

**The Second Reconstruction in Local Politics:
Alabama Grassroots Activists Fulfilling the Promise
of the Voting Rights Act, 1960-1990**

by

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Abstract

In arguing that historians expand the timeline for what is considered the modern civil rights movement, this dissertation examines how grassroots Alabama activists affiliated with the Alabama Democratic Conference carried the struggle for political equality forward on the local level after the enactment of the Voting Rights Act in 1965. This dissertation also argues that Alabama voting rights activists understood that change begins at the local level, and employed the Voting Rights Act in dismantling a variety of racially discriminatory laws and customs that governed political and electoral practices in their state. Many narratives of civil rights struggles have focused on national figures and institutions, such as Dr. Martin Luther King, President Johnson, the Congress, and the U.S. Supreme Court. This dissertation focuses, instead, on the local citizen-activists in Alabama who won hard-fought victories in voting rights by collaborating and utilizing connections with powerful leaders and institutions. Between 1960 and 1990, Alabama Democratic Conference activists succeeded in enfranchising most black citizens of Alabama. In the process, these political activists transformed Alabama's politics and the state electorate. This dissertation is the first narrative history of Alabama Democratic Conference activists' work to promote voting rights. The study of voting rights activism in Alabama between 1960 and 1990 demonstrates that the Second Reconstruction has achieved more successes than the First Reconstruction in sustaining voting rights for black Americans, while offering a context for understating how far yet the struggle for political equality in the South has to go.

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Table of Contents

Abstract.....	ii
Acknowledgments.....	iii
Introduction.....	1
Chapter 1: Fighting for the Promise: The Struggle for Fifteenth Amendment Rights, 1960-1975	17
Chapter 2: Still Waiting At Canaan’s Edge: New Trials in the Quest for Political Equality, 1975-1980.....	42
Chapter 3: Alabama Politics and Local Activists’ Role in Shaping the Voting Rights Act Renewal Debate, 1980-1981	67
Chapter 4: Renewing America’s Commitment to Political Equality: Alabama’s Role in Shaping the Voting Rights Act in the Age of Reagan, 1981-1983	109
Chapter 5: Leveling the Playing Field: Equal Access to the Local Voting and Election Process, 1984-1986.....	147
Chapter 6: Winning Political Equality on the Grassroots Level and the Emergence of the Second Reconstruction in Local Politics, 1985-1990	176
Conclusion	208
Bibliography	213

Introduction

From 1863 to 1877, Reconstruction was a national effort to preserve one of the central achievements of the Civil War: the principle that all American citizens possessed equal rights. Following the total abolition of slavery in the Thirteenth Amendment (1865), the Fourteenth (1868) and Fifteenth (1870) Amendments were the twin pillars of America's commitment to equal national citizenship and equal political rights for Americans no matter their race, color, or any other arbitrary factor.¹ On the local level in Alabama and other states of the former Confederacy, the national commitment to equal civil and political rights was largely stripped away following the period of so-called "Redemption" when the Ku Klux Klan and white supremacist Democratic Party politicians took control of state and local politics between the 1870s and 1890s.

Beginning with the cumulative poll tax laws in the 1870s, white southern Democrats began crafting laws in their states in a piecemeal fashion that J. Morgan Kousser describes as "a panoply of restrictive measures." White supremacist politicians devised these laws to deny black citizens a voice in local politics. As Kousser shows, "[e]ach state became in effect a laboratory for testing" the various disfranchisement measures, which included "registration and multiple box laws, the poll tax, the Australian ballot, and the educational qualification."² Indeed, as C. Vann Woodward shows us

¹ Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper and Row, 1988).

² J. Morgan Kousser, *The Shaping of Southern Politics: Suffrage Restriction and the Establishment of the One-Party South, 1880-1910* (New Haven, CT: Yale University Press, 1974), 39.

“there was a great deal of borrowing and interchange of ideas [regarding disfranchisement devices] throughout the South.”³

New state constitutions adopted between the late 1880s and early 1900s incorporated these vote-restricting laws into the structures of southern state governments. Under the new state constitutions in the former Confederate states, most blacks and poor whites found themselves ineligible to register and vote.⁴ Redeemer Democrats drafted the 1901 Alabama Constitution with the expressed purpose of disfranchising black Alabamians through the codification of poll taxes and unfairly administered literacy tests that granted absolute power over the voting rolls to the white people serving as registrars.⁵ Kousser explains that the “key disfranchising features of the Southern registration laws were the amount of discretion granted to the registrars, the specificity of the information required of the registrant, the times and places set for registration, and the requirement that a voter bring his registration certificate to the polling place.”⁶

Various political, economic, and social upheavals in the 1890s South, as well as the establishment of new state constitutions by white Redeemer Democrats, thwarted the possibilities for the emergence of a new southern society based on the principles of the Fourteenth and Fifteenth Amendments.⁷ For a time, prior to 1900, the United States had committed itself to the conviction that “[s]uffrage is a *right* and not a *privilege*—as much

³ C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford University Press, 1955), 83.

⁴ Kousser, *The Shaping of Southern Politics*, 62.

⁵ Glenn Feldman, *The Disfranchisement Myth: Poor Whites and Suffrage Restriction in Alabama* (Athens: University of Georgia Press, 2010), 108-125.

⁶ Kousser, *The Shaping of Southern Politics*, 48.

⁷ Woodward, *The Strange Career of Jim Crow*, 31-109. Joel Williamson, *The Crucible of Race: Black-White Relations in the American South since Emancipation* (New York: Oxford University Press, 1984).

a right as life, liberty or property—a right not to be limited and not to be restricted.”⁸

After years of experimentation and contestation, white Democratic elites in the South had won. For they knew, just as their black neighbors, that “[s]uffrage is the political means of self-defense, and the disfranchised man is, or soon will be a slave.”⁹ With the advantages in their arsenal, Redeemer Democrats did ultimately succeed in politically marginalizing black southerners for the first few decades of the twentieth century. But African Americans across the South and the nation persisted, formed their own culture of self-politics, and pointed America to the way of freedom during the Second Reconstruction in post-World War II America.

The history of the twentieth-century black freedom struggle, which C. Vann Woodward termed the Second Reconstruction, extends back as far as the end of the First Reconstruction. This struggle for freedom peaked in the 1950s and 1960s, and careful study of the civil rights movement shows us that it was local citizen-activists that fought for and won their civil rights in cities and towns across the South.¹⁰ The Second Reconstruction would have to be made a reality through the efforts of citizens on the local level in the years following the 1960s even though it has been often assumed that

⁸ This is from a quote of Republican members of the 1870 Tennessee Constitutional Convention found in Kousser, *The Shaping of Southern Politics*, 256.

⁹ This is from a quote of Republican members of the 1870 Tennessee Constitutional Convention found in Kousser, *The Shaping of Southern Politics*, 256.

¹⁰ William Chafe, *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (New York: Oxford University Press, 1981); Robert J. Norrell, *Reaping the Whirlwind: The Civil Rights Movement in Tuskegee* (New York, Alfred A. Knopf, 1985); John Dittmer, *Local People: The Struggle for Civil Rights in Mississippi* (Chicago: University of Illinois Press, 1995); Charles Payne, *I've Got the Light of Freedom: The Organizing Tradition and the Mississippi Freedom Struggle* (Berkeley: University of California Press, 1997); Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana, 1915-1972* (Athens: University of Georgia Press, 1999); J. Mills Thornton III, *Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma* (Tuscaloosa: University of Alabama Press, 2002); David C. Carter, *The Music Has Gone Out of the Movement: Civil Rights and the Johnson Administration, 1965-1968* (Chapel Hill: University of North Carolina Press, 2008). Hasan Jefferies, *Bloody Lowndes: Civil Rights and Black Power in Alabama's Black Belt* (New York: New York University Press, 2010).

the Civil Rights Act of 1964 and the Voting Rights Act of 1965 marked the culmination of the modern civil rights movement. Just as southern white supremacists had, during the 1870s to early 1900s, passed local laws redefining who was truly a citizen and possessed rights to participate fully in politics and society, now again in the four decades following the Second World War, it would be left to local citizens to fight for freedom, and their struggles would define what America's commitment to equal political rights for all Americans would actually mean.

To be sure, the enactment of the Voting Rights Act of 1965 was a critical moment in the continuing quest for fairness in the political system and equal citizenship rights for all Americans. President Lyndon B. Johnson helped push through the Congress a law that did more than merely promise voting rights to black Americans.¹¹ In the Voting Rights Act, President Johnson and civil rights leaders had devised a law that gave citizens at the local level mechanisms to protect their suffrage rights. Civil rights activists in Selma, Alabama aided the Johnson White House in their efforts and persuaded the nation that fairness in the political system was still not a reality for many Americans in local areas across the South.¹² At the signing ceremony of the Voting Rights Act President Johnson exclaimed, "This law covers many pages, but the heart of the act is plain. Wherever, by clear and objective standards, states and counties are using regulations, or laws, or tests to deny the right to vote, they will be struck down."¹³ Section 2 of the Voting Rights secured protections for suffrage rights, restating the original intent of the

¹¹ Steven F. Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (New York: Columbia University Press, 1976). Steven F. Lawson, *In Pursuit of Power: Southern Blacks and Electoral Politics, 1965-1982* (New York: Columbia University Press, 1985).

¹² David Garrow, *Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965* (New Haven, CT: Yale University Press, 1978).

¹³ Lyndon Baines Johnson, "Remarks in the Capitol Rotunda at the Signing of the Voting Rights Act," 6 August 1965, in *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*.

Fifteenth Amendment, while as Section 5 gave the Federal government oversight of the voter registration and election processes in former Confederate states and any places that had a history of voter discrimination. Section 5 also gave the United States Justice Department the authority to “preclear” any changes in electoral law in the states with troubled pasts in voting and elections.

The Voting Rights Act of 1965 was an initial step toward securing full and equal voting rights as the number of black voters registered increased by as much as ten times in one state.¹⁴ In Alabama in 1965, 81 percent of voting-age African Americans were not registered.¹⁵ In both Wilcox County, Alabama, which was 68 percent black, and Lowndes County, Alabama, which was 80 percent black, not a single African American was registered to vote in 1965. Yet by 1967, 52 percent of African Americans in Alabama had registered to vote.¹⁶ Over the next few decades after the passage of the Voting Rights Act, many places also saw an increase in the percentage of white voters registered and a decline in politicians employing “white supremacist rhetoric in most areas of the South.”¹⁷ As voting began becoming more equalized, the blatant racism that had dominated politics in the South prior to 1965 gave way to more subtle and crafty attempts to maintain at least a white advantage, if not complete white supremacy, in local electoral process by the 1980s.¹⁸ Thus, political activists’ struggles to fully secure voting

¹⁴ Mississippi, the “closed society,” saw the most dramatic increase in the percentage of African Americans on the registered voter rolls in the state following the passage of the Voting Rights Act of 1965.

¹⁵ Chandler Davidson and Bernard Grofman, eds., *Quiet Revolution in the South* (Princeton, NJ: Princeton University Press, 1994), 38.

¹⁶ Davidson and Grofman, eds., *Quiet Revolution in the South*, 38.

¹⁷ Davidson and Grofman, eds., *Quiet Revolution in the South*, 38.

¹⁸ See for example, Frank R. Parker, *Black Votes Count: Political Empowerment in Mississippi after 1965* (Chapel Hill: University of North Carolina Press, 1990), 34-77; 130-166. Also, Dan T. Carter examines the role of white “backlash” political culture and the use of “code words” by politicians, one of the first and foremost being former Alabama Governor George C. Wallace, who wish to manipulate passions of racist whites who resent black people gaining equal rights. See Dan T. Carter, *The Politics of*

rights and their efforts to shape the formulation of voting rights policy offer historians a way to think about the ongoing struggle for civil rights and racial justice in America that extends beyond the enactment of federal laws.

When enforced, the Voting Rights Act had a hugely positive impact on voting rights for African Americans in Alabama and all across the South. Poll taxes, literacy tests, as well as fraudulent registering and vote-counting procedures were all obstacles to those who were not in the privileged classes that controlled the power structure of the former Confederate states. Even after the Voting Rights Act had been in place for fifteen years, there were still many in the Alabama Legislature and other positions of power who manipulated laws to disenfranchise black citizens, just as the “Big Mules” and Old South elites had done after Reconstruction when the 1901 Alabama Constitution stripped black Alabamians and many of the poorest whites in the state of their political rights.¹⁹

Steven F. Lawson has been the most prolific scholar of the Voting Rights Act and recent efforts to fulfill the promise of the Fifteenth Amendment. Lawson has rightly characterized the 1965 Voting Rights Act as the beginning of a continuing process of making political equality a reality, while also noting that after the enactment of the law, many social, economic, and political obstacles remained for black southerners. Although national laws ensuring political equality are only a first step, Lawson’s extensive research reveals how significant a step those regulations have been. As Lawson explains, the

Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics (Baton Rouge: Louisiana State University Press, 1995) as well as his *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1996).

¹⁹ William Warren Rogers, Robert David Ward, Leah Rawls Atkins, and Wayne Flynt, *Alabama: The History of a Deep South State* (Tuscaloosa: University of Alabama Press, 1994), 343-354.

effects of the Voting Rights Act brought forth a “new day” for the South, but it did not “topple the remaining walls of racism and economic oppression.”²⁰ Lawson’s first book, *Black Ballots*, offers a summary of injustices African Americans faced from Reconstruction to the 1930s, but its primary focus is the 1940s through 1960s. Lawson shows that in numerous cases on the federal, state, and local level, institutional power structures that favor whites were often the greatest obstacles that voting rights advocates had to overcome. In his analysis of voting rights legislation passed between the years 1957 and 1965, Lawson provides a largely Washington-centered perspective. This is important, as he evaluates the reasons for presidents’ positions on these bills and why certain members of Congress were more or less supportive of measures to further voting rights. In his analysis, Lawson does not discuss many of the local organizations and individuals who laid the groundwork for strong appeals to enact meaningful voting rights protections in 1965. Two years after the publication of *Black Ballots*, David Garrow offered a compelling account of the interactions between local activists in Selma, Alabama and the policy makers in Washington.²¹ Lawyers in the Civil Rights division of the Justice Department had been preparing legislation many months prior to the Selma voting rights campaign in March of 1965. Brian K. Landsberg, who was one of the attorneys in the Civil Rights Division, explains how he and his colleagues spent hours researching and reviewing federal court cases that originated in Alabama in an effort to construct a new voting rights law that would circumvent the efforts of Alabama’s federal judges to resist blacks’ attempts to gain political equality.²² Although President Johnson

²⁰ Steven F. Lawson, *Black Ballots*, 352.

²¹ Garrow, *Protest At Selma*.

²² Brian K. Landsberg, *Free At Last to Vote: The Alabama Origins of the 1965 Voting Rights Act* (Lawrence: University of Kansas Press, 2007).

deserves much credit, sometimes it appears that Lawson has put too much attention on the national developments, such as when he argues that “Lyndon Johnson had started a quiet political upheaval in the South.”²³ This dissertation argues that progress for political equality always began at the grassroots with the efforts of local citizen-activists. Too many narratives of civil rights struggles have focused on national figures and institutions, such as Dr. Martin Luther King, President Johnson, the Congress, and the U.S. Supreme Court. Also, many accounts of the civil rights movement end precisely when this dissertation argues some of the most arduous struggles for making equality a practical reality in the official and political structures of many states and localities was only beginning. In the midst of a growing national conservatism in the 1980s, local citizen-activists fought to make the promises of the 1960s civil rights movement effective in reshaping their state’s politics. In the process, these political activists knew that the federal government—the courts, the U.S. Justice Department, some presidents, and some members of Congress—could be an effective ally.

Lawson’s second book, *In Pursuit of Power*, looks at the critical years immediately following the passage of the Voting Rights Act up to 1982, the year that Congress renewed the act for the third time with significant elaborations on the meaning of the law. Federal oversight by the Justice Department during the years 1965-1982 is characterized by Lawson as “a cautious brand of affirmative action on black suffrage advancement.”²⁴ When the Congress renewed Voting Rights Act and President Reagan signed it in 1982—this will be discussed at length in this dissertation—voting rights activists had won a hard-fought victory. The final version of the 1982 bill featured a

²³ Lawson, *Black Ballots*, 328.

²⁴ Lawson, *In Pursuit of Power*, 300. Also cited in Steven F. Lawson, *Civil Rights Crossroads: Nation Community, and the Black Freedom Struggle* (Lexington: University of Kentucky Press, 2003), 131.

twenty-five year extension of Section 5 and a strengthening of the language in Section 2 that specifically protected every individual citizen's right to vote.²⁵ With a resurgence of conservatism in the national political climate during the 1980s and 1990s, the 1982 renewal of the Voting Rights Act proved to be a critical turning point in preserving the right to vote for African Americans. Since 1965, some white southern political leaders had devised new and more subtle forms of disenfranchising black voters. By the renewed Voting Rights Act of 1982, local activists could begin tearing down the institutional structures that had, since the end of the First Reconstruction, thwarted black citizens' right to vote.

Following the renewal of the Voting Rights Act in 1982, Abigail Thernstrom wrote a critique and historical analysis of the changes in voting rights law over two decades. In her book, Thernstrom argues that the Voting Rights Act of 1965 was designed to guarantee fair and equal access to the ballot box for African Americans, nothing more and nothing less. She believes that the original meaning of the Voting Rights Act has been distorted by civil rights activists and incorrect judicial interpretations. Thernstrom asks, "how much special protection from white competition are black candidates entitled to?"²⁶ She argues that since the federal government has passed laws guaranteeing the protection of civil rights, that America must move forward and begin living in a "race neutral" society. Thernstrom's argument assumes that once laws are passed to enforce racial fairness, the 300-year history of racism in America is no longer relevant.

²⁵ Lawson, *In Pursuit of Power*, 288-293.

²⁶ Abigail M. Thernstrom, *Whose Votes Count?: Affirmative Action and Minority Voting Rights* (Cambridge: Harvard University Press, 1987), 5.

In response to Thernstrom, Frank R. Parker published *Black Votes Count*, which examines the extent to which the Voting Rights Act of 1965 was effectively implemented through an investigation into the actions of white political leaders in Mississippi. Echoing the founder of southern political studies, V. O. Key, Parker argues that all of southern political history “is the history of racial suppression of the black vote.”²⁷ As Parkers explains, in 1966 Mississippi state legislators began to alter political structures in an attempt to weaken the impact of black citizens’ votes in local and Congressional elections. At the county level, white legislators in Mississippi manipulated local election laws to give white voters advantages, while diluting black voters’ voices in state and local politics. Parker also shows that white Mississippi political leaders redrew Congressional district lines to ensure that blacks could not elect a black U.S. Representative in the state. These election law changes were, Parker argues, simply the latest form of white massive resistance to blacks gaining political power. Parker explains that in Mississippi politics, white political leaders understood the advantages they held, and in case after case many white politicians manipulated the institutions of the state and the attitudes of white Mississippians in an attempt to diminish the efficacy of the Voting Rights Act. In the face of recalcitrant local political leaders in Mississippi, it would take the federal courts to correct the voting rights violations that Parker discusses. Parker aptly demonstrates that “[f]ull judicial protection against minority dilution has been critical to ensuring representative government and the proper functioning of the democratic process.”²⁸

²⁷ Parker, *Black Votes Count*, 194. V. O. Key, *Southern Politics in State and Nation* (New York: Vintage Books, 1949).

²⁸ Parker, *Black Votes Count*, 11.

J. Morgan Kousser followed his study of post-Reconstruction disfranchisement in the South with an examination of how voting rights protections have evolved since the passage of the 1965 Voting Rights Act. Kousser compares the decades following the ratification of the Fourteenth and Fifteenth Amendments with the decades following the Voting Rights Act. Why would we discontinue a policy, Kousser asks, until there is clear evidence that elections and laws regarding elections had no racial considerations in every part of the country? History attests to the troubled relationship between race and the ideals this nation claims to stand for. Therefore, Kousser argues, history must inform our positions on the critical policy issues that determine the extent to which all Americans are guaranteed their rights and, specifically, the right to vote, which is the most fundamental right of citizens in a democracy. Kousser catalogues the failures of protecting voting rights from the rulings in the *Cruikshank* case and similar cases from the 1870s to 1890s. In these cases, the Supreme Court essentially stated that the federal government could not protect Fourteenth and Fifteenth Amendment rights at the local level.²⁹ Thus, the First Reconstruction was effectively gutted by the failure of the Supreme Court to uphold the laws passed to ensure guarantees of citizenship to African Americans.³⁰

The Second Reconstruction, by the 1960s, began to implement the changes that were supposed to be fulfilled in the first one, but beginning in the 1990s, Kousser argues, “[r]acial ideologues” hoping to reduce the influence of minorities in politics “have willfully distorted the history of [the Second Reconstruction] . . . as well as of the

²⁹ J. Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999), 50-52.

³⁰ Kousser, *Colorblind Injustice*, Chapter 1: “The Voting Rights Act and the Two Reconstructions.”

nineteenth century.”³¹ Kousser argues that the hope of a true Reconstruction in southern politics remains incomplete and is besieged by the emergence of the New Right in American politics during the 1980s and 1990s. Dan T. Carter explains the connections between race and the rise of the New Right in recent American politics. Carter writes that “[i]n its crudest manifestations, this “New Right” [which found its roots in views of Alabama Governor George Wallace] represented a return to some of the more unsavory aspects of American history: nativism, anti-Semitism, and overt racism.”³² Kousser argues that some neo-conservatives’ interpretations of the Voting Rights Act threaten to undo the protections that are still needed so that history does not repeat itself in denying African Americans their fundamental civil rights. As Kousser explains, public policy decisions and judicial interpretations are informed by how individual decision-makers understand the past. In hopes of preserving the Second Reconstruction, Kousser calls for “a proper understanding of history [in the] . . . the development of good public policy,” adding that “[t]oo much public policy is justified on the basis of casual analogies, crude caricatures of facts and trends, and ignorance, willful or otherwise, of even the immediate past.”³³

This dissertation argues that local activists in Alabama, especially during the 1980s, carried on the struggle to fulfill the Second Reconstruction and made the promises of the Fifteenth Amendment, and its reiteration in the Voting Rights Act, a reality. Through their efforts, these local citizens forged a concrete definition of political equality. In light of the successes of local activists in Alabama, it could be argued that

³¹ Kousser, *Colorblind Injustice*, 53.

³² Dan T. Carter, *George Wallace, The Origins of the New Conservatism, and the Transformation of American Politics*, 296. Also See Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004), 204-213, 225-235.

³³ Kousser, *Colorblind Injustice*, 8.

the Voting Rights Act has been a more effective weapon than the Civil Rights Act in combating racial injustice in the United States.

This dissertation focuses on the shaping of voting rights policy on the local level by citizen-activists affiliated with the Alabama Democratic Conference (ADC). The ADC is the South's most influential state-wide organization committed to electing African Americans to political office, protecting fair elections and equal access to the ballot, and promoting legislation that addresses concerns of black people. Once the Voting Rights Act became law in 1965, the real struggle began for many citizens in their hometowns all across the South. Armed with the protections and guarantees of the Voting Rights Act and some key allies in Alabama politics and the federal government, ADC activists had to fight to make the purpose of the Voting Rights Act a reality in Alabama. In describing the process of winning suffrage rights at the local level, Jerome A. Gray, the long-time ADC state field director, draws from Taylor Branch's metaphor in saying that after the passage of civil rights legislation of the 1960s and Dr. Martin Luther King's assassination in 1968, civil rights activists were "at Canaan's edge."³⁴ In Alabama, it was left to ADC activists to carry the state forward into the "Promised Land" of racial justice and political equality. And, as Gray is quick to note, the journey into the land of justice is still ongoing today. This dissertation will explore how ADC activists promoted suffrage rights for black citizens, fought to secure the renewal of the Voting Rights Act in 1981-1982, and shaped the debate in securing continued protections for fair voting and election practices.

³⁴ Taylor Branch, *At Canaan's Edge: America in the King Years, 1965-1968* (New York: Simon and Schuster, 2007).

The first chapter tells the story of the development of the ADC as an organization from its beginnings in 1960 with an examination of the voting rights activism of the organization to the mid-1970s. This chapter introduces many of ADC's leaders and activists and their role in shaping the vision, mission, and successes of the ADC in its first years of existence.

The second chapter looks at some transformations in Alabama politics following the passage of the Voting Rights Act of 1965. This chapter analyzes the role of local activists in making the promises of the Voting Rights Act a reality on the ground-level in Alabama. This chapter shows ADC activists engaged in grassroots efforts to mobilize black voters and increase participation at the polls on election days, get African Americans appointed to influential positions such as federal judgeships, and legal challenges to institutionalized racism as reflected in local election and districting schemes in various locations throughout the state of Alabama. The U.S. Supreme Court case *City of Mobile v. Bolden* (1980) was a legal contest over an at-large districting scheme that ADC activists and others brought to national attention. This case offers a context for understanding the role of Alabama activists in shaping the debate over the renewal of the Voting Rights Act in 1981-1982.

The third chapter examines the role of ADC leaders in recruiting the U.S. House of Representatives Judiciary Subcommittee on Civil and Constitutional Rights to hold its only national on-site hearing dealing with African American voting rights in Montgomery, Alabama. This chapter reveals the significance of the hearings, which were held in June of 1981, as well as how the ADC organized and prepared for the hearings, the media's coverage of the hearings, and how the testimonies of the witnesses

at these hearings recast the Voting Rights Act renewal debate. The individuals and their testimonies at these hearings persuaded U.S. Representative Henry Hyde (R-IL) to support the renewal of Section 5, which most conservatives had been arguing should be discontinued. Following the Montgomery hearings, the renewal of Section 5 became less controversial, and this allowed for advocates of voting rights to focus on strengthening Section 2 in the revised version of the Voting Rights Act.

Chapter four analyzes the impact of ADC activists' voting rights marches in 1981, and looks at how the U.S. Senate responded to the U.S. House's bill with the new emphasis on strengthening the protections in Section 2. The Republican-controlled Senate and the Reagan White House hoped to scale back the proposed language in Section 2 that would allow advocates of voting rights more power to thwart the increasingly subtle and deeply entrenched forms of disfranchisement that had been constructed by state and local governing bodies during and before the 1950s and 1960s. Due to the efforts of the ADC, by the time the U.S. Senate began officially dealing with the Voting Rights Act renewal in January of 1982, much of the battle for securing and strengthening the Act had been won. Many national organizations, such as the NAACP and Southern Regional Council, played a part in the making of this legislation, but the ADC played a decisive role in shaping the early debate and recasting the focus from Section 5 to Section 2. How the revised version of the Voting Rights Act impacted Alabama politics in the early 1980s is also explained in chapter four.

Chapters five and six show how ADC activists turned the renewed Voting Rights Act into a weapon to combat persistent political inequality in Alabama after 1982. The ADC was able to use the strengthened voting rights law to successfully challenge a state

legislative districting plan as well as some local at-large election schemes. Also, the ADC applied the Voting Rights Act in securing more deputy registrars and poll officials. In advocating for political justice, the ADC helped to strengthen national protections of voting rights while also making Alabama's political system more democratic by working to ensure that all Alabamians had equitable opportunities to exercise their political rights.

The renewal of the Voting Rights Act in 1982 was a critical turning-point in civil rights legislative history that—had things not turned out as they did—could have been the beginning of reversing some of the gains made in voting rights since 1965. Instead, the renewed version of the Voting Rights Act resulted in a strengthening of voting protections, and it contributed to the election of more African Americans to political offices than ever before in United States history. ADC political activists were a major part of ensuring the renewal and strengthening of the Voting Rights Act, and following the Voting Rights Act's renewal, the ADC's political activism in partnership with powerful allies in federal and state politics helped make Alabama the state with the highest proportion of black elected officials in the nation.

Chapter 1: Fighting for the Promise: The Struggle for Fifteenth Amendment Rights, 1960-1975

“Our whole effort has been a struggle—it’s been a fight—we were fighting night and day.”
-Dr. Joe L. Reed, Chairman of the Alabama Democratic Conference (1970—present)³⁵

“[T]he mission of ADC politically—[is] just staying at it, just chipping away at the barriers and obstacles to black voter participation and representation in the state of Alabama. Even though in the early years of the civil rights movement there were organizations like SCLC, which got more attention because of Dr. King’s presence, behind the scenes the men and women of ADC were doing the difficult work at the local level.”

-Jerome A. Gray, state field director, Alabama Democratic Conference³⁶

The ADC was organized in 1960 to support the presidential ticket of John F. Kennedy and Lyndon B. Johnson. The ADC grew and expanded in the years after 1960 to become the most influential statewide black political organization in the nation. Central to the ADC’s mission since its inception has been the fulfillment of the promise of the Fifteenth Amendment and the realization of political equality in Alabama and the United States. Local activists, such as Rufus Lewis, Q. D. Adams, C. T. Gomillion, Joe Reed, and Jerome Gray, were schooled in the crucible of the civil rights movement in Alabama and applied the lessons they learned in building the ADC. This chapter introduces the ADC organization as well as ADC activists and their tactics to promote equal voting rights for black people in Alabama during the 1960s and 1970s. Through their struggles for fairness, these political activists transformed the ADC into a major power broker.

³⁵ Dr. Joe L. Reed, interview by author, Montgomery, AL, 8 February 2012.

³⁶ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005. Also in a phone conversation Mr. Gray recalled ADC activist Maggie Bozeman, who testified before the U.S. House subcommittee in Montgomery in 1981. She was known for reminding people that “you’ve got to do it locally” instead of waiting for national organizations or the federal government to secure political equality. Jerome A. Gray, phone conversation, 14 March 2011.

Jerome A. Gray, a veteran political activist and ADC's longtime state field director, recalls the origins of ADC saying that "the way the old-timers tell it, there was a guy named Louis Martin" who worked closely with those who founded ADC.³⁷ Martin was a respected journalist and was considered by many to be the "godfather of black politics," and he served as a Kennedy campaign operative. The Kennedy campaign charged Louis Martin with the task of organizing all southern black leaders and political activists. Martin organized a meeting in the summer of 1960 at Paschal's Restaurant in Atlanta, Georgia. Paschal's was a meeting place for "the black bourgeoisie" and became a frequent location for strategic meetings of civil rights leaders including Dr. Martin Luther King, Jr. In the final months before the 1960 general election, polls indicated that Kennedy and Nixon were running neck-and-neck. At the Atlanta meeting, Gray recalls, "Martin challenged all the southern black Democrats who came to go back to their respective states and to organize and turn out the black vote."³⁸ Since this was prior to the passage of the Voting Rights Act of 1965, the number of black voters across the South was proportionally very low. After the end of Reconstruction in Alabama, politicians of the white-supremacist Democratic Party devised a host of schemes and legal obstacles that were still keeping the overwhelming majority of black citizens from registering to vote. Alabama was without a doubt "at the heart of the resistance to minority voting rights. Only nineteen percent of the black voting-age population was

³⁷ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

³⁸ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

registered prior to the Voting Rights Act, making Alabama the state with “the lowest proportion in the South except for Mississippi.”³⁹

ADC’s rapid emergence during the 1960 campaign was made possible by a network of local black political organizations that had been founded in the first few decades of the twentieth century. In various counties across Alabama, African Americans had organized “voters’ leagues, civic leagues, improvement associations,” Gray recalls.⁴⁰ It was these groups that provided the men and women who went to Atlanta for Martin’s meeting. One such group was the Etowah County Voters’ League, also known as the Citizen Improvement League.⁴¹ Chairman of the League Q. D. Adams wrote that local activists founded the organization 1938 “for the purposes of encouraging and assisting our citizens in getting involved in the electoral process and exercising the right to vote for the community’s best interest.”⁴² Many other local suffrage groups in Alabama like the Etowah County Voters’ League became the strands that threaded the ADC’s state-wide political network together.

Adams was one of the six founders of the ADC in 1960, and, as Gray remembers, he was highly regarded as a “griot and political philosopher.”⁴³ After the U.S. Supreme Court’s 1944 *Smith v. Allwright* decision outlawing the all-white Democratic primary elections that had been established by the so-called “Redeemers” of the post-Reconstruction, white-supremacist Alabama Democratic Party, energized black suffrage

³⁹ McCrary, Peyton, Jerome A. Gray, Edward Still, and Huey L. Perry. Alabama. In *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, ed. Chandler Davidson and Bernard Grofman (Princeton: Princeton University Press, 1994), 38.

⁴⁰ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁴¹ Statement of introduction to the organization by Chairman Q. D. Adams, Dr. Q. D. Adams Papers, Box 1: folder 6, Alabama State University Library, Montgomery.

⁴² Statement of introduction to the organization by Chairman Q. D. Adams, Dr. Q. D. Adams Papers, Box 1: folder 6, Alabama State University Library, Montgomery.

⁴³ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

activists began to see that the federal government could serve as a potent ally in the struggle to fulfill the promise made in the Fifteenth Amendment. All across Alabama, black activists formed organizations like the Etowah County Voters' League before and after the *Smith v. Allwright* decision to challenge the persistence of disfranchisement. Many Alabama black "veterans, educators, and civic leaders led these organizations" to overcome the complex and ever-changing barriers of disfranchisement. These activists also focused on educating black Alabamians about the political process. Without the energy and skills of these black citizens and their local organizations, the rapid rise of the ADC would not have been possible.⁴⁴ Early ADC leaders observed that national politics was relevant to their hopes and their efforts.

Another founder of the ADC was Arthur Shores from Birmingham. He was a respected black attorney, and he served as the first chairman of the ADC. Shores was later elected the first black city council member in Birmingham. Also, Shores was widely considered "the dean of black lawyers in the state," according to Gray, and he was known for his work as the lawyer who tried to get a young black woman named Autherine Lucy admitted to the University of Alabama in 1955-1956.⁴⁵

Rufus Lewis from Montgomery also helped found the ADC, and he would later become the third chairman from 1964-1970. Lewis was a funeral home director, a coach at Alabama State University, and a librarian, who received his training at Fisk University. At the outset Lewis and ADC leaders focused on two things: first, they worked to "connect the loose association of all the different county groups and organizations," such as the local voters' leagues, to the statewide ADC and, second, "they focused on voter

⁴⁴ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁴⁵ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

registration.”⁴⁶ ADC worked to get as many black Alabamians registered as possible. Rufus Lewis was known as “the guru” when it came to voter registration, education, and mobilization. “The thing that was so remarkable about Lewis,” Gray recalls, “was that every person that he registered to vote or made contact with trying to get them to vote, he kept an index card on them. His index card file is phenomenal, and all that goes back to his training as a librarian,” Gray explains.⁴⁷ Gray fondly remembers Lewis’s persistence, “he would go a country mile to try to get a new voter.”⁴⁸ He organized and led citizenship schools and classes for college students and others to emphasize the importance of participation in the political process. Also, Lewis owned and operated a nightclub in Montgomery called the Citizens’ Club. True to his passion for electoral participation, Lewis mandated that to “become a member of his Citizens’ Club you had to register to vote if you had not done so already.”⁴⁹ Prior to the passage of the Voting Rights Act in 1965, Lewis was one of ADC’s leading advocates for black voter registration. He led a number of county-wide voter registration drives in Montgomery County and taught other activists across Alabama how to organize and conduct campaigns for registration. In a 1961 letter to supporters of African American citizenship rights, he noted that the first “County-Wide Registration Drive” was a success, and called on recipients to build on that success.⁵⁰ Also in the letter he offered practical advice and reminded his readers “Many persons doing just a little: but each doing well his or her

⁴⁶ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁴⁷ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁴⁸ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁴⁹ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁵⁰ Letter from Rufus A. Lewis, April 9, 1961. Rufus A. Lewis Papers, Box 15, Trenholm State Technical College Library, Montgomery, Alabama.

assignment will accomplish much.”⁵¹ Lewis brought to the ADC a long personal history of advocating for black political influence. In the 1950s he had led numerous “Voter’s Instruction Clinics” that educated potential voters how to navigate the tricky process of passing qualifying examinations and paying poll taxes, among other things. The message of these clinics has remained a central theme of the ADC through the present: if a person wants to be a “first class citizen,” he or she must be a voter.⁵²

Also among the ADC’s founders was a college professor, Dr. C. T. Gomillion, of Tuskegee Institute. He was the first treasurer of the ADC and was a leader in organizing many of the county-level organizations of ADC.⁵³ Dr. Gomillion is most well-known as the lead plaintiff in the *Gomillion v. Lightfoot* U.S. Supreme Court case in 1960. Black lawyer Fred Gray tried the case. Gomillion and his associates in the Tuskegee Civic Association sued the white supremacist Mayor Lightfoot of Tuskegee for his gerrymandering of city council districts in an effort to deny blacks their citizenship rights guaranteed by the Fifteenth Amendment.⁵⁴ This was one of the first redistricting cases that considered the issue of racist motivations in the constructing of electoral district lines. The Supreme Court ruled in favor of Gomillion and the plaintiffs that their voting rights had been abridged by an intentional gerrymander. This was a major decision as the Court took into consideration the ““inevitable effect of legislation.”⁵⁵ It was also important because “it set a precedent for the Court’s negating a political boundary fixed

⁵¹ Letter from Rufus A. Lewis, April 9, 1961. Rufus A. Lewis Papers, Box 15, Trenholm State Technical College Library, Montgomery, Alabama.

⁵² Invitation to a Voter’s Instruction Clinic. Rufus A. Lewis Papers, Box 15, Trenholm State Technical College Library, Montgomery, Alabama.

⁵³ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁵⁴ Jeff Norrell, *Reaping the Whirlwind: The Civil Rights Movement in Tuskegee* (New York: Alfred A. Knopf, 1985), 118.

⁵⁵ Norrell, *Reaping the Whirlwind*, 124.

by state political leaders.”⁵⁶ As such, the *Gomillion* case laid the groundwork for overturning malapportioned legislative districts in subsequent cases, *Baker v. Carr* (1962) and *Reynolds v. Sims* (1964). Collectively these court rulings began a process that continued over the next several decades for legislative reapportionment that would eventually end “rural areas’ dominance of state governments in the South.”⁵⁷ From an early age *Gomillion*’s motto was “Keep Everlastingly At It.”⁵⁸ *Gomillion*’s motto, according to Gray, sums up

the mission of ADC politically—just staying at it, just chipping away at the barriers and obstacles to black voter participation and representation in the state of Alabama. Even though in the early years of the civil rights movement there were organizations like SCLC, which got more attention because of Dr. King’s presence, behind the scenes the men and women of ADC were doing the difficult work at the local level.⁵⁹

Gray also recalls that ADC founders were a “diverse group” representing urban and rural areas of Alabama as well as differing geographic locations of the state. Beulah Johnson, an educator in Tuskegee, was the lone female among the founders of ADC. One of Ms. Johnson’s close friends, Isom Clemon, was a founder of ADC. Clemon was a labor leader in Mobile. These six political activists—Shores, Adams, Lewis, *Gomillion*, Johnson, and Clemon—were the founders and early leadership team of ADC.⁶⁰ The leaders were, according to Gray, “like circuit riders. They went into counties and met with leaders of different voters’ leagues and civic associations to incorporate these organizations into the ADC.”⁶¹

⁵⁶ Norrell, *Reaping the Whirlwind*, 124.

⁵⁷ Norrell, *Reaping the Whirlwind*, 124.

⁵⁸ Norrell, *Reaping the Whirlwind*, 31.

⁵⁹ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁶⁰ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁶¹ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

The history of the ADC attests to the tenacity, cleverness, and vision of the political activists who gave their energies and talents to the organization. In the 1950s and 1960s, as white leaders in Alabama were adjusting their tactics and devising new schemes to limit black political participation, ADC activists were putting together a powerful network committed to ending decades of disfranchisement. “After the whites-only primary was struck down,” Gray remembers, “Alabama’s white politicians came up with the Boswell Amendment that required those desiring to register to vote to interpret the Constitution—it was another form of a literacy test since you had to prove you could read and understand the Constitution.”⁶² This sort of action was nothing new for Alabama politicians. It was a pattern in Alabama and other former Confederate states, and Gray recollects numerous instances and stories from black Alabamians who have experienced the obstinacy of white political leaders—as soon as the law was changed to favor political equality for black citizens “then here they come with something else,” Gray recalls.⁶³

The fact that the Kennedy-Johnson ticket took five of Alabama’s eleven electoral votes in 1960 was a shot in the arm to the ADC.⁶⁴ ADC members had worked hard to turn out as many black voters that were registered in Alabama for the 1960 election, and this victory, Gray recalls, “jump-started the statewide organization.” Building on the momentum from the 1960 campaign, “one of the first things that ADC activists began to work on was to try to become officially part of the Alabama Democratic Party.”⁶⁵ ADC

⁶² Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁶³ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

⁶⁴ Alabama’s six remaining electoral votes were not cast for Republican Richard Nixon, but instead went to Harry F. Byrd for President and Strom Thurmond for Vice-President, both of whom were ardently segregationist U.S. senators from fellow southern states.

⁶⁵ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

activists' efforts to be recognized by the state Party were crucial to strengthening the political efficacy of the ADC, as blacks still were not allowed to be participants in the Alabama Democratic Party, and therefore were not able to serve as delegates to the Party's national convention. By 1964, as ADC members had officially become part of the state Democratic Party, one of the first things they advocated for was ridding the party logo of the racist slogan "White Supremacy for the Right." Replacing that slogan with the support of ADC members was the new motto: "Democrats for the Right."⁶⁶ "It was almost like removing the Confederate flag," Gray remembers. Alabama Democratic Party Chairman Bob Vance and his faction supported ADC's move to get rid of the racist slogan of the state Democratic Party. As Gray recollects, this was a critical first step as "gradually blacks began to actually go to the national convention and be delegates and began to feel that they were players" in the political process.⁶⁷ Vance was a progressive leader for the Alabama Democratic Party, embracing the civil rights movement and hoping to make his political party become an advocate in Alabama for upholding the recently enacted Civil Rights Act of 1964 and Voting Rights Act of 1965. The *Southern Courier* pointed out the significance of Vance choosing to give an address to the semi-annual convention of the ADC in 1966. At this meeting, which was held in Montgomery, Vance had taken a bold step for a white Alabama political leader: he was "the first chairman of the Alabama Democratic Executive Committee ever to speak to a Negro

⁶⁶ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005. Also see pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery. Sample Alabama Ballots from election years prior to 1966 clearly have the "White Supremacy for the Right" slogan displayed on the party emblem heading the column with Democratic Party candidates. Thereafter, the new slogan "Democrats for the Right" replaced the racist message. Collected sample ballots from 1950s-1980s, Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

⁶⁷ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

audience.”⁶⁸ Vance assured ADC members at the convention that the Democratic Party “excluded no one” and declared, “[t]he time is past when you take one message to one group of people and another message to another group.”⁶⁹ At the convention, ADC members participated in sessions on topics including “How to Organize Negro Democrats on County, Municipal, and Precinct Levels,” “How to Stimulate and Facilitate Effective Voting in Primary [and] General Elections,” “How to Get Out the Vote,” and “Developing, Organizing, and Executing a Program of Political Education in Cities and Rural Areas.”⁷⁰

It was not until 1968 that Alabama sent its first black delegates to the Democratic National Convention. The Alabama Democratic Party was in transition from the late 1960s through the 1980s. In 1968 there were two distinct factions within the Party. As Gray recalls, “You had the old Wallace types, who were trying to keep blacks out of the party structure. And then you had Chairman Vance, who later became a federal judge, and he was pushing for more democracy and liberalization and participation in the party.”⁷¹ Chairman Vance recruited two white Democrats to run as delegates to the DNC in their congressional districts. Meanwhile, Vance also encouraged ADC activists Joe Reed and Arthur Shores to run in the same places. Knowing that a majority of Alabama voters would not vote for any black person on a ballot, Vance had made a secret agreement to ensure that Reed and Shores would represent Alabama at the convention. Prior to the election the two white candidates withdrew, according to a plan they had

⁶⁸ Roberta Reising, “ADCI Doesn’t Mention You-Know-Who,” *Southern Courier*, October 15-16, 1966. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁶⁹ Roberta Reising, “ADCI Doesn’t Mention You-Know-Who,” *Southern Courier*, October 15-16, 1966. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷⁰ Typed draft of agenda for the Alabama Democratic Conference semi-annual meeting, October 8-9, 1966. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷¹ Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

made with Vance, leaving Reed and Shores unopposed for the delegate positions. This is how Alabama sent its first black delegates to the 1968 Democratic National Convention.⁷²

In 1964 it was Fannie Lou Hamer and the Mississippi Freedom Democratic Party who shed light on the fact that black people in the Deep South were denied official access to state Democratic Party organizations and, therefore, were not afforded the opportunity to serve as delegates to the Democratic National Convention.⁷³ During the 1964 campaign in Alabama, in an effort to block black voters from playing a part in selecting the Alabama delegates to the Democratic National Convention, some white party leaders orchestrated the selection of “independent electors.” These “independent electors” did not plan to pledge support for the Johnson-Humphrey ticket, due to their opposition to the Johnson Administration’s efforts to further racial equality, in the passage of the Civil Rights of 1964. ADC activists protested the seating of the “independent electors” and sent a resolution to DNC officials requesting that a new slate of delegates that supported the national party and presidential ticket be seated in the place of the “independent electors.” The ADC called their slate the “good-faith Alabama delegates,” and these delegates prepared themselves to represent the state “in the event that the elected 38 Alabama delegates are refused seating or fail to be seated as authentic Democrats committed to support the presidential ticket of the Democratic National Convention.”⁷⁴

⁷² Dr. Joe L. Reed, interview by author, Montgomery, AL, 8 February 2012. Jerome A. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005. List of Alabama Delegates to the Democratic National Convention in 1968. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷³ Wesley C. Hogan, *Many Minds, One Heart: SNCC’s Dream for a New America* (Chapel Hill: University of North Carolina Press, 2007), 155-196.

