

Grant, Annie Lois, et al.v. Raffensperger, Brad, E

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ANNIE LOIS GRANT, et al.,

Plaintiffs,

vs.

CIVIL ACTION FILE

BRAD RAFFENSPERGER, in NO. 1:22-CV-00122-SCJ
his official capacity as
the Georgia Secretary of
State, et al.,

Defendants.

COAKLEY PENDERGRASS, et
al.,

Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:21-CV-05339-SCJ

BRAD RAFFENSPERGER, et
al.,

Defendants.

REMOTE VIDEO DEPOSITION OF
ORVILLE VERNON BURTON, PH.D.

February 17, 2023

1:24 p.m.

Suite 200

1600 Parkwood Circle

Atlanta, Georgia

Tracy A. Williams, B-2168, RPR

Jesse Wiggins, Videographer

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8
9 (Pursuant to Article 10(B) of the Rules and
10 Regulations of the Georgia Board of Court Reporting,
11 a written disclosure statement was submitted by the
12 court reporter to all counsel present at the
13 proceeding.

1 THE VIDEOGRAPHER: Today's date is
2 February 17, 2023, and the time is 1:24 p.m. This
3 will be the videotaped deposition of Dr. Orville
4 Vernon Burton.

5 Would counsel present please identify
6 themselves for the record starting with the attorneys
7 on Zoom, please.

8 MR. DAVIS: Alexander Davis, Lawyers'
9 Committee for Civil Rights on behalf of the Georgia
10 NAACP in a connected case.

11 MS. TSAI: This is Denise Tsai from
12 Wilmerhale appearing on behalf of the Alpha Phi Alpha
13 plaintiffs in the connected case.

14 MR. JONES: Mike Jones with the Elias Law
15 Group, and I'm representing the Pendergrass and Grant
16 plaintiffs.

17 MS. LAROSS: I'm Diane LaRoss. I represent
18 the State defendants in this case.

19 THE VIDEOGRAPHER: Thank you. Would the
20 court reporter please swear in the doctor.

21 ORVILLE VERNON BURTON, Ph.D.,
22 having been first duly sworn, was examined and
23 testified as follows:

24

25

EXAMINATION

BY MS. LAROSS:

Q. Thank you, Dr. Burton. As I mentioned, my name is Diane LaRoss, and I represent the State defendants in this case. I'll be taking your deposition today pursuant to the Federal Rules of Civil Procedure and for purposes of discovery and all other purposes allowable under the Federal Rules.

MS. LAROSS: All objections except those going to privilege and form of the question are reserved until trial or first use of the deposition, if that's agreeable with counsel.

MR. JONES: It is.

BY MS. LAROSS:

Q. And, Dr. Burton, you've had your deposition taken before; am I correct?

A. In this case, or just in general?

Q. Just in general.

A. Yes.

Q. Okay. And so I know you've done that. I'm going to go over a couple of guidelines with you. And they may be repetitive of what you've heard before so -- but I would still like to go over them with you on the record today. So it's important, if you would, to answer verbally to all the questions.

1 We want to make sure that we get an accurate
2 transcript of your testimony, and it's difficult for
3 the court reporter to take a nod of the head or a
4 shake of the head or something -- you know, or other
5 gesture.

6 So can I count can on you to respond
7 verbally?

8 A. Yes.

9 Q. Thank you. And it's important that you and
10 I not speak at the same time, particularly that --
11 because we're on Zoom. And the court reporter is
12 here with me, but we need to make sure, again, that
13 she gets a clear transcript of your testimony. So if
14 you could wait until I complete my question before
15 beginning your answer, I think that will help. And I
16 will do my level best to make sure I don't start my
17 next question before you're finished.

18 Is that agreeable to you, sir?

19 A. Yes.

20 Q. And, Dr. Burton, certainly, at any time if
21 you would like to take a break, just let us know. I
22 will try as we've done in some of the other
23 depositions kind of to go about an hour and maybe
24 take a few minutes.

25 But if at any time you need to take a break

1 other than that, it's entirely fine. If you could
2 just make sure that you complete your answer to
3 whatever question is pending, that would be very
4 helpful.

5 So is that agreeable to you as well?

6 A. Yes.

7 Q. Thank you. And my purpose today is not --
8 it's not to confuse you. So if any of my questions
9 are unclear or you don't understand what I've asked
10 you, can I count on you to let me know?

11 A. Yes.

12 Q. Okay. Thank you. So just -- I don't need
13 an address, but where are you located today giving
14 your deposition?

15 A. In my rented townhouse at [REDACTED] --

16 Q. Sorry. Go ahead.

17 A. I'm sorry. I thought you were saying
18 something.

19 Q. No.

20 A. [REDACTED] Clemson, South Carolina
21 with a ZIP code of [REDACTED]

22 Q. Okay. Thank you. And is there anybody
23 there in the room with you?

24 A. No, no one in the home at the moment, but
25 my wife will come home at some time. But she knows

1 that I am in the deposition and should not disturb
2 us.

3 Q. Okay. So she won't come in the room, you
4 don't think?

5 A. I do not, unless she wants to -- I ask her
6 maybe to bring me water or something. But I do not
7 anticipate her being here. She -- we discussed that
8 she should not be.

9 Q. Okay. Very good. Thank you. And I would
10 also ask that you turn off any cell phones or
11 electronic devices -- obviously, not your computer
12 because that's what we're Zooming on today -- but is
13 that also agreement agreeable for you?

14 A. Yes. Is it okay -- what I have done is
15 turned off the ringer. Do you need to me to actually
16 turn the phone off itself?

17 Q. Yeah. That would be great, if you could
18 turn the phone off.

19 A. Okay. Just one moment. I have not done
20 that. I just...

21 Q. Thank you, sir.

22 A. It should now be off if I have the new
23 technology -- even though I grew up sort of creating
24 this world at the University of Illinois, it's beyond
25 me. But I believe the phone is off. It says "power

1 off."

2 Q. Okay. Perfect. Thank you for doing that.

3 So, Dr. Burton, what did you do to prepare
4 for today's deposition?

5 A. I read through the testimony I had give in
6 the preliminary injunction, the transcript. And I
7 read through my report.

8 Q. And other than speaking with the attorneys,
9 did you speak with anyone else in preparation for
10 your deposition today?

11 A. Not in preparation. I commented on it to
12 my wife, but not discussion of it or...

13 Q. So no discussion of the substance of your
14 testimony, correct?

15 A. No, or the report.

16 Q. Okay. And am I correct that your
17 compensation is -- in this case as an expert, is \$350
18 an hour?

19 A. Yes, that is in the contract.

20 Q. Okay. I'm going to ask you the time spent
21 on various parts of the case. So first of all,
22 the -- there -- your first report is dated
23 January 3rd, 2022. How much time did you spend
24 preparing your first report?

25 A. I don't remember. If you need it, I

1 have -- I did use the application Toggle, which
2 actually gives me per second the amount on time on
3 it. It will miss some things, obviously, because
4 you're doing things when I didn't do it. But at the
5 minimum, I can get that record for you. I do not
6 have it at hand. But there is a record of the time
7 and -- that I have sent to the attorneys.

8 Q. Okay. Sure. How about we do it this way:
9 How much total time have you billed -- and it could
10 be an estimate -- on all of your work in this case?
11 Go ahead, please.

12 A. You know, it would have to be an estimate.

13 Q. Sure.

14 A. And I'm not trying to be evasive at all,
15 but I really don't know. I can give you exactly --
16 in fact, if you want to take a break, I can go on
17 this computer and tell you how much has been billed,
18 if that is important. But I do have the record of
19 it. And I would assume that Mike Jones probably has
20 the record of what has been billed. There's still
21 one outstanding I have not billed, and I was going to
22 do at the end of this month.

23 Q. Sure. So it would be helpful, if you don't
24 have an estimate of your time, that when we take a
25 break, if you could take a look at the time that

1 you've spent preparing for the case? I am going to
2 ask you generally, if you can, portion it out for
3 each of the three reports and then the time spent
4 preparing and testifying at the preliminary
5 injunction as well as your time spent preparing for
6 today's deposition. Is that agreeable?

7 A. It will take some time, but it can be done.
8 Would it be easier just to get my billings that I
9 sent to him? I mean, I have the summary, so that
10 would probably be the easiest way for me to pull it
11 up and do it.

12 Q. I'm sure that Mike --

13 MR. JONES: Are you asking him to produce
14 documents?

15 MS. LAROSS: No. I'm just trying to figure
16 out another way we can get at -- I just want an
17 estimate of time spent in preparation for various
18 things.

19 BY MS. LAROSS:

20 Q. So I guess -- I guess if we could just get
21 a total, just the time spent on your work in this
22 case, Dr. Burton. And I'll ask you separately about
23 your preparation for the deposition today. So how
24 about that?

25 Would it be much effort for you to come up

1 with the total amount of time that you spent on this
2 case?

3 A. It would be an effort, but it's doable.
4 And I can tell you for the deposition --

5 Q. Okay. Great.

6 A. -- one not-quite-an-hour conversation with
7 Mike. It might have been yesterday. The days flow
8 together. I'm teaching. I have committee meetings.
9 It's -- you know, it's the middle of the semester of
10 time.

11 And then last night and this morning, I did
12 the reading. So I am -- what would I guess? Four
13 hours and then probably seven hours. Again, this is
14 a total estimate, plus the conversation with Mike in
15 preparation for the deposition. It doesn't count
16 thinking about it, like when I'm praying or walking
17 or something like that, but directly trying to get
18 ready for it.

19 Q. Yeah. And that's exactly what I'm asking.

20 MS. LAROSS: And, Mike, would it be easier
21 for everybody if you just kind of gave us a total of
22 time he spent preparing his work in this case to the
23 exclusion of preparation for the deposition today?

24 MR. JONES: I just don't know.

25 MS. LAROSS: Okay. I don't want to -- I'm

1 not trying to make this hard. I just want to get an
2 estimate.

3 THE WITNESS: I'm not meaning to interrupt.
4 I can do that for you. I have it. You know, I'm not
5 sure if I can legally without first -- with my
6 attorneys, but.

7 MS. LAROSS: Sure. Absolutely. Yeah.
8 Please, you know, run it by Mike.

9 THE WITNESS: I have it by, you know,
10 exactly what I'm doing when and --

11 MR. JONES: I don't -- I'm just going to
12 interject here because I don't -- I don't think that
13 you guys have requested any documents, you know,
14 through the appropriate means. And today is
15 obviously the close of discovery, so I don't think
16 we're going to be producing billing records here.

17 MS. LAROSS: No, no, no, no. I'm actually
18 not asking for that. All I'm asking for is just a,
19 kind of, total number of time spent. That's all.

20 MR. JONES: And I'm also not the witness
21 here, but I think the witness can, you know, provide
22 an estimate to the best of his ability, and then
23 that's probably all we're going to be able to
24 accomplish here today.

25 MS. LAROSS: And that's fine. I understood

1 from his testimony that he was not able to give me an
2 estimate.

3 BY MS. LAROSS:

4 Q. But if you can, Dr. Burton, just a general
5 estimate, that would be great.

6 A. And if I am not too tired during the break,
7 I will go -- it won't take very long to give you the
8 overall -- you know, breaking it down by how much
9 time I studied the challenge law. How much time is a
10 lot harder.

11 But I can tell you an estimate of the
12 number of hours. And I'm just guessing. This is
13 totally -- as a historian, I'm uncomfortable with
14 this. I'm going to guess a hundred hours, but I'm
15 totally guessing, you know.

16 Q. Okay. I understand. I understand. And
17 then the -- you know, if you determine when you have
18 a moment at the break that you need to adjust that
19 number, that's fine. All I'm looking for is just an
20 estimate of time. That's all. So I appreciate your
21 effort.

22 A. I'm going to write that down. I'm sure
23 when I get on this, I'll be distracted. Okay. I'm
24 ready.

25 Q. Okay. Great. There we go. Okay.

1 So, Dr. Burton, how did you get involved in
2 this lawsuit as an expert?

3 A. I was called by Attorney Christina Ford and
4 asked would I be able to do what is often called a
5 Senate Factor 1 analysis of voting. You know, more
6 specifically, she asked me could I do the history of
7 voting-related discrimination in Georgia itself. So
8 that was the beginning of the request for how I got
9 involved in the Georgia redistricting case -- cases.

10 Q. Okay. And when was that conversation that
11 you've just referred to?

12 A. I don't remember. I would assume it was
13 sometime in 2020. I'm certain I could start
14 searching e-mails and probably find it if it weren't
15 a phone call.

16 Q. Okay. So the -- do you remember what time
17 of year it was or what season it was? Is there
18 anything that might have you recall when that call
19 happened?

20 A. No. I'm sorry. I just don't remember. If
21 it's important, I could probably locate pretty
22 closely at least on the billing records.

23 Q. Okay. But you do think it was 2020 and not
24 2021?

25 A. Do think it was 2020, but I could be -- I

1 could be mistaken.

2 Q. Okay.

3 A. Again, it's just an estimate and memory.

4 Q. And do correct me if I'm wrong about this,
5 but I seem to recall in your testimony in the
6 preliminary hearing you may have mentioned that you
7 were also preparing another report at the time you
8 were preparing your report in this case.

9 Do I have that incorrect, sir?

10 A. No. I believe that is correct.

11 Q. Okay. And I'm going to ask you -- so the
12 other report, what was that in relationship to?

13 A. That was in relation to Senate Bill 202.

14 Q. And what party asked you or retained you as
15 an expert in that case, the Senate Bill 202 case?

16 A. Are you asking who were the plaintiffs or
17 the law firm?

18 Q. Both. I'll ask you both. So what about
19 the plaintiffs? And then if you don't know, who was
20 the law firm?

21 A. I should remember the plaintiffs. I've
22 looked at it and read the complaint, but I don't.
23 But it was the Elias Law Firm, I believe. Again, it
24 was Christina Ford --

25 Q. Okay. Do you think it was -- go ahead.

1 Excuse me.

2 A. -- was the person who contacted me, and
3 really did not identify that it was the Elias Law
4 Firm, just that would I be willing to do a report on
5 the history of discrimination and voting -- voting
6 rights related for African-Americans in Georgia in a
7 historical context and contextualize, in particular,
8 voting right laws.

9 Q. So who requested that you prepare a report
10 in the Senate Bill 202 litigation? Is it the same
11 topic as what you've been retained in this case to
12 opine on?

13 A. I don't believe so. And it was -- I don't
14 believe Christine was involved in the SB 202 report.
15 Again, I'm a little foggy on it in memory of where it
16 was, but I don't think she was part of the group that
17 I was working with for SB 202.

18 Q. Okay. And getting back to this case, did
19 you review the amended complaint in this case in
20 preparation for your deposition?

21 A. This deposition?

22 Q. Yes.

23 A. No.

24 Q. Have you ever -- sorry. Go ahead, sir.

25 A. I did review it before I did the

1 preliminary injunction testimony, but that's been a
2 while.

3 Q. Okay. And as best as you can recall, what
4 do you believe this case is about? What do you
5 understand this case is about?

6 A. Well, plaintiffs are arguing that,
7 particularly under the Voting Rights Act, that they
8 meet the prerequisites to create additional
9 majority-minority, in this case African-American
10 districts, both congressionally and State House.

11 Q. Have you read any depositions that have
12 been taken in this case so far?

13 A. No.

14 Q. Other than the amended complaint, have you
15 reviewed any other documents that have been filed
16 with the court?

17 A. I -- I think the only thing I did was the
18 request for this deposition. I'm trying to remember.

19 Q. Okay.

20 A. But this deposition was all I did besides
21 my own previous testimony and my report.

22 Q. Okay. Have you reviewed any reports by any
23 other experts retained in this case?

24 A. I do not know who is retained in this case.
25 However, I did use expert witness reports of other

1 cases, not this case, which are public record. And
2 so I'm not trying to evade that answer, but I would
3 hate to say that I read a deposition by Peyton
4 McCrary, Dr. Peyton McCrary, who was, as I remember,
5 the exact matching case, and I don't know if he's a
6 witness in this one or not.

7 So it would sound like I had read it, but
8 what I've read is what has been filed, nothing having
9 to do with this case except that some of the issues
10 might be the same, but very different cases. Is that
11 clear what I'm saying?

12 Q. Yes. And as I understand it, you're not
13 sure if -- you're not sure who the other experts that
14 have been retained in this case are; is that correct?

15 A. That's right. I've never been told.

16 Q. Okay. But you've mentioned --

17 A. Wait a minute. Wait a minute. Of course,
18 I do know some because of the -- the -- when I was
19 testifying. And when I got -- I did not read it --
20 but when I got my own testimony yesterday from the
21 transcript, I noticed that an old friend, Lisa
22 Handley, was an expert, and I believe it's a William
23 Pulley, who I don't know. So I do know some, but it
24 was because of the other -- when we testified in the
25 injunction some time ago.

1 Q. Okay. Great. So the folks that you saw
2 when you were reviewing your testimony at the
3 preliminary injunction hearing, did you review the
4 reports they submitted in this case?

5 A. No.

6 Q. Okay. And you --

7 A. And I did not see them. I testified
8 remotely, so I just came in and went out. As I said,
9 only when I -- if I did know, I don't remember that I
10 knew who else was there. But when I saw my
11 testimony, it came with two other people's testimony
12 who followed me.

13 Q. So then it was something that you saw on
14 the transcript from the hearing; is that correct?

15 A. I did not read their testimony. I just saw
16 that they were there because I was looking for mine
17 to read. And I thought, I don't remember speaking
18 for 117 pages.

19 Q. Okay. All right. Thank you.

20 And you mentioned that you did review
21 reports of other experts in other cases that were
22 publicly available. You mentioned Dr. McCrary. Is
23 there anyone -- any other expert that would fall in
24 that category that you can tell me about?

25 A. They're -- all that I used are cited in my

1 footnotes. I remember one from, I believe, Dr. Jim
2 Cobb, Amerituss Spalding professor at the University
3 of Georgia. And I did look at some others. I
4 particularly was looking at some socioeconomic
5 analysis. I'm not sure if I actually ended up citing
6 them or not because that was not the focus of my
7 historical testimony except for it had --
8 historically it had been there. But whatever I used
9 is cited in the footnote.

10 Q. Okay. And you mentioned Dr. McCrary and
11 the exact match case?

12 A. Yes.

13 Q. And the case that you were referring to,
14 was that the Fair Fight Action case, Fair Fight
15 Action v. Raffensperger case?

16 A. I don't know the name. I mean, it would be
17 cited in the footnote.

18 Q. Okay. So are you aware that the Fair Fight
19 Action v. Raffensperger case concerned the State's
20 list maintenance procedures and voter matching
21 process, or the exact match process, that you
22 referred to, and the trial court ruled in that case
23 against the plaintiffs and in favor of the State on
24 all counts. Are you aware of that?

25 MR. JONES: Objection to form.

1 You may answer.

2 THE WITNESS: I'm not certain if I'm aware
3 of that or not. I probably should have been, but I'm
4 not sure I was -- that I was aware of that. It's a
5 complicated case. I know it's gone through, and what
6 I know is outlined in my report.

7 BY MS. LAROSS:

8 Q. Sure. You just mentioned Dr. McCrary, who
9 did testify in that case. And the case was about
10 exact match, so I wanted to just follow up with you
11 on -- you know, to your knowledge of that case, if
12 any.

13 As part of your research in preparing your
14 reports in this case, did you speak with anyone --
15 again, other than counsel. I'm not referring to
16 them -- but did you speak with anyone else in
17 Georgia? And I think -- sorry. Go ahead.

18 I'll ask it again. Did you speak with
19 anyone other than the attorneys in preparation for
20 your opinions or your research in this case?

21 A. I cannot remember if it was before or after
22 it, but I was part of a panel in Savannah, Georgia,
23 at Georgia Southern University. And Otis -- blanking
24 on his name -- the former mayor of Savannah, was part
25 of the panel. And we were talking about voting

1 rights in Georgia. And, you know, people in the
2 audience spoke, things of that nature.

3 But I did not deliberately consult with
4 people. I was dealing primarily with historical
5 records and issues. But, of course, that was the
6 panel for the Savannah, Georgia, Lecture Series. And
7 so that was discussed, and people asked me about
8 things.

9 Q. But am I correct to understand your
10 testimony, though, that you didn't have any
11 discussions with those folks directly asking any
12 questions as part of your research in forming your
13 opinions in this case, though?

14 A. Well, the history that the former mayor of
15 Georgia related certainly influenced me, but I had
16 already come to my opinion having done the report.
17 It just reinforced. Is that a fair answer? It just
18 reinforced the opinions I had drawn from the
19 historical records.

20 He actually, you know, has an
21 autobiography, as well. So, you know, I had read
22 about issues there as well. I would not want to say
23 it did not influence me. It reinforced the overall
24 arguments and thesis that I put forward in my report.

25 Q. Did you contact -- sorry. Let me start

1 over again.

2 As part of your research in preparing your
3 opinions in this case, did you contact anyone from
4 the Georgia General Assembly?

5 A. No.

6 Q. Did you interview any Georgia voters in
7 preparation of your reports?

8 A. I didn't interview any, but I talked to my
9 cousins and others who vote. Plus I followed the
10 election and discussions. But, no, I did not
11 interview anyone.

12 Q. Okay. And your discussions with your
13 cousins, did you rely on that information in
14 formulating your opinions in this report -- or
15 sorry -- for your reports in this case?

16 A. No, just reinforced what I had historically
17 come to the conclusion of.

18 Q. So you had already formed your opinions by
19 that time; is that right?

20 A. When we discussed the election, I think I
21 had already, you know, testified in the first
22 preliminary injunction talking about elections.

23 Q. And would those discussions have been
24 before you prepared your December 2022 report?

25 A. I don't think so, because I didn't see them

1 until after Christmas.

2 Q. In preparation of your reports in this
3 case, did you contact any experts or other colleagues
4 that are not involved in this case in preparation for
5 formulating your opinions?

6 A. I don't believe so unless -- I don't
7 believe so. By my memory, I do not think so, unless
8 it was to get a report that they had done some other
9 time in some other case or some related way.

10 Q. Sorry. Did you mean -- did you say -- I'm
11 not sure I understood you -- that you don't recall
12 unless it was that you contacted them to obtain a
13 copy of their -- a report that they had already done?
14 Did I misunderstand that? I might have not
15 understood.

16 A. No. And I don't think that's the case.
17 What I was thinking of is that way back, years ago, I
18 was actually a reviewer of Morgan County's book, the
19 University of North Carolina Press, on color-blind
20 injustice. But I think that's where I read the
21 report.

22 That book is about a number of cases he
23 did. And that was the one, I believe, on the
24 majority vote case. And I believe that that -- that
25 I had had that report from way back in -- you know, I

1 can tell you exactly when it was when I was at the
2 National Humanity Center in like 1994, '95.

3 But I just want to remember because I did
4 look at the reports, and I don't remember if at a --
5 at a conference, for instance, that we were at a
6 social science history conference on a panel together
7 in October and so -- discussing the Voting Rights
8 Act, and we talked about his old report. But I don't
9 think it had anything to do specifically with this.
10 It was just a scholarly discussion as part of a
11 scholarly panel.

12 Q. Did you go through drafts of your report
13 with counsel?

14 A. I believe so. I sent reports as drafts.

15 Q. Did you change any of your opinions as a
16 result of the review of your drafts?

17 MR. JONES: I'm going to object to the
18 extent that this question calls for the witness to,
19 you know, divulge any attorney-client protected
20 information.

21 But, Dr. Burton, if you can answer without
22 doing that, please do.

23 THE WITNESS: No. My opinions are my
24 opinions as a historian where my credibility is
25 there, which is what your whole reputation as a

1 scholar is based upon no matter who or whatever,
2 unless someone gave me evidence to the contrary. But
3 the way that I had evaluated the evidence, I did not
4 in any way have my opinion modified.

5 BY MS. LAROSS:

6 Q. And I had -- we had spoken earlier. It's
7 my understanding that there's three -- that you've
8 given three reports in this case: One was
9 January 2nd, 2022; the second one was a supplement,
10 and that was dated January 20th, 2022; and then
11 there's a report dated December 5th, 2022.

12 Does that sound correct, that there's three
13 reports in this case?

14 A. Yes.

15 Q. And am I correct that the difference
16 between the January report, your first report, and
17 then the later reports is that you were asked to
18 provide additional analysis concerning race and
19 partisanship?

20 A. With the supplemental report, I was asked
21 to do that.

22 Q. And in preparation of your first report,
23 were you provided any facts or documents by counsel?

24 A. I don't precisely remember, but I think
25 not, except for the complaint. And I cannot

1 remember -- sometimes I had say, can you get me a
2 report that was done in something else, or like that
3 or -- but I don't remember specifically. I think
4 that it was pretty much that I researched it and
5 found what I needed.

6 Q. Okay. And --

7 A. But I have done that before with attorneys.
8 I just don't remember. I don't remember in this case
9 specifically having asked them to provide something.

10 But often it's easier for them to find,
11 say, a 1992 hearing that found that, you know, an
12 opinion that there's a long history of racial
13 discrimination in voting in Georgia, than for me as a
14 non-attorney or without access to certain LEXUS
15 whatever things to give me the PDF of that. But I
16 don't remember doing it in this one, though I would
17 be reluctant to say I didn't.

18 Q. Okay. All right. Fair enough.

19 For any of your reports, did counsel
20 request that you make any particular assumptions?

21 A. No, not at all.

22 Q. And the last report was December 5th, 2022.
23 And does that report contain the whole of your
24 opinions in this case?

25 A. I'm not trying to be -- what do you mean by

1 the whole of my opinion in this case?

2 Q. That's a bad question. What I'm trying to
3 understand is that, does your December 5th, 2022,
4 report incorporate all of your opinions from the
5 prior report?

6 MR. JONES: I'm just going to object to
7 that as vague, because there is more than one report
8 on that date.

9 But, Dr. Burton, you may answer.

10 THE WITNESS: Again, I'm not trying to be
11 evasive. I think what I want to say is for what I
12 was asked to do and argue to and was said to restrict
13 my analysis to, that this would hold those opinions
14 on the historical context of discriminatory laws
15 about voting and on partisanship. I believe this
16 contains my -- was your question my opinions? Was
17 that your question, or conclusions?

18 BY MS. LAROSS:

19 Q. I believe the word I used was "opinions,"
20 but it would include your conclusions as well. I
21 just want to know -- yeah. I just want to know if I
22 look at the December 5th report, is that going to
23 tell me all of your opinions and conclusions in the
24 case, or do I need to go back and refer to the
25 others?

1 A. No, this is -- this is the one. And, you
2 know, I caught some things and tried to incorporate
3 them. But for this case, this latter report is the
4 correct report and...

5 Q. Okay. And also I understand that you have
6 provided reports in the litigation that we're here
7 about today, which I understand to?

8 Be with respect to, I think, the Grant
9 plaintiffs. But have you done two different --
10 two -- provided a report for the Grant plaintiff and
11 for the Pendergrass plaintiff?

12 A. Yes. But may I elaborate?

13 Q. Yes, please.

14 A. Essentially, the same report history of
15 discrimination in voting and then the partisan
16 development, partisan realignment of the South.

17 Q. Okay. Yeah, because that was my -- you
18 anticipated my next question, which was: Is there a
19 difference between those reports, or are they the
20 same report?

21 A. Yes, they are the same report, except for,
22 you know, I think titles, maybe.

23 Q. Sure. Sure. Do you have any plans to
24 formulate any additional opinions or reports in
25 this -- in either of the cases?

1 A. And you're speaking of the two cases that
2 this report -- these reports address, correct?

3 Q. Yes, sir.

4 A. No, unless, you know, attorneys direct me
5 to do further research or further analysis.

6 Q. But at this time, you don't have any plans
7 for any more reports?

8 A. No.

9 Q. I'm going to talk very briefly or ask you a
10 couple of questions just about your academic
11 background.

12 I understand that you graduated from Furman
13 University in 1969; is that correct?

14 A. Yes.

15 Q. And that in that -- in your coursework at
16 Furman University, did you take any undergraduate
17 courses or study -- or any kind of training in
18 elections, if you recall?

19 A. Yes. I had enough hours in political
20 science, I think, to actually count as a minor or a
21 major. I had a lot of hours in political science,
22 so, yes.

23 Q. And I -- did you receive a bachelor of arts
24 degree from Furman?

25 A. I did.

1 Q. And what subject area was that in? I know
2 you said there might have been a minor in political
3 science.

4 A. In -- in -- in my memory, it's definitely
5 in history. I believe there were -- I had a lot of
6 courses in religion. Political science, philosophy
7 were sort of together, and psychology. So I can't
8 remember which were minors. There was just a lot of
9 courses.

10 Q. Sure. Did you take any courses in
11 redistricting?

12 A. As an undergraduate?

13 Q. Yes.

14 A. No.

15 Q. How about -- I'm sorry.

16 A. It was talked about in political science,
17 but I don't remember a course ever being offered in
18 redistricting at Furman University.

19 Q. Okay. How about statistical analysis of
20 elections? Did you take any coursework at Furman in
21 that category?

22 A. Just general math statistics at Furman, but
23 not in that category at Furman.

24 Q. Okay. We'll go ahead and jump to your
25 coursework at Princeton. And I understand that you

1 received a Ph.D. in American history at Princeton; is
2 that correct?

3 A. Yes.

4 Q. And was that in 1976?

5 A. I believe that's when it was awarded.

6 Q. Okay. I further understand that you've
7 been teaching American history since 1971; is that
8 correct?

9 A. That's correct.

10 Q. And you are currently a professor of
11 history, global black studies, sociology,
12 anthropology, and computer science. Do I have that
13 correct?

14 A. Yes.

15 Q. Have you -- as part of your Ph.D. program
16 at Princeton, did you take any graduate courses
17 concerning redistricting?

18 A. Yes.

19 Q. Do you recall what those courses were, or
20 just a general --

21 A. (Inaudible.)

22 Q. Description? Sorry?

23 A. No. I'm sorry. I spoke over you. I
24 thought you were through. Go ahead and frame your
25 question to me.

1 Q. Sure. So what was the courses -- tell me
2 about the courses in redistricting, the
3 graduate-level courses in redistricting.

4 A. It was in the Woodrow Wilson School with
5 the great statistician Ed Tufte, who has since gone
6 on to do visualization. But we had -- when I say it
7 was a course in redistricting, those were some of the
8 statistical problems, all the voting, in particular a
9 lot on voting.

10 Those days we had to do it with an old --
11 you had to use a stencil and add the numbers in, and
12 I hated it because I'd get to the last number and
13 misdial, and you had to start over.

14 But, yes, we dealt with issues not only
15 redistricting, particularly voting in ecological
16 regression. And, you know, a lot of it related to
17 what we would think of as redistricting now. So I
18 may have misspoken when I said a course on
19 redistricting. Redistricting was covered.

20 The other statistics course I did was with
21 one of the history department with Ted Rabb, but also
22 with Claudia Golden, the economic historian who did a
23 lot of quantitative analysis and work, less on
24 redistricting than on socioeconomic and demographic
25 analysis. Probably more than you wanted, but --

1 Q. That's fine.

2 A. -- all at one time is easier than -- if
3 that's okay.

4 Q. That's fine. And I thank you for that.

5 A. And it's the Woodrow Wilson -- I assume
6 it's still Woodrow Wilson. They've changed names so
7 much in the last five or six years, the Woodrow
8 Wilson Public School of -- it's part of Princeton,
9 but it's the Woodrow Wilson School. I think it's
10 Public Policy maybe is where Ed Tufte taught before
11 he went off to Yale. He taught statistics and all
12 these other kinds of courses.

13 Q. Have you published any papers or articles
14 on redistricting?

15 A. I have published articles and papers that
16 include discussions of redistricting, yes. And, in
17 fact, I have one on the 1990 redistricting of South
18 Carolina. A guy named Bernie Grofman and, I believe,
19 Lisa Handley's comparative volume on redistricting in
20 the 1990s. I forgot. Yes, I have specifically.

21 Q. And would those works be cited in your
22 expert report?

23 A. They would be in my vitae, which I -- is
24 attached as part of my expert report. Is that the
25 correct answer? I don't think I ever, perhaps, cited

1 them in a note in the report, but all of those should
2 be listed. I have two essays in the Louisiana Law
3 Review that deal a great deal with redistricting and
4 other issues of voting as well.

5 Q. What is the time frame when those essays
6 were published in the Louisiana Law Review?

7 A. I believe they were around the 15th
8 Amendment commemoration and the 14th Amendment
9 commemoration, so I would guess whatever -- how many
10 years -- 150 years since 1868 and 1870. But they are
11 on the vitae listed.

12 Q. Okay. Any other papers or articles on
13 redistricting that come to mind? Obviously, I know
14 that you've listed everything in your CV. But
15 just -- I'm just asking for what might come -- stick
16 out in your mind.

17 A. I've written a number of things on the
18 Voting Rights Act, which, of course, deals with
19 redistricting, particularly, since, you know, the
20 Allen case -- case. But I'm pretty sure that there's
21 a -- there's a number of things that all should be on
22 the vitae.

23 Q. Okay. I'm going to ask you about your work
24 as an expert witness in litigation. Have you been
25 retained in any other case since the time that you

1 submitted your report in December 2022?

2 A. No. When you say "retained," you mean that
3 I agreed to do it, correct?

4 Q. Yes.

5 A. No.

6 Q. I believe you -- we talked about some of
7 your testimony at the preliminary injunction hearing,
8 and I think you may have mentioned during that
9 hearing that you had been hired by Republicans in
10 Illinois; would that be correct?

11 A. In a redistricting case, that is correct.

12 Q. And tell me about that case.

13 A. It was long ago. I don't quite remember,
14 but I did not go forward. We went so far. But my
15 memory is what I was finding, they were not happy
16 with. And so we agreed for me not to go forward as a
17 witness.

18 But I had been retained by someone named
19 Michael Carvin out of Virginia who worked a lot with
20 one of my best friends named James Lloyd had asked me
21 to -- would I work on the case for redistricting in
22 Illinois.

23 Q. And when was that, Dr. Burton?

24 A. I would have to look and see. But my
25 guess, it is either 1990 or 2000, I'm guessing. But

1 that redistricting cycle or those redistricting
2 cycles, I don't honestly remember.

3 Q. Okay. Dr. Burton, I'm going to -- I'll
4 share my screen, and what we'll do is we'll mark your
5 reports as exhibits to this deposition. So if you
6 could bear with me for a moment, I can go ahead and
7 do that.

8 Okay. Dr. Burton, what I've put up, do you
9 see the document there on share screen?

10 A. I do. I see my signature.

11 Q. Okay. And I'll just briefly scroll through
12 this, or however you want me to do it. I do want --
13 I do need you to identify that this would be your
14 January 2nd, 2022, report. There's 93 pages of it.

15 A. The best of my ability, yes, it is.

16 And can I amend something, perhaps? I see
17 it's 2022. My guess is I was retained in 2021, then.
18 Did I say 2020 earlier?

19 Q. Yes, you did. Yeah, you did.

20 A. I believe, then, that -- this was January
21 2022. I was probably asked to do this sometime in
22 2021. Again, this is memory, but seeing that date
23 jogs my memory a little bit.

24 Q. Can you tell me whether it was -- would it
25 have been the fall of 2021 or summer? Do you recall

1 the season that it might have been?

2 A. No. But I will -- I can find that for you,
3 if it's important to you.

4 Q. Yeah, I do need to know that.

5 A. I don't think -- did I say anything in my
6 testimony at the time? I read it yesterday and don't
7 remember.

8 Q. I'll go back and check it at the break
9 because you may have, yes.

10 A. I've got a printout of it there on my desk,
11 so I can -- but I don't believe I said when I was. I
12 don't believe I was asked. But over the break, I
13 think I can find that pretty quickly.

14 Q. Were you aware in 2021 that there was a
15 Special Session of the Georgia General Assembly
16 concerning redistricting?

17 A. I honestly do not remember, because I can't
18 remember when I was involved in it, but I believe so.
19 Since then, I have, of course, known that. I'm not
20 sure if I was, at the time, aware of it.

21 Q. And that Special Session happened in
22 November of 2021. Do you recall if you had been
23 retained before the session?

24 A. I do not. I do not at this moment recall
25 that.

1 Q. All right. So we're going to go ahead and
2 mark your January 2nd report as Exhibit 1 to the
3 deposition.

4 (Defendants' Exhibit 1 was marked for
5 identification.)

6 BY MS. LAROSS:

7 Q. Okay. And I'll stop sharing my screen on
8 that one. And let me pull up your other two -- two
9 other reports.

10 A. I'm going to stand while you do that just
11 because of my back issues. I'm not going anywhere.
12 I'm just going to stand. Is that okay?

13 Q. Yes, sir. That's entirely fine.

14 I shared my screen. Do you see a document
15 there with your signature dated January 20th, 2022?

16 A. I do.

17 Q. Okay. And this, I would understand, was a
18 supplemental report that you prepared. It's a
19 10-page document. Does this appear to be the report
20 that you prepared?

21 A. Yes.

22 Q. So I'm going to have the court reporter on
23 my end mark a copy of that report as Exhibit 2.

24 (Defendants' Exhibit 2 was marked for
25 identification.)

1

2 BY MS. LAROSS:

3 Q. I'm going to go ahead and pull up your
4 December report. Sorry. My apologies.

5 MR. JONES: No problem.

6 THE WITNESS: I'm okay.

7 BY MS. LAROSS:

8 Q. You're okay? Okay. Thank you.

9 All right. So do you see another report on
10 the screen in front of you, sir?

11 A. I do.

12 Q. And this is -- I'll just scroll to the very
13 top. This was submitted in the Grant v.
14 Raffensperger case. Is that your signature there on
15 the screen, sir?

16 A. Yes.

17 Q. And the date there is December 5th, 2022;
18 is that right?

19 A. Yes.

20 Q. And this is a 113-page report. Does this
21 appear to be your December 2022 report?

22 A. Yes.

23 Q. And, of course, Dr. Burton --

24 MS. LAROSS: And, Mike, you can double
25 check when you receive the transcript that we've got

1 the accurate versions of the report.

2 BY MS. LAROSS:

3 Q. And so we're going to mark that -- the
4 December -- sorry -- the December 5th, 2022, report
5 as Exhibit 3 in the deposition.

6 (Defendants' Exhibit 3 was marked for
7 identification.)

8 BY MS. LAROSS:

9 Q. I believe you mentioned, Dr. Burton, that
10 you have a copy of the December '22 report, a hard
11 copy, in front of you; is that correct?

12 A. To the side and behind me.

13 Q. Okay. All right. So if I refer to pages
14 in the report, would it be easier for you to just
15 look in your -- look at your hard copy, or would you
16 prefer if I share the screen and do it that way?

17 A. I think I'm okay either way. But just to
18 confirm that we're talking about the same thing, it
19 might be smart to share the screen so that Mike or
20 others can also know where we are. And it should be
21 exactly the same since I printed the PDF yesterday.

22 Q. Okay. All right. What I'm going to do is
23 get your December 5th report back up on the share
24 screen.

25 A. I'm going to take a quick sip of water

1 while you're doing that.

2 Q. Sure. And we may have been going for more
3 than an hour. Would you like to take five minutes?
4 Or why don't we go ahead and do that, and then we'll
5 continue?

6 MR. JONES: Is that your preference,
7 Dr. Burton?

8 THE WITNESS: I'm okay either way. I can
9 keep going if that's what people prefer to do.

10 BY MS. LAROSS:

11 Q. Okay. Yeah. I want to do whatever is best
12 for the witness. So if we can keep going and then
13 you can let us know, Dr. Burton, or I'll check in
14 with you in about a half hour.

15 A. Okay.

16 Q. Okay. All right. So I'm going to refer
17 you to Page 7. And then there's a section here, sir,
18 where you talk about prior testimony.

19 A. Yes.

20 Q. Okay. And you've indicated that you served
21 as an expert witness and consultant in numerous
22 voting rights cases, and in particular, involving the
23 Department of Justice. What cases were those, sir?

24 A. It was a redistricting in South Carolina.
25 I believe that was a 1992 redistricting that

1 occurred. I believe it was the second one.

2 Q. And were you retained in that South
3 Carolina case by the Department of Justice?

4 A. Yes.

5 Q. And in general, what -- what -- if you
6 could summarize for us what your opinions were that
7 you rendered in that case.

8 A. It's been a long time. But certainly, it
9 was a history of Georgia -- excuse me. I'm sorry.
10 It was a history of voting discrimination in South
11 Carolina, which had had a history of discrimination
12 in voting laws against black people. And the other
13 was talking about community of interest, is my memory
14 of this, you know, the creation of community of
15 interest in redistricting.

16 Q. Okay. And would that have been back in the
17 early 1990s?

18 A. I think that's correct.

19 Q. Okay. Any other cases? Sorry. Let me go
20 back and strike that question.

21 In the redistricting case in South Carolina
22 that you just described, did you submit a report in
23 that case?

24 A. I am pretty sure that I did. I don't
25 remember. I had an attack of diverticulitis when I

1 was there. They brought me out to D.C. -- severe
2 case -- and I can't -- and so I'm a little confused.
3 That's the main thing I remember is having to go to
4 the hospital with that --

5 Q. Oh, my.

6 A. -- but I was -- the report and...

7 Q. Did you testify in that case?

8 A. I don't believe so. I'm not sure if the
9 case even went to trial. That's why I think it was
10 the second redistricting.

11 Q. Okay.

12 A. But this occurred a long time ago.

13 Q. Okay. Yeah. And we're just looking for
14 your best memory there.

15 Have you been retained by the Department of
16 Justice in any other redistricting cases?

17 A. I believe so. I have worked with them
18 closely. For example -- do you want examples or not?

19 Q. Yes, sir, please.

20 A. In the South Carolina redistricting case --
21 excuse me -- the South -- the Charleston, South
22 Carolina, case, big redistricting of the County
23 Council, the Justice Department had approved -- had
24 approved the change from district awards to at large,
25 so they could not object on intent. It had to be

1 effect. And so I worked with them, for the NACP
2 [sic] to show that the intent claim as well as the
3 socioeconomic data that's usually associated with
4 Senate Factor 5 on that case. So they were running
5 the case, and, you know, I was part of that.

6 I've also -- I'm trying to remember on
7 several others if I've been involved with them or
8 consulted where I was an expert witness for the
9 Brennan Center. The Justice Department, for
10 instance, cited my report as a reason they objected
11 to the in-person South Carolina voter ID law.

12 Same thing. It was strange in the Texas
13 particular redistricting case. The first time I
14 testified, they were -- I was on the same side they
15 were and worked with them. And then the second time,
16 they were on the other side when it came back. So
17 it's complicated, but that's the way my memory -- as
18 I remember those associations with the Justice
19 Department.

20 Q. Okay. And you also mention -- and you'll
21 see in this same paragraph we were referring to under
22 "Prior Testimony" on Page 7 of your report, you
23 indicated that you've worked with the NAACP, the
24 ACLU, and the Lawyers' Committee for Civil Rights and
25 the Southern Poverty Law Center. You've already

1 mentioned having worked with the NAACP. How many
2 times have you worked with the NAACP on a
3 redistricting case?

4 A. Well, my -- my first one was in 1980, South
5 Carolina redistricting. And then I did -- are you
6 talking about just State or -- yeah, I guess it would
7 be State, not cases at large. You're asking about
8 redistricting, correct?

9 Q. Sure. Yes.

10 A. Certainly, the Texas, two or three times, I
11 worked with the NACP there on their redistricting.

12 Q. And I would understand from your testimony
13 that you've worked with the NAACP on matters other
14 than cases involving redistricting?

15 A. Yes.

16 Q. Tell me generally about those.

17 A. It was voting right cases. Some were
18 discrimination cases. But they were usually at-large
19 elections or NACP plaintiffs were challenging the
20 at-large elections requesting district elections to
21 give African-Americans the opportunity to elect
22 candidates of their choice.

23 Q. In those cases, did you find that the
24 at-large election of processes did not -- sorry.
25 Strike that.

1 In those cases, did you find that the
2 at-large election processes in some way violated the
3 Voting Rights Act?

4 A. Let me think about how you phrased the
5 question. What I did in many of those cases was
6 statistical analysis which showed racial bloc voting,
7 which was strong, very strong, in fact, almost always
8 racial bloc voting, which was one of the criteria
9 after the James case is to show that black and whites
10 voted differently for candidates.

11 So in that regard, you know, it would be
12 used as one of the things that the Voting Rights Act
13 and the 14th and 15th Amendment were used to do for a
14 court to find that the at-large system made it more
15 difficult for African-Americans or later other
16 minorities to elect the candidates of their choice.

17 I'm -- I am not a lawyer so, you know -- so
18 I don't want to say the wrong thing, that it violates
19 the Voting Rights Act. I think it's one of several
20 things that goes together that would show -- that
21 would meet a criteria to show that the disadvantage,
22 and therefore, would violate Voting Rights Act. Is
23 my answer clear what I'm --

24 Q. Yes, sir. And I appreciate your
25 clarification because I didn't mean to ask you for a

1 legal conclusion. I was just mostly trying to point
2 to a particular subject area, which you clarified in
3 your answer. So thank you.

4 A. Then I could clarify a little bit more. I
5 attack these issues and problems as a scholar
6 studying that issue, you know, not in the legal
7 framework that attorneys do, but solving a problem or
8 to see is there racial bloc voting? Is there
9 discrimination? I honestly don't want to find it
10 because, most of the time, these are my people. I
11 don't them -- white people to not be willing to vote
12 for black people or to intentionally try to
13 disadvantage a group of people.

14 So I sort of start as a "give me something
15 with a moral hypothesis" and then follow the
16 evidence, not trying to put in a legal framework,
17 per se.

18 Q. Do you recall how many times that you've
19 been retained or worked with the NAACP in -- in
20 connection with lawsuits?

21 A. I do not. I began in 1980 right after
22 Mobile v. Bowling, and there were a lot. The
23 question is: Was I even retained, or was I just
24 doing analysis? And, you know, it depends on how you
25 define this, whether you're a consultant, I guess, or

1 an expert witness or what it is. But I was involved
2 in a number, particularly in the 1980s, 1990s with
3 the NACP.

4 Q. What about the ACLU? How many times have
5 you been retained by them or worked with them in
6 connection with lawsuits?

7 A. A number. Because the ACLU, which was the
8 southern regional part, was centered in Atlanta, and
9 they did a lot of cases. Laughlin McDonald, who
10 headed it, was from Fairfield, South Carolina. He
11 did a number in South Carolina and in Georgia. So,
12 again, quite a few, probably not as many -- I'm
13 pretty sure not as many as the -- that I did with the
14 NACP, but I did several with Laughlin McDonald and
15 the ACLU. And also consulted with Nina Bradley, for
16 instance, on some cases in Florida. When I say
17 "consult," found some materials for them.

18 Q. How about the Lawyers' Committee for Civil
19 Rights, how many cases have you worked on with them?

20 A. Just a couple on those. I consulted on
21 one, I think, in Milwaukee. Trying to remember, but
22 just not that many.

23 Q. Okay. Getting -- sorry -- getting back to
24 the work that you did with the ACLU that you
25 described, was that -- was that also pertaining to

1 racial bloc voting?

2 A. A number were, but not all.

3 Q. What other topic areas did you work with
4 the ACLU in litigation?

5 A. Well, one was -- in South Carolina was the
6 county delegation system that showed that the
7 intent -- you know, my report and then my testimony
8 showed that the intent of the change of the rules was
9 the concern that African-Americans would be able to
10 elect officials in black areas, so they changed it
11 from elected township systems into appointed by the
12 governor or the Senate delegation. That's one
13 example of how the ACLU that different.

14 But, again, most of them were either
15 redistricting or challenging at-large systems. And
16 often, the ACLU and the NACP work together bringing
17 in -- the NACP would bring in the ACLU as an
18 attorney, Laughlin McDonald in particular, to work
19 with it.

20 Q. Okay. So in some of those cases, you were
21 working with both the NAACP and ACLU?

22 A. Right, yes. At least the lawyers were
23 working together. And I was, you know, sometimes put
24 on the stand by the NACP lawyers, sometimes put on
25 the stand by the ACLU attorney.

1 Q. Okay. Have you ever been retained by any
2 State defendant or a State entity in a lawsuit?

3 A. I don't believe so. I don't remember,
4 unless you count the redistricting that I mentioned
5 originally, part of it -- but I believe it was -- I
6 can't remember who was the governor or not in
7 Illinois at the time, but I don't think that's what
8 you're talking about.

9 I will say, and maybe I shouldn't, but I'm
10 happy I'm going to give you the same results, the
11 same report, no matter who asks me to do it because
12 this -- your whole reputation is vested upon your
13 honesty and your integrity and working with evidence,
14 and I'm going to follow the evidence.

15 So in a little way, I resent that question
16 if you're implying something with it. So I just want
17 to put that on the record.

18 Q. Thank you, sir. And I appreciate that. I
19 just need to ask the whole gamut of questions, but I
20 appreciate your answer there.

21 And the expertise that you've talked about
22 that you offered in the cases that you've described,
23 would you say that your expertise is within the area
24 of American history, or what area of expertise has
25 your testimony been related to?

1 A. It's certainly related to American history,
2 but in voting, discriminatory laws, electoral
3 processes, certainly redistricting, which comes under
4 the other heading of laws effect -- both the effect
5 and the intent, that is the purpose and intent as
6 well as the effect of laws in voting. And my general
7 area is U.S. history. I specialized in the American
8 South and, in particular, in race relations, which is
9 a much broader category than just the discriminatory
10 laws.

11 Q. And so would you say -- with respect to
12 race relations, would that fall within your expertise
13 in American history, or would it be political
14 science, or in what area of expertise would you say
15 that analysis in race relations is related to?

16 A. Primarily American history, but not
17 excluding both sociology and political science and
18 anthropology, as race relations is a very
19 transdisciplinary, interdisciplinary field,
20 particularly these days as the literature has
21 developed and the scholarly literature that one has
22 to master and be a part of through the agent.

23 Q. Okay. At this point, I'd actually ask if
24 we could take a break, if that's all right with you,
25 Dr. Burton.

1 A. I would appreciate it. And can I wait --
2 because I need to use the restroom and just clear my
3 head a moment -- can I wait to get you that other
4 information to the next break, maybe, or do you need
5 me to do it right now?

6 Q. No, you can wait until the next break, sir.

7 A. If I have time, I'll do it now. But I
8 would like to walk around and get my head cleared and
9 my back from sitting, so.

10 Q. Of course. If ever you need to stand,
11 that's also fine.

12 MS. LAROSS: Mike, five or ten minutes,
13 which -- what do you think?

14 MR. JONES: My preference would be five,
15 but I defer to Dr. Burton.

16 THE WITNESS: I want to do what's best
17 with -- for the -- for you folks. Let me know.

18 MR. JONES: Can we back at 2:50?

19 MS. LAROSS: Yes, that would be fine with
20 me.

21 And if you need just a minute or two more
22 than that, Dr. Burton, of course, that's fine.

23 THE VIDEOGRAPHER: The time is 2:44 p.m.
24 We are off video record.

25 (A recess was taken from 2:44 p.m.

1 to 2:55 p.m.)

2 THE VIDEOGRAPHER: The time is 2:55 p.m.

3 We are back on video record.

4 BY MS. LAROSS:

5 Q. And thank you. Dr. Burton, I just wanted
6 to remind you that you're still under oath. Is that
7 clear to you?

8 A. Yes.

9 Q. All right. I'm going to share my screen,
10 and we're going to look at Page 2 of your report.
11 And in particular, we're going to look at the
12 statement of inquiry in your report. Do you see that
13 on your screen, sir?

14 A. I do.

15 Q. And you indicate underneath the topic
16 heading "Statement of Inquiry" that you were asked to
17 analyze the history of voting-related discrimination
18 in Georgia, and to contextualize and put in
19 historical perspective such discrimination.

20 Did I get that correct?

21 A. Yes.

22 Q. Okay. And what methodology did you use to
23 contextualize discrimination, the discrimination in
24 Georgia?

25 A. I believe I outline that in the report. Is

1 it okay if I look to that? I think it's about
2 Pages 8 or 9, as I remember.

3 Q. Sure.

4 A. Yes, where I say "methodology and sources."
5 And what I do is, of course, the standard methodology
6 that historians and other social scientists, that is,
7 political scientists, sociologists, when they
8 investigate the sort of adoption, operation and
9 maintenance of election laws.

10 So what you do -- and this is where
11 historians are trained, I think, better than other
12 people to do, is evaluate all the sources. You look
13 at all the sources that you possibly can, but you
14 particularly examine both the circumstantial and the
15 contextual evidence. That is, when you say
16 contextual evidence, if that's what you're asking, of
17 course, is what is going on at the time and the
18 culture and the society and the politics that might
19 be relevant to explain.

20 So what would help you understand that is
21 the political, institutional, and social environment
22 and context in which the decision is made as well as
23 any direct evidence of the reasons made for a
24 decision. So you look at all the secondary sources
25 that you can find and are aware of, and then you look

1 at the primary sources, including statements people
2 make at the time, newspapers, carefully evaluating
3 newspapers, looking to put everything together in
4 what we think of as a totality of circumstances, is
5 one term that's been used, to see how things fit
6 together to try to answer the questions of intent of
7 policymakers and others are, in this case, the effect
8 of these laws in predicting what they look at.

9 Q. Were you asked in this case to determine
10 intent?

11 A. No. That's not my memory, at least.

12 Q. Okay. It doesn't indicate it there
13 underneath in your statement of inquiry, so I did
14 want to follow up on that.

15 The methodology that you described, which
16 you refer to as standard methodology, is that the
17 same methodology that you used to analyze and put the
18 discrimination in Georgia in historical perspective?

19 A. Yes.

20 Q. And you mention that -- you refer to
21 primary and secondary sources in the methodology in
22 preparation of your report. I'll go ahead and move
23 the share screen to Page 8. That's where I think
24 that starts. And tell us, if you will, just
25 generally the primary sources that you reviewed in

1 formulating your opinions in this case.

2 A. Well, all of them should be in the
3 footnotes that is listed there to the specific
4 instance where I'm either reporting or drawing
5 conclusions. But, of course, I looked at the court
6 cases, including expert reports. I looked at
7 deposition trial testimony, of course, statistical
8 data when writing the report. And of course, the
9 primary sources, a lot of it comes from newspapers,
10 which are reporting at the time for debates and
11 speeches.

12 I looked at some videos and documentaries,
13 even, and ways to get the context -- contextual times
14 of when things were done. Of course, when you look
15 at older primary sources, you have to rely pretty
16 much on things that were published. In the
17 multimedia age today, it's -- it's all over the
18 place.

19 Q. Sure. You mentioned that you looked at
20 statistical data. What statistical data did you
21 review in formulating the opinions in your report?

22 A. As I remember, percentages of the number --
23 excuse me -- well, yes. The voters and who they
24 voted for, particularly looking at some older reports
25 on racial bloc voting, and socioeconomic status. But

1 I particularly, in this, looked at where state
2 legislators and congressional candidates, the votes
3 they received and from what percentage black and
4 white or minority the districts were. So those are
5 some examples. There's a couple of tables that are
6 in the -- I believe, in the report.

7 There's one where we -- I used where
8 someone had calculated the proportion of registered
9 voters, black and white, at particular time periods.
10 We're looking at change over time.

11 Q. Okay. And the table that you include in
12 your report, are those -- were those prepared by
13 someone else and you copied them into your report, or
14 were the tables -- or are the tables that you
15 prepared the data and created the table yourself?

16 A. My memory is both. And some modified, like
17 there was a -- sorry. Go ahead. You were about to
18 ask a question.

19 Q. No. Go ahead, sir.

20 A. I was just going to say, for instance, the
21 ACLU had prepared a report about 1982, the year of
22 the Voting Rights Act, that listed districts that
23 were, as I remember, the different sorts of
24 techniques that were used to disadvantage black
25 voters. And I used that. But I also went through

1 and corrected some mistakes that -- or changes that
2 had occurred and things with that. So it's a
3 combination.

4 Q. Did you review census data in preparation
5 of the opinions in your reports in this case?

6 A. I did.

7 Q. And was that census data from -- prepared
8 and compiled by someone else, or was it going in and
9 looking at the original census data?

10 A. I looked at the compiled census data,
11 which, actually, I had to use Social Explorer. There
12 used to be a West Virginia site you could use. But I
13 used what's called Social Explorer, which was
14 developed by Andy Beveridge out of the Queens
15 University that heads it now. And that's where I
16 went to look at the different census information
17 data.

18 Q. Did you look at any data on the Georgia
19 Secretary of State's website concerning elections in
20 Georgia?

21 A. For this case?

22 Q. Yes, sir.

23 A. I don't remember. I certainly have looked
24 at it. I'm not sure it was specifically for this
25 case.

1 Q. Okay. You also mention secondary sources
2 and scholarly works of other historians and social
3 scientists in addition to the primary sources that
4 you've outlined. Are there any other general
5 categories of sources that we haven't covered yet
6 that you reviewed and relied on for purposes of your
7 report?

8 A. I think they are covered in the footnotes
9 as well as where I tried to do a little summary here
10 on methodology and sources.

11 Q. Okay. And then is it fair to say that you
12 reviewed the primary and secondary sources and then
13 compiled your conclusions in your reports?

14 A. Yes, I -- I believe that is correct, that
15 is, that I went through all the evidence that I could
16 find and then came to a conclusion.

17 Q. And that would be the same methodology you
18 used in preparing your opinions concerning race and
19 partisanship in Georgia?

20 A. Yes.

21 Q. How did you go about selecting what sources
22 you were going to use or -- sorry -- what sources you
23 use and relied in your report?

24 A. Well, I tried to rely on everything that I
25 knew about or that are relevant or that was cited by

1 other people, and it might lead me to it.

2 Q. Okay. And then you read everything you
3 could and that -- and then summarized that
4 information. Would that be fair to say?

5 A. Yes, and analyzed it and put it together
6 so that it's not just one source, but all evidence
7 that sort of points in a direction.

8 Q. Okay. I'm going to refer back to your
9 report. I may need to just leave it up for a while,
10 but -- sorry about that.

11 We are going to go to Page 3, and the
12 second paragraph there on Page 3 of your report
13 indicating that "For the next 40 years, Georgia
14 failed to go to a redistricting cycle without
15 objection from the Department of Justice."

16 Do you see that statement there?

17 A. Yes.

18 Q. Okay. And you would agree that the
19 redistricting plans drawn in 1971, 1981, '91, and
20 2001 were drawn by Democratic legislatures, correct?

21 A. Yes.

22 Q. And you would agree that the
23 Republican-drawn maps in 2011 were precleared by the
24 Department of Justice on the first attempt, correct?

25 A. Yes.

1 Q. And on Page 4 -- and on Page 4, I'm going
2 to scroll down to that full paragraph above the
3 heading "Expert Credentials." And there you conclude
4 that "Race unquestionably contributes to Georgia's
5 partisan divides today. And, similarly, those
6 divides cannot be fully explained without discussing
7 race."

8 Is that correct?

9 A. Yes.

10 Q. And I believe also in your report, you say
11 that "Partisanship and race are and have been
12 inextricably intertwined in Georgia."

13 Does that sound right?

14 A. Yes.

15 Q. So in other words, you conclude that race
16 and partisanship cannot be separated, correct?

17 A. Correct, today in Georgia.

18 Q. Today in Georgia. And you further state
19 that -- I believe on Page 4, you indicate that -- so
20 you're not saying that all voters that identify with
21 the Republican party in Georgia are racist. Have I
22 read that correctly?

23 A. You have read what I said there correctly.
24 I would rephrase it to say that it doesn't matter.
25 And I'm not saying that anyone is racist. But I am

1 saying that race is used to motivate voters,
2 particularly by one political party as it was done by
3 another political party in earlier years.

4 Q. So then are you -- so you're not saying
5 that the Republican-controlled legislature in Georgia
6 is racist, then; is that right?

7 A. No. I don't have to say that. In fact, I
8 want to say that I said some of the legislation uses
9 race and reflects on race and has used race to
10 partisan advantage.

11 Q. A majority of your report in this case is
12 devoted to the history of discrimination against
13 blacks in Georgia dating back to Reconstruction and
14 through the early 2000s; is that correct?

15 A. I covered those years as I would expect
16 that the Court wanted me to.

17 Q. Okay. I understand that. But you
18 characterize that the modern era, would have that
19 begun in the early 2000s?

20 A. People will debate what they call the
21 modern era, but for the purpose of this report and
22 for the courts, I think that's fair.

23 Q. And in this report, you analyze
24 discrimination against blacks in Georgia. Have you
25 been asked to analyze discrimination against any

1 other minorities other than blacks for purposes of
2 your expert opinions in this case?

3 A. Not by my attorneys.

4 Q. We're going to turn back to your report. I
5 would like to refer you to Page 36 and make a jump
6 there. And in the table that's on the screen, which
7 is located on Page 36 of your report, you were
8 looking at black registration rates in 1976, correct?

9 A. That is correct.

10 Q. Did you analyze black registration versus
11 white registration rates today, pertaining to today?

12 A. I remember looking at it. I don't believe
13 it's in the report. I don't remember for sure. I
14 remember looking at it.

15 Q. And why is that not in the report? And
16 what I'm referring to is registration rates, the
17 current registration rates, by race in Georgia.

18 A. I think I was just looking at where we were
19 at this time in history. And then we have the Voting
20 Rights Act, and we're looking at where we are today.
21 I don't know why it's not there, to be honest with
22 you. I wouldn't have any problems putting it there.

23 Q. And you're aware that Georgia has automatic
24 voter registration, correct?

25 A. Can you define "automatic voter

1 registration"?

2 Q. Sure, that when -- for example, when
3 someone gets a driver's license that they are
4 automatically registered to vote.

5 A. Yes.

6 Q. Okay. Let's go ahead and -- okay. Look at
7 Page 39 of your report, if you would. And on
8 Page 39, you note that the Department of Justice
9 objections to -- to changes in Georgia laws. Did you
10 analyze how many of the objections were County
11 actions and how many were actions by the State?

12 A. Can you refer me where we are? Is it the
13 first paragraph beginning "overall"?

14 Q. I believe so. Hang on just for a moment.
15 I need to fix my screen because I can't see my
16 whole -- yeah. It's on Page 39. It would be the
17 first full paragraph. I think you point to it as
18 well in the second full paragraph.

19 A. Okay. And your question again?

20 Q. Sure. Did you analyze how many of the
21 actions were County actions and how many were actions
22 by the State?

23 A. No. I mean, I consider the County part of
24 the State.

25 Q. Can you identify how many of the DOJ

1 objections you discussed were the result of State
2 legislative actions?

3 A. No, not without further study.

4 Q. Okay. And on Page 40, if we could just
5 flip to the next page. In that first full paragraph
6 there, you reference the 1971 redistricting cycle.
7 And those maps were drawn by Democrats, correct?

8 A. Yes.

9 Q. And on your next page -- and I'll flip to
10 that -- you would agree that, on Page 41 and then
11 onto 42, the elected officials you identify were
12 Democrats, correct?

13 A. Can I take a moment to look and see who I
14 identified? It's 41 and 42?

15 Q. Yes, sir, please.

16 A. I don't see a person that identified on
17 Page 41 on this besides Julian Bond and John Lewis,
18 right?

19 Q. Yes.

20 A. And Laughlin McDonald is head of the Civil
21 Rights ACLU in Georgia who wrote the book on Georgia
22 voting.

23 Okay. And then Page 42, is that what you
24 said? I see Maynard Jackson and Edward Brown, two
25 African-Americans. You're asking me if the -- what

1 was the question? It was --

2 Q. That's okay.

3 A. -- identify -- are they Democrats? Is that
4 what --

5 Q. Yes, sir.

6 A. I don't know what Laughlin McDonald is, to
7 be honest. The other people that I see are
8 African-Americans. And I'm going to assume that they
9 were black, but I don't know, you know; except for
10 John Lewis and Julian Bond we know were Democrats,
11 but I have -- then Maynard Jackson I assume was, but
12 we -- we don't know. I just don't understand your
13 question.

14 Q. No. That's --

15 A. Am I supposed to know what their political
16 association is?

17 Q. I'm just asking if you do. And you've
18 answered it completely, it would seem to me. But if
19 would like to add anything?

20 A. No. You know, there was an old tradition
21 of black Republicans in Georgia in the -- you know,
22 it was not until the '60 election, of course, that
23 Danny King really shifted when Martin Luther King was
24 in jail and the famous phone call came and -- but
25 there were still -- at any rate, I wouldn't want to

1 say somebody was Republican or Democrat if I don't
2 know.

3 Q. Sure. Fair enough. And you would agree
4 that the objections by the DOJ to the 1981 and 1991
5 redistricting plans were to maps drawn by the
6 Democratic party, correct?

7 A. Yes.

8 Q. Okay. And on Page 42 of your report, you
9 begin to discuss the time frame from 2000 forward,
10 correct?

11 A. Yes. I mean, that's what the heading says.
12 I hope that's what I did.

13 Q. Okay.

14 A. I don't remember.

15 Q. Okay. Sure. I know you don't remember off
16 the top of your head, but I understand that's what
17 the heading says. It appears to be that that's the
18 way the analysis goes as well.

19 A. What I intended, for sure.

20 Q. Okay. Do you agree that the 2001
21 redistricting plans to which the DOJ objected were
22 drawn by Democrats?

23 A. Yes.

24 Q. And the lawsuit challenging the maps that
25 ultimately led to them being found unconstitutional

1 was brought by Republicans, correct?

2 A. Yes.

3 Q. And you're aware that the 2004 election in
4 which Republicans took control of the State
5 legislature was run on maps drawn by a federal court,
6 correct?

7 A. Yes.

8 Q. And I'm going to refer you to Page 43. And
9 on Page 43, you note that Georgia was the first state
10 covered by Section 5 of the Voting Rights Act to
11 adopt an in-person voter identification law limiting
12 Georgians to six forms of identification, correct?

13 A. Yes.

14 Q. And you would agree, would you not, that
15 that law was precleared by the Department of Justice?

16 A. Yes. But can I say something else?

17 Q. Yes, sir.

18 A. They objected to it initially because you
19 had to pay -- it was, you know, referred to in the
20 package thing like a poll tax -- to get an in-person
21 voter ID if you didn't have a driver's license. So
22 it was modified before it was then cleared. But,
23 initially, it was objected to by DOJ.

24 Q. Okay. But as you described, ultimately,
25 the in-person voter identification law was upheld,

1 correct?

2 A. It was, yes. The Justice Department did
3 not object after that.

4 Q. Were you aware that there was a trial in
5 that matter?

6 A. Maybe I'm wrong. Maybe it was a trial
7 instead of the DOJ not objecting. I had forgot.
8 Sorry.

9 Q. Sure. No problem.

10 A. But I believe you're probably right.

11 Q. Okay. All right. And then on -- let's go
12 to Page 44. And in the first full paragraph there on
13 Page 44, you say that Georgia's 2010 maps packed
14 black voters. Do I have that correct?

15 A. It's the first full paragraph?

16 Q. Yeah. Actually, I think it is the second
17 full paragraph. My apologies.

18 A. Okay. In 2015, is that where we're
19 beginning, Page 44?

20 Q. No, we're looking at 2010, sir.

21 A. What page?

22 Q. Sorry. Sure. Page 44.

23 A. Okay.

24 Q. Okay. So it actually is the first full
25 paragraph starting "Several years later, following

1 the 2010 census."

2 A. Yes.

3 Q. Okay. And were the maps that you refer to
4 that packed black voters, were they challenged by
5 anyone?

6 A. I know that in 2010, they were being
7 challenged. I cannot remember if that went to court
8 or if they were approved by the Justice Department
9 before they got the court case together. But I know
10 that Stacey Abrams and Jason Carter, Jimmy Carter's
11 grandson, were working to challenge it. But I don't
12 remember what -- I think the Justice Department
13 approved the plan is my memory. But it may be wrong.

14 Q. Okay. So were the maps ever found to be
15 illegal, to your knowledge? Again, I know you're
16 not --

17 A. No, no. I don't think they were, not to my
18 knowledge.

19 Q. Okay. And then you reference in the next
20 paragraph and talk about 2015 mid-decade
21 redistricting in 2015. And you would agree that that
22 case was dismissed after the Democrats won their
23 seats, correct?

24 A. Yes. I thought I said that in the report.

25 Q. Okay. And you'd agree that the 2015 maps

1 were never found to be illegal by any court, correct?

2 A. That's right. Correct. Yes.

3 Q. Okay. And then regarding redistricting,
4 again in 2010, the Georgia legislature created a
5 record number of majority districts. Does that sound
6 correct to you?

7 A. Yes. Well, excuse me. Would you state the
8 question again?

9 Q. Sure. In -- regarding redistricting in
10 2010, the Georgia legislature created a record number
11 of majority districts. I believe you say that in
12 your report.

13 A. You mean majority black districts? I think
14 you said "majority districts," and I think I said
15 "majority black districts."

16 Q. You did. I apologize. I misspoke.

17 A. But you meant majority black districts?

18 Q. Yes, sir.

19 A. Yes.

20 Q. Okay. Thank you. And that was the plan
21 drawn by the Republican legislature that was
22 precleared by the Department of Justice, correct?

23 A. Yes.

24 Q. And then let's look at Page 47. Actually,
25 what I would like to do is, we'll look at Page 47.

1 Let me switch to your January 2nd report, and that
2 might take me a second here.

3 A. I'm going to stand. I'm not going
4 anywhere. I'm just going to stand and stretch.

5 Q. Yeah, please do. No problem.

6 It's taking me a moment. I apologize.

7 A. No problem. While you're getting that up,
8 can I run downstairs and get a diet Coke out of the
9 refrigerator? You about ready? I can wait if you're
10 about ready.

11 Q. No. Why don't you go ahead and do that?
12 We'll go off the record just for a minute or two.

13 A. Just going downstairs, and I'll be right
14 back.

15 THE VIDEOGRAPHER: The time is 3:31 p.m.
16 We are off video record.

17 (A recess was taken from 3:31 p.m.
18 to 3:35 p.m.)

19 THE VIDEOGRAPHER: The time is 3:35 p.m.
20 We are back on video record.

21 BY MS. LAROSS:

22 Q. Okay. Thank you. And I have put up on a
23 share screen what's been marked as Exhibit 1 to this
24 deposition. I know the cover sheet says otherwise,
25 but this would be your January 2nd, '22, report. And

1 I would like to refer you, sir, to Page 47 on this --
2 in this report. I just have a question about a
3 couple of sentences here. I believe that's Page 47.

4 And then if you would, sir, just above
5 where it says "by 2019," the two sentences above that
6 at the end of the preceding paragraph beginning with
7 "Scientists have analyzed." Do you see where I am
8 now?

9 A. Yes, ma'am.

10 Q. And it says "Scientists have analyzed these
11 kinds of changes," and you were talking to polling
12 places. "One recent study found even a seemingly
13 minor inconvenience like locating a new polling place
14 depresses turnout, especially for poor and young
15 voters."

16 Did I read that correctly?

17 A. Yes.

18 Q. I did not see those two sentences in your
19 December report. Were they moved to a different part
20 of the report, or were they taken out?

21 A. I believe they were taken out. I don't
22 really remember. I believe they were taken out. I
23 remember some discussion of this.

24 Q. Okay. Do you remember why those sentences
25 were taken out?

1 A. Because it does not say black voters, you
2 know, my -- yes.

3 Q. Okay. I have to go back to your other
4 report. Okay. We're going to go to Page 45 of your
5 December report.

6 A. And this is the report I have a copy of for
7 the dates. Okay.

8 Q. Okay. Yes, sir. I believe so.

9 A. What page?

10 Q. Just a moment. I'm -- I wanted to get it
11 up on the screen, and then I'll -- I have to
12 concentrate on one thing at a time here.

13 Okay, sir, Page 45. And on Page 45 of your
14 report, you mention Mayor Dennard in Brooks County.
15 Do you see that there?

16 A. Is that Nancy Dennard that you're referring
17 to?

18 Q. Yes, sir.

19 A. Yes.

20 Q. And I believe you were talking about voter
21 investigation concerning Nancy Dennard; is that
22 correct?

23 A. Yes.

24 Q. And are you aware of any other
25 investigations into white candidates who engaged in

1 the same conduct that she was alleged to have engaged
2 in?

3 A. No.

4 Q. Have you read the attorney general's
5 opinion clarifying the law about mailing absentee
6 ballots that resulted after that investigation?

7 A. I may have. I don't remember.

8 Q. Okay.

9 A. But you are stoking my memory that there is
10 some mention of others doing this, that this was okay
11 to do, the absentee ballot.

12 Q. Okay. And are you aware that a white
13 candidate was also being prosecuted for the same
14 event at the same time?

15 A. Yes, now that you remind me. But it's only
16 from that when I read that.

17 Q. Okay. You also mention -- let me find
18 where it is. At the end of the last paragraph, you
19 mention that Kemp doggedly pursued a case against the
20 Quitman 10+2.

21 And what is the factual basis for your
22 conclusion that Kemp doggedly pursued the case?

23 A. From the newspaper coverage.

24 Q. And what about the newspaper coverage had
25 you conclude that Kemp doggedly pursued the case?

1 A. I think the newspapers pretty much said
2 that, and I just remember that this had continued.

3 Q. Are you aware -- sorry. Go ahead. I
4 apologize.

5 A. No. I was going to see when it began and
6 how long it went on. That's okay.

7 Q. You can take a moment. That's fine.

8 A. Yeah, I think that's 2010 to 2016. That's
9 six years.

10 Q. And are you aware that the allegation
11 concerning the investigation of Ms. Dennard was made
12 part of an intentional discrimination claim in the
13 Fair Fight Action case that was dismissed after
14 trial?

15 A. I don't remember.

16 Q. Let's go to the next page on Page 46. And
17 in the second full paragraph on Page 46 -- are you
18 there yet, sir?

19 A. Yes.

20 Q. Okay. And you discuss that then-Secretary
21 of State Brian Kemp remarked that "The Democrats are
22 working hard registering all these minority voters
23 that are out there. And if they can do that, they
24 can win these elections in November."

25 Do you see that statement?

1 A. Yes.

2 Q. And couldn't that statement also be
3 reasonably interpreted as him calling on Republicans
4 to imitate what the Democrats were doing?

5 A. Yes.

6 Q. And are you aware as well that this
7 allegation was made part of the intentional
8 discrimination claim in the Fair Fight Action case
9 that was dismissed after trial?

10 A. As I said, I don't remember.

11 Q. Okay. And at the end of that paragraph on
12 Page 46, you reference the investigation into the New
13 Georgia Project. Are you aware that the results
14 of -- are you aware of the results of that
15 investigation?

16 A. According to what I wrote, I said the New
17 Georgia Project was later cleared of any wrongdoing.

18 Q. Okay. Are you aware that the actual fraud
19 was conducted by contractors for the New Georgia
20 Project engaged in voter registration?

21 A. No.

22 Q. And were you aware that the contractors --
23 that the claims against the contractors for the New
24 Georgia Project were turned over to the attorney
25 general for prosecution?

1 A. I don't believe I was aware of it.

2 Q. Okay. Have you reviewed any documents
3 related to that investigation or the State Election
4 Board transcripts reporting on that investigation?

5 A. I reviewed some documents. I do not
6 remember which ones. I do not remember doing the
7 ones you just asked me about.

8 Q. Okay. So were you relying on newspaper
9 accounts?

10 A. Primarily newspaper accounts.

11 Q. Okay. Do you know why you didn't go to the
12 actual government sources?

13 A. No, I don't, probably because I thought
14 this all fit together as an outline of what was
15 happening at that time in voting.

16 Q. Okay. And you concluded that the newspaper
17 articles were enough to rely on?

18 A. I did for what I was trying to do, to give
19 an overview of the history of voting and what was
20 happening with voting and how that would relate to
21 discrimination toward black voters.

22 Q. Sure. And then in the last full paragraph,
23 you say an investigation into the AALAC, the Asian
24 American League Advocacy Center, was similar. And
25 you were quoting a journalist for that statement,

1 correct?

2 A. Yes.

3 Q. And have you reviewed any documents of the
4 investigation or the State Election Board transcripts
5 reporting on that investigation?

6 A. Not to my knowledge.

7 Q. Okay. Let's go to Page 47. And on Page 47
8 of your report, you discuss post-Shelby County,
9 correct?

10 A. Yes.

11 Q. And there -- scroll up just a moment.
12 Okay. Sorry about that. Okay.

13 In the second full paragraph on Page 47,
14 you reference the Augusta change in government. Are
15 you aware that after Shelby County, there was no
16 legal impediment to enforcing existing law that moved
17 the elections to July?

18 A. Yes. I thought I said that, but after
19 Shelby.

20 Q. Okay. I believe you, later in the last
21 paragraph, talk about Greene County. And the Greene
22 County plan you refer to, was that challenged in
23 court?

24 A. I do not remember.

25 Q. Okay. Let's look at the next page. In

1 that first full paragraph, you talk about at-large
2 countywide or citywide voting. Do you see where I'm
3 referring to it?

4 A. Starts with "Preclearance itself was never
5 a panacea"?

6 Q. Yes, sir, in that paragraph.

7 A. Where are you?

8 Q. Just where you discuss the at-large
9 countywide and citywide voting.

10 A. Okay. I'm there.

11 Q. Okay. Great. And I wanted to ask you just
12 a question about that. So are at-large methods of
13 elections always illegal?

14 A. No.

15 MR. JONES: Objection, calls for a legal
16 conclusion.

17 You may answer.

18 BY MS. LAROSS:

19 Q. Sure. And I'm not asking you for a legal
20 conclusion. I know it's in the word, but to the best
21 of your understanding.

22 A. No. And it wouldn't matter unless you have
23 racial bloc voting, I think. You know, that's the
24 context of the at-large elections, of course. It is
25 in the context where minority candidates, even though

1 they would have enough voters if they vote cohesively
2 to elect someone, if they were not at-large, would it
3 be considered under jurisdiction of the Voting Rights
4 Act or 14th and 15th Amendment. Is that what you're
5 asking about?

6 Q. Yes.

7 A. Okay. So the answer is, I think, no.

8 Q. Okay.

9 A. If I remember the question.

10 Q. And plaintiffs who sue counties for
11 at-large elections schemes, they can recover their
12 attorneys' fees for bringing these types of cases,
13 right?

14 MR. JONES: Objection, calls for a legal
15 conclusion.

16 You may answer.

17 THE WITNESS: You know, it's been confusing
18 over the years when and when you cannot get
19 attorneys' fees and things. I know it's changed over
20 time, so I really don't know.

21 BY MS. LAROSS:

22 Q. In the last paragraph on Page 48, you note
23 the U.S. Commission on Civil Rights, and you -- and
24 your report goes on to the next page.

25 A. Okay.

1 Q. Okay. So because it's not a complete
2 sentence there. All right. And I think I can scroll
3 it in such a way to get both, but I may not.

4 A. And I've got -- I've got both pages, so
5 you're okay.

6 Q. Okay, great. But I'm actually going to
7 refer just to Items 1 through 4 in that last
8 sentence. And all of those items were in place prior
9 to Shelby County, correct?

10 A. I believe so. I would have to check back,
11 but I believe so.

12 Q. Okay. Thank you. And are you aware that
13 counties in Georgia determine where and when polling
14 places will be located?

15 A. Yes.

16 Q. On the next page -- okay. Yeah. So you
17 refer to in the first full paragraph under "polling
18 place closures" a memo from secretary then --
19 sorry -- then-Secretary of State Kemp encouraging
20 counties to reduce voting locations. Do you see that
21 there --

22 A. I do.

23 Q. -- in your report?

24 A. Yes.

25 Q. And did you review the memo from

1 then-Secretary Kemp?

2 A. I believe I used the article that is cited
3 from the Leadership Conference Council instead of the
4 memo. I may have seen the memo. I don't remember
5 specifically.

6 Q. Okay. And are you aware that challenge to
7 polling location closures were brought in a Fair
8 Fight Action case and those claims were dismissed?

9 A. I might have known. I don't remember
10 specifically.

11 Q. Okay. And you're aware that decisions
12 about polling locations today are made only by
13 counties in Georgia?

14 A. Yes.

15 Q. And so on Page 50, you indicate that
16 Georgia had closed over 200 polling locations. Would
17 it be more accurate to say that Georgia counties
18 closed over 200 polling locations?

19 A. I don't want to be argumentative, but isn't
20 the county of Georgia a part of Georgia? So reframe
21 your question, please.

22 Q. Sure. We talked about the polling
23 locations and the decisions about polling locations
24 are made by Counties, correct?

25 A. Yes.

1 Q. And you state that Georgia closed over
2 200 polling locations. And wouldn't it be more
3 accurate to say that Georgia counties closed over
4 200 polling locations? Would you agree with that?

5 MR. JONES: Objection to form.

6 You may answer.

7 THE WITNESS: I think it says the same
8 thing. If you want to be specific and say Georgia
9 counties closed, but they are part of the Georgia
10 political governmental system. So I would say that
11 Georgia closed. It's the way of just writing it, but
12 I would be -- I wouldn't have any problem with saying
13 Georgia counties closed.

14 BY MS. LAROSS:

15 Q. Okay. So in other words, those decisions
16 were made by Georgia counties, correct?

17 MR. JONES: Objection, asked and answered.

18 You may respond.

19 THE WITNESS: I lost the last question. I
20 apologize.

21 BY MS. LAROSS:

22 Q. No worries. So that -- it's fair to say
23 that Georgia Counties closed the polling locations?

24 MR. JONES: Same objection.

25 THE WITNESS: Yes. Georgia Counties, who

1 are part of the Georgia political system and
2 organization, closed the polling places.

3 BY MS. LAROSS:

4 Q. Okay. But the polling place closures were
5 the decision of the counties, and not the State,
6 correct?

7 MR. JONES: Objection, asked and answered.

8 You may answer.

9 THE WITNESS: But they are part of the
10 state. They control that part of where people in the
11 state vote.

12 BY MS. LAROSS:

13 Q. So it's your understanding that the State
14 of Georgia controls the location of where polling
15 places are?

16 A. They have delegated that to the counties,
17 but that is still part of the State of Georgia.

18 Q. Okay. I'm trying to understand your
19 testimony, then. So it's that because the counties
20 are located in Georgia? Is that why you're saying
21 that it's -- the counties are part of Georgia, and
22 therefore Georgia closes -- makes the decision to
23 close polling locations?

24 A. The counties are closing the polling
25 locations. But that is a governmental

1 responsibility -- whatever the word might be -- that
2 has -- that is, either way you look at it, delegated
3 down from Georgia as the organization of their state
4 and state elections are organized up towards -- you
5 know, down to the counties or up to the state. I
6 don't see the distinction you're making, I guess.

7 Q. Okay.

8 A. The counties are still a part of Georgia's
9 governing system, just like there's a, you know,
10 House of Representatives and a Senate and our
11 Republican little art form of government. We're
12 probably just splitting hairs. I'm comfortable
13 saying the counties close them, but I do not want to
14 say that Georgia didn't.

15 Q. Okay. So if we look on Page 50, further
16 down on the page, the last paragraph, that section
17 concerns voter purges. Do you see where I'm
18 referring to?

19 A. Yes, ma'am. The voter purges and
20 challenges.

21 Q. Sure. Are you aware that Georgia's process
22 for voter list maintenance was upheld in the Fair
23 Fight Action case?

24 A. Yes, I am aware of that.

25 Q. And would you also agree that list

1 maintenance is an important part of keeping voting
2 rules clean?

3 A. Yes.

4 Q. On Page 51, in the first full paragraph
5 there, you talk about exact matching procedures.

6 A. Yes.

7 Q. And are you aware that voter applications
8 were not rejected, but placed in pending status, and
9 the individual could vote with proper identification?

10 A. Yes.

11 Q. And, again, were you aware that this voting
12 procedure was upheld in the Fair Fight Action case
13 against a challenge to the matching procedures?

14 A. I believe I said so before, too, once you
15 reminded me.

16 Q. Okay.

17 A. Yeah, yes.

18 Q. And on the next page -- sorry. Still on
19 Page 52, I think.

20 A. 51 or 52? I'm on 51.

21 Q. Sorry. That's okay. I'm a little confused
22 on my part. Let me look at my hard copy of your
23 report. Okay. Let me just see what page we're on
24 here.

25 Okay. Yeah, it is on Page 52. Sorry about

1 that. I got it confused because of the footnotes
2 down there. Okay.

3 But on Page 52, in the first full
4 paragraph, it talks about voter challenges. And you
5 would agree that voter challenges in Georgia take
6 place on a county level, not the state level, right?

7 A. Yes, but it's still part of the state.

8 Q. So are you saying that the decisions
9 pertaining to voter challenges are by the state?

10 A. At the county level, if the county is the
11 government as part of the state, then, yes.

12 Q. Are you saying that the county is acting on
13 behalf of and making the decision for the State of
14 Georgia in voter challenges?

