districts in which minorities constituted a majority of the voting age population. This resulted in 13

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new majority-black districts and three additional majority-Latino districts in the South. Constitutional challenges to these districts succeeded in Georgia, North Carolina, Texas, Louisiana, Florida and Virginia which forced mid-decade redistricting that reduced black concentrations in some majority-minority districts.

Historically, southern jurisdictions divided African American populations so as to reduce the prospects for electing blacks (Parker 1990). Prior to 2000, DOJ refused to approve plans that reduced minority percentages that approached or exceeded 50 percent unless the district contained an extraordinary concentration. After the most recent census, however, some southern states dispersed black populations but now with the approval of black legislators (Lublin and Voss 2003). African-Americans who supported these plans had seen Republicans take control of the U.S. House and several legislative chambers in the South. Many attributed GOP gains to concentrating black populations in districts to guarantee the election of blacks, which facilitated the election of Republicans from neighboring white districts (Lublin 1997; but see Petrocik and Desposato 1998 for an alternative perspective). With the GOP surging in the South following Bush's narrow presidential election, African Americans in some states endorsed plans that judiciously distributed blacks to maximize the election of Democrats rather than seeking to maximize the number of blacks elected, as had been the strategy a decade earlier.

Since the Voting Rights Act amendments of 1982, distribution of minority populations has been subject to Section 2 that eliminated the need to show intent to discriminate when challenging electoral structures. This provision sought to prevent the dilution of minority votes by prohibiting arrangements under which minorities "have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." The first case involving this provision to reach the Supreme Court established three conditions. The two relevant for this paper are that plaintiffs must show that they are politically cohesive and that their preferred candidates are usually defeated by a white bloc vote (*Thornburg v. Gingles*, 1986). The third *Gingles* precondition is that the minority population be sufficiently large and concentrated to be able to constitute the majority in a district.

Courts played far less intrusive roles in the 2000 than the 1990 redistricting. One of the few instances in which a court struck down a plan approved by a state legislature found unacceptable parts of Georgia's state senate plan because it reduced black concentrations too much. This plan had been developed by the senate in which African Americans served as majority leader, vice-chair of the Reapportionment Committee and chair of the Rules Committee and they supported the plan as necessary to maintain

Democratic control of the chamber—a chamber in which blacks chaired six committees. The plan reduced the African-American voting age population percentage in the 12 existing majority-black districts by 9.2 percentage points on average so that in the three districts disapproved by the court it hovered below 51 percent. At this concentration, DOJ, which defended the suit, worried that black voters might not be able to elect their candidates of choice. On appeal, the Supreme Court upheld the state's assertion that the changes in minority voter concentration did not constitute retrogression.

This paper explores facets of the consequences of redistricting focusing on Cynthia McKinney's unsuccessful reelection bid in the 2002 Democratic congressional primary, which was one of two primaries in which southern black incumbents lost re-nomination bids. The research here is far from definitive but it brings new and unique data to bear on the issue of how heavily black a district needs to be in order for African Americans to elect their candidates of choice. Specifically, it examines the potential tradeoff between using blacks to bolster Democratic prospects that may result in the election of the candidate preferred by the white electorate and a greater concentration of African Americans that will enable the black population to elect its preferred candidate. In the process, we also offer observations on the limits to redistricting which create minority opportunity districts in the context of potential strategic voting by a local white minority.

### **Black Candidates, Southern Districts in the 1990s**

From 1992 to 2000, there were a total of 83 contests held in southern congressional districts designed to elect minority candidates, or in the successors to those districts. Twelve were open-seat contests, all of which were won by African-American candidates. Eleven open seat contests occurred in 1992, along with a special election (MS–2, 1993). One African-American incumbent was challenged in a primary and defeated (TX–18, 1994). And, one white incumbent lost a Democratic runoff (GA–2, 1992). The remaining 68 contests featured African-American incumbents seeking reelection, none of whom lost in the general election.

African-American incumbents faced 19 primary challengers including four challenges to Representatives Cleo Fields and Bill Jefferson in the unique Louisiana open primary (see Table 1). Almost three in four black incumbents seeking reelection in the South during the 1990s got a free pass to the general election, as did two open seat nominees. Only one black incumbent was not re-nominated, as Craig Washington (TX–18) lost to another African American, state legislator Sheila Jackson Lee, in 1994. Otherwise, no black incumbent was forced into a runoff.

**Table 1. Primary Elections in African-American Opportunity Districts**

	1992	1994	1996	1998	2000	2002
Alabama 7	<b>31 (50)</b>	100	100	100	50	46 (44)**
Florida 3	<b>43 (64)</b>	67	100	100	100	100
Florida 17	<b>83</b>	100	100	100	100	<b>100</b>
Florida 23	<b>28 (58)</b>	100	100	100	100	100
Georgia 2	21 (53)***	67	59	100	100	100
Georgia 5	76	100	100	100	100	100
Georgia 11/4	<b>31 (56)</b>	100	67	100	100	42**
Louisiana 2*	<b>73</b>	75	100	86	100	63
Louisiana 4*+	<b>48 (74)</b>	70	—	—	—	—
Mississippi 2	100****	100	100	100	100	73
N. Carolina 1	<b>31 (55)</b>	100	100	67	100	<b>46</b>
N. Carolina 12	<b>47</b>	100	100	84	100	85
S. Carolina 6	<b>56</b>	86	88	83	100	89
Tennessee 9	65	79	<b>60</b>	100	99	99
Texas 18	100	37**	77*	100	100	96
Texas 30	<b>92</b>	100	55*	100	100	100
Virginia 3	<b>67</b>	●	●	100	100	●

Note: Bold denotes open seat contests.