⁷⁴ Position Statement of the Alabama Democratic Conference, submitted to the Democratic National Committee, August 11, 1964. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

In 1967, before ADC members knew that they would have some African Americans representing Alabama as delegates to the 1968 Democratic National Convention, they had a plan in place to send representative “observers.” The *Alabama Journal* reported in the summer of 1967 that the ADC had announced its plan to send some of its members to observe the proceedings at the Convention if there were no black Alabama delegates.⁷⁵ The *Journal* interpreted the ADC announcement as “a subtle warning to the traditional Loyalist Democrats that the Alabama Negroes are ready to strike out on their own and form an authentic political party if they are not brought forthwith into the fold of the regular Democratic Party,” adding that “such a step would not be difficult, since ADCI is already structured as a party.”⁷⁶ As noted in the article, the ADC and black political leaders clearly preferred to work within the structure of the Alabama Democratic Party and desired to have African Americans chosen as delegates through a legitimate selection process. The *Journal* predicted that “the regular Democrats [in Alabama] aren’t bold enough to make such a step in such emotional times.” The Alabama Democratic Party was undoubtedly in the midst of transition and turmoil. The author of the article discussed the recent battles within the state party organization between party “Loyalists” like Bob Vance and others who supported the National Democratic Party platform and “States’ Righters” and the disciples of George Wallace, who supported keeping white supremacy as the foundation of the Alabama Democratic Party.⁷⁷ In 1968, the ADC adopted a resolution, similar to the one they sent

⁷⁵ “A Sounding Into Politics,” *Alabama Journal*, July 10, 1967. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷⁶ “A Sounding Into Politics,” *Alabama Journal*, July 10, 1967. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷⁷ “A Sounding Into Politics,” *Alabama Journal*, July 10, 1967. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

to the DNC in 1964, requesting that the convention would make it “an absolute condition” that only those delegates who “affirm they will abide by the results of the convention and support the national nominee” would be seated.⁷⁸

The experience of the 1968 election and battle over delegates had proven to be a critical turning point in the relationship between the Alabama Democratic Party and the Alabama Democratic Conference. Following the election, Party Chairman Vance pledged to the ADC Chairman Rufus Lewis that he would begin restructuring “the Party from top to bottom in January of 1969.”⁷⁹ Vance explained that “[o]ne of the most acute problems is insuring that the Party is representative.” He hoped that with Lewis and ADC members he could build a party that would include “a broad representative cross section of all citizens.”⁸⁰

Once the Voting Rights Act of 1965 had been enacted, ADC activists led the grassroots efforts to register black voters.⁸¹ By 1967, 52 percent of eligible African Americans in Alabama were registered to vote, which was more than double the percentage of registered black voters in 1964.⁸² As ADC chairman during the initial years after the Voting Rights Act, Rufus Lewis reminded fellow activists that “we have not arrived nor are we satisfied with: 1. 51% Negro registered voters; 2. Low percentage of voter turnout at the polls; 3. Lack of unity in our voting—neutralizing or cancelling

⁷⁸ Letter from the Resolutions Committee of the Alabama Democratic Conference to Mr. John M. Bailey, Chairman of the Democratic National Committee, July 24, 1968. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁷⁹ Letter to Rufus A. Lewis from Robert S. Vance, December 6, 1968. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁸⁰ Letter to Rufus A. Lewis from Robert S. Vance, December 6, 1968. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

⁸¹ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

⁸² Petyon McCrary, Jerome A. Gray, Edward Still, and Huey L. Perry. Alabama. In *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, ed. Chandler Davidson and Bernard Grofman, 38.

our strength.”⁸³ Also as election days were nearing, Chairman Lewis would send out notices and deliver radio messages emphasizing the importance of voting. Lewis said, “For many years the right to vote appeared to be reserved to a select few and registration seems to be almost impossible. These weaknesses have been eliminated to a great extent and the future belongs to those who participate in it, which is to say that voting is not just a privilege but an obligation.”⁸⁴ Lewis’s past experiences drove him to never be satisfied even when significant gains had been achieved. In the 1950s, Lewis held meetings at the night club he operated called the Citizens’ Club. In a notice for one of the meetings at the Citizens’ Club in 1954, Lewis warned that

[w]e are faced with problems that need immediate attention. The White Citizens council had threaten[ed] the rights, freedom and even the very life of every Negro in the South. Any Negro with the courage to speak up for his own rights is threaten[ed] to be denied a job, credit . . . We have practically no voice in the operation of our government. Our elected officials turn a deaf ear to our plea for justice.⁸⁵

In this notice, Lewis was emphasizing issues that would shape his vision for political activism for the rest of his life:

We can organize for our wellbeing. Let us not stand idly by and let ourselves be slowly strangle[d] to death. We must increase our voting strength and participate more actively in our government. Let us with faith in ourselves and faith in our people stand together and fight for that which we know is right as God has given us to see the right.”⁸⁶

⁸³ Handwritten notes of Rufus Lewis emphasizing the need for continued local voter registration and organization efforts. Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

⁸⁴ Message from Rufus A. Lewis, President of the Alabama Democratic Conference. Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

⁸⁵ Notice for meeting at the Citizens’ Club, December, 1954. Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

⁸⁶ Notice for meeting at the Citizens’ Club, December, 1954. Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

Lewis knew how bad things had been prior to the 1960s and the passage of the Civil Rights Act of 1964 and Voting Rights Act of 1965. He worked tirelessly to make sure Alabama did not revert to the injustices of the past.

In some Alabama counties, white officials persisted in denying virtually all black citizens' access to the ballot after 1965. The paradigm of local officials preventing black political participation occurred in many places but was particularly the case in black-majority counties of west and central Alabama, such as Greene County and Lowndes County.⁸⁷ Even though national law required strict oversight of areas with racially unjust histories, malevolent whites in Alabama still found ways to circumvent the law. An especially contentious climate existed in counties in which whites found themselves in a numerical minority to blacks as many white Democratic Executive Committee officials would not allow blacks to register to vote or qualify as candidates under the Democratic Party banner.

Through the years between the passage of the Voting Rights Act and the 1980s, leaders like Rufus Lewis built on a long tradition of grassroots politics to train ADC members to serve as neighborhood block captains for voter registration as well as for education for activists in how to approach voter registration at the house-by-house level. Also, ADC produced guides for organizing a precinct for voter turnout with the slogan "Nothing Beats Pavement Pounding," and they also created instructions for applying for Voter Education Project grants.⁸⁸ Chairman Lewis personally wrote the blueprint for many of the voter registration and mobilization efforts that ADC activists coordinated in

⁸⁷ For a recent study of black self-politics and the movement for democracy in which African Americans created the Lowndes County Freedom Organization, see Hasan Jefferies, *Bloody Lowndes: Civil Rights and Black Power in Alabama's Black Belt* (New York: New York University Press, 2009).

⁸⁸ Voting Rights Movement Guides for Block and Precinct Captains. Rufus A. Lewis Papers, Box 20, Trenholm State Technical College Library, Montgomery, Alabama.

the 1960s and 1970s. Lewis put together organizational tools and instructional guides for activists who helped to mobilize voters at the block level and the precinct level. For all precinct organizers he provided a concise set of rules, which he entitled “Climb To Victory”:

1. Call a general meeting; 2. Call together Precinct Leaders and campaign aides and stir them into action; 3. Instruct them thoroughly in laws governing registering and voting; 4. Win votes with facts. Keep workers equipped with facts on issues; 5. Hold campaign schools for instruction; 6. Start Precinct Leaders on systematic plan for door-to-door canvass; 7. Hold regular meetings with precinct leaders, and send regular reports to State Leader; 8. Call general meeting to outline plans for Election Day; 9. The goal: Every voter in your precinct registered and at the polls on Election Day.⁸⁹

In these guides, Lewis emphasized that “elections are won in the precincts.”⁹⁰ Local activism was ADC’s key to gaining political influence.

ADC activists lived out the quest for freedom through voting rights with religious zeal. Although the ADC was committed to improving education and all areas affecting blacks and poor Alabamians, they knew that access to the ballot was at the heart of all their endeavors. A flyer to promote black voter registration in Montgomery during the early 1960s encouraged potential registrants that the Reverend Martin Luther King, Jr. says that “Freedom begins at the BALLOT BOX” and that President Kennedy ensures that all U.S. citizens have the right to vote, and the federal government will “back up that right.” On the back of one of the flyers, Rufus Lewis had written out various scripture verses. Verses from Job 3:7 and 30:3 and Psalms 107:4 about struggles through a dark, barren, parched desert must have spoken to the long and arduous struggle for political

⁸⁹ “Climb To Victory” guide for precinct leaders. Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

⁹⁰ Guide for “The Precinct Worker and Registration” and “Duties of the County Leader.” Rufus A. Lewis Papers, Box 5, Trenholm State Technical College Library, Montgomery, Alabama.

equality. But Psalm 68:6 reminded Lewis and advocates for fairness that God “bringeth out those which are bound in chains, but the rebellious live in dry land.” And Mark 1:35 offered the example of Jesus taking time to go to a quiet place and pray early in the morning, knowing that his day would be filled with trials.⁹¹ Also, small cards of encouragement were given by ADC activists to those desiring voting rights with a variation on a familiar poem: “I sought my soul but my soul I could not see/ I sought my God, but my God eluded me/ I sought my (VOTE) and found all three.”⁹²

Churches had been, at least since the post-Reconstruction era and in some cases since the days of slavery, centers of black autonomy and places where African American leaders could flourish.⁹³ Churches were often the sites of meetings for political activism, and churches even helped to organize voting rights advocacy. In the early 1960s, the Metropolitan African Methodist Episcopal Zion Church in Birmingham served as the site of mass meetings and guest speakers sponsored by ADC. Voting rights advocates would come together at these meetings and sing favorite hymns, patriotic songs, and “Lift Every Voice and Sing,” as well as listening to performances by the Alabama Christian Movement for Human Rights Choir. Also at these meetings, there would be scripture readings as well as speeches from ministers and political activists and politicians.⁹⁴ In 1968, the Montgomery County branch of the ADC led efforts to organize a local “Get-Out-The-Vote Drive” for Vice President Hubert H. Humphrey’s bid for president. Black

⁹¹ Flyer announcing voter registration dates. Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

⁹² Leaflets given out at political meetings. Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

⁹³ Albert J. Raboteau, *Slave Religion: The “Invisible Institution” in the Antebellum South* (New York: Oxford University Press, 1978). Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1863-1877*, 88-95; 111; 282-285; 612.

⁹⁴ Programs of Mass Meetings sponsored by the Alabama Democratic Conference. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

churches were central to the local get-out-the-vote drives as black Christians in cities and towns across the nation utilized networks within their churches to push for political changes. Bishop George R. Baber of the African Methodist Episcopal Church planned the drive in coordination with the Democratic National Committee, and it reached out to over 5,000 churches that would include about 9 million African Americans. Baber believed that voting allowed African Americans to speak out on the “great moral issues where the scriptures shed light.”⁹⁵ This get-out-the-vote drive garnered public attention after a meeting of African American church leaders from various denominations with Vice President Humphrey. At the meeting, “black churches of America called on their white brethren to help them turn back the tide of racism.”⁹⁶ For a century by 1968, black southerners had found church-based organizing a source of strength for both temporal and spiritual concerns.

By the late 1960s, in Montgomery and other Alabama towns, white politicians increasingly became concerned with the “Negro bloc vote.” According to one Montgomery journalist, white politicians walked a fine line in an effort to get the support of black voters and groups like ADC, while not alienating white voters who still supported white supremacy and resented black citizens voting and uniting behind particular candidates.⁹⁷ When white voters inquired about who had the “Negro vote” “the office seeker always says his opponent has it ‘in the bag.’ It’s a game of ‘seek and

⁹⁵ Montgomery County Democratic Conference News Release, “Black Churches Lead Mass Get-Out-The-Vote Drive for HHH.” Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

⁹⁶ Montgomery County Democratic Conference New Release, “Black Churches Lead Mass Get-Out-The-Vote Drive for HHH.” Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

⁹⁷ Joe Azbell, “Mechanics of the Negro Vote Explained,” *The Montgomery Independent*, June 5, 1969. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

hide.”⁹⁸ At this time, the Ku Klux Klan still had a politically active organization in Montgomery. Interestingly, one black leader told the *Montgomery Independent* that “[e]very white candidate we talk with says his opponent has the Ku Klux Klan support.”⁹⁹ Noting that “the number of Negro votes in Montgomery County has more than doubled” since the passage of the Voting Rights Act of 1965, a local white journalist argued that collectively blacks could determine the outcomes of elections for many local offices.¹⁰⁰

Many blacks in Alabama felt bewildered and alienated in a political system in which the right to vote was guaranteed, but this guarantee did not mean that blacks could elect black office holders or representatives to the Alabama Democratic Party Executive Committee or delegates to the Democratic National Convention. Due to the number of complaints filed with the Justice Department regarding potential violations of the Voting Rights Act, federal registrars had taken over the county’s voter registration process. According to a local white journalist, the “mechanics” of the “Negro vote bloc” adhered to the following “system”: first, registration; second, the “20 to 25 man” screening committee that “studies the background of the candidate and meets with him in a secret session” (previously, the writer notes, screening and questioning had been done in public with media coverage present); third, “a slate” of candidates is selected; fourth, marked ballots are printed and distributed to black voters; fifth, precinct captains help get-out-the-vote on election day and keep lists to contact voters who have failed to show up after

⁹⁸ Joe Azbell, “Mechanics of the Negro Vote Explained,” *The Montgomery Independent*, June 5, 1969. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

⁹⁹ Joe Azbell, “Mechanics of the Negro Vote Explained,” *The Montgomery Independent*, June 5, 1969. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

¹⁰⁰ Joe Azbell, “Mechanics of the Negro Vote Explained,” *The Montgomery Independent*, June 5, 1969. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

the first several hours of voting.¹⁰¹ The voting “bloc” was led locally by four major leaders: Rufus Lewis, E. D. Nixon, Idessa Williams, and James Flowers. Lewis was, of course, not only chairman of the ADC at the time but was a seasoned veteran in voter registration and mobilization efforts. Lewis and Nixon led differing factions within the African American community. Lewis and other ADC activists worked to gain political clout for black citizens within the official structure of the Alabama Democratic Party. Nixon and others, who perceived an unwillingness of many whites within the Alabama Democratic Party to welcome black voters and voices, created their own party organizations: the Alabama Independent Democratic Party (AIDP) and the National Democratic Party of Alabama (NDPA), created by John Cashin and supported by E. D. Nixon.

Still, some black Alabamians faced difficult choices when they were voting for the first time as some white Democratic candidates advocated “states’ rights” platforms, which served as code for anti-civil rights and the reassertion of white supremacy in the political order. Chairman Rufus Lewis guided the ADC through the thorny issues regarding whether ADC members should support all Democrats, regardless of their opinions about the ongoing struggle for black freedom, once the state party nomination process was over. Virtually all black leaders in Alabama were advocating that African Americans vote; they had fought too hard and too long not to exercise the franchise. Yet, in 1966 black Alabamians found themselves in a quandary with Lurleen Wallace, the wife of the segregationist Governor George Wallace, as the Democratic Party nominee for governor. One black leader asked, “What will you tell your children and

¹⁰¹ Joe Azbell, “Mechanics of the Negro Vote Explained,” *The Montgomery Independent*, June 5, 1969. Rufus A. Lewis Papers, Box 2, Trenholm State Technical College Library, Montgomery, Alabama.

grandchildren—that you voted them back into slavery or you have voted them a chance for freedom? What shall it be—the White Rooster [former white supremacist symbol for the Alabama Democratic Party] or freedom?”¹⁰² Some black leaders debated the difficult decision between supporting the Republican or the Independent candidates for governor, both of whom were white. Since the ADC was officially affiliated with the Democratic Party, the media pressed Chairman Lewis on the issue of supporting Lurleen Wallace. Lewis told reporters that it should “not necessarily” be assumed that ADC members would vote for every nominee of the Alabama Democratic Party.¹⁰³ “We have not been approached by any of the major politicians,” Lewis explained. “They may be taking us for granted. And they know we’re in a bit of a predicament as to choices—there’s no great choice for us.”¹⁰⁴ In frustration, the SCLC state director, Albert Turner, explained that there were in reality “no Democrats in Alabama.” To Turner, the only political party in the state was the party of whites and white supremacy.¹⁰⁵ As a result of Alabama Democratic Party Chairman Bob Vance’s efforts with ADC Chairman Lewis to make black representation within the Party organization a reality, black Alabamians now began to feel that they were part of shaping the state’s only major political party.

By 1970, the Alabama Democratic Conference had emerged as a major political player within the Democratic Party of Alabama and in most counties across the state. In that year, Joe L. Reed became the fourth ADC chairman, a position he still holds

¹⁰² “Nov. 8 Nears - - Political Plots Thicken,” *The Southern Courier*, October 22-23, 1966. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

¹⁰³ “Nov. 8 Nears - - Political Plots Thicken,” *The Southern Courier*, October 22-23, 1966. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

¹⁰⁴ “Nov. 8 Nears - - Political Plots Thicken,” *The Southern Courier*, October 22-23, 1966. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

¹⁰⁵ “Nov. 8 Nears - - Political Plots Thicken,” *The Southern Courier*, October 22-23, 1966. Rufus A. Lewis Papers, Box 30, Trenholm State Technical College Library, Montgomery, Alabama.

today.¹⁰⁶ Reed was a graduate of Alabama State College and one of the leaders of the sit-ins in the snack bar of the Montgomery County, Alabama, Courthouse in 1960. 1970 was a critical year because the governor's race, as well as all state constitutional officers, would be on the ballot that year. Reed and ADC leaders began making public endorsements of political candidates that they determined through candidate interviews before a screening committee of the ADC. Also, they adopted a rule that "a candidate must appear in person" before the ADC screening committee to be considered for an endorsement by the organization.¹⁰⁷ With the establishment of the screening committees, ADC Chairman Reed proclaimed, "We're going to decide who's the winner in every state office."¹⁰⁸ Reed said the ADC had a plan to get about 300,000 black voters to the polls for the Democratic primary election.¹⁰⁹ The goal of the ADC was to support a candidate who could win but not any candidate would do. Candidates who received ADC endorsements would "have to give recognition that Negroes are involved in the mainstream," explained Chairman Reed, while adding, "I'm unwilling to sit at the table and deal with George Wallace under any circumstances."¹¹⁰ ADC's endorsement, publicized by a "statewide guide ballot" that ADC activists handed out at polling places in Alabama on election day, helped elect Bill Baxley as state Attorney General and Howell Heflin as the Chief Justice of the Alabama Supreme Court. As Attorney General,

¹⁰⁶ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹⁰⁷ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹⁰⁸ "Joe Reed Says Negro Vote Will Decide Winner of Every Alabama State Office," *Alabama Journal*, 25 April 1970.

¹⁰⁹ "Joe Reed Says Negro Vote Will Decide Winner of Every Alabama State Office," *Alabama Journal*, 25 April 1970.

¹¹⁰ "Joe Reed Says Negro Vote Will Decide Winner of Every Alabama State Office," *Alabama Journal*, 25 April 1970.

Baxley led efforts to reopen and try the unresolved murders of blacks and supporters of racial equality from the civil rights era. Most notably, Baxley helped to prosecute the murderers from the 16th Street Baptist Church bombing in Birmingham that killed four young girls in 1963. Chief Justice Heflin, the nephew of white supremacist and race-baiting Alabama political leader “Cotton Tom” Heflin, was later elected U.S. Senator with ADC support. As U.S. Senator, Heflin supported civil rights legislation as well as the appointment of the first black federal district judges in Alabama, Judge U. W.

Clemon and Judge Myron Thompson.¹¹¹ Also in 1970, ADC supported the successful campaigns of Fred Gray and Thomas Reed to the Alabama Legislature. Gray and Reed were the first blacks since Reconstruction to serve in the state legislative body.¹¹²

Thomas Reed had been the state president of the NAACP, and Fred Gray was an attorney who had tried numerous law suits over civil rights injustices in U.S. District Court in Alabama’s Middle District, beginning with the Montgomery Bus Boycott.¹¹³

In 1972, the ADC had a standoff with John Cashin and proponents of the NDPA. In his frustration at the failure of the Alabama Democratic Party to address issues of concern to black voters, Cashin began advocating that blacks boycott the primary elections of the Party.¹¹⁴ Calling Cashin a “black George Wallace,” Reed exclaimed, “Black people marched 50 miles from Selma to Montgomery to dramatize the need for the nation to open the polling places to blacks in 1965. It was only during the 1940’s that

¹¹¹ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹¹² Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹¹³ “Color Lines Fall in Alabama Legislature,” *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

¹¹⁴ Joe Reed, “From the President’s Pen,” *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

black people couldn't vote in the primaries and I'm not going to stand idly by and allow John Cashin or any other pseudo leader to keep black folks from the polls on election day."¹¹⁵ Cashin, who, according to Reed and the ADC, had a miniscule following of perhaps 1500 people, could not possibly speak for average Alabama blacks. Reed argued that Cashin, "a rich Huntsville dentist who lives in the white community and drives a Rolls Royce," was out-of-touch with the interests of African Americans.¹¹⁶ By the early to mid-1970s, most politically active blacks in Alabama viewed the ADC as the organization on the forefront of securing political power and expanding the influence of black citizens.

In the 1970s the ADC saw its political clout expand at both the state and national level. Hubert H. Humphrey was the first presidential candidate to address the ADC during his 1972 campaign. Also in 1972, Chairman Vance of the Alabama Democratic Party worked with ADC leaders to increase the percentage of African American delegates to the Democratic National Convention to one-third. Throughout the 1970s, ADC was central to the election of a number of black Alabamians to local political offices such as mayor, probate judge, sheriff, city council, county commission, and the state legislature. At the local level, ADC activists built on the 1966 election of Lucius D. Amerson as sheriff of Macon County.¹¹⁷ Amerson was the first African American to serve as a sheriff in the United States. In 1972 the ADC boasted that "Alabama now has four black sheriffs" and that Sheriff Amerson had "put together a biracial force of deputies that

¹¹⁵ Joe Reed, "From the President's Pen," *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

¹¹⁶ Joe Reed, "From the President's Pen," *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

¹¹⁷ "Amerson: America's First Black Sheriff," *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

approaches law enforcement on the basis of open equality.”¹¹⁸ In 1974, the ADC again supported black candidates for the state legislature, increasing the number of African Americans in the Alabama House and Senate from three to thirteen. ADC also worked with National Democratic Party leaders and President Jimmy Carter to secure appointments of African Americans to the Democratic National Committee as well as federal judgeships and the U.S. Marshalls.¹¹⁹

By the mid 1970s, the ADC had fought for official recognition in the political process and in the Democratic Party and had begun to secure equal voting rights for black citizens. It was left to the local activists affiliated with the ADC to carry forward the civil rights movement. After more than a decade of political organizing, ADC leaders knew that for many years in the near future, the struggle for political equality would continue to shape the planning, the activities, and the central mission of their organization.

¹¹⁸ “Amerson: America’s First Black Sheriff” *The Black Dispatch*, July 10-13, 1972. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

¹¹⁹ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

Chapter 2: Still Waiting At Canaan's Edge: New Trials in the Quest for Political Equality, 1975-1980

"I'm not surprised at losing . . . We don't intend to sit down and not continue to press for what we know is right."¹²⁰

-Wiley Bolden, voting rights activist, Mobile, Alabama (1980)

Wiley Bolden, John LeFlore, and a dozen other Mobile citizens filed a lawsuit in the United States District Court for the Southern District of Alabama in 1975. Their complaint was that as black voters of the city of Mobile, their votes and their political influence were diluted by the existing "at-large" election system for the three city commissioners that governed the affairs of Mobile.¹²¹ An at-large system is one in which elections for all local political offices are chosen by a vote of all people of that locality. Instead of having some neighborhood, district, or other subdivision elections all offices are voted on an at-large basis. In areas where whites were the majority, voting along racial lines prevented blacks from having proportional influence and representation. In at-large electoral systems, black citizens' votes could be diluted in majority white counties, by not allowing representation by neighborhood districts. In at-large systems in the South, areas that had even the slightest majority white voters usually had all-white elected officials, since they were elected at-large.

Since the 1920s, John LeFlore had been the voice crying out in the wilderness for the black citizens of Mobile. LeFlore had organized and revitalized the local NAACP and also founded the Non-Partisan Voters' League to promote political equality in

¹²⁰ Royce Harrison, "Supreme Court rules city's at-large elections are constitutionally valid," *Mobile Register*, 23 April 1980.

¹²¹ Natalie Crozier, "Vote system attacked," *Mobile Register*, 11 June 1975; *Bolden v. Mobile*, 423 F. Supp. 384 (S.D. Ala., 1976).

Mobile. The *Bolden* litigation would be LeFlore's last battle, and he would not live to see the outcome of the lawsuit. Upon filing the complaint, LeFlore explained that involving the federal court in this matter "was the outgrowth of frustrations experienced by black citizens in their efforts to gain further participation in the political process and to remove inequities denying them the right to hold public office in our city and county governments."¹²² Although black people comprised more than 35 percent of the Mobile city population, LeFlore explained, the at-large system of electing city commissioners prevented blacks from successfully running for one of those local offices. The Voting Rights Act had been in place for ten years, but for black people in Mobile, the local government still resembled the Old South model of blacks situated in inferior or paternalistic relationships with whites. No black person had ever been elected to the Mobile City Commission. The plaintiffs in the *Bolden* case, LeFlore explained, wanted a new system of local government that would be more responsive to them. They advocated a single-member-district council and mayor system so that "blacks may be expected to have a better chance of winning city and county commission posts."¹²³

A decade after the passage of the Voting Rights Act of 1965, black Alabamians had won many victories in the struggle for political equality. Yet, some obstacles remained. Alabama had a long history of establishing official barriers to black political participation, and it would take committed citizen-activists to bear the burden of continuing the fight for civil rights and political equality on the local level once the signal national laws were in place after 1965. Activists affiliated with the ADC knew that

¹²² Natalie Crozier, "Vote system attacked," *Mobile Register*, 11 June 1975.

¹²³ Natalie Crozier, "Vote system attacked," *Mobile Register*, 11 June 1975. In a companion law suit attacking the validity of the system for electing the local school board, plaintiffs paralleled the arguments they made against the city commission in the *Bolden* case.

political allies in the Congress, the U.S. Department of Justice, the federal judiciary, and state government would be critical to the successes of their grassroots efforts to further voting rights for black Alabamians. Section 5 of the Voting Rights Act specified that any changes to election laws passed in states that had a history of disfranchising blacks had to be pre-cleared by the Department of Justice prior to those laws going into effect.

Alabama was, of course, one of the states subject to Section 5. ADC activists knew from past experiences that the federal government's aid could be the difference in making the Voting Rights Act effective in ways the Fifteenth Amendment was not in the decades following Reconstruction. In their struggles, Alabama political activists faced new trials. In confronting these challenges, ADC activists utilized their expanding political clout in the 1970s and 1980s to enhance the voices of Alabama's black citizens in local, state, and national affairs.

The Voting Rights Act came under the scrutiny of a judge in Mobile, Alabama, that President Lyndon B. Johnson had put on the federal bench. Appointed in 1966, U.S. District Judge Virgil Pittman, presided over the *Bolden* case. The plaintiffs argued that the at-large election system violated their constitutional rights under the First, Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution as well as the Civil Rights Act of 1871 and, the most recent of the statutes, the Voting Rights Act of 1965. In the case, plaintiffs and defendants debated the grounds and evidence upon which the city commission was or was not discriminatory toward black citizens of Mobile. The Mobile City Commission, which controlled all municipal affairs of Mobile, had been established during the Progressive era in 1911.¹²⁴ Not only did the commissioners determine how city resources would be allocated and which projects would be prioritized, they also

¹²⁴ *Bolden v. Mobile*, 423 F. Supp. 384, 386 (S.D. Ala., 1976).

possessed the power to make appointments to the 46 committees that had oversight of services and activities of the city government.¹²⁵ The defendants claimed, first, that under prevailing legal precedents and the current prescriptions of the Voting Rights Act that the plaintiffs were required to prove discriminatory intent at the time of the establishing of the city commission system. Second, defendants argued that since the 1901 Alabama Constitution had disenfranchised most black people in the state, the 1911 Mobile City Commission could not have been devised with the purpose of marginalizing black voters.¹²⁶ The plaintiffs, of course, advanced that no black person had been elected to the commission and that in recent elections white candidates with support from black wards of Mobile had been consistently defeated. In the plaintiff's view, the system of electing their local leaders denied black citizens a voice in city affairs.¹²⁷

In Mobile, the three city commissioners were elected to lead one of the municipal service departments: Public Works and Services, Public Safety, and the Department of Finance. Candidates for each place would run for that specific position and were elected by an at-large vote of Mobile citizens. Also, it was required that the election winner in each place receive a majority of the vote with a runoff election if no candidate received more than 50 percent in the initial election.¹²⁸ The plaintiffs presented evidence showing that black citizens of Mobile were underrepresented on the local committees that made decisions for city projects and priorities. Less than 10 percent of the representatives on the city committees were black. There were only 47 black citizens serving in the 482

¹²⁵ *Bolden v. Mobile*, 423 F. Supp. 384, 387 (S.D. Ala., 1976).

¹²⁶ *Bolden v. Mobile*, 423 F. Supp. 384, 386 (S.D. Ala., 1976).

¹²⁷ *Bolden v. Mobile*, 423 F. Supp. 384, 386-389 (S.D. Ala., 1976).

¹²⁸ *Bolden v. Mobile*, 423 F. Supp. 384, 386-387 (S.D. Ala., 1976).

committee positions.¹²⁹ This fact was one of many direct pieces of evidence that the plaintiffs argued was proof that the Mobile City Commission system submerged their interests and denied black citizens a voice in local politics.

Judge Pittman agreed with much of the plaintiffs' line of reasoning. Pittman explained in his opinion that although there were "no formal prohibitions" against black citizens voting and running for office in Mobile, "the court has a duty to look deeper rather than rely on surface appearance to determine if there is true openness in the [political] process."¹³⁰ Pittman believed the evidence presented to the court pointed to racially polarized voting in Mobile, particularly since the passage of the Voting Rights Act, and that local politics had been in recent year characterized by "a white backlash . . . which usually results in the defeat of the black candidate or the white candidate identified with blacks."¹³¹ Since the 1960s, ten black candidates for local offices elected at-large had all been defeated. Also, Joseph N. Langan, a white racial liberal, had been elected several times to the state legislature and the city commission between the 1940s and 1965. Yet, after the enactment of the Voting Rights Act and subsequent increase in registration and participation of black voters, Langan was defeated due to a white voting bloc that voted against him due to their belief that he was the "blacks' candidate."¹³² In addition to evidence pointing to the racial polarization in voting and the underrepresentation of blacks on city committees, the plaintiffs demonstrated that less than 15 percent of the employees of the city were black, excluding those in the lowest paying service and maintenance jobs. Also, black Mobilians comprised only about three

¹²⁹ *Bolden v. Mobile*, 423 F. Supp. 384, 389 (S.D. Ala., 1976).

¹³⁰ *Bolden v. Mobile*, 423 F. Supp. 384, 387 (S.D. Ala., 1976).

¹³¹ *Bolden v. Mobile*, 423 F. Supp. 384, 388 (S.D. Ala., 1976).

¹³² *Bolden v. Mobile*, 423 F. Supp. 384, 388 (S.D. Ala., 1976).

percent of the fire department employees, and the industrial development board for Mobile had no black members.¹³³ In these and many other examples, the plaintiffs demonstrated that blacks had either token representation or almost no voice on the various committees and boards that affected local issues.

The initial opinion in the *Bolden* case, as delivered by Judge Pittman, declared “that an at-large system is an effective barrier to blacks seeking public life.” Moreover, the opinion explained that “[t]he court finds that the structure of the at-large election of city commissioners combined with strong racial polarization of Mobile’s electorate continues to effectively discourage black citizens from seeking office or being elected thereby denying blacks equal access to the slating or candidate selection process.”¹³⁴

This, the plaintiffs convinced Judge Pittman, was a consequence of the at-large election system that inflated white influence at the expense of black citizens in the City of Mobile’s government. As a result, Pittman ordered that plaintiffs and defendants come together and draft a proposal for a mayor-council government with nine single-member districts for council members. It was further ordered that the mayor-council system should go into effect for the next scheduled municipal elections for Mobile in August, 1977.¹³⁵

Mobile City Commissioners repudiated Judge Pittman’s opinion and order, pledging to appeal his decision to the U.S. Supreme Court if necessary. Commissioner Lambert Mims told the *Mobile Register* that Pittman’s decision “is the most unjust action

¹³³ *Bolden v. Mobile*, 423 F. Supp. 384, 389 (S.D. Ala., 1976).

¹³⁴ *Bolden v. Mobile*, 423 F. Supp. 384, 389 (S.D. Ala., 1976).

¹³⁵ *Bolden v. Mobile*, 423 F. Supp. 384, 404 (S.D. Ala., 1976).

ever taken against the City of Mobile.”¹³⁶ Mims continued, “As far as we know, no other federal judge has ever imposed a certain form of government on a free people. Judge Pittman’s action is most unfortunate, especially in view of the fact that the people of Mobile have voted against it . . . twice in the last 10 years.”¹³⁷ John LeFlore and other black leaders in Mobile had twice proposed a single-member district system for city government, but it had been rejected both times with virtually all whites voting against it and almost unanimous support from black voters. Public Safety Commissioner Robert Doyle agreed with Mims and called the court ruling “a flagrant example of minority rule. It emphasizes the awesome power of a federal judge who is appointed for life and who doesn’t have to answer to the people at the polls.”¹³⁸ Judge Pittman believed that a new city council that had at least some black members would begin to undo some of the institutionalized racism of the past and “afford an opportunity for a more meaningful dialogue between the whites and blacks” of Mobile.¹³⁹

An editorial in the *Mobile Register* lambasted Judge Pittman claiming that the “will of the majority [had been] flouted” in his ruling.¹⁴⁰ The author of the piece claimed “we are not against a mayor-council form of government because two or three blacks would be elected to the council. We are against its [*sic*] because it is a cumbersome type of government that breeds inefficiency and fiscal irresponsibility.” Yet, several lines below this statement the author argued, “[i]t is likely that the majority will continue to rule no matter how vocal the minority becomes.” The writer casts further doubt on his

¹³⁶ Royce Harrison, “Commissioner system held unconstitutional,” *Mobile Register*, 22 October 1976.

¹³⁷ Royce Harrison, “Commissioner system held unconstitutional,” *Mobile Register*, 22 October 1976.

¹³⁸ Royce Harrison, “Commissioner system held unconstitutional,” *Mobile Register*, 22 October 1976.

¹³⁹ Janet Nobles, “City will appeal council order,” *Mobile Press*, 22 October 1976.

¹⁴⁰ Editorial, “Will of majority flouted in federal court ruling,” *Mobile Register*, 22 October 1976.

original statement that he was not opposed to blacks serving in elected office by exclaiming, “[d]oes the minority, already protected by law, have anything extra to gain by electing say one-third of a nine-man council?”¹⁴¹ The editorial offers a glimpse into the racially charged political climate in Mobile, and provides further evidence that black citizens in Mobile were unlikely to gain political influence under the prevailing system.

In 1978, as a decision on the appeal was pending before the 5th U.S. Circuit Court in New Orleans, the ADC and voting rights activists focused their energies on electoral politics. 1978 was an unusual election year in Alabama. Not only was the governor’s office and all other state constitutional officers on the ballot, but both of Alabama’s United States Senators would be elected. Senator John Sparkman, who had represented Alabama since 1946, had announced his retirement, and Alabama’s junior Senator Jim Allen had died suddenly of a heart attack in June, just as the qualifying period to run for political office in 1978 had begun. In place one, Sparkman’s seat, former Alabama Supreme Court Chief Justice Howell Heflin was planning to run. Also considering a run for the Senate was Governor George Wallace, but he decided to back out just as the qualifying period opened. In place two, Governor Wallace had appointed Senator Jim Allen’s widow, Maryon Allen, to her husband’s former position, and Mrs. Allen was running for the remaining two years of her late husband’s term. Challenging Allen in the Democratic primary race was State Senator Donald Stewart among other people. Knowing the battles that they would face to further voting rights, ADC leaders invested much of their energy into electing two U.S. Senators who would support them on critical issues.

¹⁴¹ Editorial, “Will of majority flouted in federal court ruling,” *Mobile Register*, 22 October 1976.

ADC leaders screened the U.S. Senate candidates and specifically asked them their positions on two critical issues. First, the ADC candidate screening committee wanted a commitment from the senate candidates for securing the appointment of black Alabamians to federal judgeships. In their local organizing, ADC activists realized that the federal judiciary would play an increasingly important role in securing full political equality for black citizens, and they believed the federal courts in Alabama and the South needed the perspective of black jurists. Second, the ADC asked all senate candidates if they would vote to renew and strengthen the protections of the Voting Rights Act that were due to expire in 1982. Heflin, Allen, and Stewart all made sincere commitments to support the two goals of the ADC, and the ADC announced its official endorsements for Heflin in place one and Stewart in place two for the upcoming Democratic primary contest.¹⁴²

In the Democratic primary election, Heflin led his closest opponent U.S. Representative Walter Flowers, and Senator Maryon Allen had polled more votes than State Senator Stewart. But neither Heflin nor Allen secured a majority and, therefore, a runoff election for both Senate seats would be necessary.¹⁴³ Not surprisingly, as America's economy was plagued by stagflation and oil shortages of the late 1970s, all Senate candidates focused mostly on energy policy. Although debates regarding how to solve the energy crisis dominated, race was still a persistent theme in Alabama's 1978 campaigns. Heflin's rival, Congressman Flowers, ran advertisements attacking him as a

¹⁴² Jerome A. Gray, telephone interview, 30 October 2011. Dr. Joe L. Reed, interview by author, 8 February 2012.

¹⁴³ Peggy Roberson, "Voters make pollsters look bad in Senate races," *Montgomery Advertiser*, 6 September 1978.

“liberal . . . supported by liberal organizations such as the AFL-CIO and ADC.”¹⁴⁴

Another Flowers ad featured a picture of Flowers talking with two black men with a caption below the picture that reads, “No one should be told who to vote for.”¹⁴⁵ This was, of course, an attack on ADC’s endorsement of Heflin and on black voters who supported ADC-backed candidates. In the runoff election, both Heflin and Stewart won the Democratic nominations for Alabama’s U.S. Senate seats.¹⁴⁶ Both Heflin and Stewart knew that ADC’s endorsement had probably delivered them as much as 25 percent of the vote. After winning the General Election in November 1978, both Heflin and Stewart became key allies of the ADC and supported issues of importance to black Alabamians.¹⁴⁷

As the 1978 campaigns played out, the Mobile City Commission case was still left unresolved. Originally, municipal elections were supposed to be held in August 1977, but since the appeal process was still underway, Mobile City Commissioners remained in office without elections. On appeal, the 5th U.S. Circuit Court affirmed the opinion and order of Judge Pittman. The City of Mobile appealed the Circuit Court’s ruling, and in 1979, lawyers from both sides presented their cases in oral argument before the United States Supreme Court. The continued delay of a resolution to the *Bolden* case meant that the commissioners elected to four-year terms in 1973 would continue to serve until a final determination on the constitutionality of the system had been decided. Before the justices of the Supreme Court, the attorney for the City of Mobile argued “[a]s long as there is equal access, equal participation and the votes are counted equally, that’s

¹⁴⁴ Walter Flowers advertisement, *Montgomery Advertiser*, 25 September 1978.

¹⁴⁵ Walter Flowers advertisement, *Montgomery Advertiser*, 1 September 1978.

¹⁴⁶ Roy Summerford, “Heflin, Stewart win Senate races,” *Montgomery Advertiser*, 27 September 1978.

¹⁴⁷ Jeff Woodard, “Heflin, Stewart take Senate seats,” *Montgomery Advertiser*, 8 November 1978.

all the Constitution requires.”¹⁴⁸ In response, plaintiffs’ attorney James U. Blacksher said, “I don’t think you could devise an electoral form that more carefully and distinctly focused power on the white majority. Mobile is one of the most racially segregated cities in the country.”¹⁴⁹ Blacksher also argued that the effect of the electoral system combined with racially polarized voting discouraged potential black candidates from attempting a run for one of the commission positions. An attorney from the Civil Rights Division of the U.S. Justice Department joined Blacksher, arguing that the at-large system “has impaired, if not submerged, meaningful access to the political process on the basis of race.”¹⁵⁰ Following the oral argument, the justices of the Supreme Court were unable to fully agree on what the outcome of the *Bolden* case should be and, subsequently, invited attorneys for both sides to return to Washington and argue their cases again. The attorney for the City argued that in Mobile “[t]he color of a man or the color of a woman doesn’t matter in politics. It’s their qualifications.”¹⁵¹ Blacksher, however, again pointed to the “systematic denial of blacks’ voting rights in Mobile.”¹⁵² The Supreme Court pondered the case for another six months, waiting until April, 1980 to issue their decision and opinion.

By a vote of 6 to 3, the Supreme Court reversed Judge Pittman’s ruling that the at-large system of electing Mobile City Commissioners diluted black voters’ political

¹⁴⁸ John Dedmond, “Supreme Court hears city’s appeal,” *Mobile Register*, 20 March 1979. Diane Freeman and Royce Harrison, “Mobile’s Supreme Court arguments go ‘well’,” *Mobile Press*, 20 March 1979.