15 MR. JONES: Objection, argumentative.

16 You may answer.

17 THE WITNESS: It is making the decision for
18 that county, but it is part of the overall government
19 of the State of Georgia at the county level system.
20 So the home -- I'm sorry. What is your question
21 again?

22 BY MS. LAROSS:

23 Q. That's okay. We can -- we can move on.

24 A. I don't mean to be argumentative. I'm
25 probably just missing a distinction.

1 Q. I think earlier in your report -- and I can
2 go back to it -- you mention that Senate Bill 202 --
3 you talk about Senate Bill 202. And I'm going to go
4 back to Page 3, and my apologies for jumping around a
5 bit here.

6 So at the end of the last paragraph on
7 Page 3, you reference Senate Bill 202, and that it
8 was passed with the intent and affect of limiting
9 black Georgian voting power; is that correct?

10 A. Yes.

11 Q. And you're aware that Senate Bill 202 is
12 being challenged in -- currently being challenged
13 before the court, including on intent grounds, in
14 separate cases, correct?

15 A. Yes.

16 Q. And then sorry to jump back. We're going
17 to jump back to -- sorry. Wrong page -- to Page 53.
18 Okay. And there's a section there on Senate
19 Bill 202. And you're aware that the Department of
20 Justice lawsuit, along with the other plaintiffs in
21 those cases, are challenging a handful of provisions
22 of that bill, correct?

23 A. Yes.

24 Q. And I think you note that there's
25 40 provisions in Senate Bill 202?

1 A. Yes.

2 Q. And there's not been any court finding of
3 the intentional discrimination concerning Senate
4 Bill 202, correct?

5 A. No. Correct.

6 Q. Now, you're aware that Senate Bill 202
7 expands the number of days of early voting and added
8 weekend voting?

9 A. Yes.

10 Q. And, thereby, Senate Bill 202 increased the
11 overall number of hours of voting in Georgia. Are
12 you aware of that?

13 A. I should be, but I have -- I don't think
14 I've added up the hours of voting.

15 Q. Sure. Fair enough. In your discussion of
16 drop boxes, you rely on an Atlanta
17 Journal-Constitution article, correct?

18 A. Can you point me to where I -- I don't
19 doubt that's the case, but I just want to check.

20 Q. Sure, the last full paragraph beginning at
21 the bottom of Page 53. Let me just see for a second,
22 here.

23 A. One of the most notable changes drop -- you
24 know, I did a lot of sources on this, but --

25 Q. Okay.

1 A. And since then, books and things have come
2 out. I know I did a -- there was a good thing on
3 NPR, the public -- the PBS website that seemed to me
4 to be the -- I mean, the legislative history of this
5 is a nightmare loop, so I certainly relied. But I'm
6 looking to see where the footnote -- it's the next
7 page, right?

8 Q. Right.

9 A. I'm trying to --

10 Q. I think it's footnote -- I think it's --

11 A. Yes.

12 Q. Okay.

13 A. Okay. What goes on to the Brennan report.
14 Okay.

15 Q. Okay. So in -- so you cite the AJC article
16 at Footnote 185. That's what I was referring to.

17 A. Yes, yes.

18 Q. And then on page -- let me just see for a
19 second, here. Okay. Two paragraphs up, I think you
20 talk about the State Election Board had power to take
21 over county boards of election, correct?

22 A. I'm lost. I'm sorry. I'm on Page 54. So
23 which page are we on?

24 Q. Yes, we're on Page 54. And it's just -- if
25 you go up to a couple of paragraphs above where we

1 were there -- sorry. No. Up to the second full
2 paragraph from the bottom -- my apologies -- that
3 starts "SB 202 made significant changes."

4 A. And your question was --

5 Q. Yes.

6 A. -- "These changes included removing" -- is
7 that where you are -- "removing the Secretary of
8 State as chair of the State Election Board"?

9 Q. Yes. And what I'm asking you is that you
10 talk about that the State Election Board could take
11 over county boards of Election.

12 A. Yes.

13 Q. And to your knowledge, has that happened in
14 any county since the passage of SB 202?

15 A. No, not that I know of.

16 Q. And let's look at the next page.

17 A. Are you referring to Page 55 now?

18 Q. Yes, I am, sir. Sorry.

19 A. It's okay. I'm sure it's just me, foggy.

20 Q. No. I can't claim that I don't have any
21 operator error on my end, so.

22 Okay. So then on Page 55, you talk about
23 county commissions having replaced ten county
24 election officials. Do you see where I'm referring
25 there?

1 A. About where are you? In six counties in
2 Georgia. Let's see. Which paragraph are we in?

3 Q. Just a second. Hang on just for a second.
4 I apologize.

5 A. You said ten somewhere, right? I'm not
6 seeing it.

7 Q. Yeah. I understood that it was ten. But
8 when I'm looking at it, I do see in the first full
9 sentence "Six counties in Georgia have organized
10 their county board of supervisors."

11 A. And it could be more since this report. I
12 haven't looked, you know.

13 Q. And a change in the County Commission --
14 county commissions in Georgia is due to local
15 legislation affecting that particular county board,
16 correct?

17 A. Yes.

18 Q. And the changes in Boards of Elections, in
19 fact, aren't -- have nothing to do with SB 202; is
20 that correct?

21 A. Rephrase that. I'm not sure I'm going to
22 agree with you.

23 Q. Sure. It says SB 202 did not change county
24 boards of election, correct?

25 MR. JONES: Objection, vague.

1 You may respond.

2 THE WITNESS: I guess I'm confused.

3 It's -- I thought SB 202 was allowing that to happen,
4 but I'll have to go back and look more carefully at
5 what was said. I may be misunderstanding your
6 question.

7 BY MS. LAROSS:

8 Q. Sure. And let me ask you also -- okay --
9 right -- let me just see where we are here. Okay.
10 So just above the Section D, electoral success of
11 candidates, and the last sentence in the paragraph
12 above, you reference Fulton County performance
13 review --

14 A. Yes.

15 Q. -- do you see that? Okay.

16 And you're aware that the Fulton County
17 performance review is now complete and did not
18 recommend a takeover of the Fulton County Board of
19 Election, correct?

20 A. Yes.

21 Q. And then I apologize for jumping around
22 again, but I'm going to bring you back to Page 43 in
23 your report, if you would.

24 A. Give me a moment. You're going to put it
25 up there, too, aren't you?

1 Q. Yeah. Yep, it's up there. It's just --

2 A. I have managed to get page numbers all out
3 of order here. Okay. I've got Page 43.

4 Q. Okay. Great. So at the top of that page
5 above the heading "2000s through 2010 Redistricting,"
6 the sentence above that, you note that "Blacks,
7 Latina, Latino, and Asian populations tend to support
8 Democratic candidates," correct?

9 A. Yes.

10 Q. Okay. And now I'm going to make you go
11 back to Page 56, if you would.

12 A. Might I note -- can we look at, while we're
13 on 43, beginning in that paragraph on 42, because
14 I -- please, because I'm a little lost.

15 Q. Sure. Please do.

16 A. Okay.

17 Q. Okay. Great. So does that change your
18 answer, or did you want me to ask the question again?

19 A. I don't remember the question.

20 Q. Okay. Fair enough. I just wanted to ask
21 you that you note that "Blacks, Latina, Latino, and
22 Asian populations tend to support Democratic
23 candidates," correct?

24 A. Yes. And that's part of a summary from
25 Dr. McCrary's report, and that's where the quote

1 comes from.

2 Q. Okay. So for that statement, then, did you
3 analyze the underlying data of Dr. McCrary's report,
4 or are you just relying on his conclusion?

5 A. I looked at his report, as well as you'll
6 see there's more folks there, too, the articles that
7 are there about Latino voters, general coverage in
8 newspapers and political analysts about voting
9 patterns.

10 Q. Okay.

11 A. But I just wanted to say the quotation,
12 where it was from was from McCrary's report.

13 Q. Sure. And thank you for clarifying that.
14 So let's go ahead and go back to Page 56, if you
15 would. And there's a table there on that page.

16 A. Yes.

17 Q. And the table concerns winning candidates
18 in 2020 in the Georgia House of Representatives,
19 correct?

20 A. Yes.

21 Q. And did you review how many black
22 Republicans ran in any district?

23 A. You know, I looked at it. When I say
24 "review," I believe I did not find any black
25 Republicans winning, as I remember. I did -- you

1 asked me about -- I did do this table. This is mine,
2 I'm sure, so I have this all together.

3 Q. Sure. Go ahead, please. Sorry.

4 A. No. And I remember I actually had --
5 because one of the reports had there were no
6 Hispanics, but there was a Republican Hispanic that I
7 discovered. But, at any it, go ahead. It's
8 irrelevant to your question.

9 I did see about some -- this was 2020 --
10 about black Republicans and things, but I -- I was
11 looking at the results, of course, of who won.

12 Q. Okay. Do you know how many black
13 Republicans ran in any one of the districts?

14 A. No. I should -- I should remember, but I
15 did not pay attention. It was not what I was trying
16 to show in this table.

17 Q. Sure. And do you know how many black
18 Democrats ran in any district?

19 A. No. I should, but I -- I -- I don't. I
20 mean, when I was reviewing it, I looked at some of
21 those, but not all of them, I imagine.

22 Q. Okay. And you would agree that multiple
23 black-preferred candidates have won statewide in
24 Georgia, namely Senator Warnock, Senator Ossoff, and
25 President Biden, correct?

1 A. Was the question about black candidates or
2 Democrats? I'm sorry. What was your question?

3 Q. Thank you. Yeah. I let me state it again
4 just so it's clear. So you would agree that multiple
5 black-preferred candidates have won statewide in
6 Georgia, Senator Warnock, Senator Ossoff, and
7 President Biden as examples, correct?

8 MR. JONES: Ob --

9 THE WITNESS: And I would say those are
10 recent, very recent. And so I would just emphasize
11 that.

12 BY MS. LAROSS:

13 Q. Sure. And then looking at your tables --
14 so there's another table on Page 56, and then you'll
15 see a table on page -- two tables on Page 57. Let's
16 look for a second at the tables on 57. Were those
17 tables that you compiled and created, or was that
18 taken from someone else's work?

19 A. I believe -- I believe that's Charles
20 Bullock's book with Susan MacManus and Jeremy Mayer
21 and Mark Rozell. And you'll see it's a 2018. I
22 actually played around after that, but thought it
23 would be better just to leave it to what other
24 scholars had done in terms of elections and things
25 statewide and in the south.

1 Q. Okay. And so --

2 A. And there, I took their take.

3 Q. Okay. In comparing the success of
4 candidates by race in the 2020 election and then
5 looking at the office holders from 1989 to 2018,
6 black candidates have been significantly more
7 successful, correct?

8 A. Are you talking about Georgia, or are you
9 talking about other places, or the south? What is
10 your base question in terms of the success?

11 Q. Sure. And I see that the tables on Page 57
12 pertain to -- sorry -- pertain to the south in
13 general, correct?

14 A. Yes. Again, it's from a book that Charles
15 Bullock is the primary author.

16 Q. Okay. If we go on and look at Page 61, you
17 state that "One cannot, as a scientific matter,
18 separate partisanship from race in Georgia
19 elections."

20 Do you see where I'm referring to in your
21 report? It's at the end of the beginning paragraph.

22 A. Yes.

23 Q. And so is this your opinion, or are you
24 chronicling the opinions of other writers?

25 A. It's mine and a number of other people.

1 And it's discussed in the literature, particularly
2 with the development of the -- you know, what the
3 political scientist is one from Georgia Tech and the
4 other from Rice, Blinken -- the Black brothers, or
5 black -- called them "Great White Switch" to "The
6 Great Switch," which I'm discussing there. But
7 it's -- it's, I think, a general consensus. It's
8 certainly my conclusion as well.

9 Q. And in the 2022 election in Georgia, you
10 would agree that, for first time in history, two
11 black candidates ran for the U.S. Senate seat -- for
12 a U.S. Senate seat -- with the black-preferred
13 candidate, Senator Warnock, winning, correct?

14 A. That is my understanding and knowledge.
15 You know, I haven't looked back to see it, but, yes.
16 Yes.

17 Q. And that that was the first time in history
18 that a black U.S. senator had won reelection from the
19 state of Georgia, correct?

20 A. Yes.

21 Q. And while you conclude that Senator
22 Warnock's race is an example of a race divide, would
23 you also agree that it reflected increase in the
24 voting strength of black voters to elect the
25 candidate of their choice?

1 A. Can you rephrase it? Because it's
2 important how you said the question for my
3 conclusions. So could you restate the question once
4 again?

5 Q. So am I correct to understand -- I'll split
6 it up.

7 Am I correct to understand that you
8 conclude that the race for the Senate seat between
9 Senator Warnock and Herschel Walker is an example of
10 a race divide?

11 A. What we were talking about earlier is what
12 I'm saying, the partisan, certainly that
13 African-American black voters preferred one of the
14 two, and that correlates with partisanship. Is that
15 your question?

16 Q. Not quite, but I -- I think we're getting
17 there, so -- and you would agree that Senator Warnock
18 was the candidate preferred by black voters, correct?

19 A. Yes.

20 Q. And the fact that he won reelection to the
21 state -- sorry -- to the United States Senate, that
22 that would -- it would reflect an increase in the
23 voting strength of black voters in Georgia to elect
24 the candidate of their choice, correct?

25 A. Not necessarily. I would have to qualify

1 my answer, but they were able to elect their choice.

2 Q. And do you think that reflects an increase
3 in voting strength of black voters?

4 A. Not necessarily. There's a discussion --
5 well, go ahead. Your question?

6 Q. Yeah, that's my question.

7 A. I think it's to be seen. What we have
8 discussed is the huge demographic shift in Georgia
9 that's going on, the only deep south southern state
10 where you have a large increase in the black
11 population, which is part of the overall conclusion
12 in my -- my report that is demographic -- unique
13 demographic change in Georgia.

14 So at any rate, I think you cannot really
15 separate out to say that it's -- well, I still -- I
16 still am not clear of the question. One more time
17 with the question.

18 Q. I'm going just to have the court reporter
19 read back the question. I think that might be the
20 easiest thing to do. The last one.

21 (The record was read by the reporter.)

22 THE WITNESS: Yes, as was his election the
23 first time.

24 BY MS. LAROSS:

25 Q. Okay. Let's look at Page 59, if we could

1 go back there just for a moment. The first sentence
2 at the top of Page 59, you refer to racial
3 conservatism. And what is racial conservatism?

4 A. It is -- I'm hearing a feedback. Is
5 everybody okay?

6 Q. Let me double-check and make sure. I've
7 got two screens going. I think I'm okay.

8 MS. LAROSS: Are you hearing feedback,
9 Jess, our videographer?

10 THE VIDEOGRAPHER: Does anyone else hear
11 feedback? It sounds fine to me.

12 THE WITNESS: Okay. Racial conservatism,
13 or the examples I give in the polls and things later,
14 that is in terms of what policies -- in this context,
15 what policies that people support with the kind of
16 questions, you know, are blacks getting advantages
17 with affirmative action or the political policy? So
18 that's what the racial conservatism (inaudible) goes
19 on this particular later -- I think that's later in
20 the report outlined on poll questions and how
21 policies that political scientists and others have
22 put together to evaluate where different political
23 parties stand on -- on issues that result or that
24 have an implication or influence on race or a group
25 of people.

1 BY MS. LAROSS:

2 Q. Okay. And how did Republicans identify
3 with racial conservatism that you refer to in that
4 first sentence on the top of Page 59?

5 A. Well, I outline the transformation,
6 particularly starting with Harry Truman in 1948 and
7 Strom Thurmond running as a Dixiecrat in 1948. Is
8 that what you mean when you ask that question?

9 And, you know, with the Confederate flag,
10 the battle flag of the Confederate states becoming
11 the symbol there, and then with Goldwater with his
12 statements about to forego the black vote and
13 suggesting that people, that the Republican party
14 look to white southerners who were opposed to things
15 like the Civil Rights Act and, of course, the Voting
16 Rights Act or the civil rights movement at that time.

17 And then that, of course, is caught into
18 the Richard Nixon presidency, the Southern Strategy
19 where you have Harry Dent, who had worked for Strom
20 Thurmond, really become Nixon's advisor to help
21 develop and implement the Southern Strategy. I
22 outline about what Kevin Phillips in 1970 argued that
23 the Republican party can win the building coalition
24 without the Negro votes. Remember, the Republican
25 party has been the party of Lincoln, and you had the

1 Eisenhower and the Rockefeller Republicans who stood
2 pretty much with the civil rights, at least equal
3 rights under the law at that time. So it's a big
4 transformation.

5 And the Democratic party -- according to
6 Phillips' Southern Strategy, then the Republican
7 party would identify the Democratic party of the
8 south as the black party so that then white
9 southerners would not want to be identified as
10 Democrats and would become Republicans. And that
11 would allow, according to Phillips' Southern
12 Strategy, for the Republican party then to develop
13 into a majority party in the South.

14 It takes time for this sort of thing to
15 happen, but that's the general pattern that
16 historians, political scientists, social political
17 scientists have all laid out over time.

18 Is that the question you're asking me?
19 That's what I've tried to outline here in this shift
20 and the use of race in partisanship and, you know,
21 then you get into the racial -- the code words of
22 racial appeal that aren't really using race, the old
23 "bugaboo" that the Democrats used and some earlier
24 Republicans did, instead shift into a more subtle way
25 of use to appeal to voters with these code words.

1 Is that the question you're asking?

2 Q. Well, we can get to the racial appeals in a
3 moment. But if that's part of your answer about how
4 Republicans identify with racial conservatism, then
5 you've answered the question.

6 A. Well, and later on, I lay out from the
7 polls that were given at the time how they identify
8 the voters with racial conservatism.

9 Q. Okay. And what is the time frame reflected
10 in those polls?

11 A. These are the recent polls that I'm
12 referring to.

13 Q. Okay. All right. And you've talked about
14 a historical development. And then you also talk
15 about recent polls --

16 A. Yes.

17 Q. -- correct?

18 A. Yes. And they come together, convert.

19 Q. Sure. You also say that Republicans used
20 racialized politics. What are racialized politics?

21 A. Precisely what I just outlined. But, you
22 know, with these code words, I mean, probably the
23 more famous one is the Dukakis campaign that I lay
24 out there. If you want to take it outside of
25 Georgia, the famous Harvey Gantt against Jesse Helms

1 and the black hand taking away the job offer from a
2 white person.

3 So those kinds of symbols that play upon
4 people's fears, or at least their ideas that black
5 people get unfair advantages are -- are the old
6 stereotypes and tropes of particularly what we're
7 dealing with in Georgia now, the United States voter
8 fraud.

9 Q. And we'll discuss it a little more
10 specifically in a moment. But you would agree that
11 Herschel Walker easily won the Republican primary
12 statewide in Georgia, and he's black, correct?

13 A. I believe that's correct. I don't remember
14 to what percentage that he won, but he won.

15 Q. Okay. I think you may have referenced
16 this, but let's go ahead and go to Page 61. I think
17 you mentioned Dr. Bullock and other authorities. So
18 I just want to refer you to where you cite
19 Dr. Bullock of the University of Georgia on the
20 relationship between race and voting, and noted that
21 "Since 1992, Democrats have always taken at least
22 80 percent of the black vote, while most whites
23 invariably prefer Republicans."

24 A. Yes.

25 Q. Okay. Do you agree with this statement?

1 A. Yes.

2 Q. And on the next page, 62, if you look at --
3 on Page 62. And I'm looking at the second full
4 paragraph. And you say that "It is undeniable that
5 support in Georgia for the Democratic and Republican
6 party remains profoundly split by race," correct?

7 A. Yes.

8 Q. And wouldn't it be fair to say that Georgia
9 politics is split by politics with black voters
10 supporting Democrats and white voters supporting
11 Republicans?

12 MR. JONES: Objection, argumentative.

13 You may respond.

14 THE WITNESS: Could you read back the
15 question or have the reporter read back the question?

16 MS. LAROSS: Sure. I think she'd be happy
17 to do that.

18 (Off-the-record discussion.)

19 BY MS. LAROSS:

20 Q. I'm going to go and try to re-ask the
21 question here. And I think we began when we looked
22 at Page 62, stating that it's undeniable that support
23 in Georgia for the Democratic and Republican parties
24 remains profoundly split by race.

25 And then my question about that was that,

1 isn't it also fair to say that black voters
2 supporting Democrats in Georgia and white voters
3 supporting Republicans in Georgia also shows a split
4 by politics?

5 MR. JONES: Same objection.

6 MS. LAROSS: Sure.

7 THE WITNESS: I believe they're different.
8 You're motivating the split to politics versus
9 that -- the emphasis on the people being affected by
10 policies and who are voting. So I'm not willing to
11 say they're the same thing.

12 BY MS. LAROSS:

13 Q. Okay. So how, then, would you explain the
14 2022 Senate race with two black candidates?

15 A. Did you say you want me to explain, or how
16 do you?

17 Q. Yeah. How do you?

18 A. Well, I did in the report.

19 Q. Okay. And if you could just articulate it
20 here in your deposition.

21 A. Well, as I said, particularly Gingrich and
22 others in this new political party said we need to
23 find black candidates to show that we're not a party
24 that is identified with just whites and with being
25 accused of racist policies and using race.

1 And so they sought out, in this case,
2 someone who President Trump advocated, Herschel
3 Walker, who is a true hero to many, many black and
4 whites in Georgia, with his extraordinary Heisman
5 Trophy Georgia National Championship. I probably
6 don't have to tell you how football is important in
7 Georgia and the National Championships. And he had
8 done a lot of good things in the communities in terms
9 of advocating things for children.

10 So that's how that came about. It's about
11 the voters, not -- not the candidates.

12 Q. And the voters, the black voters, didn't
13 support Herschel Walker because they didn't agree
14 with his politics, correct?

15 A. They didn't agree with his stance that the
16 racial conservatism -- to go back to the word that
17 you first brought me in on -- his racial conservatism
18 views were different than what black voters -- or I'd
19 would say the great majority of black voters in
20 Georgia wanted their candidates to represent.

21 Q. Sure. And what we're talking about, the
22 racial conservatism, is consistent with the views of
23 the Republican party, correct?

24 A. I got lost in your question.

25 Q. Sure.

1 MS. LAROSS: Can you read that one back?

2 (The record was read by the reporter.)

3 THE WITNESS: Let me try to. So we're
4 talking that the racial conservatism views that have
5 identified with the Republican party are the same
6 views that Herschel Walker had? Is that the
7 question?

8 BY MS. LAROSS:

9 Q. Or that they're consistent?

10 A. Yes, yes.

11 Q. And it was those views, I believe you said,
12 that is what black voters did not agree with,
13 correct?

14 A. Well, you know, I don't really know how or
15 what. They did not vote for him, and I believe that
16 is why. Politics is complex, as I said earlier, of
17 course. There may be other reasons, too, but that is
18 what most people have concluded and studied this.

19 Q. Okay. Dr. Burton, if you wouldn't mind, I
20 would like to take a break here. Would that be all
21 right with you?

22 A. I would love one.

23 THE VIDEOGRAPHER: The time 4:44 p.m. We
24 are off video record.

25 (A recess was taken from 4:44 p.m.

1 to 5:01 p.m.)

2 THE VIDEOGRAPHER: The time is 5:01 p.m.

3 We are back on video record.

4 BY MS. LAROSS:

5 Q. Dr. Burton, I'm going to -- you said
6 something about something, and I'm now going to turn
7 to racial appeals in Georgia. So I'm going to --
8 we'll look at your report again, and that would be on
9 Page 62. There's a heading "Racial appeals in
10 Georgia Politics." And in that last paragraph on
11 Page 62, you state that "Explicit racial appeals are
12 more taboo today than in the 20th century."

13 Is that correct? The mid-20th century,
14 pardon me.

15 A. Yes. That is in the first sentence of the
16 paragraph.

17 Q. Sure. Okay. And then in that third
18 sentence, you go on to opine that "The Democratic
19 party in the south relies crucially on engaging and
20 mobilizing black voters." Is that correct?

21 A. Yes.

22 Q. And you would agree that the effort to
23 mobilize black voters by the Democrats was championed
24 by Stacey Abrams in her campaign in 2018 and 2022,
25 correct?

1 A. Yes.

2 Q. And in your analysis of racial appeals
3 generally, did you look at any racial appeals made by
4 the Democratic party in recent years?

5 A. I don't remember. I certainly would have
6 wanted to. What do you mean by "recent years"?

7 Q. In the last five years.

8 A. I remember looking at Hillary Clinton's use
9 of these against Obama. But, no, I don't remember
10 looking at them.

11 Q. Okay. And are you aware that
12 Abrams-affiliated organization poll-tested the
13 message -- messages using the words "voter
14 suppression" and found that those messages
15 effectively turned out the black voters?

16 A. I'm not sure if I were aware or if I heard
17 it on the newscast, but I had certainly heard that.
18 I don't remember if it was during writing this report
19 or afterwards or anything like that.

20 Q. Okay. And in part, the success of the --
21 that mobilization of black voters was to place the
22 Republican party in a negative light as vote
23 suppressors, correct?

24 MR. JONES: Objection, calls for
25 speculation.

1 You may respond.

2 THE WITNESS: Yeah, I guess -- I guess I
3 don't know. Maybe ask the question again. See if I
4 can honestly answer it, but I don't think I've
5 thought about it.

6 BY MS. LAROSS:

7 Q. Okay. So you said -- let's do it this way.

8 So you mention that you had heard that the
9 Abrams-affiliated organization poll-tested the use of
10 the words "voter suppression" and that it affectively
11 turned out black voters.

12 MR. JONES: Same objection.

13 THE WITNESS: Actually, I did not hear that
14 she had poll-tested. I misspoke, then. I had heard
15 that, and a lot of people speculated that voter
16 suppression was inspiring people to come out. So I
17 misspoke if I said I had heard that she had tested
18 using that as an appeal.

19 BY MS. LAROSS:

20 Q. Sure. And thank you for that
21 clarification. The records to vote suppressors
22 during her campaign was in reference to the
23 Republican party, correct?

24 MR. JONES: Objection, calls for
25 speculation.

1 THE WITNESS: I do not know. I -- as I
2 remember, it was about specific things like SB 202,
3 about what those things would do. But, again, I
4 don't believe I studied that.

5 BY MS. LAROSS:

6 Q. Okay. Let's go to Page 59 of your report.

7 A. Okay.

8 Q. I'm sorry. Let me take a second here.

9 THE VIDEOGRAPHER: Do you want to go off
10 record?

11 MS. LAROSS: No. That's fine.

12 BY MS. LAROSS:

13 Q. Okay. So sorry. On Page 59, at the top
14 there, you indicate that "Republicans today continue
15 to use racialized politics and race-based appeals to
16 attract racially conservative white voters."

17 Do you see where I'm referring to?

18 A. In this paragraph that begins "White
19 Southerners abandon Democratic party"?

20 Q. Yes, sir.

21 A. How far down?

22 Q. It's just the next sentence.

23 A. Okay. Yes, yes.

24 Q. And you -- sorry. Go ahead.

25 A. I see that, yes.

1 Q. Okay. And you would agree that the
2 Republican party is supported by more white voters
3 than black voters, correct?

4 A. Yes.

5 Q. So what you're talking about here is that
6 the Republican party has a strategy to appeal to
7 conservative members of the party who are racist,
8 correct?

9 A. I never say that they are racist. I don't
10 think one needs to even go there, I would hope. But
11 it's not just they're trying to appeal to their
12 party, they're also trying to appeal to Independents
13 and even white Democrats, in particular appeal to
14 white conservatives, and people who are sort of
15 opposed to race-based issues.

16 Q. And folks who are opposed to black people,
17 correct?

18 MR. JONES: Objection, argumentative.

19 You may respond.

20 THE WITNESS: Well, I'm not sure if they're
21 opposed to black people. Like, it seems to me that a
22 lot of people like Herschel Walker who are white and
23 conservatives. So I don't necessarily say that they
24 are opposed to black people. But they are certainly
25 opposed to race-based issues as part of their

1 politics. And that's what I tried to outline in this
2 history.

3 BY MS. LAROSS:

4 Q. Okay. So that you -- you would say that
5 the -- or you said the Republican party has a
6 strategy to appeal to conservative members of the
7 party -- sorry. Strike that.

8 Is it fair to say that -- well, let's
9 strike that one, too.

10 So do you agree that the Republican party
11 has a strategy that discriminates against the
12 interest of black voters?

13 MR. JONES: Objection to form.

14 You may answer.

15 THE WITNESS: I'm going to need you to say
16 it one more time, the first part of it, what they're
17 doing.

18 BY MS. LAROSS:

19 Q. Sure. And let's have the court reporter
20 read it back. I trust her to do so.

21 (The record was read by the reporter.)

22 THE WITNESS: I believe that black voters
23 believe that they have policies or support policies,
24 and that the polls and other things show that
25 race-based issues are used by the Republican party to

1 try to attract conservative whites, many who have
2 been Democrats, and some continue to be conservative
3 but white Democrats.

4 BY MS. LAROSS:

5 Q. And let's look at Page 63. And at the
6 beginning of the first full paragraph -- sorry -- the
7 second full paragraph that begins "By Princeton
8 University political scientist Tali Mendelberg." Do
9 you see where I'm referring there?

10 A. Yes.

11 Q. And Professor Mendelberg defines "implicit
12 racial appeals" as "one that contains a recognizable
13 if subtle racial reference most easily through visual
14 references." Is that correct?

15 A. Yes.

16 Q. And do you agree with that definition?

17 A. Yes.

18 Q. And would you agree that implicit racial
19 appeals, once detected, are less successful?

20 A. Would I agree that racial appeals, once
21 detected, are less successful?

22 Q. Yes.

23 A. "Detected" is a tricky word, I think. I --

24 I'm not sure. I don't know. I think that's

25 different than explicit, the kind of things we saw in

1 the earlier part of the report particularly used by
2 Democrats in the State of Georgia in the, you know,
3 time of the civil rights movement and all that where
4 they're using direct racial language.

5 But when these code words are revealed, I
6 don't know how widely revealed they are or detected
7 and, I guess, by whom.

8 Q. Well, if they're detected by voters, then
9 the implicit racial appeals would be less successful,
10 wouldn't they?

11 MR. JONES: Objection, argumentative.

12 THE WITNESS: Not necessarily if it's still
13 appealing to what that voter wants to believe or it's
14 in line with what that voter believes. It is what
15 Atwater is saying, and others at the time, that they
16 could have gotten away with still using the kind of
17 words that became less successful.

18 And I probably don't need to go off on a
19 philosophical statement. But the campaign in 2016
20 sort of brought us back closer to those kinds of more
21 direct appeals, I think, to become more acceptable
22 again. And it still rallied people, at least a group
23 of people.

24 BY MS. LAROSS:

25 Q. Okay. So racial appeals that were directed

1 against Senator Warnock did not prevent him from
2 being elected and then re-elected, correct?

3 A. No. He was elected, and he was reelected.

4 Q. Let's look at Page 64 of your report. And
5 at the top of the page there, you referred to code
6 words. Sorry. So I guess we need to look at the
7 beginning of that sentence.

8 So it says "Implicit racial" on Page 63,
9 and then on Page 64, "appeals make use of coded
10 language to active racial thinking."

11 And that would be racial thinking against
12 blacks, correct?

13 A. It can be against others as well, of
14 course.

15 Q. Okay.

16 A. This instance we were referring to black
17 people. But, you know, we have -- immigration is one
18 of those issues these days.

19 Q. Sure. And the -- some of the buzz words
20 that you talk about there or -- sorry -- code words
21 would be taking advantage, criminal corruption,
22 fraud, voter fraud, and law and order. So would
23 those -- would those be a handful of racial code
24 words against blacks?

25 A. Yes. And as I say, there's -- a long

1 history of it goes back to the creation of a
2 lost-cause mythology and refers back to the
3 Reconstruction era when there's interracial democracy
4 in Georgia.

5 Q. And you mentioned immigration. But issues
6 pertaining to poverty and immigration are prime
7 racial attitudes among white voters and, again,
8 activating racial thinking. Am I correct about that?

9 A. Yes.

10 Q. In other words, the use of these words in
11 campaigns is no longer neutral, correct?

12 A. It depends on the context. As I pointed
13 out, you know, part what of we do as historians is
14 put it into contextual. And you could say that
15 poverty is a bad thing, and you want to do something
16 about it. And many people say that is a good thing.

17 And if others were to say, well, that's
18 going to, you know, take my hard-earned tax money,
19 it's a different perception.

20 Q. But there are white folks as well as
21 blacks -- well, yeah, white folks and black folks
22 that live in poverty today in Georgia, correct?

23 A. Yes.

24 Q. And in your analysis, do you evaluate the
25 intent of the use of the racial code words?

1 A. I thought that I did. That's what I was
2 attempting to do in the report.

3 Q. Okay. And how do you measure intent?

4 A. With examples and the context in which
5 they're used, which I outlined specific examples in
6 Georgia.

7 Q. And on -- let's look at Page 67. You refer
8 to an example of a racial appeal. And then if we go
9 ahead and -- sorry -- look at Page 68 concerning a
10 robocall imitating Oprah Winfrey during the Stacey
11 Abrams campaign. Do you see that?

12 A. I do.

13 Q. Okay. Did you research how widely
14 distributed that call was?

15 A. I don't remember.

16 Q. Do you know how many people received that
17 robocall?

18 A. Do not.

19 Q. Would it surprise you if it was a total of
20 583 people in Georgia? And I can refer you to an
21 exhibit if that would help.

22 A. No. I would hope it would be less than
23 that. It's so disgusting. But, no, it would not
24 surprise me.

25 Q. Did you evaluate the impact of that, of the

1 robocall?

2 A. I did not. But as I noted here, someone
3 said that racist appeals didn't hurt the candidates
4 making them in Georgia. Throughout the South, it
5 actually helped them.

6 Q. Are any of the racial appeals that you
7 discuss in your report, Dr. Burton, in Georgia from a
8 State House race in recent elections?

9 A. I don't remember without going back, you
10 know, into the report and see. I think I was just
11 looking at the level, explaining how these work in
12 Georgia. I'm not sure I paid attention to whether
13 they were in the State House or just in the general
14 elections where we had someone like a black candidate
15 like Warnock.

16 Q. Okay. Did your research show any racial
17 appeals in any state legislative races in the state
18 of Georgia in the last ten years?

19 A. I don't remember if I did or not. I
20 discussed different candidates or different people
21 using these appeals, but I don't know if it was in
22 the legislature or just at the state level.

23 Q. Okay. Do you recall specifically looking
24 at examples of racial appeals in a State Senate race
25 here in Georgia?

1 A. The same answer, I do not.

2 Q. Okay. On Page 70, you refer to when
3 Governor Kemp faced a primary challenge from former
4 Senator David Perdue. You would agree that Perdue
5 lost the primary overwhelmingly, correct?

6 A. I don't remember overwhelmingly, but he
7 lost.

8 Q. Okay. And on page --

9 A. Yes, against Kemp, yes.

10 Q. Okay. And on Page 73, you talk about
11 Donald Trump. But you would agree that Donald Trump
12 lost the election in Georgia in 2020, correct?

13 A. Yes. By how many votes, did he remind us?

14 Q. On Page 74, the first full paragraph, you
15 refer to Jody Hice. Do you see that?

16 A. Yes.

17 Q. And Jody Hice lost the primary, correct?

18 A. Yes.

19 Q. Also, you refer to Butch Miller --

20 A. Yes.

21 Q. -- and Butch Miller also lost the primary
22 election, correct?

23 A. Yes.

24 Q. On Page 76 --

25 A. Okay.

1 Q. Okay. I just have a general question. In
2 your Exhibit A there, it spans 1968 through 1978; is
3 that correct?

4 A. I thought it was '82. Am I wrong? Let me
5 go back and -- I thought this was a table put
6 together initially by -- for the review of the Voting
7 Rights Act, and I could be wrong. Let me --

8 Q. Okay. I may be wrong because I do see --

9 A. '82. And I did, as I remember, make some
10 corrections and things over time.

11 Q. Okay. And I'm looking at it now, and I can
12 see that it does reference up through at least 1981.

13 A. Yes. I see the source of it now.

14 Q. I was incorrect.

15 A. 1982 at the very bottom and --

16 Q. Oh, I see, okay.

17 A. And the book that where I was an actual
18 reader for the University of North Carolina Press, A
19 Voting Rights Odyssey. So from those two -- and then
20 I should have made clear, where I saw there were
21 obvious errors, I tried to -- tried to correct them,
22 you know.

23 Q. I understand. So that you were referring
24 to the 1982 source, the Laughlin McDonald source.
25 But -- but I'm asking, though, that the data in the

1 table itself looks like it spans -- and I'll correct
2 from my previous question -- spans 1968 through 1981;
3 would that be correct?

4 A. I think that is correct. But I -- may I
5 clarify, too, that there's a second source? McDonald
6 then wrote a book with University of North
7 Carolina -- excuse me -- with Cambridge University
8 Press -- I misspoke -- and updated a little bit
9 there. So that was posted in 2003, so at least 2002.
10 So there are two sources to this to put the table
11 together.

12 Q. Okay.

13 A. But you are correct in your question. It
14 really was put together at the time renewal of the
15 Voting Rights Act for evidence -- for the need for
16 the renewal of the Voting Rights.

17 Q. Okay. All right. I'm going to show you
18 another exhibit, which I'll mark as Exhibit 4. I
19 apologize for the delay. It's taking me a moment to
20 get this up on the share screen.

21 A. I'm okay.

22 Q. Okay. Thank you. I'm going to need to go
23 off the record just for two minutes, if you'll
24 indulge me.

25 A. Have I seen an Exhibit 4? I just remember

1 three exhibits.

2 Q. Correct, sir. Yeah. You haven't yet. And
3 I'm looking for it so that I can post it on the share
4 screen. So I should have it in just a few minutes.
5 I apologize.

6 THE VIDEOGRAPHER: The time is 5:27 p.m.
7 We are off video record.

8 (Off-the-record discussion.)

9 THE VIDEOGRAPHER: The time is 5:31 p.m.
10 We are back on video record.

11 BY MS. LAROSS:

12 Q. The document that I have put up on the
13 share screen, Dr. Burton, I'm going to mark as
14 Exhibit 4 to your deposition transcript.

15 (Defendants' Exhibit 4 was marked for
16 identification.)

17 BY MS. LAROSS:

18 Q. This is the NAACP legislative report card.
19 Have you seen this document before? And I can scroll
20 through it for you.

21 A. Yes.

22 Q. Okay.

23 A. I'm assuming it's the same one I used. I
24 should look at the dates. I didn't see a more recent
25 one than the one I had in the report from before.

1 But let me -- I say it without checking, you know.

2 Q. Okay. Let's go ahead and check that.

3 A. Yeah. Do you know what page I had mine on?
4 I've got everything out of order.

5 Q. I might.

6 A. I believe it is the latest one that -- here
7 it is. Mine says 2017 to '19. Did I do something
8 wrong? Yours says 2017, '18.

9 Q. Yeah. Oh, dear. I've goofed it up here.

10 A. I wonder why mine says '19. I wonder if
11 I -- I thought it was 2017.

12 (Off-the-record technical discussion.)

13 BY MS. LAROSS:

14 Q. Sorry about that. Okay. But I'll scroll
15 through this. And do you -- does this look like the
16 report you reviewed?

17 A. Yes.

18 Q. Okay. Great.

19 A. And that's by memory. I don't have it in
20 front of me, of course.

21 Q. Okay. I understand. All right. Then
22 let's go ahead and go to the fourth page. Okay.
23 There we go. All right.

24 And I believe you refer to this -- well,
25 you refer to this report in your report. On this

1 page, there's Items 1 through 6. And I'll scroll
2 down, and you can tell me when to scroll down, so
3 take a look at them. And these involve nominations
4 for Trump cabinet officials; is that correct? Let me
5 go ahead and scroll it all the way down so you're --
6 am I going too fast?

7 A. No, it's okay if you go fast.

8 Q. Okay. So Items 1 through 6 are nominations
9 for Trump cabinet officials, correct?

10 A. Yes.

11 Q. And then on Page 6, if you look at Item 11,
12 is the Justice Gorsuch and Justice Kavanaugh's
13 confirmations, correct?

14 A. 11 is Gorsuch.

15 Q. I'm sorry. My apologies. Yes. Gorsuch.

16 A. Yes.

17 Q. And then No. 12, there concerns changes in
18 the Affordable Care Act, correct?

19 A. Yes.

20 Q. And go down and look at No. 18, and that's
21 on Page 7. And that pertains to the tax overhaul
22 from 2017, I think?

23 A. Yes. December -- it says December -- well,
24 no, that's the conference, NACP conference.

25 Q. Okay. And these are votes in which you

1 determined members of Congress from Georgia were
2 pro-civil rights, correct?

3 A. For all of those, they -- whether they --
4 NACP supported or opposed the bill is how they rate
5 them. So I'm using their criteria.

6 Q. Okay. But do you agree with their
7 criteria?

8 A. Well, that's the criteria they used.
9 Whether I agree or not seems irrelevant. This is how
10 the NACP has been doing it for the years they've been
11 doing it.

12 Q. And you're saying that these are partisan
13 issues -- sorry. And you're saying that these aren't
14 partisan issues, but racial issues, correct?

15 A. The way I would phrase it, I believe, if
16 you'll allow me, would be that they're race-based
17 issues according to the NACP and then I report how
18 they rank them.

19 Q. Okay. I'm going to go back to your report.
20 Sorry. It takes me a second here. I think this is
21 your report, if I'm not mistaken. And I would like
22 to go to Page 76.

23 Okay. So there are -- in your conclusion,
24 you conclude that black Georgians have been stymied
25 from exercising their full political power; is that

1 correct?

2 A. Do I say those words? Stymied and Georgia
3 black votes exercising their full -- yes.

4 Q. Okay. Yeah. And let's talk about your
5 phrase "exercise their full political power." How
6 would exercising their full political power -- how
7 would that translate into the number of offices held
8 statewide by black Georgians?

9 A. Well, one of the things that has occurred,
10 I mean, this has to be -- can I elaborate instead of
11 just -- you didn't ask a yes-or-no question, did you?

12 Q. You can go ahead and elaborate, sir.

13 A. But there wasn't a yes-or-no question, was
14 there?

15 Q. No.

16 A. Okay. I just wanted to make sure.

17 Georgia is changing demographically so that
18 now, if I'm not mistaken, it is a majority-minority
19 state when you count minorities, not just black
20 people. Particularly black people have
21 extraordinarily increased compared to other states in
22 the former confederacy, particularly deep South
23 states.

24 So, you know, that is a tricky question
25 about statewide if it is just about if only black

1 people are going to vote for black people, which we
2 hope is not true. And we hope white people will not
3 only also vote for white people.

4 So I don't think there's an answer to
5 statewide except for the fact that we have seen that
6 the history and the context -- and this is where it's
7 important -- that every time that blacks have made
8 progress, particularly in legislation and in voting,
9 you had a backlash no matter -- it doesn't matter
10 about the political parties, about the people being
11 effected, and it has been made more difficult for
12 people to vote, so that you use challenge law,
13 purges, or if you use your term, maintaining the
14 voting list and things like that to make it so that
15 more of African-Americans and black people are unable
16 to vote. So that if you know that black people are
17 much less likely to have a car and driver's license
18 in inner city Atlanta, then that's where you say you
19 have to have a in-person voter ID. You have to go
20 get one. You have to take time off work. So you do
21 all these sorts of things.

22 That's what we mean by having the same
23 opportunity as non-black people that white people
24 have to exercise their political power. But it is
25 not white people hardly being challenged about their

1 voting or even to the extent that we use the criminal
2 justice system as a way to disfranchise people from
3 disfranchisement if the majority of the people there.
4 So you can go on and on and on. That's why I say it
5 affects the statewide offices.

6 Q. Okay. And so if black voters were able to
7 exercise their full political power, how many
8 statewide offices would be held by black Georgians?

9 A. I have no idea. This is totally
10 hypothetical. And, you know, I think it depends on
11 the candidates. But one of the things I have tried
12 to show is there's clearly a concern when blacks are
13 voting and voting in larger numbers to look and try
14 to find ways to make it more difficult for them to
15 exercise their full political power.

16 Q. What about in the Georgia State House? If
17 black voters in Georgia exercise their full political
18 power, how many seats in the Georgia State House
19 would be won by black candidates?

20 MR. JONES: Objection, calls for
21 speculation.

22 You may answer.

23 THE WITNESS: Again, it's very similar.
24 But what I am getting at is, if you don't reduce the
25 poll numbers or the voting boxes so it disadvantages

1 the black voter, then that gives them the equal
2 right, and it's not to be determined. I mean, the
3 world I want and I assume you want -- we all want --
4 is when it doesn't matter if you're black or white.
5 But the reality and why we have history -- and
6 history is one of the -- one of the things that the
7 court is supposed to look at and where I come in as
8 to present this history -- it is important in a
9 context to understand it. So I don't think there's a
10 quantitative answer to this.

11 The candidate, in fact, can be white that
12 African-Americans support, just as Herschel Walker
13 was black and whites supported that candidate, equal
14 whites.

15 Q. So what you're talking about is
16 black-preferred candidates could be white or black?

17 A. Yes.

18 Q. Well, then let me ask you the question:
19 How many seats in the Georgia State House today would
20 be occupied by black-preferred candidates if black
21 voters were able to exercise their full political
22 power?

23 MR. JONES: Objection, calls for
24 speculation.

25 You may answer.

1 THE WITNESS: Again, I really have no idea.
2 I would have to look and see if you want to do it on
3 the straight percentage basis of the population or
4 district population or that sort of thing. But I
5 don't think that's the kind of question that I'm
6 comfortable answering.

7 BY MS. LAROSS:

8 Q. So you're not comfortable -- or are you
9 comfortable answering a question concerning
10 percentage of population?

11 A. Well, I'm not sure it's about percentage of
12 population. Some of it is where people live or if
13 they can form districts, you know, they vote together
14 as a community of interest. There's so many
15 different questions, I think, that pin it down to
16 numbers and who people prefer voting for.

17 For whatever reason, I guess I don't
18 understand your line of reasoning for the question.
19 I think we can look and say that there's 30 percent
20 of the population and there's 30 percent of office
21 holders -- that's a rough gap. There's so many other
22 things that is go in there, like this report.

23 I tried to show that it is a complex issue
24 about voting and electoral politics. So I'm pretty
25 uncomfortable with a straight -- me saying it needs

1 to be this many to do something, and I'm not even
2 sure how you would do that.

3 BY MS. LAROSS:

4 Q. Okay. Fair enough. And is Exhibit A on --
5 that we looked at it before, but that starts on
6 Page 76, is that the entirety of the discriminatory
7 voting tactics that you identify?

8 MR. JONES: I'm going to object to that on
9 the basis of form. I think you called that
10 "Exhibit A." It's "Appendix A."

11 MS. LAROSS: Yeah. I'm sorry. I'm sorry.
12 I'll start over again. You're correct. I'm sure I
13 did.

14 THE WITNESS: I understood. I understood.

15 BY MS. LAROSS:

16 Q. Okay. Talking Appendix A.

17 A. I don't believe so. I think those are the
18 ones that were identified in 19 -- you know, in 1982
19 for renewing of the Voting Rights Act, so date and
20 time, so I think they're probably more.

21 MS. LAROSS: Okay. Dr. Burton, that's all
22 the questions I have at this time. I very much
23 appreciate your time today and being patient with my
24 having to show you exhibits on the share screen. So
25 thank you very much for your time. I don't know if

1 counsel has questions for you or not.

2 MR. JONES: Just a few short questions.

3 THE WITNESS: I do want to just say,
4 though, as a reciprocity, thank you for putting up
5 with me and my being a little tired. So thank you
6 for your thoughtfulness.

7 MS. LAROSS: You're most welcome, sir. And
8 it's not any problem. Thank you.

9 EXAMINATION

10 BY MR. JONES:

11 Q. Just a few short questions, Dr. Burton. So
12 you testified today that race and partisanship
13 generally cannot be separated today in Georgia; is
14 that correct?

15 MS. LAROSS: Objection as to form.

16 Go ahead, Dr. Burton.

17 THE WITNESS: Yes. I used the term that
18 those of you of culinary [sic] is a statistical term
19 that may not be appropriate. But, you know, it's
20 almost impossible to separate them, I think.

21 BY MR. JONES:

22 Q. And just to be clear, do you think that
23 race and partisanship can be separated in Georgia?

24 A. Not today.

25 Q. And why do you believe that's the case?

1 A. Because you have political parties. And
2 part of why I'm a historian, I believe, so strongly
3 is the social science literature is clear, the modern
4 Republican party in the South historically is by
5 using the Southern Strategy. And we talked about
6 symbols like the Confederate flag, so important,
7 about Zell Miller and Barnes and the development of
8 the Republican party. It became a party. It was not
9 always -- as I said, it was party of Lincoln. It
10 certainly, I think, was a party of Eisenhower and --
11 and Rockefeller as well. And there's still elements
12 of those who were particularly open and supportive of
13 black issues and black rights.

14 But particularly in the South, it was
15 determined by political strategy and strategy
16 followed to make the Democratic party to be
17 identified with the party of black people, and then
18 able to attract white Democrats and other whites into
19 the Republican party. And it's sort of continued
20 that effect so that now we have racial appeals that
21 are coded, mainly coded. As I said, 2016 is too
22 early to tell. But I think there has been a shift
23 back to -- to -- to other things at the time.

24 But the parties right now are identified by
25 race-based issues, so that one particular party is

1 seen as a party that supports those rights that
2 the -- well, the things we looked at in the NACP, for
3 instance, is a good example of issues that would be
4 supportive of what they think would be supporting
5 minorities and another opposes those.

6 Q. And which party, specifically, are you
7 referencing?

8 A. Well, I reference both parties. I
9 reference the Democratic party that identifies as a
10 party of supporting race-based issues, and the
11 Republican party has been identified as a party
12 opposing race-based issue.

13 Q. I believe you just mentioned -- you said
14 something about the Confederate flag and former
15 Georgia Governor Zell Miller; is that correct?

16 A. Yeah. That was -- that was the example I
17 said about -- just because we had talked about the
18 political scientist at Princeton who said symbols are
19 important. But that is in some way sort of important
20 with what happened in Georgia at the time of
21 Republican sentiency as the dominant political party.

22 Q. And could you just briefly recount --
23 briefly recount sort of the issue pertaining to the
24 Confederate flag.

25 A. Yeah. It was taking the Confederate flag

1 off the State House Capitol, and it's part of the
2 Georgia flag and that led to the election -- I'm
3 blanking of his name now. And then another
4 referendum on it -- maybe it wasn't a referendum,
5 maybe it was making a law again that -- you know, I
6 can get into the exact history of it, if you need me
7 to.

8 But that's the basic thing that sort of
9 brought about a lot of the issues that have sort of,
10 over time -- and this is what I try to do as a
11 historian is look at how one thing builds upon -- to
12 build upon another until you get where you are now.

13 Q. And when you were referring to the election
14 of the governor who preceded the referendum, are you
15 referring to former Georgia Sonny Perdue?

16 A. Yes, yes. Sorry. Yeah. I'm sorry. Yes.

17 Q. And is that -- was that the election in
18 which the Republican party gained control of Georgia
19 State government?

20 MS. LAROSS: Objection as to form.

21 Go ahead and answer.

22 THE WITNESS: Yes.

23 BY MR. JONES:

24 Q. And is that the -- would you consider that
25 coalition of people who supported Governor Perdue in

1 that election to be the same or to comprise the same
2 coalition today?

3 MS. LAROSS: Objection as to form.

4 THE WITNESS: It was the basis, you know.
5 Things develop and change. But, yes, it's the
6 development of the modern Republican party. I think
7 I used an example of how influential Newt Gingrich
8 was, for example, particularly in Georgia.

9 BY MR. JONES:

10 Q. And was that the same coalition of
11 Republicans controlling Georgia state government who
12 didn't pass the voter ID law that is referenced in
13 your report and that you discussed earlier today?

14 MS. LAROSS: Objection --

15 THE WITNESS: Yes.

16 MS. LAROSS: -- as to form.

17 BY MR. JONES:

18 Q. I'm sorry. Can you get your answer on the
19 record, Dr. Burton?

20 A. Yes.

21 Q. And is that the same coalition of
22 Republicans who controlled Georgia state government
23 who were responsible for passing SB 202?

24 MS. LAROSS: Objection as to form.

25 THE WITNESS: It is a coalition that has

1 evolved over time, but, yes.

2 BY MR. JONES:

3 Q. Does it matter in your view whether
4 State-sponsored discrimination against Black
5 Georgians had been orchestrated by members of one
6 political party or another?

7 MS. LAROSS: Objection as to form.

8 THE WITNESS: No.

9 BY MR. JONES:

10 Q. And why not?

11 A. Because --

12 MS. LAROSS: Same objection.

13 THE WITNESS: I'm sorry. I overspoke.

14 MS. LAROSS: That's okay. No. Go ahead.

15 I just need to raise the same objection. But go
16 ahead.

17 THE WITNESS: Can I speak?

18 MR. JONES: Can you just state the basis of
19 the form objection there?

20 MS. LAROSS: Because it's based on the
21 previous question and the form there presupposing and
22 made some assumptions that -- I don't know if they
23 are within the four corners of his report and as well
24 that the -- that those presuppositions render the
25 question leading.

1 MR. JONES: Okay.

2 BY MR. JONES:

3 Q. Do you believe, Dr. Burton, that
4 State-sponsored discrimination in Georgia has
5 occurred against black Georgians?

6 A. I do.

7 MS. LAROSS: Objection to form. Sorry. I
8 just want to interpose an objection there. Go ahead.

9 MR. JONES: And what's basis of your form
10 objection there, Diane?

11 MS. LAROSS: That it goes beyond the
12 parameters of his report.

13 MR. JONES: Okay. Do you believe we're
14 constrained to the content of the report?

15 MS. LAROSS: Yes.

16 MR. JONES: Okay.

17 BY MR. JONES:

18 Q. I'll just restate that question one more
19 time, Dr. Burton. Do you believe that there's been
20 State-sponsored discrimination against black
21 Georgians?

22 A. That's what my whole report is. It's from
23 the beginning until, I mean, until -- and to show
24 there are patterns that go back over time that we're
25 repeating right now.

1 Q. And has that discrimination been
2 orchestrated by one political party, you know, both
3 major political parties?

4 A. By -- it doesn't matter who orchestrated
5 it. Yes, both political parties have done it.

6 Q. And why does it not matter who's done it?

7 A. Because --

8 MS. LAROSS: Objection as to form.

9 THE WITNESS: -- obviously --

10 MS. LAROSS: Go ahead.

11 THE WITNESS: Should I go ahead?

12 MS. LAROSS: Yes.

13 THE WITNESS: What matters is it is how the
14 discrimination affects black voters or potential
15 black voters -- black citizens, I guess, would be the
16 way to frame it -- that they are the ones who are
17 receiving the brunt of the discriminatory voting
18 policies of the State of Georgia no matter who is in
19 charge or which political party is in charge of the
20 State.

21 BY MR. JONES:

22 Q. Great. I'm sorry. Did you have anything
23 else to say?

24 A. Are you talking to me or to Diane?

25 Q. To you, Dr. Burton. I just didn't know if

1 I interrupted you at the end.

2 A. No. I think I said it all in my report.
3 But now you guys make me think I got to go back and
4 read it one more time. I'll say this, that it was
5 not the report I thought it was.

6 MR. JONES: Thank you, Dr. Burton. Those
7 are all the questions that I have for you today.

8 MS. LAROSS: I know we talked about,
9 Dr. Burton, that you were going to take a moment and
10 look at when it was that you were first retained in
11 this case. And then I think you estimated the time
12 that you've worked on the case is approximately a
13 hundred hours. If you want to stand by that, that's
14 fine.

15 MR. JONES: I'm going to object because
16 this is not -- this is actually outside the scope of
17 my direct, so I don't think it's appropriate to raise
18 this issue now on recross.

19 But you can certainly state if you'd like,
20 Dr. Burton, and we'll take care of that later.

21 THE WITNESS: Can I ask, how soon do you
22 need this? I'm tired now, but -- I can do it now,
23 but I'm tired. Do you need me to get it to you,
24 like, the next hour or not?

25 MS. LAROSS: When -- when would you like to

1 get it to us?

2 THE WITNESS: Well, I'll try to do it now.
3 I would like to get through with it so I have this
4 behind me. But at the same time, my brain is not
5 exactly functioning as it should. I hope -- I hope
6 one day, you'll have the problem of old age, but.

7 MS. LAROSS: I'm getting closer than you
8 think.

9 THE WITNESS: I can tell it is affecting
10 me. I'll try to do it tonight for you. How would I
11 give it to you?

12 MS. LAROSS: You wouldn't. You wouldn't.
13 You would not. We're not going to be producing
14 documents. There have been no documents.

15 THE WITNESS: I mean, the fact I can give
16 when I started and how many hours if you want me to?

17 MR. JONES: No, we will not be producing
18 any documents, you know, to -- to respond to any
19 questions that have been posed today unless, you
20 know, we receive document requests. And I don't
21 believe that it would even be proper to issue them
22 given the scheduling order that's in place.

23 MS. LAROSS: Okay. So --

24 THE WITNESS: I do think I -- I do think I
25 totally overestimated when I said a hundred. I've

1 been thinking about it since, you know. I'm terrible
2 at that sort of thing.

3 MS. LAROSS: And I'm not asking for a
4 production of documents. What I'm asking for is just
5 information that he says he does have that he could
6 look up and give us an estimate or a number. So
7 that's what I'm asking. And he had -- he did say he
8 would look for it. So that's all I was following up
9 on.

10 And, no, I'm not looking for any -- you to
11 produce documents, Dr. Burton.

12 THE WITNESS: If I give you the
13 information, should I send it to my attorney and then
14 he'll give you it to? Is that what happens? I mean,
15 it will just be information, right? It wouldn't be a
16 document.

17 MS. LAROSS: Yes, correct. That's my
18 position. But if Mike disagrees, then we'll not
19 forward the information on to me. That's his
20 decision as -- you know, as legal counsel.

21 THE WITNESS: So my job, at this point, is
22 to, if I do -- I said I would do it, so I will do
23 it -- send it to Mike, right? And then that's
24 between you two?

25 MS. LAROSS: Yes.

1 MR. JONES: You can send me whatever you'd
2 like. But, you know, my position is that the purpose
3 of the deposition is to ask questions and to get
4 answers to those questions. And certainly, once
5 we -- you know, once this deposition comes to an end
6 today, no, we're not going to be providing additional
7 materials to substantiate things that were said.
8 That's generally what a document request is for, and
9 we haven't received any.

10 MS. LAROSS: Yes, and that's not actually
11 what a document request -- what it was. The request
12 was he just couldn't remember and was going to
13 double-check. But that's fine. You know, Mike,
14 obviously, you have made your objection clear. So we
15 can complete the deposition.

16 And, again, thank you, Dr. Burton. I
17 appreciate your time and your willingness to proceed
18 with us here.

19 THE VIDEOGRAPHER: The time is 6:00 p.m.
20 This concludes the videotaped deposition. We are off
21 video record.

22 (Deposition concluded at 6:00 p.m.)

23 (Signature reserved.)

24

25

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)23.



Tracy A. Williams, CCR B-2168, RPR

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2 Re: Orville Vernon Burton, Ph.D.

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I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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EXHIBIT 3



Pendergrass et al. v. Raffensperger, et al.

United States District Court for the Northern District of Georgia

Expert Report of Orville Vernon Burton, Ph.D.

A handwritten signature in black ink, reading "Orville Burton". The signature is written in a cursive style with a horizontal line underneath the name.

Dr. Orville Vernon Burton

January 2, 2022

I. STATEMENT OF INQUIRY

I have been asked by Plaintiffs' counsel to serve as an expert witness in litigation concerning Georgia redistricting. Plaintiffs' counsel asked me to analyze the history of voting-related discrimination in Georgia and to contextualize and put in historical perspective such discrimination.

I am being compensated at \$350 per hour for my work on this case. My compensation is not contingent on or affected by the substance of my opinions or the outcome of this case.

II. SUMMARY OF FINDINGS

Throughout Georgia's history, and through today, the state of Georgia has attempted, often successfully, to minimize the electoral influence of minority voters and particularly of Black Georgians. Voting rights in Georgia have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state, through both legislation and extralegal means, finds methods to disfranchise and reduce the influence of minority voters.

This history has its roots in the Reconstruction era. As soon as formerly enslaved men gained the right to vote in Georgia, both violence and wholesale changes in voter registration laws ensured they could not vote. By the early 20th century, the cumulative effects of the poll tax, literacy tests, property requirements, and the white primary had nearly removed all Black Georgians from voter registration lists. Around this time, Georgia also structured its elections to the disadvantage of Black Georgians. Specifically, Georgia's county unit system, introduced in 1917 until it was outlawed by the Supreme Court in the 1960s, gave a greater share of proportion of votes to small, rural, and much whiter counties, compared to larger and more urban counties, where the majority of Black Georgia voters lived.

When the Supreme Court eventually ruled against white-only primaries in the 1940s, Georgia worked to circumvent the ability of African American citizens to vote through registration schemes, voter challenges, voter purges, and more. And when the county-unit system fell, Georgia replaced them with at-large districts and majority vote requirements, systems designed to ensure that Black candidates could not be elected to office. Those systems were wildly effective: By the time of the Voting Rights Act (VRA), there were only three Black elected officials in Georgia.

Even after the VRA of 1965, Black voters and Black elected officials in Georgia continued to be systematically underrepresented. To neutralize Black voting strength, Georgia officials used an array of mechanisms to block, discourage, dilute, or otherwise prevent or limit Black voting in

Georgia. Between 1965-1980, nearly 30% of all of the Department of Justice (DOJ)'s objections to voting-related changes under Section 5 were attributable to Georgia alone.

For the next forty years, Georgia failed to go a redistricting cycle without objection from DOJ. Georgia's congressional reapportionment in 1971, for example, was the first held under the VRA's Section 5 preclearance rules, and it showed, as one expert has explained, "the extraordinary lengths to which the legislature was prepared to go to exclude Blacks from the congressional delegation." After DOJ refused to preclear the plan and required Georgia to implement a new congressional plan, Andrew Young became the only Black U.S. Congressman from Georgia and the first African American (along with Barbara Jordan in Texas) elected to the United States House of Representatives from the South in the twentieth century. In the redistricting cycle after the 1980 census, the Georgia General Assembly again tried to limit Black voting strength in Atlanta. DOJ again refused to preclear the plan; John Lewis eventually won the seat that was created under the revised congressional plan. When Congress did re-authorize the VRA in 1982, it cited systemic abuses by Georgia officials to evade Black voting rights.

Notably, the tactics that have plagued Georgia's history to dilute the power of Black Georgians have persisted into the modern era. These policies around voting have also come at a time of rapid demographic shifts in Georgia's electorate: Georgia is the only state in the Deep South where the percentage of the Black population has sharply increased over the past half century. In just the past ten years, much of it in the wake of *Shelby County v. Holder*, Georgia has slashed polling places by the hundreds (primarily in Black communities), increased voter purges and challenges against minority voters, launched state-sponsored investigations against minority voting groups, and more. In just the past year, Georgia enacted Senate Bill 202, a law DOJ could no longer stop under preclearance but which DOJ has alleged was passed with the intent and effect of limiting Black Georgians' voting power. While that suit remains to be litigated, the state has already begun replacing Black office holders in majority-Black counties and implementing policies to the disadvantage of Black Georgians.

The history of Georgia demonstrates a clear pattern, one that attempts (often successfully) to dilute and impair Black Georgians' voting power. Georgia's recently enacted congressional plan must be viewed in this context.

III. EXPERT CREDENTIALS

A. Professional Background and Qualifications

I received my undergraduate degree from Furman University in 1969 and my Ph.D. in American History from Princeton University in 1976 and have been researching and teaching American History at universities since 1971. Currently I am the Judge Matthew J. Perry, Jr. Distinguished Professor of History, and Professor of Pan-African Studies, Sociology and Anthropology, and Computer Science at Clemson University. From 2008 to 2010, I was the Burroughs Distinguished Professor of Southern History and Culture at Coastal Carolina University. I am emeritus University Distinguished Teacher/Scholar, Professor of History, African American Studies, and Sociology at the University of Illinois. I am a Senior Research Scientist at the National Center for Supercomputing Applications (NCSA) where I was Associate Director for Humanities and Social Sciences (2004-2010).

I am the author or editor of more than twenty books and two hundred articles, which can be found on my Curriculum Vitae attached to the end of this report. I have received a number of academic awards and honors. I was selected nationwide as the 1999 U.S. Research and Doctoral University Professor of the Year (presented by the Carnegie Foundation for the Advancement of Teaching and by the Council for Advancement and Support of Education). I have been recognized by my peers and was elected president of the Southern Historical Association and of the Agricultural History Society and elected to the Society of American Historians.

My most recent book, co-authored with civil rights attorney Armand Derfner, *Justice Deferred: Race and the Supreme Court* (2021), was deemed "authoritative" by Harvard University Law professor Randall Kennedy in his review in *The Nation*. *Justice Deferred* was featured as a session at the November 2021 annual meeting of the Social Science History Association in Philadelphia, and is scheduled in April 2022 for a session at the Midwestern Political Science Association meeting in Chicago. My book *The Age of Lincoln*, published in 2007, won the *Chicago Tribune* Heartland Literary Award for Nonfiction and was selected for Book of the Month Club, History Book Club, and Military Book Club. One reviewer proclaimed, "If the Civil War era was America's 'Iliad,' then historian Orville Vernon Burton is our latest Homer." The book was featured at sessions of the annual meetings of African American History and Life Association, the Social Science History Association, and the Southern Intellectual History Circle. Among the articles I have published are several related to the issues discussed in this report and at least two law review articles address these issues directly. I was one of ten historians selected to contribute to the *Presidential Inaugural Portfolio* (January 21, 2013) by the Joint Congressional Committee

on Inaugural Ceremonies. I edit two academic book series for the University of Virginia Press: *The American South* and *A Nation Divided: Studies in the Civil War Era*.

As a scholar, I have had a long relationship with Georgia. I was born in Royston and own the family farm in Madison County, Georgia. I am a recognized authority on the Georgia educator and theologian Dr. Benjamin E. Mays, who taught at Morehouse College from 1921 to 1923, was the longtime president of Morehouse College (1940-67), and the president of the Atlanta schoolboard in (1971-80). My book, *In My Father House Are Many Mansions: Family and Community in Edgefield, South Carolina* (1985) is an intense study of a large section of South Carolina that is only separated from Georgia by the Savannah River, and the area has strong ties to Georgia and especially to the city of Augusta, which I have studied since before my Ph.D.

I have researched in the archives of the University of Georgia, Emory University, and Morehouse College. I have served on the Ph.D. committees, and am serving on one currently, at the University of Georgia. I gave one of Georgia's annual humanities lectures in conjunction with the Governor's Awards for the Humanities. I also keynoted one of the annual meetings of the Georgia Historical Society. I am currently serving on the Advisory Committee for the Atlanta History Museum to develop new exhibits on the modern South. I have been invited to present papers and talks and participate in seminars at a number of Universities and colleges in the state of Georgia. I was invited and spoke at the Carter Center, and spoke at the University of Georgia, Augusta University, Payne College, Mercer University, Morehouse College, Georgia State University, Georgia Southern University, Fort Valley State University, Berry College, Emory University, the Georgia Institute of Technology, Young Harris College. I have also led a workshop on teaching history for Georgia public school teachers in Athens, Georgia.

B. Prior Testimony

Over the past forty years, I have been retained to serve as an expert witness and consultant in numerous voting rights cases by the Voting Section of the Civil Rights Division of the United States Department of Justice (DOJ), the Voting Rights Project of the Southern Regional Office of the American Civil Liberties Union, the Brennan Center, the NAACP, the Legal Defense Fund (LDF) of the NAACP, the Mexican American Legal Defense and Educational Fund, the California Rural Legal Association, the League of United Latin American Citizens, the Lawyers' Committee for Civil Rights Under Law, the Legal Services Corporation, the Southern Poverty Law Center, and other individuals and groups.

I have extensive experience in analyzing social and economic status, discrimination, and historical intent in voting rights cases, as well as group voting behavior. I have been qualified as an expert in the fields of districting, reapportionment, and racial voting patterns and behavior in elections in the United States. My testimony has been accepted by federal courts on both statistical analysis of racially polarized voting and socioeconomic analysis of the population, as well as on the history of discrimination and the discriminatory intent of laws. In 2014, for example, my testimony and my report was cited by the U.S. District Court for the Southern District of Texas in finding that the in-person Texas Voter ID Law was racially motivated and had a disparate effect on minorities. *See Veasey v. Perry*, 71 F.Supp.3d 627 (S.D. Tex. 2014). My testimony and reports have also been cited by the U.S. Department of Justice. In 2012, for example, my report was cited by the Justice Department as a reason for their objection to the in-person South Carolina Voter ID law. *See* Dkt. 118-1, *South Carolina v. United States*, No. 1:12-cv-00203-CKK-BMK-JDB (D.D.C. June 29, 2012).

To the best of my knowledge and memory, in the last five or so years I have given testimony and/or depositions in the following cases: (i) *League of Women Voters v. Lee*, No. 4:21-cv-186 (N.D. Fla.), (ii) *Community Success Initiative v. Moore*, No. 19-cv-15941 (N.C. Superior Court) (2020); (iii) *Perez v. Perry*, No. 5:11-CV-00360 (W.D. Tex.); (iv) *South Carolina v. United States*, No. 1:12-cv-00203 (D.D.C.); and (v) *Veasey v. Perry*, No. 2:13-CV-193 (S.D. Tex.). In addition, I testified on the VRA in a Congressional Briefing on December 4, 2015.

A detailed record of my professional qualifications is set forth in the attached Bio and Curriculum Vitae at Appendix B of this report.

C. Methodology and Sources

In this report, I have employed the standard methodology used by historians and other social scientists in investigating the adoption, operations, and maintenance of election laws. When analyzing political decision-making, historians examine the circumstantial and contextual evidence regarding the political, institutional, and social environment and context in which a decision is made, as well as direct evidence of the reasons asserted for the decision. We examine relevant scholarly studies, newspaper coverage of events, reports of local, state or federal governments, relevant court decisions, and the record in court cases, including expert reports, deposition and trial testimony, and statistical data. In writing this report, I have examined a wide range of sources. I have relied on primary and secondary sources available to me at the time of

writing this report. This report makes extensive use of primary sources, especially contemporary newspapers, which record debates and speeches, and help to provide a barometer of public sentiment. Where possible, I have consulted historical and current newspaper and news magazines accounts, social media, miscellaneous online resources, from multiple perspectives, and checked for accuracy. I have also read the records of both houses of the Georgia General Assembly, the journals and debates of the Georgia constitutional conventions, bill histories, and public statutes, and the on-line New Georgia Encyclopedia. I have studied census data, election returns, state and federal reports, official elections records. I have also used videos that have been recorded and preserved. I have also consulted secondary published works, as well as MA and Ph.D. theses, on politics and race relations in Georgia by other historians and social scientists, specifically, as well as in the South as a whole. This report features extensive footnotes to allow readers to assess the accuracy and credibility of my evidence and my conclusions.

IV. GEORGIA'S HISTORY OF RACIAL DISCRIMINATION IN VOTING

A. Introduction

Native Georgia historian, Dr. U. B. Phillips, argued in 1928 that the central theme of southern history was white racism. According to Phillips, white Southerners believed so strongly in white supremacy that they were determined the South “shall be and remain a white man’s country.”¹ Recently, Georgian and today’s most eminent historian of the American South, Spalding Distinguished Professor of History, emeritus at the University of Georgia, Dr. James C. Cobb, characterized Phillips’s argument as a “longstanding determination of whites to control people of color.” In Cobb’s own 2017 historical investigation of Georgia’s racial history, he concluded, “the historical and contemporary pervasiveness of this impulse [of white Georgians determination to control people of color] is difficult to deny.”² My own research has found the same underlying purpose. This report demonstrates that this white determination resonates even today and especially in the area of voting rights. Over generations, people of color in Georgia have been discriminated against, disfranchised, and their vote diluted in ingenious ways by those who control the franchise in state and local governments.

¹ Ulrich B. Phillips, “The Central Theme of Southern History,” *American Historical Review*, Volume 34, Issue 1 (Oct. 1928), 31; Orville Vernon Burton, “The South as ‘Other,’ The Southerner as ‘Stranger,’” *The Journal of Southern History*, Volume 79, Issue 1 (February 2013): 7-50.

² Declaration of Dr. James C. Cobb at 8, *NAACP v. Gwinnett County Board of Registrations and Elections*, Civil Action No. 1:16-cv-02852, (N.D. Ga. Aug. 9, 2017).

The courts have taken judicial notice of this long and continuing history of racial discrimination, particularly in the area of voting rights. In 1994, in *Brooks v. State Board of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994), the court found: “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race discrimination were apparent and conspicuous realities, the norm rather than the exception.” This discrimination continues to this day.

In *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (2003), Laughlin McDonald, an expert on the history of Georgia’s voting history, wrote:

“While Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War. It adopted virtually every one of the traditional ‘expedients’ to obstruct the exercise of the franchise by blacks, including literacy and understanding tests, the poll tax, felony disfranchisement laws, onerous residency requirements, cumbersome registration procedures, voter challenges and purges, the abolition of elective offices, the use of discriminatory redistricting and apportionment schemes, the expulsion of elected blacks from office, and the adoption of primary elections in which only whites were allowed to vote. And where these technically legal measures failed to work or were thought insufficient, the state was more than willing to resort to fraud and violence in order to smother black political participation and safeguard white supremacy.”³

As McDonald further explained, Georgia and other southern states “continued their opposition to equal voting rights into the twentieth century and after the passage of the Voting Rights Act in 1965.”⁴ Since McDonald published this assessment of Georgia’s history of voter discrimination and suppression in 2003, the state of Georgia has continued attempts to minimize the electoral influence of minority voters. Throughout the history of the state of Georgia, voting rights have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state has passed legislation, and often used extralegal means, to disfranchise minority voters. Georgia continues attempts to minimize the electoral influence of minority voters,

³ Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003), 2–3. The history of voter suppression and voter intimidation of Black voters from 1867 till the 1990s in Georgia is carefully documented by Laughlin McDonald, Michael B. Binford, and Ken Johnson in “Georgia,” the third chapter of *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, edited by Chandler Davidson and Bernard Grofman (Princeton, N.J.: Princeton University Press, 1994), 67-102.

⁴ McDonald, *A Voting Rights Odyssey*, 3.

cumulating most recently in the redistricting plans passed by the Georgia General Assembly and signed by the Governor. The first section of this report describes this extensive history from as far back as Reconstruction through the present day.

B. Reconstruction Era (End of the Civil War to 1870s)

From Georgia's beginning, Black Georgians were precluded from participating in nearly all of Georgia's political and civil life. Near the start of the Civil War, in 1860, the United States census recorded 41,080 owners of 462,000 enslaved persons. Except for Virginia, Georgia had more enslaved persons and more owners of slaves than any state. But free Blacks were denied citizenship and voting rights in antebellum Georgia too; under the 1777 Georgia Constitution, voting was limited to "male white inhabitants, of the age of twenty-one years." Before the start of the Civil War, in March 1861, Alexander H. Stephens, a Georgian and vice-president of the Confederacy, explained that the new government had as its cornerstone, "the great truth that the negro is not equal to the white man."⁵

Immediately following the Civil War was a period of opportunity for the newly freed population. But in opposition to any such new freedom were targeted policies against Black Georgians.⁶ With the defeat of the Confederacy, turmoil and uncertainty roiled the countryside. In June 1865, the 9,000 U.S. Army soldiers provided some measure of order and, where they were stationed, some protection for the newly freed enslaved people. With President Andrew Johnson's appointment of a provisional governor, white adult males who took a loyalty oath to the United States voted for delegates to write a new state constitution. While the new 1865 Georgia Constitution abolished slavery (as it was required to), the 1865 Constitution continued to limit the franchise to "free white male citizens of this State." Georgia's 1865 Constitution also excluded Black Georgians from holding office.⁷

⁵ McDonald, *A Voting Rights Odyssey*, 16.

⁶ Jeffrey Robert Young, "Slavery in Antebellum Georgia," *New Georgia Encyclopedia*, www.georgiaencyclopedia.org/articles/history-archaeology/slavery-antebellum-georgia/ (Oct. 20, 2003) (last edited Sep. 30, 2020); William Harris Bragg, "Reconstruction in Georgia," *New Georgia Encyclopedia*, <https://www.georgiaencyclopedia.org/articles/history-archaeology/reconstruction-in-georgia/> (Oct. 21, 2005) (last edited Sep. 30, 2020)

⁷ Numan V. Bartley, *The Creation of Modern Georgia* (Athens: University of Georgia Press, 1983), 46-47; Bragg, "Reconstruction in Georgia."

At the end of the Civil War, Confederate states seeking to rejoin the Union were required to ratify the 13th Amendment, which specifically outlawed slavery.⁸ In December 1865, the Georgia General Assembly ratified the 13th Amendment, and President Andrew Johnson returned governing the state to Georgia's elected officials. While the language of the prisoner exemption clause of the 13th Amendment was common to state constitutions and the Northwest Ordinance, historian Eric Foner notes that it "did not go unnoticed among white Southerners" that the 13th Amendment included a prisoner exemption clause.⁹ In November 1865, for instance, former Confederate general John T. Morgan pointed out in a speech in Georgia that the 13th Amendment did not prevent states from enacting laws that enabled "'judicial authorities' to consign to bondage blacks convicted of crime."¹⁰

Georgia, like other states in the former Confederacy, then enacted "Black Codes," although the state did not refer to them with that name. This legislation regulated and restricted the rights of African Americans through neutral-sounding regulations.¹¹ Although Black Georgians could not be legally subjected to penalties or punishment that did not apply to whites, it was local white officials and all white juries who decided whom would be punished and whom would not. While Black Georgians were granted some property rights, they could not serve on juries, or vote, or, significantly, testify against whites in court. Thus white Georgia officials were able to apply supposedly race neutral laws in a way that targeted the former enslaved people. Around this time, the Georgia legislature elected two prominent former Confederate officials, Alexander Stephens and Herschel Johnson, as Georgia's two U.S. Senators, which the North saw as a flagrant act of white Georgian defiance and led Congress to deny them a seat in Washington.

In reaction to the re-election of former Confederate leaders, to the Black Codes, and to increasing violence against newly freed Black people, *see infra* at 12-15, Georgia and nine other former Confederate States were placed under Federal military authority in 1867. As part of that

⁸ Orville Vernon Burton, *The Age of Lincoln* (New York: Hill and Wang, 2007), 269-70, 275, 298, 368; Orville Vernon Burton and Armand Derfner, *Justice Deferred: Race and the Supreme Court* (Harvard University Press, 2021), 37-38, 41, 44-45;

⁹ Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W. W. Norton, 2019), 47-48, 110.

¹⁰ Sidney Andrews, *The South Since the Civil War* (Boston: Houghton Mifflin, 1971), 323-24 (first published by Ticknor and Fields, 1866); John Richard Dennett, *The South as It Is, 1865- 1866* (Tuscaloosa: University of Alabama Press, 2010), 110.

¹¹ Bartley, *The Creation of Modern Georgia*, 17; Bragg, "Reconstruction in Georgia."

oversight, adult Black males were given the right to vote, and the following time period was one of tremendous opportunity for Black Georgians. After the passage of the Second and Third Reconstruction Acts by Congress in 1867, Black males voted for the first time, and federally appointed-registrars added 98,507 Black men to the voting lists, and required Georgia, as a requirement for readmission as a state, to write Black suffrage into the state constitution, elect a government based on the new Constitution, and ratify the Fourteenth Amendment.¹² In December 1867, a new constitutional convention, held in Atlanta, guaranteed Black citizenship, protection of the laws, and the right of male suffrage. In the next election in April 1868, held under the new constitution, twenty-five Black Georgians were elected to the State House, and three were elected to the State Senate.

Shortly afterward, white Georgians plotted to eliminate their power. Robert Toombs, a Democratic Party leader from Wilkes County, Georgia, exclaimed at a meeting of Georgia Democrats in July 1868 that it was an injustice that Georgia had been forced to accept “[Republican Governor Rufus] Bullock and nigger Government.”¹³ Toombs had served as secretary of state of the Confederacy and as a Confederate general, and he objected to Georgia’s Constitution of 1868, drafted during Reconstruction, because he believed it granted Black people too many rights of citizenship.¹⁴ That same year, *The Atlanta Constitution* also insisted that “the negro [was] incapable of self-government,” and that the “interest of the white race . . . should be held as paramount to all perilous experiments upon an alien race.”¹⁵

White Republicans also sought to eliminate Black suffrage. Samuel Bard, the editor of the *Atlanta Daily New Era*, a Republican newspaper, reassured his readers that “Reconstruction does not make negro suffrage a permanency,” and promised that “as soon as the State is once more in its place . . . they can amend their Constitution, disfranchise the negroes, and restore suffrage to the disfranchised whites.”¹⁶ By that December, Democrats, though in the minority, convinced a

¹² Bartley, *The Creation of Modern Georgia*, 48.

¹³ “Mammoth Democratic Mass Meeting,” *The Atlanta Constitution* (Atlanta, GA), July 24, 1868 (available online at <https://www.Newspapers.com/image/26848994>).

¹⁴ McDonald, *A Voting Rights Odyssey* at 35-36.

¹⁵ *The Atlanta Constitution* (Atlanta, GA), July 30, 1868 (available online at <https://www.Newspapers.com/image/26849014/>).

¹⁶ “Reconstruction and the Southern Whites,” *The Atlanta Daily New Era* (Atlanta, GA), January 4, 1868. For a scholarly overview of these post-Civil War and post-Reconstruction disfranchising measures, see McDonald, et al., “Georgia,” *Quiet Revolution in the South*, 67-70.

sufficient number of white Republicans to agree to expel all Black members of the Georgia legislature. By September 1868, just a few months after their election to office, all Black legislators were expelled from the General Assembly.¹⁷

This expulsion, along with the continuing high levels of racial violence directed at African Americans, convinced Congress to suspend Georgia's status as a state once again. After the passage of the Congressional Reorganization Act of 1869, in 1870 the Georgia Legislature returned the expelled Black legislators to their seats and expelled twenty-two members who had served as Confederate officers.¹⁸ That same year, Georgia passed the Akerman Law, prohibiting any person from challenging or hindering voters at the polls.¹⁹ White Georgians reacted with vengeance; between 1867 and 1872, "at least a quarter of the state's Black legislators were jailed, threatened, bribed, beaten or killed."²⁰ At the heart of Black voter suppression was both explicit and implicit white violence. As Sidney Andrews, a journalist from Massachusetts, wrote in 1865, "any man holding and openly advocating even moderately radical views on the negro question, stands an excellent chance, in many counties of Georgia and South Carolina, of being found dead some morning."²¹

In October 1868, the *Atlanta Daily New Era* reported that those "despairing Democracy are resorting to the grossest acts of violence with the view of intimidating the negro away from the polls."²² Historian Edmund Drago noted that, starting in the April 1868 election through the 1872 presidential election, Democrats resorted to murder, violence, fraud, and intimidation, and successfully decreased Republican votes. Black politicians were routinely threatened with violence, and some Black legislators were murdered by the Ku Klux Klan.²³

¹⁷ C. Mildred Thompson, *Reconstruction in Georgia: Economic, Social, Political, 1865-1872* (New York: Columbia University Press, 1915) 214; Edmund L. Drago, *Black Politicians and Reconstruction in Georgia: A Splendid Failure* (Baton Rouge: Louisiana State University Press, 1982), 148. There remains today a bronze sculpture on the Georgia Legislature's grounds entitled "Expelled Because of Color" to the 33 Black members of the Georgia Legislature who were expelled at that time.

¹⁸ Drago, *Black Politicians and Reconstruction in Georgia*, 55.

¹⁹ McDonald, *A Voting Rights Odyssey*, 17-25.

²⁰ McDonald, *A Voting Rights Odyssey*, 35.

²¹ Sidney Andrews, "The South Since the War," in Brooks D. Simpson, ed., *Reconstruction: Voices From America's First Great Struggle for Racial Equality* (New York: Library of America, 2018), 140

²² *The Atlanta Daily New Era* (Atlanta, GA), October 25, 1868.

²³ Drago, *Black Politicians and Reconstruction in Georgia*, 141-159.