\*Louisiana elections are run under a unique open-primary/runoff process where all candidates run in one primary contest and then the top two finishers meet in a runoff if no one attains a majority. In these cases (and also the Texas districts for 1996), the first number is the primary share for the prevailing, African-American candidate. If a runoff occurs, the vote share for the black candidate appears in parentheses.

\*\*Black incumbent lost primary or runoff to another African-American candidate.

\*\*\*Sanford Bishop came from second place in the primary to defeat a white incumbent in the runoff.

\*\*\*\*Incumbent Mike Espy resigned in 1993 to become Secretary of Agriculture. Bennie Thompson won a special open primary and runoff with 29% in the initial primary and 55% in the runoff.

●Bobby Scott was nominated by convention instead of by a party primary.

+Louisiana's 4th district was dismantled in 1995 by the lawsuit *Hayes v. Louisiana*. The incumbent, Rep. Cleo Fields (D) ran for governor rather than seek reelection.

Overall, from 1992-2000, only three African-American nominees won election with 55 percent or less of the general election vote: Bennie Thompson (MS-2) in 1994 and Sanford Bishop (GA-2) in 1996 and 2000 (Table 2). Eddie Bernice Johnson (TX-30) and Corrine Brown (FL-3) came in right at the 55 percent mark in 1996 and 1998 respectively, and Bennie Thompson (MS-2) just made the 55 percent mark in his special election win in 1993. Of 83 general election opportunities, black nominees won with over 60 percent of the vote on 68 occasions (81.9%) and with over 70 percent of the vote on 47 occasions (56.6%). In 14 instances (16.9%), the black nominee carried over 90 percent of the vote, or was unopposed. Overall, this

**Table 2. General Elections in African-American Opportunity Districts**

	1992	1994	1996	1998	2000	2002
Alabama 7	70	77	71	98	75	93**
Florida 3	59	58	61	55	58	59
Florida 17	100	100	89	100	100	100
Florida 23	59	100	73	100	76	78
Georgia 2	64***	66	54	57	53	100
Georgia 5	72	69	100	78	77	100
Georgia 11/4	73	66	58	61	61	77**
Louisiana 2*	73	75	100	86	100	63
Louisiana 4*+	74	70	—	—	—	—
Mississippi 2	76****	54	60	71	65	54
N. Carolina 1	67	61	66	62	66	63
N. Carolina 12	70	66	71	56	65	65
S. Carolina 6	65	64	69	73	72	67
Tennessee 9	58	58	61	79	99	84
Texas 18	65	73**	77*	90	76	77
Texas 30	72	73	55*	72	92	74
Virginia 3	79	79	82	76	98	100

Note: Bold denotes open seat contests.

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reflects Democratic dominance in districts with large minority population concentrations. These districts are generally safe, regardless of the presence or absence of an incumbent, rather than being made safe in general elections because of the incumbent (Gaddie and McCollum 2000).

In 2002, the patterns observed in the previous decade persisted with the notable exception of a couple of incumbents in primaries. In the sixteen successor seats to the black-held seats in 2000, fourteen incumbents sought reelection, of whom twelve were re-nominated and reelected. Seven incumbents had no primary opposition; four others were re-nominated with over 85 percent of the vote, and one with 73 percent. Earl Hilliard (AL-7) and

Cynthia McKinney (GA-4) lost re-nomination to other African-Americans, with Hilliard falling in a runoff. Of the black nominees, only one was held to less than 55 percent of the general election vote (Thompson of Mississippi) while one other (Brown of Florida) received less than 60 percent of the vote when challenged by Jennifer Carroll, an African American. Of the 14 remaining cases, in 11 instances the black candidate won over 70 percent of the general election vote, and overall black nominees in the South enjoyed even-more-lopsided victories than in the previous decade (Table 3).

Set against this backdrop, any primary or general election defeat of a southern, African-American incumbent is of interest because of its rarity. From 1992 to 2001, only one black incumbent lost re-nomination and that was to be a black primary challenger. The twin losses of McKinney and Hilliard prompt interest because they happen in the same year, and the alleged reasons for their losses are similar.

**Table 3. Distribution of Partisan Competition in Southern U.S. House Seats Held By Black Incumbents, 1992-2002**

	50-54.9	55-59.9	60-69.9	70+	n
1992	0	3	4	10	17
1994	1	2	6	8	17
1996	1	2	5	8	16
1998	0	3	2	11	16
2000	1	1	4	10	16
<b>Total '92-'00</b>	<b>3</b>	<b>11</b>	<b>21</b>	<b>47</b>	<b>82</b>
2002	1	1	3	11	16

### The Problem

Until recently, it was assumed that a district must have a black super majority for African Americans to have much chance at election save under extraordinary situations. In the past, some courts and seemingly the Department of Justice set 65 percent as the level of concentration for black population needed in a minority district for the candidate preferred by the minority population to be elected.<sup>1</sup> The 65 percent threshold took into account racial differences in voting age population, registration and turnout rates. Once these factors were factored in almost two-thirds of the population needed to be black to insure that a majority of those who turned out would be black; a necessity when black candidates had little prospect of attracting white votes.

David Lublin's (1997) examination of congressional elections from 1972-1994, suggests that a black population majority will usually be

sufficient. He finds that blacks won 91 percent of the majority-black seats while whites won 98.5 percent of the majority-white seats. During the 1990s, blacks won every majority-black congressional district except for the 1st district of Pennsylvania.

