

Jim Crow Riding High: Trayvon Martin, Voting Rights, and Equal Justice Under the Law

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The tragic death of Trayvon Martin reminds all of us, sadly, that the goal of equal justice under the law remains a distant goal of our society, in Florida and elsewhere. What is particularly striking about the Martin case is that it highlights how pervasive racial politics remain a part of our daily lives, not just in acts of violence but in virtually every activity in which We the People are engaged: education, health care, housing, employment opportunities, income and wealth distribution, public safety, civil rights, and more. The existence of a post-racial society, so loudly trumpeted after the election of Barack Obama to the Presidency in 2008, seems more remote now than ever.

This paper inquires into the status of voting rights under the law, primarily but not exclusively in Florida. It examines two areas of voting rights for African-Americans that raise issues of equity and fairness: early voting and functional disenfranchisement.¹ Its message is clear and unambiguous: in spite of the guarantees of the 1965 Voting Rights Act and subsequent Court decisions such as *South Carolina v. Katzenbach*,² voting rights for African-Americans remain tenuous.³

Is there a link between the Curious Case of Trayvon Martin and contemporary African-American voting rights? Mr. Martin was killed as a result of an atavistic Florida statute, commonly known as the Stand Your Ground law.⁴ It allows anyone who feels threatened by actions of another to defend him or herself (e.g., shoot the supposed *provocateur*), essentially with impunity. It is nothing more than a permit or license for vigilante justice. And so Mr. Martin, wearing a hoodie and eating candy, was gunned down, allegedly by an individual who found him threatening.

In decades past, any number of African-Americans were also shot, blown up, beaten, terrorized, and/or tortured for having the temerity to demand the right to vote. One thinks of individuals such as Harry T. and Harriette V. Moore on Christmas Eve in Daytona Beach, Florida in 1951; Fannie Lou Hamer near Greenwood, Mississippi, in 1964; James Cheney (along with two white colleagues) in Philadelphia, Mississippi, also in 1964; Jimmie Lee Jackson near Selma, Alabama, 1965; the list goes on. These individuals were also murdered or harmed by vigilantes who wanted to protect the traditional mores of the segregated South by denying blacks their franchise.

Nowadays, killings, maimings, and beatings of blacks seeking their voting rights have gone out of fashion, but vigilantism has not. Instead, groups and individuals – almost always

connected in some way with the Republican Party – have taken on the task of disenfranchising blacks in spite of the protections of the Voting Rights Act of 1965, sometimes to the extent of defying both law and Federal judges. The effect of their actions may not be as dramatic as a murder, but the desired outcome is the same: African-Americans are denied the franchise, harassed to the extent of inconveniencing and discouraging their efforts to use it, or their franchise rendered meaningless.

Thus the distance between the death of Mr. Martin and attacks on black voting rights by vigilantes is a short one. This paper will highlight just how short that distance is.

Jim Crow Riding High

What does the title of this paper mean? “Jim Crow” here does not refer to the late nineteenth century period of laws and Court decisions that were imposed on African-Americans, from the Federal Government on down,⁵ to insure that they remained “in their place,” were legitimate objects of discrimination and scapegoatism, and were denied entry into the promise of the American dream.

It refers, rather, to the racial effects and consequences of political decision making, that is, the determination of who gets what, when, and how, and who does not.⁶ It assumes, with Jonathan Kozol, that these effects and consequences are a function of how we regard, or do not regard, minorities while public resources are being allocated.⁷ When there is a consistent pattern over time that repeatedly and continually makes clear that African-Americans are being short-changed from their fair share of public resources, it is reasonable and legitimate to conclude that “Jim Crow is riding high.”

Voting Rights

Why are Florida voting rights an example of Jim Crow riding high? Why is the African-American struggle for voting rights still going on? Isn't the 50+ years since passage of the Voting Rights Act enough time to have cemented voting rights for all in place?⁸

The answer, aside from the influence of Jim Crow, is how voting rights are viewed in this country. They are not guaranteed by the U.S. Constitution. Indeed, it is silent on the question of voting rights. As a result, by virtue of the Tenth Amendment, issues of voting, voter qualifications, how elections are conducted, and the like devolve to the States. As any eighth-grader knows, States felt free to trample all over them until 1965, when the Voting Rights Act was passed. It finally provided the right to vote to Americans.

