

DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, et al.)	
	:	
Plaintiffs,	:	
VS.)	Civil Action,
	:	
JOHN PATTERSON, et al.	:	File No. _____
	:	
Defendants.)	

ORDER TO SHOW CAUSE

The plaintiffs having filed a verified complaint with affidavits and having moved for an order directing the defendants to show cause why they should not be enjoined and restrained temporarily, and pending the final hearing in this matter, from proceeding with the sale of plaintiffs' personal and real property scheduled to be sold at public auction commencing Tuesday, February 21, 1961, and it further appearing that no notice can be served in accordance with the rules to bring on this matter within sufficient time to prevent immediate and irreparable injury to the property rights of the plaintiffs and their rights under the Constitution of the United States referred to in the complaint attached hereto, and it appearing that no request for this relief has been made before to this Court, and good cause appearing, it is on this day of February, 1961,

ORDERED that the defendants show cause before this Court on the day of , 1961 at 10 o'clock in the forenoon or as soon thereafter as counsel may be heard, why an order should not issue pendente lite enjoining and restraining the defendants, their agents, servants and employees, or attorneys who may be designated to preside in their stead, from:-

a) Proceeding with the execution of the judgments, the garnishment of salaries, and the sale of the personal and real

property of the plaintiffs herein, referred to in the complaint, and from

b) Proceeding in any manner whatsoever with the actions now pending in the Circuit Court of Montgomery, Alabama entitled "Frank Parks v. New York Times Company, a Corporation, et al." and "John Patterson v. New York Times Company, a Corporation, et al."; and it is further

ORDERED that pending the return of this order to show cause the defendants, their agents, servants, employees and attorneys be and they hereby are enjoined and restrained from proceeding with the execution of the judgments, the garnishment of salaries, and the sale of the personal and real property of the plaintiffs, and from taking further steps with respect to the execution of said judgments referred to in the complaint; and it is further

ORDERED that, due and sufficient reason having been shown, service may be made of this order and the papers attached hereto upon the defendants herein on or before .M. on the day of , 1961; and it is further

ORDERED that, this order, pursuant to Rule 65 of the Federal Rules of Civil Procedure, shall expire ten (10) days from the date hereof unless within the time so fixed this order for good cause shown is extended for a like period.

Judge, District Court of the United
States for the Middle District of
Alabama

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Civil Action
File No. _____

RALPH D. ABERNATHY, J.E. LOWERY,
S.S. BEAY, SR., and FRED L.
SHUTTLESWORTH,

Plaintiffs,

v.

JOHN PATTERSON, individually and as
Governor of Alabama, EARL JAMES,
individually and as Mayor of Mont-
gomery, L.B. SULLIVAN, individually
and as Commissioner of Police of
Montgomery, FRANK PARKS, individ-
ually and as Commissioner of Public
Affairs of Montgomery, MAC SIM
BUTLER, individually and as Sheriff
of Montgomery County, RAY D. BRIDGES,
individually and as Sheriff of
Mobile County, HOLT A. McDOWELL,
individually and as Sheriff of
Jefferson County, and WILMER SHIELDS
individually and as Sheriff of
Marengo County,

Defendants.

ORDER TO SHOW CAUSE

Law Offices:
CHARLES S. CONLEY
530 South Union Street, Suite A
Montgomery 4, Alabama

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, et al.,)

PLAINTIFFS, :

vs.)

JOHN PATTERSON, et al., :

DEFENDANTS.)

Civil Action,

File No. _____

AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY
RELIEF AND ORDER TO SHOW CAUSE

STATE OF *GEORGIA* }
COUNTY OF *FULTON* } SS.:

, being duly sworn upon his oath according to
law, deposes and says:

1. On or about February 25th, there has been an atmosphere of intimidation and humiliation that has enveloped the students and faculty of Alabama State College and the Negro community at Montgomery. This arose out of the peaceful action on February 25, when some thirty-five young men from the college quietly entered the lunch room of the new Montgomery County Courthouse and politely asked to be served.

2. When the news reached the Governor of the State, according to the leading front page story of The Montgomery Advertiser the next morning, he telephoned Dr. H. C. Trenholm, the college President, demanding that he expell the students involved; warning if the college did not do so, he would call upon the State Board of Education to take such action. A little later that same day, the Governor "summoned" President Trenholm to his office and "threatened to cut off State funds to the college unless immediate action" was taken. Governor Patterson said further to Trenholm: "The citizens of this State do not intend to spend their ~~tax~~ money to educate law violators and race agitators and if you do not put a stop to it, you might well find yourself out of public school funds."

2.

3. In response to the Governor's orders, President Trenholm was quoted as saying, "I have no alternative but to comply." Thus a Negro leader as college president for 35 years, was reduced to a cipher and was ordered about as a hired hand.

4. Both the City's Mayor and Police Commissioner rushed forward with angry statements. Commissioner L. B. Sullivan, red-faced, eyes blazing and mis-pronouncing the word Negro, declared over TV:

We do not intend to permit outside forces to create, provoke or otherwise incite any racial incident here in our city.
The Montgomery Police Department is under instruction to enforce existing laws and to take whatever action that is necessary to suppress agitation and prevent violence..

...I want to assure the citizens of Montgomery that we are prepared to take whatever actions that might be necessary to maintain and preserve the time-honored traditions and customs of the South.
(Montgomery Advertiser, February 26/ hereafter cited as MA).

5. The Mayor's statement, since he was out of town, was read for him over radio and TV and printed in the newspapers, no one apparently noticing or bothering to correct his verbal error:

I wholeheartedly endorse Governor Patterson's stand that College President Trenholm investigate the incident and expel any of the college students involved. We shall make every attempt to maintain law and order in Montgomery but I feel that I must warn the Negro people of this community that the tempers of the white citizenry of our city is (sic) being pushed beyond their power to control. (MA, February 26).

6. In response to the words of the Governor, Mayor and Police Commissioner, the Rev. Ralph D. Abernathy, President of the Montgomery Improvement Association (MIA), charged that, "certain statements by public officials that were made over TV and radio, and reported in the press, could be easily interpreted by lawless elements as an invitation to violence. Public officials, whose sworn duty it is to maintain order impartially, cannot afford to give the fringe element a green light to take the law into its own hands." (MIA press release). Likewise, the students, under the leadership of Bernard Lee, issued a press release (MIA February 26) explaining that they were law-abiding, non-violent and that "we only wish to gain our rights as guaranteed us by the Federal Constitution and the Bill of Rights. All we did was request some food service in a public building which was built by the tax payers' money."

7. Almost immediately, the college campus became the target for police action. Policemen on their motorcycles, riding two abreast, and in their prowl cars, continuously rode through the campus - night and day - making noisy gestures of intimidation with their motors and cut outs. They stationed themselves on the streets leading to the college and began handing out tickets to faculty members and other passing motorists, calling everyone by his given name and making vulgar and profane remarks. Some of the traffic violations were imaginary; most of them were minor. For the first time in history, traffic tickets were given to students for jay-walking at the street corner entrance to the campus. In all parts of the city, Negro citizens were harassed and insulted, their automobiles searched and any Negro out in the late hours of the evening was almost certain to be stopped, questioned rudely, frisked and sometimes arrested.

8. The college students continued their anti-jim crow campaign. On Friday, February 26, for the second day, they visited the courthouse. The target this time, and not announced, was the courtroom where a fellow student was on trial. Several hundred students lined up and marched from the campus to town and filled the courtroom (others remaining outside). When the trial was over, they marched back to the campus in such good order that only one student could be arrested for jay-walking against the traffic light (Alabama Journal, February 26,/ hereafter cited as A.J.). The student on trial had attempted to register as a voter. When he came to the question on his application form: "Have you previously applied and been denied registration as a voter?" he was confused as to the correct answer. He knew that he had previously applied but did not know that his application had been turned down since he had not heard at all from the registration board. Accordingly, he answered, "no". For this, he was convicted of "attempted perjury."

9. The rumor spread through the city that on Saturday, February 27, the students would visit the downtown lunch-counters of the five and ten cent stores. Abernathy's prediction, about the response of the lawless elements, seemed to be coming true, for white men, singly and in groups, patrolled the downtown area armed

with midget baseball bats. Photographs of these men appeared in the Sunday morning paper, February 28, including one picture of one of the men in the very act of swinging his bat to the back of the head of a Negro woman who was having a scuffle with another white man. Even though the cut line under the picture identified the bat wielder by name, he was not arrested at the time or later.

10. The photographer and a newsman insisted that police were near the scene of the incident and that the crash of the bat against the skull of the woman could be heard for half a block. Indignant editorials and letters to the editors appeared in the daily papers; still, blame was placed on the Negroes for starting things in the first place (see for example, M.A., March 1). In the course of a long editorial on March 2, the Advertiser in criticizing the anger of the Police Commissioner over the publication of the picture of the man hitting the woman from behind with the bat, said: "Sullivan's problem is not a photographer with a camera in his hand. Sullivan's problem is a white man with a baseball bat in his hand."

11. The Rev. Fred L. Shuttlesworth, an alumnus of Alabama State College and leader of the integration movement in Birmingham, characterized Governor Patterson's order to expell the students as "totalitarian in spirit." (A.J. Feb. 26). The student leaders in a press statement echoed the same sentiment, saying: "We deeply resent the humiliating treatments/^{to}which the Governor has subjected the President of our College."

12. By Monday, February 29, public stories softened the Governor's directives to Dr. Trenholm, saying now that what the Governor had said to the college President was "in the nature of advice" and that he only meant that the "ring-leaders" should be punished. He denied that he had threatened to cut off funds to the institution. He went on to praise "Montgomery authorities... for the manner in which they handled themselves" and white citizens for their "tolerance and restraint" The Governor refused to comment on the bat-carrying men, saying "that was a matter for city officials" (A.J., February 29).

13. On Tuesday, March 1, about a thousand of the students (over half of the student body) marched to the steps of the State Capitol. It was Mardi Gras Day, which is a legal holiday in Protestant Montgomery that has none of pre-Mardi Gras carnival spirit of New Orleans or Mobile. Near the spot where the statue of Jefferson Davis stands, one of the coeds sang "The Lords' Prayer" which was followed by the singing of the "Star Spangled Banner" by the whole group. They, subsequently, marched back to the campus for a brief rally where they chanted: "Can't go to Bama, we go to Auburn." Translated this meant, that if the students were expelled from the all-Negro Alabama State College they would enroll at one of the all-white institutions, such as Auburn University. The newspaper accounts mentioned the orderliness and discipline of the students' actions. State's Attorney General, MacDonald Gallion, termed the march of the students to the Capitol as "highly dangerous and inflammatory," making no comment on the right of the students to assemble and demonstrate peaceably.