David Epstein and colleagues have attempted to determine the concentration of African Americans needed to provide blacks with a fair chance—as opposed to a guarantee—to elect their candidate of choice (Cameron et al. 1996; Epstein and O’Halloran 1999; Epstein 2002). They demonstrate that while the level varies across jurisdictions, in none of the contexts examined was a black majority of the voting age population necessary for blacks to have at least an equal chance of winning office. Research showing that the share of white votes won by black candidates exceeds the percentage of black votes won by white candidates helps explain estimates showing that black candidates have reasonable opportunities for election in districts in which they constitute less than half the electorate (Bullock and Dunn 1999).

Tate (2003) reports survey data showing that African Americans prefer to have a black representative. Blacks being represented by an African American (what Pitkin [1967] calls descriptive representation) is not adequate for some observers. For Lani Guinier (1994: 13), an “authentic” representative must be “truly chosen by the people. . . . Just because a candidate is black does not mean that he or she is the candidate of choice of the black community” a position embraced by some justices in *Thornburg v. Gingles*, the first case to interpret Section 2 of the Voting Rights Act. Taking Guinier’s perspective into consideration, the results for black representation stemming from redistricting include the following possibilities:

1. Cracking, or dividing, the black population so that it is insufficient to elect an African-American candidate or to secure the election of its preferred candidate among competing whites;
2. Cracking the black population so that it cannot elect an African American but can elect its preferred candidate from among competing whites;
3. Concentrating the black population so that it can elect an African American but white voters potentially hold the balance of power;
4. Concentrating the black population so that it can elect its preferred candidate regardless of white preferences.

Rep. Eddie Bernice Johnson (D–TX) has also voiced concern that the preferences of a district’s blacks might be overridden. The Dallas congresswoman pointed to another aspect of the primaries that could contribute to the elimination of black incumbents—financial contributions from outside the district. “To have non-African-Americans from around the country putting

millions [of dollars] into a race to unseat one of our leaders for expressing her right of free speech is definitely a problem,” Johnson warned (Clemetson 2002). An Atlanta spokesperson for Louis Farrakhan made a similar statement to explain why the Nation of Islam leader campaigned for McKinney in 2002 (Torpy 2002a).

While controversy surrounding McKinney brought attention and money to her challenger, ultimately it was voters in the 4th District who determined who would represent them. In this paper we sort through alternative explanations for McKinney’s defeat. Was the incumbent’s defeat attributable to loss of support among black voters with the victor now being African-Americans’ preferred candidates? A *New York Times* article right after the election hints at McKinney’s rejection by African Americans. The article notes that she lost the support of NAACP chair Julian Bond and former Atlanta Mayor Maynard Jackson (Clemetson 2002; see also Tucker 2002a). Quotes from a Democratic pollster and a pro-McKinney activist emphasized alienation from the incumbent in the black community. Clark Atlanta University political scientist William Boone suggested that as the district’s black middle class grew, it became less tolerant of McKinney’s confrontational style and far left ideology (Galloway 2002).

Or did the incumbent retain black support only to fall before a white bloc vote? If white votes defeated McKinney, how much was due to partisan interference? Did Republican crossover voters force on Democrats a candidate who was not their first choice? This is the favored explanation of the losing incumbent. Yet another potential explanation for McKinney’s defeat is the 2001 redistricting. Did it shift Georgia’s 4th district from category 4 to category 3?

Answers to these questions have implications for the Voting Rights Act. If black voters favored the challenger over the incumbent, then there is no evidence that the objective of Section 2—that candidates preferred by minorities not lose to a white bloc vote—was thwarted. If the preference of whites prevailed, then the choice would fail to meet Guinier’s definition as “authentic” although the winner might still provide blacks both descriptive and substantive representation. One must note that a legislator dependent on biracial support may embrace a different set of policy positions than a legislator who can be reelected exclusively with African-American support. If the winner owed election to key support from Republicans, descriptive representation would be present but the incumbent might perceive a need to support some initiatives preferred by the GOP and therefore provide less substantive representation than would an African American elected by a biracial coalition of Democrats. Alternatively, the newly elected legislator’s expansionist activities (Fenno 1978) might be directed at broadening support from black voters, and represent a movement toward substantive representation.

## **Background**

Cynthia McKinney arrived in Congress in 1992 as the beneficiary of racial gerrymandering that created a new overwhelmingly black district. In order to achieve a 64 percent black population, her district extended from Atlanta to Savannah. In her initial election, she competed in a crowded field and had to win the nomination in a runoff. Once elected, she never experienced a close brush with defeat until her ouster.

After the Supreme Court held racial gerrymanders to be subject to the Equal Protection clause of the 14th Amendment, a set of plaintiffs (including the candidate defeated by McKinney in the 1992 runoff) went to court (*Miller v. Johnson* 1995). The plaintiffs prevailed in 1995 and when the legislature deadlocked, the trial court redrew the district giving it a white majority. The new, compact district of close-in Atlanta suburbs had a black population of 37 percent according to the 1990 census. McKinney drew multiple challengers in the primary and what many expected to be a strong Republican opponent. She crushed the challengers, securing re-nomination without a runoff and winning the general election with 58 percent of the vote. An ongoing racial transition continued making McKinney's district blacker with each election. The 2001 reapportionment gave her a black majority district that appeared likely to reelect her for life.