But therein lies the difficulty. Because the Federal government guaranteed the right to vote legislatively, and not *via* the Constitution, Americans do not take voting rights as seriously as, say, those granted by the First Amendment. They seem somehow second-rate rights. In spite of the fact that the 1965 legislation is not called “The Voting Privilege Act,”⁹ Americans continue to regard the right to vote as something that has to be earned, much like a driver's license. Hoops have to be jumped through, “standards” met, and obstacles overcome, to achieve the franchise.¹⁰

Matters run even deeper. In spite of the fact that literacy and character tests were abandoned decades and more ago,¹¹ we frequently hear people – including students in college classrooms – arguing that some individuals should not be allowed to vote because they are ignorant, don't follow politics or public affairs, or just seem “stupid.” It is not unusual to learn that otherwise qualified voters were denied a ballot at the polling station because they appeared drunk or spoke loudly or wore unconventional clothing, and worse, even though none of these conditions is grounds for disenfranchisement.¹²

Indeed, perhaps the most powerful example of the second-rate status of voting rights is the fact that they are taken from convicted felons, and not always restored after their sentence has been served. In Florida, African-Americans bear the greatest burden of felon disenfranchisement, since blacks are disproportionately represented in the felon population, and the Sunshine State imposes a staggering burden on released felons to restore their voting rights.¹³ What this means is that, for many African-Americans, character tests continue to be imposed before they have the right to vote; for those found wanting, the right is denied.

Thus those controlling access to the franchise are in a position to judge who is worthy to vote, and who is not. Whenever largely unaccountable administrative discretion is involved, rights may well be jeopardized.¹⁴ It is no wonder, then, that African-Americans too often find theirs denied.

Early Voting and Long Lines

Early voting was first used in the United States in the early 1990s. In Florida it was introduced in 2004, largely as a result of the state's voting fiasco of 2000. Currently thirty-two states plus Washington, D.C., allow for early voting. There are wide variations in the number of days states provide for early voting; the most is forty-five, the least is two, and the average across thirty-two states is twenty-two days. Twelve of the thirty-two states require that one of the early voting days be a Saturday or Sunday.¹⁵

Studies have shown that African-Americans view early voting favorably. In 2008 the Lawyer's Committee for Civil Rights, a prominent voting-rights advocacy group, showed that African-Americans were twenty-six times more likely to use early voting than white voters.¹⁶

Florida initially permitted a fourteen-day window for early voting, one that included the Sunday before the election. That day was crucial for African-Americans, who in many communities were urged by their ministers to vote following Sunday morning church services.¹⁷

In May, 2011, the Florida Legislature passed HB 1355, which cut the state's early voting days to eight, eliminating the “Souls to Polls” Sunday.¹⁸ While it was clear that partisanship played a major role in the change – African-Americans in Florida vote upwards of 90% Democratic – it was also certain that the reason for the change had deeper roots. The deposed former Chair of the Florida Republican Party, Jim Greer, candidly disclosed the reason: race. “The sad thing about that is yes, there is prejudice and racism in the party....”¹⁹ The GOP-sponsored bill²⁰ truncated African-Americans' early access to the polls, and voting rights, by 43%.

But cutting early voting was not all. There were interminably long lines as voters waited to cast ballots. They actually began in 2004, when early voting was first used. Lines of two and three hour waits were reported in major urban areas, including Miami, Ft. Lauderdale, Tampa and St. Petersburg, mainly in African-American precincts.²¹

But 2004 was nothing compared to 2012. Long lines were reported nationwide on election day, but Florida led in waiting times. Nationally, the average waiting time was fourteen minutes; in Florida, it was forty-five, the longest. Wait times differed nationally along partisan and racial lines: white voters had shorter wait times than African-American or Hispanic voters (12.7 minutes compared to 20.2 minutes, respectively²²), and Democrats waited longer than Republicans (15 minutes and just over 12 minutes, respectively).²³ Some Florida voters waited more than six hours to cast ballots.²⁴ As before, most of the long lines were in African-American precincts, and those of other minority groups.