14. The MIA sought without success to discuss the local racial situation with the City Commission.

15. On Wednesday, March 2, the State Board of Education, on the Governor's motion, ordered the expulsion of nine of the Alabama State Students who had been involved in the courthouse lunch counter incident of February 25. Twenty others were placed on probation. None of them was given a hearing. President Trenholm's recommendation to the Board, that no student be expelled but all should be placed on probation, was brushed aside. (M.A., March 3).

16. The students in a mass meeting that night, voted to remain away from classes until the nine who had been "kicked out" should be re-instated. The Rev. Mr. Abernathy of the MIA termed the Governor's order: "one of the greatest blunders in the history of education in Alabama."

17. The MIA pledged support to the students and condemned the police department, its Commissioner and Chief "for permitting white men with bats to patrol the streets without being arrested";

also urging that a bi-racial committee be set up "to curb violence and solve the many problems between the races."

(M.A., March 3).

18. The American Veterans Committee asked U.S. Attorney General William P. Rogers to look into the Montgomery situation.

19. In an editorial on March 3, the Montgomery Advertiser referred to the students who had voted to strike as "rash, misled young Negroes" and attacked the nine students who had been expelled as "joining with white thugs to menace the public safety in Montgomery." The Alabama Journal called the students "misguided," "puerile," "reckless" and "childish"; continuing then, to its usual attack upon the Rev. Dr. Martin Luther King Jr., and the Rev. Ralph D. Abernathy as the instigators and guides of the protest.

20. The beginning of the students' boycott fell on the first day of the winter quarter's examination. After much pleading and reconsideration, they voted to suspend the strike until the exams were concluded, resolving instead, not to complete their registration for the ensuing quarter until further notice came from their leaders. As part of the pressure to "persuade" the students to complete their registration, the college abandoned its usual practice of permitting everyone to continue to eat during the first week of the new quarter, which was known as the "week of grace". Accordingly, the college issued temporary meal tickets that were given only to those students who had begun the process of registration and who would pick them up that Saturday, March 12, the first day after the Winter Quarter ended. All students who did not pick up their meal tickets - because of their loyalty to the boycott or because they were off campus that day or found it inconvenient to stand in the slow-moving line most of the day - just did not get any meal ticket at all until the permanent meal books were issued about three weeks later. This meant that approximately 300 students were excluded from the dining hall for this period and had to feed themselves. College administrative officers appeared to be particularly indifferent to students even when they had their receipts in hands but had

applied for their temporary meal tickets after the designated date for the ticket pickups.

21. The college also insisted upon a technicality, that may had been upon the books for some time but no one could remember when it had ever been enforced before: that is, requiring a "credential" sheet before permitting the registering student to pay his bill. Again the slow processes of the college and frequently the mis-information given out by the clerks caused some students to miss getting under the wire.

22. On Friday night, March 4 at one of the numerous student mass meetings, the Rev. Mr. Abernathy announced that the congregations of Negro churches would march to the Capitol steps at 1:30 p.m. Sunday for a prayer meeting (M.A., March 5). The next afternoon, Commissioner Sullivan countered this, stating: "In view of the situation that exists in Montgomery, if the Negroes persist in flaunting their arrogance and defiance by congregating at the Capitol Sunday, the police will... take whatever action that might be necessary to disperse them." (M.A.-J., Mar. 6).

23. The Negroes did not cancel their plans. State, County and City police were out in force long before the appointed hour for the prayer service. Negroes were not permitted to assemble on the Capitol grounds but whites were. Thus, the former would have to oust the latter if the original plans were to be followed. Accordingly, the Negroes first assembled in the Dexter Avenue Baptist Church, which is adjacent to the Capitol grounds and then made their move to march ~~across~~ the streets. They were lead by Father Robert E. DuBose and the Rev. Mr. Abernathy. The Negro marchers were met by a police cordon in the center of the street and pushed back on the sidewalk and steps of the Dexter church. Meanwhile, fire trucks were driven up and their hoses (but no water) were turned toward the Negroes to hold them back.

24. When the white crowd attempted at this point to break after the Negroes, the police held fast and pushed the white crowd back. This act of impartial protection served as the rallying point for most elements in the white community. The State, County and City officials, editors, writers of letters to papers - all praised the police for maintaining law and order though in fact, the Negroes had been prevented from having their meeting on the Capitol grounds and only by sheer determination had carried out their exercises on the steps and sidewalks of the church. Previously, Negroes as well as whites had held Sunday mass meetings on the capitol grounds. For Easter, 1958, ex-Governor Folsom had his state troopers present in order to protect those who had assembled there from would-be molesters.

25. Numerous eye-witnesses attest to the use of police power to break the Negro demonstration and that there were many cars filled with whites and which bore license tags from various counties of the state - and a few from out of the state. There was large number of whites (no Negroes) who were deputized and some others who were apparently self-deputized. As one letter to the editor put it: "there were carloads of people from Jefferson, Tuscaloosa, Tallapoosa, Lee and Elmore counties and they were not there for their health." (M.A., March 9).

26. Thus an identity of interest of the law enforcing agencies and the white crowd was realized and further suggested in the plea of the chief law officer that "we do not need your help."

27. While City, State, and County officials congratulated each other, white persons and civic organizations did likewise. The Negroes were condemned. One headline read: "(MAYOR) JAMES FLAYS AGITATORS."

28. On March 8, the Montgomery Advertiser had two editorials on the great Sunday affair. In one of these it had the principal facts wrong and on the basis of these errors ridiculed the Rev. Mr. Abernathy for inviting State Safety Director, Floyd Mann, to the pulpit so that he could tell the frightened Negroes how to slip out of the church and get home.

The truth is, Mann's conversation was not with Abernathy, but with Father DuBose and came on Mann's initiative. Du Bose did not invite him to take the pulpit, but to come to the front of the church if he had anything to say to the people there. He declined this invitation, choosing instead to pass on his suggestion to Father DuBose that the people should leave the church in small groups rather than in one big march.

29. The other Advertiser editorial was fulsome in its compliments to "Police Commissioner Sullivan, Sheriff MacButler, Public Safety Director Mann."

30. The articulate white community now was re-united. The split over the batmen was now closed. The power of the law enforcing agencies and the press could be concentrated on the students, who would increasingly get a bad press. The state, county and municipal police would be mobilized fully. The white mob, all agreed, "would not be needed."

31. Monday, March 7, began the student boycott of registration and classes. The situation may be confusing to outsiders in that pre-registration takes place during the previous quarter and many students were already at some point in the labyrinthine process. However, it was clear that a large number of students were not in any hurry to get back in school. On the other hand, the administration, understandably, was attempting to force the defiant and reluctant undergraduates by warnings and pressures of various kinds. The majority of the students appeared to be listening more to the expelled students leaders than they were to the administrative authorities.

32. On Tuesday morning, March 8, the students made another move. They began to march about the campus with placards, prior to marching off to one of their mass meetings at a church about three blocks from the campus. The superintendent of buildings and grounds at the college, with the support of one of the campus guards who fired into the air, forceably stopped the campus parade. Only the dedication of the students to non-violence saved the superintendent from being manhandled. When he pushed one of the coeds it was difficult to restrain some of

the young men. Finally, the superintendent said: "If you want to demonstrate, get off the campus, go over there, across the street." After a few moments of consultation among themselves, this is what the students did, deciding to march on with their signs to their meeting. Meanwhile, the police had been called.

33. Accordingly, no sooner were those in the forefront of the parade a half block from the campus when they were intercepted by police, who blocked off the leaders with the placards from their followers. As the fifty-odd young men and women stood, quietly obeying the orders of the police to move back from the sidewalks, etc., one robust officer, in his shirt-sleeves, raised his club at the students and said: "I want the meanest nigger in the crowd to stop out." He repeated it.

34. In a few moments the whole block was filled with State, County and City police. They came in squad cars, official cars, on motorcycles and brought along special equipment. Some were armed with carbines, sub-machine guns, cans of tear gas and two with drawn rifles. The city police, of course, had their regular clubs and pistols.

35. After a while, the patrol wagon, known as the "Black Maria" rolled up. The male students were frisked, called a few names and loaded up. The placards were loaded too. Then a policeman called out, "Five of you nigger gals git in here," pointing to the back seat of one of the police cars. A woman teacher at the college, standing nearby, said to the girls: "Don't all of you pile up on top of each other. Let them get another car for you." She was promptly arrested.

36. While the arrests were being made, the campus superintendent took the loud speaker and spoke to the students, some of whom had been stopped as they were following their leaders. He said: "You know you have done wrong; broken the law, get back on the campus." The police were there to enforce his order and the students retired just across the street to the school grounds, remaining in numbers --the whole student body was out by now.

37. The police lined themselves up, shoulder to shoulder, across the street opposite the campus, occasionally darting after a student who, coming up from the city and not knowing what was going on, might by chance go through "no man's land" between the State Campus and the streets. One young man, who passed and happened to have a briefcase, apparently walked too close to the police line. For this, he was accosted, termed "a smart nigger" and made to open his briefcase for searching. After a while, the collegians began to sing their song: "We Are Not Afraid."

38. After a half hour or so of this stalemate, the cops began to disperse, the students laughing or applauding the blue coats as they made some awkward move or their exit.

39. The next morning's headlines read: "CITY POLICE ARREST NEGRO AGITATORS FOR DEMONSTRATION."

40. On Wednesday, the next day, the police were fully prepared for the larger student exercise of their Constitutional rights that was expected. The law enforcing agencies augmented their strength by assembling in Oak Park, about 5 blocks from the campus, a small army of regular and deputy forces, including horses, trucks and other equipment. This outfit was discovered by students and photographers. When the white newspapermen attempted to get a good look at this extraordinary force and take pictures of it, they were prevented from doing so. "Five cursing, club-bearing men from the group of about fifty" surrounded two cameramen and a reporter, roughed them up, threatened with pistols and snatched a camera out of the hands of one of the photographers. A police sergeant sat in a car nearby, indifferent to the pleas of the newspapermen for help. (A.J., March 9). Nevertheless, one picture of the assemblage was made through the windshield of a car and did appear on page two of the A. J., March 9.

41. One day later, the students put on their demonstration. The police, however, quickly came up and took their places across the street from the school, ready to intercept the demonstrators and their placards the moment they left State

property and set foot in the city.

42. Apparently, the continued demonstrations of the undergraduates was most annoying to those in power. The afternoon paper for March 10th read: "SULLIVAN REQUESTS CLOSING OF ASC." In response to this, the Governor asked the State School Superintendent to make a "full investigation of the school, faculty and students." Apparently, the inquiry had already begun, for State investigators, for the past two days, had been moving in and out of offices on the campus; stopping and questioning students and taking pictures of them. These detectives attended all meetings - student or otherwise - even those that were held in churches off campus. The college administration never gave the faculty and students any explanation as to their rights and obligations with reference to the investigation. Some of the student leaders explained to their followers that they did not have to answer to the questions of every white Tom, Dick or Harry who came on the campus with a camera and a notebook.

