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## Diversity on Dixie's High Courts

The election on March 14 of Justice **Peggy Quince** as chief justice of the Florida Supreme Court made history. When Quince assumes the office on July 1, she will be the first African-American woman to head the Sunshine State's high court. She is not the first black woman in the South -- or the nation, for that matter, to head a state supreme court. Both of those honors go to **Leah Ward Sears**, Chief Justice of the Georgia Supreme Court. Nor is Quince the first woman chief justice in Florida, but the third. Nor will she be the state's first black chief justice, but the second.

Quince's appointment, and the relative normalcy of it in the modern South, underscores a little known fact about Southern politics, especially in its relationship to the judiciary. That is that white males, who only a few decades ago had a virtual monopoly on judicial as well as political power in the South, have steadily given way to more diverse representation in their states' high courts.

### Race

Including Quince, the supreme courts of seven of the thirteen Southern states are headed by either a woman or an African American. Four African Americans serve as chief justices of

supreme courts in the South. Aside from the black women serving as chief justices in Florida and Georgia, black men head the high courts in two other Southern states. In Texas, the top judge is Chief Justice **Wallace B. Jefferson**, and in Virginia, Chief Justice **Leroy Rountree Hassell, Sr.** All told, of the 95 justices -- including chief justices -- on Southern supreme courts, 13 are African American. That's about 14%, less than the 20% of Dixie's population accounted for by black Americans, but a substantial share nonetheless. Nine of the African American justices are men, four are women.

Nor is a black chief justice something new in the South. In 1994, for example, the South Carolina legislature elected **Ernest Finney, Jr.** as chief justice of the state's Supreme Court; he became the first African American to head the state's high court since Reconstruction and served until the year 2000.

Two Southern states, Florida and Texas, have an Hispanic member of the Supreme Court. These are the two states in Dixie with a substantial Latino population.



The supreme courts of four Southern states -- Alabama, Arkansas, Kentucky and Tennessee are all white.

The integration of the Southern judiciary is a result of the political influence gained by African Americans as a result of the Voting Rights Act, passed in 1965. Black voters became a force in state elections, and -- aided by the creation of districts with high black percentages -- the South's legislatures acquired substantial black minorities. Many of these African-American lawmakers developed enough seniority to wheel and deal effectively to help get more black judiciary members.

The road has not always been an unbroken line to the top for black justices. In Alabama, which is 26% African American and currently has no black members on its high court, Gov. **Jim Folsom** (D) appointed black lower court Judge **Ralph Cook** to the state Supreme Court in 1993. Cook won election to a full term in 1994, but in 2000, lost to a Republican as voters polarized both by race and by party. That same year, African-American Justice **John England**, appointed to the court by Gov. **Don Siegelman** (D), also lost when he sought election to a full term.

In Georgia, after the initial appointment of Sears as the first black female chief justice in the state and nation, she had to stand for re-election in 2004. Conservative groups, citing her liberal influence on the court, sought to defeat her in the non-partisan election. Gov. **Sonny Perdue** (R) was reported to have privately supported her opponent. Sears won anyway, garnering 62% of the vote.

## Gender

Women serve on the high court in every Southern state, including holding the office of chief justice in five Southern states --

Alabama, Florida, Georgia, North Carolina and South Carolina. In addition to Quince and Sears, the chief justice of Alabama is **Sue Bell Cobb**; of North Carolina, **Sarah Parker**; and of South Carolina, **Jean Hofer Toal**. Of the 95 justices in the South, 24 are women; 20 of them are white, four are black.

As for the increasing role of women, the South may have taken to women's liberation more slowly than the rest of the nation, but it has not been unaffected. As more women study law and become active politically, their number has risen significantly in Dixie's judiciary. (On a personal note, when I graduated from the law school at the University of South Carolina in 1964, there was one woman in my class. Today, women account for 40% to 50% of the USC Law School's student body.)

## Impact

Breaking it all down, of the 95 justices serving on supreme courts in the South, 60 are white men, 20 are white women, 9 are black men, 4 are black women and two are Hispanic men.

It is difficult-- and beyond the scope of this article -- to quantify the impact of this increasing diversity in the South's high courts. It is safe to say, however, that a wider range of opinions are more likely to be expressed in the courts' deliberations than was true a few decades ago. In addition, African Americans and women who wish to pursue a judicial career no longer face an impenetrable barrier, even to the highest level of Southern judiciaries. And all citizens in much of the South are more likely now to see the judicial system as fairer than it once was, rather than stacked against them.