But here too matters ran deeper. Thousands of people gave up and left the lines entirely, never to vote at all. A study done at Ohio State University estimated that some 50,000 voters were discouraged from voting by long lines, about 60% of whom lived in African-American precincts.²⁵ A study commissioned by the Orlando Sentinel estimated that over 200,000 voters in Florida gave up in frustration.²⁶

Analysts saw the delays in voting in Florida for what they were: political harassment designed to keep Democrats, especially blacks, away from the polls.²⁷ There are several explanations for long waits to vote: a lengthy, complex, difficult-to-negotiate ballot, increased number of voters, and increased turnout are among them. But given the fact that whites and blacks, Republicans and Democrats, in the same counties had to negotiate the same unwieldy ballots, and that data consistently show that whites and Republicans waited much less time than African-Americans and Democrats, the conclusion is inescapable that the lines were a result of decisions made by state and local voting officials on how resources for polling stations were to be allocated on election day. Limiting the number of early voting days, the number of polling stations, the number of voting desks in the stations, not having enough trained personnel on hand to assist voters at the stations, “slowdown” tactics used by poll workers, in some cases voter “challenges” aimed primarily at African-Americans – all of these and more came into play on election day, 2012, and impacted the time it took to vote.²⁸ The effect was to make voting far more complicated, difficult, and time-consuming for African-Americans, and Democrats generally, in Florida, than for whites and Republicans.

Disenfranchisement by Other Means

Placing stumbling blocks to voting in front of African-Americans or any other group is not the only way of undercutting their voting rights. They can also be assaulted by rendering their votes meaningless. We can call this “disenfranchisement by other means,” or, put differently, “functional disenfranchisement.”²⁹ There are various ways to carry out functional disenfranchisement, but for this paper we need address only one: apportionment of legislative districts.

Why is apportionment a key part of voting rights? Because it determines the value and meaning of the vote. As Dr. Martin Luther King, Jr., noted as early as 1957,³⁰ the right to vote has both symbolic and instrumental dimensions; with the former, it conveys first class citizenship, while the latter demonstrates the power of the ballot to reflect popular will, elect preferred candidates, and foster social and political change.

But what happens when the vote loses its instrumental quality? Apportionment of legislative districts raises this possibility. It is well known, for example, that for the U.S. House of Representatives incumbency re-election rates exceed 90%.³¹ Reelection rates for U.S. Senators and state legislators may not be quite as high, but are still staggering. What this means is that most of these elections are over before they start; the winner is essentially predetermined, unless very unusual circumstances intervene.

Under these conditions, the vote is rendered meaningless, especially if one is not a part of the winning voting bloc. If the individual's or even group's candidate(s) of choice cannot win because the "deck" is so stacked against challengers that defeat is assured, the "right" to vote has no meaning. If the vote does not matter, is not then the election a charade, a fraud, a sham?

It is in this sense that we can say voters are functionally disenfranchised, or that they have been disenfranchised by other means than merely being prevented from voting. It is the antithesis of what Dr. King had in mind.

Florida has functionally disenfranchised African-Americans in two ways.³²

First, the Florida Legislature sharply limits the percentage of the minority party, and members of racial minorities, placed in majority-controlled legislative districts. Table 1 shows the data.

TABLE 1

DISTRICT NUMBER	PERCENT REGISTERED DEMOCRATS	PERCENT AFRICAN-AMERICAN RESIDENTS
1	29%	13%
2	52%	24%
3	40%	13%
4	33%	13%
6	35%	9%
7	34%	8%
8	33%	9%
10	36%	10%
11	35%	7%
12	33%	4%
13	35%	5%
15	38%	12%
16	32%	6%
17	36%	8%
19	28%	6%
25	32%	6%
27	36%	6%
MEAN	35%	9%

The first column shows the number of the Republican-Controlled Congressional District in 2013. The middle column shows the percentage of registered Democrats which the Republican majority, dominating the reapportionment process, allowed in each Republican district: the mean is 35%. The last column shows the percentage of African-Americans residents placed in each Republican district; the mean is 9%.