43. Complaints against all this were not only heard on the campus but throughout the Negro community. The Rev. Dr. Martin Luther King, Jr. who had come back to the State in connection with his indictment on a charge of perjury in making out his State income-tax returns, wired President Eisenhower (March 9):

"A reign of terror has broken out in Montgomery, Alabama. Gestapo-like methods are being used by police and city authorities to intimidate Negroes who have been pursuing peaceful and nonviolent techniques to achieve their moral and constitutional rights. While students of Alabama State College were convened in an orderly protest on their campus, city officials and police launched an incredible assault, and infiltrated the college campus with police armed with rifles, shot guns, and tear gas. Yesterday they arrested more than thirty-five students, a faculty member, and a physician. Today, they had numerous trucks parked not far from the campus with the threat of arresting the entire student body.

"Police are parading in front of churches. They inhibit the holding of meetings and religious services. They have actually physically intruded themselves into these religious services. Yesterday, a bishop was conducting a church meeting when police invaded the meeting in a raid. Telephones are being tapped and telephone lines of Negro leaders are left disconnected so that they cannot make nor receive calls. This calculated and provocative conduct of the police backed by the municipal

and state authorities leads inescapably to the conclusion that they are trying to incite a riot in the hope that the responsibility for the injuries and deaths that might result will be fastened on the Negroes.

"The Negro community and students cannot permit themselves to be intimidated. They will not turn away from their pursuit of justice. They must and will pursue their righteous and nonviolent course. Lest bloodshed stains the streets of America we ask that the American people through you be made aware of the brutal and flagrant violation of constitutional rights.

"Mr. President, we appeal to you to intervene by instructing the Attorney General to take immediate action in your name to restore law and order in the Capital of Ala. We are prepared to go with the Attorney General into the federal court for injunctive relief. We appeal to you to urge the city authorities to put down their guns, to garage their vehicles of aggression. We are unarmed and dedicated to nonviolence. Though determined to resist evil, we pray that no harm may come either to our people or to those who oppress us. Though it appears that the aggressors may unleash worse violence against us no matter how restrained our conduct, may God help us to maintain our endurance against provocations. We are conscious of the many pressing duties of your office, but we feel this terror which grips a whole community in an American city violating elementary constitutional rights requires immediate federal emergency action. Our concern for the honor of the nation which we love despite our suffering, impels us to make this public outcry and appeal for justice and human decency."

Martin Luther King, Jr., President
Southern Christian Leadership Conf.

44. The Advertiser (March 11) buried at bottom of page two, the requests by Congressman Charles C. Diggs and Roy Wilkins that the federal government investigate the violation of civil rights in Montgomery. Diggs told Atty General William P. Rogers that:

Local law enforcement agencies are helping to create an atmosphere of tyranny and terror through police-state methods...The objective of these agencies seems to be to prevent peaceful assembly of Negro students and other people interested in non-violent protest demonstrations against the denial of civil rights.

45. Wilkins said in a telegram to President Eisenhower
Montgomery Negroes "are suffering arbitrary deprivation of their rights in a climate of terror....Freedom of speech, and assembly and of peaceful redress of grievances all have been ruthlessly suppressed by Alabama authorities from Gov. Patterson on down to local constables."

46. On Thursday night, March 10, at a mass meeting on the college campus into which the State investigators intruded, the students called off their boycott of registration and classes.

47. On Friday, March 11, began the trials of the thirty-seven students and one teacher who had been arrested on the previous Tuesday. The public was barred from the small city courtroom.

48. At the trial, the students' attorneys argued that the prosecution had to establish definite action on the part of each individual who was charged with violating the law. However, the court ruled that as long as it could be shown that the defendant was a member of a group that violated a law, he would be responsible for the violation. Under cross-examination it was argued that the police, even with the notes and the photographs that they used in a side room to "refresh their memories" could not be sure as to which student said what or carried what particular placard.

49. The decision of the court fell heavy upon the defendants. Aside from the two students who happened to be sitting on the front porch of the house in front of which the demonstrators were stopped, all ~~were~~ found guilty of both charges, disorderly conduct and refusing to obey an officer, given a lecture and fined two-hundred dollars and the costs of court. Since it was clear that the teacher who had been arrested was not a party to the demonstration, she was let off with a token fine of ten dollars and her husband, who had been arrested when he appeared at the police headquarters to see about her, was fined one dollar.

50. The prosecution asserted that the police had told the students to "disperse" and when the students failed to do so, then they were arrested. Eye-witnesses who were within twenty-five or thirty feet of the arresting scene, testified that they heard no policeman say "disperse" or its equivalent to the students; rather the cops simply stopped them, pushed them back to the sidewalks and when the Black Maria arrived, loaded

them up. Moreover, when one of the witnesses testified that the police Captain in shirt sleeves, pointed his club at the students and said: "I want the meanest nigger in the crowd to step out," the Captain, who was in the court, seemed to nod his head as though he was saying "Yes, I said it". Nobody reprimanded the Captain. He was not re-assigned, for a few days afterwards, he was moving about on the periphery of the campus.

51. Throughout the city the complaints of harassment increased. A twenty-two year old Negro airman was accosted at a bus station one morning at 4:45 a.m. The Alabama Journal, giving the version of the police, reported that he was asked what he was doing there at that hour and replied, "none of your damn business," attacking the policeman, knocking his gun to the ground, grabbing it and firing it. Another officer came along and arrested the airman as he was in a booth telephoning. The next morning's paper added the line that after the airman had been booked, he resisted and had to be subdued (M.A., March 12, 1960). Actually, the airman had to be hospitalized. At his trial, he testified that five policemen beat him and that another one said to him: "You're a lucky nigger. They should have done more to you."

52. In the Alabama Journal, March 9, was a vicious attack upon Negro leadership, students and Alabama State College. It called for the dismissal of President Trenholm, charging him with sympathy for the "Negro student agitators" and called for his replacement by someone "who will make his students obey Alabama laws." This lengthy letter to the editor was signed by "John Q. Citizen?"

53. A white professor of local Huntingdon College and a Negro man were arrested early one morning in the same car. The professor explained that he was taking the man home from a party at the professor's house where the Negro had served as a butler. Apparently, the police were unconvinced.

54. The Alabama Journal for March 16, printed a story that enrollment at ASC was down by 300. Most of these were students who failed to make the deadline after the student

strike had been called off.

55. The general mobilization of forces to crush the student activities continued. A staff writer for the Montgomery Advertiser reported, March 17, in a feature article that: "SELMA'S MOUNTED POSSE READY". In order to prevent there, "what happened in Montgomery", some fifty-two horsemen, reinforced by twenty-five others on call and by five-hundred special deputies. The television news programs showed the mounted posse riding about the city.

56. The Alabama Journal of March 21 reported that: "EXPELLED ASC STUDENT CHARGED AS VAGRANT." This was Bernard Lee, who according to the news story, was arrested "while he was in a car with the wife of Rev. Ralph D. Abernathy." Moreover, Lee was a part-time worker in the cleaning and pressing business of his father-in-law and was just a few weeks out of school.

57. Others of the expellees were constantly watched, followed wherever they went, often stopped and searched and occasionally arrested by the police. Two of them reported that the policemen would not only call them insulting names but would attempt to provoke them by kicking their heels or stepping on their feet or bumping and pushing them about.

58. Such physical harassment was not confined to the college. The Negro community generally was under such pressure. For example, one evening Lawrence Johnson parked his car on a downtown street in front of a newsstand-bookstore, in order to pick up papers and magazines. When he came back to the car, two policemen stopped him, searched him, made his wife get out of the car and searched it. One of the policemen told him that when a policeman stops you, you're supposed to take out your license and show it. Johnson answered that "you didn't ask me for it." This irritated the officer who called Johnson "a smart nigger" and used other vulgar and profane expressions. Johnson pleaded with the officers "to respect my wife even if you don't respect me." One of them answered: "I don't respect any niggers."

59. On the night of April 11, the Rev. B. D. Lambert was having a Holy Week Service at the Maggie Street Baptist Church. Policemen came up and searched his and several other cars that were parked outside of the church, questioned persons who were leaving the services and after the Rev. Mr. Lambert started home he was stopped and both he and his wife questioned.

60. A professor of Sociology from Tuskegee, Dr. Lewis Wade Jones, visited Alabama State College. Near the campus he was stopped by policemen, made to get out of his car while it was being searched. Meanwhile, one of the policemen commented continually. He asked Jones if he had any firearms in the car, adding that he hoped nobody would be foolish enough to bring any guns in. He went on to say that when he was a student in school whenever he was absent, he had to bring a written excuse. After the search was concluded, Dr. Jones felt that he ought to make some reply, so he ventured the mild observation that: "The purpose of a college is to teach." The policeman thundered back: "Teach what? Communism?"

61. ~~About~~ At this same time, a group of Negro women were having their club meeting at 1806 Cleveland Avenue. Just as the chaplain opened the meeting with prayer, a policeman, who had come up the steps on the porch, stuck his head in the door and took a slow look around at things and without saying a word to anybody, closed the door and left.

61. Several houses had been shot into, occasionally with BB guns.

62. A headline in the Alabama Journal, March 22, reported that "CITY ADOPTS 3 ORDINANCES TO KEEP PEACE" with the sub-lead: "Power to Curb Demonstrations Given Police." One of the new laws prohibited all demonstrations, parades, processions, etc. except funerals. The second law authorizes owners and managers of eating establishments to evict "trespassers". The third broadens the definition of disorderly conduct to cover almost every imaginable possibility of individual or group action that may be remotely interpreted as a breach of the peace.

63. While the city commission was working out the new laws, the students attempted to utilize peacefully their constitutional rights. Several of them went down to the University of Alabama Center in Montgomery and applied for enrollment; four more came the next day and before the week was out, a total of 13 had filed. At first the school authorities called the police but sent them away.

64. The Alabama Journal for March 23 announced that siren loudspeakers were placed on several of the city cars "to be used for crowd control in event of civil disturbances."

65. An editorial in the Alabama Journal for March 24 denounced Negro students and teachers, such as the one at ASC and Tuskegee, and Negro preachers but praised "friendly", "upright" businessmen.

66. The State Board of Education that met Friday, March 25, "demanded the firing of any faculty member of Alabama State College who encouraged student protests." This action was taken on the motion of the Governor who commented further that Dr. Trenholm "must straighten out the situation at Alabama State or the school board will find someone who can." The State Superintendent reported that his investigation had revealed "at least 11 members of the faculty have not been loyal to the school" and that three of them "participated in the demonstration near the Capitol Sunday afternoon, March 6." The Governor added that pamphlets (of CORE) instructing students in the conduct of sit-in demonstrations, had been distributed on the college campus. Nobody on the campus could be found who had seen any such pamphlets. The next morning's paper covered the same story under the double column lead: "STATE BOARD ORDER: TRENHOLM PLANS PURGE OF 'DISLOYAL' FACULTY."