One such instance of political violence happened in Camilla, Georgia in the fall of 1868. Just two months after the Georgia Assembly expelled its African American members, local officials from Mitchell County and the surrounding area organized a march from Albany to Camilla that would end at a local Republican rally. Several hundred Black Georgians joined the planned march along with several white Republicans, but upon entering the town, local whites hiding out in storefronts along the town square gunned them down, murdering at least a dozen and wounding another thirty. The result of the massacre was that white Democrats took control of southwest Georgia.²⁴

Klan violence against Black legislators around this time was severe. On October 29, 1869, a Black state legislator named Abram Colby from Greene County, Georgia was attacked by a group of sixty-five Klansmen, who dragged him into the woods and beat him for more than three hours before leaving him for dead. The mob explained that they were attacking Colby because he “had influence with the negroes of other counties.”²⁵ Colby later recounted before the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States that, as he was beaten with “sticks and with straps that had buckles on the ends of them,” his assailants had demanded that he promise to never “vote another damned Radical ticket.”²⁶ Colby testified that the same group of men had also attempted to bribe him to switch parties or resign from the legislature. Colby’s story, while horrific, was not unique—this kind of violence against Black Republicans was common between 1869 and 1872.²⁷

²⁴ See Lee W. Formwalt, “Camilla Massacre,” *New Georgia Encyclopedia*, <https://www.georgiaencyclopedia.org/articles/history-archaeology/camilla-massacre/> (Sep. 5, 2002) (last edited Aug 20, 2020) See also Lee Formwalt, “The Camilla Massacre of 1868: Racial Violence as Political Propaganda,” *The Georgia Historical Quarterly*, Vol. 71, No. 3 (Fall, 1987), 399-426.

²⁵ United States Congress, Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States, Luke P. Poland, John Scott, and Woodrow Wilson Collection, *Report of the Joint select committee appointed to inquire into the condition of affairs in the late insurrectionary states, so far as regards the execution of laws, and the safety of the lives and property of the citizens of the United States and Testimony taken* (Washington: U.S. Government Printing Office, 1872). Available online from the Library of Congress, <https://lccn.loc.gov/35031867>, 350-355.

²⁶ *Ibid.*

²⁷ *Ibid.*; see also Kidada E. Williams, “The Wounds that Cried Out: Reckoning with African Americans’ Testimonies of Trauma and Suffrage from Night Riding” in *The World the Civil War Made*, Gregory P. Downs and Kate Masur, eds. (Chapel Hill: University of North Carolina Press, 2015) 159-62, 170-72.

Some know the example of Georgian Tunis Campbell. Born in 1812, Tunis Campbell was a prominent African American abolitionist, who arrived in Georgia as an agent of the Freedman's Bureau. In the spring of 1865, he traveled to the Georgia coast and established a freedmen's settlement. When president Andrew Johnson began pardoning ex-Confederates and returning their land, Campbell purchased a large tract of land on St. Catherine's Island, allocated new settlements, and organized what became a self-governing community.²⁸ From there, Campbell moved into politics, becoming the head of the Republican Party in Georgia, a local registrar of voters, a delegate of Georgia's new Constitutional Convention, and eventually a state senator. He consulted with U.S. President Ulysses S. Grant and Senator Charles Sumner in 1871 on the need for voting rights for African Americans. He even headed up his own militia to protect him and his community from attacks from local bands of the Ku Klux Klan.²⁹ But local whites attempted to undermine him from the start. In 1867, while serving as a state registrar, he survived a poisoning attempt, which reportedly killed one of his colleagues. Two years later, when both Tunis and his son won seats in the Georgia General Assembly, white state officials voted to deny them their seats.

During this time of immense violence, intimidation, and chicanery, in 1871 white Democrats took control of the Georgia Legislature. With a majority of elected officials dedicated to white supremacy, the state of Georgia tightened its grip on would-be Black voters and especially on Black elected officials, reinstituting an annual poll tax to dissuade or outright prohibit impoverished Black Georgians from voting. The poll tax and continued violence was effective: in 1872 only four Blacks were elected to the Georgia Legislature, and only three in 1874.

In 1871, the state of Georgia also voted to remove the Republican Governor, thus basically ending political Reconstruction in Georgia. White Democrats then re-organized county elections and took control of local elections, thereby diminishing both the electoral power of Black voters, and negating Tunis Campbell's authority as the leading politician in McIntosh County. In 1874,

²⁸ Russell Duncan, "Tunis Campbell, 1812-1891," *New Georgia Encyclopedia*, <https://www.georgiaencyclopedia.org/articles/arts-culture/tunis-campbell-1812-1891/> (Dec. 10, 2004) (last modified Jul 15, 2020). See also Russell Duncan, *Freedom's Shore: Tunis Campbell and the Georgia Freedmen* (Athens: University of Georgia Press, 1986).

²⁹ *Ibid*; See also Richard Hogan, "Resisting Redemption: The Republican Vote in Georgia in 1876," *Social Science History*, Vol. 35, No. 2 (Summer 2011), 13-166. See also, Jess McHugh, "He fought for Black voting rights in Georgia. He was almost killed for it." *The Washington Post* (Oct. 25, 2020) available at: <https://www.washingtonpost.com/history/2020/10/25/voting-rights-tunis-campbell-civil-war/>

for example, Campbell won a seat in Georgia's House of Representatives, but Georgia's Democratically-controlled legislature threw out all of the votes from Darien, Georgia (Campbell's base of support) after learning that a local election judge was not a registered property holder.³⁰

Finally, in 1876, after years of trying to thwart Campbell's political career, white Democrats arrested Campbell on trumped up charges alleging malfeasance in office. A Georgia court sentenced him to a yearlong term in prison, which he served while working as a convict-lease laborer at a state labor camp. He left Georgia upon his release and published a memoir entitled *The Sufferings of the Rev. T. G. Campbell and his Family in Georgia* (1877).³¹

The story of Tunis Campbell illustrates the effectiveness of violence, intimidation, fraud, and the poll tax. After white Democrats seized control of the Georgia state legislature, they organized a new constitutional convention, chaired by the same Robert Toombs cited above, who had been the secretary of state of the Confederacy. The Georgia state constitution of 1877 implemented a cumulative poll tax for elections, so that potential voters had to pay all previous unpaid poll taxes before casting a ballot. The new 1877 Georgia constitution did not disfranchise its African American citizens in explicit words. But as historian Edmund Drago noted, however, new restrictions, combined with reinstated poll taxes,³² were "sufficient to render black participation in politics improbable."³³

C. The Populist & Early Progressive Movement Era (1880s to 1910s)

Populism emerged in the late 1880s as a challenge to the post-Reconstruction settlement in Georgia. Populism meant different things to different people in different places, but it usually meant an emphasis on "the people" rather than on "the elite." In Georgia, "the people" meant the white people and the maintenance of white supremacy and the avoidance of any challenges to one-party rule. Almost all Georgia white elites were committed to the maintenance of white supremacy. A leading political figure in Georgia in these years was not a Populist, but the Progressive Movement leader Henry Grady, who proclaimed the first of many "New Souths." Grady wrote in 1885 that racial inequality is "instinctive—deeper than prejudice or pride—and bred in the bone

³⁰ See Hogan, "Resisting Redemption," 147.

³¹ See Duncan, "Tunis Campbell." See also Tunis G. Campbell, *The Sufferings of the Rev. T. G. Campbell and his family, in Georgia* (Washington, D.C.: Enterprise Publishing Company, 1877). Available online at: <https://archive.org/details/sufferingsofrevt00camprich/page/9/mode/2up>

³² McDonald, *A Voting Rights Odyssey*, 35–37.

³³ Drago, *Black Politicians and Reconstruction in Georgia*, 156.

and blood” and therefore it was essential that “the white race must dominate forever in the South.”³⁴

Populism and the Farmer’s Alliance became a major factor in Georgia politics in the late 1880s. Most Georgia Populists were not racial egalitarians, but they did denounce race hatred and lynching, and promoted enlightened and mutual self-interest as an economic strategy. The Populists also called for financial reforms and regulation of corporations, particularly the railroads. Around this time, the *Atlanta Constitution* warned that maintaining white supremacy was more important than “all the financial reform in the world.”³⁵ In Georgia, progressivism was, in the words of historian John Dittmer, “conservative, elitist, and above all, racist.”³⁶

The populist career of Tom Watson, a Congressman and U.S. Senator from Georgia, demonstrated the difficulties of challenging white supremacy in the state. Watson was initially a supporter of the interracial alliance of the populist movement, advocating for the rights of African Americans to vote. But after 1900, in his Georgia congressional campaign, Watson refashioned himself as virulently racist (and anti-Semitic), a vehement defender of lynching, and ran on a platform of white supremacy.³⁷

Reacting to the interracial Populist Party challenge, Georgia then took additional steps to exclude Black voters from the franchise at the end of the 19th century. In 1890, the Georgia General Assembly passed a law ceding primary elections to party officials. The law kept political candidates from trying to appeal to Black voters or to build multiracial coalitions.³⁸ In 1898, the Georgia Democratic Party adopted the use of a statewide primary, a popular progressive reform to remove politics from “smoke-filled back rooms.” But the adoption in Georgia was not a reform

³⁴ Bartley, *The Creation of Modern Georgia*, 85–86.

³⁵ McDonald, *A Voting Rights Odyssey*, 37.

³⁶ John Dittmer, *Black Georgia in the Progressive Era, 1900–1920* (Urbana: University of Illinois, 1977), 214.

³⁷ Julia Mary Walsh, “‘Horny -Handed Sons of Toil’: Workers, Politics, and Religion in Augusta, Georgia, 1880—1910,” Ph.D. dissertation, University of Illinois, Urbana-Champaign, 1999). <https://www.ideals.illinois.edu/handle/2142/84756>; Donald A. Grant, *The Way it Was in the South: The Black Experience in Georgia* (1993; University of Georgia Press, 2001), 175–78; C. Vann Woodward, *Tom Watson: Agrarian Rebel* (1938; London: Oxford University Press, 1963); Barton Shaw, “Populist Party,” *New Georgia Encyclopedia*, (Sep. 3, 2002) (last modified Sep. 29, 2020), available at: <https://www.georgiaencyclopedia.org/articles/history-archaeology/populist-party/>

³⁸ Bartley, *The Creation of Modern Georgia*, 149; *GA History*, “White Primary Ends,” available at <http://gahistorysms.weebly.com/white-primary-ends.html>

to bring in more democracy. In 1900, following the lead of South Carolina, Georgia became the second state to bar Black voters from participating in the Democratic Party, under the pretense that the Democratic Party was a private “club” and only had to accept the patronage of its chosen “guests.” Because Georgia was a one-party Democratic state, this meant that Black Georgians had no effective role in the state’s politics. The white primary was one of the central ways Georgia evaded the Fifteenth Amendment.³⁹

Georgia’s government took another giant step towards evading the Fifteenth Amendment in 1908, when it passed the “Progressive era” Felder-Williams bill, which became known as the “Disenfranchising Act.” Because the Fifteenth Amendment barred outright elimination of Black voting, other methods were used to curb and discourage Black voting without explicitly banning it. Even so, many Georgians agreed with the influential former Georgia Populist Congressman Tom Watson, who in 1921 served in the U.S. Senate as a Democrat, and who previously exclaimed that “the hour has struck for the south to say that the fifteenth amendment is not law and will no longer be respected.”⁴⁰

While the 1908 Felder-Williams bill broadly disfranchised many Georgians, it included a series of exceptions that would continue to allow most white voters to vote, such as: (1) having served in either the U.S. or Confederate armies, (2) having descended from someone who had served in either the U.S. or Confederate armies, (3) owning forty acres of land or five hundred dollars’ worth of property in Georgia, (4) being able to write or to understand and explain any paragraph of the U.S. or Georgia Constitution, or (5) being “persons of good character who understand the duties and obligations of citizenship.”⁴¹ Overall, the Felder-Williams bill’s literacy test, plus a property requirement and a cumulative poll tax, eliminated almost all existing Black voters in Georgia (along with a fair number of poor white voters).

While the bill became known as the “Disenfranchising Act,” Georgia officials like “Progressive” Governor Hoke Smith justified the bill in the name of “honest elections in Georgia,” which could begin by “keeping registration lists above suspicion.”⁴² Pursuant to the this new law,

³⁹ McDonald, *A Voting Rights Odyssey*, 38.

⁴⁰ *Ibid*, 39–40

⁴¹ *Ibid*, 41.

⁴² Georgia General Assembly. House of Representatives, *Journal of the House of Representatives of the State of Georgia* (Atlanta, GA: Franklin-Turner Company, 1908), 11. Available online through the University of Georgia at: http://dlg.galileo.usg.edu/do:dlg_ggpd_y-ga-bl404-bl908.

a new registration of voters was held after its adoption by popular vote.⁴³ The technique of disfranchisement under the name of something else, such as honest elections, became more prevalent in Georgia and elsewhere. As the *Atlanta Journal* described the Felder-Williams bill, in passing it “Georgia takes her place among the enlightened and progressive states which have announced that the white man is to rule. She has declared in clear and specific terms for Anglo-Saxon supremacy and the integrity of the ballot.”⁴⁴

In the campaign to disfranchise Black voters, Georgia officials blamed a specter of voter fraud, echoing rhetoric from the violent overthrow of Reconstruction that Black residents did not deserve the rights of citizenship and the sanctity of the ballot. For Southern Progressives, as Governor Hoke Smith argued, “the first step toward purifying the ballot” was “the exclusion of the ignorant and purchasable negro.”⁴⁵ White Democrats blamed “fraudulent negro voters” for Republican rule during Reconstruction, and falsely claimed that denying African Americans the right to vote would eliminate fraud.⁴⁶ John M. Brown, the editor of *The Bainbridge Democrat*, argued that “the negro as a voter—by a very large majority—is purchasable,” and without disfranchisement a “minority of the whites” could control Black voters and take Georgia hostage.⁴⁷ The false claim that Black votes were fraudulent began during Reconstruction and continues as a trope today.⁴⁸

This pretext of voter fraud and purifying elections was used to justify the wholesale change in voter registration laws. In conjunction with the Felder-Williams bill which stripped Black men of their voter registrations, the Georgia General Assembly also approved a measure to amend the process for registering voters. The *Cartersville News* explained that this “pure election law” provided that “the registration list shall be placed on exhibit in the office of the clerk of the court, where all may inspect and may challenge those who are thought not worthy of a place.”⁴⁹ The bill

⁴³ *Journal of the House of Representatives of the State of Georgia*, 19.

⁴⁴ McDonald, *A Voting Rights Odyssey*, 42.

⁴⁵ “Hoke Smith Writes of Campaign Issues,” *The Atlanta Georgian and News* (Atlanta, GA), July 29, 1910.

⁴⁶ *The Atlanta Constitution* (Atlanta GA), June 16, 1898.

⁴⁷ “For Negro Disfranchisement,” *The Bainbridge Democrat* (Bainbridge, GA), September 3, 1908.

⁴⁸ *The Atlanta Constitution* (Atlanta GA), June 16, 1898.

⁴⁹ “Laws to Govern Georgia Elections,” *The Cartersville News* (Cartersville, GA), August 20, 1908.

stipulated that “the list from the voters’ books . . . shall be open to public inspection, and any citizen of the county shall be allowed to contest the right of registration of any person whose name appears upon the voters’ list.”⁵⁰ This “challenge” provision was incorporated into the 1910 Code of the State of Georgia, and remains largely unchanged to this day.⁵¹

The purpose of both the disfranchisement law and the registration law was clear: to disfranchise Black Georgians and keep it that way. Governor Smith explained that during his tenure that “we adopted a registration law” that “was intended to make complete and fully effective the disfranchisement law.”⁵² The *Atlanta Semi-Weekly Journal* wrote that “the registration provision of the pure election law which guarantees the ballot to every real white citizen of the state” ensures that “his ballot’s power shall not be vitiated by a corrupt and floating element,” i.e. the Black voter whose vote was “fraudulent.”⁵³

Together, these laws were devastatingly effective at eliminating both Black elected officials from seats of power and Black voters from the franchise. At this time of the Felder-Williams bill, the last remaining African American in the legislature was William H. Rogers, and he resigned after the passage of the bill. There would not be another Black Georgian in the legislature for half a century. In terms of voters, in 1908, 33,816 Black Georgians were registered to vote. Two years later, only 7,847 African Americans were registered, a decrease of more than 75 percent. In comparison, fewer than six percent of white voters were disfranchised by Georgia’s new election laws.⁵⁴ From 1920 to 1930, the combined Black vote total in Georgia never exceeded

⁵⁰ Part I, Title VII, *Acts and Resolutions of the General Assembly of the State of Georgia, 1908* (Atlanta, GA: Charles P. Byrd, 1908), 60. Available online through the Digital Library of Georgia at: https://dlg.usg.edu/record/dlg_zlgl_102041291

⁵¹ Originally codified as § 34-605, the 1908 voter challenge provision was preserved in substantially the same form through extensive reorganization and modernization of the Georgia Election code in 1964 and 1981, when it was re-codified at § 21-2-230. As observed in the editor’s note for the 2008 edition of *The Official Code of Georgia, Annotated* § 21-2-230, the voter challenge provision of the reorganized 1981 *Official Code of Georgia* was so similar to the 1933 *Code*’s voter challenge statute that any legal opinions decided under the older code would apply to § 21-2-230. See O.C.G.A. § 21-2-230 (2008).

⁵² “Hoke Smith Writes of Campaign Issues,” *The Atlanta Georgian and News* (Atlanta, GA), July 29, 1910

⁵³ “A Puerile Attack on a Great Law,” *The Atlanta Semi-Weekly Journal* (Atlanta, GA), June 24, 1910.

⁵⁴ *Ibid.*; see also McDonald, et al., “Georgia,” *Quiet Revolution in the South*, 67.

2,700.⁵⁵ In 1940, the total Black registration in Georgia was still only approximately 20,000, around two or three percent of eligible Black voters. If anything, this figure exaggerates Black voting strength, since until 1944 Black voters were barred from the only election that mattered, the Democratic Party primary.⁵⁶

D. Early 20th Century (1910s to 1940s)

During the early 20th century, beyond the poll tax and the white primary which had functionally removed nearly all Black Georgians from voter registration lists, Black Georgians also faced an array of state-sponsored discrimination across all aspects of life which led back to voting.⁵⁷ One was education. In *Cumming v. Richmond County School Board*, 175 U.S. 528 (1899), the U.S. Supreme Court not only accommodated prejudice but mandated Georgia's *de jure* segregation of white from Black students. The case arose after the school board in Augusta, Georgia, closed the only Black public high school in the county, while still operating its white high school. The Georgia Supreme Court approved of the closure and segregation, and so did the U.S. Supreme Court. And without support for schools for Black Georgians, not only could literacy tests be used to keep Black people from voting, but under-resourced education and segregated schools severely stalled economic and social mobility for Georgia's Black residents.⁵⁸

Like many southern states in the early years of the twentieth century, Georgia, on both a state and local level, instituted a vast array of Jim Crow legislation concerning restaurants, parks, zoos, chain gangs, and even prohibited white and Black Georgians from swearing on the same Bible in Atlanta courtrooms.⁵⁹ Georgia was also dead last among states in the percentage of Black

⁵⁵ McDonald, *A Voting Rights Odyssey*, 46.

⁵⁶ *Ibid*, 49; see also J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina, 1999), 201.

⁵⁷ The continuing effects of discrimination in Georgia hinder the ability of minority group members to participate effectively in the political process. Disparities in education, income, and health outcomes persist in Georgia, effectively disadvantaging many minority voters. Although another expert is providing census data and other statistics on racial disparities in socio-economic characteristics usually cited in connection with Senate Factor 5, I am providing a historical background here.

⁵⁸ Edward A. Hatfield, "Segregation," *New Georgia Encyclopedia*, (Jun 1, 2007) (last edited Jul 20, 2020) <http://www.georgiaencyclopedia.org/articles/history-archaeology/segregation>; Grant, *The Way it Was in the South*, 220. The Booker T. Washington High School in Atlanta opened in 1924; there were several denominational high schools for African Americans in Georgia.

⁵⁹ Bartley, *The Creation of Modern Georgia*, 148.

farmers who owned their own land, at only 12.8%.⁶⁰ Of course, under the Felder-Williams Disenfranchisement Act, ownership of land was one of the exceptions to access of the franchise.

In 1916, Georgia elected Hugh M. Dorsey as governor. While by no means a racial liberal, Dorsey did oppose the worst of Jim Crow. In his pamphlet entitled, *A Statement from Governor Hugh M. Dorsey as to the Negro in Georgia*, published before he left office in 1921, he highlighted the condition of Black Georgians at the time. He wrote, “in some counties the Negro is being driven out as though he were a wild beast. In others he is held a slave.” Governor Dorsey also wrote, in response to white mob violence against Black Georgians, that Georgia “stand[s] indicted before the world. If the conditions. . . should continue, both God and man would justly condemn Georgia more severely than man and God have condemned Belgium and Leopold for the Congo atrocities.”⁶¹ Governor Dorsey wrote the truth; violence and threat of violence was constant for many Black Georgians after white Democrats controlled the state in the late 19th and first part of the 20th century.

At the time, a common form of state-sanctioned violence was debt peonage and the convict lease system, which some have described as slavery by another name. In theory, the federal Debt Peonage Act of 1867 had outlawed the peonage system—the system of debt slavery—throughout the United States. But even up through the 1920s, the federal government investigated and prosecuted hundreds of employers across the South, including particularly in Georgia, for practicing peonage. But the federal government’s prosecutions rarely succeeded in punishing offending landowners. In the end, peonage was ended by outside social and economic forces. In 1915, the boll weevil was found on Georgia cotton plants and thereafter the insect devastated cotton agriculture. In addition to the boll weevil, the Great Depression and the mechanization of

⁶⁰ Adrienne Petty and Mark Schulz, “American Landowners and the Pursuit of the American Dream,” in *Lincoln’s Unfinished Work: The New Birth of Freedom from Generation to Generation*, Orville Vernon Burton and Peter Eisenstadt eds. (Baton Rouge: Louisiana State University, 2022), 133–171.

⁶¹ Hugh M. Dorsey, “A Statement from Governor Hugh M. Dorsey as to The Negro in Georgia,” 1921, <https://archive.org/details/statementfromgov00georrich> (from the California Digital Library in the Internet Archive)

(also available through the Library of Congress at <https://lcn.loc.gov/21027163>; cited in Cobb, Declaration, 22-23.

agriculture spelled the end of the cotton plantations of Georgia. Only the decline of the cotton plantations ended the practice of peonage.⁶²

Throughout World War I, Black Georgians also faced state-sanctioned racial discrimination. While the Selective Service Act of 1917 required all able-bodied men of a certain age to register for a national draft, regardless of race, it was local draft boards that were responsible for processing men registering for the draft and selecting which registrants would be inducted into military service.⁶³ In Fulton County, for example, the draft board “granted exemptions to 526 of the first 815 white registrants examined but turned down only six out of 202 black men.”⁶⁴ Statistically, across Fulton County, 65 percent of the whites but only three percent of Black Georgians were granted exemptions from military service. Fulton County’s racially discriminatory decisions were so flagrant that President Woodrow Wilson, who had lived in Augusta, Georgia as a boy, and who is today remembered as the president who segregated the federal government and endorsed the racist movie, *Birth of a Nation*, was forced to remove officials of the Fulton County Georgia Draft Board.

As Black Georgians were drafted into the war at a higher proportion than were whites, the NAACP established a chapter in Georgia in 1917, which was the same year that Georgia adopted the county-unit form of government. The county-unit system became the method for determining the winner of the Democratic primary, the only elections in the state that mattered.⁶⁵

⁶² Miller Handley Karnes, “Law, Labor, and Land in the Postbellum Cotton South: The Peonage Cases in Oglethorpe County, Georgia, 1865-1940,” Ph.D. dissertation, University of Illinois, Urbana-Champaign, 2000, <https://www.ideals.illinois.edu/handle/2142/84756> Cobb, Declaration, 19-22; Pete Daniel, *The Shadow of Slavery: Peonage in the South, 1901-1969* (New York: Oxford University Press, 1972), 110-131; Talitha L. Laflouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: UNC Press, 2016); Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (Chapel Hill: UNC Press, 2016).

⁶³ An Act To authorize the President to increase temporarily the Military Establishment of the United States,” U. S. Statutes at Large 40 (1917-1919), 65th Congress, <https://www.loc.gov/law/help/statutes-at-large/65thcongress/session-1/c65sch.pdf?locIdr=blogloc-ww1>.

⁶⁴ Arthur E Barbeau and Florette Henri, *The Unknown Soldiers: Black American Troops in World War I* (Philadelphia: Temple University Press, 1974), 35.

⁶⁵ Between 1872 and 1950, the Democratic candidate won every state-wide race. See McDonald, *A Voting Rights Odyssey* at 81.

Under the county-unit system, every county was given twice the number of unit votes as they had representatives in the state house. Each of Georgia's 159 counties had at least one seat in the legislature, and no county had more than three, no matter the county's population. The winner in each county's primary election received all that county's unit votes. This system gave a greater share of proportion of votes to small, rural, and much whiter counties, compared to larger and more urban counties, where the majority of still active Black voters lived.⁶⁶ As in many states prior to the *Baker v. Carr* decision, Georgia's election system had a strongly rural bias, but perhaps in no state was the rural tilt as pronounced as in Georgia, diluting the strength of Black voters across the state.

Against this backdrop, in 1919, the Atlanta chapter of the NAACP was wildly successful in its voter registration drive: in one month, they registered more than one thousand new Black voters, more than doubling the number of Black voters who participated in past elections. The success of the NAACP caused panic among leading white Georgians, and the following year, the Georgia General Assembly proposed legislation to prohibit Black Georgians from voting or from holding office.⁶⁷

As Black Georgians returned from the war, many white Georgians held a deep antipathy regarding Black WWI veterans, which led in part to the rise of the Ku Klux Klan in Georgia following the war. Historian Nancy MacLean wrote about this time, in which white Georgians engaged in racial violence after they saw Black men in military uniforms, "a symbol commanding respect."

After World War I, in Georgia and elsewhere, African Americans again continued to try to vote despite the *legal* means of disfranchisement which state officials had enacted, and whites again resorted to violence and intimidation to keep African Americans from the polls. For example, in Harris County, Georgia, African Americans planned to vote because President Franklin Roosevelt had a vacation home nearby, giving Black voters there a sense of federal protection.

⁶⁶ Scott E. Buchanan, "County Unit System," New Georgia Encyclopedia, (Apr 15, 2005) (last edited Aug 21, 2020), <http://www.georgiaencyclopedia.org/articles/counties-cities-neighborhoods/county-unit-system>.

⁶⁷ Nancy MacLean, *Behind the Mask of Chivalry: The Making of the Second Ku Klux Klan* (Athens: University of Georgia, 1994), 28.

Trying to eliminate that sense of protection, however, white Georgians in the area “dug some graves there by the courthouse... and burned some crosses at the crossroads.”⁶⁸

Of course, lynchings throughout the state served as a reminder for Black Georgians who challenged the status quo, and in practice lynchings did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared participate in the franchise. From 1875 to 1930, there were 462 lynchings in Georgia. Only the state of Mississippi had more reported lynchings. Graphic descriptions of the lynchings sent messages to Black Georgians to stay in line (and to whites that racial violence would go unprosecuted).⁶⁹

E. World War II Era (1940s to 1950s)

Up until the 1940s, Black Georgians had been successfully excluded from the franchise by many means, including the white primary. In 1944, however, in *Smith v. Allwright* the United States Supreme Court issued a landmark decision holding that political parties could not exclude Black Americans from participating in the party’s primary elections, thereby prohibiting the widely utilized white primary system.⁷⁰

One year later, in 1945, the United States District Court for the Middle District of Georgia ruled in *King v. Chapman* that the Muscogee County Democratic Executive Committee and the state of Georgia had violated the Fourteenth, Fifteenth, and Seventeenth Amendment rights of Primus E. King, a Black voter who had been turned away when he had attempted to vote in the Democratic Party’s primary in Columbus, Georgia that prior summer. The judge, in part relying on *Smith v. Allwright*, found that despite Georgia’s attempts to make party primaries “purely private affairs,” primary elections were “by a law an integral part of the election machinery.”⁷¹

These cases, along with Governor Ellis Arnall’s decision not to attempt to “circumvent the [*Allwright*] decision,” and organizing efforts by groups like the NAACP-backed All Citizens

⁶⁸Testimony of William Simpson, Trial Transcript at 115, 118, *Brown v. Reames*, Civ. No. 75-80-COL (M. D. Ga.)

⁶⁹W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana-Champaign: University of Illinois Press, 1993); McDonald, *A Voting Rights Odyssey*, 47; Georgia Lynching Project, circa 1875-1930,” <https://scholarblogs.emory.edu/galynchings/counties/>.

⁷⁰*Smith v. Allwright*, 321 U.S. 649 (1944).

⁷¹*King v. Chapman*, 62 F. Supp. 639 (M.D. Ga. 1945); *Chapman v. King*, 154 F.2d 460 (5th Cir. 1946); *Chapman v. King*, 327 U.S. 800 (1946); “Judge Rules Negroes May Vote,” *The Atlanta Constitution* (Atlanta, GA), October 13, 1945; “Georgia Reform Faces Test in Hot Primary,” *The Sunday News* (Lancaster, PA), July 14, 1946; Ronald H. Bayor, *Race and the Shaping of Twentieth-Century Atlanta* (Chapel Hill, NC: University of North Carolina Press, 1996), 34.

Registration Committee, led to a massive surge in voter registration in 1946, especially among Black voters.⁷² By the time of the 1946 primary, 118,387 Black Georgians had registered to vote. According to the *Jackson Progress-Argus* of Jackson, Georgia, this was “by all odds the largest registration in Georgia’s primary.”⁷³

This important progression in Black voter registration, however, was met by outright hostility from candidates in the 1946 Georgia gubernatorial election. For example, the race-baiting Democratic gubernatorial candidate in that election, Eugene Talmadge, campaigned on a platform of white supremacy and disfranchisement, threatening that if the “Democratic White Primary is not restored and preserved,” Black voters, “directed by influences outside of Georgia,” would control the Democratic Party.⁷⁴ This language echoed earlier comments from Georgia Governor Hoke-Smith which questioned the legitimacy of Black voters.⁷⁵ As Talmadge menacingly warned, “wise Negroes will stay away from white folks ballot boxes.” Similarly, Marvin Griffin, a candidate for Lieutenant Governor, made white supremacy a cornerstone of his campaign and announced that he believed “the White Democratic Party should be kept white in Georgia, and that carpet baggers and scalawags should not be permitted to take over this state and destroy southern racial traditions.”⁷⁶

As the 1946 gubernatorial race progressed, both Griffin’s and Talmadge’s campaigns relied on voter challenges to disfranchise Black voters and repudiate the recent court rulings.⁷⁷ In particular, Talmadge responded to *Smith v. Allwright* by mounting challenges to Black voter registration forms, claiming they were filled out incorrectly. Although the state law required specific reasons for voiding registrations, Talmadge’s crew cited spurious reasons. They created pre-filled forms with spaces to fill in the voter’s name and county, with reasons such as “the voter

⁷² McDonald, *A Voting Rights Odyssey*, 49.

⁷³ “Total Registration in Georgia May Reach Million When Deadline Falls,” *The Jackson Progress-Argus* (Jackson, GA), June 20, 1946; “118, 387 Qualified to Vote in Georgia Primary Election,” *The Plaindealer* (Kansas City, KS), July 19, 1946.

⁷⁴ “Georgia CAN Restore the Democratic White Primary and Retain County Unit System,” *The Forsyth County News* (Cumming, GA), July 4, 1946.

⁷⁵ “Our Last Chance for WHITE SUPREMACY,” *The Jackson Herald* (Jefferson, GA), July 11, 1946; “Georgia’s State Campaign To Be Red Hot Affair,” *The Gaffney Ledger* (Gaffney, SC), April 25, 1946.

⁷⁶ *The Houston Home Journal* (Perry, GA), May 30, 1946; Cobb, Declaration, 26.

⁷⁷ “Talmadge ‘Purge’ of Negro Voters Boggling Down in Georgia Counties,” *The Atlanta Constitution* (Atlanta, GA), July 12, 1946.

was not a resident, was not eighteen, was not a person of good character, could not read the English language,” and so forth.⁷⁸ These forms demonstrated that Talmadge’s campaign did not know the specific circumstances or qualifications of the voters they challenged; all they knew were that these voters “were black, and that was enough.”⁷⁹ Ultimately, the Talmadge machine challenged so many voters that when those voters arrived in person to prove their qualifications, “it proved impossible to process all of them on election day, and as a result the Black voters were allowed to cast their ballots.”⁸⁰ All in all, during this election, more than thirty counties challenged Black registrations, denying an estimated 15,000 to 25,000 Black registrants the right to vote.⁸¹

The state of Georgia also continued to attempt to circumvent the rule against white primaries. In 1947, the Georgia General Assembly introduced a bill that would allow the continuation of a white-only primary by divorcing primaries from state action entirely. Willis Smith, a representative from Carroll County, said “Georgia is in trouble with the Negroes unless this bill is passed.” Echoing historian U. B. Phillips’ central theme of Southern history, Smith continued “This is white man’s country, and we must keep it that way.”⁸²

But perhaps the most successful way Georgia continued to circumvent the rule against white primaries was the continuation of the county-unit system, which had both the purpose and the effect of containing the Black vote in the urban areas of the state. By the early 1940s, 43.5% of the state’s population (and 39.9% of the state’s white population) controlled 59% of the unit votes. The unit vote system was inherently non-majoritarian, and situations in which candidates won the popular vote but lost the unit vote were not uncommon. And it had the consequence that not only legislative races, but also state-wide races for governor and other executive branch positions had a rural and white bias. The main target of the county-unit system was Atlanta and Fulton County, where many Black Georgians lived. In 1946, each unit vote in Fulton County represented 14,092 votes, while each unit vote in Chattahooche County (a much whiter county) represented 132 voters. In other words, each voter in Chattahooche County had 120 times the weight of a Fulton County voter.

⁷⁸ McDonald, *A Voting Rights Odyssey*, 52-53.

⁷⁹ Ibid., 52-54.

⁸⁰ Ibid., 53.

⁸¹ Ibid., 52-54.

⁸² Ibid., 55. The bill was vetoed by Gov. Thompson who questioned its legality and believed it would invite fraud.

The county-unit system was a bulwark for the racist and die-hard white supremacist machine of long-time governor Eugene Talmadge. Talmadge claimed the enemies of the county unit system were a group of “liberals, white primary antagonists, and integrationists.” While five constitutional challenges were brought against the county-unit system in the 1940s and 1950s, none succeeded.⁸³

Following Governor Talmadge’s death, voter challenges to Black voters were used again during the 1948 Georgia gubernatorial special election. In Laurens County, Georgia, nearly three-quarters of 2,477 Black Georgians who were registered to vote were purged after they were unable to appear before the board of registrars, which a grand jury later found illegal.⁸⁴ Marion County also engaged in a similar, and unsuccessful purge that targeted Black voters, who were challenged because of their supposed “lack of education.”⁸⁵ While the efforts to purge Black voters in Laurens and Marion Counties failed, other counties pushed forward. The day before the Democratic primary election, 558 Black voters were purged from Spalding County’s registration list. Attempts to challenge and purge Black voters from voter registration lists also occurred in Lowndes, Schley, and Twiggs counties, and may have also taken place in Dougherty County as well. When attempts to challenge African American voters’ qualifications failed, other methods of voter intimidation were employed. For example, Augusta employed “slowdown” tactics in the 1948 elections that mirrored what Savannah did in 1946, whereby “several thousand blacks were unable to vote before the polls closed because of the delaying tactics of poll officials and were simply turned away.”⁸⁶ Election officials only allowed three Black voters to vote per hour, in the hopes that there would

⁸³ Ibid., 83.

⁸⁴ “Tax Collector of Laurens County Puts Negroes Back on List,” *The Butler Herald* (Butler, GA), June 17, 1948; “‘Vote Purge’ Evidence Said Insufficient,” *The Atlanta Constitution* (Atlanta, GA), August 29, 1948; “Twiggs Board Directed to Enroll Negroes,” *The Atlanta Constitution* (Atlanta, GA), August 14, 1948.

⁸⁵ “Marion County Striking 400 From Voting List,” *The Butler Herald* (Butler, GA), August 26, 1948; “Attempts to Intimidate Voters Told,” *The Alabama Tribune* (Montgomery, AL), September 17, 1948.

⁸⁶ “‘Vote Purge’ Evidence Said Insufficient,” *The Atlanta Constitution* (Atlanta, GA), August 29, 1948; “Twiggs Board Directed to Enroll Negroes,” *The Atlanta Constitution* (Atlanta, GA), August 14, 1948; “Attempts to Intimidate Voters Told,” *The Alabama Tribune* (Montgomery, AL), September 17, 1948; “Pre-Vote Klan Threats Substitute for Poll Purge of ‘46 – Thompson,” *The Atlanta Constitution* (Atlanta, GA), March 25, 1948.

“be plenty of Negroes standing in line when the polls close.”⁸⁷ Furthermore, in 1949 the state government (unsuccessfully) attempted to force a general re-registration, “with the obvious aim of ridding the rolls of Negro voters.”⁸⁸

Along with strategic election-related tactics, around this time there was also an upsurge of Klan activity and violence directed at Black voters.⁸⁹ In the days before the 1948 Democratic primary election, the Ku Klux Klan successfully suppressed Black voting in Lowndes County by burning crosses and threatening African American voters.⁹⁰ Acting Governor M.E. Thompson alleged that “intimidation of voters by the Ku Klux Klan is being employed as a substitute for the purge campaign of 1946.”⁹¹ Threats of the Ku Klux Klan, extralegal violence, and all white juries within the legal system made these tactics effective. For example, a Black minister and teacher in Bleckley County went to the courthouse to register to vote in the 1955 election, but the chief of police told him “[n]o niggers register in this courthouse.” The next year, someone burned a cross in his yard. He did not attempt to register again until 1964.⁹²

After the passage of the 1957 Civil Rights Act, Georgia Governor Marvin Griffin—the candidate whose campaign had filed thousands of spurious challenges against Black voters in 1946—formed a state election law revision committee, which introduced new voter requirements that were “aimed primarily . . . at curbing potential Negro voting strength in Georgia.”⁹³ Voters

⁸⁷ “Attempts to Intimidate Voters Told,” *The Alabama Tribune* (Montgomery, AL), September 17, 1948; “Pre-Vote Klan Threats Substitute for Poll Purge of ‘46 – Thompson,” *The Atlanta Constitution* (Atlanta, GA), March 25, 1948.

⁸⁸ William M. Bates, “Require High School For Voters, Cook Asks,” *The Atlanta Constitution* (Atlanta, GA), November 20, 1957.

⁸⁹ McDonald, *A Voting Rights Odyssey*, 52–54.

⁹⁰ Patrick Novotny, *This Georgia Rising: Education, Civil Rights, and the Politics of Change in Georgia in the 1940s* (Macon: Mercer University Press, 2008), 270; “Attempts to Intimidate Voters Told,” *The Alabama Tribune*; “Pre-Vote Klan Threats Substitute for Poll Purge of ‘46 – Thompson,” *The Atlanta Constitution*.

⁹¹ Novotny, *This Georgia Rising*, 270; “Attempts to Intimidate Voters Told,” *The Alabama Tribune*; “Pre-Vote Klan Threats Substitute for Poll Purge of ‘46 – Thompson,” *The Atlanta Constitution*.

⁹² Even with the VRA, Bleckley County did not see significant increase in Black registration because of the legacy of terror associated with attempting to register at the courthouse. In 1984, Bleckley County allowed satellite registration, and Black registration did increase. See McDonald, *A Voting Rights Odyssey*, 56.

⁹³ William M. Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting,” *The Atlanta Constitution* (Atlanta, GA), November 22, 1957; “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House,” *The Atlanta Constitution* (Atlanta, GA), February 13, 1958.

could be disqualified for offenses like “moonshine liquor law violations, adultery and child abandonment,” and the law would also impose a new, more stringent voter qualification test.⁹⁴ Rather than forcing a re-registration to ensure that all 1.2 million registered voters in the state could meet the new requirements, the new requirements “could be invoked against a registered voter upon challenge by another voter.”⁹⁵ Griffin’s insistence that the legislation include a \$1.00 poll tax (which had been previously eliminated in Georgia in 1945) and bi-annual re-registration ultimately led to the bill’s demise in the General Assembly.⁹⁶ From poll tax to registration schemes, the purpose in tweaking voting requirements was difficult to miss; the intent was to keep the numbers of eligible Black voters as low as possible, and to keep the requirements for voting accessible to the more marginal white voters.

F. Pre-Voting Rights Act (Early 1960s)

By the end of the 1950 and the start of the 1960s, Georgia’s malapportioned legislative districts continued to have the obvious effect of favoring rural white voters over urban Black voters. In 1960, even though the eight counties with the largest population had 41 percent of the state’s population, they had only 12 percent of the members in the Georgia House of Representatives.⁹⁷

Georgia’s congressional districts were also grossly malapportioned around this time. In 1957, Georgia’s Fifth District, consisting of Fulton, DeKalb, and Rockdale Counties, was the second most populous congressional district in the United States, with an estimated population of 782,800—about twice the size of the average congressional district. At the same time, Georgia’s Ninth District, a much whiter district in the northeast part of the state, had an estimated population of 238,790. By 1960, Fulton County was the most underrepresented county in its state legislature of any county in the United States. DeKalb County was in third place.⁹⁸ Over time, the explosive

⁹⁴ Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting”; Bates, “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House.”

⁹⁵ Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting.”

⁹⁶ Bates, “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House.”

⁹⁷ McDonald, *A Voting Rights Odyssey*, 80–84; V.O. Key, Jr., *Southern Politics in the State and Nation* (Knoxville: University of Tennessee Press, 1984), 117–124; J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven: Yale University Press, 1974), 203–204.

⁹⁸ “What About Justice For the Fifth District?,” *Atlanta Constitution*, 23 October 1952; Bruce Galphin, “Only State Legislature Can Effectuate Reapportionment,” 28 November 1957; “We

growth of Atlanta, and the consequent increase in Black voters, put increased pressure on the county-unit system. Although still badly disproportionate in comparison to registration for whites, growing Black voting strength in Georgia was increasingly able to make a difference in close elections, something the state's segregationists were acutely aware of.

Defending the county-unit system became an issue on which die-hard segregationists would take their stand. For Peter Zack Greer, elected lieutenant-governor of Georgia in 1962, "left-wing radicals and Pinks," were intent on unleashing the "bloc Negro vote in Atlanta."⁹⁹ Even more moderate segregationists expressed similar sentiments. Carl Sanders, elected Georgia's governor in 1962, stated that eliminating the county-unit system would leave state government in the hands of "pressure groups or bloc votes"—the leading white Georgia euphemism for Black voters—and would keep "liberals and radicals from taking over."¹⁰⁰

In an attempt to prevent the overturning of the county-unit system, in 1962, the Georgia General Assembly made some modifications to increase the representation of Fulton County in the state senate from three to seven. At the same time, however, they allowed the creation of multi-member, at-large districts so that the Black voters in a given county would always be outvoted, and Fulton County's state senators would be elected on an at-large basis. After this system was ruled unlawful, there were two majority-minority districts in Fulton County, one of which elected Leroy Johnson, the first African American to serve in a southern state legislature in many decades.¹⁰¹

Beginning in 1963, the United States Supreme Court fully outlawed Georgia's county-unit system in *Gray v. Sanders*, 372 U.S. 368 (1963), culminating in *Wesberry v. Sanders*, 374 U.S. 802 (1963), another case arising from Georgia in which the United States Supreme Court mandated equal apportionment for the upper houses of state legislatures and for congressional districts. As one Georgia scholar wrote, "[these cases were] not a racial discrimination case[s], but its concept that voting districts must be composed of substantially equal populations was to prove one of the keys that opened the door to minority officeholding in Georgia."¹⁰²

Challenge Congressman Jim Davis to Follow Seventh District's Example," *Atlanta Constitution*, 30 March, 1962.

⁹⁹ McDonald, *A Voting Rights Odyssey*, 82.

¹⁰⁰ *Ibid.*, 82-83.

¹⁰¹ *Ibid.*, 86-89.

¹⁰² *Ibid.*, 80, 89-90.

In an attempt to subvert the Court's decisions and to curb Black voting strength and electoral victories, in 1963, the all-white Election Laws Study Committee of the Georgia General Assembly proposed new voting rules for the state of Georgia. The goal of the Committee was to "replace[] the invalid county unit law" with rules that could operate to the same effect.¹⁰³ These rules included, most notably, a majority-vote rule to elect any candidate to local, state, and federal office in both primary and general elections, thus requiring a runoff if any candidate received only a plurality of the vote. The bill's sponsor, Representative Denmark Groover (a self-described "segregationist"), explained such a requirement would reduce the influence of the "Negro bloc vote."¹⁰⁴ And indeed, in practice, a majority-vote rule ensures that a Black candidate cannot be elected where Black voters are a minority of the population and voting is racially polarized, even when the white vote is split.¹⁰⁵ Groover's majority-vote law was ultimately enacted by the Georgia General Assembly in 1964, and to this day Georgia requires a majority vote for office.¹⁰⁶

In addition to this majority vote requirement, in 1964 the Georgia legislature passed a new voting law with a literacy requirement, a strengthened voter understanding test, a prohibition on voter assistance except in cases of physical disability, a numbered-post provision (a specific method of at-large voting), and an anti-facsimile ballot provision, prohibiting voters from taking sample ballots or lists of candidates into the voting booth, to prevent, as one of the leaders in the Senate said, "bloc voting" by Black Georgians.¹⁰⁷

That same year, Georgia's election laws underwent a substantial revision as the General Assembly passed "a simplified and comprehensive code of election laws" in response to criticism that the state's election law was disorganized and disjointed.¹⁰⁸ The reorganization of Georgia's

¹⁰³ McDonald, *A Voting Rights Odyssey*, 91.

¹⁰⁴ Kousser, *Colorblind Injustice*, 198; McDonald, *A Voting Rights Odyssey*, 92.

¹⁰⁵ See, e.g., *City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982) (requiring removal of a majority vote rule for preclearance under Section 5, recognizing that "[i]n the context of racial bloc voting prevalent in [a city in which African Americans constituted a minority of the population], the [majority-vote] rule would permanently foreclose a black candidate from being elected").

¹⁰⁶ See Ga. Code Ann. § 21-2-501.

¹⁰⁷ McDonald, *A Voting Rights Odyssey*, 91–103; Kousser, *Colorblind Injustice*, 105, 232–236.

¹⁰⁸ As Assistant Attorney General Paul Rodgers, a member of the Election Laws Study Committee, argued, "it's the biggest mess you've ever seen." "New Election Code an Attempt to Simplify 'Hodgepodge' Laws," *The Atlanta Constitution* (Atlanta, GA), May 4, 1964. Lieutenant Governor Peter Zack Geer complained that the state's election laws were "strewn helter-skelter through the

election laws introduced some important changes, such as the creation of the State Election Board and the standardization of calendars for county and state primaries. But Georgia maintained many other discriminatory laws in the 1964 revisions. For example, the state kept its voter challenge provision. The new election law code stipulated that “any elector of the county shall be allowed to challenge the right of registration of any person whose name appears on the electors list,” and outlined the process for contesting another citizen’s right to vote.¹⁰⁹ This voter challenge statute would end up surviving the modernization, recodification, and reorganization of the Georgia Code of Laws in 1981 and a subsequent update to provide for Georgia’s participation in the national “motor voter” program in 1994.¹¹⁰ In fact, as the editor’s note for the 2008 edition of *The Official Code of Georgia, Annotated* § 21-2-230 observed, the voter challenge provision of the reorganized 1981 *Official Code of Georgia* is so similar to the 1933 *Code*’s voter challenge statute that any legal opinions decided under the older code would also apply to § 21-2-230.¹¹¹

G. Voting Rights Act Era (1960s and 1970s)

On the eve of the enactment of the VRA in 1965, most Black Georgians’ voting power had been made ineffective by voting rules which were neutral in their language, but functionally discriminatory in effect. By the time of the VRA, while Black Georgians were 34 percent of the voting age population, there were only three elected Black officials, and those officials had been elected in just the previous three years before the enactment of the Voting Rights Act. Overall, less than a third of the eligible Black population was registered in the state, and in Georgia’s twenty-three counties with a Black voting age majority, only 16 percent of African Americans were registered, compared to 89 percent of whites.¹¹² “This exclusion from the normal political process

Code of Georgia,” and expressed his belief that the new code would be “surrounded with and imbedded in due process of law and judicial standards.” “Lieutenant Governor Geer Favors New Election Law Code,” *The Forsyth County News* (Cumming, GA), May 27, 1964.

¹⁰⁹ *Journal of the Senate of the State of Georgia at the Extraordinary Session*, 1964 (Hapeville, GA: Longino and Porter, Inc., 1964), 83.

¹¹⁰ “Revising Outdated State Laws a Painstaking Job,” *The Atlanta Constitution* (Atlanta, GA), July 12, 1981; “Legislators Give Update of ‘94 General Assembly Session,” *Forsyth County News* (Cumming, GA), April 6, 1994.

¹¹¹ O.C.G.A. § 21-2-230 (2008)

¹¹² U.S. Commission on Civil Rights, *Political Participation: A Study of the Participation by Negroes in the Electoral and Political Processes in Ten Southern States since the Passage of the Voting Rights Act of 1965* (Washington, D.C.: U.S. Government Printing Office, 1968), 216-17, 232-39.

was not fortuitous; it was the result of two centuries of deliberate and systematic discrimination by the state against its minority population.”¹¹³

The Voting Rights Act of 1965 would ultimately change the trajectory of voting rights for Black Georgians. In the award-winning book, *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965–1990*, Laughlin McDonald, Michael B. Binford, and Ken Johnson documented carefully the impact and opening of the franchise to African Americans in Georgia from 1965 onwards.¹¹⁴ Beyond statistical improvements in Black registration and elected officials, the VRA affected the tone of the political system itself. In 1974, Andrew Young, a civil rights activist with the Southern Christian Leadership Conference (SCLC) who would later be elected mayor of Atlanta in 1982, addressed the Association of Southern Black Mayors: “It used to be that Southern politics was just ‘nigger’ politics: who could ‘outnigger’ the other. Then you registered 10 to 15 percent in the community and folk would start saying ‘Nigra.’” After registration numbers went to 35 to 40 percent, “it’s amazing how quick they learned how to say ‘Nee-grow.’” And when registration increased to 70 percent of the Black votes registered in the South, “everybody’s proud to be associated with their black brothers and sisters.”¹¹⁵

But the VRA did not translate to instant success in Black voter registration numbers. Even eleven years after the VRA, Black voters in Georgia were systematically underrepresented as a percentage of registered voters.¹¹⁶ As the table below demonstrates, Black registration trailed white registration significantly even in 1976, particularly in the state of Georgia.¹¹⁷

¹¹³ McDonald, et. al., “Georgia,” in *Quiet Revolution in the South*, 67-102, 409-413, quotation on p. 67.

¹¹⁴ *Id.*

¹¹⁵ Jack Bass and Walter DeVries, *The Transformation of Southern Politics: Social Change and Political Consequence since 1945* (New York: Basic Books, 1976), 47; David S. Broder, *Changing of the Guard: Power and Leadership in America* (New York: Simon and Schuster, 1980), 367.

¹¹⁶ Campbell Gibson and Kay Jung, *Historical Census Statistics on Population Totals by Race* (Washington, DC: US Bureau of Census, 2002); McDonald, et al., “Georgia,” in *Quiet Revolution in the South*, 102.

¹¹⁷ Laughlin McDonald, *Voting Rights in the South: Ten Years of Challenging Continuing Discrimination Against Minorities* (Atlanta: ACLU, Southern Regional Office, 1982).

Table 1. States Covered in Their Entirety by VRA Section 5 Preclearance Provisions in which the largest non-White group are African Americans, Arranged by Decreasing Differential of White and Black Voting Registration

State	% whites registered to vote, 1976	% Blacks registered to vote, 1976	% Difference
Alabama	75.4	58.1	17.3
Georgia	73.2	56.3	16.9
Louisiana	78.8	63.9	14.9
Mississippi	77.7	67.4	10.3
South Carolina	64.1	60.6	3.5
Texas	69.4	64.0	5.5
Virginia	67.0	60.7	6.3

Source: McDonald, *Voting Rights in the South*, 38

The historical record also shows that most Georgia officials continued their hostility to Black voters and the VRA itself, especially the § 5 preclearance provisions to which they were now subject. As the VRA and other civil rights legislation gathered strength after the mid-1960s, white Georgia officials went to greater lengths to invent conditions and pretexts for challenging and neutralizing Black voting strength, both in the substance in their changes, and by refusing to seek preclearance at all.¹¹⁸

One of the most common tactics of preventing Black voters from electing candidates of choice was the change from voting by district to at-large voting. The effect of at-large voting, particularly in a jurisdiction with less than a majority of Black voters, is to ensure the white population can elect all the representatives to that district. In 1964, before the VRA, Calhoun County (63% Black), Clay (61% Black), Dooly (50% Black), Early (45% Black), Morgan (45% Black), Newton (31% Black), and Miller (28% Black) had district elections for county government. But after the VRA, all adopted at-large voting, directly violating § 5 preclearance

¹¹⁸ For examples of white Georgians' hostility to the Voting Rights Act and to African American attempts at voting, see especially the testimonies of Julian Bond and Laughlin McDonald in Extension of the Voting Rights Act: hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, House of Representatives, 97th Congress, 1st sess., May 6, 7, 13, 19, 20, 27, 28, June 3, 5, 10, 12, 16, 17, 18, 23, 24, 25, and July 13, 1981).

rules. Between 1976 and 1980, all of these counties were sued, and now have district voting for county elections.¹¹⁹

In 1964, as previously discussed, in response to growing African American electoral strength, the Georgia General Assembly had adopted a law that required many offices to be won by a majority vote and not a mere plurality. At the time, the majority of Georgia's 159 counties had operated under a plurality system. The majority vote system was adopted to prevent a Black candidate being "first past the post" against a divided white vote.¹²⁰ Local jurisdictions also made the change to majority voting after the VRA. The city of Moultrie, Georgia, for example, adopted a majority voting procedure for city offices in 1965. All Black candidates were defeated until a § 5 suit forced the city to adopt districts in 1977. The city of Americus adopted a majority vote in 1968. Until a successful § 5 suit in 1977, two Black candidates who won by plurality in their Americus election races were defeated in the run-off election with a majority requirement. Around this time, Covington and St. Mary's, both cities with substantial Black populations, adopted a majority vote without seeking preclearance for doing so.¹²¹ Overall, between 1975 and 1982, the U.S. Attorney-General brought 66 suits against majority voting requirements, many of them in Georgia. Many of these Georgia-specific instances can be found in Appendix A, located at the end of this report.

Numbered posts (another method of at-large voting) were another way to discriminate against Black voters and Black candidates. When, for instance, there were three open positions for county commissioner, rather than electing the three candidates with the highest vote totals, candidates had to run specifically for seats No. 1, No. 2, and No. 3, diminishing the chances of electing Black candidates. From 1975 to 1982, the Attorney-General objected to 60 submissions involving numbered posts, many again from Georgia. Dawson, Kingsland, and St. Mary's all adopted numbered posts elections for the city council in the 1960s and 1970s, none of them applying for preclearance in doing so.¹²²

Staggered voting was another technique used to limit Black voting strength, by limiting the numbers of open seats at any one time and making it more difficult for Black candidates to get

¹¹⁹ McDonald, *Voting Rights in the South*, 40–43

¹²⁰ McDonald, *A Voting Rights Odyssey*, 92–102; Kousser, *Colorblind Injustice*, 197–242.

¹²¹ McDonald, *Voting Rights in the South*, 43–46

¹²² *Ibid.* at 50–51.

elected, particularly if combined with at-large voting schemes. Peach County, for example, staggered the election of its county commissioners starting in 1968, and the city of Kingsland did the same in 1976 without seeking preclearance.¹²³

Annexations of territory by cities to decrease the percentage of the Black population were, through 1982, the most common type of suit brought by the DOJ. The city of Jackson, for example, used annexation to limit Black voting strength until enjoined in 1981.¹²⁴

There were many other forms of Section 5 noncompliance in Georgia. In 1981, Julian Bond, a Georgia State Senator, testified before the House of Representatives that there were over four hundred non-submissions of Section 5 notifications by Georgia jurisdictions.¹²⁵ Many jurisdictions in Georgia also simply refused to comply with Section 5 objections, such as Sumter County, Pike County, and Waynesboro. Local officials in other jurisdictions, such as Thomson, when faced with a Section 5 objection to majority voting, encouraged the two white candidates to have an informal “run-off” to avoid splitting the white vote and allowing the Black candidate to win. This practice, known as “cuing,” the endorsement by white community leaders of a specific candidate prior to the actual election, is in the words of Laughlin McDonald, “doing by indirection that which Section 5 expressly forbids.”¹²⁶

Overall, the number of VRA Section 5 preclearance challenges raised by private or federal suit show that Georgia was one of the most active and ingenious in trying to prevent Black voting strength. From 1965 to 1981, the DOJ received a total of 34,798 voting changes submitted for preclearance under Section 5. DOJ ultimately objected to 815 of these proposed changes, and of those, 226, or almost 30 percent, were from the state of Georgia.¹²⁷ This figure far exceeds that of other states. Louisiana, for example, the state that was subject to the second-most number of objections, was only the subject of 136 objections, which is just a little over half of Georgia’s objections.¹²⁸

This number likely significantly undercounts the number of actual and potential § 5 violations in Georgia prior to the 1982 reauthorization of the VRA. In a 1984 article, Drew Days

¹²³ *Ibid.* at 51-52

¹²⁴ *Ibid.* at 52-53

¹²⁵ Hearings Before the Subcommittee on Civil and Constitutional Rights of the Committee of the Judiciary, House of Representatives, Ninety-Seventh Cong., 1st Session, On the Extension of the Voting Rights Act. Testimony of Julian Bond, State Senator from Georgia, May-July 1981.

¹²⁶ McDonald, *Voting Rights in the South*, 60.

¹²⁷ *Ibid.*, 20-25.

¹²⁸ *Id.*

and Lani Guinier estimated that “covered jurisdictions have made literally hundreds of changes that have never met the preclearance requirement of Section 5,” and that the DOJ “has not been able to ensure that every electoral change by covered jurisdictions, or indeed most of them, was subjected to the Section 5 process.”¹²⁹ In another study, based on interviews with local attorneys in Georgia and Mississippi involved in voting issues, found that 36.4% of attorneys that responded to the survey reported that local jurisdictions went ahead with election changes despite a pending preclearance request. The survey revealed other ways of gaming the VRA system—waiting until shortly before the election to file the Section 5 request, not giving DOJ adequate time to respond, or alternatively, exhaustively arguing every nuance of a Section 5 request, hoping to win outright, or at least gain an advantage by exhaustion and attrition.¹³⁰ Even still, as noted, between 1965 and 1980, DOJ objected to more than 200 changes submitted by Georgia under Section 5.¹³¹

In 1969, the United States Supreme Court in *Allen v. State Board of Elections*, 393 U.S. 544 (1968), made clear that changes made under preclearance under Section 5 of the VRA were to be construed broadly because to limit its scope to a specific set of voting restrictions would be “underestimating the ingenuity of those bent on keeping Negroes from voting.” The *Allen* Court also made clear that preclearance extended to reapportionment plans.¹³²

Georgia’s congressional reapportionment in 1971 was the first held under Section 5 preclearance rules, and it showed, in the words of Laughlin McDonald, “the extraordinary lengths to which the legislature was prepared to go to exclude Blacks from the congressional delegation.”¹³³ A plan proposed by two African American state senators to increase the Black percentage of Georgia’s Fifth Congressional District from 34% to 45% was soundly defeated. The plan which *was* approved by the Georgia General Assembly carved the Black population in the Fourth, Fifth, and Sixth Districts to give the Fifth District a substantial white majority, and

¹²⁹ Drew Days III and Lani Guinier, “Enforcement of Section 5 of the Voting Rights Act,” in Chandler Davidson, ed. *Minority Vote Dilution*. (Washington, DC: Howard University Press, 1984), 168.

¹³⁰ Howard Ball, Dale Krane, and Thomas P. Lauth, “The View From Georgia and Mississippi: Local Attorneys’ Appraisal of the 1965 Voting Rights Act,” in Davidson ed., *Minority Vote Dilution*, 181–202.

¹³¹ McDonald, *Voting Rights in the South*, 20–23.

¹³² Cited in Orville Vernon Burton and Armand Derfner, *Justice Deferred: Race and the Supreme Court* (Cambridge, MA: Harvard University, 2021), 228.

¹³³ McDonald, *A Voting Rights Odyssey*, 149.

specifically excluded from the district the homes of Andrew Young—who had unsuccessfully run for Congress in the district in 1970—and Maynard Jackson, another budding Black politician.

The Georgia General Assembly's 1971 reapportionment plan was rejected by the Department of Justice under Section 5. Under a revised reapportionment plan, in 1972, Georgian Andrew Young (along with Barbara Jordan in Texas) became the first African Americans elected to the United States House of Representatives from the South in the twentieth century. Young was elected three times, resigning his seat in 1977 to become President Carter's ambassador to the United Nations. It would take another decade for another Black Georgian to be elected to the United States Congress from the state of Georgia.¹³⁴

H. End of the Twentieth Century (1980s–2002)

In the redistricting cycle after the 1980 census, the Georgia General Assembly again tried to limit Black voting strength in Atlanta. The Georgia General Assembly's reapportionment plan contained white majorities in nine of the ten congressional districts, even though Georgia's population at the time was nearly 30% Black. Julian Bond, by then a Georgia state senator, introduced a bill that would have made the Fifth Congressional District 69% Black. In response, the Chair of the Senate Reapportionment Committee criticized the proposal as one that would cause "white flight." The Chair of the House Reapportionment Committee similarly criticized the proposal on the grounds that he was disinclined to draw "nigger districts" or support "nigger legislation."¹³⁵ Some members of the Georgia General Assembly stated they did not want to go back to their districts and defend "why I was a leader in getting a black elected to the United States Congress." Bond's proposal was predictably rejected, and the reapportionment plan drawn by the Georgia General Assembly was, as in the previous decade, rejected under Section 5 of the Voting Rights Act. The Court then approved a new plan with a district that was 65% Black. Julian Bond and John Lewis, two old friends and comrades from the Student Nonviolent Coordinating Committee (SNCC) Civil Rights Movement, vied for the seat; Lewis ultimately won.¹³⁶

In 1980, Laughlin McDonald noted that of the 18 Black Georgians elected to county governments—about only 3% of all office holders—16 of them were elected in majority Black

¹³⁴ Charles S. Bullock III, "The History of Redistricting in Georgia," *Georgia Law Review* 52, no. 4 (2018): 1065–1066; McDonald, *A Voting Rights Odyssey*, 149–150.

¹³⁵ McDonald, *A Voting Rights Odyssey*, 168–173.

¹³⁶ *Id.*

districts or counties. As McDonald wrote in 1982, “blacks in Georgia’s majority white counties or districts, for all practical purposes, cannot get elected.”¹³⁷

On the eve of the possible expiration of the VRA in the early 1980s, Georgia continued to show that such an extension was necessary. In 1980, DeKalb County adopted a policy that it would no longer allow community groups to conduct voter registration drives.¹³⁸ In 1981, Georgia was blocked from changing the rules about who could help voters at the polls under Section 5.¹³⁹ The early 1980s also saw continued use of voter challenges against Black voters. In 1981, white Georgians on the northside of Atlanta formed the Voter Information Project (VIP), which used Georgia’s voter challenge law to dispute the right to vote of more than 50,000 registered voters in Fulton County. Of these challenged voters, 58 percent were Black. As a result, in 1981, one in five registered voters was purged from Fulton County’s voters’ rolls.¹⁴⁰

That same year, the *New York Times* summarized the status of Black voters in Georgia as the country debated the 1982 re-authorization of the VRA:

“26.2 percent of the population is black, only 3.7 percent of the elected officials are black. The glitter of power in Atlanta, where two blacks are among the three frontrunners to succeed the city’s two-term black mayor, Maynard Jackson. In fifteen of the state’s twenty-two counties where blacks comprise a majority or close to it, no blacks serve on county commissions. It is not for want of trying; 34-year-old Edward Brown Jr. has twice run unsuccessfully for office in Mitchell Co. In Mr. Brown’s instance, all-white poll officials and paper ballots greatly reduced his chances for winning. Testifying in a court case, Mr. Brown stated that it is difficult to win when whites as a matter of policy vote against blacks. Citing his defeats, he

¹³⁷ McDonald, *Voting Rights in the South*, 40–43.

¹³⁸ Hearings Before the Subcommittee on Civil and Constitutional Rights of the Committee of the Judiciary, House of Representatives, Ninety-Seventh Cong., 1st Session, On the Extension of the Voting Rights Act. Testimony of Julian Bond, State Senator from Georgia, May-July 1981, 54–55.

¹³⁹ Sept. 18 Letter from William Bradford Reynolds to Michael Bowers at 2-3 (1981), quoted in Expert Witness Report of Dr. Peyton McCrary at 8, 18 (“McCrary Report”), *Fair Fight v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. 2020), ECF No. 339. According to the 1970 census data (the latest available at the time of the DOJ objection), in Georgia, only 8 percent of whites over the age of 25 had completed less than five years of school while 32 percent of Blacks over the age of 25 had completed less than five years of school (also cited in the McCrary Report at 74-75).

¹⁴⁰ Barry King, “Notices Sent on Fulton Voter Purge,” *The Atlanta Constitution* (Atlanta, GA), March 3, 1981; Jim Walls, “One in Five Voters Dropped From Rolls,” *The Atlanta Constitution* (Atlanta, GA), April 16, 1981; Frederick Allen, “Voter Challenges Seen Through a Glass Darkly,” *The Atlanta Constitution* (Atlanta, GA), September 15, 1981.

said that whites were transported to and from polling places by county sheriffs who urged them not to vote for Mr. Brown ‘because he’s a nigger.’”¹⁴¹

When Congress did re-authorize the VRA in 1982, it cited systemic abuses by Georgia officials to evade Black voting rights.¹⁴²

At the end of the decade, Georgia again began another reapportionment cycle. Over the course of the 1990 redistricting cycle, the Department of Justice twice rejected the Georgia General Assembly’s state’s reapportionment plan, before finally approving the third submission.¹⁴³ After the 1992 election, a total of thirty-four African Americans were in the Georgia General Assembly, almost all of them from Black majority districts, almost all of whom owed their seats to litigation and to Section 5 of the Voting Rights Act.

I. Modern Era (2000s to Present Day)

The voter suppression tactics against Georgia’s Black voters that have plagued Georgia’s history have persisted into the modern era. These policies around voting have also come at a time of rapid demographic shifts in Georgia’s electorate: Georgia is the only state in the Deep South where the percentage of the Black population has sharply increased over the past half century. Because of the remarkable growth of metro Atlanta and its four core counties, Fulton, DeKalb, Gwinnett, and Cobb, these changing demographics in Georgia—especially in its Black, Latino/a, and Asian populations, who tend to support Democratic candidates—combined with minority voter mobilization efforts, are the “likeliest threat to Republican domination of Georgia elections.”¹⁴⁴

i. 2000s through 2010 Redistricting

For the fourth decade in a row, in the 2000 redistricting cycle the Georgia General Assembly passed redistricting plans that would not survive preclearance. Specifically, the district court in the District of Columbia refused to preclear the General Assembly’s Senate plan which

¹⁴¹ Reginald A. Stuart, “Once Again a Clash Over Voting Rights,” *New York Times* (Sept. 27, 1981).

¹⁴² S. Rep. No. 97-417, 97th Cong. 2d Sess. 10, 13 (1982).

¹⁴³ McDonald, *A Voting Rights Odyssey* 211–224.

¹⁴⁴ McCrary Report at 37; on the increasing influence of Latina/Latino peoples, see Victor Zuniga and Reuben Hernandez Leon, “The Dalton Story: Mexican Immigration and Social Transformation in the Carpet Capital of the World,” 34-50 and Mary E. Odem, “Latino Immigrants and the Politics of Space in Atlanta,” 112-125 in Mary E. Odem and Elaine Lacy, eds., *Latino Immigrants and the Transformation of the U.S. South* (University of Georgia Press, 2009).

decreased the Black voting age percentage in the districts surrounding Chatham, Albany, Dougherty, Calhoun, Macon, and Bibb Counties. Overall, the court found “the presence of racially polarized voting” and that “the State ha[d] failed to demonstrate by a preponderance of the evidence that the reapportionment plan for the State will not have a retrogressive effect.” *Georgia v. Ashcroft*, 195 F.Supp. 2d 25, 94 (D. D.C. 2002), *affirmed*, *King v. Georgia*, 537 U.S. 1100 (2003).

The 2002 election proved to be a watershed moment for the state of Georgia. For nearly half a decade, white voters in Georgia had been abandoning the Democratic Party for the Republican Party. When Republican Sonny Perdue defeated Democrat incumbent Roy Barnes as governor in 2002, the election “broke a Democratic stronghold on the Georgia governorship that had kept the GOP out since Reconstruction.”¹⁴⁵ In the 2004 election, Republicans also won the majority of House seats, shifting control of the legislature.

In 2005, the Georgia General Assembly promptly passed a photo ID law, limiting Georgians to only six acceptable forms of identification. Voters who lacked acceptable identification could purchase one from the state for \$20 to \$35. Sue Burmeister, the Georgia State Senator who had introduced the photo ID legislation, said in testimony before the Department of Justice that “if there are fewer black voters because of the bill, it will only be because there is less opportunity for fraud,” and that “when Black voters in her Black precincts are not paid to vote, they do not go to the polls.”¹⁴⁶ Shortly after the law’s enactment, the U.S. District Court for the Northern District of Georgia preliminarily enjoined the law, finding the photo ID law was “most likely to prevent Georgia’s elderly, poor, and African-American voters from voting.” *Common Cause/Georgia v. Billups*, 406 F. Supp. 2d 1326, 1365–66 (N.D. Ga. 2005). In reaction to the injunction, the Georgia General Assembly was forced to make the voter ID cards free.

Several years later, following the 2010 U.S. Census, white Republican Georgia lawmakers worked not only to maintain power but to create a super-majority through redistricting. The

¹⁴⁵ Danny Hayes and Seth C. McKee, “Booting Barnes: Explaining the Historic Upset in the 2002 Georgia Gubernatorial Election,” *Politics and Policy* 32 (December 2004), 1, quoted in McCrary Report at 29.

¹⁴⁶ Carol Anderson, *One Person, No Vote: How Voter Suppression is Destroying Our Economy* (New York: Bloomsbury, 2018), 60–62; Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Picador, 2015) 222–224, 226–229; Stacey Abrams, *Our Time is Now: Power, Purpose, and the Fight for a Fair America* (New York: Henry Holt, 2020), 75–76

Georgia General Assembly's reapportionment plan created a record number of majority-Black districts, which, by packing Black votes together, solidified Republican holds in the surrounding districts. Ultimately, the Georgia Republican Party was successful in achieving a super-majority in the Senate; it fell one seat short of a super-majority in the House.¹⁴⁷

In 2015, the Georgia General Assembly engaged in mid-cycle redistricting after the Supreme Court invalidated Section 5's preclearance formula in *Shelby County, Alabama v. Holder*, 570 U.S. 529 (2013).¹⁴⁸ No longer subject to preclearance, the Georgia General Assembly reduced the Black and Latino voting age percentage in House districts 105 and 111, both of which had become increasingly diverse over the prior half-decade (and unlikely to elect Republicans).¹⁴⁹ Plaintiffs initially brought suit over the changes under Section 2 of the Voting Rights Act, but the continued migration of voters of color into those districts rendered the General Assembly's changes obsolete. After minority candidates prevailed in those districts in 2018, the plaintiffs withdrew their complaint.¹⁵⁰

ii. State-Sponsored Voter Investigations

As in Georgia's past, modern-day elected officials, law enforcement officers, and political activists have continued to harass and intimidate Black voters and candidates in order to maintain political power. Nowhere is this more obvious than in Quitman, Georgia—a predominantly Black city in otherwise predominantly white Brooks County. In the early 2000s, Nancy Dennard, a Black educator, won a 2009 special election to the Brooks County School Board through a campaign that targeted citizens who did not traditionally vote and who had problems getting to the polls on election day. At the time, Dennard's opponent complained about the large number of absentee ballots cast for Dennard. The Georgia secretary of state's office conducted a brief investigation but found no evidence of fraud.¹⁵¹

¹⁴⁷ Bullock, "The History of Redistricting in Georgia," 1095–1098; Expert Report of Laughlin McDonald at 17, *Dwight et al. v. Kemp*, ECF No. 178 (Aug. 6, 2018).

¹⁴⁸ Expert Report of Jowei Chen, *Georgia State Conference of NAACP v. State of Georgia*, No. 1:17-cv-1427, ECF No. 63 (N.D. Ga. Dec. 22, 2017).

¹⁴⁹ *Id.*

¹⁵⁰ *Georgia State Conference of NAACP*, No. 1:17-cv-1427, ECF No. 221.

¹⁵¹ John Ward, "How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters," Yahoo! News, August 6, 2019. <https://news.yahoo.com/how-a-criminal-investigation-in-georgia-set-a-dark-tone-for-african-american-voters-090000532.html> (accessed April 27, 2021).

The next year, two more Black women and allies of Dennard—Diane Thomas and Linda Troutman—ran for seats on the school board and again worked to increase voter turnout through absentee voting. This time, the Brooks County School Board hired a private investigator to track Dennard and her allies. More than 1,400 Black voters participated in the Democratic primary election for school board that year—three times the turnout in previous midterm elections—and Thomas and Troutman were elected as the Democratic Party’s nominees. In response, then-Secretary of State Brian Kemp (in cooperation with the Georgia Bureau of Investigation) opened a formal investigation into the 2010 election in Quitman.¹⁵²

Six weeks after Thomas and Troutman won seats on the school board, state and local police arrested Dennard, Thomas, Troutman, and seven other people. Two more women were arrested a year later. The “Quitman 10+2,” as they came to be known, were collectively charged with 102 felony counts. Prosecutors alleged that organizers had provided unlawful assistance to voters and had unlawfully possessed ballots when they delivered sealed ballots to the post office. Despite a paucity of evidence, then-Secretary Kemp doggedly pursued a case against the Quitman 10+2, only backing down in 2016 when Georgia’s attorney general issued an opinion clarifying that it was not a violation of the law for organizers to mail absentee ballots.

Afterward, Dennard argued the investigation and prosecution were an attempt to disqualify Black officeholders and stifle Black political activism. She insisted, “[T]hey thought they could make an example out of me, and that would kill the spirit of this movement.”¹⁵³ Thomas interpreted the Quitman 10+2’s arrest and investigation by explaining that “the message sent to our citizens was, if you don’t want the GBI to come visiting and put you in jail, you better not vote.”¹⁵⁴

In 2014, in comments to a group of Republican voters in Gwinnet County, then-Secretary Kemp made clear the connection between minority voting rights and election victories when he remarked that “the Democrats are working hard . . . registering all these minority voters that are

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Ariel Hart, “Voting Case Mirrors National Struggle,” *The Atlanta Journal-Constitution*, December 13, 2014; Gloria Tatum, “Voter Fraud Charges from 2010 Fizzle in Quitman, South Georgia,” *The Atlanta Progressive News*, September 18, 2014, <http://atlantaprogressivenews.com/2014/09/18/voter-fraud-charges-from-2010-fizzle-in-quitman-south-georgia/>.

out there and . . . if they can do that, they can win these elections in November.”¹⁵⁵ Around the same time, Kemp’s office launched a criminal investigation into the New Georgia Project, an organization with the explicit goal of registering Georgia’s unregistered minority voters. The New Georgia Project was later cleared of any wrongdoing.¹⁵⁶

In 2015, Kemp’s office similarly launched an investigation into the Asian American Legal Advocacy Center (“AALAC”), an organization which had previously criticized Secretary Kemp for not registering all voters who had submitted voter registrations to Georgia. Secretary Kemp pursued the investigation for over two years before finding no evidence of wrongdoing. One journalist tracking these investigations described them as “legal terrorism, exploiting the law to intimidate and discourage citizens from accessing their constitutional right to vote.”¹⁵⁷

iii. Voting Restrictions in Georgia Post-*Shelby County*

After the Supreme Court invalidated the existing coverage formula in *Shelby County, Alabama v. Holder*, 570 U.S. 529 (2013), Georgia was no longer bound to submit any changes it made to its voting system through a preclearance regime. In her dissent in that case, Justice Ginsburg famously commented that “throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.” *Id.* at 590 (J. Ginsburg, dissenting). A few days after the decision, Daniel O. Franklin, a professor of political science at Georgia State University, predicted that “the court’s decision will likely change very little” in Georgia and the other

¹⁵⁵ Steve Benen, “Georgia GOP Official Express Concerns About ‘Minority Voters,’” MSNBC, September 11, 2014, <https://www.msnbc.com/rachel-maddow-show/georgia-gop-official-express-concerns-about-minority-voters-msna410401>.

¹⁵⁶ Spencer Woodman, “Register Minority Voters in Georgia, Go to Jail,” *The New Republic*, May 5, 2015, <https://newrepublic.com/article/121715/georgia-secretary-state-hammers-minority-voter-registration-efforts>; “State launches fraud investigation into voter registration group,” *WSB-TV 2* (Atlanta, Georgia), September 9, 2014.

¹⁵⁷ Austin Adkins, “Opinion: Voter Fraud Investigations Weaponized to Suppress Voters,” *The Mainline*, November 3, 2019, <https://www.mainlinezine.com/voter-fraud-investigations-weaponized-to-suppress-voters/>; Michael Wines, “Critics See Efforts by Counties and Towns to Purge Minority Voters From Rolls,” *New York Times* (New York, NY), July 31, 2016, <https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html>; Kristina Torres, “Georgia suit settled alleging black voters wrongfully disqualified,” *Atlanta Journal-Constitution* (Atlanta, GA), March 16, 2017, <https://www.ajc.com/news/state--regional-govt--politics/georgia-suit-settled-alleging-black-voters-wrongfully-disqualified/djDfYjpvYJjCZW8CJzgKL/>.

preclearance states.¹⁵⁸ But Franklin was wrong: Georgia took advantage of this change almost immediately.

Within four days of *Shelby County*, for example, the local Georgia press reported that the Augusta-Richmond County government (a consolidated city-county government) re-opened discussions of moving its elections from November to July. This change matters: Moving elections away from the usual election day, invariably reduces voter turnout and usually has an adverse impact on minority voter turnout, and DOJ had previously rejected the proposed change under Section 5. After a series of closed-door meetings, Augusta-Richmond County government changed the date of their elections in early 2014, just months after *Shelby County*.¹⁵⁹ Similarly, Greene County, Georgia approved a redistricting plan that would have eliminated one or two of the only Black districts on the county commission—a change that DOJ had previously refused to preclear. By the end of 2013, the Georgia General Assembly approved another plan for Greene County that reduced the Black voting age population in one district by 50% and placed the home of the other Black commissioner outside of the boundaries of the newly redrawn district. Without preclearance, the new redistricting plan went into effect.¹⁶⁰

But preclearance itself was never a panacea even before *Shelby County*. With Georgia's 159 counties and hundreds of local jurisdictions (part of the over 30,000 jurisdictions in the preclearance states), it was impossible to keep track of every local jurisdiction, many of which refused to file voting-related changes with DOJ. At-large, county-wide, or city-wide voting has been historically one of the main tactics used to curb voting rights strength, and preclearance had hardly ended the practice. In December 2013, of Georgia's 159 counties, thirty-four elected all county commissioners at-large. One of those was Baker County, where almost half of the population was Black, but all of the county commissioners were white. A former Baker County Commissioner, Robert Hall, was quoted in the *Atlanta Journal Constitution* as saying, "we don't

¹⁵⁸ Daniel P. Franklin, "Court's Decision is Likely to Change Little," *Atlanta Journal Constitution* (June 30, 2013).

¹⁵⁹ Harry Baumgarten, "*Shelby County v. Holder*'s Biggest and Most Harmful Impact May Be On Our Nation's Smallest Towns," Harry Baumgarten, Campaign Legal Center, 20 June 2016, <https://campaignlegal.org/update/shelby-county-v-holders-biggest-and-most-harmful-impact-may-be-our-nations-smallest-towns>

¹⁶⁰ Ariel Hart, Jeff Ernsthausen, and David Wickett, "Disputed Voting Systems, Racial Power Gap Persists," *Atlanta Journal Constitution*, (Dec. 7, 2013).

have many Blacks in Baker County that are landowners and taxpayers and responsible.”¹⁶¹ This trend is not unique to Baker County. In December 2013, the *Atlanta-Journal Constitution* reported that across Georgia, while “more than half of majority-black counties have majority-white commissions,” “no majority-white county has a majority-black commission.”¹⁶² These type of electoral arrangements continue to disadvantage Black Georgians: As of 2013, in Georgia, white Georgians were 59% of registered voters, but accounted for 77% of the commissioners, while for Black Georgians were 30% of registered voters, but only 22% of county commissioners.¹⁶³

Overall, the end of preclearance has opened the doors to all manner of voter suppression and disenfranchisement, largely directed against minority voters. The U.S. Commission on Civil Rights, found that among the former preclearance states as of 2018, only Georgia had adopted all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in early voting, and (5) widespread polling place closures.¹⁶⁴ This report discusses a few of these changes below, concluding with a brief overview of Senate Bill 202, passed by the Georgia General Assembly in 2021, which the U.S. Department of Justice has challenged under Section 2 of the Voting Rights Act as a law with the effect and intent of making it more difficult for Black Georgians to vote.

a. Polling Place Closures

In a 2015 memo to local election officials, then-Secretary of State Kemp encouraged counties to reduce voting locations, noting that “as a result of the *Shelby vs. Holder* Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance.”¹⁶⁵ And to be sure, in the first presidential election after *Shelby County*,

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*; Ariel Hart, Jeff Ernsthansen, and David Wickett, “Racial Politics Not So Clear Cut,” *Atlanta Journal Constitution*, (Dec. 9, 2013)

¹⁶⁴ U.S. Commission on Civil Rights, *An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report* (Washington, 2018), 369. The restrictions on naturalized citizens were later curtailed; see “Georgia Must Ease Rules Proving Citizenship, Judge Says” PBS News Hour, November 2, 2018, <https://www.pbs.org/newshour/politics/georgia-must-ease-rule-for-voters-proving-citizenship-judge-says> ().

¹⁶⁵ The Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* (Sept. 2019), 32.

throughout Georgia “dozens of polling places” were “closed, consolidated, or moved.”¹⁶⁶ In Macon-Bibb County, a majority-Black county, the number of polling places dropped from forty to thirty-two; those closures took place in primarily Black neighborhoods. When the Memorial Gym precinct in Macon, in a Black neighborhood, was closed for renovations, local officials suggested the sheriff’s office as an alternative. Lowndes County, which has a substantial Black population, reduced the number of polling places from thirty-seven to nine, and Tift County was considering, until heated local protests, consolidating all twelve county polling places into a single location. Hancock County proposed closing several polling places, including one in a Black neighborhood that was seventeen miles from its nearest alternative. Hancock County relented only after an outcry from the Georgia NAACP and the Georgia Lawyers’ Committee for Civil Rights Under the Law, who claimed that “the planned closures would have disproportionately affected voters in the majority Black county in poor and rural areas with no access to regular transportation.”¹⁶⁷ Social Scientists have analyzed these kinds of changes to polling places. One recent study found, even a seemingly minor inconvenience, like locating a new polling place, depresses turnout, especially for poor and young voters.¹⁶⁸

By 2019, the Leadership Conference Education Fund found that Georgia had closed over 200 polling locations in Georgia since the *Shelby County* decision despite adding millions of voters to the voter rolls in that time.¹⁶⁹ By 2019, “eighteen counties in Georgia closed more than half of their polling places, and several closed almost 90 percent.”¹⁷⁰ In 2020, the nine counties in metro Atlanta that had nearly half of the registered voters (and the majority of the Black voters in the state) had only 38% of the state’s polling places.¹⁷¹ Unsurprisingly, because of the fewer polling

¹⁶⁶ Kristina Torres, “Cost-Cutting Raises Voter Access Fears,” *Atlanta Journal Constitution*, Oct. 13, 2016; Kristina Torres, “State Monitored For Voting Rights Issues,” *Atlanta Journal Constitution*, Jun. 20, 2016.

¹⁶⁷ *Id.*

¹⁶⁸ Henry E. Brady & John E. McNulty, *Turning Out to Vote: the Costs of Finding and Getting to the Polling Place*, 105 Am. Pol. Sci. Rev. 115 (2011).

¹⁶⁹ The Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* (Sept. 2019), 31.

