

Goosby, Dorothy L., c. 1939–. Collection, 1980–2008. Collection Guide

Updated April 26, 2019.

Overview

Following a class action lawsuit by the Center for Constitutional Rights (CCR) in 1988, the lawsuit *Goosby v. Town Board of the Town of Hempstead*, arguing that Hempstead’s at-large voting system was racially discriminatory, was filed by Dorothy Goosby. While 13% of the Town of Hempstead consisted of blacks and Latinos at the time, all six members of the Town Board lived in overwhelmingly white neighborhoods.

The plaintiffs alleged that the voting system violated the Voting Rights Act, claiming that there was a lack of representation of minority communities as a result of the winner-takes-all system. All that was needed was for one large voting bloc to have a slight majority to take all the seats on the Town Board. The voting blocs were divided by race; even now, based on the 2000 and 2010 censuses, Long Island remains one of the most racially segregated areas of the country.

According to the Goosby Documents, the “class-action suit against the Town of Hempstead changed Hempstead’s voting system at large and was a turning point in Voting Rights on Long Island.” Politically, this shifted control of the town of Hempstead drastically because once these voting rules changed, Democrats were able to come in and flip seats that had been in Republican hands.

Previous voting system

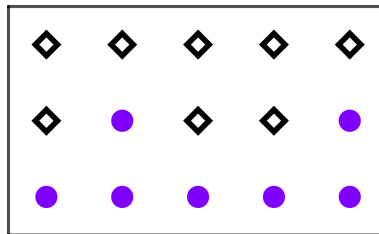
How was the Town Board elected at the time the lawsuit was filed?

The Town Board consisted of six members elected using an at-large voting system. Elections occurred every four years, and the Council members served four-year terms.

What is an at-large voting system?

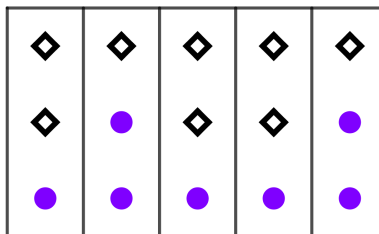
In an at-large voting system, members of a governing body are elected or appointed to represent the whole membership of the body (for example, a city, state or province, nation, club, or association) rather than a subset of that membership (for example, the residents of a smaller district). At-large voting is in contrast to voting by electoral districts.

Here's an example. We have a "town" with 15 residents, 8 of whom belong to the Diamond party and 7 of whom belong to the Circle party.



Let's say there are 5 positions on the Town Board available. Five candidates are running as Diamonds, and 5 are running as Circles. If everyone votes for their top 5 choices on party lines, each of the Diamonds will have 8 votes and each of the Circles will have 7, so the Town Board will have only Diamonds on it, even though the Diamonds have only a small majority in the town.

Now, let's say the town is divided into 5 districts as follows:



This time, if everyone votes along party lines, 3 of the districts will be represented by a Diamond and 2 by a Circle for a 3-2 Town Board, which better represents the town's population.

What are some common complaints about at-large voting?

At-large voting creates opportunities to form a dictatorship, as the votes of minority partisans will be diluted. If a minority is an extreme minority, then the majority's votes will be the only ones whose voices will be heard, because whoever they vote for will have by far the most votes. This means that, unfortunately, no one will represent the minority.

In an electoral district, each person's vote carries more weight. By making smaller districts, more groups of people have power to elect someone who can more closely represent them, and if there are different representatives for small areas rather than the same number of representatives for one large area, dictatorship is much easier to avoid.

Details of the lawsuit

Who were the parties to the lawsuit?

Although Goosby is the best-known plaintiff in this case, Samuel Prioleau, Xavier Morales, and Miladys Morales were also plaintiffs. The defendants were the six members of the Town Board of Hempstead, Gregory Peterson, Richard Zagarino, Curtis Fisher, Joseph Ra, Anthony Santino, and Joseph Kearney; and the Commissioners of Elections of Nassau County, John DeGrace and Steven Sabbeth.

Who is Dorothy Goosby?

Dorothy Goosby is a senior Councilwoman who was first elected to the Hempstead Town Board in November 1999. She became the first African-American woman to serve on the board and is one of the few Democrats who have been elected to the board since 1905. Following the decision made in *Goosby v. Town of Hempstead*, she served a one-year term in 2000 before being elected in the new First Council District for four-year terms in 2001, 2005, 2009, 2013, and 2017. She is the first Council member to be elected for six terms in a row.

