

**SEPARATION FROM POWER:**

**A STUDY OF AFRICAN AMERICANS QUEST FOR PUBLIC OFFICE IN  
ST. LOUIS AND KANSAS CITY, MISSOURI**

**BY  
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## ACKNOWLEDGMENTS

This paper was written as an unpublished dissertation by the authors during the Spring of 1994. Because of its historical significance, the authors decided to publish it on the web in January, 2005. We shall embark upon an effort to update the paper.

It is a culmination of numerous hours of research into race and politics in the city of St. Louis, St. Louis County and Kansas City, Missouri. The foundation of the paper came from several lawsuits filed by the author, Elbert A. Walton, Jr., under the U.S. Voting Rights Act, seeking to protect the voting rights of African-Americans living in the city of St. Louis, St. Louis County and Jackson County-Kansas City, Missouri. These lawsuits included a challenge to the reapportionment of the Missouri House of Representatives, an action to require that any reapportionment of the St. Louis County council include a majority black council district, litigation to require that the method for selection of judges in the major metropolitan areas be fair and non discriminatory against black citizens, and an effort to require the St. Louis Board of Aldermen to be reapportioned in a manner in which black citizens could achieve proportional representation on that body. In addition, to lawsuits, it was necessary to appear before reapportionment commissions, attend seminars and to become thoroughly familiar with issues related to race and politics in order to seek to secure black voting rights.

These efforts led to both victories and defeats; but whatever, the outcome of the litigation and advocacy for black voting rights, invaluable information was gathered as to the effect of race on public life in Missouri, and particularly in the St. Louis and Kansas City areas of the state.

Some of these issues were first addressed in several papers written by Elbert Walton in support of presentations he made to various redistricting commissions covering state and county legislative offices. Those presentations serve as core material in this paper as we address the issues of race and politics in the executive branch of government. However, we have expanded on those thoughts as well as covered the remaining two branches of government, the legislative and judiciary, in this document.

Race and politics is a serious problem in this country. We hope the reader will get an appreciation for this issue as they read the pages which follow.

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## **PREFACE**

In the decade of the 80's and 90's politics has served as the major thrust of African-Americans in their quest for civil rights. The highly charged emotional excitement that spurred on the protest movement of the 1960's is today focused in the political arena. Black persons now hold more offices at all levels of government than they ever had in modern times, or "since reconstruction."

Despite these gains, African-Americans still find barriers placed in the way to full political participation. These barriers, based on race, are the topic of discussion in the pages which follow.

## **CHAPTER 1**

### **AFRICAN-AMERICANS IN PUBLIC OFFICES**

#### **INTRODUCTION**

The purpose of this paper is to study the influence of race in the process for election and selection of candidates for executive, legislative and judicial office in Missouri, with specific emphasis upon the major urban centers of the state -- St. Louis and Kansas City.

The data for this analysis includes census statistics and election results in the city and county of St. Louis as well as Kansas City and Jackson County. In addition, we have examined legislative reapportionment plans for state and local legislative bodies, the selection process for judges, campaign finance reports, official government reports and manuals, writings of experts in the field of race and politics and other research sources documented in my citations, tables, illustrations and bibliography, as well as conduct interviews with African-Americans holding public offices and local experts in the field.

Analysis of these materials has led the writers to conclude that racial polarization in politics is extreme in the major urban areas of Missouri and hampers African-American access to public office in the legislative, executive and judicial branches of government in Missouri and its political subdivisions. However, despite the high level of polarization, it is the author's view that political leadership can take advantage of that polarization to form effective bi-racial coalitions which result in election of African-Americans to political office. Such elections give white voters a greater exposure to black public office holders, reducing racial animosity and distrust, thus minimizing and softening the

polarization of the races and allowing voters to vote for candidates based on the content of their character rather than on the color of their skin.

## **OVERVIEW**

With the elections and appointments of African-Americans to public offices in April of 1993, significant gains, have been made by black citizens in Missouri in securing legislative, executive and judicial offices. However, in St. Louis County, despite holding 20% of the total population, black St. Louis County voters now hold none of the elected offices at the county level.

The gains are most significant in Kansas City, where African-Americans constitute only 30% of the electorate, but serve in 38% of the offices.<sup>1</sup> In fact, Kansas City's Fifth congressional district, which is only 25% black, has for the past ten years been represented by a black congressman, U.S. Rep. Alan Wheat.

St. Louis too has a black congressman, Cong. William Clay, Sr.; however, he represents a predominantly black district, and has so represented that district since 1969 when the legislature first redrafted the district's boundaries after a federal court ordered the reapportionment of congressional districts in the state due to inequity in population of the districts.

## **BLACK MAYORS LEAD MISSOURI'S TWO LARGEST CITIES**

On April 6, 1993, an African American, Freeman Bosley, Jr., was elected to office as the first black Mayor of the city of St. Louis, Missouri. Two years earlier, in 1991, Kansas City, Missouri elected the Rev. Emanuel Cleaver its first black mayor. Each of these elections were marked by racially polarized voting; and each represented the first time in these cities that African American candidates with strong black voter turnout were able to win the offices of mayor.

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<sup>1</sup>This is not true in the area of judicial offices, which are appointed under the Missouri non-partisan court plan, with blacks constituting only 12% of the total.

Once before in Kansas City and twice before in St. Louis black candidates for mayor had been defeated. And although blacks in those cities had been successful in winning elections to other city-wide offices, in every instance, voting for the candidates was along racial lines.

### **BLACK CANDIDATES FOR STATE-WIDE OFFICE**

Black candidates have been unsuccessful in their quest for state-wide office; and to date no black person has been elected to any executive offices in the state. There have been several black candidates for state-wide offices in Missouri. In 1968, Robert Curtis and Philip Dennis, formed a team to run for Governor and Lt. Governor, respectively. Lavoy "Zaki" Reed made two runs for the democratic nomination for Governor, once in 1984 and again in 1988. There have been candidates for U.S. Senator, Lt. Governor and Secretary of State as well. Donna White, a black lawyer from St. Louis, missed the Republican nomination for Secretary of State by only 2,000 votes in 1980.

With the election of black mayors to office in the two largest cities of Missouri and the election of Carol Mosley Braun as the first black United States Senator from Illinois, the black United States Congressman from Kansas City, Missouri, Cong. Alan Wheat, has begun to explore the possibility of being the first black person elected to the United States Senate from Missouri.

It is proffered by newspapers and some political analysts that "the white vote" "elected" the black mayors to office. Therefore, the thinking goes, white voters appear more open to black candidates and Congressman Wheat stands a good chance of receiving the democratic nomination and then going on to win election to the U.S. Senate in the general election that fall.

Is Missouri ready to elect its first black U.S. Senator on the heels of St. Louis and Kansas City electing their first black mayors? Are white voters and white



political supporters ready and willing to elect a black person to the highest office in Congress? Given that it appears that Cong. Wheat is sure to run, these questions will be answered in 1994.

## **BARRIERS TO ELECTION**

Despite the gains in black elected and appointed officials there still exist significant barriers to blacks achieving public office. Among those barriers are racially polarized voting, lack of finances to fund political campaigns, racially discriminatory gerrymandering in reapportioning legislative districts, and discrimination in appointments to judicial office.

It is with these barriers in mind that I shall examine the effects of racial polarization on African-Americans being elected to public office

## **THE RECORD**

### **ST. LOUIS COUNTY**

St. Louis County has nine elected public offices: County Executive, County Prosecutor and a seven member legislative body, known as the county council. None of these offices are held by African Americans. Moreover, during my research, I could only find two instances in which black Americans had sought election to a county office.

In 1990, Stephen Banton, a very light skinned black republican state representative, representing a 99% white state representative district, sought the republican nomination for county prosecutor, but lost. In 1990, Ester Haywood, another black republican, sought election to the county council from the First District. He too was unsuccessful.

St. Louis county has numerous political subdivisions, i.e., municipalities, fire protection districts, school districts, etc. In those subdivisions that are predominantly black, African-Americans have been elected to public offices, but;

black candidates have achieved no electoral success in majority white subdivisions.

## **ST. LOUIS CITY**

St. Louis city is both a city and a county. It elects eight "county" office holders, i.e., the circuit attorney, circuit clerk, collector of revenue, license collector, public administrator, recorder of deeds, sheriff and treasurer. As of April, 1993, the circuit clerk, Freeman Bosley, Jr., and treasurer, Larry Williams, are black.

Bosley, who on April 6, 1993, was elected as St. Louis City's first black Mayor, was first elected to the office of circuit clerk in 1982 and reelected in 1986 and 1990. The treasurer, Larry Williams, became treasurer in 1984 when he was appointed to the office after the incumbent white treasurer, Paul Berra, resigned to accept the position of comptroller of the city. He has since been reelected to the office twice.

In 1969, a black person, Benjamin Goins was appointed by Governor Warren Hearnes as St. Louis license collector, upon the death of Juggy Hayden, the white incumbent office holder. Goins successfully achieved election and reelection to this office in 1970 and 1974. Goins was appointed Sheriff, by the St. Louis Board of Aldermen in 1977 when the incumbent sheriff, Raymond Percich, resigned after being elected city comptroller and Goins was thereafter elected sheriff in that same year.

Upon Goins election as Sheriff, a black person, Lawrence Woodson, was appointed to take Goins place as License Collector. Woodson was elected to the full term in 1978, but died just as his term was ending. He was replaced by a black female, Billie Boykins, who was elected to the office in 1982, and reelected in 1986. After seven years in office, Boykins was ousted from her position by the

Missouri Supreme court on the alleged grounds that she was incompetent.

Thereafter, a white candidate won the office in 1990. Goins, too was forced from office in 1979 after conviction for a crime; thereafter, the office went over to a white office holder, Gordon Schweitzer, in a special election.

City elected officials include the Mayor, Comptroller, President of the Board of Aldermen and twenty-eight members of the board of aldermen. The comptroller Virvus Jones is black; and as previously indicated, St. Louis recently elected Freeman Bosley Jr. its first black mayor. Virvus Jones first took office in January, 1989 under the appointment process when the incumbent comptroller Paul Berra resigned. Jones was successful in achieving election to the full term in March, 1989 and reelected in 1993. St. Louis' first black comptroller was John Bass, who was elected to that office in 1973; however, four years later, in 1977, he was defeated during his reelection bid.

Freeman Bosley's father, Freeman, Sr. a St. Louis alderman, was the first black person to seek the office of Mayor, when he ran in 1985; however, he was unsuccessful. The next black candidate for mayor was another St. Louis alderman, Mike Roberts, who also lost the bid for Mayor in 1989.

Roberts also was a candidate, twice, for President of the Board of Alderman, losing elections for said post in 1983 and 1987. In 1970, a black alderman, Eugene Bradley, was appointed to the office of President of the Board of Aldermen when the incumbent white Board President, Paul Simon, left the position to become an appeals court judge. However, upon seeking election to the balance of the term, Bradley was defeated by a white candidate, Thomas Zych, a Missouri State Representative.

St. Louis' Board of Aldermen, its legislative body, consists of twenty-eight members, elected from single member districts or wards, eleven of whom are black.

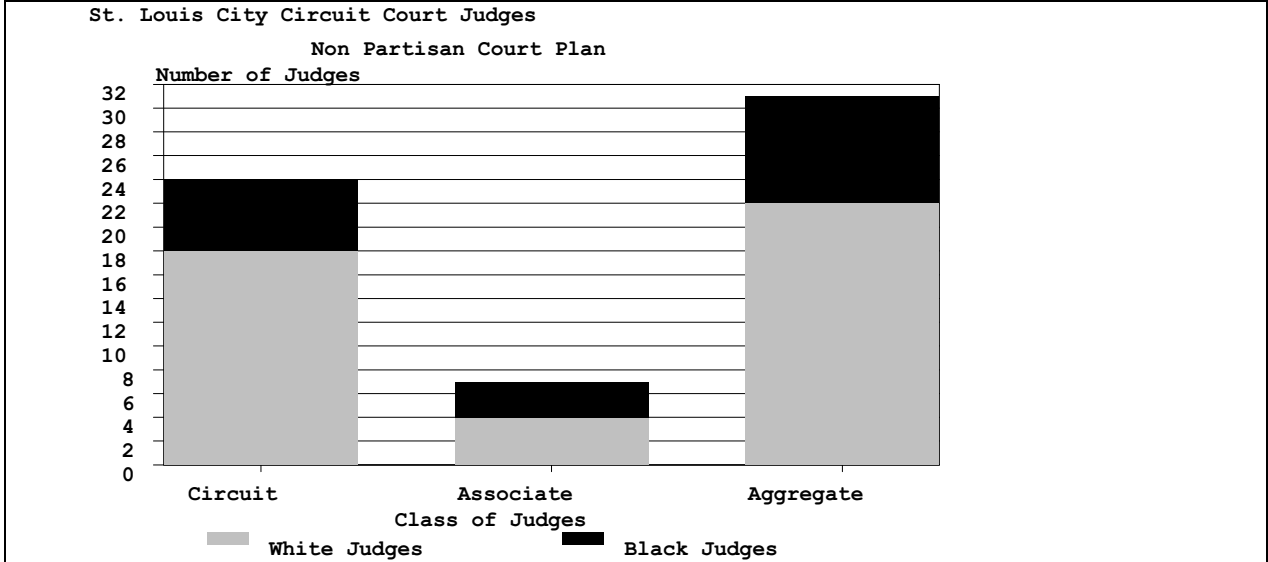
### **KANSAS CITY-JACKSON COUNTY**

Kansas City has a black mayor, Emanuel Cleaver, who was elected in 1991. It also has four black persons elected to its city council out of twelve. Kansas City is part of Jackson County. Its county council or legislature is composed of nine persons, one of whom, the Rev. James Tindall, is black. At one time as many as three black persons served in the Jackson County Legislature, but by 1990, that number had been reduced to just one. Its two county-wide elected officials, its County Executive and County Prosecutor, are white.

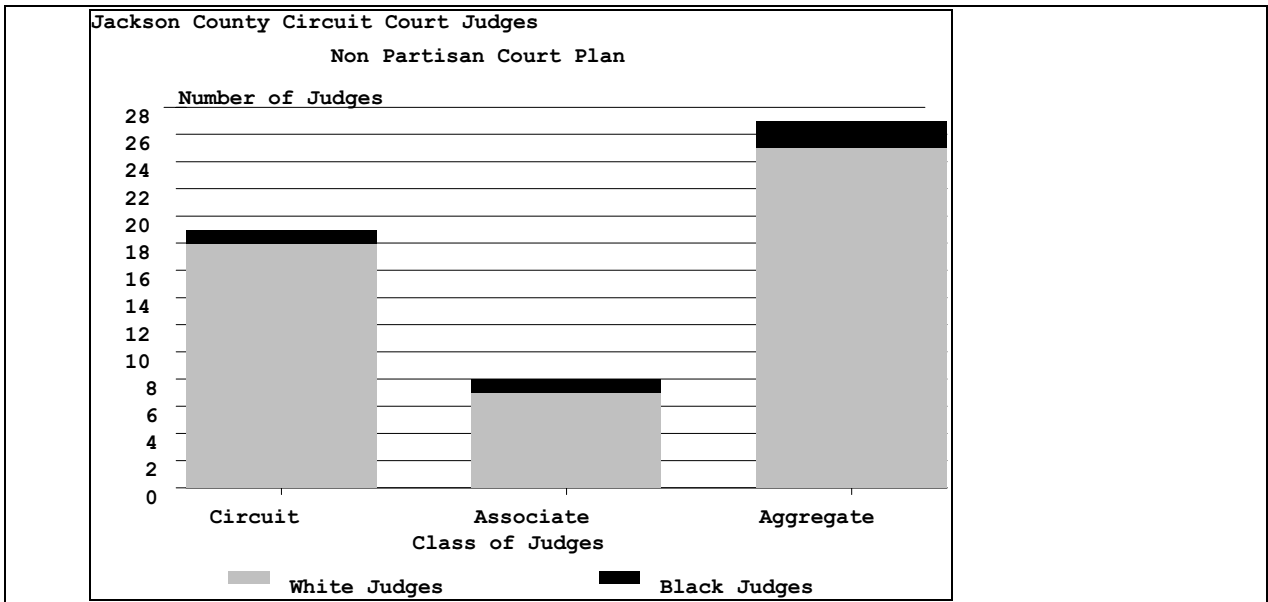
A black person, Bruce Watkins, was the top vote receiver in a primary election to be Mayor of Kansas City in the 1979 but failed to win the office in the general election. He had previously served as the elected Jackson County Circuit Clerk before the office was made appointive by a change in the county charter.

### **THE JUDICIARY**

In the judiciary, out of 31 state trial court judges in the city of St. Louis, nine are black. In Jackson County of which Kansas City is a part, there are only two black state court trial judges out of 27. Out of 33 state trial court judges in St. Louis County, only two are black.

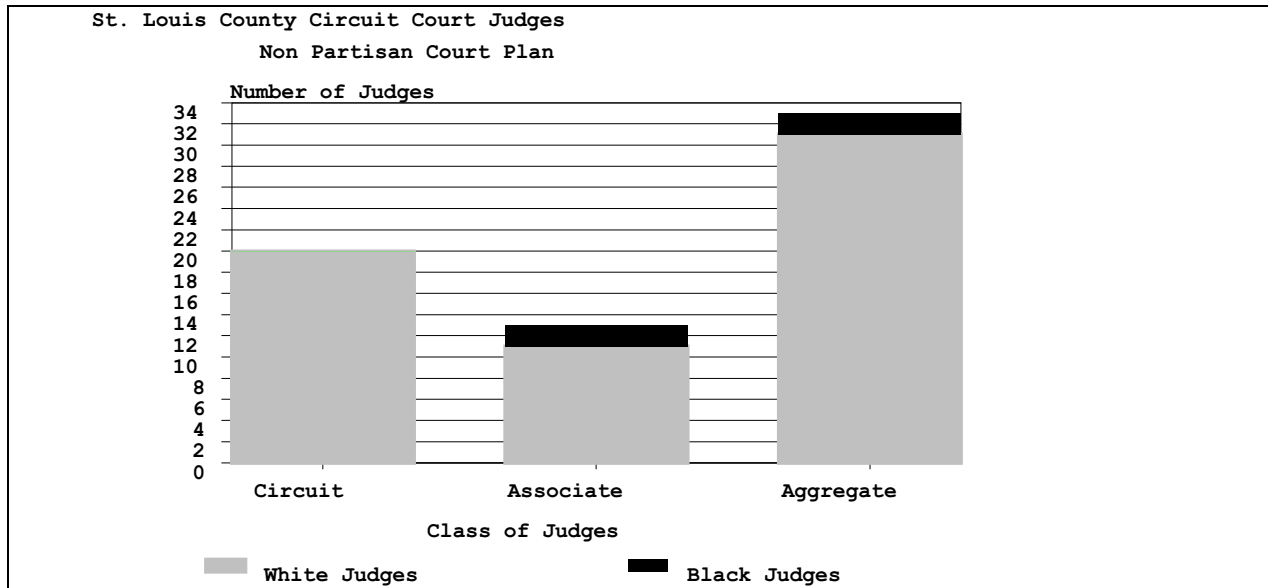


**Figure 1. Racial Composition of City of St. Louis Judges**



**Figure 2. Racial Composition of St. Louis County Judges.**

Out of 32 appeals court and 7 Missouri Supreme Court judges, there is not a single black judge.



**Figure 3. Racial Composition of Jackson County Judges**

St. Louis county recently instituted a county municipal court composed of three judges -- all three of whom are white. In St. Louis city, there are five municipal court judges, one of whom is black. In Kansas City, two of its eight municipal court judges are black.

### **STATE LEGISLATURE**

Missouri's 34 member Senate is 8% black having three black members, one from Kansas City, Sen. Phil Curls, and two from St. Louis, J.B. Banks and William Clay, Jr. Missouri's 163 member House of Representatives is 8% black and has six black members from St. Louis city, two from St. Louis County and five from Kansas City. Missouri's population is 11% black.

### **PROPORTIONAL REPRESENTATION**

As one can see, black people do hold executive, legislative and judicial offices in the major urban areas of Missouri. Furthermore, except for St. Louis County, they are slowly approaching parity to their proportion of the population as a whole.

### **ST. LOUIS CITY**

In St. Louis City, blacks constitute approximately 50% of the population. A look at all elected offices reveals the following statistics. Out of the eight "county" offices, blacks hold two, or 25%. Out of the three city-wide offices they now hold two, or 67%. Out of the 28 seats on the board of aldermen, they hold 39%, or 11. One of three U.S. congressmen in the St. Louis area is black. Sixty-seven percent (67%), or two out of three state senate seats are held by blacks. Six out of thirteen, or 46% of state representative positions are held by blacks. Thirty-three percent (33%), or four out of twelve school board members are black. Fifty percent (50%), or one out of two junior college district board members are black.

### **ST. LOUIS COUNTY**

As previously indicated, out of nine county elected officials, none are black. The black population of St. Louis County is approximately 20%. There are several municipalities and other political subdivisions in the county that are predominantly black and have black elected officials; however, they are so numerous and minor in nature, that they will not be the subject of this study.

There were two black state representatives elected to office in 1992 in St. Louis County, one, a black republican, represents a 99% white legislative district. The second, Russell Gunn, is a democrat representing a district that is 67% black.

Twenty-five percent (25%), or one of four junior college district board members is black -- Glenda Mitchell Myles.

### **KANSAS CITY-JACKSON COUNTY**

Kansas City is a part of Jackson County; however, the bulk of the black residents of Jackson County reside within the Kansas City municipal limits. Kansas city's black population is 30% of the city. Four of twelve, or 33% of city council members are black; 33%, or three of nine school board members are black. The only city wide elected executive official is the Mayor and he is black. One of

nine, or 11% of the county legislators is black. None of the two county-wide executive officials are black. The only congressman from the City is black. Thirty-three percent (33%), or one out of three state senators are black; and four, or 31% of thirteen state representatives are black. There is also one black republican from the city of Blue Springs, representing a 90% white state representative district in Jackson County.

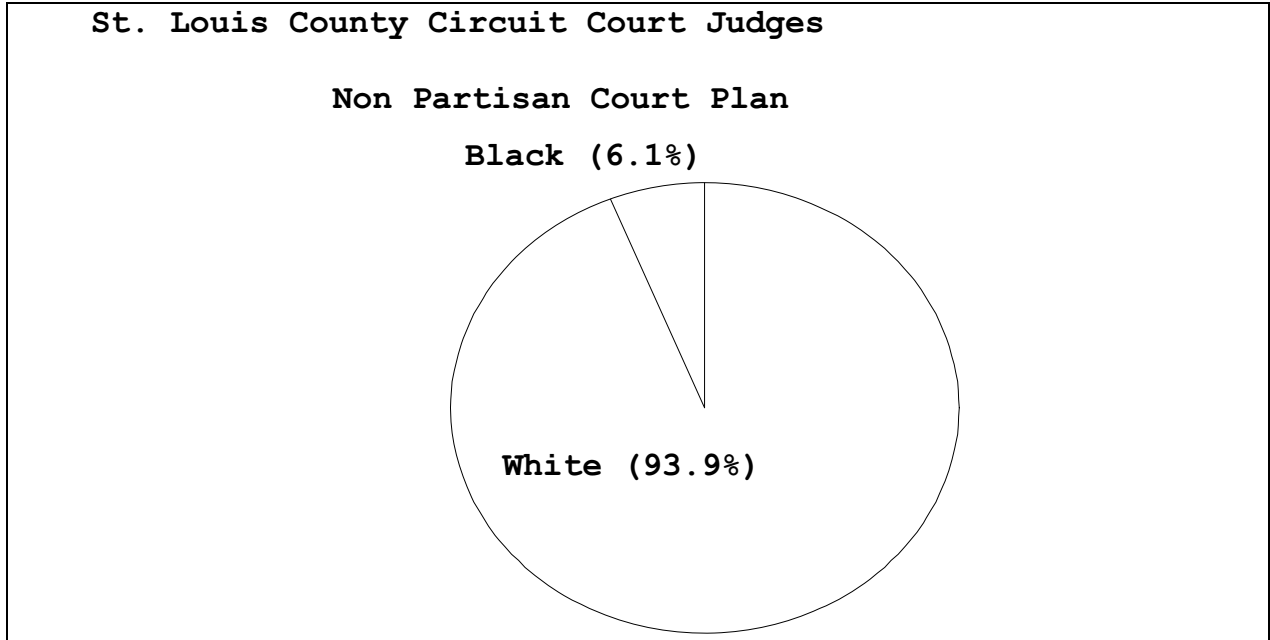
Kansas City blacks, we must note, hold 38% of the elected offices in the city -- a number that is well above the black proportion of the city's total population. It has been reported that Kansas City is the only location in the country where blacks have exceeded their proportion in electing black officials to public office. (Piliawsky, 1991) Furthermore, they have had this electoral success despite a pattern of racially polarized voting. Black political strength in Kansas City comes from a well-unified black political organization, Freedom, Inc. that takes advantage of racially polarized voting by forging bi-racial coalitions with white political groups to assure election of black candidates.

### **JUDICIAL REPRESENTATION**

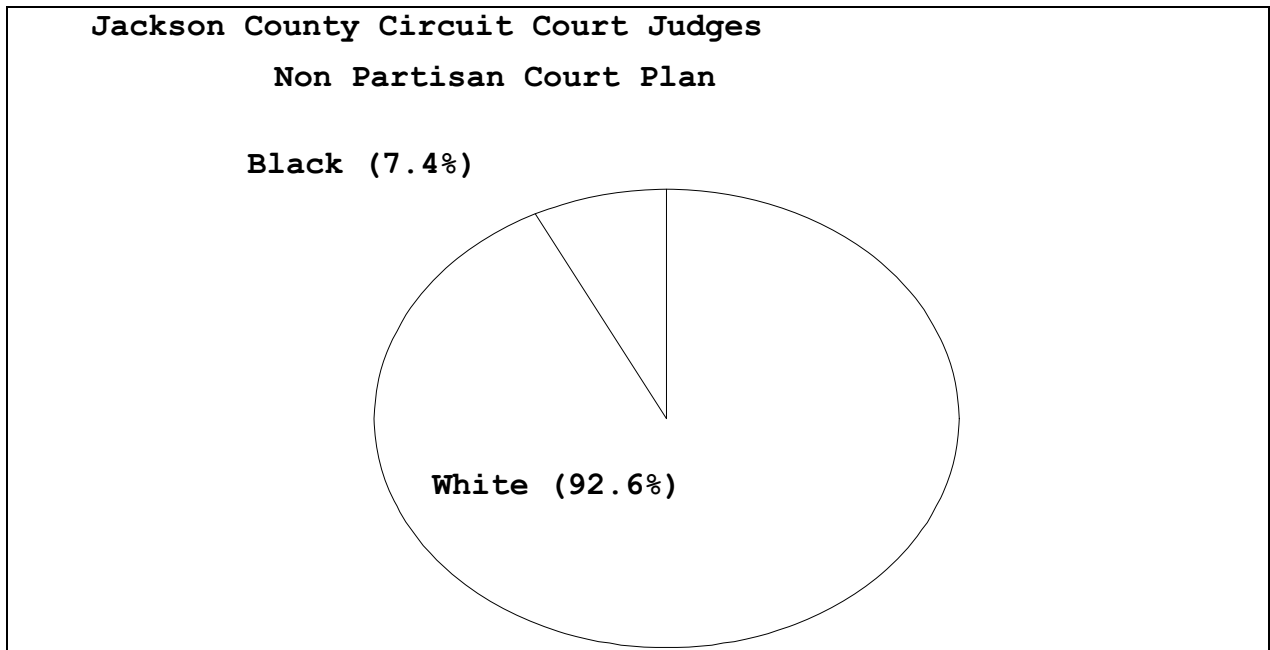
In the judiciary, only 2 out of 33, or 6% of the St. Louis County judges are black; only 2 out of 27, or 7% of the Kansas City-Jackson County trial judges are black. Only 29%, or 9 out of 31 state trial judges in St. Louis City are black.

As previously indicated there is not a single black judge out of the 39 appellate level judges in Missouri.

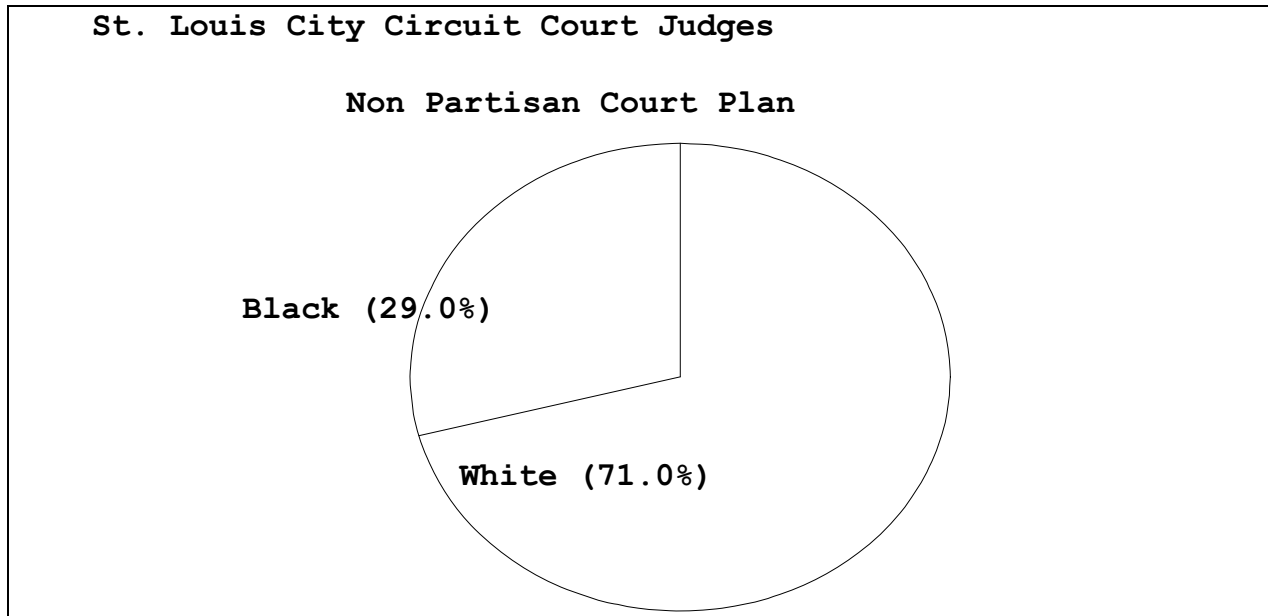




**Figure 4. Racial Composition of St. Louis County Judges**



**Figure 5. Racial Composition of Jackson County Judges**



**Figure 6. Racial Composition of St. Louis City Judges**

## **SUMMARY**

The above record on blacks holding executive, legislative and judicial positions gets mixed reviews. To the black minority in this state it is not adequate, as African-Americans demand no less than a proportional share of the American political pie. Furthermore, the record does not tell the full story of the struggle for political rights being waged by black citizens of Missouri. Therefore, we will detail in the remainder of this paper the pitfalls to achieving public office which African-Americans must overcome. These pitfalls are not necessarily unique to blacks; but nevertheless, they are real and must be overcome.

Although blacks do hold judicial office, blacks are sorely underrepresented when it comes to appointments to judicial positions. Furthermore, gains made by blacks to elected offices are often reversed, particularly in the legislative field, by racially discriminatory gerrymandering of legislative districts at the time of reapportionment. Black candidates, furthermore, are hampered when they seek elected office by lack of funding. Moreover, due to racially polarized voting, unlike white incumbent office holders, black incumbents can not count their seats

as "safe"; nor can black candidates, who have received the democratic nomination in heavily democratic cities, be assured of being elected to office in the general election based on the content of their character as opposed to the color of their skins. (King, 1963)

These are major barriers to election of African Americans to office, which must be hurdled; and, fortunately, they are capable of being surmounted, but not without undue burdens.

My purpose then in writing this paper is to look at these barriers to African-Americans gaining public office with an eye to making suggestions as to how these barriers may be overcome.

## CHAPTER 2

### RACE AND POLITICS

#### INTRODUCTION

Racial politics in the United States is a product of the historical foundation of this country. Critically the initial political document, the U.S. Constitution, classified black people as three-fifths of a human (Article I, Section 2).<sup>2</sup> Furthermore, discrimination in voting practices was not simply race based, but sex and income based as well. Voting rights initially extended only to white, male landowners<sup>3</sup>; but with the Fifteenth Amendment to the U.S. Constitution the right to vote was extended to black males. The nineteenth amendment extended the right to vote to women.