¹⁷⁰ *Id.*

¹⁷¹ Stephen Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Their Numbers Have Soared, and Their Polling Places Have Dwindled,” *ProPublica*, Oct. 17, 2020, <https://www.propublica.org/article/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled>.

places, the lines at majority-Black polling places increased, and sometimes dramatically so. In the June 2020 primary, for example, waiting times to vote in some metro Atlanta suburbs, such as Union City (a subdivision that is 88% Black majority) was as long as five hours.¹⁷² Union City was not an outlier. A 2020 study found that “about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state’s polling places.”¹⁷³

b. Voter Purges and Challenges

After *Shelby County*, Georgia officials also made more systematic efforts to purge the voting rolls in ways that particularly disadvantaged minority voters and candidates. Between 2012 and 2018, for example, then-Secretary of State Kemp removed 1.4 million voters from the eligible voter rolls. In a single day in 2017, Georgia removed over 500,000 names from the list of 6.6 million registered voters, which according to election law experts might be the “largest mass disenfranchisement in U.S. history.”¹⁷⁴ While there can be legitimate reasons to drop names from the eligibility rolls (such as for a voter who is deceased or who has a felony conviction), the vast majority of those purged were those who simply had not voted in intervening years. While those kinds of purges are technically permitted (though not required) by federal law, those purged were significantly over-represented in precincts that overwhelmingly voted for Stacey Abrams, the Black candidate in the 2018 gubernatorial race.¹⁷⁵

One of the most insidious forms of voter disenfranchisement by Georgia in recent years which disproportionately affected minority voters was Georgia’s “exact matching” procedures. As the Northern District of Georgia has explained, Georgia’s exact match procedures policies meant that when a prospective voter submitted a voter registration application, Georgia would check the registration against its Department of Driver Services (“DDS”) or files from the Social Security Administration (“SSA”). If the applicant’s information did not match those files exactly, “then the

¹⁷² Mark Niese and Nick Thieme, “Fewer Polls Cut Voter Turnout Across Georgia,” *Atlanta Journal Constitution*, 15 December, 2009; Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?,” *NPR*, October 17, 2020.

¹⁷³ Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?”

¹⁷⁴ Alan Judd, “Georgia’s Strict Laws Lead to Large Purge of Voters,” *Atlanta Journal Constitution*, 27 October 2018.

¹⁷⁵ Angela Caputo, Geoff Hing, and Johnny Kaufman, “After the Purge: How a Massive Voter Purge Affected the 2018 Election,” *APM Reports*, Oct. 29, 2019, <https://www.apmreports.org/story/2019/10/29/georgia-voting-registration-records-removed>.

voter registration application is placed in ‘pending status,’ and the person may not vote until the person corrects the information. The burden is on the applicant to take the next steps to correct any information and/or present the necessary proof required to the appropriate officials to become a Georgia voter.” *Georgia Coal. for People's Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1255–56 (N.D. Ga. 2018). If the voter did not present new information, their application was rejected. *Id.*

The legal history of exact-match legislation in Georgia is complex. It was originally passed by the Georgia General Assembly in 2008, and was originally blocked under preclearance, though it received Department of Justice approval in 2010 when the Secretary of State agreed to place “safeguards” on the practice. As the Department of Justice later argued, however, it is not clear if those safeguards were ever used. After *Shelby County*, Georgia operated the exact match procedures without strict safeguards, leading to federal suits such as the one above.

As civil rights groups have shown, Georgia’s exact match procedures were more likely to disenfranchise minority voters. Between 2013 and 2016, more than 34,000 Georgia voters’ applications were suspended using the exact-match system. Under the DDS match, Black Georgians, who made up only 28.2 percent of the registered voters, were 53.3 percent of those voters whose applications were cancelled or placed in pending status. By contrast, non-Hispanic whites, who were almost half of registered voters in Georgia, made up a far lower 18.3 percent of those applications that were canceled or placed on hold (pending status). Under the SSA match, the discrepancy was even starker. Black Georgians made up 74.6 percent of those in the cancelled and pending files, while non-Hispanic whites were only 9.5 percent. By July 2018, 51,111 voters’ applications were suspended, and placed in the “pending voter” category, of whom 80% were either African American, Hispanic/Latino, or Asian.¹⁷⁶ By 2019, Georgia agreed to largely abandon its exact matching process.¹⁷⁷

¹⁷⁶ Abrams, *Our Time is Now*, 58–61; Anderson, *One Person, No Vote*, 78–81; McCrary Report, *passim*, eps 7, 55–99.

¹⁷⁷ Aja Arnold, “Ex Post Facto: Abrams v Kemp,” *The Mainline* May 11, 2020, <https://www.mainlinezine.com/ex-post-facto-abrams-vs-kemp-2018/>; Brentin Mook, “How Dismantling the Voting Rights Act Helped Georgia Discriminate Again,” Bloomberg City Lab, 15 October 2018, <https://www.bloomberg.com/news/articles/2018-10-15/how-georgia-s-exact-match-program-was-made-possible>; Stanley Augustin, “Georgia Largely Abandons its Broken ‘Exact Match’ Voter Registration Process,” Lawyers’ Committee For Civil Rights, 5 April 2019, <https://www.lawyerscommittee.org/georgia-largely-abandons-its-broken-exact-match-voter-registration-process/>

Voter challenges directed at minority voters have also persisted in modern Georgia. In advance of the 2016 election, the Hancock County Election Board, which at the time was majority white, used the voter challenge process to challenge approximately 180 voters, almost all of whom were African American. Those Black residents made up nearly a fifth of the city's registered voters. In pursuit of the challenges, the Hancock County Board dispatched the local police to summon those Black residents to hearings to prove their residence or lose their voting rights. Many thought they were being arrested, and many of those challenged were intimidated and did not vote in the fall election. The white candidate for mayor won a narrow victory.¹⁷⁸

Although the Hancock County attorney denied that this purge was “about . . . race,” the Georgia State Conference of the NAACP, the Georgia Coalition for the People's Agenda, and four voters who had their registrations challenged sued the Hancock County Board of Elections seeking an injunction to force the Board to end their use of the challenge procedures. The U.S. District Court for the Northern District of Georgia later ordered the defendants to pay the plaintiffs' attorney fees and required the Board of Elections to follow a strict process that required the Board to notify the plaintiffs' counsel if the Board made any future voter challenges.¹⁷⁹

c. Senate Bill 202

Of final note is the Georgia General Assembly's passage of Senate Bill (SB) 202 in the spring of 2021 in the wake of significant minority voting strength in Georgia and the election of Georgia's first Black United States Senator. SB 202 is currently the subject of multiple lawsuits which allege that it violates both Section 2 of the VRA and the Fourteenth and Fifteenth Amendments, including by the United States Department of Justice.¹⁸⁰

These allegations are not surprising. Many of the provisions of SB 202 target methods of voting that Black voters used to tremendous effect in the 2020 General Election and 2021 Runoff

¹⁷⁸ Michael Wines, “Critics: Racial Bias Creeping Back Into Electoral Purges,” *Atlanta Journal Constitution*, 1 August 2016

¹⁷⁹ *Ga. State Conference of the NAACP v. Hancock Cnty. Bd. of Elections & Registration*, No. 5:15-CV-00414 (CAR) (M.D. Ga. Mar. 30, 2018); Michael Wines, “Critics See Efforts by Counties and Towns to Purge Minority Voters From Rolls,” *New York Times* (New York, NY), July 31, 2016, <https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html>; Kristina Torres, “Georgia suit settled alleging black voters wrongfully disqualified,” *Atlanta Journal-Constitution* (Atlanta, GA), March 16, 2017, <https://www.ajc.com/news/state--regional-govt--politics/georgia-suit-settled-alleging-black-voters-wrongfully-disqualified/djDIYjpyJJcZW8CJzgKL/>.

¹⁸⁰ See *United States v. Georgia*, No. 1:21-cv-02575 (N.D. Ga. June 25, 2021).

election, and also specifically target voting in the Atlanta metro area, home to the majority of Georgia's Black voters.¹⁸¹ While SB 202 has more than 40 provisions, some of its most notable changes are: (1) reducing the time available to request an absentee ballot, (2) increasing identification requirements for absentee voting, (3) banning state and local governments from sending unsolicited absentee ballot applications, (4) limiting the use of absentee ballot drop boxes, (5) banning mobile polling places, (6) and prohibiting anyone who is not a poll worker from giving food or drink to voters in line to vote.¹⁸²

One of SB 202's most notable changes to voting access is to drop boxes, which were used extensively by Black voters in the 2020 General Election. In that election, in the four core Atlanta Metro counties, Cobb, DeKalb, Fulton, and Gwinnett, 56% of absentee ballot voters, or 305,000 of 547,000, used drop boxes.¹⁸³ After SB 202, the number of drop boxes in those counties is estimated to drop from the 111 available in the 2020 election to 23.¹⁸⁴ In Fulton County, the number is estimated to drop from 38 to 8. Cobb County Election Director Janine Eveler told the *Atlanta Journal-Constitution* that, in light of SB 202, drop boxes "are no longer useful. The limited numbers mean you cannot deploy them in sufficient numbers to reach the voting population."¹⁸⁵

SB 202 also made significant changes to how votes will be counted and who will supervise the counting. These changes included (1) removing the Secretary of State as the Chair of the State Election Board and replacing the Chair with someone appointed by a majority of the Georgia General Assembly, (2) giving the State Election Board (and by extension the Georgia General

¹⁸¹ For a helpful summary, see Stephen Fowler, "What Does Georgia's New Voting Law SB 202 Do?" NPR, March 27, 2021, <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>

¹⁸² Georgia Senate Bill 202 (2021); see also Stephen Fowler, "What Does Georgia's New Voting Law SB 202 Do?" NPR, <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>

¹⁸³ Niese, et. al., "Drop box use heavy in Democratic areas before Georgia voting law," *Atlanta Journal-Constitution*, July 12, 2021, <https://www.ajc.com/politics/drop-box-use-soared-in-democratic-areas-before-georgia-voting-law/N4ZTGHLWD5BRBOUKBHTUCFVOEU/>.

¹⁸⁴ "How New State Voting Laws Could Impact Voters," *Brennan Center for Justice*, September 1, 2021, <https://www.brennancenter.org/our-work/research-reports/how-new-state-voting-laws-could-impact-voters>.

¹⁸⁵ Mark Niese, "ID Law Adds Hurdles For Thousands," *Atlanta Journal-Constitution*, 1 June 2021; "Application For Official Georgia Absentee Ballot," https://sos.ga.gov/admin/uploads/2021_Absentee_Ballot_Application2.pdf; "Democratic Counties Showed Higher Drop Box Use"

Assembly) more power to intervene in county election boards, and (3) allowing the State Election Board (and by extension the Georgia General Assembly) more power to suspend election board members and replace them.¹⁸⁶

SB 202 is already being used against county election officials, and particularly Black officials. By June 2021, Georgia County commissions had replaced ten county election officials, most Democrats, half of them Black.¹⁸⁷ As of December 2021, six counties in Georgia have fully reorganized their county board of supervisors since the passage of SB 202. In Spaulding County, in particular, the three Black women who constituted a majority of the Board have been replaced, as has the elections supervisor. A majority of three white Republicans now control the board and has already moved to restrict voting access, including by eliminating Sunday voting, a popular day to vote for Black voters.¹⁸⁸ In five of the counties that restructured election boards—Troup, Morgan, Pickens, Stephens, and Lincoln—the Georgia General Assembly shifted the power to appoint some or all election board to local county commissioners, all of which are controlled by Republicans. Previously the appointments had been split evenly between the local Democratic and Republican parties, with the intent to ensure a politically balanced election board.¹⁸⁹ Just this past month, Lincoln County, whose elections board was recently disbanded under SB 202, indicated plans to close six of the county's seven polling places, a move that would require some registered voters to travel as far as twenty-three miles to the nearest polling site and which would disadvantage the county's Black voters.¹⁹⁰ And while it has not yet occurred, shortly after the passage of SB 202, the Georgia State Election Board set up a review board to review the

¹⁸⁶ Georgia Senate Bill 202 (2021); see also Stephen Fowler, "What Does Georgia's New Voting Law SB 202 Do?"

¹⁸⁷ Nick Corasanti and Reid J. Epstein, "How Republican States Are Expanding Their Power Over Elections," *New York Times*, July 1, 2021, <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>; Mark Niesse and Brad Branch, "Fulton County Elections Takeover Mulled," 27 July, 2021

¹⁸⁸ James Oliphant and Nathan Layne, "Georgia Republicans purge Black Democrats from County Election Boards," Reuters, 9 December 2021, <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/>.

¹⁸⁹ *Id.*

¹⁹⁰ Susan McCord, "Lincoln County Looks to Eliminate All Polling Places But One," *Augusta Chronicle*, 21 December 2021.

performance of the Fulton County Election Board, setting up the prospect for a takeover of the Elections Board in Fulton, the home of hundreds of thousands of Black Georgians.¹⁹¹

These disfranchising measures have racial roots. As Dr. Peyton McCrary, a historian who recently retired after a 26-year career with the Department of Justice, has explained: “In Georgia politics since 2002, state government is dominated by the Republican Party, the party to which now most non-Hispanic white persons belong. The greatest electoral threat to the Republican Party and Georgia’s governing elected officials is the growing number of African American, Hispanic, and Asian citizens, who tend strongly to support Democratic candidates. The increase in minority population and the threat of increasing minority voting strength provides a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote. That is what has happened.”¹⁹²

d. 2021 General Assembly Officials by Composition of District

Even today, more than fifty years after the original 1965 VRA, most Black candidates in Georgia are only able to win in districts which are majority Black. The following tables show just how stark this phenomenon has been in Georgia’s most recent elections for the General Assembly. In the Georgia House, for example, none of Georgia’s Black House members were elected from a district with more than 55% white voters. In the Georgia Senate, none of Georgia’s Black Senators were elected from a district with more than 47% white voters. This trend is not surprising given the historically pervasive racially polarized voting in the state. These figures are shown below:¹⁹³

¹⁹¹ Nick Corasanti and Reid J. Epstein, “How States are Expanding Their Control Over Elections,” New York Times, 19 June 2021; Mark Niesse and Brad Branch. “Fulton County Elections Takeover Mulled,” 27 July 2021

¹⁹² McCrary Report, 8.

¹⁹³ Lawyers Committee for Civil Rights, *The Central Role of Racial Demographics in Georgia Elections: How Race Affects Elections for the Georgia General Assembly* (May 2021).

Table 2. Winning Candidates in 2020 in Georgia House of Representatives by Party and Race

Percentage white registered voters in district	White Republicans ¹⁹⁴	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Source: Lawyers Committee for Civil Rights, *The Central Role of Racial Demographics in Georgia Elections: How Race Affects Elections for the Georgia General Assembly* (May 2021), 10

Table 3. Winning Candidates in 2020 in Georgia State Senate by Party and Race

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

Source: Lawyers Committee for Civil Rights, *The Central Role of Racial Demographics in Georgia Elections: How Race Affects Elections for the Georgia General Assembly* (May 2021), 10

J. Conclusion

As this report has shown, Georgia has worked for decades to diminish the voting power of Black Georgians, both at the structural electoral level (in terms of redistricting and electoral arrangements), and at the individual level (in terms of voter requirements). These efforts have often been successful, stymying Georgia's Black voters from exercising their full political power. It is my opinion that Georgia's newest congressional plan is best viewed within this historical context.

¹⁹⁴ There are currently no Black Republicans in the Georgia General Assembly.

APPENDIX A: Representative Discriminatory Voting Tactics in Georgia

Voting Mechanism Adoption	Name of Georgia Jurisdiction	Details
Majority voting requirement	Americus (city)	Adopted plurality to majority vote for mayor and city council in 1968
	Jackson (city)	Adopted majority vote after passage of VRA, enjoined in 1981
	Covington (city)	Adopted a majority vote and runoff election requirement for city council in 1967
	St. Mary's (city)	Adopted majority vote requirement for city council in 1967
	Waynesboro (city)	Adopted a majority vote requirement in 1971, ignored §5 finding against the city until 1976
	Moultrie (city)	Adopted majority vote requirement for city council in 1965; used at-large elections
	Augusta, Alapaha, Ashburn, Athens, Butler, Cairo, Camilla, Crawfordville, East Dublin, Hartwell, Hinesville, Hogansville, Jesup, Jonesboro, Lakeland, Louisville, Lumber City, Madison, Nashville, Newman, Palmetto, Sandersville, Sylvester, Thomson, Wadley, Waynesboro, Wrens	Other cities in Georgia that adopted majority vote requirements after 1970

At-Large Voting	Dooly County	Utilized at-large voting from 1967 to 1981
	Miller County	Utilized at-large voting from 1967 to 1980
	Pike County	Utilized at-large voting from 1967 to 1980. No preclearance was sought. In 1979, the US AG said preclearance was necessary, but county refused to honor this until a subsequent lawsuit in 1980.
	Harris County	Utilized at-large voting for board of commissioners starting in 1974
	Sumter County	Utilized at-large voting for county commissioners in 1972 following Section 5 finding that the county was malapportioned. In 1981 a three-judge federal panel found that this required preclearance.
	Jackson (city)	Utilized at-large voting following passage of Voting Rights Act; Annexed several dozen areas to suppress Black voting; enjoined by federal court in 1981
	Burke County	Utilized at-large voting until 1976, until enjoined by a federal court in 1981

	Putnam County	Utilized at-large voting until 1981
	McDuffie County	Utilized at-large voting until a 1978 consent decree .
	Coffee County	Utilized at-large voting until a 1977 consent decree .
	Douglas County	Utilized at-large voting until a 1977 consent decree.
	Peach County	Utilized at-large voting until a 1979 consent decree .
	Waynesboro (city)	Utilized at-large voting until a 1977 consent decree.
	Americus (city)	Utilized at-large voting until a 1980 consent decree.
	Dawson County	Utilized at-large voting until a 1980 consent decree.
	Madison County	Utilized at-large voting until a 1978 consent decree.
	Morgan, Newton, and Twiggs Counties	Adopted at-large voting in 1971
	Wilkes, McDuffie Counties	Adopted at-large voting in 1972
	Newton and Bibb Counties	Adopted at-large voting for Board of Education in 1971
	Baldwin, Truetlen, McDuffie, Camden, Putnam, Pike, Spalding, and Wilkes Counties	Adopted at-large voting for Board of Education in 1972
	Toombs, Sumter, and Clarke Counties	Adopted at-large voting for Board of Education in 1973
	Harris, Charlton, and Taylor Counties	Adopted at-large voting for Board of Education in 1975

	Long County	Adopted at-large voting for Board of Education in 1975
Numbered Post System	Dawson (city)	Adopted numbered-post system in 1970
	Kingsland (city)	Adopted numbered-post system in 1967
Other tactics	DeKalb County	Limited minority voting registration drives in 1980
	Seminole County	Used voting districts drawn in 1933 (which severely diluted Black voting strength) up until 1980.
	Camden County	Designated an all-white women's club as the new municipal polling place in 1978
	Peach County	Adopted staggered voting for County Commissioners in 1968
	Moultrie (city)	Instituted a literacy test for new Black poll workers but grandfathering in all previously serving all-white poll workers in 1978.

Source: Laughlin McDonald, *Voting Rights in the South: Ten Years of Challenging Continuing Discrimination Against Minorities* (ACLU, Southern Regional Office, 1982); Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003), 141–143.

APPENDIX B

ORVILLE VERNON BURTON

History Department, 126 Hardin Hall, 403 Calhoun Drive, Clemson University, Clemson, SC 29634-0527; O: 864/656-3153 C: 217/649-0608; Fax: 864/656-1015; H: 864/543-2552
Home: 107 Baywood Circle, Ninety Six, SC 29666 or 110 Houston St., Clemson, SC 29631
vburton@clemson.edu

(<http://justice-deferred.clemson.edu>) (<https://ageoflincoln.wpengine.com>)

Education: 1976, Ph.D. Princeton University Ph.D. dissertation: "Ungrateful Servants? Edgefield's Black Reconstruction: Part I of the Total History of Edgefield County, South Carolina." Advisors Sheldon Hackney and James McPherson
1969, B.A. Furman University, magnum cum laude

Military Service: active service 1969, 1974 U.S. Army, Honorably Discharged as Captain, 1977

Academic Positions:

Clemson University, 2010-

The Judge Matthew J. Perry, Jr. Distinguished Professor of History

Professor Sociology and Anthropology, Clemson University, 2014-

Creativity Chair of Humanities, Clemson University, 2013-15

Professor Pan-African Studies, 2012-

Professor Computer Science, Clemson University, 2011-

Director Clemson CyberInstitute, 2010-

Associate Director Humanities, Arts, and Social Sciences, Clemson CyberInstitute, 2010

Professor of History, Clemson University, 2010-

Burroughs Distinguished Prof. Southern Hist. & Culture, Coastal Carolina University, 2008-10

University of Illinois at Urbana-Champaign (UIUC), 1974-2008

2009- Chair, Advisory Board for Institute for Computing in Humanities, Arts, and Social Science (I-CHASS)

2008-11, Consultant for Humanities to Chancellor's and Provost's Office

2004-09, Founding Director I-CHASS

2008 - Emeritus University Distinguished Teacher/Scholar, University Scholar, and Professor History, African American Studies, and Sociology

2006-08, Professor African American Studies

1989-2008, Professor History

1989-2008, Professor Sociology

1988-2008, Graduate College Statistics Faculty

1986-2008, Campus Honors Program

1985-2006, Faculty Affiliate, African American Studies and Research Program

1982-1989, Associate Professor, History

1976-1982, Assistant Professor History

1974-1976, Instructor

National Center for Supercomputing Applications (NCSA)

2002-10, Associate Director, Humanities and Social Sciences

1993-2002, Head, Initiative for Social Sciences and Humanities

1986- Senior Research Scientist

Princeton University

1972-74, Assistant Master, Woodrow Wilson Residential College

1971-72, Instructor, Mercer County Community College, NJ

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College of Charleston

2001-, Executive Director, Program in the Carolina Lowcountry and the Atlantic World
(CLAW) <http://claw.cofc.edu>

1987, Professor of History, Governor's School of South Carolina

Selected Honors, Fellowships, Awards

U.S. Professor of the Year, Outstanding Research and Doctoral Universities Professor (Council for Advancement and Support of Education and Carnegie Foundation for the Advancement of Teaching), 1999

American Historical Association Eugene Asher Distinguished Teaching Prize, 2004

Chicago *Tribune's* Heartland 2007 Literary award for nonfiction for *The Age of Lincoln*

Illinois House Resolution of Congratulations, HR 0711, 2007. The Illinois State legislature passed a special resolution acknowledging my contributions as a scholar, teacher, and citizen of Illinois.

South Carolina Governor's Award for Lifetime Achievement in the Humanities, presented by the SC Humanities Council, 2017 (selected 2016)

Society of American Historians, Elected 2012

Fellow, National Humanities Center (NEH Senior Scholar Award), 1994-95

Fellow, Woodrow Wilson International Center for Scholars, 1988-89

Fellow, Pew Foundation, 1996

National Fellowship Program for Carnegie Scholars, 2000-2002

Rockefeller Humanities Fellowship, 1978

Earl and Edna Stice Lectureship in the Social Sciences at the University of Washington, 2005

Strickland Visiting Scholar, Department of History, Middle Tennessee State University, 2006

Pew-Lilly Foundation Graduate Professor, Notre Dame University, 2001

Mark W. Clark Distinguished Chair of History, The Citadel, 2000-01

Elected to honorary life membership in BrANCH (British American Nineteenth-Century Historians)

Organization of American Historians Distinguished Lecturer, 2004-

Choice Outstanding Academic Book for *The Age of Lincoln*, 2008

Choice Outstanding Academic Title for *Slavery and Anti-Slavery: Transnational Archive*, 2009

Booklist's Editors' Choice Title for *Slavery and Anti-Slavery: A Transnational Archive*, 2009

Choice Outstanding Academic Book for *Computing in the Social Sciences and Humanities*, 2003

Richard F. Fenno Prize, Legislative Studies Section, American Political Science Association, for *Quiet Revolution*, 1995

President Southern Historical Association, 2011-12

President Agricultural History Society, 2001-02

Elected to the South Carolina Academy of Authors, 2015, inducted 2016.

Certificate of Excellence from the Carnegie Academy for the Scholarship of Teaching and Learning for Work that Advances the Practice and Profession of Teaching In Support of Significant Student Learning, 2001

H-Net received the James Harvey Robinson Prize for teaching from the American Historical Association, 1997 (I was one of the founders, and the first treasurer).

Award of Distinction in the Film/Video-History/Biography category from the International Academy of the Visual Arts, 16th Annual Communicator Awards, for "People: A Lincoln

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Portrait" television interstitial series (The Communicator Awards is the leading international awards program honoring creative excellence for communications professionals), 2010 (part of program I put together for Lincoln commemoration at UIUC).

SC African American Heritage Commission's 2009 "Preserving Our Places in History" Project Award for Claw's (Executive Director, College of Charleston Carolina Lowcountry and Atlantic World) work in commemorating the banning of the international slave trade
Florida Historical Society, Medallion Lecture, 2002
Auburn University, Eminence in the Arts and Humanities Fellows Lectures Medallion, "awarded to persons of distinguished achievement in the arts and humanities: writers, artists or renowned scholars in one or more of the liberal arts disciplines," 2012
Senior Research Fellow, Southern Studies, University of South Carolina, 1988
Phi Beta Kappa, Furman University, 1986
Princeton University Scholar Award, 1969
National Defense Educational Award Title IV Fellowship, 1971 (Princeton University)
Clark Foundation Scholarship, 1966-69 (Furman University)
Wicker Award for Outstanding Student (sophomore), Furman University, 1967
Endel History Award, Furman, 1969
Bradshaw-Feaster General Excellence Award (Furman's highest honor for the graduating senior selected by faculty), 1969

Honors Clemson University and Recognition

College of Architecture, Art, and Humanities (CAAH), Dean's Award for "Outstanding Service," 2019
Inaugural Class 2018 University Research Scholarship and Artistic Achievement Award
Inaugural Judge Matthew J. Perry Distinguished Chair of History, 2017-
CAAH, Dean's Award for "Excellence in Research," 2016
CAAH, Creativity Professor Humanities, 2013-15
Featured Clemson Homepage 2017, "Meet a Tiger," <http://newsstand.clemson.edu/meet-a-tiger-vernon-burton/>

UIUC Honors and Teaching Awards and Recognition

Inaugural University "Distinguished Teacher/Scholar," 1999-2008
University Scholar, 1988 – 2008
Campus Award for Excellence in Public Engagement, 2006
Graduate College Outstanding Mentoring award, 2001-02
Fellow, Center for Advanced Study, 1982, Associate, 1994
Burlington Northern Faculty Achievement Award (UIUC), 1986
Study in a Second Discipline, Statistics and Demography, 1984
All-Campus Award for Excellence in Undergraduate Teaching, 1999
LAS Dean's Award for Excellence in Undergraduate Teaching, 1999
LAS Award for Distinguished Teaching, 1986
School of Humanities Teaching Award, 1986
George and Gladys Queen Excellence in Teaching Award in History, 1986
Undergraduate Instructional Award (UIUC), 1984
Every semester and for every undergraduate course that I taught at the University of Illinois (excluding large survey classes of between 300-750 students), I was deemed excellent in the UIUC "Incomplete List of Excellent Teachers." I was noted on the list for more than twenty different courses. I was noted as "outstanding" from 1979 as long as they used that designation.

Burton, page 4

- Recognized by the Pan-Hellenic Council at as an “outstanding staff member for furthering scholastic achievement”
- Selected by History Department as the “one instructor whom you believe best at creating intellectual excitement in students” for an educational study of teaching practices of college teachers, 1978
- Received the Resident Hall Association Award for the Best Educational Program for lectures/discussion on *Gone With the Wind* and *Jubilee* for Black History Month, 1996
- The Honor Society of Phi Kappa Phi, UIUC, Vice President, 2002-03; President, 2003-04
- Ronald E. McNair Scholars Program Dedicated Service Award for service to Minority Students, 1996
- Associate Vice Chancellor Academic Affairs award for contributions to the Student Research Opportunities Program and work with minority students (1995, 2006)

Publications:

Books:

- (with Armand Derfner) *Justice Deferred: Race and the Supreme Court*. Cambridge: Belknap Press of Harvard University Press, 2021. The Social Science History Association is featuring a session on the book at the annual meeting in November 2021.
- (with Beatrice Burton and Megan Shockley) *Fort Sumter and Fort Moultrie National Historical Park, Charleston, SC Administrative History*. Washington, DC: The National Park Service, November, 2020.
- Penn Center: A History Preserved*. Athens: University of Georgia Press, 2014; paperback edition, 2017.
- The Age of Lincoln*. NY: Hill and Wang, 2007. (Audio: Blackstone Audio Books). Paperback edition 2008. Selection for Book of the Month Club, History Book Club, Military Book Club. *The Age of Lincoln* was nominated by Farrar, Straus, and Giroux for the Pulitzer Prize. Three historical associations featured sessions on the book, Association for the Study of African American Life and History, 2008; Social Science History Association, 2008; The Southern Intellectual History Circle, 2009.
- (with Judy McArthur) “*A Gentleman and an Officer*”: *A Military and Social History of James B. Griffin's Civil War*. NY: Oxford University Press, 1996; second printing 1999.
- In My Father's House Are Many Mansions: Family and Community in Edgefield, South Carolina*. Chapel Hill: University of North Carolina Press, 1985. Paperback edition 1987; 5th printing 1998. *In My Father's House* was nominated by the University of North Carolina Press for the Pulitzer Prize. Two Historical Associations featured this book in sessions at their annual meetings: Social Science History Association, 1986; Southern Historical Association, 1987.
- Editor, *Becoming Southern Writers: Essays in Honor of Charles Joyner*. Columbia: University of South Carolina Press, 2016.
- (edited with Ray Arsenault) *Dixie Redux: Essays in Honor of F. Sheldon Hackney*. Montgomery, AL: New South Books, 2013.
- (edited with Jerald Podair and Jennifer L. Weber) *The Struggle for Equality: Essays on Sectional Conflict, the Civil War, and the Long Reconstruction in Honor of James M. McPherson*. Charlottesville: University of Virginia Press, 2011.
- Editor, *The Essential Lincoln*. NY: Hill and Wang, 2009.
- (edited with David O'Brien) *Remembering Brown at Fifty: The University of Illinois Commemorates Brown v. Board of Education*. Urbana: University of Illinois Press, 2009.

Burton, page 5

- (edited with Winfred B. Moore, Jr.) *"Toward the Meeting of the Waters": Currents in the Civil Rights Movement in South Carolina during the Twentieth Century*. Columbia: The University of South Carolina Press, 2008. Paperback 2011.
- Editor, *Slavery in America: Gale Library of Daily Life*, 2 vols. NY, Detroit: Gale Cengage Learning, 2008.
- (edited and annotated with Georganne B. Burton, introduction pp. 1-48) *"The Free Flag of Cuba": The Lost Novel of Lucy Pickens* [orig. pub. 1854] in the Library of Southern Civilization series, edited by Lewis P. Simpson. Baton Rouge: Louisiana State University Press, 2002. Paperback 2003.
- Editor, *Computing in the Social Sciences and Humanities*. Urbana: University of Illinois Press, 2002.
- (edited with David Herr and Terence Finnegan) *Wayfarer: Charting Advances in Social Science and Humanities Computing*. Urbana: University of Illinois Press, 2002. This CD-ROM contains more than 65 essays and research and teaching applications, including illustrative interactive multimedia materials.
- (with et al.) *Documents Collection America's History*, vol. 1, to accompany James Henretta, et al., *America's History*, 2nd ed. NY: Worth Publishers, 1993.
- (edited with Robert C. McMath, Jr.) *Class, Conflict, and Consensus: Antebellum Southern Community Studies*. Westport, Conn: Greenwood Press, 1982.
- (edited with Robert C. McMath, Jr.) *Toward a New South? Studies in Post-Civil War Southern Communities*. Westport, Conn: Greenwood Press, 1982.

In Press:

- (edited with Brent Morris) *Reconstruction at 150: Reassessing the Revolutionary "New Birth of Freedom"*. Charlottesville: University of Virginia Press, expected 2022.
- (edited with Peter Eisenstadt) *Lincoln's Unfinished Work: The New Birth of Freedom from Generation to Generation*. Baton Rouge: Louisiana State University Press, expected 2022.

Promised, but not Finished:

- Air Conditioning and the Voting Rights Act: The Voting Rights Act of 1965 in Historical Perspective*. Stice Lectures University of Washington. Seattle: University of Washington Press contracted, (withdrawn from press to include the 2013 recent challenge to Sections 5, which ended preclearance in 2013, and the recent challenges to Section 2, the in-person Voter Id controversies, and partisan redistricting challenges).
- Lincoln and the South Revisited*. Under contract. Carbondale: University of Southern Illinois Press.
- The South as Other: The Southerner as Stranger—The Contradictions of Southern Identity*. The expansion of my presidential address for the Southern Historical Association. Promised to University of South Carolina Press.

Plays:

- (with Georganne Burton) "Abraham Lincoln's Beardstown Trial: The Play" Premiered Sept. 29, 2009, Beardstown, IL. (Endorsed by the Congressional Abraham Lincoln Bicentennial Commission, November 2009; Play available upon request);
<http://www.lincolnbicentennial.gov/calendar/beardstown-trial-11-10-09.aspx>;
<http://www.civilwar.org/aboutus/events/grand-review/2009/almanac-trial.html>

Burton, page 6

Editor, Book Series, *A Nation Divided: Studies in the Civil War Era Series*, University of Virginia Press, 2011-

Editor, Book Series, *The American South Series*, University of Virginia Press, 2013-

Introductions and Forewords to Books:

"Foreword," pp. ix-liv to *Born to Rebel: An Autobiography* by Benjamin Elijah Mays. Athens: University of Georgia Press Brown Thrasher edition, 1987, also in paperback edition (book without foreword originally published by Charles Scribner's Sons, 1971). Revd. Foreword 2003.

"Introduction," pp. 9-11 to *Roll the Union On: Southern Tenant Farmers Union*. As told by its Co-founder, H.L. Mitchell. Chicago: Charles H. Kerr Publishing Company, 1987.

"Introduction," pp. xiii-xviii to *Soldiering with Sherman: The Civil War Letters of George F. Cram*. Jennifer Cain Bohrnstedt, ed., DeKalb: Northern Illinois University Press, 2000.

"Introduction," pp. x-xxxiv to *Pitchfork Ben Tillman: South Carolinian* by Francis Butler Simkins, for the reprint edition of the Southern Classics Series of the Institute for Southern Studies. Columbia: University of South Carolina Press, 2002 (book without Introduction originally published by Louisiana State University Press, 1944).

(with James Barrett) "Foreword," pp. xi-xxv to paperback edition of *Cause at Heart: A Former Communist Remembers* by Junius Irving Scales with Richard Nickson. Athens: University of Georgia Press, 2005 (book without Foreword originally published 1987).

"Foreword," pp. vii-xi to *Recovering the Piedmont Past: Unexplored Moments in Nineteenth-Century Upcountry South Carolina History*, edited by Timothy P. Grady and Melissa Walker. Columbia: University of South Carolina Press, 2013.

"Foreword," pp. vii-xiii to *Our Ancestors – Our Stories: The Memory Keepers*, edited by Harris Bailey, et al. Suwanee, Georgia: The Write Image, 2014.

"Foreword," pp. iv-xiv, to Kevin M. Cherry, *Virtue of Cain, Biography of Lawrence Cain* Washington: *From Slave to Senator*. Takoma Park, MD: Rocky Pond Press, 2019.

"Foreword," pp. vi-x, to Frankie Felder, *OURstory Unchained and Liberated from HIsTory*. Anderson, S.C.: Edelweiss Publishers, 2021.

Journals Edited:

Special issue on the "Digital South," *Southern Quarterly: A Journal of Arts and Letters in the South*, 58: 1-2 (expected soon, Fall 2020/Winter 2021).

"Three Articles from a Century of Excellence: The Best of *The South Carolina Historical Magazine*," pp. 182-89 for *South Carolina History Magazine* 101: 3 (July 2000).

"Introduction," pp. 161-65 for *Social Science Computer Review* 12:2 (Summer 1994).

Co-editor, "Technology and Education," *International Journal of Social Education* 5:1 (Spring 1990).

History Articles, Chapters, and Essays:

"The South as Other, The Southerner as Stranger," Presidential address for the Southern Historical Association, *The Journal of Southern History* LXXIX:1 (February 2013): 7-50.

"Reaping What We Sow: Community and Rural History," Presidential address for the Agricultural History Society in *Agricultural History* (Fall 2002): 631-58.

"Building the Transcontinental Railroad," *Presidential Inaugural Portfolio*, Joint Congressional Committee on Inaugural Ceremonies, January 21, 2013.

Burton, page 7

- “Modeling the Baptist Faith” in *Walk with Me: Reflections on the Life and Influence of James Milton Pitts*. Edited by Cecil P. Staton and John Adams (Macon, Georgia: Smyth and Helwys, 2021), 125-134.
- “Epworth Native Earned Place in History: Benjamin E. Mays, Schoolmaster of the Civil Rights Movement,” 99-101, in *10 Years Preserving History: Building a Legacy, Gleams Dr. Benjamin E. Mays Historical Preservation Site*. Ed. Christopher Thomas (Greenwood: Gleams Center, 2021).
- “The Creation and Destruction of the Fourteenth Amendment During the Long Civil War,” *Louisiana Law Review*, Vol. 79 (Fall 2018): 189-239.
- “Mystery and Contradiction: My Story of Ninety Six,” in *State of the Heart: South Carolina Writers on the Places They Love*, Vol. 3, pp. 18-27. Edited by Aida Rogers (Columbia: University of South Carolina Press, 2018)
- “Reconstructing South Carolina’s Reconstruction,” keynote South Carolina Historical Association, 2017 (Columbia: Proceedings of the South Carolina Historical Association, 2018), pp 7-40.
- “The Birth of a Nation: A Roundtable,” (Roundtable Discussion of film on 1831 Nat Turner Insurrection), edited Ryan Keating in *Civil War History* 64 (March 2018), pp. 56-91. (with Anderson R. Rouse) “Southern Identity,” pp. 40-53, in *The Routledge History of the American South*. Edited by Maggi M. Morehouse (New York: Routledge, 2018).
- (with Anderson R. Rouse) “Religious Practices,” pp. 111-26, in *The Routledge History of the American South*. Edited by Maggi Morehouse (New York: Routledge, 2018).
- “Reconstructing South Carolina’s History Through the South Caroliniana Library, 80th Annual Meeting Address by Dr. Orville Vernon Burton,” The University South Caroliniana Society 81st Annual Meeting, 22 April 2017, pp. 2-32.
- “From Clarendon County to the Supreme Court,” pp. 84-88 and “Eating with Harvey Gantt and Mathew Perry: Myth and Realities of “Integration with Dignity,” pp.139-40 accompanying Cecil Williams’ photographs of South Carolina’s Civil Rights Movement in Cecil Williams, *Unforgettable, Life Hope Bravery, 1950-1970: Celebrating a Time of Bravery* (Orangeburg: Cecil J. Williams Photography/Publishing, 2017).
- “Localism and Confederate Nationalism: The Transformation of Values from Community to Nation in Edgefield, South Carolina,” pp. 107-123, 233-39 in Robert H. Brinkmeyer, Jr., ed., *Citizen Scholar: Essays in Honor of Walter B. Edgar* (Columbia: University of South Carolina Press, 2016).
- “Lincoln, Secession, and Emancipation,” pp. 81-104 in Paul Finkelman and Donald R. Kennon, eds., *Lincoln, Congress, and Emancipation*, for the U.S. Capitol Historical Society (Athens: Ohio University Press, 2016).
- “Stranger Redux,” pp. 38-49 in Orville Vernon Burton, Editor, *Becoming Southern Writers: Essays in Honor of Charles Joyner* (Columbia: University of South Carolina Press, 2016)
- “Tempering Society’s Looking Glass: Correcting Misconceptions About the Voting Rights Act of 1965 and Securing American Democracy” *Louisiana Law Review* Lead article for Vol. 76:1 (2015): 1-42.
- “Perceptions and Meaning of the Confederate Flag,” *The Proclamation* (President Lincoln’s Cottage), XXVIII (Summer 2015): 8- 14 (longer unedited version on-line at: <http://www.lincolncottage.org/perceptions-and-meaning-of-the-confederate-flag-an-interview-with-two-scholars/> and with Edna Medford)
- “Revisiting the Myth of the Black Matriarchy,” pp. 119-65 in Orville Vernon Burton and Ray Arsenault, eds., *Dixie Redux: Essays in Honor of F. Sheldon Hackney* (Montgomery, AL: New South Books, 2013).

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- "The Passage of Lincoln's Republic: Providence in Progress," pp. 13-36 in Stephen Engle, ed. *The War Worth Fighting: Abraham Lincoln's Presidency and Civil War America* (Gainesville: University of Florida Press, 2015).
- "Bertram Wyatt-Brown: An Honorable Man and a Man of Grace," *Georgia Historical Quarterly* XCIX, No. 3(Fall, 2015): 2013-18.
- (with Michael LeMahieu), "Civil War Memory in the Civil Rights Movement and Contemporary Commemoration," *Journal of American Studies* (with American Studies International, *AMSJ*) 53:4 (2014): 107-18.
- Remembering the Civil War," pp. 278-85 in *The Civil War as Global Conflict*. Edited by Simon Lewis and David Gleeson (Columbia: University of South Carolina, 2014).
- "The Gettysburg Address Revisited." In *1863: Lincoln's Pivotal Year*. Edited by Harold Holzer and Sara Vaughn Gabbard (Carbondale: Southern Illinois University Press, 2013), pp. 137-55.
- (with Ian Binnington) "And Bid Him Bear A Patriot's Part": National and Local Perspectives on Confederate Nationalism in *Deconstructing Dixie*, pp 126-155. Edited by Jason Kyle Phillips (Athens: University of Georgia Press, 2013).
- "The Silence of a Slaveholder: The Civil War Letters of James B. Griffin," in *The Battlefield and Beyond: Essays on the American Civil War*. Edited by Clayton E. Jewett (Baton Rouge: Louisiana State University Press, 2013), pp. 13-27.
- "Abraham Lincoln," in *The Oxford Encyclopedia of American Political and Legal History*. Edited by Donald T. Chritchlow and Philip R. VanderMeer, 1:560-64. 2 vols. (NY: Oxford University Press, 2012).
- (with Lewie Reece) "Abraham Lincoln," Essential Civil War Curriculum, <http://www.essentialcivilwarcurriculum.com/>. Edited by William C. Davis and James I. Robertson, Sesquicentennial Project of the Virginia Center for Civil War Studies and the History Department of Virginia Polytechnic Institute and State University (Virginia Tech, 2013).
- "Family," in *Enslaved Women in America: An Encyclopedia*. Edited by Daina R. Berry and Deleso Alford Washington (Santa Barbara & Westport, CN: Greenwood Press, 2012), pp. 83-87.
- "Lincoln at Two Hundred: Have We Finally Reached Randall's Point of Exhaustion?" In *The Living Lincoln: Essays from the Harvard Lincoln Bicentennial Symposium*, pp. 204-25. Edited by Thomas A. Horrocks, Harold Holzer, and Frank J. Williams (Carbondale: Southern Illinois University Press, 2011), pp. 204-25.
- (with Nick Gaffney) "South Carolina," Vol. 2: pp. 745-764 in *Black America: A State by State Encyclopedia*. Edited by Alton Hornsby (Westport, CN: Greenwood Press, 2011).
- "Mays, Benjamin" in *The New Encyclopedia of Southern Culture*. Vol. 19 *Education*. Edited by Clarence Mohr. (Chapel Hill: University of North Carolina Press, 2012), pp. 254-255.
- "The Age of Lincoln: Then and Now," Keynote for the South Carolina Historical Association Annual Meeting, *The Proceedings of the South Carolina Historical Association*, 2010, pp. 7-22. Edited by Robert Figueira and Stephen Lowe (Columbia: South Carolina Department of Archives and History, 2010). Reprinted pp 11- 26 in Michael Bonner and Fritz Hamer (eds.) *South Carolina in the Civil War and Reconstruction Eras: Essays from the Proceedings of the South Carolina Historical Association* (Columbia: University of South Carolina Press, 2016).
- (with Larry McDonnell and Troy D. Smith) "Slavery and Anti-Slavery: A Transnational Archive," pp. 121-26 in *L'abolition de l'esclavage au Royaume-Uni 1787-1840 : débats et dissensions The abolition of slavery in Britain 1787-1840 : debate and dissension.* Edited by Susan Finding (Paris: ArmandColin, November 2009).

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- "Abraham Lincoln at Two Hundred," *OAH* (Organization of American Historians) *Newsletter*, 37:4 (November 2009), pp. 1, 8, 12.
- "Author's Response to the Southern Intellectual History Circle Forum on *The Age of Lincoln*," *The Journal of the Historical Society* IX:3 (September 2009): 355-72.
- (with Georganne Burton) "Lucy Holcombe Pickens: Belle, Political Novelist, and Southern Lady," in *South Carolina Women: Their Lives and Times*, Vol 1. Edited by Marjorie Julian Spruill, Valinda W. Littlefield, and Joan Marie Johnson (Athens: University of Georgia Press, 2009), pp.273-98.
- Three essays in the *International Encyclopedia of Revolution and Protest: 1500 to the Present*. Edited by Immanuel Ness. (Oxford: Wiley-Blackwell, 2009).
- "Radical Reconstruction, United States, Promise and Failure of" VI: 2798-2801
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Presentations, Posters:

- Dupuis L, Jueng J, Su A, Kunadia A, Siddiqui F, Harding TP, Brooks I, Solomon JA, Burton V, Dellavalle R, Seyffert J. Comparing Patient Perspectives of Melanoma to Non-Oncologic Dermatological Disease (Non- Oncologic) via Social Media Data Mining. Poster presentation The Autoimmunity Conference, Athens, Greece, May 28, 2021.
- Kunadia A, Brooks I, Solomon JA, Burton V, Dellavalle R, Seyffert J, Harding TP. Utilization of Patient Interactive Diaries to Establish a Database of Patient Reported Outcomes Generating a Cycle of Continuous Quality Improvement. Poster presentation The Autoimmunity Conference, Athens, Greece, May, 28 2021.
- Jueng J, Maner B, Dupuis L, Su A, Kunadia A, Dellavalle R, Brooks I, Sinha R, Siddiqui F, Burton V, Seyffert J, Solomon JA. Discerning Patient Perspectives and Attitudes Towards Treatment of Dermatological Diseases Using Artificial Intelligence. Poster presentation, 2020 International Dermatology Outcome Measures Conference, Washington, DC, October 23-24, 2020.
- Kunadia A, Brooks I, Solomon JA, Burton V, Dellavalle R, Seyffert J, Harding TP. Combining Social Media Mining and Patient Interactive Diaries for Population-Based Care. E-Poster Exhibit, American Academy of Dermatology Virtual Meeting Experience event, Denver, CO, June 13, 2020.
- Dupuis L, Su A, Jueng J, Kunadia A, Dellavalle R, Brooks I, Sinha R, Maner B, Siddiqui F, Burton V, Seyffert J, Solomon J A. Capturing Patient Perspectives: Natural Language Processing of Social Media to Evaluate Patient Global Impression of Change in Dermatological Treatments. Poster presentation, Cochrane Skin Conference, Denver, CO, March 19, 2020.
- Kunadia A, Hareesh S, Shih S, Brooks I, Solomon JA, Burton V, and Dellavalle, R. Positive Sentiment for Biologic Therapies among Psoriasis Patients on Social Media: An Analysis of 4.8 million Social Media Posts from 2008-2019. ePoster Presentation. 24th World Congress of Dermatology 2019, Milan, Italy 10-15 June 2019
- With Updyke KM, Urso B, Solomon JA, Brooks I, Dellavalle RP. "Identifying the most influential social media networks utilized by different populations of patients with autoimmune diseases." Oral poster presentation, 2017 Society for Investigative Dermatology Annual Meeting, Portland, OR. April 2017
- With Updyke KM, Urso B, Solomon JA, Brooks I, Dellavalle RP. "An overview of social media posts related to psoriasis patients' perspectives towards Humira." Oral poster presentation, 2017 Society for Investigative Dermatology Annual Meeting, Portland, OR. April 2017
- With Urso B, Updyke KM, Domozych R, Solomon JA, Brooks I, Dellavalle RP. "Acne treatment utilization among patients on social media platforms." Oral poster presentation, 2017 Society for Investigative Dermatology Annual Meeting, Portland, OR. April 2017

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Interviews, Reports, and Other Publications:

- "The GA election and the Voting Rights Act," for the Clemson Humanities Hub and it was posted on June 17, 2020 at <https://blogs.clemson.edu/humanitieshub/2020/06/17/the-ga-election-and-the-voting-rights-act/?fbclid=IwAR2Gx4S5JIJrK784YnwCk5ezMkdQVMTLX7av9dQiwwz2nytvVbdkKaWzeLU>
- "A Brief Conversation with James M. McPherson," in *The Struggle for Equality: Essays on Sectional Conflict, the Civil War, and the Long Reconstruction in Honor of James M. McPherson*. Edited by Burton et al., pp. 288-92 (Charlottesville: University of Virginia Press, 2011).
- "We must learn not to hide from our racist past," *Greenville News* December 27, 2014.
- "Dr. Lacy K. Ford Jr.," *Caroliniana Columns: University of South Caroliniana Society Newsletter*, Issue 35 (Spring, 2014), pp. 3-4.
- "A Few Words about Allen Stokes as He Retires as Director of the South Caroliniana Library," *Caroliniana Columns: University of South Caroliniana Society Newsletter*, Spring 2013, pp. 1, 4-5.
- "UI Earns Right to be Mr. Lincoln's University: Excerpted from remarks by Prof. Vernon Burton, April 1, 2010 keynote address at the UI College of Law," *The News Gazette* (Champaign, Illinois) May 23, 2010, pp. C-1 and C-4.
- "Learning from the Bicentennial: Lincoln's Legacy Gives Americans Something for which to Strive," *The News Gazette* (Champaign, Illinois) February 12, 2010, pp. C-1 and C-4.
- "Life of Lincoln Resonates Today," *The Atlanta Journal-Constitution*, Opinion, Dec. 9, 2009, A19.
- "Colbert History," *Pan-African Studies*, Fall 2009, p. 3.
- "Remarks by Professor Orville Vernon Burton at the October 10, 2009 Celebration of Abraham Lincoln's September 30, 1959 Speech," Delivered at the Milwaukee War Memorial Center at the Invitation of the Wisconsin Lincoln Bicentennial Commission, Appendix pages 166-177 in *Final Report and Appendix of the Wisconsin Lincoln Bicentennial Commission*, To: The Governor of the State of Wisconsin, Jim Doyle, Responsive to: Executive Order #245, Date: February 12, 2010.
- "Max Bachmann's Bust of Abraham Lincoln, Circa 1915," pp. 88-89 in *Lincoln in Illinois*, Ron Schramm, Photographer and Richard E. Hart, Compiler and Editor (Springfield: published by the Abraham Lincoln Association, 2009).
- "Liberty," in the Fetzer Institute's *Booklet of Notable Lincoln Quotations*, 2009.
- "Is There Anything Left to Be Said about Abraham Lincoln?" *Historically Speaking* 9:7 (September/October 2008): 6-8.
- "An Interview with Vernon Burton" *Lincoln Lore*, no. 1894 (Fall 2008), pp. 18-24.
- "Lincoln's Generation also Faced Crisis Involving Religion and Terrorism," in *History Network Newsletter*, February 25, 2008.
- "Abraham Lincoln, Southern Conservative: An Interview with Orville Vernon Burton" (2 Parts), posted by Allen Barra, October 2, 2007.
http://www.americanheritage.com/blog/200710_2_1259.shtml and
http://www.americanheritage.com/blog/200710_2_1260.shtml
- Interview by Roy A. Rosenzweig, 2001, "Secrets of Great History Teachers," *History Matters*, at <http://historymatters.gmu.edu/browse/secrets/>.
- "Keeping Up With the e-joneses: Information Technology and the Teaching of History," *Proceedings for First Annual Charleston Connections: Innovations in Higher Education Conference. Learning from Each Other: The Citadel, The College of Charleston, The*

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- Medical University of South Carolina, Charleston Southern University and Trident Technical College*. June 1 and 2, 2001, The Citadel, Charleston, South Carolina, p. 63.
 (with Terence Finnegan and Barbara Mihalas) "Developing a Distributed Computing U.S. Census Database Linkage System," Technical Report 027 (December 1994). National Center for Supercomputing Applications, UIUC.
- "On the Study of Race and Politics," *Clio: Newsletter of Politics & History, An Organized Section of the American Political Science Association* 3:1 (Fall & Winter, 1992/1993): 6.
- "Benjamin Mays of Greenwood County: Schoolmaster of the Civil Rights Movement," *South Carolina Historical Society News Service*, published in various newspapers, 1990.
- "Quantitative Historical U.S. Census Data Base" in *Science: The State of Knowing*. National Center for Supercomputing Applications, Annual Report to the National Science Foundation 1987, p. 29.
- "Computer-Assisted Instructional Database Programs for History Curricula" *Project EXCEL*. 1986-87 Annual Report. Office of the Chancellor, UI at Urbana-Champaign, pp. 41-42.
- "Postmodern Academy," *The Octopus*, January 24, 1997, p. 6.
- (with David Herr and Ian Binnington) "Providing Lessons in Mississippi River Basin Culture and History: riverweb.ncsa.uiuc.edu," in *Touch the Future: EOT-PACI*, 1997, p. 43.
- "The Coming of Age of Southern Males During Reconstruction: Edgefield County, South Carolina," Working Papers in Population Studies, School of Social Sciences, University of Illinois at Urbana-Champaign, 1984.
- In Memorial – Essays for Charles Joyner, F. Sheldon Hackney, Bertram Wyatt-Brown in the American Historical Association (AHA) *Perspectives*; Thomas Krueger and Philip Paladin in Organization of American Historians *OAH Newsletter*, and F. Sheldon Hackney JSH LXXXI:2 (May 2015), pp. 350-52, and Ernest L. "Whitey" Lander, in *Journal of Southern History*.
- "Creating a Major Research Archive on Southern History," *Caralogue: The Journal of the South Carolina Historical Society*, June, 2015.
- A number of brief essays about the Clemson CyberInstitute, for example, "Clemson's CyberInstitute encourages Collaboration," <http://features.clemson.edu/inside-clemson/inside-news/clemson%E2%80%99s-cyberinstitute-encourages-collaboration/>
- In addition, I have written a number of reports as expert witness for minority plaintiffs in voting rights and discrimination cases.

Digital Publications and Projects:

- Editor in Chief, *The Long Civil War: A Digital Research and Teaching Resource*, Alexander Street Publishers (Now Proquest) , 2013-
- Editor in Chief, *Slavery and Anti-Slavery: A Transnational Archive*. The Largest Digital Archive on the History of Slavery. Farmington Hills, MI: Thompson-Gale, 2007--14.
<http://www.galetrials.com/default.aspx?TrialID=16394;ContactID=15613>. Advisory Board: Ira Berlin, Laurent Dubois, James O. Horton, Charles Joyner, Wilma King, Dan Littlefield, Cassandra Pybus, John Thornton, Chris Waldrep.
- Part I: Debates Over Slavery and Abolition, 2009
- Part II: Slave Trade in the Atlantic World, 2011
- Part III: Institution of Slavery, 2012
- Part IV: Age of Emancipation, 2014
- Webmaster for the Abraham Lincoln Bicentennial Commission Website, 2007-10, now maintained by the ALB Foundation. <http://www.lincolnbicentennial.gov/>
- "Does Southern Exceptionalism Exist," Inside Clemson, May 14, 2014
<http://newsstand.clemson.edu/does-southern-exceptionalism-exist/>

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- Lincoln Remembered: Nine essays – “Lincoln and the Founding of Democracy’s Colleges,” “Lincoln: America’s “First and Only Choice,” “Picturing Lincoln,” “Putting His Politics on Paper,” “Belief in the Rule of Law,” “Taking a Stand Against Slavery,” “The Movement Toward Civil Rights,” “Political Brilliance on the Path to the Emancipation Proclamation,” “Lincoln’s Last Speech,” commemorating the bicentennial of Lincoln’s birth, February 2009 to February 2010. A monthly blog for the Illinois LAS On-line Newsletter; available at <http://www.las.illinois.edu/news/lincoln/>.
- Writing the South in Fact, Fiction and Poetry: A Conference Honoring Charles Joyner. Thursday and Friday Sessions. DVD produced of Conference I organized at Coastal Carolina University, Conway, SC, Feb. 17-19, 2011. Produced CD Aug. 2011.
- Editor, “Slavery in America in Sources in U.S. History Online.” Farmington Hills, MI: Thompson Gale, 2007.
- “The Mississippi River in American History,” for *Mark Twain’s Mississippi*, including essays with Simon Appleford and Troy Smith, on “Economic Development, 1851–1900,” “Politics, 1851–1900,” “African Americans in the Mississippi River Valley, 1851–1900,” “Native Americans in the Mississippi River Valley, 1851–1900,” “Religion and Culture, 1851–1900,” and “Women in the Trans-Mississippi West, 1851–1900.” Edited by Drew E. VandeCreek, Institute of Museum and Library Services (IMSL) Project (2007). Online Resource: <http://dig.lib.niu.edu/twain/>.
- RiverWeb: An interdisciplinary, multimedia, collaborative exploration of the Mississippi River’s interaction with people over time (now redone as Cultural Explorer). CD-ROM and Website <http://riverweb.ncsa.uiuc.edu/>.
- The Illinois RiverBottom Explorer (IBEX). Part of the East Saint Louis Action Research Project (ESLARP) where Faculty and East St. Louis neighborhood groups and local churches work on tangible and visible projects that address the immediate and long-term needs of some of the city’s poorest communities. (More is available at <http://www.eslarp.uiuc.edu/>). IBEX serves as a resource for historical documents, primary and secondary sources, and oral history interviews. Website: <http://www.eslarp.uiuc.edu/ibex/archive/default.htm>.
- Text96. A collection of primary source electronic texts for teaching American History. Website <http://www.history.uiuc.edu/uitext96/uitexttoc.html>.
- “Database Exercises and Quantitative Techniques: Exercise I: Colonial America.” Madison, WI: Wiscware, 1987. (for IBM and compatible computers, 1 disk, Instructional Workbook, and Teacher’s Instructional Sheet).
- “Lessons in the History of the United States.” Wentworth, NH: COMPress, 1987 (1989 with QUEUE, Fairfield, CT). For IBM color monitor; originally 50 computer exercise modules on 25 computer disks + instructor’s manual. An interactive electronic textbook of U.S. history.
- Automated linkage and statistical systems Unix Matchmaker, AutoLoad, RuleMatch, DisplayMatch, ViewCreate (Urbana: UI NCSA, 2000).
Website <http://www.granger.uiuc.edu/ajtg/maps/1870/htm/default.htm>
- “Illinois Windows Dataentry System for U.S. Census.” University of Illinois, 1988 (for IBM PS2 and compatible computers with Windows applications, 1 disk, Instructional Sheet)
- The Age of Lincoln* website at <https://ageoflincoln.app.clemson.edu>.
- Current Digital Projects include Social Media Learning Center Studies of Elections, Redistricting, Minorities, and Discussions of the American South, Race, and the Civil War. Also text and data analytics (mining) – developing techniques using the HathiTrust, Internet Archive II Digital Book Collection, and Library of Congress Chronicling America U.S. newspaper archive to study “DNA” of writings of Abraham Lincoln,

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changing views of American South over time, interpretations of Civil War and development of "Lost Cause Mythology."

In addition, I continue to use Edgefield County, South Carolina to investigate, "large questions in small places." I have accumulated a quantitative database that includes every person and farm recorded in the U.S. manuscript census returns linked from 1850 to 1880 for old Edgefield District, South Carolina (a region now comprising five different counties). With this unique database I (and my students) can study, test, and suggest themes in American History with details and specificity related to the lives of ordinary folks.

Selected Grants:

National Science Foundation (NSF), GK-12: Ed Grid Graduate Teaching Fellows Program, 2003-09 (\$4,990,015)

NSF, EAGER: Prototype Tool for Visualizing Online Polarization (co-Pi), 2012-14 (\$262,654)

NSF CISE/IRIS Division Award, Grant No. ASC 89-02829, Automated Record Linkage, 1991

NSF Grant No. CDA-92-11139, "Historical U.S. Census Database with High Performance Computing," 1992

NSF, EPIC Grant, 2006-08 (\$20,000)

NSF Catalyst Grant for Social Science Learning Center (with MATRIX, Michigan State University), 2006-09 (\$175K)

NSF, Senior Investigator on the MRI award, Award #1228312 MRI: Acquisition of High Performance Computing Instrument for Collaborative Data-Enabled Science (\$1,009,160) See:

http://nsf.gov/awardsearch/showAward?AWD_ID=1228312&HistoricalAwards=false

Abraham Lincoln Bicentennial Foundation, Lincoln's "Unfinished Work": Conference on The South and Race," 2012-2018 (\$27,000)

National Parks Service, "*Administrative Histories of Fort Sumter National Monument and Charles Pinckney National Historic Site*," \$110,000.00

Clemson University, "Tracking Themes Across Time and Space," 2012 (\$10,000)

National Endowment for the Humanities (NEH) Challenge Grant for Institute for Computing in Humanities, Arts, and Social Science, 2008-11 (\$750,000, 3 mil. Total with challenge matches)

NEH Educational Technologies Grant, ED-20758, 1997-99

NEH Humanities High Performance Computing Advance Research and Technology (HpC):

Coordinating High Performance Computing Institutes and the Digital, 2008-09

(\$249,997). To support a total of nine institutes and one joint conference for humanities scholars, to be hosted by three different high-performance computer centers: the National Center for Supercomputing Applications, the Pittsburgh Supercomputing Center, and the San Diego Supercomputer Center.

NEH, NSF, and the Joint Information Systems Committee, "Digging Into Image Data to Answer Authorship Related Questions," 2009-11 (\$100,000).

(with Max Edelson) NEH, The Cartography of American Colonization Database Project, To support the development of a database of 1000 historical maps illustrating the trajectory of colonization in the Americas. The database will provide a searchable introduction to the mapping of the western hemisphere in the era of European expansion, ca. 1500-1800. 2008-09 (\$24,997)

NEH Conference Grant (with R. C. McMath, Jr., History and Social Sciences, Georgia Institute of Technology), 1978

NEH Summer Research Fellowship, 1983

American Council of Learned Societies (ACLS) Travel grant, 1977

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American Council of Learned Societies (ACLS) Grant- to Recent Recipients of the Ph.D., 1977
 PT3/Technology Across Learning Environments for New Teachers grant, U.S. Department of Education, 2002-03, 2003-04
 Academy of Academic Entrepreneurship, 2006-08
 National Archives Record Administration grant for digital records, 2003-05
 IBM Shared University Research Grant, 1994
 IBM Innovations grant, Educational Technologies Board, 1992
 IBM Technology Transfer IBM grant, 1988
 IBM EXCEL II, History Database Teaching Project, 1987
 IBM EXCEL Project, History Database Teaching Project, 1986
 Partnership Illinois Award, 1998 (with Brian Orland, Pennsylvania State University Landscape Architecture, East St. Louis Research Project), RiverWeb 2002-03, 2003-04
 East Saint Louis Action Research Program Grant, 2005-06, 06-07, 07-08
 Andrew Carnegie Foundation 3-year Baccalaureate Study Grant, 1976
 Sloan Center for Asynchronous Learning Environment Grant, 1998
 South Carolina Humanities Grant for Lincoln's Unfinished Work, \$7,000, 2018-19
 The Humanities Council (South Carolina) Outright Grant (\$8,000), THC grant #10-1363-1 (Writing the South in Fact, Fiction, and Poetry), 2011
 South Carolina Humanities Council Conference Grant (with Tricia Glenn), 2005
 South Carolina Humanities Council Conference Grant (with Winfred Moore), 2002-03
 South Carolina Humanities Council Conference Grant (with Bettis Rainsford), 2000-01
 (with Ian Brooks, University of Illinois) "Improving patient outcomes by listening to their social media communications," **Homecare Education And Resource Team Support (H/E/A/R/T/S)**, \$15,000, 2017-19
 Grant for Conference on "Lincoln's Unfinished Work," Thomas Watson Brown Foundation, \$17,560, 2017- 18
 Grant for Lincoln's Unfinished Work, The Abraham Lincoln Bicentennial Foundation, \$27,000, 2017-20
 Self Family Foundation, \$6,000 for Lincoln's Unfinished Work, 2018-19.
 The Humanities Council (South Carolina) Outright Grant (\$8,000) for Lincoln's Unfinished Work Conference.
 Ford Foundation Grant to bring Minority Students and their Teachers to participate in "Lincoln's Unfinished Work" conference and workshop on how to teach the History of race relations in South Carolina public schools, \$5,000, 2018...
 NEH Public Humanities Exhibitions: Implementation Grant (with Rhondda Thomas), 2020-23

Selected Grants from University of Illinois

Office of Continuing Education Grant, 2005-06, 06-07
 Chancellor, Provost, and Vice Chancellor Research, RiverWeb Grant, 2004-05 (\$30K)
 Advanced Information Technologies Group Research Award, 1994, 96, 97, 2000
 Applications of Learning Technologies in Higher Education grant for UI--Text96 Project, 1995--2000 (co-principal investigator with Richard Jensen of UIC campus)
 Educational Technologies Board Grant for RiverWeb 1998
 Guided Individual Study Grant for RiverWeb, 1997-98
 Program for the Study of Cultural Values and Ethics, Course Development Award, 1993
 Arnold O. Beckman Research Grant Award, UIUC Research Board, 1989, 1992
 Language Laboratory Computer Assisted Instruction Award, 1988
 Research Board Humanities Faculty Research Grant, 1986
 Graduate Research Board, support for various projects, 1976-08

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Selected Grants from Clemson University

2011/2012 University Research Grant Committee (URGC) Program (\$10,000)

2013-14 CAAH & Library Digital Humanities Grant (\$4000)

2018- Clemson Humanities Hub Short Term Visiting Humanities Fellowship, a grant to help fund the Conference on Lincoln's Unfinished Work (\$5,000)

CAAH Equipment Grant, \$1,500, 2021.

CAAH Faculty Research and Development Grant, \$5,000, 2021-22.

Selected Professional Activities and Service:Officer Congressional Abraham Lincoln Bicentennial Commission Foundation, 2008-2010;
Board of Directors, Abraham Lincoln Bicentennial Foundation, interim President, 2010,
vice-chair 2010-17Southern Historical Association, President 2011-12, President Elect, 2011, Vice President Elect,
2010, Executive Council, 2005-08, 09-15; Program Committee 1989, 1998; 2005 (Chair);
Membership Committee, 1986-87, 1991-92; 1995-98; 2002; Committee on Women,
1992-95, Nominating Committee, 1999-2000, Chair H.L. Mitchell Book Award
Committee, 2000-02Agricultural History Society, President 2001-02, Vice President 2000-01, Executive Committee,
1997-2006; Committee to Review and Revise Constitution and By-Laws, 2004-05;
Nominating Committee, 1991-94, chair 1993-94; Committee to Select first Group of
Fellows for Society, 1995; Committee to select new Secretary/Treasurer, 2009-10Organization of American Historians, Included in the Organization of American Historians Race
Relations Expert Guide, 2015-, OAH/ALBC (Abraham Lincoln Bicentennial
Commission) Abraham Lincoln Higher Education Awards Committee, 2007-09; ABC-
CLIO "America: History and Life" Award Committee, 1997-99; Membership
Committee, 1990-94, nominated for executive board 1989.Social Science History Association, Executive Committee 2000-03; Nominating Committee
1990-91; Program Committee 1989, 1993; Community History Network Convener,
1976-79; Rural History Network Convener, 1988-90, 1993-94Social Science Computing Association, Executive Council, 1993-2002; Organizing Committee
Chairperson for Annual Conference, 1993, Conference on Computing for the Social
Sciences (CSS93); program committee 1993-95, 2001

American Historical Association, Nominated for Vice President for Teaching, 2009

Southern Association for Women Historians, Membership Committee, 1996-99

The Society of Civil War Historians, Chair Thomas Watson Brown Book Award for the best
book published on the causes, conduct, conduct, and effects, broadly defined, of the Civil
War, 2017-18.

South Carolina Historical Association, Executive Board, 2009-12

H-Net, founding member of H-Net, Treasurer and Executive Committee, 1993-99; Chair,
committee to evaluate multimedia NEH grant; Editor H-South (book review editor 1997-
2000); Editorial Board of H-Rural, H-Slavery, and H-CivWar.

Scholarly Advisory Group, President Lincoln's Cottage at the Soldier's Home, 2012-

Executive Council, The University South Caroliniana Society, 2011-15

University of South Carolina, Search Committee for Director South Caroliniana Library, 2012

Executive Board South Carolina Jubilee Project, 2012-14

Member South Carolina Abraham Lincoln Bicentennial Commission, 2008-2010

Member Champaign County, Illinois, Abraham Lincoln Bicentennial Commission, 2006-10

Council, U.S. Civil War Sesquicentennial Commission, 2009-15

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Historical Advisory Committee to the "Fort Sumter/Fort Moultrie Trust," charged with organizing Sesquicentennial Activities in Charleston and South Carolina Lowcountry, 2010-15

The Illinois Humanities Council Scholar, 2004-05

Presented to President's Information Technology Advisory Commission (PITAC), 9-16-2004

Invited to NEH Digital Humanities Initiative Mini-Conference, March 2006 and Digital Humanities Summit, April 2011, December 2007

Digital Library Federation Scholars' Advisory Panel, 2004-7

University of Tennessee Knoxville Horizon Project Steering Committee, 2014-

Peer Reviewer, ACH/ALLC/SDH-SEMI Joint Digital Humanities Conferences, 2007-13

E-Docs, (one of 3 founding members) Editorial Board, 1998-2005

Mentor for Southern Regional Council Minority Scholars Program, 1992-96

UIUC Representative to Lincoln Presidential Library Committee: Educational Activities Committee, 2001; Fellowship Committee, 2002

Faculty Associate, Council for International Exchange of Scholars, 2002-03

Evaluator/Referee (one of two for history) for the Pew Foundation Faculty Research Fellowships, 1997-98, 1998-99; 2001 (for graduate students for summer seminar)

Evaluator and Referee for American Council of Learned Societies Grants, 2005-08

National Endowment Humanities, Review Panels: Scholarly Editions Program, 2007-08, for Digital Humanities Grants, 2010, NEH Division of Public Programs Panel, "America's Historical and Cultural Organizations" (AHCO) grant initiative, 2013; Humanities Connections, 2016

National Science Foundation Review Panel for Knowledge and Distributed Intelligence grants, 1998, 1999

Humanities, Arts, Science, and Technology Advanced Collaboratory (HASTAC), Steering Committee and Planning Committee, 2003-04, Program Committee, 2009, 2010, 2013-14

Advisory Committee, American Studies Program, Bureau of Educational and Cultural Affairs, U.S. Information Agency, 1989-93

Delegate to the Mexican/American Commission on Cultural Cooperation, Mexico City, June 1990; Chairperson of United States delegation (Co-Chairperson with Mexican counterpart), U.S. Studies Working Group

Advisor for "Crossroads of Clay": NEH Alkaline Glazed Stoneware Exhibition and Catalog, McKissick Museum, University of South Carolina, 1987-90

Advisory Committee Film Project for Historic Southern Tenant Farmers Union, 1986-90

Consultant, Commercial film, "Roll the Union On" about H.L. Mitchell and the Southern Tenant Farmers Union

Consultant on the Renewal of the 1965 Voting Rights Act, 1981-82, 2004-07, including consultation for an NBC TV Special.

Consultant for Documentary, "Behind the Veil," 1995-2005

Board of Directors of the Abraham Lincoln Historical Digitization Project, 1997-

Advisory Council for the Lincoln Prize at Gettysburg College, 1997-

Prize Committee for the Technology and History Award, The Gilder Lehrman Institute of American History, 2000-01

International Committee on Historic Black Colleges and Universities, 2001-15

Consultant, Belle Meade and The Hermitage and Vanderbilt University. Presentations of slavery.

Consultant, Morven Park, 2010-12

Consultant, for Matt Burrows, documentary "The Assassination of N.G. Gonzales by James H. Tillman," 2010-

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Consultant, for Chris Vallilo musical performance, "This Land is Your Land: Woody Guthrie and the Meaning of America," 2010-
Organizing and Founding Committee International Society for the Scholarship of Teaching and Learning (IS-SOTL), 2003-7. Drafted initial mission statement for Society.
Furman University Alumni Council Board, 2010-16
International African American Museum (IAAM) Program Subcommittee (Charleston, SC), 2016-
IAAM, Content team for an exhibit wall located in the Carolina Gold gallery entitled Built on Slavery, 2018-
Dr. Benjamin E. Mays Historical Preservation Site Foundation Board, 2015-
Advisory Board for "History of the American South," Atlanta History Center, 2021-

Editorial Boards:

Associate Editor for History, *Social Science Computer Review*, 2012- (reappointed 2020-)
Editorial Board, [International Journal of Humanities and Social Science Research](#), 2015-
Editorial Board, Digital Humanities Series, University of Illinois Press, 2005-
Editorial Board, *Change and Continuity*, 1995-
Editorial Board *Fides et Historia*, 2010-
Editorial Board *Proceedings of the South Carolina Historical Association*, 2009-14
Editorial Board, *History Computer Review*, 1990-2003
Editorial Board, *Locus: An Historical Journal of Regional Perspectives on National Topics*, 1994-96
Editorial Advisory Board, *The South Carolina Encyclopedia*, gen. editor Walter Edgar, 2000-06

Other Advisory Boards:

Advisory Board for *International Journal of Social Education*, 1986-2000
Advisory Reviewer for *The Journal of Negro History* (since 2002, *The Journal of African American History*), 1992-
Advisory board for the online *South Carolina Encyclopedia*. Southern Studies Institute, University of South Carolina, 2015-
Advisory Board, Digital Library on American Slavery, University of North Carolina, Greensboro, 2004-10
Advisory Board, Biographies: The Atlantic Slaves Data Network (ASDN), 2010-
Advisory Board, Simms Initiatives of the Library at the University of South Carolina, 2009-14
Advisory Board, American Insight, 2013- (www.AmericanINSIGHT.org)
Strategic Advisory Council for MATRIX: The Center for Humane Arts, Letters and Social Sciences On-line at Michigan State University, 2004-
Advisory board, of the Michigan State University MATRIX online project, "Mapping Civil War Politics"
External Advisory Board (EAB) of proposed Center of Data for the Public Good, University of North Carolina, Chapel Hill
Advisory Board, The Virtual Archives for Land-Grant History Project, Association of Public-Land Grant Universities, 2012-
External Advisory Board, National Historic Preservation Research Commission (NHPRC) "Effective User-Centered Access For Heterogeneous Electronic Archives" project, Illinois Institute of Technology, 2003-05
Advisory Board, *Postwar America: An Encyclopedia of Social, Political, Cultural, and Economic History*
External Advisory Board (EAB) of the proposed NSF Center for Data Science and Engineering, University of North Carolina, Chapel Hill, 2014-

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National Advisory Board to Alan Lomax's Global Jukebox: 1993-2015

The Civil Rights Project at University of California, Berkeley, Advisory Board for "The Decade Ahead: Reauthorization of the Voting Rights Act and the Future of Democratic Participation," 2004-07

Advance Research and Technology Collaboratory for the Americas (ARTCA) –Organization of American States, Advisory Board Chair, 2008-

History Advisor for Gullah-Geechee Corridor Board, 2019-

Reconstruction and Civil Rights Movement National Park Service Advisory Board for Beaufort area

Service Clemson University:

Chair, Search committee for Dean of the Library, 2017-18

Search Committee for Dean of CAAH, 2019-20

Search for University Historian, 2019-20

Screening committee for the new University Historian, 2021

Faculty Advisory Committee for Education & Interpretation MAP - Historic Properties, in process of becoming an official Faculty Museum committee, 2021-

Provost's Research Strategy Committee, 2014-16

Martin Luther King, Jr. program planning committee, 2013-

Pan-African Advisory Committee, 2014-17; Steering Committee, 2017-, Chair Speaker's committee, 2018-19

History Department Graduate Committee, 2017-18

Search Committee for Director Digital History Ph.D. Program, 2019-20

History Department Civil War Sesquicentennial Committee, 2010-15

History Department Digital MA, then Digital Ph.D. committee, 2011-

Clemson Center for Geospatial Technologies Advisory Committee, 2017-

GIS Steering Committee, 2012-

Clemson University Computational Advisory Team (CU-CAT), 2010-

University Academic Technology Council, 2010-

Ex-officio Steering Committee, Clemson CyberInstitute, 2010-

University Committee to commemorate 50th Anniversary Integration Clemson, 2011-13

Outstanding Staff Employee Award, Academic Affairs Selection Committee, 2011

University Morrill Act Anniversary Celebration, 2011-13

Ben Robertson Society (BRS) Foundation Advisory Board, 2013-

Chair, Clemson University Humanities Grid committee, 2012-14

Chair, CAAH Digital Humanities Computing committee, 2013-15

CAAH, Digital Humanities Ph.D. taskforce, 2014-16

CAAH taskforce on undergraduate "Creativity Certificate"

History Department committee to review university signage, 2015-

First Faculty in Residence (Norris Hall), 2011-13

Workshop on Diversity and Inclusion, 2013

Lincoln's Unfinished Work Conference, 2018

Service - University of Illinois (three campus system – Urbana, Chicago, Springfield)

UI Senate Conferences (elected), all three campuses of the University of Illinois, 2006-09,

Presiding officer (chair) 2007-08

Lincoln Bicentennial Commission, 2006-09

Academic Affairs Management Team, 2007-08

Task Force for Global Campus, 2006-07

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External Relations Management Team, 2006-09

Strategic Plan Committee, 2005-06

Service (selected) University of Illinois at Urbana-Champaign

Faculty Senate (elected), 1999-2001, 2002-03; 2005-06, 2006-07, Presiding Officer (Chair, Senate Executive Committee), 2005-06, 2006-07 (was Senate Council) elected 2000-01, 2003-04; 2005-06; 2006-07; Chair, Education Policy Committee, 2002-03, Chair 2003-04; Budget and Priorities Committee, 1999-01, Chair 2000-01

As Chair Faculty Senate Executive Committee, 2005-07 represented faculty at Board of Trustee meetings, and CIC meetings. Led in developing ideas of shared governance, helped in the drafting and implementing of a strategic plan for both the University of Illinois and the Urbana-Champaign campus. Oversaw establishment of the Illinois Informatics Institute (I3) and the School of Earth, Society, and Environment. Dealt with issues of multi-year contracts for research faculty and staff policy, rehiring of retirees, Global Campus, and led study of Academic effects of Chief Illini and diversity issues.

Organizer and Chair, Planning Committee for the Lincoln Bicentennial, 2006-09

Task Force for Diversity and Freedom of Speech, 2007-08

Convocation address, August 21, 2000

Search Committee for Chancellor, vice-chair, 2004-5

Association of American Colleges and Universities campus representative and Assoc., 2004-05

Martin Luther King, Jr., Week Planning Committee, co-chair, 2002-03, 03-04, 04-05, 05-06

Strategic Plan Committee, 2005-06

Chancellor's Task Force ("Kitchen Cabinet") for the Humanities, 2002-04

Provost's ad hoc Committee on Evaluating Public Service for Promotion and Tenure, 2003-04

Brown Jubilee Planning Committee, Diversity Initiative, 2002-04

Law-Education *Brown* Jubilee Conference Program Committee, 2002-04

East St. Louis Action Research Projects (ESLARP) Campus Advisory Committee, 2004-9

University Planning Council, 2000-01

Selection Committee for University Scholars, 1999 -- 2000, Chair Subcommittee for Social Sciences, Humanities, FAA, Communications, Education, Law 2000

UI President's Distinguished Speakers Program, 2000-02, 2006-08

University of Illinois Press Board, 1995-2000, Chair 1998-2000

Search Committee for Director University of Illinois Press, 1998-99

Committee on University Publishing, 1997-98

Graduate College Executive Committee, 1998-2000; Committee to Evaluate Dean of Graduate College, Committee to Review and Implement Graduate Program Revisions, Graduate Student Grievance Policy Committee

Graduate College Office of Minority Affairs Strategic Planning Committee, 1999-2000

University Administration Budget and Benefits Study Committee, 2000-02

Budget Strategies Committee, 1993-94, Subcommittee for Library. Subcommittee for Faculty Productivity and Teaching Models

Illinois Program for Research in the Humanities (IPRH) Advisory Committee, 2001-03

Center for Democracy in a Multicultural Society, Advisory Committee, 2002-08

Center for Advanced Study George A. Miller Committee, 2000-03

African American Studies and Research Program (AASRP), later Department of African American Studies, Advisory Council, 1982-86; Curriculum Development & Faculty Recruitment Committee, 2002-2003; Research and Course Competition Committee, 1991-94, Chair 93-94; Electronic Networking Committee, 1996-2000, Chair 1997-98; Library Advisory Committee, 1997-2003

UI-Integrate Faculty Advisory Committee, 2003-04

Graduate College Area Subcommittee for the Humanities and Creative Arts, 1996-98

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Campus-wide Advisory Committee for the Center for Writing Studies, 2000-01
 Committee on Institutional Cooperation (CIC), Selection Committee for CIC Research Grants in the Humanities, 1993-94
 Chancellor's Task Force for Minority Graduate Students, 1989-92
 Chair, Subcommittee for Summer Program for Minority Graduate Students, 1990
 Computer Resources Development Committee, Program for the Study of Cultural Values and Ethics, 1991-93
 High Performance Computing Committee for the Social Sciences, 1989-95
 Rural History Workshop Convener, 1989-94 (with Sonya Salamon)
 Faculty Fellow, 1990-2003
 Graduate College Fellowship Committee, 1988
 Selection Committee for Lily Fellows, 1987
 Social Studies Committee for the Preparation of Teachers, Council on Teacher Education, 1986
 Chair, Search Committee for African-American Scholar, 1986-87
 Search Committee, Director for AASRP, 1985-86, Chair 87-88
 Graduate College Appeals Committee, 1984
 Chancellor's Allerton Conference, 1988; Chancellor's Beckman Conference, 2001-06;
 Chancellor's Conference on Diversity, 2002, faculty facilitator
 Combating Discrimination and Prejudice Workshop, 1988
 Krannert Art Museum, Committee on The Black Woman as Artist, 1992
 H. W. Wilson Faculty Panel, 1993
 Advanced Information and Technology Committee, 1992-97, Advisory Committee, 1993-94
 Honors Symposium for UI recruitment of High School Seniors, 1993
 Search Committee for Archivist, UIUC Computing and Communications Service Office, 1993
 Search Committee for Research Librarian, UIUC Library, 1997; Undergraduate Library
 Advisory Committee, 2002-9
 Member Human Dimensions of Environmental Systems Group, 1997-2017
 Faculty Learning Circle for 2003-04
 Illini Days Speaker, 1999, 2000, 2002
 Public Interest Fund of Illinois Representative, 1996- 08
 Facilitator for Interinstitutional Faculty Summer Institute on Learning Technologies, UIUC, 2000, 2002
 Board Advisors, Collaborative for Cultural Heritage and Museum Practices (CHAMP), 2005-08
 Faculty Mentor for Campus Honors Program, 1980-2008

Service - College of Liberal Arts and Science UI:

Lecturer at Pedagogy 2000: Teaching, Learning and Technology, Annual UIUC Retreat on Active Learning (2000)
 Keynote Address at LAS Awards Banquet, 2000 and Keynote at UIUC Campus Awards Banquet, 2000
 Dean's Committee to Evaluate Chair of History Department (1 of 3 elected by History Department), 1996
 Oversight Committee Computing for the Social Sciences, 1993-95
 Committee to select nominees for election to College Executive Committee, 1992
 Academic Standards Committee, 1983-85, Chair 1984-85
 School of Humanities Scholarship and Honors, 1986-88, Chair 1987-88
 Social Sciences and Humanities Respondent to the Joint Task Force on Admission Requirements and Learning Outcomes, 1988
 Advisory Committee, Social Sciences Quantitative Laboratory, 1987-88, 1989-93
 Alumni Association Annual Speaker, 1990

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General Education Committee, 1990-91
Awards Committee, Chair, 1991-92
Race & Ethnicity, Class & Community Area Committee of Sociology Graduate Program, 1993-2009
LAS Alumni Association Speaker, 2000
Cohn Scholars Honors Mentoring Program (choosing the 10 best Humanities first-year students), 1986-88, 1989-90, 1992-93, 1995-96, 1998-99, 2002 -05
Faculty Mentor, Committee of Institutional Cooperation Summer Research Opportunities Program for Minority Students, 1987, 1991-95, 1997-2000, 2002, 2003
Faculty Mentor, McNair Minority Scholars, 1993-94, 1996-97
Summer Orientation and Advance Enrollment Program, Faculty Leader, 1991-93, 2000, 2002, 2004
Gender Inclusivity Seminar, 1992
The African-American Experience: A Framework for Integrating American History: An Institute for High School Teachers of History, instructor 1992, 1994
Faculty Advisor for UIUC Law School Humanities Teaching Program, 1998-99
Senior Faculty Mentor, LAS Teaching Academy, 1999-2008

Service - Department of History UI:

Lincoln Bicentennial Committee, Chair, 2005-06, co-Chair 2006-08
Department Distance Learning and Global Campus committee, 2007-08
Carnegie Initiative on the Doctorate, 2003-05
Ethical Conduct Liaison, 2004-05
Phi Alpha Theta Faculty Advisor, 2005-06
Graduate Placement Officer, 1990, 1991-94, 1997-99
Graduate Admissions Officer, 1990-91
Graduate Committee, 1990-93
Organizer of OAH Breakfast Meeting, 1989-90, 1993-94
Computer Resources, 1976-88, 1989-91, 1995-99, Chair 1976-85, 1997-99
Teaching Awards, 1986-88, 1992-93, 1997-98, 1999-2000, Chair, 1987-88, 1997-98, 1999-2000
T.A. Evaluation, 1975-76, 1978-82, 1984-88, 1990-91, 1995, 1998-99, 2002, 2005-06
Speakers and Colloquia, 1981-82
Grants and Funding, 1981-82
Capricious Grading, 1985-86, 2002-03
Social Science History Committee, 1980
Advisor, History Undergraduate Club, 1976-78
Swain Publication Prize Essay Committee, 1991
Proposal-Writing Workshop, 1991-92, 2002
Teaching Workshop, 1993
Chair Library Committee, 1996-97
Faculty Advisor for Phi Alpha Theta, 2005-06
American History Search Committee, 1991-92
Chair, American History Search Committee, 1993-94
James G. Randall Distinguished Chair Search Committee, 1999-2000

Service Coastal Carolina University:

Search committee for Archaeologist, 2008-09
Selection Committee for Clark Chair of History, 2010
Third Year Assistant Professor Faculty Review Committee, 2010

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A more complete list of Service and Public Engagement is available upon request.