What were the plaintiffs' arguments?

The plaintiffs argued that Hempstead's use of the at-large voting system violated Section 2 of the Voting Rights Act of 1965, as well as the First, Thirteenth, and Fourteenth Amendments. They believed that the current voting system reduced the voting strength of the minority population in Hempstead and were seeking an order to force a single-member district system to be implemented instead.

The plaintiffs argued that, along with the fact that all six Council members lived in predominantly white neighborhoods and were not representative of the 13% of the population consisting of blacks and Latinos, there had also been racial discrimination in Hempstead in

the past. Literacy tests were still used in 1971, six years after Congress had outlawed them. The town also had no affirmative action program and no human rights commission, and they had never issued a resolution that would have supported issues of minority groups.

What was the timeline of the case?

- 1988, August 8: Case is filed.
- 1994, November: Case is moved to a new court.
- 1996, July 15: Case enters the U.S. District Court, Eastern District of New York at the Brooklyn Courthouse.¹
- 1997, February 20: The case is decided. The U.S. District Judge, John Gleeson, agrees that the at-large voting system is indeed discriminatory and in violation of the Voting Rights Act and orders Hempstead to replace its at-large voting system with a six-district system.
- 1998, June 15: The defendants appeal the decision to the U.S. Court of Appeals for the Second Circuit. The appeal is argued before the U.S. Circuit Judges Roger Miner, Joseph McLaughlin, and Pierre Leval.²
- 1999, June 23: In a unanimous decision, the U.S. Circuit Judges uphold the decision of the District Court.³
- 2000, January: The U.S. Supreme Court declines to review the case, turning down the appeal by the defendants and affirming the decision that the voting rights of minorities had been violated.⁴ As a result, Judge Gleeson orders that a special election be held for all six seats in November 2000 under the new six-district system.

What was Judge Gleeson’s reasoning?

In the Supreme Court case *Thornburg v. Gingles* (1986), the Supreme Court created the *Gingles* test and identified three “preconditions” that could lead to a successful challenge of multi-member districts under Section 2 of the Voting Rights Act. The three conditions were:

1. The minority group in question must be large enough and close enough geographically to create a majority in a single-member district.
2. The minority group must be politically cohesive.

¹Trial Transcripts are located in Series 5 (Box 7). Plaintiffs Exhibits are located in Series 13 (Boxes 22 & 23). Defendants Exhibits are located in Series 14 (Box 24).

²Court of Appeals trial documents are located in Series 7 (Box 10, Folder 3).

³Opinions of the U.S. Circuit judges are located in Series 7 (Box 10, Folder 1).

⁴“Districts Coming To Hempstead Loses Its Last Appeal.” N.Y. Daily News, January 26, 2000, <http://www.nydailynews.com/archives/boroughs/districts-coming-hempstead-loses-appeal-article-1.874831>. Accessed December 6, 2018.

3. The white majority must vote as a bloc in order to defeat the preferred candidate of the minority. Judge Gleeson found that the Town of Hempstead's at-large voting system satisfied these three preconditions and that the town was too populous to have been undermining minority voters so massively.

Which voting systems were considered during the trial?

- **Original voting system, “at-large voting system”**

Proposed by: the Town Board of the Town of Hempstead

Explanation of the system: There were no districts within the town. The entire town voted for the same members of the Town Board, and the six candidates with the most votes became Council members.

Faults: This violated the Equal Protection Clause of the Fourteenth Amendment by taking votes away from and underrepresenting the black population. It was said that the political processes for nomination and election in the Town of Hempstead were not equally open to participation by members of the protected class; in other words, this system prevented black people from being represented.

- **Two-district system**

Proposed by: the Town Board of the Town of Hempstead

Explanation of the system: The town would be split into two unequally sized districts with one district containing a majority of the black population. Since this district is smaller, the district would elect only one Council member while the other, larger district would elect five Council members. Therefore, the proponents argued, each group would be represented equally in the town.

Faults: The only motivating factor in the creation of this system appeared to be race. Furthermore, this system prevented the districts from being compact and equal in population. The Court decided that it violated the Fourteenth Amendment, and they called it “unusual and bizarre.”