67. About the same time, a hundred students who had not met the registration deadline of March 14, and had been still negotiating to remain at the college, were ordered from the campus. Their fellow students staged a one-day boycott of classes for this.

68. On March 31, Professor R. D. Nesmith and ten of his

students in Sociology from Macmurray College, Jacksonville, Ill. were visiting Montgomery as a part of their annual field trip. As the students with their professor, his wife and their two and a half year old baby were chatting over a lunch of fried chicken with Rev. S.S. Seay, Executive Secretary of the M.I.A., Rev. E. B. Dubose, Episcopal minister, Rev. Ed. King and several Negro college students, the Montgomery Chief of Police, leading a dozen or more city policemen, plain clothes detectives and state policemen, invaded the premises of the Negro restaurant and hauled the twenty diners down to the city jail. Mrs. Nesmith's baby was taken from her and handed over to a jail-house matron when the mother and father were locked up. Immediately after the arrest, inspectors appeared at the restaurant and found that it was a health hazard and closed it down. A few days later, its liquor license was lifted (A.J., April 9).

69. The next day when the defendants were brought to court, they had to face charges of disorderly conduct, "calculated to breach the peace."

70. Everybody was found guilty. Most of the whites were fined fifty dollars and costs while most of the Negroes one hundred dollars. Some of the white students declared that they would rather serve jail sentences than pay a fine for doing what they consider within the rights of all American citizens.

71. All of the above developments have created and continue to create an atmosphere of terror and intimidation which deters and prohibits Negro citizens of Montgomery from exercising their constitutional rights in their attempt to achieve equality and dignity under the law and Constitution.

Respectfully submitted,

Sworn to and subscribed
before me this day
of February, 1961.

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Civil Action
File No. _____

RALPH D. ABERNATHY, J.E. LOWERY,
S.S. SEAY, SR., and FRED L.
SHUTTLESWORTH,

Plaintiffs,

v.

JOHN PATTERSON, individually and as
Governor of Alabama, EARL JAMES,
individually and as Mayor of Mont-
gomery, L.B. SULLIVAN, individually
and as Commissioner of Police of
Montgomery, FRANK PARKS, individ-
ually and as Commissioner of Public
Affairs of Montgomery, MAC SIM
BUTLER, individually and as Sheriff
of Montgomery County, RAY D. BRIDGES,
individually and as Sheriff of
Mobile County, HOLT A. McDOWELL,
individually and as Sheriff of
Jefferson County, and WILMER SHIELDS
individually and as Sheriff of
Marengo County,

Defendants.

AFFIDAVIT

Law Offices:
CHARLES S. CONLEY
530 South Union Street, Suite A
Montgomery 4, Alabama

Copy

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, J. E. LOWERY,
S. S. SEAY, SR., and FRED L.
SHUTTLESWORTH,

)

*

Plaintiffs,

(

VS.

*

JOHN PATTERSON, individually and
as Governor of Alabama, EARL JAMES,
individually and as Mayor of
Montgomery, L. B. SULLIVAN, indi-
vidually and as Commissioner of
Public Safety of Montgomery, FRANK
PARKS, individually and as Commissioner
of Public Affairs of Montgomery, MAC
SIM BUTLER, individually and as
Sheriff of Montgomery County, HOLT A.
MCDOWELL, individually and as Sheriff
of Jefferson County, and WILMER
SHIELDS, individually and as Sheriff
of Marengo County,

)

*

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)

*

(

Civil Action

File No. 1683-N

Defendants.

O R D E R

There is now presented to the Court by the above-named plaintiffs a motion for a preliminary injunction in the above entitled cause against the defendants, their agents, servants, employees, and attorneys and all persons acting in concert with them, seeking to enjoin them from proceeding with two libel trials presently pending before the Circuit Court of Montgomery County, Alabama, instituted by the defendants, John Patterson and Frank Parks. Plaintiffs further seek to enjoin the defendants from levying upon plaintiff's property, both real and personal which has already been attached, as well as all future property, and plaintiffs further seek to enjoin the defendants from engaging in an alleged conspiracy designed to deter and prohibit the plaintiffs from exercising rights guaranteed by the First and Fourteenth Amendments to the Constitution of the United States with respect to freedom of speech, press, assembly, and right to petition for redress of grievances, and the right of free worship.

Upon consideration of said motion, it appears to the Court that this Court has already ruled upon a similar motion on the 20th day of February, 1961 and that the present motion for preliminary injunction is substantially the same as the motion denied by this Court in its order there entered.

It further appears that none of the defendants in this cause have been served with this motion and that the motion fails to allege grounds upon which this Court should grant ex parte temporary relief. It is the opinion of the Court that the motion for preliminary injunction filed by the defendants herein on March 1, 1961, should be denied.

It is, therefore, the ORDER, JUDGMENT AND DECREE of the Court that the motion of the plaintiffs for a preliminary injunction, said motion having been filed herein on March 1, 1961, should be and the same is hereby overruled and denied.

Done, this the 2nd day of March, 1961.

(s) FRANK M. JOHNSON, JR.

FRANK M. JOHNSON, JR.
UNITED STATES DISTRICT JUDGE

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, J. E. LOWERY,)
S. S. SEAY, SR., and FRED L. *
SHUTTLESWORTH, *

Plaintiffs, (

VS. *

JOHN PATTERSON, individually and)
as Governor of Alabama, EARL JAMES, *
individually and as Mayor of *
Montgomery, L. B. SULLIVAN, indi- (
vidually and as Commissioner of (
Public Safety of Montgomery, FRANK *
PARKS, individually and as Commis- *
sioner of Public Affairs of Montgomery, *
MAC SIM BUTLER, individually and as)
Sheriff of Montgomery County, HOLT A. *
McDOWELL, individually and as Sheriff *
of Jefferson County, and WILMER (
SHIELDS, individually and as Sheriff (
of Marengo County, *
 *
Defendants.)

Civil Action

File No. 1683

MOTION FOR A PRELIMINARY INJUNCTION

Come the Plaintiffs, RALPH D. ABERNATHY, J. E. LOWERY, S. S. SEAY, SR., and FRED L. SHUTTLESWORTH, and move this Honorable Court for a preliminary injunction in the above entitled cause enjoining the defendants, JOHN PATTERSON, et. al., their agents, servants, employees, and attorneys and all persons acting in concert with them from:

(a.) Proceeding with trials presently pending before the Circuit Court of Montgomery County, Alabama and which were instituted by the defendants, John Patterson and Frank Parks.

(b.) Levying upon plaintiffs' property, both real and personal which has already been attached, as well as all future levies.

(c.) Engaging in a conspiracy designed to deter and prohibit the plaintiffs from exercising rights guaranteed by the First and Fourteenth Amendments of the Constitution of the United States with respect to freedom of speech, press, assembly, and right to petition for redress of grievances, and the right to free worship.

Grounds in support of said Motion are as follows:

1. Plaintiff, Ralph D. Abernathy is a resident of Montgomery County, Alabama and president of the Montgomery Improvement Association, an organization functioning in the City of Montgomery devoted to the achievement of equality of treatment for members of the Negro race under the Constitution of the United States and through the Christian and non-violent approach.
2. Plaintiff, J. E. Lowery, is a resident of the City of Mobile, Alabama, and president of the Alabama Civic Affairs Association, an organization functioning in Mobile, Alabama devoted to similar aims as those described above.
3. Plaintiff, S. S. Seay, Sr., is a resident of Montgomery County, Alabama, and is executive secretary of the Montgomery Improvement Association.
4. Plaintiff, Fred L. Shuttlesworth, is a resident of Birmingham, Alabama, and is founder and president of the Alabama Christian Movement for Human Rights, an organization located in Birmingham, Alabama similar in purpose to those described above.
5. Each of the plaintiffs herein is over the age of twenty-one years, and a citizen of the United States. Each belongs to the class of persons commonly designated and referred to as Negroes.
6. Defendant John Patterson is governor of the State of Alabama. Said defendant has filed an action in the Circuit Court of Montgomery County, Alabama seeking damages against the plaintiffs and the New York Times Company in the amount of One Million Dollars.
7. Defendants, L. B. Sullivan, Earl D. James, and Frank W. Parks are City officials and members of the Board of Commissioners of the City of Montgomery, Alabama. Each filed in the Circuit Court of Montgomery County, Alabama a Civil Action for damages against the plaintiffs herein and the New York Times Company in the amount of Five Hundred Thousand Dollars.
8. Defendants, Mac Sim Butler, Ray D. Bridges, Holt A. McDowell, and Wilmer Shield are respectively sheriffs of Montgomery, Mobile, Jefferson, and Marengo counties. As such it is their duty to execute and return the process and orders of the Courts of record of the State of Alabama.
9. In pursuance of their objective to advance the equality of treatment of members of the Negro race through Christian and non-violent Constitu-

tional means, plaintiffs, their supporters, and others with whom they have been associated sought to rely on the utilization of educational processes, the various media of press and speech, the right to assembly, and the right to petition for redress of grievances and the peaceful assertion of constitutional rights, which rights are privileges flowing from national citizenship.

10. In or about February, 1960, and continuously thereafter, several of the defendants and divers other co-conspirators, the names of whom are to the plaintiffs presently unknown, entered into a conspiracy, individually and under the authority of their offices, to prevent the plaintiffs from accomplishing their objectives as aforesaid; to deprive plaintiffs of the equal protection of the laws; to deprive them of their rights, privileges, and immunities secured by the Constitution and laws of the United States and to deprive the plaintiffs of their rights to access to a free press, free speech, and peaceful assembly, as well as the right to petition for redress of grievances guaranteed to them under the first Amendment of the Constitution of the United States, as incorporated in the Fourteenth Amendment thereof.

11. On or about March 29, 1960, supporters of the plaintiff and the movement for equality of which they are leaders, on their own, and pursuant to their own responsibility, utilizing the channel of a free press, inserted in the New York Times, a newspaper of national and international reputation, a paid advertisement signed by approximately 64 prominent Americans from all walks of life, a copy of which advertisement is annexed to the Complaint heretofore filed herein as Exhibit B. This advertisement expressed the opinions, criticisms and comments of these prominent Americans of the developments in the City of Montgomery and the State of Alabama, as described above, for the purpose of:

(a.) Educating the general public on important social and political issues in the free market place of ideas;

(b.) Soliciting support for the defense of the Reverend Martin Luther King, Jr., a leader of the movement in which the plaintiffs participate as active leaders, in a then pending criminal prosecution brought by the State of Alabama against the Reverend Dr. King;

(c.) Soliciting support for the plaintiffs herein and their supporters in their peaceful activities for the enforcement of their right to vote, as guaranteed by the Fifteenth Amendment to the Constitution of the United States.