#### MINORITY VOTE DILUTION

Racial bloc voting is significant only because of its use along with minority vote dilution devices. Where a racial minority is in the majority in a jurisdiction, racial bloc voting can not harm the racial minority; for in such a majority-minority district, the minority is the majority. Moreover, where a minority is in the majority of a city, ward, legislative district, etc., then the minority can elect a representative of its choice, racially polarized voting notwithstanding.

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<sup>2</sup>Representatives and direct taxes shall be apportioned among the several states ... according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, **three-fifths** of all other persons.

<sup>3</sup>This was by individual state laws and not federal.

We will now look at what are called minority vote dilution devices -- devices designed to minimize the effectiveness of a minority's vote by keeping them submerged in a jurisdiction with a white majority.

## **OVERVIEW**

One of the major works on Minority Vote Dilution and titled in that name is a compilation of essays on the subject published by the Howard University Press, under the auspices of the Joint Center for Political Studies (now the Joint Center for Political and Economic Studies) in Washington, D.C., and edited by Chandler Davidson, 1989. This work gives an overview of minority vote dilution devices, a historical perspective on the question, aspects of vote dilution that are most common in the present day and actions that might be taken to remedy the problem. In addition, the work discusses the benefits to African-Americans derived from participation in the electoral process.

## **RECONSTRUCTION**

In most instances when black people are elected to major public offices, we read not that this is the first time a black person has been elected to such an office; instead, we read that it is the first time that a black person has held the office since "reconstruction." Reconstruction is that ten year period in U.S. history following the civil war in which the South was under federal government supervision. It is a period in which black Americans had significant and substantial voting power; and successfully elected African-Americans to offices at every level of government except President and Vice President of the United States.<sup>4</sup>

No serious study of minority vote dilution and the significance thereof can be made without a review of the reconstruction period of the South. Therefore, I

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<sup>4</sup>J.A. Rogers in his work, Five Negro Presidents indicates that there have been black Presidents and Vice-Presidents of the United States; however, they were "passing" for white.

have examined several major works on reconstruction, Black Power, U.S.A., by Lerone Bennett, Jr. and Black Reconstruction, by W.E.B. DuBois.

In these two works we find that upon the passage of the Fifteenth Amendment to the U.S. Constitution and the exercise of the franchise by the newly freed black men in the South, black men exercised considerable political power. Between 1866 and 1876, black men were elected Governors, Lt. Governors, Secretaries of State, State Treasurers, Attorneys General, State Supreme Court Justices, Adjutant Generals, U.S. Senators, U.S. Congressmen, state legislators, mayors, city council members, county commissioners, judges, justices of the peace, sheriff, constables, recorders of deeds, license collectors, county clerks, county collectors, members of school boards and to whatever offices were available to hold.

During reconstruction, in South Carolina, whose population was 60% black, blacks controlled the legislature as did they in Mississippi and Louisiana. Pinchney B.S. Pinchback became Governor of Louisiana. Hiram Revels and Blanche Bruce became U.S. Senators from Mississippi; and freedom, justice and equality were flourishing throughout the South.

With the withdrawal of Federal troops, in 1876, the reconstruction era was ended; and not too long afterwards black citizens were completely disenfranchised, throughout the South, through violence and intimidation as well as employment of minority vote dilution devices.

### **AT-LARGE ELECTIONS**

Much of the literature on minority vote dilution discusses the effects of what are called "at-large" elections on black electoral success. At-large elections are those situations in which candidates are voted upon by every voter in a jurisdiction as opposed to being elected only by voters from a sub district. Chandler Davidson

and George Korbel in an article entitled, At-Large Elections and Minority Group Representation, examined the effects of at-large elections upon minority group voters.

In Kansas City, Missouri, for instance, its city council is composed of twelve members. The city is divided into six council districts. There are two council persons elected from each council district. One council member is elected only by the voters who reside in the council district while the other council member is elected by all of the voters of the city, i.e., at-large.

At-large elections work to the disadvantage of minority candidates in those instances in which minorities are submerged in a white majority jurisdiction. In such a majority white area, black candidates are usually defeated by the white majority voting as a bloc. It is therefore suggested that multi-member bodies, such as city councils, school boards, and legislatures have sub districts for election of their members. Where there are sub districts, a group of minority voters can be placed in a district in which they will constitute a voting majority.

### **BLACK CANDIDATES FOR CITY-WIDE ST. LOUIS OFFICES, 1960-79**

Persons elected to single member executive offices, of course, can not be elected by sub district, but by necessity are elected at-large. Included in the literature that I reviewed for this thesis were two unpublished compilations by Ernest Calloway of election results where black candidates had sought city-wide office in the City of St. Louis between 1960 and 1979. Prof. Calloway also included in his report several analytical articles that he had published in newspapers about these elections.

Calloway using homogeneous techniques, reported, and analyzed elections in which black citizens were candidates for city-wide offices in the City of St. Louis. His statistical data indicated that in those instances in which black candidates

failed to achieve election to office, it was due both to racially polarized voting and low black voter turnout. His data also indicated that those black candidates who had been successful in achieving election to city wide office had been either initially appointed to office and were running as incumbents and/or there was more than one white candidate seeking the office at the same time -- thus the white majority vote would be split among the white candidates, and the black candidate would then win election with less than a majority or by a plurality of the vote. In each instance the vast majority of the white voters voted for the white candidates and the overwhelming majority of the black voters voted for the black candidate.

### **MULTIVARIATE FACTORS IN ST. LOUIS**

Dr.'s Lana Stein and Carol Kohfeld, wrote an article entitled, St. Louis's Black-White Elections, Products of Machine Factionalism and Polarization. This article examined various factors that affected the outcome of elections in St. Louis, including race and political factors. The authors analyzed polarized voting using bivariate regression techniques. They further examined the role of black and white factions in influencing election outcomes. They concluded that polarized voting was a primary factor in African Americans losing elections, but that in selected instances, black factionalism combined with such polarization to deny the black candidates electoral success.

### **CITY OF ST. LOUIS**

Earlier in this chapter, I described a study by Prof. Ernest Calloway of black-white elections in the City of St. Louis for city-wide office between 1960 and 1979. In preparation for a court challenge to reapportionment of the Missouri legislature in 1991, research was secured by the plaintiffs' counsel, Elbert Walton, by which he supplemented Calloway's analysis, of the 1960-79 elections. This research updated Calloway's study through an analysis of elections from 1980



through 1991, in which black candidates faced white candidates for election to city-wide office. This updated study entailed homogenous analysis and, on selected elections, included regression analysis as well.

The election results from these two studies led me to draw the conclusion that racially polarized voting is characteristic of voting in St. Louis and more often than not, black candidates are defeated due to white voters voting as a bloc.

Furthermore, the results demonstrated that low black voter turnout was the true cause of defeat.

### **FACTORS WHICH LEAD TO BLACK ELECTORAL SUCCESS**

Although racially polarized voting works against election of African-American's to citywide offices in St. Louis, given the correct set of circumstances, African-Americans have achieved electoral success. From my analysis, this success is generally only possible where the black candidate has the advantage of incumbency or the white vote splits among several white candidates seeking the office. Furthermore, the black candidate must have adequate financing or he will be unable to get his message across and sell himself to the voters. Incumbency usually brings the necessary funding, and the mere fact that the incumbent is black usually leads to challenges from a multiple number of white candidates.

As examples of these factors, I will review, the election and reelection of two black candidates, Freeman Bosley, Jr. and Billie Boykins, for the offices of circuit clerk and license collector, respectively.

When Freeman Bosley, Jr. sought the office of circuit clerk of the city of St. Louis in 1982, he faced two major white opponents, Joseph Roddy, the incumbent circuit clerk and Thomas Connelly, a former city Alderman and City Counselor. In addition, an elderly black woman by the name of Clara Jo Roddy's name also appeared on the ballot. Freeman's father, Freeman Bosley, Sr. was a St. Louis City

Alderman, who had achieved high name recognition in the City and substantial popularity in the black community based on demonstrations which he had led against the closing of the city's historically black hospital, Homer G. Phillips -- a hospital of national repute.

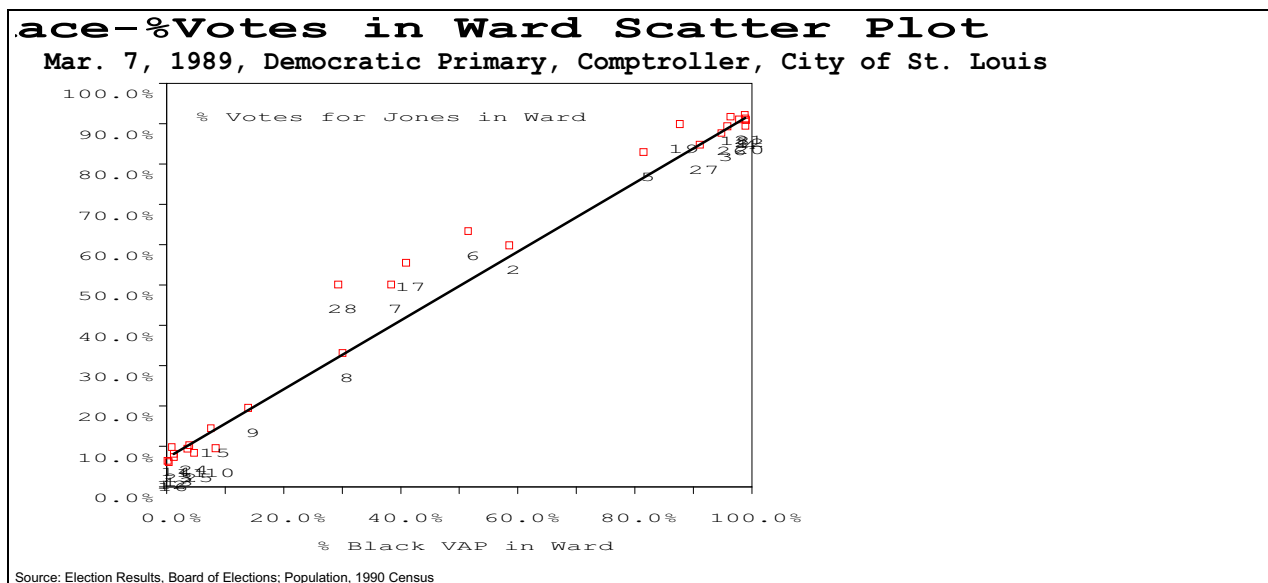
Billie Boykins candidacy for license collector also took place in 1982. Boykins, at the time, was a Missouri State Representative. When she entered the field, she faced six white opponents. The incumbent license collector, Lawrence Woodson, who was also black, had recently died, and therefore the office was open; and therefore, in addition to Boykin, five white candidates also vied for the office of License Collector.

In their original elections to office, according to Stein and Kohfield's article, Bosley, Jr. and Boykins received, only 2% and 1%, respectively, of the white vote, while receiving 74% and 88% of the respective black vote. They won election with less than a majority of the vote, receiving pluralities of approximately 36% of the vote, with the white vote being split among several white candidates for said respective offices. Bosley's win was with a margin of less than 1000 votes and fortunately for Bosley, Clara Jo Roddy -- whose name was closely similar to the incumbent, Joe Roddy -- received 2,270 votes

On seeking reelection as incumbent office holders, in 1986, Bosley and Boykins again faced white opponents and again did not win a majority of the white vote. They both received only 35% of the white vote -- this time winning reelection with over 90% of the black vote. The two white incumbent office holders who also sought reelection in 1986, for the offices of recorder of deeds and collector of revenue, respectively, garnered majorities, in both the black and white communities, even though they had black challengers.

This same pattern held true with Virvus Jones, the black candidate whose election results were the subject of the scatter plot illustrations discussed above. In January of 1989, Jones, was appointed Comptroller of the City of St. Louis, as a part of a deal by which the incumbent Mayor received the support of black political leaders in his reelection bid for office. After, Jones received the appointment, he sought election to the office in March of that same year. He faced two white opponents, Steven Conway, the son of a former St. Louis City Mayor, Stephen Conway and Peter Percich, the son of a former City Comptroller, Raymond Percich. Jones won the election; however, he won with less than a majority of the votes, receiving a 48% plurality of the total vote and only 11% of the white vote -- 89% of the white voters had cast ballots split among his two opponents, who together shared 52% of the total vote.

The following is a scatter plot of the vote for Jones in the March 7, 1989, Democratic Primary election for comptroller:



**Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri**

Four years later, in 1993, Jones faced a white alderman, James Shrewsberry, and Penelope Alcott, a white former member of the St. Louis School Board, in his

reelection bid. Again, the white vote went for the white candidates while the black vote went to the black candidate. Jones won the election by 1984 votes. Penny Alcott received 3281 votes.

These factors for electoral success of black candidates are clear from analysis of annual elections between 1960 and 1993 -- pitting white against black candidates for city wide office. Success, for the black candidate was possible only where the candidate faced a multiple number of major white candidates and/or enjoyed the advantage of incumbency.

Finally, it should be pointed out that in each instance of electoral success, the black candidates were able to secure adequate financing of their election campaigns. And as we shall discuss later in this paper, without adequate funding, there can be no election success.<sup>3</sup>

### **AT-LARGE ELECTIONS IN KANSAS CITY**

The split white vote formula for electoral success for black candidates also holds true in Kansas City. Analysis of electoral results in Kansas City show that those black candidates who won elections in polarized primary contest did not win a majority of the white votes, e.g., Cong. Alan Wheat, 1982; Mayor Emanuel Cleaver, 1991. They too like black candidates in St. Louis, eked out victories in primaries with huge majorities from black voters while receiving only 10% to 16% of the white vote.

Furthermore, where black candidates faced only one white opponent, they lost, e.g., --Carol Coe, black incumbent defeated in 1990 by a white opponent, Claire McCaskill, for reelection to an at-large seat in the Jackson County Legislature and Leonard Hughes, retired black judge, defeated by white incumbent, Albert Riederer, in 1988 at-large election for Jackson County Prosecutor. In her election, Coe received 87% of the black vote, while McCaskill

received 65% of the white vote. McCaskill shared the white vote with another white candidate, Phil Donnelly, who received 27% of the white vote; thus, the white candidates aggregated 92% of the white vote. Coe had joined Hughes in the campaign for County Prosecutor in 1988, she and Hughes both received 43% and 43% respectively of the black vote, for an aggregate of 86% of the black vote, while, their white opponent, Riederer, received 86% of the white vote.

## **SUMMARY**

In summary, the literature that I have reviewed covered:

1. Racially polarized voting and how to measure it statistically,
2. At-large elections and their use as devices, in conjunction with polarized voting, to dilute a minority's voting strength,
3. The ten year period following the civil war, called the reconstruction period in which we showed the heights to which black voting power had ascended over 100 years ago,
4. Multi-variate factors -- other than race -- which influence the outcome of elections, and
5. Finally we looked at some specific works on St. Louis analyzing racially polarized voting and other factors that influenced the outcome of actual elections for candidates running city-wide.

This literature provides a sound foundation for review and evaluation of the research, results and discussion that follow.

## CHAPTER 3

### STATISTICALLY MEASURING RACIALLY POLARIZED VOTING

#### INTRODUCTION

One of the topics on which literature about racial bloc voting has been written is the methods for measuring the degree of racially polarized voting in a jurisdiction. The literature in the area basically discusses two widely used objective mathematical techniques, i.e., homogeneous precinct analysis and bivariate regression analysis. To determine the degree to which voters cast ballots on the basis of race, one would either use regression or homogenous analysis or both.

#### POLARIZED VOTING

Racially polarized voting refers to the dichotomy between black and white voters in selecting candidates for public office. In order to measure racial block voting political analyst employ statistical techniques.

One of the major writers on use of statistical or mathematical techniques to measure the degree of racial bloc voting is Dr. Bernard Grofman. His claim to fame arose because he was the expert witness used by the plaintiffs in the case of Thornburg v. Gingles. Thornburg is the leading court case on standards to be used in reapportionment cases where parties challenge the reapportionment of a legislative body on the grounds that the reapportionment plan unlawfully dilutes minority voting strength. In Thornburg, Dr. Grofman employed a statistical method called "bivariate ecological regression analysis" to determine the degree of racially polarized voting in multi-member legislative districts in North Carolina. This was particularly important in that these legislative districts were specifically

designed to be non-homogeneous or to contain both black and white voters, with the black voters in a slight minority. Black candidates for election to the North Carolina legislature from such multi-member districts were unsuccessful, allegedly due to racial bloc voting -- white voters only voting for white candidates, black voters only voting for black candidates -- and since the black voters were in a minority in these multi-member districts, black candidates were receiving a minority of the votes; and thus not achieving election to office.

The plaintiffs in Thornburg argued that these multi-member districts should be made into single member districts so that black voters would have separate districts with a majority of black voters; and thus, they would have an opportunity to elect representatives of their choice or black persons to the legislature, in the same proportion that blacks constituted to the population as a whole.

To show that the black candidates were losing elections due to racial bloc voting in said multi-member districts, and to demonstrate the need for single member districts, it was necessary to engage in mathematical analysis of the behavior of the voters in these multi-member districts and to show that white voters and black voters were voting in a racially polarized manner. Dr. Grofman did the statistical analysis, testified as to his findings in court, and when the case was reported, after the decision by the U.S. Supreme Court, he became the leading authority on the subject.

Dr. Grofman is the author of several articles on the subject of racial bloc voting and the use of mathematical techniques in measuring the degree of polarization in a jurisdiction. These articles include: Criteria For Districting: A Social Science Perspective.(1985), The Totality of the Circumstances Test in Section 2 of the 1982 Extension of the Voting Rights Act: A Social Science Perspective. (1982 -- co-authored with Michael Migalski and Nicholas Noviello)

and Comment: Recent Developments in Methods Used in Voting Rights Litigation. (1989 -- co-authored with James W. Loewen). Essentially these articles discuss the use of statistics in measuring the degree of racially polarized voting in a jurisdiction, city, district or political subdivision.

The two methods described include "homogenous case analysis" and "bivariate ecological regression analysis." The former entails analysis by identifying minority dominated precincts or wards in a district versus white dominated precincts and determining the percentage of votes cast for black and white candidates in these wards. The conclusion is that there is polarized voting if it is found that white voters are voting for white candidates and black voters are casting their ballots for black candidates.

The latter method entails more sophisticated techniques which factor in the fact that precincts and wards are populated by members of both races. Using a statistical method called regression analysis, the statistician determines the percentage of votes cast for black and white candidates, respectively, by members of each race. The findings will allow the researcher to determine if and to what degree racially polarized voting exists in an area.

Dr. Grofman also wrote an article entitled: Multivariate Methods and the Analysis of Racially Polarized Voting: Pitfalls in the Use of Social Science by the Courts (1991). In this article he discussed efforts to discount the effects of race in voting by factoring into the analysis such variables as values, campaign funds, newspaper endorsements, issues, incumbency, religion, education, name recognition and media advertisement. (Bullock, 1984) Dr. Grofman noted that the Supreme Court in the Thornburg case had stated that the only variable that is in issue when one is attempting to determine if voting is racially polarized is race. Grofman also pointed out that those multivariate factors proposed to be factored



into the equation were often a function of race. He pointed out for example that rarely does a white controlled newspaper endorse a black candidate over a white person, that income and education was effected by race discrimination, that black candidates are normally challengers and not incumbents, and that black candidates tend to have less funds than white candidates because black constituents had lower income and assets than white contributors. Thus, he stated that it was inaccurate to attempt to employ multivariate methods in analyzing voting to discount the factor of race; and therefore, Grofman concluded the bivariate factors of black versus white were the only relevant factors to use in determining if and to what extent racially polarized voting occurred in a political subdivision.

### **HOMOGENEOUS ANALYSIS**

Homogeneous precinct analysis of racial bloc voting is a mathematical method of estimating the degree of racial bloc voting by which the analyst examines "homogenous" voting units or districts within a particular jurisdiction. Under this method, census data as to the racial composition of voting units is analyzed. If the voting unit is entirely inhabited by members of one particular race, e.g., black, the analyst would, of course, be able to conclude how black voters cast their votes. For instance, if 60% of the votes from said voting unit were cast for candidate A and 40% of the votes were cast for candidate B, then the reasonable inference is that 60% of the black voters voted for A and 40% of the black voters cast votes for B. Likewise, if a voting unit was all white, and we had the same results, we would conclude, similarly, that 40% of the white voters voted for B and 60% of the white voters voted for A. The analyst would then classify all of the black precincts into one homogenous group and all of the white precincts, into a homogenous group and draw conclusions as to voting behavior by

comparing votes cast by the black homogenous group with votes cast by the white homogenous group.

The following is an illustration of homogeneous analysis:

<b>HOMOGENEOUS ANALYSIS</b>					
<b>March 5, 1985, Democratic Primary Election for Mayor, City of St. Louis, Missouri</b>					
		<b>SCHOEMEHL</b>	<b>BOSLEY</b>	<b>CAMP</b>	<b>WILLIAMS</b>
<b>KINEALY</b>	<b>TOTAL</b>				
<b>TOTAL</b>		<b>61,161</b>	<b>18,836</b>	<b>1,893</b>	<b>631</b>
<b>84,249</b>					<b>1,728</b>
<b>REGULAR</b>		<b>59,328</b>	<b>18,410</b>	<b>1,832</b>	<b>582</b>
<b>81,830</b>					<b>1,678</b>
<b>ABSENTEE</b>		<b>1,833</b>	<b>426</b>	<b>61</b>	<b>49</b>
<b>2,419</b>					<b>50</b>
<b>PCT OF VOTE</b>		<b>72%</b>	<b>22%</b>	<b>3%</b>	<b>1%</b>
<b>WARD 1</b>	<b>B</b>	<b>1,060</b>	<b>1,271</b>	<b>14</b>	<b>27</b>
<b>2,383</b>					<b>11</b>
<b>WARD 2</b>	<b>M</b>	<b>1,634</b>	<b>674</b>	<b>50</b>	<b>20</b>
<b>2,417</b>					<b>39</b>
<b>WARD 3</b>	<b>B</b>	<b>817</b>	<b>1,636</b>	<b>16</b>	<b>27</b>
<b>2,509</b>					<b>13</b>
<b>WARD 4</b>	<b>B</b>	<b>1,267</b>	<b>1,349</b>	<b>12</b>	<b>24</b>
<b>2,657</b>					<b>5</b>
<b>WARD 5</b>	<b>B</b>	<b>950</b>	<b>929</b>	<b>17</b>	<b>19</b>
<b>1,934</b>					<b>19</b>
<b>WARD 6</b>	<b>M</b>	<b>1,817</b>	<b>911</b>	<b>37</b>	<b>26</b>
<b>2,807</b>					<b>16</b>
<b>WARD 7</b>	<b>M</b>	<b>2,083</b>	<b>605</b>	<b>63</b>	<b>20</b>
<b>2,826</b>					<b>55</b>
<b>WARD 8</b>	<b>W</b>	<b>1,998</b>	<b>262</b>	<b>94</b>	<b>14</b>
<b>2,420</b>					<b>52</b>
<b>WARD 9</b>	<b>W</b>	<b>2,193</b>	<b>82</b>	<b>87</b>	<b>6</b>
<b>2,414</b>					<b>46</b>
<b>WARD 10</b>	<b>W</b>	<b>2,054</b>	<b>44</b>	<b>80</b>	<b>4</b>
<b>2,250</b>					<b>68</b>
<b>WARD 11</b>	<b>W</b>	<b>2,449</b>	<b>80</b>	<b>113</b>	<b>6</b>
<b>2,706</b>					<b>58</b>
<b>WARD 12</b>	<b>W</b>	<b>3,805</b>	<b>61</b>	<b>177</b>	<b>10</b>
<b>4,218</b>					<b>165</b>

<b>WARD 13</b>	<b>W</b>	<b>3,344</b>	<b>70</b>	<b>157</b>	<b>10</b>	<b>147</b>
<b>3,728</b>						
<b>WARD 14</b>	<b>W</b>	<b>3,131</b>	<b>50</b>	<b>87</b>	<b>12</b>	<b>356</b>
<b>3,636</b>						
<b>WARD 15</b>	<b>W</b>	<b>3,141</b>	<b>93</b>	<b>100</b>	<b>7</b>	<b>97</b>
<b>3,438</b>						
<b>WARD 16</b>	<b>W</b>	<b>4,315</b>	<b>49</b>	<b>201</b>	<b>9</b>	<b>152</b>
<b>4,726</b>						
<b>WARD 17</b>	<b>M</b>	<b>2,544</b>	<b>594</b>	<b>55</b>	<b>26</b>	<b>36</b>
<b>3,255</b>						
<b>WARD 18</b>	<b>B</b>	<b>1,387</b>	<b>4,080</b>	<b>8</b>	<b>21</b>	<b>5</b>
<b>5,501</b>						
<b>WARD 19</b>	<b>B</b>	<b>1,109</b>	<b>1,334</b>	<b>23</b>	<b>24</b>	<b>13</b>
<b>2,503</b>						
<b>WARD 20</b>	<b>B</b>	<b>1,657</b>	<b>1,556</b>	<b>17</b>	<b>31</b>	<b>15</b>
<b>3,276</b>						
<b>WARD 21</b>	<b>B</b>	<b>1,632</b>	<b>1,817</b>	<b>23</b>	<b>36</b>	<b>7</b>
<b>3,515</b>						
<b>WARD 22</b>	<b>B</b>	<b>819</b>	<b>1,145</b>	<b>13</b>	<b>164</b>	<b>5</b>
<b>2,146</b>						
<b>WARD 23</b>	<b>W</b>	<b>3,980</b>	<b>55</b>	<b>143</b>	<b>5</b>	<b>107</b>
<b>4,290</b>						
<b>WARD 24</b>	<b>W</b>	<b>3,678</b>	<b>93</b>	<b>115</b>	<b>5</b>	<b>75</b>
<b>3,966</b>						
<b>WARD 25</b>	<b>W</b>	<b>3,348</b>	<b>62</b>	<b>112</b>	<b>10</b>	<b>123</b>
<b>3,655</b>						
<b>WARD 26</b>	<b>B</b>	<b>1,034</b>	<b>1,036</b>	<b>18</b>	<b>3</b>	<b>6</b>
<b>2,097</b>						
<b>WARD 27</b>	<b>B</b>	<b>1,218</b>	<b>1,293</b>	<b>24</b>	<b>17</b>	<b>12</b>
<b>2,564</b>						
<b>WARD 28</b>	<b>M</b>	<b>2,697</b>	<b>615</b>	<b>37</b>	<b>21</b>	<b>25</b>
<b>3,395</b>						
<b>TOTAL B WDS</b>		<b>12,950</b>	<b>17,446</b>	<b>185</b>	<b>393</b>	<b>111</b>
<b>31,085</b>						
<b>TOTAL W WDS</b>		<b>37,436</b>	<b>1,001</b>	<b>1,466</b>	<b>98</b>	<b>1,446</b>
<b>41,447</b>						
<b>TOTAL M WDS</b>		<b>10,775</b>	<b>3,399.</b>	<b>242.</b>	<b>113</b>	<b>171.</b>
<b>14,700</b>						

<b>PCT B WD VOTE</b>	<b>41%</b>	<b>56%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>
<b>PCT W WD VOTE</b>	<b>91%</b>	<b>6%</b>	<b>1%</b>	<b>1%</b>	<b>1%</b>
<b>PCT M WD VOTE</b>	<b>73%</b>	<b>23%</b>	<b>2%</b>	<b>1%</b>	<b>1%</b>
<b>Source: Election Results, St. Louis Board of Elections; 1980 Census Data</b>					

**Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri**

In the above illustration, the major black candidate in the election was Freeman Bosley, Sr., a St. Louis alderman. The major white candidate was Vincent Schoemehl, the incumbent mayor. Each ward is classified as black, white or mixed (racially integrated). The total votes for the homogenous groups of black wards, white wards and mixed wards, respectively, was computed, and then the percentage of total votes garnered by each candidate was found. The results then indicated that Bosley got 56% of the votes from the black wards and only 6% of the votes from the white wards, while Schoemehl received 41% of the black wards vote and a whopping 91% of the vote from the white wards. The analyst could then conclude that the vote was racially polarized with the black voters being more willing to vote for the white candidate than the white voters was for the black candidate.

### **PITFALLS OF HOMOGENOUS ANALYSIS**

In reality, rarely will we find a voting unit in which 100% of the residents are members of a single racial group; therefore, the analyst will generally use a rule of thumb to classify a voting unit as black or white or substantially racially mixed. The rule of thumb is normally that a precinct must be at least 90% of one race to be classified as homogenous; however, some analyst will classify a precinct as homogenous if it is 80% or more of one race. In the studies which we have reviewed for analysis of racial block voting in St. Louis, the researchers classified a precinct or ward as black or white if the ward or precinct was at least 80% or

more of one race or the other; otherwise, the ward was classified as racially mixed. Mixed wards with black aldermen were also classified as black.

Another problem identified with homogenous precinct analysis is that the estimate of voter behavior is based on a small, possibly unrepresentative, sample of the electorate, that is, only the voters, who live in highly segregated residential areas of the jurisdiction where voting behavior is measured. Voters who live in integrated neighborhoods are left out of the analysis.

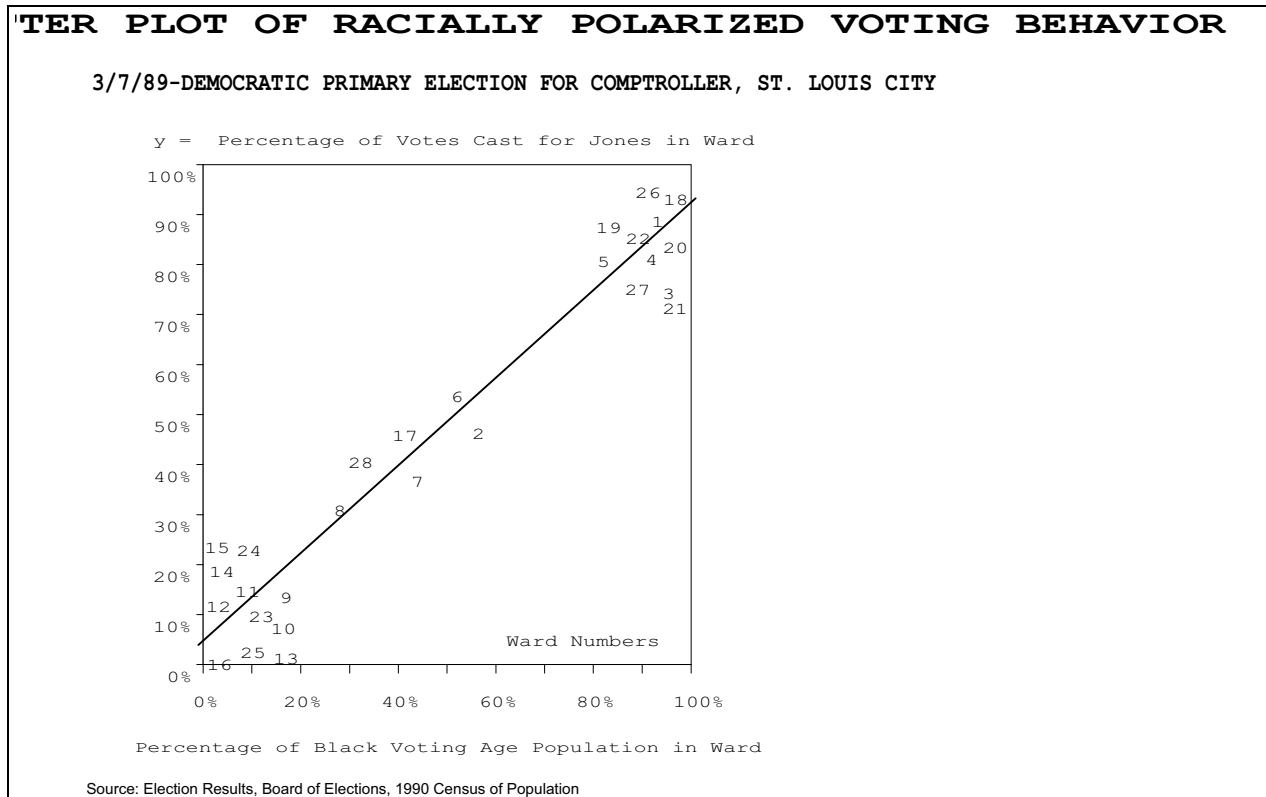
In the studies which we have cited, we simply indicate how voters in mixed wards voted as opposed to leaving them completely out of the analysis; thus in the above illustration, we note that Schoemehl received 73% of the vote in the mixed wards while Bosley received 23% of the mixed ward vote. Furthermore, it was determined that over 80% of the black voters resided in the black wards and over 80% of the white voters resided in the white wards, thus the sample is large and quite representative of the behavior of black and white voters.