Conferences Organized (selected list):

In 1978, I (with Robert C. McMath, Jr.) organized and chaired a National Endowment for the Humanities Conference on Southern Communities at the Newberry Library. In 1993, I organized, hosted, and chaired the annual meeting of the Conference on Computing for the Social Sciences at the National Center for Supercomputing Applications. In 1999, I organized and hosted the 12th Annual Meeting of the Southern Intellectual History Circle (SIHC) in Edgefield and Ninety Six, S.C., and again hosted SIHC for its 16th Annual meeting in 2004 at the College of Charleston, and the 2013 meeting in Edgefield. In 2001, I organized a workshop and conference on diversity and racism in the classroom with Carnegie Scholars at The Citadel in Charleston, S.C. In 2001, I organized a South Carolina Humanities Council Edgefield Summit History Conference. In January 2003, I organized a Workshop on Diversity and Racism and a Conference on the Scholarship of Teaching and Learning, both at the University of Illinois. In March 2003 I organized The Citadel Conference on the South: "The Citadel Symposium on the Civil Rights Movement in South Carolina." I organized the Humanities, Arts, Science, and Technology Advanced Collaboratory (HASTAC) meeting in January 2004 in Washington, D.C. I organized and hosted a Humanities Computing Summit in August 2004 at NCSA and UIUC. In 2005, I planned and hosted the British American Nineteenth Century History (BrANCH) Conference in Edgefield, South Carolina and a symposium honoring Jim McPherson's retirement in April 2005 in Princeton. As program chair I helped organize the Southern Historical Annual meeting in Atlanta in November 2005. In 2011, I organized a conference in honor of Charles Joyner, *Writing the South in Fact, Fiction, and Poetry*, at Coastal Carolina University. In 2013, I organized a conference honoring F. Sheldon Hackney at Martha's Vineyard. On Nov. 28-Dec 1, 2018, I organized and hosted an international conference on "Lincoln's Unfinished Work," and on the afternoon of Dec. 2 lead a workshop for teachers on how to teach about the history of race in South Carolina k-12 schools. As Director of I-CHASS, I regularly organized conferences and workshops, at least two major conferences a year such as "Computing in Humanities, Arts, and Social Sciences" (2005), "Spatial Thinking in the Social Sciences and Humanities" (2006), and the "e-Science for Arts and Humanities Research: Early Adopters Forum" (2007). In 2007 we hosted the annual international meeting of The Alliance of Digital Humanities Organizations including The Association for Computers and the Humanities. As Director of the Clemson CyberInstitute, I regularly organized workshops, brownbags, conferences, and meetings. And as Executive Director of the College of Charleston Atlantic World and Lowcountry (CLAW) Program, I regularly work with others to organize conferences and meetings.

Reviews:

I have reviewed books for numerous journals and book manuscripts for numerous presses. In addition, I have refereed article manuscripts for numerous journals. I have also reviewed proposals for various granting agencies. I have also reviewed and written outside letters of recommendation for promotion, tenure, and endowed chair decisions for more than a hundred cases at various colleges and universities. Lists of these reviews, presses, journals, universities, and granting agencies are available upon request.

Invited lectures and conference participation available upon request. Recently, selected invited lectures include those at Harvard University, University of Pennsylvania, Black Congressional

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Caucus on Lincoln (2009), Printers Row Book Fair, Society of Civil War Historians, Society of Historians of Early America, Abraham Lincoln Bicentennial Commission (ALBC), Atlanta Town Hall meeting on Race at Morehouse College and at Jimmy Carter Presidential Library Center, the Crown Forum Martin Luther King, Jr. lecture at Morehouse College, Western Illinois University, Drake University, University of Illinois Law School, Union League Club of Chicago, Association of Archivists and Librarians, CASC, University of Georgia, Lawrence University, Wisconsin Lincoln Bicentennial, University of Wisconsin at Milwaukee, University of Wisconsin at Madison, University of Wisconsin at Eau Claire, University of Kansas, Samford University, Talladega University, ALBC Morrill Act Conference, Arkansas State University, San Francisco State University, Lewis University, Notre Dame, University of Oklahoma, University of Florida, University of Southern Florida, Florida State University, University of South Carolina, South Carolina State University, North Greenville University, Anderson University, Augusta State University, Auburn University, Mercer University, American Historical Association, Organization of American Historians, Southern Historical Association, Agricultural History Society, Wheaton College, University of Illinois, Florida Atlantic University, Lincoln College, Claflin University, Francis Marion University, Policy Studies Association, Southern Studies Association Meeting (regional affiliate of American Studies Association), Association for the Study of African American Life and History (ASALH), Penn Center, Coastal Carolina University, Virginia Polytechnic Institute and State University (Virginia Tech), South Carolina Historical Society, South Carolina Department of Archives and History Civil War Symposium, Supercomputing11 (Seattle), History Miami, William Patterson University, USC Upstate, University of Hawaii, University of North Carolina at Charlotte, University of North Carolina at Chapel Hill, The Lincoln Forum, Abraham Lincoln Presidential Library and Museum, Furman University, Berry College, High Noon series at S.C. Upstate Museum, Erskine College, Mississippi State University, University of Manchester, Cambridge University, Edinburg University, University of London, Oxford University.

Samples of recognition given to me or my work:

The Chronicle of Higher Education, Vol. L: 2 (September 5, 2003), cover page, A37-38. On-line at <http://chronicle.com/prm/weekly/v50/i02/02a03701.htm>

C. Vann Woodward, "District of Devils," *New York Review of Books*, xxxii #15: 30-31

Chicago Tribune, October 13, 2007, cover of the Book Review Section, "Orville Vernon Burton's Heartland Prize-winning *The Age of Lincoln*." Catherine Clinton, "Lincoln and His Complex Times," pp. 4-5; Cover page 1988 on *In My Father's House*

Washington Post, Hannah Natanson, "Lincoln's forgotten legacy as America's first 'green president'" in the *Washington Post* on Feb. 16, 2020

(<https://www.washingtonpost.com/.../lincoln-green-president-e.../>)

USA Today, February 25, 2010, Larry Bleiberg, 10 Civil Rights Sites You Should See before Black History Month Comes to a Close,"

<https://www.usatoday.com/story/travel/destinations/10greatplaces/2020/02/25/black-history-month-10-civil-rights-sites-you-should-check-out/4832666002/>

Featured as example of "Faculty Excellence" on UIUC Homepage:

<http://www.uiuc.edu/overview/explore/>

Call out in Sonia Sotomayor, *My Beloved World* (NY: Alfred A. Knopf, 2013), p. 132, and her Commencement Address at the University of South Carolina, 2011 (on C-Span) and "Supreme Court Justice Sonia Sotomayor uses vivid examples from two key figures in her life—her mother and South Carolina native and historian [Vernon Burton](#)"; Wayne Washington, "You Learn Values from Your Family, Supreme Court Justice Tells Grads," *The Columbia State*, May 9, 2011;

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<http://www.thestate.com/2011/05/07/1808978/sotomayor-parents-are-key.html#storylink=misearch#ixzz1NljBBgHA> and <http://dailygamecock.com/news/item/1422-sonya-sotomayor-delivers-personal-inspiring-message-at-university-of-south-carolina-graduation>; and at Clemson 2017 with Supreme Court Justice Sonia Sotomayor, <https://www.youtube.com/watch?v=Sn3GbXen58c>; <https://www.youtube.com/watch?v=zq1LAQmHh0I> (4 April 1992 on history and high performance computing);

The South Carolina Encyclopedia Guide to South Carolina Writers. Edited by Tom Mack (Columbia: University of South Carolina Press, 2014), pp. 33-35 (SC Humanities)

In last few years, numerous international, national and local television, radio interviewed me (especially about the murders at Mother Emanuel in Charleston and the removal of the Confederate battle flag from the statehouse grounds). A number of interviews about the Voting Rights Act (VRA) or Voter ID, for example, Congressional Briefing on the Voting Rights Act (2015), [Voting Rights Act 1965, Dec 4 2015 | Video | C-SPAN.org](#) and [Historians Expert Witnesses Civil Rights, Jan 7 2017 | C-SPAN.org](#), NPR—for example, June 27, 2013, “On Point” discussing the Supreme Court Ruling on VRA, Sections 4 and 5-- <http://onpoint.wbur.org/2013/06/27/scotus-voting-rights>; and <http://wbur.fm/138DolQ>, and NPR and BBC, see for example recently, Jorge Valenca, Feb. 26, 2020, “The Abroad Primary,” ([For overseas voters, a primary of their own](#)

[www.pri.org › stories › overseas-voters-primary-their-o...](http://www.pri.org/stories/overseas-voters-primary-their-o...)) and commercial, and other media interviews and programs, including several C-SPAN Book TV (for example, “President Lincoln and Secession,” <http://www.c-spanvideo.org/program/293631-3>) and a two-hour Clemson University lecture on Southern Identity at “Lectures in History,” <http://www.c-span.org/History/>—downloaded 492,791 times in first year after it debuted October 25, 2012. Numerous appearances on SC ETV for documentaries. In Feb., 2019 the Clemson Area Pledge to End Racism (CAPER) began using a training video featuring Vernon Burton speaking on racism (Video on youtube at ([CAPER Burton Video](#))). Power of Perspective Panel, “Independence Day: Land of the Free?” (<https://www.clemson.edu/centers-institutes/gantt/multicultural-programs/educational-programming.html> Scroll down the Power of Perspective Panel Series tab), July 9, 2020); Aug. 24, 2020, first virtual Lincoln Cottage’s Scholar Session. “Dr. Vernon Burton and Dr. Edna Greene Medford discuss the lasting meaning and impact of Confederate iconography with our members:

(<https://www.youtube.com/watch?v=uNbG5Odagg&feature=youtu.be>: and . (<https://www.c-span.org/video/?475387-1/confederate-monuments-memorials>)). May 2021, commentator on the *Last Rice River*, a half-hour experience examining the rise and fall of the Rice Kingdom on South Carolina’s Combahee River, which went public this month ([here](#)); “South Carolina Between World Wars (www.npr.org/podcasts/381444475/walter-edgar-s-journal?fbclid=IwAR1vw-xMxe3L36oRXNLunDdfYt8u9wUJj1qnWezleguRzBpw1B8j4mhu4) and “Rediscovered

Ancestry: a Family Learns the Story of Their Remarkable Ancestor, Senator Lawrence Cain. <https://www.southcarolinapublicradio.org/show/walter-edgars-journal/2021-04-12/rediscovered-ancestry-a-family-learns-the-story-of-their-remarkable-ancestor-senator-lawrence-cain>,” both interviewed by Walter Edgar, for Walter Edgar’s Journal, *South Carolina Public Radio*, Columbia, SC, Jan. 13, 2020, Apr. 12, 2021; guest for Dr. James Howell’ Bible study on “Lincoln and the Bible,” at Myers Park United Methodist Church, Charlotte, available at https://www.facebook.com/watch/live/?v=1322571451267316&ref=watch_permalink; interview “Southern History, Influence and Tradition” with Dr. James on the series “Maybe I’m Amazed.” (<https://podfollow.com/1497598414/episode/eb3f38a51902c7934a090355abb3af200256e2ad/view>); “Juneteenth: Reflecting on the Past to Understand Today” June 18, 2020 to Lawrence Livermore National Laboratory in Livermore California (<https://www.llnl.gov/>). The lecture can

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be found at , <https://youtu.be/6u60Pu5KVY4>; “Reparations and World Change,” June 19, 2020. Thurgood Marshall Law School @ at <https://youtu.be/7hgl8bS1G8E>; “Confederate Monuments Continue to Come Down in Racial Justice Protests,” interviewed by Jeremy Hobson, *NPR*, Boston, MA: WBUR, June 19, 2020. <https://www.wbur.org/hereandnow/2020/06/19/confederate-monuments-come-down> (more complete list available upon request).

CLEMSON

CYBERINSTITUTE

Orville Vernon Burton is the inaugural Judge Matthew J. Perry Distinguished Chair of History and Professor of Pan-African Studies, Sociology and Anthropology, and Computer Science at Clemson University, and the Director of the Clemson CyberInstitute. From 2013-2015 he was Creativity Professor of Humanities; in 2016 Burton received the College of Architecture, Art, and Humanities (CAAH) Dean's Award for "Excellence in Research" and in 2019 the College's award for "Outstanding Achievement in Service." In 2018, he received the initial University Research, Scholarship and Artistic Achievement Award. From 2008-2010, he was the Burroughs Distinguished Professor of Southern History and Culture at Coastal Carolina University. He was the founding Director of the Institute for Computing in Humanities, Arts, and Social Science (I-CHASS) at the University of Illinois, where he is emeritus University Distinguished Teacher/Scholar, and Professor of History, African American Studies, and Sociology. At the University of Illinois, he continues to chair the I-CHASS advisory board and is also a Senior Research Scientist at the National Center for Supercomputing Applications (NCSA) where he served as Associate Director for Humanities and Social Sciences from 2002-2010. He serves as Executive Director of the College of Charleston's Low Country and Atlantic World Program (CLAW). Burton served as interim chair, and then vice-chair of the Board of Directors of the Congressional National Abraham Lincoln Bicentennial Foundation, 2009-2017. In 2007 the Illinois State legislature honored him with a special resolution for his contributions as a scholar, teacher, and citizen of Illinois. A recognized expert on race relations and the American South, and a leader in Digital Humanities, Burton is often invited to present lectures, conduct workshops, and consult with colleges, universities, and granting agencies.

Burton is a prolific author and scholar (twenty authored or edited books and more than two hundred articles); and author or director of numerous digital humanities projects. *The Age of Lincoln* (2007) won the *Chicago Tribune* Heartland Literary Award for Nonfiction and was selected for Book of the Month Club, History Book Club, and Military Book Club. One reviewer proclaimed, "If the Civil War era was America's 'Iliad,' then historian Orville Vernon Burton is our latest Homer." The book was featured at sessions of the annual meetings of the Association for the Study of African American Life and History (ASALH) and the Social Science History Association (SSHA), the Southern Intellectual History Circle, and the latter was the basis for a forum published in *The Journal of the Historical Society*. His most recent book, *Justice Deferred: Race and the Supreme Court*, co-authored with Armand Derfner (Belknap Press of Harvard University, 2021) was featured at a session of the 2021 SSHA and scheduled for the April annual meeting of the Midwestern Political Science Association (MPSA). *In My Father's House Are Many Mansions: Family and Community in Edgefield, South Carolina* (1985) was featured at sessions of the Southern Historical Association and the SSHA annual meetings. *Justice Deferred*, *The Age of Lincoln*, and *In My Fathers' House* were nominated for Pulitzers.

Recognized for his teaching, Burton was selected nationwide as the 1999 U.S. Research and Doctoral University Professor of the Year (presented by the Carnegie Foundation for the Advancement of Teaching and by the Council for Advancement and Support of Education). In 2004 he received the American Historical Association's Eugene Asher Distinguished Teaching Prize. At the University of Illinois, he won teaching awards at the department, school, college, and campus levels. He was the recipient of the 2001-2002 Graduate College Outstanding Mentor Award and received the 2006 Campus Award for Excellence in Public Engagement. He was appointed an Organization of American Historians Distinguished Lecturer for 2004-20.

Burton's research and teaching interests are American history, with a particular focus on the American South, including race relations and community, and the intersection of humanities and social science. He has served as president of the Southern Historical Association and of the Agricultural History Society. He was elected to honorary life membership in BrANCH (British American Nineteenth-Century Historians).¹

Among his honors are fellowships and grants from the Rockefeller Foundation, the National Endowment for the Humanities, the Pew Foundation, the National Science Foundation, the American Council of Learned Societies, the Woodrow Wilson International Center for Scholars, the National Humanities Center, the U.S. Department of Education, National Park Service, and the Carnegie Foundation. He was a Pew National Fellow Carnegie Scholar for 2000-2001. He was elected to the Society of American Historians and was one of ten historians selected to contribute to the *Presidential Inaugural Portfolio* (January 21, 2013) by the Joint Congressional Committee on Inaugural Ceremonies. Burton was elected into the S.C. Academy of Authors in 2015 and in 2017 received the Governor's Award for Lifetime Achievement in the Humanities from the South Carolina Humanities Council, and in 2021 was awarded the Benjamin E. Mays Legacy Award.

EXHIBIT 2



Pendergrass et al. v. Raffensperger, et al.

United States District Court for the Northern District of Georgia

Supplemental Expert Report of Orville Vernon Burton, Ph.D.

A handwritten signature in black ink, appearing to read "Orville Burton", written in a cursive style.

Dr. Orville Vernon Burton

January 20, 2022

In the matter of *Pendergrass et al. v. Raffensperger, et al.*, I wrote an expert report on the history of voting of voting-related discrimination in Georgia. Since submitting that report, I have reviewed the State's opposition to the *Pendergrass* plaintiffs' motion for a preliminary injunction, which argues, in part, that any losses by the preferred candidates of Black voters in Georgia may be explainable on the basis of partisanship, not race. In this supplemental report, I briefly respond to this argument, which fails to recognize that partisanship and race are, and have been, inextricably intertwined in Georgia.

I. INTRODUCTION

Race is a central feature of politics in Georgia. Though race is central to any explanation of the modern party system in the South, and particularly in Georgia, racial identification is a complex phenomenon. A variety of factors, such as the racial context of an election, contribute to the importance of race in partisan politics. While the degree may vary, race is always a factor in southern campaigns.¹ As Valentino and Sears note, "race has been a dominant element in Southern politics from the beginning."²

As discussed at length below, as a historical matter, the alignment in Georgia of Black voters with the Democratic Party and white voters with the Republican Party that we see today stems from the Civil Rights Act of 1964 and the Voting Rights Act of 1965 (VRA). It is worth noting that this realignment that began in the 1960s was not the result of a new issue which redefined partisan politics; instead, it was caused by new divisions based on an old issue. Southern whites, even today, continue to be antagonistic towards policies designed to promote the political, economic, and social progress of minorities.³ However, it is clear that the explicitly race-based policies of the 1960s sparked the formation of the political alignment of Black and white voters that we see today in Georgia.

It is equally worth noting that my discussion here is not meant to, and does not, suggest in any way that all voters who identify with the Republican Party in Georgia are racist. Instead, it is

¹ James M. Glaser, *Race, Campaign Politics, and the Realignment in the South* (New Haven: Yale University Press, 1996), 25-26, 43.

² Nicholas A. Valentino and David O. Sears. "Old Times There Are Not Forgotten: Race and Partisan Realignment in the Contemporary South," *American Journal of Political Science*. vol. 49, no. 3 (2005), 672-688.

³ James M. Glaser, *Race, Campaign Politics, and the Realignment in the South* (New Haven: Yale University Press, 1996), 17, 19.

meant to show that race unquestionably contributes to Georgia's partisan divides today, and, similarly, that those divides cannot be fully explained without discussing race.

II. FINDINGS

A. Historical Foundations of the Partisan Divide Among Black and White Georgians

The Democratic Party's embrace of civil rights policies in the mid-20th Century caused Black voters to leave the Republican Party (the Party of Lincoln) for the Democratic Party. At the same time, the Democratic Party's embrace of civil rights legislation sparked what Earl Black and Merle Black describe as the "Great White Switch," in which white voters abandoned the Democratic Party for the Republican Party. Most notably, Arizona Senator Barry Goldwater led the Republican Party in opposing these civil rights policies, catalyzing the shift of white voters to the Republican Party. Beginning in the 1960s and continuing to the present, the Republican Party has identified itself with racial conservatism. Consistent with this strategy, Republicans today continue to use racialized politics and race-based appeals to attract racially conservative white voters.⁴

As Goldwater told a group of Republicans from southern states, it was better for the Republican Party to forego the "Negro vote" and instead court white southerners who opposed equal rights.⁵ Historians agree that Goldwater "sought to create a general polarization of southern voters along racial lines." The effectiveness of what was called the "Southern strategy" during Richard Nixon's presidency had a profound impact on the development of the nearly all-white modern Republican Party in the South. Although more subtle in his appeal to white southern voters, Nixon followed the advice of Republican Party strategist Kevin Phillips in 1970. Phillips argued that "[t]he GOP can build a winning coalition without Negro voters." He understood, and

⁴ Earl Black and Merle Black, *Politics and Society in the South* (Cambridge: Harvard University Press, 1987); Thomas F. Schaller, *Whistling Past Dixie: How Democrats Can Win Without the South*, (New York: Simon and Schuster, 2006), 65; Kevin P. Phillips, *The Emerging Republican Majority* (New Rochelle, NY: Arlington House, 1969); Dan T. Carter, *Politics of Rage: George Wallace, the Origins of the new Conservatism, and the Transformation of American Politics* (Baton Rouge: Louisiana State University Press, 2000); Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1996); Rick Perlstein, *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus* (New York: Hill and Wang, 2001).

⁵ Dan T. Carter, "Unfinished Transformation: Matthew J. Perry's South Carolina," in *Matthew J. Perry: The Man, His Times, and His Legacy*, ed., W. Lewis Burke and Belinda F. Gergel (Columbia: University of South Carolina Press, 2004), 251.

made certain others understood, that “Negro-Democratic mutual identification” was important for the building of a white Republican Party in the South. With Phillips’s Southern Strategy, the Democratic Party in the South became identified as the “Negro party through most of the South.” With the Democratic Party identified with African Americans, whites in the South would become Republicans and that would allow the Republican Party to become the majority party in what had traditionally been the solid Democratic South.⁶ After studying Phillips’s plan, Nixon told his staff to implement the strategy and emphasized, “don’t go for Jews and Blacks.”⁷

Georgia was a focal point of this strategy. Following the leadership of Richard Nixon and the Republican National Committee, the Georgia Republican party insurgence was grounded on fiscal conservatism, opposition to integration (particularly busing), and a growing demand among white suburbanites for “law and order.” The rallying cry of “law and order” became a dog whistle for many candidates and voters.⁸

The Southern Strategy continued after Nixon, especially with Ronald Reagan’s campaign against native Georgian Jimmy Carter. Reagan’s 1980 presidential campaign was extremely effective at using subtle racial appeals to win white votes. Indeed, he chose to open that campaign with a state’s rights speech at the Neshoba County Fair in Mississippi, the notorious scene of the murder of three civil rights workers in 1964. His campaign also used racial coded terms such as “welfare queen” and “strapping young buck.” Reagan got 22% of Democrats to support him, but those defections were substantially higher among Democrats with racially conservative views. 71% of Democrats who felt “the government should not make any special effort to help [African Americans] because they should help themselves” voted for Reagan.

Similarly, in the 1988 campaign, Republican candidate George H.W. Bush associated Democratic candidate Governor Michael Dukakis with Willie Horton, an African American

⁶ Kevin P. Phillips, *The Emerging Republican Majority* (New York: Arlington House, 1969), 467-68.

⁷ Carter, *From George Wallace to Newt Gingrich*, 45; Kenneth O’Reilly, *Nixon’s Piano: Presidents and Racial Politics from Washington to Clinton* (New York: Free Press, 1995), 285-86; Dan Carter, “Civil Rights and Politics in South Carolina: The Perspective of One Lifetime, 1940-2003” in *Toward the Meeting of the Waters: Currents in the Civil Rights Movement of South Carolina during the Twentieth Century*, ed. Winfred B. Moore, Jr. and Orville Vernon Burton (Columbia: University of South Carolina Press, 2008), 413.

⁸ Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006), 234.

convicted of murder who committed an additional murder and rape when released on a weekend furlough program for prisoners that had been supported by Governor Dukakis. The Bush campaign showed images of Mr. Horton, rendering the racial appeal clear: supporting Dukakis would allow Black murders to roam the streets. This appeal to the racial fears contributed to Bush's victory in 1988.⁹

Today, explicit racial appeals in politics are considered more taboo than they were in the mid-20th Century. Nonetheless, implicit or subtle appeals to race are still common and contribute to Georgia's racial polarization. As Republican political operative Lee Atwater explained, when the Republican Party recognized that overt appeals were no longer effective, they shifted to ideas with plainly racial ties: "forced busing, states' rights, and all that stuff."¹⁰ These implicit racial appeals communicate the same ideas as explicit racial appeals by alluding to "racial stereotypes or a perceived threat" from racial or ethnic minorities. Mendelberg defined an implicit racial appeal as "one that contains a recognizable – if subtle – racial reference, most easily through visual references."¹¹ Ian Haney Lopez described implicit racial appeals as a "coded racial appeal," with "one core point of the code being to foster deniability," since the "explicit racial appeal of yesteryear now invites political suicide." One characteristic of implicit racial appeals is that they are usually most successful when their racial subtext goes undetected.¹² Implicit racial appeals make use of coded language to activate racial thinking.¹³ Racial cues, in the form of code words, such as "welfare queen," "lazy," "criminal," "taking advantage," "corruption," "fraud," and "law and order" are racial code words that refer back to Reconstruction era when African Americans

⁹ Ian Haney Lopez, *Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism and Wrecked the Middle Class* (New York: Oxford University Press, 2013) 59, 105-7; Orville Vernon Burton, *Justice Deferred: Race and the Supreme Court* (Cambridge: The Belknap Press of Harvard University Press, 2021), 260, 328.

¹⁰ Rick Perlstein, "Exclusive: Lee Atwater's Infamous 1981 Interview on the Southern Strategy," *The Nation*, November 13, 2012, <http://www.thenation.com/article/170841/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy> (accessed March 31, 2014).

¹¹ Tali Mendelberg, *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality* (Princeton: Princeton University Press, 2001), 9, 11.

¹² Lopez, *Dog Whistle Politics*, 130, 4.

¹³ Nicholas A. Valentino, Vincent L. Hutchings, and Ismail K. White, "Cues that Matter: How Political Ads Prime Racial Attitudes During Elections," *American Political Science Review* 96 (2002), 75-90.

were elected to office. Other coded issues, such as “poverty” and “immigration,” prime racial attitudes among white voters.¹⁴

Georgia is a flash point of this modern strategy. According to Dr. Peyton McCrary, a historian who recently retired after a 26-year career with the Department of Justice: “In Georgia politics since 2002, state government is dominated by the Republican Party, the party to which now most non-Hispanic white persons belong. The greatest electoral threat to the Republican Party and Georgia’s governing elected officials is the growing number of African American, Hispanic, and Asian citizens, who tend strongly to support Democratic candidates. The increase in minority population and the threat of increasing minority voting strength provides a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote. That is what has happened.”¹⁵ Moreover, “In white-majority Georgia, Republicans benefitted from a pattern of voting that was polarized along racial lines.”¹⁶ University of Georgia political scientist Charles Bullock noted that “the relationship between race and voting in 2002 was striking.”¹⁷ Moreover, Bullock and Keith Gaddie showed that “since 1992, Democrats have always taken at least 80 percent of the black vote while most whites invariably preferred Republicans.”¹⁸

Indeed, the racial bloc voting in Georgia is so strong, and race and partisanship so deeply intertwined, that statisticians refer to it as multicollinearity, meaning one cannot, as a scientific matter, separate partisanship from race in Georgia elections.¹⁹

¹⁴ Charlton D. McIlwain and Stephen M. Caliendo, *Race Appeal: How Candidates Invoke Race in US Campaigns* (Philadelphia: Temple University Press, 2011) 19-21, 153, 154; Rosalee A. Clawson. “Poor People, Black Faces: The Portrayal of Poverty in Economics Textbooks,” *Journal of Black Studies* 32 (2002), 352-61; Rosalee A. Clawson and Rakuka Trice. “Poverty as We Know It: Media Portrayals of the Poor,” *Public Opinion Quarterly* 64 (2000), 53-64; Valentino, Hutchings, and White, “Cues that Matter,” 87

¹⁵ Dr. Peyton McCrary, Expert Report, *Fair Fight Action v. Raffensperger*, Civil Action File No. 1:18-cv-05391 SCJ, Document 339 (Filed 04/24/20) p. 8.

¹⁶ McCrary Report, p. 30.

¹⁷ Charles S. Bullock III, “Georgia: Republicans at the High Water Mark?” in Bullock and Mark J. Rozell (eds.), *The New Politics of the Old South* 5th edition (New York, Rowman & Littlefield, 2014), 58.

¹⁸ Charles S. Bullock III and Ronald Keith Gaddie, *The Triumph of Voting Rights in the South* (Norman, University of Oklahoma Press, 2009), 100.

¹⁹ Donald E. Farrar and Robert R. Glauber, “Multicollinearity in Regression Analysis: The Problem Revisited,” *Review of Economics and Statistics*, XLIX (February 1967), 92-107, esp. p.

B. Divergent Race-Related Views of Members of the Democratic and Republican Parties in Georgia

Aside from the use and effect of racial appeals in Georgia, the significant impact race has on the state's partisan divides is made readily apparent when one considers the opposing positions that members of Georgia's Democratic and Republican parties take on issues inextricably linked to race. For example, the Democratic and Republican members of Georgia's congressional delegation consistently oppose one another on issues relating to civil rights. As indicated in the table below, each Republican member of the delegation during the 2017-2019 congressional session received extremely low scores (no higher than 6-13% on a scale of 0-100%) on the civil rights scorecard produced by the NAACP, an organization dedicated to promoting minority rights. Meanwhile, each Democratic member received extremely high scores (81-100%).

Pro-Civil Rights Votes Among Georgia's Congressional Delegation, 2017-2019 Congressional Session ²⁰			
Republican Members		Democratic Members	
Johnny Isakson	13%	Sanford Bishop Jr.	81%
David Perdue	9%	Hank Johnson	100%
Earl "Buddy" Carter	6%	John Lewis	97%
Drew Ferguson	13%	David Scott	84%
Rob Woodall	9%		
Austin Scott	13%		
Doug Collins	6%		
Jody B. Hice	6%		
Barry Loudermilk	6%		
Rick W. Allen	9%		
Tom Graves	9%		

The Pew Research Center's *Beyond Red and Blue: The Political Typology* (issued in November 2021) confirm these differences between the parties on issues relating to race. This study divided political allegiance into nine distinct typology groups, four leaning Republican, four leaning Democratic, with the "Stressed Sideliners," uncertain and generally not following politics very closely.²¹ Among the four Republican groupings [Faith and Flag Conservatives (85% white),

98; Peyton McCrary, Clark Miller, and Dale Baum, "Class and Party in the Secession Crisis: Voting Behavior in the Deep South," 1856-1861," *Journal of Interdisciplinary History* viii:3 (Winter 1978): 450, n 35.

²⁰ NAACP Civil Rights Federal Legislative Report Card, Congressional Votes 2017-2018 (2019), <https://naacp.org/sites/default/files/documents/115th-Final-Report-Card.pdf>.

²¹ Pew Research Center, *Beyond Red and Blue: The Political Typology*, 9 November, 2021, <https://www.pewresearch.org/politics/2021/11/09/beyond-red-vs-blue-the-political-typology-2/>.

Committed Conservatives (82% white), Populist Right (85% white), and Ambivalent Right (65% white), the survey found “no more than about a quarter say a lot more has to be done to ensure equal rights for all Americans regardless of their racial or ethnic backgrounds, by comparison, no fewer than about three-quarters of any Democratic group [Progressive Left (68% white), Establishment Liberals (51% white), Democratic Mainstays 46% white), and Outsider Left (49% white) says a lot more needs to be done to achieve this goal.”²² The four Republican groups agreed between 78 and 94% that “white people do not benefit much or not at all from the advantage that Black people do not have,” or in other words, that there is no systematic racism at work in American society or institutions.²³ Among the four Democratic leaning groups, there was agreement (between 73 and 96%) that “a lot more needs to be done to ensure equal rights for all Americans regardless of their ethnic or racial backgrounds.”²⁴

Georgia-specific polls suggest the same. An NORC poll conducted for 3,291 likely Georgia voters just before the 2020 election found that 45% were Democratic or Democratic leaning, 51% Republican or Republican leaning. On the question of whether racism was one of the most serious problems facing U.S. society, 22% of Republican respondents and 76% of Democratic respondents said it was a very serious problem, while 77% of Republican respondents and 21% of Democratic respondents said it was less serious or not a significant problem. On the question of whether racism was a serious problem in policing, 18% of Republican respondents and 81% of Democratic respondents said it was, while 77% of Republican respondents and 21% of Democratic respondents said it was less serious or not a problem.²⁵

C. Partisan Race-Based Attacks in Georgia

The racialized aspects of Georgia’s partisan politics extend beyond just racial appeals and race-related policies. Spurious allegations of voter fraud in Georgia jurisdictions with Black or interracial governments have long been a rallying cry among Republicans. For example, in my initial report, on pages 42-45, I discuss the notorious and unwarranted attacks by then Secretary of State Brian Kemp on the “Quitman 10 +2,” the criminal investigation of the New Georgia Project, and a 2015 investigation into the Asian American Legal Advocacy Center (AALAC).

²² Ibid., 7

²³ Ibid., 14

²⁴ Ibid., 29

²⁵ “Georgia Voter Surveys: How Different Groups Voted,” New York Times, 3 November 2020

The most recent such example occurred as a consequence of the 2020 election, when Republicans attacked two Black poll workers in Fulton County, Ruby Freeman and her daughter Shaye Moss. In his testimony before the Georgia Senate, Rudy Giuliani showed a video which purported to show Freeman and Moss engaging in “surreptitious illegal activities” akin to “drug dealers” who were “passing out dope,” reflecting old racist tropes about persons of color. Although the accusations were utter nonsense, former President Trump told Secretary of State Raffensperger that Ruby Freeman was a “professional vote scammer and hustler.” The two women received harassing phone calls and death threats, often laced with racial slurs, frightening nighttime knocks on their doors—they had to leave their residence and go into hiding—along with suggestions that they should be “strung up from the nearest lamppost and set on fire.”²⁶

The drumbeat of allegations against the “integrity” of Georgia’s electoral processes, especially as practiced in the interracial county governments in the Atlanta metro area, has continued. In August 2021, Republican Congressman Jody Hice, who has challenged Raffensperger in the Republican primary in the race for Secretary of State, stated that “as long as *these people* are allowed to continue cheating, they will continue to do so.” Kemp claimed that “Fulton County has a long history of mismanagement, incompetence, and lack of transparency when it comes to running elections, including during the 2020 elections.” Butch Miller, a candidate for lieutenant-governor argued that “maintaining integrity of our elections is of the utmost importance to me and my colleagues in the state senate. Unfortunately, Fulton County’s apparent disregard for election procedures and state law have called that integrity into doubt.”²⁷

III. CONCLUSION

In sum, the correlation between race and party in Georgia is no coincidence. Instead, race and issues inextricably linked to race have long played a role in separating Black and white voters along partisan lines, and they continue to contribute to the partisan divisions we see today.

²⁶ Jason Szep and Linda So, “Trump Campaign Demonized Two Georgia Election Workers—And Death Threats Followed,” Reuters, 1 December 2021,” <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia/> (emphasis added).

²⁷ Mark Niesse “Board Launches Fulton County Election Woes Inquiry 19 August, 2021

Grant et al. v. Raffensperger, et al., No. 1:22-cv-00122
United States District Court for the Northern District of Georgia
Expert Report of Orville Vernon Burton, Ph.D.



Dr. Orville Vernon Burton

December 5, 2022



I. STATEMENT OF INQUIRY

I have been asked by Plaintiffs' counsel to serve as an expert witness in litigation concerning Georgia redistricting. Plaintiffs' counsel asked me to analyze the history of voting-related discrimination in Georgia and to contextualize and put in historical perspective such discrimination. I have also been asked to analyze the relationship between race and partisanship in Georgia politics.

I am being compensated at \$350 per hour for my work on this case. My compensation is not contingent on or affected by the substance of my opinions or the outcome of this case.

II. SUMMARY OF FINDINGS

Throughout Georgia's history, and through today, the state of Georgia has attempted, often successfully, to minimize the electoral influence of minority voters and particularly of Black Georgians. Voting rights in Georgia have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state, through both legislation and extralegal means, finds methods to disfranchise and reduce the influence of minority voters.

This history has its roots in the Reconstruction era. As soon as formerly enslaved men gained the right to vote in Georgia, both violence and wholesale changes in voter registration laws ensured they could not vote. By the early 20th century, the cumulative effects of the poll tax and the white primary had nearly removed all Black Georgians from voter registration lists. Around this time, Georgia also structured its elections to the disadvantage of Black Georgians. Specifically, Georgia's county unit system, introduced in 1917 until it was outlawed by the Supreme Court in the 1960s, gave a greater share of proportion of votes to small, rural, and much whiter counties, compared to larger and more urban counties, where the majority of Black Georgia voters lived.

When the Supreme Court eventually ruled against white-only primaries in the 1940s, Georgia worked to circumvent the ability of those citizens to vote through registration schemes, voter challenges, voter purges, and more. And when the county-unit system fell, Georgia replaced them with at-large districts and majority vote requirements, systems designed to ensure that Black candidates could not be elected to office. Those systems were wildly effective: By the time of the 1964 Civil Rights Act (CRA) and the 1965 Voting Rights Act (VRA), while Black Georgians were 34 percent of the voting age population, there were only three Black elected officials in Georgia.

Even after the Voting Rights Act of 1965, Black voters and Black elected officials in Georgia continued to be systematically underrepresented. To neutralize Black voting strength, Georgia officials used an array of mechanisms to block, discourage, dilute, or otherwise prevent or limit Black voting in Georgia. Between 1965-1980, nearly 30% of all of the Department of Justice's objections to voting-related changes under Section 5 were attributable to Georgia alone.

For the next forty years, Georgia failed to go a redistricting cycle without objection from the Department of Justice (DOJ). Georgia's congressional reapportionment in 1971, for example, was the first held under Section 5 preclearance rules, and it showed, as one expert has described, "the extraordinary lengths to which the legislature was prepared to go to exclude Blacks from the congressional delegation." After DOJ refused to preclear the plan and required Georgia to implement a new congressional plan, Andrew Young became the only Black U.S. Congressman from Georgia and the first African American elected to the United States House of Representatives from the South in the twentieth century (along with Barbara Jordan of Texas, significantly both Black candidates were elected from urban districts). In the redistricting cycle after the 1980 census, the Georgia General Assembly again tried to limit Black voting strength in Atlanta. DOJ again refused to preclear the plan; John Lewis eventually won the seat that was created under the revised congressional plan. When Congress did re-authorize the VRA in 1982, it cited systemic abuses by Georgia officials to evade Black voting rights.

Notably, the tactics that have plagued Georgia's history to dilute the power of Black Georgians have persisted into the modern era. These policies around voting have also come at a time of rapid demographic shifts in Georgia's electorate: Georgia is the only state in the Deep South where the percentage of the Black population has sharply increased over the past half century. In just the past ten years, much of it in the wake of *Shelby County v. Holder* (2013), Georgia has slashed polling places by the hundreds (primarily in Black communities), increased voter purges and challenges against minority voters, launched state-sponsored investigations against minority voting groups, and more. In just the past year, Georgia enacted Senate Bill 202, a law DOJ could no longer stop under preclearance but which DOJ has alleged was passed with the intent and effect of limiting Black Georgians' voting power. While that suit remains to be litigated, the state has already begun replacing Black office holders in majority-Black counties and implementing policies to the disadvantage of Black Georgians.

The history of Georgia demonstrates a clear pattern, one that attempts (and often succeeds) in diluting and impairing Black Georgians' voting power. Georgia's recently enacted congressional plan must be viewed in this context.

This pattern, moreover, is reflected in Georgia's politics. Race is a central feature of politics in Georgia. Though race is central to any explanation of the modern party system in the South, and particularly in Georgia, racial identification is a complex phenomenon. A variety of factors, such as the racial context of an election, contribute to the importance of race in partisan politics. While the degree may vary, race is always a factor in southern campaigns.¹ As Valentino and Sears note, "race has been a dominant element in Southern politics from the beginning."²

As discussed at length below, as a historical matter, the alignment in Georgia of Black voters with the Democratic Party and white voters with the Republican Party that we see today stems from the Civil Rights Act of 1964 (CRA) and the Voting Rights Act of 1965 (VRA). It is worth noting that this realignment that began in the 1960s was not the result of a new issue which redefined partisan politics; instead, it was caused by new divisions based on an old issue. Southern whites, even today, continue to be antagonistic towards policies designed to promote the political, economic, and social progress of minorities.³ However, it is clear that the explicitly race-based policies of the 1960s sparked the formation of the political alignment of Black and white voters that we see today in Georgia.

It is equally worth noting that my discussion here is not meant to, and does not, suggest in any way that all voters who identify with the Republican Party in Georgia are racist. Instead, it is meant to show that race unquestionably contributes to Georgia's partisan divides today, and, similarly, that those divides cannot be fully explained without discussing race.

III. EXPERT CREDENTIALS

A. Professional Background and Qualifications

¹ James M. Glaser, *Race, Campaign Politics, and the Realignment in the South* (New Haven: Yale University Press, 1996), 25-26, 43.

² Nicholas A. Valentino and David O. Sears. "Old Times There Are Not Forgotten: Race and Partisan Realignment in the Contemporary South," *American Journal of Political Science*. vol. 49, no. 3 (2005), 672-688.

³ James M. Glaser, *Race, Campaign Politics, and the Realignment in the South* (New Haven: Yale University Press, 1996), 17, 19.

I received my undergraduate degree from Furman University in 1969 and my Ph.D. in American History from Princeton University in 1976 and have been researching and teaching American History at universities since 1971. Currently I am the Judge Matthew J. Perry Distinguished Professor of History, and Professor of Global Black Studies, Sociology and Anthropology, and Computer Science at Clemson University. From 2008 to 2010, I was the Burroughs Distinguished Professor of Southern History and Culture at Coastal Carolina University. I am emeritus University Distinguished Teacher/Scholar, Professor of History, African American Studies, and Sociology at the University of Illinois. I am a Senior Research Scientist at the National Center for Supercomputing Applications (NCSA) where I was Associate Director for Humanities and Social Sciences (2004-2010). I was also the founding Director of the Institute for Computing in Humanities, Arts, and Social Science (ICHASS) at the University of Illinois and currently chair the ICHASS Advisory Board.

I am the author or editor of more than twenty books and nearly three hundred articles, which can be found on my Curriculum Vitae attached to the end of this report. I have received a number of academic awards and honors. I was selected nationwide as the 1999 U.S. Research and Doctoral University Professor of the Year (presented by the Carnegie Foundation for the Advancement of Teaching and by the Council for Advancement and Support of Education). I have been recognized by my peers and was elected president of the Southern Historical Association and of the Agricultural History Society and elected to the Society of American Historians. In 2016, I received the College of Architecture, Art, and Humanities Dean's Award for "Excellence in Research." In 2017, I received the Governor's Award for Lifetime Achievement in the Humanities from the South Carolina Humanities Council and in 2021 I was awarded the Benjamin E. Mays Legacy Award. In 2018, I was part of the initial Clemson University Research, Scholarship and Artistic Achievement Award group of scholars. In 2022, I received the Clemson University Alumni Award for Outstanding Achievements in Research and was appointed to the South Carolina African American Heritage Commission, inducted into the Morehouse College Martin Luther King, Jr. Collegium of Scholars, and received the Southern Historical Association's most coveted award, the John Hope Franklin Lifetime Achievement Award.

My most recent book, co-authored with civil rights attorney Armand Derfner, *Justice Deferred: Race and the Supreme Court* (2021), was deemed "authoritative and highly readable" by Harvard University Law professor Randall Kennedy in his review in *The Nation*. *Justice*

Deferred was featured as a session at the November 2021 annual meetings of the Social Science History Association in Philadelphia, for a session at the April 2022 Midwestern Political Science Association meeting in Chicago and as a plenary session at the October 2022 Association for the Study of African American Life and History Association in Montgomery. Sessions on *Justice Deferred* are also scheduled for the annual meetings of the American Historical Association in January 2022 in Philadelphia and at the Organization of American History Association in March 2022 in Los Angeles. My book *The Age of Lincoln*, published in 2007, won the *Chicago Tribune* Heartland Literary Award for Nonfiction and was selected for Book of the Month Club, History Book Club, and Military Book Club. One reviewer proclaimed, "If the Civil War era was America's 'Iliad,' then historian Orville Vernon Burton is our latest Homer." The book was featured at sessions of the annual meetings of the Association for the Study of African American Life and History, the Social Science History Association, and the Southern Intellectual History Circle. Among the articles I have published are several related to the issues discussed in this report and at least two law review articles address these issues directly. I was one of ten historians selected to contribute to the *Presidential Inaugural Portfolio* (January 21, 2013) by the Joint Congressional Committee on Inaugural Ceremonies. I edit two academic press series for the University of Virginia Press: *The American South Series* and the *A Nation Divided: Studies in the Civil War Era Series*.

As a scholar, I have had a long-time relationship with Georgia. I was born in Royston, and own the family farm in Madison County, Georgia. I am a recognized authority on the Georgia educator and theologian Dr. Benjamin E. Mays, who taught at Morehouse College from 1921 to 1923, was the longtime president of Morehouse College (1940-67), campaigned and was elected to the Atlanta schoolboard in 1969. The Atlanta school board members elected him president in 1970 and he served as president until he retired in 1981. My book, *In My Father House Are Many Mansions: Family and Community in Edgefield, South Carolina* (1985) is an intense study of a large section of South Carolina that is only separated from Georgia by the Savannah River, and the area has strong ties to Georgia and especially to the city of Augusta, which I have studied since before my Ph.D.

I have researched in the archives of the University of Georgia, Emory University, and Morehouse College. I have served on the Ph.D. committees, and am serving on one currently, at the University of Georgia. I gave one of Georgia's annual humanities lectures in conjunction with

the Governor's Awards for the Humanities. I also keynoted one of the annual meetings of the Georgia Historical Society. I served on the Advisory Committee for the Atlanta History Museum to develop new exhibits on the modern South. I have been invited to present papers and talks and participate in seminars at Universities and colleges in the state of Georgia. I was invited and spoke at the Carter Center, and spoke at the University of Georgia, Augusta University, Payne College, Mercer University, gave the Crown lecture at Morehouse College, Georgia State University, Georgia Southern University, Fort Valley State University, Berry College, Emory University, the Georgia Institute of Technology, Young Harris College. I also led a workshop on teaching history for Georgia public school teachers in Athens, Georgia. Most recently, on October 12, 2022, I was invited back to Morehouse College for an academic conference. I was part of a panel discussing a special issue of *The Journal of Modern Slavery: A Multidisciplinary Exploration* 7:4 (2022) which was also issued as a book, *Slavery and its Consequences: Racism, Inequity & Exclusion in the USA*. On October 20, 2022, I returned to Georgia Southern University and spoke on "The Past, Present, and Future of Voting Rights" (with former Savannah Mayor Dr. Otis Johnson) as part of the Legacy of Slavery to Lecture series.

B. Prior Testimony

Over the past forty years, I have been retained to serve as an expert witness and consultant in numerous voting rights cases by the Voting Section of the Civil Rights Division of the United States Department of Justice (DOJ), the Voting Rights Project of the Southern Regional Office of the American Civil Liberties Union, the Brennan Center, the NAACP, the Legal Defense Fund (LDF) of the NAACP, the Mexican American Legal Defense and Educational Fund, the California Rural Legal Association, the League of United Latin American Citizens, the Lawyers' Committee for Civil Rights Under Law, the Legal Services Corporation, the Southern Poverty Law Center, and other individuals and groups.

I have extensive experience in analyzing social and economic status, discrimination, and historical intent in voting rights cases, as well as group voting behavior. I have been qualified as an expert in the fields of districting, reapportionment, and racial voting patterns and behavior in elections in the United States. My testimony has been accepted by federal courts on both statistical analysis of racially polarized voting and socioeconomic analysis of the population, as well as on the history of discrimination and the discriminatory intent of laws. For example, in 2021, my testimony and my report were cited in the Final Judgment and Order in Community Success

Initiative. v. Moore, 19 CVS 15941 (Superior Court, Wake County, March 28, 2022). In 2014, my testimony and my report was cited by the U.S. District Court for the Southern District of Texas in finding that the Texas in-person Voter ID Law was racially motivated and had a disparate effect on minorities. *See Veasey v. Perry*, 71 F.Supp.3d 627 (S.D. Tex. 2014). My testimony and reports have been cited by the U.S. Department of Justice. In 2012, for example, my report was cited by the Justice Department as a reason for their objection to the in-person South Carolina Voter ID law. *See* Dkt. 118-1, *South Carolina v. United States*, No. 1:12-cv-00203-CKK-BMK-JDB (D.D.C. June 29, 2012).

To the best of my knowledge and memory, in the last five or so years I have given testimony and/or depositions in the following cases: (i) *Pendergrass v. Raffensperger*, 1:21-cv-05339 (N.D. Ga.), (ii) *Grant v. Raffensperger*, 1:22-cv-00122 (N.D. Ga.), (iii) *League of Women Voters v. Lee*, No. 4:21-cv-186 (N.D. Fla.), (iv) *Community Success Initiative v. Moore*, No. 19-cv-15941 (N.C. Superior Court) (2020); (v) *Perez v. Perry* (5:11-CV-00360, W.D. Tex.); (vi) *South Carolina v. United States* (1:12-cv-00203, D.D.C.); and (vii) *Veasey v. Perry* (2:13-CV-193, S.D. Tex.). In addition, I testified on the VRA in a Congressional Briefing on December 4, 2015.

C. Methodology and Sources

In this report, I have employed the standard methodology used by historians and other social scientists in investigating the adoption, operations, and maintenance of election laws. When analyzing political decision-making, historians examine the circumstantial and contextual evidence regarding the political, institutional, and social environment and context in which a decision is made, as well as direct evidence of the reasons asserted for the decision. We examine relevant scholarly studies, newspaper coverage of events, reports of local, state or federal governments, relevant court decisions, and the record in court cases, including expert reports, depositions and trial testimony, and statistical data. In writing this report, I have examined a wide range of sources. I have relied on primary and secondary sources available to me at the time of writing this report. This report makes extensive use of primary sources, especially contemporary newspapers, which record debates and speeches, and help to provide a barometer of public sentiment. Where possible, I have consulted historical and current newspaper and news magazines accounts, social media, miscellaneous online resources, from multiple perspectives, and checked for accuracy. I have also read the records of both houses of the Georgia General Assembly, the

journals and debates of the constitutional conventions, bill histories, and public statutes. I have studied census data, election returns, state and federal reports, official elections records. I have also used videos that have been recorded and preserved. I have also consulted secondary published works, as well as MA and Ph.D. theses, on politics and race relations in Georgia by other historians and social scientists, specifically, as well as in the South as a whole. This report features extensive footnotes to allow readers to assess the accuracy and credibility of my evidence and my conclusions.

IV. GEORGIA'S HISTORY OF RACE DISCRIMINATION IN VOTING

A. Introduction

Native Georgia historian, Dr. U. B. Phillips, argued in 1928 that the central theme of southern history was white racism. According to Phillips, white Southerners believed so strongly in white supremacy that they were determined the South “shall be and remain a white man’s country.”⁴ Recently, Georgian and today’s most eminent historian of the American South, Spalding Distinguished Professor of History, emeritus at the University of Georgia, Dr. James C. Cobb, characterized Phillips’s argument as a “longstanding determination of whites to control people of color.” In Cobb’s own 2017 historical investigation of Georgia’s racial history he concluded, “the historical and contemporary pervasiveness of this impulse [of white Georgians determination to control people of color] is difficult to deny.”⁵ My own research has found the same underlying purpose. This report demonstrates that this white determination resonates even today and especially in the area of voting rights. Over generations, people of color in Georgia have been discriminated against, disfranchised, and their vote diluted in ingenious ways by those who control the franchise in state and local governments.

The courts have taken judicial notice of this long and continuing history of racial discrimination, particularly in the area of voting rights. In 1994, in *Brooks v. State Board of Elections*, 848 F. Supp. 1548, 1560 (S.D. Ga. 1994), the court found: “Georgia has a history chocked full of racial discrimination at all levels. This discrimination was ratified into state constitutions, enacted into state statutes, and promulgated in state policy. Racism and race

⁴ Ulrich B. Phillips, “The Central Theme of Southern History,” *American Historical Review*, Volume 34, Issue 1 (Oct. 1928), 31; Orville Vernon Burton, “The South as ‘Other,’ The Southerner as ‘Stranger,’” *The Journal of Southern History*, Volume 79, Issue 1 (February 2013): 7-50.

⁵ Declaration of Dr. James C. Cobb at 8, *NAACP v. Gwinnett County Board of Registrations and Elections*, Civil Action No. 1:16-cv-02852, (N.D. Ga. Aug. 9, 2017).

discrimination were apparent and conspicuous realities, the norm rather than the exception.” This discrimination continues to this day.

In *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (2003), Laughlin McDonald, an expert on Georgia’s voting history, wrote:

“While Georgia was not an anomaly, no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans after the Civil War. It adopted virtually every one of the traditional ‘expedients’ to obstruct the exercise of the franchise by blacks, including literacy and understanding tests, the poll tax, felony disfranchisement laws, onerous residency requirements, cumbersome registration procedures, voter challenges and purges, the abolition of elective offices, the use of discriminatory redistricting and apportionment schemes, the expulsion of elected blacks from office, and the adoption of primary elections in which only whites were allowed to vote. And where these technically legal measure failed to work or were thought insufficient, the state was more than willing to resort to fraud and violence in order to smother black political participation and safeguard white supremacy.”⁶

As McDonald further explained, Georgia and other southern states “continued their opposition to equal voting rights into the twentieth century and after the passage of the Voting Rights Act in 1965.”⁷ Since McDonald published this assessment of Georgia’s history of voter discrimination and suppression in 2003, the state of Georgia has continued attempts to minimize the electoral influence of minority voters. Throughout the history of the state of Georgia, voting rights have followed a pattern where after periods of increased nonwhite voter registration and turnout, the state has passed legislation, and often used extralegal means, to disfranchise minority voters. Georgia continues attempts to minimize the electoral influence of minority voters, most recently in the redistricting plan passed by the Georgia General Assembly and signed by the Governor, and culminating in the disfranchisement mechanisms and implementation of SB 202. The first section of this report describes this extensive history from as far back as Reconstruction through the present day.

⁶ Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003), 2–3. The early history of voter suppression and voter intimidation of Black voters from 1867 till the 1990s in Georgia is carefully documented by Laughlin McDonald, Michael B. Binford, and Ken Johnson in “Georgia,” chapter three of *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, edited by Chandler Davidson and Bernard Grofman (Princeton, N.J.: Princeton University Press, 1994), 67-102.

⁷ McDonald, *A Voting Rights Odyssey*, 3.

B. Reconstruction Era (End of the Civil War to 1870s)

From Georgia's beginning, Black Georgians were precluded from participating in nearly all of Georgia's political and civil life. Near the start of the Civil War, in 1860, the United States census recorded 41,080 owners of 462,000 enslaved persons. Except for Virginia, Georgia had more enslaved persons and more owners of slaves than any state. But free Blacks were denied citizenship and voting rights in antebellum Georgia too; under the 1777 Georgia Constitution, voting was limited to "male white inhabitants, of the age of twenty-one years." Before the start of the Civil War, in March 1861, Alexander H. Stephens, a Georgian and vice-president of the Confederacy, explained that the new government had as its cornerstone, "the great truth that the negro is not equal to the white man."⁸

Immediately following the Civil War was a period of opportunity for the newly freed population. But in opposition to any such new freedom were targeted policies against Black Georgians.⁹ With the defeat of the Confederacy, turmoil and uncertainty roiled the countryside. In June 1865, the 9,000 U.S. Army soldiers provided some measure of order and, where they were stationed, some protection for the newly freed enslaved people. With President Andrew Johnson's appointment of a provisional governor, white adult males who took a loyalty oath to the United States voted for delegates to write a new state constitution. While the new 1865 Georgia Constitution abolished slavery (as it was required to), the 1865 Constitution continued to limit the franchise to "free white male citizens of this State." Georgia's 1865 Constitution also excluded Black Georgians from holding office.¹⁰

At the end of the Civil War, Confederate states seeking to rejoin the Union were required to ratify the 13th Amendment, which specifically outlawed slavery.¹¹ In December 1865, the

⁸ Keith S. Hebert, *Cornerstone of the Confederacy: Alexander Stephens and the Speech that Defined the Lost Cause* (2021); McDonald, *A Voting Rights Odyssey*, 16.

⁹ Jeffrey Robert Young, "Slavery in Antebellum Georgia," *New Georgia Encyclopedia*, www.georgiaencyclopedia.org/articles/history-archaeology/slavery-antebellum-georgia (Oct. 20, 2003) (last edited Sep. 30, 2020); William Harris Bragg, "Reconstruction in Georgia," *New Georgia Encyclopedia*, <https://www.georgiaencyclopedia.org/articles/history-archaeology/reconstruction-in-georgia/> (Oct. 21, 2005) (last edited Sep. 30, 2020).

¹⁰ Numan V. Bartley, *The Creation of Modern Georgia* (Athens: University of Georgia Press, 1983), 46-47; Bragg, "Reconstruction in Georgia."

¹¹ Orville Vernon Burton, *The Age of Lincoln* (New York: Hill and Wang, 2007), 269-70, 275, 298, 368; Orville Vernon Burton and Armand Derfner, *Justice Deferred: Race and the Supreme Court* (Harvard University Press, 2021), 37-38, 41, 44-45;

Georgia General Assembly ratified the 13th Amendment, and President Andrew Johnson returned governing the state to Georgia's elected officials. While the language of the prisoner exemption clause of the 13th Amendment was common to state constitutions and the Northwest Ordinance, historian Eric Foner notes that it "did not go unnoticed among white Southerners" that the 13th Amendment included a prisoner exemption clause.¹² In November 1865, for instance, former Confederate general John T. Morgan pointed out in a speech in Georgia that the 13th Amendment did not prevent states from enacting laws that enabled "'judicial authorities' to consign to bondage blacks convicted of crime."¹³

Georgia, like other states in the former Confederacy, then enacted "Black Codes," although the state did not refer to them with that name. This legislation regulated and restricted the rights of Black citizens through neutral-sounding regulations.¹⁴ Although Black Georgians could not be legally subjected to penalties or punishment that did not apply to whites, it was local white officials and all white juries who decided whom would be punished and whom would not. While Black Georgians were granted some property rights, they could not serve on juries, or vote, or, significantly, testify against whites in court. Thus white Georgia officials were able to apply supposedly race neutral laws in a way that targeted the former enslaved people. Around this time, the Georgia legislature elected two prominent former Confederate officials as Georgia's two U.S. Senators, Alexander Stephens and Herschel Johnson, which the North saw as a flagrant act of white Georgian defiance and led Congress to deny them a seat in Washington.

In reaction to the re-election of former Confederate leaders, to the Black Codes, and to increasing violence against newly freed Black people, Georgia and nine other former Confederate States were placed under Federal military authority in 1867. As part of that oversight, adult Black males were given the right to vote, and the following time period was one of tremendous opportunity for Black Georgians. After the passage of the Second and Third Reconstruction Acts by Congress in 1867, Black males voted for the first time, and federally appointed registrars added 98,507 Black men to the voting lists, and required Georgia, as a requirement for readmission as a

¹² Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W. W. Norton, 2019), 47-48, 110.

¹³ Sidney Andrews, *The South Since the Civil War* (Boston: Houghton Mifflin, 1971), 323-24 (first published by Ticknor and Fields, 1866); John Richard Dennett, *The South as It Is, 1865- 1866*, (Tuscaloosa: University of Alabama Press, 2010), 110.

¹⁴ Bartley, 17; Bragg, "Reconstruction in Georgia."

state, to write Black suffrage into the state constitution, elect a government based on the new Constitution, and ratify the Fourteenth Amendment, which granted citizenship to the formerly enslaved and guaranteed equal protection, and provided that Congress and the federal government could enforce that protection even against the states.¹⁵ In December 1867, a new constitutional convention, held in Atlanta, guaranteed Black citizenship, protection of the laws, and the right of male suffrage. In the next election, in April 1868, held under the new constitution, twenty-five Black Georgians were elected to the State House, and three were elected to the State Senate.

Shortly afterward, white Georgians plotted to eliminate their power. Robert Toombs, a Democratic Party leader from Wilkes County, Georgia, exclaimed at a meeting of Georgia Democrats in July 1868 that it was an injustice that Georgia had been forced to accept “[Republican Governor Rufus] Bullock and nigger Government.”¹⁶ Toombs had served as secretary of state of the Confederacy and as a Confederate general, and he objected to Georgia’s Constitution of 1868, drafted during Reconstruction, because he believed it granted Black people too many rights of citizenship.¹⁷ That same year, *The Atlanta Constitution* also insisted that “the negro [was] incapable of self-government,” and that the “interest of the white race . . . should be held as paramount to all perilous experiments upon an alien race.”¹⁸

Even white Republicans sought to eliminate Black suffrage. Samuel Bard, the editor of the *Atlanta Daily New Era*, a Republican newspaper, reassured his readers that “Reconstruction does not make negro suffrage a permanency,” and promised that “as soon as the State is once more in its place . . . they can amend their Constitution, disfranchise the negroes, and restore suffrage to the disfranchised whites.”¹⁹ By that December, Democrats, though in the minority, convinced a

¹⁵ Bartley, 48.

¹⁶ “Mammoth Democratic Mass Meeting,” *The Atlanta Constitution* (Atlanta, GA), July 24, 1868 (available online at <https://www.Newspapers.com/image/26848994>).

¹⁷ McDonald, *A Voting Rights Odyssey* at 35-36.

¹⁸ *The Atlanta Constitution* (Atlanta, GA), July 30, 1868 (available online at <https://www.Newspapers.com/image/26849014/>).

¹⁹ “Reconstruction and the Southern Whites,” *The Atlanta Daily New Era* (Atlanta, GA), January 4, 1868. For a scholarly overview of these post-Civil War and post-Reconstruction disfranchising measures, see *Quiet Revolution in the South*, 67–70.

sufficient number of white Republicans to agree to expel all Black members of the Georgia legislature. By September 1868, all Black legislators were expelled from the General Assembly.²⁰

This expulsion, along with the continuing high levels of racial violence directed at African Americans, convinced Congress to suspend Georgia's status once again as a state. Black legislators were reseated after the passage of the Congressional Reorganization Act of 1869.²¹ In 1870 the Georgia Legislature returned the expelled Black legislators to their seats and expelled twenty-two members who had served as Confederate officers. That same year it passed the Akerman Law, prohibiting any person from challenging or hindering voters at the polls.²² White Georgians reacted with vengeance; between 1867 and 1872, "at least a quarter of the state's Black legislators were jailed, threatened, bribed, beaten or killed."²³ At the heart of Black voter suppression was both explicit and implicit white violence. As Sidney Andrews, a journalist from Massachusetts, wrote in 1865, "any man holding and openly advocating even moderately radical views on the negro question, stands an excellent chance, in many counties of Georgia and South Carolina, of being found dead some morning."²⁴

In October 1868, the *Atlanta Daily New Era* reported that those "despairing Democracy are resorting to the grossest acts of violence with the view of intimidating the negro away from the polls."²⁵ Historian Edmund Drago noted that starting in the April 1868 election through the 1872 presidential election, Democrats resorted to murder, violence, fraud, and intimidation, and successfully decreased Republican votes. Black politicians were threatened with violence, and some Black legislators were murdered by the Ku Klux Klan.²⁶

²⁰C. Mildred Thompson, *Reconstruction in Georgia: Economic, Social, Political, 1865-1872* (New York: Columbia University Press, 1915) 214; Edmund L. Drago, *Black Politicians and Reconstruction in Georgia: A Splendid Failure* (Baton Rouge: Louisiana State University Press, 1982), 148. There remains today a bronze sculpture on the Georgia Legislature's grounds entitled "Expelled Because of Color" to the 33 Black members of the Georgia Legislature who were expelled at that time.

²¹ Drago, 55.

²² McDonald, *A Voting Rights Odyssey*, 17-25.

²³ McDonald, *A Voting Rights Odyssey*, 35.

²⁴ Sidney Andrews, "The South Since the War," in Brooks D. Simpson, ed., *Reconstruction: Voices From America's First Great Struggle for Racial Equality* (New York: Library of America, 2018), 140

²⁵ *The Atlanta Daily New Era* (Atlanta, GA), October 25, 1868.

²⁶ Drago, 141-159.

One such instance of political violence happened in Camilla, Georgia in the fall of 1868. Just two months after the state assembly expelled its African American members, local officials from Mitchell County and the surrounding area organized a march from Albany to Camilla that would end at a local Republican rally. Several hundred Black Georgians joined the planned march along with several white Republicans, but upon entering town, local whites hiding out in storefronts along the town square gunned them down, murdering at least a dozen and wounding another thirty. The result of such a massacre was that white Democrats took control of southwest Georgia.²⁷

Klan violence against Black legislators was severe. On October 29, 1869, a Black state legislator named Abram Colby from Greene County, Georgia was attacked by a group of sixty-five Klansmen, who dragged him into the woods and beat him for more than three hours before leaving him for dead. The mob explained that they were attacking Colby because he “had influence with the negroes of other counties.”²⁸ Colby later recounted before the Congressional Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States that, as he was beaten with “sticks and with straps that had buckles on the ends of them,” his assailants had demanded that he promise to never “vote another damned Radical ticket.”²⁹ Colby testified that the same group of men had also attempted to bribe him to switch parties or resign from the legislature. Colby’s story, while horrific, was not unique—this kind of violence against Black Republicans was common between 1869 and 1872.³⁰ The Ku Klux was active throughout the

²⁷ See Lee W. Formwalt, “Camilla Massacre,” New Georgia Encyclopedia, <https://www.georgiaencyclopedia.org/articles/history-archaeology/camilla-massacre/> (Sep. 5, 2002) (last edited Aug 20, 2020) See also Lee Formwalt, “The Camilla Massacre of 1868: Racial Violence as Political Propaganda,” *The Georgia Historical Quarterly*, Vol. 71, No. 3 (Fall, 1987), 399-426.

²⁸ *Ibid.*

²⁹ United States Congress, Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States, Luke P. Poland, John Scott, and Woodrow Wilson Collection, *Report of the Joint select committee appointed to inquire into the condition of affairs in the late insurrectionary states, so far as regards the execution of laws, and the safety of the lives and property of the citizens of the United States and Testimony taken* (Washington: U.S. Government Printing Office, 1872). Available online from the Library of Congress, <https://lcn.loc.gov/35031867>.

³⁰ *Ibid.*; see also Kidada E. Williams, “The Wounds that Cried Out: Reckoning with African Americans’ Testimonies of Trauma and Suffrage from Night Riding” in *The World the Civil War Made*, Gregory P. Downs and Kate Masur, eds. (Chapel Hill: University of North Carolina Press, 2015) 159-62, 170-72.

state. Charles Kendricks, a politically active African American carpenter, and landowner in Gwinnett County, was appointed as an election manager by the state's Republican governor; he reported that a Klan leader had burst into his home waving a pistol and threatening to hang him. When he wrestled with the intruder and managed to run away, he was shot. The same perpetrator had previously pistol whipped Kendricks and attempted to stab him when he had seen Kendricks approaching the polls to vote.³¹

The example of Georgian Tunis Campbell is illustrative of Georgia's disfranchisement and intimidation tactics. Born in 1812, Tunis Campbell was a prominent African American abolitionist, who arrived in Georgia as an agent of the Freedman's Bureau. In the spring of 1865, he traveled to the Georgia coast and established a freedmen's settlement. When president Andrew Johnson began pardoning ex-Confederates and returning their land, Campbell purchased a large tract of land on St. Catherine's Island, allocated new settlements, and organized what became a self-governing community.³² From there, Campbell moved into politics, becoming the head of the Republican Party in Georgia, a local registrar of voters, a delegate to Georgia's new Constitutional Convention, and eventually a state senator. He consulted with U.S. President Ulysses S. Grant and Senator Charles Sumner in 1871 on the need for voting rights for African Americans. He even headed up his own militia to protect him and his community from attacks from local bands of the Ku Klux Klan.³³ Local whites attempted to undermine Campbell from the start. In 1867, while serving as a state registrar, he survived a poisoning attempt, which reportedly killed one of his colleagues. Two years later, when both Tunis and his son won seats in the Georgia General Assembly, white state officials voted to deny them their seats.

³¹ Testimony Taken by the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States: Georgia, Volume I (Washington, D.C.: Government Printing Office, 1872), 350-55, 515-517. Available online at: https://ia601409.us.archive.org/32/items/reportofjointsel06unit/reportofjointsel06unit_bw.pdf.

³² Russell Duncan, "Tunis Campbell, 1812-1891," New Georgia Encyclopedia, <https://www.georgiaencyclopedia.org/articles/arts-culture/tunis-campbell-1812-1891/> (Dec. 10, 2004) (last modified Jul 15, 2020). See also Russell Duncan, *Freedom's Shore: Tunis Campbell and the Georgia Freedmen* (Athens: University of Georgia Press, 1986).

³³ *Ibid*; See also Richard Hogan, "Resisting Redemption: The Republican Vote in Georgia in 1876," *Social Science History*, Vol. 35, No. 2 (Summer 2011), 13-166. See also, Jess McHugh, "He fought for Black voting rights in Georgia. He was almost killed for it." *The Washington Post* (Oct. 25, 2020) available at: <https://www.washingtonpost.com/history/2020/10/25/voting-rights-tunis-campbell-civil-war/>

During this time of immense violence, intimidation, and chicanery, in 1871 white Democrats took control of the Georgia Legislature. With a majority of elected officials dedicated to white supremacy, the state of Georgia tightened its grip on would-be Black voters and especially on Black elected officials, reinstituting an annual poll tax to dissuade or outright prohibit impoverished Black Georgians from voting. The poll tax and continued violence was effective: In 1872 only four Black citizens were elected to the Georgia Legislature, and only three in 1874.

In 1871, the state of Georgia also voted to remove the Republican Governor, thus basically ending political Reconstruction in Georgia. Then Democrats re-organized county elections and took control of local elections, thereby diminishing both the electoral power of Black voters-- and negating Tunis Campbell's authority as the leading politician in McIntosh County. In 1874, for example, Campbell won a seat in Georgia's House of Representatives, but Georgia's Democratically controlled legislature threw out all of the votes from Darien, Georgia (Campbell's base of support) after learning that a local election judge was not a registered property holder.³⁴

Finally, in 1876, after years of trying to thwart Campbell's political career, white Democrats arrested Campbell on trumped up charges alleging malfeasance in office. A Georgia court sentenced him to a yearlong term in prison, which he served while working as a convict-lease laborer at a state labor camp. He left Georgia upon his release and published a memoir entitled *The Sufferings of the Rev. T. G. Campbell and his Family in Georgia* (1877).³⁵

The story of Tunis Campbell illustrates the effectiveness of violence, intimidation, fraud, and the poll tax. After white Democrats seized control of the Georgia state legislature, they organized a new constitutional convention, chaired by the same Robert Toombs cited above, who had been the secretary of state of the Confederacy. The Georgia state constitution of 1877 implemented a cumulative poll tax for elections, so that potential voters had to pay all previous unpaid poll taxes before casting a ballot.³⁶ The new 1877 Georgia constitution did not disfranchise its African American citizens in explicit words. But as historian Edmund Drago noted, however,

³⁴ See Hogan, 147.

³⁵ See Duncan, "Tunis Campbell." See also Tunis G. Campbell, *Sufferings of the Rev. T.G. Campbell and his family, in Georgia* (Washington, D.C.: Enterprise Publishing Company, 1877). Available online at: <https://archive.org/details/sufferingsofrevt00camprich/page/9/mode/2up>

³⁶ For a brief explanation of how the cumulative poll tax worked to disfranchise African Americans, see Avidit Acharya et al., *Deep Roots: How Slavery still Shapes Southern Politics* 146 (2018).

new restrictions, combined with reinstated poll taxes, were “sufficient to render black participation in politics improbable.”³⁷

C. The Populist & Early Progressive Movement Era (1880s to 1910s)

Populism emerged in the late 1880s as a challenge to the Post-Reconstruction settlement in Georgia. Populism meant different things to different people in different places, but it usually meant an emphasis on “the people” rather than on “the elite.” In Georgia “the people” meant the white people and the maintenance of white supremacy and the avoidance of any challenges to one-party rule. Almost all Georgia white elites were committed to the maintenance of white supremacy. A leading political figure in Georgia in these years was not a Populist but the Progressive Movement leader Henry Grady, who proclaimed the first of many “New Souths.” Grady wrote in 1885 that racial inequality is “instinctive—deeper than prejudice or pride—and bred in the bone and blood” and therefore it was essential that “the white race must dominate forever in the South.”³⁸

Populism and the Farmer’s Alliance became a major factor in Georgia politics in the late 1880s. Most Georgia Populists were not racial egalitarians, but they did denounce race hatred and lynching, and promoted enlightened and mutual self-interest as an economic strategy. The Populists also called for financial reforms and regulation of corporations, particularly the railroads. The *Atlanta Constitution* warned that maintaining white supremacy was more important than “all the financial reform in the world.”³⁹ In Georgia progressivism was, in the words of historian John Dittmer, “conservative, elitist, and above all, racist.”⁴⁰

The populist career of Tom Watson, a Congressman and U.S. Senator from Georgia, demonstrated the difficulties of challenging white supremacy in the state. Watson was initially a supporter of the interracial alliance of the populist movement, advocating for the rights of African Americans to vote and even standing guard all night to protect an African American’s right to vote. But after 1900, in his Georgia congressional campaign, Watson refashioned himself as virulently

³⁷ McDonald, 35–37; Drago, 156.

³⁸ Bartley, 85–86.

³⁹ McDonald, *A Voting Rights Odyssey*, 37.

⁴⁰ John Dittmer, *Black Georgia in the Progressive Era, 1900–1920* (Urbana: University of Illinois, 1977), 214.

racist (and anti-Semitic), a vehement defender of lynching, running on a platform of white supremacy.⁴¹

Georgia then took additional steps to exclude Black voters from the franchise at the end of the 19th century. In 1890, the Georgia legislature passed a law ceding primary elections to party officials. The law kept political candidates from trying to appeal to Black voters or to build multiracial coalitions.⁴² In 1898, the Georgia Democratic Party adopted the use of a statewide primary, a popular progressive reform to remove politics from “smoke-filled back rooms.” But the adoption in Georgia was not a reform to bring in more democracy. In 1900, following the lead of South Carolina, Georgia became the second state to bar Black voters from participating in the Democratic Party, under the pretense that the Democratic Party was a private “club” and only had to accept the patronage of its chosen “guests.” Because Georgia was a one-party Democratic state, this meant that Black Georgians had no effective role in the state’s politics. The white primary was one of the central ways Georgia evaded the Fifteenth Amendment.⁴³

Georgia’s government took another a giant step towards evading the Fifteenth Amendment in 1908, when it passed the “Progressive era” Felder-Williams bill, which became known as the “Disenfranchising Act.” Because the Fifteenth Amendment barred outright elimination of Black voting, other methods were used to curb and discourage Black voting without explicitly banning it. Even so, many agreed with the Georgia Congressman Tom Watson, who said in 1910 that “the hour has struck for the south to say that the fifteenth amendment is not law and will no longer be respected.”⁴⁴

The 1908 Felder-Williams bill broadly disfranchised many Georgians but included a series of exceptions that would continue to allow most white voters to vote, such as: (1) having served

⁴¹ Julia Mary Walsh, “‘Horny -Handed Sons of Toil’: Workers, Politics, and Religion in Augusta, Georgia, 1880—1910,” (Urbana: University of Illinois, 1999). Available online at: <https://www.ideals.illinois.edu/handle/2142/84756>; Donald A. Grant, *The Way it Was in the South: The Black Experience in Georgia* (1993; University of Georgia Press, 2001), 175-78; C. Vann Woodward, *Tom Watson: Agrarian Rebel* (1938; Oxford University Press, 1963); Barton Shaw, “Populist Party,” *New Georgia Encyclopedia*, <https://www.georgiaencyclopedia.org/articles/history-archaeology/populist-party/> (Sep. 3, 2002) (last modified Sep. 29, 2020)

⁴² Bartley, 149; GA History, “White Primary Ends,” available online at: <http://gahistorysms.weebly.com/white-primary-ends.html>

⁴³ McDonald, *A Voting Rights Odyssey*, 38.

⁴⁴ *Ibid*, 39–40

in either the U.S. or Confederate armies, (2) having descended from someone who had served in either the U.S. or Confederate armies, (3) owning forty acres of land or five hundred dollars' worth of property in Georgia, (4) being able to write or to understand and explain any paragraph of the U.S. or Georgia Constitution, or (5) being "persons of good character who understand the duties and obligations of citizenship."⁴⁵ Overall, the Felder-Williams bill's literacy test, plus a property requirement and a cumulative poll tax, eliminated almost all existing Black voters in Georgia (along with a fair number of poor whites.)

While the bill became known as the "Disenfranchising Act," Georgia officials like Governor Hoke Smith justified the bill in the name of "honest elections in Georgia," which could begin by "keeping registration lists above suspicion."⁴⁶ Thus, pursuant to this new law, a new registration of voters was held after its adoption by popular vote.⁴⁷ The technique of disfranchisement under the name of something else, such as honest elections, became more prevalent in Georgia and elsewhere. As the *Atlanta Journal* wrote about the Felder-Williams bill, in passing it "Georgia takes her place among the enlightened and progressive states which have announced that the white man is to rule. She has declared in clear and specific terms for Anglo-Saxon supremacy and the integrity of the ballot."⁴⁸

In the campaign to disfranchise Black voters, Georgia officials blamed a specter of voter fraud, echoing rhetoric from the violent overthrow of Reconstruction that Black residents did not deserve the rights of citizenship and the sanctity of the ballot. For Southern Progressives, as Governor Hoke Smith argued, "the first step toward purifying the ballot" was "the exclusion of the ignorant and purchasable negro."⁴⁹ White Democrats blamed "fraudulent negro voters" for Republican rule during Reconstruction, and falsely claimed that denying African Americans the right to vote would eliminate fraud.⁵⁰ John M. Brown, the editor of *The Bainbridge Democrat*, argued that "the negro as a voter—by a very large majority—is purchasable," and without

⁴⁵ *Ibid.*, 41.

⁴⁶ Georgia. General Assembly. House of Representatives. *Journal of the House of Representatives of the State of Georgia* (Atlanta, GA: Franklin-Turner Company, 1908), 11. Available online through the University of Georgia at: http://dlg.galileo.usg.edu/do:dlg_ggpd_y-ga-b1404-b1908.

⁴⁷ *Journal of the House of Representatives of the State of Georgia*, 19.

⁴⁸ McDonald, *A Voting Rights Odyssey*, 42.

⁴⁹ "Hoke Smith Writes of Campaign Issues," *The Atlanta Georgian and News* (Atlanta, GA), July 29, 1910.

⁵⁰ *The Atlanta Constitution* (Atlanta GA), June 16, 1898.

disfranchisement a “minority of the whites” could control Black voters and take Georgia hostage.⁵¹ The false claim that Black votes were fraudulent began during Reconstruction and continues as a trope today.⁵²

This pretext of voter fraud and purifying elections was used to justify the wholesale change in voter registration laws. In conjunction with the Felder-Williams bill that stripped Black men of their voter registrations, the Georgia General Assembly also approved a measure to amend the process for registering voters. The *Cartersville News* explained that this “pure election law” provided that “the registration list shall be placed on exhibit in the office of the clerk of the court, where all may inspect and may challenge those who are thought not worthy of a place.”⁵³ The bill stipulated that “the list from the voters’ books . . . shall be open to public inspection, and any citizen of the county shall be allowed to contest the right of registration of any person whose name appears upon the voters’ list.”⁵⁴ This “challenge” provision was incorporated into the 1910 Code of the State of Georgia, and remains substantively unchanged to this day.⁵⁵

The purpose of both the disfranchisement law and the registration law was clear: to disfranchise Black Georgians and keep it that way. Governor Smith explained that during his tenure that “we adopted a registration law” that “was intended to make complete and fully effective the disfranchisement law.”⁵⁶ The *Atlanta Semi-Weekly Journal* wrote that “the registration provision of the pure election law which guarantees the ballot to every real white citizen of the

⁵¹ “For Negro Disfranchisement,” *The Bainbridge Democrat* (Bainbridge, GA), September 3, 1908.

⁵² *The Atlanta Constitution* (Atlanta GA), June 16, 1898.

⁵³ “Laws to Govern Georgia Elections,” *The Cartersville News* (Cartersville, GA), August 20, 1908.

⁵⁴ Part I, Title VII, *Acts and Resolutions of the General Assembly of the State of Georgia, 1908* (Atlanta, GA: Charles P. Byrd, 1908), 60. Available online through the Digital Library of Georgia at: https://dlg.usg.edu/record/dlg_zlgl_102041291

⁵⁵ Originally codified as § 34-605, the 1908 voter challenge provision was preserved in substantially the same form through extensive reorganization and modernization of the Georgia Election code in 1964 and 1981, when it was re-codified at § 21-2-230. As observed in the editor’s note for the 2008 edition of *The Official Code of Georgia, Annotated* § 21-2-230, the voter challenge provision of the reorganized 1981 *Official Code of Georgia* was so similar to the 1933 *Code*’s voter challenge statute that any legal opinions decided under the older code would apply to § 21-2-230. See O.C.G.A. § 21-2-230 (2008). On intimidation and the use of the Georgia Challenge law, see *Vigilante: Georgia’s Vote Suppression Hitman* (Show&Tell Films 2022).

⁵⁶ “Hoke Smith Writes of Campaign Issues,” *The Atlanta Georgian and News* (Atlanta, GA), July 29, 1910.

state” ensures that “his ballot’s power shall not be vitiated by a corrupt and floating element,” i.e. the Black voter whose vote was “fraudulent.”⁵⁷

Together, these laws were devastatingly effective at eliminating both Black elected officials from seats of power and Black voters from the franchise. At this time of the Felder-Williams bill, the last remaining African American in the legislature was William H. Rogers, and he resigned after the passage of the bill. There would not be another Black Georgian in the legislature for half a century. In terms of voters, in 1908, 33,816 Black Georgians were registered to vote. Two years later, only 7,847 African Americans were registered, a decrease of more than 75 percent. In comparison, fewer than six percent of white voters were disfranchised by Georgia’s new election laws.⁵⁸ From 1920 to 1930 the combined Black vote total never exceeded 2,700.⁵⁹ In 1940 the total Black registration in Georgia was an estimated 20,000, around two or three percent of eligible Black voters. If anything, this figure exaggerates Black voting strength, since until 1944 Black voters were barred from the only election that mattered, the Democratic Party primary.⁶⁰

D. Early 20th Century (1910s to 1940s)

During the early 20th century, beyond the poll tax and the white primary which had functionally removed nearly all Black Georgians from voter registration lists, Black Georgians also faced an array of state-sponsored discrimination across all aspects of life which led back to voting.⁶¹ One was education. In *Cumming v. Richmond County School Board*, 175 U.S. 528 (1899), the U.S. Supreme Court sanctioned Georgia’s de jure segregation of white from Black students. The case arose after the school board in Augusta, Georgia, closed the only Black public high school in the county, while still operating its white high school. The Georgia Supreme Court approved of the closure and segregation, and so did the U.S. Supreme Court. And without support for schools

⁵⁷ “A Puerile Attack on a Great Law,” *The Atlanta Semi-Weekly Journal* (Atlanta, GA), June 24, 1910.

