

The Mysteries

SOME ENDURING PUZZLES ABOUT CONGRESSIONAL ELECTIONS.

- (1) Mayhew's vanishing marginals (beginning, abruptly, in 1966).
- (2) The abrupt increase in the "incumbency advantage" (in 1966).
- (3) [The abrupt increase in the partisan difference in the incumbency advantage (again, circa 1966)]
- (4) The abrupt disappearance of the pro-Republican bias outside the South (again, circa 1966).

The Investigation

LIKELY SUSPECT:

Baker v. Carr (396 U.S. 186, 1962).

Wesberry v. Sanders (376 U.S. 1, 1964).

OPPORTUNITY:

5 states redistrict before the 1964 election.

24 states redistrict before the 1966 election.

17 states redistrict before the 1968 election (4 repeats).

6 states redistrict before the 1970 election (4 repeats).

MOTIVE:

Incumbent Protection.

Partisan Gerrymanders.

Re-opening the Case

THE CLAIMS:

- (i) Partisan control, the courts, and reversionary outcomes systematically affect the nature of a redistricting plan and the subsequent elections held under it.
- (ii) Redistricting (mostly pursuant to the Reapportionment Revolution) entirely explains the abrupt disappearance of the pro-Republican bias outside the south.
- (iii) Redistricting (mostly pursuant to the Reapportionment Revolution) explains much about the “incumbency advantage” in post-1960s congressional elections.

Defining Terms

Redistricters are going to care about two broad features of a districting plan:

PARTISAN BIAS.

Defined as the difference between the average seat share that the Democrats would get with an average vote share of 50% and their “fair share” of 50% (half the seats for half the votes); and

RESPONSIVENESS.

How much a party’s seat share can be expected to increase with a given increment in its vote share.

A Model of Partisan Redistricting before *Wesberry*

PLAYERS.

Two agents: The strong and weak parties in the state.

PREFERENCES.

Strong Party:

$$\max_{(\rho, \lambda) \in \mathcal{A}} \mathbb{E} u(s(v; \rho, \lambda))$$

Weak Party:

$$\max_{(\rho, \lambda) \in \mathcal{A}} \mathbb{E} w(1 - s(v; \rho, \lambda))$$

where u and w are the respective utility functions and are assumed to be concave, increasing functions.

STRATEGIC ENVIRONMENT

- (i) Divided or Unified control of the state.
- (ii) Conservative or Radical reversionary districting plan.
- (iii) Technical constraints. Captured by the set \mathcal{A} . We assume that \mathcal{A} is strictly convex subset of $\rho - \lambda$ space and that its boundary is smooth.