¹⁴⁹ John Dedmond, “Supreme Court hears city’s appeal,” *Mobile Register*, 20 March 1979. Diane Freeman and Royce Harrison, “Mobile’s Supreme Court arguments go ‘well’,” *Mobile Press*, 20 March 1979.

¹⁵⁰ John Dedmond, “Supreme Court hears city’s appeal,” *Mobile Register*, 20 March 1979. Diane Freeman and Royce Harrison, “Mobile’s Supreme Court arguments go ‘well’,” *Mobile Press*, 20 March 1979.

¹⁵¹ Peter Cobun, “Mobile’s school, city cases heard,” *Mobile Register*, 30 October 1979.

¹⁵² Peter Cobun, “Mobile’s school, city cases heard,” *Mobile Register*, 30 October 1979.

influence and, thus, violated the Voting Rights Act and other constitutional provisions. Writing for the majority in the 1980 opinion, Justice Potter Stewart argued that the Fifteenth Amendment and the Voting Rights Act in its existing form “does not entail the right to have Negro candidates elected but prohibits only purposeful discriminatory denial or abridgment by government of the freedom to vote ‘on account of race, color, or previous condition of servitude.’”¹⁵³ As it was written in 1965, Section 2 of the Voting Rights Act specifically barred any voting or election practice that served “to deny or abridge” any citizen’s ability to participate in the political process. In drafting of the Voting Rights Act, White House lawyers, President Johnson, and supporters in Congress conceived Section 2 as a restatement of the Fifteenth Amendment. In 1980, the Supreme Court was still sorting through its interpretations of Section 2 and how far its protections extended. In 1980 the majority on the Court believed that the simple fact “that Negroes in Mobile register and vote without hindrance” was sufficient to meet the standards of Section 2.¹⁵⁴ Further, the *Bolden* opinion established that “[o]nly if there is *purposeful* discrimination can there be a violation” and “[d]isproportionate effects alone are insufficient to establish a claim of unconstitutional racial vote dilution.”¹⁵⁵ If Section 2 were extended any further, the Court opined, that could establish the principle of “proportional representation as an imperative of political organization.”¹⁵⁶ Thus, the Supreme Court ruled in *City of Mobile v. Bolden* that a violation of the Voting Rights Act could only be proven with evidence that the election practice was devised with

¹⁵³ *City of Mobile v. Bolden*, 446 U.S. 55, 61-65 (1980).

¹⁵⁴ *City of Mobile v. Bolden*, 446 U.S. 55, 61-65 (1980).

¹⁵⁵ *City of Mobile v. Bolden*, 446 U.S. 55, 66-70 (1980) [emphasis added].

¹⁵⁶ *City of Mobile v. Bolden*, 446 U.S. 55, 75-80 (1980).

discriminatory “intent” and that a discriminatory “result” or “effect” alone was not enough to demonstrate a violation.

Reactions to the Supreme Court’s ruling mirrored the polarized political environment that prevailed in Mobile and many other parts of Alabama in 1980. In rhetoric reminiscent of some pro-secession southern newspapers in the Civil War era, the *Mobile Register* called the Supreme Court’s decision a “blow against tyranny.”¹⁵⁷ Wiley Bolden told the media that despite the Supreme Court’s decision “the fight to enhance representation for black citizens in Mobile’s government would be carried forward.” Bolden explained that the decision “was just what I expected. I’m not surprised at losing . . . We don’t intend to sit down and not continue to press for what we know is right.”¹⁵⁸ One avenue of justice Bolden pledged to pursue was strengthening the language in Section 2 of the Voting Rights Act when parts of the law were due for reauthorization in the U.S. Congress in 1982.¹⁵⁹ Republican Congressman Jack Edwards, who represented the Mobile area, said, “This vindicates my strong belief that the people have the right to determine their own form of government.”¹⁶⁰ Mobile Commissioner Doyle said that “the whole United States is going to benefit” from the Supreme Court’s ruling in the Mobile case. Commissioner Mims explained that “the American people have won a victory. I think the local government should be in the hands of the local community. I think it’s been a victory for the entire country for all people from coast to coast.”¹⁶¹ But, James

¹⁵⁷ Editorial, “Supreme Court ruling blow against tyranny,” *Mobile Register*, 23 April 1980.

¹⁵⁸ Royce Harrison, “Supreme Court rules city’s at-large elections are constitutionally valid,” *Mobile Register*, 23 April 1980.

¹⁵⁹ Royce Harrison, “Supreme Court rules city’s at-large elections are constitutionally valid,” *Mobile Register*, 23 April 1980.

¹⁶⁰ Royce Harrison, “Supreme Court rules city’s at-large elections are constitutionally valid,” *Mobile Register*, 23 April 1980.

¹⁶¹ Royce Harrison, “Supreme Court rules city’s at-large elections are constitutionally valid,” *Mobile Register*, 23 April 1980.

Blacksher, who represented Wiley Bolden and the black citizens of Mobile, called the decision “the biggest step backwards in Civil Rights to come from the Nixon Court.”¹⁶²

On the same day that the story broke recounting the *Mobile v. Bolden* decision, a *Mobile Register* editorial extolled the ruling with shouts of “Hallelujah!” and blasted Judge Virgil Pittman. In a characteristically defensive tone, the newspaper expressed a sense of exhilaration that many white Mobile citizens felt at being “vindicated.” The perspective presented in this editorial column as in others published in the *Register* was as follows: “we” (speaking for white people of Mobile) are not racists, our government is not racist, and we have never committed any injustice against black people. “[W]e applaud and welcome the tribunal’s rejection of the tyrannical orders of U.S. District Judge Virgil Pittman of Mobile who,” the *Register* charged “had set himself up as dictator of the future destiny of the city and county.”¹⁶³ Later, the article praised the Supreme Court for “not allow[ing] Mobile to become ‘Pittmanville.’”¹⁶⁴

Once attorneys on both sides had a chance to read the lengthy and complex opinion of the Supreme Court, there were varying reactions. James Blacksher explained that although the main opinion was not what he had hoped for, “I no longer am certain that the city case is lost.” Blacksher added, “I want to take back what I said yesterday about the case being over.”¹⁶⁵ On remand from the Supreme Court, the case went back to Judge Virgil Pittman in the Southern District Court of Alabama where evidence was reconsidered in light of the standard that there must be proof of discriminatory intent to

¹⁶² Royce Harrison, “Supreme Court rules city’s at-large elections are constitutionally valid,” *Mobile Register*, 23 April 1980.

¹⁶³ Editorial, “Supreme Court ruling blow against tyranny,” *Mobile Register*, 23 April 1980.

¹⁶⁴ Editorial, “Supreme Court ruling blow against tyranny,” *Mobile Register*, 23 April 1980.

¹⁶⁵ Royce Harrison, “Attorneys weight impact of Supreme Court ruling,” *Mobile Press*, 23 April 1980.

show a violation of the constitution. A footnote to the majority opinion written by Justice Stewart gave Wiley Bolden and the black citizens of Mobile renewed hope. The footnote proclaimed that “[w]hether it may be possible ultimately to prove the Mobile’s present governmental and electoral system have been retained for racially discriminatory purpose, we are in no position now to say.”¹⁶⁶ The fact that the Supreme Court did not reverse the entire ruling of the district and circuit courts and, instead, sent the case back on remand was a sign that there were unresolved issues that had to be addressed. Justice Thurgood Marshall, the only African American on the Supreme Court, argued that establishing “intent” as the standard of proof for a violation of the Fifteenth Amendment, and the Voting Rights Act “may represent an attempt to bury the legitimate concerns of the minority beneath the soil of a doctrine almost as impermeable as it is specious.”¹⁶⁷ On remand, the case was not fully resolved until 1982 when Judge Pittman found that in 1911 Alabama political leaders devised Mobile’s at-large system with discriminatory intent. Judge Pittman thereby ordered its dismantling, and required it be replaced by a mayor and city council district system in which council members would be elected by individuals residing in neighborhood districts.

ADC Chairman Joe Reed recalls that after a decade of experience in advocating the fulfillment of the Voting Rights Act, he began to realize how critical the federal judiciary would continue to be in the quest for political equality for black citizens.¹⁶⁸ Reed remembers that in observing the impact of U.S. District Judge Frank M. Johnson on civil rights, he and ADC activists began advocating for the appointment of black federal

¹⁶⁶ Royce Harrison, “Attorneys weight impact of Supreme Court ruling,” *Mobile Press*, 23 April 1980.

¹⁶⁷ Royce Harrison, “Attorneys weight impact of Supreme Court ruling,” *Mobile Press*, 23 April 1980.

¹⁶⁸ Dr. Joe L. Reed, interview by author, 8 February 2012.

judges in Alabama. Reed used his and the ADC's political clout to press for black judicial nominees. When Georgia Governor Jimmy Carter ran for president in 1976, Joe Reed met with him as he travelled through Alabama on the campaign trail. At their meeting, Chairman Reed asked Governor Carter, a fellow southern Democrat, if he as president would make a commitment to appoint black federal judges in Alabama and in other southern states.¹⁶⁹ Governor Carter promised Reed he would appoint black lawyers to federal judgeships, and in return Reed and ADC activists put all their energy into mobilizing black Alabamians to turn out and vote for Carter in 1976.

After Carter was elected president, Joe Reed became the Alabama coordinator for the Committee for Selection of Blacks to the Federal Judiciary in the South. This committee was co-chaired by civil rights leaders Coretta Scott King and Horace E. Tate, and they worked with President Carter and U.S. Attorney General Griffin Bell to identify black lawyers who would make themselves available for appointments to federal judgeships.¹⁷⁰ In 1978, the U.S. Congress passed a bill that expanded the federal judiciary, creating new seats on various district and circuit courts.¹⁷¹ Under this bill Alabama received four new U.S. District Judge positions, and Reed began pushing for two of those to be filled by African Americans.¹⁷² Knowing that the ADC had received a commitment from Alabama's two U.S. Senators, Howell Heflin and Donald Stewart, to nominate and support black candidates for federal judgeships, Reed felt confident that this was their time.

¹⁶⁹ Dr. Joe L. Reed, interview by author, 8 February 2012.

¹⁷⁰ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹⁷¹ Dr. Joe L. Reed, interview by author, 8 February 2012. Associated Press, "Senate confirms Johnson," *Montgomery Advertiser*, 20 June 1979.

¹⁷² Dr. Joe L. Reed, interview by author, 8 February 2012.

Joe Reed, Coretta Scott King, and several ADC activists went to the White House in 1978 to meet with President Carter on the matter of appointing black federal judges. At that meeting Carter and Griffin Bell worked with Reed to initiate the process of getting black candidates lined up for two federal judgeships in Alabama.¹⁷³ With the support of Senator Howell Heflin and Senator Donald Stewart, in January 1980 President Carter sent the names of two Alabama black lawyers, Fred Gray and U. W. Clemon, to the U.S. Senate Judiciary Committee for consideration to be nominated to the U.S. District Court.¹⁷⁴ Clemon was nominated for one of the new posts in the Northern District Court of Alabama and Gray was nominated to fill the position that was vacated when President Carter nominated District Judge Frank M. Johnson to the 5th U.S. Circuit Court of Appeals. Reed told the *Montgomery Advertiser* that he was “deliriously happy” upon word that President Carter had officially submitted the names of Gray and Clemon to the U.S. Senate. Reed explained, “Sending these names to the Senate proves that Jimmy Carter is a man of his word.”¹⁷⁵ Yet, this was only the first step in the confirmation process: there was a long road ahead before “Judge Gray” and “Judge Clemon” could become Alabama’s first black federal judges. After President Carter’s announcement of the nominations, the American Bar Association was rumored to have given both Gray and Clemon a rating of “unqualified.”¹⁷⁶ Reed defended Clemon and Gray, saying that he was not surprised at the rating and that the ABA had “been doing

¹⁷³ Dr. Joe L. Reed, interview by author, 8 February 2012. Peggy Roberson, “Carter bench nominees said rated ‘unqualified’,” *Montgomery Advertiser*, 11 January 1980.

¹⁷⁴ Dr. Joe L. Reed, interview by author, 8 February 2012. Peggy Roberson, “Carter bench nominees said rated ‘unqualified’,” *Montgomery Advertiser*, 11 January 1980.

¹⁷⁵ Peggy Roberson, “Carter bench nominees said rated ‘unqualified’,” *Montgomery Advertiser*, 11 January 1980.

¹⁷⁶ Peggy Roberson, “Carter bench nominees said rated ‘unqualified’,” *Montgomery Advertiser*, 11 January 1980.

everything possible to prevent blacks from getting on the court.”¹⁷⁷ Both Gray and Clemon were in for a tough fight.

During the Senate Judiciary Committee hearings, Fred Gray was subjected to protracted scrutiny. One Senate staffer said Gray had faced “the most extensive investigation and hearings in history.”¹⁷⁸ As a result of allegations of professional misconduct and pressure from enemies of Gray, Senator Heflin withdrew his support of Gray’s nomination in August, 1980. Gray held a press conference a few days after the news from Senator Heflin came. To the media, Fred Gray explained that he would withdraw his name from the nomination if the White House as well as Senator Heflin and Senator Stewart would guarantee “another black lawyer, acceptable to the black community, will be confirmed by this session of Congress.”¹⁷⁹ Earlier, in June, as Fred Gray’s confirmation process had come to a standstill, U. W. Clemon had been approved unanimously by the U.S. Senate and, thus, became the first black federal judge in Alabama history. Gray believed that his legal activism on behalf of civil rights for black Alabamians had hurt his nomination. Gray claimed that the “news media” and “a substantial segment of Alabama’s power structure” had thwarted his nomination through “reckless disregard for the truth.”¹⁸⁰ Although he was disappointed with the outcome of his nomination, Gray kept his focus on securing a federal judgeship in the Middle District of Alabama for a black lawyer.

¹⁷⁷Peggy Roberson, “Carter bench nominees said rated ‘unqualified’,” *Montgomery Advertiser*, 11 January 1980.

¹⁷⁸Peggy Roberson, “Senate confirms Thompson for U.S. judgeship,” *Montgomery Advertiser*, 27 September 1980.

¹⁷⁹Amy Herring, “Gray to withdraw if other black OK’d,” *Montgomery Advertiser*, 9 August 1980.

¹⁸⁰Amy Herring, “Gray to withdraw if other black OK’d,” *Montgomery Advertiser*, 9 August 1980.

As the news of Gray's withdrawal came, the 1980 Democratic National Convention was just getting under way in New York.¹⁸¹ During the Democratic Convention, Senator Heflin, ADC Chairman Joe Reed, and others met to discuss the status of the Middle District judgeship. Heflin agreed to use his influence on the Senate Judiciary Committee to attempt to get a new black nominee through before the Senate adjourned in September.¹⁸² South Carolina Senator Strom Thurmond, the Republican leader on the Senate Judiciary Committee, and other Senate Republicans pledged to block any more Carter nominees from receiving consideration for appointments in hopes that Ronald Reagan would be elected in November and the vacancies could be filled with Republican appointments.¹⁸³ At a press conference from the Republican National Convention in Detroit, Senator Thurmond pledged not "to allow any more of President Carter's nominees to get through this year."¹⁸⁴

After the Democratic Convention, the Republicans kept their pledge to stonewall, but Senator Heflin persisted, nominating Myron H. Thompson, a young black lawyer from Dothan, to the vacancy for the Middle District judgeship.¹⁸⁵ One Republican Senator attempted to block Thompson's nomination, but Strom Thurmond chided his fellow Republican, "Leave him alone, I promised him to Heflin!" Joe Reed recalls that Thurmond told Heflin that "if he was trying to get a black in he wouldn't block it."¹⁸⁶ President Carter entered Thompson's nomination in September, and Heflin used all his

¹⁸¹ Dr. Joe L. Reed, interview by author, 8 February 2012. Peggy Roberson, "White House, Stewart reject Gray's demands on judgeship," *Montgomery Advertiser*, 10 August 1980.

¹⁸² Dr. Joe L. Reed, interview by author, 8 February 2012.

¹⁸³ Dr. Joe L. Reed, interview by author, 8 February 2012. Peggy Roberson, "White House, Stewart reject Gray's demands on judgeship," *Montgomery Advertiser*, 10 August 1980.

¹⁸⁴ Peggy Roberson, "White House, Stewart reject Gray's demands on judgeship," *Montgomery Advertiser*, 10 August 1980.

¹⁸⁵ Dr. Joe L. Reed, interview by author, 8 February 2012.

¹⁸⁶ Dr. Joe L. Reed, interview by author, 8 February 2012.

clout to push Thompson's nomination through before the clock ran out on the 96th United States Congress.

Upon news that the president had nominated Myron Thompson, Heflin was cautiously predicting a "50-50" chance of gaining a favorable vote by the entire Senate before the session expired. "We're about a week or 10 days late," Sen. Heflin explained, but he pledged to do all he could to deliver on Thompson's confirmation.¹⁸⁷ The story in the *Montgomery Advertiser* reported that even though the Republicans on the Senate Judiciary Committee had been "foot-dragging on Carter nominations," Senator Heflin had "secured the 'cooperation' of Republican committee members." Senator Donald Stewart, who was entangled in his own re-election campaign, said he also supported Thompson's nomination. On the campaign trail, Senator Stewart was asked by many white voters, "Why must we have a black federal judge?"¹⁸⁸ Understanding the political realities of Alabama, Senator Heflin, who was not on the ballot in November, carried the full load of pushing through the Thompson confirmation. Heflin explained that he had received favorable reactions from everyone he had talked to about Thompson in the legal and law enforcement communities in Alabama. Heflin said, "I don't know anyone who opposes Thompson. I talked to the three federal judges in Montgomery and the state judges in Dothan. And the bar associations of Houston, Dale, and Henry counties have endorsed him." Even the Fraternal Order of Police "sing his praises," Heflin added.¹⁸⁹

Within a week and a half, the Senate had voted to confirm Myron Thompson as the first black federal judge in the Middle District of Alabama. To secure Thompson's confirmation, Heflin went to each of the Republicans on the Senate Judiciary Committee

¹⁸⁷ Peggy Roberson, "Thompson hearing scheduled," *Montgomery Advertiser* 19 September 1980.

¹⁸⁸ Peggy Roberson, "Thompson hearing scheduled," *Montgomery Advertiser*, 19 September 1980.

¹⁸⁹ Peggy Roberson, "Thompson hearing scheduled," *Montgomery Advertiser*, 19 September 1980.

in person to see if they “had any problems” and to “answer any questions” they had about Thompson. With three days remaining before the Congress recessed for the year, Thompson’s confirmation was made by a voice vote in the Senate, as Republicans continued to stall other Carter nominations.¹⁹⁰ ADC Chairman Joe Reed credits Heflin and still recalls how difficult it was to maneuver Thompson’s confirmation through the Senate channels with so little time with which to work. Reed fondly remembers Heflin as “one of the few southern Senators who went to Washington without attacking black folks.”¹⁹¹ Reed explains that Heflin was not only helpful with nominating black federal judges but also consistently supported civil rights and other issues of concern to black Alabamians. “Heflin did a lot of things to help blacks that he didn’t advertise,” Reed remembers, and even though he could have suffered politically with white voters in Alabama, “he never left us,” Reed says.¹⁹²

More than one hundred years after the end of Reconstruction in the “Cradle of the Confederacy,” Montgomery, Alabama, Myron Thompson became the first African American to serve as a federal judge in the Middle District of Alabama. Judge Frank M. Johnson, whose civil-rights-era decisions had contributed to black Alabamians gaining equal civil rights, administered the oath of office to U.S. District Judge Myron Thompson in October, 1980. In his remarks at the investiture, Judge Thompson praised his predecessor, Judge Johnson, and declared that “the landscape of this state has changed tremendously,” referring to the many civil rights advances that Judge Johnson presided

¹⁹⁰ Peggy Roberson, “Senate confirms Thompson for U.S. judgeship,” *Montgomery Advertiser*, 27 September 1980.

¹⁹¹ Dr. Joe L. Reed, interview by author, 8 February 2012.

¹⁹² Dr. Joe L. Reed, interview by author, 8 February 2012.

over.¹⁹³ Fred Gray spoke at the ceremony and said he hoped one day to see the 33-year-old Thompson “become a U.S. Supreme Court justice.”¹⁹⁴ ADC Chairman Joe Reed told reporters he was glad to see Thompson occupying the “revered judicial seat” of Judge Johnson. Reed also added that Senator Heflin had “opened up the doors long shut to our people” in pushing for Thompson’s nomination. Senator Heflin was in attendance to see his nominee take the bench, and noted that despite Thompson’s age he would “make significant contributions to the rich tradition of the Middle District of Alabama.” Heflin added that age “is not the single and only criterion of wisdom,” and noted that “Thomas Jefferson was only in his early 30s when he wrote the Declaration of Independence.” Heflin predicted a sterling career for Judge Thompson, stating that he possessed the “essential integrity to become a great judge.”¹⁹⁵

By the early 1980s, the ADC had begun to expand its political influence and had secured notable political victories. ADC activists understood that their votes could help elect political leaders, and these political allies—many of the white—could promote issues of importance to the black Alabamians. The structure and organization of the Alabama Democratic Conference was resting on a solid foundation of political successes and a well-coordinated grassroots network by 1980. Political leaders, such as Senator Howell Heflin, benefitted from the organized and coordinated support of the ADC. The purposes of the organization were by the 1980s defined as follows:

- 1) to conduct regular voter registration drives and education campaigns;
- 2) to maintain strong political units in each county and congressional district;
- 3) to get more blacks elected to political office, and also whites who are responsive to the needs of blacks and poor people;
- 4) to monitor voting records of elected officials;
- 5) to screen and endorse candidates, and to prepare guide ballots;
- 6) to secure

¹⁹³ Mary Reeves, “Myron Thompson sworn in,” *Montgomery Advertiser*, 10 October 1980.

¹⁹⁴ Mary Reeves, “Myron Thompson sworn in,” *Montgomery Advertiser*, 10 October 1980.

¹⁹⁵ Mary Reeves, “Myron Thompson sworn in,” *Montgomery Advertiser*, 10 October 1980.

legislation which will provide more jobs for blacks and poor people; and 7) to advocate and advance the cause of the Democratic Party.¹⁹⁶

The ADC's structure facilitated vibrant local activism along with support and planning at the state-wide level. Each county in Alabama had a county-wide branch of the ADC. From these county units, more than 200 delegates were selected to serve in the Assembly of County Delegates, which was "the supreme governing body of the ADC."¹⁹⁷ The Assembly elected the state officers and had the authority to modify and amend the ADC constitution and pass resolutions. Also the Assembly received reports from ADC and other political officials and was charged with the duty of screening candidates for political office and making endorsements once Chairman Joe Reed and other ADC leaders initiated the practice in 1970. The Executive Committee of the ADC was comprised of the elected state officers as well as the Standing Committee members, who were appointed by the chairman. Also serving the Executive Committee are ADC county organization chairmen, congressional district chairmen, ten elected black officials ex-officio, and ten additional members at-large. The officers of the ADC are elected for two-year terms in non-election ("odd-numbered") years.¹⁹⁸ The Standing Committees included the following: Voter Registration and Education; Municipal and Urban Affairs; Agriculture and Rural Affairs; State and Federal Legislation; Health Care and Social Services; Research; Women's Activity; Education; Job Opportunities; Economic

¹⁹⁶ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

¹⁹⁷ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery. Constitution of the Alabama Democratic Conference, Inc. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

¹⁹⁸ Pamphlet of the Alabama Democratic Conference. "Political Strength Through Unity" (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery. Constitution of the Alabama Democratic Conference, Inc. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

Development; and Credentials.¹⁹⁹ Each county unit of the ADC had a Women’s Caucus and ADC mandated that a “third of a county’s delegates to the State Assembly must be women.”²⁰⁰

Within two decades of its founding, the ADC was recognized as the “official black caucus of the Democratic Party of Alabama” and held about 25 percent of seats on the state Democratic Executive Committee.²⁰¹ Also the ADC was holding regular meetings at the local and state-wide levels. ADC activists organized two state conventions each year, and the Executive Committee met six times each year. Congressional districts held four meetings per year and the local chapters of ADC met monthly. The ADC made it clear that “[m]embership is open to any person who believes in and supports the principles and philosophy of the ADC and the Democratic Party” and that “[a]ll meetings are open to all democrats.”²⁰²

By 1980, when the fight to renew the Voting Rights Act and to make Fifteenth Amendment rights more fully a reality for many of Alabama’s black citizens was about the begin, the ADC had a distinctive mix of seasoned political veterans and new, energetic political activists who joined together to make an effective team for influencing national, state, and local political leaders, getting citizens to register and vote, and

¹⁹⁹ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery. Constitution of the Alabama Democratic Conference, Inc. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

²⁰⁰ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery. Constitution of the Alabama Democratic Conference, Inc. Rufus A. Lewis Papers, Box 3, Trenholm State Technical College Library, Montgomery, Alabama.

²⁰¹ Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

²⁰² Pamphlet of the Alabama Democratic Conference. “Political Strength Through Unity” (Montgomery, AL: Alabama Democratic Conference, 1988). Dr. Q. D. Adams Papers, Box 6: folder 2.2, Alabama State University Library, Montgomery.

coordinating activities with national civil rights organizations. After the 1980 elections, the ADC began to focus their attention on the approaching reauthorization of certain provisions of the Voting Rights Act in 1982. ADC activists believed that, just as it had in 1965, Alabama would again be the proving ground for demonstrating that voting rights injustices persisted in the United States.

Chapter 3: Alabama Politics and Local Activists' Role in Shaping the Voting Rights Act Renewal Debate, 1980-1981

“By what logic can one assume that over 300 years of slavery and institutionalized racism can be eliminated, particularly in the area of its most historical concentration, within the 16 years that the Voting Rights Act was placed on the books of this country?”

-Alabama State Senator Michael Figures²⁰³

“If the Voting Rights Act is not extended, may you come to Pickens County, Alabama, and kneel with us and say, ‘Lord, please take all blacks on home with you where maybe, if such be; we cannot take much more.’”

-Maggie Bozeman, ADC member and voting rights activist²⁰⁴

When the 97th United States Congress convened in 1981, the issue of the extension of the Voting Rights Act was one of the major items on the legislative agenda. Initially, many conservative political leaders questioned the need to maintain Section 5. Section 5 required states with a history of discriminatory voting and election practices to have any election law changes pre-approved by the United States Justice Department. In the 1980 elections, Ronald Reagan’s appeals to reduce the size and influence of the federal government found wide support among white Americans as the nation embarked on a dramatic political shift to the right. In November, 1980 Reagan routed President Jimmy Carter by a margin of 489 to 49 in the Electoral College. This wide margin of victory for the Republicans signaled an energized voting base in the suburban precincts, especially across America’s Sun Belt.²⁰⁵ Also in the 1980 elections, the U.S. Senate saw a twelve-seat party turnover in favor of the Republicans, who began the 97th Congress

²⁰³ Testimony of Michael Figures, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1612.

²⁰⁴ Testimony of Maggie Bozeman, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1566.

²⁰⁵ Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton, NJ: Princeton University Press, 2002); Bruce J. Schulman and Julian E. Zelizer, eds., *Rightward Bound: Making America Conservative in the 1970s* (Cambridge, MA: Harvard University Press, 2008). In fact, a number of analysts have argued that this election was a turning point in shaping the fervently polarized two-party system that dominates our political system today.

with a 53-46 seat majority. Now, the Republicans controlled the powerful committee chair positions. Thus, in the Senate, Reagan and his Republican allies could strategically plan and coordinate committee hearings and legislative priorities. Until this point, the Republicans had not controlled a house of Congress since 1954. Although the House of Representatives remained majority Democratic, the Republicans had gained 34 seats in that chamber. The foot soldiers of the “Reagan Revolution” hoped to ride the tide of current public opinion in slashing the federal government’s size, revenue, and spending while increasing the power and the responsibilities of state and local governments. In the early 1980s, most on the right viewed laws and regulations, such as Section 5 of Voting Rights Act, as a case-in-point that the long arm of the federal government extended much too far. Conservatives in the early 1980s questioned the need to continue Justice Department oversight as spelled out in Section 5, specifically, and many articulated a more general attack on the relevance of the Voting Rights Act in the context of the philosophy supporting smaller and more localized government solutions.

In 1981, the House of Representatives initiated the process of extending the Voting Rights Act. The House Judiciary Committee sent three representatives to conduct on-site hearings in two locations. ADC leaders persuaded U.S. Representative Peter Rodino (D-NJ) and other House Democratic leaders to choose Montgomery, Alabama as the site for the hearing that would focus on black voting rights. In Montgomery, the ADC put together a line-up of witnesses who offered compelling accounts of continued local voting rights injustices—both official and unofficial. As a result of what he learned during the hearings in Montgomery, a leading House Republican proponent of ending preclearance measures, Representative Henry Hyde (R-IL), began a process reevaluating

his stance on the Voting Rights Act renewal. In the House, the debate had been initially focused on Section 5 and questions of whether “preclearance” of voting law changes in places with a history of discriminatory practices should be extended beyond their scheduled expiration in 1982. According to Steven Lawson, the 1981-1982 “battle to renew the 1965 statute offered the most severe test yet to the durability of the Second Reconstruction.”²⁰⁶ The testimony in Montgomery helped to secure the extension of Section 5 and allowed supporters of voting rights in Congress to shift the focus to strengthening the language of Section 2. The final version of the House bill, H. R. 3112, was approved by a vote of 389-24 on October 5, 1981.

In the approved House bill, Section 2 read as follows (the underlined portion represents language added in 1981): “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 a denial or abridgement of the right of any citizen of the United States to vote on account of race or color . . .”²⁰⁷ In the original Voting Rights Act of 1965, the underlined area was not included and, instead, it stated (in the place of the underlined text) the following: “to deny or abridge.” Also included in the revised version of Section 2, as the House had approved it, was the following statement: “The fact that members of a minority group have not been elected in numbers equal to the group’s proportion of the population shall not, in and of itself, constitute a violation of this section.”²⁰⁸

²⁰⁶ Lawson, *In Pursuit of Power*, 282.

²⁰⁷ *The Voting Rights Act of 1965*, Public Law 89-110, 89th Cong., 1st sess. (6 August 1965).

²⁰⁸ *An Act to amend the Voting Rights Act of 1965*, HR 3112, 97th Cong., 1st sess., *Congressional Record* (5 October 1981).

The alteration to the language in Section 2 was specifically aimed at clearing controversy over the recent Supreme Court decision in *City of Mobile v. Bolden* (1980). In this ruling, the Court had declared that the Fifteenth Amendment protected citizens from the “intent or purpose to discriminate” in election laws. In the *Bolden* decision, therefore, the Court “upheld at-large elections for city commissioners since the plaintiffs had not demonstrated that the policy to which they objected had been adopted with the intent to discriminate against minorities.”²⁰⁹ However, in other case decisions prior to this 1980 ruling, plaintiffs had succeeded in protecting voting rights through “demonstrating that an at-large system had the effect of preventing effective black political participation, regardless of the motives for choosing such an arrangement.”²¹⁰ Thus, the *Bolden* decision, which came on the eve of the battle to renew the Voting Rights Act in 1981-1982, represented a revision of judicial precedent. National civil rights groups as well as ADC activists sought ways to correct this as they developed strategic plans in the lobbying effort for the Voting Rights Act renewal.²¹¹

When asked about the turning point or crucial moment for securing the 1982 extension of the Voting Rights Act, veteran political activist Jerome A. Gray was hesitant to pinpoint a particular event, but he placed ADC activists at the center of the story. ADC made “a full-court press . . . everything we did,” Gray believed, swelled the momentum needed to compel Congress to renew the act. Gray believes the June 1981

²⁰⁹ Charles S. Bullock III and Katharine Inglis Butler, “Voting Rights,” in *The Reagan Administration and Human Rights*, ed. Tinsley E. Yarbrough (New York: Praeger, 1985), 31. For the decision itself, see The United States Supreme Court, *City of Mobile, Alabama v. Bolden*, October Term, 1979, No. 77-1844, Decided 22 April 1980.

²¹⁰ Bullock and Butler, “Voting Rights,” 31.

²¹¹ For treatments of the national civil rights organizations’ efforts to promote reauthorization of the Voting Rights Act in 1981-1982 see Lawson, *In Pursuit of Power*; Hanes Walton, Jr., *African American Power and Politics: The Political Context Variable* (New York, Columbia University Press, 1997); Abigail Thernstrom, *Whose Votes Count?: Affirmative Action and Minority Voting Rights* (Cambridge, MA: Harvard University Press, 1989).

Congressional hearings, which were held in Montgomery, Alabama, proved extremely important. The evidence presented in Montgomery gave advocates for the extension of the Voting Rights Act plenty of ammunition to back their cause. Gray fondly remembers the stories from the testimony at the hearings, and the marches and rallies held in 1981 and 1982 to support voting rights. All the efforts of so many ADC members added force to the “collective voice” favoring voting rights protections.²¹² When Gray joined the ADC, it had just begun building serious political clout. ADC grassroots activists had fought long and hard for gains in Alabama voting rights.

The House Judiciary Committee began its consideration of the question of renewing the Voting Rights Act in early 1981. The committee was chaired by Congressman Peter W. Rodino, Jr., a Democrat from New Jersey. Over his forty-year career in the House, Rodino was chairman of the Judiciary Committee for fourteen years, including hearing impeachment proceedings during the Watergate scandal. In early 1981, the Judiciary Committee decided it was necessary to hold on-site hearings in two American cities. These hearings would examine, at the local level, the issues Congress should consider while debating new voting rights legislation. Rodino and the committee chose a three-member panel from its Subcommittee on Civil and Constitutional Rights. Those three were subcommittee Chairman Don Edwards, a Democrat from California; Congressman Henry J. Hyde, a Republican from Illinois; and Congressman Harold Washington, an African American who was a Democrat from Illinois.²¹³

²¹² Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005. Jerome Gray had served as a political adviser and the state field director for the ADC since 1977. Gray grew up in Evergreen, Alabama, and earned degrees in English and biology. As a Ford Foundation Fellow, he was educated in Stanford University’s creative writing graduate program. He has taught in Alabama public schools and worked on the staff of U.S. Senator Donald Stewart (D-AL).

²¹³ House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session.

All three had considerable political experience. Edwards, first elected to Congress in 1962, had been a delegate to the 1964 and 1968 Democratic National Conventions. He served over thirty years in the House. After serving seven years in the Illinois legislature, Hyde was elected to Congress in 1974, and served in the House until 2007. Washington was a city prosecutor for four years before serving with Hyde in the Illinois legislature for fifteen years. He was elected to Congress twice, but departed the nation's capital during his second term to run for mayor of Chicago. Elected in 1983, Washington was the first black mayor of Chicago and served until his death in 1987.²¹⁴

“It came by serendipity,” Jerome Gray said when asked how ADC found out about the House's plan to hold on-site hearings. In early 1981, Jennie Montez notified Gray about the potential local hearings. Montez was an acquaintance of Gray who had worked for the Southern Regional Council in Atlanta before going to Washington. Gray remembered Montez's work for civil rights and voting rights in the South. In Washington she had lobbied for National Organization for Women, and had professional connections with many Democratic Congressional staffers.²¹⁵

Montez had a friend who worked on Congressman Peter Rodino's staff and who told her about the voting rights hearings. Houston, Texas, had already been chosen for one of the locations, but the “other field hearing was up for grabs.”²¹⁶ “So she called me and said, ‘Jerome, based upon the work y'all have done in Alabama and Alabama's history, why don't you and Dr. Reed try to get that field hearing in Montgomery?’ Joe Reed said, ‘Yeah, let's get it; let's get it!’” When Gray told Reed that Peter Rodino was

²¹⁴ United States Congress Biographical Information found on-line at: <http://bioguide.congress.gov> (accessed 14 February 2005).

²¹⁵ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²¹⁶ The hearing held in Houston focused on Mexican American voting rights issues.

chairman of the committee deciding the hearing site, Reed called him. Gray recalled that Rodino had come to Montgomery a few years earlier as the keynote speaker at the ADC's Kennedy-Johnson-King luncheon.²¹⁷

“Joe Reed said he was going to ask Rodino if he would use his influence to get the hearing scheduled in Montgomery,” Gray recalled. Since the time they met at the ADC event, Rodino and Reed had kept in touch. Reed called Rodino and “told him he’d like to have the hearing here.” In less than a month (in May), Rodino announced the hearing focused on southern voting rights issues would be held in Montgomery.²¹⁸ The stage was set; ADC activists began diligently planning their strategy for this extraordinary opportunity. The evidence presented at the hearing in Montgomery testified to promising gains toward ensuring black voting rights. Yet, it was even clearer that Alabama had a long way to go before the right of African Americans to vote was truly secure in all localities across the state.

The *New York Times* closely covered the developments in the voting rights debate as well as the actions of the House Judiciary Committee and the Reagan Administration leading up to the hearing in Montgomery. In March of 1981, President Reagan’s “new concept of federalism” became a part of the public debate and people considered how Reagan’s federalism could affect the Voting Rights Act and other civil rights laws. States’ rights—allowing state and local governments more autonomy—over various programs, including welfare and education initiatives, were part of this new federalism. The White House believed it should promote states’ rights “doctrine” allowing local

²¹⁷ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²¹⁸ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005. House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 6 May 1981.

citizens to find solutions most reasonable for their particular interests. Reagan's "new federalism" would not be associated with the state-sanctioned racial discrimination of the past, according to White House officials and allies of the emerging New Right.²¹⁹

Many African American leaders, however, did not share Reagan's faith in reversing the flow of power toward local governments. In fact, some argued the "Federal Government has not done all that it should in the area of civil and human rights." The origin of federal control, they contended, began with states' rights advocates' abuses. Reagan Administration officials said they were not intending to push discriminatory practices. Yet, one civil rights leader claimed that in order to get some states to comply with civil rights laws, they had to be "practically held hostage at gunpoint." Anxiety among civil rights activists had grown since Reagan made a speech during the 1980 campaign in Philadelphia, Mississippi—the site of the notorious killings of three civil rights workers in 1964—in which he promised to "restore to states and local governments the power that properly belongs to them."²²⁰ The Voting Rights Act debate would be one of the first battlegrounds for the Reagan White House's concept of federalism.

Many black southerners were poised to defend the Voting Rights Act. Alabama political activists were preparing to fight to show the importance of extending the act. In April, John Hulett, the first black sheriff of Lowndes County, explained how his election

²¹⁹ Sheila Rule, "Blacks and Reagan's Goal on States' Rights," *New York Times*, 11 March 1981.

²²⁰ Sheila Rule, "Blacks and Reagan's Goal on States' Rights," *New York Times*, 11 March 1981. For studies of the Reagan administration and voting rights issues, see the following: Robert R. Detlefsen, *Civil Rights Under Reagan* (San Francisco: Institute for Contemporary Studies Press, 1991), 136-137 and 156-163. Tinsley E. Yarbrough, ed. *The Reagan Administration and Human Rights* (New York: Praeger Press, 1985), 29-44. Also see Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994*, 64. Carter documents that on a number of occasions prior to this point-in-time Reagan had used racist themes as well as jokes demeaning black people while campaigning. Further, Carter points out on pages 56-57 that after the conclusion of the House hearings and prior to the Senate hearings on the Voting Rights Act, Reagan rejected legal provisions that barred racially discriminatory educational institutions from receiving federal funding.

would not have been possible without enforcement of the Voting Rights Act. Hulett liked to show off a rubber strap that past sheriffs had “used on the backs of black people in a county where blacks were numerically dominant but white control was absolute.” He and other African Americans in Lowndes County were “fearful of losing” the protection of the Voting Rights Act and the “repression” that could follow. The Voting Rights Act of 1965 and its extensions in 1970 and 1975 “banned . . . state and local laws imposing literacy tests or poll taxes that had been used in the South since the late 1800s to disenfranchise black people.” It also mandated, under Section 5, southern states and other specified jurisdictions obtain approval or preclearance from the United States Justice Department “of any change in voting procedure, no matter how small, in order to assure that those changes did not frustrate the objectives of the law.”²²¹

Black and white southerners, who remembered history in disparate ways and embraced differing accounts of the legacies of Reconstruction, also sometimes perceived the law differently. Despite the act’s effectiveness in enfranchising African Americans, Lowndes County Judge Ted Bozeman said, “Now . . . the law is more trouble than it’s worth.” The white local judge was concerned with the costs that came with preclearance. Even the expense of “removing the names of deceased voters from the rolls is an economic hardship” to a poor area like Lowndes County, according to Judge Bozeman. Sheriff Hulett, however, warned that if the Voting Rights Act were not extended, new disenfranchising schemes “such as bills to purge voters from the rolls” would “replace it.” Hulett also believed that without the federal voting protections many of the political offices black Alabamians had won would go “back to white people.” An important result

²²¹ Reginald Stuart, “Alabama Blacks Fear Losing the Voting Rights Act,” *New York Times*, 14 April 1981. For the enacted bill see *The United States Congressional Record*, “The Voting Rights Act of 1965,” Public Law 89-110, 89th Congress, August 6, 1965.

was found in “seven key states” of the former Confederacy: Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia.²²² In these states, the number of black elected officials had increased more than ten times since 1968. Nevertheless, African Americans made up “only 5.6 percent of all elected officeholders.” With a familiar reference to the post-Reconstruction South, one black Mississippi state senator observed, “If you understand the relationship between a tenant farmer and their boss, then you can understand the relationship between white lawmakers and black ones.”²²³

Jerome Gray recalled the many “tricks” used to dilute blacks’ votes in Alabama, especially in rural areas, if someone shopped or traded at the country store, this store would often be that person’s voting place. In many cases poor blacks in the area would be “on the books” or have credit at the store. A poor local black person would “owe Mr. Charlie [the store owner] so much money on groceries.” If that person were “to show up talking about voting . . . he might let them vote. He might say, ‘Who are you voting for, boy?’ And if I’m voting for his man, he may let me come on in there and vote. But if I’m not, then it’s off limits.”²²⁴

Another concern for voting rights advocates was “at-large” election systems for local offices, such as the city commission system that was contested in the *Bolden* case. At-large-elected governing bodies still existed in many Alabama municipalities and counties. The realities of race and politics in Alabama in the 1980s meant that many at-

²²² A majority of voters in all these states, except North Carolina and Virginia, voted for Senator Barry Goldwater (R-AZ) for president in 1964. This support was largely due to Goldwater’s opposition to federal government “intrusion” into state affairs in general and, specifically, his stance against the Civil Rights Act of 1964.

²²³ Reginald Stuart, “Alabama Blacks Fear Losing the Voting Rights Act,” *New York Times*, 14 April 1981.

²²⁴ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

large systems operated as obstacles to black political participation.²²⁵ An at-large system is one in which elections for all local political offices are chosen by a vote of all people of that locality. Instead of having some neighborhood, district, or other subdivision elections all offices are voted on an at-large basis. In areas where whites were the majority, voting along racial lines prevented blacks from having proportional influence and representation. In at-large electoral systems, black citizens' votes could be diluted in majority white counties, by not allowing representation by neighborhood districts. In at-large systems in the South, areas that had even the slightest majority white voters usually had all-white elected officials, since they were elected at-large.