McKinney's flamboyant style never played well with conservative whites. Her attacks on Georgia's kaolin industry, speech against US involvement in the Gulf War in 1991 and efforts on behalf of the poor gave her a distinctively liberal profile. But throughout the 1990s even though the congresswoman always attracted a Republican challenger, she never came close to losing. Unlike most incumbents, however, she never increased her support among whites (Bullock and Dunn 1999). Voss and Lublin (2001) show that white voters who had been in the district since 1992 gave McKinney less support than white voters added to the district in 1996. For whites, to know her was not to love her. This was not a problem for McKinney because the united support she attracted in the black community exceeded 94 percent from 1996 - 2000. Her success convinced many that she had an organization capable of turning out large numbers of voters (Darnell 2002; Tucker 2002c).

While McKinney had proved that she could defeat a black woman in the general election and white males in the Democratic primary, she had not confronted a black woman in the primary and that was her challenge in 2002. Denise Majette, an African American, gave up a seat on the state court bench to try her hand at partisan politics.

### The 2002 Primary Election

Republicans had always found McKinney too liberal. Their dislike turned to loathing in the spring of 2002 when McKinney speculated on a radio talk show that President Bush had foreknowledge of the September 11 attacks but did not warn Americans and took no defensive steps because his family and friends stood to profit from the aftermath. When pressed, McKinney acknowledged that she had no support for her assertions.

The incumbent's record had also fueled suspicions that she was anti-Semitic. In 1996 her father castigated her general election opponent as a "racist Jew." She further angered the pro-Israeli lobby by opposing congressional motions favorable to Israel and apologizing to a Saudi prince in an effort to get \$10 million in post-September 11 aid that New York City rejected because the donor suggested that the attacks resulted from US support for Israel. *Atlanta Journal Constitution* editorial editor, Cynthia Tucker, an African American, characterized McKinney as "long a darling of Arab-Americans" (2002b, F8). New York financier and Majette contributor Michael Moskowitz, son of Holocaust survivors, said, "McKinney's the radical Muslims' representative in Congress" (Torpy 2002b, C1). The editor of the online political report Hotline characterized Georgia's 4th district primary as "totally an Arab-Israel fight" (Anderson 2002, A8).

McKinney's support of Palestine and Muslim causes paid financial dividends. By one estimate, "More than half of McKinney's donors have Arabic names and live out of state" (Torpy 2002a, D4). Another analysis reported that a quarter of the individuals who contributed to McKinney from 1997-2002 had Arab-American or Muslim names and these sources accounted for a third of the funds she raised from individuals (Dart and Krupin 2002). After some of McKinney's contributors showed up as defendants in a suit brought by families of the September 11 attacks, the incumbent refunded several thousand dollars (Shenon 2002). In the political climate post-9/11, McKinney was probably outside what Bauer, Poole, and Dexter (1964) termed the limits of "what is morally or sociologically conceivable."

Incumbents usually have the inside track for campaign funds and do especially well among PACs because of the incidence of incumbent reelection. However McKinney's inflammatory rhetoric coupled with a May poll by Alan Secrest (2002) that showed even though Majette had only 28 percent name recognition, she led the incumbent 41-37 percent gave some contributors pause. Evidence of McKinney's vulnerability prompted a surge in contributions in the last seven weeks of the contest so that Majette outraised her by 7:1 after July 1 (Torpy 2002b). McKinney's perceived anti-Semitism encouraged giving to Majette from the Jewish community that more than

balanced McKinney's funding from Arab sources. An activist with the pro-Israeli lobby told us that Jewish contributors waited until after the second quarter to send money so that it would not appear on that FEC report which might stimulate a greater McKinney effort.

The geographic profile of the Majette contribution list looked more like that of the typical incumbent than a challenger or open seat candidate, with most of the money coming from out of state. According to Open Secrets, Majette got almost 60 percent of her money from outside Georgia with New Yorkers contributing more than half as much as Georgians. McKinney trailed Majette during the primary season by roughly \$1.2 million to less than \$650,000.

Although both candidates were black, McKinney used racially-charged language trying to give blacks reasons to oppose Majette while appealing for their support. "The McKinney campaign called Majette a 'Tomette' and a closet Republican, and it compared her to a white police officer who punched a black teen" (Smith 2002, D5). One McKinney ad likened Majette to an "angry, out-of-control police officer" (Eversley 2002, A5) while another charged that Majette "sold us out" (Miller 2002). At a forum, McKinney charged her opponent with practicing racial profiling after obtaining a copy of a Majette staff memo that recommended sending only black volunteers into black neighborhoods (Torpy and Cook 2002). Members of the Black Caucus, Jesse Jackson and Louis Farrakhan worked the district for McKinney. To dissuade potential Republican crossovers, phone calls from an unidentified source warned that it would be illegal for Republicans to vote in the Democratic primary ("McKinney's Faults" 2002). Georgia's open primary election law has no such provision, and the effort was reminiscent of similar efforts in the past to discourage minority voting.

McKinney claimed that her constituents liked her outspokenness. But, as the primary drew closer, McKinney's camp became increasingly desperate (Anderson 2002). The campaign released endorsements that President Clinton, former UN Ambassador Andrew Young, and Robert Redford had made in previous years but had not renewed in 2002 (Torpy and Eversley 2002). Just days before the vote, McKinney's father, a state representative, fueled still more controversy when he spelled out for a television reporter that the cause of his daughter's problems was "J-E-W-S" (Campbell 2002).