Parties Preferences

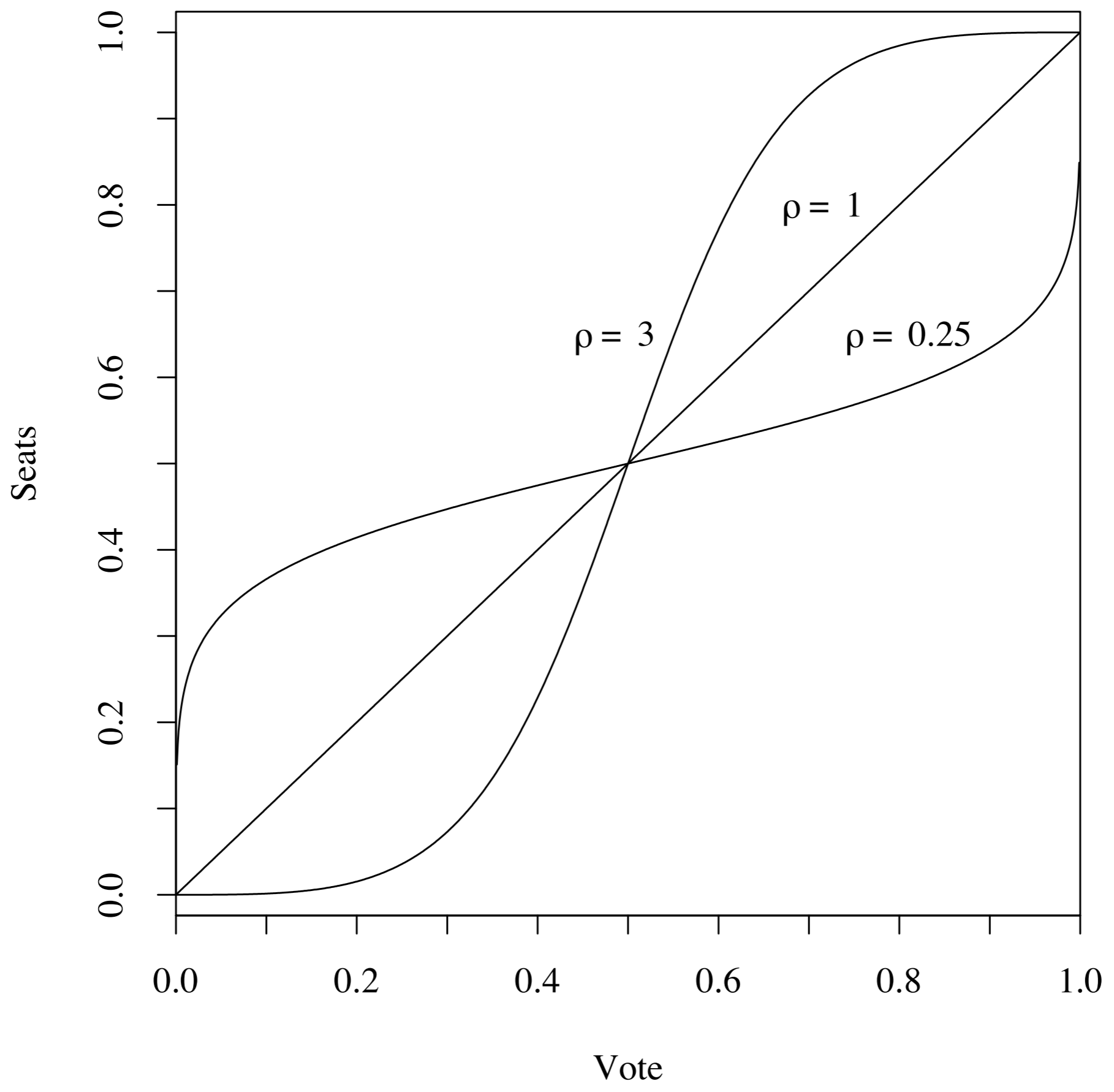
How do parties think levels of bias affect the translation of votes into seats? Here, we assume that their understanding of the matter is similar to that embodied in the standard seats-votes curve:

$$\left(\frac{s}{1-s}\right) = e^{\lambda} \left(\frac{v}{1-v}\right)^{\rho}$$

The parameter λ relates directly to pro-Democratic bias:

$$\text{PARTISAN BIAS} = \frac{e^{\lambda}}{e^{\lambda} + 1} - 0.5.$$

And the parameter ρ reflects responsiveness.



After some algebra, we can get the following relationship for the number of seats as a function of votes:

$$\begin{aligned} s &= \left[1 + e^\lambda \left(\frac{v}{1-v} \right)^\rho \right]^{-1} \\ &= \left[1 + \exp \left(-\lambda - \rho \ln \left(\frac{v}{1-v} \right) \right) \right]^{-1}. \end{aligned}$$

Predictions about Redistricting Plans

	Conservative Reversion	Radical Reversion
Unified Control	Partisan Plan: High Bias & High Resp.	Partisan Plan: High Bias & High Resp.
Divided Control	Mixed Plan: High Bias & Low Resp.	Bipartisan Plan: Low Bias & Low Resp.

WHAT HAPPENED IN THE 1960S?

- (1) Substantial increase in divided government whereas most pre-1960 plans favored Republicans.
- (2) *Baker v. Carr* amounted to the judicial abolition of conservative reversionary plans.

Responsiveness under Eight Different Districting Plans in
33 Nonsouthern States, 1946–1970.