## Gubernatorial Updates

### North Carolina: Moore, Perdue Even

The latest Public Policy Polling (D) survey of Tar Heel Democrats shows Lt. Gov. **Beverly Perdue** with 38% to 37% for state Treasurer **Richard Moore**. Perdue has had a significant lead in the Democratic governor's race for months; this essentially even result indicates the momentum is now with Moore. The poll was taken March 29-30. In the same firm's March 24 survey, Perdue led 41% to 34%. News reports suggest Moore's attack ads have taken their toll on Perdue. On the GOP side, the latest PPP survey showed Charlotte Mayor **Pat McCrory** with 35%, state Sen. **Fred Smith** 23%, attorney **Bill Graham** 7% and ex-state Supreme Court Justice **Bob Orr** 7%.

### Virginia: '09 GOP Ticket Taking Shape

Two announcements last week cleared the way for a unified Republican Party in Virginia's 2009 gubernatorial election. Lt. Gov. **Bill Bolling** (R), long expected to be a candidate for governor next year, announced he would stay put, seek re-election to the number two spot, and back his supposed rival, state Attorney General **Robert McDonnell** (R), for governor. The next day, McDonnell, much ahead of schedule, announced that he will run for governor next year, and that he and Bolling will run as a team. With no intra-party battle to divide the GOP, Republicans hope they will have a chance of recovering the governorship after what will be an eight-year absence. Meanwhile, two Democrats, state Sen. **Creigh Deeds** and Del. **Brian Moran**, are expected to compete in the 2009 primary for the Democratic nomination. Gov. **Tim Kaine** (D) is limited by law to one term.

## US Senate Updates

### North Carolina: Undecided Rules

The most recent Public Policy Polling (D) survey shows that in the Democratic battle for the US Senate nomination to oppose US Sen. **Elizabeth Dole** (R), state Sen. **Kay Hagen** (D) had 19% to investment banker **Jim Neal**'s 11%, with 58% undecided.

### Kentucky: Beshear Gambled and Lost.

Last week Gov. **Steve Beshear** (D-KY) declared that his proposal to legalize gambling casinos was dead, saying that "we do not have the votes necessary and no prospect of getting them in the time remaining." After winning election handily (59%) last fall on the casino issue, Beshear was unable to even get his proposal to a vote in the Kentucky House of Representatives, which Democrats control 64 to 36 (60 votes would have been needed to pass the constitutional amendment containing the governor's casino proposal).

Now observers are saying that Beshear is as weak as his two scandal-plagued predecessors, Govs. **Paul Patton** (D) and **Ernie Fletcher** (R). "Even Democrats," opined journalist Jill Johnson Keeney in Louisville's *Courier-Journal*, "volunteer that they can't tell the difference between what's going on in the governor's office now and what went on when Ernie Fletcher was there." Meanwhile, Beshear says lawmakers should consider his 70 cents-a-pack cigarette tax -- probably a non-starter -- and promised to bring back casinos in 2010.

## US House Updates

### Alabama 5: Parties Vie for Open Seat

Both national parties are taking a major interest in the new vacancy in Alabama's 5<sup>th</sup> District (Huntsville, etc.), created by the



decision of nine-term US Rep. **Bud Cramer** (D) to retire at the end of this year.

“We are confident the seat is going to stay in Democratic hands,” says the Democratic Congressional Campaign Committee’s **Kyra Jennings**. The 5<sup>th</sup> District “immediately became one of our top pickup opportunities in the country,” says the National Republican Campaign Committee’s **Ken Spain**.

The leading Democratic contender so far is state Sen. **Parker Griffith** (D), a retired oncologist from Huntsville, the district’s largest city. Griffith, 66, who was elected to the state senate in 2006, did not use the word “Democrat” in his announcement for congress. He is highly regarded for establishing the first cancer clinic in Northern Alabama. He has already started to build a war chest, and can also help fund his own campaign. US Rep. **Artur Davis** (D-AL) is backing Griffith.

Two other Democrats considering the race, state Rep. **Tammy Irons** of Florence and state Rep. **John Robinson** of Scottsboro, decided against running.