(d.) Soliciting support for the Negro students of the City of Montgomery, the Negro citizens of that city, and the plaintiffs herein, in their peaceful efforts to end segregation and achieve the constitutional promise of equality before the law.

12. Pursuant to the aforesaid conspiracy, defendants contrived and planned, under the color of law and utilizing their official positions as well as the judicial machinery of the State, actions in libel against the New York Times Company, a foreign corporation and the plaintiffs herein.

13. Plaintiffs were fraudulently joined in said actions for the purpose of deterring them and their supporters as set forth above, from utilizing their constitutional rights and in particular their right to access to a free press, and for the purpose of preventing removal of said causes to the United States District Court from the Circuit Court of Montgomery County, Alabama, a tribunal wherein a policy, custom, and usage of enforced segregation of the races is enforced and pursued. Joinder of the plaintiffs herein in the aforementioned actions in the Circuit Court of Montgomery County, Alabama, therefore constitutes and unconstitutional use of the judicial machinery of the State of Alabama to the detriment and irreparable injury of the plaintiffs, in depriving them of rights, privileges, and immunities secured by the Fourteenth Amendment to the Constitution and, Title 42, United States Code, Sec. 1983, 1985 (3).

14. As a result of said fraudulent actions, fraudulent judgments, without any basis in law or fact, have been awarded to the defendants Sullivan and James in the amount of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each, and which judgments represent the highest ever awarded in libel actions in the State of Alabama. Because of said fraudulent and extraordinarily high judgments, plaintiffs are required under Alabama Law to post supersedeas bonds in the amount of ONE MILLION DOLLARS (\$1,000,000) each, thereby making it absolutely impossible for the plaintiffs to avail themselves of the rights usually afforded to other citizens under the Alabama statute to obtain a stay of execution pending their exercise of the statutory right to appeal.

15. Plaintiffs are unable financially to post supersedeas bonds in the amount of TWO MILLION DOLLARS (\$2,000,000), in order to stay execution pending appeals in the two cases which have been tried. By virtue of not be-

ing able to post the bonds required, the plaintiffs have been subjected to continuous harassments with respect to the modest personal and real property in which several have a mere equity. Plaintiffs are in addition thereto subjected to preparation for further trials in the Parks and Patterson cases, which are still pending in the Circuit Court of Montgomery County, Alabama.

16. Unless defendants are enjoined from executions, garnishments, and sale of plaintiffs' properties pending outcome of said appeals; and unless defendants are enjoined from further prosecution of trials pending before the Circuit Court of Montgomery County, Alabama as aforesaid, plaintiffs, and each of them, will suffer immediate and irreparable loss of property both real and personal, in addition to the immediate and irreparable injury to the exercise of constitutionally protected rights; as more fully appears in the verified complaint filed herein; which complaint is incorporated herein by reference and made a part of the Motion as if herein set forth in full.

17. Plaintiffs have no plain, adequate and complete remedy at law which can protect plaintiffs' property rights as well as their rights to freedom of expression, of press and assembly, other than recourse to this Honorable Court.

18. Unless this court grants plaintiffs the relief prayed for plaintiffs' will be further relegated to a segregated court system and continue to suffer immediate and irreparable harm to their personal and property rights. Plaintiffs have not and cannot, under the present segregated organization of the Alabama State Courts receive a fair and impartial trial. Recourse to such a system would afford plaintiffs no adequate remedy at law, consistent with the guarantees of the Federal Constitution.

19. The granting of a preliminary injunction by this Honorable Court, though essential to the protection of plaintiffs' personal and property rights will in no way be detrimental to defendants.

WHEREFORE, Plaintiffs respectfully pray:

1. That this Learned Court enter a preliminary injunction:

(a.) Enjoining the defendants herein, their agents, servants, employees, attorneys, and all persons acting in concert with them from proceeding in any manner whatsoever with the libel action in the Circuit Court of Montgomery

County, Alabama, entitled, "Frank Parks vs. The New York Times Company, a corporation, et. al.", and "John Patterson vs. The New York Times Company, a corporation, et. al.," as the above actions relate to the plaintiffs herein.

(b.) Restraining each of the defendants named herein, their agents, servants, employees, attorneys, and all persons acting in concert with them from engaging in a conspiracy designed to deter and prohibit the plaintiffs from exercising rights guaranteed by the First and Fourteenth Amendments with respect to freedom of speech, press, assembly, and right to petition for redress of grievances, and the right to free worship.

2. That this Learned Court enter a declaratory judgment declaring the judgments heretofore awarded to defendants L. B. Sullivan and Earl James in the Circuit Court of Montgomery County, Alabama, to be null and void.

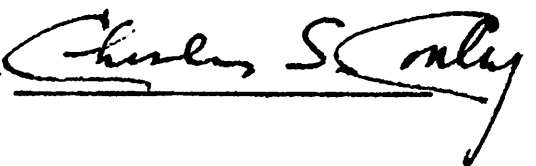
Respectfully submitted:

Charles S. Conley
530 South Union Street, Suite A
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Vernon Z. Crawford
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Solomon S. Seay, Jr.
29 North McDonough Street
Montgomery, Alabama

Attorneys for Defendants

By 

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, et al.,)

PLAINTIFFS, :

vs.)

JOHN PATTERSON, et al., :

DEFENDANTS.)

Civil Action,

File No. _____

AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY
RELIEF AND ORDER TO SHOW CAUSE

STATE OF

COUNTY OF

} SS.:

James Farmer, being duly sworn upon his oath according to
law, deposes and says:

1. On or about *January 4* ~~February 25~~th, there has been an atmosphere of intimidation and humiliation that has enveloped the students and faculty of Alabama State College and the Negro community at Montgomery. This arose out of the peaceful action on February 25, when some thirty-five young men from the college quietly entered the lunch room of the new Montgomery County Courthouse and politely asked to be served.

2. When the news reached the Governor of the State, according to the leading front page story of The Montgomery Advertiser the next morning, he telephoned Dr. H. C. Trenholm, the college President, demanding that he expell the students involved; warning if the college did not do so, he would call upon the State Board of Education to take such action. A little later that same day, the Governor "summoned" President Trenholm to his office and "threatened to cut off State funds to the college unless immediate action" was taken. Governor Patterson said further to Trenholm: "The citizens of this State do not intend to spend their ~~tax~~ money to educate law violators and race agitators and if you do not put a stop to it, you might well find yourself out of public school funds."

3. In response to the Governor's orders, President Trenholm was quoted as saying, "I have no alternative but to comply." Thus a Negro leader as college president for 35 years, was reduced to a cipher and was ordered about as a hired hand.

4. Both the City's Mayor and Police Commissioner rushed forward with angry statements. Commissioner L. B. Sullivan, red-faced, eyes blazing and mis-pronouncing the word Negro, declared over TV:

We do not intend to permit outside forces to create, provoke or otherwise incite any racial incident here in our city.
The Montgomery Police Department is under instruction to enforce existing laws and to take whatever action that is necessary to suppress agitation and prevent violence..

...I want to assure the citizens of Montgomery that we are prepared to take whatever actions that might be necessary to maintain and preserve the time-honored traditions and customs of the South.
(Montgomery Advertiser, February 26/ hereafter cited as MA).

5. The Mayor's statement, since he was out of town, was read for him over radio and TV and printed in the newspapers, no one apparently noticing or bothering to correct his verbal error:

I wholeheartedly endorse Governor Patterson's stand that College President Trenholm investigate the incident and expel any of the college students involved. We shall make every attempt to maintain law and order in Montgomery but I feel that I must warn the Negro people of this community that the tempers of the white citizenry of our city is (sic) being pushed beyond their power to control. (MA, February 26).

6. In response to the words of the Governor, Mayor and Police Commissioner, the Rev. Ralph D. Abernathy, President of the Montgomery Improvement Association (MIA), charged that, "certain statements by public officials that were made over TV and radio, and reported in the press, could be easily interpreted by lawless elements as an invitation to violence. Public officials, whose sworn duty it is to maintain order impartially, cannot afford to give the fringe element a green light to take the law into its own hands." (MIA press release). Likewise, the students, under the leadership of Bernard Lee, issued a press release (MIA February 26) explaining that they were law-abiding, non-violent and that "we only wish to gain our rights as guaranteed us by the Federal Constitution and the Bill of Rights. All we did was request some food service in a public building which was built by the tax payers' money."

7. Almost immediately, the college campus became the target for police action. Policemen on their motorcycles, riding two abreast, and in their prowl cars, continuously rode through the campus - night and day - making noisy gestures of intimidation with their motors and cut outs. They stationed themselves on the streets leading to the college and began handing out tickets to faculty members and other passing motorists, calling everyone by his given name and making vulgar and profane remarks. Some of the traffic violations were imaginary; most of them were minor. For the first time in history, traffic tickets were given to students for jay-walking at the street corner entrance to the campus. In all parts of the city, Negro citizens were harassed and insulted, their automobiles searched and any Negro out in the late hours of the evening was almost certain to be stopped, questioned rudely, frisked and sometimes arrested.

8. The college students continued their anti-jim crow campaign. On Friday, February 26, for the second day, they visited the courthouse. The target this time, and not announced, was the courtroom where a fellow student was on trial. Several hundred students lined up and marched from the campus to town and filled the courtroom (others remaining outside). When the trial was over, they marched back to the campus in such good order that only one student could be arrested for jay-walking against the traffic light (Alabama Journal, February 26,/ hereafter cited as A.J.). The student on trial had attempted to register as a voter. When he came to the question on his application form: "Have you previously applied and been denied registration as a voter?" he was confused as to the correct answer. He knew that he had previously applied but did not know that his application had been turned down since he had not heard at all from the registration board. Accordingly, he answered, "no". For this, he was convicted of "attempted perjury."

9. The rumor spread through the city that on Saturday, February 27, the students would visit the downtown lunch-counters of the five and ten cent stores. Abernathy's prediction, about the response of the lawless elements, seemed to be coming true, for white men, singly and in groups, patrolled the downtown area armed

with midget baseball bats. Photographs of these men appeared in the Sunday morning paper, February 28, including one picture of one of the men in the very act of swinging his bat to the back of the head of a Negro woman who was having a scuffle with another white man. Even though the cut line under the picture identified the bat wielder by name, he was not arrested at the time or later.