Plan Type	Pre- Revolutionary	Post- Revolutionary
Republican	3.53 (0.30)	4.31 (0.58)
Bipartisan/Rep. Conservative Reversion	2.16 (0.80)	—
Bipartisan/Rep. Radical Reversion	2.06 (0.28)	2.32 (0.52)
Bipartisan/Dem. Radical Reversion	—	1.15 (0.65)
Bipartisan/Dem. Conservative Reversion	—	—
Democratic	3.43 (0.35)	5.32 (0.76)

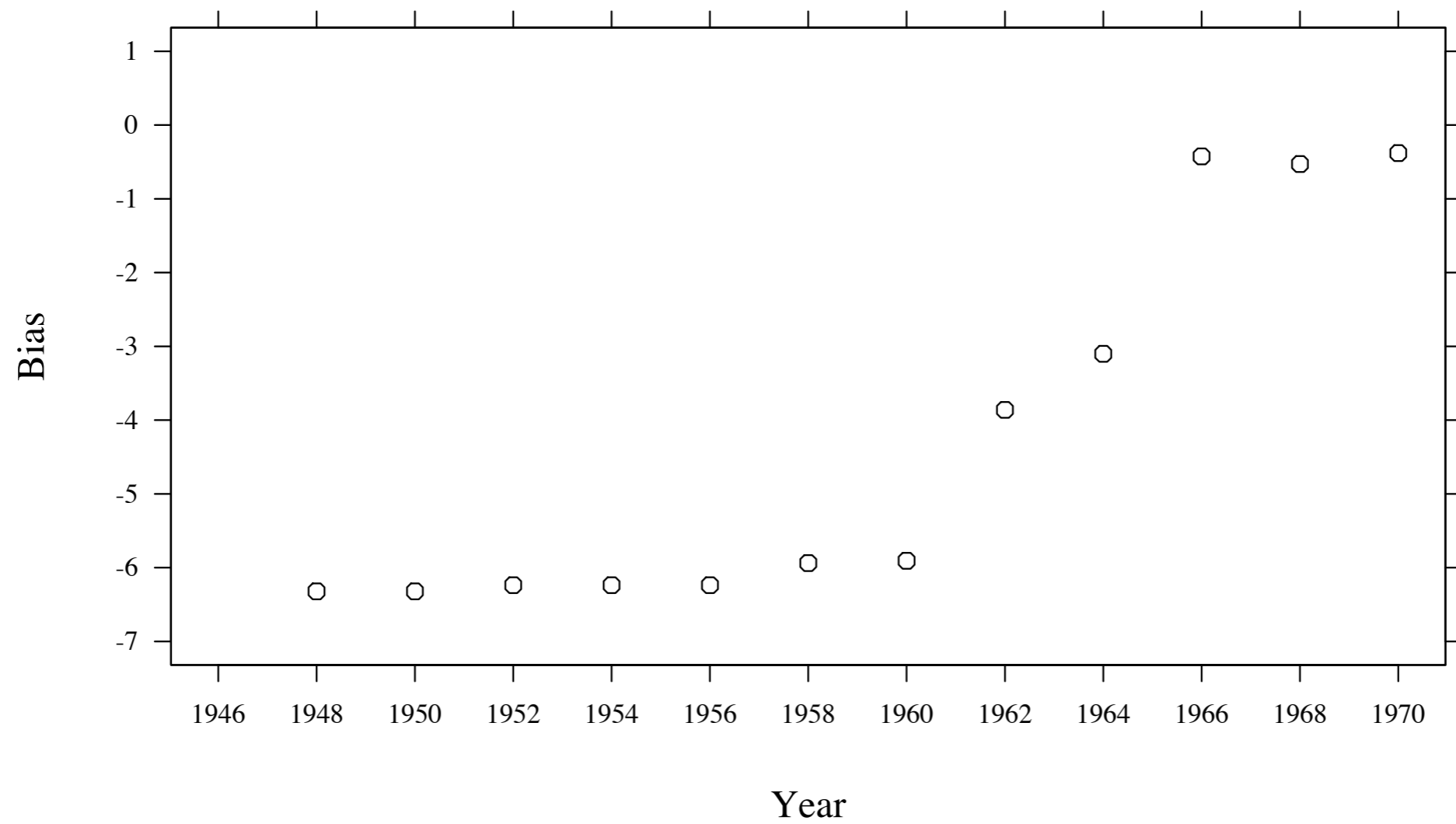
Notes: Standard errors are in parentheses.
Full estimation notes are in Appendix.