## **REGRESSION ANALYSIS**

Because of the difficulty of being able to group all of the voters in a jurisdiction into homogeneous voting units, political analysts have turned to a statistical analytical technique called regression analysis. Regression analysis takes into consideration the fact that a precinct is integrated and enables the analyst to measure the voting behavior of black and white voters in the precinct through the use of a statistical formula.

Essentially, what regression analysis does is correlate the votes cast for a candidate to the race of the voters in a precinct. The analyst looks to see if the percentage of votes cast for a candidate from individual voting units increases as the percentage of voters of a particular race increases in such voting units or vice versa. This analysis is visually shown by use of a scatter plot diagram where one

can readily see a rising or falling line when one correlates percentage of votes cast to percentage of a particular racial group in a voting precinct. (See illustration below )



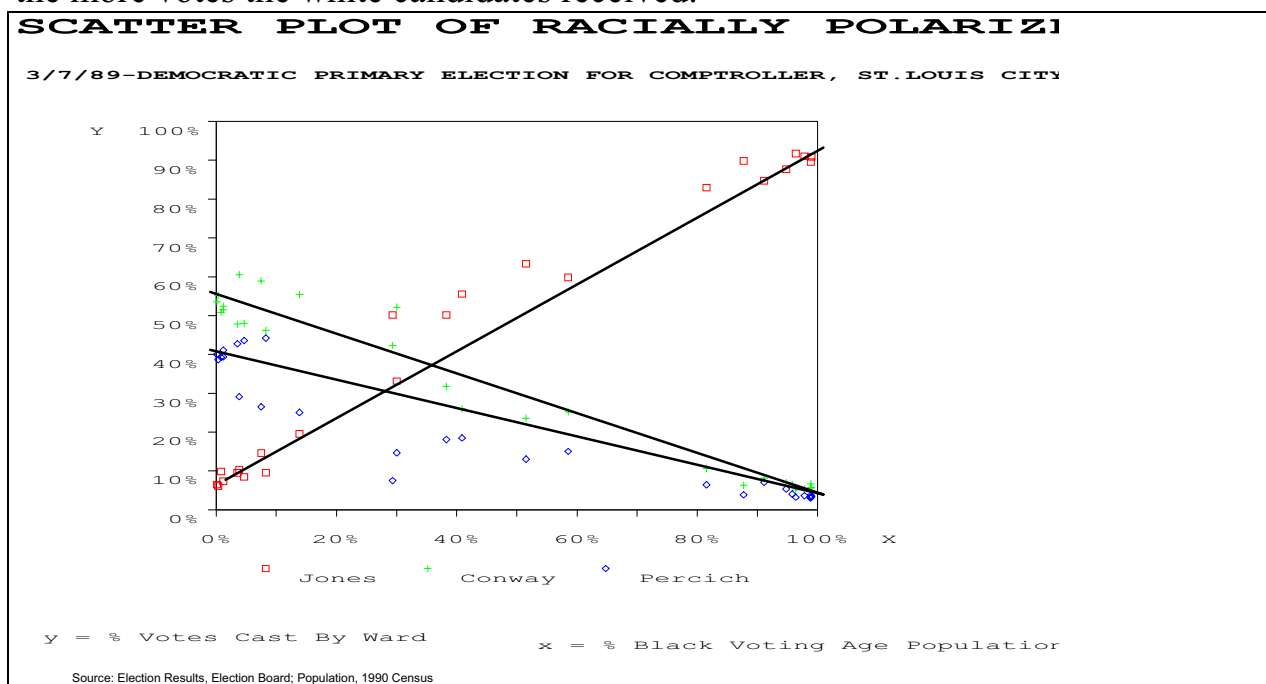
**Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri**

In the above illustration, Virvus Jones was a black candidate for Comptroller in the March 3, 1989, Democratic Primary Election in the City of St. Louis, Missouri. He ran against two white opponents, Stephen Conway and Peter Percich. Wards 1, 3, 4, 5, 18, 19, 20, 21, 22, 26 and 27 have a black voting age population of 80% or more, respectively. Wards 9, 10, 11, 12, 13, 14, 15, 16, 23, 24 and 25, respectively, have voting age white populations of 80% or more. The remaining wards, 2, 6, 7, 8, 17 and 28, respectively, are substantially racially integrated. We note then that Jones' votes were directly correlated with the race of the voters -- the greater the proportion of black voters in a ward, the greater the

proportion of votes he received, and vice versa. A similar graph could be drawn, using white voting age population as the  $x$  variable, with the same results.

Below we have expanded the former illustration to include the two white candidates, Steven Conway, and Peter Percich, in the scatter plot, showing votes cast for them in the wards based on percentage of black voting age population in the ward.

The reader will note the inverted line on the scatter diagram, for the white candidates, indicating that as the proportion of white voters increased in a ward, the more votes the white candidates received.



**Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri.**

From these two illustrations, one can thus readily see that in the March 3rd primary for comptroller, St. Louis City voters voted race.

### THE DEGREE OF RACIAL POLARIZATION

A scatter gram drawing as a pictorial representation of polarized voting does not give one a mathematical measurement of the degree of polarized voting, i.e., the questions is what percentage of black voters voted for the black candidate and



what percentage of the white voters voted for the white candidate? To answer this question, the statistician then computes what is called the slope of the line to measure the percentage of votes cast on an overall basis for a particular candidate by a particular racial group. This formulation among other related statistical formulas described in the literature then computes for the statistician the degree of racial polarization.

I was able to secure a computer program that would apply regression techniques to the March 3, 1993 Democratic Primary Election in St. Louis. In using the program, I had to enter the election results for each candidate on a ward by ward basis. In addition, voting age population on the basis of race also had to be entered in the data base. Voting age population using the 1990 Census was already a part of the program's data-base; therefore, I was able to skip that step. An illustration follows:

CENSUS DATA 1990			REGRESSION ANALYSIS									
			%BLACK			%BLACK VOTES			%WHITE			
%VOTES												
VAP			VAP			VAP			VAP			
TITLE	NO.	R	%WHT	%BLK	%OTH	TIMES	SQUARED	SQUARED	SQUARED	SQUARED	SQUARED	
TIMES SQUARED			SQUARED			SQUARED			SQUARED			
A	%VOTES					%VOTES						
C	BLACK					2	2	WHITE		2	2	
E	X	X	XY		X	Y	XY	X	Y			
n	W	B	B	B	B	B	W	W	W			
TOTAL	280.558	0.427	0.015									
WARD	1	B	0.019	0.978	0.004	0.854	0.956	0.763	0.001	.000	0.001	
WARD	2	M	0.397	0.596	0.006	0.401	0.355	0.453	0.081	0.158	0.041	
WARD	3	B	0.114	0.880	0.006	0.742	0.775	0.710	0.005	0.013	0.002	
WARD	4	B	0.008	0.990	0.002	0.824	0.980	0.693	.000	.000	0.001	
WARD	5	B	0.214	0.777	0.009	0.579	0.603	0.556	0.019	0.046	0.008	
WARD	6	M	0.520	0.461	0.020	0.242	0.212	0.276	0.171	0.270	0.108	
WARD	7	M	0.654	0.321	0.026	0.151	0.103	0.221	0.221	0.428	0.114	
WARD	8	M	0.606	0.363	0.031	0.177	0.132	0.237	0.175	0.367	0.083	
WARD	9	W	0.826	0.130	0.044	0.032	0.017	0.060	0.452	0.682	0.299	
WARD	10	W	0.878	0.083	0.039	0.015	0.007	0.031	0.528	0.770	0.362	
WARD	11	W	0.951	0.035	0.015	0.003	0.001	0.008	0.721	0.904	0.575	
WARD	12	W	0.992	0.001	0.007	.000	.000	0.003	0.695	0.984	0.491	
WARD	13	W	0.980	0.012	0.009	0.001	.000	0.005	0.729	0.960	0.553	
WARD	14	W	0.979	0.007	0.015	0.001	.000	0.006	0.639	0.958	0.427	
WARD	15	W	0.916	0.053	0.031	0.010	0.003	0.036	0.446	0.839	0.237	
WARD	16	W	0.988	0.003	0.009	.000	.000	0.004	0.684	0.977	0.478	
WARD	17	M	0.633	0.339	0.029	0.156	0.115	0.211	0.242	0.400	0.146	
WARD	18	B	0.041	0.956	0.003	0.830	0.913	0.754	0.001	0.002	0.001	
WARD	19	B	0.271	0.699	0.030	0.560	0.489	0.641	0.019	0.073	0.005	
WARD	20	B	0.008	0.990	0.002	0.806	0.979	0.663	.000	.000	0.001	
WARD	21	B	0.017	0.980	0.003	0.859	0.961	0.768	0.001	.000	0.001	
WARD	22	B	0.009	0.989	0.002	0.867	0.978	0.768	.000	.000	0.001	
WARD	23	W	0.978	0.013	0.009	0.001	.000	0.006	0.578	0.957	0.349	
WARD	24	W	0.957	0.027	0.016	0.002	0.001	0.008	0.344	0.916	0.129	
WARD	25	W	0.942	0.043	0.015	0.004	0.002	0.010	0.598	0.887	0.403	
WARD	26	B	0.064	0.931	0.005	0.787	0.866	0.715	0.003	0.004	0.002	
WARD	27	B	0.044	0.953	0.003	0.817	0.909	0.734	0.002	0.002	0.002	

<b>WARD</b>	<b>28 M</b>	<b>0.665</b>	<b>0.303</b>	<b>0.032</b>	<b>0.170</b>	<b>0.092</b>	<b>0.314</b>	<b>0.210</b>	<b>0.442</b>	<b>0.100</b>
<b>SUMS</b>	<b>28 n</b>	<b>14.669</b>		<b>12.913</b>		<b>0.418</b>	<b>9.889</b>	<b>10.450</b>		<b>9.653 7.564</b>
	<b>12.040</b>	<b>4.921</b>								
<b>MEAN OF SUMS</b>		<b>0.524</b>	<b>0.461</b>	<b>0.015</b>	<b>0.353</b>	<b>0.373</b>	<b>0.345</b>	<b>0.270</b>	<b>0.430</b>	<b>0.176</b>
<b>MEAN SQUARED</b>		<b>0.274</b>	<b>0.213</b>	<b>.000</b>	<b>0.125</b>	<b>0.139</b>	<b>0.119</b>	<b>0.073</b>	<b>0.185</b>	<b>0.031</b>
<b>Top Black Candidate</b>										
<b>b = Sum(xy) - n(X)(Y) / Sum(x ) - n(X) = 0.802</b>										
<b>a = Y - bX = 0.117      Y = a + bX = .117 + .802(100) = 91.9%</b>										
<b>r = a(Sum y) + b(Sum xy) - n(Y) / (sum y) - n(Y) = 0.957</b>										
<b>Top White Candidate</b>										
<b>b = Sum(xy) - n(X)(Y) / Sum(x ) - n(X) = 0.639</b>										
<b>a = Y - bX = -0.009      Y = a + bX = ..-.009 + .639(100) = 63.0%</b>										
<b>r = a(Sum y) + b(Sum xy) - n(Y) / (sum y) - n(Y) = 0.913</b>										
<b>Source: Population, 1990 Census; Election Results, Board of Elections, St. Louis</b>										

The above is a partial print out of the analysis showing the percentage of votes which were cast on the basis of race for the top black candidate, Freeman Bosley, Jr. and the top white candidate Tom Villa, respectively, in the Mayor's race.

In the illustration, the solution for  $Y = a + bX$ , "Y" indicates the percentage of votes cast on the bases of race for a particular candidate; and "r" measures the degree of accuracy of the measurement. If we run the program four times, matching two different candidates votes in the x and y factors each time, it will compute the percentage of white votes received by each candidate and the percentage of black votes received by each candidate.

The results of the regression analysis is found in the table which follows:

<b>"Percentage of Votes Cast for Candidates by the Race of the Voters"</b>	
<b>"March 3, 1993, Democratic Primary Election, Mayor, City of St. Louis",</b>	
<b>Regression Analysis</b>	
<b>"Candidate"</b>	<b>,"Bosley" ,"Roberts","Villa","Ribaudo","Total"</b>

<b>"% Black Vote"</b>	<b>"90%"</b>	<b>"8%"</b>	<b>"0%"</b>	<b>"1%"</b>	<b>"100%"</b>
<b>"% White Vote"</b>	<b>"10%"</b>	<b>"7%"</b>	<b>"63%"</b>	<b>"20%"</b>	<b>"100%"</b>

Bosley received 91%, Roberts received 8%, Ribaudo received 1%, and Villa did not receive any black votes. The white vote was cast as follows: Villa received 63.0%, Ribaudo received 20%, Bosley received 10% and Roberts received 7%. It indicated that it was 95.7% accurate in measuring the percentage of black voters who cast votes for Bosley and 91.3% accurate in measuring the percentage of white voters who cast votes for Villa.

The program also made a homogenous analysis of the votes cast for each candidate. Under homogenous analysis, Bosley received 84.3% of the vote from the black wards and Villa received 62.3% of the vote from the white wards. Thus you note that for St. Louis, the homogenous analysis is a reliable basis of analyzing the degree of racial polarization in voting. (For, a print out of the homogenous analysis of the March 3, 1993 Mayoral election see Chapter 4, illustration no. )

Whether the analyst uses homogeneous analysis or regression analysis or both, if the results show that a majority of black voters voted for candidate A while a majority of white voters voted for candidate B, racial bloc voting is indicated. Of course the greater the majorities, the greater the measurement of racial block voting. That is, if 90% of the black voters are voting in one direction while 90% of the white voters are voting in the opposite direction, then we have a case of highly polarized voting. Whereas, if the black voters are casting only 55% of their votes for Candidate A, and the white voters are casting only 55% of their votes for Candidate B, though polarized voting may be indicated, it is not as extreme as the former case.

Also, the analyst must look at more than one election; for racial bloc voting in a single election is not indicative that the electorate generally or regularly votes along the lines of race. Therefore, the analyst will select at least ten years of elections in order to determine if racial block voting is consistent over time.

## **CAMPAIGN FINANCE**

### **INTRODUCTION**

Analysis of socioeconomic factors of the African-American community reveals that in every economic category, black Americans fall behind in income characteristics.

In racial politics, this becomes important in that candidates for office must raise campaign funds in order to get their message across to the voters. The fact is that no election can be won without adequate campaign finances.

### **FUNDRAISING AND ELECTION SUCCESS**

In studying this issue, I reviewed an analysis of campaign finance report summaries published by the Missouri Secretary of State over a twelve year period. I also reviewed the Official State Manual, also published by the Secretary of State as to elections results and identifying office holders. The study was limited to the office of state representative and looked at both the democratic primary elections and the general elections.

From this study, I was able to conclude that Black candidates are at a distinct disadvantage in fundraising ability, in the conduct of election campaigns, with white candidates being able to raise funds on an average of over twice the amount that black candidates are able to raise. In fact, in 1990, white candidates raised 3.4 times the amount of funds raised by black candidates.

Furthermore, based on the percentage of black candidates filing exemption statements with the secretary of state's office (a candidate who is going to spend less than \$500 is exempt under the law from filing campaign disclosure reports), Black candidates are more likely to be unable to raise any funds at all than are white candidates. Black candidates in St. Louis County find themselves at an even

more distinct disadvantage in fundraising ability in that white candidates are able to raise ten times more funds than black candidates and up until 1993, there were no black incumbent legislators in St. Louis County. The following is a comparative analysis of black vs white fundraising ability:

### Comparative Analysis Black/White Candidates Fundraising

Funds Raised By White Candidates						
Election "Year"	"Aggregate", "Funds Wht"	"No. White", "Candidates"	"Average", "Funds Wht"	"No.Wht", "Exempt"	"% White", "Exempt"	
1978	"\$271,709"	90	"\$3,019"	"10"	"11.11%"	
1980	"\$232,679"	58	"\$4,012"	"10"	"17.24%"	
1982	"\$266,328"	45	"\$5,918"	"9"	"20%"	
1984	"\$226,099"	32	"\$7,066"	"9"	"28.13%"	
1986	"\$194,811"	19	"\$10,253"	"3"	"15.79%"	
1988	"\$234,687"	24	"\$9,779"	"2"	"8.33%"	
1990	"\$251,584"	10	"\$25,158"	"4"	"40%"	
-----						
Funds Raised By Black Candidates						
"Times						
"Aggregate", "Funds Blk"	"# Black", "Candidates"	"Average", "Funds Blk"	"# Black", "Exempt"	"% Black", "Exempt"	"White/", "Exempt"	
"Black"						
1978	,"\$36,587"	29	\$1,262"	"9"	"31.03%"	"2.4"
1980	"\$59,401"	36	"\$1,650"	"13"	"36.11%"	"2.4"
1982	"\$130,887"	30	"\$4,363"	"6"	"20%"	"1.4"
1984	"\$122,365"	32	"\$3,824"	"12"	"37.5%"	"1.8"
1986	"\$161,978"	23	"\$7,043"	"7"	"30.43%"	"1.5"
1988"	\$107,479"	21	"\$5,118"	"10"	"47.62%"	"1.9"
1990	"\$74,782"	10	"\$7,478"	"3"	"30%"	"3.4"

**Source: Campaign Finance Report Summaries, Missouri Secretary of State**

Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri

In 1988, 48% of Black candidates were exempted from filing campaign disclosure reports due to inability to raise substantial amount of funds to finance their campaigns.



**Plaintiff African American's Exhibit No. 37****FINANCIAL ANALYSIS OF CONTESTED GENERAL ELECTION  
RESULTS****FOR STATE REPRESENTATIVE ELECTIONS  
INCUMBENT VS CHALLENGERS AND OPEN SEATS****General Election Years:      78    80    82    84    86    88    90****Success Record of****Incumbent's re-election**

<b># Unopposed incumbents</b>	<b>39</b>	<b>48</b>	<b>61</b>	<b>97</b>	<b>75</b>	<b>74</b>	<b>85</b>
<b># Contested incumbents</b>							
<b>who won</b>	<b>89</b>	<b>78</b>	<b>58</b>	<b>32</b>	<b>62</b>	<b>59</b>	<b>50</b>
<b># Contested incumbents</b>							
<b>who lost</b>	<b><u>5</u></b>	<b><u>7</u></b>	<b><u>5</u> <b><u>2</u></b></b>	<b><u>4</u></b>	<b><u>2</u></b>	<b><u>13</u></b>	
<b>Total # of incumbents</b>	<b>133</b>	<b>133</b>	<b>124</b>	<b>131</b>	<b>141</b>	<b>135</b>	<b>148</b>

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<b>% of incumbents who ran</b>							
<b>unopposed</b>	<b>29</b>	<b>36</b>	<b>49</b>	<b>74</b>	<b>53</b>	<b>55</b>	<b>57</b>
<b>% of contested incumbents</b>							
<b>who won</b>	<b>95</b>	<b>92</b>	<b>92</b>	<b>94</b>	<b>94</b>	<b>97</b>	<b>79</b>
<b>% of incumbents returned to</b>							
<b>office (contest or not)</b>	<b>96</b>	<b>95</b>	<b>96</b>	<b>98</b>	<b>97</b>	<b>98</b>	<b>91</b>

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**Fund Raising Record****Contested Incumbents' record**

<b># Total contested</b>	<b>94</b>	<b>85</b>	<b>63</b>	<b>34</b>	<b>66</b>	<b>61</b>	<b>63</b>
<b># raised more than</b>							
<b>opponent</b>	<b>79</b>	<b>75</b>	<b>53</b>	<b>31</b>	<b>58</b>	<b>57</b>	<b>52</b>
<b># raised less than</b>							
<b>opponent</b>	<b>15</b>	<b>10</b>	<b>10</b>	<b>3</b>	<b>8</b>	<b>4</b>	<b>11</b>
<b>% raised more</b>	<b>84</b>	<b>88</b>	<b>84</b>	<b>91</b>	<b>88</b>	<b>93</b>	<b>83</b>

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<b># <u>won election</u></b>	<b>89</b>	<b>78</b>	<b>58</b>	<b>32</b>	<b>62</b>	<b>59</b>	<b>50</b>
<b># raised more funds</b>							
<b>than opponent</b>	<b>76</b>	<b>73</b>	<b>51</b>	<b>29</b>	<b>56</b>	<b>56</b>	<b>46</b>
<b># raised less than</b>							
<b>opponent</b>	<b>13</b>	<b>5</b>	<b>7</b>	<b>3</b>	<b>6</b>	<b>3</b>	<b>4</b>
<b>% of those who won</b>							

<b>raised more &amp; won</b>	<b>85</b>	<b>94</b>	<b>88</b>	<b>91</b>	<b>90</b>	<b>95</b>	<b>92</b>
<b># <u>lost election</u></b>	<b>5</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>13</b>
<b># raised more funds than opponent</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>6</b>
<b># raised less than opponent</b>	<b>2</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>7</b>
<b>% of those who lost raised less &amp; loss 40</b>	<b>71</b>	<b>60</b>	<b>0</b>	<b>50</b>	<b>50</b>	<b>54</b>	

**General Election Years: 78 80 82 84 86 88 90****Open Seats (Districts  
without an Incumbent  
Seeking Re-election)  
Contested Elections**

# winners who raised more funds than opponents	13	10	21	9	12	11	10
# winners who raised less funds than opponents	<u>9</u>	<u>5</u>	<u>13</u>	<u>5</u>	<u>5</u>	<u>9</u>	<u>2</u>
Total	22	15	34	14	17	20	12
% raised more & won	59	67	62	64	71	55	83

**Contested elections both  
incumbent & open seats**

# contested elections	116	100	97	48	83	81	75
# winners who raised more funds than opponents	92	81	78	32	72	68	69
% winners who raised more funds than opponents	79	81	80	67	88	84	92

**Source: "Missouri Annual Campaign Finance Reports," a Summary  
Published by the Missouri Secretary of State.**

Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri

The above analysis of general elections, which pit republicans against democrats, allows for the following conclusions:

1. There is a strong probability that an incumbent will be returned to office;
2. An incumbent will raise more funds than a challenger;

3. The person who raises the most funds will be victorious in the election.
4. Political party overcame fund raising deficit in the instances where winner raised less funds than loser.

<b>FINANCIAL ANALYSIS OF CONTESTED PRIMARY ELECTION RESULTS</b>						
<b>FOR STATE REPRESENTATIVE ELECTIONS</b>						
<b>INCUMBENT VS CHALLENGERS AND OPEN SEATS</b>						
<b><u>Primary Election Years:</u></b>	<b><u>80</u></b>	<b><u>82</u></b>	<b><u>84</u></b>	<b><u>86</u></b>	<b><u>88</u></b>	<b><u>90</u></b>
<b><u>Success Record of Incumbents</u></b>						
<b><u>seeking re-election</u></b>						
<b># Unopposed incumbents</b>	<b>98</b>	<b>96</b>	<b>107</b>	<b>113</b>	<b>102</b>	<b>120</b>
<b># Contested incumbents</b>						
<b>who won</b>	<b>45</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>33</b>	<b>30</b>
<b># Contested incumbents</b>						
<b>who lost</b>	<b><u>5</u></b>	<b><u>6</u></b>	<b><u>1</u></b>	<b><u>3</u></b>	<b><u>2</u></b>	<b><u>2</u></b>
<b>Total # of incumbents</b>	<b>148</b>	<b>131</b>	<b>138</b>	<b>147</b>	<b>137</b>	<b>152</b>
-----						
<b>% of incumbents who ran</b>						
<b>unopposed</b>	<b>66</b>	<b>73</b>	<b>78</b>	<b>77</b>	<b>74</b>	<b>79</b>
<b>% of contested incumbents</b>						
<b>who won</b>	<b>90</b>	<b>83</b>	<b>97</b>	<b>91</b>	<b>94</b>	<b>94</b>
<b>% of incumbents returned to</b>						
<b>office (contest or not)</b>	<b>97</b>	<b>95</b>	<b>99</b>	<b>98</b>	<b>99</b>	<b>99</b>
=====						
<b><u>Fund Raising Record</u></b>						
<b><u>Contested Incumbents' record</u></b>						
<b># Total contested</b>	<b>50</b>	<b>35</b>	<b>31</b>	<b>34</b>	<b>35</b>	<b>32</b>
<b># raised more than</b>						
<b>opponent</b>	<b>37</b>	<b>24</b>	<b>30</b>	<b>24</b>	<b>31</b>	<b>28</b>
<b># raised less than</b>						
<b>opponent</b>	<b>12</b>	<b>11</b>	<b>1</b>	<b>10</b>	<b>4</b>	<b>4</b>
<b>% raised more</b>	<b>74</b>	<b>69</b>	<b>97</b>	<b>71</b>	<b>89</b>	<b>88</b>
-----						

<b># <u>won</u> election</b>	<b>45</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>33</b>	<b>30</b>
<b># raised more funds than opponent</b>	<b>35</b>	<b>21</b>	<b>29</b>	<b>21</b>	<b>29</b>	<b>28</b>
<b># raised less than opponent</b>	<b>10</b>	<b>81</b>	<b>10</b>	<b>4</b>	<b>2</b>	
<b>% of those who won raised more &amp; won</b>	<b>78</b>	<b>72</b>	<b>97</b>	<b>68</b>	<b>88</b>	<b>93</b>
<hr/>						
<b># <u>lost</u> election</b>	<b>5</b>	<b>6</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>2</b>
<b># raised more funds than opponent</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>0</b>
<b># raised less than opponent</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>% of those who lost raised less &amp; loss</b>	<b>60</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>100</b>
<hr/>						
=====						
<b># winners who raised more funds than opponents</b>	<b>20</b>	<b>25</b>	<b>14</b>	<b>11</b>	<b>27</b>	<b>13</b>
<b># winners who raised less funds than opponents</b>	<b><u>7</u></b>	<b><u>17</u></b>	<b><u>6</u></b>	<b><u>7</u></b>	<b><u>10</u></b>	<b><u>4</u></b>
<b>Total</b>	<b>27</b>	<b>42</b>	<b>20</b>	<b>18</b>	<b>37</b>	<b>17</b>
<b><u>Primary Election Years:</u></b>	<b><u>80</u></b>	<b><u>82</u></b>	<b><u>84</u></b>	<b><u>86</u></b>	<b><u>88</u></b>	<b><u>90</u></b>
<b><u>Open Seats (Districts without an Incumbent Seeking Re-election) Contested Elections</u></b>						
<b>% raised more &amp; won</b>	<b>74</b>	<b>60</b>	<b>70</b>	<b>61</b>	<b>73</b>	<b>76</b>
<hr/>						
====						
<b><u>Contested elections both incumbent &amp; open seats</u></b>						
<b># contested elections</b>	<b>77</b>	<b>77</b>	<b>51</b>	<b>52</b>	<b>72</b>	<b>49</b>
<b># winners who raised more funds than opponents</b>	<b>57</b>	<b>49</b>	<b>44</b>	<b>35</b>	<b>58</b>	<b>41</b>
<b>% winners who raised more funds than opponents</b>	<b>74</b>	<b>64</b>	<b>86</b>	<b>67</b>	<b>81</b>	<b>84</b>

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**Source: "Missouri Annual Campaign Finance Reports," a Summary  
Published by the Missouri Secretary of State.**

Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri

## **CHAPTER 3**

### **THE ELECTION OF BLACK MAYORS**

#### **INTRODUCTION**

In this chapter, I will present the results of my study on racial barriers to African-Americans achieving public offices and provide conclusions on how the problem can best be addressed. Several exhibits, which I have developed or been able to secure from research sources in assessing the problem will be included for the reader to review.

#### **ST. LOUIS' BLACK CANDIDATES FOR MAYOR**

##### **BOSLEY, SR. VS. SCHOEMEHL**

In both the primary and general elections, of 1985, black candidates for mayor failed to win 25% of the vote in a city which has nearly a 50% black population. Their inability to turnout large numbers of voters to the polls resulted in defeat in the race for the office of Mayor this first time that black candidates had made the quest.

Freeman Bosley, Sr., a St. Louis Alderman was the first black candidate for the democratic nomination for Mayor of the city of St. Louis. His campaign fell far short of the support he needed to win the election. Among the problems faced by Bosley were:

1. limited campaign financing and other resources -- his campaign raised only \$75,000;
2. inability to overcome the strength of incumbency and racial bloc voting;

3. splits among black ward leaders who for the most part gave their support to the incumbent white mayor; and

4. unfavorable coverage by the white press, which appeared to be a deliberate effort to undermine his campaign.

Curtis C. Crawford, the first black republican candidate and nominee, faced similar problems. Running unopposed in the republican primary, he failed to receive the serious backing of the Republicans in the general election with money and manpower and thus he was unable to get his message across nor make himself known to the voters, black or white. Furthermore, being a Republican he stood little chance of being elected as St. Louis had not elected a Republican to the office of Mayor in over thirty years.

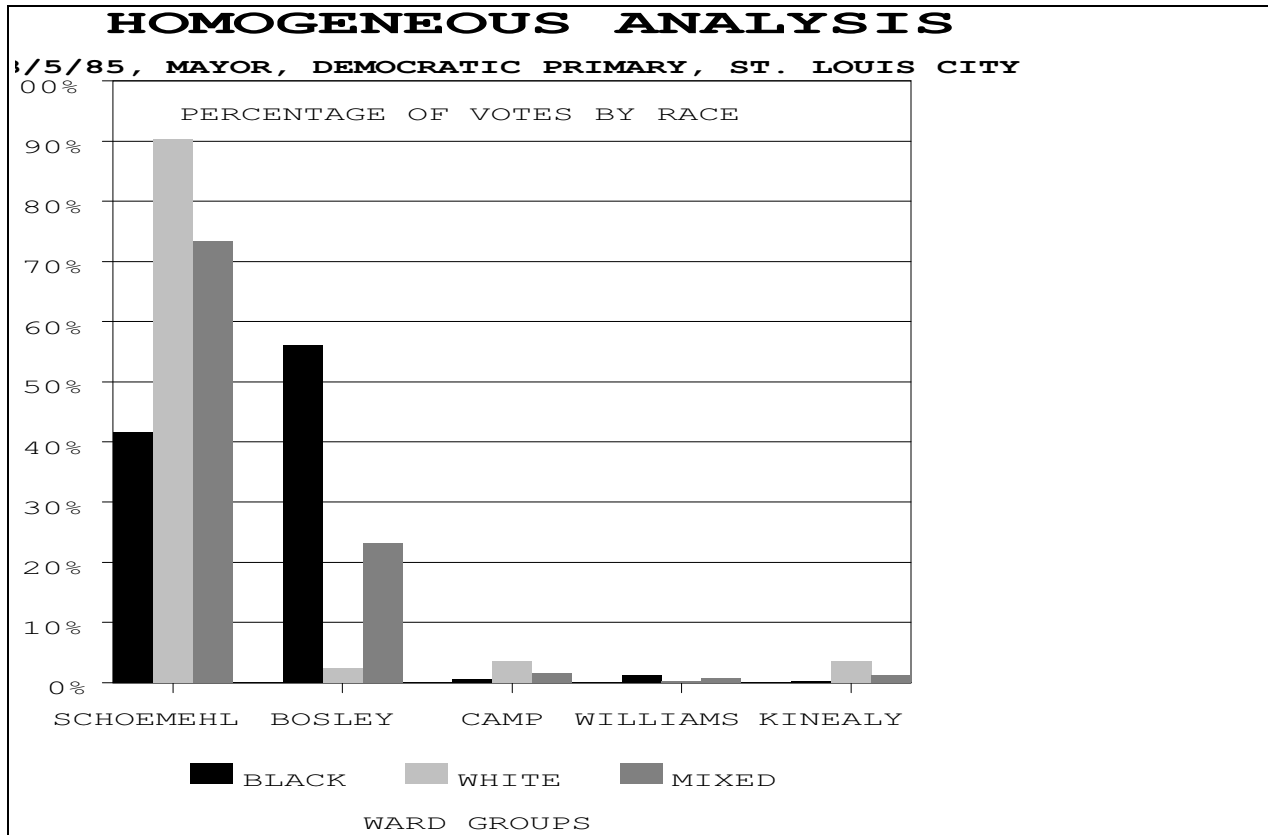
Bosley is a political activist. He had gained wide spread name recognition as a leader of a group protesting the closing of Homer G. Phillips Hospital, in the early 1980's, the city's only black hospital.