10. The photographer and a newsman insisted that police were near the scene of the incident and that the crash of the bat against the skull of the woman could be heard for half a block. Indignant editorials and letters to the editors appeared in the daily papers; still, blame was placed on the Negroes for starting things in the first place (see for example, M.A., March 1). In the course of a long editorial on March 2, the Advertiser in criticizing the anger of the Police Commissioner over the publication of the picture of the man hitting the woman from behind with the bat, said: "Sullivan's problem is not a photographer with a camera in his hand. Sullivan's problem is a white man with a baseball bat in his hand."

11. The Rev. Fred L. Shuttlesworth, an alumnus of Alabama State College and leader of the integration movement in Birmingham, characterized Governor Patterson's order to expell the students as "totalitarian in spirit." (A.J. Feb. 26). The student leaders in a press statement echoed the same sentiment, saying: "We deeply resent the humiliating treatments/^{to}which the Governor has subjected the President of our College."

12. By Monday, February 29, public stories softened the Governor's directives to Dr. Trenholm, saying now that what the Governor had said to the college President was "in the nature of advice" and that he only meant that the "ring-leaders" should be punished. He denied that he had threatened to cut off funds to the institution. He went on to praise "Montgomery authorities... for the manner in which they handled themselves" and white citizens for their "tolerance and restraint" The Governor refused to comment on the bat-carrying men, saying "that was a matter for city officials" (A.J., February 29).

13. On Tuesday, March 1, about a thousand of the students (over half of the student body) marched to the steps of the State Capitol. It was Mardi Gras Day, which is a legal holiday in Protestant Montgomery that has none of pre-Mardi Gras carnival spirit of New Orleans or Mobile. Near the spot where the statue of Jefferson Davis stands, one of the coeds sang "The Lords' Prayer" which was followed by the singing of the "Star Spangled Banner" by the whole group. They, subsequently, marched back to the campus for a brief rally where they chanted: "Can't go to Bama, we go to Auburn." Translated this meant, that if the students were expelled from the all-Negro Alabama State College they would enroll at one of the all-white institutions, such as Auburn University. The newspaper accounts mentioned the orderliness and discipline of the students' actions. State's Attorney General, MacDonald Gallion, termed the march of the students to the Capitol as "highly dangerous and inflammatory," making no comment on the right of the students to assemble and demonstrate peaceably.

14. The MIA sought without success to discuss the local racial situation with the City Commission.

15. On Wednesday, March 2, the State Board of Education, on the Governor's motion, ordered the expulsion of nine of the Alabama State Students who had been involved in the courthouse lunch counter incident of February 25. Twenty others were placed on probation. None of them was given a hearing. President Trenholm's recommendation to the Board, that no student be expelled but all should be placed on probation, was brushed aside. (M.A., March 3).

16. The students in a mass meeting that night, voted to remain away from classes until the nine who had been "kicked out" should be re-instated. The Rev. Mr. Abernathy of the MIA termed the Governor's order: "one of the greatest blunders in the history of education in Alabama."

17. The MIA pledged support to the students and condemned the police department, its Commissioner and Chief "for permitting white men with bats to patrol the streets without being arrested";

also urging that a bi-racial committee be set up "to curb violence and solve the many problems between the races."
(M.A., March 3).

18. The American Veterans Committee asked U.S. Attorney General William P. Rogers to look into the Montgomery situation.

19. In an editorial on March 3, the Montgomery Advertiser referred to the students who had voted to strike as "rash, misled young Negroes" and attacked the nine students who had been expelled as "joining with white thugs to menace the public safety in Montgomery." The Alabama Journal called the students "misguided," "puerile," "reckless" and "childish"; continuing then, to its usual attack upon the Rev. Dr. Martin Luther King Jr., and the Rev. Ralph D. Abernathy as the instigators and guides of the protest.

20. The beginning of the students' boycott fell on the first day of the winter quarter's examination. After much pleading and reconsideration, they voted to suspend the strike until the exams were concluded, resolving instead, not to complete their registration for the ensuing quarter until further notice came from their leaders. As part of the pressure to "persuade" the students to complete their registration, the college abandoned its usual practice of permitting everyone to continue to eat during the first week of the new quarter, which was known as the "week of grace". Accordingly, the college issued temporary meal tickets that were given only to those students who had begun the process of registration and who would pick them up that Saturday, March 12, the first day after the Winter Quarter ended. All students who did not pick up their meal tickets - because of their loyalty to the boycott or because they were off campus that day or found it inconvenient to stand in the slow-moving line most of the day - just did not get any meal ticket at all until the permanent meal books were issued about three weeks later. This meant that approximately 300 students were excluded from the dining hall for this period and had to feed themselves. College administrative officers appeared to be particularly indifferent to students even when they had their receipts in hands but had

applied for their temporary meal tickets after the designated date for the ticket pickups.

21. The college also insisted upon a technicality, that may had been upon the books for some time but no one could remember when it had ever been enforced before: that is, requiring a "credential" sheet before permitting the registering student to pay his bill. Again the slow processes of the college and frequently the mis-information given out by the clerks caused some students to miss getting under the wire.

22. On Friday night, March 4 at one of the numerous student mass meetings, the Rev. Mr. Abernathy announced that the congregations of Negro churches would march to the Capitol steps at 1:30 p.m. Sunday for a prayer meeting (M.A., March 5). The next afternoon, Commissioner Sullivan countered this, stating: "In view of the situation that exists in Montgomery, if the Negroes persist in flaunting their arrogance and defiance by congregating at the Capitol Sunday, the police will... take whatever action that might be necessary to disperse them." (M.A.-J., Mar. 6).

23. The Negroes did not cancel their plans. State, County and City police were out in force long before the appointed hour for the prayer service. Negroes were not permitted to assemble on the Capitol grounds but whites were. Thus, the former would have to oust the latter if the original plans were to be followed. Accordingly, the Negroes first assembled in the Dexter Avenue Baptist Church, which is adjacent to the Capitol grounds and then made their move to march ~~across~~ the streets. They were lead by Father Robert E. DuBose and the Rev. Mr. Abernathy. The Negro marchers were met by a police cordon in the center of the street and pushed back on the sidewalk and steps of the Dexter church. Meanwhile, fire trucks were driven up and their hoses (but no water) were turned toward the Negroes to hold them back.

24. When the white crowd attempted at this point to break after the Negroes, the police held fast and pushed the white crowd back. This act of impartial protection served as the rallying point for most elements in the white community. The State, County and City officials, editors, writers of letters to papers - all **praised** the police for maintaining law and order though in fact, the Negroes had been prevented from having their meeting on the Capitol grounds and only by sheer determination had carried out their exercises on the steps and sidewalks of the church. Previously, Negroes as well as whites had held Sunday mass meetings on the capitol grounds. For Easter, 1958, ex-Governor Folsom had his state troopers present in order to protect those who had assembled there from would-be molesters.

25. Numerous eye-witnesses attest to the use of police power to break the Negro demonstration and that there were many cars filled with whites and which bore license tags from various counties of the state - and a few from out of the state. There was large number of whites (no Negroes) who were deputized and some others who were apparently self-deputized. As one letter to the editor put it: "there were carloads of people from Jefferson, Tuscaloosa, Tallapoosa, Lee and Elmore counties and they were not there for their health." (M.A., March 9).

26. Thus an identity of interest of the law enforcing agencies and the white crowd was realized and further suggested in the plea of the chief law officer that "we do not need your help."

27. While City, State, and County officials congratulated each other, white persons and civic organizations did likewise. The Negroes were condemned. One headline read: "(MAYOR) JAMES FLAYS AGITATORS."

28. On March 8, the Montgomery Advertiser had two editorials on the great Sunday affair. In one of these it had the principal facts wrong and on the basis of these errors ridiculed the Rev. Mr. Abernathy for inviting State Safety Director, Floyd Mann, to the pulpit so that he could tell the frightened Negroes how to slip out of the church and get home.

The truth is, Mann's conversation was not with Abernathy, but with Father DuBose and came on Mann's initiative. Du Bose did not invite him to take the pulpit, but to come to the front of the church if he had anything to say to the people there. He declined this invitation, choosing instead to pass on his suggestion to Father DuBose that the people should leave the church in small groups rather than in one big march.

29. The other Advertiser editorial was fulsome in its compliments to "Police Commissioner Sullivan, Sheriff MacButler, Public Safety Director Mann."

30. The articulate white community now was re-united. The split over the batmen was now closed. The power of the law enforcing agencies and the press could be concentrated on the students, who would increasingly get a bad press. The state, county and municipal police would be mobilized fully. The white mob, all agreed, "would not be needed."

31. Monday, March 7, began the student boycott of registration and classes. The situation may be confusing to outsiders in that pre-registration takes place during the previous quarter and many students were already at some point in the labyrinthine process. However, it was clear that a large number of students were not in any hurry to get back in school. On the other hand, the administration, understandably, was attempting to force the defiant and reluctant undergraduates by warnings and pressures of various kinds. The majority of the students appeared to be listening more to the expelled students leaders than they were to the administrative authorities.

32. On Tuesday morning, March 8, the students made another move. They began to march about the campus with placards, prior to marching off to one of their mass meetings at a church about three blocks from the campus. The superintendent of buildings and grounds at the college, with the support of one of the campus guards who fired into the air, forceably stopped the campus parade. Only the dedication of the students to non-violence saved the superintendent from being manhandled. When he pushed one of the coeds it was difficult to restrain some of

the young men. Finally, the superintendent said: "If you want to demonstrate, get off the campus, go over there, across the street." After a few moments of consultation among themselves, this is what the students did, deciding to march on with their signs to their meeting. Meanwhile, the police had been called.

33. Accordingly, no sooner were those in the forefront of the parade a half block from the campus when they were intercepted by police, who blocked off the leaders with the placards from their followers. As the fifty-odd young men and women stood, quietly obeying the orders of the police to move back from the sidewalks, etc., one robust officer, in his shirt-sleeves, raised his club at the students and said: "I want the meanest nigger in the crowd to step out." He repeated it.

34. In a few moments the whole block was filled with State, County and City police. They came in squad cars, official cars, on motorcycles and brought along special equipment. Some were armed with carbines, sub-machine guns, cans of tear gas and two with drawn rifles. The city police, of course, had their regular clubs and pistols.

35. After a while, the patrol wagon, known as the "Black Maria" rolled up. The male students were frisked, called a few names and loaded up. The placards were loaded too. Then a policeman called out, "Five of you nigger gals git in here," pointing to the back seat of one of the police cars. A woman teacher at the college, standing nearby, said to the girls: "Don't all of you pile up on top of each other. Let them get another car for you." She was promptly arrested.

36. While the arrests were being made, the campus superintendent took the loud speaker and spoke to the students, some of whom had been stopped as they were following their leaders. He said: "You know you have done wrong; broken the law, get back on the campus." The police were there to enforce his order and the students retired just across the street to the school grounds, remaining in numbers --the whole student body was out by now.