Two conclusions leap from these data. One is that Democrats have essentially zero chance of electing one of their own to the U.S. House in these districts. Political scientists have shown for decades that a minimum of 40% is generally needed for a district to be competitive, unless there are unusual circumstances. Only two districts (2 and 3) reach this level, yet both elected Republicans to Congress in 2012.

The second point is that these Districts are drawn to ensure that African-Americans have no impact on electoral outcomes. In only one district (2) does their representation rise above 20%; the rest are low double and single digits.

But the situation is worse. With such a small percentage of African-Americans in the Districts, the winner is free to ignore them. True, the victor is supposed to represent all the people of the district. But as a political and practical matter, it is no secret that the winner will pay most attention to members of his winning coalition; those on the losing side get short, if any, shrift.

Some might argue that many areas of Florida just do not have enough African-American residents to create districts with significant percentages in them. It's a bogus argument. The Republicans who were architects of the districts had no trouble drawing lines to ensure that GOP districts would be heavily white and Republican, even as they drew lines that bled Democrats and African-Americans out and forced them into the few majority Democratic districts they designed. Gerrymandering of districts by packing and diluting politically relevant (or irrelevant) groups is standard practice during reapportionment.

There are an infinite number of solutions to the problem of drawing district lines with equal numbers of people. It would be possible to create districts that offer competitive elections to the other party, and minority groups.³³ But in Florida, the Republicans who designed the new districts chose not to do this.

There is further evidence that African-Americans have been functionally disenfranchised through reapportionment, again by sharply limiting the number of African-American legislators. Table 2 shows the data.

TABLE 2

YEAR	TOTAL	SENATE	HOUSE
1992	12%	13%	12%
2003	14%	18%	13%
2009	16%	18%	16%
2013	17%	15%	18%
MEAN	15%	16%	15%

The first column consists of selected years for the Florida Legislature. The second column, labeled “TOTAL,” is the percentage of African-Americans in the Legislature for the year shown; the mean for the over-20 year period is 15%. Columns 3 and 4, labeled SENATE and HOUSE, show the percentage of African-Americans members of those bodies for the selected years; the means are 16%, and 15%, respectively.

Some will say this is an appropriate level of representation, because for each of the years shown the African-American membership in the Legislature is within a point or two of the proportion in the state population.³⁴ Again, the argument is bogus. Nowhere in the United States or Florida Constitutions is there a statement that minorities are entitled, or limited, to their percentage in the population.

Rather, because the numbers have not moved in two decades, these data represent a quota, something which many political and judicial conservatives hold anathema. But for the purposes of African-American legislative representation in Florida, apparently quotas are acceptable. The message sent to African-Americans by those who designed the districts is: this is what you get, and that’s all.³⁵ Yet, as mentioned before, it would be possible to design districts which offer the possibility that African-Americans, or other minority groups, could increase their legislative representation. But it has not happened.

Packing and diluting and limiting minority group access to potentially greater levels of representation is a direct assault on their voting rights. The practice imposes a “black ceiling,” beyond which the number or percentage of African-Americans in Congressional Districts or the Legislature cannot extend. This unsavory and unfair practice is exactly analogous to those faced by Jews wanting to become doctors in the first half of the twentieth century,³⁶ and by contemporary women facing a “glass ceiling” in much of business and corporate life.³⁷

Conclusion

Examining such recent voting practices as early voting and the length of voting lines, and disenfranchisement by such other means as legislative districting, reveals how high Jim Crow rides in the political culture of Florida. We have seen that in the Sunshine State, the consistent pattern resulting from political decisions about African-American voting rights works to their detriment. Indeed, we have shown that just as vigilantism killed Trayvon Martin, so has vigilantism in the form of unfair and in some cases illegal attacks on black voting rights

succeeded in keeping African-Americans from the full exercise and meaning of their franchise. And just as Mr. Martin must continue his search for equal justice under the law from the grave, so also must Florida's African-American voters continue their too-long struggle for just and fair voting rights in the State.