Bosley received only 56% of the black vote, while Vincent Schoemehl, the incumbent white Mayor received 42% of the black vote.<sup>5</sup> Furthermore, in the white wards, Schoemehl walked away with 90% of the vote. Bosley only received 3% of the vote out of the white wards. In the mixed wards the vote split 73% for Schoemehl and 23% to Bosley. Furthermore, Bosley did not even benefit from a split white vote

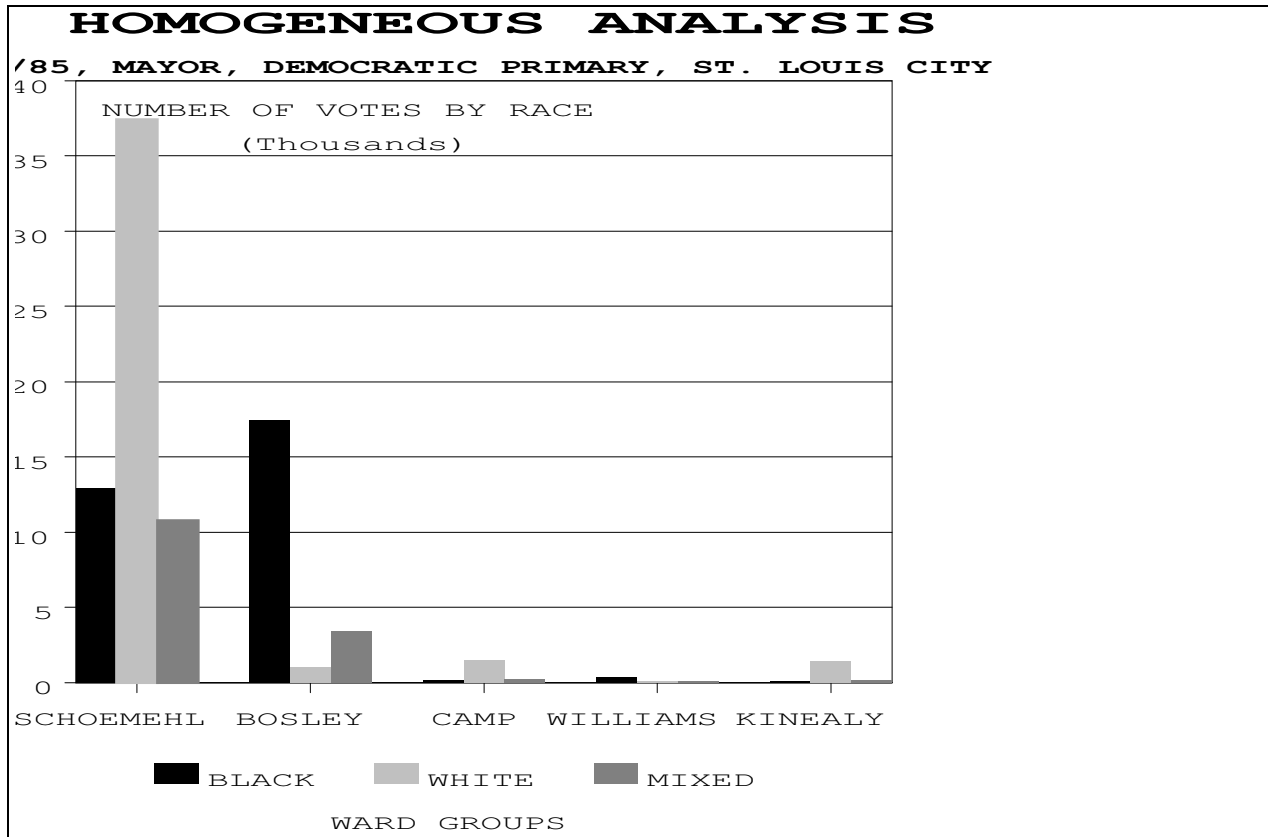
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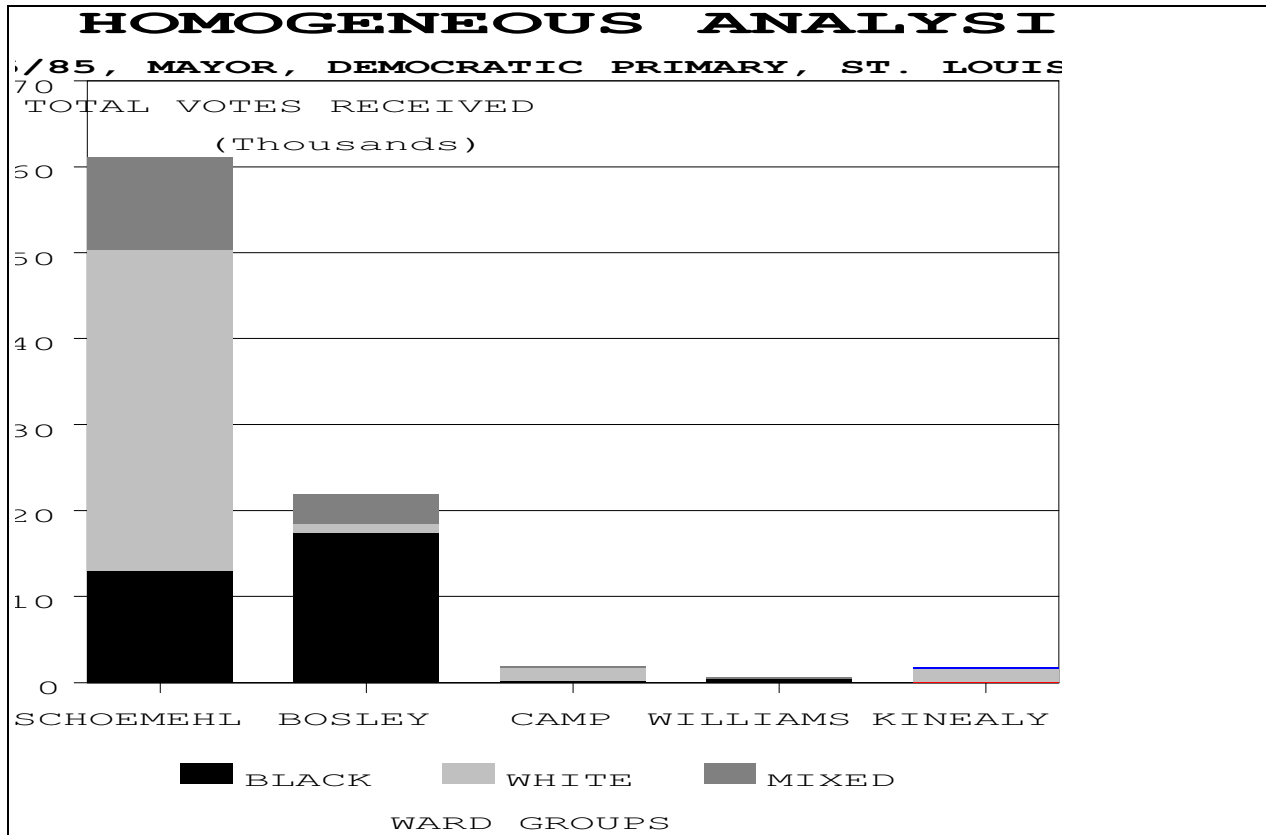
<sup>5</sup>Schoemehl had a well financed campaign; he spent over \$1 million dollars.





Among the white candidates for the democratic nomination were Eugene Camp, a former St. Louis Police Chief and David Kinealy, a St. Louis Alderman. Each of these candidates only received 2% of the total vote, respectively. There was a second black candidate in the race, Fred Williams, a state representative, but he was not a serious candidate. Rumor had it that he was put in the race by the incumbent Mayor to split the black vote. He was quite unsuccessful as he received less than 1% of the votes from the black wards. In fact, the rumor ended his political career, for the next year he was defeated for reelection after eighteen years in the Missouri legislature.





### MIKE ROBERTS VS. SCHOEMEHL

The next major black candidate for Mayor in St. Louis was Michael V. Roberts, a former St. Louis Alderman, who made his drive for Mayor in 1989 -- on the heels of two previous narrowly unsuccessful tries for President of the St. Louis Board of Aldermen, in 1983 and 1987.

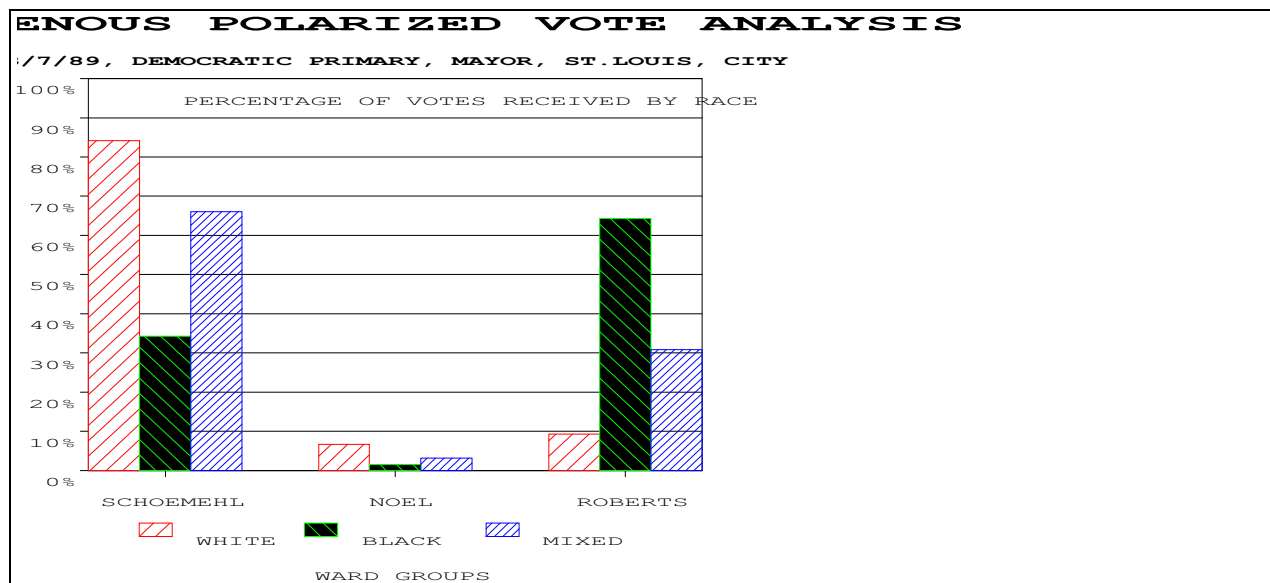
Roberts' campaign was the victim of the political deal. The incumbent Mayor, Vincent Schoemehl expecting major white opposition and the loss of the black vote, arranged a deal by which he appointed a black member to his cabinet, Virvus Jones, to the office of Comptroller of the City. Jones had been a former alderman, who went down to defeat in 1985 when he broke with his ward organization, which was supporting Bosley, and endorsed Schoemehl for Mayor.

Jones received the backing for Comptroller by all of the black political organizations, who all agreed to support Schoemehl and Jones as a black-white

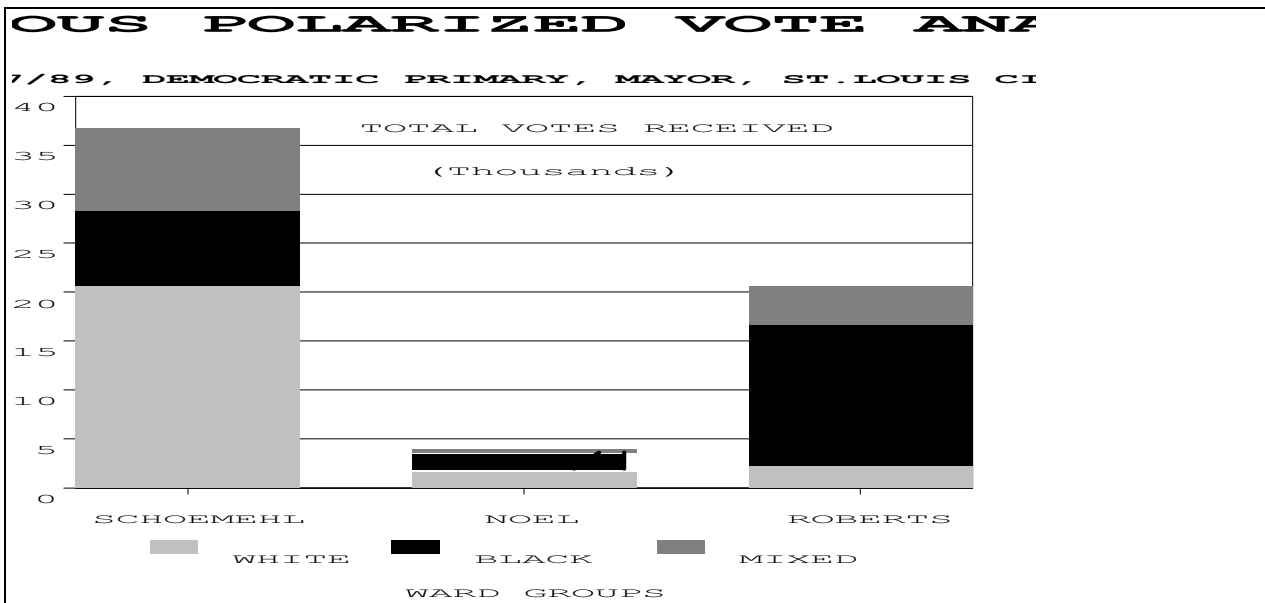
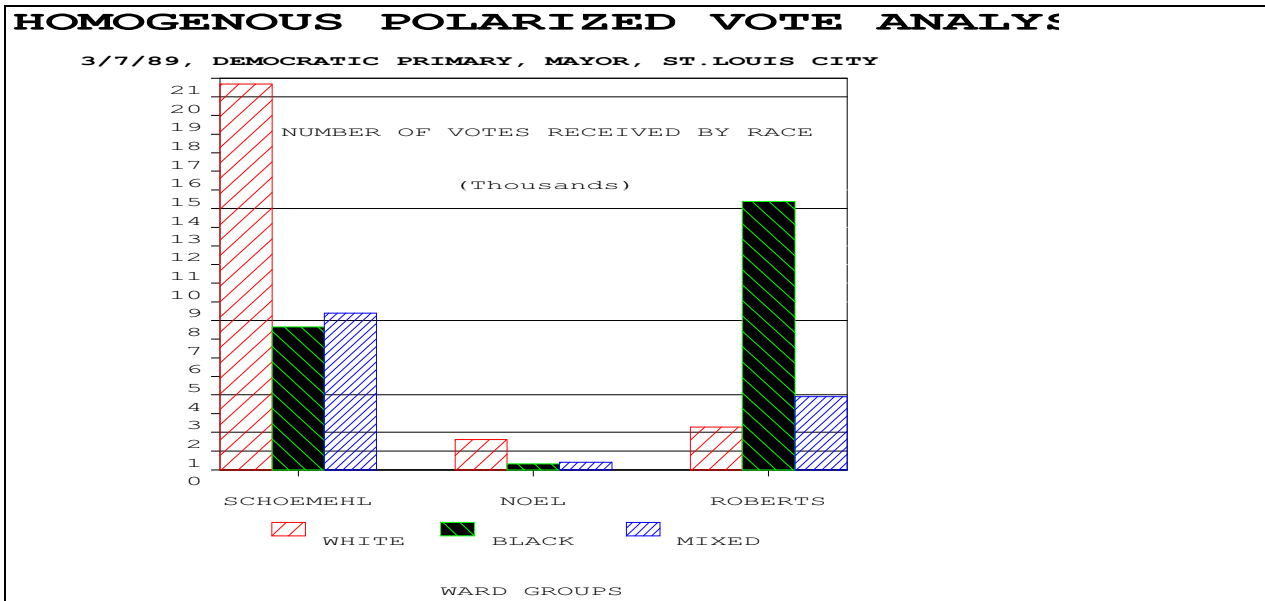
team. Schoemehl won, but when compared with his 1985 contest with Bosley, his margin of victory fell.

Despite the political backing of all of the black ward organizations, Schoemehl was unable to carry the black vote. This time his black vote margin went down and he was only able to secure 34% of the black vote; while Roberts gained 64% of the vote from the black wards. Roberts also fared slightly better in the white wards than did Bosley -- securing 9% of the white vote to Schoemehl's 84%. In the mixed wards Roberts received 31% of the vote to Schoemehl's 66%.

Roberts had less ward support than Bosley, but his campaign financing was double that of Bosley's. Roberts raised over \$150,000 for the election campaign; but once again, the Mayor raised over a million dollars.



In overall vote totals Roberts also did better than Bosley. Whereas Bosley only secured 23% of the total vote in 1985, Roberts received 35% in 1989. Overall vote totals for Roberts increased by almost 2000 over those received by Bosley while Schoemehl's total votes fell by 25,000.



Roberts better showing however is proportional to the total vote cast; for Bosley actually produced more votes than Roberts in the black wards.

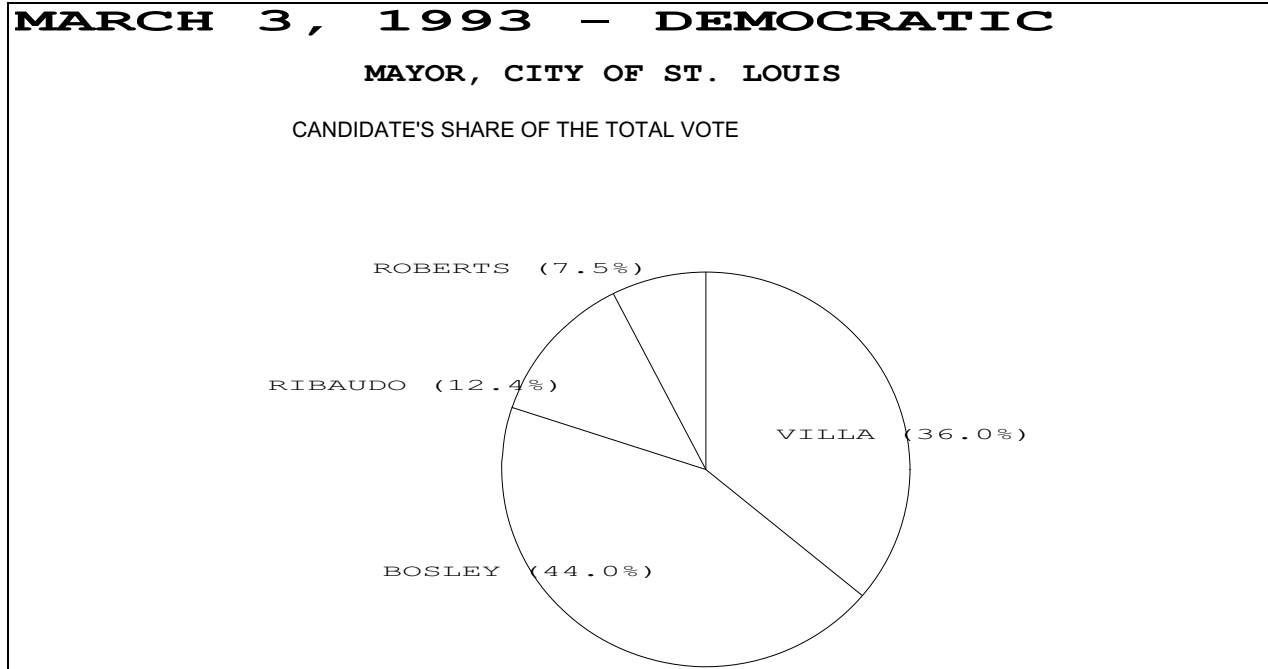
Once again a black candidate had made a valiant attempt, but the lack of funds, the power of incumbency and racially polarized voting, combined to send him down to defeat.

### **BOSLEY, JR. ELECTED FIRST BLACK ST. LOUIS MAYOR**

The March 3, 1993 democratic primary for mayor of the City of St. Louis had four candidates -- two blacks and two whites. The white candidates included Tony Ribaud, a Missouri State Representative and Thomas Villa, the President of the St. Louis Board of Alderman. The black candidates were Steve Roberts, a former St. Louis Alderman and Freeman Bosley, Jr., the Clerk of the Circuit Court for the City of St. Louis.

This would be Ribaud's first run for a city wide office. Tom Villa had been elected, city-wide, as President of the Board of Aldermen, twice, and though defeated state wide, had carried the city of St. Louis when he was a candidate for State Treasurer. Steve Roberts is the brother of Mike Roberts, who had run city wide three times and lost each time, including two runs for President of the Board of Alderman and one race for Mayor. Freeman Bosley, Jr. had on three prior occasions been elected city wide as clerk of the circuit court, and his father, Freeman Bosley, Sr., had been an unsuccessful candidate for Mayor in 1985. In addition, Freeman, Jr., was a member and chairman of the Democratic Central Committee for the city of St. Louis.

Bosley was favored to win the black vote and Villa was expected to win the white vote. The question was: to what extent would Roberts eat into Bosley's black voting base, and to what degree would Ribaud split off white votes from Villa. It was anybody's race; and the whole city waited the outcome.



Source: Election Results, St. Louis Election Board

Figure 7. Pie Graph- Vote Distribution, Democratic Primary Election, City of St. Louis, March 3, 1993.

The following is a homogeneous analysis of the results of the 1993 Mayoral race:

**HOMOGENEOUS ANALYSIS, MAR. 3, 1993, MAYOR, DEMOCRATIC  
PRIMARY**

**TITLE WARD NO. RACE RIBAUDO ROBERTS BOSLEY VILLA**

**TOTAL**

**TOTAL** 11,359 6,879 40,372. 33,055. 91,665

**REGULAR** 10,970 6,721 39,617. 32,023 89,331

**ABSENTEE** 419 158 755 1,032 2,364

**PCT TOTAL VOTE** . 12% 7% 44% 36%

**WARD** 1 B 65 192 2,426 94 2,777.

**WARD** 2 M 141 229 2,012 608 2,990.

**WARD** 3 B 90 153 1,867 106 2,216

**WARD** 4 B 184 194 2,378 100 2,856.

**WARD** 5 B 186 121 1,400 170 1,877.

**WARD** 6 M 190 283 1,694 1,058 3,225.

**WARD** 7 M 277 197 1,154 829 2,457.

**WARD** 8 M 382 257 1,386 821 2,846.

**WARD** 9 W 269 174 521 1,162 2,126.

**WARD** 10 W 301 136 348 1,186 1,971.

**WARD** 11 W 378 149 316 2,648 3,491.

**WARD** 12 W 1,000 285 258 3,611 5,154.

**WARD** 13 W 461 236 271 2,812 3,780.

**WARD** 14 W 770 298 299 2,574 3,941.

**WARD** 15 W 670 285 556 1,432 2,943.

**WARD** 16 W 1,079 326 337 3,906 5,648.

**WARD** 17 M 283 210 1,433 1,192 3,118.

**WARD** 18 B 62 233 2,619 102 3,016.

**WARD** 19 B 86 198 1,777 158 2,219.

**WARD** 20 B 127 521 3,464 143 4,255

**WARD** 21 B 63 272 3,239 123 3,697

**WARD** 22 B 44 202 2,353 86 2,685.

**WARD** 23 W 1,364 364 340 3,060 5,177.

**WARD** 24 W 2,076 239 375 1,511 4,201.

**WARD** 25 W 567 315 340 2,122 3,344.

**WARD** 26 B 63 253 2,352 114 2,782.

**WARD** 27 B 58 246 2,718 150 3,172.

**WARD** 28 M 153 311 2,090 1,177 3,731.

**TOT B WD** 11 B 1,028. 2,585. 26,539. 1,346. 31,552.

**TOT W WD** 11 W 8,935. 2,807. 4,010. 26,024. 41,776.

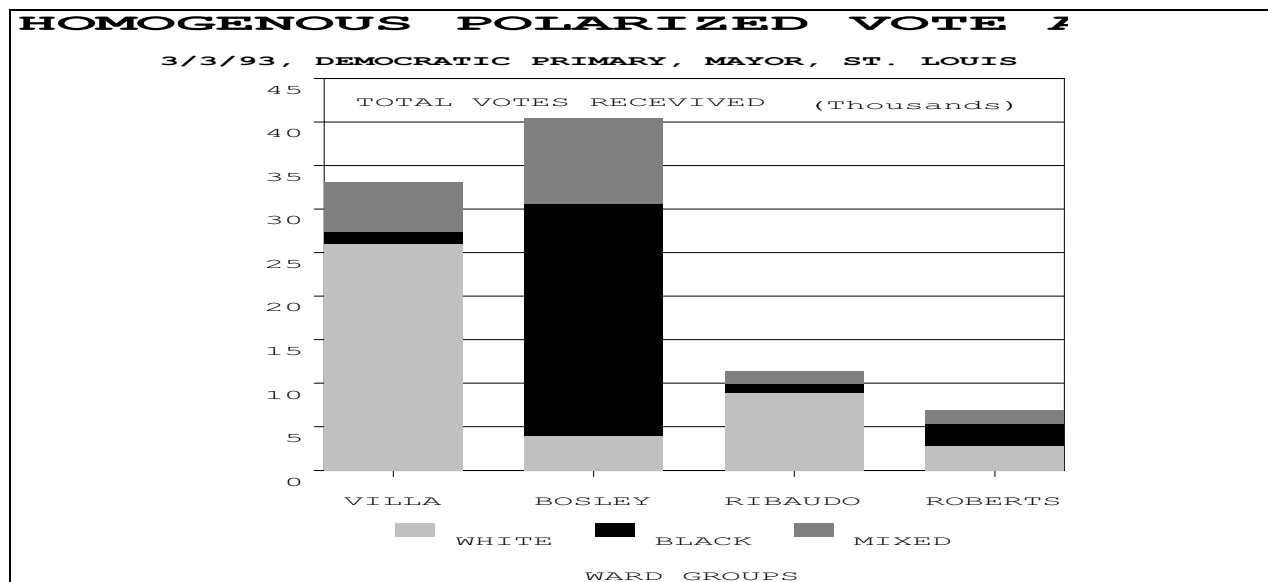


<b>TOT M WD</b>	<b>6 M</b>	<b>1,426.</b>	<b>1,487.</b>	<b>9,769.</b>	<b>5,685.</b>	<b>18,367.</b>
<b>PCT B WD VOTE</b>		<b>4%</b>	<b>8%</b>	<b>84%</b>	<b>4%</b>	
<b>PCT W WD VOTE</b>		<b>21%</b>	<b>7%</b>	<b>10%</b>	<b>62%</b>	<b>.</b>
<b>PCT M WD VOTE</b>		<b>8%</b>	<b>8%</b>	<b>53%</b>	<b>31%</b>	<b>.</b>

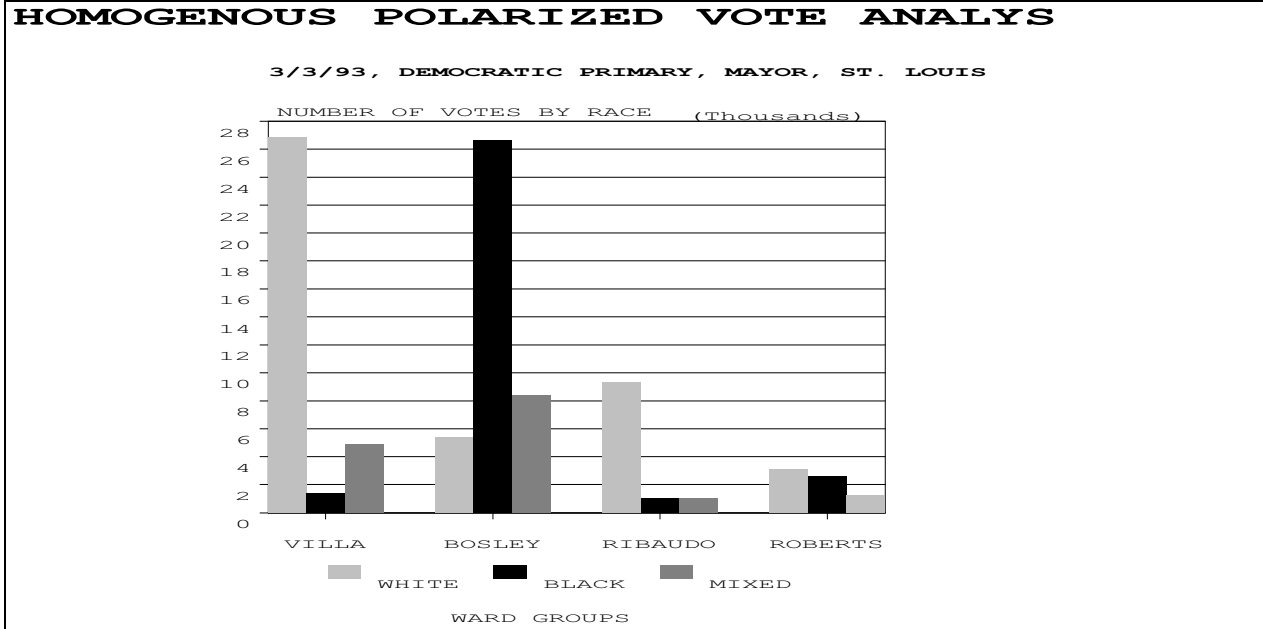
**Source: St. Louis Board of Election Commissioners**

When the election was over, Bosley was victorious, with 44% of the total vote, becoming the first black person to receive the democratic party's nomination to be Mayor of the City of St. Louis. And St. Louis being heavily democratic, he was expected to be elected Mayor at the general election of April 6, 1993. But based on the election result, there was still some question, because the voters had clearly cast their ballots on the basis of race.

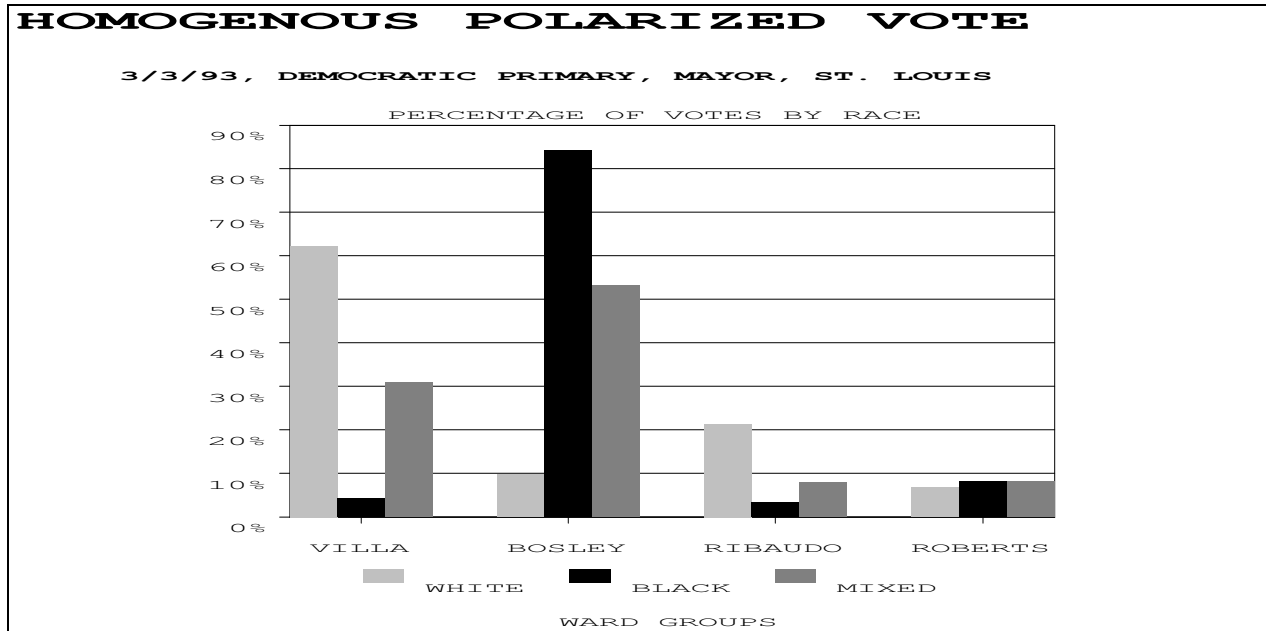
The total votes received by each candidate, with its racial composition is illustrated as follows:



The votes received by each candidate from the black, white and mixed wards shows the following results:



The percentage of votes cast by the race of the voters for each candidate follows:



St. Louis' pattern of racial block voting, thus had continued in the 1993 election for Mayor; but this time the black candidate was victorious. What were

the differences between Bosley Jr.'s election which resulted in victory and those of the two previous black candidates which resulted in defeat?

The split white vote worked in Bosley, Jr.'s favor. Neither his father in 1985, nor Mike Roberts had the candidacies of two major white candidates to divide the white vote and allow them to run down the middle.