On the Republican side, speculation had centered on state Sen. **Tom Butler** of Madison. Butler, who has served in the Alabama legislature for some 20 years, also decided against running. Butler is still a Democrat, although he is one of a minority of Democratic state senators who regularly vote with the Republicans. He was been quoted in the media as saying that Gov. **Bob Riley** (R) called him and asked him to switch parties and run. Raising big money quickly, along with potential voter doubts about a change of parties may have discouraged him.

**Wayne Parker**, who garnered 49% against Cramer in 1994 and 42% in 1996, is also expected to run again. On the down side,

Parker, an advertising executive and the son-in-law of ex-US Rep. **Bill Archer** (R), has not been politically active since his last loss. On the plus side, he’s got some major backers in the district’s business establishment.

**Jeff Sikes**, 49, a well-to-do car-dealer (Mazda), is chairman of the Huntsville/Madison County Airport Authority. He has a base of support among Decatur Republicans and, says one insider (R) “can probably raise some money.” And Huntsville lawyer **Ray McKee Jr.**, a retired engineer and a supporter of the “fair tax,” had already filed as a GOPer to oppose Cramer; however, he does not have the political clout of the other candidates.

Those who have announced they will not run include Public Service Commissioner **Susan Parker** (D); state Sen. **Arthur Orr** (R); consultant **Steve Raby**, a former aide to former US Sen. **Howell Heflin** (D); and Limestone County Sheriff **Mike Blakely** (D).

When it comes to partisan politics, the 5<sup>th</sup> District has a split personality. **President Bush** carried it with 60% of the vote in 2004 and 54% in 2000, but most of the local officeholders, including state legislators, are Democrats. The district is 78% white, 17% black. Two major federal installations have helped shape a somewhat populist outlook here, the Tennessee Valley Authority, which provides electric power, flood control and employment to the area, and the Redstone Arsenal, a missile development center which has attracted a lot of aerospace industry to Huntsville. Like much of the South the district’s population is growing rapidly, with many newcomers who bring their Republican leanings with them.



### Mississippi 1: Davis, Childers Win Runoffs

Southaven Mayor **Greg Davis** narrowly defeated former Tupelo Mayor **Glenn McCullough** in the Republican runoff in Mississippi's 1<sup>st</sup> District (Tupelo, etc.). The runoff was to choose a nominee in the race to succeed **Roger Wicker** (R), who resigned to accept an appointment to the US Senate. With 100% of precincts reporting, Davis had 16,830 (51%) to McCullough's 16,305 (49%). In the March 11 primary, McCullough came in first with 39% to Davis's 37%.

Davis had the support of former US Sen. **Trent Lott** (R-MS) while McCullough was endorsed by Republican activist and physician **Randy Russell**, who came in third in the first primary with 24%.

On the Democratic side, Prentiss County Chancery Clerk **Travis Childers** (D) defeated state Rep. **Steve Holland** (D) by 20,729 (57%) to 15,439 (43%).

The two major party nominees will face off on April 22 in a special election to fill the vacancy. Some 36,168 voters chose to participate in the Democratic runoff to 33,135 in the Republican runoff. These runoff totals for the two parties suggest that -- despite this district's Republican history -- the special election will be close. In 2004, **President Bush** carried the district with 62%. The district is 71% white, 26% black.

### Mississippi 3: Harper Beats Ross

Rankin County GOP chairman **Gregg Harper** won a decisive victory in yesterday's runoff in 3rd District (Jackson suburbs, etc.) to choose the Republican nominee for the November election. With 564 of 565 precincts reporting, Harper defeated former state Sen. **Charlie Ross** (R) by 29,351 votes (57%) to 22,178 (43%). The open seat was created when US

Rep. "**Chip**" **Pickering** (R) decided to retire at the end of his current term. The runoff reversed the order of the March 11 primary, when Ross led with 33% to Harper's 28%.

Harper had support among Christian conservatives as well as party contacts in the district's largest Republican county, while Ross had the advantage of personal wealth and high name ID from a losing but strong race for lieutenant governor last year.

For the Democrats, cattle broker **Joel Gill** won his party's nomination in the first primary with 53% to businessman **Randy Eads'** 47%.

**President Bush** carried the district with 65% in 2004 and the GOP is favored in the 3<sup>rd</sup> District in this fall's congressional race.