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NOTES

¹ In recent years, perhaps no aspect of voting rights has achieved more attention than state Voter

² Voting Rights Act (VRA), codified at 42 U.S.C. §§ 1973 to 1973aa-6; *South Carolina v. Katzenbach*, (383 U.S. 301, 1965).

³ See Richard K. Scher, *THE POLITICS OF DISENFRANCHISEMENT: Why is it so hard to vote in America?* (Armonk, NY: M.E. Sharpe, 2011). For an enlightening recent discussion of this point, see Frank Rich, “Lipstick on an Elephant,” *NEW YORK MAGAZINE*, March 4, 2013; viewed online at <http://readersupportednews.org/opinion2/277-75/16318-focus-lipstick-on-an-elephant> , March 5, 2013.

⁴ Florida Statutes 776.013, “Justifiable Use of Force.”

⁵ *Plessy v. Ferguson*, 163 US 537 (1896); President Woodrow Wilson went out of his way to segregate the U.S. armed forces, and Washington, D.C. generally; instances at state levels are too numerous and well known to mention, but see V.O. Key, *SOUTHERN POLITICS* (New York: Vintage, 1949); C. Vann Woodward, *THE STRANGE CAREER OF JIM CROW*, 2d. rev. ed. (New York: Oxford University Press, 1966); John Hope Franklin, *RACE AND HISTORY: Selected Essays* (Baton Rouge: LSU Press, 1992); and Franklin, *FROM SLAVERY TO FREEDOM*, 9th ed (New York: McGraw-Hill, 2010).

⁶ See Harold D. Lasswell, *POLITICS: WHO GETS WHAT, WHEN, AND HOW* (New York: Peter Smith, 1950), and E.E. Schattschneider, *THE SEMI-SOVEREIGN PEOPLE* (Hinsdale, IL: Dryden Press, 1960)); see also Robert Dahl, *WHO GOVERNS*, 2d ed. (New Haven: Yale University Press, 2005)

⁷ Jonathan Kozol, *SAVAGE INEQUALITIES* (New York: Harper, 1992); Kozol, *THE SHAME OF THE NATION* (New York: Broadway, 2006); and Kozol, *AMAZING GRACE* (New York: Broadway, 2012).

⁸ Even as this paper is being written, the Voting Rights Act, Section 5 in particular, is under serious attack in the United States Supreme Court.

⁹ Scher, p. 11.

¹⁰ Political scientists have known, since the 1930s, that the single greatest obstacle to voting, and improved voting turnout, in the United States is our continuing insistence on antediluvian, arcane, overly-complicated and arbitrary systems of voter registration, administered in different ways by different states. The effect of this administrative and policy variance is to raise questions about equity, fairness, and even whether becoming a recognized voter in a state is a federally guaranteed and protected right at all, since there is no transferability between or across states. Other democratic countries have simplified the registration process considerably with no harm to the integrity of their elections. As of this writing, North Dakota in the U.S. does not require any form of voter registration, and there is no evidence that its elections are more corrupt than in other states.

¹¹ See Alexander Keyssar, *THE RIGHT TO VOTE* (New York: Basic Books, 2009).

¹² Full discussions of how literacy, character, and other tests were applied and used against African-Americans can be found in Key (1949), Woodward (1966), Lawson (1976), Franklin (2010), and Scher (2011), and many of the other sources listed below. Discussion of the

discretionary and usually non-accountable power of local voting officials to disenfranchise fully registered voters for weird or aberrant behavior at the polling site can be found in Scher (2011).

¹³ See Erika Wood, "Restoring the Right to Vote," Brennan Center for Justice, May 11, 2009, viewed online at <http://www.brennancenter.org/publication/restoring-right-vote> , March 5, 2013. See also Michael Peltier, "Thousands of Florida ex-Felons May Not Know They Can Vote," REUTERS, August 1, 2012, viewed online at <http://www.reuters.com/article/2012/08/02/us-usa-voting-florida-idUSBRE87102K20120802> . March 5, 2013; and Andrea Rumbaugh, "Few Felons Regain Right to Vote Under Governor Scott's Changes," VOTING RIGHTS NEWS, August 12, 2012, viewed online at <http://votingrights.news21.com/article/florida-felons/> , March 5, 2013.