37. The police lined themselves up, shoulder to shoulder, across the street opposite the campus, occasionally darting after a student who, coming up from the city and not knowing what was going on, might by chance go through "no man's land" between the State Campus and the streets. One young man, who passed and happened to have a briefcase, apparently walked too close to the police line. For this, he was accosted, termed "a smart nigger" and made to open his briefcase for searching. After a while, the collegians began to sing their song: "We Are Not Afraid."

38. After a half hour or so of this stalemate, the cops began to disperse, the students laughing or applauding the blue coats as they made some awkward move or their exit.

39. The next morning's headlines read: "CITY POLICE ARREST NEGRO AGITATORS FOR DEMONSTRATION."

40. On Wednesday, the next day, the police were fully prepared for the larger student exercise of their Constitutional rights that was expected. The law enforcing agencies augmented their strength by assembling in Oak Park, about 5 blocks from the campus, a small army of regular and deputy forces, including horses, trucks and other equipment. This outfit was discovered by students and photographers. When the white newspapermen attempted to get a good look at this extraordinary force and take pictures of it, they were prevented from doing so. "Five cursing, club-bearing men from the group of about fifty" surrounded two cameramen and a reporter, roughed them up, threatened with pistols and snatched a camera out of the hands of one of the photographers. A police sergeant sat in a car nearby, indifferent to the pleas of the newspapermen for help. (A.J., March 9). Nevertheless, one picture of the assemblage was made through the windshield of a car and did appear on page two of the A. J., March 9.

41. One day later, the students put on their demonstration. The police, however, quickly came up and took their places across the street from the school, ready to intercept the demonstrators and their placards the moment they left State

property and set foot in the city.

42. Apparently, the continued demonstrations of the undergraduates was most annoying to those in power. The afternoon paper for March 10th read: "SULLIVAN REQUESTS CLOSING OF ASC." In response to this, the Governor asked the State School Superintendent to make a "full investigation of the school, faculty and students." Apparently, the inquiry had already begun, for State investigators, for the past two days, had been moving in and out of offices on the campus; stopping and questioning students and taking pictures of them. These detectives attended all meetings - student or otherwise - even those that were held in churches off campus. The college administration never gave the faculty and students any explanation as to their rights and obligations with reference to the investigation. Some of the student leaders explained to their followers that they did not have to answer to the questions of every white Tom, Dick or Harry who came on the campus with a camera and a notebook.

43. Complaints against all this were not only heard on the campus but throughout the Negro community. The Rev. Dr. Martin Luther King, Jr. who had come back to the State in connection with his indictment on a charge of perjury in making out his State income-tax returns, wired President Eisenhower (March 9):

"A reign of terror has broken out in Montgomery, Alabama. Gestapo-like methods are being used by police and city authorities to intimidate Negroes who have been pursuing peaceful and nonviolent techniques to achieve their moral and constitutional rights. While students of Alabama State College were convened in an orderly protest on their campus, city officials and police launched an incredible assault, and infiltrated the college campus with police armed with rifles, shot guns, and tear gas. Yesterday they arrested more than thirty-five students, a faculty member, and a physician. Today, they had numerous trucks parked not far from the campus with the threat of arresting the entire student body.

"Police are parading in front of churches. They inhibit the holding of meetings and religious services. They have actually physically intruded themselves into these religious services. Yesterday, a bishop was conducting a church meeting when police invaded the meeting in a raid. Telephones are being tapped and telephone lines of Negro leaders are left disconnected so that they cannot make nor receive calls. This calculated and provocative conduct of the police backed by the municipal

and state authorities leads inescapably to the conclusion that they are trying to incite a riot in the hope that the responsibility for the injuries and deaths that might result will be fastened on the Negroes.

"The Negro community and students cannot permit themselves to be intimidated. They will not turn away from their pursuit of justice. They must and will pursue their righteous and nonviolent course. Lest bloodshed stains the streets of America we ask that the American people through you be made aware of the brutal and flagrant violation of constitutional rights.

"Mr. President, we appeal to you to intervene by instructing the Attorney General to take immediate action in your name to restore law and order in the Capital of Ala. We are prepared to go with the Attorney General into the federal court for injunctive relief. We appeal to you to urge the city authorities to put down their guns, to garage their vehicles of aggression. We are unarmed and dedicated to nonviolence. Though determined to resist evil, we pray that no harm may come either to our people or to those who oppress us. Though it appears that the aggressors may unleash worse violence against us no matter how restrained our conduct, may God help us to maintain our endurance against provocations. We are conscious of the many pressing duties of your office, but we feel this terror which grips a whole community in an American city violating elementary constitutional rights requires immediate federal emergency action. Our concern for the honor of the nation which we love despite our suffering, impels us to make this public outcry and appeal for justice and human decency."

Martin Luther King, Jr., President
Southern Christian Leadership Conf.

44. The Advertiser (March 11) buried at bottom of page two, the requests by Congressman Charles C. Diggs and Roy Wilkins that the federal government investigate the violation of civil rights in Montgomery. Diggs told Atty General William P. Rogers that:

Local law enforcement agencies are helping to create an atmosphere of tyranny and terror through police-state methods...The objective of these agencies seems to be to prevent peaceful assembly of Negro students and other people interested in non-violent protest demonstrations against the denial of civil rights.

45. Wilkins said in a telegram to President Eisenhower
Montgomery Negroes "are suffering arbitrary deprivation of their rights in a climate of terror....Freedom of speech, and assembly and of peaceful redress of grievances all have been ruthlessly suppressed by Alabama authorities from Gov. Patterson on down to local constables."

46. On Thursday night, March 10, at a mass meeting on the college campus into which the State investigators intruded, the students called off their boycott of registration and classes.

47. On Friday, March 11, began the trials of the thirty-seven students and one teacher who had been arrested on the previous Tuesday. The public was barred from the small city courtroom.

48. At the trial, the students' attorneys argued that the prosecution had to establish definite action on the part of each individual who was charged with violating the law. However, the court ruled that as long as it could be shown that the defendant was a member of a group that violated a law, he would be responsible for the violation. Under cross-examination it was argued that the police, even with the notes and the photographs that they used in a side room to "refresh their memories" could not be sure as to which student said what or carried what particular placard.

49. The decision of the court fell heavy upon the defendants. Aside from the two students who happened to be sitting on the front porch of the house in front of which the demonstrators were stopped, all ~~were~~ found guilty of both charges, disorderly conduct and refusing to obey an officer, given a lecture and fined two-hundred dollars and the costs of court. Since it was clear that the teacher who had been arrested was not a party to the demonstration, she was let off with a token fine of ten dollars and her husband, who had been arrested when he appeared at the police headquarters to see about her, was fined one dollar.

50. The prosecution asserted that the police had told the students to "disperse" and when the students failed to do so, then they were arrested. Eye-witnesses who were within twenty-five or thirty feet of the arresting scene, testified that they heard no policeman say "disperse" or its equivalent to the students; rather the cops simply stopped them, pushed them back to the sidewalks and when the Black Maria arrived, loaded

them up. Moreover, when one of the witnesses testified that the police Captain in shirt sleeves, pointed his club at the students and said: "I want the meanest nigger in the crowd to step out," the Captain, who was in the court, seemed to nod his head as though he was saying "Yes, I said it". Nobody reprimanded the Captain. He was not re-assigned, for a few days afterwards, he was moving about on the periphery of the campus.

51. Throughout the city the complaints of harassment increased. A twenty-two year old Negro airman was accosted at a bus station one morning at 4:45 a.m. The Alabama Journal, giving the version of the police, reported that he was asked what he was doing there at that hour and replied, "none of your damn business," attacking the policeman, knocking his gun to the ground, grabbing it and firing it. Another officer came along and arrested the airman as he was in a booth telephoning. The next morning's paper added the line that after the airman had been booked, he resisted and had to be subdued (M.A., March 10). Actually, the airman had to be hospitalized. At his trial, he testified that five policemen beat him and that another one said to him: "You're a lucky nigger. They should have done more to you."

52. In the Alabama Journal, March 9, was a vicious attack upon Negro leadership, students and Alabama State College. It called for the dismissal of President Trenholm, charging him with sympathy for the "Negro student agitators" and called for his replacement by someone "who will make his students obey Alabama laws." This lengthy letter to the editor was signed by "John Q. Citizen?"

53. A white professor of local Huntingdon College and a Negro man were arrested early one morning in the same car. The professor explained that he was taking the man home from a party at the professor's house where the Negro had served as a butler. Apparently, the police were unconvinced.

54. The Alabama Journal for March 16, printed a story that enrollment at ASC was down by 300. Most of these were students who failed to make the deadline after the student

strike had been called off.

55. The general mobilization of forces to crush the student activities continued. A staff writer for the Montgomery Advertiser reported, March 17, in a feature article that: "SELMA'S MOUNTED POSSE READY". In order to prevent there, "what happened in Montgomery", some fifty-two horsemen; reinforced by twenty-five others on call and by five-hundred special deputies. The television news programs showed the mounted posse riding about the city.

56. The Alabama Journal of March 21 reported that: "EXPELLED ASC STUDENT CHARGED AS VAGRANT." This was Bernard Lee, who according to the news story, was arrested "while he was in a car with the wife of Rev. Ralph D. Abernathy." Moreover, Lee was a part-time worker in the cleaning and pressing business of his father-in-law and was just a few weeks out of school.

57. Others of the expellees were constantly watched, followed wherever they went, often stopped and searched and occasionally arrested by the police. Two of them reported that the policemen would not only call them insulting names but would attempt to provoke them by kicking their heels or stepping on their feet or bumping and pushing them about.

58. Such physical harassment was not confined to the college. The Negro community generally was under such pressure. For example, one evening Lawrence Johnson parked his car on a downtown street in front of a newsstand-bookstore, in order to pick up papers and magazines. When he came back to the car, two policemen stopped him, searched him, made his wife get out of the car and searched it. One of the policemen told him that when a policeman stops you, you're supposed to take out your license and show it. Johnson answered that "you didn't ask me for it." This irritated the officer who called Johnson "a smart nigger" and used other vulgar and profane expressions. Johnson pleaded with the officers "to respect my wife even if you don't respect me." One of them answered: "I don't respect any niggers."

59. On the night of April 11, the Rev. B. D. Lambert was having a Holy Week Service at the Maggie Street Baptist Church. Policemen came up and searched his and several other cars that were parked outside of the church, questioned persons who were leaving the services and after the Rev. Mr. Lambert started home he was stopped and both he and his wife questioned.

60. A professor of Sociology from Tuskegee, Dr. Lewis Wade Jones, visited Alabama State College. Near the campus he was stopped by policemen, made to get out of his car while it was being searched. Meanwhile, one of the policemen commented continually. He asked Jones if he had any firearms in the car, adding that he hoped nobody would be foolish enough to bring any guns in. He went on to say that when he was a student in school whenever he was absent, he had to bring a written excuse. After the search was concluded, Dr. Jones felt that he ought to make some reply, so he ventured the mild observation that: "The purpose of a college is to teach." The policeman thundered back: "Teach what? Communism?"