Furthermore, there was an increase in the number of black votes that went for Bosley, Jr. when compared with the elections of the past. Bosley, Sr. had received a total of 17,446 votes from the black wards in 1985; while Mike Roberts had received a total of 14,390 votes from those same wards in 1989. In 1993, the black wards gave Bosley a total of 26,593 votes -- almost a ten thousand vote increase of the total received by his father. And not only had the aggregate votes from the black wards going to Bosley increased over the aggregate received by both Bosley, Sr. and Roberts, but also the percentage of black votes cast for Bosley, Jr.'s had significantly increased over those received by Bosley, Sr. and Mike Roberts. Bosley, Jr. secured 84% of the black vote in 1993. His father had received just 56% of the black vote in 1985 and Roberts had gained only 64% of that vote in 1989. In fact, Bosley, Jr.'s percentage of vote in all categories, white wards, mixed wards and black wards was greater than that of his father and Mike Roberts.

Most importantly, this was a well financed campaign. Bosley raised over \$350,000 and Steve Roberts spent \$450,000 as well. The focus of their spending was on winning the black vote. In addition, there was a second major campaign going on at the same time -- the reelection campaign of the black Comptroller of the city, Virvus Jones. Jones raised and spent over \$700,000 in defeating two white opponents with 48% of the vote. Thus some \$1.5 million was spent by black candidates to produce votes in their favor.

It is noted that both Tom Villa and Tony Ribauda raised and spent approximately \$750,000 each in the March 3, 1993 election, for an aggregate sum of \$1,500,000. Villa aimed all of his spending at white voters, while Ribauda targeted both black and white voters. Thus the aggregate spending by white and black candidates was equal and it was reflected in black voter turnout.

In addition to the black candidates spending funds to turnout black voters, Ribauda also spent funds trying to urge black voters to vote. Thus, there was more spending in the black community than in the white community. Therefore, black turnout in relation to white turnout was higher than in the past; and thrust the black candidates to victory.

The spending by black candidates was unprecedented. Never before had the city seen such an effort put forth by black candidates for office. And it is my opinion, that the amount of funds spent in combination by all of the black candidates (and Ribauda) to produce black votes was the major influencing factor that led to Bosley's victory. In the past, Bosley's father, had spent less than \$100,000, while his opponent, the incumbent Mayor had put a million dollars into his campaign. Again, the same was true with the campaign of Mike Roberts. While Roberts spent some \$200,000, again the incumbent Mayor had a million dollar war chest. It appears then, that the ability of the black candidates to match the white candidates in campaign spending gave them an equal opportunity to achieve electoral success.

As previously said, Bosley garnered 84% of the black vote, despite also having a significant black candidate in the race. His three elections as circuit clerk and his father's previous candidacy for Mayor gave him widespread name recognition. There was no incumbent in the race.

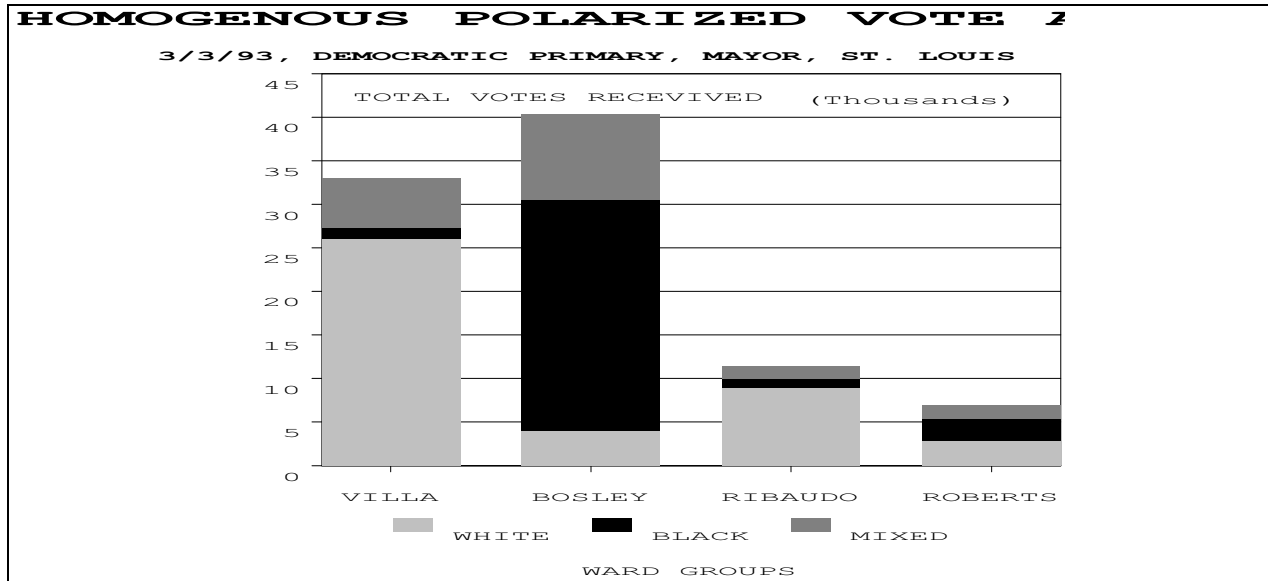
In none of these elections for Mayor did the black political leadership unite behind a single black candidate. Bosley, Sr. had fragmented support and the active opposition of several major black politicians, including Cong. Clay, State Senators' Bass and Banks, as well as the fact that 6 out of the 11 black ward organizations endorsed the incumbent white mayor.

In 1989, Mike Roberts had the support of only one black elected official, state representative Elbert Walton, and no ward organization endorsements.

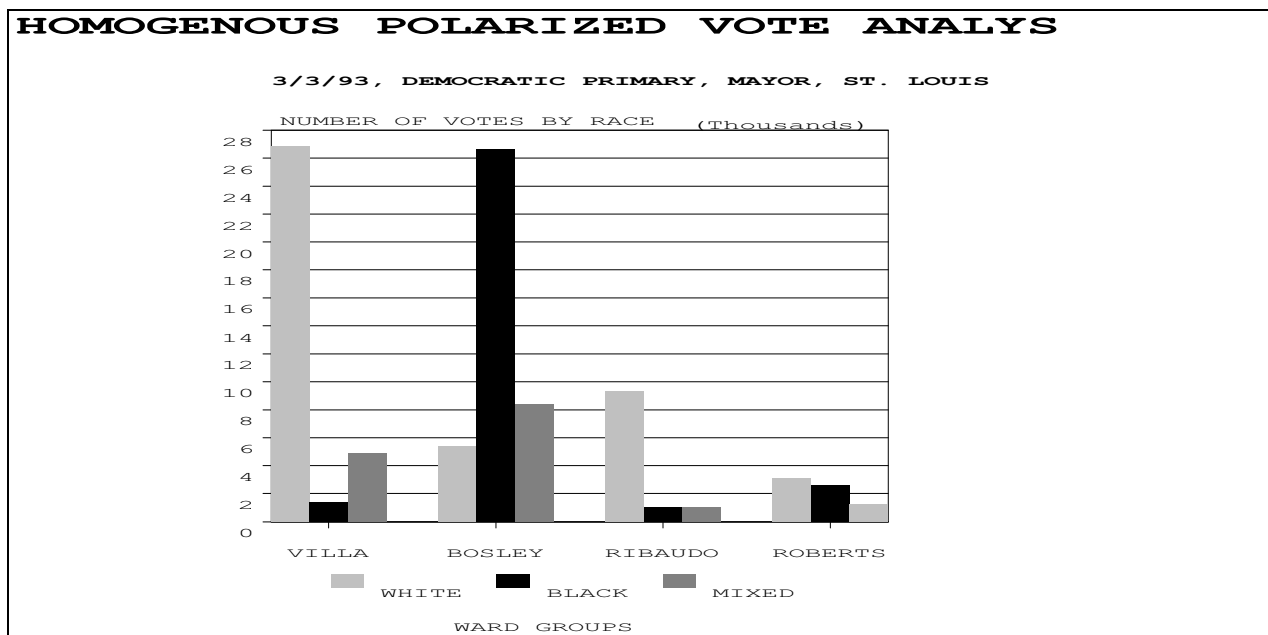
In 1993, Bosley, Jr. too found several black ward organizations endorsing his opponents. Three black ward officials -- the Ida and Louis Ford, (democratic committee members of the 5th ward), Norma Leggett (democratic committeewoman of the 4th ward) and Ted Hudson, (the democratic committeeman of the 19th), state representatives Louis Ford and Russell Goward and Bertha Mitchell, the 4th Ward alderman, endorsed Ribaud. State Senator J.B. Banks supported Roberts. Cecelia Grant, committeewoman of the 19th ward and a fringe group, calling itself the African American Citizens for Change, went on record in support of Tom Villa. However, the overwhelming balance of the black political leadership went with Bosley, Jr.

Much has been said both in the black press and the white press about the level of white support received by Bosley. It has been noted that he received 9.6% of the vote from the wards classified as white and 53% of the vote from the wards classified as mixed. It should be noted that census data shows that the mixed wards have black populations ranging from 30% to 60%; and the white wards have black residents as well. When we apply this data to regression techniques we find that Bosley received less than 10% of the white vote. The votes he received out of the mixed and white ward groups, therefore, was from black voters who resided in those mixed or predominately white wards of the city.

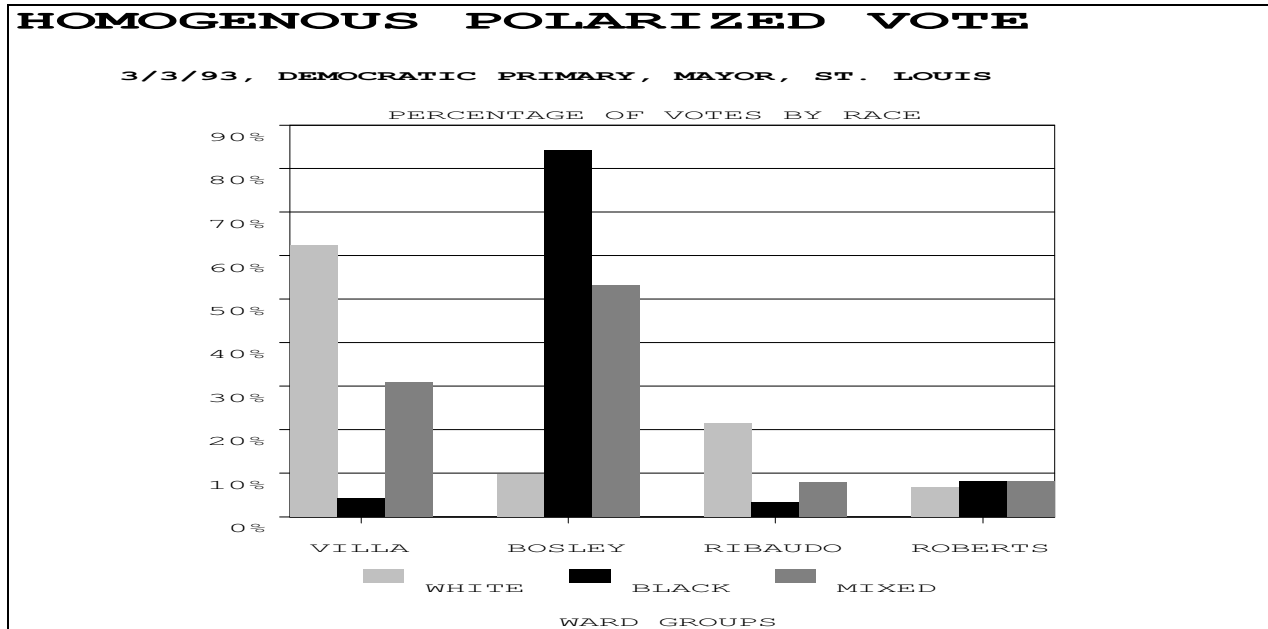
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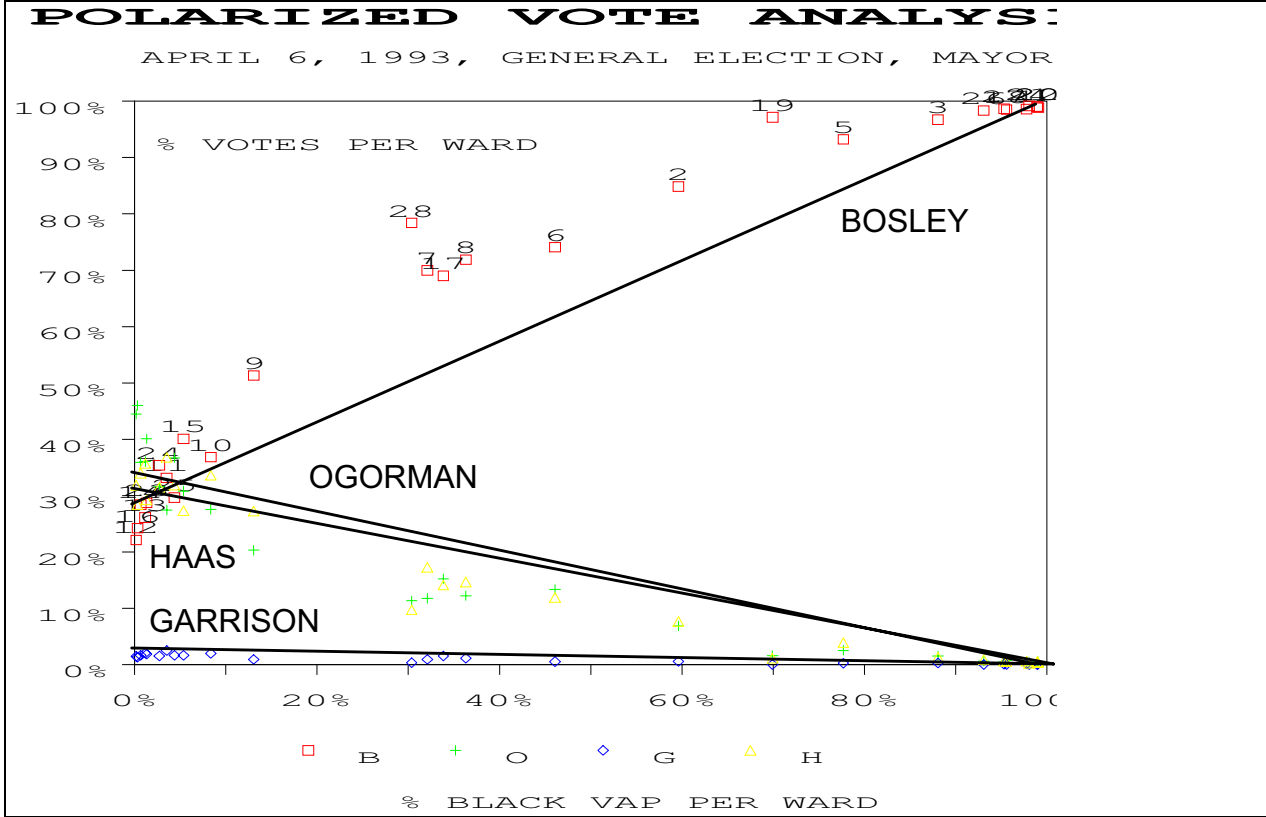


But regardless of the source of his votes, Bosley did get some white support. He received the endorsement of the Post Dispatch and Riverfront Times--major white newspapers. The money he raised, for the most part, came from white donors. And as any good politician knows, it is money that enables you to convince a person to vote.

### **BOSLEY WINS GENERAL ELECTION**

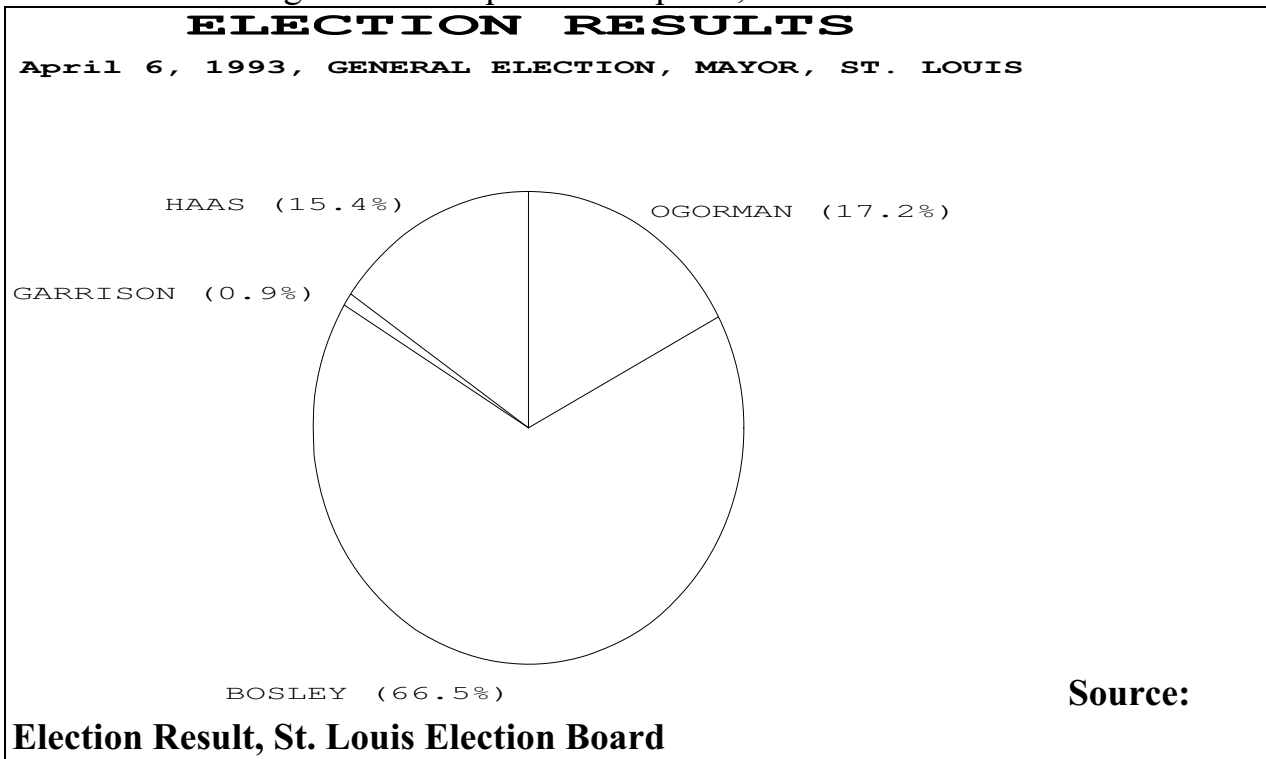
Bosley went on to win the general election on April 6, 1993 over three white opponents, a Republican and two independents. He received 98% of the vote of the black wards, 75% of the vote from the mixed wards, but just 30% of the white ward vote. Overall, he received 66% of the total vote.

A scatter gram of the election results follows:



Source: Election Result, St. Louis Election Board

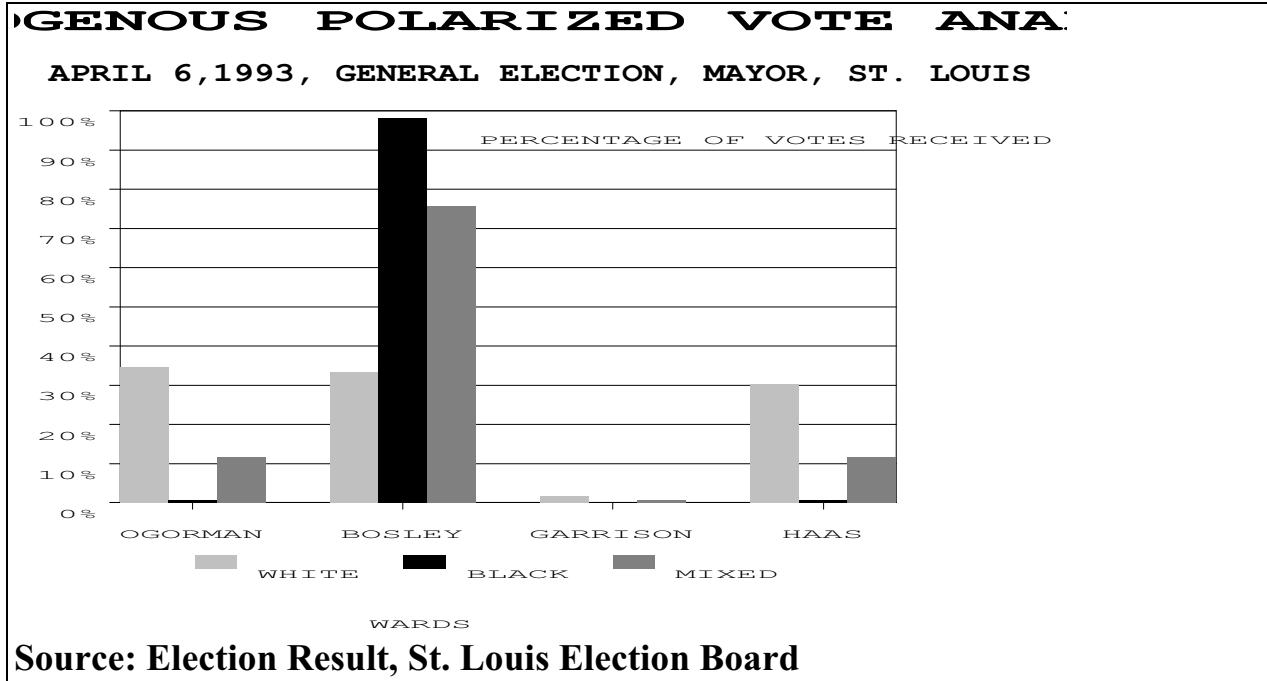
The following is a Pie Graph of the April 6, 1993 -- General Election Results:



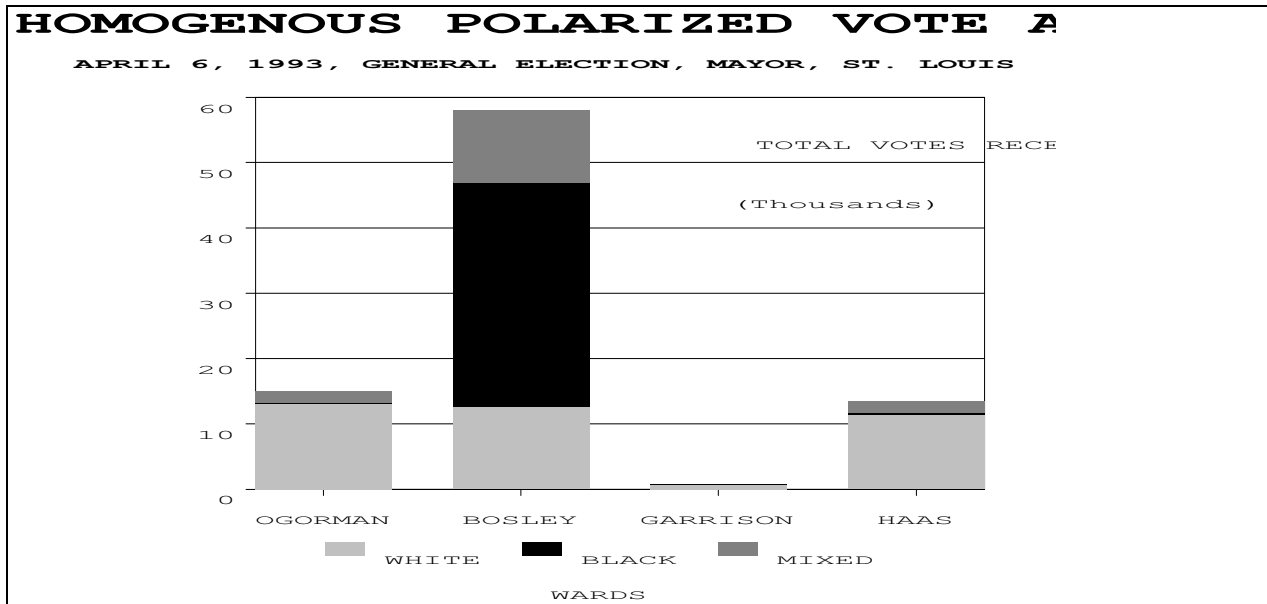
Election Result, St. Louis Election Board



The following is a Bar Graph of the April 6, 1993 -- General Election Results showing the percentage of votes cast for each candidate by race:



The following is a Stack Bar Graph of the April 6, 1993 -- General Election Results showing the total votes cast for each candidate by race:



**Source: Election Result, St. Louis Election Board**

Bosley's theme: "It takes black and white keys on the piano to play the star spangled banner, so it takes black and white people to make St. Louis a great place to live." With his victory, Bosley's theme will be the theme of the future.

**KANSAS CITY ELECTS BLACKS TO MAJOR OFFICES****BRUCE WATKINS CUTS THE ICE**

Kansas City had the distinction of electing a black Mayor two years before St. Louis, and in a city which is only 30% black. What is even more significant, is that Bruce Watkins was the top vote winner in Kansas City's non partisan primary election for mayor in 1979, but ultimately went down to defeat.

Watkins, at the time of his effort, was a Kansas City Councilman (Alderman). Like Freeman Bosley, Jr. in St. Louis, Watkins had served as Jackson County Circuit Court Clerk and as chairman of the Democratic Central Committee. He entered the election form Mayor believing in the good intentions of white voters.

In the primary election, he gathered 27% of the total vote. Coming in second was a republican, Dick Berkeley, with 26% of the vote. And although Kansas city's elections were non partisan, in over 50 years Kansas city had never elected a republican Mayor. In the primary Watkins had received 80% of the black vote. His three white opponents, the incumbent Mayor Charles Wheeler, another city council member, Joel Pelofsky, and Berkeley, had divided up 90% of the white vote. Watkins had received less than 10% of the white vote. Thus, the election was clearly racially polarized.

This held true in the general election. Watkins received 20% of the white vote in the general election, and 90% of the black vote. However, in a city that was only 22% black that was not enough. Berkeley took the election with 58% of the total vote -- taking advantage of his race.

## **ALAN WHEAT GOES TO CONGRESS**

In 1982, having been redistricted out of his seat in the Missouri state legislature, Alan Wheat decided to make a bid for the U.S. Congressional seat being vacated by then Cong. Richard Bolling of Kansas City. Wheat had the advantage of being the only black candidate in the democratic primary in a field of eight. He won the primary with only 31% of the total vote. He had received, in that primary just 7% of the white vote, but had achieved a victory margin with over 95% of the black vote.

Unlike Watkins, his general election was partisan. With the advantage of party loyalty he was able to go on to win the general election, receiving 58% of the total vote, 36% of the white vote and 98% of the black vote to his credit. Wheat's subsequent elections as an incumbent has not had major opposition.

## **CLEAVER BECOMES MAYOR**

In 1990, Kansas City voters passed a term limit amendment to their city charter which limited the terms of their city council members to two terms. This term limitation amendment was made retroactive, and thus, one of its victims was the Rev. Emanuel Cleaver, a three term city council member. In fact, all four black members of the Kansas City council had served two or more terms, thus it was believed that the amendment was aimed to reduce the influence of the black city council members who exercised considerable power on the council based on their seniority.

Cleaver and another black council member, Joanne Collins, decided to seek the office of Mayor. Collins was a black republican and did not enjoy a political base in the black community. She was elected to the city council at large; and gathered her strength from outside the black community.

On the other hand Cleaver had strong ties to his black base. He was elected in district only by the voters of his district, the 5th. He also was a leader in the local black political organization, Freedom, Inc. A United Methodist minister and civil rights activist, Cleaver had served as Mayor Pro Tem of the city for the past four years before seeking election as Mayor. He was victorious.

Cleaver won the primary with 37% of the vote. He had three major white opponents in the primary, in addition to the candidacy of Joanne Collins. Cleaver gathered 78% of the black vote and 16% of the white vote. His white opponents split the bulk of the white vote among them; thus his nearest competitor in the primary, Robert Lewellen, another city council member, received just 17% of the total vote.

The general election turned out different for Cleaver than it had for Bruce Watkins, twelve years earlier. Cleaver received 39% of the white vote in the general election and 90% of the black vote. Wheat's presence in congress had obviously paid off; for though the white community voted in a racial bloc, there was sufficient cross over white votes, to allow the black voters of Kansas City to elect a representative of their choice, Cleaver.

Cleaver's election is of course much more significant than Bosley's in a study on race and politics, in that he achieved victory in a city with only a 30% black population; while, Bosley had the advantage of 50% parity on the basis of race.

### **FREEDOM, INC.**

Cleaver's victory is a testament to the power of the dominant black political organization in Kansas City, Freedom, Inc. Freedom is a unified political organization of which every black elected official in Kansas City is a member, including, the Congressman, Mayor, four city council members, the member of the Jackson County legislature, four state representatives, the state senator and the

three members of the Kansas City school Board. In addition, community activist, politically active ministers, black businessmen, lawyers and any one interested in politics are all joined together in Freedom. The result is whenever there is an election, the Freedom endorsed candidate or ballot issue gets the full support of the Kansas city black political leadership and the bulk of the black vote -- which usually leads to victory. White political and business leadership, recognizing this power, seeks Freedom's support; and in exchange for its support, Freedom exacts commitments. The organization has thus been able to use its clout to elect blacks into the office of Mayor and Congressman, with constituencies which are less than 30% black.

The lesson of Freedom is that racially polarized voting need not be a barrier to success in achieving elected office, where blacks constitute a minority. Where African Americans properly forge biracial coalitions from a position of strength, they can use their black base as a hammer to exact support and win elections.

## **CHAPTER 4**

### **LEGISLATIVE REAPPORTIONMENT**

#### **INTRODUCTION**

The legislative branch of government at the local, state and federal levels are composed of multi-member bodies. Each legislator is elected from a single member geographical district containing a total population, as nearly equal in population to each of the other districts, as practical. The districts are also required to be compact and contiguous.

#### **POPULATION SHIFTS**

Periodically, we have shifts in populations from district to district, due to relocation of people from one district to another or even moving out of or into the district. Furthermore, we have births and deaths, thus, some districts' total population will increase in excess of the average population per district, while other districts' total population will decrease below the average, over time. This then results in districts substantially unequal to each other in total population per district. In order to remedy this problem, the Federal, State and Local Constitutions, respectively, generally provides that every ten years, following the decennial census, each district's boundaries shall be redrawn and the population reapportioned among the districts such that the districts will be restored to as nearly equal total populations per district as is practical. (Reynolds v. Sims, 1964)

#### **RACIALLY DISCRIMINATORY REAPPORTIONMENT**

During this reapportionment process, district boundaries may be drawn in such a manner as to either minimize or maximize the number of districts with a black voting majority and thus minimize or maximize the number of black persons

who might be elected as members of the legislative body. Historically, the redistricting process has been under the control of the white majority; and, unfortunately, those governmental bodies which are responsible for reapportioning the legislature have historically used the reapportionment process to minimize black voting strength and thus to minimize the number of black legislators elected to office.

### **VOTE DILUTION**

"Minority Vote Dilution" includes an essay by Frank R. Parker in which he discusses racial gerrymandering and legislative reapportionment. He discussed several methods used during reapportionment to dilute the minority vote.

### **SIXTY-FIVE PERCENT (65%) RULE**

One of the concepts discussed by Parker in his essay is the 65% rule. Equal opportunity in the electoral process means that black voters are entitled to have an equal chance to elect African-Americans to office to that of white citizens. Ordinarily, equality would mean that districts should be drawn that are at least 50% black, wherever possible. However, analysis of census data reveals, that the black population as a whole is about 5% younger than the white population. Therefore, the black voting age population in a district will generally be 5% less than the white voting age population, given 50% parity of the races. Also, due to lower socio-economic characteristics, black people of voting age tend to be registered at a rate which is 5% lower than the voter registration rates of white voters; and furthermore black registered voters tend to turnout to vote at approximately a 5% lower rate than white registered voters. Thus, to create a district in which the black voting strength is equal to that of white voters, the black population in a district must be adjusted upward by 15%. A district then

must be 65% (50% plus 15%) black in order for the black voters to have an equal opportunity to elect a representative of their choice.

### **CRACKING AND PACKING**

Another issue discussed by Parker were the practices of "cracking" and "packing" as vote dilution devices. As indicated above, a black majority of at least 65% in a legislative district is necessary for black voters to elect a representative of their choice. However, a district with greater than a 65% majority is not required. Therefore, it has been found that white reapportionment authorities will employ variants of one of two basic tactics in order to minimize black voting strength:

(1) Cracking -- this is when district lines are drawn so that an area of concentrated minority population, which could constitute one or more majority black districts, is divided among several predominantly white districts, to assure that no black person can be elected in any of those districts; or

(2) Packing -- this is when district lines are drawn so that an area of concentrated minority population, which could constitute two or more majority black districts, is packed into a single majority black district, to assure that no more than one black person is elected to office.

The packing and cracking devices take variant forms with the same objective, to minimize the number of black legislators elected to the legislature. Thus we find discussed in U.S. Justice department documents various situations which the justice department believes is indicative of vote dilution.