⁵⁸ *Ibid.*; see also *Quiet Revolution in the South*, 67.

⁵⁹ McDonald, *A Voting Rights Odyssey*, 46.

⁶⁰ *Ibid.*, 49; see also J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina, 1999), 201.

⁶¹ The continuing effects of discrimination in Georgia hinder the ability of minority group members to participate effectively in the political process. Disparities in education, income, and health outcomes persist in Georgia, effectively disadvantaging many minority voters. Although another expert is providing census data and other statistics on racial disparities in socio-economic characteristics usually cited in connection with Senate Factor 5, I am providing a historical background here.

for Black Georgians, not only could literacy tests be used to keep Black people from voting, but under-resourced education and segregated schools severely stalled economic and social mobility for Georgia's Black residents.⁶²

Like many southern states in the early years of the twentieth century, Georgia, on both a state and local level, instituted a vast array of Jim Crow legislation concerning restaurants, parks, zoos, chain gangs, and even prohibiting whites and African Americans from swearing on the same Bible in Atlanta courtrooms.⁶³ Georgia was also dead last among states in the percentage of Black farmers who owned their own land, at only 12.8%.⁶⁴ Of course, under the Felder-Williams Disenfranchisement Act, ownership of land was one of the exceptions of access to the franchise.

In 1916, Georgia elected Hugh M. Dorsey as governor. By no means a racial liberal, Dorsey did oppose the worst of Jim Crow. In his pamphlet entitled, *A Statement from Governor Hugh M. Dorsey as to the Negro in Georgia*, published before he left office in 1921, he highlighted the condition of Black Georgians at the time. He wrote, "in some counties the Negro is being driven out as though he were a wild beast. In others he is held a slave." Governor Dorsey also wrote, in response to white mob violence against Black Georgians, that Georgia "stand[s] indicted before the world. If the conditions . . . should continue, both God and man would justly condemn Georgia more severely than man and God have condemned Belgium and Leopold for the Congo atrocities."⁶⁵ Governor Dorsey wrote the truth; violence and threat of violence was constant for many Black Georgians after white Democrats controlled the state in the late 19th and first part of the 20th century.

At the time, a common form of state-sanctioned violence was debt peonage and the convict lease system, which some have described as slavery by another name. In theory, the federal Debt

⁶² Edward A. Hatfield, "Segregation," New Georgia Encyclopedia, <http://www.georgiaencyclopedia.org/articles/history-archaeology/segregation> (Jun 1, 2007) (last edited Jul 20, 2020); Grant, 220. The Booker T. Washington High School in Atlanta opened in 1924; there were several denominational high schools for African Americans in Georgia.

⁶³ Bartley, 148.

⁶⁴ Adrienne Petty and Mark Schulz, "American Landowners and the Pursuit of the American Dream," in *Lincoln's Unfinished Work: The New Birth of Freedom from Generation to Generation*, Orville Vernon Burton and Peter Eisenstadt eds. (Baton Rouge: Louisiana State University, 2022), 133–171.

⁶⁵ "A statement from Governor Hugh M. Dorsey as to The Negro in Georgia," (<https://archive.org/details/statementfromgov00georrich>) (also available through the Library of Congress at <https://lcn.loc.gov/21027163>; cited in Cobb, 22-23).

Peonage Act of 1867 had outlawed the peonage system—the system of debt slavery—throughout the United States. But even up through the 1920s, the federal government investigated and prosecuted hundreds of employers across the South, including particularly in Georgia, for practicing peonage. But the federal government's prosecutions rarely succeeded in punishing offending landowners. In the end, peonage was ended by outside social and economic forces. In 1915, the boll weevil was found on Georgia cotton plants and thereafter the insect devastated cotton agriculture. In addition to the boll weevil, the Great Depression and the mechanization of agriculture spelled the end of the cotton plantations of Georgia. Only the decline of the cotton plantations ended the practice of peonage.⁶⁶

Throughout World War I, Black Georgians also faced state-sanctioned racial discrimination. While the Selective Service Act of 1917 required all able-bodied men of a certain age to register for a national draft, regardless of race, it was local draft boards that were responsible for processing men registering for the draft and selecting which registrants would be inducted into military service.⁶⁷ In Fulton County, for example, the draft board “granted exemptions to 526 of the first 815 white registrants examined but turned down only six out of 202 black men.”⁶⁸ Statistically, across Fulton County, 65 percent of the whites but only three percent of the Black Georgians were granted exemptions from military service. Fulton County's racially discriminatory decisions were so flagrant that President Woodrow Wilson, who had lived in Augusta, Georgia as a boy, and who is today remembered as the president who segregated the federal government and

⁶⁶ Miller Handley Karnes, “Law, Labor, and Land in the Postbellum Cotton South: The Peonage Cases in Oglethorpe County, Georgia, 1865-1940,” (Urbana: University of Illinois, 2000), available online at: <https://www.ideals.illinois.edu/handle/2142/84756>; Cobb, 19-22; Pete Daniel, *The Shadow of Slavery: Peonage in the South, 1901-1969* (New York: Oxford University Press, 1972), 110-131; Talitha L. Laflouria, *Chained in Silence: Black Women and Convict Labor in the New South* (Chapel Hill: UNC Press, 2016); Sarah Haley, *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (Chapel Hill: UNC Press, 2016).

⁶⁷ U.S. Congress, “An Act To authorize the President to increase temporarily the Military Establishment of the United States,” United States Statutes at Large, Vol. 40 (1917-1919), 65th Congress (available online through the Law Library of Congress at <https://www.loc.gov/law/help/statutes-at-large/65th-congress/session-1/c65sch.pdf?locId=blogloc-ww1>).

⁶⁸ Arthur E Barbeau and Florette Henri, *The Unknown Soldiers: Black American Troops in World War I* (Philadelphia: Temple University Press, 1974), 35.

endorsed the racist movie, “Birth of a Nation,” was forced to remove officials of the Fulton County Georgia Draft Board.

As Black Georgians were drafted into the war at a higher proportion than were whites, the NAACP established a chapter in Georgia in 1917, which was the same year that Georgia adopted the county unit form of government. The county-unit system became the method for determining the winner of the Democratic primary, the only elections in the state that mattered.⁶⁹

Under the county-unit system, every county was given twice the number of unit votes as they had representatives in the state house. Each of Georgia’s 159 counties had at least one seat in the legislature, no county had more than three. The winner in each county’s primary election received all that county’s unit votes. This system gave a greater share of proportion of votes to small, rural, and much whiter counties, compared to larger and more urban counties, where the majority of still active Black voters lived.⁷⁰ As in many states prior to the *Baker v. Carr* (1962) decision, Georgia’s election system had a strongly rural bias, but perhaps in no state was the rural tilt as pronounced as in Georgia, diluting the strength of Black voters across Georgia.

Against this backdrop, in 1919, the Atlanta chapter of the NAACP was wildly successful in its voter registration drive: in one month, they registered more than one thousand new Black voters, more than doubling the number of Black voters who participated in past elections. The success of the NAACP caused panic among leading whites, and the following year, the Georgia General Assembly proposed legislation to prohibit Blacks from voting or from holding office.⁷¹

As Black Georgians returned from the war, many white Georgians held a deep antipathy regarding Black WWI veterans, which led in part to the rise of the Ku Klux Klan in Georgia following the war. Historian Nancy MacLean wrote about this time, in which seeing Black men in military uniforms, “a symbol commanding respect,” led white Georgians to racial violence as backlash.

⁶⁹ Between 1872 and 1950, the Democratic candidate won every state-wide race. See McDonald, *A Voting Rights Odyssey* at 81.

⁷⁰ Scott E. Buchanan, “County Unit System,” New Georgia Encyclopedia, <http://www.georgiaencyclopedia.org/articles/counties-cities-neighborhoods/county-unit-system> (Apr 15, 2005) (last edited Aug 21, 2020).

⁷¹ Nancy MacLean, *Behind the Mask of Chivalry: The Making of the Second Ku Klux Klan* (Athens: University of Georgia, 1994), 28.

After World War I, in Georgia and elsewhere, African Americans again continued to try to vote despite the *legal* means of disfranchisement which state officials (white Democrats) had enacted, and whites again resorted to violence and intimidation to keep African Americans from the polls. For example, in Harris County, Georgia, African Americans planned to vote because President Franklin Roosevelt had a vacation home nearby, giving Black voters there a sense of federal protection. Trying to eliminate that sense of protection, however, white Georgians in the area “dug some graves there by the courthouse... and burned some crosses at the crossroads.”⁷²

Of course, lynchings throughout the state served as a reminder for Black Georgians who challenged the status quo, and in practice lynchings did not need to be directly connected to the right to vote to act as a threat against all Black Georgians who dared participate in the franchise. From 1875 to 1930, there were 462 lynchings in Georgia. Only the state of Mississippi had more reported lynchings. Graphic descriptions of the lynchings sent messages to Black Georgians to stay in line (and to whites that racial violence would go unprosecuted).⁷³

E. World War II Era (1940s to 1950s)

Up until the 1940s, Black Georgians had been successfully excluded from the franchise by many means, including the white primary. In 1944, however, in *Smith v. Allwright* the United States Supreme Court issued a landmark decision holding that political parties could not exclude Black Americans from participating in the party’s primary elections, thereby prohibiting the widely utilized white primary system.⁷⁴

One year later, in 1945, the United States District Court for the Middle District of Georgia ruled in *King v. Chapman* that the Muscogee County Democratic Executive Committee and the state of Georgia had violated the Fourteenth, Fifteenth, and Seventeenth Amendment rights of Primus E. King, a Black voter who had been turned away when he had attempted to vote in the Democratic Party’s primary in Columbus, Georgia that prior summer. The judge, in part relying

⁷²Testimony of William Simpson, Trial Transcript at 115, 118, *Brown v. Reames*, Civ. No. 75-80-COL (M. D. Ga.)

⁷³W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana-Champaign: University of Illinois Press, 1993); McDonald, 47; Georgia Lynching Project, circa 1875-1930,” (<https://scholarblogs.emory.edu/galynchings/counties/>).

⁷⁴*Smith v. Allwright*, 321 U.S. 649 (1944).

on *Smith v. Allwright*, found that despite Georgia's attempts to make party primaries "purely private affairs," primary elections were "by a law an integral part of the election machinery."⁷⁵

These cases, along with Governor Ellis Arnall's decision not to attempt to "circumvent the [*Allwright*] decision," and organizing efforts by groups like the NAACP-backed All Citizens Registration Committee, led to a massive surge in voter registration in 1946, especially among Black voters.⁷⁶ By the time of the 1946 primary, 118,387 Black Georgians had registered to vote. According to the *Jackson Progress-Argus* of Jackson, Georgia, this was "by all odds the largest registration in Georgia's primary."⁷⁷

This important progression in Black voter registration, however, was met by outright hostility from candidates in the 1946 Gubernatorial election. For example, the race-baiting Democratic gubernatorial candidate in that election, Eugene Talmadge, campaigned on a platform of white supremacy and disfranchisement, threatening that if the "Democratic White Primary is not restored and preserved," Black voters, "directed by influences outside of Georgia," would control the Democratic Party.⁷⁸ This language echoed earlier comments from Georgia Governor Hoke-Smith which questioned the legitimacy of Black voters.⁷⁹ As Talmadge menacingly warned, "wise Negroes will stay away from white folks ballot boxes." Similarly, Marvin Griffin, a candidate for Lieutenant Governor, made white supremacy a cornerstone of his campaign and announced that he believed "the White Democratic Party should be kept white in Georgia, and that

⁷⁵ *King v. Chapman*, 62 F. Supp. 639 (M.D. Ga. 1945); *Chapman v. King*, 154 F.2d 460 (5th Cir. 1946); *Chapman v. King*, 327 U.S. 800 (1946); "Judge Rules Negroes May Vote," *The Atlanta Constitution* (Atlanta, GA), October 13, 1945; "Georgia Reform Faces Test in Hot Primary," *The Sunday News* (Lancaster, PA), July 14, 1946; Ronald H. Bayor, *Race and the Shaping of Twentieth-Century Atlanta* (Chapel Hill, NC: University of North Carolina Press, 1996), 34.

⁷⁶ McDonald, *A Voting Rights Odyssey*, 49.

⁷⁷ "Total Registration in Georgia May Reach Million When Deadline Falls," *The Jackson Progress-Argus* (Jackson, GA), June 20, 1946; "118, 387 Qualified to Vote in Georgia Primary Election," *The Plaindealer* (Kansas City, KS), July 19, 1946.

⁷⁸ "Georgia CAN Restore the Democratic White Primary and Retain County Unit System," *The Forsyth County News* (Cumming, GA), July 4, 1946.

⁷⁹ "Our Last Chance for WHITE SUPREMACY," *The Jackson Herald* (Jefferson, GA), July 11, 1946; "Georgia's State Campaign To Be Red Hot Affair," *The Gaffney Ledger* (Gaffney, SC), April 25, 1946.

carpet baggers and scalawags should not be permitted to take over this state and destroy southern racial traditions.”⁸⁰

As the 1946 gubernatorial race progressed, both Griffin’s and Talmadge’s campaigns relied on voter challenges to disfranchise Black voters and repudiate the recent court rulings.⁸¹ In particular, Talmadge responded to *Smith v. Allwright* by mounting challenges to Black voter registration forms, claiming they were filled out incorrectly. Although the state law required specific reasons for voiding registrations, Talmadge’s crew cited spurious reasons. They created pre-filled forms with spaces to fill in the voter’s name and county, with reasons such as “the voter was not a resident, was not eighteen, was not a person of good character, could not read the English language,” and so forth.⁸² These forms demonstrated that Talmadge’s campaign did not know the specific circumstances or qualifications of the voters they challenged; all they knew were that these voters “were black, and that was enough.”⁸³ Ultimately, the Talmadge machine challenged so many voters that when those voters arrived in person to prove their qualifications, “it proved impossible to process all of them on election day, and as a result the Black voters were allowed to cast their ballots.”⁸⁴ All in all, during this election, more than thirty counties challenged Black registrations, denying an estimated 15,000 to 25,000 Black registrants the right to vote.⁸⁵

The state of Georgia also continued to attempt to circumvent the rule against white primaries. In 1947, the Georgia General Assembly introduced a bill that would allow the continuation of a white-only primary by divorcing primaries from state action entirely. Willis Smith, a representative from Carroll County, said “Georgia is in trouble with the Negroes unless this bill is passed.” Echoing historian U. B. Phillips’ Central theme of Southern history, Smith continued “This is white man’s country, and we must keep it that way.”⁸⁶

⁸⁰ *The Houston Home Journal* (Perry, GA), May 30, 1946; Kathy Lohr, “FBI Re-Examines 1946 Lynching Case,” July 25, 2006 (available online at: <http://www.npr.org/templates/story/story.php?storyId=5579862>); Cobb Declaration, 26.

⁸¹ “Talmadge ‘Purge’ of Negro Voters Boggling Down in Georgia Counties,” *The Atlanta Constitution* (Atlanta, GA), July 12, 1946.

⁸² McDonald, *A Voting Rights Odyssey*, 52-53.

⁸³ *Ibid.*, 52-54.

⁸⁴ *Ibid.*, 53.

⁸⁵ *Ibid.*, 52-54.

⁸⁶ *Ibid.*, 55. The bill was vetoed by Gov. Thompson who questioned its legality and believed it would invite fraud.

But perhaps the most successful way Georgia continued to circumvent the rule against white primaries was the continuation of the county-unit system, which had both the purpose and the effect of containing the Black vote in the urban areas of the state. By the early 1940s, 43.5% of the state's population (and 39.9% of the state's white population) controlled 59% of the unit votes. The unit vote system was inherently non-majoritarian, and situations in which candidates won the popular vote but lost the unit vote were not uncommon. And it had the consequence that not only legislative districts, but state-wide races for governor and other executive branch positions had a rural and white bias. The main target of the county-unit system was Atlanta and Fulton County, where many Black Georgians lived. In 1946, each unit vote in Fulton County represented 14,092 popular votes, while each unit vote in Chattahooche County (a much whiter county) represented 132 popular votes. In other words, each voter in Chattahooche County had 120 times the weight of a Fulton County voter.

The county-unit system was a bulwark for the racist and die-hard white supremacist machine of long-time governor Eugene Talmadge. Talmadge claimed the enemies of the county unit system were a group of "liberals, white primary antagonists, and integrationists." While five constitutional challenges were brought against the county-unit system in the 1940s and 1950s, none succeeded.⁸⁷

Following Governor Talmadge's death, voter challenges to Black voters were used again during the 1948 Georgia gubernatorial special election. In Laurens County, Georgia, nearly three-quarters of the 2,477 of the Black Georgians who were registered to vote were purged after they were unable to appear before the board of registrars, which a grand jury later found illegal.⁸⁸ Marion County also engaged in a similar, and unsuccessful purge that targeted Black voters, who were challenged because of their supposed "lack of education."⁸⁹ While the efforts to purge Black voters in Laurens and Marion Counties failed, other counties pushed forward. The day before the Democratic primary election, 558 Black voters were purged from Spalding County's registration

⁸⁷ Ibid., 83.

⁸⁸ "Tax Collector of Laurens County Puts Negroes Back on List," *The Butler Herald* (Butler, GA), June 17, 1948; "'Vote Purge' Evidence Said Insufficient," *The Atlanta Constitution* (Atlanta, GA), August 29, 1948; "Twiggs Board Directed to Enroll Negroes," *The Atlanta Constitution* (Atlanta, GA), August 14, 1948.

⁸⁹ "Marion County Striking 400 From Voting List," *The Butler Herald* (Butler, GA), August 26, 1948; "Attempts to Intimidate Voters Told," *The Alabama Tribune* (Montgomery, AL), September 17, 1948;

list. Attempts to challenge and purge Black voters from voter registration lists also occurred in Lowndes, Schley, and Twiggs counties, and may have also taken place in Dougherty County as well.

When attempts to challenge African American voters' qualifications failed, other methods of voter intimidation were employed. For example, Augusta employed "slowdown" tactics in the 1948 elections that mirrored what Savannah did in 1946, whereby "several thousand blacks were unable to vote before the polls closed because of the delaying tactics of poll officials and were simply turned away."⁹⁰ Election officials only allowed three Black voters to vote per hour, in the hopes that there would "be plenty of Negroes standing in line when the polls close."⁹¹ Furthermore, in 1949 the state government (unsuccessfully) attempted to force a general re-registration, "with the obvious aim of ridding the rolls of Negro voters."⁹²

Along with strategic election-related tactics, there was also an upsurge of Klan activity and violence directed at Black voters.⁹³ In the days before the 1948 Democratic primary election, the Ku Klux Klan successfully suppressed Black voting in Lowndes County by burning crosses and threatening African American voters.⁹⁴ Acting Governor M.E. Thompson alleged that "during 1948 intimidation of voters by the Ku Klux Klan is being employed as a substitute for the purge campaign of 1946."⁹⁵ Threats of the Ku Klux Klan, extralegal violence, and all white juries within the legal system made these tactics effective. For example, a Black minister and teacher in Bleckley County went to the courthouse to register to vote in the 1955 election, but the chief of

⁹⁰ "Vote Purge' Evidence Said Insufficient," *The Atlanta Constitution* (Atlanta, GA), August 29, 1948; "Twiggs Board Directed to Enroll Negroes," *The Atlanta Constitution* (Atlanta, GA), August 14, 1948. "Attempts to Intimidate Voters Told," *The Alabama Tribune* (Montgomery, AL), September 17, 1948; "Pre-Vote Klan Threats Substitute for Poll Purge of '46 – Thompson," *The Atlanta Constitution* (Atlanta, GA), March 25, 1948.

⁹¹ "Attempts to Intimidate Voters Told," *The Alabama Tribune* (Montgomery, AL), September 17, 1948; "Pre-Vote Klan Threats Substitute for Poll Purge of '46 – Thompson," *The Atlanta Constitution* (Atlanta, GA), March 25, 1948.

⁹² William M. Bates, "Require High School For Voters, Cook Asks," *The Atlanta Constitution* (Atlanta, GA), November 20, 1957.

⁹³ McDonald, *A Voting Rights Odyssey*, 52–54.

⁹⁴ Patrick Novotny, *This Georgia Rising: Education, Civil Rights, and the Politics of Change in Georgia in the 1940s* (Macon: Mercer University Press, 2008), 270; "Attempts to Intimidate Voters Told"; "Pre-Vote Klan Threats Substitute for Poll Purge of '46 – Thompson."

⁹⁵ *Id.*

police told him “[n]o niggers register in this courthouse.” The next year, someone burned a cross in his yard. He did not attempt to register again until 1964.⁹⁶

After the passage of the 1957 Civil Rights Act, Georgia Governor Marvin Griffin—the candidate whose campaign had filed thousands of challenges against Black voters in 1946—formed a state election law revision committee, which introduced new voter requirements that were “aimed primarily . . . at curbing potential Negro voting strength in Georgia.”⁹⁷ Voters could be disqualified for offenses like “moonshine liquor law violations, adultery and child abandonment,” and the law would also impose a new, more stringent voter qualification test.⁹⁸ Rather than forcing a re-registration to ensure that all 1.2 million registered voters in the state could meet the new requirements, the new requirements “could be invoked against a registered voter upon challenge by another voter.”⁹⁹ Griffin’s insistence that the legislation include a \$1.00 poll tax (which had been previously eliminated in Georgia in 1945) and bi-annual re-registration ultimately led to the bill’s demise in the General Assembly.¹⁰⁰ From poll tax to registration schemes, the purpose in tweaking voting requirements was difficult to miss; the intent was to keep the numbers of eligible Black voters as low as possible, and to keep the requirements for voting accessible to the more marginal white voters.

F. Pre-Voting Rights Act (Early 1960s)

By the end of the 1950s and the start of the 1960s, Georgia’s malapportioned districts, which had the obvious effect of favoring rural white voters over urban Black voters, continued to grow. In 1960, even though the eight counties with the largest population had 41 percent of the

⁹⁶ Even with the VRA, Bleckley County did not see significant increase in Black registration because of the legacy of terror associated with attempting to register at the courthouse. In 1984, Bleckley County allowed satellite registration, and Black registration did increase. See McDonald, *A Voting Rights Odyssey*, 56.

⁹⁷ William M. Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting,” *The Atlanta Constitution* (Atlanta, GA), November 22, 1957; “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House,” *The Atlanta Constitution* (Atlanta, GA), February 13, 1958.

⁹⁸ Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting”; Bates, “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House.”

⁹⁹ Bates, “Crime Barriers and Stiffer Tests Proposed to Curb Negro Voting.”

¹⁰⁰ Bates, “Griffins Poll Tax, Voter Registration Bids Face Scuttling Move in House.”

state's population, they had only 12 percent of the members in the Georgia House of Representatives.¹⁰¹

Georgia's congressional districts were also grossly malapportioned around this time. In 1957, Georgia's Fifth District, consisting of Fulton, DeKalb, and Rockdale Counties, was the second most populous congressional district in the United States, with an estimated population of 782,800—about twice the size of the average congressional district. At the same time, Georgia's Ninth District, a much whiter district in the northeast part of the state, had an estimated population of 238,790, less than a third of the population of the fifth District. By 1960, Fulton County was the most underrepresented county in its state legislature of any county in the United States. DeKalb County was in third place.¹⁰² Over time, the explosive growth of Atlanta, and the consequent increase in Black voters, put increased pressure on the county-unit system. Although still badly disproportionate in comparison to registration for whites, growing Black voting strength in Georgia was increasingly able to make a difference in close elections, something the state's segregationists were acutely aware of.

Defending the county-unit system became an issue on which die-hard segregationists would take their stand. For Peter Zack Greer, elected lieutenant-governor of Georgia in 1962, “left-wing radicals and Pinks,” were intent on unleashing the “bloc Negro vote in Atlanta.”¹⁰³ Even more moderate segregationists expressed similar sentiments. Carl Sanders, elected Georgia's governor in 1962, stated that eliminating the county-unit system would leave state government in the hands of “pressure groups or bloc votes”—the leading white Georgia euphemism for Black voters—and would keep “liberals and radicals from taking over.”¹⁰⁴

Attempting to prevent the overturning of the county-unit system, in 1962 the Georgia General Assembly made some modifications to increase the representation of Fulton County in the state senate from three to seven. At the same time, however, they allowed the creation of multi-member, at-large districts so that the Black voters in a given county would always be outvoted,

¹⁰¹ McDonald, *A Voting Rights Odyssey*, 80–84; Key, 117–124; Kousser, *Southern Politics in State and Nation*, 203–204.

¹⁰² “What About Justice For the Fifth District?,” *Atlanta Constitution*, 23 October 1952; Bruce Galphin, “Only State Legislature Can Effectuate Reapportionment,” 28 November 1957; “We Challenge Congressman Jim Davis to Follow Seventh District's Example,” *Atlanta Constitution*, 30 March, 1962.

¹⁰³ McDonald, *A Voting Rights Odyssey*, 82.

¹⁰⁴ *Ibid.*, 82–83.

and Fulton County's state senators would be elected on an at-large basis. After this system was ruled unlawful, there were two majority-minority districts in Fulton County, one of which elected Leroy Johnson, the first African American to serve in a southern state legislature in many decades.¹⁰⁵

Beginning in 1963, the United States Supreme Court fully outlawed Georgia's county-unit system in *Gray v. Sanders*, 372 U.S. 368 (1963), culminating in *Wesberry v. Sanders*, 374 U.S. 802 (1963), another case arising from Georgia in which the United States Supreme Court mandated equal apportionment for the upper houses of state legislatures and for congressional districts. As one Georgia scholar wrote, "[these cases were] not a racial discrimination case[s], but its concept that voting districts must be composed of substantially equal populations was to prove one of the keys that opened the door to minority officeholding in Georgia."¹⁰⁶

In an attempt to subvert the Court's decisions and to curb Black voting strength and electoral victories, in 1963, the all-white Election Laws Study Committee (ELSC) of the Georgia General Assembly proposed new voting rules for the state of Georgia. The goal of the Committee was to "replace[] the invalid county unit law" with rules that could operate to the same effect.¹⁰⁷ These rules included, most notably, a majority-vote rule to elect any candidate to local, state, and federal office in both primary and general elections, thus requiring a runoff if any candidate received only a plurality of the vote. The bill's sponsor, Representative Denmark Groover (a self-described "segregationist"), explained such a requirement would reduce the influence of the "Negro bloc vote."¹⁰⁸ And indeed, in practice, a majority-vote rule ensures that a Black candidate cannot be elected where Black voters are a minority of the population and voting is racially polarized, even when the white vote is split. *See, e.g., City of Port Arthur v. United States*, 459 U.S. 159, 167 (1982) (requiring removal of a majority vote rule for preclearance under Section 5, recognizing that "[i]n the context of racial bloc voting prevalent in [a city in which African Americans constituted a minority of the population], the [majority-vote] rule would permanently foreclose a black candidate from being elected"). Groover's majority-vote law was ultimately

¹⁰⁵ *Ibid.*, 86-89.

¹⁰⁶ *Ibid.*, 80, 89-90.

¹⁰⁷ McDonald, *A Voting Rights Odyssey*, 91.

¹⁰⁸ Kousser, *Colorblind Injustice*, 198; McDonald, *A Voting Rights Odyssey*, 92.

enacted by the Georgia General Assembly in 1964, and to this day Georgia requires a majority vote for office.¹⁰⁹

In addition to this majority vote requirement, in 1964 the Georgia legislature passed a new voting law with a literacy requirement, a strengthened voter understanding test, a prohibition on voter assistance except in cases of physical disability, a numbered-post provision (a specific method of at-large voting), and an anti-facsimile ballot provision, prohibiting voters from taking sample ballots or lists of candidates into the voting booth, to prevent, or as one of the leaders in the Senate said, “bloc voting” by Black Georgians.¹¹⁰

That same year Georgia’s election laws underwent a substantial revision as the General Assembly passed “a simplified and comprehensive code of election laws” in response to criticism that the state’s election law was disorganized and disjointed.¹¹¹ The reorganization of Georgia’s election laws introduced some important changes, such as the creation of the State Election Board and the standardization of calendars for county and state primaries. But Georgia maintained many other discriminatory laws in the 1964 revisions. For example, the state kept its voter challenge provision. The new election law code stipulated that “any elector of the county shall be allowed to challenge the right of registration of any person whose name appears on the electors list,” and outlined the process for contesting another citizen’s right to vote.¹¹² This voter challenge statute would end up surviving the modernization, recodification, and reorganization of the Georgia Code of Laws in 1981 and a subsequent update to provide for Georgia’s participation in the national “motor voter” program in 1994.¹¹³ In fact, as the editor’s note for the 2008 edition of *The Official Code of Georgia, Annotated* § 21-2-230 observed, the voter challenge provision of the reorganized

¹⁰⁹ See Ga. Code Ann. § 21-2-501.

¹¹⁰ McDonald, *A Voting Rights Odyssey*, 91–103; Kousser, *Colorblind Injustice*, 105, 232–236.

¹¹¹ As Assistant Attorney General Paul Rodgers, a member of the Election Laws Study Committee, argued, “it’s the biggest mess you’ve ever seen.” “New Election Code an Attempt to Simplify ‘Hodgepodge’ Laws,” *The Atlanta Constitution* (Atlanta, GA), May 4, 1964. Lieutenant Governor Peter Zack Geer complained that the state’s election laws were “strewn helter-skelter through the Code of Georgia,” and expressed his belief that the new code would be “surrounded with and imbedded in due process of law and judicial standards.” “Lieutenant Governor Geer Favors New Election Law Code,” *The Forsyth County News* (Cumming, GA), May 27, 1964.

¹¹² *Journal of the Senate of the State of Georgia at the Extraordinary Session, 1964* (Hapeville, GA: Longino and Porter, Inc., 1964), 83.

¹¹³ “Revising Outdated State Laws a Painstaking Job,” *The Atlanta Constitution* (Atlanta, GA), July 12, 1981; “Legislators Give Update of ’94 General Assembly Session,” *Forsyth County News* (Cumming, GA), April 6, 1994;

1981 *Official Code of Georgia* is so similar to the 1933 *Code*'s voter challenge statute that any legal opinions decided under the older code would also apply to § 21-2-230.¹¹⁴

G. Voting Rights Act Era (1960s and 1970s)

On the eve of the enactment of the Voting Rights Act (VRA) in 1965, most Black Georgians' voting power had been made ineffective by voting rules which were neutral in their language, but functionally discriminatory in effect. By the time of the VRA, while Black Georgians were 34 percent of the voting age population, there were only three elected Black officials, and those officials had been elected in just the previous three years before the enactment of the Voting Rights Act. Overall, less than a third of the eligible Black population was registered in the state, and in Georgia's twenty-three counties with a Black voting age majority, only 16 percent of African Americans were registered compared to 89 percent of whites.¹¹⁵ "This exclusion from the normal political process was not fortuitous; it was the result of two centuries of deliberate and systematic discrimination by the state against its minority population."¹¹⁶

The Voting Rights Act of 1965 would ultimately change the trajectory of voting rights for Black Georgians. In the award-winning book, *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965–1990*, Laughlin McDonald, Michael B. Binford, and Ken Johnson documented carefully the impact and opening of the franchise to African Americans in Georgia from 1965 through 1990.¹¹⁷ Beyond statistical improvements in Black registration and elected officials, the VRA affected the tone of the political system itself. In 1974, Andrew Young, a civil rights activist with SCLC who would later be elected mayor of Atlanta in 1982, addressed the Association of Southern Black Mayors: "It used to be that Southern politics was just 'nigger' politics: who could 'outnigger' the other. Then you registered 10 to 15 percent in the community and folk would start saying 'Nigra.'" After registration numbers went to 35 to 40 percent, "it's amazing how quick they learned how to say 'Nee-grow.'" And when registration increased to 70

¹¹⁴ O.C.G.A § 21-2-230 (2008)

¹¹⁵ U.S. Commission on Civil Rights, *Political Participation: A Study of the Participation by Negroes in the Electoral and Political Processes in Ten Southern States since the Passage of the Voting Rights Act of 1965* (Washington, D.C.: U.S. Government Printing Office, 1968), 216-17, 232-39.

¹¹⁶ McDonald, et. al., "Georgia," in *Quiet Revolution in the South*, 67-102, 409-413, quotation on p. 67.

¹¹⁷ Id.

percent of the Black votes registered in the South, “everybody’s proud to be associated with their black brothers and sisters.”¹¹⁸

But the 1965 VRA did not translate to instant success in Black voter registration numbers. Even eleven years after the VRA, Black voters in Georgia were systematically underrepresented as a percentage of registered voters even after the passage of the VRA.¹¹⁹ As the table below demonstrates, Black registration trailed white registration significantly even in 1976, particularly in the state of Georgia.¹²⁰

State	% whites registered to vote, 1976	% Blacks registered to vote, 1976	% Difference
Alabama	75.4	58.1	17.3
Georgia	73.2	56.3	16.9
Louisiana	78.8	63.9	14.9
Mississippi	77.7	67.4	10.3
South Carolina	64.1	60.6	3.5
Texas	69.4	64.0	5.5
Virginia	67.0	60.7	6.3

The historical record also shows that most Georgia officials continued their hostility to Black voters and the VRA itself, especially the § 5 preclearance provisions to which they were now subject. As the VRA and other civil rights legislation gathered strength after the mid-1960s, white Georgia officials went to greater lengths to invent conditions and pretexts for challenging and neutralizing Black voting strength, both in the substance in their changes, and by refusing to seek preclearance at all.¹²¹

¹¹⁸ Jack Bass and Walter DeVries, *The Transformation of Southern Politics: Social Change and Political Consequence since 1945* (Basic Books, 1976), 47; David S. Broder, *Changing of the Guard: Power and Leadership in America* (Simon and Schuster, 1980), 367.

¹¹⁹ Campbell Gibson and Kay Jung, *Historical Census Statistics on Population Totals by Race* (Washington, DC: US Bureau of Census, 2002); McDonald, et al., “Georgia,” in *Quiet Revolution in the South*, 102.

¹²⁰ Laughlin McDonald, *Voting Rights in the South: Ten Years of Challenging Continuing Discrimination Against Minorities* (Atlanta: ACLU, Southern Regional Office, 1982).

¹²¹ For examples of white Georgians hostility to the Voting Rights Act and to African American attempts at voting, see especially the testimonies of Julian Bond and Laughlin McDonald in

One of the most common tactics of preventing Black voters from electing candidates of choice was the change from voting by district to at-large voting. The effect of at-large voting, particularly in a jurisdiction with less than a majority of Black voters, is to ensure the white population can elect all the representatives to that district. In 1964, before the VRA, Calhoun County (63% Black), Clay (61% Black), Dooly (50% Black), Early (45% Black), Morgan (45% Black), Newton (31% Black), and Miller (28% Black) had district elections for county government. But after the VRA, all adopted at-large voting, directly violating § 5 preclearance rules. Between 1976 and 1980, all of these counties were sued, and now have district voting for county elections.¹²²

In 1964, as previously discussed, in response to growing African American electoral strength, the Georgia General Assembly had adopted a law that required many offices to be won by a majority vote and not a mere plurality. At the time, the majority of Georgia's 159 counties had operated under a plurality system. The majority vote system was adopted to prevent a Black candidate being "first past the post" against a divided white vote.¹²³ Local jurisdictions also made the change to majority voting after the VRA. The city of Moultrie, Georgia, for example, adopted a majority voting procedure for city offices in 1965. All Black candidates were defeated until a § 5 suit forced the city to adopt districts in 1977. The city of Americus adopted a majority vote in 1968. Until a successful § 5 suit in 1977, two Black candidates who won by plurality in their Americus election races were defeated in the run-off election with a majority requirement. Around this time, Covington and St. Mary's, both cities with substantial Black populations, adopted a majority vote without seeking preclearance for doing so.¹²⁴ Overall, between 1975 and 1982, the U.S. Attorney-General brought 66 suits against majority voting requirements, many of them in Georgia. Many of these Georgia-specific instances can be found in Appendix A, located at the end of this report.

Extension of the Voting Rights Act: hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, House of Representatives, Ninety-seventh Congress, first session, May 6, 7, 13, 19, 20, 27, 28, June 3, 5, 10, 12, 16, 17, 18, 23, 24, 25, and July 13, 1981. (on Bond see pp. 224ff)(McDonald, 596 ff)

¹²² McDonald, *Voting Rights in the South*, 40–43

¹²³ McDonald, *A Voting Rights Odyssey*, 92–102; Kousser, *Colorblind Injustice*, 197–242.

¹²⁴ McDonald, *Voting Rights in the South*, 43–46

Numbered posts (another method of at-large voting) were another way to discriminate against Black voters and Black candidates. When, for instance, there were three open positions for county commissioner, rather than electing the three candidates with the highest vote totals, candidates had to run specifically for seats No. 1, No. 2, and No. 3, diminishing the chances of electing Black candidates. From 1975 to 1982, the Attorney-General objected to 60 submissions involving numbered posts, many from Georgia. Dawson, Kingsland, and St. Mary's all adopted numbered posts elections for the city council in the 1960s and 1970s, none of them applying for preclearance in doing so.¹²⁵

Staggered voting was another technique used to limit Black voting strength, by limiting the numbers of open seats at any one time and making it more difficult to Black candidates to get elected, particularly if combined with at-large voting schemes. Peach County, for example, staggered the election of its county commissioners starting in 1968, and the city of Kingsland did the same in 1976 without seeking preclearance.¹²⁶

Annexations of territory by cities to decrease the percentage of the Black population were, through 1982, the most common type of suit brought by the DOJ. The city of Jackson, for example, used annexation to limit Black voting strength until enjoined in 1981.¹²⁷

There were many other forms of Section 5 noncompliance in Georgia. In 1981, Julian Bond, a Georgia State Senator, testified before the House of Representatives that there were over four hundred non-submissions of Section 5 notifications by Georgia jurisdictions.¹²⁸ Many jurisdictions in Georgia simply refused to comply with Section 5 objections, such as Sumter County, Pike County, and Waynesboro. Other jurisdictions, such as Thomson, when faced with a Section 5 objection to majority voting, city officials encouraged the two white candidates to have an informal "run-off" to avoid splitting the white vote and allowing the Black candidate to win. This practice, known as "cuing," the endorsement by white community leaders of a specific

¹²⁵ Ibid. at 50–51.

¹²⁶ Ibid. at 51–52.

¹²⁷ Ibid. at 52–53.

¹²⁸ "Testimony of Julian Bond, State Senator from Georgia, Extension of the Voting Rights Act: Hearings Before the Subcommittee on Civil and Constitutional Rights of the Committee of the Judiciary," May-July 1981.

candidate prior to the actual election, is in the words of Laughlin McDonald, “doing by indirection that which Section 5 expressly forbids.”¹²⁹

Overall, the number of VRA Section 5 preclearance challenges raised by private or federal suit show that Georgia was one of the most active and ingenious in trying to prevent Black voting strength. From 1965 to 1981, the DOJ received a total of 34,798 voting changes submitted for preclearance under Section 5. DOJ ultimately objected to 815 of these proposed changes, and of those, 226, or almost 30 percent, were from the state of Georgia.¹³⁰ This figure far exceeds that of other states. Louisiana, for example, the state that was subject to the second-most number of objections, was only the subject of 136 objections, which is just a little over half of Georgia’s objections.¹³¹

This number likely significantly undercounts the number of actual and potential § 5 violations in Georgia prior to the 1982 reauthorization of the VRA. In a 1984 article, Drew Days and Lani Guinier estimated that “covered jurisdictions have made literally hundreds of changes that have never met the preclearance requirement of Section 5,” and that the DOJ “has not been able to ensure that every electoral change by covered jurisdictions, or indeed most of them, was subjected to the Section 5 process.”¹³² In another study, based on interviews with local attorneys in Georgia and Mississippi involved in voting issues found that 36.4% of attorneys that responded to the survey reported that local jurisdictions went ahead with election changes despite a pending preclearance request. The survey revealed other ways of gaming the VRA system—waiting until shortly before the election to file the Section 5 request, not giving the DOJ adequate time to respond, or alternatively, exhaustively arguing every nuance of a Section 5 request, hoping to win outright, or at least gain an advantage by exhaustion and attrition.¹³³ Even still, as noted, between 1965 and 1980, DOJ objected to more than 200 changes submitted by Georgia under Section 5.¹³⁴

In 1969, the United States Supreme Court in *Allen v. State Board of Elections*, 393 U.S. 544 (1968), made clear that changes made under preclearance under Section 5 of the VRA were to be construed broadly because to limit its scope to a specific set of voting restrictions would be

¹²⁹ McDonald, *Voting Rights in the South*, 60.

¹³⁰ *Ibid.*, 20-25.

¹³¹ *Id.*

¹³² Drew Days III and Lani Guinier, “Enforcement of Section 5 of the Voting Rights Act,” in Chandler, *Minority Vote Dilution*, 168.

¹³³ Ball et al., “The View from Georgia and Mississippi.”

¹³⁴ McDonald, *Voting Rights in the South*, 20-23.

“underestimating the ingenuity of those bent on keeping Negroes from voting.” The *Allen* Court also made clear that preclearance extended to reapportionment plans.¹³⁵

Georgia’s congressional reapportionment in 1971 was the first held under Section 5 preclearance rules, and it showed, in the words of Laughlin McDonald, “the extraordinary lengths to which the legislature was prepared to go to exclude Blacks from the congressional delegation.”¹³⁶ A plan proposed by two Black state senators to increase the Black percentage of Georgia’s Fifth congressional district from 34 to 45% was defeated 45 to 9. The plan which was approved by the Georgia General Assembly carved the Black population in the Fourth, Fifth, and Sixth Districts to give the Fifth district a substantial white majority, with the Fifth district as 38% Black, and specifically excluded from the district the homes of Andrew Young—who had unsuccessfully run for Congress in the district in 1970—and Maynard Jackson, another budding Black politician.

The Georgia General Assembly’s 1971 reapportionment plan was rejected by the Department of Justice under Section 5. Under a revised reapportionment plan, the Fifth District was 44.2% Black, in 1972, Georgian Andrew Young (along with Barbara Jordan in Texas), significantly both were elected from urban districts, became the first African Americans elected to the United States House of Representatives from the South in the twentieth century. Young was elected three times, resigning his seat in 1977 to become President Carter’s ambassador to the United Nations. It would take over a decade for another Black Georgian to be elected to the United States Congress from the state of Georgia.¹³⁷

H. End of the Twentieth Century (1980s–2002)

In the redistricting cycle after the 1980 census, the Georgia General Assembly again tried to limit Black voting strength in Atlanta. The Georgia General Assembly’s reapportionment plan contained white majorities in nine of the ten congressional districts, even though Georgia’s population at the time was nearly 30% Black. Julian Bond, by then a Georgia state senator, introduced a bill that would have made the Fifth congressional district 69% Black. In response, the Chair of the Senate Reapportionment Committee criticized the proposal as one that would

¹³⁵ Cited in Orville Vernon Burton and Armand Derfner, *Justice Deferred: Race and the Supreme Court* (Cambridge, MA: Harvard University, 2021), 228.

¹³⁶ McDonald, *A Voting Rights Odyssey*, 149.

¹³⁷ Bullock, “History of Redistricting,” 1065–66; McDonald, *A Voting Rights Odyssey*, 149–150.

cause “white flight.” The Chair of the House Reapportionment Committee similarly criticized the proposal on the grounds that he was disinclined to draw “nigger districts” or support “nigger legislation.”¹³⁸ Some members of the Georgia General Assembly stated they did not want to go back to their districts and “explain[] why I was a leader in getting a black elected to the United States Congress.” Bond’s proposal was predictably rejected, and the reapportionment plan drawn by the Georgia General Assembly was, as in the previous decade, rejected under Section 5 of the Voting Rights Act. The Court then approved a new plan with a district that was 65% Black. Julian Bond and John Lewis, two old friends and comrades from the Student Nonviolent Coordinating Committee (SNCC), vied for the seat; Lewis ultimately won.¹³⁹

In 1980, Laughlin McDonald noted that of the 18 Black Georgians elected to county governments—about only 3% of all office holders—16 of them were elected in majority Black districts or counties. As McDonald wrote in 1982, “blacks in Georgia’s majority white counties or districts, for all practical purposes, cannot get elected.”¹⁴⁰

On the eve of the possible expiration of the VRA in the early 1980s, Georgia continued to show that such an extension was necessary. In 1980, DeKalb County adopted a policy that it would no longer approve community groups to conduct voter registration drives.¹⁴¹ In 1981, Georgia was blocked from changing the rules about who could help voters at the polls under Section 5.¹⁴² The early 1980s also saw continued use of voter challenges against Black voters. In 1981, white Georgians on the northside of Atlanta formed the Voter Information Project (VIP), which used Georgia’s voter challenge law to dispute the right to vote of more than 50,000 registered voters in Fulton County, including 37,000 urban voters. Of these challenged voters, 58 percent were African

¹³⁸ McDonald, *A Voting Rights Odyssey*, 168-173.

¹³⁹ *Id.*

¹⁴⁰ McDonald, *Voting Rights in the South*, 40-43.

¹⁴¹ “Testimony of Julian Bond, State Senator from Georgia, Extension of the Voting Rights Act: Hearings Before the Subcommittee on Civil and Constitutional Rights of the Committee of the Judiciary,” May-July 1981, 54-55.

¹⁴² Sept. 18 Letter from William Bradford Reynolds to Michael Bowers at 2-3 (1981), quoted in Expert Witness Report of Dr. Peyton McCrary at 8, 18 (“McCrary Report”), *Fair Fight v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. 2020), ECF No. 339. According to the 1970 census data (the latest available at the time of the DOJ objection), in Georgia, only 8 percent of whites over the age of 25 had completed less than five years of school while 32 percent of Blacks over the age of 25 had completed less than five years of school (also cited in McCrary).

Americans. As a result, in 1981, one in five registered voters was purged from Fulton County's voters' rolls.¹⁴³

That same year, the *New York Times* summarized the status of Black voters in Georgia as the country debated the 1982 re-authorization of the VRA:

"26.2 percent of the population is black, only 3.7 percent of the elected officials are black. The glitter of power in Atlanta, where two blacks are among the three frontrunners to succeed the city's two-term black mayor, Maynard Jackson. In fifteen of the state's twenty-two counties where blacks comprise a majority or close to it, no blacks serve on county commissions. It is not for want of trying; 34-year-old Edward Brown Jr. has twice run unsuccessfully for office in Mitchell Co. In Mr. Brown's instance, all-white poll officials and paper ballots greatly reduced his chances for winning. Testifying in a court case, Mr. Brown stated that it is difficult to win when whites as a matter of policy vote against blacks. Citing his defeats, he said that whites were transported to and from polling places by county sheriffs who urged them not to vote for Mr. Brown "because he's a nigger."¹⁴⁴

When Congress did re-authorize the VRA in 1982, it cited systemic abuses by Georgia officials to evade Black voting rights.¹⁴⁵

At the end of the decade, Georgia again began another reapportionment cycle. Over the course of the 1990 redistricting cycle, the Department of Justice twice rejected the Georgia General Assembly's state's reapportionment plan, before finally approving the third submission.¹⁴⁶ After the 1992 election, a total of thirty-four African Americans were in the Georgia General Assembly, almost all of them from Black majority districts, almost all of whom owed their seats to litigation and to Section 5 of the Voting Rights Act.

I. Modern Era (2000s to Present Day)

Voter suppression tactics that have plagued Georgia's history have persisted into the modern era. These policies around voting have also come at a time of rapid demographic shifts in Georgia's electorate: Georgia is the only state in the Deep South where the percentage of the Black population has sharply increased over the past half century. Because of the remarkable growth of

¹⁴³ Barry King, "Notices Sent on Fulton Voter Purge," *The Atlanta Constitution* (Atlanta, GA), March 3, 1981; Jim Walls, "One in Five Voters Dropped From Rolls," *The Atlanta Constitution* (Atlanta, GA), April 16, 1981; Frederick Allen, "Voter Challenges Seen Through a Glass Darkly," *The Atlanta Constitution* (Atlanta, GA), September 15, 1981.

¹⁴⁴ Stuart, "Once Again a Clash Over Voting Rights," *N.Y. Times* (Sept. 27, 1981).

¹⁴⁵ S. Rep. No. 97-417, 97th Cong. 2d Sess. 10, 13 (1982).

¹⁴⁶ McDonald, *A Voting Rights Odyssey* 211–224.

metro Atlanta and its four core counties, Fulton, DeKalb, Gwinnett, and Cobb, these changing demographics in Georgia—especially its Black, Latino/a, and Asian populations, who tend to support Democratic candidates—combined with minority voter mobilization efforts are the “likeliest threat to Republican domination of Georgia elections.”¹⁴⁷

i. 2000s through 2010 Redistricting

For the fourth decade in a row, in the 2000 redistricting cycle the Georgia General Assembly passed redistricting plans that would not survive preclearance. Specifically, the district court in the District of Columbia refused to preclear the General Assembly’s Senate plan which decreased the Black voting age percentage in the districts surrounding Chatham, Albany, Dougherty, Calhoun, Macon, and Bibb Counties. Overall, the court found “the presence of racially polarized voting” and that “the State ha[d] failed to demonstrate by a preponderance of the evidence that the reapportionment plan for the State will not have a retrogressive effect.” *Georgia v. Ashcroft*, 195 F.Supp. 2d 25, 94 (D. D.C. 2002), *affirmed*, *King v. Georgia*, 537 U.S. 1100 (2003).

The 2002 election proved to be a watershed moment for the state of Georgia. For nearly half a decade, white voters in Georgia had been abandoning the Democratic Party for the Republican Party. When Republican Sonny Perdue defeated Democrat incumbent Roy Barnes as governor in 2002, the election “broke a Democratic stronghold on the Georgia governorship that had kept the GOP out since Reconstruction.”¹⁴⁸ In the 2004 election, Republicans also won the majority of House seats, shifting control of the legislature.

Georgia was the first state covered by Section 5 of the VRA to pass an in-person voter identification law. In 2005, the Georgia General Assembly promptly passed a photo ID law, limiting Georgians to only six acceptable forms of identification. Voters who lacked acceptable identification could purchase one from the state for \$20 to \$35. Sue Burmeister, the Georgia State Senator who had introduced the photo ID legislation, said in testimony before the Department of

¹⁴⁷ McCrary Report at 37; on the increasing influence of Latina/Latino peoples, see Victor Zuniga and Reuben Hernandez Leon, “The Dalton Story: Mexican Immigration and Social Transformation in the Carpet Capital of the World,” 34-50 and Mary E. Odem, “Latino Immigrants and the Politics of Space in Atlanta,” 112-125 in Mary E. Odem and Elaine Lacy, eds., *Latino Immigrants and the Transformation of the U.S. South* (University of Georgia Press, 2009).

¹⁴⁸ Danny Hayes and Seth C. McKee, “Booting Barnes: Explaining the Historic Upset in the 2002 Georgia Gubernatorial Election,” *Politics and Policy* 32 (December 2004), 1, quoted in McCrary Report at 29.

Justice that “if there are fewer black voters because of the bill, it will only be because there is less opportunity for fraud,” and that “when Black voters in her Black precincts are not paid to vote, they do not go to the polls.”¹⁴⁹ Shortly after the law’s enactment, the U.S. District Court for the Northern District of Georgia preliminary enjoined the law, finding the photo ID law was “most likely to prevent Georgia’s elderly, poor, and African–American voters from voting.” *Common Cause/Georgia v. Billups*, 406 F. Supp. 2d 1326, 1365–66 (N.D. Ga. 2005). In reaction to the injunction, the Georgia General Assembly was forced to make the voter ID cards free.

Several years later, following the 2010 U.S. Census, white Republican Georgia lawmakers worked not only to maintain power but to create a super-majority through redistricting. The Georgia General Assembly’s reapportionment plan created a record number of majority-Black districts, which by packing Black votes together, solidified Republican holds in the surrounding districts. Ultimately, the Georgia Republican Party was successful in achieving a super-majority in the Senate; it fell one seat short of a super-majority in the House.¹⁵⁰

In 2015, the Georgia General Assembly engaged in mid-cycle redistricting after the Supreme Court invalidated Section 5’s preclearance formula in *Shelby County, Alabama v. Holder*, 570 U.S. 529 (2013).¹⁵¹ No longer subject to preclearance, the Georgia General Assembly reduced the Black and Latina/o voting age percentage in House districts 105 and 111, both of which had become increasingly diverse over the prior half-decade (and unlikely to elect Republicans).¹⁵² Plaintiffs initially brought suit over the changes under Section 2 of the Voting Rights Act, but the continued migration of voters of color into those districts rendered the General Assembly’s changes obsolete. After minority candidates prevailed in those districts in 2018, the plaintiffs withdrew their complaint.¹⁵³

¹⁴⁹ Carol Anderson, *One Person, No Vote: How Voter Suppression is Destroying Our Economy* (New York: Bloomsbury, 2018), 60–62; Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Picador, 2015) 222–224, 226–229; Stacey Abrams, *Our Time is Now: Power, Purpose, and the Fight for a Fair America* (New York: Henry Holt, 2020), 75–76.

¹⁵⁰ Charles S. Bullock III, “The History of Redistricting in Georgia,” *Georgia Law Review* 52, no. 4 (2018): 1095–1098; Expert Report of Laughlin McDonald at 17, *Dwight et al. v. Kemp*, ECF No. 178 (Aug. 6, 2018).

¹⁵¹ Expert Report of Jowei Chen, *Georgia State Conference of NAACP v. State of Georgia*, No. 1:17-cv-1427, ECF No. 63 (N.D. Ga. Dec. 22, 2017).

¹⁵² *Id.*

¹⁵³ *Georgia State Conference of NAACP*, No. 1:17-cv-1427, ECF No. 221.

ii. State-Sponsored Voter Investigations

As in Georgia's past, modern-day elected officials, law enforcement officers, and political activists have continued to harass and intimidate Black voters and candidates in order to maintain political power. Nowhere is this more obvious than in Quitman, Georgia—a predominantly Black city in otherwise predominantly white Brooks County. In the early 2000s, Nancy Dennard, a Black educator, won a 2009 special election to the Brooks County School Board through a campaign that targeted citizens “who had never voted before” and who had problems getting to the polls on election day. At the time, Dennard's opponent complained about the large number of absentee ballots cast for Dennard. The Georgia secretary of state's office conducted a brief investigation but found no evidence of fraud.¹⁵⁴

The next year, two more Black women and allies of Dennard—Diane Thomas and Linda Troutman—ran for seats on the school board and again worked to increase voter turnout through absentee voting. This time, the Brooks County School Board hired a private investigator to track Dennard and her allies. More than 1,400 Black voters participated in the Democratic primary election for school board that year—three times the turnout in previous midterm elections—and Thomas and Troutman were elected as the Democratic Party's nominees. In response, then-Secretary of State Brian Kemp (in cooperation with the Georgia Bureau of Investigation) opened a formal investigation into the 2010 election in Quitman.¹⁵⁵

Six weeks after Thomas and Troutman won seats on the school board, state and local police arrested Dennard, Thomas, Troutman, and seven other people. Two more women were arrested a year later. The “Quitman 10+2,” as they came to be known, were collectively charged with 102 felony counts. Prosecutors alleged that organizers had provided unlawful assistance to voters and had unlawfully possessed ballots when they delivered sealed ballots to the post office. Despite a paucity of evidence, Kemp doggedly pursued a case against the Quitman 10+2, only backing down in 2016 when Georgia's attorney general issued an opinion clarifying that it was not a violation of the law for organizers to mail absentee ballots.

¹⁵⁴ John Ward, “How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters,” Yahoo! News, August 6, 2019. <https://news.yahoo.com/how-a-criminal-investigation-in-georgia-set-a-dark-tone-for-african-american-voters-090000532.html> (accessed April 27, 2021).

¹⁵⁵ Ward, “How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters.”

Afterward, Dennard argued the investigation and prosecution were an attempt to disqualify Black officeholders and stifle Black political activism. She insisted, “[T]hey thought they could make an example out of me, and that would kill the spirit of this movement.”¹⁵⁶ Thomas interpreted the Quitman 10+2’s arrest and investigation by explaining that “the message sent to our citizens was, if you don’t want the GBI to come visiting and put you in jail, you better not vote.”¹⁵⁷

In 2014, in comments to a group of Republican voters in Gwinnet County, then-Secretary of State Brian Kemp made clear the connection between minority voting rights and election victories when he remarked that “the Democrats are working hard . . . registering all these minority voters that are out there and . . . if they can do that, they can win these elections in November.”¹⁵⁸ Around the same time, Kemp’s office launched a criminal investigation into the New Georgia Project, an organization with the explicit goal of registering Georgia’s unregistered minority voters. The New Georgia Project was later cleared of any wrongdoing.¹⁵⁹

In 2015, Kemp’s office similarly launched an investigation into the Asian American Legal Advocacy Center (“AALAC”), an organization which had previously criticized Secretary Kemp for not registering all voters who had submitted voter registrations to Georgia. Secretary Kemp pursued the investigation for over two years before finding no evidence of wrongdoing. One journalist tracking these investigations described them as “legal terrorism, exploiting the law to intimidate and discourage citizens from accessing their constitutional right to vote.”¹⁶⁰

¹⁵⁶ Ward, “How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters.”

¹⁵⁷ Ariel Hart, “Voting Case Mirrors National Struggle,” *The Atlanta Journal-Constitution*, December 13, 2014; Gloria Tatum, “Voter Fraud Charges from 2020 Fizzle in Quitman, South Georgia,” *The Atlanta Progressive News*, September 18, 2014, <http://atlantaprogressivenews.com/2014/09/18/voter-fraud-charges-from-2010-fizzle-in-quitman-south-georgia/> (accessed April 27, 2021).

¹⁵⁸ Steve Benen, “Georgia GOP Official Express Concerns About ‘Minority Voters,’” MSNBC, September 11, 2014. <https://www.msnbc.com/rachel-maddow-show/georgia-gop-official-express-concerns-about-minority-voters-msna410401> (accessed April 27, 2021).

¹⁵⁹ Spencer Woodman, “Register Minority Voters in Georgia, Go to Jail,” *The New Republic*, May 5, 2015, <https://newrepublic.com/article/121715/georgia-secretary-state-hammers-minority-voter-registration-efforts> (accessed May 10, 2021); “State launches fraud investigation into voter registration group,” *WSB-TV 2* (Atlanta, Georgia), September 9, 2014;

¹⁶⁰ Austin Adkins, “Opinion: Voter Fraud Investigations Weaponized to Suppress Voters,” *The Mainline*, November 3, 2019, <https://www.mainlinezine.com/voter-fraud-investigations-weaponized-to-suppress-voters/>; Michael Wines, “Critics See Efforts by Counties and Towns to

iii. Voting Restrictions in Georgia Post-*Shelby County*

After the Supreme Court invalidated the existing coverage formula in *Shelby County, Alabama v. Holder*, 570 U.S. 529 (2013), Georgia was no longer bound to submit any changes it made to its voting system through a preclearance regime. In her dissent in that case, Justice Ginsburg famously commented that “throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.” *Id.* at 590 (J. Ginsburg, dissenting). A few days after the decision, Daniel O. Franklin, a professor of political science at Georgia State University, predicted that “the court’s decision will likely change very little” in Georgia and the other preclearance states.¹⁶¹ Franklin was wrong: Georgia took advantage of this change almost immediately.

Within four days of *Shelby County*, for example, the local Georgia press reported that the Augusta-Richmond County government (a consolidated city-county government) re-opened discussions of moving its elections from November to July. This change matters: Moving elections away from the usual election day, invariably reduces voter turnout and usually has an adverse impact on minority voter turnout, and DOJ had previously rejected the proposed change under Section 5. After a series of closed-door meetings, Augusta-Richmond County government changed the date of their elections in early 2014, just months after *Shelby County*.¹⁶² Similarly, Greene County, Georgia approved a redistricting plan that would have eliminated one or two of the only Black districts on the county commission—a change that DOJ had previously refused to preclear. By the end of 2013, the Georgia General Assembly approved another plan for Greene County that reduced the Black voting age population in one district by 50% and placed the home of the other

Purge Minority Voters From Rolls,” *New York Times* (New York, NY), July 31, 2016, <https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html>; Kristina Torres, “Georgia suit settled alleging black voters wrongfully disqualified,” *Atlanta Journal-Constitution* (Atlanta, GA), March 16, 2017, <https://www.ajc.com/news/state--regional-govt--politics/georgia-suit-settled-alleging-black-voters-wrongfully-disqualified/djDlFYjpvYJJcZW8CJzgKL/>.

¹⁶¹ Daniel P. Franklin, “Court’s Decision is Likely to Change Little,” *Atlanta Journal Constitution* (June 30, 2013).

¹⁶² Harry Baumgarten, “*Shelby County v. Holder*’s Biggest and Most Harmful Impact May Be On Our Nation’s Smallest Towns,” Harry Baumgarten, Campaign Legal Center, 20 June 2016, <https://campaignlegal.org/update/shelby-county-v-holders-biggest-and-most-harmful-impact-may-be-our-nations-smallest-towns>

Black commissioner outside of the boundaries of the newly redrawn district. Without preclearance, the new redistricting plan went into effect.¹⁶³

But preclearance itself was never a panacea even before *Shelby County*. With Georgia's 159 counties and hundreds of local jurisdictions (part of the over 30,000 jurisdictions in the preclearance states), it was impossible to keep track of every local jurisdiction, many of which refused to file voting-related changes with DOJ. At-large, county-wide, or city-wide voting has been historically one of the main tactics used to curb voting rights strength. Preclearance had hardly ended the practice. In December 2013, of Georgia's 159 counties, thirty-four elected all county commissioners at-large. One of those was Baker County, where almost half of the population was Black, but all of the county commissioners were white. A former Baker County Commissioner, Robert Hall, was quoted in the *Atlanta Journal Constitution* as saying, "we don't have many Blacks in Baker County that are landowners and taxpayers and responsible."¹⁶⁴ This trend is not unique to Baker County. In December 2013, the *Atlanta-Journal Constitution* reported that across Georgia, while "more than half of majority-black counties have majority-white commissions," "no majority-white county has a majority-black commission."¹⁶⁵ These type of election arrangements continue to disadvantage Black Georgians: As of 2013, in Georgia, white Georgians were 59% of registered voters, but accounted for 77% of the commissioners, while for Black Georgians who were 30% of registered voters, but accounted for only 22% of county commissioners.¹⁶⁶

Overall, the end of preclearance has opened the doors to all manner of voter suppression and disenfranchisement, largely directed against minorities. The U.S. Commission on Civil Rights, found that among the former preclearance states as of 2018, only Georgia had adopted all five of the most common restrictions that impose roadblocks to the franchise for minority voters, including (1) voter ID laws, (2) proof of citizenship requirements, (3) voter purges, (4) cuts in

¹⁶³ Ariel Hart, Jeff Ernsthausen, and David Wickett, "Disputed Voting Systems, Racial Power Gap Persists," *Atlanta Journal Constitution*, (Dec. 7, 2013).

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*; Ariel Hart, Jeff Ernsthausen, and David Wickett, "Racial Politics Not So Clear Cut," *Atlanta Journal Constitution*, (Dec. 9, 2013)

early voting, and (5) widespread polling place closures.¹⁶⁷ This report discusses a few of these changes below, concluding with a brief overview of Senate Bill 202, passed by the Georgia General Assembly in 2021, which the U.S. Department of Justice has challenged under Section 2 of the Voting Rights Act as a law with the effect and intent of making it more difficult for Black Georgians to vote.

a. Polling Place Closures

In a 2015 memo to local election officials, then-Secretary of State Kemp encouraged counties to reduce voting locations, noting that “as a result of the *Shelby vs. Holder* [sic] Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance.”¹⁶⁸ And to be sure, in the first presidential election after *Shelby County*, throughout Georgia “dozens of polling places” were “closed, consolidated, or moved.”¹⁶⁹ In Macon-Bibb County, a majority-Black county, the number of polling places dropped from forty to thirty-two; those closures took place in primarily Black neighborhoods. When the Memorial Gym precinct in Macon, in a Black neighborhood, was closed for renovations, local officials suggested the sheriff’s office as an alternative. Lowndes County, which has a substantial Black population, reduced the number of polling places from thirty-seven to nine, and Tift County was considering, until heated local protests, consolidating all twelve county polling places into a single location. Hancock County proposed closing several polling places, including one in a Black neighborhood that was seventeen miles from its nearest alternative, in downtown Sparta. Hancock County relented only after an outcry from the Georgia NAACP and the Georgia Lawyers’ Committee for Civil Rights Under the Law, who claimed that “the planned closures would have

¹⁶⁷ U.S. Commission on Civil Rights, *An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report* (Washington, 2018), 369. The restrictions on naturalized citizens were later curtailed; see “Georgia Must Ease Rules Proving Citizenship, Judge Says” PBS News Hour, <https://www.pbs.org/newshour/politics/georgia-must-ease-rule-for-voters-proving-citizenship-judge-says> (Nov. 2, 2018).

¹⁶⁸ The Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* (Sept. 2019), 32. According to this report, then-Secretary of State Kemp “encouraged counties to consolidate voting locations. He specifically spelled out twice – in bold font – that noting that ‘as a result of the *Shelby vs. Holder* Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance.’”

¹⁶⁹ Kristina Torres, “Cost-Cutting Raises Voter Access Fears,” *Atlanta Journal Constitution*, (Oct. 13, 2016); Kristina Torres, “State Monitored For Voting Rights Issues,” *Atlanta Journal Constitution*, (Jun. 20, 2016).

disproportionately affected voters in the majority Black county in poor and rural areas with no access to regular transportation.”¹⁷⁰

By 2019, the Leadership Conference Education Fund found that Georgia had closed over 200 polling locations in Georgia since the *Shelby County* decision despite adding millions of voters to the voter rolls.¹⁷¹ By 2019, “eighteen counties in Georgia closed more than half of their polling places, and several closed almost 90 percent.”¹⁷² In 2020, the nine counties in metro Atlanta that had nearly half of the registered voters (and the majority of the Black voters in the state) had only 38% of the state’s polling places.¹⁷³ Unsurprisingly, because of the fewer polling places, the lines at majority-Black polling places increased, and sometimes dramatically so. In the June 2020 primary, for example, waiting times to vote in some metro Atlanta suburbs, such as Union City (a subdivision that is 88% Black majority) was as long as five hours.¹⁷⁴ Union City was not an outlier. A 2020 study found that “about two-thirds of the polling places that had to stay open late for the June primary to accommodate waiting voters were in majority-Black neighborhoods, even though they made up only about one-third of the state’s polling places.”¹⁷⁵

b. Voter Purges and Challenges

After *Shelby County*, Georgia officials also made more systematic efforts to purge the voting rolls in ways that particularly disadvantaged minority voters and candidates. Between 2012 and 2018, for example, then-Secretary of State Kemp removed 1.4 million voters from the eligible voter rolls. In a single day in 2017, Georgia removed over 500,000 names from the list of 6.6 million registered voters, which according to election law experts might be the “largest mass disenfranchisement in U.S. history.”¹⁷⁶ While there can be legitimate reasons to drop names from

¹⁷⁰ *Id.*

¹⁷¹ The Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* (Sept. 2019), 31.

¹⁷² *Id.*

¹⁷³ Stephen Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Their Numbers Have Soared, and Their Polling Places Have Dwindled,” *ProPublica*, <https://www.propublica.org/article/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled>, (Oct. 17, 2020).

¹⁷⁴ Mark Niesse and Nick Thieme, “Fewer Polls Cut Voter Turnout Across Georgia,” *Atlanta Journal Constitution*, 15 December, 2009; Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?”

¹⁷⁵ Fowler, “Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours?”

¹⁷⁶ Alan Judd, “Georgia’s Strict Laws Lead to Large Purge of Voters,” *Atlanta Journal Constitution*, 27 October, 2018

the eligibility rolls (such as for a voter who is deceased, who has moved, or who has a felony conviction), the vast majority of those purged were those who simply had not voted in intervening years. While those kinds of purges are technically permitted (though not required) by federal law, those purged were significantly over-represented in precincts that overwhelmingly voted for Stacey Abrams, the Black candidate in the 2018 gubernatorial race.¹⁷⁷

One of the most insidious forms of voter disenfranchisement by Georgia in recent years which disproportionately affected minority voters was Georgia's "exact matching" procedures. As the Northern District of Georgia has explained, Georgia's exact match procedures policies meant that when a prospective voter submitted a voter registration application, Georgia would check the registration against its Department of Driver Services ("DDS") or files from the Social Security Administration ("SSA"). If the applicants' information did not match those files exactly, "then the voter registration application is placed in 'pending status,' and the person may not vote until the person corrects the information. The burden is on the applicant to take the next steps to correct any information and/or present the necessary proof required to the appropriate officials to become a Georgia voter." *Georgia Coal. for People's Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1255–56 (N.D. Ga. 2018). If the voter did not present new information, their application was rejected. *Id.*

The legal history of exact-match legislation in Georgia is complex. It was originally passed by the Georgia General Assembly in 2008, and was originally blocked under preclearance, though it received Department of Justice approval in 2010 when the Secretary of State agreed to place "safeguards" on the practice. As the Department of Justice later argued, however, it is not clear if those safeguards were ever used. After *Shelby County*, Georgia operated the exact match procedures without strict safeguards, leading to federal suits such as the one above.

As civil rights groups have shown, Georgia's exact match procedures were more likely to disenfranchise minority voters. Between 2013 and 2016, more than 34,000 Georgia voters' applications were suspended using the exact-match system. Under the DDS match, Black Georgians, who made up only 28.2 percent of the registered voters, were 53.3 percent of those voters whose applications were cancelled or placed in pending status. By contrast, non-Hispanic

¹⁷⁷ Angela Caputo, Geoff Hing, and Johnny Kaufman, "After the Purge: How a Massive Voter Purge Affected the 2018 Election," APM Reports, <https://www.apmreports.org/story/2019/10/29/georgia-voting-registration-records-removed> (Oct. 29, 2019).

whites, who were almost half of registered voters in Georgia, made up a far lower 18.3 percent of those applications that were canceled or pending. Under the SSA match, the discrepancy was even starker. Black Georgians made up 74.6 percent of those in the cancelled and pending files, while non-Hispanic whites were only 9.5 percent. By July 2018, 51,111 voters' applications were suspended, and placed in the "pending voter" category, of whom 80% were either African American, Hispanic/Latino, or Asian.¹⁷⁸ By 2019, Georgia agreed to largely abandon its exact matching process.¹⁷⁹

Voter challenges directed at minority voters have also persisted in modern Georgia. In advance of the 2016 election, the Hancock County Election Board, which at the time was majority white, used the voter challenge process to challenge approximately 180 voters, almost all of whom were Black. Those Black residents made up nearly a fifth of the city's registered voters. In pursuit of the challenges, the Hancock County Board dispatched the local police to summon those Black residents to hearings to prove their residence or lose their voting rights. Many thought they were being arrested, and many of those challenged were intimidated and did not vote in the fall election. The white candidate for mayor won a narrow victory.¹⁸⁰

Although the Hancock County attorney denied that this purge was "about . . . race," the Georgia State Conference of the NAACP, the Georgia Coalition for the People's Agenda, and four voters who had their registrations challenged sued the Hancock County Board of Elections seeking an injunction to force the Board to end their use of the challenge procedures. The U.S. District Court for the Northern District of Georgia later ordered the defendants to pay the plaintiffs'

¹⁷⁸ Abrams, *Our Time is Now*, 58–61; Anderson, *One Person, No Vote*, 78–81; McCrary Report.

¹⁷⁹ Aja Arnold, "Ex Post Facto: Abrams v Kemp," *The Mainline* 11 May 2020, <https://www.mainlinezine.com/ex-post-facto-abrams-vs-kemp-2018/>; Brentin Mook, "How Dismantling the Voting Rights Act Helped Georgia Discriminate Again," *Bloomberg City Lab*, 15 October, 2018, <https://www.bloomberg.com/news/articles/2018-10-15/how-georgia-s-exact-match-program-was-made-possible>; Stanley Augustin, "Georgia Largely Abandons its Broken 'Exact Match' Voter Registration Process," *Lawyers' Committee For Civil Rights*, 5 April, 2019, <https://www.lawyerscommittee.org/georgia-largely-abandons-its-broken-exact-match-voter-registration-process/>

¹⁸⁰ Michael Wines, "Critics: Racial Bias Creeping Back Into Electoral Purges," *Atlanta Journal Constitution*, 1 August, 2016

attorney fees and required the Board of Elections to follow a strict process that required the Board to notify the plaintiffs' counsel if the Board made any future voter challenges.¹⁸¹

c. Senate Bill 202

Of final note is the Georgia General Assembly's passage of Senate Bill (SB) 202 in the spring of 2021 in the wake of significant minority voting strength in Georgia and the election of Georgia's first Black United States Senator. SB 202 is currently the subject of multiple lawsuits which allege that it violates both Section 2 of the VRA and the Fourteenth and Fifteenth Amendments, including by the United States Department of Justice.¹⁸²

These allegations are not surprising. Many of the provisions of SB 202 target methods of voting that Black voters used to tremendous effect in the 2020 General Election and 2021 Runoff election, and also specifically target voting in the Atlanta metro area, home to the majority of Georgia's Black voters.¹⁸³ While SB 202 has more than 40 provisions, some of its most notable changes are: (1) reducing the time available to request an absentee ballot, (2) increasing identification requirements for absentee voting, (3) banning state and local governments from sending unsolicited absentee ballot applications, (4) limiting the use of absentee ballot drop boxes, (5) banning mobile polling places, (6) and prohibiting anyone who is not a poll worker from giving food or drink to voters in line to vote.¹⁸⁴

One of SB 202's most notable changes to voting access is to drop boxes, which were used extensively by Black voters in the 2020 General Election. In that election, in the four core Atlanta Metro counties, Cobb, DeKalb, Fulton, and Gwinnett, 56% of absentee ballot voters, or 305,000

¹⁸¹ *Ga. State Conference of the NAACP v. Hancock Cnty. Bd. of Elections & Registration*, No. 5:15-CV-00414 (CAR) (M.D. Ga. Mar. 30, 2018); Michael Wines, "Critics See Efforts by Counties and Towns to Purge Minority Voters From Rolls," *New York Times* (New York, NY), July 31, 2016, <https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html>; Kristina Torres, "Georgia suit settled alleging black voters wrongfully disqualified," *Atlanta Journal-Constitution* (Atlanta, GA), March 16, 2017, <https://www.ajc.com/news/state--regional-govt--politics/georgia-suit-settled-alleging-black-voters-wrongfully-disqualified/djDIfYjpvyJJcZW8CJzgKL/>

¹⁸² See *United States v. Georgia*, No. 1:21-cv-02575 (N.D. Ga. June 25, 2021).

¹⁸³ For a helpful summary, see Stephen Fowler, "What Does Georgia's New Voting Law SB 202 Do?" NPR, <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>

¹⁸⁴ Georgia Senate Bill 202 (2021); see also Stephen Fowler, "What Does Georgia's New Voting Law SB 202 Do?" NPR, <https://www.gpb.org/news/2021/03/27/what-does-georgias-new-voting-law-sb-202-do>

of 547,000, used drop boxes.¹⁸⁵ After SB 202, the number of drop boxes in those counties will drop from the 111 available in the 2020 election to 23.¹⁸⁶ In Fulton County, the number will drop from 38 to 8. Cobb County Election Director Janine Eveler told the *Atlanta Journal-Constitution* that drop boxes “are no longer useful. The limited numbers mean you cannot deploy them in sufficient numbers to reach the voting population.”¹⁸⁷

SB 202 also made significant changes to how votes will be counted and who will supervise the counting. These changes included (1) removing the Secretary of State as the Chair of the State Election Board and replacing the Chair with someone appointed by a majority of the Georgia General Assembly, (2) giving the State Election Board (and by extension the Georgia General Assembly) more power to intervene in county election boards, and (3) allowing the State Election Board (and by extension the Georgia General Assembly) more power to suspend election board members and replace them.¹⁸⁸

The collective impact of these provisions is substantial. University of Georgia Political Scientist Charles Bullock explained that when all the obstacles in SB 202 are considered “as a package, the bill’s voting restrictions could deter thousands of people from voting in future elections” and could very well alter the outcome of close statewide races.¹⁸⁹ “Each new obstacle,” Dr. Bullock explained, “has the potential to stop voters ... from participating in democracy.”¹⁹⁰

Indeed, SB 202 is already being used against county election officials, and particularly Black officials. By June 2021, Georgia County commissions had replaced ten county election

¹⁸⁵ Niese, et. al., “Drop box use heavy in Democratic areas before Georgia voting law,” *Atlanta Journal-Constitution*, July 12, 2021, <https://www.ajc.com/politics/drop-box-use-soared-in-democratic-areas-before-georgia-voting-law/N4ZTGHLWD5BRBOUKBHTUCFVVOEU/>.

¹⁸⁶ “How New State Voting Laws Could Impact Voters,” *Brennan Center for Justice*, September 1, 2021, <https://www.brennancenter.org/our-work/research-reports/how-new-state-voting-laws-could-impact-voters>.

¹⁸⁷ Mark Niese, “ID Law Adds Hurdles For Thousands,” *AJC*, 1 June, 2021; “Application For Official Georgia Absentee Ballot,” https://sos.ga.gov/admin/uploads/2021_Absentee_Ballot_Application2.pdf; “Democratic Counties Showed Higher Drop Box Use”

¹⁸⁸ Georgia Senate Bill 202 (2021); see also Stephen Fowler, “What Does Georgia’s New Voting Law SB 202 Do?”

¹⁸⁹ Mark Niese, *New Georgia law changes voting rules—and maybe results*, *Atlanta-Journal Constitution* (Mar. 28, 2021), available at <https://www.ajc.com/politics/new-georgia-law-changes-voting-rules-and-maybe-results/4QBKQXRS45GUZHBSQ67W4FVRLRY/>.

¹⁹⁰ *Id.*

officials, most Democrats, half of them Black.¹⁹¹ As of December 2021, six counties in Georgia have fully reorganized their county board of supervisors since the passage of SB 202. In Spaulding County, in particular, the three Black women who constituted a majority of the Board has been replaced, as has the elections supervisor. A majority of three white Republicans now control the board and has already moved to restrict voting access, including by eliminating Sunday voting.¹⁹² In five of the counties that restructured election boards—Troup, Morgan, Pickens, Stephens, and Lincoln—the legislature shifted the power to appoint some or all election board to local county commissioners, all of which are controlled by Republicans. Previously the appointments had been split evenly between the local Democratic and Republican parties, with the intent to ensure a politically balanced election board.¹⁹³ In December, 2021, Lincoln County, whose elections board was recently disbanded under SB 202, indicated plans to close six of the county’s seven polling places, a move that would require some registered voters to travel as far as twenty-three miles to the nearest polling site and which would disadvantaging the county’s Black voters.¹⁹⁴ And while it has not yet occurred, shortly after the passage of SB 202, the Georgia State Election Board set up a review board to review the performance of the Fulton County Election Board, setting up the prospect for a takeover of the Elections Board in Fulton, the home of hundreds of thousands of Black Georgians.¹⁹⁵

d. Electoral success of Black candidates.

Even today, more than fifty years after the original 1965 VRA, most Black candidates in Georgia are only able to win in districts which are majority Black. The following tables show just how stark this phenomenon has been in Georgia’s 2020 elections for the General Assembly. In the

¹⁹¹ Nick Corasanti and Reid J. Epstein, “How Republican States Are Expanding Their Power Over Elections,” *New York Times*, July 1, 2021, <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>; Mark Niesse and Brad Branch, “Fulton County Elections Takeover Mulled,” 27 July, 2021

¹⁹² James Oliphant and Nathan Layne, Georgia Republicans purge Black Democrats from County Election Boards, Reuters, Reuters, 9 December 2021, <https://www.reuters.com/world/us/georgia-republicans-purge-black-democrats-county-election-boards-2021-12-09/>.

¹⁹³ *Id.*

¹⁹⁴ Susan McCord, “Lincoln County Looks to Eliminate All Polling Places But One,” *Augusta Chronicle*, 21 December, 2021.

¹⁹⁵ Nick Corasanti and Reid J. Epstein, “How States are Expanding Their Control Over Elections,” *New York Times*, 19 June, 2021; Mark Niesse and Brad Branch, “Fulton County Elections Takeover Mulled,” 27 July, 2021

Georgia House, for example, none of Georgia's Black House members were elected from a district with more than 55% white voters. In the Georgia Senate, none of Georgia's Black Senators were elected from a district with more than 47% white voters. This trend is not surprising given the historically pervasive racially polarized voting in the state. These figures are shown below:¹⁹⁶

Winning Candidates in 2020 in Georgia House of Representatives

Percentage white registered voters in district	White Republicans ¹⁹⁷	Black Democrats	White Democrats
Under 40%	0	48	7
40–46.2%	1	3	2
46.2–54.9	11	1	6
55–62.4%	23	0	5
Over 62.4%	68	0	0

Winning Candidates in 2020 in Georgia State Senate

Percentage white registered voters in district	White Republicans	Black Democrats	White Democrats
Under 47%	0	16	1
47–54.9%	3	0	3
Over 55%	51	0	0

Black candidates have faced similar difficulties in running for statewide office throughout the South. The three victories of Raphael Warnock, in the 2020 general election, in the 2020 runoff, and in the 2022 general election, are rare instances of a Black candidate winning statewide office.

¹⁹⁶ Lawyers Committee for Civil Rights, *The Central Role of Racial Demographics in Georgia Elections: How Race Affects Elections for the Georgia General Assembly* (May 2021).

¹⁹⁷ There are currently no Black Republicans in the Georgia General Assembly.

According to a recent study (2022) reflected in the table below, from 1989 to 2018 Black success in statewide races in the South is rare:¹⁹⁸

Success of Candidates for Statewide Office in the South, 1989-2018

A. Democrats

Race of candidate	Democrats won %	Democrats Lost	n
White	42.6	57.4	455
Black	15.9	84.1	69
Latino	25	75	16
Total	38.7	63.3	540

B. Republicans

Race of Candidate	Republicans won%	Republicans lost%	n
White	61.4	38.6	526
Black	20	80	5
Latino	77.8	22.2	9
Total	61.3	38.7	540

V. THE RELATIONSHIP BETWEEN RACE AND PARTISANSHIP IN GEORGIA POLITICS

A. Historical Foundations of the Partisan Divide Among Black and White Georgians

Since Reconstruction, conservative whites in Georgia and other southern states have more or less successfully and continuously held onto power. While the second half of the twentieth century was generally marked by a slow transition from conservative white Democrats to conservative white Republicans holding political power, the reality of conservative white political dominance did not change. As discussed below, the Democratic Party's embrace of civil rights

¹⁹⁸ Charles Bullock III, Susan A. McManus, Jeremy D. Mayer, and Mark Rozell, *African American Statewide Candidates in the New South*, (New York: Oxford University Press, 2022), 8, 9. The tables include all of the states of the Old Confederacy except for Louisiana. The volumes cover has photographs of Stacey Abrams and Raphael Warnock.

legislation—and the Republican Party’s opposition to it—was the catalyst of this enduring political transformation.¹⁹⁹

The Democratic Party’s embrace of civil rights policies in the mid-20th Century caused Black voters to leave the Republican Party (the Party of Lincoln) for the Democratic Party. At the same time, the Democratic Party’s embrace of civil rights legislation sparked what Earl Black and Merle Black describe as the “Great White Switch,” in which white voters abandoned the Democratic Party for the Republican Party. In the 1948 presidential election, South Carolina Governor J. Strom Thurmond mounted a third-party challenge against Democratic President Harry Truman in protest of Truman’s support for civil rights, including his integration of the armed forces. Thurmond ran on the so-called Dixiecrat party which claimed the battle flag of the Confederacy for its symbol. Thurmond’s campaign ended Democratic dominance of deep South states by winning South Carolina, Alabama, Mississippi, and Louisiana.²⁰⁰

This trend of white voters in Georgia abandoning the Democratic Party due to its support of civil rights was readily apparent in the 1964 and 1968 presidential elections. In 1964, the Republican nominee, Barry Goldwater, won only six states in a landslide defeat to President Lyndon B. Johnson: his home state of Arizona, and all five states comprising the Deep South (South Carolina, Georgia, Alabama, Mississippi, and Louisiana). In fact, Goldwater was the first Republican presidential candidate to *ever* win Georgia’s electoral votes.²⁰¹ In 1968, Georgia’s electoral votes were won by George Wallace, another third-party presidential candidate who ran on a platform of vociferous opposition to civil rights legislation.²⁰² And other than favorite son Jimmy Carter, no Democratic nominee for President has since won Georgia’s electoral votes until President Joe Biden’s victory in 2020.