In May 1981, Justice Department lawyers in the Civil Rights Division decided to challenge the U. S. Supreme Court's *Mobile v. Bolden* decision. The Justice Department's brief declared African Americans in Mobile had "been the victims of a long history of purposeful, official racial discrimination" in order to enforce Jim Crow laws, deny voting rights, and "maintain white supremacy." The Supreme Court created another obstacle to the enforcement of Section 5 of the Voting Rights Act with the "stricter standard of proof," the Civil Rights Division lawyers asserted. U. S. Attorney General William French Smith claimed the federal government filed this case in the U. S. District Court in Mobile because of its "general public importance." Despite Mobile being "more than 35 percent black" no African American had been elected to an at-large office since Reconstruction. In that case, civil rights lawyers described the difficulty in

²²⁵ Reginald Stuart, "Alabama Blacks Fear Losing the Voting Rights Act," *New York Times*, 14 April 1981.

proving discriminatory *intent* since these “at-large commission governments had been set up throughout the South more than 100 years ago.”²²⁶

However, the Justice Department had, since the Supreme Court’s 1980 ruling, compiled “a series of actions by the Alabama legislature dating back almost 120 years.”²²⁷ This new evidence showed the concerted effort of many white politicians who over several decades constructed laws to discourage “black citizens from participation in the electoral processes as voters or candidates and of maintaining white supremacy in the electoral process.” Examples of these actions included laws passed—in an effort to counter the First Reconstruction—“to oust blacks from the governing body in 1868” and “various voting restrictions” such as “poll taxes, literacy tests, and residency property and employment requirements.” The Justice Department concluded that such governmental restrictions explained why in 1965 “only 23 percent of Alabama blacks of voting age were registered, as against 73 percent registration for whites.” By 1973, 64.4 percent of blacks were registered, while white registration had jumped to 89.6 percent.²²⁸ With a month before the hearing in Montgomery was set to begin, increasing numbers of Americans were engaged in the debate over the future of the Voting Rights Act.

By the first week of June, the Reagan Administration had announced its position on the debate over extending the Voting Rights Act. The *New York Times* reported that foremost in the minds of White House officials was the goal of relieving “some of the burden the law imposed on state and local governments.” The law on the books “violated basic principles of federalism and states’ rights,” according to White House officials. The Reagan Administration proposed several possibilities of changes to the Voting Rights

²²⁶ “U.S. Alleges Discrimination in Mobile Election Case,” *New York Times*, 9 May 1981.

²²⁷ “U.S. Alleges Discrimination in Mobile Election Case,” *New York Times*, 9 May 1981.

²²⁸ “U.S. Alleges Discrimination in Mobile Election Case,” *New York Times*, 9 May 1981.

Act. First, “Limit the preclearance requirement [Section 5] to those types of changes that have elicited the most objections from the Justice Department.” These included redistricting disputes and challenges to at-large electoral systems and annexation proposals. Second, offer a “bail-out” provision for “cities and counties with a clean record in recent years.” Third, “Replace the preclearance requirement with a mandatory notice provision.” In other words, jurisdictions under Section 5 would have to submit a notice of election law change rather than get precleared by the Justice Department, thus, shifting “the burden of proof from the local authorities to the Attorney General.” Fourth, allow the expiration of Section 5 in August 1982.”²²⁹ Attorneys in the Civil Rights Division of the Justice Department wanted “extension of the preclearance requirement in its present form for five years or more.” Reagan’s Associate Deputy Attorney General said he “would have been ‘shocked’ if the ‘career bureaucracy’ had recommended anything but a continuation of the status quo.”²³⁰

Civil rights activists expressed dismay over the White House position. Elaine R. Jones, of the National Association for the Advancement of Colored People (NAACP) Legal Defense and Educational Fund, was wary of Reagan’s desire to alter Section 5, which she called “the heart of the Voting Rights Act.” “Any weakening of Section 5 is totally unacceptable” in Jones’s view. She called for a ten-year extension of the entire act. Congressman Henry Hyde “urged civil rights advocates to show greater flexibility, noting that certain provisions of the law are permanent and apply nationwide.”²³¹

Hyde was clearly in favor of Reagan’s proposed changes. Prior to the hearing in Montgomery, Hyde told journalist William Raspberry of the *Washington Post* that states

²²⁹ Robert Pear, “White House Weighs Voting Rights Shift,” *New York Times*, 4 June 1981.

²³⁰ Robert Pear, “White House Weighs Voting Rights Shift,” *New York Times*, 4 June 1981.

²³¹ Robert Pear, “White House Weighs Voting Rights Shift,” *New York Times*, 4 June 1981.

under Section 5 “have been in the penalty box for nearly 17 years. They have improved their record.” Raspberry, an African American journalist who grew up in the small segregated town of Okolona, Mississippi, already had a distinguished career writing about civil rights issues. Hyde proposed something that was similar to the Reagan plan. He wanted to shift the burden of proof to “the complaining parties.” Hyde told Raspberry his proposal was a “compromise,” and he hoped to draft something that was “passable.” Hyde mentioned that many members of Congress were increasingly hostile to “administrative procedures . . . used to enforce civil rights laws,” believing they are “subject to political manipulation.” He believed that Section 5’s selective application created a “stigma” that “generates resentment and serves as a disincentive for improvement.”²³² Hyde had probably been convinced of this by white southern members of Congress and lobbyists who were culturally disposed toward defensiveness and battling to protect the “honor” of the South against the attacks of non-whites and non-southerners.

Hyde proposed a “bail-out” provision like the one called for by the Reagan Administration. He believed this would help “remove the automatic and odious distinctions between sections of the country.” Hyde offered compensation of legal fees to plaintiffs who were successful in their suits against voting law changes. He contended that his proposal would “mandate retention of the traditional pre-clearance remedy” as outlined in the 1965 Voting Rights Act. Hyde believed this was appropriate since “southern attitudes have changed, are changing and will continue to change in a constructive way.” He summed up his proposal as a potentially “acceptable compromise”

²³² William Raspberry, “New Ways in the Old South,” *Washington Post*, 3 June 1981.

between “those, on either side, who are inflexible and unwilling to even consider some sort of middle position.”²³³

In a follow-up article, Raspberry reported that Hyde “cannot understand why some observers insist on listing him with the enemies of the Voting Rights Act.” Doug Wilder, the only black member of the Virginia State Senate, explained the problem with Hyde’s proposal. He complained that showing *intent* of discrimination, as Hyde’s plan called for, could be very tricky. Senator Wilder recalled the redistricting plan that recently passed in Virginia. He described the official redistricting process as “[v]ery, very open, with public hearings and full notification.” However, many of the real decisions, Wilder explained, were made at the whites-only Commonwealth Club in Richmond. Wilder wondered how it was possible to prove intent of discrimination in cases such as the “meetings” that are “back-room” and have “no record.” Wilder explained that the white legislators would claim that the districts were redrawn because of population changes—not “just for the hell of it.” He continued, explaining that with a new census in 1980 these white politicians could claim “that’s just the way it happened.” Wilder feared that if the Hyde changes were approved in the extension of the Voting Rights Act, “there will be a lot more just-the-way-it-happeneds.”²³⁴

In the days just prior to the hearing in Montgomery, the *Montgomery Advertiser* and the *Alabama Journal* analyzed the impact of the Voting Rights Act in juxtaposed with recent conservative critiques of the law. On June 9, the *Journal* published an opinion piece about the Voting Rights Act debate. Since 1965, under Section 5, the Justice Department had “blocked 815 state or local election-law changes submitted to it

²³³ William Raspberry, “New Ways in the Old South,” *Washington Post*, 3 June 1981.

²³⁴ William Raspberry, “Just-the-Way-It-Happened Politics,” *Washington Post*, 3 June 1981.

through the end of 1980.” However, “these represented 2.3 percent of the 34,798 proposed changes reviewed by the department.” The Voting Rights Act debate would have an impact on redistricting plans in the Alabama Legislature as well as in other states since the 1980 census information had been recently published. The *Journal* also noted that after the U. S. House finished with the voting rights issue, it would face another round of scrutiny in the Senate. The article quoted Senate Judiciary Committee Chairman Strom Thurmond, a South Carolina Republican, who questioned why the Justice Department should have to approve any law a local governing body makes. “It is a question that would have been hooted down in 1965, or even 1975. But not in today’s political climate,” the article concluded.²³⁵ Senator Thurmond, as the first southern Democrat in Congress to switch to the Republican Party in protest against the Civil Rights Act of 1964, was a bellwether of the New Right. Earlier in his political career, Thurmond had run for president—in 1948—on the white-supremacist Dixiecrat ticket in revolt against President Truman’s support for black civil rights.²³⁶

On June 10, a story broke that a planned voting rights rally was being organized for the Montgomery hearing. ADC members organized this event, and it would be held in front of the federal courthouse on the day of the House hearing. However, the city council claimed this rally had not been cleared “through the proper channels.” A representative from the Equal Rights Congress attempted to apply for a permit to assemble “but was told the group had missed the deadline to get on the council’s agenda for Tuesday.” This “lack of communication” kept the permit from being reviewed. The

²³⁵ “On the Voting Rights Act Debate,” *Alabama Journal*, 9 June 1981.

²³⁶For a thorough analysis of the Dixiecrat campaign and its ramifications for southern and national politics see Kari Fredrickson, *The Dixiecrat Revolt and the End of the Solid South: 1932-1968* (Chapel Hill: University of North Carolina Press, 2001).

Journal noted this was similar to an instance in 1979 when the local Ku Klux Klan failed to meet the same deadline to be permitted to assemble.²³⁷

On the morning of the June 12 hearing, the *Montgomery Advertiser* reported that a thousand people were expected at the “unauthorized” voting rights rally. Rally organizers planned to assemble in front of the federal courthouse before the hearing was scheduled to begin that morning. The article also mentioned that Montgomery Mayor Emory Folmar—considered the top-Republican prospect for the 1982 Alabama gubernatorial race—had said he would “testify against extension of the Voting Rights Act.”²³⁸ It is interesting that also in the *Advertiser* that morning was a photo and article of the United Daughters of the Confederacy’s (UDC) June 11 celebration honoring the birthday of Jefferson Davis. The UDC is a southern white ladies’ voluntary association founded after the Civil War to commemorate the Confederacy and CSA veterans. Folmar stood side-by-side with the UDC president and the Montgomery District Attorney in placing “a wreath at the spot where Davis took the oath of office” as president of the Confederate States of America.

Clearly, the Montgomery hearing was crucial in the debate over the Voting Rights Act and especially the extension of Section 5. Hundreds of pages of testimony tell a story all too familiar for the South: institutionalized racism, disfranchisement schemes, and the continued white resistance to the modest gains in civil rights for African Americans. The hearing was held at 9 a.m. on June 12 in the United States Courthouse.

²³⁷ Lenore Reese, “Voting Rights Group Expects 1,000 at Rally Here Friday,” *Alabama Journal*, 10 June 1981.

²³⁸ Scott Shepard, “Unauthorized rally scheduled as voting rights hearing starts,” *Montgomery Advertiser*, 12 June 1981. Folmar was nominated by the Republican Party for governor in 1982, but was defeated by George Wallace, receiving just over 40 percent of the vote; “Local UDCs Commemorate Jeff Davis,” *Montgomery Advertiser*, 12 June 1981.

A large, stately marble and stone structure, this building did not look like most of its surroundings. In the early 1980s, it appeared almost as if someone ripped it from the pavement of Washington, D.C. and dropped it on Montgomery's old, tired downtown. In the committee room, dressed in dark suits, Congressmen Edwards, Hyde, and Washington sat in large leather chairs behind a table elevated above the witnesses and spectators that morning.²³⁹

Mayor Emory Folmar was the lead witness before the three-member panel from the Subcommittee on Civil and Constitutional Rights. He was one of the few witnesses who wanted to see Section 5 expire. Section 5, as had been predicted, became the central point of contention at these hearings. Folmar recounted the original purposes of Section 5 and explained that in his view the section's intent had been fulfilled.²⁴⁰

A Reagan admirer and new convert to the “burgeoning”—according to Congressman Henry Hyde— southern Republican Party, Folmar delivered the “party-line” on the issue.²⁴¹ Folmar used statistics on voter registration and elected officials in Alabama's black community, which he believed “represented black political power.”²⁴² In Alabama, Folmar claimed, that 50.6 percent of African Americans were registered to vote, while only 49.4 percent of white people were registered. In hard numbers that meant 503,940 black voters and 1,434,291 white voters were registered in Alabama

²³⁹ Lenore Reese and Julie Johnson, “Let Portions of Act Die—Folmar,” *Alabama Journal*, 12 June 1981. Also, this is based on personal observation of setting.

²⁴⁰ Testimony of Emory Folmar, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting rights Act*, 97th Cong., 1st session, 12 June 1981, 1513-1514. At these hearings testimony was heard from Mississippians on voting rights in their state. This chapter focuses specifically on the contributions and evidence from Alabama in shaping voting rights policy decisions. For a treatment of Mississippi voting rights issues see Frank R. Parker, *Black Votes Count: Political Empowerment in Mississippi after 1965* (Chapel Hill: University of North Carolina Press, 1990).

²⁴¹ Folmar Testimony, 1518. Also, Jerome a. Gray, interview by author, tape recording, Montgomery, AL, 17 March 2005.

²⁴² Folmar Testimony, 1513.

according to the 1980 census.²⁴³ Folmar later added that he thought the voter registration drives “in the black community” were “great.”²⁴⁴ However, Folmar argued that Section 5 wrongfully “presupposes guilt” and was “discriminatory.”²⁴⁵ Folmar questioned whether lawmakers “wish to keep this yoke on our southern necks for the political delight of others.”²⁴⁶ Folmar’s view was typical among many southern whites whose worldviews had been shaped by the culturally transmitted memory of the supposed evils of Reconstruction. In his language, Folmar drew from themes that had echoed in Alabama politics since Reconstruction. A number of scholars have shown that for some southern whites a sense of defensiveness was enhanced by perceptions of “outside”—meaning federal government or “Yankee”—“intrusion.”

Congressman Hyde opened up the questioning of Folmar. “I think you have stated the case for the philosophy of expiration as well as I have heard it,” Hyde declared. Folmar then touted his law-and-order record which included breaking up a 1979 Ku Klux Klan rally that was held “to reenact the march that Dr. Martin Luther King made years ago.” Folmar explained to Hyde, “We met them at the west end of the city limits, disarmed and incarcerated 197 members of the Ku Klux Klan, sir.”²⁴⁷ Folmar was known in Montgomery for accompanying law enforcement on raids, often handcuffing suspects himself.

Hyde turned to the issue of lifting the preclearance section as Folmar suggested. Over the last several weeks, he had been made well aware of the concerns many had for the possible expiration of Section 5. Hyde explained the idea that “one could live up to

²⁴³ Folmar Testimony, 1514-1515

²⁴⁴ Folmar Testimony, 1516.

²⁴⁵ Folmar Testimony, 1513.

²⁴⁶ Folmar Testimony, 1514.

²⁴⁷ Folmar Testimony, 1516.

the letter and still, through attitudes, intimidate people not to vote, not to register, and so that this jurisdiction could prove it is absolutely clean in terms of the spirit and letter of the act” when it really had not been.²⁴⁸ He asked Folmar if “an acceptable middle ground” could be agreed upon for those jurisdictions that had not been known to have sustained complaints regarding African Americans’ voting rights. Hyde proposed that such jurisdictions would be eligible for elimination of preclearance rules and could “join the rest of the country in being treated equally,” as he put it. “I think it would be fairer if the U.S. Attorney General had to prove that we erred,” Folmar retorted. In a revealingly defensive tone, Folmar asked the committee why the South should get worse treatment “than murderers and thieves who have to be proven guilty” before they are incriminated. Folmar claimed that the Voting Rights Act had been necessary in the past, but he did not recall any recent “sustained complaint against the city of Montgomery.” In defending his position, Folmar asked, “Why should we have to come in and prove we are not a Communist? Why should we have to prove that we have quit beating our wives?” Hyde reminded Folmar and all present that this case was different than almost any other. He described the point of the debate as “an alleged practice or procedure that bars whole groups of people from exercising a basic civil right, the right to vote.” “You are under the act now. This yoke is on your neck, so to speak,” Hyde told Folmar.²⁴⁹

Reiterating his earlier point, Hyde asked Folmar to weigh in on a “bail-out” provision that would exempt certain areas that demonstrated an impeccable voting rights record from Section 5. Folmar liked the idea, and believed Montgomery and much of

²⁴⁸ Folmar Testimony, 1516.

²⁴⁹ Folmar Testimony, 1517.

Alabama would be eligible for such an exemption.²⁵⁰ But Folmar warned the subcommittee members that some witnesses would claim there were still voting rights violations in Alabama. Folmar believed these claims were unfounded.²⁵¹ He added that he and many others resented the “stigma” of having to go through preclearance.²⁵² Interestingly, these “unfounded” claims would prove quite compelling to those who listened to the testimony in Montgomery.

ADC Chairman and Montgomery City Councilman Joe Reed was the first to testify on behalf of the extension of Section 5. Reed was powerful not only in the black community, but also in statewide Democratic politics. He was a member of the Alabama State Democratic Executive Committee, and was an executive officer of the state’s most powerful political lobby, the Alabama Education Association.

Reed explained to the subcommittee how white political leaders and citizens had launched a multi-faceted attack on African Americans’ voting rights. He described local boards of registrars’ “resistance to registering [black] people” and their opposition to appointing deputy registrars to aid registration efforts. He also described numerous “white” establishments that served as polling places; the lack of black polling place officials; white politicians—including Mayor Folmar—who attempted to dilute the black vote through annexation and redistricting proposals; and other proposals in the Alabama Legislature aimed at diluting black political influence and circumventing federal voting rights law.²⁵³ During the questioning period, Reed was probed further regarding his objection to redistricting plans proposed by Folmar. Reed noted that he had submitted a

²⁵⁰ Folmar Testimony, 1517.

²⁵¹ Folmar Testimony, 1517-1518.

²⁵² Folmar Testimony, 1518.

²⁵³ Testimony of Joe Reed, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong. 1st session, 12 June 1981, 1526-1527.

plan of his own, which the Mayor purported he could defeat 5 to 4; Reed explained that Folmar threatened him by claiming his own plan would pass the city council 5 to 4. These plans would be voted for or against strictly along the racial lines that represented the council's make up. Reed believed Folmar was planning to place "white communities, which do not have a reputation for supporting black candidates, into [Reed's] district along with placing blacks in [Reed's] district who are . . . from the housing projects [and] . . . are not voting—of voting age populations."²⁵⁴ By taking out almost half of Reed's original district and dispersing it among other districts, Folmar was aiming to "dilute the black vote," Reed concluded.²⁵⁵

Congressman Washington then asked Reed what percentage of Montgomery's population was black. "About 40 percent," Reed responded. Reed continued, "The mayor was so upset when the census came out that he was demanding a new census count because he was saying there are too many blacks in Montgomery." According to Reed, Folmar had realized that there were "enough blacks" in Montgomery that blacks "could keep both council seats."²⁵⁶ Congressman Hyde interrupted this dialogue, asking whether Reed's testimony was available for public review the night before the hearing. The congressional reporter confirmed that it was not. Hyde stated in a very frank manner how surprised he was that Folmar had been so "sharply criticized" and had been the object "of a rather serious personal attack."²⁵⁷ Hyde argued that in "fairness" Folmar should have an

²⁵⁴ Reed Testimony, 1582.

²⁵⁵ Reed Testimony, 1582-1583. For an analysis of the racial politics in Montgomery during the Folmar-Reed standoff years, see J. Mills Thornton, *Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma* (Tuscaloosa: University of Alabama Press, 2002), 508-513.

²⁵⁶ Reed Testimony, 1583.

²⁵⁷ Reed Testimony, 1584.

opportunity to respond to Reed's charges.²⁵⁸ By this time Folmar had already left the hearing. Reed later responded, "I would also request and urge you to ask the mayor to come back," Reed exclaimed. "I would like to hear his responses."²⁵⁹ Folmar never returned to defend himself.

One recent example of disenfranchisement proposals in the Alabama Legislature, as Reed explained, was "re-identification bills." These bills were introduced in the legislature, in early 1981, only for Black Belt counties with sizable black populations such as Lowndes, Perry, and Sumter.²⁶⁰ After Reconstruction, most southern counties with majority black populations had been politically dominated by "Bourbon" white Democrats—the so-called "Redeemers"—and relatives of slaveholders. The politics of the Black Belt perpetuated white supremacy and myths of the Old South and the "Lost Cause." For example, it took the passage of the Voting Rights Act of 1965 for the predominantly black Lowndes County to register its first black citizen to vote.²⁶¹ Reed explained that these "re-identification" proposals were actually "re-registration bills." When these bills passed during the 1981 legislative session, voters were forced to appear in person to identify that they were valid citizens after already being a registered voter. Reed presented some examples of "re-identification bills" as Exhibit III to his submitted report.²⁶² One of these re-identification bills was described in its legislative summary as:

Providing for purging the lists of registered voters; requiring and prescribing the procedure for re-identification of registered voters; placing certain duties on the board of registrars, judge of probate, and the county governing body relative to

²⁵⁸ Reed Testimony, 1584.

²⁵⁹ Reed Testimony, 1588.

²⁶⁰ Reed Testimony, 1584.

²⁶¹ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²⁶² Reed Testimony, 1543.

the re-identification of registered voters; and providing a penalty for willfully making a false statement in connection with re-identification.²⁶³

Reed also explained that the ADC and some racially liberal legislators were not opposed to “re-identification per se,” and had proposed a bill in the legislature for a renewal of voter lists in all sixty-seven counties of the state.²⁶⁴ The ADC-backed proposal passed the Alabama Senate, but was killed in the House by powerful white Black Belt representatives in that year’s legislative session.²⁶⁵

The tangible evidence of racially motivated laws, along with other witnesses’ testimony, showed major voting obstacles for blacks were still in place in Alabama. As the *Montgomery Advertiser* noted on June 13, Reed and other witnesses revealed that for African Americans in the South, “a more subtle form of racial discrimination is taking the place of that of the 1960s.”²⁶⁶ The stories that followed demonstrate the urgent need for extension and further strengthening of the Voting Rights Act. The compelling testimony of ADC activists, many of whom lived in the rural Black Belt counties, challenged those who felt the Voting Rights Act had fulfilled its purpose. These witnesses revealed through their experiences how difficult it is to break down systems designed to maintain a base of power for those who have controlled it for many decades.

ADC member Maggie Bozeman, who also led the Pickens County NAACP, testified immediately after ADC Chairman Reed. In her own style, she explained the obstacles facing black people in Pickens and her hometown of Aliceville. She noted that there were no black officials who held at-large county offices; only some blacks were

²⁶³ Reed Testimony, 1543. This description is from the synopsis of the Perry County version, which was entered into the record as “EXHIBIT III(a)” of Reed’s written report.

²⁶⁴ Reed Testimony, 1543. This was entered into the record as “EXHIBIT IV.”

²⁶⁵ Reed Testimony, 1533-1534.

²⁶⁶ Cynthia Smith, “Blacks back extension of voting act,” *Montgomery Advertiser*, 13 June 1981.

elected in two overwhelmingly black towns. Her county, Bozeman believed, “has no equal when it comes to denying blacks ease of access to registration and voting.” Specifically, she cited barriers, lack of accessibility to registration, and the attitudes of whites who control registration as the main problems she had experienced. In Wilcox County, the board of registrars refused to appoint deputies to aid the process and to have an “outreach program” where registration levels were low because they claimed it was beyond their job description as the state legislature had designated. Bozeman also noted the resistance of local officials to register voters was encouraged by law enforcement officials who were not friendly to promoters of black voting rights.²⁶⁷

While discussing voting problems in Pickens County, Bozeman revealed one especially surprising example: “open house voting.” In recent Pickens County elections people still voted on paper ballots in which voters were usually allowed “no privacy whatsoever.” Bozeman described how this out-in-the-open voting was organized: “I and all the other voters whose name end in B must mark our ballots in the presence of others using the same table.” She continued to explain how voters who cannot read or those who need assistance are often too intimidated to vote in these conditions.”²⁶⁸ Without the backing of the federal government, Bozeman declared, “we voters in rural Alabama may as well start whistling Dixie.” She continued, “If the Voting Rights Act is not extended, may you come to Pickens County, Alabama, and kneel with us and say, ‘Lord, please take all blacks on home with you where maybe, if such be; we cannot take much more.’”²⁶⁹

²⁶⁷ Testimony of Maggie Bozeman, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1565.

²⁶⁸ Bozeman Testimony, 1566.

²⁶⁹ Bozeman Testimony, 1566.

ADC voting rights activist W. C. Patton, who had served as the national director of the NAACP voter education program, recalled how bleak conditions were for Alabama blacks attempting to exercise political rights as American citizens before the 1965 Voting Rights Act. Black citizens, argued Patton, “are affected by the ballot from conception to resurrection,” and Patton explained that “[t]he only weapon we have, the most effective weapon, is our vote for people in the legislative bodies, policymaking boards that we determine and breed.”²⁷⁰ Without extension of the Act, Patton feared “the evil roots that are still present will sprout and give growth to the inequities that stalked this country until 1965.” When Patton began working on registration efforts in 1943, Alabama “had less than 25,000 black voters.”²⁷¹ If the Voting Rights Act was not extended, disenfranchisement could easily be reinstated by acts of the Alabama Legislature in accord with the Alabama Constitution of 1901.

Patton also discussed how whites strictly controlled the voter registration and participation process before 1965. He recalled the literacy tests and the requirement of blacks to be recommended by a white person to be allowed to register to vote. Patton also described the “quota basis” upon which registrars would allow African Americans to be placed on voting rolls. Many black people who succeeded in registering had their homes attacked and were often fired from their jobs. “Even today in a subtle manner, this sort of thing is existing,” Patton claimed.²⁷² Patton concluded his testimony by summing the situation for the political equality of black southerners as he saw it: “the political frontiers

²⁷⁰ Patton Testimony, 1566.

²⁷¹ Patton Testimony, 1571.

²⁷² Patton Testimony, 1572.

are still here and will be for years to come unless this civil rights bill is reenacted before we will penetrate these political frontiers.”²⁷³

Wilcox County Sheriff Prince Arnold was the last of the Black Belt panelists to testify. When Sheriff Arnold was elected in 1978, he was the first black at-large official—along with the tax collector in that same election—elected in Wilcox County and one of the youngest sheriffs in the nation.²⁷⁴ Black citizens in Wilcox County, Arnold explained, were not afforded opportunities to participate in the electoral process “until over a hundred years after the American Constitution guaranteed blacks the right to vote.” Wilcox County, which was 68 percent black, did not have a single black person registered to vote until the 1965 Voting Rights Act passed. Arnold continued, explaining to the Congressmen efforts “to undo our gains” through the persistence of “old attitudes” and “resistance to blacks participating in public affairs” among many whites in Wilcox County.²⁷⁵

The most compelling portion of Arnold’s testimony included problems he experienced while running for sheriff in 1978. On election day, there were seventy-two federal election officials monitoring the process and many Alabama state troopers who had to be called in to keep order in this small Black Belt county. Arnold recalled that his life was in danger. When leaving the county courthouse on election night, Arnold had to walk out with a wall of people surrounding him to guard him from assaults. At polling places, black voters and poll workers “were given a whole lot of hell.” Some Wilcox County whites intimidated many black citizens, running them away from polling places.

²⁷³ Patton Testimony, 1572.

²⁷⁴ Testimony of Prince Arnold, House Committee on the Judiciary, Subcommittee on Civil and Constitutional rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1578.

²⁷⁵ Arnold Testimony, 1578.

Even so, Arnold won the election. Jerome Gray recalled the celebration as the vote totals revealed that Arnold had won. When Arnold stood up to speak, there “was just hardly a dry eye in the room.” Gray continued, “We knew what a difficult fight it had been in Wilcox County. The room just erupted, you know, in cheers.”²⁷⁶ Arnold testified that he owed his election to the perseverance of his supporters. “[T]he determination to win, the determination to succeed was so strong that we had black folks who openly challenged the resistance with a new defiance of their own.”²⁷⁷

One courageous worker Arnold mentioned was Bobby Jo Johnson. Jerome Gray remembered Johnson and the contributions he made to black voting rights. Bobby Jo Johnson was a Vietnam veteran who served as the Wilcox County ADC chairman. “He had lost a leg and some fingers on one of his hands in the war. He couldn’t get a job, and so he just sort of devoted his life to political activity, voter registration,” Gray recalled. Johnson worked hard to “get some blacks registered in Wilcox and elected in Wilcox.”²⁷⁸

“He was fearless. I’ll never forget . . . on election day this white guy who was a poll official, I think, sat outside the voting place” and told black people who came to vote that they had to leave. Bobby Jo heard about this, and he went to that polling place. “When he got out there, he said, I hear you’ve been giving my folks some hell; won’t let them vote.” The white poll official proudly confessed that was true. Gray grinned and said, “Bobby Jo told him, ‘If you don’t move out of the God damn way, one of us is going to hell today and it ain’t going to be me.’” Laughing, Gray added, “He scared that old rascal. That rascal got up and out of there.”²⁷⁹

²⁷⁶ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²⁷⁷ Arnold Testimony, 1579.

²⁷⁸ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²⁷⁹ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

Arnold continued, describing something astonishing to the subcommittee members and everyone in the room that day. In a town called Mims, people had to vote in a white person's private residence—"and not on the porch either, but inside the living room." If that was not shocking enough, Arnold explained that this home and polling place belonged to a relative of his opponent in the sheriff's race. Even though the precinct was almost 50 percent black, Arnold was surprised he received one vote from the Mims box that was in a white person's home.²⁸⁰

Arnold then concluded with an array of examples of how African Americans were denied the right to a fair vote by discussing how the re-identification bills affected Wilcox County. A white state senator, Cordy Taylor, who had been recently elected to the state legislature, introduced these bills for the two predominately black counties in his district, Wilcox and Lowndes (two-thirds and three-fourths black, respectively). He did not introduce re-identification bills for the other three counties in his district, all of which were predominately white.²⁸¹

Jerome Gray recalled the Senator Taylor incident. Taylor represented seven counties in the Alabama Senate. "He was a retired military man, and ADC had endorsed him." Once he was elected to the legislature "he started listening to white conservatives in Black Belt counties," according to Gray. Gray explained that many white political leaders were still actively creating strategies to dilute black votes. The most recent strategy in the early 1980s was the re-identification proposals Reed had described in his testimony.²⁸²

²⁸⁰ Arnold Testimony, 1579, 1581.

²⁸¹ Arnold Testimony, 1580.

²⁸² Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

“I’ll never forget,” said Gray, “we met with him down in Greenville, Alabama, at Lomax-Hannon College.” Gray asked, “Senator Taylor—I think I caught him off guard—why did you introduce the re-identification bills only in the majority black counties? You had three majority white counties you didn’t introduce them in.” Taylor stared blankly back at Gray who said, “If you’re going to be fair-minded and even—and you’re an old military man; you believe in discipline and rules and stuff—why didn’t you introduce them in all five?” “He was tongue-tied,” Gray recalled. Finally, Taylor mumbled, “Well, Mr. Gray, I really don’t know.” Gray believes the bills were “motivated by race.”²⁸³

Congressmen Edwards, Washington, and Hyde questioned Joe Reed, Maggie Bozeman, W. C. Patton, and Prince Arnold concurrently. Congressman Hyde was “incredulous” during this phase of the testimony.²⁸⁴ Hyde expressed his feelings during his questioning period. Hyde said the atrocities the witnesses revealed were “a subtle intimidation of black people” at best and blatantly wrong at worst. Hyde specifically recalled Maggie Bozeman’s testimony about people having to vote “where it is all done on the table; there is no privacy. That is outrageous, absolutely outrageous,”²⁸⁵ he exclaimed. Hyde concluded his oratory with this assessment: “These are very serious charges and facts. I would be most interested in any rebuttal of those that can be made, if indeed it can be made.”²⁸⁶ Evidently, Hyde had heard things regarding the state of voting rights in Alabama that he had not considered before coming to Montgomery.

The morning of the hearing, the *Washington Post* printed William Raspberry’s article “Henry Hyde Second Thoughts.” Hyde had begun to reconsider his thinking about

²⁸³ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²⁸⁴ Jerome A. Gray, interview by author, Montgomery, AL, 17 March 2005.

²⁸⁵ Statement of Henry Hyde, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1584.

²⁸⁶ Hyde Statement, 1584-1585.

his original proposal. On the Tuesday before the Montgomery hearing, Hyde told Raspberry, “My present thinking is that if there are changes to be made in the act, the changes will have to be supported by the record.” Hyde wanted to believe that attitudes and mores in the South had changed. Reiterating his point, Hyde said, “I don’t see how I can support changes without evidence.” Hyde told Raspberry that in this debate he struggled to balance his prejudice “in support of state sovereignty” with his “support of the 15th Amendment.” He still held to a “bail-out” for areas under Section 5 which had “an absolutely saintly” voting rights record over ten years. However, Hyde reminded Raspberry nothing was set in stone as far as what changes push for among his colleagues in the Congress. “I’m just throwing it on the table,” Hyde explained.²⁸⁷

Congressman Edwards began the questioning of Maggie Bozeman. Edwards rehashed Bozeman’s stories of voting troubles for black citizens in Pickens County. “This is not before 1965? This is now?” Edwards asked. “This is now in the 1980 election,” Bozeman replied. Hyde jumped in to point out that law enforcement at polling places was not unusual. He welcomed it in Illinois. He believed polling places could be less susceptible to illegalities with law enforcement on hand. Then Bozeman informed Hyde that the policemen took pictures of black people who were attempting to vote. Hyde was stunned.²⁸⁸

Sheriff Arnold then asked Hyde if he could speak to the law enforcement issue. Arnold explained that in the small towns of Alabama Black Belt counties in which this practice occurs, it is not necessary to have law enforcement officers in the same way it would be for a large city such as Chicago. Arnold continued explaining that “law officials

²⁸⁷ William Raspberry, “Henry Hyde Second Thoughts,” *Washington Post*, 12 June 1981.

²⁸⁸ Bozeman Testimony, 1585.

are used to harass [black] people, to intimidate people” and “[m]ost people are afraid of the law in these rural counties.”²⁸⁹ Hyde quickly responded, saying he understood how such abuses by law enforcement officials could occur. He recognized that law enforcement as described by Bozeman and others “could be an intimidating factor.” Bozeman told the committee that throughout the process of registering and voting, policemen were watching over them. “When we go in they go in with us,” claimed Bozeman.²⁹⁰

Sheriff Arnold then described a recent election in which “white polling officials” did not want to allow any black citizens to observe the vote counting—not even by designated poll watchers. These officials did not want any black people “breathing down their necks.” However, Arnold explained, “these officials had to allow observation of the vote counting process due to the Voting Rights Act.” Without it and enforcement by the voting rights division of the U. S. Justice Department, opportunities to stop these practices “would have never been made possible.”²⁹¹

Hyde interrupted to probe further into Bozeman’s testimony. He asked, “You don’t have a secret ballot in Pickens County? You vote on a table in front of everybody?” “Yes,” Bozeman replied, “Open house. Just like here now.” “Does that still go on?” Hyde wondered. “1980,” Bozeman confirmed. Hyde asked in heightened disbelief, “Everybody sees how you vote?” “Yes,” Bozeman said. “No booths, no curtains, nothing like that?” Hyde asked.²⁹² Many parts of Pickens County still had “open house” voting in 1980

²⁸⁹ Arnold Testimony, 1585.

²⁹⁰ Bozeman Testimony, 1586.

²⁹¹ Arnold Testimony, 1586.

²⁹² Bozeman Testimony, 1586.

elections, Bozeman explained. Hyde then asked whether that practice was isolated to Pickens County or whether it happened all over the state.²⁹³

Joe Reed and W. C. Patton offered their opinions to Hyde's question. Reed declared that "there are plenty of places in Alabama where people don't have a booth to vote in, where you vote on the table."²⁹⁴ Patton then described another way that black citizens' voting rights are infringed upon:

In one county where you have the paper ballot, it appears that the polling officials keep a record of the number; that is your count; you first, second, third, fourth. Those blacks that come in and they vote, and they look at the number, and when the election is over they can tell their white counterparts in there how you voted because the record is kept of how he voted by number.²⁹⁵

Bozeman added, "This happened in Sumter County, Marengo, and Choctaw, open house."²⁹⁶

Congressman Washington then took up the issue of preclearance of election law changes. He said Birmingham attorney Fred Gray testified in Washington to the committee "that in many instances the State or counties had failed to preclear certain election changes." Reed explained that the laws that are not precleared by the Justice Department are usually local bills. "In the Alabama legislature you have the local courtesy rule," Reed said. According to the rule, legislators could introduce bills for their districts that nobody examined. In other words, these bills passed automatically, by "local courtesy." This was a frequent occurrence in the legislature. It allowed Senator Taylor to pass his re-identification bills. "Black members of the legislature can't keep up with

²⁹³ Bozeman Testimony, 1586-1587.

²⁹⁴ Reed Testimony, 1587.

²⁹⁵ Patton Testimony, 1587.

²⁹⁶ Bozeman Testimony, 1587.

every local bill that comes up and what it does,” Reed explained.²⁹⁷ Congressman Washington interjected that the federal government might not have even scratched the “surface” of the voting rights violations rampant in Alabama and the South. He concluded, “We simply do not have an adequate recordkeeping, one, of the number of changes; two the number of changes which might have been objected to by the Justice Department? We just don’t know how deeply this act has cut?”²⁹⁸

Congressman Hyde pointed out that the Voting Rights Act was not going to expire or be repealed: “only the preclearance sections; that is what we are discussing. I just think we demean a lot of strong portions of this act that are staying by saying it rises or falls with preclearance,” Hyde continued. Then Hyde began to reveal his evolving thoughts about the current debates over the extension: “I think preclearance is important. More and more I am inclined to think we must retain preclearance; but I do think that we must recognize there are other parts of the Voting Rights Act that are permanent law, that do not expire next year; and that maybe don’t go far enough, but they are again from the days of 1965.”²⁹⁹ Patton responded, “Until a whole lot more funerals are held, you still need preclearance.”³⁰⁰

Alabama Secretary of State Don Siegelman was the next to testify. As the top election official in Alabama, his testimony proved most insightful. Siegelman was a white Democrat who rose to power with support from the ADC. As Secretary of State, Siegelman had worked with federal and state elections officials regarding election laws, and created the Alabama Election Law Commission, which held public meetings and

²⁹⁷ Reed Testimony, 1587.

²⁹⁸ Reed Testimony, 1587-1588.

²⁹⁹ Hyde Statement, 1589.

³⁰⁰ Patton Testimony, 1590.

gathered information to foster understanding of laws and issues involving the entire voting and elections process.³⁰¹ “Since 1901,” Siegelman declared, “as a nation our philosophy and attitude about politics and participation in government has changed.”³⁰² In his report he noted that the Constitution of Alabama “was adopted in 1901 . . . with the specific purpose of disenfranchising certain citizens. One had to be white, male 21 years of age and own property to vote.”³⁰³ Siegelman explained that federal government protection was “the only recourse” for black citizens in Alabama to possess equal voting rights.³⁰⁴

Siegelman explained that the three counties in which re-identification bills had been enacted—Perry, Sumter, and Wilcox—were 60.2, 69.5, and 68.9 percent black, respectively. Under these laws, registrars were to allow re-identification “as provided by law at least once, and more often if necessary.” Therefore, Siegelman explained, “A vast percentage of the voting population could be purged after holding one seven hour session.” Also, since there is no specification in the law “where” the registrar must hold re-identification, they could locate it in a place that would be difficult to get to for some Alabama citizens.³⁰⁵

Birmingham’s first black mayor, Richard Arrington, testified to the struggles for black political participation. He believed federal oversight “served as a deterrent to many of the potential practices which could serve to dilute the voting strength made possible by

³⁰¹ Testimony of Don Siegelman, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1591.

³⁰² Siegelman Testimony, 1591.

³⁰³ Siegelman Testimony, 1596.

³⁰⁴ Siegelman submitted a study of “predominately black Alabama counties” voter registration numbers from 1960 to 1980. All these Black Belt counties “more than doubled their registered voters” during the two decades.³⁰⁴ The percentage increases in registered voters were as follows: Bullock, 139; Dallas, 241; Greene, 214; Hale, 112; Lowndes, 367; Macon, 117; Marengo, 165; Perry, 145; Sumter, 217; and Wilcox, 310. Siegelman Testimony, 1596-1597.

³⁰⁵ Siegelman Testimony, 1598.

the increased minority voter registration or which could otherwise abridge one's access to equal participation in our political system." They should continue this provision, Arrington felt, until "our goal is fully achieved." Arrington offered two main points to support this claim. First, in Alabama "the percentage of elected officials who are black do not begin to approximate the percentage of blacks in the total population." Further, "the progress of the past 15 years or so indicates that the interest on the part of blacks in participating" demanded an extension of all provisions of the act. Second, Arrington plainly said, "Unabridged access to the ballot box in all jurisdictions affected by the current act is not yet a reality." Arrington explained that in the Birmingham area, African Americans faced a number of obstacles to political participation.

State Senator Michael Figures, who was one of Alabama's leading black elected officials, passionately expressed his feelings about problems black citizens faced in Mobile, Alabama. He began his testimony with a piercing question: "By what logic can one assume that over 300 years of slavery and institutionalized racism can be eliminated, particularly in the area of its most historical concentration, within the 16 years that the Voting Rights Act was placed on the books of this country?" In explaining the problem with many whites in power in Alabama, Figures said, "Their spirits have not yet been cleansed by the well of redemption." Figures believed "the test" was not how many African Americans were elected to office in Alabama. Instead, Figures argued, we should examine "how many whites have voted for those blacks who were elected" since 1965.³⁰⁶ He explained that in his election to the Alabama Senate in 1978, he received less than 2 percent of the whites' vote; his district contained over 40 percent white voters. This

³⁰⁶ Testimony of Michael Figures, House Committee on the Judiciary, Subcommittee on civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1612.

example of “racially polarized voting” was, Figures believed, “evidence of a pattern existent in the South.”³⁰⁷ Figures referred to the problems in the Black Belt that had been mentioned earlier; yet he noted that these issues were not an anomaly. In Mobile, he explained, “[t]hey have spent in excess of \$600,000 already to keep an at-large election scheme that has prevented any black from being elected to a three-member at-large city commission.”³⁰⁸

Figures discussed how he viewed the impact of the 1980 Supreme Court decision in the *Mobile v. Bolden* case. Figures argued it was ridiculous to have to prove “intent” of exclusion. Figures argued, “It is fundamentally absurd that you don’t have to show intent to damage another person’s property in a traffic accident, but you have to show intent when a whole race of people’s right to vote and consequent right to have access to public office is damaged, in fact, denied.”³⁰⁹ Figures explained the familiar schemes involving gerrymandering new districts and failure to promote voter registration or even appoint deputy registrars. After describing similar efforts to dilute black Alabamians’ voting strength that others had mentioned, Figures asked the committee, “What further evidence do you need to see the extent to which white politicians will go to project an at-large voting system?”³¹⁰ In his testimony, Figures showed how long the shadow of Jim Crow racism extended in the Alabama.

As a black political activist, Larry Fluker had personally experienced events that added to the list of dubious political practices in Alabama. A childhood friend of Jerome Gray, he shared his experiences from his years of working with the ADC. Fluker was

³⁰⁷ Figures Testimony, 1612.

³⁰⁸ Figures Testimony, 1612.

³⁰⁹ Figures Testimony, 1612.