John Dunne, Assistant U.S. Attorney General for Civil Rights, wrote several unpublished papers on this subject, and delivered speeches on the issue before various groups on the question of "reapportionment." U.S. Justice Department Regulations, 28 CFR 51, serves as the basis of his paper. Dunne sets forth the



following as a list of redistricting practices which are deemed to be vote dilution devices:

1. Altering district boundaries so as to put a black incumbent in the same district with a white incumbent where that white incumbent has advantages in campaign funds or a white voting majority
2. Altering district boundaries so as to match black incumbent legislators in the same district as fellow black incumbent legislators, while creating open districts, in which no incumbent resides, with a white majority population, in order to assure that black incumbent legislators will not be reelected and will instead be replaced by white legislators
3. Altering district boundaries so as to carve up the constituency of a black incumbent so as to prevent said constituency from reelecting said incumbent to office
4. Reducing the percent of black voters in a district where the black voters have previously been able to elect candidates of their choice by only a very slim margin
5. Maintaining the reelection chances of white incumbents by preserving the old district lines of such white incumbents to the greatest extent possible to prevent black voters from electing representatives of their choice
6. Altering district boundaries to increase the number of white voters, in previously marginal or competitive districts where, black voters were almost, but not quite, able to elect a preferred candidate
7. Creating open districts, where there is no incumbent, by drawing the boundaries of the district so that the black group will constitute an electoral minority
8. Arbitrarily, capriciously and discriminatively deviating from the redistricting criteria that the commissioners claim they used in drawing the boundary lines, i.e., crossing county or city boundary lines to pick up voters to create a white majority district while refusing to do so to create a black majority district.

9. Excluding black persons from the process of drawing the plan, or merely paying "lip service" to them by soliciting, but then ignoring, the black voter's input and then providing arbitrary, capricious or discriminatory rationale for rejecting the black voter's redistricting proposal

### **DISCRIMINATORY EFFECT**

The result of cracking and packing of black voters is to deny black voters the opportunity to elect representatives of their choice in proportion to their numbers of the population as a whole.

### **14th AMENDMENT**

The Fourteenth Amendment to the U.S. Constitution has been held to require populations as nearly equal to each other as is possible in legislative districts. Therefore, on failure of the State or local legislative body, board or commission, which has responsibility to adopt a reapportionment plan, a citizen can go into U.S. District court and request the court to either order the legislative body, board or commission to redraw the boundary lines, or on failure to do so, the court itself can redraw said lines to provide that each district has a population as nearly equal to each other district as is practical.

### **15th AMENDMENT**

In addition, however, the court has found that in reapportioning said legislative districts, the reapportioning authority has to consider the effects of the Fifteenth Amendment and those statutory provisions passed by the U.S. Congress to enforce Amendment Fifteen. The 15th Amendment to the U.S. Constitution provides:

"The right of the citizens of the United states to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude."

### **VOTING RIGHTS ACT**

The United State Supreme court has established the principle that practices which dilute the right to vote should be treated like practices which deny the right to vote altogether; and thus any reapportionment plan which results in the fragmentation or packing of concentrations of black voters in such a manner as to deny the minority group its right to elect representatives of its choice is a violation of the U.S. Voting Rights Act. The courts have said then that the reapportioning authority's obligation is to draft a plan with districts containing populations as nearly equal to each other as is practical, without diluting minority voting strength.

### **STATUTORY PROVISIONS**

Title 42 of the United States Code, Section 1971(a)(1), provides that anyone who is otherwise qualified to vote under state law is entitled to vote "without distinction of race, color or previous condition of servitude." Section 1971(b) of title 42 provides that it is illegal for officials or private citizens to interfere with a person's right to vote in any general or primary election. And Section 2 of the U.S. Voting Rights Act of 1965, as amended in 1982, provides:

"(a) No voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in the denial or abridgment of the right of any citizen of the United States to vote on account of race or color, ...

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population."

## **PROOF OF DISCRIMINATORY EFFECT**

In a reapportionment court case, in order to prove a violation of the Voting Rights Act, the plaintiffs must present evidence to the court of the following:

1. That blacks are located in an area that is geographically compact and contains sufficient numbers of blacks such that single member districts with a black majority can be drawn.
2. That the number of districts with black majorities actually drawn, by the reapportionment commission, is less than the maximum number of black majority districts that could have been drawn.
3. That blacks are politically cohesive in the districts being drawn, i.e., they tend to vote as a bloc, casting most of their votes for the same candidates for offices.
4. That whites vote as a bloc, casting their ballots in such concentrations such that the candidates of choice for the minority community are usually defeated.

## **RESEARCH SUPPORT**

In order to evaluate and determine whether or not a reapportionment plan has the effect of diluting minority voting strength through a racial gerrymander to minimize the number of majority black or Hispanic districts, research must be done on following issues:

1. Reapportionment Plan

The researcher must prepare a plan showing the maximum number of districts that might be drawn in those areas of the state, where blacks are concentrated, i.e., St. Louis City, St. Louis County, Kansas City.

- 2 Racially Polarized Voting Behavior

Thereafter the researcher must make a statistical analysis of black voting preferences in those districts included in that plan. Because voting on the basis of

race is the question that needs to be answered, Black candidate vs. white candidate elections should be analyzed. The researcher should identify Black candidates, over the last ten years, for state representative and other offices, who had white opponents. Election results would then be secured on a precinct by precinct basis. The precincts are then matched against the census data to determine black vs. white voting behavior, i.e., did the predominantly white precincts vote for the white candidate? Did the predominantly black precincts vote for the black candidate? How did the racially mixed precincts vote?

In those elections where there might be only white candidates and no black candidates, did the black voters all vote for one candidate, while the bulk of the white voters voted for the other candidate? Or if there are only black candidates, and no white candidates, did the white voters bloc vote for one of the black candidates, while the black voters voted for the other candidate? Racial bloc voting then does not depend on the color of the candidates skin, but on the color of the voters skin. Therefore, the researcher must show that the black voters tend to vote as a bloc for some particular candidates or issues, while white voters tend to vote as a bloc for the opposing candidate or issue.

The researcher will identify the names of black candidates in the jurisdiction who have previously run for office over the past ten years. She should also identify ballot issues and candidates with racially charged issues. Some issues, such as school tax elections, can be analyzed for bloc voting behavior. In St. Louis City, for example, the black population is younger with school aged children; therefore, the black community tends to vote as a bloc for school tax increases; on the other hand, the white community is older, without school aged children, and therefore tends to vote against such issues. This is still evidence of racial bloc voting and should be included in the researcher's analysis.

There must be separate research for each area of the state in which the black population is concentrated, i.e., Jackson County, St. Louis City and St. Louis County. In order to practically demonstrate the 65% rule, we have to look at voting age population, registration rates and voter turnout.

### 3. Voting Age Population

Black vs. White Voting age population in a district must be analyzed. If a district is 50% black, but the black population over the age of 18, compared with the white population over the age of 18, is 5% less than the white voting age population, the district may need to be increased to 55% black in order to achieve a black voting majority.

### 4. Registration Rates

Voter registration rates in the districts must be analyzed; i.e., the number of registered voters in a precinct in proportion to the number of people in a precinct who are 18 or older. If the black voter registration rates are five percent less than the white voter registration rates, then to have an effective voting majority, the black population may need to be increased in the district by five percent to 60% black.

### 5. Voter Turnout

Voter turnout rates should be analyzed. Although there may be 1000 people registered in a precinct, only 300 of those people may actually vote on an average over the years. Black voter turnout rates should then be compared with white voter turnout rates in order to determine the percentage of black population which one wants in a district. Normally it is found that black voter turnout is 5% less than white voter turnout, thus a district which is 50% black will not give blacks an equal opportunity to elect a representative of their choice unless the black population is increased to 65% of the total.

## 6. Socioeconomic Factors

Socioeconomic factors should be analyzed, i.e., how does the black community compare with the white community on a socioeconomic basis, in terms of housing, income, education, health care, crime statistics, business indices, etc. This data may be secured from the census but is also the subject of numerous sociological studies as well as government, agency, newspaper and university reports. These socioeconomic factors are important in that one's socioeconomic status influences one's political behavior. The lower the socioeconomic status, the lower the participation rates.

## 7. Historical Discrimination

Historical evidence of racial discrimination should be gathered. Both official, public and private discriminatory actions should be reviewed. Laws which required segregated facilities such as school segregation should be identified. Court enforcement of racially discriminative private action such as restrictive housing covenants should be included in the research. Administrative or executive action against black institutions such as the closing of black public hospitals is strong evidence of public indifference to the needs of the black voters. Racially segregated country clubs, employment discrimination, segregated pools, theaters, hotels, etc., and the experiences of black and white discrimination investigators are good sources of information on private discrimination against blacks.

The researcher thus must identify any official or unofficial discriminatory practices of legislative, executive or judicial officials, as well as identify private practices which resulted in discrimination against blacks and those instances of de facto discrimination which show that, though not sanctioned by law, there is discrimination in fact. (See appendix A)

## **SUMMARY**

In summary then, the researcher can demonstrate the discriminatory effect of a reapportionment plan by showing that the number of majority black districts that could have been drawn is greater than the number of districts that were actually included in the redistricting plan. But, the significance of a plan which minimizes the creation of majority black districts can only be demonstrated by the fact that racial bloc voting prevails in the state or legislative district; and thus, if a group of black voters are submerged in majority white districts, they will be unable to elect representatives of their choice.



## **CASE STUDY: RETROGRESSION IN BLACK REPRESENTATION UNDER MISSOURI HOUSE OF REPRESENTATIVES REAPPORTIONMENT PLANS**

During the decade of the 1970's there were fourteen districts in the Missouri House of Representatives with a majority black population and from which thirteen black members of the House of Representatives were elected to office. Five of the districts were located in Kansas City, Jackson County, Missouri and nine of these districts were located in the City of St. Louis, Missouri. A white legislator, Philip Scaglia, held office in one of the majority black districts in Kansas City during this time.

### **KANSAS CITY FREEDOM**

By 1981, the number of black members of the Missouri legislature had increased to sixteen -- all democrats -- seven from Kansas City and nine from St. Louis. Three of the Kansas City black legislators were newly elected to office in 1980, defeating three incumbent white representatives, by a plurality of the vote. One of the newly elected black legislators, Mary Bland, was elected in a substantial majority black district, while the other two black legislators, Rev. James Tindall and Earl Pitts, were elected from districts with black populations of approximately 40-49%. Furthermore, Kansas City black voters successfully elected the first black State Senator, Lee Virtis Swinton, from the Kansas City area in that 1980 election, again by a plurality of the vote.

Racial bloc voting prevailed in each of these elections and the black candidates' successes were in each instance attributed to the fact that there were more than one white candidate in the race, and the white majority vote split among the white candidates, leaving the black candidate with a plurality, by winning a huge majority of the black vote.

## **MISSOURI 1981 REAPPORTIONMENT PLAN**

Missouri's population was approximately 11% black both in 1980 and 1991 and thus to achieve proportional representation in the 163 member Missouri House of Representatives, Missouri's black citizens would have to elect 18 persons to the Missouri House of their choice.

Prior to the elections of 1980, Missouri's black population had not achieved proportional representation in that only 13 out of the 163 Missouri House members were black. However, in 1980, three new black persons were elected to the Missouri House from Kansas City, thus increasing the aggregate number of black legislators to sixteen (16) -- all democrats -- seven from Kansas City and nine from St. Louis. The three newly elected black legislators had defeated three incumbent white representatives, by a plurality of the vote.

As a result of reapportionment of the Missouri House of Representatives in 1981, the seven black Kansas City legislators were "packed" into four districts, while the nine St. Louis black legislators were "packed" into seven districts. In fact, 81% or 13 out of the 16 black legislators' residences were placed in districts where a fellow legislator resided. In comparison, only 8% or 12 out of 147 white legislators were paired in the 1981 reapportionment plan. And in the Kansas City area, none of the white incumbents were paired with another incumbent in the reapportionment plan.(See Illustration)

Plaintiff African American's Exhibit No. 10

### **RETROGRESSIVE EFFECT OF PAIRING OF INCUMBENT BLACK STATE REPRESENTATIVES AS A RESULT OF REAPPORTIONMENT**

Listed below are the districts and the names, and race of those incumbents who were paired as a result of reapportionment.

#### **1981 Reapportionment Plan**

District	14 - Lloyd Baker (W) & D.R. Osbourn (W)
	36 - Orchid Jordan (B) & James Tindall (B)

38 - Leo McKamey (B) & Alan Wheat (B)  
 43 - Mary Bland (B) & Earl Pitts (B)  
 56 - James Whitmore (B) & Fred Williams (B)  
 57 - Johnnie Aikens (B) & DeVerne Calloway (B)  
 58 - Stan Piekarski (W) & Billie Boykins (B)  
 59 - Nathaniel Rivers (B) & Steve Vossmeier (W)  
 62 - Bill Strassburger (W) & Charles Troupe (B)  
 67 - Patrick Dougherty (W) & Thomas Eckhardt (W)  
 68 - Ron Auer (W) & Eileen McCann (W)  
 73 - Francis Markwell (W) & Jean Mathews (W)  
 84 - Charles Bratkowski (W) & Dewey Crump (W)

=====  
 No. Black incumbent State Reps before reapportionment = 16  
 Number of Blacks Paired = 13  
 Per cent of Blacks Paired (13/16) = 81%  
 Potential loss of Black State Reps (8/16) = 50%  
 No. of Black State Reps after 1982 Elections = 11  
 Percentage decrease in Black State Reps  
 as a result of reapportionment (16-11)/16 = 31%

=====  
 Number of White State Reps before reapportionment = 147  
 Number of White incumbents Paired. = 12  
 Per cent of Whites Paired (12/147). = 8%  
 Number of whites after 1982 elections. = 152

=====  
 Source: Official Manual, State of Missouri, 1981-82  
 1981 Reapportionment Plan, Archives, Secretary of State, Missouri

Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri

The balance of the population of black residents of the Kansas City and St. Louis City areas, respectively, were then "cracked" among majority white districts

such that no other district in said cities contained a black majority, though it was possible to have drawn separate districts for each of the said 16 black legislators.<sup>6</sup>

In addition to the commissions' "cracking" and "packing" of black voters in Kansas City and St. Louis City under said 1981 reapportionment plan, the black population outside the St. Louis City limits but within St. Louis County, which was sufficiently large, and compact to draw four majority black districts within St. Louis County, was "cracked" in such a manner that only one district was drawn with a majority black population, and then not with an effective black voting majority because the black population had a substantial number of persons who were under voting age. Furthermore, a highly entrenched incumbent white legislator was placed in said majority black district.

The net effect then of the reapportionment of the Missouri legislature in 1981 was that the 16 black legislators were reduced by 5 or 31% down to 11 after the elections of 1982 while the number of white legislators was increased by 5 to 152.

### **1991 REAPPORTIONMENT PLAN**

Following the 1981 reapportionment of the Missouri House, two black republicans were elected to the House between 1982 and 1990. They were elected from districts with less than 1% black population. Steve Banton was elected in 1982 from St. Louis County and remained in the legislature until 1990, when he did not seek reelection, opting instead to seek the office of St. Louis County

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<sup>6</sup>The reapportionment plan, though designed to set black representation back, became a blessing in disguise. Having no "safe" seat to run for, several black legislators ended up running for other offices. Alan Wheat became Congressman Wheat in Kansas City. James Tindall was elected to the Jackson County legislature. And Billie Boykins was elected License Collector in the City of St. Louis.

Prosecutor.<sup>7</sup> Unfortunately, he was unsuccessful. Coincidentally, in that same year, Carson Ross, a black republican from Jackson County was elected to the Missouri House. Thus the number of black republicans in the Missouri House remained at one.

In 1989, a black lawyer, Ronnie White, was elected in a special election to replace a white legislator, Michael David, who had been appointed a judge in St. Louis City, thus, the total number of black democrats elected to the State legislature increased to twelve; and the overall number of black legislators had now increased to thirteen. He was reelected to office, without opposition, in 1990.

The 1991 reapportionment commission, again, combined residences of black legislators and thus reduced the number of black incumbents who could possibly be reelected by black voters to the House down from 12 to 10. The following is an analysis of the effects of that pairing.<sup>8</sup>

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<sup>7</sup>Banton had previously served a partial term in the legislature having been elected to the office in 1977 in a special election to complete the term of the a white legislator

<sup>8</sup>Carson Ross, the black republican representing a 90% black district is not included in this analysis. He cannot possibly be the victim of minority vote dilution for he has no minority vote to dilute.

**Plaintiff African American's Exhibit No. 10****RETROGRESSIVE EFFECT OF PAIRING OF INCUMBENT BLACK STATE REPRESENTATIVES AS A RESULT OF REAPPORTIONMENT**

Listed below are the districts and the names, and race of those incumbents who were paired as a result of reapportionment.

**1991 Reapportionment Plan**

**District      3 - Beth Wheeler (W) & Phil Tate (W)**  
**27 - Millie Humphreys (W) & Edward Shellhorn (W)**  
**36 - Jerry Barham (W) & Norwood Creason (W)**  
**40 - Ronnie DePasco (W) & Henry Rizzo (W)**  
**50 - Carol Mays (W) & Robert Sego (W)**  
**57 - O.L. Shelton (B) & Frank Williamson (B)**  
**61 - Paula Carter (B) & Elbert Walton (B)**  
**64 - William Clay (B) & Tom Stoff (W)**  
**70 - Francis Brady (W) & Robert Quinn (W)**  
**75 - Richard Dorsey (W) & Mary Hagen-Harrell (W)**  
**81 - Chet Boeke (W) & Mark Holloway (W)**  
**161 - Ollie Amick (W) & Gene Copeland (W)**

=====  
**Number of Black incumbent State Reps before reapportionment = 12**

**Number of Blacks Actually Paired in 1991 plan = 4**

**Percentage of Blacks Paired  $4/12 = 33\%$**

**Number of Black representatives after 1992 elections = 10**

**Percentage decrease in Black incumbents  $(12-10)/12 = 16\%$**

=====  
**Number of incumbent White State Reps before reapportionment = 151**

**Number of Whites Actually Paired = 18**

**Percentage of Whites Paired  $18/151 = 12\%$**

**Number of Whites after reapportionment = 153**

=====  
**Note at time of passage of preliminary plan on 8/20/91, Robert Quinn had announced that he would not seek reelection and instead run for Secretary of State; and William Clay, Jr. was unopposed candidate for election to Missouri Senate in Special election scheduled for 9/2/91; therefore, two of the pairing of incumbent White State Reps was known by the commission to not be actual pairings and that actually two more Blacks would be paired, which was case on passage of final plan on 9/20/91.**

===== \*

**Source: Official Manual, State of Missouri, 1981-82  
1981 Reapportionment Plan, Archives, Secretary of State, Missouri**

**Source: Elbert A. Walton, Jr., P.C., St. Louis, Missouri**

### **KANSAS CITY**

Dr. Jones, the black member of the Missouri House Reapportionment Commission proposed a reapportionment plan, for the Kansas City area of the state which would include five districts with black majorities of 62.1%, 62.6%, 63.7%, 64.2%, and 6.2%, and one district with a 42.5% black population. However, the 1991 reapportionment commission refused to include Dr. Jones' plan in the Commission plan, and instead kept black Kansas City voters "packed" into four districts with black majorities ranging from 68.7% to as high as 90.5%, and then "cracked" the remaining black population among seven majority white districts where blacks constitute from 10% to 20% of the total population.

### **ST. LOUIS CITY**

In St. Louis City, there were eight black incumbent state representatives. The black commissioner proposed a reapportionment plan with eight separate districts for each of said eight black incumbent state representatives with an effective majority black population, two of which would have been partially spread into St. Louis County; and in addition to said eight city based districts, she also proposed four more districts, wholly outside of the St. Louis City limits but within St. Louis County, with a majority black population of 65% or more. Thus black voters would have an opportunity to elect a total of twelve state legislators from the St. Louis area.

Instead of drawing eight majority black districts in the City of St. Louis, the reapportionment commission, drew only six majority black districts in St. Louis City; thus, pairing 50% or four out of the eight black state representatives who

resided in the City. In contrast, all seven of the white state representatives who resided in the city were placed in separate districts

The result of this plan was to eliminate two black incumbent representatives' districts and cause the black representation to the legislature from St. Louis city to retrogress, now going from 8 black legislative districts down to 6 -- (on the heels of having gone from 9 down to 7 with the 1981 reapportionment plan); while the number of white incumbent representatives were maintained at seven (7) or without any change -- even though the white population of the city had declined by 45,000 people which represents 1 1/2 district. The black population declined by 16,000 which represents 1/2 legislative district.

#### **ST. LOUIS COUNTY**

The area outside of the St. Louis City limits in St. Louis County has never had a black person elected to the legislature by black voters. Black majority districts drawn by the commission in the area outside of St. Louis City in St. Louis County were limited to the following percentages: 58.5%, 61.0%, 64.7% and 67.9%. In contrast, the black member of the commission proposed districts wholly outside of St. Louis City and in St. Louis county of 64.9%, 64.9%, 67.9% and 73.7%. Plus two of said districts would be "open" with no incumbent resident therein. Thus with the increased black majorities over those proposed by the commission, as well as with no incumbents in two of said districts, black voters would have a greater opportunity to elect representatives of their choice under the plan proposed by the black commissioner, Dr. Jones, than under the plan adopted by the Missouri House Reapportionment Commission.

#### **DISCRIMINATORY EFFECT**



The following table is an analysis of the 1991 redistricting plan, showing the black population per district both before and after redistricting and as it would have been had the commission adopted Dr. Jones' plan:

<b>Comparative Analysis,% Black Population Per District Under Alternative Redistricting Plans"</b>			
<b>"Dist. No."</b>	<b>"Pop Before"</b>	<b>"Commission"</b>	<b>"Jones"</b>
	<b>"Redistrict"</b>	<b>"Plan"</b>	<b>"Plan"</b>
<b>Kansas City</b>			
36	70.3	68.7	64.2
38	88.9	20.2	62.6
39	93.5	69.2	66.2
41	16.5	73.6	62.1
43	86.2	90.5	63.7
45	22.0	14.6	42.5
<b>City of St. Louis</b>			
56	93.9	44.2	82.5
57	90.7	96.2	70.3
58	80.0	84.5	70.0
59	76.9	20.5	66.3
60	99.0	99.0	99.0
61	84.8	92.9	66.8
62	93.7	91.6	95.0
63	43.0	59.1	48.4
<b>County of St. Louis</b>			
79	72.7	67.9	73.7
80	46.6	58.5	64.8
81	55.8	64.7	67.9
88	48.5	61.0	64.9

**Source: Missouri Secretary of State, Reapportionment Files**

A review of the above table shows that black citizens were packed and cracked in order to minimize the number of majority black districts with a 65% black population. Thus, as a result of the 1991 reapportionment, not only did not blacks make any gains, but the gains made were reversed and the number of black

incumbents was reduced by two in the Missouri House. We can therefore see, that black people do make gains in achieving electoral office; but often these gains are reversed by racial politics.

## **CASE STUDY: ST. LOUIS COUNTY COUNCIL REAPPORTIONMENT PLANS**

### **INTRODUCTION**

Legislative reapportionment does not simply entail state-wide legislative bodies, but county-wide legislative bodies as well. Black voters have had to struggle to secure seats in county legislative councils. The difficulty comes from the fact that the council districts are majority white, and with polarized voting black candidates can not win election to a position on the council. It is necessary to have a majority black district in order for black voters to be able to elect a black candidate to office; and the usual opportunity to create a majority district comes only once every ten years when the council is reapportioned to bring its population into balance.

### **COUNCIL ORGANIZATIONAL STRUCTURE**

St. Louis county is a political subdivision of the State of Missouri organized by corporate charter according to law. Under said corporate charter, the legislative power of St. Louis County vests in a seven member council. The seven members of said council are elected to office, by a vote of the residents, from single member districts. Specifically, the territorial boundaries of St. Louis County is subdivided into seven geographical districts from which candidates for each respective council district office are voted upon by the respective registered voters of that respective district; and the candidate receiving the highest number of votes, in each respective district, is elected to office. Elections are held every two years with council members being elected to office for four year terms.

Council members from even numbered districts were elected in 1988 and council members from odd numbered districts were elected to office in 1990. Even numbered council districts, thus, were scheduled for elections in 1992.

Elections are conducted by a Board of Election Commissioners according to law. A primary election, in which nominees of a particular political party are nominated for office, precedes the general election. Candidates for nomination to office file declarations of candidacy during a filing period established by law. The filing period for the August 4, 1992 primary election opened on January 14, 1992 and closed on March 24, 1992. No person may be a candidate in the general election except that he is nominated as a result of the primary election or files declaration of candidacy as an independent. The general election was scheduled for November 3, 1992.

Under the St. Louis County Charter, each of the seven council districts are to be composed of compact and contiguous territory and contain populations as nearly equal to each other as is possible. Thus the county charter provides for redistricting or reapportioning of the populations of each of the seven council districts every ten years following the decennial census taken by the U.S. Census Bureau.

#### **COUNTY COUNCIL REAPPORTIONMENT COMMISSION**

As provided by county charter, a bipartisan reapportionment commission was established to reapportion the county council following the 1990 census. Said commission was appointed by the County Executive from a list of nominees submitted to the Executive by the members of the political party committees representing each respective council district. No black persons have ever been appointed as a member of said reapportionment commission. And Buzz Westfall,

the county executive, in 1991, also failed to appoint any black persons to said commission.

Westfall, who had served as county prosecutor, before being elected to county executive, had not hired a single black person among his staff of prosecutors during the twelve years that he had served as prosecutor; therefore, when he began to seek election to the office of county executive, he quickly hired his first black assistant prosecutor, Brenda Loftin. He appeared before an organization of Black Elected County Municipal Officials to secure their endorsement and support in his effort to be elected County Executive, and apologized for his dismal employment record and promised to be more sensitive to the needs of the black community. It was therefore of serious concern to these elected officials when Westfall failed to appoint a black person to the reapportionment commission.

Due to partisan politics, and the issue of race, the reapportionment commission was unable to draft a reapportionment plan.

### **POLITICAL PARTY COMMITTEES**

The council prior to the 1992 elections was composed of four democrats and three republicans. All of the members of the council are white; and there has never been a black person elected to membership on the council.

According to law, any vacancy arising in any council person's office, prior to the expiration of his term, is filled by special election. The party nominees are nominated by the political party committees resident in the particular district for which there is a vacancy. The political party committees have never nominated a black person as a party candidate in any of the special elections held to fill vacancies.

### **BLACK DEMOCRATS VS WHITE DEMOCRATS**

The reapportionment controversy centered on the First and Third Districts. The Black Elected County Municipal Officials (BECO) -- all democrats --, supported, ironically, by the Republican reapportionment commissioners, were seeking to include in the reapportionment plan, one District, generally in the area of the First District, with a black majority population approaching 65% (this was the maximum black majority percentage possible in the district due to the dispersion of black residents throughout the county).

The Democratic commissioners were opposed to the Black Elected Officials group's plan in that they wanted to split Black voters (who vote over 90% democrat) between the First, Second, Third and Fourth districts in order to improve the election chances of the white democratic incumbent council members who represented those districts at the time.

Basically, if the First district was to be made 65% black, a black democrat would probably be elected to the county council. Furthermore, the Third District would be composed of more white voters who tend to swing between the democrat and republican parties, and who in fact have shown a pattern of voting more republican than democrat. The white democratic commissioners, then wanted to use black voters as a base to maintain the election chances of the four white democratic incumbents in those four districts by diluting the black voting strength and thus denying black voters the opportunity to elect a representative of their choice.

Furthermore, the Third district is considered a swing district which has elected alternatively both democrat and republican members of the county council. The remaining six districts are considered to be evenly divided between the two major political parties, three being solidly republican while the other three being solidly democrat.

Geographically, the three republican districts are in the southern part of the county while the three democrat districts are in the northern half. The so-called swing district is sandwiched in the middle eastern portion of the county.

### **CENSUS OF POPULATIONS**

In 1970, the total population of St. Louis County was 951,671 of which 902,002 persons were white and 45,495 were black. As of 1980, the population of St. Louis County had grown to 974,815; however the white population had declined to 853,009 while the black population had increased to 109,686.

By 1990, the county's population had increased to 993,529; and once again the white population had decreased; this time to 836,232, while the black population had grown to 139,318. Also, the overall population of the county had generally shifted from the eastern part of the county to the western portion.

The black population is concentrated in the north eastern part of the county and was substantially dispersed among six of the seven council districts due to the fact that the council district lines generally ran east and west while the black population flows north and south. The Third district both abutted the predominantly black voting precincts as well as included several predominantly black voting precincts.

Based on the 1990 census, each of the county council districts would ideally be composed of 141,933 persons. However, due to population shifts, the districts varied substantially from said ideal ranging from a low of 125,333 in the First District to a high of 175,969 in the Seventh District. One of the districts, generally in the area of what is now the First District, could be drawn in such a manner as to be composed of a majority black population of 65%. A greater percentage black could not be achieved in that district due to the dispersal of black residents throughout St. Louis County. The remaining six districts could thereafter be drawn

in such a manner as to provide equal population to each other and that of the first district as is practical.

### **JUDICIALLY DRAWN REAPPORTIONMENT PLANS**

On January 14, 1982, under the same circumstances as existed in 1991, the reapportionment commission failed to redistrict the county council and the matter ended up in federal court. The boundary lines and numbers were assigned to the seven county council districts by the U.S. District Court. The District court fashioned a reapportionment plan which diluted black voting strength in that the court divided black voters among several council districts with less than a black majority in each district, when it was possible to draw one district with a black majority of 51.4%. Table compares the various plans proposed to the court for reapportionment of the council.

<b>COMPARISON OF 1981 REAPPORTIONMENT PLANS ST. LOUIS COUNTY COUNCIL</b>				
<b>% BLACK POPULATION OUT OF TOTAL</b>				
<b>"District"</b>	<b>"Republican"</b>	<b>"Democrat"</b>	<b>"BECO"</b>	<b>"Court"</b>
1	,"22.8%"	,"23.5%"	,"51.4%"	,"32.6%"
2	,"24.9%"	,"23.6%"	,"3.5%"	,"10.6%"
3	,"15.8%"	,"19.1%"	,"11.4%"	,"21.3%"
4	,"7.1%"	,"7.1%"	,"7.6%"	,"7.1%"
5	,"6.2%"	,"5.6%"	,"3.1%"	,"5.7%"
6	,"0.7%"	,"0.5%"	,"0.5%"	,"0.3%"
7	,"1.3%"	,"1.2%"	,"1.2%"	,"1.2%"

The reader will note that only the plan proposed by black voters (BECO plan) would result in a majority black council district. The plans proposed both by the democrats and the republicans as well as the plan adopted by the court "cracked"



black voters among several districts thus preventing black voters from constituting a majority in any single district.

The democratic commissioners on the County Council Reapportionment Commission attempted to maintain the 1981 discriminatory configuration of county council boundary lines by refusing to vote for any plan to reapportion the county council which would create a voting majority black county council district; and thus the matter again ended up in Federal District Court.

This time the republican party urged the district court to adopt a plan which included a 65% black majority first district. The district judge, who is also a republican, drew a plan for reapportionment of the St. Louis County Council which included a 65% black majority council district -- the First District. Elections for the first district seat will not take place until 1994. It is expected that after those elections, St. Louis County will elect its first black member of the county council.

### **TOWNSHIP BOUNDARIES**

According to law, any vacancy arising in any council persons office, prior to the expiration of his term, is filled by special election. The party nominees are nominated by the political party committees resident in the particular district for which there is a vacancy. The political party committees have never nominated a black person as a party candidate in any of the special elections held to fill vacancies.

Prior to 1993, St. Louis County was composed of twenty townships from each of which one male and one female, respectively, is elected as a member of the political party committee. Only one such township is predominantly black, and thus only two black persons serve as members of the democratic party committee. Were the townships reapportioned with equal populations and without

discriminatory effect, it would be possible to draw four townships with populations of at least 65% black majorities, and thus possible to elect at least eight black persons to the party committee in the First Council District. Such black persons then would have an opportunity to nominate party candidate for election as member of the county council in any special elections to fill vacancies, as well as to nominate persons to be appointed as reapportionment commissioner representing said district.

In 1993, the county council adopted a reapportionment plan for the townships of St. Louis county. It increased the number of townships from twenty to twenty-four, but kept to one the number of townships that had a majority black population. As we pointed out above, when St. Louis county had twenty townships, it was possible to create four majority black townships, certainly then it was possible for the county council to include in its reapportionment plan, four predominantly black townships out of twenty-four. However, it did not.