¹⁹⁹ Nancy J. Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton, NJ: Princeton University Press, 1983); Barbara M. Linde, *African Americans in Political Office: From the Civil War to the White House* (New York: Lucent Press, 2015).

²⁰⁰ Joseph Crespiño, *Strom Thurmond’s America: A History* (New York: Farrar, Straus and Giroux, 2012); Nadine Cohodas, *Strom Thurmond and The Politics of Southern Change* (Macon: Mercer University Press, 1993); Jack Bass & Marilyn W. Thompson, *Strom: The Complicated Personal and Political Life of Strom Thurmond* (New York: Public Affairs, 2005).

²⁰¹ “1964,” The American Presidency Project, *available at* <https://www.presidency.ucsb.edu/statistics/elections/1964> (last accessed Dec. 5, 2022).

²⁰² “1968,” The American Presidency Project, *available at* <https://www.presidency.ucsb.edu/statistics/elections/1968> (last accessed Dec. 5, 2022).

White southerners abandoned the Democratic Party for the Republican Party because the Republican Party identified itself with racial conservatism. Consistent with this strategy, Republicans today continue to use racialized politics and race-based appeals to attract racially conservative white voters.²⁰³ As Goldwater told a group of Republicans from southern states, it was better for the Republican Party to forego the “Negro vote” and instead court white southerners who opposed equal rights.²⁰⁴ Historians and political scientists agree that Goldwater “sought to create a general polarization of southern voters along racial lines.” The effectiveness of what was called the “Southern strategy” during Richard Nixon’s presidency had a profound impact on the development of the nearly all-white modern Republican Party in the South. South Carolinian Harry Dent, who had previously worked for Senator Strom Thurmond, became Nixon’s advisor and helped implement the “Southern strategy.”²⁰⁵ Although more subtle in his appeal to white southern voters, Nixon followed the advice of Republican Party strategist Kevin Phillips in 1970. Phillips argued that “[t]he GOP can build a winning coalition without Negro voters.” He understood, and made certain others understood, that “Negro-Democratic mutual identification” was important for the building of a white Republican Party in the South. With Phillips’s Southern Strategy, the Democratic Party in the South became identified as the “Negro party through most of the South.” With the Democratic Party identified with African Americans, whites in the South would become Republicans, and that would allow the Republican Party to become the majority party in what had

²⁰³ Earl Black & Merle Black, *Politics and Society in the South* (Cambridge: Harvard University Press, 1987); Thomas F. Schaller, *Whistling Past Dixie: How Democrats Can Win Without the South*, (New York: Simon and Schuster, 2006), 65; Kevin P. Phillips, *The Emerging Republican Majority* (New Rochelle, NY: Arlington House, 1969); Dan T. Carter, *Politics of Rage: George Wallace, the Origins of the new Conservatism, and the Transformation of American Politics* (Baton Rouge: Louisiana State University Press, 2000); Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1996); Rick Perlstein, *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus* (New York: Hill and Wang, 2001); Timothy N. Thurber, *Republicans and Race: The GOP’s Frayed Relationship with African Americans, 1945-1974* (2013); Heather Cox Richardson, *To Make Men Free: A History of the Republican Party* (New York: Basic Books, 2021), 10, 11, 321-408, 456-475.

²⁰⁴ Dan T. Carter, “Unfinished Transformation: Matthew J. Perry’s South Carolina,” in *Matthew J. Perry: The Man, His Times, and His Legacy*, ed., W. Lewis Burke and Belinda F. Gergel (Columbia: University of South Carolina Press, 2004), 251.

²⁰⁵ David Stout, “Harry Dent, an Architect of Nixon ‘Southern Strategy,’ Dies at 77,” N.Y. Times (Oct. 2, 2007), available at <https://www.nytimes.com/2007/10/02/us/02dent.html>.

traditionally been the solid Democratic South.²⁰⁶ After studying Phillips's plan, Nixon told his staff to implement the strategy and emphasized, "don't go for Jews and Blacks."²⁰⁷

Matthew D. Lassiter, a historian of the Atlanta suburbs, observed that "the law-and-order platform at the center of Nixon's suburban strategy tapped into Middle American resentment toward antiwar demonstrators and black militants but consciously employed a color-blind discourse that deflected charges of racial demagoguery."²⁰⁸ And John Ehrlichman, President Nixon's domestic policy advisor, admitted in 1994 that the war on drugs—a key part of law-and-order campaigns—had an ulterior motive. He observed that "the Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people." While the Nixon campaign "couldn't make it illegal to be either against the war or black," they knew that "by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, [they] could disrupt those communities."²⁰⁹

Georgia is a flash point of this modern strategy. According to Dr. Peyton McCrary, a historian who recently retired after a 26-year career with the Department of Justice: "In Georgia politics since 2002, state government is dominated by the Republican Party, the party to which now most non-Hispanic white persons belong. The greatest electoral threat to the Republican Party and Georgia's governing elected officials is the growing number of African American, Hispanic, and Asian citizens, who tend strongly to support Democratic candidates. The increase in minority population and the threat of increasing minority voting strength provides a powerful incentive for Republican officials at the state and local level to place hurdles in the path of minority citizens seeking to register and vote. That is what has happened."²¹⁰ Moreover, "In white-majority Georgia,

²⁰⁶ Kevin P. Phillips, *The Emerging Republican Majority* (New York: Arlington House, 1969), 467-68.

²⁰⁷ Carter, *From George Wallace to Newt Gingrich*, 45; Kenneth O'Reilly, *Nixon's Piano: Presidents and Racial Politics from Washington to Clinton* (New York: Free Press, 1995), 285-86; Dan Carter, "Civil Rights and Politics in South Carolina: The Perspective of One Lifetime, 1940-2003" in *Toward the Meeting of the Waters: Currents in the Civil Rights Movement of South Carolina during the Twentieth Century*, ed. Winfred B. Moore, Jr. and Orville Vernon Burton (Columbia: University of South Carolina Press, 2008), 413.

²⁰⁸ Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006), 234.

²⁰⁹ Dan Baum, "Legalize It All," *Harper's* (April 2016).

²¹⁰ Expert Rep. of Dr. Peyton McCrary at 8, *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391SCJ, (N.D. Ga. Apr. 24, 2020), ECF No. 339 ("McCrary Report").

Republicans benefitted from a pattern of voting that was polarized along racial lines.”²¹¹ University of Georgia political scientist Charles Bullock noted that “the relationship between race and voting in 2002 was striking.”²¹² Moreover, Bullock and Keith Gaddie showed that “since 1992, Democrats have always taken at least 80 percent of the black vote while most whites invariably preferred Republicans.”²¹³ Indeed, the racial bloc voting in Georgia is so strong, and race and partisanship so deeply intertwined, that statisticians refer to it as multicollinearity, meaning one cannot, as a scientific matter, separate partisanship from race in Georgia elections.²¹⁴

To be sure, Republicans nominated a Black candidate—Herschel Walker, a former University of Georgia football legend—to challenge Senator Raphael Warnock in the 2022 general election for U.S. Senate. But Walker’s nomination only underscores the extent to which race and partisanship remain intertwined. Republican leaders in Georgia admittedly supported Walker because they wanted to “peel[] off a handful of Black voters” and “reassure white swing voters that the party was not racist.”²¹⁵ The strategy failed. Exit polls clearly showed that Warnock remained the candidate of Black voters and Walker was the candidate of white voters.²¹⁶ In fact, Walker’s share of the Black vote was virtually identical to that of Governor Brian Kemp, who was also on the general election ballot in his re-election bid against Stacey Abrams:²¹⁷

	U.S. Senate	Governor
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²¹¹ McCrary Report at 30.

²¹² Charles S. Bullock III, “Georgia: Republicans at the High Water Mark?” in Bullock and Mark J. Rozell (eds.), *The New Politics of the Old South* (New York, Rowman & Littlefield, 5th ed. 2014), 58.

²¹³ Charles S. Bullock III & Ronald Keith Gaddie, *The Triumph of Voting Rights in the South* (Norman, University of Oklahoma Press, 2009), 100.

²¹⁴ Donald E. Farrar & Robert R. Glauber, “Multicollinearity in Regression Analysis: The Problem Revisited,” *Review of Economics and Statistics*, XLIX (February 1967), 92-107, esp. p. 98; Peyton McCrary, Clark Miller, & Dale Baum, “Class and Party in the Secession Crisis: Voting Behavior in the Deep South, 1856-1861,” *Journal of Interdisciplinary History* viii:3 (Winter 1978): 450, n.35.

²¹⁵ Cleve R. Wootson Jr., “Herschel Walker’s Struggles Show GOP’s Deeper Challenges in Georgia,” *Washington Post* (Sept. 22, 2022),

<https://www.washingtonpost.com/politics/2022/09/22/herschel-walker-georgia-black-voters/>

²¹⁶ NBC News, Georgia Senate Exit Polls (Nov. 8, 2022), *available at* https://www.nbcnews.com/politics/2022-elections/georgia-senate-results?icid=election_statenav; NBC News, Georgia Governor Exit Polls, (Nov. 8, 2022), *available at* https://www.nbcnews.com/politics/2022-elections/georgia-governor-results?icid=election_statenav.

²¹⁷ See *supra* n.218.

	WARNOCK (D)	WALKER (R)	ABRAMS (D)	KEMP (R)
Black men	85%	12%	84%	14%
Black women	93%	5%	93%	6%
White men	27%	71%	23%	76%
White women	30%	68%	27%	72%

Similarly, a CNN poll of Black voters, released on Friday, December 2, 2022, found Mr. Walker winning just three percent of Black voters.”²¹⁸ And when New York Times reporters interviewed more than “more than two dozen Black voters across Georgia, many said they did not see Mr. Walker, who has taken a conciliatory approach to matters of race, as representing the interests of Black people.”²¹⁹ The Times reported that “many Black voters disagree with how Mr. Walker,” quoting Black human resources coordinator, Ms. Darca Davis, “views the nation and also other African American people.”²²⁰

It is undeniable that support in Georgia for the Democratic and Republican parties remains profoundly split by race. The 2022 Senate race between Walker and Warnock—two Black men—produced utterly asymmetrical voting patterns among white and Black voters, demonstrating more clearly than any recent election in Georgia’s history the continued salience of race in Georgia elections and how the two parties are intricately defined by race.

B. Racial Appeals in Georgia Politics

Explicit racial appeals in politics are more taboo today than they were in the mid-20th Century. Nonetheless, implicit or subtle appeals to race are still common and contribute to Georgia’s racial polarization. The success of the Democratic Party in the South relies crucially on engaging and mobilizing Black voters. Consequently, the modern Republican party has made attacking the Black core of the Democratic Party, especially urban areas where most Black voters live, one of its fundamental strategies.

²¹⁸ Maya King, Clyde McGrady, & Jezmine Ulloa, “In Georgia, a Heated Senate Race Stirs Mixed Emotions in Black Voters,” *N.Y. Times* (Dec. 3, 2022), <https://www.nytimes.com/2022/12/03/us/politics/georgia-senate-runoff-black-voters.html>.

²¹⁹ *Id.*

²²⁰ *Id.*

i. Historical Foundations

Republican political operative Lee Atwater from Georgia's neighbor South Carolina had learned from fellow South Carolinian and Nixon Southern strategist Harry Dent. As Atwater, the Republican campaign aide and strategist who helped George H.W. Bush win election in 1988 by helping to create the infamous "Willie Horton" advertisement, notoriously explained in 1981 that when the Republican Party recognized that overt appeals were no longer effective, they shifted to ideas with plainly racial ties: "forced busing, states' rights, and all that stuff."²²¹ These implicit racial appeals communicate the same ideas as explicit racial appeals by alluding to "racial stereotypes or a perceived threat" from racial or ethnic minorities. Atwater was especially candid in his explanation:

You start out in 1954 by saying, "Nigger, nigger, nigger." By 1968 you can't say "nigger"—that hurts you, backfires. So you say stuff like, uh, forced busing, states' rights, and all that stuff, and you're getting so abstract. Now, you're talking about cutting taxes, and all these things you're talking about are totally economic things and a byproduct of them is, blacks get hurt worse than whites.... "We want to cut this," is much more abstract than even the busing thing, uh, and a hell of a lot more abstract than "Nigger, nigger."²²²

Princeton University Political Scientist Tali Mendelberg defined Atwater's implicit racial appeal as "one that contains a recognizable – if subtle – racial reference, most easily through visual references."²²³ Ian Haney Lopez, the Chief Justice Earl Warren Professor of Public Law at Berkeley Law, University of California, described implicit racial appeals as a "*coded* racial appeal," with "one core point of the code being to foster deniability," since the "explicit racial appeal of yesteryear now invites political suicide." One characteristic of implicit racial appeals is that they are usually most successful when their racial subtext goes undetected.²²⁴ Implicit racial

²²¹ Peter Baker, "Bush Made Willie Horton an Issue in 1988, and the Racial Scars Are Still Fresh," N.Y. Times (Dec. 3, 2018), <https://www.nytimes.com/2018/12/03/us/politics/bush-willie-horton.html>; Rick Perlstein, "Exclusive: Lee Atwater's Infamous 1981 Interview on the Southern Strategy," *The Nation* (Nov. 13, 2012), <http://www.thenation.com/article/170841/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy>.

²²² Rick Perlstein, "Exclusive: Lee Atwater's Infamous 1981 Interview on the Southern Strategy," *The Nation* (Nov. 13, 2012), <http://www.thenation.com/article/170841/exclusive-lee-atwaters-infamous-1981-interview-southern-strategy>.

²²³ Tali Mendelberg, *The Race Card: Campaign Strategy, Implicit Messages, and the Norm of Equality* (Princeton, N.J.: Princeton University Press, 2001), 9, 11.

²²⁴ Lopez, *Dog Whistle Politics*, 130, 4.

appeals make use of coded language to activate racial thinking.²²⁵ Racial cues, in the form of code words, such as “welfare queen,” “lazy,” “criminal,” “taking advantage,” “corruption,” “fraud,” “voter fraud,” and “law and order” are racial code words that refer back to Reconstruction era when African Americans were first elected to office. Other coded issues, such as “poverty” and “immigration,” prime racial attitudes among white voters.

Reagan’s 1980 presidential campaign was extremely effective at using subtle racial appeals to win white votes. Indeed, he chose to open that campaign with a state’s rights speech at the Neshoba County Fair in Mississippi, the notorious scene of the murder of three civil rights workers in 1964. His campaign also used racial coded terms such as “welfare queen” and “strapping young buck.”²²⁶ 22% of Democrats ultimately supported Regan in 1980, but those defections were substantially higher among Democrats with racially conservative views.²²⁷ 71% of Democrats who felt “the government should not make any special effort to help [African Americans] because they should help themselves” voted for Reagan.²²⁸

Similarly, in the 1988 campaign, Republican candidate George H.W. Bush associated Democratic candidate Governor Michael Dukakis with Willie Horton, an African American convicted of murder who committed an additional murder and rape when released on a weekend furlough program for prisoners that had been supported by Governor Dukakis. The Bush campaign showed images of Mr. Horton, rendering the racial appeal clear: supporting Dukakis would allow Black murderers to roam the streets. This appeal to the racial fears contributed to Bush’s victory in 1988.²²⁹

Georgia was a focal point of this strategy. Following the leadership of Richard Nixon and the Republican National Committee, the Georgia Republican party insurgence was grounded on

²²⁵ Nicholas A. Valentino, Vincent L. Hutchings, and Ismail K. White, “Cues that Matter: How Political Ads Prime Racial Attitudes During Elections,” *American Political Science Review* 96 (2002), 75-90.

²²⁶ Ian Haney-Lopez, “The Racism at the Heart of the Reagan Presidency,” *Salon* (Jan. 11, 2014), available at https://www.salon.com/2014/01/11/the_racism_at_the_heart_of_the_reagan_presidency/.

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ Ian Haney Lopez, *Dog Whistle Politics: How Coded Racial Appeals Have Reinvented Racism and Wrecked the Middle Class* (New York: Oxford University Press, 2013) 59, 105-7; Orville Vernon Burton, *Justice Deferred: Race and the Supreme Court* (Cambridge: The Belknap Press of Harvard University Press, 2021), 260, 328.

fiscal conservatism, opposition to integration (particularly busing), and a growing demand among white suburbanites for “law and order.” The rallying cry of “law and order” became a dog whistle for many candidates and voters.²³⁰ And the person who perhaps more than anyone else helped steer the Republican Party to this new form of race baiting was Georgia politician Newt Gingrich, who was first elected to Congress from a suburban Atlanta district in 1978 and became the Republican speaker of the U.S. House of Representatives in 1994.

The title of former Emory University history professor Dan T. Carter’s study of race and politics illustrates the trajectory of race appeals: *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994*.²³¹ For Dr. Carter, Wallace is the key figure in the modern use of code words and racist language. But Gingrich is, in the words of Dana Milbank, the “architect of our [current political] dysfunction.”²³² Gingrich ran against Virginia Shephard, a white Democrat, during his first campaign in 1978. He distributed a flyer showing his opponent in a photo with Black Georgia representative Julian Bond which read:

If you like welfare cheaters, you’ll love Virginia Shephard. In 1976, Virginia Shephard voted to table a bill to cut down on welfare cheaters. People like Mrs. Shephard, who was a welfare worker for five years, and Julian Bond fought together to kill the bill.²³³

One of Gingrich’s campaign aides later said “we went after every rural southern prejudice we could think of.”²³⁴ Gingrich’s first act after being elected to Congress was to call for the expulsion of Democrat Charles Diggs from Detroit, the first Black member of Congress elected from an urban district in Michigan, who had diverted \$6,000 in funds from his congressional payroll for his personal use—even though similar infractions by white legislators had not previously resulted

²³⁰ Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, N.J.: Princeton University Press, 2006), 234.

²³¹ Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1996)

²³² Dana Milbank, *The Destructionists: The Twenty-Five-Year Crack-Up of the Republican Party* (New York: Doubleday, 2022), 49; see also Julian E. Zelizer, *Burning Down the House: Newt Gingrich, The Fall of a Speaker, and the Rise of the New Republican Party* (New York: Penguin, 2020).

²³³ Milbank, *The Destructionists*, 66.

²³⁴ *Id.*

in expulsion. Gingrich led the successful campaign for Representative Diggs' expulsion, though he was subsequently re-elected.²³⁵ According to Dana Milbank:

Gingrich claimed to be racially progressive (he favored a Martin Luther King Jr. federal holiday), but was proficient in racist dog whistles, railing against the "corrupt, liberal welfare state," drafting a Republican platform in Georgia warning that "America is in danger of decaying into a jungle of violent crimes," saying that because of civil rights leader Jesse Jackson "it's going to be a Dukakis-Jackson administration no matter who the vice presidential nominee is." He argued for branding Democrats with the words "welfare" and "criminal rights." He claimed that "it is in the interest of the Republican Party...[ellipsis in original] to invent new Black leaders, so to speak—people who have a belief in discipline, hard work, and patriotism. He decried "multicultural nihilistic hedonism." He fought civil rights groups in trying to add a new category, "multi-cultural to the census. When Gingrich's Republicans won the House in 1994, it was in large part because for the first time since Reconstruction, Democrats had lost their southern majority in Congress."²³⁶

Racism, whether dog whistled or communicated directly, became a hallmark of the Gingrich Republican Party. Georgia Republican congressman Bob Barr, in the 1990s addressed the Council of Conservative Citizens, a descendant of the White Citizens Council.²³⁷ Radio commentator Rush Limbaugh said at one point that "if any race of people should not have guilt over slavery, it's Caucasians."²³⁸ Gingrich himself remains active in Georgia politics, campaigning for Trump-backed candidates in the 2022 election cycle, opining that Kamala Harris "is the dumbest vice president ever," while reinforcing stereotypes while challenging them, arguing that Republican African American Senate candidate Herschel Walker "is dramatically smarter than people think he is."²³⁹

²³⁵ *Id.*

²³⁶ *Id.* at 66–67.

²³⁷ *Id.* at 68.

²³⁸ *Id.*

²³⁹ Shannon McCaffrey, "Back in Georgia, Newt Gingrich looks to make his mark on 2022 election," *Atlanta Journal Constitution* (May 28, 2022), <https://www.ajc.com/politics/election/back-in-georgia-newt-gingrich-looks-to-make-his-mark-on-2022-election/HFSZFXCZFRDKZB4CLVAJTE427I/>.

ii. Modern Examples

a. 2018 Gubernatorial Race

Racist appeals have continued to characterize Georgia elections and reached a crescendo in 2018 when Stacey Abrams, the Democratic minority leader in the Georgia House of Representatives, challenged Brian Kemp, the Republican Secretary of State, in the 2018 race for Governor. Kemp's efforts and successes to limit Black voting strength by striking voters, especially minority voters from the voting rolls are discussed elsewhere in this report. *See supra* Part IV.I. Kemp justified this disfranchisement by claiming that he was defending the integrity of the vote against "radical leftists," "outside agitators," and "criminal illegals" who were invading the state in large numbers. He claimed that Abrams was encouraging "illegals"—which for Kemp included both documented and undocumented immigrants. He told Georgia voters, echoing Donald Trump, that "we can build a wall—a big, red, beautiful wall—around the state of Georgia to knock that blue wave down."²⁴⁰

Kemp also circulated on social media a photograph of a few members of the New Black Panther Party, considered a hate group by the Southern Poverty Law Center, attending an Abrams rally with guns. Although Abrams condemned the New Black Panther Party, Kemp circulated the photo on Facebook with the accompanying message: "The New Black Panther Party is a virulently racist and antisemitic organization whose leaders have encouraged violence against whites, Jews, and police officers. SHARE if you agree that Abrams and the Black Panthers are TOO EXTREME for Georgia!"²⁴¹ The post spread quickly through right-wing media.²⁴² As one media commentator later noted, "[i]t was too easy for Brian Kemp's last-minute dog whistle about Stacey Abrams to go viral."²⁴³

²⁴⁰ Carol Anderson, *One Person, One Vote: How Voter Suppression is Destroying Our Democracy* (New York: Bloomsbury Publishing, 2020), 173.

²⁴¹ April Glaser, "It Was Too Easy for Brian Kemp's Last-Minute Dog Whistle About Stacey Abrams To Go Viral," *Slate* (Nov. 6, 2018), <https://slate.com/technology/2018/11/brian-kemp-stacey-abrams-dog-whistle-black-panthers-facebook.html>.

²⁴² *See* Penny Starr, *Armed Black Panthers Lobby for Democrat Gubernatorial Candidate Stacey Abrams*, *Breitbart* (Nov. 4, 2018), *available at* https://www.breitbart.com/politics/2018/11/04/armed-black-panthers-lobby-for-democrat-gubernatorial-candidate-stacey-abrams/?utm_source=wnd&utm_medium=wnd&utm_campaign=syndicated.

²⁴³ April Glaser, "It Was Too Easy for Brian Kemp's Last-Minute Dog Whistle About Stacey Abrams To Go Viral," *supra* n.241.

Abrams was attacked with even more overtly racist appeals from third parties. For example, a robo-call created by a fringe right-wing group circulated in the Atlanta suburbs before the election. The speaker in the robo-call imitated Oprah Winfrey and stated:

“This is the magical Negro, Oprah Winfrey, asking you to make my fellow Negro, Stacey Abrams, governor of Georgia. Yes, also the Jews who own the American media saw something in me—the ability to trick dumb white women to think like me. And to do, read, and think what I told them to do.... I see that same potential in Stacey Abrams. Where others see a poor man’s Aunt Jemima, I see someone that white women can be tricked into voting for—especially the fat ones.”²⁴⁴

The FCC later called for a \$12 million fine against the originator of the racist robo-calls.²⁴⁵ As one commentator noted after the 2018 election, “racist appeals didn’t hurt” the candidates making them in Georgia and throughout the South, and actually “did help them.”²⁴⁶

b. 2020 U.S. Senate Race

Racial appeals were also evident in the 2020 U.S. Senate race. Democrats nominated Raphael Warnock, a Black minister preaching from the same pulpit Martin Luther King Jr. once occupied at Ebenezer Baptist Church, attempting to be the first Black senator from the state of Georgia. Warnock faced racist attacks throughout the 2020 campaign, often through “dog whistle” attacks that did not explicitly focus on Warnock’s race as explained above.

Warnock’s opponent in the general election was then-Senator Kelly Loeffler. Loeffler attacked Warnock repeatedly as a “radical liberal” and characterized his sermons delivered at Ebenezer Baptist Church as un-Christian. Congressman Doug Collins, who was defeated by Loeffler defeated in the Republican primary but later supported her in the general election, said that “there is no such thing as a pro-choice pastor. What you have is a lie from the bed of hell. It is time to send *it* back to Ebenezer Baptist Church,” referring to Warnock as an “it” and Ebenezer

²⁴⁴ Madison Feller, “A Racist, Anti-Semitic Robo-Call Targeting Stacey Abrams is Going Out to Georgia Voters,” *Elle* (Nov. 6, 2018), <https://www.elle.com/culture/career-politics/a24662570/robo-call-georgia-voters-targeting-stacey-abrams-racist/>.

²⁴⁵ Mark Niese, “Racist robocalls attacking Stacey Abrams lead to proposed fines,” *Atlanta Journal Constitution* (Jan. 31, 2020), <https://www.ajc.com/news/state--regional-govt--politics/racist-robocalls-attacking-stacey-abrams-lead-proposed-fines/3gqUT9zGxqKkHCN1XtInVN/>.

²⁴⁶ Jarvis De Berry, “The Dirty South: Racist Appeals Didn’t Hurt Candidates, Did Help Them,” *Nola* (Nov. 17, 2018), https://www.nola.com/opinions/article_2affbc92-aaf4-5c6c-88d6-9fe1db466492.html

Baptist Church as satanic.²⁴⁷ This line of attack crossed a line and exposed the “fragile relationship that Georgia Republicans have maintained with Ebenezer Baptist Church, and by extension, the King family.”²⁴⁸ Loeffler claimed in response that “there is not a racist bone in my body.”²⁴⁹

Leaving the question of her bones aside, Loeffler was supported by a number of prominent racists and white nationalists. She was photographed with Chester Doles, a former “Grand Klaliff” of the Ku Klux Klan in North Georgia and a member of the neo-Nazi National Alliance,²⁵⁰ and did an interview on the One America News Channel with Jack Posobiec, “a TV pundit associated with white supremacy and Nazism.”²⁵¹ Senator Loeffler also received the enthusiastic support of the newly elected congresswoman from North Georgia Marjorie Taylor Green, who had recorded a number of videos which stated, among other things, that Black people’s progress is hindered by African American gang activity, drugs, lack of education, Planned Parenthood, and abortions.²⁵² Warnock also faced blatant racist attacks on the campaign trail. For example, one of his virtual town hall meetings was interrupted by hecklers who were “chanting the N-word” in an attempt to shut down the virtual event.²⁵³

²⁴⁷ Rick Rojas, “Georgia Pastors See Attacks on Black Church in Campaign Against Warnock,” N.Y. Times (Dec. 19, 2020), <https://www.nytimes.com/2020/12/19/us/georgia-pastors-see-attack-on-black-church-in-campaign-against-warnock.html>.

²⁴⁸ Jim Galloway, “Taking Senator Kelly Loeffler to Church,” *Atlanta Journal-Constitution* (Dec. 1, 2020), <https://www.ajc.com/politics/politics-blog/opinion-the-kelly-loeffler-raphael-warnock-runoff-crosses-a-line/Z7YGGZ4MBOFFNJHKBBIJTN6SHJM/>.

²⁴⁹ Rick Rojas, “Georgia Pastors See Attacks on Black Church in Campaign Against Warnock,” N.Y. Times, *supra* n.247.

²⁵⁰ “Loeffler campaign: She had ‘no idea’ she posed with neo-Nazi,” Associated Press (Dec. 13, 2020), available at <https://apnews.com/article/race-and-ethnicity-georgia-media-social-media-elections-99c40bece8a6fc6904647727493f1257>.

²⁵¹ Leon Stafford, “Warnock Tests Loeffler’s View That She’s Not Racist,” *Atlanta Journal Constitution* (Dec. 22, 2020), <https://www.ajc.com/politics/senate-watch/campaign-check-warnock-tests-loefflers-view-that-shes-not-racist/SOWX3GL3ARDJNBFDWWZYQ75BVM/>.

²⁵² Ally Mutnick & Melanie Zanora, “House Republican Leaders Condemn GOP Candidate Who Made Racist Videos,” Politico (June 17, 2020), <https://www.politico.com/news/2020/06/17/house-republicans-condemn-gop-candidate-racist-videos-325579>; Greg Bluestein, “QAnon Believer’s Victory a Mixed Blessing for GOP,” *Atlanta Journal Constitution*, Aug. 13, 2020, at A1.

²⁵³ Jason Braverman, “Town Hall with Georgia US Senate Candidate Allegedly Interrupted With Racist Attacks, Pornography,” *11 Alive* (Aug. 25, 2022), <https://www.11alive.com/article/news/politics/elections/virtual-town-hall-with-democratic-us-senate-candidate-hacked-with-racist-attacks-pornography/85-ba6f9c4d-b55f-4465-8a15-5d1d856cd8f7>.

c. 2022 Gubernatorial Race

Racial appeals dominated Stacey Abrams's second run for Governor in 2022. Governor Kemp faced a primary challenge from former Senator David Perdue, who attempted to win over Republican primary voters through racist attacks against Abrams. Perdue said in a televised interview that Abrams was "demeaning her own race" and should "go back where she came from."²⁵⁴ Kemp, who eventually defeated Perdue, repeatedly attacked Abrams in the general election as "upset and mad," evoking the trope and dog whistle of the "angry Black woman."²⁵⁵ Moreover, Kemp's campaign deliberately darkened Abrams's face in campaign advertisements in an effort to create a darker, more menacing image.²⁵⁶

As was true in the 2018 campaign, Abrams faced repeated racist attacks from third parties. After Stacy Abrams planned a campaign rally in Forsythe County, in suburban Atlanta, the Republican Party of Forsythe County issued a digital flyer that was "a 'call to action' encouraging 'conservatives and patriots' to 'save and protect our neighborhoods,'" and accused both Abrams and Senator Warnock of being "designers of destructive socialism" that would be "crossing over our county border."²⁵⁷ The flier carried echoes of the infamous pogrom in Forsythe County in 1912, when most of the Black people in the county were forcibly expelled.²⁵⁸

d. "Voter Fraud" and "Fulton County"

The use of "coded terms" has been a common racial appeal across elections in Georgia. And among "coded terms" in modern politics, probably none has the racial salience of "voter fraud." Although accusations of minority voter fraud were a major theme in the efforts of

²⁵⁴ Ewan Palmer, "David Perdue Doubles Down on 'Racist' Stacey Abrams Remarks in TV Interview," *Newsweek*, (May 24, 2022), <https://www.newsweek.com/david-perdue-racist-stacey-abrams-go-back-georgia-1709429>.

²⁵⁵ Abby Vesoulis, "Did Brian Kemp Employ a Dog Whistle During His Campaign Against Stacey Abrams?," *Mother Jones* (Oct. 18, 2022), <https://www.motherjones.com/politics/2022/10/Georgia-debate-governor-abrams-kemp/>.

²⁵⁶ Doug Richards, "Darkened Skin in Anti-Abrams Ad Racially Charged, 'Pernicious,' Political Analysts Say," *11 Alive* (Sept. 30, 2022), <https://www.11alive.com/article/news/politics/darkened-skin-in-georgia-political-ads-2022/85-3ff31b49-c451-4af8-8033-fd732fe787ae>.

²⁵⁷ Maya King, "In Georgia County With Racist History, Flier Paints Abrams as Invading Enemy," *N.Y. Times* (Sept. 16, 2022), <https://www.nytimes.com/2022/09/16/us/politics/stacey-abrams-forsyth-georgia-republicans.html>.

²⁵⁸ See Patrick Phillips, *Blood at the Root: A Racial Cleansing in America* (New York: Norton, 2016).

conservative whites during and after Reconstruction to restrict and eliminate Black suffrage, the phrase “voter fraud” is a relatively recent addition to America’s toxic racial vocabulary. In the 1960s, the heyday of the civil rights movement, the phrase “voter fraud” appeared precisely twice in the pages of the *New York Times*, and in the four decades from 1960 to 1999 it appeared 185 times. From 2015 through April 2022, the phrase “voter fraud” appeared in the pages of the *New York Times* 1,526 times.²⁵⁹

At the national level, a turning point in the recent history of “voter fraud” accusations was the 2000 presidential election in Florida and its razor-thin margins. Beyond the obvious post-election turmoil related to recounts, 180,000 ballots, close to 3% of the total votes cast, failed to be counted in Florida, and subsequent analysis showed that election officials discarded one in ten votes cast by Black voters as opposed to less than one in fifty votes cast by whites. Various methods used by election officials in counting ambiguous ballots, as well as the purging of allegedly disenfranchised felons, which included many persons eligible to vote, were consequential to the results of the election and in the end, likely cost Democratic presidential candidate Al Gore more than fifty thousand votes.²⁶⁰ The racial disparity in the Florida recount is, in the opinion of historian Allan Lichtman, “the great underreported scandal of the twenty-first century,” as the general public, following news coverage, tended to blame faulty ballot design, the notorious “hanging chads” and butterfly ballots, rather than the systematic disenfranchisement of Black voters.²⁶¹

Underreported it may be, but Republicans learned an important lesson from the Florida fight—claiming that Democratic officials engaged in voter fraud and disenfranchising as many likely Democratic voters as possible can be a valuable tool in creating chaos and winning elections. As voting law expert Richard L. Hasen stated, “before 2000, there were some rumblings about

²⁵⁹ These figures are drawn from the ProQuest data base, “Historical Newspapers: The New York Times” through the end of 2018, and the search feature for the daily *New York Times* from 2019 through 2 April 2022. The term “vote fraud” has an older history, but in recent years it has largely been supplanted, in the *New York Times* and other newspapers, by “voter fraud.” If there is a difference between the two phrases, vote fraud need not be committed by voters—for instance, corrupt officials can either stuff or conveniently lose ballot boxes, or, more recently used advanced technology to manipulate voting totals. “Voter fraud” on the other hand, implies the illegal action is directly taken by voters.

²⁶⁰ Allan J. Lichtman, *The Embattled Vote in America: From the Founding to the Present* 181–186 (2020)

²⁶¹ *Id.*

Democratic voter fraud, but it really wasn't part of the main discourse."²⁶² Afterwards, "the myth that Democratic voter fraud is common, and that it helps Democrats win election, has become part of the Republican orthodoxy."²⁶³ But perhaps more importantly, reference to fraud has become a racial code word for minority and Black voters. Or in the words of Emory University Professor Carol Anderson, the real lesson of 2000 for Republicans was to do whatever it takes to limit the growing demographic presence of racial minorities among voters, that "those who controlled the key levers of the electoral and political machinery could give purges, bureaucratic runarounds, and other types of chicanery the aura of legality," and above all lie about election fraud.²⁶⁴ And lie "often, loudly, boldly, unashamedly, and consistently," until lies "drowned out the truth."²⁶⁵ Those lies have only become noisier and more brazen since 2000.

These parallel historical narratives about election integrity and voter fraud (false tropes from the excuses for overthrowing the interracial democratically elected governments from Reconstruction era), racial dynamics in Georgia, and coded discussions about the interaction between those two ideas all came to a head during the Trump presidency. Accusations of electoral malfeasance was a staple of Donald Trump's campaigns. Following the Iowa caucuses in February 2016, for example, Trump finished second to Texas Senator Ted Cruz. Calling for the caucus results to be nullified and for a new election, he claimed "Ted Cruz didn't win Iowa, he stole it."²⁶⁶

Trump proceeded to regularly assert during campaign appearances that "the election is going to be rigged," and cast aspersions on urban voters.²⁶⁷ He claimed without any evidence that without strict in-person voter ID laws, there will be people who will "vote ten times," and "keep

²⁶² Cited in Ari Rabin-Haut and Media Matters for America, *Lies, Incorporated: The World of Post-Truth Politics* (New York: Anchor Books, 2016), 135.

²⁶³ Jane Meyer, "The Voter Fraud Myth," *The New Yorker* (Oct. 22, 2012), <https://www.newyorker.com/magazine/2012/10/29/the-voter-fraud-myth>.

²⁶⁴ Carol Anderson, *One Person, No Vote: How Voter Suppression is Destroying Our Democracy* (New York: Bloomsbury, 2018), 50.

²⁶⁵ *Id.* at 60–62; Ari Berman, *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (New York: Picador, 2015) 222–224, 226–229; Stacey Abrams, *Our Time is Now: Power, Purpose, and the Fight for a Fair America* (Henry Holt, 2020), 75–76.

²⁶⁶ Amy Tennery, "Trump Accuses Cruz of Stealing Iowa Caucuses Through Fraud," *Reuters* (Feb. 3, 2016), available at <https://www.reuters.com/article/us-usa-election-trump-cruz/trump-accuses-cruz-of-stealing-iowa-caucuses-through-fraud-idUSMTZSAPEC23ZBL9YS>.

²⁶⁷ Jonathan Blitzer, "Trump and the Truth: The 'Rigged' Election," *The New Yorkers* (Oct. 8, 2016), available at <https://www.newyorker.com/news/news-desk/trump-and-the-truth-the-rigged-election>.

voting and voting and voting.”²⁶⁸ He also suggested that voter fraud would come from cities with large African American and minority populations. In October 2016, for example, candidate Trump said that “voter fraud is all too common, take a look at Philadelphia, what’s been going on, take a look at Chicago, take a look at St. Louis,” and said what was happening in those cities was “horrendous.”²⁶⁹ That fall, Trump told an almost all-white crowd outside Pittsburgh that it was “so important that you watch other communities, because we won’t have this election stolen from us.”²⁷⁰ He also complained that undocumented immigrants, most of whom were persons of color, would be used to defraud the election, and that President Obama was “letting people pour into the country so they can vote.”²⁷¹

Donald Trump later brought these racial appeals to Georgia by using references to “Fulton County” as coded language. As part of his effort to overturn the 2020 election results in Georgia, Trump called Georgia Secretary of State Brad Raffensperger and told him that “political corruption” in Fulton County was “rampant” and that many Republican votes in Fulton County were shredded, along with other baseless conspiracy theories.²⁷² Trump’s campaign later attacked two Black poll workers in Fulton County: Ruby Freeman and her daughter Shaye Moss. In his testimony before the Georgia Senate, Rudy Giuliani showed a video which purported to show Freeman and Moss engaging in “surreptitious illegal activities” akin to “drug dealers” who were “passing out dope,” reflecting old racist tropes about persons of color.²⁷³ Although the accusations were utter nonsense, former President Trump told Secretary Raffensperger that Ruby Freeman was a “professional vote scammer and hustler.”²⁷⁴ The two women received harassing phone calls and death threats, often laced with racial slurs, frightening nighttime knocks on their doors—they had to leave their residence and go into hiding—along with suggestions that they should be “strung up

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² Quinn Scanlan, “Trump ‘Just Plain Wrong’ on Fraud Claims: Georgia Secretary of State Raffensperger,” ABC News (Jan. 4, 2021), *available at* <https://abcnews.go.com/Politics/trump-plain-wrong-fraud-claims-georgia-secretary-state/story?id=75032595>.

²⁷³ Jason Szep and Linda So, “Trump Campaign Demonized Two Georgia Election Workers—And Death Threats Followed,” Reuters, (Dec. 1 2021,) <https://www.reuters.com/investigates/special-report/usa-election-threats-georgia/> (emphasis added).

²⁷⁴ *Id.*

from the nearest lamppost and set on fire,” horribly echoing the calls for lynchings of Black citizens from earlier years who were attempting to participate in the political process.²⁷⁵ As discussed above, the intense focus on Fulton County is not random—reference to this large, urban, majority-minority county in Georgia has been used as a coded racial appeal in the election context.

The drumbeat of allegations against the “integrity” of Georgia’s electoral processes, especially as practiced in the interracial county governments in the Atlanta metro area, has continued. In August 2021, Republican Congressman Jody Hice, who challenged Raffensperger in the Republican primary in the race for Secretary of State, stated that “as long as *these people* are allowed to continue cheating, they will continue to do so.” Kemp claimed that “Fulton County has a long history of mismanagement, incompetence, and lack of transparency when it comes to running elections, including during the 2020 elections.” Butch Miller, a candidate for lieutenant-governor argued that “maintaining integrity of our elections is of the utmost importance to me and my colleagues in the state senate. Unfortunately, Fulton County’s apparent disregard for election procedures and state law have called that integrity into doubt.”²⁷⁶

C. Divergent Race-Related Views of Members of the Democratic and Republican Parties in Georgia

Aside from the use and effect of racial appeals in Georgia, the significant impact race has on the state’s partisan divides is made readily apparent when one considers the opposing positions that members of Georgia’s Democratic and Republican parties take on issues inextricably linked to race. For example, the Democratic and Republican members of Georgia’s congressional delegation consistently oppose one another on issues relating to civil rights. As indicated in the table below, each Republican member of the delegation during the 2017-2019 congressional session received extremely low scores (no higher than 6-13% on a scale of 0-100%) on the civil rights scorecard produced by the NAACP, an organization dedicated to promoting minority rights. Meanwhile, each Democratic member received extremely high scores (81-100%).

²⁷⁵ *Id.*

²⁷⁶ Mark Niese, “Board Launches Fulton County Election Woes Inquiry,” *Atlanta Journal Constitution* (Aug. 19, 2021), <https://www.ajc.com/politics/panel-appointed-to-investigate-fulton-election-problems/IBRJTD4ERAP7HRIFZ7D243JAA/>.

Pro-Civil Rights Votes Among Georgia's Congressional Delegation, 2017-2019 Congressional Session ²⁷⁷			
Republican Members		Democratic Members	
Johnny Isakson	13%	Sanford Bishop Jr.	81%
David Perdue	9%	Hank Johnson	100%
Earl "Buddy" Carter	6%	John Lewis	97%
Drew Ferguson	13%	David Scott	84%
Rob Woodall	9%		
Austin Scott	13%		
Doug Collins	6%		
Jody B. Hice	6%		
Barry Loudermilk	6%		
Rick W. Allen	9%		
Tom Graves	9%		

The Pew Research Center's *Beyond Red and Blue: The Political Typology* (issued in November 2021) confirm these differences between the parties on issues relating to race. This study divided political allegiance into nine distinct typology groups, four leaning Republican, four leaning Democratic, with the "Stressed Sideliners," uncertain and generally not following politics very closely.²⁷⁸ Among the four Republican groupings [Faith and Flag Conservatives (85% white), Committed Conservatives (82% white), Populist Right (85% white), and Ambivalent Right (65% white)], the survey found "no more than about a quarter say a lot more has to be done to ensure equal rights for all Americans regardless of their racial or ethnic backgrounds, by comparison, no fewer than about three-quarters of any Democratic group [Progressive Left (68% white), Establishment Liberals (51% white), Democratic Mainstays 46% white), and Outsider Left (49% white) says a lot more needs to be done to achieve this goal."²⁷⁹ The four Republican groups agreed between 78 and 94% that "white people do not benefit much or not at all from the advantage that Black people do not have," or in other words, that there is no systematic racism at work in American society or institutions.²⁸⁰ Among the four Democratic leaning groups, there was

²⁷⁷ Nat'l Ass'n for the Advancement of Colored People, "NAACP Civil Rights Federal Legislative Report Card, Congressional Votes 2017-2018" (Feb. 1, 2019), <https://naacp.org/sites/default/files/documents/115th-Final-Report-Card.pdf>.

²⁷⁸ Pew Research Center, *Beyond Red and Blue: The Political Typology*, (Nov. 9, 2021), <https://www.pewresearch.org/politics/2021/11/09/beyond-red-vs-blue-the-political-typology-2/>.

²⁷⁹ *Id.* at 7.

²⁸⁰ *Id.* at 14.

agreement (between 73 and 96%) that “a lot more needs to be done to ensure equal rights for all Americans regardless of their ethnic or racial backgrounds.”²⁸¹

Georgia-specific polls suggest the same. An NORC poll conducted for 3,291 likely Georgia voters just before the 2020 election found that 45% were Democratic or Democratic leaning, 51% Republican or Republican leaning. Among voters who believed that racism was the most important issue facing the country, 78% voted for Joe Biden and 20% voted for Donald Trump. Among voters who believed that racism was “not too or not at all serious,” 9% voted for Biden and 90% voted for Trump. And among voters who believe that racism is a serious problem in policing, 65% voted for Biden and 33% voted for Trump.²⁸²

C. Conclusion

As this report has shown, Georgia has worked for decades to diminish the voting power of Black Georgians, both at the structural electoral level (in terms of redistricting and electoral arrangements), and at the individual level (in terms of voter requirements). These efforts have often been successful, stymying Georgia’s Black voters from exercising their full political power. It is my opinion that Georgia’s newest congressional plan is best viewed with this historical context.

Moreover, the correlation between race and party in Georgia is no coincidence. Instead, race and issues inextricably linked to race have long played a role in separating Black voters and white voters along partisan lines, and they continue to contribute to the partisan divisions we see today.

APPENDIX A: Representative Discriminatory Voting Tactics

Voting Mechanism Adoption	Name of Georgia Jurisdiction	Details
Majority voting requirement	Americus (city)	Adopted plurality to majority vote for mayor and city council in 1968

²⁸¹ *Id.* at 29

²⁸² A.P. VoteCast, “Georgia Voter Surveys: How Different Groups Voted,” N.Y. Times, (Nov. 3 2020), <https://www.nytimes.com/interactive/2020/11/03/us/elections/ap-polls-georgia.html>.

	Jackson (city)	Adopted majority vote after passage of VRA, enjoined in 1981
	Covington (city)	Adopted a majority vote and runoff election requirement for city council in 1967
	St. Mary's (city)	Adopted majority vote requirement for city council in 1967
	Waynesboro (city)	Adopted a majority vote requirement in 1971, ignored §5 finding against the city until 1976
	Moultrie (city)	Adopted majority vote requirement for city council in 1965; used at-large elections
	Augusta, Alapaha, Ashburn, Athens, Butler, Cairo, Camilla, Crawfordville, East Dublin, Hartwell, Hinesville, Hogansville, Jesup, Jonesboro, Lakeland, Louisville, Lumber City, Madison, Nashville, Newman, Palmetto, Sandersville, Sylvester, Thomson, Wadley, Waynesboro, Wrens	Other cities in Georgia that adopted majority vote requirements after 1970
At-Large Voting	Dooly County	Utilized at-large voting from 1967 to 1981
	Miller County	Utilized at-large voting from 1967 to 1980
	Pike County	Utilized at-large voting from 1967 to 1980. No preclearance

		was sought. In 1979, the US AG said preclearance was necessary, but county refused to honor this until a subsequent lawsuit in 1980.
	Harris County	Utilized at-large voting for board of commissioners starting in 1974
	Sumter County	Utilized at-large voting for county commissioners in 1972 following Section 5 finding that the county was malapportioned. In 1981 a three-judge federal panel found that this required preclearance.
	Jackson (city)	Utilized at-large voting following passage of Voting Rights Act; Annexed several dozen areas to suppress Black voting; enjoined by federal court in 1981
	Burke County	Utilized at-large voting until 1976, until enjoined by a federal court in 1981
	Putnam County	Utilized at-large voting until 1981
	McDuffie County	Utilized at-large voting until a 1978 consent decree .
	Coffee County	Utilized at-large voting until a 1977 consent decree .

	Douglas County	Utilized at-large voting until a 1977 consent decree.
	Peach County	Utilized at-large voting until a 1979 consent decree .
	Waynesboro (city)	Utilized at-large voting until a 1977 consent decree.
	Americus (city)	Utilized at-large voting until a 1980 consent decree.
	Dawson County	Utilized at-large voting until a 1980 consent decree.
	Madison County	Utilized at-large voting until a 1978 consent decree.
	Morgan, Newton, and Twiggs Counties	Adopted at-large voting in 1971
	Wilkes, McDuffie Counties	Adopted at-large voting in 1972
	Newton and Bibb Counties	Adopted at-large voting for Board of Education in 1971
	Baldwin, Truetlen, McDuffie, Camden, Putnam, Pike, Spalding, and Wilkes Counties	Adopted at-large voting for Board of Education in 1972
	Toombs, Sumter, and Clarke Counties	Adopted at-large voting for Board of Education in 1973
	Harris, Charlton, and Taylor Counties	Adopted at-large voting for Board of Education in 1975
	Long County	Adopted at-large voting for Board of Education in 1975
Numbered Post System	Dawson (city)	Adopted numbered-post system in 1970
	Kingsland (city)	Adopted numbered-post system in 1967

Other tactics	DeKalb County	Limited minority voting registration drives in 1980
	Seminole County	Used voting districts drawn in 1933 (which severely diluted Black voting strength) up until 1980.
	Camden County	Designated an all-white women's club as the new municipal polling place in 1978
	Peach County	Adopted staggered voting for County Commissioners in 1968
	Moultrie (city)	Instituted a literacy test for new Black poll workers but grandfathering in all previously serving all-white poll workers in 1978.

Source: Laughlin McDonald, *Voting Rights in the South: Ten Years of Challenging Continuing Discrimination Against Minorities* (ACLU, Southern Regional Office, 1982); Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003), 141–143.

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(<http://justice-deferred.clemson.edu>) (<https://ageoflincoln.wpengine.com>)

Education: 1976, Ph.D. Princeton University Ph.D. dissertation: "Ungrateful Servants?
Edgefield's Black Reconstruction: Part I of the Total History of Edgefield County, South
Carolina." Advisors Sheldon Hackney and James McPherson
1969, B.A. Furman University, magnum cum laude

Military Service: active service 1969, 1974 U.S. Army, Honorably Discharged as Captain, 1977

Academic Positions:

Clemson University, 2010-

The Judge Matthew J. Perry Distinguished Professor of History, 2017-

Professor Sociology and Anthropology, Clemson University, 2014-

Creativity Chair of Humanities, Clemson University, 2013-15

Professor Pan-African Studies, 2012-

Professor Computer Science, Clemson University, 2011-

Director Clemson CyberInstitute, 2010-16

Associate Director Humanities, Arts, and Social Sciences, Clemson CyberInstitute, 2010

Professor of History, Clemson University, 2010-

Burroughs Distinguished Prof. Southern Hist. & Culture, Coastal Carolina University, 2008-10

University of Illinois at Urbana-Champaign (UIUC), 1974-2008

2009- Chair, Advisory Board for Institute for Computing in Humanities, Arts, and
Social Science (I-CHASS)

2008-11, Consultant for Humanities to Chancellor's and Provost's Office

2004-09, Founding Director I-CHASS

2008 - Emeritus University Distinguished Teacher/Scholar, University Scholar, and

Professor History, African American Studies, and Sociology

2006-08, Professor African American Studies

1989-2008, Professor History

1989-2008, Professor Sociology

1988-2008, Graduate College Statistics Faculty

1986-2008, Campus Honors Program

1985-2006, Faculty Affiliate, African American Studies and Research Program

1982-1989, Associate Professor, History

1976-1982, Assistant Professor History

1974-1976, Instructor

National Center for Supercomputing Applications (NCSA)

2002-10, Associate Director, Humanities and Social Sciences

1993-2002, Head, Initiative for Social Sciences and Humanities

1986- Senior Research Scientist

Princeton University

1972-74, Assistant Master, Woodrow Wilson Residential College

1971-72, Instructor, Mercer County Community College, NJ

Burton, page 2

College of Charleston

2001-, Executive Director, Program in the Carolina Lowcountry and the Atlantic World (CLAW) <http://claw.cofc.edu>

1987, Professor of History, Governor's School of South Carolina

Selected Honors, Fellowships, Awards

The John Hope Franklin Lifetime Achievement Award of the Southern Historical Association, 2022

Induction into the Martin Luther King Jr. Collegium of Scholars at Morehouse College, 2022

Benjamin E. Mays Legacy Award, 2021-

South Carolina Governor's Award for Lifetime Achievement in the Humanities, presented by the SC Humanities Council, 2017

Illinois House Resolution of Congratulations, HR 0711, 2007. The Illinois State legislature passed a special resolution acknowledging my contributions as a scholar, teacher, and citizen of Illinois.

U.S. Professor of the Year, Outstanding Research and Doctoral Universities Professor (Council for Advancement and Support of Education and Carnegie Foundation for the Advancement of Teaching), 1999

American Historical Association Eugene Asher Distinguished Teaching Prize, 2004

Chicago *Tribune's* Heartland 2007 Literary award for nonfiction for *The Age of Lincoln*

Society of American Historians, Elected 2012-

Fellow, National Humanities Center (NEH Senior Scholar Award), 1994-95

Fellow, Woodrow Wilson International Center for Scholars, 1988-89

Fellow, Pew Foundation, 1996

National Fellowship Program for Carnegie Scholars, 2000-2002

Rockefeller Humanities Fellowship, 1978

American Council of Learned Society Fellowshihp, 1978

Earl and Edna Stice Lectureship in the Social Sciences at the University of Washington, 2005

Strickland Visiting Scholar, Department of History, Middle Tennessee State University, 2006

Pew-Lilly Foundation Graduate Professor, Notre Dame University, 2001

Mark W. Clark Distinguished Chair of History, The Citadel, 2000-01

Elected to honorary life membership in British American Nineteenth-Century Historians

Organization of American Historians Distinguished Lecturer, 2004-

Choice Outstanding Academic Book for, "*Toward the Meeting of the Waters*": *Currents in the Civil Rights Movement in South Carolina during the Twentieth Century*, 2009

Choice Outstanding Academic Book for *The Age of Lincoln*, 2008

Choice Outstanding Academic Title for *Slavery and Anti-Slavery: Transnational Archive*, 2009

Booklist's Editors' Choice Title for *Slavery and Anti-Slavery: A Transnational Archive*, 2009

Choice Outstanding Academic Book for *Computing in the Social Sciences and Humanities*, 2003

Richard F. Fenno Prize, Legislative Studies Section, American Political Science Association, for *Quiet Revolution*, 1995

President Southern Historical Association, 2011-12

President Agricultural History Society, 2001-02

Elected to the South Carolina Academy of Authors, 2016-

Certificate of Excellence from the Carnegie Academy for the Scholarship of Teaching and Learning for Work that Advances the Practice and Profession of Teaching In Support of Significant Student Learning, 2001

Burton, page 3

H-Net received the James Harvey Robinson Prize for teaching from the American Historical Association, 1997 (I was one of the founders, and the first treasurer).

Award of Distinction in the Film/Video-History/Biography category from the International Academy of the Visual Arts, 16th Annual Communicator Awards, for "People: A Lincoln Portrait" television interstitial series (The Communicator Awards is the leading international awards program honoring creative excellence for communications professionals), 2010 (part of program I put together for Lincoln commemoration at UIUC).

SC African American Heritage Commission's 2009 "Preserving Our Places in History" Project Award for Claw's (Executive Director, College of Charleston Carolina Lowcountry and Atlantic World) work in commemorating the banning of the international slave trade

Florida Historical Society, Medallion Lecture, 2002

Auburn University, Eminence in the Arts and Humanities Fellows Lectures Medallion, "awarded to persons of distinguished achievement in the arts and humanities: writers, artists or renowned scholars in one or more of the liberal arts disciplines," 2012

Senior Research Fellow, Southern Studies, University of South Carolina, 1988

Phi Beta Kappa, Furman University, 1986-

Princeton University Scholar Award, 1969

National Defense Educational Award Title IV Fellowship, 1971 (Princeton University)

Clark Foundation Scholarship, 1966-69 (Furman University)

Wicker Award for Outstanding Student (sophomore), Furman University, 1967

Endel History Award, Furman, 1969

Bradshaw-Feaster General Excellence Award (Furman's highest honor for the graduating senior selected by faculty), 1969

College of Charleston Program in the Carolina Lowcountry and the Atlantic World (CLAW), <http://claw.cofc.edu> named the award given for the best Research Paper presented at the annual conference, the "Professor Vernon Burton award," 2022-

The Benjamin E. Mays Historical site in Greenwood, South Carolina, has designated the new research library that is being built, "The Professor Vernon Burton Library"

Honors Clemson University and Recognition

Clemson University Alumni Award for Outstanding Achievements in Research

Inaugural Class University Research Scholarship and Artistic Achievement Award, 2018

Inaugural Judge Matthew J. Perry Distinguished Chair of History, 2017-

College Architecture, Arts, and Humanities (CAAH), Dean's Award for "Outstanding Service," 2019

CAAH, Dean's Award for "Excellence in Research," 2016

CAAH, Creativity Professor Humanities, 2013-15

Featured Clemson Homepage 2017, "Meet a Tiger," <http://newsstand.clemson.edu/meet-a-tiger-vernon-burton>

UIUC Honors and Teaching Awards and Recognition

Inaugural University "Distinguished Teacher/Scholar," 1999-2008

University Scholar, 1988 – 2008

Campus Award for Excellence in Public Engagement, 2006

Graduate College Outstanding Mentoring award, 2001-02

Fellow, Center for Advanced Study, 1982, Associate, 1994 and 1996

Burlington Northern Faculty Achievement Award (UIUC), 1986

Study in a Second Discipline, Statistics and Demography, 1984

Burton, page 4

All-Campus Award for Excellence in Undergraduate Teaching, 1999
 LAS Dean's Award for Excellence in Undergraduate Teaching, 1999
 LAS Award for Distinguished Teaching, 1986
 School of Humanities Teaching Award, 1986
 George and Gladys Queen Excellence in Teaching Award in History, 1986
 Undergraduate Instructional Award (UIUC), 1984
 Every semester and for every undergraduate course that I taught at the University of Illinois (excluding large survey classes of between 300-750 students), I was deemed excellent in the UIUC "Incomplete List of Excellent Teachers." I was noted on the list for more than twenty different courses. I was noted as "outstanding" from 1979 as long as they used that designation.
 Recognized by the Pan-Hellenic Council at as the "outstanding staff member for furthering scholastic achievement"
 Selected by History Department as the "one instructor whom you believe best at creating intellectual excitement in students" for an educational study of teaching practices of college teachers, 1978
 Received the Resident Hall Association Award for the Best Educational Program for lectures/discussion on *Gone With the Wind* and *Jubilee* for Black History Month, 1996
 The Honor Society of Phi Kappa Phi, UIUC, Vice President, 2002-03; President, 2003-04
 Ronald E. McNair Scholars Program Dedicated Service Award for service to Minority Students, 1996
 Associate Vice Chancellor Academic Affairs award for contributions to the Student Research Opportunities Program and work with minority students (1995, 2006)

Publications:

Books:

Justice Deferred: Race and the Supreme Court. Cambridge: Belknap Press of Harvard University Press, 2021. Coauthor Armand Derfner. The Social Science History Association featured a session on the book at their annual meeting in November 2021 and the Midwestern Political Science Association (MPSA) at annual meeting in the April 2022, and at the Association for the Study of African American Life and History (ASALH) September 2022. Panels and sessions are scheduled at the annual conference meetings for the American Historical Association (AHA- January 2023), and the Organization of American Historians (March 2023).

Fort Sumter and Fort Moultrie National Historical Park, Charleston, SC Administrative History. Washington, DC: The National Park Service, November 2020 available 2021, with et al.

Penn Center: A History Preserved. Athens: University of Georgia Press, 2014; paperback edition, 2017.

The Age of Lincoln. NY: Hill and Wang, 2007. (Audio: Blackstone Audio Books). Paperback edition 2008. Selection for Book of the Month Club, History Book Club, Military Book Club. *The Age of Lincoln* was nominated by Farrar, Straus, and Giroux for the Pulitzer Prize. Three historical associations featured sessions on the book, Association for the Study of African American Life and History, 2008; Social Science History Association, 2008; The Southern Intellectual History Circle, 2009.

"*The Free Flag of Cuba*": *The Lost Novel of Lucy Pickens* [orig. pub. 1854] in the Library of Southern Civilization series, edited by Lewis P. Simpson. (Introduction pp. 1-48 and annotated with Georganne B. Burton,) Baton Rouge: Louisiana State University Press, 2002. Paperback 2003.

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- In My Father's House Are Many Mansions: Family and Community in Edgefield, South Carolina*. Chapel Hill: University of North Carolina Press, 1985. Paperback edition 1987; 5th printing 1998. *In My Father's House* was nominated by the University of North Carolina Press for the Pulitzer Prize. Two Historical Associations featured this book in sessions at their annual meetings: Social Science History Association, 1986; Southern Historical Association, 1987.
- Editor, *Lincoln's Unfinished Work: The New Birth of Freedom from Generation to Generation*. Baton Rouge: Louisiana State University Press, 2022, with Peter Eisenstadt.
- Editor, *Becoming Southern Writers: Essays in Honor of Charles Joyner*. Columbia: University of South Carolina Press, 2016.
- Editor, *Dixie Redux: Essays in Honor of F. Sheldon Hackney*. Montgomery, AL: New South Books, 2013, with Ray Arsenault.
- Editor, *The Struggle for Equality: Essays on Sectional Conflict, the Civil War, and the Long Reconstruction in Honor of James M. McPherson*. Charlottesville: University of Virginia Press, 2011, with et al.
- Editor, *The Essential Lincoln*. NY: Hill and Wang, 2009.
- Editor, *Remembering Brown at Fifty: The University of Illinois Commemorates Brown v. Board of Education*. Urbana: University of Illinois Press, 2009, E-book 2021, with David O'Brien.
- Editor, "Toward the Meeting of the Waters": *Currents in the Civil Rights Movement in South Carolina during the Twentieth Century*. Columbia: The University of South Carolina Press, 2008. Paperback 2011, E-book 2022, with Winfred B. Moore, Jr.
- Editor, *Slavery in America: Gale Library of Daily Life*, 2 vols. NY, Detroit: Gale Cengage Learning, 2008.
- Editor, *Computing in the Social Sciences and Humanities*. Urbana: University of Illinois Press, 2002.
- Editor, *Wayfarer: Charting Advances in Social Science and Humanities Computing*. Urbana: University of Illinois Press, 2002, with David Herr and Terence Finnegan. This CD-ROM contains more than 65 essays and research and teaching applications, including illustrative interactive multimedia materials.
- Editor, *Documents Collection America's History*, vol. 1, to accompany James Henretta, et al., *America's History*, 2nd ed. NY: Worth Publishers, 1993.
- Editor, *Class, Conflict, and Consensus: Antebellum Southern Community Studies*. Westport, Conn: Greenwood Press, 1982, with Robert C. McMath, Jr.
- Editor, *Toward a New South? Studies in Post-Civil War Southern Communities*. Westport, Conn: Greenwood Press, 1982, with Robert C. McMath, Jr.

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- Reconstruction at 150: Reassessing the Revolutionary "New Birth of Freedom"*. Charlottesville: University of Virginia Press, expected 2023 with Brent Morris.

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- Air Conditioning and the Voting Rights Act: The Voting Rights Act of 1965 in Historical Perspective*. Stice Lectures University of Washington. Seattle: University of Washington Press contracted, (withdrawn from press to include the 2013 Shelby County challenge to Sections 5, which ended preclearance in 2013, and the in-person Voter Id controversies, partisan redistricting challenges, and 2021 *Bronovich* challenge to Section 2).
- Lincoln and the South Revisited*. Under contract. Carbondale: University of Southern Illinois Press.

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The South as Other: The Southerner as Stranger—The Contradictions of Southern Identity. The expansion of my presidential address for the Southern Historical Association. Promised to University of South Carolina Press.

Plays: “Abraham Lincoln’s Beardstown Trial: The Play” with Georganne B. Burton Premiered Sept. 29, 2009, Beardstown, IL. (Commissioned by Civil War Trust; Endorsed by the Congressional Abraham Lincoln Bicentennial Commission, November 2009; Play available upon request); <http://www.lincolnbicentennial.gov/calendar/beardstown-trial-11-10-09.aspx>; <http://www.civilwar.org/aboutus/events/grand-review/2009/almanac-trial.html>

Editor, Book Series, *A Nation Divided: Studies in the Civil War Era Series*, University of Virginia Press, 2011-

Editor, Book Series, *The American South Series*, University of Virginia Press, 2013-

Introductions and Forewords to Books:

“Foreword,” pp. ix-liv to *Born to Rebel: An Autobiography* by Benjamin Elijah Mays. Athens: University of Georgia Press Brown Thrasher edition, 1987, also in paperback edition (book without foreword originally published by Charles Scribner's Sons, 1971). Revd. Foreword 2003.

“Introduction,” pp. 9-11 to *Roll the Union On: Southern Tenant Farmers Union*. As told by its Co-founder, H.L. Mitchell. Chicago: Charles H. Kerr Publishing Company, 1987.

“Introduction,” pp. xiii-xviii to *Soldiering with Sherman: The Civil War Letters of George F. Cram*. Jennifer Cain Bohrnstedt, ed., DeKalb: Northern Illinois University Press, 2000.

“Introduction,” pp. x-xxxiv to *Pitchfork Ben Tillman: South Carolinian* by Francis Butler Simkins, for the reprint edition of the Southern Classics Series of the Institute for Southern Studies. Columbia: University of South Carolina Press, 2002 (book without Introduction originally published by Louisiana State University Press, 1944).

“Foreword,” pp. xi-xxv to paperback edition of *Cause at Heart: A Former Communist Remembers* by Junius Irving Scales with Richard Nickson. Athens: University of Georgia Press, 2005, with James Barrett.(book without Foreword originally published 1987).

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“Foreword,” pp. vii-xiii to *Our Ancestors – Our Stories: The Memory Keepers*, edited by Harris Bailey, et al. Suwanee, Georgia: The Write Image, 2014.

“Foreword,” pp. iv-xiv, to Kevin M. Cherry, *Virtue of Cain, Biography of Lawrence Cain* Washington: *From Slave to Senator*: Takoma Park, MD: Rocky Pond Press, 2019.

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Journals Edited:

- Editor, Special issue on the "Digital South," *Southern Quarterly: A Journal of Arts and Letters in the South*, 58: 1-2 (expected soon, Fall 2020/Winter 2021).
- Editor, "Three Articles from a Century of Excellence: The Best of *The South Carolina Historical Magazine*," pp. 182-89 for *South Carolina History Magazine* 101: 3 (July 2000).
- Editor, "Introduction," pp. 161-65 for *Social Science Computer Review* 12:2 (Summer 1994).
- Editor, "Technology and Education," *International Journal of Social Education* 5:1 (Spring 1990).

Sample Articles:

- "The South as Other, The Southerner as Stranger," Presidential address for the Southern Historical Association, *The Journal of Southern History* LXXIX:1 (February 2013): 7-50.
- "Reaping What We Sow: Community and Rural History," Presidential address for the Agricultural History Society in *Agricultural History* (Fall 2002): 631-58.
- "Building the Transcontinental Railroad," *Presidential Inaugural Portfolio*, Joint Congressional Committee on Inaugural Ceremonies, January 21, 2013.
- "American Digital History," *Social Science Computer Review* 23: 2 (Summer 2005): 206-220, reprinted in "Essays on History and New Media," Roy Rosenzweig Center for History and New Media, at <http://chnm.gmu.edu/essays-on-his-new-media/essays/?essayid=30>, published in a Turkish translation, "AMERİKAN DİJİTAL TARİHİ," *Tuhed* (Turkish History Educational Journal) Year 2018, Volume 7, Issue 2, Pages 697 – 719 (<http://dergipark.gov.tr/tuhed/issue/39129/448606>).
- "American Slavery Historiography," *The Journal of Modern Slavery: A Multidisciplinary Exploration* 7:4 (2022); also published in book, pp. 43-97, *Slavery and its Consequences: Racism, Inequity & Exclusion in the USA*. Edited by Lawrence Edward Carter, Sr., Jodi L. Henderson, and Tina Davis. Atlanta: SlaveFree Today, Inc., 2022
- "Following Autoimmune Diseases Through Patient Interactive Diaries: Continuous Quality Improvement." *Practical Dermatology* 2017; 14 (12) 48-54, with Updyke KM, Urso B, Ali H, Brooks I, Dellavalle RP, Solomon JA.
- "Stranger in a Strange Land: Crossing Boundaries," pp. 256-283 in *Shapers of Southern History: Autobiographical Essays by Fifteen Historians*. Edited by John Boles. (Athens: University of Georgia Press, 2004).
- "Cyberinfrastructure for the Humanities, Arts, and Social Sciences," in *ECAR (Educause Center for Applied Research) Bulletin* 9: 1 (January 13, 2009): 2-11, with Simon Appleford.
- "Race and Reconstruction: Edgefield County, South Carolina," *Journal of Social History* 12 (Fall 1978): 31-56. Referenced and summarized in *Sociological Abstracts* 12, #1 (April 1978): 45. Reprinted in *The Southern Common People: Studies in Nineteenth Century Social History*. Edited by Edward Magdol and Jon L. Wakelyn, pp. 221-37. (Westport, Conn: Greenwood Press, 1980). Reprinted pp. 87-112 in *The Politics of Freedom: African Americans and the Political Process During Reconstruction*, vol. 5 of *African American Life in the Post-Emancipation South 1861-1900*. Edited by Donald G. Nieman. (Hamden, CT: Garland Publishing, 1994).
- "The Development of Tenantry and the Post-Bellum Afro-American Social Structure in Edgefield County, South Carolina." In *Presentations Paysannes, Dimes, Rente fonciere et Mouvement de la Production Agricole a l'epoque Preindustrielle: Actes du Colloque preparatoire* (30 juin-let et 2 juillet 1977) au VIIe Congres international d'Histoire economique Section A3. Edimbourg 13-19 aout 1978, Vol. 2: 762-78. Edited by E.

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"It Ain't Broke, So Don't Fix It: The Legal and Factual Importance of Recent Attacks on Methods Used in Vote Dilution Litigation," et al., lead article in *The University of San Francisco Law Review* 27:4 (Summer 1993): 737-780.

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"Lincoln, Secession, and Emancipation," pp. 81-104 in Paul Finkelman and Donald R. Kennon, eds., *Lincoln, Congress, and Emancipation*, for the U.S. Capitol Historical Society (Athens: Ohio University Press, 2016).

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"Modeling the Baptist Faith" in *Walk with Me: Reflections on the Life and Influence of James Milton Pitts*. Edited by Cecil P. Staton and John Adams (Macon, Georgia: Smyth and Helwys, 2021), 125-134.

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- "Forum: How Covid-19 Has Changed My Writing," *Fides et Historia* 53:2 (Summer/Fall 2021): 54-73 (58-60).
- "Epworth Native Earned Place in History: Benjamin E. Mays, Schoolmaster of the Civil Rights Movement," 99-101, in *10 Years Preserving History: Building a Legacy, Gleams Dr. Benjamin E. Mays Historical Preservation Site*. Ed. Christopher Thomas (Greenwood: Gleams Center, 2021).
- "Mystery and Contradiction: My Story of Ninety Six," in *State of the Heart: South Carolina Writers on the Places They Love*, Vol. 3, pp. 18-27. Edited by Aida Rogers (Columbia: University of South Carolina Press, 2018)
- "The Birth of a Nation: A Roundtable," (Roundtable Discussion of film on 1831 Nat Turner Insurrection), edited Ryan Keating in *Civil War History* 64 (March 2018), pp. 56-91.
- "Southern Identity," pp. 40-53, with Anderson R. Rouse in *The Routledge History of the American South*. Edited by Maggi M. Morehouse (New York: Routledge, 2018).
- "Religious Practices," pp. 111-26, with Anderson R. Rouse in *The Routledge History of the American South*. Edited by Maggi Morehouse (New York: Routledge, 2018).
- "Reconstructing South Carolina's History Through the South Caroliniana Library, 80th Annual Meeting Address by Dr. Orville Vernon Burton," The University South Caroliniana Society 81st Annual Meeting, 22 April 2017, pp. 2-32.
- "From Clarendon County to the Supreme Court," pp. 84-88 and "Eating with Harvey Gantt and Mathew Perry: Myth and Realities of "Integration with Dignity," pp.139-40 accompanying Cecil Williams' photographs of South Carolina's Civil Rights Movement in Cecil Williams, *Unforgettable, Life Hope Bravery, 1950-1970: Celebrating a Time of Bravery* (Orangeburg: Cecil J. Williams Photography/Publishing, 2017).
- "Stranger Redux," pp. 38-49 in Orville Vernon Burton, Editor, *Becoming Southern Writers: Essays in Honor of Charles Joyner* (Columbia: University of South Carolina Press, 2016)
- "Perceptions and Meaning of the Confederate Flag," *The Proclamation* (President Lincoln's Cottage), XXVIII (Summer 2015): 8- 14 (longer unedited version on-line at: <http://www.lincolncottage.org/perceptions-and-meaning-of-the-confederate-flag-an-interview-with-two-scholars/> and with Edna Medford)
- "The Passage of Lincoln's Republic: Providence in Progress," pp. 13-36 in Stephen Engle, ed. *The War Worth Fighting: Abraham Lincoln's Presidency and Civil War America* (Gainesville: University of Florida Press, 2015).
- "Bertram Wyatt-Brown: An Honorable Man and a Man of Grace," *Georgia Historical Quarterly* XCIX, No. 3(Fall, 2015): 2013-18.
- "Civil War Memory in the Civil Rights Movement and Contemporary Commemoration," *Journal of American Studies* (with American Studies International, *AMSJ*) 53:4 (2014): 107-18, with Michael LeMahieu.
- "Remembering the Civil War," pp. 278-85 in *The Civil War as Global Conflict*. Edited by Simon Lewis and David Gleeson (Columbia: University of South Carolina, 2014).
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- "And Bid Him Bear A Patriot's Part": National and Local Perspectives on Confederate Nationalism in *Deconstructing Dixie*, pp 126-155, with Ian Binnington. Edited by Jason Kyle Phillips (Athens: University of Georgia Press, 2013).
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- "Abraham Lincoln," Essential Civil War Curriculum, <http://www.essentialcivilwarcurriculum.com/>. Edited by William C. Davis and James I. Robertson, Sesquicentennial Project of the Virginia Center for Civil War Studies and the History Department of Virginia Polytechnic Institute and State University (Virginia Tech, 2013), with Lewie Reece.
- "Family," in *Enslaved Women in America: An Encyclopedia*. Edited by Daina R. Berry and Deleso Alford Washington (Santa Barbara & Westport, CN: Greenwood Press, 2012), pp. 83-87.
- "Lincoln at Two Hundred: Have We Finally Reached Randall's Point of Exhaustion?" In *The Living Lincoln: Essays from the Harvard Lincoln Bicentennial Symposium*, pp. 204-25. Edited by Thomas A. Horrocks, Harold Holzer, and Frank J. Williams (Carbondale: Southern Illinois University Press, 2011), pp. 204-25.
- "South Carolina," Vol. 2: pp. 745-764 in *Black America: A State by State Encyclopedia*. Edited by Alton Hornsby (Westport, CN: Greenwood Press, 2011), with Nick Gaffney.
- "Mays, Benjamin" in *The New Encyclopedia of Southern Culture*. Vol. 19 *Education*, Edited by Clarence Mohr. (Chapel Hill: University of North Carolina Press, 2012), pp. 254-255.
- "The Age of Lincoln: Then and Now," Keynote for the South Carolina Historical Association Annual Meeting, *The Proceedings of the South Carolina Historical Association*, 2010, pp. 7-22. Edited by Robert Figueira and Stephen Lowe (Columbia: South Carolina Department of Archives and History, 2010). Reprinted pp 11- 26 in Michael Bonner and Fritz Hamer (eds.) *South Carolina in the Civil War and Reconstruction Eras: Essays from the Proceedings of the South Carolina Historical Association* (Columbia: University of South Carolina Press, 2016).
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- "Lucy Holcombe Pickens: Belle, Political Novelist, and Southern Lady," in *South Carolina Women: Their Lives and Times*, Vol 1. Edited by Marjorie Julian Spruill, Valinda W. Littlefield, and Joan Marie Johnson (Athens: University of Georgia Press, 2009), pp.273-98 with Georganne Burton.
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- "Radical Reconstruction, United States, Promise and Failure of" VI: 2798-2801
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- "American Civil War and Slavery," I: 70-72, with Beatrice Burton.
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- "Palmetto Revolution: The Coming of Desegregation in South Carolina," pp. 59-91, 283-94, with Lewie Reece in *With All Deliberate Speed: Implementing Brown v. Board of Education*. Edited by Brian Daugherty and Charles Bolton. (Fayetteville: University of Arkansas Press, 2008).
- "Civil Rights Movement in South Carolina," pp. 178-80; "Benjamin Mays," pp. 601-02; (with Beatrice Burton) "Francis Butler Simkins," 866; (with Beatrice Burton) "Lucy Pickens"; (with Beatrice Burton) "Sharecropping/ Tenantry," pp. 952-54 in *The South Carolina Encyclopedia* [A project of the South Carolina Humanities Council]. Edited by Walter Edgar. (Columbia: University of South Carolina Press, 2006).
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In addition, I have written a number of reports as expert witness for minority plaintiffs in voting rights and discrimination cases.

Digital Publications and Projects:

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<http://www.eslarp.uiuc.edu/>). IBEX serves as a resource for historical documents, primary and secondary sources, and oral history interviews. Website: <http://www.eslarp.uiuc.edu/ibex/archive/default.htm>.

Text96. A collection of primary source electronic texts for teaching American History. Website <http://www.history.uiuc.edu/uitext96/uitexttoc.html>.

“Database Exercises and Quantitative Techniques: Exercise I: Colonial America.” Madison, WI: Wisware, 1987. (for IBM and compatible computers, 1 disk, Instructional Workbook, and Teacher's Instructional Sheet).

“Lessons in the History of the United States.” Wentworth, NH: COMPRESS, 1987 (1989 with QUEUE, Fairfield, CT). For IBM color monitor; originally 50 computer exercise modules on 25 computer disks + instructor's manual. An interactive electronic textbook of U.S. history.

Automated linkage and statistical systems Unix Matchmaker, AutoLoad, RuleMatch, DisplayMatch, ViewCreate (Urbana: UI NCSA, 2000).

Website <http://www.granger.uiuc.edu/aigt/maps/1870/htm/default.htm>

"Illinois Windows Dataentry System for U.S. Census." University of Illinois, 1988 (for IBM PS2 and compatible computers with Windows applications, 1 disk, Instructional Sheet)

Justice Deferred: Race and the Supreme Court website at (<http://justice-deferred.clemson.edu>)

The Age of Lincoln website at (<https://ageoflincoln.wpengine.com>)

Current Digital Projects include Social Media Learning Center Studies of Elections, Redistricting, Minorities, and Discussions of the American South, Race, and the Civil War. Also text and data analytics (mining) – developing techniques using the HathiTrust, Internet Archive II Digital Book Collection, and Library of Congress Chronicling America U.S. newspaper archive to study “DNA” of writings of Abraham Lincoln, changing views of American South over time, interpretations of Civil War and development of “Lost Cause Mythology.”

In addition, I continue to use Edgefield County, South Carolina to investigate, “large questions in small places.” I have accumulated a quantitative database that includes every person and farm recorded in the U.S. manuscript census returns linked from 1850 to 1880 for old Edgefield District, South Carolina (a region now comprising five different counties). With this unique database I (and my students) can study, test, and suggest themes in American History with details and specificity related to the lives of ordinary folks.

Selected Grants:

National Science Foundation (NSF), GK-12: Ed Grid Graduate Teaching Fellows Program, 2003-09 (\$4,990,015)

NSF, EAGER: Prototype Tool for Visualizing Online Polarization (co-Pi), 2012-16 (\$262,654)

NSF CISE/IRIS Division Award, Grant No. ASC 89-02829, Automated Record Linkage, 1991

NSF Grant No. CDA-92-11139, “Historical U.S. Census Database with High Performance Computing,” 1992

NSF, EPIC Grant, 2006-08 (\$20,000)

NSF Catalyst Grant for Social Science Learning Center (with MATRIX, Michigan State University), 2006-09 (\$175K)

NSF, Senior Investigator on the MRI award, Award #1228312 MRI: Acquisition of High Performance Computing Instrument for Collaborative Data-Enabled Science (\$1,009,160) See:

http://nsf.gov/awardsearch/showAward?AWD_ID=1228312&HistoricalAwards=false

National Parks Service, “*Administrative Histories of Fort Sumter National Monument and Charles Pinckney National Historic Site*,” \$110,000.00 (2014-2019)

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Clemson University, "Tracking Themes Across Time and Space," 2012 (\$10,000)
 National Endowment for the Humanities (NEH) Challenge Grant for Institute for Computing in Humanities, Arts, and Social Science, 2008-11 (\$750,000, 3 mil. Total with challenge matches)
 NEH Educational Technologies Grant, ED-20758, 1997-99
 NEH Humanities High Performance Computing Advance Research and Technology (HpC): Coordinating High Performance Computing Institutes and the Digital, 2008-09 (\$249,997). To support a total of nine institutes and one joint conference for humanities scholars, to be hosted by three different high-performance computer centers: the National Center for Supercomputing Applications, the Pittsburgh Supercomputing Center, and the San Diego Supercomputer Center.
 NEH, NSF, and the Joint Information Systems Committee, "Digging Into Image Data to Answer Authorship Related Questions," 2009-11 (\$100,000).
 NEH, The Cartography of American Colonization Database Project, To support the development of a database of 1000 historical maps illustrating the trajectory of colonization in the Americas. The database provides a searchable introduction to the mapping of the western hemisphere in the era of European expansion, ca. 1500-1800. 2008-09 (\$24,997), with Max Edelson.
 NEH Conference Grant (with R. C. McMath, Jr., History and Social Sciences, Georgia Institute of Technology), 1978-80
 NEH Summer Research Fellowship, 1983
 American Council of Learned Societies (ACLS) Travel grant, 1977
 American Council of Learned Societies (ACLS) Grant- to Recent Recipients of the Ph.D., 1977
 PT3/Technology Across Learning Environments for New Teachers grant, U.S. Department of Education, 2002-03, 2003-04
 Academy of Academic Entrepreneurship, 2006-08
 National Archives Record Administration grant for digital records, 2003-05
 IBM Shared University Research Grant, 1994
 IBM Innovations grant, Educational Technologies Board, 1992
 IBM Technology Transfer IBM grant, 1988
 IBM EXCEL II, History Database Teaching Project, 1987
 IBM EXCEL Project, History Database Teaching Project, 1986
 Partnership Illinois Award, 1998 (with Brian Orland, Pennsylvania State University Landscape Architecture, East St. Louis Research Project), RiverWeb 2002-03, 2003-04
 East Saint Louis Action Research Program Grant, 2005-06, 06-07, 07-08
 Andrew Carnegie Foundation 3-year Baccalaureate Study Grant, 1976
 Sloan Center for Asynchronous Learning Environment Grant, 1998
 South Carolina Humanities Grant for Lincoln's Unfinished Work, \$7,000, 2018-19
 The Humanities Council (South Carolina) Outright Grant (\$8,000), THC grant #10-1363-1 (Writing the South in Fact, Fiction, and Poetry), 2011
 South Carolina Humanities Council Conference Grant (with Tricia Glenn), 2005
 South Carolina Humanities Council Conference Grant (with Winfred Moore), 2002-03
 South Carolina Humanities Council Conference Grant (with Bettis Rainsford), 2000-01
 "Improving patient outcomes by listening to their social media communications,"
Homecare Education And Resource Team Support (H/E/A/R/T/S), \$15,000, 2017-19, with Ian Brooks, University of Illinois.
 Grant for Conference on "Lincoln's Unfinished Work," Thomas Watson Brown Foundation, \$17,560, 2017- 18
 Grant for Lincoln's Unfinished Work, The Abraham Lincoln Bicentennial Foundation, \$27,000, 2017-20

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Self Family Foundation, \$6,000 for Lincoln's Unfinished Work, 2018-19.
 The Humanities Council (South Carolina) Outright Grant (\$8,000) for Lincoln's Unfinished Work Conference.
 The Jean and Bill Soman Spiegel Foundation Grant for Lincoln's Unfinished Work, \$3,500, 2018-19
 The University of South Carolina University South Carolinian Society Foundation, Grant for Lincoln's Unfinished Work, \$3,500, 2018
 The College of Charleston Library Foundation for Lincoln's Unfinished Work, \$2,000
 Ford Foundation Grant to bring Minority Students and their Teachers to participate in "Lincoln's Unfinished Work" conference and workshop on how to teach the History of race relations in South Carolina public schools, \$5,000, 2018-19.
 NEH Public Humanities Exhibitions: Implementation Grant (with Rhondra Thomas), 2020-23

Selected Grants from University of Illinois

Office of Continuing Education Grant, 2005-06, 06-07
 Chancellor, Provost, and Vice Chancellor Research, RiverWeb Grant, 2004-05 (\$30K)
 Advanced Information Technologies Group Research Award, 1994, 96, 97, 2000
 Applications of Learning Technologies in Higher Education grant for UI--Text96 Project, 1995--2000 (co-principal investigator with Richard Jensen of UIUC campus)
 Educational Technologies Board Grant for RiverWeb 1998
 Guided Individual Study Grant for RiverWeb, 1997-98
 Program for the Study of Cultural Values and Ethics, Course Development Award, 1993
 Arnold O. Beckman Research Grant Award, UIUC Research Board, 1989, 1992
 Language Laboratory Computer Assisted Instruction Award, 1988
 Research Board Humanities Faculty Research Grant, 1986
 Graduate Research Board, support for various projects, 1976-08

Selected Grants from Clemson University

2011/2012 University Research Grant Committee (URGC) Program (\$10,000)
 2013-14 CAAH & Library Digital Humanities Grant (\$4000)
 2018- Clemson Humanities Hub Short Term Visiting Humanities Fellowship, a grant to help fund the Conference on Lincoln's Unfinished Work (\$5,000)
 CAAH Equipment Grant, \$1,500, 2021.
 CAAH Faculty Research and Development Grant, \$5,000, 2021-22.