Former judge Majette took a lower key approach. Where McKinney's rhetoric divided constituents, the challenger talked of uniting the disparate district. Majette expressed interest in building partnerships that would attract industry to the district, the kind of concerns typically mentioned by congressional candidates but seemingly not a high priority with the incumbent. The campaign would reveal whether an incumbent who embraced the "politics of differences" would prevail over a challenger who minimized all descriptive

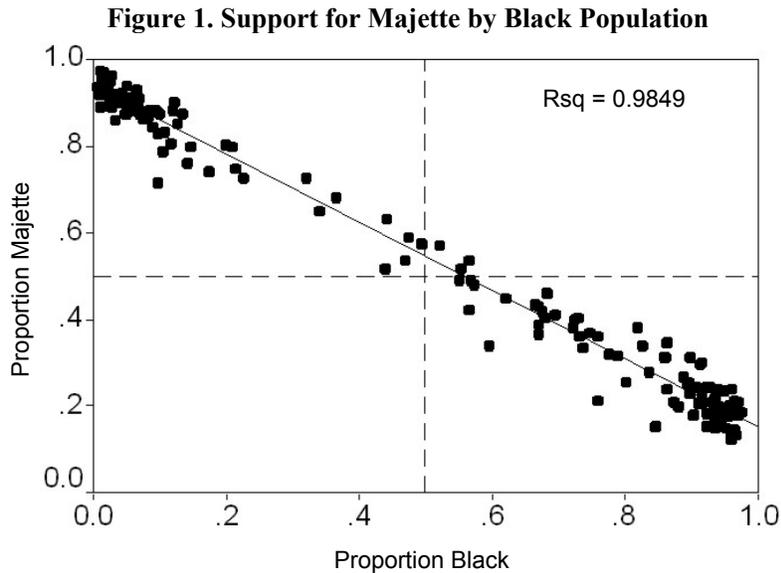
differences with the incumbent, and who campaigned in the new model of the black politician who practiced the “politics of commonality” (Canon 1999). Canon’s supply-side model predicts that, in a head-to-head contest with a sizeable bloc of white voters but no white candidate, the candidate practicing commonality will prevail.

### **Results**

Majette upset McKinney taking 56.7 percent of the vote. As Figure 1 indicates, the racial composition of the precinct was strongly related to voter preferences. The analysis using actual turnout by race provided by the office of Secretary of State Cathy Cox shows that Majette carried every precinct in which most of those persons turning out were white while McKinney won all but three precincts in which blacks constituted a majority. An extreme case analysis reveals that Majette took 93.4 percent of the vote in precincts at least 90 percent white in turnout while McKinney got 79.4 percent of the vote in precincts in which blacks cast at least 90 percent of the Democratic primary ballots. King’s ecological inference estimating technique and ecological regression estimates showed even greater polarization with Majette the preference of 95 percent of the whites and McKinney the choice of 83 percent of the black voters. Unlike in general elections where the black vote tends to be more cohesive, white voters displayed greater unity than blacks in this primary. The white cohesion in the Majette–McKinney contest exceeded what is usually seen in general elections involving a white Republican and a black Democrat (Bullock and Dunn 1999). Moreover, the racial polarization was greater than in the most recent heavily contested congressional primary in the Atlanta area pitting two blacks. In 1986, John Lewis defeated Julian Bond in the Democratic primary by taking 80 percent of the white while decisively losing the black vote.

The extreme polarization doomed McKinney given the racial distribution of those who went to the polls. Although African Americans outnumbered whites among registered voters, 136,701 to 120,173, whites turned out at higher rates. The post-election turnout audit conducted by Georgia’s secretary of state showed 61,222 whites voting (50.9% turnout), compared with 56,030 blacks (41% turnout). With her poor showing among whites, McKinney needed to get almost every black vote cast in order to win.

Given her rocky relations with conservatives, suspicions were widespread in the immediate aftermath of the primary that McKinney lost because Republican interlopers participated in the Democratic primary. Georgia voters do not register by party so raiding by Republicans would be possible. In explaining her defeat, the congresswoman complained, “We saw massive Republican crossover into the Democratic primary, and it looks like



the Republicans wanted to beat me more than the Democrats wanted to keep me” (Darnell 2002, 1). The white majority among Democratic primary voters conformed to the possibility that Republicans had crossed over and joined with Democrats.

McKinney supporters filed suit to overturn the primary results because of an organized effort encouraging Republicans to vote in the Democratic primary to “sabotage [the Democratic Party’s] choice of its own nominee for political office” (Rankin 2002, E2). The McKinney suit claimed that 37,500 Republicans crossed over into the Democratic primary (Smith and Milliron 2002). As further evidence of GOP meddling, an entity encouraging Republicans to ask for Democratic ballots raised \$6,000–\$8,000 from its website [www.goodbyecynthia.com](http://www.goodbyecynthia.com) and sent out 30,000 pieces of mail showing McKinney’s picture being obliterated by a giant eraser (Davis 2002). Phone banks contributed to these efforts.

Representatives of both the intended beneficiary of this effort and the source of the electoral contribution roundly condemned it. The Majette campaign denied soliciting Republican crossovers fearing that evidence of an organized GOP effort would substantiate the McKinney claim that Majette was a closet Republican and trigger a backlash among black voters. The head of the GOP in DeKalb County (where more than 95% of the district resides) begged members of his party to vote in the Republican primary (Miller 2002). In the days just before the primary the GOP chief fretted that

a third of his fellow partisans would crossover which could impact Republican contests locally and statewide.