- **Six-district system**

Proposed by: Andrew Beveridge, Ph.D., a witness for the plaintiffs⁵

Explanation of the system: The Town of Hempstead would be comprised of six geographic districts that are each represented by one Council member. Districts are defined so they satisfy the following four principles:

⁵Beveridge-direct-Scott-McLaughlin, Trial Transcripts, Series 5 (Box 7, Folder 1, pp. 179–183). Plaintiffs Exhibit #4-G, Town of Hempstead Proposed Town Board Districts, Series 13 (Box 22, Folder 1).

1. substantial equality of population;
2. conformity of the districts' boundaries, to the extent possible, to existing political geography;
3. reasonable compactness; and
4. after satisfying the first three criteria, grouping the black population in one district to the extent possible.⁶

Which voting system was eventually adopted?

The six-district system is the system that was adopted after the case was decided and is still in use today. The boundaries of the current districts were adopted on April 9, 2013, at a public hearing through a bipartisan vote of the Town of Hempstead Board. These district maps went into effect in January 2014.⁷

Have there been complaints about the current system?

There have been complaints about the map that was drawn in 2013. Democrats have complained that the Town Board of Hempstead “deliberately diluted the growing voting power of African-American and Hispanic-American voters.” They said that the board intentionally broke up minority neighborhoods and placed those neighborhoods in majority voting districts.⁸

How often does redistricting occur?

The Town of Hempstead is redistricted every ten years by the Town Board of Hempstead utilizing the method provided by Section 10(13) of the Municipal Home Rule Law of the State of New York.⁹

⁶U.S. Court of Appeals for the Second Circuit Majority Opinion, Court of Appeals, Series 7 (Box 10, Folder 1, p. 21).

⁷“Map - Town of Hempstead.” <https://hempsteadny.gov/map>. Accessed December 5, 2018.

⁸Walter, Geoffrey. “Town of Hempstead Democrats Fighting New District Map.” Mineola Patch, Patch Media, April 28, 2013, <https://patch.com/new-york/mineola/town-of-hempstead-democrats-fighting-new-district-map>.

⁹“Town of Hempstead, NY: Reapportionment of Councilmanic Districts.” Town of Hempstead, NY. <https://ecode360.com/27383411>. Accessed December 6, 2018.

Expert testimony

What sort of expert testimony was considered relevant to the lawsuit?

Many different experts were called upon by each party. The purpose of these experts was to give insight and professional opinions on specific topics such as sociology, race relations, voting systems, political science, political history, and econometrics. One of the experts was Dr. William O'Hare, who is an expert in race relations and studies equality and diversity policy to bring about change through conducting research, raising awareness of equality and diversity issues, and developing strategies to reduce racial incidents in communities, institutions and workplaces. He made the final report on socioeconomic differences and political participation in Hempstead. O'Hare also testified on the racial differences in the socioeconomic status and their effect on political participation. Dr. Michael McDonald wrote the report "An Analysis of Racially Polarized Voting Patterns in the Town of Hempstead Elections: 1983-93." He is also an expert on voting rights and political science, which means that he studies the development and operation of political systems. He analyzes the structure and operation of governments as well as various political entities and conducts public opinion surveys, analyzes election results, and analyzes public documents. Dr. Andrew Alan Beveridge is a sociology expert and econometrics expert, which means he studies human society and social behavior by examining groups and social institutions of religious, political, and business organizations. Dr. Harold Stanley was a consultant and a witness at the trial, and Dr. Peter A. Morrison of the RAND Corporation was an expert witness in the case. Lastly, Dr. Timothy O'Rourke is a political science expert and applied his insight at the trial.

The reports show that there was also a list of possible experts who may have been called upon to offer their professional opinions, some of whom were from Hofstra University! For instance, Dr. Michael D'Innocenzo from Hofstra University was a possible expert for his knowledge of political history.

Census data

What can be done with census data, and how can this data be legally used to redistrict?

The census data is used to analyze populations by party, race, language spoken, or income. When used to determine electoral districts, it can be used to benefit a party, which is legal, or to disenfranchise historically marginalized people, which is illegal. The Voting Rights Act (1965)

- sought to prevent disenfranchisement on the basis of race, and eliminated barriers to voting such as a literacy test.