Selected Professional Activities:

Officer Congressional Abraham Lincoln Bicentennial Commission Foundation, 2008-2010;
 Board of Directors, Abraham Lincoln Bicentennial Foundation, interim President, 2010, vice-chair 2010-17
 Southern Historical Association, President 2011-12, President Elect, 2011, Vice President Elect, 2010, Executive Council, 2005-08, 09-15; Program Committee 1989, 1998; 2005 (Chair); Membership Committee, 1986-87, 1991-92; 1995-98; 2002; Committee on Women, 1992-95, Nominating Committee, 1999-2000, Chair H.L. Mitchell Book Award Committee, 2000-02
 Agricultural History Society, President 2001-02, Vice President 2000-01, Executive Committee, 1997-2006; Committee to Review and Revise Constitution and By-Laws, 2004-05; Nominating Committee, 1991-94, chair 1993-94; Committee to Select first Group of Fellows for Society, 1995; Committee to select new Secretary/Treasurer, 2009-10
 Organization of American Historians, Included in the Organization of American Historians Race Relations Expert Guide, 2015-, OAH/ALBC (Abraham Lincoln Bicentennial

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Commission) Abraham Lincoln Higher Education Awards Committee, 2007-09; ABC-CLIO "America: History and Life" Award Committee, 1997-99; Membership Committee, 1990-94, nominated for executive board 1989.

Social Science History Association, Executive Committee 2000-03; Nominating Committee 1990-91; Program Committee 1989, 1993; Community History Network Convener, 1976-79; Rural History Network Convener, 1988-90, 1993-94

Social Science Computing Association, Executive Council, 1993-2002; Organizing Committee Chairperson for Annual Conference, 1993, Conference on Computing for the Social Sciences (CSS93); program committee 1993-95, 2001

American Historical Association, Nominated for Vice President for Teaching, 2009

Southern Association for Women Historians, Membership Committee, 1996-99

The Society of Civil War Historians, Chair Thomas Watson Brown Book Award for the best book published on the causes, conduct, conduct, and effects, broadly defined, of the Civil War, 2017-18.

South Carolina Historical Association, Executive Board, 2009-12

H-Net, founding member of H-Net, Treasurer and Executive Committee, 1993-99; Chair, committee to evaluate multimedia NEH grant; Editor H-South (book review editor 1997-2000); Editorial Board of H-Rural, H-Slavery, and H-CivWar.

Selected service Activities:

Scholarly Advisory Group, President Lincoln's Cottage at the Soldier's Home, 2012-Executive Council, The University South Caroliniana Society, 2011-15

University of South Carolina, Search Committee for Director South Caroliniana Library, 2012

Executive Board South Carolina Jubilee Project, 2012-14

Member South Carolina Abraham Lincoln Bicentennial Commission, 2008-2010

Member Champaign County, Illinois, Abraham Lincoln Bicentennial Commission, 2006-10

Council, U.S. Civil War Sesquicentennial Commission, 2009-15

Historical Advisory Committee to the "Fort Sumter/Fort Moultrie Trust," charged with organizing Sesquicentennial Activities in Charleston and South Carolina Lowcountry, 2010-15

The Illinois Humanities Council Scholar, 2004-05

Presented to President's Information Technology Advisory Commission (PITAC), 9-16-2004

Invited to NEH Digital Humanities Initiative Mini-Conference, March 2006 and Digital Humanities Summit, April 2011, December 2007

Digital Library Federation Scholars' Advisory Panel, 2004-7

University of Tennessee Knoxville Horizon Project Steering Committee, 2014-

Peer Reviewer, ACH/ALLC/SDH-SEMI Joint Digital Humanities Conferences, 2007-13

E-Docs, (one of 3 founding members) Editorial Board, 1998-2005

Mentor for Southern Regional Council Minority Scholars Program, 1992-96

UIUC Representative to Lincoln Presidential Library Committee: Educational Activities Committee, 2001; Fellowship Committee, 2002

Faculty Associate, Council for International Exchange of Scholars, 2002-03

Evaluator/Referee (one of two for history) for the Pew Foundation Faculty Research Fellowships, 1997-98, 1998-99; 2001 (for graduate students for summer seminar)

Evaluator and Referee for American Council of Learned Societies Grants, 2005-08

National Endowment Humanities, Review Panels: Scholarly Editions Program, 2007-08, for Digital Humanities Grants, 2010, NEH Division of Public Programs Panel, "America's Historical and Cultural Organizations" (AHCO) grant initiative, 2013; Humanities Connections, 2016

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National Science Foundation Review Panel for Knowledge and Distributed Intelligence grants, 1998, 1999

Humanities, Arts, Science, and Technology Advanced Collaboratory (HASTAC), Steering Committee and Planning Committee, 2003-04, Program Committee, 2009, 2010, 2013-14

Advisory Committee, American Studies Program, U.S. Bureau of Educational and Cultural Affairs, U.S. Information Agency, 1989-93

Delegate to the Mexican/American Commission on Cultural Cooperation, Mexico City, June 1990; Chairperson of United States delegation (Co-Chairperson with Mexican counterpart), U.S. Studies Working Group

Advisor for "Crossroads of Clay": NEH Alkaline Glazed Stoneware Exhibition and Catalog, McKissick Museum, University of South Carolina, 1987-90

Advisory Committee Film Project for Historic Southern Tenant Farmers Union, 1986-90

Consultant, Commercial film, "Roll the Union On" about H.L. Mitchell and the Southern Tenant Farmers Union

Consultant on the Renewal of the 1965 Voting Rights Act, 1981-82, 2004-07, including consultation for an NBC TV Special.

Consultant for Documentary, "Behind the Veil," 1995-2005

Board of Directors of the Abraham Lincoln Historical Digitization Project, 1997-

Advisory Council for the Lincoln Prize at Gettysburg College, 1997-

Prize Committee for the Technology and History Award, The Gilder Lehrman Institute of American History, 2000-01

International Committee on Historic Black Colleges and Universities, 2001-15

Consultant, Belle Meade and The Hermitage and Vanderbilt University. Presentations of slavery.

Consultant, Morven Park, 2010-12

Consultant, for Matt Burrows, documentary "The Assassination of N.G. Gonzales by James H. Tillman," 2010-

Consultant, for Chris Vallilo musical performance, "This Land is Your Land: Woody Guthrie and the Meaning of America," 2010-

Organizing and Founding Committee International Society for the Scholarship of Teaching and Learning (IS-SOTL), 2003-7. Drafted initial mission statement for Society.

Furman University Alumni Council Board, 2010-16

International African American Museum (IAAM) Program Subcommittee and History Advisor (Charleston, SC), 2016-

IAAM, Content team for an exhibit wall located in the Carolina Gold gallery entitled Built on Slavery, 2018-

Dr. Benjamin E. Mays Historical Preservation Site Foundation Board, 2015-

Advisory Board for "History of the American South," Atlanta History Center, 2021-

Advisory Board for *International Journal of Social Education*, 1986-2000

Advisory Reviewer for *The Journal of Negro History* (since 2002, *The Journal of African American History*), 1992-

Advisory board for the online *South Carolina Encyclopedia*. Southern Studies Institute, University of South Carolina, 2015-

Advisory Board, Digital Library on American Slavery, University of North Carolina, Greensboro, 2004-10

Advisory Board, Biographies: The Atlantic Slaves Data Network (ASDN), 2010-

Advisory Board, Simms Initiatives of the Library at the University of South Carolina, 2009-14

Advisory Board, American Insight, 2013- (www.AmericanINSIGHT.org)

Strategic Advisory Council for MATRIX: The Center for Humane Arts, Letters and Social Sciences On-line at Michigan State University, 2004-

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Advisory board, of the Michigan State University MATRIX online project, "Mapping Civil War Politics"

External Advisory Board (EAB) of proposed Center of Data for the Public Good, University of North Carolina, Chapel Hill

Advisory Board, The Virtual Archives for Land-Grant History Project, Association of Public-Land Grant Universities, 2012-

External Advisory Board, National Historic Preservation Research Commission (NHPRC) "Effective User-Centered Access For Heterogeneous Electronic Archives" project, Illinois Institute of Technology, 2003-05

Advisory Board, *Postwar America: An Encyclopedia of Social, Political, Cultural, and Economic History*

External Advisory Board (EAB) of the proposed NSF Center for Data Science and Engineering, University of North Carolina, Chapel Hill, 2014-

National Advisory Board to Alan Lomax's Global Jukebox: 1993-2015

The Civil Rights Project at University of California, Berkeley, Advisory Board for "The Decade Ahead: Reauthorization of the Voting Rights Act and the Future of Democratic Participation," 2004-07

Advance Research and Technology Collaboratory for the Americas (ARTCA) –Organization of American States, Advisory Board Chair, 2008-

History Advisor for Gullah-Geechee Corridor Board, 2019-

Reconstruction Era National Historical Park (REER) Service Advisory Board

Chair History Advisory Board for Echo Reconciliation Project, 2020-

Senior Historians Advisory Board, North Carolina Civil War and Reconstruction History Center, 2020-

Commissioner South Carolina African American Heritage Commission (SCAAHC) 2002-24

Editorial Boards:

Associate Editor for History, *Social Science Computer Review*, 2012- (reappointed 2020-)

Editorial Board, [International Journal of Humanities and Social Science Research](#), 2015-

Editorial Board, Digital Humanities Series, University of Illinois Press, 2005-

Editorial Board, *Change and Continuity*, 1995-

Editorial Board *Fides et Historia*, 2010-

Editorial Board *Proceedings of the South Carolina Historical Association*, 2009-14

Editorial Board, *History Computer Review*, 1990-2003

Editorial Board, *Locus: An Historical Journal of Regional Perspectives on National Topics*, 1994-96

Editorial Advisory Board, *The South Carolina Encyclopedia*, gen. editor Walter Edgar, 2000-06

Service Clemson University:

Chair, Search committee for Dean of the Library, 2017-18

Search Committee for Dean of CAAH, 2019-20

Search for University Historian, 2019-20

Screening committee for the new University Historian, 2021

Faculty Advisory Committee for Education & Interpretation MAP - Historic Properties, in process of becoming an official Faculty Museum committee, 2021-

Provost's Research Strategy Committee, 2014-16

Martin Luther King, Jr. program planning committee, 2013-

University Committee to commemorate 50th Anniversary Integration Clemson, 2011-13

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University Morrill Act Anniversary Celebration, 2011-13
 Inaugural Faculty in Residence (Norris Hall), 2011-13
 Workshop on Diversity and Inclusion, 2013
 Lincoln's Unfinished Work Conference, 2018

Pan-African Advisory Committee, 2014-17; Steering Committee, 2017-, Chair Speaker's committee, 2018-19
 Clemson Center for Geospatial Technologies Advisory Committee, 2017-
 GIS Steering Committee, 2012-
 Clemson University Computational Advisory Team (CU-CAT), 2010-
 University Academic Technology Council, 2010-
 Ex-officio Steering Committee, Clemson CyberInstitute, 2010-16
 Outstanding Staff Employee Award, Academic Affairs Selection Committee, 2011
 Ben Robertson Society (BRS) Foundation Advisory Board, 2013-
 Chair, Clemson University Humanities Grid committee, 2012-14
 Chair, CAAH Digital Humanities Computing committee, 2013-15
 CAAH, Digital Humanities Ph.D. taskforce, 2014-16
 CAAH taskforce on undergraduate "Creativity Certificate"

History Department Service:

History Department Graduate Committee, 2017-18
 Search Committee for Director Digital History Ph.D. Program, 2019-20
 History Department Civil War Sesquicentennial Committee, 2010-15
 History Department Digital MA, then Digital Ph.D. committee, 2011-
 History Department committee to review university signage, 2015-

Service - University of Illinois (three campus system – Urbana, Chicago, Springfield)
 UI Senate Conferences (elected), all three campuses of the University of Illinois, 2006-09.
 Presiding officer (chair) 2007-08

Lincoln Bicentennial Commission, 2006-09
 Academic Affairs Management Team, 2007-08
 Task Force for Global Campus, 2006-07
 External Relations Management Team, 2006-09
 Strategic Plan Committee, 2005-06

Service (selected) University of Illinois at Urbana-Champaign
 Faculty Senate (elected), 1999-2001, 2002-03; 2005-06, 2006-07, Presiding Officer (Chair, Senate Executive Committee), 2005-06, 2006-07 (was Senate Council) elected 2000-01, 2003-04; 2005-06; 2006-07; Chair, Education Policy Committee, 2002-03, Chair 2003-04; Budget and Priorities Committee, 1999-01, Chair 2000-01

As Chair Faculty Senate Executive Committee, 2005-07 represented faculty at Board of Trustee meetings, and CIC meetings. Led in developing ideas of shared governance, helped in the drafting and implementing of a strategic plan for both the University of Illinois and the Urbana-Champaign campus. Oversaw establishment of the Illinois Informatics Institute (I3) and the School of Earth, Society, and Environment. Dealt with issues of multi-year contracts for research faculty and staff policy, rehiring of retirees, Global Campus, and led study of Academic effects of Chief Illini and diversity issues.

Organizer and Chair, Planning Committee for the Lincoln Bicentennial, 2006-09
 Task Force for Diversity and Freedom of Speech, 2007-08
 Convocation address, August 21, 2000
 Search Committee for Chancellor, vice-chair, 2004-5

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Association of American Colleges and Universities campus representative and Assoc., 2004-05
 Martin Luther King, Jr., Week Planning Committee, co-chair, 2002-03, 03-04, 04-05, 05-06
 Strategic Plan Committee, 2005-06
 Chancellor's Task Force ("Kitchen Cabinet") for the Humanities, 2002-04
 Provost's ad hoc Committee on Evaluating Public Service for Promotion and Tenure, 2003-04
 Brown Jubilee Planning Committee, Diversity Initiative, 2002-04
 Law-Education *Brown* Jubilee Conference Program Committee, 2002-04
 East St. Louis Action Research Projects (ESLARP) Campus Advisory Committee, 2004-9
 University Planning Council, 2000-01
 Selection Committee for University Scholars, 1999 -- 2000, Chair Subcommittee for Social
 Sciences, Humanities, FAA, Communications, Education, Law 2000
 UI President's Distinguished Speakers Program, 2000-02, 2006-08
 University of Illinois Press Board, 1995-2000, Chair 1998-2000
 Search Committee for Director University of Illinois Press, 1998-99
 Committee on University Publishing, 1997-98
 Graduate College Executive Committee, 1998-2000; Committee to Evaluate Dean of Graduate
 College, Committee to Review and Implement Graduate Program Revisions, Graduate
 Student Grievance Policy Committee
 Graduate College Office of Minority Affairs Strategic Planning Committee, 1999-2000
 University Administration Budget and Benefits Study Committee, 2000-02
 Budget Strategies Committee, 1993-94, Subcommittee for Library. Subcommittee for Faculty
 Productivity and Teaching Models
 Illinois Program for Research in the Humanities (IPRH) Advisory Committee, 2001-03
 Center for Democracy in a Multicultural Society, Advisory Committee, 2002-08
 Center for Advanced Study George A. Miller Committee, 2000-03
 African American Studies and Research Program (AASRP), later Department of African
 American Studies, Advisory Council, 1982-86; Curriculum Development & Faculty
 Recruitment Committee, 2002-2003; Research and Course Competition Committee,
 1991-94, Chair 93-94; Electronic Networking Committee, 1996-2000, Chair 1997-98;
 Library Advisory Committee, 1997-2003
 UI-Integrate Faculty Advisory Committee, 2003-04
 Graduate College Area Subcommittee for the Humanities and Creative Arts, 1996-98
 Campus-wide Advisory Committee for the Center for Writing Studies, 2000-01
 Committee on Institutional Cooperation (CIC), Selection Committee for CIC Research Grants in
 the Humanities, 1993-94
 Chancellor's Task Force for Minority Graduate Students, 1989-92
 Chair, Subcommittee for Summer Program for Minority Graduate Students, 1990
 Computer Resources Development Committee, Program for the Study of Cultural Values and
 Ethics, 1991-93
 High Performance Computing Committee for the Social Sciences, 1989-95
 Rural History Workshop Convener, 1989-94 (with Sonya Salamon)
 Faculty Fellow, 1990-2003
 Graduate College Fellowship Committee, 1988
 Selection Committee for Lily Fellows, 1987
 Social Studies Committee for the Preparation of Teachers, Council on Teacher Education, 1986
 Chair, Search Committee for African-American Scholar, 1986-87
 Search Committee, Director for AASRP, 1985-86, Chair 87-88
 Graduate College Appeals Committee, 1984
 Chancellor's Allerton Conference, 1988; Chancellor's Beckman Conference, 2001-06;
 Chancellor's Conference on Diversity, 2002, faculty facilitator
 Combating Discrimination and Prejudice Workshop, 1988

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Krannert Art Museum, Committee on The Black Woman as Artist, 1992
 H. W. Wilson Faculty Panel, 1993
 Advanced Information and Technology Committee, 1992-97, Advisory Committee, 1993-94
 Honors Symposium for UI recruitment of High School Seniors, 1993
 Search Committee for Archivist, UIUC Computing and Communications Service Office, 1993
 Search Committee for Research Librarian, UIUC Library, 1997; Undergraduate Library
 Advisory Committee, 2002-9
 Member Human Dimensions of Environmental Systems Group, 1997-2017
 Faculty Learning Circle for 2003-04
 Illini Days Speaker, 1999, 2000, 2002
 Public Interest Fund of Illinois Representative, 1996- 08
 Facilitator for Interinstitutional Faculty Summer Institute on Learning Technologies, UIUC,
 2000, 2002
 Board Advisors, Collaborative for Cultural Heritage and Museum Practices (CHAMP), 2005-08
 Faculty Mentor for Campus Honors Program, 1980-2008

Service - College of Liberal Arts and Science UI:

Lecturer at Pedagogy 2000: Teaching, Learning and Technology, Annual UIUC Retreat on
 Active Learning (2000)
 Keynote Address at LAS Awards Banquet, 2000 and Keynote at UIUC Campus Awards
 Banquet, 2000
 Dean's Committee to Evaluate Chair of History Department (1 of 3 elected by History
 Department), 1996
 Oversight Committee Computing for the Social Sciences, 1993-95
 Committee to select nominees for election to College Executive Committee, 1992
 Academic Standards Committee, 1983-85, Chair 1984-85
 School of Humanities Scholarship and Honors, 1986-88, Chair 1987-88
 Social Sciences and Humanities Respondent to the Joint Task Force on Admission Requirements
 and Learning Outcomes, 1988
 Advisory Committee, Social Sciences Quantitative Laboratory, 1987-88, 1989-93
 Alumni Association Annual Speaker, 1990
 General Education Committee, 1990-91
 Awards Committee, Chair, 1991-92
 Race & Ethnicity, Class & Community Area Committee of Sociology Graduate Program, 1993-
 2009
 LAS Alumni Association Speaker, 2000
 Cohn Scholars Honors Mentoring Program (choosing the 10 best Humanities first-year students),
 1986-88, 1989-90, 1992-93, 1995-96, 1998-99, 2002 -05
 Faculty Mentor, Committee of Institutional Cooperation Summer Research Opportunities
 Program for Minority Students, 1987, 1991-95, 1997-2000, 2002, 2003
 Faculty Mentor, McNair Minority Scholars, 1993-94, 1996-97
 Summer Orientation and Advance Enrollment Program, Faculty Leader, 1991-93, 2000, 2002,
 2004
 Gender Inclusivity Seminar, 1992
 The African-American Experience: A Framework for Integrating American History: An
 Institute for High School Teachers of History, instructor 1992, 1994
 Faculty Advisor for UIUC Law School Humanities Teaching Program, 1998-99
 Senior Faculty Mentor, LAS Teaching Academy, 1999-2008

Service - Department of History UI:

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Lincoln Bicentennial Committee, Chair, 2005-06, co-Chair 2006-08
 Department Distance Learning and Global Campus committee, 2007-08
 Carnegie Initiative on the Doctorate, 2003-05
 Ethical Conduct Liaison, 2004-05
 Phi Alpha Theta Faculty Advisor, 2005-06
 Graduate Placement Officer, 1990, 1991-94, 1997-99
 Graduate Admissions Officer, 1990-91
 Graduate Committee, 1990-93
 Organizer of OAH Breakfast Meeting, 1989-90, 1993-94
 Computer Resources, 1976-88, 1989-91, 1995-99, Chair 1976-85, 1997-99
 Teaching Awards, 1986-88, 1992-93, 1997-98, 1999-2000, Chair, 1987-88, 1997-98, 1999-2000
 T.A. Evaluation, 1975-76, 1978-82, 1984-88, 1990-91, 1995, 1998-99, 2002, 2005-06
 Speakers and Colloquia, 1981-82
 Grants and Funding, 1981-82
 Capricious Grading, 1985-86, 2002-03
 Social Science History Committee, 1980
 Advisor, History Undergraduate Club, 1976-78
 Swain Publication Prize Essay Committee, 1991
 Proposal-Writing Workshop, 1991-92, 2002
 Teaching Workshop, 1993
 Chair Library Committee, 1996-97
 Faculty Advisor for Phi Alpha Theta, 2005-06
 American History Search Committee, 1991-92
 Chair, American History Search Committee, 1993-94
 James G. Randall Distinguished Chair Search Committee, 1999-2000

Service Coastal Carolina University:

Search committee for Archaeologist, 2008-09
 Selection Committee for Clark Chair of History, 2010
 Third Year Assistant Professor Faculty Review Committee, 2010

A more complete list of Service and Public Engagement is available upon request.

Conferences Organized (selected list):

In 1978, I (with Robert C. McMath, Jr.) organized and chaired a National Endowment for the Humanities Conference on Southern Communities at the Newberry Library. In 1993, I organized, hosted, and chaired the annual meeting of the Conference on Computing for the Social Sciences at the National Center for Supercomputing Applications. In 1999, I organized and hosted the 12th Annual Meeting of the Southern Intellectual History Circle (SIHC) in Edgefield and Ninety Six, S.C, and again hosted SIHC for its 16th Annual meeting in 2004 at the College of Charleston, and the 2013 meeting in Edgefield. In 2001, I organized a workshop and conference on diversity and racism in the classroom with Carnegie Scholars at The Citadel in Charleston, S.C. In 2001, I organized a South Carolina Humanities Council Edgefield Summit History Conference. In January 2003, I organized a Workshop on Diversity and Racism and a Conference on the Scholarship of Teaching and Learning, both at the University of Illinois. In March 2003 I organized The Citadel Conference on the South: "The Citadel Symposium on the Civil Rights Movement in South Carolina." I organized the Humanities, Arts, Science, and

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Technology Advanced Collaboratory (HASTAC) meeting in January 2004 in Washington, D.C. I organized and hosted a Humanities Computing Summit in August 2004 at NCSA and UIUC. In 2005, I planned and hosted the British American Nineteenth Century History (BrANCH) Conference in Edgefield, South Carolina and a symposium honoring Jim McPherson's retirement in April 2005 in Princeton. As program chair I helped organize the Southern Historical Annual meeting in Atlanta in November 2005. In 2011, I organized a conference in honor of Charles Joyner, *Writing the South in Fact, Fiction, and Poetry*, at Coastal Carolina University. In 2013, I organized a conference honoring F. Sheldon Hackney at Martha's Vineyard. On Nov. 28-Dec 1, 2018, I organized and hosted an international conference on "Lincoln's Unfinished Work," and on the afternoon of Dec. 2 directed a workshop for teachers on how to teach about the history of race in South Carolina k-12 schools. As Director of I-CHASS, I regularly organized conferences and workshops, at least two major conferences a year such as "Computing in Humanities, Arts, and Social Sciences" (2005), "Spatial Thinking in the Social Sciences and Humanities" (2006), and the "e-Science for Arts and Humanities Research: Early Adopters Forum" (2007). In 2007 we hosted the annual international meeting of The Alliance of Digital Humanities Organizations including The Association for Computers and the Humanities. As Director of the Clemson CyberInstitute, I regularly organized workshops, brownbags, conferences, and meetings. And as Executive Director of the College of Charleston Atlantic World and Lowcountry (CLAW) Program, I regularly work with others to organize conferences and meetings.

Reviews:

I have reviewed books for numerous journals and book manuscripts for numerous presses. In addition, I have refereed article manuscripts for numerous journals. I have also reviewed proposals for various granting agencies. I have also reviewed and written outside letters of recommendation for promotion, tenure, and endowed chair decisions for more than a hundred cases at various colleges and universities. Lists of these reviews, presses, journals, universities, and granting agencies are available upon request.

Invited lectures and conference participation available upon request. Selected invited lectures include those such as the President Bill Clinton endowed lecture in American History at the New York Historical Society March 9, 2022. Other invited lectures include at Harvard University, Princeton, Columbia University, Dartmouth, Cornell University, University of Pennsylvania, Black Congressional Caucus on Lincoln (2009), Printers Row Book Fair, Society of Civil War Historians, Society of Historians of Early America, Abraham Lincoln Bicentennial Commission (ALBC), Atlanta Town Hall meeting on Race at Morehouse College and at Jimmy Carter Presidential Library Center, the Crown Forum Martin Luther King, Jr. lecture at Morehouse College, Western Illinois University, Drake University, University of Illinois Law School, Union League Club of Chicago, Association of Archivists and Librarians, CASC, University of Georgia, Lawrence University, Wisconsin Lincoln Bicentennial, University of Wisconsin at Milwaukee, University of Wisconsin at Madison, University of Wisconsin at Eau Claire, University of Kansas, Samford University, Talladega University, ALBC Morrill Act Conference, Arkansas State University, San Francisco State University, Lewis University, Notre Dame, University of Oklahoma, University of Florida, University of Southern Florida, Florida State University, University of South Carolina, South Carolina State University, North Greenville University, Anderson University, Augusta State University, Auburn University, Mercer University, American Historical Association, Organization of American Historians, Southern Historical Association, Agricultural History Society, Wheaton College, University of Illinois, Florida Atlantic University, Lincoln College, Claflin University, Francis Marion University, Policy Studies Association, Southern Studies Association Meeting (regional affiliate of

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American Studies Association), Association for the Study of African American Life and History (ASALH), Penn Center, Coastal Carolina University, Virginia Polytechnic Institute and State University (Virginia Tech), South Carolina Historical Society, South Carolina Department of Archives and History Civil War Symposium, Supercomputing11 (Seattle), History Miami, William Patterson University, USC Upstate, University of Hawaii, University of North Carolina at Charlotte, University of North Carolina at Chapel Hill, The Lincoln Forum, Abraham Lincoln Presidential Library and Museum, Furman University, Berry College, High Noon series at S.C. Upstate Museum, Erskine College, Mississippi State University, University of Chicago, Stanford University, University of Manchester, Cambridge University, Edinburg University, University of London, Oxford University.

Samples of recognition given to me or my work:

The Chronicle of Higher Education, Vol. L: 2 (September 5, 2003), cover page, A37-38. On-line at <http://chronicle.com/prm/weekly/v50/i02/02a03701.htm>

C. Vann Woodward, "District of Devils," *New York Review of Books*, xxxii #15: 30-31

Randall Kennedy, "More Foe Than Friend: The Supreme Court and the pursuit of racial equality," *The Nation*, August 8, 2021.

Chicago Tribune, October 13, 2007, cover of the Book Review Section, "Orville Vernon Burton's Heartland Prize-winning *The Age of Lincoln*." Catherine Clinton, "Lincoln and His Complex Times," pp. 4-5; Cover page 1988 on *In My Father's House*

Washington Post, Hannah Natanson, "Lincoln's forgotten legacy as America's first 'green president'" in the *Washington Post* on Feb. 16, 2020

(<https://www.washingtonpost.com/.../lincoln-green-president-e.../>)

USA Today, February 25, 2010, Larry Bleiberg, 10 Civil Rights Sites You Should See before Black History Month Comes to a Close,"

<https://www.usatoday.com/story/travel/destinations/10greatplaces/2020/02/25/black-history-month-10-civil-rights-sites-you-should-check-out/4832666002/>

Featured as example of "Faculty Excellence" on UIUC Homepage:

<http://www.uiuc.edu/overview/explore/>

Call out in Sonia Sotomayor, *My Beloved World* (NY: Alfred A. Knopf, 2013), p. 132, and her Commencement Address at the University of South Carolina, 2011 (on C-Span) and "Supreme Court Justice Sonia Sotomayor uses vivid examples from two key figures in her life—her mother and South Carolina native and historian [Vernon Burton](#)"; Wayne Washington, "You Learn Values from Your Family, Supreme Court Justice Tells Grads," *The Columbia State*, May 9, 2011;

<http://www.thestate.com/2011/05/07/1808978/sotomayor-parents-are-key.html#storylink=misearch#ixzz1NljBBgHA> and

<http://dailygamecock.com/news/item/1422-sonya-sotomayor-delivers-personal-inspiring-message-at-university-of-south-carolina-graduation>; and at Clemson 2017 with Supreme

Court Justice Sonia Sotomayor, <https://www.youtube.com/watch?v=Sn3GbXen58c>;

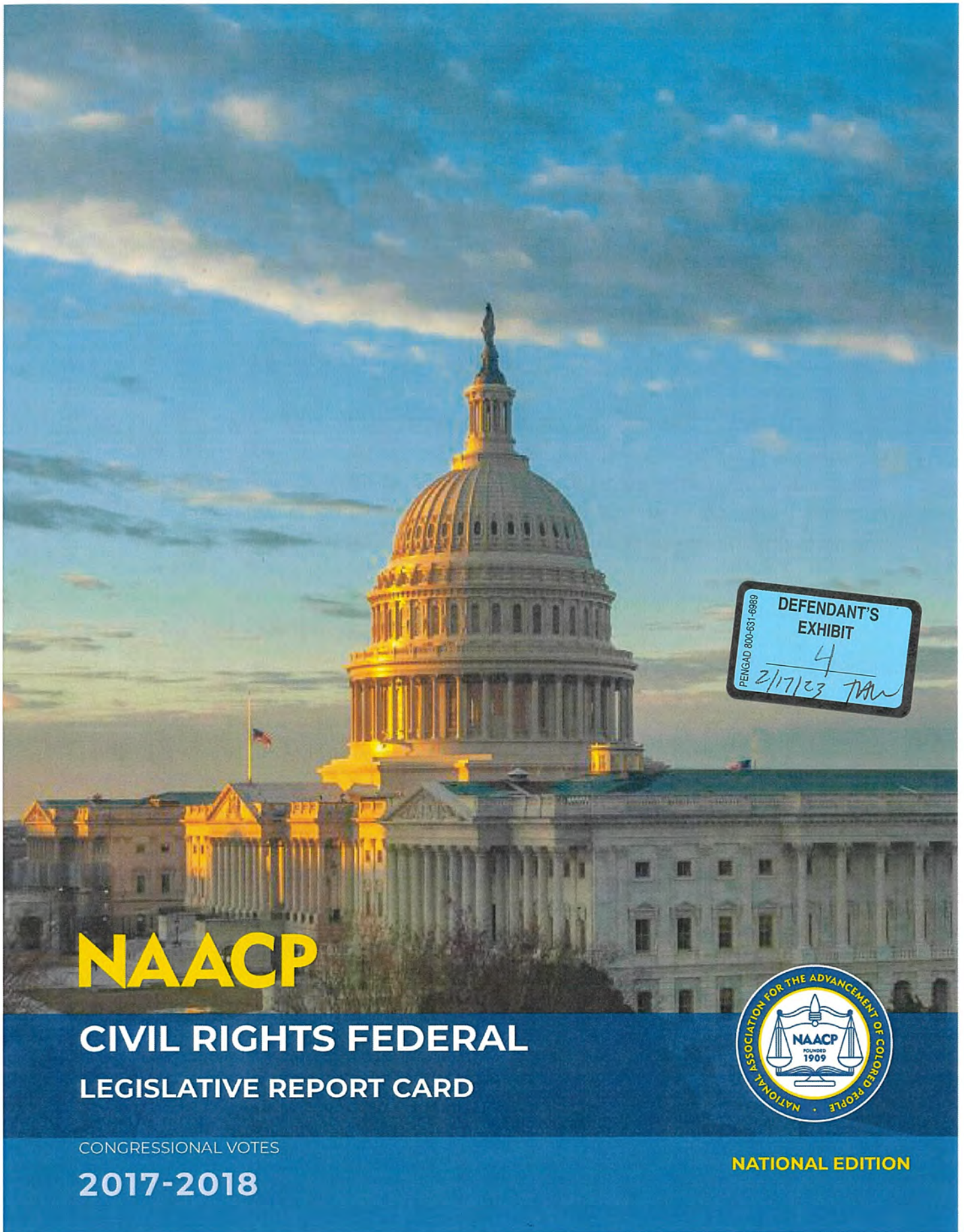
<https://www.youtube.com/watch?v=zq1LAQmHh0I> (4 April 1992 on history and high performance computing);

The South Carolina Encyclopedia Guide to South Carolina Writers. Edited by Tom Mack (Columbia: University of South Carolina Press, 2014), pp. 33-35 (SC Humanities)

In last few years, numerous international, national and local television, radio interviewed me (especially about the murders at Mother Emanuel in Charleston and the removal of the Confederate battle flag from the statehouse grounds). A number of interviews about the Voting Rights Act (VRA) or Voter ID, for example, Congressional Briefing on the Voting Rights Act (2015), [Voting Rights Act 1965, Dec 4 2015 | Video | C-SPAN.org](#) and [Historians Expert](#)

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Witnesses Civil Rights, Jan 7 2017 | C-SPAN.org, NPR—for example, June 27, 2013, “On Point” discussing the Supreme Court Ruling on VRA, Sections 4 and 5-- <http://onpoint.wbur.org/2013/06/27/scotus-voting-rights>; and <http://wbur.fm/138DolQ>, and NPR and BBC, see for example recently, Jorge Valenca, Feb. 26, 2020, “The Abroad Primary,” ([For overseas voters, a primary of their own](http://www.pri.org › stories › overseas-voters-primary-their-o...) www.pri.org › stories › overseas-voters-primary-their-o...) and commercial, and other media interviews and programs, including several C-SPAN Book TV (for example, “President Lincoln and Secession,” <http://www.c-spanvideo.org/program/293631-3>) and a two-hour Clemson University lecture on Southern Identity at “Lectures in History,” <http://www.c-span.org/History/> – downloaded 492,791 times in first year after it debuted October 25, 2012. Numerous appearances on SC ETV for documentaries. In Feb., 2019 the Clemson Area Pledge to End Racism (CAPER) began using a training video featuring Vernon Burton m (Video on youtube at ([CAPER Burton Video](https://www.youtube.com/watch?v=uNbG5Odagg&feature=youtu.be))). Power of Perspective Panel, “Independence Day: Land of the Free?” (<https://www.clemson.edu/centers-institutes/gantt/multicultural-programs/educational-programming.html> Scroll down the Power of Perspective Panel Series tab), July 9, 2020); Aug. 24, 2020, first virtual Lincoln Cottage’s Scholar Session. “Dr. Vernon Burton and Dr. Edna Greene Medford discuss the lasting meaning and impact of Confederate iconography with our members: (<https://www.youtube.com/watch?v=uNbG5Odagg&feature=youtu.be>; and <https://www.c-span.org/video/?475387-1/confederate-monuments-memorials>)). May 2021, commentator on the *Last Rice River*, a half-hour experience examining the rise and fall of the Rice Kingdom on South Carolina’s Combahee River, which went public this month ([here](https://www.youtube.com/watch?v=uNbG5Odagg&feature=youtu.be)); “South Carolina Between World Wars (www.npr.org/podcasts/381444475/walter-edgar-s-journal?fbclid=IwAR1vw_xMxe3L36oRXNLunDdfYt8u9wUJj1qnWez1eguRzBpwlB8j4mhu4) and “Rediscovered Ancestry: a Family Learns the Story of Their Remarkable Ancestor, Senator Lawrence Cain. <https://www.southcarolinapublicradio.org/show/walter-edgars-journal/2021-04-12/rediscovered-ancestry-a-family-learns-the-story-of-their-remarkable-ancestor-senator-lawrence-cain>,” both interviewed by Walter Edgar, for Walter Edgar’s Journal, *South Carolina Public Radio*, Columbia, SC, Jan. 13, 2020, Apr. 12, 2021; guest for Dr. James Howell’ Bible study on “Lincoln and the Bible,” at Myers Park United Methodist Church, Charlotte, available at https://www.facebook.com/watch/live/?v=1322571451267316&ref=watch_permalink; interview “Southern History, Influence and Tradition ” with Dr. James Howell on the series “Maybe I’m Amazed.” (<https://podfollow.com/1497598414/episode/eb3f38a51902c7934a090355abb3af200256e2ad/view> ; and James Howell, “What a timely and important podcast I recorded just yesterday: Prof. Vernon Burton on “Race and the Supreme Court”! Give it a listen, great stuff - an incredible survey of the thousands of cases involving race before the Court, and why it matters for today’s hearings, voter rights and more. Here or wherever you get podcasts: <https://podcasts.apple.com/.../maybe-im-amazed/id1497598414>; “Juneteenth: Reflecting on the Past to Understand Today” June 18, 2020 to Lawrence Livermore National Laboratory in Livermore California (<https://www.llnl.gov>). The lecture can be found at <https://youtu.be/6u60Pu5KVY4>; “Reparations and World Change,” June 19, 2020. Thurgood Marshall Law School @ <https://youtu.be/7hgl8bS1G8E>; “Confederate Monuments Continue to Come Down in Racial Justice Protests,” interviewed by Jeremy Hobson, “Here and Now,” NPR, Boston, MA: WBUR, June 19, 2020. <https://www.wbur.org/hereandnow/2020/06/19/confederate-monuments-come-down>. (more complete list available upon request, and see more listed under author and under other resources at <http://justice-deferred.clemson.edu>)

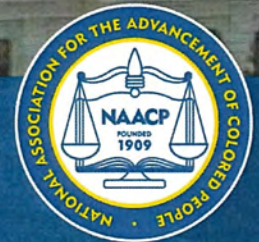


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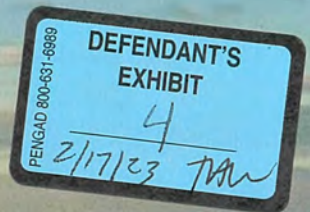
**CIVIL RIGHTS FEDERAL
LEGISLATIVE REPORT CARD**

CONGRESSIONAL VOTES

2017-2018



NATIONAL EDITION





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PREFACE

Since 1914, the NAACP Legislative Report Card has served as a presentation of key civil rights votes taken in the United States Senate and the United States House of Representatives. The edition that follows contains votes taken during both sessions of the 115th Congress, which began January 3, 2017 and ended on January 3, 2019. This Report Card is designed to provide NAACP members with insight into the civil rights voting patterns of their congressional representatives and state delegations over the course of the 115th Congress.

The votes selected for inclusion in the NAACP Report Card are those that have been considered by the full U.S. House of Representatives and U.S. Senate. Legislation that did not progress beyond the committee level is not included. The Report Card is updated and distributed to NAACP members twice each Congress. A Congress is two years long; the NAACP Legislative Report Card is issued at the end of the first year or session as a mid-term assessment, and then at the end of the second year and may be used as a final guide or assessment of the full two-year Congress.

We hope that you will find the enclosed information to be useful in your efforts to educate yourself and other NAACP members about the votes of our elected representatives on legislation of critical importance to the African American community and other friends of civil rights.

February 1, 2019

VOTE KEY



**Voted in favor of
NAACP position**



**Voted against
NAACP position**

? = did not vote

V = seat was vacant

P = voted "present"

S = Speaker of the House

(The Speaker of the House traditionally votes
only when (s)he is needed to break a tie
or if the issue is one that (s)he feels is especially important)

The Majority Leader of the Senate (Mr. McConnell, KY, in this case)
can change his vote from a "yea" to a "nay" at the last minute during quorum calls,
which under the rules of the Senate is required in order to bring up the question again.

In the case that Senator McConnell received an "*" on a vote,
he indicated that he disagrees with the NAACP position,
but changed his vote at the last minute purely for procedural reasons.

The Vice President, as President of the Senate, may be called on to vote to break a tie. If the tie is
not broken, the question fails.

Names in Italics are Republicans

Names in standard font are Democrats

Names in standard font followed by an (I) are Independents

GRADING SCALE

A = 100% - 90% B = 89% - 80% C = 79% - 70%

D = 69% - 60% F = 59% - 0%

I = Incomplete (did not serve a complete term)

NAACP Federal Legislative Report Card
 115th Congress
 January 3, 2017 – January 3, 2019

UNITED STATES SENATE

VOTE DESCRIPTION

1. BETSY DEVOS CONFIRMATION AS U.S. SECRETARY OF EDUCATION

Senate vote #54

Confirmation of President Trump's nominee, Betsy DeVos of Michigan, to head the U.S. Department of Education.

Ms. DeVos was confirmed on February 7, 2017, by a vote of 51 yeas to 50 nays with Vice President Pence voting "aye" to break the tie.

THE NAACP OPPOSED THE CONFIRMATION.

2. JEFFERSON "JEFF" BEAUREGARD SESSIONS III CONFIRMATION AS U.S. ATTORNEY GENERAL

Senate vote #59

Confirmation of President Trump's nominee, Senator Jefferson "Jeff" Beauregard Sessions III of Alabama to be the U.S. Attorney General.

Senator Sessions was confirmed on February 8, 2017, by a vote of 52 yeas to 47 nays.

THE NAACP OPPOSED THE CONFIRMATION.

3. TOM PRICE CONFIRMATION AS U.S. SECRETARY OF HEALTH AND HUMAN SERVICES

Senate vote #61

Confirmation of President Trump's nominee, Congressman Tom Price of Georgia, to head the U.S. Department of Health and Human Services.

Congressman Price was confirmed on February 10, 2017, by a vote of 52 yeas to 47 nays.

THE NAACP OPPOSED THE CONFIRMATION.

4. DAVID J. SHULKIN CONFIRMATION AS U.S. SECRETARY OF VETERANS AFFAIRS

Senate vote #64

Confirmation of President Trump's nominee, David J. Shulkin of Pennsylvania, to head the U.S. Department of Veterans Affairs.

Mr. Shulkin was confirmed on February 13, 2017, by a vote of 100 yeas to 0 nays.

THE NAACP SUPPORTED THE CONFIRMATION.

5. MICK MULVANEY CONFIRMATION AS DIRECTOR OF THE U.S. OFFICE OF MANAGEMENT AND BUDGET

Senate vote #68

Confirmation of President Trump's nominee, Congressman Mick Mulvaney of South Carolina, to head the U.S. Office of Management and Budget.

Congressman Mulvaney was confirmed on February 16, 2017, by a vote of 51 yeas to 49 nays.

THE NAACP OPPOSED THE CONFIRMATION.

6. SCOTT PRUITT CONFIRMATION AS ADMINISTRATOR OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Senate vote #71

Confirmation of President Trump's nominee, Scott Pruitt of Oklahoma, to head the U.S. Environmental Protection Agency.

Mr. Pruitt was confirmed on February 17, 2017, by a vote of 52 yeas to 46 nays.

THE NAACP OPPOSED THE CONFIRMATION.

NAACP Federal Legislative Report Card
115th Congress
January 3, 2017 – January 3, 2019

UNITED STATES SENATE

7. REQUIRING FEDERAL CONTRACTORS TO COMPLY WITH BASIC FEDERAL LABOR AND NONDISCRIMINATION LAWS

Senate vote #81 / H. J. Res. 37 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal an executive order by President Obama which required federal contractors, when bidding for a contract of \$500,000 or more, to reveal if they have been found guilty of being in violation of 14 essential, well established, labor or nondiscrimination laws in the past 3 years.

H. J. Res. 37 passed the Senate on March 6, 2017, by a vote of 49 yeas to 48 nays, and was signed into law by President Trump on March 27, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

8. OVERTURNING REGULATIONS REQUIRING PUBLIC SCHOOL ACCOUNTABILITY WITH HISTORICALLY MARGINALIZED GROUPS

Senate vote #84 / H. J. Res. 57 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal regulations established by President Obama's U.S. Department of Education that established the criteria for plans to be submitted by states under the Every Student Succeeds Act (ESSA) on how local districts and public schools would handle historically marginalized groups, including racial and ethnic minorities, girls, English learners, LGBT students, children with disabilities, and low-income populations.

H. J. Res. 57 passed the Senate on March 9, 2017, by a vote of 50 yeas to 49 nays, and was signed into law by President Trump on March 27, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

9. ALLOWING STATES TO REQUIRE DRUG TESTS FOR PEOPLE COLLECTING UNEMPLOYMENT INSURANCE

Senate vote # 87 / H.J. Res. 42 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal regulations put into place by the Obama Administration's Department of Labor which implemented a bipartisan agreement that allowed states to drug test unemployment insurance applicants in very specific situations only.

H. J. Res. 42 passed the Senate on March 14, 2017, by a vote of 51 yeas to 48 nays, and was signed into law by President Trump on March 31, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

10. REQUIRING FEDERAL CONTRACTORS TO MAINTAIN ACCURATE RECORDS OF WORKPLACE ILLNESS, INJURY, OR DEATH

Senate vote #93 / H. J. Res. 83 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal a rule finalized by President Obama's Occupational Health and Safety Administration (OSHA) that extends to 5 years the amount of time an employer hoping to win a government contract must report an illness, injury, or death which was the result of the job.

H. J. Res. 83 passed the Senate on March 22, 2017, by a vote of 50 yeas to 48 nays, and was signed into law by President Trump on April 3, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

NAACP Federal Legislative Report Card
115th Congress
January 3, 2017 – January 3, 2019

UNITED STATES SENATE

11. NEIL GORSUCH CONFIRMATION AS AN ASSOCIATE JUSTICE TO THE U.S. SUPREME COURT Senate vote #111

Confirmation of President Trump's nominee, Judge Neil M. Gorsuch of Colorado to serve as an Associate Justice on the United States Supreme Court.

Judge Gorsuch was confirmed on April 7, 2017, by a vote of 54 yeas to 45 nays.

THE NAACP OPPOSED THE CONFIRMATION.

12. "REPEAL AND REPLACE" THE AFFORDABLE CARE ACT

Senate vote #168 / McConnell substitute / H.R. 1628 / Motion to Waive

Motion on whether or not to approve of the "repeal and replace" plan proposed by Senate Majority Leader McConnell (KY) which would have repealed much of the 2010 Health Care reform law, the Affordable Care Act (a.k.a. "Obamacare") and replaced it with a system developed behind closed doors by a group of 13 homogeneous Senators. According to the non-partisan Congressional Budget Office (CBO), the proposal would have resulted in 22 million Americans losing their health care insurance.

The motion to waive was defeated on July 25, 2017, by a vote of 43 yeas to 57 nays.

THE NAACP OPPOSED THE PROPOSAL AND URGED A "NO" VOTE.

13. INCREASE THE BUDGET AUTHORITY FOR FEDERAL HEALTH CARE PROGRAMS

Senate vote #221 / H. Con. Res. 71 / Sanders (VT) amendment

Amendment offered by Senator Bernie Sanders (VT) to the budget for 2018 which would increase the federal contribution to various health programs, including Medicaid, the Children's Health Insurance Program (CHIP) and the Federal Employees Health Benefit Program by \$20.6 billion in 2018.

The amendment was defeated on October 18, 2017, by a vote of 47 yeas to 51 nays.

THE NAACP SUPPORTED THE AMENDMENT AND URGED A "YEA" VOTE

14. EMERGENCY DISASTER APPROPRIATIONS

Senate vote #248 / H.R. 2266 / Motion to Concur

Motion to concur, or agree, to the House proposal to make \$36.5 billion available in emergency supplemental funding to partially cover the costs of responding to multiple natural disasters, including hurricanes and wildfires. Specifically the bill contained almost \$5 billion in disaster relief loans to Puerto Rico and the U.S. Virgin Islands, and would release \$1.2 billion in Supplemental Nutrition Assistance Program (Food stamps) monies to Puerto Rico.

The bill was agreed to on October 24, 2017, by a vote of 82 yeas to 17 nays.

THE NAACP SUPPORTED THE LEGISLATION AND URGED A "YEA" VOTE

15. ALLOWING FORCED ARBITRATION BY FINANCIAL SERVICERS

Senate vote #249 / H. J. Res. 111 / Final Passage

Final passage of legislation which, using the Congressional Review Act, would repeal a rule which was finalized by the Consumer Financial Protection Bureau (CFPB) which would prohibit mandatory arbitration clauses in consumer contracts related to financial services and contracts.

H. J. Res. 111 passed the Senate on October 24, 2017, by a vote of 51 yeas to 50 nays, with Vice President Pence voting "aye" to break the tie, and was signed into law by President Trump on November 1, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

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UNITED STATES SENATE

16. ALLOWING TAX BREAKS FOR TUITION TO PRIVATE AND RELIGIOUS SCHOOLS

Senate vote #298 / H.R. 1 / Cruz (TX) amendment

Amendment by Senator Ted Cruz (TX) to the tax overhaul bill to allow the cost of tuition to private or parochial elementary or secondary school to be provided the same tax-free status as higher education expenses.

The Cruz amendment was agreed to on December 1, 2017, by a vote of 51 yeas to 50 nays, with Vice President Pence voting "aye" to break the tie.

THE NAACP OPPOSED THE AMENDMENT AND URGED A "NO" VOTE.

17. ASSURING EVERY AMERICAN HAS HEALTH INSURANCE

Senate vote #309 / H.R. 1 / Booker (NJ) motion to instruct conferees

Non-binding motion to Senator Booker (NJ) to instruct the Senate conferees who were working on the final version of the tax overhaul bill to ensure that the final version would not contain provisions that would increase the number of people who do not have health insurance or increase health premiums.

The Booker motion to instruct conferees failed on December 6, 2017, by a margin of 47 yeas to 51 nays.

THE NAACP SUPPORTED THE MOTION TO INSTRUCT CONFEREES AND URGED AN "AYE" VOTE.

18. TAX OVERHAUL

Senate vote #323 / H.R. 1 / final passage of the conference report

Final passage of the final version ("conference report") of the tax overhaul bill. The bill, which will cost the U.S. treasury \$1.5 trillion over the next 10 years, contains a permanent reduction in the corporate tax level, by more than 10%, from 35% to 21%. The new law also ends the Individual Mandate, a central tenant of the Affordable Care Act (a.k.a. "Obamacare"). The result will be an estimated 13 million fewer people having health care within a decade.

The conference report was agreed to on December 20, 2017, by a vote of 51 yeas to 48 nays;

President Trump went on to sign the bill into law on December 22, 2017.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

19. RELIEF FOR DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) RECIPIENTS

Senate vote # 33 / Amendment #1955 to H.R. 2579 / Cloture

Motion to invoke cloture, and thus end debate, on the Durbin (IL) amendment to provide conditional permanent residents to undocumented people younger than 31 on June 15, 2012, who came to the U.S. when they were younger than 16, have lived in the U.S. since 2007, and do not have felonies or serious misdemeanors on their records. The Durbin amendment would have also authorized \$110 million annually through fiscal year 2022 for border security grants as well as additional ports of entry along the U.S. borders.

The Durbin amendment, which required 60 yeas to pass, failed by a vote of 52 yeas to 47 nays on February 15, 2018.

THE NAACP SUPPORTED THE DURBIN AMENDMENT AND URGED A "YEA" VOTE

NAACP Federal Legislative Report Card
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UNITED STATES SENATE

20. BANK DE-REGULATION

Senate vote # 54 / S. 2155 / Final passage

Final passage of a bill which did irreparable damage to fair lending protections against racial discrimination; harmed homebuyers; and contained over two dozen deregulatory provisions of the financial services industry that were put into place after the 2008 global crises. The bill also exempted 85% of depository institutions from full reporting of loan data under the Home Mortgage Disclosure Act (HMDA).

The bill passed on March 14, 2018 by a margin of 67 yeas to 31 nays.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

21. DISCRIMINATION IN AUTO LENDING

Senate vote #76 / S. J. Res. 57 / Final passage

Final passage of legislation which, using the Congressional Review Act, would repeal a guidance issued by the Consumer Financial Protection Bureau (CFPB) which describes auto lenders' responsibility, as established by the 1974 Equal Credit Opportunity Act ("ECOA") to avoid discriminatory lending practices.

The resolution passed on April 18, 2018, by a vote of 51 yeas to 47 nays.

THE NAACP OPPOSED THE RESOLUTION AND URGED A "NAY" VOTE.

22. STUART KYLE DUNCAN TO SERVE AS A JUDGE ON THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Senate vote #82

Confirmation of President Trump's nominee, Stuart Kyle Duncan of Louisiana to serve as a Judge on the United States Court of Appeals for the Fifth Circuit.

Mr. Duncan was confirmed on April 24, 2018, by a vote of 50 yeas to 47 nays.

THE NAACP OPPOSED THE CONFIRMATION.

23. RESCISSIONS

Senate vote # 134 / H.R. 3 / Final passage

Final passage of a bill to rescind \$15 billion of previously appropriated funds in spending across several agencies.

H.R. 3 failed to pass on June 20, 2018, by a margin of 48 yeas to 50 nays.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

24. ANDREW S. OLDHAM TO SERVE AS A JUDGE ON THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Senate vote #160

Confirmation of President Trump's nominee, Andrew S. Oldham of Texas to serve as a Judge on the United States Court of Appeals for the Fifth Circuit.

Mr. Oldham was confirmed on July 18, 2018, by a vote of 50 yeas to 49 nays.

THE NAACP OPPOSED THE CONFIRMATION.

NAACP Federal Legislative Report Card
115th Congress
January 3, 2017 – January 3, 2019

UNITED STATES SENATE

25. ELECTION SECURITY GRANTS

Senate vote #176 / Leahy amendment # 3464 to H.R. 6147 / cloture vote

Motion to invoke cloture, and thus end debate, on an amendment offered by Senator Leahy (VT) to provide an additional \$250 million to the Election Assistance Commission for election security grants.

The Leahy amendment, which required 60 yea votes to pass, failed by a vote of 50 yeas to 47 nays on August 1, 2018.

THE NAACP SUPPORTED THE LEAHY AMENDMENT AND URGED A "YEA" VOTE

26. BRETT KANAUAUGH CONFIRMATION AS AN ASSOCIATE JUSTICE TO THE U.S. SUPREME COURT

Senate vote #223

Confirmation of President Trump's nominee, Judge Brett Kavanaugh of Maryland to serve as an Associate Justice on the United States Supreme Court.

Judge Kavanaugh was confirmed on October 6, 2018, by a vote of 50 yeas to 48 nays with 1 Senator voting "present" (The final vote would have been 51 yeas to 49 nays, but Senator Lisa Murkowski (AK), who would have voted "nay" agreed to vote "present" to counter Senator Steve Daines (MT) who would have voted "yea" but was attending his daughter's wedding.)

THE NAACP OPPOSED THE CONFIRMATION.

27. ERIC S. DREIBAND CONFIRMATION TO SERVE AS THE U.S. ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Senate vote #230

Confirmation of President Trump's nominee, Eric S. Dreiband of Maryland, to serve as the U.S. Assistant Attorney General for Civil Rights

Mr. Dreiband was confirmed on October 11, 2018, by a vote of 50 yeas to 47 nays.

THE NAACP OPPOSED THE CONFIRMATION.

28. DAVID JAMES PORTER TO SERVE AS A JUDGE ON THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Senate vote #231

Confirmation of President Trump's nominee, David James Porter of Pennsylvania to serve as a Judge on the United States Court of Appeals for the Third Circuit.

Mr. Porter was confirmed on October 11, 2018, by a vote of 50 yeas to 45 nays.

THE NAACP OPPOSED THE CONFIRMATION.

29. MARK S. NORRIS TO SERVE AS A U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE

Senate vote #237

Confirmation of President Trump's nominee, Mark Norris of Tennessee to serve as a District Judge for the Western District of Tennessee

Mr. Norris was confirmed on October 11, 2018, by a vote of 51 yeas to 44 nays.

THE NAACP OPPOSED THE CONFIRMATION.

NAACP Federal Legislative Report Card
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UNITED STATES SENATE

30. KATHLEEN KRANINGER TO BE THE DIRECTOR OF THE CONSUMER FINANCIAL PROTECTION BUREAU

Senate vote #255

Confirmation of President Trump's nominee, Kathleen L. Kraninger of Ohio, to be the Director of the Consumer Financial Protection Bureau

Ms. Kraninger was confirmed on December 6, 2018, by a vote of 50 yeas to 49 nays.

THE NAACP OPPOSED THE CONFIRMATION.

31. 2018 FARM BILL FINAL VERSION WHICH REJECTED HARMFUL CUTS IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (FORMERLY FOOD STAMPS)

Senate vote #259 / H.R. 2 / Final passage of the conference report

Final passage of the "conference report," or final version of the 2018 Farm bill which, among other things, rejected provisions included in the original House-passed version of the bill which would have resulted in nearly 2 million Americans losing their access to food stamps. The agreement also increases access to healthy foods in underserved communities; provides beginning and minority farmers and ranchers additional tools and resources needed to own and operate their own successful businesses; authorizes \$350 million per year for rural broadband coverage; expands investments in low-income, urban and rural communities; and contains key resources for 1890 land-grant universities.

The conference report for H.R. 2 passed on December 11, 2018, by a margin of 87 yeas to 13 nays.

THE NAACP SUPPORTED THE FINAL VERSION, OR THE "CONFERENCE REPORT" TO H.R. 2 AND URGED A "YEA" VOTE.

32. "FIRST STEP" ACT

Senate Vote #271 / S. 756 / Final passage

Final passage of legislation to provide for much-needed prison reform and sentencing reform, and as such represents a good "first step" in our struggle against over-incarceration.

The "First Step Act, S. 756, passed on December 18, 2018, by a margin of 87 yeas to 12 nays.

THE NAACP SUPPORTED THE LEGISLATION AND URGED A "YEA" VOTE.

David Perdue

**NAACP CIVIL RIGHTS FEDERAL
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UNITED STATES SENATE

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UNITED STATES SENATE

	%	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	
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VICE PRESIDENT MIKE PENCE *																																		

** The Vice President, as President of the Senate, only votes to break a tie

VOTE DESCRIPTION

1. REQUIRING FEDERAL CONTRACTORS TO COMPLY WITH BASIC FEDERAL LABOR AND NONDISCRIMINATION LAWS

House vote #76 / H. J. Res 37 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal an executive order by President Obama which required federal contractors, when bidding for a contract of \$500,000 or more, to reveal if they have been found guilty of being in violation of 14 essential, well established, labor or nondiscrimination laws in the past 3 years.

H. J. Res. 37 passed the House on February 2, 2017, by a vote of 236 yeas to 187 nays, and was signed into law by President Trump on March 27, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

2. OVERTURNING REGULATIONS REQUIRING PUBLIC SCHOOL ACCOUNTABILITY WITH HISTORICALLY MARGINALIZED GROUPS

House vote #84 / H. J. Res. 57 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal regulations established by President Obama's U.S. Department of Education that established the criteria for plans to be submitted by states under the Every Student Succeeds Act (ESSA) on how local districts and public schools would handle historically marginalized groups, including racial and ethnic minorities, girls, English learners, LGBT students, children with disabilities, and low-income populations.

H. J. Res. 57 passed the House on February 7, 2017, by a vote of 234 yeas to 190 nays, and was signed into law by President Trump on March 27, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

3. ALLOWING STATES TO REQUIRE DRUG TESTS FOR PEOPLE COLLECTING UNEMPLOYMENT INSURANCE

House vote # 97 / H.J. Res. 42 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal regulations put into place by the Obama Administration's Department of Labor which implemented a bipartisan agreement that allowed states to drug test unemployment insurance applicants in very specific situations only.

H. J. Res. 42 passed the House on February 15, 2017, by a vote of 236 yeas to 189 nays, and was signed into law by President Trump on March 31, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

4. CLASS-ACTION LAWSUIT RESTRICTIONS

House Vote #148 / H.R. 985 / final passage

Final passage of a bill to prohibit class-action lawsuits unless each member of the class suffered the same type and degree of injury.

H.R. 985 passed the House on March 9, 2017, by a vote of 220 yeas to 201 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

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5. MENTALLY INCOMPETENT VETERANS AND GUN PURCHASES

House vote #169 / H.R. 1181 / final passage

Final passage of a bill which would prohibit a determination by a Veterans Affairs doctor or hospital that an individual is mentally incompetent from being used to prohibit that individual from purchasing a gun

H.R. 1181 passed the House on March 16, 2017, by a vote of 240 yeas to 175 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

6. "REPEAL AND REPLACE" THE AFFORDABLE CARE ACT

House vote #256 / H.R. 1628 / final passage

Final passage of a bill to "repeal and replace" much of the 2010 Health Care reform law, the Affordable Care Act (a.k.a. "ACA" or "Obamacare") and replacing it with a system that did not require or assist in the cost of coverage. The bill would also have capped and dramatically changed the federal Medicaid payment to states. The bill also prohibited payment to Planned Parenthood facilities.

H.R. 1628 passed the House on May 4, 2017, by a vote of 217 yeas to 213 nays; no further action has been taken on the legislation, although a repeal of the Individual Mandate which was part of the ACA was enacted as part of H.R. 1.

THE NAACP OPPOSED THE PROPOSAL AND URGED A "NO" VOTE.

7. DEATH PENALTY SENTENCE EXPANSION

House vote #265 / H.R. 115 / final passage

Final passage of a bill which would require courts and juries to consider if a defendant killed or attempted to kill a law enforcement officer or a first responder as an additional factor when considering if the death penalty should be imposed

H.R. 115 passed the House on May 18, 2017, by a vote of 271 yeas to 143 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

8. REPEAL OF THE 2010 DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

House vote #299 / H.R. 10 / final passage

Final passage of a bill to repeal the NAACP-supported 2010 law, the Dodd-Frank Wall Street Reform and Consumer Protection Act and would overhaul most financial industry regulations. It would also eliminate much of the independence of the Consumer Financial Protection Bureau (CFPB) by placing it under the will of Congress by changing its funding stream to an annual appropriations, rather than the Federal Reserve. The bill would also nullify a rule, issued by President Obama's Department of Labor, which would require all Financial Advisors to have their clients' best concerns as their priority when providing advice about their retirement accounts.

H.R. 10 passed the House on June 8, 2017, by a vote of 233 yeas to 186 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

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9. MEDICAL MALPRACTICE LAWSUIT LIMITATIONS

House vote #337 / H.R. 1215 / final passage

Final passage of a bill to place a financial limit on non-economic damages which can be awarded if the plaintiff's health care was paid for in whole or in part by a federal program, subsidy, or tax benefit.

H.R. 1215 passed the House on June 28, 2017, by a vote of 218 yeas to 210 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

10. SANCTUARY CITIES

House vote #342 / H.R. 3003 / final passage

Final passage of a bill to prohibit any local government agent from complying with federal immigration laws, or their enforcement. The bill would also allow the federal government to issue an arrest warrant for any law which may be broken (including traffic laws) if there is "probable cause" to believe such an individual is in the United States illegally.

H.R. 3003 passed the House on June 29, 2017, by a vote of 228 yeas to 195 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

11. MANDATORY MINIMUMS FOR ALIENS

House vote #344 / H.R. 3004 / final passage

Final passage of a bill to establish specific fines and prison sentences for undocumented immigrants who were convicted of certain crimes.

H.R. 3004 passed the House on June 29, 2017, by a vote of 257 yeas to 167 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

12. ALLOWING FORCED ARBITRATION BY FINANCIAL SERVICERS

House vote #412 / H. J. Res. 111 / final passage

Final passage of legislation which, using the Congressional Review Act, would repeal a rule which was finalized by the Consumer Financial Protection Bureau (CFPB) which would prohibit mandatory arbitration clauses in consumer contracts related to financial services and contracts.

H. J. Res. 111 passed the House on July 25, 2017, by a vote of 231 yeas to 190 nays, and was signed into law by President Trump on November 1, 2017.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

13. PREVAILING WAGE ACT ENFORCEMENT

House Vote #419 / H.R. 3219 / King (IA) amendment

Amendment offered by Congressman Steve King (IA) to bar the administration or enforcement of Davis-Bacon Act prevailing wage requirements.

The King (IA) amendment was defeated on July 26, 2017, by a vote of 178 yeas to 249 nays.

THE NAACP OPPOSED THE AMENDMENT AND URGED A "NO" VOTE.

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14. RENTAL ASSISTANCE

House vote #452 / H.R. 3354 / Grothman (WI) amendment

Amendment offered by Congressman Grothman (WI) to decrease funding for project based rental assistance contracts by \$226 million.

The Grothman amendment was defeated on September 6, 2017, by a vote of 139 yeas to 282 nays.

THE NAACP OPPOSED THE AMENDMENT AND URGED A "NO" VOTE.

15. EQUAL PAY DATA

House vote #495 / H.R. 3354 / Scott (VA) amendment

Amendment offered by Congressman Bobby Scott (VA) to allow the Equal Employment Opportunity Commission to employ its updated questionnaire of businesses of more than 100 people. In addition to data which has been collected for nearly 50 years, requested additional information, which would be kept confidential, about how much each business paid their employees by gender, race, and ethnicity. This data would help companies find and remedy wage discrimination within their midst, and would also better equip the EEOC to combat pay discrimination.

The Scott (VA) amendment was defeated on September 13, 2017, by a vote of 192 yeas to 233 nays.

THE NAACP SUPPORTED THE AMENDMENT AND URGED A "YES" VOTE.

16. DISTRICT OF COLUMBIA BUDGET AUTHORITY

House vote #520 / H.R. 3345 / Norton (D.C.) amendment

Amendment offered by Delegate Eleanor Holmes Norton to eliminate the underlying repeal of D.C.'s budget autonomy

The Norton (DC) amendment was defeated on September 14, 2017, by a vote of 186 yeas to 222 nays.

THE NAACP SUPPORTED THE AMENDMENT AND URGED A "YES" VOTE.

17. CFPB BUDGET AUTONOMY

House vote #521 / H.R. 3345 / Ellison (MN) amendment

Amendment offered by Congressman Keith Ellison (MN) to rescind the language in the underlying bill which would eliminate much of the independence of the Consumer Financial Protection Bureau (CFPB) by placing it under the will of Congress by changing its funding stream to an annual appropriations, rather than the Federal Reserve.

The Ellison amendment was defeated on September 14, 2017, by a vote of 183 yeas to 226 nays.

THE NAACP SUPPORTED THE AMENDMENT AND URGED A "YES" VOTE.

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18. CONGRESSIONAL BLACK CAUCUS BUDGET SUBSTITUTE

House vote #554 / H. Con. Res. 71 / Scott, R., for the CBC Substitute amendment

The alternative federal budget as prepared by the Congressional Black Caucus. The CBC alternative would increase spending by \$1 trillion over five years and would provide for a number of revenue-raising options, totaling \$10.9 trillion that could be used to raise at least \$3.9 trillion in additional revenues over 10 years. It would repeal the Budget Control Act sequester and caps on discretionary spending, would end defense funding through the Overseas Contingency Operations account, would create a public insurance option to be sold within the current health insurance exchanges, would call for implementation of comprehensive immigration overhaul and would include \$200 billion for hurricane recovery in Texas, Florida, Puerto Rico and the U.S. Virgin Islands.

The CBC alternative budget failed on October 4, 2017, by a vote of 130 yeas to 292 nays.

THE NAACP SUPPORTED THE AMENDMENT AND URGED A "YES" VOTE.

19. CONCEALED GUN CARRY RECIPROCITY BETWEEN STATES

House vote # 663 / H.R. 38 / final passage

Final passage of a bill which would permit any individual authorized by their home state to carry a concealed handgun to also carry that concealed weapon in any other state that permits the carrying of concealed weapons.

H.R. 38 passed the House on December 6, 2017, by a vote of 231 yeas to 198 nays; no further action has been taken on the legislation.

THE NAACP OPPOSED THE LEGISLATION AND URGED A "NO" VOTE.

20. TAX OVERHAUL

House vote #692 / H.R. 1 / final passage of the conference report

Final passage of the final version ("conference report") of the tax overhaul bill. The bill, which will cost the U.S. treasury \$1.5 trillion over the next 10 years, contains a permanent reduction in the corporate tax level, by more than 10%, from 35% to 21%. The new law also ends the Individual Mandate, a central tenant of the Affordable Care Act (a.k.a. "Obamacare"). The result will be an estimated 13 million fewer people having health care within a decade.

The conference report was agreed to on December 19, 2017, by a vote of 227 yeas to 203 nays; President Trump went on to sign the bill into law on December 22, 2017.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

21. MORTGAGE DISCLOSURE

House vote # 32 / H.R. 2954 / Final passage

Final passage of legislation which would undermine efforts to ensure that the nation's mortgage lenders are serving all segments of the market equally and fairly by exempting nearly all lenders from the updated reporting requirements which are in turn used by public officials and others when determining mortgage lending trends.

The bill passed on January 18, 2018, by a margin of 243 yeas to 184 nays.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

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22. LIMITING THE RIGHTS OF DISABLED AMERICANS

House vote #80 / H.R. 620 / Final Passage

Final passage of a bill to create significant obstacles to people with disabilities to enforce their rights under the Americans with Disabilities Act (ADA) to access public accommodations.

H.R. 620 passed the House on February 15, 2018, by a vote of 225 yeas to 192 nays.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

23. BALANCED BUDGET AMENDMENT TO THE U.S. CONSTITUTION

House vote #138 / H. J. Res. 2 / final passage

Final passage of an amendment to the U.S. Constitution to require a balanced federal budget unless an exception is approved by 3/5 of the Members of both the House and the Senate, or in the event of war.

Two-thirds of those Members present needed to vote aye, so the amendment failed by a vote of 233 yeas to 184 nays on April 12, 2018.

THE NAACP OPPOSED THE CONSTITUTIONAL AMENDMENT AND URGED A "NAY" VOTE.

24. DISCRIMINATION IN AUTO LENDING

House vote #171 / S. J. Res. 57 / Final passage

Final passage of legislation which, using the Congressional Review Act, would repeal a guidance issued by the Consumer Financial Protection Bureau (CFPB) which describes auto lenders' responsibility, as established by the 1974 Equal Credit Opportunity Act ("ECOA") to avoid discriminatory lending practices.

The resolution passed on May 8, 2018, by a vote of 234 yeas to 175 nays and was signed into law by President Trump on May 21, 2018

THE NAACP OPPOSED THE RESOLUTION AND URGED A "NAY" VOTE.

25. BANK DE-REGULATION

House vote # 216 / S. 2155 / Final passage

Final passage of a bill which did irreparable damage to fair lending protections against racial discrimination; harmed homebuyers; and contained over two dozen deregulatory provisions of the financial services industry that were put into place after the 2008 global crises. The bill also exempted 85% of depository institutions from full reporting of loan data under the Home Mortgage Disclosure Act (HMDA).

The bill passed the House on May 22, 2018 by a margin of 258 yeas to 159 nays and was signed into law by President Trump on May 24, 2018.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

26. RESCISSIONS

House vote #243 / H.R. 3 / Final passage

Final passage of a bill to rescind \$15 billion of previously appropriated funds in spending across several agencies.

H.R. 3 passed the House on June 7, 2018, by a margin of 210 yeas to 206 nays. The legislation was sent to the Senate, where it was subsequently defeated.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

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27. CRUEL, MEAN-SPIRITED IMMIGRATION PROPOSAL

House vote #282 / H.R. 4760 / Final Passage

Passage of a proposal which would authorize \$9.3 billion over 4 years for construction of a wall and other physical barriers on the southern border; would provide three-year relief to DACA recipients with no special path to citizenship; and would end the diversity visa program.

H.R. 4760 failed on June 21, 2018, by a vote of 193 yeas to 231 nays.

THE NAACP OPPOSED THE BILL AND URGED A "NAY" VOTE.

28. HEALTH INSURANCE FOR THE RESIDENTS OF THE DISTRICT OF COLUMBIA

House vote #359 / Palmer (AL) amendment #83 to H.R. 6147

Amendment by Congressman Palmer (AL) to the bill which provided funding for, among other things, the District of Columbia. The Palmer amendment would have prohibited any funds in the bill from being used by the D.C. government to enforce health insurance requirements, including those mandated by the Affordable Care Act.

The Palmer amendment passed the House of Representatives on July 18, 2018, by a vote of 226 yeas to 189 nays.

THE NAACP OPPOSED THE AMENDMENT AND URGED A "NAY" VOTE.

29. AMENDMENT TO PROHIBIT POSTAL BANKING SERVICES

House vote #362 / McHenry (NC) amendment #87 to H.R. 6147

Amendment by Congressman McHenry (NC) to the bill which provided funding for, among other things, the US Postal Service. The McHenry amendment would have prohibited any funds in the bill from being used by the Postal Service to provide additional financial products or services.

The McHenry amendment failed on July 18, 2018, by a vote of 201 yeas to 212 nays.

THE NAACP OPPOSED THE AMENDMENT AND URGED A "NAY" VOTE.

30. STUDENT FINANCIAL COUNSELING

Vote # 385 / H.R. 1635 / Final Passage

Final Passage of a bill to require annual counseling for higher education students who participate in federal student aid programs, and to expand the counseling that is required as well as who is required to receive it.

H.R. 1635 passed the House of Representatives on September 5, 2018, by a vote of 406 yeas to 4 nays.

THE NAACP SUPPORTED THE BILL AND URGED A "YES" VOTE.

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31. 2018 FARM BILL FINAL VERSION WHICH REJECTED HARMFUL CUTS IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (FORMERLY FOOD STAMPS)

House vote #434 / H.R. 2 / Final passage of the conference report

Final passage of the “conference report,” or final version of the 2018 Farm bill which, among other things, rejected provisions included in the original House-passed version of the bill which would have resulted in nearly 2 million Americans losing their access to food stamps. The agreement also increases access to healthy foods in underserved communities; provides beginning and minority farmers and ranchers additional tools and resources needed to own and operate their own successful businesses; authorizes \$350 million per year for rural broadband coverage; expands investments in low-income, urban and rural communities; and contains key resources for 1890 land-grant universities.

The conference report for H.R. 2 passed on December 12, 2018, by a margin of 369 yeas to 47 nays. President Trump subsequently signed the bill into law on December 20, 2018

THE NAACP SUPPORTED THE FINAL VERSION, OR THE “CONFERENCE REPORT” TO H.R. 2 AND URGED A “YEA” VOTE.

32. SENATE AMENDMENTS TO “FIRST STEP” ACT

House Vote #448 / S. 756 / Final passage

Final passage of legislation to provide for much-needed prison reform and sentencing reform, and as such represents a good “first step” in our struggle against over-incarceration. The sentencing reform provisions were added by the US Senate; the legislation which had previously passed the House only contained prison-reform provisions.

The “First Step Act, S. 756, passed on December 20, 2018, by a margin of 87 yeas to 12 nays and was signed into law by President Trump on December 21, 2018.

THE NAACP SUPPORTED THE LEGISLATION AND URGED A “YEA” VOTE.

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NAACP CIVIL RIGHTS FEDERAL
LEGISLATIVE REPORT CARD
115th Congress
January 3, 2017 - January 3, 2019

FLORIDA, continued		%	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	
08	Bill Posey	6%	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F
09	Darren Soto	94%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A
10	Val B. Demings	94%	▲	▲	▲	▲	▲	▲	▽	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A
11	Daniel Webster	13%	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
12	Gus Bilirakis	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
13	Charlie Crist	84%	▲	▲	▲	▲	▲	▽	▲	▲	▲	▽	▲	▲	▲	▲	?	?	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
14	Kathy Castor	97%	▲	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
15	Dennis A. Ross	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	?	F		
16	Vern Buchanan	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	F	
17	Tom Rooney	9%	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	F	
18	Brian Mast	16%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
19	Francis Rooney	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
20	Alcee L. Hastings	88%	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	B	
21	Lois Frankel	88%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	?	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
22	Ted Deutch	88%	▲	▲	▲	?	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
23	Debbie Wasserman Schultz	94%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
24	Frederica S. Wilson	97%	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
25	Mario Diaz-Balart	31%	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▲	?	?	?	▽	▽	▽	▽	▲	▽	▽	▽	▽	▲	▲	▽	▽	▲	▲	▲	F	
26	Carlos Curbelo	38%	▽	▽	▲	▽	?	▽	▲	▲	▽	▲	▽	▲	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▽	▲	▲	▲	▲	▲	▲	F	
27	Ileana Ros-Lehtinen	47%	▲	▽	▲	▲	▽	▲	▽	▽	▲	▽	▲	▽	?	?	?	?	▽	▽	▽	▽	▽	▲	▽	▲	▲	▲	▲	?	?	?	?	F	
GEORGIA																																			
01	Earl L. "Buddy" Carter	6%	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▲	▽	▲	F	
02	Sanford D. Bishop Jr.	81%	▲	▲	▲	▲	▽	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	?	▲	▲	▲	▲	▲	▲	▲	▲	B	
03	Drew Ferguson	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
04	Hank Johnson	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
05	John Lewis	97%	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
06	Tom Price	I	?	?	▽	▽	▽	▽	▽	▽																								I	
(resigned 2/10/2017)																																			
06	Karen Handel	I			▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	I
(sworn in 6/26/2017)																																			
07	Rob Woodall	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
08	Austin Scott	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	F	
09	Doug Collins	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
10	Jody B. Hice	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▲	F	
11	Barry Loudermilk	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▲	F	
12	Rick W. Allen	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
13	David Scott	84%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	▽	▲	▲	▲	▲	▲	?	?	B	
14	Tom Graves	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	F	
HAWAII																																			
01	Colleen Hanabusa	88%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	▲	?	B	
02	Tulsi Gabbard	97%	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
IDAHO																																			
01	Raúl R. Labrador	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▲	?	?	F	
02	Mike Simpson	19%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▲	▲	F	
ILLINOIS																																			
01	Bobby L. Rush	84%	?	?	▲	?	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
02	Robin Kelly	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
03	Daniel Lipinski	84%	▲	▲	▽	▲	▲	▲	▽	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
04	Luis V. Gutiérrez	88%	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	?	▲	▲	▲	▲	▲	?	?	B		
05	Mike Quigley	94%	▲	▲	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
06	Peter Roskam	28%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
07	Danny K. Davis	88%	▲	▲	▲	?	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	?	?	B		
08	Raja Krishnamoorthi	97%	▲	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A		
09	Jan Schakowsky	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
10	Brad Schneider	91%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
11	Bill Foster	91%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	

NAACP CIVIL RIGHTS FEDERAL
LEGISLATIVE REPORT CARD
115th Congress
January 3, 2017 - January 3, 2019

U.S. HOUSE OF REPRESENTATIVES

ILLINOIS, continued

Caucuses, Continued		%	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
12	Mike Bost	22%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	▲	F
13	Rodney Davis	19%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	▲	F
14	Randy Hultgren	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	?	?	F
15	John Shimkus	16%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▲	▲	▲	F
16	Adam Kinzinger	16%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F
17	Cheri Bustos	94%	▲	▲	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A
18	Darin LaHood	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F

INDIANA

01 Peter J. Visclosky	97%	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	A
02 Jackie Walorski	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
03 Jim Banks	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
04 Todd Rokita	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
05 Susan W. Brooks	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
06 Luke Messer	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
07 André Carson	94%	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	A
08 Larry Bucshon	19%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
09 Trey Hollingsworth	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F

IOWA

01 Rod Blum	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
02 Dave Loebsack	97%	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	A
03 David Young	16%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
04 Steve King	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F

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02 Cedric L. Richmond	91%	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	A
03 Clay Higgins	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
04 Mike Johnson	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
05 Ralph Abraham	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F
06 Garret Graves	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F

MAINE

01 Chellie Pingree	100%	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	△	A
02 Bruce Poliquin	19%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	△	△	△	F

NAACP CIVIL RIGHTS FEDERAL
LEGISLATIVE REPORT CARD
115th Congress
January 3, 2017 - January 3, 2019

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		%	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	
16	Lloyd K. Smucker	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F
17	Matt Cartwright	88%	▲	▲	▲	▲	▲	▲	▽	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	B
18	Tim Murphy	I	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	I	
	resigned 10/21/2017																																		
	Conner Lamb	I																				▽	▽	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	I	
	sworn in 4/12/18																																		
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01	David Cicilline	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
02	Jim Langevin	94%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
SOUTH CAROLINA																																			
01	Mark Sanford	0%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
02	Joe Wilson	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	F	
03	Jeff Duncan	3%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▲	▽	?	F	
04	Trey Gowdy	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
05	Mick Mulvaney	I	?	?	?	▽	▽	▽	▽	▽																								I	
	resigned 2/16/2017																																		
05	Ralph Norman	I				▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	I
	sworn in 6/26/2017																																		
06	James E. Clyburn	88%	▲	▲	▲	▲	▲	▲	?	▲	▲	▲	▲	▲	▲	?	?	?	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	B
07	Tom Rice	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▲	▲	▽	F	
SOUTH DAKOTA																																			
AL	Kristi Noem	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	?	▲	▽	▽	▲	▲	?	F	
TENNESSEE																																			
01	Phil Roe	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
02	John J. Duncan Jr.	13%	▽	▽	▽	▲	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
03	Chuck Fleischmann	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
04	Scott DesJarlais	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
05	Jim Cooper	75%	▲	▲	▽	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	C	
06	Diane Black	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	?	?	▲	▲	?	F	
07	Marsha Blackburn	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	?	?	▲	▲	F
08	David Kustoff	9%	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	F	
09	Steve Cohen	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
TEXAS																																			
01	Louie Gohmert	16%	▽	▽	▽	▽	▽	▽	?	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▲	▽	▽	▽	▽	▲	▽	▽	▽	F		
02	Ted Poe	13%	▽	?	▽	▲	▽	▽	▽	▲	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	?	▲	▲	F		
03	Sam Johnson	3%	▽	▽	▽	▽	▽	▽	?	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	?	F		
04	John Ratcliffe	3%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	?	F	
05	Jeb Hensarling	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▲	F		
06	Joe L. Barton	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	?	▲	F		
07	John Culberson	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
08	Kevin Brady	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
09	Al Green	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
10	Michael McCaul	13%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
11	K. Michael Conaway	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
12	Kay Granger	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
13	Mac Thornberry	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	?	▲	▲	F		
14	Randy Weber	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
15	Vicente Gonzalez	84%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	B	
16	Beto O'Rourke	94%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
17	Bill Flores	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
18	Sheila Jackson Lee	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
19	Jodey C. Arrington	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
20	Joaquin Castro	100%	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	A	
21	Lamar Smith	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
22	Pete Olson	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
23	Will Hurd	22%	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▲	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
24	Kenny Marchant	6%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
25	Roger Williams	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F		
26	Michael C. Burgess	9%	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▲	▲	▲	F	
27	Blake Farenthold	I	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽															I	
	Resigned 4/6/18																																		
27	Michael Cloud	I																																	I
	Sworn in 7/10/2018																																		
28	Henry Cuellar	59%	▽	▲	▲	▲	▽	▲	▽	▲	▲	▽	▽	▲	▲	▲	▲	▲																	

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