¹⁴ See Scher, pp. 13-15. See also David Kimball and Martha Kropf, "The Street Level Business of Elections: Selection Methods for Local Election Officials." REVIEW OF POLICY RESEARCH, Nov. 2006, Vol. 23 Issue 6, p1257-1268; and Peter J. May and Søren C. Winter, "Politicians, Managers, and Street Level Bureaucrats: Influences on Policy Implementation," JOURNAL OF PUBLIC ADMINISTRATION RESEARCH AND THEORY, JPART 19:453-476, <http://jpart.oxfordjournals.org/> , viewed online at <http://jpart.oxfordjournals.org/content/19/3/453.full.pdf?keytype=ref&ijkey=DTF5N2PB4TaeuiC> , March 11, 2013. The author is indebted to Professor Lynn Leverty for the two latter citations.

¹⁵ "Absentee and Early Voting," National Conference of State Legislatures, September 4, 2012; viewed online at <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#early> , March 5, 2013.

¹⁶ See Amanda Terkel, "Charlie Crist: Rick Scott's Refusal to Extend Early Voting is 'Indefensible,'" HUFFINGTON POST, November 4, 2012, viewed online at http://www.huffingtonpost.com/2012/11/04/charlie-crist-rick-scott-florida-early-voting_n_2073661.html , March 5, 2013. See also Amy Goodnough, "In Florida, Early Voting Means an Early Return to Problems," NEW YORK TIMES, October 19, 2004; viewed online at <http://www.nytimes.com/2004/10/19/politics/campaign/19vote.html?pagewanted=print&position=&r=0> . March 5, 2013.

¹⁷ For example, on Sunday, October 28, 2012, the Reverend Jesse Jackson, Congressman John Lewis and a host of other dignitaries held a rally for 2000 mainly African-Americans in Gainesville, Florida, followed by a "Souls to Polls" march to vote. See Hannah O. Brown, "Civil Rights Leaders Fire Up Crowd on Empowerment Sunday," GAINESVILLE SUN, October 28, 2012, viewed online at <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx#early> , March 5, 2013.

¹⁸ Brown, October 28, 2012.

¹⁹ See Ian Gray, "Jim Greer, Ex-Florida GOP Chair, Claims Republican Voting Laws Based on Racism, Suppression," HUFFINGTON POST, November 26, 2012, viewed online at http://www.huffingtonpost.com/2012/11/26/jim-greer-florida-voting-laws_n_2192802.html , March 5, 2013.

²⁰ The bill was signed by recently-inaugurated Tea Party GOP Governor Rick Scott.

²¹ Goodnough, 2004.

²² "How Long It Took Different Groups to Vote," NEW YORK TIMES, February 4, 2013; viewed online at <http://www.nytimes.com/interactive/2013/02/05/us/politics/how-long-it-took-groups-to-vote.html?ref=politics> , March 15, 2013.

²³ Jeremy W. Peters, “Waiting Times at Ballot Boxes Draw Scrutiny,” NEW YORK TIMES, February 4, 2013, viewed online at <http://www.nytimes.com/2013/02/05/us/politics/waiting-times-to-vote-at-polls-draw-scrutiny.html> , March 6, 2013.

²⁴ See “Another Election, Another Legal Tangle in Florida,” SOUTH FLORIDA SUN SENTINEL, November 5, 2013, viewed online at http://articles.sun-sentinel.com/2012-11-05/news/fl-florida-voting-mess-20121105_1_evelyn-perez-verdia-absentee-ballots-florida-vote , March 6, 2013; and Marc Freeman et. al., “South Florida Voting: Long Lines Drag Voting Late Into the Night,” SOUTH FLORIDA SUN SENTINEL, November 7, 2012, viewed online at http://articles.sun-sentinel.com/2012-11-07/news/fl-election-day-at-the-polls-20121106_1_absentee-ballots-mary-cooney-ballot-scanners , March 6, 2013.

