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Georgia redistricting has a contentious and complicated history

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A Voting Rights Odyssey: Black Enfranchisement in Georgia.

By Laughlin McDonald. Cambridge University Press. \$20 paperback. 245 pages.

The verdict: A valuable addition to civil rights history.

On April 29, the U.S. Supreme Court is scheduled to hear arguments in a case titled Georgia v. Ashcroft. Georgia's appeal, filed by state Attorney General Thurbert Baker, objects to a federal court's disapproval last spring of a new redistricting plan for state Senate districts. But Gov. Sonny Perdue opposes the state's appeal and is trying to derail Baker's case.

How the Supreme Court will respond to this unusual tussle remains to be seen. Yet Georgia v. Ashcroft is about as counter-intuitive as a lawsuit could be. The lower federal court rejected the new Senate districts on the grounds that they might disadvantage African-American voters. But the new districts were drawn by Georgia Democrats, and the successful claim that they might spread African-Americans so thinly as to result in fewer black state senators was championed by the Georgia Republican Party!

Now Baker, an African-American Democrat, is not only contesting that court finding but is telling the Supreme Court that the key provision of the 1965 Voting Rights Act that subjects Georgia's redistricting to federal oversight "represents a serious invasion of the most fundamental prerogative of the states." Governors Carl Sanders (1963-67) and Lester Maddox (1967-71) voiced similar objections a generation ago.

Understanding what's going on here requires knowing some history. "A Voting Rights Odyssey," by longtime American Civil Liberties Union voting rights lawyer Laughlin McDonald, helps explain why Georgia's redistricting battles have become so befuddling. Ever since the Voting Rights Act was enacted, the number and proportion of black elected officials have been the benchmark by which political progress and fairness have been measured.

By the early 1990s, this ongoing effort to maximize the number of black officeholders had produced oddly shaped districts in a number of states, drawn so as to collect African-American voters into what political aficionados call "majority-minority districts." But the U.S. Supreme Court soon turned a sharply critical eye toward such efforts, ruling in a 1995 Georgia case that race could not be "the predominant factor" in motivating a decision to place "a significant number of voters within or without a particular district."

Even more important than the Supreme Court's aversion to such "max-black" districting schemes was the effect they had on white Democrats. In 1991, Georgia's congressional delegation had one Republican, one black Democrat and eight white Democrats, but by 2001 the expanded delegation featured eight Republicans and three black Democrats, period.

So when the 2000 census results entailed a new redistricting, Georgia Democrats sought to distribute African-American voters among a maximum number of narrowly Democratic districts rather than concentrate them.

But this understandable strategy was vulnerable to Republican attack, since Supreme Court decisions that amplify the requirements of the Voting Rights Act prohibit any electoral changes that might reduce black representation. Georgia Republican Party Chairman Ralph Reed claimed that "minority voting rights were sacrificed at the altar of maintaining a Democratic majority," and the federal court, looking at the state Senate districts, agreed.

McDonald correctly told *The Atlanta Journal-Constitution* this year that both sides are "driven by partisanship" while pretending to "wrap themselves in racial fairness." His new book likewise pulls no punches, declaring that "no state was more systematic and thorough in its efforts to deny or limit voting and officeholding by African-Americans" in the century after the Civil War than Georgia.

"*A Voting Rights Odyssey*" traces the African-American political struggle from the 1860s to the present. Post-Civil War opposition to black enfranchisement flowed directly from Confederate beliefs. Georgia's Alexander Stephens, the Confederate vice president, explained in 1861 that the "cornerstone" of the Confederacy rested upon the "great physical, philosophical and moral truth" that "the Negro is not equal to the white man." Even after 1965, McDonald writes, "the redistribution of political power in Georgia, far from being voluntary, was the direct result of the enforcement of the Voting Rights Act." That enforcement primarily took the form of "a massive litigation campaign" in which McDonald played --- and has continued to play --- a leading role. The history of that multi-decade campaign makes "*A Voting Rights Odyssey*" a valuable addition to civil rights history.

McDonald criticizes Supreme Court decisions of the past decade in which racially motivated districting schemes repeatedly have been struck down. He complains that "oddly shaped majority-white districts designed to keep white incumbents in office were tolerable as 'political' gerrymanders, while the oddly shaped majority-black districts designed to permit the election of minority candidates were intolerable as 'racial' gerrymanders."

Yet McDonald's view downplays the fact that any government use of racial distinctions rightly deserves the strictest judicial scrutiny, while, at present, partisan discrimination or mistreatment receives far less. "*A Voting Rights Odyssey*" decries how the Supreme Court's race decisions have drawn the federal courts "increasingly, and unnecessarily, into the redistricting process." But McDonald fails to consider an alternative: an elimination of partisan advantage-taking in redistricting plans that would match the elimination of racial misbehavior.

Perhaps Georgia might copy other states, such as Iowa, where districts are drawn in a far less partisan and self-interested process. If so, then Georgia could be spared not only year after year of endless federal court litigation but also the sight of its governor and attorney general arm-wrestling each other in front of the Supreme Court.

David J. Garrow, author of the Pulitzer Prize-winning "*Bearing the Cross*," a biography of the Rev. Martin Luther King Jr., wrote his first book on the enactment of the Voting Rights Act of 1965.