Despite McKinney's concern that a flood of Republicans would submerge Democrats, approximately 6100 voters in the district cast ballots in the Republican primary so not all members of the GOP turned out to defeat her. The 2002 turnout was down from the 8689 ballots divided between two Republicans who sought the congressional nomination in 2000 in a district that included most of the present 4th district (Cook 2002), but that is not entirely surprising since in 2002 only one candidate offered for the GOP congressional nomination in the district.<sup>2</sup>

But did the GOP determine the outcome of the Democratic primary? This question cannot be answered definitively since there is no clear definition of who is a Republican. However, it is possible to approach this question by examining the past voting behavior of those who participated in the 2002 Democratic primary.<sup>3</sup> To address this question, we examined the voting histories of everyone who voted in the Democratic primary in the DeKalb County portion of the district. Only five precincts in the district are not in DeKalb and the DeKalb precincts cast 98 percent of the ballots in the election.

A review of primary vote choices since 1990 revealed that only 3118 Democratic voters in 2002 (of whom 3075 were white) had voted in at least four primaries and had participated on the GOP side at least 75 percent of the time (Smith and Milliron 2002). Another 8782 whites had voted in at least four primaries during the previous 12 years but had not shown a consistent preference for one party, having cast Democratic primary ballots between 26 and 74 percent of the time. Combining these two figures remains short of the 17,669 margin by which Majette won. Another 36,135 white Democratic voters in 2002 had participated in fewer than four of the previous six primaries.

A second approach for getting at partisanship focuses on more recent elections. The most obvious case that Republicans entered the Democratic primary comes from those who voted in the Republican primary consistently from 1996 to 2000 before casting a Democratic ballot in 2002. Table 4 shows that 2278 voters fit that profile. Another 4310 voters participated twice in Republican primaries during this period but sat out one primary. An additional 55 voters participated in two GOP primaries but in one of the three primaries leading up to 2002 voted only in the nonpartisan contests. There were 227 voters who voted in Republican primaries in 1998 and 2000 but had voted as Democrats in 1996. Adding all of those who had cast at least two GOP primary ballots in the preceding three elections totals 6870. If these individuals had not participated in the Democratic primary, and even assuming that they all supported Majette, McKinney would still have lost by

**Table 4. Numbers of Participants in 2002 Georgia District 4 Primary Who Might be Republican, Based on Past Primary Participation**

Past Primary Participation Before Voting Democratic in 2002			Voters	Cumulative
1996	1998	2000		
R	R	R	2278	2278
Neither	R	R	647	2925
R	Neither	R	438	3363
R	R	Neither	3225	6588
D	R	R	227	6815
R	R	N	42	6857
R	N	R	8	6865
N	R	R	5	6870
N	Neither	R	6	6876
Neither	R	N	33	6909
N	R	Neither	18	6927
R	Neither	N	16	6943
R	N	Neither	16	6959
N	R	N	2	6961
R	N	N	2	6963

D = Democrat; R = Republican; N = Nonpartisan only; Neither = Didn't vote in primary.  
Data provided by the DeKalb County Election Supervisor.

almost 11,000 votes. Even using the loosest definition of a Republican—anyone who had voted at least once in a GOP primary and never in a Democratic primary since 1996—accounts for fewer than 7000 ballots.

Even if the definition of what it means to be a Republican is diluted so as to include every voter who participated in the 2000 GOP primary but took a Democratic ballot in 2002, this adds 1168 voters. Expanding the definition to include everyone who had cast even one Republican ballot during the three previous primaries adds 9595 voters but includes 698 who cast Democratic votes in both 1998 and 2000 after voting in the GOP primary in 1996. But only if the definition of being a Republican is enlarged to include every voter who participated in the GOP primary once in the previous three rounds does the number have the potential to assign to Republicans the decisive votes. Finally, it is possible, although not probable, that the 3075 whites classified as Republicans from the post-1990 analysis are not subsumed in the figures in Table 4. Even adding these 2002 Democratic primary voters, the total does not offset the more than 17,000 ballots by which McKinney lost.<sup>4</sup>

An alternative way to assess partisanship involves looking at voting in the last two presidential preference primaries along with the regular primaries held between 1996 and 2000. Of voters who participated in the 2002

Democratic primary, 1680 cast GOP ballots in all five primaries while 2618 participated in four Republican primaries. Another 2363 voters participated in three Republican primaries but never in a Democratic primary while 2798 asked for Republican ballots four times but once voted in a Democratic primary. This sums to almost 9500 frequent primary voters who have strong Republican leanings.

To approach the margin of victory, it is necessary to add the 5142 people in the 2002 Democratic primary who voted in two more Republican than Democratic primaries—either they voted in three GOP and one Democratic primary or participated only twice in five elections but both times got GOP ballots. This is still insufficient but if one sets the minimal level for establishing a Republican voting preference in primaries, that is, voting in one more Republican than Democratic primary, another 8176 voters qualify. At this threshold the total of possible Republicans reaches 22,777, which exceeds the Majette margin.<sup>5</sup> The margin for this final figure is such even if Majette got *only* 90 percent of their ballots, it would be decisive.

Unless one accepts the least-demanding definition for being a Republican, other clues must be examined to account for Majette's victory. One promising lead involves the 44,251 voters in the 2002 Democratic primary who had *not* turned out in any of the three previous non-presidential selection primaries. Of these fresh faces, 22,400 were African American while 20,500 were white. Blacks constituted 50.6 percent of these new primary voters, a greater share than of the entire primary turnout that was 46.8 percent black. Nonetheless, assuming that Majette got at least 90 percent of the votes cast by the new white voters, these new primary participants could account for the margin of victory.