- created the standard that no “state or political subdivision” should deny any citizen the right to vote.
- established majority-minority districts in order to prevent minority voting rights from being diluted.
- has been empowered through litigation which found that hampering a minority vote, regardless of intent, is unconstitutional. Any district must pass a “results” test to withstand the courts, and they will be especially subject to scrutiny if they are “bizarre” in shape.

What data was collected from the census in 1980 and 1990?

- The 1980 short form included 7 population questions and 11 housing questions, and the long form added another 26 population questions and 10 housing questions to these. This was the first time a question about Spanish/Hispanic origin/descent was included. Many participated due to increased advertising for the census. There was an underrepresentation of African Americans, which led to the Census Bureau in New York having to adjust their results to account for this.¹⁰
- In 1990, the short form contained 13 questions, and the long form contained 45.¹¹

Useful Definitions

- Assembly District (AD): the district of a state legislator.
- Electoral District (ED): any district used by the government to elect representatives to a legislative body.
- Voting district (VTD): a small polling area, such as an election district, precinct, or ward, that a state or local government creates for the purpose of administering elections.
- Block Numbering Areas and Census Tracts: areas by which the U.S. Census Bureau measures and analyzes different locations and populations, usually determined by visual markers such as streets, bodies of water, or manmade boundaries such as counties.
- Census Blocks: areas by which the U.S. Census Bureau measures and analyzes different locations and populations, usually determined by semi-permanent demographic divisions.

¹⁰The population questions from the 1980 census can be found at https://www.census.gov/history/www/through_the_decades/index_of_questions/1980_population.html.

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- Census Designated Places (CDPs): parts of legally incorporated places that are not legally incorporated, but agreed upon as distinct by local or tribal officials every decennial census.
- Minor Civil Division (MCD): a subdivision of a county such as a township.
- Standard Metropolitan Statistical Area (SMSA): a subdivision used for statistical analysis of the U.S. Census, usually consisting of a large core city and the surrounding suburbs.

Redistricting

What are some important Supreme Court decisions related to redistricting?

- *Reynolds v. Sims* (1964) stated that state legislative and local districts should be as equally populated as possible.
- *Thornburg v. Gingles* (1986) ruled that the voting power of a racial minority bloc cannot be intentionally diluted or overshadowed by a white voting bloc.
- *Shaw v. Reno* (1990) ruled that redistricting for racial reasons must be held up to the standard of strict scrutiny under the Equal Protections Clause, the highest level of judicial review.
- *Miller v. Johnson* (1995) and *Bush v. Vera* (1995) furthered the precedent of the Shaw decision.

What is gerrymandering?

Gerrymandering is a practice intended to establish a political advantage for a particular party or group by manipulating district boundaries. It can cause minorities to have less of a say in the areas in which they vote for an official. A non-gerrymandered district that offers each part/candidate equal opportunity of winning an election is called competitive.

How does gerrymandering work?

Packing is a gerrymandering technique in which supporters for a particular party/candidate are concentrated into a single district, thereby decreasing their ability to influence the outcome of multiple districts. Cracking is a gerrymandering technique of breaking up voting blocs and dividing them among multiple districts. Cracking votes dilutes the power of voters by separating them from likeminded voters to the point that they no longer constitute a majority anywhere.

What kind of shape should a fairly determined electoral district have?