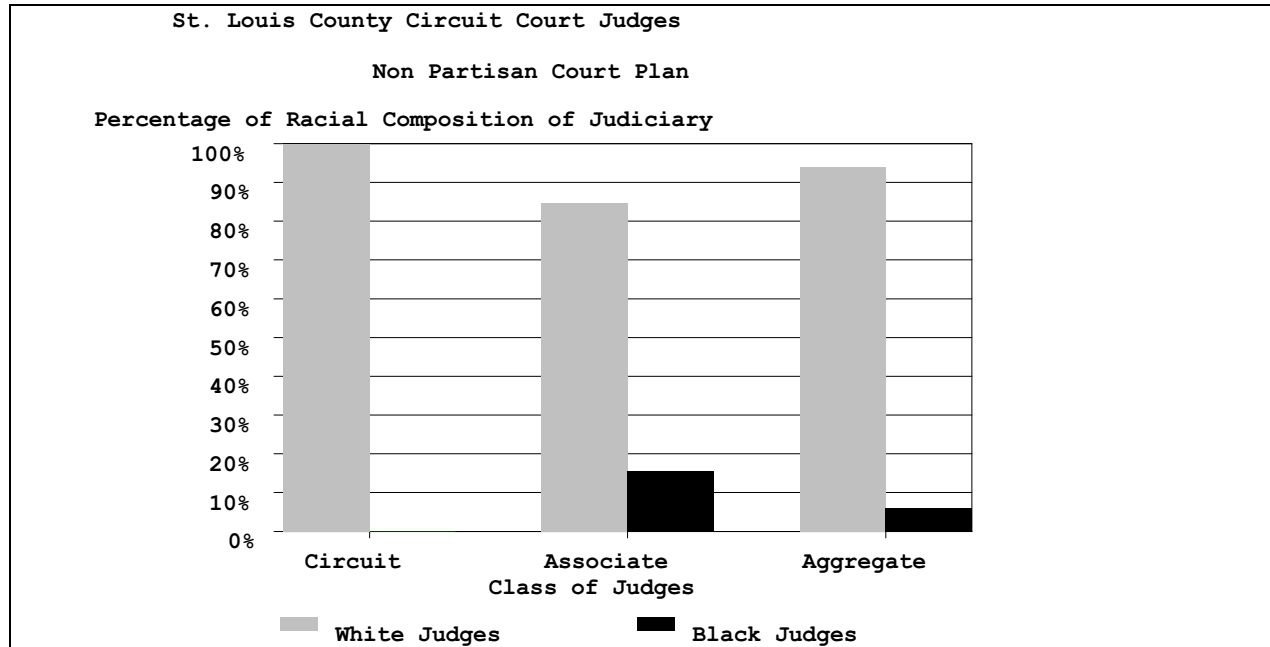
In addition, the council, being predominantly democratic, drew those township boundaries to the disadvantage of the republican party. Thus once again black voters, joined in with the republican party, under the umbrella of the Black Elected County Officials filed suit in U.S. district court to secure equality of opportunity for black citizens of St. Louis county to elect party committee members of their choice.

The importance of creating majority black townships is highlighted by the fact that the current white incumbent member of the St. Louis county council from the first district was elected to the office in a special election -- after receiving the nomination of the party committee members from the first district. The possibility of a special election, therefore is not remote but ever present. Thus, black voter's

concerns that there should be four not one majority black township is a real and not imagined political issue.

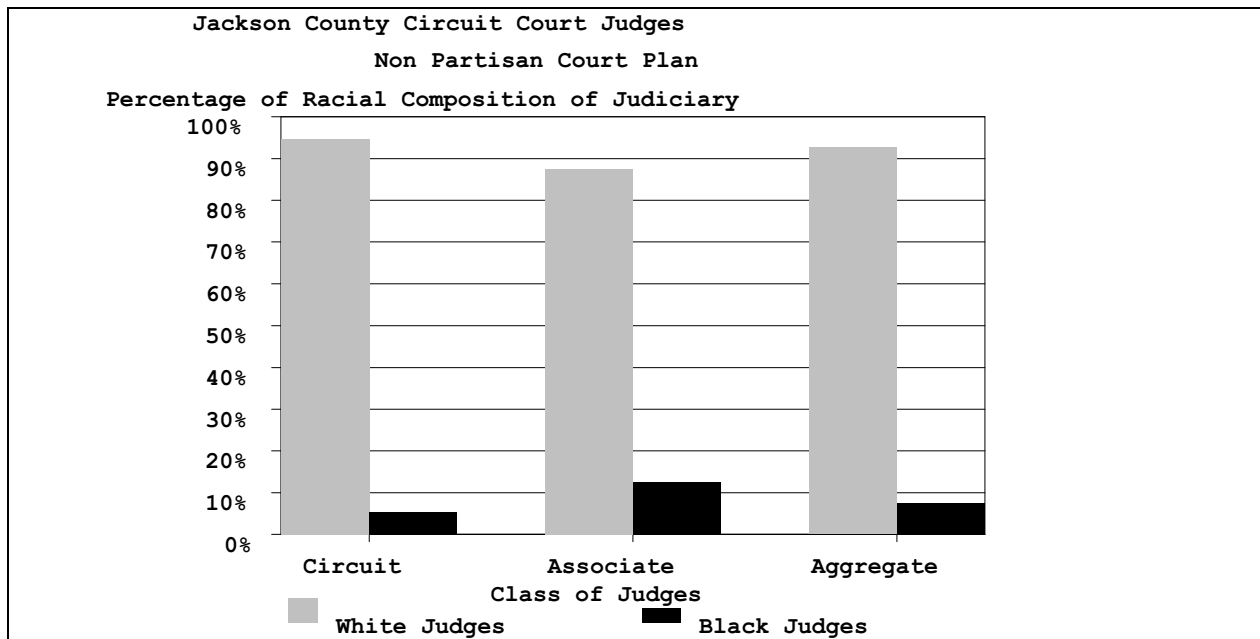
In the continuing struggle for political rights, then, we find that black voters and candidates constantly face race-based barriers to electoral success whatever the level of government.

## THE JUDICIARY

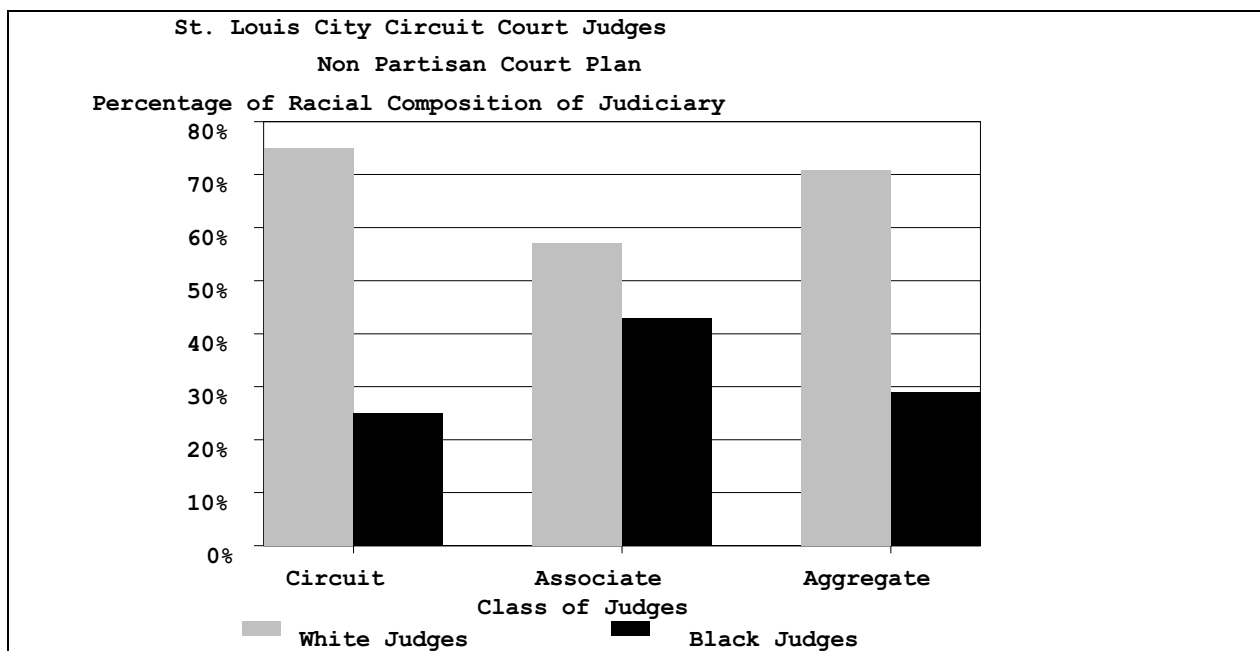


**Figure 8. Racial Composition of Judiciary, St. Louis County**

A major area of concern for African-Americans is the lack of proportional representation of blacks in judgeships. St. Louis County is 20% black, but only 6% of its state trial court judges are black. In Kansas City, the black population of Jackson County is approximately 25% of the total. Black elected officials constitute 38% of the total; however, in the judiciary, only 7% of the judges are black. In St. Louis, the black population is approximately 50% of the total population of the city; however, only 29% of the judges of the St. Louis city circuit court are black.



**Figure 9. Racial Composition of Judiciary, Jackson County.**



**Figure 10. Racial Composition of Judiciary, City of St. Louis**

The cause of this underrepresentation is attributed by many to the Missouri system for selection of judges in St. Louis and Kansas City.

**JUDICIAL SELECTION IN MISSOURI**

The State of Missouri is divided into 45 judicial circuits, each of which contains one or more circuit and associate circuit court judges, respectively. Most of the circuits encompass more than one county and all follow county boundary lines.

The State of Missouri is also divided into three intermediate Appellate judicial districts, denominated the Eastern, Western and Southern Districts, each of which are staffed with a multiple number of appellate judges. St. Louis is in the Eastern District with 14 judges, Kansas City is in the Western District and has seven members of its court. The Southern District includes Springfield, Missouri's third largest city, and has seven judges on its court.

Each of the districts encompass more than one judicial circuit and all follow circuit boundary lines.

The highest court of the state, the Supreme Court, is composed of seven justices.

In addition each municipality of the state is empowered to select municipal judges in accordance with such municipality's charter and ordinances.

### **SELECTION OF STATE JUDGES UNDER THE "NON PARTISAN" COURT PLAN**

Under the Missouri Constitution, all appellate level justices, including Supreme Court justices of the State, and those state trial court judges, called associate and circuit judges, who are located in the City of St. Louis and Kansas City-Jackson County, and those circuits adopting the so-called non-partisan court plan by a vote of the residents of the circuits, are selected for office in accordance with Missouri's so-called non-partisan court plan.

Judges selected under the "non-partisan" court plan are initially appointed to office by the Governor of the State after being nominated for office, by a majority

vote of members of a judicial selection commission. There is only one commission established for nomination of candidates for appointment as appellate or supreme court justices. But there are separate commissions for each circuit which is under the so called non-partisan plan.

The Appellate Judicial Commission is composed of seven persons. One of the commissioners is the Chief Justice of the Supreme Court. The other six commission members include three lawyers and three lay persons. Each appellate court district of the State is entitled to one lawyer member and one lay member on the Appellate judicial commission.

The Circuit judicial commission is composed of five persons. One of the commissioners holds office *ex-officio* by reason of being the Chief Justice of the Appellate District court in which the circuit sits. The other five commission members include two lawyers and two lay persons.

The lay members of the commissions are appointed to the commission by the Governor. The lawyer members of the commissions are elected to membership by a vote of members of the Missouri bar who reside in the respective appellate district or judicial circuit, as the case may be.

Whenever there is a vacancy in a judicial office at the appellate or supreme court level, or in any circuit which is covered by the so called non-partisan court plan, the respective judicial selection commission, by a majority vote of the commissioners, nominate three candidates for appointment as judge of the respective circuit, appellate district or supreme court.

The Governor of the State appoints one of the nominees as a judge; however, if the Governor fails to appoint one of the nominees as a judge within sixty days after nomination, then the commissioners, by a majority vote, may elect one of the nominees as a judge.

At the next general election, subsequent to twelve months following appointment, individual judges appointed under the non-partisan court plan must stand for election or retention in office by voters of the respective circuit or appellate district in which he serves or if a Supreme court justice, then by the voters of the state, at large.

Appellate and Supreme court judges are elected to office in retention elections for a term of twelve years. Associate circuit judges are elected for four year terms and circuit judges are elected for six year terms. At the end of each term, they must stand for retention for a new term by a majority vote of the voter's of the respective circuit, appellate district or state, as the case may be, at large.

No judge under the non-partisan plan may stand for retention except that he files a declaration of candidacy for retention. No person may file as a candidate in opposition to a judge seeking retention in office, under the non-partisan court plan. Thus the judge runs for retention unopposed.

#### **SELECTION OF CIRCUIT AND ASSOCIATE CIRCUIT COURT JUDGES UNDER THE NON PARTISAN COURT PLAN.**

The Sixteenth Circuit (Kansas City-Jackson County) has an approximately 25% black population, while the Twenty-Second Judicial Circuit (City of St. Louis) has a population which is approximately 50% black. The Twenty-First Circuit (St. Louis County) is 20% black. The remaining circuits of the state are 90% or more white.

The circuit judges of the Kansas City and City of St. Louis' judicial circuits, respectively, were initially brought into the plan by amendment to the Missouri Constitution by a vote of the voters of the State, at large, in 1940, even though all other circuits in the state were granted the local option to adopt or reject the plan.



The associate circuit judges in St. Louis and Kansas City were brought into the plan, also by constitutional amendment, or a vote of the State at large, in 1979.

The Sixth (Platte County), Seventh (Clay County) and Twenty-First (St. Louis County) judicial circuits, respectively, were brought into the plan by a vote of only the voters of such respective circuits, in effect, sub district elections.

Prior to adoption of the plan, in 1940, the circuit judges in all judicial circuits of the State were elected in partisan elections by the voters of the respective circuit, at large. Prior to the extension of the plan in 1979, the associate circuit judges (then characterized as magistrate judges) in all judicial circuits of the State were elected by the voters from sub districts.

#### **SELECTION OF CIRCUIT AND ASSOCIATE CIRCUIT COURT JUDGES OUTSIDE OF THE NON PARTISAN COURT PLAN**

Those 40 circuits which have not adopted the "non-partisan" plan, continue to elect their associate circuit and circuit judges on a partisan basis. In those circuits in which judges are elected on a partisan basis, circuit judges are elected in the circuit at large; while associate circuit judges are elected by the voters of the county in which he resides, at large.

Judges elected to office outside of the non partisan court plan must stand for election and reelection in a contested primary and partisan general elections.

In the event of a vacancy occurring in office prior to the end of an elected judges term, the Governor appoints a successor to serve out the balance of the judges term or until the next general election.

#### **BLACK REPRESENTATION IN THE JUDICIARY**

As pointed out in Chapter One of this paper, black persons are underrepresented in the judiciary. That under-representation is attributed to the fact that, except for the St. Louis city commission, all of the members of the

judicial selection commissions are white and, in the St. Louis commission, 4 of the 5 commissioners are white. In the view of black lawyers and other persons who have expressed opinions about the Missouri judicial selection system, that these white commissioners are insensitive to the need to nominate black lawyers for judgeships; and, furthermore, for the most part, their friends and relations are fellow white lawyers so naturally they will tend to nominate white lawyers for judicial positions. This position has been confirmed by Dr. Tokarz in her study on Women in the Judiciary (Tokarz, p. ) by which she found that the lack of women on judicial selection commissions led to the lack of women in the judiciary.

### **JUDICIAL SYSTEMS**

Two major examinations of the Missouri non-partisan court plan have been done by Professors at universities in St. Louis. One article entitled, "Do Judicial Selection Systems Matter?", by Dr. Barbara Luck Graham of the University of Missouri - St. Louis studied the effect of judicial selection systems on Black representation in the courts. The other article by Prof. Karen Tokarz of Washington University, studied "Women Judges And Merit Selection Under the Missouri Plan". Both studies found the Missouri system to inhibit the selection of minorities to the bench.

Dr. Graham's study found that direct appointment by the Governor or legislative bodies to result in the greater number of minorities on the bench. She found the electoral process to be the greatest detriment as a result of elections for judicial office are held at-large and not by sub district. Her criticism of the Missouri system was that the commissions which nominated persons for judges were elitist and provided a shield against criticism for failing to appoint minorities to the bench. The Governor could place the blame on the commission's failure to submit any black nominees. A commission member (since the commission is

composed of multiple number of members, operates in secret and is unaccountable to any political force) could allege that he had individually supported blacks for nomination, but that other "unnamed" members of the commission failed to give black candidates support.

Finally to make her point, Graham noted that in 1986, Missouri--the founder of the judicial selection commission--after 40 years of operation had only four sitting black judges, out of 141 who had been appointed under the Missouri plan. Dr. Tokarz's article identified the fact that women were shut out of the nominating process, and that led to a dearth of women in the judiciary, she concluded that if women and blacks were to be selected for judges in Missouri--they would have to become members of the commissions which nominate lawyers for judicial positions.

### **THE BLACK EXPERIENCE**

Throughout the fifty year history of the plan, except for the St. Louis City judicial circuit, there has never been a black person serving as a member of the judicial selection commissions by being elected as a lawyer member to the commission or appointed as a lay member nor serving as a judicial member of the commission.

A black person, the Rev. Earl Nance, Jr., was appointed as a lay member to the commission for the City of St. Louis' Twenty-Second Circuit, in 1979, for a term of six years. He was replaced by another black person at the end of his term, Mr. Vernon Wellington. Wellington was replaced by a black person at the end of his term, Sherman McCoy. However, there has never been more than one black person serving on said commission at any time; and as previously stated, no black person has ever served on the commissions in Jackson County (the sixteenth

circuit), St. Louis County (the twenty-first circuit) nor on the Appellate commission.

In my study, I found that the number of black persons nominated and appointed to judgeships in the city of St. Louis increased after the appointment of a black commissioner in 1979. Conversely, in Kansas City, where there has never been a black member of the judicial selection commission, the aggregate number of black judges has remained at two.

The first black judge to be appointed in Kansas City was judge Louis Clymer, who was appointed in 1970. When he retired from office in 1980, he was replaced with a black judge by the name of Fernando Gaitan. Gaitan was appointed to the Missouri Court of Appeals in March, 1986 -- making him the only black judge serving in such a position in the state at the time.<sup>9</sup> After Gaitan went to the Missouri Court of Appeals, a white judge was appointed in his place; however, another black Judge, John Gray, was appointed, in December, 1986, to take a white judge's place on the Kansas City bench as a circuit judge.<sup>10</sup> The policy then in Kansas City has been to limit the black community to a single black circuit judge.

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<sup>9</sup>There had been one other black appeals court judge, prior to Judge Gaitan. That Judge, Theodore McMillan, had been the first black circuit judge in the state, having been appointed to the St. Louis court in the 1950's. He was appointed to the Missouri Court of Appeals in the early 70's. He left the Missouri Court of Appeals to become a judge on the U.S. Court of Appeals in St. Louis in 1977. He was replaced with a white judge and no black person has served on Missouri's Eastern District Court of Appeals since.

<sup>10</sup>Judge Gaitan left the Western District Court of Appeals in 1991 after being appointed a U.S. District Court Judge. As with Judge McMillan, a white judge was appointed in his place on the Missouri Court of Appeals; and thus, as of this writing, there are no black judges serving in any of the Districts of the Missouri Courts of Appeal.

There is one additional black judge in Kansas City, Leonard Hughes, III, but he is an associate circuit judge. Judge Hughes was initially elected to the office of associate circuit judge in 1978, at the time that associate circuit judges were being elected to office. There has never been a single black person nominated nor appointed as an associate circuit judge in Kansas City in the 14 year period since they changed to the system of appointing judges from the system of electing judges at the associate circuit level. Thus black lawyers are being limited to two positions as judges in Kansas City.

In St. Louis County, the first black judge, Sandra Hemphill, was appointed to an associates position in 1991. A second black associate circuit judge, Brenda Loftin, took office in St. Louis County on April 2, 1993. There have never been any black persons appointed to the position of circuit judge in St. Louis county.

As previously indicated, the number of black judges in St. Louis has been increasing over time, since the appointment of a black judicial selection commissioner in 1979. Prior to his appointment there were two black circuit judges, who were sitting as circuit judges in St. Louis City, Judge Clyde Cahill (appointed in 1975) and Judge Daniel Tillman (appointed in 1970). There were also three black associate circuit judges in St. Louis City, Michael Calvin, Harold Fullwood and Virgil Lucas; however, all three of these black judges had been initially elected to office, in 1978, from predominantly black magistrate judge districts.

Under the system of electing magistrate (associate) judges, the number of black persons holding judgeships was proportional to the population of black persons residing in the Kansas City and St. Louis judicial circuits, respectively.

Beginning with the appointment of Rev. Nance, in 1979, and a succession of two other black commissioners to the St. Louis City judicial selection commission,

the aggregate number of sitting black circuit judges in St. Louis increased from two to seven.

The number of black associate circuit judges had been reduced down to two, in that a white judge had been appointed to replace a retiring black judge; however, the number has returned to three with the appointment of Judge Iris Ferguson in April, 1993.

### **SUBDISTRICT ELECTION OF JUDGES**

In order to remedy the problem of under representation of blacks in the judiciary, it has been proposed by State Senator J. B. Jet Banks and former State Representative Elbert Walton that judges be elected to office from sub districts or if they are retained under a non partisan plan, that the retention election be by sub district -- thus if the black community feels that the appointment process is unfair, it can refuse to retain any judges standing for retention in their sub districts.

The question of sub district election of judges has been raised in several federal voting rights cases in U.S. District courts in Texas, Louisiana and Georgia, respectively. A suit challenging the non-partisan court plan in Missouri is pending in the U.S. District Court in St. Louis and a similar suit challenging Indiana's non-partisan court plan has also been filed in the U.S. District Court in Indianapolis, both claiming violations of black citizens voting rights.

Set forth below is an analysis of the effect of a sub district judicial election system showing the present number of black judges and the number of black judges that could be elected to office in a sub district election system.

**COMPARATIVE ANALYSIS  
MISSOURI STATE JUDICIAL NON PARTISAN COURT PLAN  
WITH SUBDISTRICT ELECTION OF JUDGES  
AFFECT UPON BLACK VOTERS**

**CIRCUIT COURTS**

<b>County</b>	<b>Jackson County</b>	<b>St.Louis County</b>	<b>St.Louis City</b>
<b>Circuit Number</b>	<b>16</b>	<b>21</b>	<b>22</b>
<b>Number of Judges</b>			
<b>Circuit</b>	<b>19</b>	<b>20</b>	<b>24</b>
<b>Associate</b>	<b>8</b>	<b>13</b>	<b>7</b>
<b>Aggregate</b>	<b>27</b>	<b>33</b>	<b>31</b>
<b>Number of White Judges</b>			
<b>Circuit</b>	<b>18</b>	<b>20</b>	<b>18</b>
<b>Associate</b>	<b>7</b>	<b>11</b>	<b>4</b>
<b>Aggregate</b>	<b>25</b>	<b>31</b>	<b>22</b>
<b>Number of Black Judges</b>			
<b>Circuit</b>	<b>1</b>	<b>0</b>	<b>6</b>
<b>Associate</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>Aggregate</b>	<b>2</b>	<b>2</b>	<b>9</b>
<b>Aggregate of all trial judges</b>			
<b>White</b>	<b>25</b>	<b>31</b>	<b>22</b>
<b>Black</b>	<b>2</b>	<b>2</b>	<b>9</b>
<b>Total</b>	<b>27</b>	<b>33</b>	<b>31</b>
<b>Percentage of White Judges</b>			
<b>Circuit</b>	<b>95%</b>	<b>100%</b>	<b>75%</b>
<b>Associate</b>	<b>88%</b>	<b>85%</b>	<b>57%</b>
<b>Aggregate</b>	<b>93%</b>	<b>94%</b>	<b>71%</b>
<b>Percentage of Black Judges</b>			
<b>Circuit</b>	<b>5%</b>	<b>0%</b>	<b>25%</b>
<b>Associate</b>	<b>13%</b>	<b>15%</b>	<b>43%</b>
<b>Aggregate</b>	<b>7%</b>	<b>6%</b>	<b>29%</b>
<b>Total Population in Circuit</b>	<b>633,232</b>	<b>993,529</b>	<b>396,685</b>
<b>Black Population</b>	<b>135,649</b>	<b>139,318</b>	<b>188,408</b>
<b>Percentage White Population</b>	<b>79%</b>	<b>86%</b>	<b>53%</b>
<b>Percentage Black Population</b>	<b>21%</b>	<b>14%</b>	<b>47%</b>

<b>Population Per Circuit Judge</b>	<b>33,328</b>	<b>49,676</b>	<b>16,529</b>
<b>Population Per Associate Judge</b>	<b>79,154</b>	<b>76,425</b>	<b>56,669</b>
<b>Possible Black Circuit</b>			
<b>Subdistricts</b>	<b>4</b>	<b>3</b>	<b>12</b>
<b>Possible No. Black Associate</b>			
<b>Subdistricts</b>	<b>2</b>	<b>2</b>	<b>3</b>
<b>Possible Total No. Black</b>			
<b>Subdistricts</b>	<b>6</b>	<b>5</b>	<b>15</b>
<b>Possible Percentage Black</b>			
<b>Judges With Subdistricts</b>			
<b>Circuit</b>	<b>21%</b>	<b>14%</b>	<b>48%</b>
<b>Associate</b>	<b>21%</b>	<b>14%</b>	<b>47%</b>
<b>Aggregate</b>	<b>21%</b>	<b>14%</b>	<b>48%</b>

**Table 1. Racial Composition of Circuit Judges**



**COMPARATIVE ANALYSIS  
MISSOURI STATE JUDICIAL NON PARTISAN COURT PLAN  
WITH SUBDISTRICT ELECTION OF JUDGES  
AFFECT UPON BLACK VOTERS**

**APPELLATE COURTS**

<b>Appellate District</b>	<b>Western</b>	<b>Southern</b>	<b>Eastern</b>
<b>Number of judges</b>	11	7	14
<b>Number of Black Judges</b>	0	0	0
<b>Total Population in District</b>	1,748,679	1,133,837	2,234,494
<b>Black Population (Compact &amp; Contiguous)</b>	135,649	na	327,726
<b>Population Per Appellate Judge</b>	158,971	161,977	159,607
<b>Possible No. Black Appeal Judge Subdistricts</b>	1	na	2

**SUPREME COURT**

<b>Number of Judges</b>	7
<b>Number of black judges</b>	0
<b>Total Population in State</b>	5,117,010
<b>Black Population (Compact &amp; Contiguous)</b>	135,649 na 327,726
<b>Population Per Supreme Court Judge</b>	731,010
<b>Possible % Black Sup Ct Judge Subdistrict</b>	18.6% na 44.8%

**Sources: 1990 Census; Missouri State Manual**

It is to be noted that the only level to which black judges have reached or approached parity is at the lowest level on the judicial rung -- associate circuit judge.

### **"NON PARTISAN" A MISNOMER**

A final comment should be made on the use of the word "non partisan" to characterize the Missouri judicial selection commission system. Governor John Ashcroft, during his eight years in office, appointed all seven members of the Missouri Supreme Court. All seven of those appointees are Republicans. One was his college roommate. One worked for him as his Chief of Staff and was considered by most observers to be unqualified for he was only 32 years of age and inexperienced at the time of his appointment. One worked for him as the Director of the Department of Revenue. It is obvious then that the "non partisan" court plan is neither non partisan nor meritorious.

## **CHAPTER 5**

### **THE PROMISES OF POLITICS**

#### **INTRODUCTION**

This is the final chapter in this work. In this chapter I shall analyze and interpret the results of my study, discussing my thinking behind my conclusions and the rationale for the approach inherent in the various documents and exhibits which I have employed. I shall also discuss feedback on the results from various outside evaluators -- persons who are knowledgeable in the field of racial politics in Missouri. In addition, I shall identify those limitations or weak areas that I and my reviewers have identified. Finally, I will discuss, based on my own thoughts as well as the feedback from others, areas where future work might extend, build on, or enable me to complete the efforts of my study.

#### **INTERPRETATION OF RESULTS**

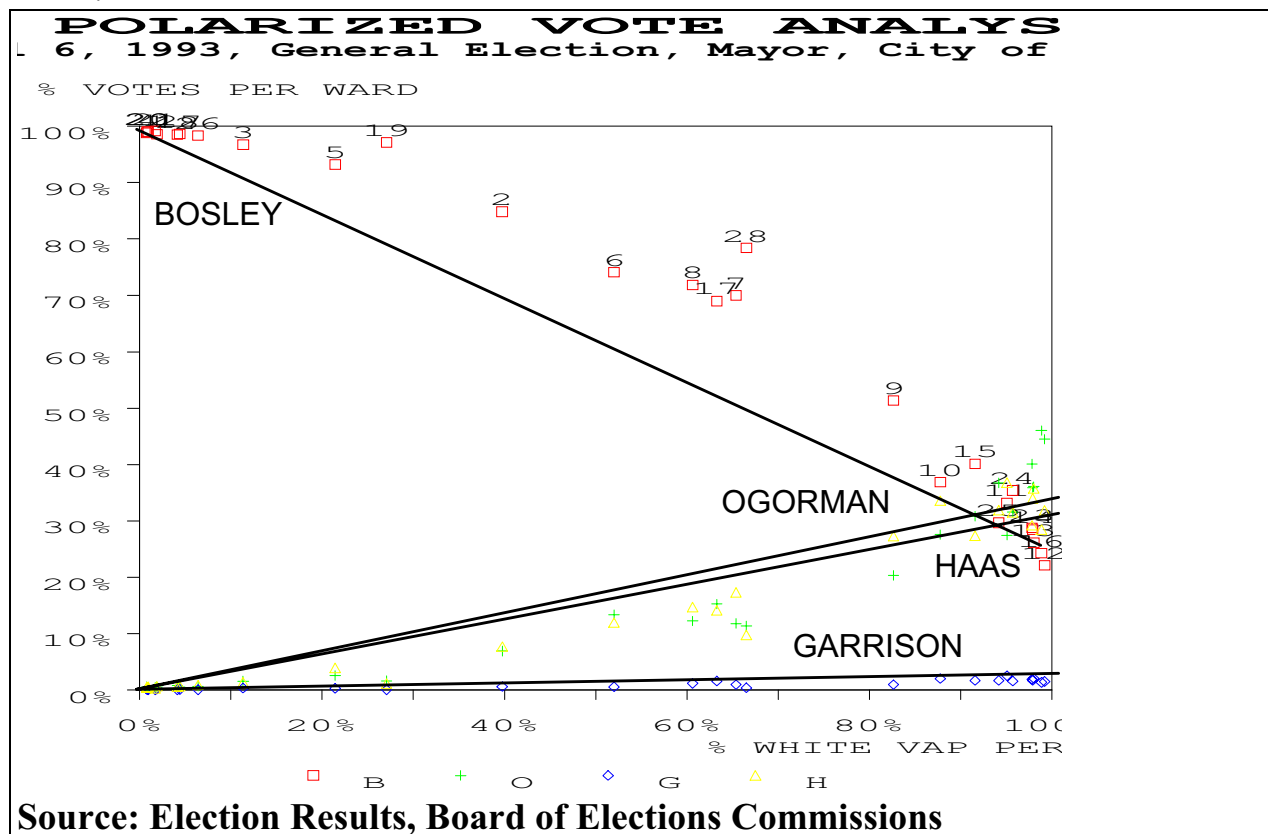
When I first began this paper, I expected to find that African-Americans were further behind in their efforts to achieve proportional representation in public office than they actually are. Instead, I was pleasantly surprised to find that African-Americans in Missouri's two largest cities have in many instances not only reached parity in the holding of public offices but have exceeded their goals. And if the trend continues in the future, I expect that black voters in St. Louis -- like those in Kansas City -- will achieve proportional representation in this decade.

This is not to say that it will be easy, for the lessons of reconstruction and the repetitive experiences of black legislators during reapportionment, clearly show that at any time black gains can be reversed. But this is not 1876, this is 1993. The kind of violence, intimidation and blatantly discriminatory laws and official

action of the past is unlikely to reoccur. It is thus with hopes in the future that I view my results.