### Tennessee: US Reps Face Primary Foes

In the 1<sup>st</sup> District (Johnson City, etc.), freshman US Rep. **David Davis** (R) will have an opponent in the August 7 Republican Primary. Johnson City Mayor **Phil Roe** (R), who came in third (17%) in 12-way primary in 2006 when the seat was vacant, has announced he will run again this year. The district has been Republican since the Civil War, when mountainous East Tennessee, with few slaves and no interest in secession, embraced the Republican Party. And in West Tennessee, in the 7<sup>th</sup> District (Brentwood, etc.), third-term US Rep. **Marsha Blackburn** (R) has a challenge from Shelby County (Memphis) Register of Deeds **Tom Leatherwood** (R). An estimated 44% of the district's Republican voters are in Shelby County, reports *The Tennessee Journal*, which makes Leatherwood's candidacy significant.

**President Bush** carried both districts in 2004, the 1<sup>st</sup> with 68% of the vote, the 7<sup>th</sup> with 66%.



## Texas 22: Hrbacek Endorses Sekula Gibbs

In Texas 22 (Sugar Land, etc.), where former Houston Councilwoman/former US Rep. **Shelley Sekula Gibbs** (R) faces former US Senate staffer **Pete Olson** in an April 8 Republican runoff, Sekula Gibbs got a surprising boost from the endorsement of **Dean Hrbacek**, the former Sugar Land Mayor who came in fourth in the March 4 first primary with 10%. Meanwhile, Olson secured the support of his former boss, US Sen. **John Cornyn** (R-TX), and twelve GOP members of the state's US House delegation, while Sekula Gibbs announced a list of 30 local officeholders and party officials who back her. In the first primary, Sekula Gibbs led with 30%, Olson was second with 21%. The Republican nominee faces US Rep. **Nick Lampson** (D) in November.

## Grits

**? North Carolina: Obama Ahead; Bill and Chelsea Stump State.** It's 49% for **Barack Obama**, 34% for **Hillary Clinton**, says the latest InsiderAdvantage poll announced last week. Nevertheless, Hillary's team is still pitching in the Tar Heel State. Husband **Bill** is stumping the state, making rapid-fire appearances in Hickory, Greensboro, High Point, Kannapolis and Salisbury on one recent trip, on April 5, on to Laurinburg, Monroe and Pembroke. Daughter **Chelsea** was in Raleigh Saturday before last, speaking to the state Young Democrats convention. Obama has also made several speeches in North Carolina recently, in Fayetteville and Greenville.

**? North Carolina: GOP Shrinking.** A recent survey by the Pew Research Center found that the number of Tar Heel voters who identify themselves as Republicans is declining significantly, from 35% in 2004 when Bush carried the state with 56% of the vote, to 26% in a poll taken in January and February of this year. In terms of how voters are actually registered, figures from the North Carolina

Board of Elections, as reported Raleigh's *News & Observer*, show that independents, who now account for 21% of registered voters, to 34% Republicans and 45% Democrats. That's a slight decline for both major parties since 2004 and a small but significant increase for "no party" voters.

**? Tennessee: Wilder, Herenton Retiring.** Two long-standing influential figures in Volunteer State politics announced their retirements last week. State Sen. **John Wilder** (D), 87, as speaker of the senate -- for the past 36 years -- has been the equivalent of the state's lieutenant governor. He has worked closely -- and been at odds -- with both sides of the aisle over the years. And in Memphis, Mayor **Willie Herenton**, a Democrat who has also, from time to time, cooperated with the GOP, said he will step down on July 31. He indicated he has other plans, but was not specific. There's speculation that Herenton, an African American, might challenge freshman US Rep. **Steve Cohen** (D), who is white in a 60% black district.

## ? Oklahoma: Affirmative Action on the Ballot?

A ban on affirmative action in hiring has passed in statewide referenda in three states (CA, MI & WA), is on the ballot this fall in another state (CO), and petitions are being circulated in four more states to get such a measure on the ballot (AZ, MO, NE & OK). Of interest, only one of these ten states is in the South. Southern state legislatures and courts have generally worked to keep these proposals off the ballot, wanting to avoid the racial divisiveness they often generate. Those favoring the ban in Oklahoma have turned in signatures, but there has been no confirmation that the issue will be on the ballot.

**? Arkansas: McCain, Clinton Strong.** If **John McCain** faces **Barack Obama** in November, McCain will get 43%, Obama 28% and **Ralph Nader** 3%, according to a University of Central Arkansas poll taken March 6-11 by Opinion Research Associates. But if McCain faces **Hillary Clinton**, the Razorback State's former First Lady carries the state with 51%, McCain gets 36% and Nader, once again, 3%.