Partisan Bias under Eight Different Districting Plans in 33
Nonsouthern States, 1946–1970.

Plan Type	Pre- Revolutionary	Post- Revolutionary
Republican	−8.26 (1.08)	−0.92 (2.61)
Bipartisan/Rep. Conservative Reversion	−8.35 (1.98)	—
Bipartisan/Rep. Radical Reversion	−5.32 (1.24)	−3.13 (2.37)
Bipartisan/Dem. Radical Reversion	—	1.69 (2.89)
Bipartisan/Dem. Conservative Reversion	—	—
Democratic	4.76 (2.00)	8.70 (3.73)

Notes: Standard errors are in parentheses.
Full estimation notes are in Appendix.

Estimates of Overall Bias in 33 Nonsouthern States, 1946–1970



Judges' Preferences and Actions

We will assume that judges care both about the plans' partisan electoral consequences (i.e, bias and responsiveness) and jurisprudentially relevant characteristics (i.e., malapportionment levels). More formally we assume her payoff from the current plan, (ρ, λ, D) , is:

$$\omega u(s(v; \rho, \lambda) + (1 - \omega)v(D))$$

where $s(v; \rho, \lambda)$ is as previously defined and D is the measure malapportionment.

We further assume:

1. If a court overturns a state plan and imposes an alternative plan, $(\rho_{rev}, \lambda_{rev}, D_{rev})$, the focal judge pays a cost, C .
2. There is a clear maximum allowable deviation, established by precedent, denoted D_{max} .
3. Judges must reject plans with high malapportionment — i.e., $D_{state} > D_{max}$ — and must accept plans with perfect apportionment — i.e., $D = 0$.
4. The court can impose any reversion subject to $D_{rev} \leq D_{state}$ and $D_{rev} \leq D_{max}$.
5. The set of feasible plans is a function of assume that the feasible set shrinks uniformly and continuously as D decreases.

Predictions with Court entry in Redistricting

Unified State Government

1. Bias. Plans should be have exhibited more pro-Democratic bias then plans drawn under the supervision of Republican courts.
2. Responsiveness. Plans drawn under the supervision of a hostile court should be lower then when the court was friendly.
3. Malapportionment. Plans drawn under the supervision of a friendly court should have been higher then in those facing hostile courts.

Divided State Control

1. Bias. Plans drawn under the supervision of Democratic courts should have exhibited more pro-Democratic bias than plans drawn under the supervision of Republican courts.
2. Responsiveness. There should be no effect because under divided control both parties wanted lower responsiveness.
3. Malapportionment. There is no predicted effect since we have not assumed that Republican jurists valued reduction of malapportionment less (or more) than Democratic jurists.

Judicial Influence on Bias and Responsiveness of
Redistricting Plans, 1964–1970.

Bias	
Baseline (Divided)	−0.203 (0.154)
Branches	0.155 (0.091)
Judges	0.172 (0.080)
Responsiveness	
Baseline (Divided)	0.876 (0.795)
Unified/Hostile Court	4.440 (2.030)
Unified/Favorable Court	2.196 (1.300)
Number of Observations	40

Expected Democratic Seat Share by Control of Branches and Court

Branches	Court	Expected Seat Share
Unified Republican	Unified Republican	0.234
Unified Republican	Two of Three Republican	0.291
Two of Three Democratic	Two of Three Republican	0.451
Two of Three Republican	Two of Three Democratic	0.439
Two of Three Democratic	Two of Three Democratic	0.525
Unified Democratic	Two of Three Democratic	0.609
Unified Democratic	Unified Democratic	0.677

Probability that Court Validates or Allows a Partisan Plan

Independent Variables	Validated	Allowed
Constant	0.070 (0.424)	1.007 (0.469)
Population Deviation	-0.045 (0.031)	-0.068 (0.031)
Friendly Court	0.113 (0.263)	0.521 (0.287)
Number of Observations	30	30

Notes: Standard errors are in parentheses.