### **RACIAL POLARIZATION REMAINS A THREAT**

As a result of my study, I have concluded that racially polarized voting is ingrained in the electorate in the city of St. Louis and Kansas City. Ingrained to the extent that, in the April 6, 1993 general election for mayor of the city of St. Louis, Black voters gave an estimated 100% of their votes to the black candidate, Bosley; on the other hand as the percentage of white voting age population in the ward increased, the percentage of votes cast for Bosley decreased, and he received thirty percent or a minority of the white vote



Unlike St. Louis and Kansas City, the available data for St. Louis county is not in the form of mathematical statistics, but in the form of interviews and

personal knowledge and observation. St. Louis county adjoins or abuts St. Louis city. In fact, both the black and white residents of St. Louis county are former residents of the city who migrated to the county over the years. St. Louis county and St. Louis city voters are joined together in regional institutions such as the metropolitan sewer district, the zoo and museum districts, the junior college district, etc.

Therefore, any findings as to polarization of voting in the city are equally applicable to the county as well. Did not we find in our study that, Buzz Westfall, the county executive failed to appoint a single black person to the county council reapportionment commission? Did not we find that he furthermore failed to appoint a single black person to one of the three newly created positions as county municipal judge. Clearly, then, racially insensitive, if not racially discriminatory decision making pervades St. Louis County as it does the city.

But with the reapportionment of St. Louis county's council, a black person should join county government in 1994; and with black input there is always progress.

I expect this pattern of racial polarization in voting to continue in the future. However, with the election of black mayors in the two largest cities in Missouri, and the ever increasing proportion of black voters residing in these cities, instead of being an obstacle to electoral success, it will serve as the means to electoral victory for black candidates.

## **FEEDBACK**

Those who have reviewed my findings are not surprised by the findings; and they share my enthusiasm that there is hope in the future that we will overcome the deficiencies of the past.

## **EXECUTIVE OFFICES**

Larry Williams, the black city treasurer of St. Louis, has not faced the problem of polarized voting. Well accepted by the white community, he has never had a serious contest. Initially reaching office through the interim appointment process, he faced election as an incumbent without much of a contest. His greatest challenge came not from a white candidate, but from a black. He handily defeated him, and concerns himself not with polarized voting; for to him, it has not been an issue.

Virvus Jones, however, our black comptroller has had two serious contests. While acknowledging the need for white support, he recognizes that the black vote is his base. Jones has found that you can minimize the effects of racial polarization by finding new white friends. The white community, like the black community is fractured. Therefore, he identifies the dispossessed, in white society, and invites them to form bi-racial coalitions and joint ventures for mutual success. This strategy has paid off, not only for Jones in allowing him to perpetuate his political career, but for the outs in both the black and the white communities who are now enjoying increased economic success.

Of course we have had our victims of racial polarization who despite yeomen efforts have not been able to overcome the vote on the basis of race. Mike Roberts, who counts numerous white citizens among his friends; found that the color of his skin was more important than the content of his character. Though deemed "acceptable" to the white community, and less than acceptable among blacks -- when it came to voting for him for public office, the white voters would not accept him, while he was well accepted by blacks. While retaining his ability to work with members of the white community and harboring no racial animosity, he stands highly disappointed that his skin color has held him back.

## **THE LEGISLATIVE BRANCH**

I discussed my findings with present and former black legislators and unsuccessful candidates for legislative office. Rep. Charles Troupe, who has been involved in two redistricting fights, places the primary blame on white democrats. Former Rep. Earl Pitts, who was redistricted out of office in 1981, believes the system is unfair for he felt that he could win reelection to office, if he had been given a fighting chance -- this did not in his opinion require a majority black district but at least one that was forty percent black.

Ted Hoskins, the chairman of the black elected county officials, cautioned that even when we are successful in the redistricting fight, disunity in the black community can result in failure. Ted was a candidate for a newly drawn state senate district in St. Louis county which was 64% black; however, he could not get the support of a core group of black elected officials who chose to support the white incumbent instead. Thus, Hoskins narrowly lost the election.

Finally a word on term limitations. Eugene Wallace, a perennial candidate for the state legislature, in predominantly black legislative districts, advocates term limitations to overcome the power of incumbency. He has found that attempting to beat black incumbents is all but impossible. Thus he welcomes term limitations which has been passed in Missouri, as the only way that he will eventually receive a fair chance.

## **THE JUDICIARY**

Larry Coleman, a black lawyer from Kansas City, stated that it is in the judiciary that black people will receive the greatest level of resistance to blacks reaching parity; for the judiciary is the final arbiter of political power; and is the branch of government most resistant to change.

The judiciary can declare an act of the legislature unconstitutional or interpret it in a manner which is contrary to legislative intent. The judiciary can declare

unconstitutional an act of an executive official or issue an injunction against the official to do or refrain from doing an official act.

Two black office holders in St. Louis, Benjamin Goins and Billie Boykins, were ousted from office, not by the voters but by white men in black robes -- and though Goins had been convicted of a crime, his case was still under appeal and white office holders under the same circumstances were allowed to remain in office. Boykins, on the other hand, had committed no crime, but was simply alleged to be incompetent in office. Audits by the Missouri state auditor have found numerous white office holders to be incompetent and mismanaging state funds, yet not a single one has been ousted from office.

Clearly then we must make an increased effort to gain equality of opportunity in the judiciary so that fairness and justice will prevail in the courts.

Of course the views of people who have slipped through the cracks are not the same as those who have been stopped at the door. Therefore, when discussing the merits of the non partisan court plan, I found support for the plan from most of the black members of the judiciary, and serious criticism from lawyers who have found the plan to discriminate against blacks.

## **VOICES FROM THE COMMUNITY**

The lack of unity among black St. Louis politicians has been usually stated to be the cause of black electoral setbacks. Party affiliation, in-fighting at the ward level, and the constant struggles between various political factions, tend to drive black political leadership further apart and confuse black voters. That confusion, coupled with the financial inability of black candidates to arouse their constituents results in low voter turnout.

Generally we can identify two types of black politicians: (a) the "professional politician" who is motivated toward office holding and espouses "coalition



building" and compromise with whites in order to achieve public office, and (b) "community activist politicians" who are motivated by a sense of community responsibility and are generally reluctant to compromise or work with coalitions.

Ironically, many voters are reluctant to support activist politicians because they are viewed either as having little chance of winning or perceived as having little chance to effect change once they are elected. A professional politician on the other hand, whose sole interest is holding office, has a good chance of winning, but he too will effect no change as his interest is simply to hold on to his office and not to make waves.

Black activists are clearly in accord with my findings of racial polarization, but many deemed the problem to lie with the failure of black people to unify. They recognize that my statistical data shows not that racial polarization has caused the defeat of black candidates, but the failure of black voters to vote in huge numbers and with intelligence.

Lavoy "Zaki" Reed, the Governor General of the Universal African People's Organization, tried electoral politics. He made two runs for Governor. In addition, he has been a grass roots supporter of numerous black activist candidates. Full of hope for the future, regardless of the failures of the past, Zaki believes that with continued education of the people, and protracted struggle, the polarized vote of black people can be put to solid use to black people's political advantage.

On the other end of the spectrum, a local talk show host, Richard "Onion" Horton of WGNU radio station in St. Louis, often states that election of black people to political office will mean nothing to the masses of black people -- that it is hopeless for black people to ever expect equality and justice in America no matter how many black people are elected to office.

## **LIMITATIONS AND WEAKNESSES**

In discussing the limitations and weakness in my paper, It was suggested, by one of my reviewers, that I read a commentary about a speech given by Malcom X Shabazz. In a book entitled, "The Speeches of Malcom X at Harvard," edited by Archie Epps (1969), Prof. James Q. Wilson, a panelist, was invited to give reactions to Malcom's speech. Included among, my thoughts are ideas taken from the comments of Dr. Wilson as I evaluate the limitations and weaknesses in my premises.

## **POLITICS OF HOPE**

This paper has been written with the view that African-Americans must be included in the U.S. political system in order for the masses of black people to secure the economic and social benefits that U.S. society offers. Entry into the political system then should result in those changes in society requisite to socio-economic advancement.

Like Onion Horton, Dr. Wilson challenges that view. He states that the U.S. political system has a built-in resistance to fundamental -- far reaching change especially economic change. This resistance to fundamental change has frustrated the efforts of activists and social reformers throughout U.S. history to achieve a fundamental and peaceful social revolution.

The political system is, as Malcom X argued in his speech, based on the "politics of hope" -- hopes of people that the system will let them in. But the difficulty is with politicians holding out hopes, hopes which politicians do not intend people to realize. The reason, Wilson says, is not because politicians are wicked people, and certainly not because they are any more wicked than other people, but because there is something inherent in the U.S. political system which,

on the one hand, induces politicians to offer promises, and, on the other hand, prevents them from keeping those promises.

In my opinion, politicians promise voters whatever is necessary to win the election. It is what voters require. Any politician who would honestly state to people, that he can not deliver certain goods or services that they desire simply because the office he is running for has nothing to do with that issue, would lose the election.

Thus in the 1993 mayoral elections in St. Louis, the candidates promised more police on the streets and better schools when they have absolutely no power in those areas. The St. Louis police department is in fact controlled by an independent board of police commissioners whose members are appointed to office by the Missouri governor; and the schools are controlled by an independently elected school board. Thus whatever happens in the schools or on the police force will be determined not by the mayor of St. Louis, but by the members of those independent boards. The promises then of the politicians who were running for mayor were worthless and irrelevant statements, more of sentiment than of substance.

The black middle class is engaged in the politics of hope with its focus on achieving elected office. Successes in not only the public sector but in the private sector as well, has led them to be "bought off" by the system. Any radical community consciousness, which is the kind of consciousness required to effect fundamental change, then, is not a product of the black middle class, but of the lower class and young people.

### **ACTIVISTS FOR CHANGE**

We have had Populists, Socialists, Communist, and urban reformers, who have rallied against "the system," and the system has refused to make fundamental

change. Wilson offers, as the chief reason for this inertia, the fact that politics in the long run has always paid off for some, if not all, of the people. The politics of hope, he says, holds out to people that in the long run they will achieve freedom, justice, equality, jobs, opportunity, and the "American Dream." And, eventually, some people do! -- just enough members of the dispossessed or protest group receive the benefits of American society so that eventually their energies are sapped and their enthusiasms converted until they are co-opted into the system.

Their followers and the masses of people whom they were seeking to save are co-opted too into thinking that they also can achieve the higher heights to which their leaders have achieved. So they cease their agitation for change and wait their chance. This we will find is the trap for the masses of black people in politics.

### **YOU TOO CAN BE PRESIDENT**

Everybody in the United States hears: "You too can become President!" Recently, the St. Louis school authorities sent a note home with school children urging the children to refrain from any acts of violence in the event the trial of the police officers in the beating of Rodney King resulted in a not guilty verdict for the policemen. The note said that St. Louis now has a black Mayor and a black police chief -- positions to which the children may now aspire; therefore, they should have hope in the system and not turn to violence to protest any breakdowns in justice.

As any seriously thinking person well knows, every body can not become President. It takes millions of dollars to seek the office of President, and in this century, only people with personal wealth, power and influence have been elected to the office of President

Furthermore, only one person can be Mayor of the city of St. Louis every four years. The average St. Louis Mayors' term of office has been eight years.

Mayor Schoemehl, the outgoing Mayor served a total of twelve years. It is of course then impossible for everyone to become Mayor, for only one person can hold that job at any one time. And over the forty years (between the ages of 30 and 70) in which a person may possibly be elected mayor, only 10 persons can possibly achieve the office. The politics of hope would say to the person, "It might be you." So, one aspires, hopes and waits, to be king.

Freeman Bosley, Jr., our new black mayor, is only 38. Like black mayors around the country, he will probably attempt to stay in the office until he reaches 70 years of age. And unlike white mayors, black mayors enjoy a certain level of loyalty, in the black community, that lead black voters to keep them in office for fear that the office will be transferred out of black hands.

This is not to say that our children should not aspire to be mayors, police chiefs, congressmen, governors, U. S. Senators, and the like; but they must be realistic and recognize that every body can not be mayor -- and there are other positions to which one should aspire. Therefore, our children should be encouraged to aspire to be entrepreneurs, doctors, lawyers, teachers, accounts, carpenters, barbers, or any other profession.

## **FRAGMENTATION OF POWER**

Black politics like white politics is a fragmentation of people and interests. And the formal political structure is a fragmentation of centers of power -- the federal-state apparatus, the state and local political subdivisions, the regional and interstate compacts. This fragmentation creates so many bits and pieces of authority that no single person or entity can command change.

This fragmentation of power, then, will limit the ability of the newly elected black mayor to effect change -- fundamental economic change -- and will probably result in serious disappointment, despair and hopelessness on the part of many

black voters who looked upon the election of a black mayor as the means for escape from poverty.

### **THE BALANCE OF POWER**

With the election of a black man to the office of Mayor, whites have attempted to convince black people that it was the "white vote" which brought about the black mayor's victory. The "white liberal vote" constitutes, then, "the balance of power." But what would have happened had Freeman Bosley -- and all other successful black candidates who have run city-wide in St. Louis and Kansas City -- not received a monolithic black vote? None of these black persons would have ever achieved office.

### **BLACK POLITICAL POWER**

Black mayors, as of 1992, are in office in thirty-eight cities in the United States with populations of 50,000 or more. Today, as during reconstruction, there are African-Americans holding appointed and elected public offices at all levels of government, excluding only the President of the U.S.A. African-Americans now count among their numbers black men and women serving in the offices of U.S. Senator, U.S. Congressmen, member of the U.S. President's cabinet, Justice of the U.S. Supreme Court, and federal appeals and district court judges. At the state level, the Governor of Virginia is black; and among the states of the Union, we will find a black person in the office of Lt. Governor, Secretary of State, State Senator, State Representative, Mayor, City Council member, County Commissioner, School Board Member, and judge. And the question is, "To the masses of black people what differences has it made?" Some, -- yes; but to the masses of black nothing dramatic has occurred to bring real and lasting improvements in their lives!

### **THE SOCIALIST MOVEMENT**

In 1912, the Socialist Party in the United States, elected fifty-six mayors, one hundred and sixty city council members, one hundred and forty-five aldermen, eighteen state representatives and two state senators. In fact, there were over one thousand Socialist Party members holding office in the U.S. at that time -- and all of them were white. They printed fourteen daily newspapers and two hundred ninety-eight weekly newspapers. They had one hundred eighteen thousand dues-paying members. Today, the Socialist Workers Party is all but non-existent.

### **REMEMBER RECONSTRUCTION**

Black people had achieved even more, during reconstruction, in electoral politics than they have today. But they failed to achieve or seize lasting power. Then black people constituted clear majorities in five states. Based on their numbers, they did not need the white vote to win election to office -- and did not have the white vote -- but won election to office anyway! Yet, it was not thirty years after achieving the vote, that they were deprived of all voting rights and removed from positions of political power.

### **THE WHITE EXPERIENCE**

White immigrant groups to the U.S. have looked upon the political route as a means to climbing out of the bottom. They fashioned parochial, fractional political systems to move themselves in to public sector jobs and to secure business opportunities and jobs in the private sector through their political strength. Black people now find themselves emulating this political arrangement. And hope that through politics, they will achieve similar economic success.

Unfortunately, the political game is not controlled by people of good will nor of good conscience, but people whose purpose is often cynical -- seeking to self perpetuate themselves and to promote their own personal interests.

Politics, ultimately, for large numbers of white people has made no difference. The political system like the economic system is in control of the moneyed class -- and they have no intention of sharing their wealth and power.

What black people need, like white people, are jobs and business opportunities. These are found in the private sector, not the public sector. For the masses of black Americans, then, simply electing more black people to public office, will probably have little effect on their basic economic status in life; -- unless these black office holders are able to utilize their offices to create jobs and business opportunities for African-Americans in the public and private sector.

## **CONCLUSION**

In the future, I should like to measure the degree of progress made by African-Americans in achieving proportional representation in public office, and assess their impact on the quality of black life.

The achievement of proportional representation would mean that black people have achieved equality of opportunity in political life; but if that achievement has not resulted in a proportional share of public sector benefits, then we need to examine the reasons for the shortfall.

Furthermore, we must recognize that public policy makers do influence private sector economic development and jobs. Therefore, I would want to look at the relationship between public office holding and private sector economic stimuli. Have African-Americans improved in the private sector? Have private sector employment and businesses owned and controlled by Black citizens of St. Louis and Kansas City increased in number as a result of blacks holding elected and appointed public offices?

Finally, I would also want to know, what effect has black persons achieving public office had on racial polarization? Has race relations improved by reason of



having black people share power. Have whites and blacks eased their fears of each other and their fear of the exercise of power by people of another race over their lives? Is voting still racially polarized?

Public office brings power and prestige. People follow the leader and respect his or her opinions and views. President Roosevelt used fireside chats to sway public opinion to his economic reforms. President Reagan used TV and radio broadcast to persuade the public to urge the democratic controlled congress to pass his legislative programs. Black public office holders too will have to attempt to sway public opinion and attitudes to promote their programs and policies for change. The degree to which they positively influence public opinions and attitudes will be important, not simply to advance the socioeconomic status of their constituents, but to preserve and advance their political careers.

These are the questions of the future, in assessing the effects of racial polarization on African-Americans being elected to public office in St. Louis and Kansas City.

## APPENDIX A

### CITATIONS AS TO HISTORY OF OFFICIAL DISCRIMINATION ON ACCOUNT OF RACE IN MISSOURI

#### I. Missouri Constitutional Provisions Requiring the Separation Of Races.

MO CONST. 1820

Art. 3 Sec. 26

Provided it shall be the duty of the legislature to prevent free Negroes and mulattoes from coming to and settling in this state under any pretext.

MO CONST. 1865

Art. V Sec II

Provided that the governor shall be a white male citizen.

Art. V Sec. XII

Lieutenant Governor shall possess the same qualifications as the governor.

Art. IV Sec. III

Provided that members of the house of representatives shall be a white male.

Art. VI Sec. V

Provided that state senators shall be a white male.

Art III Sec. VI

Provided that qualified electors shall be free white males.

MO CONST. 1865

Art 1X Sec II

Provided separate schools may be established for children of African descent.

## MO CONST. 1875

## Art XI Sec. 3

Provided that separate free public schools shall be established for the education of children of African descent.

## MO CONST. 1945

## Art. IX Sec. 1a

Provided that separate schools shall be provided for white and colored children except in cases otherwise provided for by law.

## II. Missouri Statutory Provisions Requiring the Separation of Races.

## MO. REV. STAT. (1825)

Sec. 2 page 600 provided that no Negro or mulatto, bond or free, shall be a competent witness except in pleas of the state against Negroes or mulattoes, bond or free, or in civil cases, where Negroes and mulattoes alone shall be parties.

Sec. 3 prohibited Negroes or mulattoes from keeping or carrying weapons without a license to do so.

## MO. REV. STAT. (1835)

Sec. 2 page 414 prohibited free Negroes or mulattoes from keeping a weapon or ammunition without a license.

Sec. 3 required all free Negroes and mulattoes between the ages of seven and twenty one to be brought before the county court to be bound out as apprentices or servants. And no such Negro or mulatto could be placed in the company of a free white apprentice to be taught a trade or occupation without the consent of the white apprentices parents or guardian.

Sec 7 prohibited free Negroes or mulattoes from residing in the state if they were not citizens of another state or if they were not registered in Missouri.

## MO. REV. STAT. (1845)

Chapter 123 Sec.2 prohibited free Negroes or mulattoes from keeping or carrying a weapon without a license or the weapon would be forfeited to any white person who seizes it.

Sec. 4 authorized the county courts to bring before them all free Negroes or mulattoes between the ages of seven and twenty one and bind them out to be apprentices or servants and that no colored apprentice shall be placed in company with a free white apprentice, to be taught any trade or occupation.

Sec. 7 prohibited free Negroes and mulattoes from residing in the state without obtaining a license.

Laws of MO 1846-47 Page 103

provided that no person shall keep or teach at any school for the instruction of Negroes or mulattoes in reading or writing in this state.

MO. REV. STAT.

Chp 146 Sec 2-2 page 797 (1870)

provided that every juror shall be a white male.

MO. REV. STAT. Sec. 9477 (1929)

Provided for the segregation of teachers' institutes.

MO. REV. STAT. art. 5 sec. 9390 (1939) provided that the board of managers of the Missouri State School (State Sanatorium--Colony for the feeble minded and epileptic) shall maintain a separate cottage or cottages for colored inmates.

MO. REV. STAT Sec. 10474 (1939)

Authorized local authorities to segregate races at playgrounds, libraries, and public parks.

MO. REV. STAT. Sec. 10632 (1939)

Provided for the segregation of teachers' institutes.

MO. REV. STAT. Sec. 3361, 4651 (1939)

Provided that marriage between whites and Negroes was a penal offense.

MO. REV. STAT. Sec. 563.240 page 4072 and 451.020 page 3441 (1949)

Prohibited intermarriage between white and Negro persons.

MO. REV. STAT. Sec. 163.130 page 1504-05 (1949)

provided that separate free schools shall be established for the education of children of African descent; and it shall herein be unlawful for any colored child to attend any white school or for any white child to attend a colored school.

MO. REV. STAT. Sec. 165.117 page 1527 (1949)

provided that the board of education is required to establish and maintain within such school district a separate free school for colored children.

MO. REV. STAT. Sec. 165.327 (1949)

provided that the board of education of any town, city or consolidated school district shall have power to establish and maintain separate libraries and public parks and playgrounds for the use of white and colored persons in such school district.

MO. REV. STAT. Sec. 202.620 page (1949)

provided that separate cottages shall be maintained for colored patients by the division of mental diseases.

MO. REV. STAT. Sec. 451.020 (1959)

provided that marriages between Negroes and whites were void.

III. St. Louis City, St. Louis County and Kansas City Ordinances Relating to the Separation of Races.

A. City of St. Louis

Ordinances of the City of St Louis 1861

Article V Sec 2 page 441 provide that white and colored persons are to be buried in different portions of the St. Louis City Cemetery.

No. 4423 Sec. 1 page 522 provided that any Negro or mulatto, bond or free, shall be fined for not carrying a pass during certain times of the night.

Sec. 3 page 523 prohibited Negroes or mulattoes from holding night meetings without the mayors permission.

Sec. 6 page 523 prohibited white persons over the age of ten from attending social parties of Negroes or mulattoes.

Sec. 20 page 666 required the superintendent of the city workhouse to prevent white and colored persons from occupying the same apartments.

Revised Ordinance of the City of St. Louis 1871  
Chapter XXXVII Sec. 22 page 660  
provided that the city superintendent shall not permit white and colored persons to occupy the same apartments.

City of St. Louis Revised Code of General Ordinances 1916 Chapter XXXIII Art. XXI Sec. 3819 (proscribing the use by persons of one race of a residence in any block consisting of residences of the other race);

3821 (proscribing the use by persons of one race as a church, school, theater, dance hall, or assemblage hall of any building in a block consisting of residences of the other race);

3823 and 3831 (setting forth criminal penalties for violation of the ordinances); and in public accommodations.

Revised Code of the City of Saint Louis 1948  
Chapter 52 Sec. 48 page 790  
provides that the warden not permit any white or colored persons to occupy the same apartments.

## Kansas City

1962

Marshall v Kansas City, 355 S.W.2d 877

This was an action to challenge the constitutionality of a Kansas City ordinance purporting to render it unlawful for restaurants, hotels and motels to refuse to serve or accommodate people based on race or color. The Supreme Court of Missouri held that statutes designed to secure to all persons equal rights and privileges in places where the public is generally served, accommodated or entertained are a proper exercise of the police power.

## St. Louis County

1972

Park View Heights Corp. v City of Black Jack, 467 F2d. 1208

An action brought against the newly incorporated city of Black Jack for the enactment of a zoning ordinance which resulted in barring the construction of a racially integrated townhouse development. (Also see U.S.v City of Black Jack,508 F.2d. 1179)

1975

Anderson v City of Olivette, 518 S.W.2d 34

An action by real estate brokers to enjoin enforcement of an ordinance which required that real estate brokerage services be provided to all prospective sellers, purchasers and renters in the city on a nondiscriminatory basis. The Supreme Court of Missouri held that the protection of the constitutional right of citizens to be free from racial discrimination is a proper function of the city's police power but the ordinance was invalid because there was no statutory authority for the city to regulate real estate brokers in this manner.

#### IV. Missouri Caselaw

##### A. Higher Education

1937

State ex rel. Gaines v Canada et al, 113 S.W.2d. 784

An action brought to compel the register and the curators of the University of Missouri to admit a Negro student to the School of Law in the University. The Supreme Court of Missouri held that the Constitution and laws providing separate schools for Negro children are not in conflict with the Fourteenth Amendment of the Federal Constitution and do not deprive Negro children of any rights. The Court also held that under the state statutes, the board of curators of Lincoln University must afford Negroes applying to the university for legal training either a law school at such university or furnish him opportunity for legal training elsewhere substantially equal to that furnished white students at the University of Missouri.

1939

State ex rel. Gaines v Canada, 131 S.W.2d 217

United States Supreme Court 305 U.S. 337, 59 S.Ct. 232, 83 L.Ed 208, reversed the judgment of the Missouri Supreme Court, 342 MO. 121, 113 S.W.2d 783 The Supreme Court of Missouri held that the policy of establishing a law school at Lincoln University for Negroes which has not yet ripened into an actual

establishment does not prevent refusal to admit Negroes to the school of law of the state University from constituting a denial of equal protection of the laws. The cause was remanded to trial court to determine whether facilities at Lincoln to be available next term would be substantially equivalent to those at the University of Missouri.

1941

Bluford v Canada, 143 S.W.2d 12

An action brought to require the University of Missouri to admit a black student to their journalism school. The Supreme Court of Missouri held it is the state's policy, established by Constitution and Statutes, to segregate white and Negro races for purposes of education in common and high schools and also institutions of higher education. The Court also held that it is the State Supreme Court's duty to maintain the state's policy of segregating white and Negro races for purposes of education so long as it does not conflict with the Federal Constitution. If upon proper demand and after a reasonable time, the desired course is not available at Lincoln, the student would be entitled to take the course at Missouri University.

1950

Toliver v Board of Education of city of St. Louis, 724 S.W.2d 724 An action brought to require the Board of Education of the City of St. Louis to enroll a Negro student attending a teachers college for Negroes in a teachers college for white students. The Supreme Court of Missouri held that enactments providing for segregation of races do not violate the federal constitution, where substantially equal privileges are furnished the separate group. The Court ruled that the courts have the duty to maintain the policy of the state of segregating races for educational purposes in harmony with the provisions of the federal constitution.

## B. Elementary Education

### 1. City of St. Louis

1891

Lehew v Brummell, 15 S.W. 765

An action brought by white parents to prevent four black children from attending a white school. The Supreme Court of Missouri granted the white parents requests even though the district made no provision for black students.

State ex rel Brewton et al v Bd of Ed of City of St. Louis, 233 S.W.2d 697



An action brought against the Board of Education of the City of St. Louis to permit Negro students at Washington Technical High School to take a course at Hadley Technical High School. The Supreme Court of Missouri held that the board's failure to offer the course at the colored school constituted a substantially inequality in violation of the Fourteenth Amendment to the Federal Constitution.

1976

Liddell v Caldwell, 546 F.2d. 768 (Liddell I) Liddell, is the lead St. Louis desegregation case.

Adams v U.S., 620 F.2d. 1277

The U.S. Court of Appeals found that state laws and policies of Missouri mandated discrimination in housing and discriminatory private policies including redlining and separate newspaper listing for "colored" housing contributed to segregation. The Court held that the state had contributed to maintaining a segregated school system in St. Louis.

Liddell, 620 F.2d at 1280

pointed out that although the separate school authorization for blacks and whites was unusable after 1954 it remained in the law until 1976.

1982

Liddell, 677 F.2d. 626 (Liddell V)

The state and others appealed and the court found that the state was a primary constitutional wrongdoer and therefore, could be required to take actions which would further desegregation in the St. Louis City School District.

1987

Liddell, 822 F.2d. 1446

After the state and others appealed the district court's decision it was held that the full consolidation was the original intent of the earlier order, but it had not occurred and had been successfully opposed by the state.

## 2. Kansas City

1952

State v Disman, 250 S.W. 137

This action was filed to compel the Kansas City School Board to transfer some Negro children to another school based upon allegations that their school

lacked certain facilities. The Supreme court of Missouri held that schools must only be substantially equal and not identical.

1984

Jenkins v State of Missouri, 593 F.Supp 1485

The lead Kansas City School District desegregation case.

1988

Jenkins,855 F2d 1295

The state and others appealed the district court's decision. (also see state's loss of the appeal of that decision Missouri v Jenkins,110 S.Ct. 1651)

### 3. St. Louis County

1975

United States v State of Missouri, Berkeley School District, Kinloch School District, and Ferguson Reorganized School District RII, 515 F.2d 1365

Three adjoining school districts appealed an order of the United States District Court that they consolidate. The purpose of the consolidation was to achieve the meaningful desegregation of Kinloch which was a racially segregated, inadequately funded school district which had been established and maintained by state action in violation of the equal protection clause. The United States Court of Appeals upheld the district court's decision for the districts to consolidate.

## C. Employment Discrimination

### 1. St. Louis County

1969

United States v Hazelwood School District,534 F.2d 805

An action brought against the Hazelwood School District in St. Louis County for implementing a subject hiring policy in a racially discriminatory manner.

### 2. City of St. Louis

1976

Firefighters Inst. for Racial Equality v City of St. Louis,410 F. Supp 948

This case and the line of other cases that followed it on remands was an attempt to get nondiscriminatory tests for promotion in the city's fire department. (Also see Firefighters Inst. v St.L City, 549 F.2d 506 and 588 F.2d 235)

## V. Cases in Missouri Involving Discrimination by Custom and Use

### A. General

1853

Davis v Evans, 250 Mo 153

An action against a free Negro woman to prevent her from claiming ownership of her daughter as her slave to prevent plaintiff from claiming her as his slave. The court held that a free Negro under Missouri laws could not hold slaves.

1948

Frank v Herring, 208 S.W.2d 783

Segregation was so well accepted and pervasive that the Kansas City Court of Appeals in Missouri took judicial notice of the fact that segregation by custom is the policy in Missouri.

### B. Public Accommodations

1892

Younger v Judah, 19 S.W. 1109

The Supreme Court of Missouri held that the Fourteenth Amendment did not prohibit a theatre owner from reserving the better seats exclusively for whites.

1950

Draper v City of St Louis, 22 F.Supp. 546

This was an action brought to enjoin the City of St. Louis from barring Negro citizens because of their race from outdoor swimming pools operated by the city. The Supreme Court of Missouri granted the injunction.

1953

Kansas City v Williams, 205 F.2d. 47

This action was brought against Kansas City to eliminate racial discrimination in the use of the city's swimming pools. The United States Court of Appeals held that the denial to Negroes of the privilege of engaging in swimming

pool activities constituted unequal treatment and illegal discrimination against Negroes.

### C. Housing Discrimination

1938

Porter v Johnson, 115 S.W.2d 529

This was an action by a group of Kansas City residents to enjoin possession of realty in violation of a restriction that prohibited ownership or occupancy by a Negro. The Kansas City Court of Appeals enjoined occupancy by Negroes and required them to vacate.

1949

Weiss v Leason, 225 S.W.2d 127

This was an action to enforce a racial restriction agreement in Kansas City. Citing Shelley v Kraemer, 334 U.S. 1, the Supreme Court of Missouri held that a judicial enforcement of a restrictive covenant violates the Fourteenth Amendment but such restrictions may be effectuated by voluntary adherence to their terms. The Court reiterated the United States Supreme Court's holding that the Fourteenth Amendment erects no shield against merely private conduct, however discriminatory or wrongful.

1946

Swain v Maxwell

This was an action to enforce a restriction forbidding the conveyance of some real property in Kansas City to a Negro. The Supreme Court of Missouri held that property owners have a right to make an agreement restricting their property from sale or occupancy by Negroes, and such an agreement is not contrary to public policy or unconstitutional.

1946

Kreamer v Shelley, 198 S.W.2d 679

This was an action to enforce restrictions against the occupancy of property by Negroes.

The Supreme Court of Missouri held that agreements restricting property from being transferred to or occupied by Negroes are not contrary to public policy and are not invalidated federal or state constitutional provisions. Reversed Kraemer v Shelley, 334 U.S. 1 (Decision in Kreamer v Shelley, 214 S.W.2d 525)

## D. Employment Discrimination

1949

State v St. Louis-S.F. RY. CO v Russell, 219 S.W.2d 340

This was an action brought by a group of Negroes alleging that they were and for many years had been, performing all the necessary tasks of head-end passenger brakemen but, because of their race and color, they were called train porters, given certain additional duties and received less pay than white brakemen and were not permitted to become members of organizations of white brakemen and white trainmen and that the organization refused to represent them in collective bargaining. The Supreme Court of Missouri held that this was a jurisdictional dispute that state courts were without authority to decide under the Railroad Labor Act.

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