³¹⁰ Figures Testimony, 1613.

selected to serve as a deputy registrar in 1978; he had become president of his local NAACP at age 20 in 1964. He was one of the few willing to serve in this capacity in the 1960s since so many feared “economic reprisals” if they were associated with civil rights activism.³¹¹ Fluker explained, despite having over 40 percent African American population, Conecuh County had “been unable to elect any blacks to county office because of racial bloc voting.”³¹² Fluker pointed to instances in which the Alabama Legislature passed redistricting plans that diluted the influence of black voters. Also, in the 1980 municipal election, the city clerk “left off approximately 200 black voters on the official list.” These voters were sent away from the polls and instructed to go to city hall to attempt to receive a “certification slip” to vote. Many of these people did not get to vote. “As a result, the only incumbent black member on the council at the time lost by four votes,” Fluker explained. Like Figures, he thought the extent of the Voting Rights Act’s success could be measured by election data.³¹³ Both Figures and Fluker pointed to white “racial bloc voting” as evidence of the persistence of the same attitudes that for so long kept Alabama blacks from exercising citizenship rights.

Fluker also explained how difficult it had been to have black deputy registrars and poll workers appointed. Even the Democratic Party in Conecuh County was reluctant to promote the appointment of black poll officials. For the 1980 elections “Federal observers” were brought in to report conditions in Conecuh County to the Justice Department. According to Fluker, “They observed a number of irregularities at several of the polling places.” In fact, he continued, “At the Cedar Creek polling place, poll officials

³¹¹ Testimony of Larry Fluker, House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, *Extension of the Voting Rights Act*, 97th Cong., 1st session, 12 June 1981, 1615.

³¹² Fluker Testimony, 1615.

³¹³ Fluker Testimony, 1616.

would not let several black voters come inside the polling house out of the rain.” One poll worker told Fluker that “he would be ready for the niggers when we came back for the runoff election.”

On June 13, the *New York Times* reported on the hearings in Montgomery. Congressman Hyde told them after the hearing he was “much more favorably disposed toward administrative preclearance” than he had been before hearing the testimony.³¹⁴ But it certainly surprised many when Hyde decided to publicly admit he had changed his mind. After the hearings, Hyde returned to Washington and openly pushed for extension of preclearance.

On July 26, the *Washington Post* printed an editorial written by Hyde entitled “Why I Changed My Mind on the Voting Rights Act.” He begins the essay explaining how long it had taken America to begin approaching a true commitment to the Fifteenth Amendment, which was ratified in 1870. He also calls administrative preclearance by the Justice Department “an extreme measure.” He admits it was necessary in 1965, but he hoped to remove the burden. Ideologically, Hyde was inclined to oppose any such “unwarranted intrusion on the federal system,” which he believed limited states’ sovereignty. He was afraid the Justice Department had too much power under the present act.³¹⁵

However, the evidence presented in Montgomery surpassed his worst assumptions about voting problems in the South. Hyde writes, “The cumulative effect of this testimony gradually forced me to several conclusions.” First, “Blacks have made considerable progress” toward registering and voting since 1965. He adds that “we are

³¹⁴ “Hearings on Rule in Voting Act End,” *New York Times*, 13 June 1981.

³¹⁵ Henry J. Hyde, “Why I Changed My Mind on the Voting Rights Act,” *Washington Post*, 26 July 1981.

half way up the mountain—but we still have some climbing to do.” Second, “Court proceedings, desirable as they are, are too slow and too costly to protect the great number of people—most without adequate resources—who still need protection.” Third, “Administrative pre-clearance hasn’t always worked, but it has improved things in many areas.” Fourth, he believes jurisdictions presently covered by Section 5 should be able to “seek a judgment from an appropriate federal court upon proving that for the past, say 10 years, they have complied fully with the letter and the spirit of the law” which would remove them from pre-clearance measures.³¹⁶

After returning to Washington, Hyde worked with mostly Democratic colleagues in the House in actively promoting the extension of the entire Voting Rights Act. On July 21, the Subcommittee on Civil and Constitutional Rights unanimously approved the extension of all provisions of the Voting Rights Act. The Judiciary Committee also approved the extension by a vote of twenty-three to one on July 31.³¹⁷

Hyde challenged the Reagan Administration’s claim at the time that Section 5 was no longer necessary, which was grounded in the New Right’s faith that the federal government should reduce its influence in virtually all areas of American life. Hyde succeeded in temporarily convincing the White House to reconsider its stance by focusing on potential political ramifications for the Republican Party appearing to oppose civil rights protections. Hyde explained to President Reagan and other Congressional Republicans like Newt Gingrich and Thomas Bliley that pushing for a nationwide application to Section 5 could create larger problems. This strategy to pass a Voting Rights Act that was “either unenforceable or unconstitutional” could backfire, Hyde

³¹⁶ Henry J. Hyde, “Why I Changed My Mind on the Voting Rights Act,” *Washington Post*, 26 July 1981.

³¹⁷ House Reports., *Voting Rights Extension*, No. 97-227, 97th Cong., 1st session, 3.

admonished his party brethren. When the final vote was taken, only Congressman Bliley remained vocally in favor of the original conservative plan that was designed to water down the effectiveness of administrative preclearance.³¹⁸ On October 5, 1981 the House “overwhelmingly approved a bill to extend enforcement provisions of the landmark 1965 Voting Rights Act.”³¹⁹

Chairman Edwards’ “tough” bail-out proposal prevailed over Hyde’s “easier one”; their partnership on the issue ended over the bail-out provision disputes. Although Hyde and Edwards disagreed on the bail-out provision, Edwards gratefully remembered “Hyde’s hard work in winning votes.” Edwards knew Hyde had done something quite rare in Washington. Hyde’s stance was “unfathomable unless one concedes that occasionally politicians put principle above everything else.” By standing behind what he believed the evidence demanded he do, Hyde “took the slings and arrows from both sides without complaint.”³²⁰

The hearing in Montgomery was a critical turning point for securing preclearance and shifting the debate toward the question of how discrimination would be legally proved. The ADC members who put together the evidence of continued efforts to dilute black political influence was the linchpin in shaping the evolution of the bill. Prior to the Montgomery hearing, many members of Congress had been in denial that voting rights were still being jeopardized in the 1980s. The testimony proved otherwise. Still others wanted to limit protections regardless of what the facts supported. By leaving

³¹⁸ John Herbert Roper, “The Voting Rights Extension Act of 1982,” *Phylon*, Vol. 45, No. 3, 1984, 193-194.

³¹⁹ *Congressional Quarterly Almanac*, “House Passes Bill to Extend Voting Rights Act,” 10 October 1981, 415.

³²⁰ John Herbert Roper, “The Voting Rights Extension Act of 1982,” *Phylon*, Vol. 45, No. 3, 191, 194-195.

Washington and seeing what injustices were still taking place in Alabama, Congressman Hyde—usually firmly in the conservative rank-and-file—became an apostle for voting rights extension. This is a testament to the compelling case made by the witnesses from Alabama. Without their stories, it is quite possible that the progress that had been won for political equality since 1965 could have swiftly been reversed. Local Alabamians had shifted the debate away from possibly ending Section 5’s preclearance protections to challenging the “intent” standard for proving discriminatory practices that the Supreme Court had established with the *Bolden* decision.

Chapter 4: Renewing America's Commitment to Political Equality: Alabama's Role in Shaping the Voting Rights Act in the Age of Reagan, 1981-1983

"We are going down the road to hell, a white road and a black road. And if you can't find some part to get together and do away with this racism . . . I guarantee you we're all going to hell."³²¹
-Judge William McKinley Branch, Greene County, Alabama

"Until you ask for what is rightfully yours, you'll never get it. It took us over a hundred years to get two blacks to the Alabama Legislature. From 1872 to 1972, it wasn't a single black person down here. We went four years with only two. Then we picked up a few more. Now we have a pittance of thirteen."³²²
-State Representative Thomas Reed, Macon County, Alabama

Following the House hearing in Montgomery, ADC activists worked to swell the moral force behind the movement to extend the Voting Rights Act by holding three major marches in Alabama. ADC activists felt that black civil rights was at a crossroads in the United States, as many Americans accepted the popular notion that the challenges of racial equality had been overcome in the 1960s. The Voting Rights Act renewal process in 1981-1982 was a critical moment in shaping the legacy of the civil rights movement, and Alabama became, as it was in 1965, the proving ground for political equality. In August of 1981, ADC leaders organized voting rights marches in Montgomery, Selma, and Mobile to demonstrate grassroots support and to commemorate President Johnson's signing of the Voting Rights Act into law on August 6, 1965. Articles in the *Montgomery Advertiser* and *Alabama Journal* recounted the march in Montgomery on August 9. The ADC invited a number of nationally known civil rights leaders. In front of the Alabama State Capitol building, thousands of civil rights advocates gathered to hear John Lewis, Jesse Jackson, Coretta Scott King, Julian Bond, and others. Joe Reed, Jerome Gray, and

³²¹ Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

³²² Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

other ADC activists locked arms with national leaders as they made their way toward the Capitol.³²³ As they marched, the crowd joined together in singing “We Shall Overcome.”³²⁴ Prior to the march more than a thousand people met at the Old Ship AME Zion Church, which had a history as a gathering place for civil rights activists during the Montgomery bus boycott led by Dr. Martin Luther King and the Montgomery Improvement Association in 1955 and 1956.³²⁵ Montgomery Mayor Emory Folmar, who opposed extending the Voting Rights Act, observed the march joined by Police Chief Charles Swindall in an unmarked police car. The *Advertiser* noted that “[a]t one point the marchers parted and swarmed past the mayor’s car, but few seemed to notice whom the car contained.”³²⁶

Jesse Jackson set the tone for the march telling the media that “[w]e will not be satisfied until the Voting Rights Act as we now know it is enforced and extended.”³²⁷ Also speaking was John Lewis, wearing the same vest he had worn in the 1965 Selma-to-Montgomery march for voting rights. John Lewis reminded the crowd that black people had been politically dead in the South prior to the passage of the Voting Rights Act. The act “is the life blood of blacks’ political progress,” Lewis proclaimed, adding “[w]e’ve had the first transfusion and we need a second transfusion.”³²⁸

In the wake of the Reagan Revolution and the emergence of the New Right, the SCLC President Rev. Joseph Lowery cautioned the crowd that many Americans “have forgotten those who fought so hard . . . and, helped establish justice as a hallmark of

³²³ Dr. Joe L. Reed, interview by author, 8 February 2012. Darryl Gates, “‘Vigilance’ keynote of march,” *Montgomery Advertiser*, 10 August 1981.

³²⁴ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³²⁵ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³²⁶ Darryl Gates, “‘Vigilance’ keynote of march,” *Montgomery Advertiser*, 10 August 1981.

³²⁷ Darryl Gates, “‘Vigilance’ keynote of march,” *Montgomery Advertiser*, 10 August 1981.

³²⁸ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

American strength.” Lowery had biting words for President Reagan and reprimanded the White House’s indifference to political equality: “[w]e’ve gone from Reaganomics to Reagamnesia.”³²⁹ Lowery’s point was clear: “[s]ome people are trying to turn back the clock and deny blacks their civil rights.”³³⁰ Jesse Jackson agreed, arguing that in the 1980s schemes for “annexation, at-large elections, and gerrymandering . . . deny us the right to vote.” Jackson told listeners that it would take “active and diligent” local citizens to secure extension of the act and to fight against the newest forms of disfranchisement.³³¹

Reminding the crowd that the civil rights movement had not ended, Coretta Scott King proclaimed, “I thought we had come here for the last time in 1965, but oh no. The message is clear today that we have got to come back again and again.”³³² Mrs. King also recalled that her husband, the late Dr. Martin Luther King, had said to her that “[t]he whole campaign in Alabama depends on the right to vote.”³³³

On the eve of the House passage of the revised version of the Voting Rights Act, some Alabama congressmen still expressed reservations about the need for continuing protections. Republican U.S. Representative Bill Dickinson of Montgomery explained his position, saying “let’s don’t just put in on the states that voted for Goldwater. Let’s don’t be punitive.”³³⁴ In 1964, Dickinson was one of the first Republicans elected in Alabama since Reconstruction. In that election, Senator Barry Goldwater of Arizona was the Republican nominee for president challenging Lyndon B. Johnson. Goldwater, who

³²⁹ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³³⁰ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³³¹ Darryl Gates, “‘Vigilance’ keynote of march,” *Montgomery Advertiser*, 10 August 1981.

³³² Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³³³ Nancy Dennis, “Voting Act Called Blacks’ Life Blood,” *Alabama Journal*, 10 August 1981.

³³⁴ “Congressmen may seek voting law expansion,” *Montgomery Advertiser*, 5 October 1981.

boldly opposed the Civil Rights Act of 1964, carried Alabama and the states of Louisiana, Mississippi, Georgia, and South Carolina. Goldwater's presidential bid was the fire bell of the New Right, foreshadowing the trend of southern whites increasingly supporting the Republican Party in future elections. Fellow Republican Congressman Albert Lee Smith of Birmingham took offense at the idea that the Voting Rights Act be extended. Smith retorted, "The South should be treated with dignity. Why should we be treated differently from other parts of the country?"³³⁵ The remaining Republican House member, Jack Edwards of Mobile, thought it preposterous that the act be extended, exclaiming, "Everyone that wants to vote can vote."³³⁶

Alabama Democrats in the House were equally wary in how they spoke about the Voting Rights Act. U.S. Representatives Tom Bevill and Bill Nichols agreed that it was only fair if the preclearance and other special provisions of the act were extended to apply to all fifty states. Congressman Richard Shelby concurred that all states should have to be under the same voting regulations and oversight, but, Shelby lamented "politicians being politicians, I feel the majority of the Congress will extend the voting rights act in its basic form and make it only applicable to the Southern states."³³⁷

The next day an Associated Press report in the *Advertiser* covered the House's passage of the extension of the Voting Rights Act by a vote of 389-24. Bill Dickinson was joined by Bill Nichols and Richard Shelby in voting against the act.³³⁸ The remaining four Alabama congressmen voted yes, and the news story hailed the bill's

³³⁵ "Congressmen may seek voting law expansion," *Montgomery Advertiser*, 5 October 1981.

³³⁶ "Congressmen may seek voting law expansion," *Montgomery Advertiser*, 5 October 1981.

³³⁷ "Congressmen may seek voting law expansion," *Montgomery Advertiser*, 5 October 1981.

³³⁸ At the Montgomery voting rights march on August 9, Jesse Jackson had predicted Rep. Nichols, Rep. Shelby, and probably a few other Alabama Congressmen had already "joined Reagan and turned their back on us." Nancy Dennis, "Voting Act Called Blacks' Life Blood," *Montgomery Advertiser*, 10 August 1981.

passage as “a rare congressional victory for liberal Democrats and civil rights leaders.”³³⁹ The report also noted that the Voting Rights Act faced “a much tougher fight” in the Republican-controlled Senate.³⁴⁰ Republican Representative James Sensenbrenner of Wisconsin, who served on the House Judiciary Committee, specifically pointed to the significance of evidence presented in the 1981 Montgomery hearing. Sensenbrenner was one of many who spoke on the House floor in favor of the act’s extension, and he pointed to the fact that Alabama laws such as the re-identification bill singled out and targeted only majority-black counties, as Joe Reed and others had exposed in Montgomery. Sensenbrenner argued these discriminatory laws were “no accident.”³⁴¹ On the other hand, a white Republican Congressman from South Carolina, Thomas Hartnett, felt that the continuation of racially motivated laws in the South was not as significant as the fact that extending the Voting Rights Act “keeps the heel of the federal government on my neck.”³⁴² Judiciary Committee Chairman Peter Rodino (D-NJ) cheered the act’s passage, joined by many black and Hispanic representatives who cited the Voting Right Act as the reason they had been elected to Congress.³⁴³

After passage of the House bill and prior to the Senate hearings, President Reagan stated, in December 1981, that the new “results” test included in Section 2 ““could lead to the type of things in which [discriminatory] effect could be judged if there was some disproportion in the number of public officials who were elected at any government level,”” and he warned that it could set a standard in which ““all of society had to have an

³³⁹ “House OKs voting act extension,” *Montgomery Advertiser*, 6 October 1981.

³⁴⁰ “House OKs voting act extension,” *Montgomery Advertiser*, 6 October 1981.

³⁴¹ “House OKs voting act extension,” *Montgomery Advertiser*, 6 October 1981.

³⁴² “House OKs voting act extension,” *Montgomery Advertiser*, 6 October 1981.

³⁴³ “House OKs voting act extension,” *Montgomery Advertiser*, 6 October 1981.

actual quota system.”³⁴⁴ Reagan’s statements, employing fear tactics, set the tone for Republican leaders and other opponents of extending the Voting Rights Act during the debate in the Senate.

The Senate Judiciary Committee began investigating the matter in January, 1982. Committee Chairman Strom Thurmond (R-SC) and Senator Orrin Hatch (R-UT), chairman of the Judiciary Subcommittee on the Constitution, led the process. Senators had closely watched the debate in the House and how the Voting Rights Act was evolving. Senators Thurmond and Hatch had both expressed reservations about the extension of the act with the new changes. Thurmond joined some other southern members of Congress in calling for the act to cover all fifty states.³⁴⁵ Voting rights activists saw this proposal as a maneuver to water down the bill and reduce its efficacy. Edward Kennedy (D-MA), a leading Senate supporter of extending the Voting Rights Act, challenged President Reagan saying, “We need more than a passive president on this fundamental issue. The extension of the act could be in danger because the administration refuses to fight for it.”³⁴⁶ After the hearings and debates in the House had convinced many lawmakers that Section 5 should be extended—even though the period of time for extension was still contested—the focus in the Senate now turned toward Section 2 and the “results” test for proving voting discrimination.

According to some conservatives in the Senate, H. R. 3112 directly challenged the original meaning and purpose of Section 2 by adding that any discriminatory result or effect in election laws would be unconstitutional. This change amounted to, according to

³⁴⁴ Reagan’s statements are from his news conference on 17 December 1981. Lawson, *In Pursuit of Power*, 288.

³⁴⁵ “President endorses extension of voting law,” *Montgomery Advertiser*, 7 November 1981.

³⁴⁶ “President endorses extension of voting law,” *Montgomery Advertiser*, 7 November 1981.

Hatch, “redefining the very concepts of discrimination and civil rights.”³⁴⁷ According to many moderate and liberal senators, however, the *Bolden* case’s “intent” standard was a change in the law that would make genuine voting injustices virtually impossible to prove in court.³⁴⁸

At the outset, Senator Hatch stated that he was intent on bringing in a series of “balanced” witnesses to clear up what he viewed as “much misunderstanding and misconception” regarding the Voting Rights Act’s renewal debate.³⁴⁹ A number of conservative leaders argued that the House debate over voting rights in 1981 had not thoroughly examined the issues. Hatch declared in his opening statement that Section 5 and preclearance “ought to be maintained” as is.³⁵⁰ However, the proposed changes to Section 2 contained in H.R. 3112 had the potential to dramatically alter “the nature of American representative democracy, federalism, civil rights, and the separation of powers,” according to Hatch.³⁵¹ The Senate version of H.R. 3112 was S. 1992, sponsored by Senator Charles Mathias (R-MD) and Senator Edward Kennedy (D-MA). This bill contained the same language regarding discriminatory “results” from the successful House bill. Hatch preferred the Supreme Court’s interpretation in *Mobile v. Bolden* and

³⁴⁷ Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, 97th Congress, 2nd session on S. 53, S. 1761, S. 1975, S. 1992, and H.R. 3112, Bills to Amend the Voting Rights Act of 1965, January-March 1982 (hereafter cited as “1982 Senate hearings”), 3.

³⁴⁸ Chandler Davidson explains that in legal challenges to election laws there had been various factors used to determine whether minority vote dilution—meaning the results of a law or system were unfair toward members of minority groups—existed. These factors include a “long history of state-sanctioned discrimination against blacks”; few minority officeholders; and “the existence of a powerful white-dominated slating group . . . that ignored blacks’ interests and engaged in racial campaign tactics to defeat candidates of blacks’ choice.” In the process of legal challenges and judicial interpretations the “totality of circumstances” had been the crucial precedent, and no single factor was given ultimate weight in making determinations of discrimination. Chandler Davidson, “The Recent Evolution of Voting Rights Law Affecting Racial and Language Minorities,” in *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, ed. Chandler Davidson and Bernard Grofman, 27-8.

³⁴⁹ 1982 Senate hearings, 1.

³⁵⁰ 1982 Senate hearings, 2.

³⁵¹ 1982 Senate hearings, 2.

agreed with President Reagan that a results-based test could “promote proportional representation by race.”³⁵² The goal of the “results” language, Hatch proclaimed, “is the elimination of at-large systems of voting throughout the country.”³⁵³ Finally, Hatch declared that the proposed revision of Section 2 represented a “radical” change and an attack on “traditional ideas of equal protection.”³⁵⁴

Archibald Cox testified before the subcommittee representing Common Cause. Cox was a noted legal scholar, former U.S. Solicitor General for President Kennedy, and also served as the first special prosecutor in the Watergate scandal. Cox articulated an alternative to Hatch’s views on Section 2. Cox favored the proposed changes to Section 2, arguing that this crucial clarification “would outlaw laws pertaining to voting, representation, and districting that result in discriminatory denials of effective participation in self-government, regardless of race or color.”³⁵⁵ If specific groups of people are “denied that equality of political opportunity by local voting law or practice . . . [t]he injustice is there, regardless of purpose,” Cox explained. The *Mobile* case standard, requiring proof of discriminatory “intent,” constituted in Cox’s view “an almost insuperable obstacle” to securing the basic right of all citizens to equal access to the political process.³⁵⁶ Cox not only illuminated the difficulties of recovering the subjective intent—both collectively and individually—of a body of legislators, but also pointed out “the likelihood that if the purpose is invidious, that purpose will be concealed.”³⁵⁷

³⁵² 1982 Senate hearings, 4.

³⁵³ 1982 Senate hearings, 5.

³⁵⁴ 1982 Senate hearings, 6.

³⁵⁵ 1982 Senate hearings, 1416.

³⁵⁶ 1982 Senate hearings, 1417.

³⁵⁷ 1982 Senate hearings, 1417.

In addressing fears that Section 2 could lead to a legal standard of proportional representation by race, Cox pointed to the line in the proposed Section 2 that stated that “[t]he fact that members of a minority group have not been elected in numbers equal to the group’s proportion of the population shall not, in and of itself, constitute a violation of this section.”³⁵⁸ Therefore, Cox argued, claims that proportional representation would result from a new Section 2 were, at best, a farce or, at worst, utterly disingenuous. Further, Cox summarized in one sentence the proposed changes to Section 2 in the following manner: “to proscribe any law relating to voting or representation that had the effect, in its particular context, of substantially or systematically excluding voters of a particular race from equal opportunities for meaningful participation in the democratic process.”³⁵⁹ For many conservative commentators, if “opportunity” to register and cast a ballot existed that was all the Voting Rights Act required.

Speaking on behalf of President Reagan, U.S. Attorney General William French Smith testified on the first day of the subcommittee hearings. As Attorney General, Smith had hoped to focus the energies of the Justice Department on new priorities. These new initiatives included “organiz[ing] crime and drug enforcement task forces; prosecution of fraud, waste, and abuse in the conduct of government programs” as well as a tougher immigration policy, among other things.³⁶⁰ Citing the *Mobile* decision, Smith declared that legal precedent demands “[p]roof that the challenged election practice was intended to discriminate against a racial minority [as] essential to a claim under both the 15th amendment and section 2 of the Voting Rights Act.”³⁶¹ Smith warned against a

³⁵⁸ 1982 Senate hearings, 1418.

³⁵⁹ 1982 Senate hearings, 1418.

³⁶⁰ Howard Ball and Kathanne Green, “The Reagan Justice Department,” in Yarbrough, 3.

³⁶¹ 1982 Senate hearings, 70-71.

proposed effects or results test, arguing that “[h]istoric political systems incorporating at-large elections and multimember districts, which had never before been questioned under either the act or the Constitution, would suddenly be subject to attack.”³⁶² In a heated interchange with Senator Kennedy, Smith professed his “abhorrence of discrimination in any form” adding “that the President does not have a discriminatory bone in his body.”³⁶³

The Attorney General also argued that “intent” has been a central part of all civil rights law. He explained that “the Supreme Court and other courts have long since held that the standard of proof required for intent in civil rights areas is substantially less than in other situations.” No “smoking gun” was necessary, French explained, adding that “what has been referred to as effects . . . are themselves a large element in the establishment of intent.”³⁶⁴ Further, echoing President Reagan, Smith claimed that the new language in Section 2 would no longer deal with breaking down discriminatory barriers, but instead would result “ultimately [in] proportional representation.”³⁶⁵ Finally, Smith proclaimed that the new language proposed for Section 2 would be necessary only if “there is an evil out there that needs that kind of remedy to correct. You don’t come up with remedies to nonexistent problems.”³⁶⁶ Attorney General Smith and Senator Hatch agreed that “intent and effect were used in the 1965 debate to refer to what we presently think of as intent.”³⁶⁷

³⁶² 1982 Senate hearings, 71.

³⁶³ 1982 Senate hearings, 78. Historian Dan Carter points out that just prior to the Senate hearings on the Voting Rights Act Reagan had rejected legal provisions that barred racially discriminatory educational institutions from receiving federal funding. Dan T. Carter, *From George Wallace to Newt Gingrich*, 56-7.

³⁶⁴ 1982 Senate hearings, 83.

³⁶⁵ 1982 Senate hearings, 83.

³⁶⁶ 1982 Senate hearings, 85.

³⁶⁷ 1982 Senate hearings, 91.

Benjamin Hooks, the executive director of the National Association for the Advancement of Colored People (NAACP) and the chairman of both the Leadership Conference on Civil Rights and the Black Leadership Forum, testified in favor of the changes to Section 2. Hooks, who had been a lawyer for more than thirty years and had served as a trial court judge, declared that “until the *Mobile v. Bolden* case the law was considered by us to include effects or results.”³⁶⁸ Hooks offered compelling testimony of his experiences in Tennessee in which election as well as jury selection procedures were finagled without sure signs of “intent.” Adamantly, Hooks declared “we are not seeking proportional representation . . . [w]e are simply seeking the unfettered right to vote without having to prove that which sometimes is not susceptible to proof.”³⁶⁹ Hooks believed that the Reagan Administration and Attorney General William French Smith aimed to set “a higher standard” with the intent test in order to “make it much harder for those who have been outside of the mainstream to get in.”³⁷⁰ Hooks’s view reflected widely accepted theories that Jim Crow laws had cast a long shadow over the South and that the enduring effects of this officially by-gone era had created separate black and white “worlds.” The intent standard, Hooks argued, amounted to applying “the criminal standard of proof,” that is specifically “beyond a reasonable doubt and to a moral certainty,” to the “civil issue” of voting rights.³⁷¹ Hooks continued his passionate testimony with some hard-hitting charges. The proponents of the “intent” standard, he claimed were using the potentiality of court ordered “proportional representation” as a “scare tactic” to undermine the cause of protecting the fundamental civil right of all

³⁶⁸ 1982 Senate hearings, 245.

³⁶⁹ 1982 Senate hearings, 246.

³⁷⁰ 1982 Senate hearings, 246.

³⁷¹ 1982 Senate hearings, 246-47.

Americans to cast a fair ballot.³⁷² Whether these claims were deviously devised is an issue that must be seriously considered. Code words and fear tactics had become part of the more subtle racial politics throughout the South and the nation in the 1980s.

Through days of questions and answers, the meanings of “results” and “intent” proved to be a moving target. Depending on their political persuasions, different individuals defined these crucial terms in disparate ways. Hooks was one witness who helped to clarify what support for “results” language in Section 2 would mean in practical terms. In defending some NAACP leaders who had called for redistricting plans that take proportions of the black population into account, Hooks said it did not mean “we have 42 percent, we want 42 percent representation. But it does mean there must be some appearance of equity.”³⁷³ When Hooks asked Senator Hatch what made “intent” better than “results” Hatch claimed that “ ‘intent’ focuses on discrimination analysis upon processes . . . which lead to a given results [*sic*].”³⁷⁴

Laughlin McDonald, director of the southern regional office of the American Civil Liberties Union (ACLU), testified to the difficulty of the burden of proving intent to discriminate in voting and election laws. McDonald brought a wealth of experiences in trying an array of civil rights lawsuits. According to McDonald “very few [voting] dilution suits have been filed . . . because minority plaintiffs simply do not have the resources to bring these kinds of lawsuits.”³⁷⁵ Also, McDonald testified to the complexity of issues and difficulty of trying voting dilution cases, arguing that that made it unlikely that changing Section 2 would result in a deluge of dilution cases, as some had

³⁷² 1982 Senate hearings, 247.

³⁷³ 1982 Senate hearings, 252.

³⁷⁴ 1982 Senate hearings, 254-55.

³⁷⁵ 1982 Senate hearings, 368-69.

posited.³⁷⁶ He echoed the theme that the *Mobile v. Bolden* decision had altered the law, and the proposed language in Section 2 was merely a clarification of the original purposes of the Voting Rights Act.³⁷⁷ Before that decision “a violation of voting rights could be made out upon proof of a bad purpose or effect.”³⁷⁸ McDonald called *Mobile* “a radical decision” that established an intent standard without precedent. Driving his point home, McDonald declared that proving guilt under a new intent standard “will be impossible, short of having the smoking pistol, the body buried in the shallow grave.”³⁷⁹

Regarding the primary concern over the proposed results language, McDonald argued that “[t]here is no way that the court . . . can insure proportional representation. All the court can do is establish a system of access.”³⁸⁰ Citing a number of localities with majority black populations that elect white officials, McDonald told the subcommittee that “[w]hites aren’t hurt when blacks are allowed political access. The society as a whole is improved . . . what causes intense division in these jurisdictions is the exclusion of blacks from office . . . Blacks only want to participate on some basis of equality,” McDonald explained.³⁸¹

Testifying to the importance of “the intent standard” to civil rights law was philosophy professor Michael Levin of the City University of New York. Levin is known for espousing some controversial theories on race and genetics. In his view, the

³⁷⁶ 1982 Senate hearings, 369.

³⁷⁷ 1982 Senate hearings, 369.

³⁷⁸ 1982 Senate hearings, 369.

³⁷⁹ 1982 Senate hearings, 371. Frank Parker argues similarly that intent to discriminate “is very difficult to prove in court because ultimately it requires proof of what was in the minds of the legislators or other public officials when they adopted or decided to retain a voting law that disadvantages minority voters.” Also, Parker points out, it makes no difference what was in some lawmaker’s mind when he supported an election law—especially for many at-large election systems that were established at the dawn of the twentieth century—if that “law operates today to deny minority voters an equal opportunity to participate in the political process.” Frank R. Parker, *Black Votes Count*, 175, 179.

³⁸⁰ 1982 Senate hearings, 373.

³⁸¹ 1982 Senate hearings, 373.

Mobile decision was merely a reiteration of legal precedent requiring proof of “discriminatory intent.”³⁸² Proposed changes to Section 2 “would be a catastrophic error” leading “to enormous mischief” in the court system, according to Levin.³⁸³ Articulating a view diametrically opposed to McDonald’s, Levin exclaimed that results language would “pervert the very meaning of the right to vote and violations of that right.”³⁸⁴ American citizens sitting on “juries” decide intent “everyday,” and Levin told the subcommittee that “[i]ntent is not all that difficult to determine.”³⁸⁵ In accord with the general consensus among Hatch and Reagan allies, Levin argued, “Discrimination is the act of thwarting [someone’s choice to vote] and other liberties on the basis of race. Like any act, discrimination requires intent.”³⁸⁶

Levin explained that the House bill’s “results” language means an “a priori standard [of] proportionality” and that standard, he argued, “is not consistent with democracy.”³⁸⁷ Furthermore, Levin hypothesized, “The logic of the House bill leads . . . to runoffs between designated minority spokesmen for reserved positions while the white population votes as usual. Surely, in selectively protecting the so-called interests of groups by color, the House bill violates equal protection.”³⁸⁸ In comparing differences in voting patterns by race, Levin cited a study by Thomas Sowell that provides “considerable evidence that different value traditions, not discrimination, explain group differences in economic success.”³⁸⁹ Sowell, an African American, is an economist by training. He is known for writing op-ed pieces expressing his views of minimal

³⁸² 1982 Senate hearings, 717.

³⁸³ 1982 Senate hearings, 717.

³⁸⁴ 1982 Senate hearings, 717.

³⁸⁵ 1982 Senate hearings, 718.

³⁸⁶ 1982 Senate hearings, 718.

³⁸⁷ 1982 Senate hearings, 719.

³⁸⁸ 1982 Senate hearings, 720.

³⁸⁹ 1982 Senate hearings, 720.

governmental involvement in economic and social affairs. Levin concluded that substituting result for intent “would change the right to vote into a wholly different and a wholly antidemocratic presumptive right to a racially predetermined result.”³⁹⁰

Senator Mathias viewed the new language in Section 2 as reaffirming the standard in which “you look at the results of some municipal action, State action, or whatever unit . . . and see how it excludes citizens from the electoral process, not how the citizens act within that process.” Further, Mathias believed that the new language in Section 2 was “needed to clarify the burden of proof in voting discrimination cases and to remove the uncertainty caused by the failure of the Supreme Court to articulate a clear standing in *City of Mobile v. Bolden*.”³⁹¹

Senator Mathias believed that decision had marked a new interpretation of Section 2 in which “violations of the section must be based on specific evidence of discriminatory purpose.”³⁹² Senator Arlen Specter (R-PA), who switched to the Democratic Party in 2009 after more than forty years as a moderate Republican, pointed out that in civil law intent “is not required customarily.” “On the civil side, it usually turns on the effect on the allegedly wronged party—what the consequence is or what the deprivation is, or to use the word what the effect is on the injured party.”³⁹³ In accord with this idea, Senator Mathias argued that prior to the *Mobile* decision “a violation in voting discrimination cases can be shown by reference to a variety of factors that, when taken together added up to a finding of illegal discrimination.” Now, however, the Court

³⁹⁰ 1982 Senate hearings, 721.

³⁹¹ 1982 Senate hearings, 92.

³⁹² 1982 Senate hearings, 199.

³⁹³ 1982 Senate hearings, 96.

had “abandoned this totality of circumstance test and . . . replaced it with a requirement of specific evidence . . . of intent to discriminate.”³⁹⁴

Senator Hatch countered that the intent standard did, in fact, consider “the totality of circumstances” to arrive at a conclusion of whether there was discrimination in a given situation. The current intent standard, Hatch claimed, asks the question: “Do these circumstances—the totality of the circumstances—add up to an inference of intent?” Hatch expressed his interpretation of potential changes that could result from the revised Section 2 as “a statistical numbers game and proportional representation.”³⁹⁵ What was worse, in Hatch’s view, was that “the proposed changes in section 2 would result in people being branded as discriminators without any showing of intent.”³⁹⁶ The connotations associated with “proportional representation” and accusations of being a “discriminator” elicited fear in many white Americans’ minds and mischaracterized the purpose of the Voting Rights Act.

Senator Hatch argued that people from the South should be especially concerned about the potential change to Section 2 because it would exacerbate long-standing problems, “creating divisiveness all over the region, with a system where only blacks represent blacks, whites whites, and polarizing is encouraged.” Hatch added “that it will make the situation considerably worse throughout the entire country as well.”³⁹⁷

Leading conservative Senator John P. East (R-NC) echoed concerns that were founded in political representation theory, and he explained how a revised Section 2 could alter long-existing theoretical bases of American democracy. East explained that

³⁹⁴ 1982 Senate hearings, 199.

³⁹⁵ 1982 Senate hearings, 202.

³⁹⁶ 1982 Senate hearings, 203.

³⁹⁷ 1982 Senate hearings, 429.

senators, representing an entire state at-large, are “sensitive to the broad base, to the broad coalition [they] represent.” Therefore, at-large officials, East said, “can’t get away with just representing solely and exclusively a particular clientele, be it racial or otherwise.”³⁹⁸

What many adversaries of the results language failed to acknowledge or, perhaps, to even comprehend is that racial discrimination was still in the 1980s entrenched in institutional structures and frameworks, especially in states like Alabama. Various forms of institutionalized discrimination, such as at-large election systems, will be analyzed in chapters 5 and 6 of this dissertation. Institutional discrimination is a form of denying equal treatment or rights to individuals in the sense that it is “embedded in human institutions that cause behavior by victims, as well as those who discriminate, which perpetuates the patterns.”³⁹⁹ In situations of institutional discrimination, “if legal machinery deals only with specific overt acts...it is not dealing with the main problem and will have very limited impact” on problems of racial injustice.⁴⁰⁰

The Voting Rights Act extension passed in the U.S. Senate on June 18, 1982. Enacted by President Reagan’s signature, the final version of the bill represented a major victory for voting rights advocates. The work of ADC activists and national civil rights organizations had secured a bill with stronger Section 2 protections than many had imagined was possible. The 1982 renewal of the Voting Rights Act extended Section 5 preclearance for twenty-five years, and the “results” test was included in Section 2. This meant that in law suits filed in federal courts, judges could find that state or local

³⁹⁸ 1982 Senate hearings, 468.

³⁹⁹ Ray Marshall, “Civil Rights and Social Equity: Beyond Neoclassical Theory,” in *New Directions in Civil Rights Studies*, ed. Armstead L. Robinson and Patricia Sullivan (Charlottesville: University Press of Virginia, 1991), 150.

⁴⁰⁰ Marshall, “Civil Rights and Social Equity,” 151.

jurisdiction was in violation of the Voting Rights Act if a law or action of that jurisdiction had “result” or “effect” of discriminating against black voters. Senator Robert Dole (R-KS) was instrumental in hammering out compromises to gain broad approval for the bill. It passed with a resounding 85-8 margin in the Senate. Interestingly, Senator Strom Thurmond cast his first vote for any civil rights bill with his vote in favor of approving the Voting Rights Act renewal in 1982.⁴⁰¹ The changes to Section 2, emphasizing that the “results” of an election system must be considered, were critical to voting rights protections and ensuring equal political opportunities for all Americans. Thus, the precedent for proving intent, as established in *Mobile v. Bolden*, was invalidated by the language of the final bill.⁴⁰²

Alabama Senator Howell Heflin voted for the bill, but was hesitant to announce his position until roll call came for senators to cast their votes. Heflin, a Democrat, was a strong ally of the ADC and African Americans, but to survive in Alabama politics he had to walk a careful line in how he approached any issue regarding race. Alabama’s other senator, Jeremiah Denton, was a proud member of the New Right and cast one of the eight votes against the extension of the Voting Rights Act. Denton joined fellow southern Republicans, Senators Jesse Helms and John East, both of North Carolina, in leading the “hard-core conservative” opposition to the bill.⁴⁰³ Senator Helms attempted a

⁴⁰¹ *Congressional Quarterly Almanac*, “House Passes Bill to Extend Voting Rights Act,” 10 October 1981, 415.

⁴⁰² Frank Parker notes that these changes were the first incorporation into federal law of “the minority vote dilution principle” blocking laws in “which minority voters ‘have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.’” Parker emphasizes not only equality of access but also the importance of laws to address “the structural barriers to equal participation in the political process” as well as “political massive resistance strategies” A plethora of evidence exists of both overt and covert strategies for discriminatory practices in states with histories of denying rights to minorities. Parker, *Black Votes Count*, 167-68.

⁴⁰³ Peggy Roberson, “Senate approves extension of voting act,” *Montgomery Advertiser* 19 June 1982.

filibuster, and both he and Senator Denton proposed a number of amendments to the bill that were defeated by margins of two- or three-to-one. Senator Heflin supported some of the Denton amendments, in what were likely politically-calculated and largely symbolic votes, since Heflin could easily have predicted that the Denton amendments would fail.⁴⁰⁴ Heflin was under constant pressure from the remaining white supremacist elements in the Alabama electorate and accordingly learned to “bob and weave” his stances and votes on civil rights and racially-charged issues.⁴⁰⁵ Yet, on the important votes, such as the final vote on extension of the Voting Rights Act, Heflin’s support was never in doubt.⁴⁰⁶

In many ways, the 1982 renewal of the Voting Rights Act was a turning point for defining discrimination in a way that acknowledged the racial injustices of the past so that this nation could continue the odyssey for equal rights and liberties. Armed with the strengthened language in Section 2, leaders of the ADC, such as Jerome Gray, Joe Reed, and ADC local activists, made Alabama the proving ground for the meaning of political equality as promised by the Voting Rights Act. ADC members advocated equal voting rights through a focus on three issues. First, ADC activists legally challenged the legislative districts drawn by the Alabama Legislature following the 1980 census. Pressure from the ADC and federal judges forced legislators to re-draw districts that were fairly apportioned and accurately reflected the demographics in the districts so that blacks

⁴⁰⁴ Peggy Roberson, “Senate approves extension of voting act,” *Montgomery Advertiser* 19 June 1982.

⁴⁰⁵ Earl and Merle Black use the phrase “bob and weave” to describe how another southern Democrat, Governor Bill Clinton, side-stepped the racially-charged land mines in running for statewide office in Arkansas. Earl Black and Merle Black, *The Rise of Southern Republicans* (Cambridge: The Belknap Press of Harvard University, 2002), 27. It is fair to presume that Senator Heflin was doing the same here as he always voted for civil rights legislation. He had worked to get the first black federal judges in Alabama’s history appointed, and according to Joe Reed, “Heflin never left us.” Dr. Joe L. Reed, interview by author, 8 February 2012.

⁴⁰⁶ Senator Heflin stated this a brief conversation with the press after the vote on the bill. Peggy Roberson, “Senate approves extension of voting act,” *Montgomery Advertiser* 19 June 1982.

had opportunities to elect candidates of their choice. Second, ADC activists worked to make sure black Alabamians were part of the process of administering elections through serving as poll officials as well as registrars and deputy registrars, which is discussed in chapter 5. Third, ADC members all across Alabama employed Section 2 to attack the many discriminatory at-large election systems for various local political offices. After Reconstruction, white politicians in Alabama constructed these at-large systems with the expressed purpose of preventing blacks from the chance to elect a black candidate at virtually all levels of Alabama's government. The fight to dismantle discriminatory at-large election systems is the topic of the final chapter.