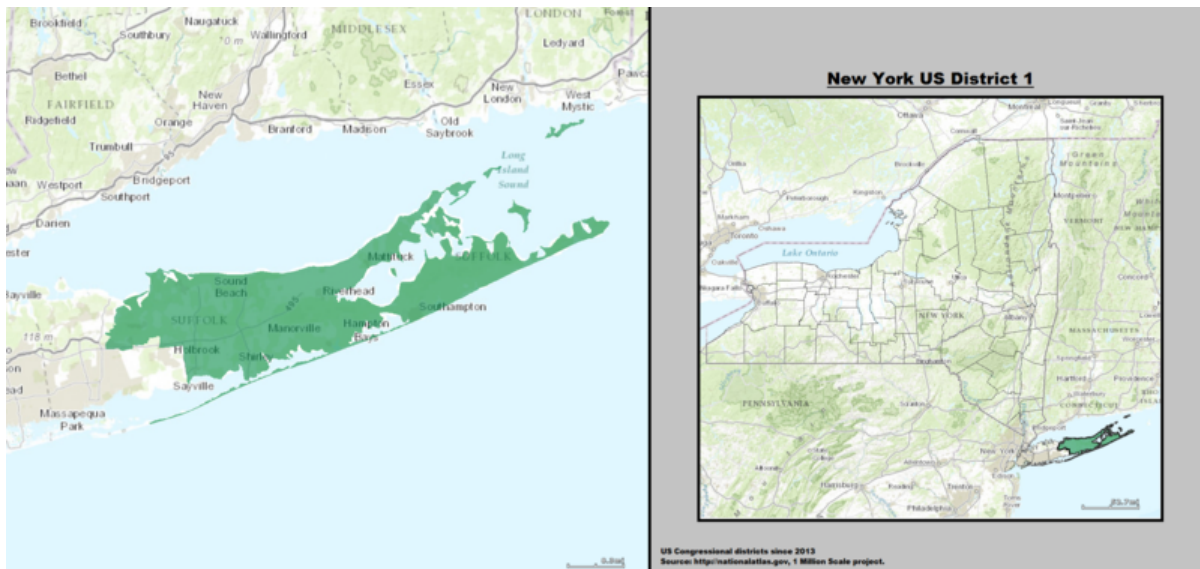
Generally, a district which is considered compact is fair, and districts are often accused of being gerrymandered if they are not compact.

How can we measure compactness?

- *We can measure how round a district is.* A circle maximizes area with respect to perimeter better than any other shape. This makes it a good measure of a fair district that has not been defined in order to reach out to or avoid different populations. Two standard metrics are the *Polsby-Popper measure* and the *Schwartzberg measure*.
- *We can measure a district's dispersion.* Some districts will be evenly dispersed from its center in each direction, while others may appear to be dispersed unevenly, which could be a sign of gerrymandering. Two standard metrics are the *convex hull measure* and the *Reock measure*.

Are there any problems with these methods of determining whether a district was fairly defined?

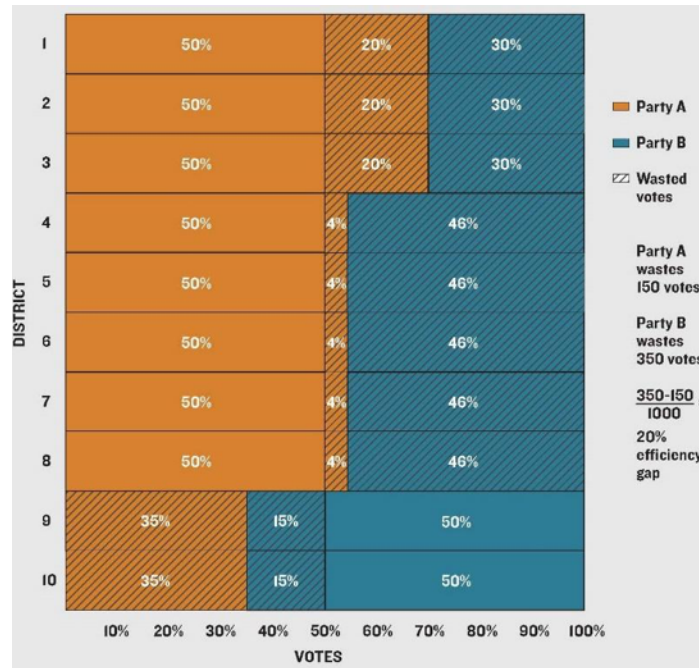
Certain districts will appear gerrymandered when they in fact are created fairly. For example a district which is at all surrounded by water will likely have areas which do not follow a completely round shape. Pictured below is a map of New York's 1st Congressional District, which encompasses Suffolk County.¹² The district would appear to be gerrymandered based on many tests, but since it has an irregular coastline, it cannot be accurately assessed through perimeter analysis.



¹²Created March 29, 2014; retrieved from Wikipedia in April 2019.

Are there tests for gerrymandering that aren't based on a district's shape?

Yes. We can consider the number of votes that don't contribute directly to a win. A wasted vote is one that is cast for the losing candidate or one that is cast for the winning candidate beyond the minimum needed to win. The efficiency gap is a measure devised to quantify the percentage of wasted votes in a district. The measurement takes the difference between the two parties' wasted votes and divides it by the total number of votes as in the image below.¹³



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With special thanks to the Hofstra University Special Collections staff and Ibrahim Naseer.

¹³Retrieved from the University of Chicago's Law School's website in December 2018.