The participation of tens of thousands of individuals who had not recently cast primary ballots points up another facet of the 2002 contest: it stimulated new voters. Given the stark racial polarization of the entire electorate, the nature of the general patterns is clear. The bulk of the new blacks supported McKinney so the challenge stimulated additional turnout from those wishing to return her to Washington. Six years earlier when three white males challenged the congresswoman, 31 percent of the black registrants participated so 2002 achieved about a 30 percent increase in the share of African-American registrants voting. Based on Majette's near unanimous backing among whites, the vast share of the whites newly mobilized by this contest voted against the incumbent. Moreover, the 2002 challenge evoked a much stronger reaction among whites when compared with McKinney's last primary challenge in 1996 that produced a 12 percent white turnout rate.

A final item to check is whether redistricting led to McKinney's defeat by changing her district. After the election, her father charged that she had been victimized by the new district even though he had reportedly agreed to

its outlines (*Bill Shipp's Georgia* 2002). The congresswoman retained all but eight DeKalb County precincts that she had represented since 1996 and while she lost most of the Gwinnett County precincts from the old district, these were less heavily black than the DeKalb portion of the district and therefore their exclusion should not have harmed her. Turnout in six of the DeKalb precincts removed by redistricting was more than 90 percent white so their retention would not have benefited McKinney. In the two overwhelmingly black precincts removed, 1840 black votes were cast, less than McKinney's margin of defeat. The black turnout in these two precincts (46.5%) exceeded black turnout in McKinney's district (41%) so voters did not stay away from the polls because they were no longer in McKinney's district.

It appears that the best explanation for McKinney's defeat is that she turned off too many white Democrats and swing voters. Republicans contributed to her defeat but those who consistently voted in GOP primaries cannot fully account for Majette's margin of victory. While McKinney continued to run well among black voters, her antics may have also cost her in that community. The rate at which black registrants went to the polls was ten points less than for whites. Had blacks turned out at the white rate of 50.9 percent and assuming that these additional voters divided between the candidates in the same proportions as those who did vote, it would have offset almost half of Majette's victory margin.

Denise Majette owed her seat in Congress to a combination of factors: (1) almost universal support among whites; (2) higher white than black turnout; and (3) Republican crossover votes, broadly defined.

### **Implications**

McKinney's defeat, coupled with that of Rep. Earl Hilliard in an Alabama Democratic primary, demonstrates the risks of lower black concentrations vis-à-vis Section 2. A district may be sufficiently black to elect African Americans but no longer be represented by the candidate of choice of the black community. Examination of the precinct results discounts early speculation that McKinney had forfeited support in the black community. She received endorsements from black leaders such as the Congressional Black Caucus, as well as from others like Louis Farrakhan, and attracted overwhelming support from black voters. While her share of the black vote dropped about ten percentage points from the 1996 primary when she faced three white, male challengers, she retained four of every five black votes in 2002 even when opposed by a candidate who matched her on race, gender and age.

If we view the results of Georgia's 4th from a strategic voting perspective, the vote was a product of three factors:

1. A decision by voters, who found their representative unresponsive or unrepresentative of them, to exploit the rules of Georgia primaries to select a more moderate nominee for the party likely to win the general election.
2. An exit from the political process of some voters who supported the incumbent.
3. Mobilization of voters attracted by the heated exchange between the candidates.

Such strategic voting was possible in part because no descriptive differences existed between the incumbent and her challenger. Both were the same age, race, sex, and highly educated, and therefore superficially indistinguishable. In the past, McKinney confronted challengers of a different religious persuasion, a different race, the opposite sex, and/or a different party.

The perceived need to have a representative closer to the district's median voter arose from a salient dimension on which McKinney had become extreme. With overwhelming numbers of whites—and most black males—agreeing at the time that the war on terrorism was justified, McKinney came from the least war-minded part of the electorate (black, liberal women) and expressed the most skeptical and polarizing views on foreign policy issues. In the political context, inflammatory issues which take an incumbent far from the mainstream of the local electorate can cause defeat. For McKinney, who had run to the barricades of extremism so often, a string of statements likely had the same effect as John Kingdon's (1973) "string of votes": any one statement could be explained, but multiple transgressions spelled electoral oblivion. The polarizing nature of her incumbency and the outrageousness of her conduct in the eyes of many voters created a representative environment similar to that endured by an embattled, scandal plagued incumbent (e.g., Bauer and Hibbing 1989).

White, not black, voters rejected McKinney. She never received majority support among whites which may have prompted her to adopt positions that antagonized many whites (Tucker 2002a). By denying McKinney renomination, whites got a representative likely to espouse more moderate stands, stands that may generate less enthusiasm among some black voters. White financial contributors, both in and outside the district, also contributed to the outcome. If districts which create black representative opportunities are to be maintained at relatively low levels of black voter concentration, black legislators who want to succeed will have either stylistically or substantively to do what white legislators did in the past (Whitby and Gilliam 1991; Black 1978; Bullock 1981; Swain 1993) to maintain the support of large black minorities: temper and moderate their voting records, legislative

activities, and rhetoric to ensure support from a cohesive minority. The nature of McKinney's extremism hurt her because it activated a formidable group that had powerful motivations to remove her from office.

Canon (1999) finds that all-black contests for open seats usually favor the more moderate candidate over an extreme candidate. In the case examined here, moderation is even more of an influence because it overwhelms the advantages of incumbency, which are especially pronounced in primaries, including primaries involving southern black incumbents (Table 1). Moderation favored Majette precisely because McKinney consistently staked out extreme positions.