In the midst of the fight for renewal of the Voting Rights Act, several Alabama voting rights activists filed suit in federal court challenging the legislative reapportionment plan that the Alabama Legislature following the 1980 census. On November 5, 1981, William L. Burton, Percy D. Bell, Abraham Lincoln Woods, Jr., Bobby Jo Johnson, Andrew Hayden, Felix Nixon, and Euralee A. Haynes, all activists of the ADC, initiated their challenge to the new legislative districts in the United States District Court for the Middle District of Alabama.⁴⁰⁷ Chief Judge of the Eleventh Circuit Court of Appeals, John C. Godbold, assigned a three-judge court to hear and determine action in the case. The panel included District Judge Myron H. Thompson, who had just completed his first year on the bench, and a pair of veteran judges, District Judge Truman M. Hobbs and Circuit Judge Frank M. Johnson, Jr.⁴⁰⁸

⁴⁰⁷ Docket Sheet entry 5 November 1981, *William L. Burton, et al., v. Walker Hobbie, etc., et al.* (Civil Action No. 81-0617-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁴⁰⁸ Case Files Vol. I, 11-9-81 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

The plaintiffs alleged that Alabama legislators who drafted and voted for the reapportionment plan, Act No. 81-1049, did so with race as a motivation. The reapportionment act had “the purpose and the effect of diluting or minimizing the voting strength of black citizens of Alabama and of minimizing the number of black members of the Alabama Legislature,” ADC activists claimed.⁴⁰⁹ ADC members were specifically incensed by what they saw as the “systematic” effort to marginalize black voters by “split[ting] or divid[ing] black voting majorities in the so-called Black Belt counties of Alabama, including Lowndes, Wilcox, Perry, Hale, Sumter, and Greene.” In addition the plan concentrated or stacked Jefferson County’s black voters and diminished the black population in what would otherwise be majority-black districts in Montgomery County.⁴¹⁰ Pointing to the fact that Alabama’s politics has been plagued by a commitment to white supremacy for the state’s entire history, the ADC members filing suit argued that even though the Civil Rights Act of 1964 and Voting Rights Act of 1965 illegalized white supremacy, “the continuing effects of . . . [white supremacy] still linger.”⁴¹¹ The 1981 reapportionment plan was a violation of the Voting Rights Act, the plaintiffs argued, asking the federal court to disallow the scheduled 1982 state legislature elections to be held under this discriminatory plan.⁴¹²

In a letter to Assistant U.S. Attorney General William Bradford Reynolds, the attorney for the plaintiffs, James Blacksher, objected to the 1981 reapportionment act

⁴⁰⁹ Case Files Vol. I, 11-5-81 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹⁰ Case Files Vol. I, 11-5-81 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹¹ Case Files Vol. I, 11-5-81 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹² Case Files Vol. I, 11-5-81 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

under Section 5 of the Voting Rights Act.⁴¹³ As evidence of the continuing racial polarization in Alabama elections and the underrepresentation of black Alabamians in the state legislature, the plaintiffs presented the fact that no black person had ever won election to a legislative seat unless that district contained “a clear black voting majority.”⁴¹⁴ Also, they submitted an article from the *Mobile Press Register* that analyzed how through some of his recent decisions, U.S. Senator Howell Heflin, had “tarnished” his political “image” in Alabama. This article, which was printed at the same time that the U.S. Senate was debating the renewal of the Voting Rights Act, pointed out Senator Heflin’s votes against anti-busing legislation and his support for the appointments of Alabama’s first black federal judges, U. W. Clemon and Myron Thompson. The article explained that Heflin had taken a lot of heat for his support of issues that were perceived as helping black people, saying “[h]e learned, in the most difficult of ways that the racist emotions on which George Wallace built his political career have yet to disappear in Alabama.” According to the Mobile newspaper, the senator had misjudged the opinions of his white electorate and had “offended not only hardcore segregationists, but the political centrists who put Howell Heflin in the United States Senate.”⁴¹⁵

According to the letter to the Assistant Attorney General Reynolds, the process by which the Alabama Legislature handled the 1981 reapportionment reveals the intent of those who supported the plan. The plan was primarily devised to protect “incumbent’s

⁴¹³ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹⁴ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹⁵ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

interests,” yet it did place two incumbents in the same district with each other, forcing a potential race between two incumbent members in 1982. “Not surprisingly,” the letter declares, “these two were black House members, Fred Horn and Ron Jackson, in Jefferson County.”⁴¹⁶ State Senator Michael Figures, a black legislator from Mobile, presented an alternative to the plan. But Figures’s plan was not allowed a hearing in committee since it did not aim to protect incumbents, the overwhelming majority of whom were white.⁴¹⁷ State Representative Manley, who was both co-chairman of the reapportionment committee and a co-sponsor of Act No. 81-1049, justified the rejection of Figures’s plan under the “local courtesy” rule. In the Alabama Legislature a custom known as “local courtesy” meant that all legislators agreed not to interfere in local issues that did not pertain to their specific districts. In cases where a bill affected a particular locality, all legislators tacitly deferred to the legislator or legislators who represented that locality. Obviously, a reapportionment bill necessarily affects all localities in the state and, therefore, as Senator Figures explained “the local courtesy procedure made it inappropriate and useless for a black legislator representing one district to complain or suggest changes concerning a district represented by a white legislator [from another district].”⁴¹⁸ Furthermore, it appears that no attempt was made to reapportion the Alabama Legislature in accordance with the Voting Rights Act. The act was “never discussed” in committee hearings on reapportionment and the committee “did not . . . attempt to determine whether or not the plan finally adopted violated Section 5 . . . and

⁴¹⁶ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹⁷ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴¹⁸ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

did not consult counsel about it.”⁴¹⁹ Representative Manley even admitted that he did not understand “the meaning of racial vote dilution.”⁴²⁰ Regardless of the racial makeup of an area, one white Alabama state senator supported changes to districts only in circumstances where “a black district is becoming blacker and a white district whiter.”⁴²¹

One problematic result of the 1981 Alabama Legislature’s reapportionment bill was intentional racial gerrymandering with the purpose of re-electing white incumbent legislators from Black Belt counties. Sumter, Greene, Hale, and Perry counties, all of which had black populations greater than sixty percent, were divided into four separate House districts that contained black populations of no greater than the low fifty-percent-range. Considering that far fewer than 100 percent of blacks were registered in these areas, white legislators would probably be able to win re-election with a unified bloc of white voters supporting them.⁴²² White legislative leaders followed the pattern of dividing up areas with heavy black populations for many of the new legislative districts created in the 1981 bill. One example of how this was achieved elsewhere was placing majority-black Lowndes County in a district with majority-white Autauga and Montgomery counties, when Lowndes had very little in common with the other two counties in racial composition, economy, or social structure.⁴²³

The plaintiffs claimed that there could be no other motivation than race in the splitting up of majority black counties and dispersing black voters in those counties into

⁴¹⁹ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²⁰ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²¹ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²² Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²³ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

multiple districts, which they dubbed the “southwest Alabama charade.”⁴²⁴ One white incumbent who had narrowly defeated a black candidate in the previous two elections saw to it that his district, which would have been 55.6 percent black, was redrawn to reduce it to 51.6 percent black.⁴²⁵ Another white House member who had narrowly defeated a black candidate by less than 300 votes in the previous election made sure his opponent, who was expected to run again, was drawn out of his district and put into a new one. In reconstructing the districts in his area, State Senator Cordy Taylor, a white legislator from Autauga County, said he desired to “please the people as much as possible” in their wishes not to divide up cities or towns into multiple legislative districts. Yet, Senator Taylor “gave more weight to the objections of a white municipality, Millbrook,” and granted their request while rejecting the same request of two black municipalities in Wilcox and Lowndes counties.⁴²⁶ In Dallas County, one House district was so grossly gerrymandered that it was dubbed the “Selma Dragon.” The “dragon” was complete with fangs that cut just around communities with significant black populations.⁴²⁷

Many black citizens in these counties, even if they were in a numerical majority, often were intimidated by some local whites from participating in the political process. Upon the sight of many black citizens lined up at a polling place to vote on election day in 1978, the mayor of Pine Apple, in Wilcox County, stood on a table and screamed at the

⁴²⁴ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²⁵ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²⁶ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²⁷ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

black voters: “What are you all doing here?”⁴²⁸ Especially in rural areas, many Alabama blacks still worked on the land of white landowners. Many of these rural black citizens did not vote for a number of reasons. For one, these farmhands and sharecroppers usually had to work until after polling places were closed on election days. Also, black people in rural areas often avoided politics altogether. A black candidate for a Dallas County Commission seat explained that rural

blacks will often walk away from a black candidate because they are afraid to be seen in his presence by their employer. To them, it is a question of survival. They want to keep their jobs and put food on the table. In some instances, they are permitted to maintain their place of residence on the plantation owner’s property on the condition that they do not become politically involved.⁴²⁹

This practice of attempting to take black citizens’ votes “captive” could be achieved by malevolent whites in a variety of ways. One ADC activist described a practice common at some Alabama polling places as follows:

There is a certain white person who works at that polling place who knows most of the blacks. He will say to a black voter, “Hey John, you going to vote today? I thought you were working John.” Of course, John will be fearful that the polling official is going to tell his employer that he was down there voting. The next time, John will stay away from the polls because he knows he may lose his job.⁴³⁰

Also, many black Alabamians who worked in domestic capacities in white people’s homes “are often given a list of names [from their white employers] indicating for whom they are expected to vote.” In many cases these black workers vote how they are told to avoid the possibility of losing their jobs. It is hard for many black people to believe that

⁴²⁸ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴²⁹ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³⁰ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

there is a truly secret ballot since whites seem to oversee and control the whole election process, and there are rarely any blacks serving as local polling place officials.⁴³¹

In May 1982, less than a month prior to the beginning of the qualifying period for candidates to run for state legislative seats, the U.S. Attorney General's office sent a letter to Alabama Attorney General Charles Graddick explaining that reapportionment under Act No. 81-1049 violated the Voting Rights Act.⁴³² The letter from the Department of Justice explained that they had not yet had adequate time to offer a district-by-district analysis, but from a general investigation, it appeared that the 1981 reapportionment plan would effect a retrogression of black Alabamians' votes and influence in the state legislature.⁴³³ The letter also stated that a comprehensive analysis of the plan would follow, but it was now clear to the three federal judges working to sort through this as well as to all parties involved that the scheduled legislative elections for 1982 would continue to proceed without a legitimate map of districts in place.

Following the notice of objections by the U.S. Justice Department, the plaintiffs filed an amended complaint with the federal court noting that the 1981 plan did not pass preclearance. The court responded by requesting the plaintiffs to submit proposals for an interim reapportionment plan. In the meantime, the Alabama Legislature went back to work and the reapportionment committee began hastily putting together a new bill, hoping to pass it in time to have a clear understanding of the district boundaries for legislative seats for candidates were already campaigning. At the reapportionment

⁴³¹ Case Files Vol. II, 3-9-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³² Case Files Vol. III, 5-10-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³³ Case Files Vol. III, 5-10-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

hearings, some black leaders expressed their doubts that the new plan that had been put together as a quick replacement for the 1981 plan actually represented progress toward fair and equitable legislative districts. State Representative Thomas Reed of Macon County was one of the leading voices of dissent regarding the 1982 proposal for redistricting. In 1970, ADC activists had worked to get Thomas Reed and Fred Gray elected to the Alabama Legislature. Representative Thomas Reed and Representative Fred Gray were the first blacks to serve in the state legislative body since Reconstruction. Representative Reed had seen much progress for black Alabamians, but he also knew how long they had waited and how slow that any steps forward had been. Representative Reed declared that he was in “total opposition” to the new 1982 proposals for redistricting because he believed they were tools to perpetuate the old system, just as the 1981 bill had been.⁴³⁴ He said the new proposals only allowed for “token representation” and he called for the farce of equal representation to end:

We can speak for ourselves. Black people, let me tell you something: Until you ask for what is rightfully yours, you’ll never get it. It took us over a hundred years to get two blacks to the Alabama Legislature. From 1872 to 1972, it wasn’t a single black person down here. We went four years with only two. Then we picked up a few more. Now we have a pittance of thirteen.⁴³⁵

Representative Reed continued, explaining that if the ADC and black citizens had to continue to pursue justice in representation through the force of federal court orders they would, but he hoped the legislature would do the right thing without coercion. In concluding, Representative Reed called on all white legislators who had a “conscience,”

⁴³⁴ Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³⁵ Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

asking them “how would you feel if we were doing you the same way?”⁴³⁶ Another Black Belt leader, Judge William McKinley Branch of Greene County, added to Representative Reed’s sentiments: “We are going down the road to hell, a white road and a black road. And if you can’t find some part to get together and do away with this racism and all this stuff here, I guarantee you we’re all going to hell.”⁴³⁷

On June 4, the plaintiffs filed their proposed plans for redistricting with the Middle District Court. Just a few days prior, on June 1, the Alabama Legislature passed a new redistricting bill, Act No. 82-629 to replace Act No. 81-1049. The new bill, in the eyes of ADC activists and most black leaders, was no better than the previous one. With the election cycle underway for the 1982 legislative races, Judges Johnson, Hobbs, and Thompson had to make a quick decision about how to proceed. On June 8, the U.S. Department of Justice sent notice that they were unable to come to a conclusion as to the legality of the plan under the time constraints. Thus, the plans for elections would continue as the judges and Justice Department lawyers poured over the redistricting act for the next several weeks. Judges Johnson and Hobbs agreed that the 1982 plan would go forward as an “interim” plan.⁴³⁸ Johnson and Hobbs also agreed that the plaintiffs’ proposed plans were not necessarily remedies to the problems of the 1981 and 1982 plans passed by the legislature. Judge Johnson chided state lawmakers, writing

this Court remains aware that for the third consecutive decade the Alabama Legislature has abrogated its duty and failed to adopt a reapportionment plan that is constitutionally acceptable. Furthermore, this Court is cognizant of that the

⁴³⁶ Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³⁷ Transcript of Public Hearing Before the Joint Reapportionment Committee, 6-25-82 in Supplemental Files, Box 16 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴³⁸ *Burton v. Hobbie*, 543 F. Supp. 235, 235-239 (M.D. Ala., 1982).

legislature continues to employ questionable reapportionment practices that suggest some form of racial gerrymandering.⁴³⁹

Judge Thompson dissented, writing that allowing elections to continue under an unacceptable plan was a denial of justice. He argued that Judge Hobbs's and Judge Johnson's opinions signaled that the "Court winks at Section 5 of the Voting Rights Act of 1965 . . . and turns its back on the specific group of people that section was intended to protect."⁴⁴⁰ ADC Chairman Joe Reed, who had helped to devise the plaintiffs' proposed reapportionment plans, said of the federal court decision, "This was not a knockout. It was a knockdown." Chairman Reed added that he believed that the court was "serving notice on the Alabama Legislature" that fair reapportionment would have to happen soon.⁴⁴¹

In August, the Civil Rights Division of the U.S. Department of Justice notified Alabama Attorney General Charles Graddick that redistricting Act No. 82-629 was "legally unenforceable."⁴⁴² After extensive review, the lawyers in the Civil Rights Division concluded that the 1982 plan "offers less prospect for black voters" in the Black Belt districts "to participate fully in the electoral process."⁴⁴³ Legislative candidates now knew they were running to be elected to districts that were deemed illegitimate.

After the legislative elections in the fall of 1982, Alabama lawmakers assembled in Montgomery and put together yet another legislative reapportionment plan, Act No. 83-154. The 1983 plan was drawn by ADC Chairman Joe Reed and another black leader,

⁴³⁹ *Burton v. Hobbie*, 543 F. Supp. 235, 243 (M.D. Ala., 1982).

⁴⁴⁰ *Burton v. Hobbie*, 543 F. Supp. 235, 243 (M.D. Ala., 1982).

⁴⁴¹ Mary Reeves and Cynthia Smith, "Federal judges approve remap plan," *Montgomery Advertiser*, 22 June 1982.

⁴⁴² Case Files Vol. V, 8-3-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

⁴⁴³ Case Files Vol. V, 8-3-82 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

Representative John Buskey. The U.S. Department of Justice reviewed and approved Act No. 83-154. In April 1983, Judges Johnson, Hobbs, and Thompson also approved the plan. Judge Thompson hailed it as “the first time in Alabama’s history that its Legislature has provided an apportionment plan that is fair to all the people of Alabama.”⁴⁴⁴ However, the court ordered, as a condition of the new plan’s approval, that all legislators run again under the legitimate plan and that current legislative terms would expire on December 31, 1983 rather than serving a full four-year term until January 1987.⁴⁴⁵

The *Montgomery Advertiser* and *Alabama Journal* covered the breaking news that state legislators would have to run for office again in 1983. A number of both black and white leaders had tried to persuade the court that as a compromise the new plan should go into effect for the 1986 legislative elections. But, as Judge Johnson explained, “We refuse to approve a settlement which would result in the continuation in office for four years of legislators who were not elected under a valid reapportionment plan.” Alabama House Speaker Tom Drake was “stunned” that the court ordered legislators to run again in the first year of their terms.⁴⁴⁶ One of the reapportionment committee leaders, State Senator Lister Hill Proctor, criticized the idea that legislators be required to run for office again saying, “[b]lacks had made real gains under the other plan . . . I think the court owed it to us to go along” with the compromise of the 1983 reapportionment plan going into effect for the 1986 elections. The federal judges did not see any justification for that,

⁴⁴⁴ *Burton v. Hobbie*, 561 F. Supp. 1029, 1030 (M.D. Ala., 1983).

⁴⁴⁵ *Burton v. Hobbie*, 561 F. Supp. 1029, 1034-1036 (M.D. Ala., 1983).

⁴⁴⁶ Tom Gardner, “Run again, court tells legislators,” *Montgomery Advertiser*, 12 April 1983.

and refused to reward the state legislature “for assuming its responsibilities at the expense of the citizens of Alabama.”⁴⁴⁷

Further litigation ensued over how the elections would be administered. The Alabama Democratic Party proposed that their party nominees be selected by the State Democratic Executive Committee with the stated purpose of saving the state and candidates money. In several cases two current legislators now resided in the same legislative district. Under the 1983 reapportionment plan, nine House members and twelve Senators would be required to run against other incumbents. All of the incumbents who would face the potential of running against another incumbent were Democrats. Refusing to get involved in a state constitutional issue, the federal court left it up to the state political parties to decide how they would select nominees.⁴⁴⁸ The Alabama Republican Party planned primary elections for September. Meanwhile, the Alabama Democratic Executive Committee set October 1 as the date that the committee would vote and select the nominees for the November General Election.

As the Republican primary election approached, observers wondered how many people would show up to vote. The Republican Party in Alabama had been virtually dead since the end of Reconstruction, but since the 1960s it had made some slow gains. Just as it had since the years following Reconstruction, the Alabama Democratic Party still dominated state politics. Two disgruntled Montgomery legislators switched from the Democratic to Republican Party in protest to the Democratic Executive Committee’s decision not to hold a primary. Democrat State Senator Larry Dixon, who faced the conundrum of running against another white Democratic incumbent in 1983, was angry

⁴⁴⁷ Mike Sherman, “Elections May Cost \$3 Million,” *Alabama Journal*, 12 April 1983.

⁴⁴⁸ Case Files Vol. VII, 7-37-83 *Burton v. Hobbie* (Civil Action No. 81-0617-N) in National Archives and Records Administration, Southeast Region, Morrow, GA.

with the Democratic Party's decision not to hold primaries and consequently decided to switch party affiliation. Senator Dixon called the decision not to hold primaries the "most undemocratic" thing the Party could choose to do.⁴⁴⁹ Republican candidates prepared for their primary in September with predictions that turnout would be low. The Alabama Republican Party had worked hard to field as many candidates as they could for the legislative races, but was still unable to run candidates in a majority of the legislative districts. In Pickens County's House District 5, Republican Ganus Gray believed he would be the best representative for the majority-black district even though he was white. Gray said that he expected ADC Chairman Joe Reed to oppose his candidacy, but explained why he chose to run anyway, saying, "I'm not a racist, but they (blacks) make good followers if they have a leader."⁴⁵⁰ Although Democrats would still control the legislature no matter the outcome of the 1983 election, the Alabama Republican Party looked at this as a major step forward since they had more legislative candidates in this election than they had had in decades.

Leading up to the 1983 General Election, an article in the *Montgomery Advertiser* featured ADC state field director Jerome Gray touting recent successes in black voter registration drives. Gray estimated that more than 350,000 Alabama black citizens were registered and ready to vote in the 1983 elections. "The most exciting thing about the effort [to register black voters] is its quiet nature," Gray explained. The ADC state field director added, "We in Alabama don't need a Jesse Jackson to motivate us. ADC, the

⁴⁴⁹ Mike Sherman, "'If There Is An Election, I'll Be In It,' Sen. Dixon Says," *Alabama Journal*, 12 April 1983. Mike Sherman, "Elections May Cost \$3 Million," *Alabama Journal*, 12 April 1983.

⁴⁵⁰ "GOP hopefuls fear low turnout for primary," *Montgomery Advertiser*, 4 September 1983.

NAACP, and SCLC are working together, and doing an effective job.”⁴⁵¹ Also, another article in the *Advertiser* noted that the “number of black registered voters in Birmingham has surpassed the number of white registered voters.” This news came as Birmingham’s first black mayor, Richard Arrington, was on the ballot for re-election in the October municipal elections for Birmingham.⁴⁵² By the early 1980s, to be sure, the efforts of ADC activists to open the political process in Alabama to blacks were beginning to yield signs of progress.

On October 1, the Democratic Executive Committee was responsible for choosing who the Democratic Party nominees would be for forty contested legislative seats. Some—particularly the more conservative Democrats—questioned the Party’s decision to choose nominees by committee vote. Republicans and some Democrats claimed that Democratic Party leaders made the decision to select nominees in that way so they could “rig the nominations in favor of those backed by a coalition of labor, teachers, trial lawyers, and blacks.”⁴⁵³ Former Democratic Executive Committee Chairman George Lewis Bailes called the decision not to hold a primary election “absolutely unconscionable,” adding “[t]his is grossly unfair to the candidates, the committee members, and the people.” Wiley Hickman, another member of the committee, said the decision and selection process was “the worst thing that’s ever happened to the Democratic Party.”⁴⁵⁴ In selecting the nominees, the committee denied twelve incumbent

⁴⁵¹ Mike Sherman, “Blacks sign up to vote in record numbers,” *Montgomery Advertiser*, 4 September 1983.

⁴⁵² “Black voters take the lead,” *Montgomery Advertiser*, 6 September 1983.

⁴⁵³ Hoyt Harwell, “Democratic Executive Committee courted by candidates,” *Montgomery Advertiser*, 1 October 1983.

⁴⁵⁴ Hoyt Harwell, “Democratic Executive Committee courted by candidates,” *Montgomery Advertiser*, 1 October 1983.

legislators a nomination to run in the 1983 General Election.⁴⁵⁵ Seven of the twelve ousted Democrats filed qualifying papers with the Secretary of State to run as Independent candidates in November.⁴⁵⁶ As Democratic, Republican, and Independent candidates all set their eyes on the General Election, it seemed to many observers that the 1983 election would be remembered as one of the most eventful in Alabama history.

The ADC became a major political issue in one of Montgomery's legislative races. The campaign for House District 73 featured a rematch of Democrat Ham Wilson, Jr., who had been elected to his first term in 1982, and Republican Perry Hooper, Jr., the son of Montgomery County's only Republican Circuit Court Judge. Both Wilson and Hooper are white. In the 1982 election, Wilson had received the endorsement of the ADC, and Hooper used this to paint Wilson as the "handpicked" black candidate as they ran against each other again in 1983. State Representative Wilson fired back at Hooper, claiming that he did not want the ADC endorsement and that as a House member for the past year he had voted against some of the proposals supported by Reed and the ADC. In a newspaper story, Representative Wilson said he "has not sought and does not want the ADC endorsement in this race."⁴⁵⁷ Angry at Wilson's comments, Chairman Reed exclaimed, "I'm blowing the whistle on those who seek the support of ADC and then turn around and attack the group." Reed described Wilson's actions as a pattern he had observed over his years of involvement in Alabama politics: "[s]ome politicians always try to seek out black support, but when it is convenient they attack us."⁴⁵⁸ In the

⁴⁵⁵ Mark J. Skoneki, "Democrats choose state candidates," *Montgomery Advertiser*, 2 October 1983.

⁴⁵⁶ Mike Sherman, "7 Denied Incumbents File to Run," *Alabama Journal*, 3 October 1983.

⁴⁵⁷ Nancy Dennis, "Political Ads Draw Ire Of ADC Chairman," *Alabama Journal*, 2 November 1983.

⁴⁵⁸ Nancy Dennis, "Political Ads Draw Ire Of ADC Chairman," *Alabama Journal*, 2 November 1983.

newspaper that same day, Hooper ran a political advertisement entitled “DON’T BE MISLED!” The ad featured a picture of the ADC’s primary election guide ballot for September 7, 1982 that showed Ham Wilson’s name marked as receiving the ADC endorsement. At the bottom of the ad the caption charged voters to cast their ballots for Perry Hooper, “THE TRUE CONSERVATIVE CANDIDATE – WITH NO TIES TO JOE REED!”⁴⁵⁹ Following these attacks by Hooper, Wilson’s campaign ads increasingly focused on proving his anti-Reed and anti-ADC credentials.

In response to Wilson’s denials of affiliation with the ADC and Chairman Reed, Hooper heightened his attacks. In a blatantly racist advertisement, reminiscent of Alabama political campaigns of the 1950s and 1960s, Hooper tried to make sure white voters knew that he was the “white candidate” and Wilson was the “black candidate.” At the top of Hooper’s ad in bold letters it read “LAST YEAR, JOE REED ELECTED HAM WILSON, JR. HERE IT IS IN BLACK AND WHITE.” Below this bold caption that took up nearly half of the space of the ad, Hooper listed the vote totals for the four predominately white polling places in the district and the vote totals for the two predominately black precincts in the district. Although Wilson had significant support in the four white precincts, Hooper had received more votes at all those locations. But, in the black precincts Wilson had won by such a wide margin that he narrowly defeated Hooper in the overall vote totals for the House seat in 1982. Next to the vote totals for the predominately black precincts, Hooper’s ad referred to them, for example, as “Joe Reed’s Cleveland Avenue.” At the Cleveland Avenue precinct, Hooper received 82 votes to Wilson’s 1,567 votes. Next to the black polling place totals, the ad read “Wilson and Reed win.” At the bottom of the ad, Hooper admonished white voters: “This time, have

⁴⁵⁹ Perry Hooper, Jr. advertisement, *Montgomery Advertiser*, 2 November 1983.

it your way! On Tuesday, elect a strong representative with no ties to Joe Reed!” Notice, in the caption that Hooper underlined our in the word “your” as a signal to white voters they should unite whites against candidates supported by black people.⁴⁶⁰

As the 1983 legislative election neared, Alabama Republican Party Chairman Marty Connors predicted a significant gain for his party. Connors told the *Advertiser* that there were “a lot of people who are running on our ticket that are disenchanted Democrats who have seen the light.” Connors also believed that the Alabama Republican Party would continue to grow since the Alabama Democratic Party had “become more closely aligned with the national party and, thus, more ‘liberal.’” Connors was beaming with the prospect that the Republican Party could “double its numbers in the Alabama Legislature” as Alabama Democrats continued their “swing to the left.”⁴⁶¹ On the day before the election, Democratic leaders predicted they would have success. Also, when asked again about the Wilson-Hooper contest, Joe Reed called it “racism at its highest . . . designed to appeal to the worst side of white voters.”⁴⁶² By less than 150 votes, Hooper defeated Wilson in the rematch, making Montgomery County’s legislative delegation all white Republicans and all black Democrats.⁴⁶³ The 1983 Alabama Legislature elections yielded gains for blacks and Republicans, while also tarnishing the image of the Alabama Democratic Party. Republicans now had more seats in the state legislature than they had since Reconstruction. Likewise, there were more black Alabamians in the legislature than there had been since the 1870s. The results of the 1983 election led to twenty-four black citizens serving in the state legislature, which at that time represented the highest

⁴⁶⁰ Perry Hooper, Jr. advertisement, *Montgomery Advertiser*, 5 November 1983.

⁴⁶¹ Mark J. Skoneki, “Special legislative election may be most unusual in state’s history,” *Montgomery Advertiser*, 6 November 1983.

⁴⁶² “Few voters expected at polls,” *Montgomery Advertiser*, 8 November 1983.

⁴⁶³ Mark J. Skoneki, Hooper claims House 73 victory, *Montgomery Advertiser*, 9 November 1983.

percentage of black people in any state legislative body in the United States.⁴⁶⁴ ADC activists had worked to secure equal voting rights for all, and in the process had begun over two decades to transform the composition of state and local political leaders. ADC leaders continued to partner with political officials on the state, local, and national level in efforts to realize political equality under the Voting Rights Act. By the mid-1980s, ADC activists were just beginning to make the promises of the Second Reconstruction a reality in local politics. ADC activists knew the federal law was on their side in their fight for voting rights, and they planned their strategies for ridding Alabama government and politics of discriminatory laws and customs accordingly. It took more legal and political battles in the 1980s to rid the state of remaining discriminatory legacies embedded within its political system.

⁴⁶⁴ Mark J. Skoneki, Hooper claims House 73 victory, *Montgomery Advertiser*, 9 November 1983. Dr. Joe L. Reed, interview by author, 8 February 2012.

Chapter 5: Leveling the Playing Field: Equal Access to the Local Voting and Election Process, 1984-1986

“[M]any blacks, in particular the elderly and the uneducated, still labor under these past memories of personal humiliation, intimidation and violence. They understandably still harbor fears of entering all-white public places, even though they are now legally entitled to do so. They find the simple act of registering and voting, especially when the voting officials are all white, an extremely intimidating experience; and as a result, many of them do not register, and many of those who do register do not vote. For these persons, the political process is still not open, is still not available to the same extent it is and has been available to white persons.”

-U.S. District Judge Myron H. Thompson⁴⁶⁵

ADC activists turned the new Section 2 “results” test into a powerful weapon for promoting equality in the administration of elections by the state of Alabama. Still in the early 1980s, the administration of elections and the process of voter registration reflected the institutionalized discrimination that persisted in Alabama on the local level despite the fact that the Voting Rights Act had been in place nearly twenty years. On April 30, 1984 Charlie Harris and Mose Batie, black citizens and registered voters of Pike County, filed suit in the U.S. District Court for the Middle District of Alabama, located in Montgomery. Harris and Batie submitted their complaint on behalf of all black citizens in Alabama, and they were suing the state of Alabama and the State Democratic Party Executive Committee of Alabama for violations of Section 2 of the Voting Rights Act as well as the Fourteenth and Fifteenth Amendments. Harris and Batie charged the defendants with “discriminat[ion] against black citizens in the appointment of poll officials.”⁴⁶⁶ The complaint cited Attorney General Charles Graddick and Governor George C. Wallace, since according to the *Alabama Code* they are charged with the

⁴⁶⁵ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

⁴⁶⁶ Case Files Vol. I, 4-30-84, *Charlie Harris and Mose Batie v. Charles A. Graddick in his official capacity as Attorney General, etc., et al.* (Civil Action No. 84-T-0595-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL (hereafter abbreviated).

duties of upholding the Constitution of the state as well as “examin[ing] all state statutes to determine their constitutional validity and to advise county officers . . . about any question of law concerning their duties.”⁴⁶⁷ The *Harris v. Graddick* litigation also named the state Democratic Party Executive Committee as a defendant. In 1970 under the leadership of Chairman Bob Vance, the state party had adopted new rules that gave it “supervisory power and jurisdiction of all Democratic Party matters,” such as the appointment of poll officials, “throughout the state, and each district, county, and other subdivisions thereof.”⁴⁶⁸ Candidates for local political offices and Democratic Party county executive committee members, who were almost always white, controlled the process of appointing poll officials. According to the Harris, Batie, and other ADC members this procedure for appointing poll officials had “both the purpose and the effect” of keeping black Alabamians circumscribed from election day processes.⁴⁶⁹

The plaintiffs grounded their argument in the fact that at least since the end of Reconstruction, no black citizens had served as poll officials at any precinct in the entire state until the enactment of the Voting Rights Act. Furthermore, in the years since the Voting Rights Act, a few black Alabamians had been appointed poll officials in some counties but usually in numbers that were grossly disproportionate with the total black population in the county. The most egregious example the plaintiffs exposed was Crenshaw County, where not one black citizen had served as a poll official in the previous election, despite the fact that the county’s population was nearly 27 percent

⁴⁶⁷ Plaintiffs cited *Ala. Code*, Secs. 36-15-1 (5), 36-15-1 (9), 36-15-18 and *Ala. Const.*, Sec. 120 in Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁶⁸ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁶⁹ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

black.⁴⁷⁰ In several other Alabama counties that had black populations ranging between twenty and more than forty percent, the number of black poll officials percentage-wise was in the single digits or teens.⁴⁷¹ The plaintiffs were prepared to offer extensive historical testimony to the fact that black Alabamians had, since the end of Reconstruction, been denied the right of political participation that the Fifteenth Amendment had promised. For over a century, white supremacist politicians in Alabama had constructed a political edifice with layers and layers of complex institutional structures to prevent black people from voting. Charlie Harris and the plaintiffs argued that the present system for appointing poll officials was “a vestige” of the “white-only Democratic Party Primary” elections that, prior to the U.S. Supreme Court’s *Smith v. Allwright* (1944) decision, decided virtually every state and local political contest.⁴⁷²

The plaintiffs also pointed out that county officials, such as the Probate Judge, Sheriff, and Clerk of the Circuit Court, who are all elected by an at-large vote of the county’s citizens are the ones who make the ultimate selection of who will serve as poll officials. Due to the presence of a “persistent white-bloc” voting against black candidates, there were no black officials serving in at-large elected county offices, except in majority-black counties. Thus, the plaintiffs claimed that in most counties with white majorities the white county officials “usually are not sufficiently familiar with members of the black community who are willing and able to serve as poll officials and are

⁴⁷⁰ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷¹ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷² Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

otherwise unwilling to appoint a fair number of blacks.”⁴⁷³ Furthermore, the plaintiffs used data compiled by ADC leaders to argue that although for over a decade black Alabamians have had significant participation and access to the business of the State Democratic Party, “in most counties, black citizens still do not have full and effective representation on county executive committees” that provide lists of potential polling place officials.⁴⁷⁴

As for the defendants, Attorney General Graddick, speaking on behalf of himself and Governor Wallace, fully denied the allegations advanced by Charlie Harris and the class of Alabama’s black citizens.⁴⁷⁵ In the briefs that the Governor and Attorney General submitted, they argued that the plaintiffs’ complaint “fails to allege any exceptional circumstances” that lead to a violation of the U.S. Constitution requiring federal court involvement. Graddick and Wallace expressed resentment at the federal courts attempting to interfere in state and local politics. Here, in the Second Reconstruction, we see themes that had shaped the political consciousness of many southern whites during and immediately after the first Reconstruction: the notion that an overbearing federal government was imposing its will on the South and thereby violated states’ rights and threatened white supremacy. The lead plaintiffs’ attorneys, James Blacksher, was astounded by the audacity of the Governor’s and the Attorney General’s failure to realize that “the denial of black citizens’ voting rights and the dilution of their

⁴⁷³ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷⁴ Case Files Vol. I, 4-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷⁵ Case Files Vol. I, 5-23-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

voting strength, as alleged in the Complaint, are about as exceptional as you can get.”⁴⁷⁶ Also, Blacksher declared that the defendants’ denial that county officials were acting under state law when appointing poll officials was “a patently frivolous contention,” since the complaint clearly cites the precise section of the *Alabama Code* that grants county officials such powers.⁴⁷⁷ The State Democratic Executive Committee’s (SDEC) attorney did not respond in the same tone as Governor Wallace and Attorney General Graddick. The SDEC proclaimed, “It is the policy of the Democratic Party to encourage full and fair participation by all qualified electors in primaries and elections. If the allegations of racial discrimination by the plaintiffs are true, then they should be corrected.”⁴⁷⁸ However, the SDEC asserted that since polling officials are appointed “separately in each county, the existence of discrimination must be shown on a county-by-county basis.”⁴⁷⁹

ADC activists from various Alabama counties testified to the underrepresentation of black citizens as polling place officials. ADC state field director Jerome Gray and ADC member Jerry Henderson traveled to Albertville, Alabama to look through archives of past polling place officials in Alabama elections.⁴⁸⁰ Up to this point, the state of Alabama did not keep track of the race of poll officials. Thus, Gray and Henderson had to get copies of all lists of poll officials for every county in the elections since the Voting Rights Act and verify the race of the workers. They accomplished this by spending hours

⁴⁷⁶ Case Files Vol. I, 5-25-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷⁷ Case Files Vol. I, 5-25-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷⁸ Case Files Vol. I, 5-22-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁷⁹ Case Files Vol. I, 5-25-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁰ Jerome A. Gray, phone interview, October 30, 2011.

talking with the members of each of ADC's county-wide branches who would verify to Gray and Henderson the names of black citizens on the lists of poll officials.⁴⁸¹

Through depositions and testimony in hearings, several ADC activists offered evidence that the process of appointing poll officials in their counties perpetuated the institutionalized discrimination that had long governed the way the State of Alabama administered elections. The ADC activists who testified were Charlie Harris, Mose Batie, Harrison Shipman, James Smith, Lindburgh Jackson, Mary Kate Stovall, Courtney Crenshaw, Leu Hammonds, and Jerome Gray. These activists argued that the scarcity of black poll officials was one of the vestiges of the all-white primary election system that dominated Alabama's politics until the Supreme Court outlawed the practice in 1944.

Not only did the ADC activists compile evidence that showed the underrepresentation of black poll officials, they also presented astonishing examples of the persistence of racial injustice in election day processes. Much of this evidence echoed the testimony of ADC activists to the Montgomery field hearing of the U.S. House members when Congress was considering renewal of the Voting Rights Act in 1981. In many counties poll officials held lifetime positions, so they were given first priority to serve as election officials until they were no longer living or had moved out of the county.⁴⁸² Following the passage of the Voting Rights Act in 1965, Alabama was slow to welcome black citizens to take part in administering and organizing elections. In some counties it was the mid- to late-1970s before local leaders permitted any black

⁴⁸¹ Jerome A. Gray, phone interview, October 30, 2011. Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁴⁸² Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

person to serve as a poll official.⁴⁸³ For many black southerners, law enforcement officials signified danger because countless African Americans had been arrested for crimes they had allegedly committed. Following Reconstruction, many of the black people arrested were victims of lynching soon after their arrests. As Harrison Shipman of Coffee County testified the Sheriff would stand outside polling places in an effort “to intimidate blacks” and keep them from voting. With the presence of white law enforcement officials and no black poll officials, Shipman argued, many black citizens would choose to not vote. Shipman explained, “If you see some blacks at the polling place . . . they feel better about it and don’t feel like they are going to be looked upon as not having a place. It’s not the black’s place to go in and vote because resistance has been so strong in the past.” As a black Alabamian, Shipman revealed how the Jim Crow era rule, assigning blacks and whites to a circumscribed place and space in southern society, was still very much a part of the cultural memory and cultural expectation in Alabama in the 1980s. If blacks were present at polling places, Shipman added, “they feel more secure . . . [and] less threatened. They feel there is less possibility of reprisal. It has happened in the past. Some are reluctant . . . especially some of the older people.”⁴⁸⁴ Houston County ADC Chairman James Smith testified that “[t]here is still the feeling on the part of some blacks that elections are taken from them.” Black voters “would feel more comfortable and feel that they can really relate to another black in getting assistance in voting,” argued Lindburgh Jackson. ADC member Courtney Crenshaw explained that in his experiences he had found that particularly the elderly and

⁴⁸³ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁴ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

poorer black citizens “will refuse [to vote] . . . if they are not up on using the machine and they don’t understand it, they will refuse to go if they can’t get some assistance from black persons.”⁴⁸⁵ Mr. Shipman noted that in recent years the atmosphere at some polling places had grown increasingly contentious as black Alabamians had begun to come closer to reaching political equality. Shipman explained that in the 1980 election for the first time ever white poll officials prevented him from going into the voting booth with his wife. For many years Shipman had assisted his wife “to help her . . . identify the various things about the machines and the candidates,” but beginning in 1980 poll workers said Mrs. Shipman could not receive voter assistance because she “could read and was not handicapped.”⁴⁸⁶ From Mr. Shipman’s perspective, “once [white poll officials] found out that blacks were helping blacks . . . understanding [*sic*] . . . who to vote for . . . then [white poll officials] decided they were not going to let” any black citizens offer assistance to voters unless the voter was in some way disabled.⁴⁸⁷ Charlie Harris reported that in Pike County “white poll officials will not allow anyone but themselves to render any needed assistance.”⁴⁸⁸

Beyond the lack of black citizens serving as poll officials, ADC activists described a climate in some counties in which white poll workers took “active steps to deter black voters from voting or casting ballots for candidates of their choice.”⁴⁸⁹ James Smith explained that “[t]he thing that disturbs black voters the most about the problems

⁴⁸⁵ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁶ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁷ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁸ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁸⁹ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

they encounter at the polls is the hostile, discourteous attitude of some white poll officials.”⁴⁹⁰ As Smith asserted, “So often there is this attitude, especially if you’re black, that you automatically are wrong. Which also has to do with why some blacks are reluctant to go to the polls.”⁴⁹¹ Many black voters had stories of being sent away from the polls for their names not appearing on the voter list for that precinct, and often they were not advised that they could cast a challenged ballot nor were they offered any other plausible method to vote. Mr. Smith, who had voted at the same precinct his entire life, was left off the voter list in an election just prior to the *Harris* litigation. As a local ADC activist, Smith was well versed in local elections, and he knew how to handle the situation even though the white poll official gave him misinformation about how to attempt to correct the situation.⁴⁹² Russell County ADC activist Mary Kate Stovall recalled that in 1981 when a local polling place was moved due to damage from a tornado, white officials sent a number of black voters “from one box to another, claiming their names were not on the correct lists.”⁴⁹³ Since Reconstruction, many black southerners had experienced various schemes of white officials switching polling places and ballot boxes in an effort to bewilder or practically remove black voters’ voices from the election process. In Montgomery County, ADC member Leu Hammonds had served as a poll official in the most recent election and noted that blacks were not given misinformation at the polls. Hammonds believed that the better treatment was due to the

⁴⁹⁰ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹¹ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹² Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹³ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

fact that at many Montgomery precincts “there were both blacks and whites serving as poll workers and as chief inspectors.”⁴⁹⁴

With memories of the Jim Crow era still looming over black Alabamians, the hostile and suspicious attitudes of some white polling place officials seemed to many black citizens to be an all-too-familiar example of the persistent racism that had plagued Alabama for more than a century. The cultural memory of racism in Alabama framed all interactions between black and white citizens at the polling places and left many blacks wondering if the promise of political equality was yet again more symbolic than real. Hammonds claimed that “one thing we have in our community is people telling other people about their bad experiences and that frightens a lot of people away. It discourages people from voting because they hear their uncle say what a hard time they [*sic*] had voting.”⁴⁹⁵ Mr. Shipman agreed that “[m]any black people who run into these problems at the polls just give up and don’t try to vote.”⁴⁹⁶ Shipman added that if there were a closer to equitable number of black poll officials the attitude toward black voters “would improve tremendously,” and that a black poll worker “can make the difference between whether a confused black voter gets to cast his or her ballot or not.”⁴⁹⁷

In addition to black citizens serving as poll officials at precincts “where blacks vote in substantial numbers,” ADC activists argued that “[i]t is equally important that

⁴⁹⁴ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹⁵ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹⁶ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹⁷ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

blacks be appointed to supervisory positions.”⁴⁹⁸ Jerome Gray and other ADC members conducted research and compiled numbers that showed “an even greater disproportion in the number of blacks who served as chief inspector, chief clerk and returning officer than exists with respect to polling officials overall.”⁴⁹⁹ In regards to supervisory positions at the polls in Alabama, local leaders replicated the familiar pattern of white people in a dominant role over black people, who white officials placed in a subservient position. Courtney Crenshaw explained that “[i]t doesn’t make any difference where we come from or who we are” blacks are always in a clerical role as poll workers and “[t]he inspector is always white.”⁵⁰⁰ James Smith concurred, arguing “[B]lacks need to be seen there [at polling places] in something other than a clerical role or a flunkie type role with the white boss who gives orders. I think some of the chief polling officials should be black.”⁵⁰¹ Four Alabama counties, Coosa, Crenshaw, Escambia, and Hale, had no black citizens in a supervisory role at the polls. Other counties where blacks served in less than five percent of the supervisory polling official positions included Autauga, Barbour, Bibb, Chambers, Chilton, Clarke, Clay, Coffee, Covington, Dallas, Fayette, Franklin, Geneva, Henry, Houston, Lauderdale, Lawrence, Limestone, Monroe, Pike, Randolph, Russell, St. Clair, Shelby, St. Clair, Walker, and Washington. These telling statistics spoke to the racial injustices in the local election processes of many Alabama counties. ADC activists presenting these staggering numbers even though they were unable to

⁴⁹⁸ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁴⁹⁹ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰⁰ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰¹ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

gather data on supervisory poll official positions for 31 out of 67 Alabama counties prior to the date for depositions and presenting evidence to Judge Thompson.⁵⁰²

The ADC plaintiffs were undivided in arguing that “the appointment of a fair share of poll officials would increase black voter turnout and even black voter registration.”⁵⁰³ In the litigation the plaintiffs linked the number of black poll officials with the prospects of electing black candidates and with making the “votes of all black citizens . . . more meaningful.”⁵⁰⁴ Thus, they argued “the present underrepresentation of blacks as poll officials, as a practical matter, dilutes black voting strength.”⁵⁰⁵ As always, ADC activists used historical evidence to support their claims. Since the end of Reconstruction in Alabama, white political leaders had constructed a complex and multi-layered edifice to thwart black political participation. The process of selecting poll officials had been viewed as a key piece of this edifice since at least the 1890s which is apparent in the Sayre Election Law.⁵⁰⁶ Post-Reconstruction white politicians crafted the Sayre Law of 1893 as a veiled form of indirect disfranchisement. According to one historian, white supremacist Democrats constructed the law with the following purpose: “to let the Negro vote, even urge him to vote—but to establish an intricate procedure and partisan election officials in order to place the votes of Negroes in the conservative

⁵⁰² Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰³ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰⁴ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰⁵ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰⁶ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

[Democratic Party] column.”⁵⁰⁷ This law and various similar methods had for nearly a century shaped Alabama politics and elections in such a way that profoundly disadvantaged black citizens. ADC plaintiffs in the *Harris v. Graddick* case used historical evidence, such as the Sayre Law, to demonstrate both the intentions and effects of white politicians’ efforts to construct institutionalized discrimination against black Alabamians since the end of Reconstruction. What ADC activists had long understood and demonstrated through their persistence was that it would take local activism combined with political officials and federal law to fully eradicate Alabama’s racially unjust political order.