²⁵ See Taeggan Goodard’s “Political Wire,” December 30, 2012, viewed online at http://politicalwire.com/archives/2012/12/30/long_lines_cost_50k_votes_in_florida.html , March 6, 2013.

²⁶ See Scott Powers and David Damron, “Analysis: 201,000 in Florida Didn’t Vote Because of Long Lines,” ORLANDO SENTINEL, January 29, 2013, viewed online at http://articles.orlandosentinel.com/2013-01-29/business/os-voter-lines-statewide-20130118_1_long-lines-sentinel-analysis-state-ken-detzner , March 6, 2013.

²⁷ See Andrew Cohen, “No One in America Should Have to Wait 7 Hours to Vote,” THE ATLANTIC, November 5, 2012, viewed online at <http://www.theatlantic.com/politics/archive/2012/11/no-one-in-america-should-have-to-wait-7-hours-to-vote/264506/> , March 6, 2013; Timothy Christopher, “Al Gore Calls Long Voting Lines in Florida a ‘Direct Descendant of Racist Jim Crow Tactics,’” MEDIAITE, November 6, 2012, viewed online at <http://www.mediaite.com/tv/al-gore-calls-long-voting-lines-in-florida-a-direct-descendant-of-racist-jim-crow-tactics/> , March 6, 2013; and Peters, 2013. President Obama also spoke to the issue of unacceptably long voting lines on election day, although he did not specifically address its racial dimension. See the President’s “State of the Union” Address, February 12, 2013, The New York Times, February 13, 2013, viewed online at <http://www.nytimes.com/2013/02/13/us/politics/obamas-2013-state-of-the-union-address.html?pagewanted=all> , March 7, 2013.

²⁸ See Amy Sherman, “Was There A Record Voter Turnout in 2012?,” POLITIFACT FLORIDA, MIAMI HERALD, December 8, 2012, viewed online at <http://www.miamiherald.com/2012/12/08/3132005/was-there-a-record-voter-turnout.html> , March 6, 2013.

²⁹ Scher, 2011, Chapter 6.

³⁰ Martin Luther King, Jr., “Give Us the Ballot” Address delivered at the Prayer Pilgrimage for Freedom, Lincoln Memorial, Washington, D.C., May 17, 1957. Viewed online at http://www.stanford.edu/group/King/papers/vol4/570517.004-Give_Us_the_Ballot.htm , March 6, 2013.

³¹ See The Center for Responsive Politics, OPEN SECRETS, “Reelection Rates Over the Years 1964-2010,” n.d., viewed online at <http://www.opensecrets.org/bigpicture/reelect.php> . March 6, 2013.

³² Space only allows us to look at Congressional districts, but it is more than a reasonable supposition that the same would be true for State Senate and State House districts.

³³ In 2010 Florida voters approved two Fair District Constitutional Amendments which were supposed, among other things, to disallow partisan gerrymandering and incumbency protection

in drawing Congressional and legislative districts. Although the new standards were approved by the Courts, the Legislature did not allow them to affect its usual way of engaging in reapportionment through gerrymandering of politically undesirable groups, in this case Democrats and African-Americans.

³⁴ As measured by US Census data for those years.

³⁵ In 1992 Democrats still controlled the Florida legislature. Nonetheless, in a political stroke of Machiavellian proportions, the Republicans managed to split white and black Democrats on the issue of how many “majority minority” districts would be allowed, thereby determining how many black legislators would be elected. GOP members, who by 1992 constituted a sizeable plurality in the legislature, held the balance of power and were thus able to broker the final number of “black” districts. The results are shown in Table 2.

³⁶ See Barron H. Lerner, “In a Time of Quotas, a Quiet Pose in Defiance,” NEW YORK TIMES, May 25, 2009, viewed online at http://www.nytimes.com/2009/05/26/health/26quot.html?_r=0 , March 18, 2013.

³⁷ See, for example, “Empowering Women in Business,” FEMINIST MAJORITY FOUNDATION, Arlington, Virginia (2013); viewed online at http://feminist.org/research/business/ewb_glass.html , March 18, 2013.