Frequency of Elections Under Each Plan Type

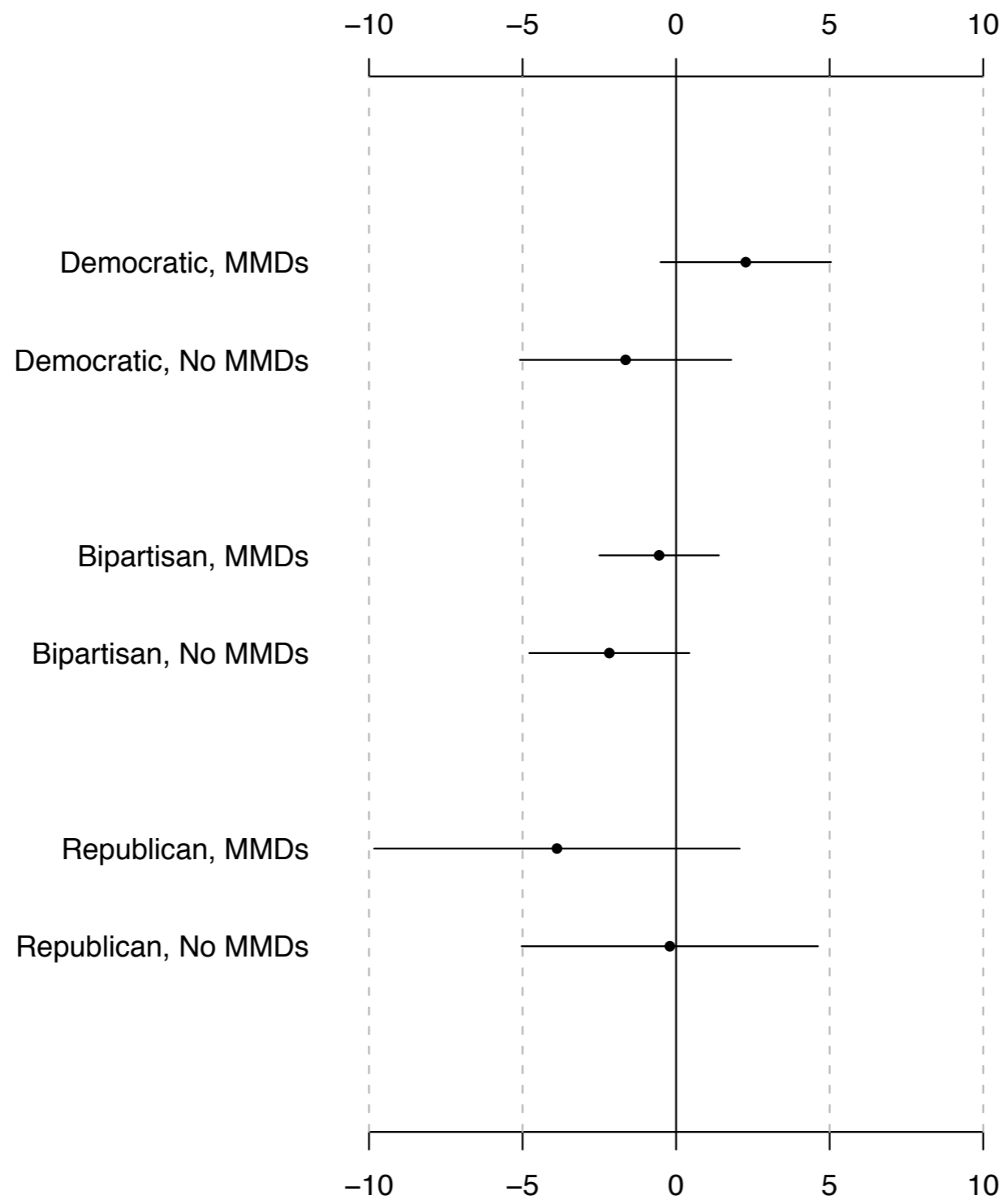
Plan Type	Frequency of Elections		
	MMDs	No MMDs	Total
Republican	16	62	78
Bipartisan	93	161	254
Democratic	93	188	281
Total	202	411	613