Since the renewed version of Section 2 in the Voting Rights Act of 1982 specified that a violation exists when African Americans “have less opportunity than other members of the electorate to participate in the political process,” ADC members argued that the “substantial, systemic, and pervasive underrepresentation” of black poll workers was a problem that required an immediate remedy.⁵⁰⁸ Congress had made it clear that the revised Section 2 barred “practices which, while episodic and not involving permanent structural barriers, result in the denial of equal access to any phase of the electoral process for minority group members.”⁵⁰⁹ As defendants, the Governor, Attorney General, and the State Democratic Executive Committee attempted to claim they did not and could not control local decisions over the appointment of poll officials. But, the plaintiffs argued to Judge Thompson, the linchpin

⁵⁰⁷ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office. David Ashley Bagwell, “The ‘Magical Process’: The Sayre Election Law of 1893,” *Alabama Review* (April, 1972) 83-104, 95.

⁵⁰⁸ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁰⁹ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

of the federal voting rights violation is that Alabama's statutory scheme so abdicates to white-dominated political interests the practical say-so over who gets recommended and selected as poll officials that it perpetuates past de jure discrimination and results in continuing unfairness to blacks. The state, whether acting through its political subdivisions or not, must take ultimate responsibility for seeing that its election practices comply with federal statutory and constitutional requirements.⁵¹⁰

Following the depositions and the plaintiffs' presentation of evidence, the State Democratic Executive Committee filed a memorandum with Judge Thompson declaring they had no objection to the injunctive relief that the plaintiffs were requesting.⁵¹¹ Governor Wallace and Attorney General Graddick continued to deny that they had any legal or political responsibility or authority to ensure that Alabama had a fair level of black citizens serving as polling place officials. Some member of the defendant party offhandedly suggested that Judge Thompson might be unfit to hear this case since he was a black citizen of Alabama, and all black citizens of the state had the potential to benefit from the outcome of this case. Judge Thompson wrote an opinion in which he denied the unsubstantiated and undocumented claim, and he offered extensive case law to support his refusal to recuse himself.⁵¹² The defendant's racist assumptions could easily be overlooked an impropriety or, perhaps, a legal maneuver or in the course of lengthy litigation, but it stands as a testament to one of the central themes of this dissertation: that race and racist assumptions are embedded in the political culture—and the entire social fabric—of Alabama, and that racism persisted into the 1980s and beyond, requiring the

⁵¹⁰ Case Files Vol. II, 7-10-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁵¹¹ Case Files Vol. II, 7-11-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁵¹² Case Files Vol. II, 8-2-84, "Opinion on Recusal," *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

efforts of many local activists working in various areas and levels of Alabama’s political system to begin the process of undoing the obstacles to black political participation.

Three months after Charlie Harris and Mose Batie filed the lawsuit, Judge Thompson delivered his first of four major opinions in the case. Judge Thompson cited several historical examples as well as federal court decisions that attested to longstanding “open and official racial discrimination” that black citizens of Alabama have been subjected to “from their cities, their counties and their state.”⁵¹³ For many black Alabamians, this meant they had lived most “of their lives under state and local governments that treated them as inferior citizens” in a place where the “rule of law and social order was usually enforced by humiliation, intimidation, and even violence.”⁵¹⁴ Based on the evidence presented by the ADC activists, Judge Thompson found that all African Americans in the state, especially elderly people who lived through the years of official and state-sanctioned segregation and discrimination, still felt afraid of and uninvited to participate in activities, such as voting, that had for a long time been for whites only and off-limits to blacks. Judge Thompson found that for black Alabamians in the 1980s, “the political process is still not open, is still not available to the same extent it is and has been available to white persons.”⁵¹⁵ The underrepresentation of black citizens serving as poll officials, Judge Thompson argued, was compounding the problem of Alabama’s discriminatory election practices. Specifically, he cited that the “elderly and uneducated black persons are most likely to need assistance from poll officials” and, therefore, having black poll officials at precincts where many African Americans vote

⁵¹³ *Harris v. Graddick*, 593 F. Supp. 128, 130 (M.D. Ala., 1984).

⁵¹⁴ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

⁵¹⁵ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

would be a symbol that those voters who need help are encouraged to participate in the political process.⁵¹⁶

The evidence compiled by Jerome Gray, ADC activists, and their attorneys demonstrated the significant impact that the presence of black poll officials would have on making the election process more open to Alabama blacks. Judge Thompson argued that “the open and substantial presence of black poll officials, according to the evidence, is a significant indication to many black persons that voting places are now open to all, that black persons not only have a legal right to come and vote, *they are welcome.*” Judge Thompson added that the “substantial evidence detailing recent unpleasant encounters between black voters and white poll officials” proved “that while the law may have changed, racial customs and practices have not, with the result that many of these persons do not venture to vote again.”⁵¹⁷ The ADC’s data showed that in more than half of Alabama’s counties, the percentage of black poll officials did not represent even one-half of the percentage of black citizens in the county population.⁵¹⁸ As Judge Thompson explained, the plaintiffs had provided abundant proof that the practices of selecting polling place officials in Alabama were in violation of Section 2 of the 1982 amended version of the Voting Rights Act of 1965. In his opinion, Judge Thompson pointed out that the amended Section 2 is violated simply “if a protected class has ‘less opportunity than other members of the electorate to participate in the political process.’”⁵¹⁹ Thompson set forth the following guidelines to take effect immediately for the upcoming 1984 elections:

⁵¹⁶ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

⁵¹⁷ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

⁵¹⁸ *Harris v. Graddick*, 593 F. Supp. 128, 131 (M.D. Ala., 1984).

⁵¹⁹ *Harris v. Graddick*, 593 F. Supp. 128, 132 (M.D. Ala., 1984).

- (1) Each county appointing authority falling within the defendant class . . . must comply with the following requirements in appointing poll officials:
 - A. The total number of black persons appointed as poll officials in each county must reasonably correspond to the percentage of black persons in the population of that county.
 - B. The number of black persons appointed as poll officials at each polling place in the county must reasonably correspond to the percentage of black registered voters assigned to that polling place; and reasonable effort must be made to assure that at least one black poll official is assigned to any polling place where black persons constitute at least 20% of the registered voters.
 - C. Appointments to particular offices at the polls – e.g., chief inspector, chief clerk, and returning officer – must be apportioned to black poll officials in a manner that reflects the percentage of black persons in the county.
- (2) Each county appointing authority falling within the defendant class must obtain the race of and keep a record of the race and name of all those nominated for poll officials and those appointed.
- (3) The State Democratic Executive Committee must be required to notify each county Democratic Executive Committee of the above requirements for the appointment of black poll officials.
- (4) The Governor and Attorney General of the State of Alabama must be required to coordinate the efforts of the county appointing authorities to meet the above requirements regarding the appointment of black poll officials and must take all steps necessary to assist the appointing authorities in meeting the requirements.
- (5) To the extent necessary to meet the above requirements for the appointment of black poll officials, county appointing authorities falling within the defendant class must be allowed to appoint poll officials from sources other than those authorized by law.⁵²⁰

All Alabama counties were subject to the above guidelines except those that had a black population of less than 5 percent or those where, in the most recent elections, black citizens had served as 95 percent or more of the poll officials.⁵²¹ This meant that 66 out of Alabama's 67 counties would initially be subject to the Court's guidelines. Judge Thompson ruled unequivocally that appointing more black citizens as poll officials immediately would serve as one necessary method for tearing down the institutionalized discrimination against blacks in Alabama's political process.

⁵²⁰ *Harris v. Graddick*, 593 F. Supp. 128, 134 (M.D. Ala., 1984).

⁵²¹ *Harris v. Graddick*, 593 F. Supp. 128, 134 (M.D. Ala., 1984).

In response to ADC’s efforts and the opinion of Judge Thompson, the State Democratic Executive Committee began working closely with the ADC to ensure that black poll officials increased. Executive Director of the Alabama Democratic Party Albert LaPierre informed all county-level Democratic Party organizations of the ramifications of Judge Thompson’s August 1 opinion, and explained “[i]f we Democrats are to retain control of who gets appointed, we have to make racially balanced nominations.”⁵²² Further, LaPierre instructed the county organizations to contact the ADC or Jerome Gray “[i]f you or your beat committee members need help in finding blacks who are willing and able to serve as polling officials.”⁵²³

Several county appointing authorities for poll officials filed either objections to Judge Thompson’s findings or motions to intervene for the “purpose of seeking clarification and guidance” in implementing Judge Thompson’s prescriptions.⁵²⁴ As always, practical political considerations shaped defendants’ reactions to the Court’s opinion. Many county authorities chose to either fight the court order by objecting to the request to appoint poll officials on a racially fair basis or to request clarification on exactly how they should go about achieving Judge Thompson’s order.⁵²⁵ Through both responses, some county authorities exploited race as a political issue while leaving

⁵²² Case Files Vol. II, 8-7-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵²³ Case Files Vol. II, 8-7-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵²⁴ The county appointing authorities for poll officials in most Alabama counties consisted of the Probate Judge, the Circuit Clerk, and the Sheriff. Case Files Vol. II, 8-10-84 through 8-21-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵²⁵ Of course, some of the counties’ motions and requests were made in earnest, but the racially polarized political climate in Alabama attests to the cynical motives of many local politicians who faced changes in the prevailing racial order. Also, there were examples like Macon County where Sheriff Lucius Amerson and other officials provided statistical data proving they had already achieved racial fairness in the administration of local elections. For an example of a motion requesting clarification see Montgomery County’s Motion in Case Files Vol. II, 8-13-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

themselves a political cover in which they could claim that the appointment of more black citizens as poll workers was not their doing but, instead, something imposed upon them by the federal court. Again, familiar themes in white Alabamians' memories of Reconstruction made the federal government a politically convenient culprit.

Pickens County, which was almost 42 percent black, was another Alabama county where whites still tightly controlled the administration of local elections. Pickens County ADC leader Maggie Bozeman was a long-time voting rights activist in her county. Bozeman was a teacher in her mid-50s who had lived in Pickens County, near the town of Aliceville, most of her life.⁵²⁶ Ms. Bozeman also served as president of the local NAACP. In 1979, an all-white jury convicted Bozeman of "illegal voting" in Pickens County Circuit Court for offering assistance to elderly black voters at the polls.⁵²⁷ A federal judge subsequently found Ms. Bozeman's conviction to be invalid "on the grounds that there was insufficient evidence to support the jury verdict."⁵²⁸ However, the Pickens County Registrar still denied Ms. Bozeman the right to be included on the roll of qualified voters. On appeal her conviction was overturned, and Bozeman had continued to aid voters who desired assistance at the polls.

In the most recent primary election in September 1984, white poll officials harassed Ms. Bozeman for offering assistance to some black voters at the precinct located in the National Guard Armory in Aliceville.⁵²⁹ The majority of registered voters at this precinct were black, yet the returning officer and other administrative polling official

⁵²⁶ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁵²⁷ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁵²⁸ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

⁵²⁹ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk's Office.

positions were held by whites. Mr. Ted Ezell, the returning officer, and his wife served as poll workers at the Armory precinct. Mr. Ezell threatened Bozeman, telling her, “If you assist this woman [voter], the ballot will not be counted. Do you hear me, Maggie?”⁵³⁰ Mr. Ezell ordered Bozeman to leave the precinct and did not allow her to assist any additional voters, including those who specifically requested that Ms. Bozeman aid them. After Ms. Bozeman refused to leave the polling place, Mr. Ezell shouted at her and pointed his finger at her and said, “You will not assist anyone else. I mean for you to get out of here,” adding, “You are not supposed to be assisting anyone. You are a criminal.”⁵³¹ After his tirade, Mr. Ezell and his wife began reading off the numbers on the voters’ sign-in list that corresponded to the people Bozeman had assisted that day. Mr. and Mrs. Ezell exclaimed that those ballots “should be thrown out.”⁵³² After Mr. Ezell chased her out of the polling place, Maggie Bozeman called the Justice Department, and Ezell called the local police. When the police officer arrived, he closely watched Ms. Bozeman and instructed her not to cause any more “trouble.” Later that afternoon, a registered voter asked Ms. Bozeman for her assistance, but Mr. Ezell blocked Bozeman from entering the polling place. When the voter exited the precinct, he said that he requested Ms. Bozeman’s aid, but Mr. Ezell denied the request and “selected another person to help” him.⁵³³ In this instance in Pickens County, it is clear that a fair political system depends on the administration of local elections in a way that welcomes all citizens’ participation and is racially balanced. As Maggie Bozeman testified,

⁵³⁰ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵³¹ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵³² Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵³³ Case Files Vol. II, 11-5-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

I believe the actions of Mr. Ezell and the other white polling officials intimidated black voters, interfered with their rights to be assisted by a person of their choice and prevented some of them from casting their ballots for the candidates of their choice. I believe that the presence of additional black polling officials, especially black returning officers, would help give black voters more confidence that they could be assisted by someone of their choosing and could vote for the candidates they want.

In 1984, ADC activists also advocated for political equality at the local level through lobbying for a voter registration bill in the Alabama Legislature. In May, the ADC and voting rights supporters were successful in securing the passage of Alabama Act Number 84-389. The bill was sponsored by State Representative Fred Horn in the House and by John Teague in the Senate. State Representative Horn was a black Democrat from the Birmingham area who was first elected to the House in 1978. State Senator Teague was a white Democrat who had received ADC support in his election campaigns. This act repealed and replaced bills from 1980 and 1981 that white supremacist legislators from Black Belt counties sponsored, referred to as “re-identification bills.” These so-called re-identification bills were designed to purge voters from the rolls in counties with significant black populations, and make it extraordinarily difficult for qualified voters who had been removed to re-register.⁵³⁴ These bills did not apply to the entire state; instead, they were specifically sponsored to target counties that had large numbers of black voters.

Act 84-389 acknowledged that race was a political reality in Alabama, and empowered local activists, such as ADC members, to take an active part in the local voter registration process. Act 84-389 required the board of registrars for each county to keep the list of registered voters “by precinct and by race.”⁵³⁵ Also all county boards of

⁵³⁴ Jerome A. Gray, interview by author, 17 March 2005.

⁵³⁵ Alabama Act No. 84-389. *Acts of Alabama 1984, Vol. II*, 898.

registrars were now required to appoint at least one deputy registrar for each precinct. Through the act, deputy registrars were granted authority “to reidentify and register any elector at any time, up to ten days prior to an election.”⁵³⁶ ADC state field director Jerome Gray personally helped draft this bill and lobbied for its passage. Gray remembers what a major shift this represented in the local political process of Alabama: it led to more black people taking part in the process of registering fellow voters, thus signaling to black citizens that they were officially part of their state’s political system and that they were encouraged to have a voice in shaping state and local politics.⁵³⁷ Gray also recalls that prior to the enactment of this law, county boards of registrars were not required to appoint any deputy registrars, and this allowed many counties to make voter registration largely inaccessible to some of its residents. ADC activists often had to appeal to the governor and state auditor to put pressure on local county officials to appoint deputy registrars.⁵³⁸

The voter registration act in 1984 was not something that made headlines in Alabama’s newspapers. Even though the bill was largely unnoticed in the news, ADC Chairman Joe Reed had to go to Governor Wallace’s office to request his signature on the act. Reed recalls that Governor Wallace was initially reluctant to commit his support for the bill.⁵³⁹ In that meeting Reed told Wallace, “Governor, the only reason you would not sign this bill is if you don’t want black folks to have the right to vote.” Wallace replied to Reed, “Joe, what would happen if I allowed this bill to become law without my signature?” To that Reed argued, “Governor, you don’t want that. Let history reflect that

⁵³⁶ Alabama Act No. 84-389. *Acts of Alabama 1984, Vol. II*, 899.

⁵³⁷ Jerome A. Gray, telephone interview, 30 October 2011.

⁵³⁸ Jerome A. Gray, telephone interview, 30 October 2011.

⁵³⁹ Dr. Joe L. Reed, interview by author, 8 February 2012.

you signed a bill that opened the political process in Alabama to black voters.”⁵⁴⁰ After the meeting with Chairman Reed, Governor Wallace signed the voter registration act into law.

Following Judge Thompson’s initial opinion and injunction in August of 1984 that county appointing authorities select more black poll officials, Jefferson County became the focus of attention when its officials filed a request not to be included in the Court’s injunction.⁵⁴¹ Jefferson County was home to the 1963 desegregation campaign led by the Rev. Fred Shuttlesworth and Dr. Martin Luther King, Jr. Birmingham, Jefferson County’s major city, was the focus of national attention in 1963 as Commissioner of Public Safety Bull Connor directed law enforcement officials to ruthlessly attack participants of the non-violent direct action campaign who were attempting to break down the color line in the city.

White local officials from Jefferson County presented testimony revealing that not much had changed in racial attitudes since the civil rights campaigns in the 1960s. On October 30, 1984 the appointing authority of Jefferson County filed a motion to request exemption from Judge Thompson’s orders.⁵⁴² County officials claimed there was no proof of discrimination in the administration of their elections. In hearing testimony, it became clear to Judge Thompson that Jefferson County officials’ motive was “to avoid the appointment of black poll officials with supervisory authority at polling places where the majority of the voters are white.”⁵⁴³ County officials proposed that black poll

⁵⁴⁰ Dr. Joe L. Reed, interview by author, 8 February 2012.

⁵⁴¹ Case Files Vol. II, 8-13-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁴² Case Files Vol. III, 10-30-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁴³ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984). Case Files Vol. III, 11-13-84, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

officials be appointed “according to the percentage they represent in each legislative district, rather than according to county-wide population” as Judge Thompson had originally ordered.⁵⁴⁴ Jefferson County Probate Judge George Reynolds’s testimony revealed the racist intentions of the proposed plan:

- A. Where you got 75 percent of the voters are white and you are going to throw them in a black chief inspector, you are all asking for something, or somebody is that don’t make sense. And I can’t get re-elected with that kind of program, I will just tell you like it is.
- Q. I see. They would vote against you when you ran for office next time?
- A. You damn right. Man, these folks campaign fiercely against your party. People that are primarily working at the polls are the most biased, prejudiced, politically affiliated people in the world and they are the ones that go out and make three or four thousand phone calls every election.⁵⁴⁵

Probate Judge Reynolds later added that “even if [the white chief inspector and assistant inspector] both died tomorrow, if that’s a predominantly white box . . . then, man, the people in that area ain’t going to stand for me appointing some black to run the voting place when the blacks are the minority at that box.”⁵⁴⁶ Reynolds explained that “we got no problem” with overwhelmingly black legislative districts having majority black polling place officials. The “problem” was when blacks were allowed to serve as poll workers and especially in supervisory positions in majority white voting precincts.

Based on the testimony of Probate Judge Reynolds and other Jefferson County officials, Judge Thompson delivered a second opinion in December of 1984 that specifically addressed Jefferson County’s desires. In his December opinion, Judge Thompson asserted that Jefferson County officials were requesting “by its motion to have this court validate its intentionally discriminatory practice.”⁵⁴⁷ The Jefferson County

⁵⁴⁴ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984).

⁵⁴⁵ *Harris v. Graddick II*, 601 F. Supp. 70, 72-73 (M.D. Ala., 1984).

⁵⁴⁶ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984).

⁵⁴⁷ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984).

appointing authority's past actions and proposed plan were both glaring violations of the revised Section 2 of the Voting Rights Act. The "county appointing authority has denied and seeks to continue to deny persons an opportunity to serve as poll officials simply because they happen to be black."⁵⁴⁸ These actions represented "a vestige of Alabama's insidious past in its most resistant strain" and compelled Judge Thompson not only to deny Jefferson County's motion but to add an additional injunction against the officials from perpetuating intentional discrimination.⁵⁴⁹

The new version of Bull Connor's politics was alive in Birmingham in the 1980s. Judge Thompson concluded his second opinion in the *Harris* litigation with an acknowledgment of how little had changed in the two decades since the civil rights campaigns:

In a democratic society, public officials occupy a high trust. They undertake to uphold society's moral standard, not bow to its basest biases. They take an oath to enforce the law of the land, and the law of the land is clear: intentional discrimination on the basis of race in the appointment of poll officials is illegal. That public officials today would practice open and intentional discrimination of the kind now evidenced before this court is lawless and inexcusable. That these officials would try to excuse the practice under cover of the purported intolerance of their own constituents is indefensible and repugnant.⁵⁵⁰

Following Judge Thompson's second opinion, Attorney General Graddick took the lead in opposing the orders of the Court. With his ambitions set on the governor's race in 1986, Graddick emerged as the new "George Wallace" of Alabama politics.⁵⁵¹

⁵⁴⁸ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984).

⁵⁴⁹ *Harris v. Graddick II*, 601 F. Supp. 70, 73 (M.D. Ala., 1984).

⁵⁵⁰ *Harris v. Graddick II*, 601 F. Supp. 70, 74 (M.D. Ala., 1984).

⁵⁵¹ Allen Tullos, *Alabama Getaway: The Political Imaginary and the Heart of Dixie* (Athens: University of Georgia Press, 2011), 122. Tullos cites writer Randall Williams who writes that "Graddick is the new version of the Old Wallace . . . Many who remember only the extremists of the past find it hard to call Graddick a racist because he actually does nothing overtly against blacks; his popularity with racists is due to the fact that he largely ignores the quarter of the state's citizens who are black, and he is a demagogue for the Eighties, a subtle master of euphemisms and code phrases that communicate racial meaning without the blatantly nasty words of the previous generation."

Graddick is famous for his tough-on-crime approach, proclaiming that he would proudly carry out justice for convicted murderers by “fry[ing] *them* until their eyeballs pop out and you can smell their flesh burn[ing]!”⁵⁵² Here, race was subtly employed by Graddick since the “*them*” Graddick refers to was perceived as black people in the minds of many white Alabamians. The Attorney General fought Judge Thompson’s orders in public opinion and legal briefs by employing emotionally charged code words such as “racial quotas.”

Attorney General Graddick denied any responsibility in addressing the underrepresentation of black citizens as poll officials on several grounds: that Section 2 as amended was “unconstitutional”; that Section 2 “does not apply to the appointment of poll officials”; that “no legal right” existed for poll officials to be appointed by “race in numbers equal to their proportion in the population”; and that Alabama’s statutes pertaining to poll officials in no way “operate[d] to perpetuate past discrimination.”⁵⁵³ Graddick was also speaking for Governor Wallace in his legal briefs, and both Graddick and Wallace continued to stall and stonewall any court orders requesting them to increase the number of black poll officials.⁵⁵⁴ By May of 1985 all defendants, except Attorney General Graddick and Governor Wallace, had reached a settlement agreement with the plaintiffs in the *Harris* case.⁵⁵⁵

The consent decree settlement stated that all parties in the case would follow, until December 31, 1988, the prescriptions largely as described in Judge Thompson’s first

⁵⁵² Tullos, *Alabama Getaway*, 122.

⁵⁵³ Case Files Vol. IV, 2-1-85, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁵⁴ Case Files Vols. IV, V, and VI, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁵⁵ Case Files Vols. IV, V, and VI, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

opinion of August 1, 1984. It was thus agreed that black Alabamians would be appointed as poll officials and supervisory positions at the polls in numbers that resembled the number of black voters in each county.⁵⁵⁶ Attorney General Graddick and Governor Wallace persisted in denying that they had any “part in the process of appointing poll officials.”⁵⁵⁷ Further, they argued that the proposed settlement “requires state officials (the circuit clerks) to appoint blacks as poll officials on the basis of an arbitrary and capricious quota which violates Section 2 of the Voting Rights Act” and also requires appointing authorities “to ignore minority groups other than blacks.”⁵⁵⁸ Wallace and Graddick also claimed that the primary reason that the plaintiffs had filed suit against the State of Alabama was not because the state had failed in its responsibilities, but so that the plaintiffs could “avail themselves of the state’s deep pocket upon an award of attorneys fees rather than facing the difficult task of collection from various and independent counties.”⁵⁵⁹ In July, 1985 Judge Thompson approved the proposed consent decree after minor changes. In his third opinion in the *Harris* case, Thompson explained that the “race-conscious” solution to the appointment of poll officials was necessary to combat the remnants of official racism that Alabama political leaders had embedded in the state’s political structure following Reconstruction.⁵⁶⁰

Alabama citizens had won a major victory furthering political equality on the local level. The persistence of racially discriminatory practices in regards to voting and

⁵⁵⁶ Case Files Vol. VI, 5-2-85, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁵⁷ Case Files Vol. VI, 5-3-85, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁵⁸ Case Files Vol. VI, 5-3-85, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁵⁹ Case Files Vol. VI, 6-14-85, *Harris v. Graddick* (Civil Action No. 84-T-0595-N) in M.D. Ala. Clerk’s Office.

⁵⁶⁰ *Harris v. Graddick III*, 615 F. Supp. 239, 243 (M.D. Ala., 1985).

the administration of elections had been possible by allowing local authorities, usually white citizens, to continue the old system of assuming that whites should always hold power over blacks. The result of the efforts of ADC activists were that black poll officials increased from less than 600 to more than 6,000 by the next election cycle. In addition ADC worked to secure the appointment of 40 black Alabamians as registrars or deputy registrars in their respective counties. The new black registrars and deputy registrars constituted 24 percent of the registrars in the state, making Alabama the state with the highest percentage of African Americans serving as registrars in the United States.⁵⁶¹

In the 1986 Alabama elections, Charlie Graddick was defeated by Lieutenant Governor Bill Baxley in a close and controversial Democratic run-off contest. The contentious run-off result exposed deep divisions within the state Democratic Party. The fragmentation was largely the result of increased black participation in Democratic politics. One faction, which largely supported Graddick for governor, represented the “Old South” ways of Alabama politics and wanted blacks to remain subordinate.⁵⁶² The coalition of whites and blacks who voted for Baxley represented the other faction of New South, progressive Democrats who had embraced the civil rights movement and welcomed black participation in politics. The Democratic Party split in the governor’s race led to the election of the first Republican governor of Alabama since Reconstruction: former Cullman County Probate Judge Guy Hunt. Also in the 1986 elections with the support of the ADC, Don Siegelman won the Attorney General’s race. Siegelman was a

⁵⁶¹ Jerome A. Gray, telephone interview, 30 October 2011.

⁵⁶² Graddick is now a Republican and serves as the presiding Circuit Court Judge for Mobile County. He ran unsuccessfully for Alabama Supreme Court Chief Justice in the 2012 Republican Primary Election.

New South Democrat who received his most enthusiastic support from blacks as well as working class and middle class whites.

Attorney General Siegelman viewed the legal issues involved in the voting rights litigation from a drastically different perspective than his predecessor. Siegelman offered his assistance to the ADC and voting rights advocates in the continued monitoring of the poll official selection process. Siegelman also offered the help of the Alabama Attorney General's office in another legal battle, which is discussed in the next chapter.⁵⁶³ Filed in late 1985, the case *Dillard v. Crenshaw County* would begin a struggle for black Alabamians who desired to rid local election systems of discriminatory schemes that continued in the 1980s to deny them opportunities to elect candidates of their choice.

⁵⁶³ Jerome A. Gray, telephone interview, 30 October 2011.

Chapter 6: Winning Political Equality on the Grassroots Level and the Emergence of the Second Reconstruction in Local Politics, 1985-1990

“[I]n the 1960's the State of Alabama enacted numbered place laws with the specific intent of making local at-large systems more effective and efficient tools for keeping black voters from electing black candidates . . . the at-large systems, as modified in the 1960's and used today . . . are still having their intended racist impact.”

-U.S. District Judge Myron H. Thompson⁵⁶⁴

On November 12, 1985 ADC members John Dillard and Havard Richburg filed a lawsuit against Crenshaw County, Alabama under the Fourteenth and Fifteenth Amendments and Section 2 of the Voting Rights Act.⁵⁶⁵ This case in the U.S. District Court for the Middle District of Alabama became transformative for black Alabamians in realizing equal opportunities to run for political office and elect candidates of their choice on the local level. The local activists and lawyers who filed the complaint in *Dillard v. Crenshaw County* had begun a process of finally tearing down some of the most deeply rooted forms of institutionalized discrimination against black citizens within the political structure of Alabama. In the process, these Alabamians would define for the nation what the ideals of equal voting rights and equal access to politics for all Americans meant in practical terms. In this case, citizens of Crenshaw County, Alabama, which was eventually joined by eight other counties, comprised class action law suits to challenge the at-large elections of county commissioners. In *Dillard v. Crenshaw County* the plaintiffs pursued, first, a claim that the at-large election systems consisted of intentional discrimination as defined under Section 2, while asserting that the discriminatory effects

⁵⁶⁴ *Dillard v. Crenshaw County*, 640 F. Supp. 1347 (M.D. Ala. 1986).

⁵⁶⁵ Docket Sheet entry 12 November 1985, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL. Case Files Vol. I, No. 1, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

were plainly obvious in that no African Americans had been elected county commissioners in any of these counties. Since the passage of the Voting Rights Act in 1965, more than twenty black citizens had run for county commission or other local offices in the counties under consideration in the *Dillard* litigation, and not one of those candidates had won an election.⁵⁶⁶ The plaintiffs' discriminatory intent claim hinged on historical evidence that in earlier decades the State of Alabama Legislature had methodically constructed and modified the laws governing elections for county commissions and other local political offices in reaction to black citizens' attempts to exercise political rights and to federal laws and federal court case decisions that would have the effect of furthering political equality for African Americans.

Five commissioners who were elected by an at-large vote of the citizens of the county governed Crenshaw County. Candidates for commissioner all ran for the office in specific numbered places that require a majority vote with a runoff election if necessary. The runoff election ensures that the winners must receive a majority of all voters in the county. The Alabama Legislature had in 1971 modified this system to be set up with those stated requirements. Although African Americans comprised more than 26 percent of Crenshaw County's population, there had never been a black citizen elected to the county commission. This lack of black representation, the plaintiffs argued, had prevented African Americans from "effectively participating in the election process" and had the effect of the commission's "continued policy of being less responsive to the needs and rights of black citizens." The case was assigned to Judge Myron Thompson, and the plaintiffs requested the court to intervene in ordering a new election system for

⁵⁶⁶ Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

the Crenshaw County Commission that would “provide equal access to the political process” and prevent the dilution of black citizens’ votes.⁵⁶⁷ Alton L. Turner, attorney for the Crenshaw County defendants, responded by denying all allegations put forward by the plaintiffs, and thereby set the stage for a lengthy legal battle that Judge Thompson would have to sort through.

The *Dillard* case was critical to voting rights activists in Alabama, as it put the entire state’s record of subtle and institutionalized forms of discrimination on trial. On December 11, several black citizens from seven other counties joined John Dillard and Havard Richburg in claiming that their at-large county commission systems were similarly discriminatory and violated their political rights under the Voting Rights Act. Crenshaw County citizens were now joined by other black Alabamians from Etowah, Lawrence, Coffee, Calhoun, Escambia, Talladega, and Pickens counties. Attorneys Larry Menefee, James Blacksher, and others for the plaintiffs argued that their clients were prepared to show that there was a history of inequity in the state’s political process that stretched back at least to the end of Reconstruction in Alabama in 1875. Since that period, white state political leaders had crafted and manipulated laws governing election systems at various critical points in Alabama’s history “whenever there was any perceived possibility of black citizens electing candidates of their choice, or having any significant influence on the election of candidates of their choice to the county governing bodies.”⁵⁶⁸ The evidence of such laws that plaintiffs presented pointed to many years of race-based governing in Alabama.

⁵⁶⁷ Case Files Vol. I, No. 1, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁶⁸ Case Files Vol. I, No. 11, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

At the time of the filing of the original complaint in the *Dillard* case in November of 1985 and when seven other counties were added to the lawsuit a few weeks later, it appeared that Lee County would make changes through the force of local activism rather than at the behest of a federal judge. Due Lee County legislators stalling the process, by February 1986 attorneys for the plaintiffs felt compelled to file a motion in February 1986 requesting that Judge Thompson add Lee County to the lawsuit. In August and September of 1985, members of the Lee County ADC had appeared before the county commission to request a change from at-large to district elections in accordance with the spirit of the Voting Rights Act. The Lee County Commission appointed a bi-racial committee to consider the possibility and process of making such a change to the way citizens of the county choose their commissioners. By a vote of 4 to 1, the Lee County Commission approved the recommendation of the bi-racial committee to change to single-member districts. However, in the opening weeks of 1986 and during the 1986 Alabama legislative session, Lee County legislators appeared to be stalling on presenting a bill changing the commission to single-member districts. Instead, they had disregarded the county commission's recommendation and scheduled public hearings to get additional input as to whether they should present a bill to change the county commission's election system.⁵⁶⁹ The day after the plaintiffs' motion to add Lee County to the *Dillard* litigation, Judge Thompson issued an order granting that motion.⁵⁷⁰ Following the addition of Lee County, the nine county commission systems that were challenged in the *Dillard* case began to attempt to devise a single-member district

⁵⁶⁹ Case Files Vol. II, No. 52, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁵⁷⁰ Case Files Vol. II, No. 54, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

election system, or to attempt to circumvent federal intervention of both the judiciary and the Justice Department, or to propose a system that appeared to comply with Section 2 standards, while maintaining some vestiges of the at-large system that had dilutive effects on black citizens' political influence.

With nine county commissions now challenged, the legal battle had begun to take shape, and there was a great deal at stake. John Dillard and the other citizens who filed the suit argued that the 1982 extension of the Voting Rights Act was a clear mandate from Congress to end “continuing voting discrimination, not step by step, but comprehensively and finally.”⁵⁷¹ The history of actions taken by Alabama’s state Legislature and other political leaders since the 1870s, the plaintiffs claimed, would show that the “racially motivated pattern and practice” of state political leaders has had the effect of “infect[ing] the election systems of all county commissions in Alabama.”⁵⁷² Therefore, the plaintiffs were pursuing a claim that the defendant counties were in violation of Section 2 of the Voting Rights Act by maintaining systems that had been constructed with “a racially discriminatory purpose.” The plaintiffs pursued this claim based on purpose because by showing a pattern of actions by the state Legislature all counties could be examined in the same law suit, since all counties fell under the jurisdiction and decisions of Alabama’s legislative body. Thus, according to the citizens suing their counties, the *Dillard* case would serve as a precedent that could potentially

⁵⁷¹ Report of the Committee on the Judiciary, United States Senate on S. 992, May 25, 1982 quoted in Case Files Vol. II, No. 48, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁷² In all other Alabama counties not part of the *Dillard* case, changes had already been made or changes were in the process of being made to commission election systems, and in every county those changes had come about by force of federal laws or legal challenges in federal courts. Report of the Committee on the Judiciary, United States Senate on S. 992, May 25, 1982 quoted in Case Files Vol. 2, No. 48, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

establish “a statewide violation of Section 2 of the Voting Rights Act” rather than having to examine the results of the commission systems in each county individually.⁵⁷³ If Judge Thompson found the plaintiffs’ argument of a state-wide historical pattern to have merit it could serve as a precedent upon which other local government election systems could be legally challenged in a comprehensive, state-wide manner rather than challenging each local governing system one-by-one for municipalities, school boards, and other community-level authority structures.

The historical evidence presented by the plaintiffs stretched all the way back to the “Redemption” period, as white supremacists had called it, meaning the years during the 1870s and 1880s in the former Confederate states when the Ku Klux Klan and white Democratic Party leaders wrested political control in their states from the Republican Party and used violence to intimidate African Americans and Republicans from voting in elections.⁵⁷⁴ During the 1870s and 1880s, the Alabama Legislature authorized the governor to appoint commissioners in several Black Belt counties where black citizens were a majority or significant proportion of the population. In other words, white legislators, fearing the election of any blacks to political office, changed the law so that elections for county commission positions were eliminated altogether during those years and gave the power to select those positions to the white state governors. Alabama’s

⁵⁷³ Case Files Vol. II, No. 48, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁷⁴ Dr. Peyton McCrary, who at the time was professor of history at the University of South Alabama, served as the expert historian for the plaintiffs in the case. McCrary testified and prepared reports with historical evidence of the racially discriminatory policies that defined Alabama’s election laws.

gubernatorial appointment system applied to Montgomery, Dallas, Wilcox, Autauga, Macon, Barbour, Butler, Lowndes, and Chilton counties.⁵⁷⁵

Many counties that did elect their county commissioners on a district basis began to shift back to at-large systems during the period of the Populist movement in Alabama during the 1890s. Democrats feared that if Populists joined with blacks through a rational choice to privilege class interests over racial issues they could win some elections at the district level and threaten the control of white supremacy and the Democratic Party over the political structures of the state. A potential alliance between poor whites and blacks was taken as such a serious threat because until Alabama's 1901 Constitutional Convention, which met with the stated purpose of taking away black Alabamians' voting and citizenship rights, there were still a substantial number of black voters registered in the state.⁵⁷⁶

Once the new Alabama Constitution of 1901 was in place, it had effectively disfranchised a large percentage of Alabama's black and poor white citizens, which gave the Legislature and many local county leaders the confidence to allow county commission positions to be elected by district-level elections and thereby throwing out the at-large system for selecting members of the county commissions.⁵⁷⁷ The 1901 Alabama Constitution was so effective in its disfranchising schemes that only about 4,000 of more than 180,000 eligible black voters remained on the official register of

⁵⁷⁵ Testimony of Dr. Peyton McCrary in Transcript of Testimony for Hearing on March 5, 1986 found in Supplemental Files: EXHIBITS 2-4-88, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL, 37-38.

⁵⁷⁶ Testimony of Dr. Peyton McCrary in Transcript of Testimony for Hearing on March 5, 1986 found in Supplemental Files: EXHIBITS 2-4-88, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL, 39-42.

⁵⁷⁷ Extensive tables showing the dates of adopting single-member districts and shifting to at-large systems and as in some counties back to single-member districts again were assembled and entered as evidence by the plaintiffs. Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

voters.⁵⁷⁸ Also after the 1901 Constitution was firmly in place, several Alabama counties with significant black populations adopted systems in which candidates ran for county commission seats in single-member districts in the Democratic Party primary elections that allowed only whites to vote. Nine out of nineteen counties that adopted single-member districts after 1901 had black majorities, so politicians must have felt certain that disfranchisement of blacks was sufficiently secure. Also, in twelve additional counties candidates ran in single member districts in the primary elections, but in general elections the same county commission seats were elected on an at-large basis. White politicians set up the “dual system” of electing county commissioners in twelve Alabama counties in an effort to dilute the impact of the very few black voters who had an opportunity to cast a ballot in general elections.⁵⁷⁹ In presenting evidence of the “dual system,” the plaintiffs had clearly demonstrated discriminatory intent, while also illustrating the heart of the injustice that many black citizens faced at the present time: that white political leaders conceived and constructed the at-large elections with the purpose of minimizing black Alabamians’ impact and influence on political affairs, and that the same at-large systems continued to have the effect of muting African Americans’ voices in the political process during the 1980s.

Evidence the plaintiffs presented established a pattern of white political leaders changing the rules governing how elections were conducted at critical junctures when threats to the white-supremacist power structure—such as black citizens having increased opportunities to vote and influence politics—arose or were effected either by the popular

⁵⁷⁸ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1358 (M.D. Ala. 1986).

⁵⁷⁹ Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

activism of Alabamians or by an outside force, such as the federal government. The first major challenge since Reconstruction to the white-supremacist political structure in Alabama came with the U.S. Supreme Court's ruling in *Smith v. Allwright* (1944), which declared that only allowing white people to vote in the Democratic Primary was unconstitutional as it specifically violated the Fourteenth and Fifteenth Amendments. This decision in many ways signaled the emergence of a Second Reconstruction in which federal authorities would once again scrutinize the former Confederate states' laws and intervene on behalf of equal citizenship rights for all Americans. Following the *Smith v. Allwright* decision, more than twenty Alabama counties that did not have at-large elections for county commission positions restructured and adopted at-large systems.⁵⁸⁰ Also, it was well documented by political scientist V. O. Key and others that between 1946 and 1948 many Alabama legislators began to advocate a state constitutional amendment, which became known as the Boswell Amendment. Approved by the Alabama Legislature in 1945 and ratified by the state's voters in 1946, white supremacist politicians crafted this law in response to the *Smith v. Allwright* decision that illegalized the whites-only Democratic Party primary elections in Alabama. The law required applicants for voter registration to adequately—in the opinion of a white registrar—interpret sections of the United States Constitution. Supporters of the Boswell Amendment made it clear that they with the expressed purpose of obstructing African Americans from registering to vote.⁵⁸¹ In the World War II era and afterward, black

⁵⁸⁰ Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁵⁸¹ The Boswell Amendment was ruled unconstitutional by the U.S. Supreme Court in 1949 (*Davis v. Schnell*). See V. O. Key, *Southern Politics in State and Nation* and Testimony of Dr. Peyton McCrary in Transcript of Testimony for Hearing on March 5, 1986 found in Supplemental Files: EXHIBITS 2-4-88, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL, 50-52.

southerners could increasingly count on the federal courts to rule racially discriminatory laws unconstitutional. The *Smith v. Allwright* decision signaled this trend, and, likewise, *Davis v. Schnell* outlawed the Boswell Amendment in 1949. Again, a trend was established by evidence the plaintiffs presented that demonstrated a pattern of white political leaders changing the rules governing how elections were conducted at critical junctures when threats to the white-supremacist power structure—such as black citizens having increased opportunities to vote and influence politics—arose or were effected either by the popular activism of Alabamians or by an outside force, such as the federal government.