In this district, the candidate favored by black voters lost as a result of a white bloc vote. If Section 2, as interpreted by the Supreme Court in *Thornburg v. Gingles*, is to be honored then it will be necessary to maintain concentrations of African Americans sufficient to prevent whites from holding the balance of power. This requires crafting sufficiently large black majorities to ensure that no candidate with overwhelming black support loses, regardless of differences or variations in turnout across racial groups. In other words, the districts, by design, will have to be completely insensitive to the preferences of white voters.

An alternative would be for the Supreme Court to reinterpret Section 2. The *Thornburg* opinion, like many recent rulings on controversial topics featured multiple arguments with kaleidoscopic coalitions of justices lining up behind conflicting arguments. If the court were to embrace an interpretation that focused exclusively on the race of the officeholder and ignored the coalition that placed him/her in office, then it could countenance recent efforts to reduce minority concentrations as it did in *Georgia v. Ashcroft* (2003). Election of blacks in less heavily black districts has become possible because of cracks in what was once monolithic white support for white candidates.<sup>6</sup> Now that whites are more supportive of black candidates than black voters are of white candidates, there is little likelihood that a white would be nominated or elected under a scenario like that which nominated Denise Majette, i.e., slightly more white than black voters at the polls.

Concentrating on the race of the official rather than the supporting coalition would avoid having to decide how heavily black a district needs to be to insure that the minority-preferred candidate wins. This congressional district provides a data point for what is inadequate. In addition, even a 65 percent black district failed to elect the black-preferred candidate in 1986 when John Lewis took about 80 percent of the white vote to defeat Julian Bond who had the bulk of the black vote. Unless the black voter concentrations are so great as to mitigate totally against white preferences in polarized races, those white voters can find themselves in a traditional swing role played by southern blacks in major southern statewide races of the past:

combining their highly cohesive ballots with a minority of the local majority to determine the outcome. As currently constituted, most majority-black districts will elect and reelect black candidates and candidates of choice of the black community. Current designs and the experiences of the Georgia 4th congressional district also indicate that the winners of these districts are not immune to the controlling influences of district opinion; as Bernstein (1991) observed, elections link “increased deviation from [constituent] preferences to increased probability of defeat.”

The resolution of the debate over the level of minority population needed to comply with Section 2 of the Voting Rights Act has implications for Section 5 of the VRA—the pre-clearance section— that expires in 2007 unless extended as occurred in 1970, 1975 and 1982. If black candidates win districts in which they are not heavily concentrated, then the problems that gave rise to the VRA in 1965 may no longer justify the extraordinary oversight exercised in 16 states by the federal government. In the 2003 appeal to the U.S. Supreme Court (*Georgia v. Ashcroft*), Georgia’s attorney general, an African American, urged setting lower percentages for black concentrations in legislative districts and also charged that the 1965 legislation was too intrusive. This perspective was not accepted as necessary for the implementation of the Voting Rights Act by the Court.

This raises a fundamental question regarding the interpretation of the Voting Rights Act: Does it guarantee that the historic minority’s preferences will always prevail, under all circumstances? Or, does it guarantee that conditions will be created sufficient to correct against the last of the *Gingles* prong, namely that the minority candidate of choice will usually win? Usually is not always. By making the decision to spread black votes in pursuit of greater political gains for Democrats and black Democrats, a candidate of choice was sacrificed. It does not follow, however, that all or even most candidates of choice will lose in the future. So long as those incumbents abide by a constraint that precludes extremism, they can expect reelection.

## NOTES

<sup>1</sup>The 65% rule first appeared in *Kirksey v. Board of Supervisors of Hinds County*, 554 F.2d 139 (1977). DOJ claims that it never had a 65% black requirement although that was the threshold demanded in Georgia for preclearance of a congressional plan after the 1980 census.

<sup>2</sup>In 1998, DeKalb had 28,000 GOP primary voters but that included some precincts not in the 4th district and the continuing white flight from the county would be expected to produce a lower GOP turnout in 2002.

<sup>3</sup>While we cannot determine precisely how Republicans who voted in the Democratic primary cast their votes, the small share of the white vote won by McKinney means

that errors of inference would be small, especially if we assume that Republicans were even less likely to support McKinney than were white Democrats.

<sup>4</sup>Mark Davis (2002), a consultant who specializes in putting together voter data bases and who directed the goodbyecynthia.com effort, estimates that the Democratic primary had 15,928 voters who had voted only in GOP primaries in the past along with 8,005 voters who had more often gotten GOP than Democratic primary ballots. These figures sum to more than Majette's margin. It is not clear what set of primaries was included in his data set.

<sup>5</sup>Of these voters, for 1052 their only primary participation came in the 1996 GOP presidential primary; another 2677 limited their primary activity to the 2000 GOP presidential primary and 733 ignored regular primaries but voted in both GOP presidential selection ballots. The presence of almost 4500 voters who restrict primary voting to presidential primaries suggests that the turnout at those events is not restricted to committed partisans but includes some voters attracted by the greater publicity surrounding the presidential selection process.

<sup>6</sup>Two competing caveats must be noted. First, districts in the South with less than majority-black populations which since 1992 elected black representatives, either had large, non-voting Hispanic populations or were districts that became non-black majority but retained a black incumbent. Second, the most recent Georgia congressional map included two additional districts of less than black majority which both nominated African-American candidates in 2002, and one (Georgia 13) elected an African-American.

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