Number of Majority-Minority Districts in the U.S., 1972-2000

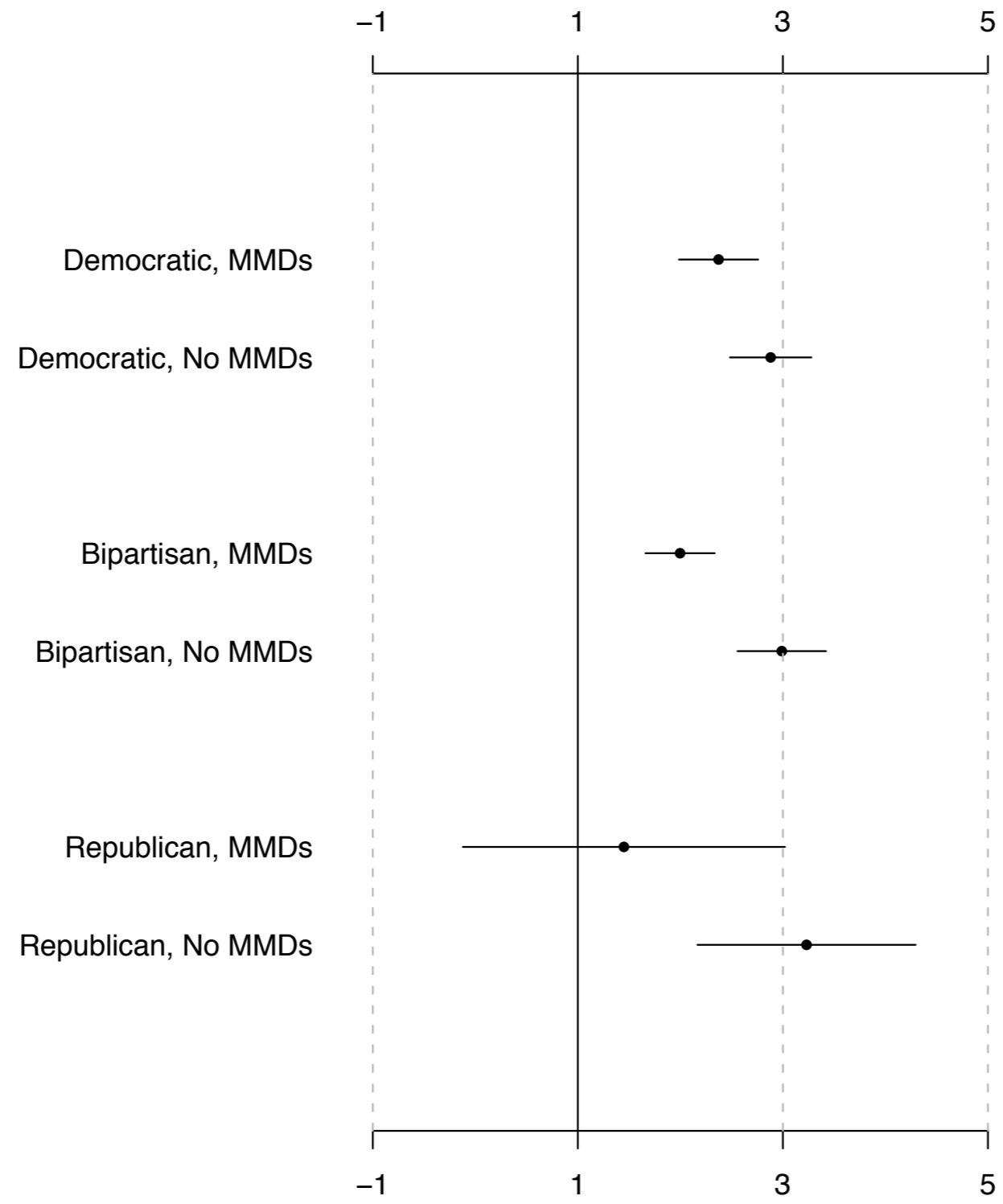
Year	Black and Latino	Black	Latino
1972	16	8	2
1982	27	12	6
1992	56	27	9
2000	51	21	14

Number of Minority Representatives in the U.S., 1972-2000

Year	Black Representatives		Latino Representatives		Minority Reps	
	BMDs	No BMDs	LMDs	No LMDs	MMDs	No MMDs
1972	9	6	2	3	17	3
1982	12	8	7	3	25	5
1992	29	9	14	3	51	4
2000	25	12	14	2	48	4



Bias Estimates for Democratic Seats-Votes Curve



Responsiveness Estimates for Democratic Seats-Votes Curve