The centerpiece of the plaintiffs’ historical evidence of the discriminatory intent of Alabama state political leaders was their argument that in the two decades following *Smith v. Allwright*, state legislative leaders and the governor enacted laws that were explicitly aimed at limiting the influence of any black people who did manage to register and cast a vote in local elections. In addition, the Civil Rights Acts of 1957, 1964, and 1965 drove state political leaders to craft new schemes for disfranchising black Alabamians. The first such law was established through a bill that White Citizens Council founder and Macon County Representative Sam Englehardt sponsored. State Representative Englehardt was a proud segregationist and later became well known for the Tuskegee gerrymandered district that he drew with twenty-eight sides to it in an attempt to “fence out” virtually all black voters. ADC activist Dr. C. G. Gomillion legally challenged Englehardt’s gerrymandered district, and it was consequently struck down by the U.S. Supreme Court in the 1960 decision, *Gomillion v. Lightfoot*.⁵⁸²

⁵⁸² Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

Englehardt’s bill outlawed “single-shot voting,” which was a practice that would allow a minority group of voters to vote as a group in an at-large election for one candidate of their choice rather than voting for the same number of candidates as there were slots to fill. “Single-shot” voting has been described as follows:

Consider [a] town of 600 whites and 400 blacks with an at-large election to choose four council members. Each voter is able to cast four votes. Suppose there are eight white candidates, with the votes of the whites split among them approximately equally, and one black candidate with all the blacks voting for him and no one else. The result is that each white candidate received about 300 votes and the black candidate receives 400 votes. The black has probably won a seat. This technique is called single-shot voting.⁵⁸³

As described, the practice of single-shot voting gave a minority group that voted cohesively and strategically a greater chance to elect a candidate of their choice in an at-large system in which the top vote-getters fill the available number of positions. As reported in the *Mobile Register*, State Senator Miller Bonner of Wilcox County, who was Englehardt’s father-in-law and a leader of the Dixiecrat Party in Alabama, said that the law was designed to assuage the fears of white people “that the colored voters might be able to elect one of their own race” through the “single-shot” strategy.⁵⁸⁴ Between 1951 and 1957, the Alabama Legislature passed three “anti-single-shot laws” for the primary elections of both municipal officers and county commissioners for the entire state.⁵⁸⁵

To further complicate the possibility that black citizens might elect a candidate of their choice to local offices, in 1961 the Alabama Legislature passed laws that required

⁵⁸³ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1356 (M.D. Ala. 1986).

⁵⁸⁴ Quote from the *Mobile Register*, August 29, 1951, cited in Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL. Testimony of Dr. Peyton McCrary in Transcript of Testimony for Hearing on March 5, 1986 found in Supplemental Files: EXHIBITS 2-4-88, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL, 62.

⁵⁸⁵ These laws were Alabama Acts No. 606, 1951; No. 44, 1956; and No. 478, 1957. Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

candidates to run in “numbered places” for any elections that selected two or more office-holders to a particular governing board, such as a county commission.⁵⁸⁶ One of these laws actually repealed the “anti-single-shot laws” that were rendered irrelevant by the new numbered place laws “because,” the plaintiffs pointed out, “numbered posts accomplished the same result, namely, requiring candidates favored by blacks to end up in head-to-head contests with candidates favored by whites.”⁵⁸⁷ This law was sponsored by State Senator Archer of Madison County in which the city of Huntsville is located. At the time of the *Dillard v. Crenshaw* case, the numbered place law was still the rule for all Alabama elections. The plaintiffs buttressed their claim of discriminatory intent under Section 2 with a “smoking gun” piece of evidence found in the record of minutes of the State Democratic Executive Committee meeting in January of 1962. Montgomery committee member Frank Mizell said,

[W]e [white people] have got a situation in Alabama that we are becoming more painfully aware of every passing day, that we have increasing Federal pressure too, and a concerted desire and a campaign to register negroes in masse, regardless of the fact that many of them ordinarily cannot qualify because of their criminal records, or criminal attitudes, because of the fact that they are illiterate and cannot understand or pass literacy tests, but those qualifications are things that don't worry the people from Washington, the army of people who are here in Montgomery County harassing our Board of Registrars, who are harassing the Registrars throughout most of the State of Alabama; some counties they haven't moved into yet, but it is just a matter of time before they get into all of them, and in one county where they [sic] were few darkies registered, there has been probably increased 4 or 5 hundred percent already . . . it has occurred to a great

⁵⁸⁶ These laws were Alabama Acts No. 221, 1961 and No. 570, 1961. The idea for numbered place laws originated from Alabama Act No. 19, 1956, written by White Citizens' Council leader and State Senator E. O. Eddins of Marengo County, who had used this numbered-place system to minimize black voters influence in the black majority cities of Tuskegee and Demopolis. Eddins had vehemently defended segregation and white supremacy in numerous battles one of the most memorable examples being when he fought against Alabama Public Libraries possessing copies of the children's book *The Rabbit's Wedding* in library collections since the book featured a white rabbit marrying a black rabbit. Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁵⁸⁷ Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

many people, including the Legislature of Alabama, that to protect the white people of Alabama, that there should be numbered places . . . Now as you all know that we have had up until recently a law that prohibits single-shot votes, that the law against single-shot votes has been repealed, and consequently if you have a group of people who want to vote as a bloc, whether they be negroes or otherwise, of course we do know from past experience you can go into the negro boxes, each of the counties where they have heavy registration, see where they vote right down the line for this person or that person. We know that they are easily manipulated by the connivors [sic] and that they would be manipulated into single shotting, and if they did, it could happen as it did up in Huntsville.

In Huntsville they had a couple of negroes, as I understand, that ran for the State—I mean for the City Council. And they eased in there with the group, and the might near got elected, and those people at Huntsville up there go [sic] so worried about it they came down and got the law changed, so as far as Huntsville is concerned, and made the City Commissioners run by place number, so that you could spot them, and if you have this type of thing in the primaries, so far as the Committees are concerned, it would have the effect as a lot of people has advanced the idea of this, in the first place if you got a negro or scallowag [sic] who wants to come in with the group, he just get in there, say, “Well, I will get in there and they can single shot for me,” and if you got three of four thousand negro voters, you will have more than that in a District, of course, you will have several thousand over a Congressional District, they come in, single shot vote for that one man, and you will begin to see Negroes on your State Committee; because with that single shot they can assure that one of them will get a majority to start with.⁵⁸⁸

Since Mizell was speaking as an official of the Alabama Democratic Party, his statement was a linchpin in their case to prove the discriminatory intent of Alabama policymakers in making voting and election laws. His statements demonstrate not only the purposes of and the connection between the anti-single-shot laws and numbered place laws but also the degree to which the Alabama Democratic Party of the 1950s and early 1960s remained a political party committed to white supremacy (just look at the Party’s emblem that was printed on official Alabama ballots until 1964: the white rooster that

⁵⁸⁸ It is important to note that Sam Englehardt was presiding over this meeting of state Democratic Party officials because it shows that white racists were still operating the functions of the only influential political party in Alabama at that time. Quote cited by plaintiffs from Proceedings of the State Democratic Executive Committee of Alabama in Montgomery, January 20, 1962 found in Case Files Vol. III, No. 73. Full text found in Plaintiff’s Exhibit 117 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

read “White Supremacy for the Right”). Furthermore, Mizell’s words offer testimony to the fact that white officials within the Alabama Democratic Party closely and carefully managed and inspected who voted in Alabama’s polling places and for whom voters cast their ballots. More significantly, Mizell’s fears of “Federal pressure,” “the army of people” from Washington, D.C., and scalawags all attest to the persistence of the historical memories of Reconstruction in the white psyche. Mizell clearly understood that this was a second attempt to achieve what had been left “unfinished,” to borrow Eric Foner’s phrase, in America’s First Reconstruction from 1863 to 1877. And Mizell’s conviction that it is necessary “to protect the white people of Alabama” is an echo heard across Alabama’s past from the “Redemption” period as well as the culmination of the disfranchisement process in 1901 and through the recurrent enactment of Jim Crow laws.

Following the increased activism for equal suffrage and the passage of the Voting Rights Act of 1965, Barbour County politicians began to alter the local election systems from single-member to at-large for various local offices, including positions on the Barbour County Democratic Executive Committee. State Senator James S. Clark of Barbour County told a local newspaper that such changes were made “to lesson [*sic*] the impact of any block [*sic*] vote in any districts which has a relatively small number of eligible voters.”⁵⁸⁹ Another State Senator, Albert H. Evans, Jr., from Choctaw County justified his support for shifting to at-large elections on similar grounds: as the most effective method of eliminating “the threat” of “the increasing number of Negro voters”

⁵⁸⁹ Quote from the *Clayton Record*, March 25, 1965 and the bill cited is Alabama Act No. 10, 1965. In the 1966 case *Smith v. Paris* (257 F. Supp 901), Judge Frank Johnson ruled that adoption of an at-large election system for the Barbour County Democratic Executive Committee was constructed “to frustrate and discriminate against Negroes in the exercise of their right to vote,” which violated the Fifteenth Amendment and the Voting Rights Act. Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

who, through exercising their political rights, could “increase the likelihood of a Negro being elected.”⁵⁹⁰ A report in the local newspaper explained that the Choctaw County measure received its most enthusiastic support at polling precincts that were known to be Ku Klux Klan strongholds.⁵⁹¹ Within a decade of the enactment of the Voting Rights Act of 1965, only six out of 67 Alabama county commissions had not switched to at-large elections systems. All six of those counties had a black population that was less than 15 percent.⁵⁹²

At a hearing on March 5, 1986, the plaintiffs presented numerous exhibits attesting to the historical record of state political leaders’ discriminatory intent. One example was a political advertisement supporting the 1956 “Freedom of Choice” Amendment that, if approved by Alabama voters, would protect segregation in schools and public parks and playgrounds. The ad declared that, “Our public schools in every County now face the real threat of forced mixing of white and negro children—a situation intolerable to every white citizen of Alabama.”⁵⁹³ This proposed amendment to the state constitution was specifically aimed at circumventing the U.S. Supreme Court’s monumental *Brown v. Board of Education of Topeka, Kansas* (1954) ruling. Supporters of the “Committee for Segregated Schools” promoted this amendment and another similar amendment on the ballot that election year as the best way “to preserve our

⁵⁹⁰ Quote from the *Choctaw Advocate*, November 18, 1965 found in Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹¹ Plaintiff’s Exhibit 16 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹² Case Files Vol. III, No. 73, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹³ Plaintiff’s Exhibit 8 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

Southern way of life” and to prevent potential “racial strife and discord such as we have never seen since Reconstruction Days.”⁵⁹⁴ Other political advertisements for candidates also attested to appeals to racism as a pervasive feature of elections in Alabama during this era. An ad promoting the selection of Governor George C. “Wallace Backed Electors” to be sent to the Democratic National Convention in 1964 implied that these men would oppose President Lyndon B. Johnson and “the evils of the civil rights bill.”⁵⁹⁵ An ad printed in Alabama newspapers for John Patterson’s 1966 gubernatorial candidacy derided the recent “passage of punitive civil rights legislation.”⁵⁹⁶ A 1968 editorial endorsement of Alabama Congressman George Andrews declared, “If you are a Negro who is seeking ‘first class citizenship’ through the channels of arson, rape, murder, sabotage, armed robbery, protest marches, and threats to burn down other people’s property then you should not vote for Congressman Andrews. He is against all of these things. However, if you are an average Bullock County Negro, you seek none of these things.”⁵⁹⁷ A 1976 political appeal for electing President Gerald Ford threatened that Alabamians should be “afraid of Jimmy Carter” because Carter would allow “busing.”⁵⁹⁸ This, of course, was referring to the practice of black children being brought by a bus into a school district that was primarily white, and it demonstrates that many white citizens in

⁵⁹⁴ Plaintiff’s Exhibit 8 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹⁵ This ad was run in many major newspapers in the state. Plaintiff’s Exhibit 102 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹⁶ Plaintiff’s Exhibits 105 and 106 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹⁷ Quote from the *Clayton Record*, May 2, 1968, Plaintiff’s Exhibit 165 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁵⁹⁸ Plaintiff’s Exhibits 109 and 110 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

Alabama still feared living in a society in which whites and blacks possessed equal rights. In an ad against the candidacy of Donald Stewart for U.S. Senate in 1978, the “Concerned Christians for Better Government” warned that the ADC had backed Stewart with the agreement that he would “[w]ork for the appointment of two federal judges from Alabama who are from Minority groups” and “[s]upport electoral systems at the local level which will guarantee more Minority officials—*without a vote of the people.*”⁵⁹⁹ In 1982, a white lawyer, George Williams, ran against Alabama Supreme Court Justice Oscar Adams. Justice Adams had been appointed to the court by Governor Fob James in 1980, and in 1982 he became the first black person ever elected to statewide office in Alabama. Williams’s ad admonishes voters to “LOOK CLOSELY” at the candidates in the race. Under the caption “LOOK CLOSELY,” the ad features photographs of the three candidates in the race, two of which are white men and Adams, who is black. The ad also features various qualifications for each candidate and at the bottom of the page it reads “The choice is yours.”⁶⁰⁰ All these political advertisements and commentaries attest to the fact that voting in Alabama was polarized by race and that race itself was often what defined competing political factions within the Democratic Party and, in more recent years, between the Democratic Party and the Republican Party. These pieces of evidence attest to the institutionalized discrimination within Alabama’s political structure and served as context for the entire period following *Smith v. Allwright* when white

⁵⁹⁹ Plaintiff’s Exhibits 111 and 112 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁰⁰ Plaintiff’s Exhibits 113 and 114 in Supplemental Files: EXHIBITS for Hearing on 3-5-86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

Alabama leaders put in place countless laws to prevent black Alabamians from possessing and exercising the same rights and freedoms as white people in the state.

In 1986, for the duration of several months of hearings, arguments, and counter-arguments, the nine county commissions arrived at settlement agreements with the plaintiffs. Three of the counties, Crenshaw, Escambia, and Lee, settled prior to Judge Thompson's first major opinion, which he issued on May 28, 1986. Coffee, Etowah, and Talladega counties reached settlements after the May 28 opinion, but prior to a second memorandum opinion of Judge Thompson on October 21, 1986. The remaining three, Calhoun, Lawrence, and Pickens, were the slowest to concede to ridding themselves of at-large elections.

ADC activists began to see the effectiveness of the federal courts in eliminating racial discrimination in local politics. Crenshaw County, where this class action suit originated, had a black population of close to 27 percent.⁶⁰¹ In March, 1986 Crenshaw County parties had reached a settlement to begin restructuring their county commission system from at-large to single member districts in time for the new system to go in effect for the 1986 elections. They agreed to set up five single-member districts, and Judge Thompson required that notice of this change be published in the *Luverne Journal*.⁶⁰² Since there were no objections raised to the court following the publicity of the new plan by the middle of April, Judge Thompson enjoined the Probate Judge and other officials in Crenshaw County to follow the guidelines of the proposed settlement and to submit the proposed plan for single-member county commission districts to the Justice Department

⁶⁰¹ Case Files Vol. II, No. 55, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰² Case Files Vol. III, No. 96, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

for preclearance under Section 5 of the Voting Rights Act.⁶⁰³ Gerald W. Jones from the Justice Department's Civil Rights Division, Voting Section, sent a letter on June 2 to the Crenshaw County defendant's attorney approving the new election system for the county commission. In his letter, Jones also pointed out "that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes."⁶⁰⁴ By the middle of June, a final consent decree approved the court-ordered plan for electing Crenshaw County commissioners on the basis of single-member districts.⁶⁰⁵

A similar pattern followed for Escambia and Lee counties. Almost one-third of Escambia County's population was black.⁶⁰⁶ By mid-March Escambia county defendants and plaintiffs had begun to reach a compromise and settlement.⁶⁰⁷ Escambia County officials complied with the same process in the interim of publishing the proposed change in the local newspaper and submitted the proposed plan to the Justice Department for preclearance. On May 5, Judge Thompson approved the final consent decree that created five single-member districts for Escambia County's commission.⁶⁰⁸ Lee County also had a population that was nearly one-third black.⁶⁰⁹ The County Commission of Lee County had signaled their approval for restructuring the at-large system to a single-member-

⁶⁰³ Case Files Vol. IV, No. 109, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁴ Case Files Vol. IV, No. 155, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁵ Case Files Vol. V, No. 173 and No. 174, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁶ Case Files Vol. II, No. 55, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁷ Case Files Vol. III, No. 90, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁸ Case Files Vol. IV, No. 124 and No. 125, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁰⁹ Case Files Vol. II, No. 55, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

district system, but Lee County's legislators had stalled on submitting a bill to effect such a change in the Alabama Legislature. By early March a compromise agreement had come together in which the defendants agreed to comply with the federal court injunction that Lee County commissioners would be elected from single-member districts.⁶¹⁰ After complying with procedures for publication and preclearance through the Justice Department, Judge Thompson approved a final consent decree in which five single-member districts would select county commissioners. Three of the county commission seats, scheduled for election in 1986, would successfully be selected on the basis of the new single-member system less than two weeks prior to the approval of the final consent decree. Through the settlement processes of the first three counties, it became clear that the plaintiffs would prevail in their claims, and that their success in the *Dillard* litigation would have sweeping implications because the plaintiffs had proven a pattern of intentionally discriminatory actions by officials of the State of Alabama.

On May 28, 1986, Judge Thompson issued an opinion that pointed to the far-reaching significance of the *Dillard* case and what voting rights activists had achieved in the evidence they presented. Some counties had already eliminated at-large systems for county commission elections, but this had been done one county at a time through multiple law suits or local citizens' pressure to make such changes. What was significant about the *Dillard* case was that the plaintiffs provided evidence to show a statewide pattern of discrimination. If the plaintiffs' assertions prevailed, all localities in Alabama would be implicitly obligated to remedy past and institutionalized discriminatory laws

⁶¹⁰ Case Files Vol. III, No. 86, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

and actions that governed local politics and elections.⁶¹¹ In his opinion, Judge Thompson issued a preliminary injunction that the remaining counties that had not yet begun plans to shift to single member districts submit a plan and timeline to do so.⁶¹² In order to persuade the court to issue a preliminary injunction the plaintiffs must show four factors: “(1) there is a substantial likelihood that they will prevail on the merits at trial; (2) they will suffer irreparable harm if they are not granted injunctive relief; (3) the benefits the injunction will provide them outweigh the harm it will cause the [defendants]; and (4) the issuance of the injunction will not harm public interests.”⁶¹³

Judge Thompson asserted that the plaintiffs had provided evidence that would likely succeed in both methods for proving a Section 2 intent claim. Establishing discriminatory intent under method number one is accomplished “by showing, first, that racial discrimination was a ‘substantial’ or ‘motivating’ factor behind the maintenance of the electoral system and, second, that the system continues today to have some adverse racial impact.”⁶¹⁴ Specifically, Judge Thompson cited the evidence that the anti-single-shot laws and numbered place laws were enacted in the 1950s and 1960s “with the specific intent of making local at-large systems, including those used in county commission elections, more effective and efficient tools for keeping black voters from electing black candidates.” Judge Thompson also found that the at-large systems “are still having their intended racist impact.”⁶¹⁵ Based on the evidence, it is clear that

⁶¹¹ *Dillard v. Crenshaw County*, 640 F. Supp. 1347 (M.D. Ala. 1986).

⁶¹² Judge Thompson also threw out the plaintiffs’ Section 2 discriminatory “intent” claim against Pickens County since the county was already under judgment on the basis of discriminatory intent in an entirely separate and prior case. Hereafter, the plaintiffs’ pursued their case against Pickens County on the basis of discriminatory “results” under Section 2. *Dillard v. Crenshaw County*, 640 F. Supp. 1347 (M.D. Ala. 1986).

⁶¹³ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1354 (M.D. Ala. 1986).

⁶¹⁴ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1354 (M.D. Ala. 1986).

⁶¹⁵ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1356 (M.D. Ala. 1986).

through the various laws intentionally adopted by Alabama legislators “the state reshaped at-large systems into more secure mechanisms for discrimination.”⁶¹⁶ If those examples did not provide enough evidence of discriminatory intent, Judge Thompson argued, there is an overabundance of evidence that at least since the late 1800s that the state acted “to keep its black citizens economically, socially, and politically downtrodden, from the cradle to the grave.”⁶¹⁷ Judge Thompson also quoted the late Alabamian and former U.S. District Judge Richard T. Rives who in 1966 declared, “from the Constitutional Convention of 1901 to the present, the State of Alabama has consistently devoted its official resources to maintaining white supremacy and a segregated society.”⁶¹⁸

The second method for establishing a Section 2 discriminatory intent claim is accomplished when plaintiffs show “first, that those responsible for the enactment or maintenance of the challenged electoral scheme have engaged in a pattern and practice of enacting and maintaining other, similar schemes for racially discriminatory reasons; and, second, that the challenged scheme has some present day adverse racial impact.”⁶¹⁹ Again, Judge Thompson believed the plaintiffs’ evidence proved an intent claim via the second method in that Alabama legislators have “consistently enacted at-large systems for local governments during periods when there was a substantial threat of black participation in the political process.”⁶²⁰ As recent election data from the counties sued in the case had proven the “racially inspired” at-large systems were still operating as “instrument[s] for race discrimination.”⁶²¹

⁶¹⁶ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1357 (M.D. Ala. 1986).

⁶¹⁷ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1357 (M.D. Ala. 1986).

⁶¹⁸ From *U.S. v. Alabama*, 252 F. Supp. 95, 101 (M.D. Ala. 1966) in *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1360 (M.D. Ala. 1986).

⁶¹⁹ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1360 (M.D. Ala. 1986).

⁶²⁰ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1361 (M.D. Ala. 1986).

⁶²¹ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1361 (M.D. Ala. 1986).

Following the summary of evidence and the plaintiffs' likelihood of success in proving an intentional discrimination claim, Judge Thompson explained his rationale for ordering the injunction. He argued that the plaintiffs had met all requirements for the court to issue preliminary injunctive relief. One dilemma was that in four of the counties primary elections for county commission seats were scheduled for June 3, less than one week from the day Judge Thompson issued his opinion. Instead of enjoining the elections already scheduled, Judge Thompson required remaining defendant counties to submit timelines for restructuring their county commission elections within three weeks, while requiring that full process of developing, approving, pre-clearing through the U.S. Justice Department, and implementing the new plans must be completed by January 1, 1987.⁶²² Judge Thompson further warned the counties that delay in this process was not acceptable, and that he did not expect to grant any "extensions of the January 1 deadline."⁶²³

Judge Thompson's opinion affirmed that the cases against Coffee, Etowah, Talladega, Calhoun, and Lawrence Counties would all proceed under a claim of intentional discrimination. For Pickens County, the plaintiffs would have to make their complaint based on discriminatory results as defined under the 1982 revised Section 2 of the Voting Rights Act. This modification for Pickens County was granted because the county had already completed litigation on behalf of all black citizens of the county on the basis of discriminatory intent. Judge Thompson did note that there were some overlapping factors for proving discriminatory results and intent such as:

⁶²² *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1362 (M.D. Ala. 1986).

⁶²³ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986).

the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process; . . . the extent to which the state or political subdivision has used . . . majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against the minority group; . . . [and] whether the policy underlying the state or political subdivision's use of such voting qualification, prerequisite to voting, or standard, practice or procedure is tenuous.⁶²⁴

In regards to Pickens County, Judge Thompson explained that much of the evidence plaintiffs had advanced to prove discriminatory intent could also be used to prove discriminatory results and that “the court is reluctant to prolong the alleged denial of the right to vote to black citizens of Pickens County any longer than necessary.”⁶²⁵ Therefore, the case against Pickens County would continue with the rest of the *Dillard* litigation, rather than starting over with a new lawsuit.

A month after Judge Thompson's first opinion, the U.S. Supreme Court delivered its ruling in the case *Thornburg v. Gingles*. The *Thornburg* decision related directly to issues that were in adjudication in the *Dillard* case. *Thornburg v. Gingles* originated in North Carolina where black citizens filed suit in federal district court challenging a redistricting plan that was enacted in 1982.⁶²⁶ This was the first U.S. Supreme Court decision made under the 1982 revised version of Section 2 of the Voting Rights Act. Essentially, the unanimous decision of the court in *Thornburg* upheld the concept that a violation of Section 2 could be established without “any necessity that discriminatory intent be proven.”⁶²⁷ Justice Brennan opined that showing racially polarized voting patterns was enough to prove a Section 2 violation, and that it could be demonstrated

⁶²⁴ Cited from S. Rep. No. 417, 97th Cong., 2d Sess. 28-29 in *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1369 (M.D. Ala. 1986).

⁶²⁵ *Dillard v. Crenshaw County*, 640 F. Supp. 1347, 1372n.13 (M.D. Ala. 1986).

⁶²⁶ *Thornburg v. Gingles*, 478 U.S. 30 (1986).

⁶²⁷ *Thornburg v. Gingles*, 478 U.S. 30 (1986).

simply by “the existence of a correlation between the race of voters and the selection of certain candidates.”⁶²⁸ Thus, proof of intentional vote dilution was not required, and a vote dilution claim could not be disproved by an attempt to show that there was no discriminatory intent in the pattern of racially polarized voting.

Just as in the *Dillard* case, plaintiffs in *Thornburg* provided evidence of a history and pattern of discrimination and disfranchisement of North Carolina’s black citizens from the early 1900s through the 1970s.⁶²⁹ Specifically, North Carolina plaintiffs presented anti-single-shot laws and designated seat laws, which were akin to Alabama’s numbered place laws, as evidence.⁶³⁰ Also with strong correlations to the evidence *Dillard* plaintiffs presented, the court found that North Carolina politics since the 1890s had been “replete with specific examples of racial appeals, ranging in style from overt and blatant to subtle and furtive” and that this pattern persisted to the present with adverse effects on black citizens’ political participation.⁶³¹ “The essence of a [Section] 2 claim,” the Supreme Court argued, “is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters to elect their preferred representatives.”⁶³² It was clear that Judge Thompson’s central arguments in his recent opinion lined up with the prevailing views of the U.S. Supreme Court in *Thornburg v. Gingles*.

The remaining six counties that had not begun settlement processes prior to Judge Thompson’s May 28 opinion realized that they must now come to agreements similar to those of Crenshaw, Lee, and Escambia counties that required county commissioners to be

⁶²⁸ *Thornburg v. Gingles*, 478 U.S. 30 (1986).

⁶²⁹ *Thornburg v. Gingles*, 478 U.S. 30, 38 (1986).

⁶³⁰ *Thornburg v. Gingles*, 478 U.S. 30, 38-39 (1986).

⁶³¹ *Thornburg v. Gingles*, 478 U.S. 30, 40 (1986).

⁶³² *Thornburg v. Gingles*, 478 U.S. 30, 47 (1986).

elected in single-member districts. As we shall see, some of the remaining counties created modifications in their plans in an attempt to defy the intentions of the single-member district selection process. The defendant counties initially denied that there were any racial motivations behind acts of the Alabama Legislature that instated the at-large election systems. Defendants also rejected the notion that black citizens' rights to participate equally in the political process had been denied through any of the existing practices in county politics.⁶³³ Coffee County defendants initially stalled the process by refusing either to admit or deny much of the plaintiffs' historical and circumstantial evidence "on the grounds that the matters 'are not within the realm of the Defendants' knowledge."⁶³⁴

In some counties, politicians who were facing the reality of losing the power with which the at-large system had endowed them attempted to outwit the plaintiffs and Judge Thompson by adding special conditions and carefully crafted districts to the proposals for county commissions elected on a single-member-district basis. The plans proposed by the defendants of Pickens, Calhoun, Etowah, and Lawrence counties all included a county commission chair position that was elected at-large with the other commissioners elected in single-member districts.⁶³⁵ As the plaintiffs had demonstrated, no black Alabamian had ever won a county commission position that was voted on at-large.⁶³⁶ The plaintiffs argued that the chair position could be either rotated among the county

⁶³³ Case Files Vol. III, No. 72, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶³⁴ Case Files Vol. IV, No. 163, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶³⁵ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶³⁶ Testimony of Dr. Peyton McCrary in Transcript of Testimony for Hearing on March 5, 1986 found in Supplemental Files: EXHIBITS 2-4-88, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL, 157.

commissioners who were elected from single-member districts or that a county administrator could be hired as a full-time bureaucratic employee of the county.⁶³⁷

Alabama counties that had significant black populations had, since Reconstruction, been battlegrounds where political leaders feared that white supremacy was most tenuous. Pickens County was almost 42 percent black at the time of the litigation, and initially Pickens County defendants denied that the at-large election system in any way violated the Fourteenth and Fifteenth Amendments or the Voting Rights Act.⁶³⁸ By August of 1986, however, the defendants had drawn up a new plan that included a chairperson elected at-large and only one district out of four that had a black majority.⁶³⁹ The Pickens County Commission was still elected under the “dual system” in which candidates were elected in single-member districts in primary elections, but the same candidates who had won nomination were elected by at-large vote of all registered citizens in the county. The plaintiffs had also shown that in Pickens County not only did racially polarized voting exist but there was a pattern in which some wealthier white employers of many black citizens had taken their votes “captive.”⁶⁴⁰ Affluent white landowners, landlords, and bosses enforced the “captive vote” paradigm by using economic coercion to control the votes of a group of dependent, poorer black citizens.⁶⁴¹ Pickens County defendants proposed a plan with four single-member districts, two of which were black majorities. But as revealed in hearing testimony and evidence, the two

⁶³⁷ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶³⁸ Case Files Vol. V, No. 196, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶³⁹ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁴⁰ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁴¹ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

“black-majority” districts did not actually have a majority black voting age population. Apparently, this plan was carefully crafted to appear to remedy vote dilution in Pickens County Commission elections, yet the veracity of the defendants’ plan was questionable. The plaintiffs had proposed a plan with five single-member districts on the Pickens County Commission with two districts that had majority black populations, which they argued “fairly reflects the black voting strength in Pickens County” and “will allow black citizens to elect candidates of their choice.”⁶⁴²

In Lawrence County, defendants drew a plan that included a black district that included an area in the city of Courtland where a construction project for a new industrial park was soon to begin. Yet, the area where the planned industrial park would be located was drawn out of the majority black district and drawn in to a neighboring white-majority district. The industrial park site was likely annexed into the majority white district because local white politicians and business leaders either did not want to work with a new black commissioner or did not want a black-majority district to have the benefits of the new economic development that the industrial park would bring.⁶⁴³ In arguing against the defendants’ proposals as mentioned above, the plaintiffs explained that Section 2 of the Voting Rights Act, as renewed in 1982, gave the federal court power to “exercise its traditional equitable power to fashion a relief so that it completely remedies the prior dilution of minority voting strength and fully provides equal opportunity for minorit[ies] to participate and elect candidates of their choice.”⁶⁴⁴

⁶⁴² Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁴³ Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁴⁴ From S. Rep. No. 97-417, 97th Cong., 2d Sess., p. 31 (1982) cited in Case Files Vol. VII, No. 228, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

When that strategy failed, some white politicians resorted to threats of economic reprisals and violence. The Lawrence County engineer Mac Watters, who was white, testified on behalf of the black plaintiffs. Watters was informed by some of his co-workers that he would likely lose his job with the county if he testified in favor of switching the at-large election system for single-member districts. Following his testimony, Watters received threats from Lawrence County Commissioner Pleas Hill. Commissioner Hill told Watters that he “wanted him to ‘step outside’” and Watters believed that he was now in real danger, as Commissioner Hill had a reputation for aggressive behavior.⁶⁴⁵

Watters also testified that another county commissioner, Brown Bradford, had “purposely cancel[ed] a work project on Little Sam Road [in a majority black district] because it would have helped blacks who did not support his 1984 election campaign.”⁶⁴⁶ Commissioner Bradford denied Watters’s allegations at a meeting of the county commission with Watters present.

Controversy reemerged in Crenshaw County in September when the plaintiffs alleged that county election officials did not properly follow the agreement that had been originally approved in April by Judge Thompson. Plaintiffs claimed that in the primary elections that had been held in June, the voting lists were not separated by the new districts, and this flaw allowed some voters to cast ballots for commission seats that were

⁶⁴⁵ Letter from Larry T. Menefee to Judge Myron H. Thompson, September 9, 1986, in Case Files Vol. VI, unnumbered, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

⁶⁴⁶ Quote from the *Moulton Advertiser*, September 11, 1986 found in Case Files Vol. VI, No. 224, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk’s Office, Montgomery, AL.

not their districts of residence.⁶⁴⁷ After presentation of evidence about voters who cast ballots in districts other than the ones in which they reside, Judge Thompson ruled on November 3 that new primary and general elections for the district five commissioner in Crenshaw County must be held prior to January 1, 1987.⁶⁴⁸ Eventually, due to time constraints, with Judge Thompson's approval, Crenshaw County completed new elections for the district five commissioner by February of 1987.⁶⁴⁹

On October 21, Judge Thompson issued another opinion in an attempt to finally compel Calhoun, Lawrence, and Pickens counties to complete the process of restructuring their county commission election systems.⁶⁵⁰ At this point Calhoun, Lawrence, and Pickens counties had reached partial settlements. The primary issue of contention here was whether a county commission chairperson elected in each county on an at-large basis was a violation of Section 2 of the Voting Rights Act. All three counties had submitted single-member district plans with at-large commission chair positions to the court and to the U.S. Department of Justice. Calhoun County had received preclearance from the Justice Department, but Lawrence and Pickens counties still awaited notice from the Attorney General.⁶⁵¹

Judge Thompson found that "the evidence before the court establishes that the presence of the at-large chairperson violates section 2's results test."⁶⁵² He based his finding on the century-long pattern of state sanctioned discrimination. In so doing, Judge

⁶⁴⁷ Case Files Vol. VI, No. 223, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁴⁸ Case Files Vol. VIII, No. 269, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁴⁹ Case Files Vol. VIII, No. 283 and No. 286, *Dillard, et al., v. Crenshaw County, etc., et al.* (Civil Action No. 85-T-1332-N) in Middle District of Alabama Clerk's Office, Montgomery, AL.

⁶⁵⁰ *Dillard v. Crenshaw County II*, 649 F. Supp. 289 (1986).

⁶⁵¹ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 292 (1986).

⁶⁵² *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 294 (1986).

Thompson argued that “the present depressed levels of black voter participation in Calhoun, Lawrence, and Pickens Counties may be traced to these historical devices and laws.”⁶⁵³ These “insurmountable” “political barriers” in the three counties were buttressed by white candidates who had “appeal[ed] to racial prejudice.” Furthermore, Judge Thompson declared that the existing obstacles operating within the “racially polarized climate” had “effectively wiped out any realistic opportunity for county blacks to elect their candidate to an associate or chairperson in the three counties.”⁶⁵⁴ In Lawrence County, Judge Thompson found intentional discrimination as motivation for the proposed at-large chairperson. The county engineer, Mac Watters, had testified that current Lawrence County commissioners boasted that, if elected, a new black commissioner “would not have any say so in the commission.”⁶⁵⁵ Judge Thompson ordered the review of the current single-member apportionments for all three counties and that the chair position of the commission be selected on a basis other than at-large election.⁶⁵⁶ Because of the multiple problems and unresolved issues contained in the Pickens County defendant’s proposed plan, Judge Thompson ordered the adoption of the Pickens County black citizens’ plan.⁶⁵⁷ Judge Thompson’s opinion clearly established the will of the court to remedy vestiges of institutionalized discrimination as exemplified by at-large election schemes.

Calhoun County appealed Judge Thompson’s ruling, specifically challenging the finding that a county commission chairperson elected at-large violated Section 2 of the

⁶⁵³ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 294 (1986).

⁶⁵⁴ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 295 (1986).

⁶⁵⁵ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 297 (1986).

⁶⁵⁶ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 296 (1986).

⁶⁵⁷ *Dillard v. Crenshaw County II*, 649 F. Supp. 289, 298 (1986).

Voting Rights Act.⁶⁵⁸ Eleventh Circuit Judge Frank M. Johnson delivered the opinion for the court. Judge Johnson agreed with Judge Thompson saying, “This Court cannot authorize an element of an election proposal that will not with certitude *completely* remedy the Section 2 violation.”⁶⁵⁹ Approving an at-large elected position, Judge Johnson argued, would require “a leap of faith by this Court that is simply not buoyed by the history of the Calhoun County Commission.”⁶⁶⁰ It appeared that the plaintiffs had won complete victory in their reconstruction of local politics, as Judge Thompson’s opinions had been upheld by the Eleventh Circuit as well as the U.S. Supreme Court.

The initial *Dillard* litigation between 1985 and 1987 initiated a process of making the Second Reconstruction a reality on the local level in Alabama.

The developments and rulings in *Dillard v. Crenshaw County* led to the expansion of litigation that would begin dismantling at-large election systems for many local government boards. The case would be expanded to include almost two hundred local governing boards, including additional county commissions, school boards, and municipalities, and the legal battles carried on into the 1990s and 2000s.⁶⁶¹ In the process, black Alabamians defined what political equality—as proclaimed by the Fourteenth and Fifteenth Amendments and the Voting Rights Act—meant for citizens who had lived under the most obdurate and repressive forms of inequality.

⁶⁵⁸ *Dillard v. Crenshaw County*, 831 F.2d 246 (11th Cir. 1987).

⁶⁵⁹ *Dillard v. Crenshaw County*, 831 F.2d 246, 252 (11th Cir. 1987).

⁶⁶⁰ *Dillard v. Crenshaw County*, 831 F.2d 246, 252 (11th Cir. 1987).

⁶⁶¹ For brief a discussion of further *Dillard* litigation and its results, see James Blacksher, et. al., “Voting Rights in Alabama: 1982-2006,” *Review of Law and Social Justice* 17:2 (Spring 2008): 259-267.

Conclusion

1965 has been viewed by many as the triumphant climax of the twentieth century civil rights movement. This dissertation argues that although the enactment of the Voting Rights Act marked a major achievement for civil rights activists, 1965 was only a beginning for black southerners in their quest for political and social equality. Through the work of grassroots activists, the nation had been compelled to confront the evils of Jim Crow, and most Americans by 1965 understood that racial discrimination had no place in a nation founded on the principle that all are created equal. But on the local level, black southerners had a long struggle ahead of them after 1965. This dissertation has told the story of that struggle for political equality, while demonstrating that the Voting Rights Act only became a reality when local people carried its promises forward and demanded that southern states, cities, and towns live up to the standards for which the United States claims it stands. After Martin Luther King's was assassination in 1968, civil rights activists knew that they would have to continue the fight to make equal civil rights a reality in their hometowns.

By 1990, the significant gains that ADC activists had made in furthering political equality on the local level made the progression of the Second Reconstruction look rather successful, especially compared to the status of black suffrage thirty or forty years after the beginning of the First Reconstruction. During the first decade following the passage of the Voting Rights Act, ADC activists transformed the Alabama electorate and the Alabama Democratic Party as they began to amass political power for black Alabamians for the first time since the early years of the First Reconstruction. The changes that

grassroots activists brought forth in Alabama between the time of the initiation of the *Bolden* case in 1975, challenging at-large elections, and the *Dillard* case that eventually led to the dismantling of at-large election systems in the late 1980s, had begun a process of finally ending the racially discriminatory structures that had shaped local politics in Alabama for at least one hundred years. In the 1990s, ADC members could boast that Alabama had the highest proportion of black elected officials of all states in the United States.

Upon signing the Voting Rights Act in 1965, President Lyndon B. Johnson is known to have predicted that the South would become a stronghold of the Republican Party for the generation to come. Of course, President Johnson was referring to a shift in party allegiance of the white voters in the South who had been, since the end of the First Reconstruction, allies of the Democratic Party. In the late nineteenth century, the southern Democratic Party had been founded on total adherence to white supremacy. Up until the tenure of President Harry S. Truman, Democratic candidates for president could rely on the electoral votes of the “Solid South” to give them an automatic advantage in presidential elections. President Truman’s partial embrace of the burgeoning civil rights movement after World War II angered southern Democratic politicians and sparked South Carolina white supremacist Governor Strom Thurmond to challenge Truman in the 1948 election as a States’ Rights Democrat, or Dixiecrat Party candidate. President Truman won in 1948, but southern whites had broken their pattern of automatically supporting the national Democratic Party ticket. The critical issue leading most southern whites to break their party allegiance was a perceived threat to the social and political

order of Jim Crow that mandated that, in every area of life, whites must be dominant and blacks subordinate.

Later, southern white voters again thoroughly rejected support for black civil rights in the 1964 election when the most unreconstructed states of the former Confederacy—Alabama, Georgia, Louisiana, Mississippi, and South Carolina—voted against fellow southerner Lyndon Johnson at the ballot box and, instead, voted for Republican Senator Barry Goldwater of Arizona, who had opposed the Civil Rights Act of 1964. At the time, the Civil Rights Act of 1964 was the most significant civil rights bill passed by Congress since Reconstruction. President Johnson embraced the grassroots struggle for freedom led by black Americans, and, in return, white southerners registered their disapproval at the ballot box. In so doing, the 1964 election signaled that the process of realigning most southern whites from the Democratic Party to the Republican Party was now fully underway. President Johnson's support for the Voting Rights Act in 1965 further cemented many southern whites' disdain for the national Democratic Party.

Since its inception, the ADC has energized citizen-activists to work at the grassroots for black enfranchisement. Alabama was to central the making of the Voting Rights Act in 1965, and Alabama activists continued to impact the meaning and effectiveness of the act in the 1970s and 1980s as well as its significance today. ADC activists worked to end election laws that were based on the assumptions of white supremacy, and they worked to elect white and black candidates who embraced the possibility of a New South in which black and white southerners would join together to address important issues facing their state in education, in economic development, and in creating opportunities for all to live in freedom. Also, ADC activists filed law suits in

federal courts and successfully worked to secure the appointments of the first black Alabamians to the federal judiciary. In the early 1980s, when the Voting Rights Act was seen by some as no longer necessary, ADC activists demonstrated that the realization of equal voting rights for all citizens was still incomplete. By 1990, on the local level ADC activists had achieved legislative districts that more fairly represented all citizens in Alabama, opened up the voter registration and election day administration processes to include black Alabamians, and proved that the discriminatory purposes behind local at-large election systems continued to deny black voters an equal voice.

ADC activists' efforts have resulted in two primary developments in recent Alabama politics. First, making political equality a reality in Alabama has, in many instances, placed black and white people at the negotiating table together on a more equitable basis than ever before in the state's history. This outcome offers hope for a New South to emerge in which all southerners work to improve the lives of all the people in their states. However, the promise of a New South has yet to come to fruition. The second development has been the emergence of a new Solid South in which most white voters have, as President Johnson predicted, become stalwarts of the Republican Party. Of course, most southern blacks today are loyal Democrats. The growth of the Republican Party in the South has reinstated the old cultural habits of whites and blacks living and moving in separate circles. If most whites in the South are Republicans and southern Republican politicians rely almost solely on whites' votes, then the communication and interchange between black and white southerners has been stymied. The point here is neither to condemn nor exalt either political party in Alabama, but to recognize that cultural memories and the ways history is understood by both white and

black southerners has a powerful bearing on the ways in which they act, vote, and conceptualize the problems facing their states.

Joe Reed remembers the Old Testament story of Moses as he envisions the hope for a New South to emerge. God chose Moses to lead the Israelites to freedom, Reed recounts, because “Moses knew the land.”⁶⁶² Just as Moses did, some southerners know the land and the travels the people of the South have taken in racism and discrimination. A truly New South will not materialize until white and black southerners begin to embrace the land together in an effort to move their states, cities, and towns forward to become places where neighbors look past their differences and focus, instead, on their shared lives and on making the promises of American citizenship a reality for all. As the Voting Rights Act nears its fiftieth year in existence, black southerners are voting and winning elections to political offices in unprecedented numbers. Yet, the southern political order is becoming increasingly re-segregated, and as a result the challenges of persistent racism in the South remain to be resolved.

⁶⁶² Dr. Joe L. Reed, interview by author, 8 February 2012.

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