61. About this same time, a group of Negro women were having their club meeting at 1806 Cleveland Avenue. Just as the chaplain opened the meeting with prayer, a policeman, who had come up the steps on the porch, stuck his head in the door and took a slow look around at things and without saying a word to anybody, closed the door and left.

61. Several houses had been shot into, occasionally with BB guns.

62. A headline in the Alabama Journal, March 22, reported that "CITY ADOPTS 3 ORDINANCES TO KEEP PEACE" with the sub-lead: "Power to Curb Demonstrations Given Police." One of the new laws prohibited all demonstrations, parades, processions, etc. except funerals. The second law authorizes owners and managers of eating establishments to evict "trespassers". The third broadens the definition of disorderly conduct to cover almost every imaginable possibility of individual or group action that may be remotely interpreted as a breach of the peace.

63. While the city commission was working out the new laws, the students attempted to utilize peacefully their constitutional rights. Several of them went down to the University of Alabama Center in Montgomery and applied for enrollment; four more came the next day and before the week was out, a total of 13 had filed. At first the school authorities called the police but sent them away.

64. The Alabama Journal for March 23 announced that siren loudspeakers were placed on several of the city cars "to be used for crowd control in event of civil disturbances."

65. An editorial in the Alabama Journal for March 24 denounced Negro students and teachers, such as the one at ASC and Tuskegee, and Negro preachers but praised "friendly", "upright" businessmen.

66. The State Board of Education that met Friday, March 25, "demanded the firing of any faculty member of Alabama State College who encouraged student protests." This action was taken on the motion of the Governor who commented further that Dr. Trenholm "must straighten out the situation at Alabama State or the school board will find someone who can." The State Superintendent reported that his investigation had revealed "at least 11 members of the faculty have not been loyal to the school" and that three of them "participated in the demonstration near the Capitol Sunday afternoon, March 6." The Governor added that pamphlets (of CORE) instructing students in the conduct of sit-in demonstrations, had been distributed on the college campus. Nobody on the campus could be found who had seen any such pamphlets. The next morning's paper covered the same story under the double column lead: "STATE BOARD ORDER: TRENHOLM PLANS PURGE OF 'DISLOYAL' FACULTY."

67. About the same time, a hundred students who had not met the registration deadline of March 14, and had been still negotiating to remain at the college, were ordered from the campus. Their fellow students staged a one-day boycott of classes for this.

68. On March 31, Professor R. D. Nesmith and ten of his

students in Sociology from Macmurray College, Jacksonville, Ill. were visiting Montgomery as a part of their annual field trip. As the students with their professor, his wife and their two and a half year old baby were chatting over a lunch of fried chicken with Rev. S.S. Seay, Executive Secretary of the M.I.A., Rev. E. B. Dubose, Episcopal minister, Rev. Ed. King and several Negro college students, the Montgomery Chief of Police, leading a dozen or more city policemen, plain clothes detectives and state policemen, invaded the premises of the Negro restaurant and hauled the twenty diners down to the city jail. Mrs. Nesmith's baby was taken from her and handed over to a jail-house matron when the mother and father were locked up. Immediately after the arrest, inspectors appeared at the restaurant and found that it was a health hazard and closed it down. A few days later, its liquor license was lifted (A.J., April 9).

69. The next day when the defendants were brought to court, they had to face charges of disorderly conduct, "calculated to breach the peace."

70. Everybody was found guilty. Most of the whites were fined fifty dollars and costs while most of the Negroes one hundred dollars. Some of the white students declared that they would rather serve jail sentences than pay a fine for doing what they consider within the rights of all American citizens.

71. All of the above developments have created and continue to create an atmosphere of terror and intimidation which deters and prohibits Negro citizens of Montgomery from exercising their constitutional rights in their attempt to achieve equality and dignity under the law and Constitution.

Respectfully submitted,

Sworn to and subscribed
before me this day
of February, 1961.

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Civil Action
File No. _____

RALPH D. ABERNATHY, J.E. LOWERY,
S.S. SEAY, SR., and FRED L.
SHUTTLESWORTH,

Plaintiffs,

v.

JOHN PATTERSON, individually and as
Governor of Alabama, EARL JAMES,
individually and as Mayor of Mont-
gomery, L.B. SULLIVAN, individually
and as Commissioner of Police of
Montgomery, FRANK PARKS, individ-
ually and as Commissioner of Public
Affairs of Montgomery, MAC SIM
BUTLER, individually and as Sheriff
of Montgomery County, RAY D. BRIDGES,
individually and as Sheriff of
Mobile County, HOLT A. McDOWELL,
individually and as Sheriff of
Jefferson County, and WILMER SHIELDS
individually and as Sheriff of
Marengo County,

Defendants.

AFFIDAVIT

Law Offices:
CHARLES S. CONLEY
530 South Union Street, Suite A
Montgomery 4, Alabama

DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RALPH D. ABERNATHY, J.E. LOWERY)
S.S. SEAY, SR., and FRED L.)
SHUTTLESWORTH,)

Plaintiffs,)

vs.)

Civil Action

File No. _____

JOHN PATTERSON, individually and)
as Governor of Alabama, EARL)
JAMES, individually and as)
Mayor of Montgomery, L.B.)
SULLIVAN, individually and as)
Commissioner of Police of)
Montgomery, FRANK PARKS, in-)
dividually and as Commissioner)
of Public Affairs of Montgomery,)
MAC SIM BUTLER, individually and)
as Sheriff of Montgomery County,)
RAY D. BRIDGES, individually)
and as Sheriff of Mobile County,)
HOLT A. McDOWELL, individually)
and as Sheriff of Jefferson)
County, and WILMER SHIELDS,)
individually and as Sheriff of)
Marengo County,)

COMPLAINT

Defendants.)

The plaintiffs, Ralph D. Abernathy, J. E. Lowery,
S.S. Seay, Sr., and Fred L. Shuttlesworth, say:

1. The plaintiff, Ralph D. Abernathy, is a citizen of the United States over the age of 21 and resides in the City of Montgomery, Alabama. He is an ordained minister and pastor of the First Baptist Church of Montgomery and is president of the Montgomery Improvement Association, Inc., an organization functioning in the City of Montgomery devoted to the achievement of equality of treatment for members of the Negro race under the Constitution of the United States and through the Christian and non-violent approach.

2. The plaintiff, J.E. Lowery, is a citizen of the United States over the age of 21 residing in Mobile, Alabama. He is an ordained minister and is the pastor of Warren Street Methodist Church and president of the Alabama Civic Affairs Association, an organization functioning in the State of Alabama, devoted to similar aims as those stated above.

3. The plaintiff, S.S. Seay, Sr., is a citizen of the

United States over the age of 21, residing in Montgomery, Alabama. He is an ordained minister and pastor of Rogers Chapel A.M.E.Z. Church. He is executive secretary of the Montgomery Improvement Association, Inc., whose purpose is as stated above.

4. The plaintiff, Fred L. Shuttlesworth, is a citizen of the United States over the age of 21, residing in Birmingham, Alabama. He is an ordained minister and pastor of Bethel Baptist Church, and is founder and president of the Alabama Christian Movement for Human Rights, an organization similarly devoted to the objectives stated above.

5. All of the plaintiffs are associated with and are members of the executive committee of the Southern Christian Leadership Conference, a South-wide organization of religious leaders devoted to the Christian and non-violent achievement of the foregoing objectives.

6. Each of the plaintiffs herein belongs to that class of persons commonly referred to and designated as Negroes.

7. The defendant, John Patterson, is a citizen of the United States over the age of 21 and is a resident of and the Governor of the State of Alabama.

8. The defendant, Earl James, is a citizen of the United States over the age of 21 and is a resident of and the Mayor and a member of the Board of Commissioners of the City of Montgomery. The Board of Commissioners is the highest executive organ of the City of Montgomery.

9. The defendant, L. B. Sullivan, is a citizen of the United States over the age of 21, a resident of the City of Montgomery, and a member of the Board of Commissioners, having specific responsibility as Commissioner of Police.

10. The defendant, Frank Parks, is a citizen of the United States over the age of 21, and is a resident of the City of Montgomery, and a member of the Board of Commissioners, charged with responsibility for Public Affairs.

11. The defendants, Mac Sim Butler, Ray D. Bridges, Holt A. McDowell, and Wilmer Shields, are respectively the Sheriffs of Montgomery, Mobile, Jefferson and Marengo Counties in the State of

Alabama, and as such it is their duty to execute and return the process and orders of the courts of record of the State of Alabama under the authority of the statutes of the said State.

12. Each of the above defendants is being sued in his individual and official capacities.

13. This is a suit of a civil nature to redress the deprivation under color of state law, statutes, ordinances, regulations, custom or usage, of rights, privileges and immunities secured by the Constitution of the United States and by Acts of Congress providing for equal rights of citizens and all persons within the jurisdiction of the United States.

14. Jurisdiction is conferred on this Court under the provisions of 28 U.S.C.A. §1331(a), which provides as follows:

"The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States.";

and under 28 U.S.C.A. §§1343(3) and (4), which provide as follows:

"The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

"(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.";

and under 42 U.S.C.A. §1983, which provides as follows:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.";

and under 42 U.S.C.A. §1985(3), which provides as follows:

"If two or more persons in any State or Territory conspire ... for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the law, or of equal privileges and immunities under the laws; ... in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in

furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.";

and under the Constitution of the United States, Article IV, Section 2, and the 13th, 14th and 15th Amendments thereto.

15. The matter in controversy exceeds the sum or value of \$10,000 exclusive of interest and costs.

16. Each of the plaintiffs individually and through his association with the organizations hereinabove named and in association with other persons throughout the State of Alabama and the United States, under the spiritual leadership of the Reverend Martin Luther King, Jr., has for some time sought to advance the equality of treatment of members of the Negro race through Christian and non-violent constitutional means. Accordingly, the purpose of the plaintiffs, individually, and the associations they have been identified with as leaders, has been to achieve for themselves individually and for the Negro citizens of this State and the country the full enjoyment of the privileges and immunities guaranteed to all citizens under the provisions of the Constitution of the United States. Attached hereto and made a part hereof as Exhibit A is a copy of the official program of the Montgomery Improvement Association, Inc., the contents of which are incorporated herein as if stated in full.

17. In pursuance of the foregoing objectives, the plaintiffs, their supporters and others with whom they have been associated, have sought to rely on the utilization of educational processes, the various media of press and speech, the right to assembly, and the right to petition for redress of grievances and the peaceful assertion of constitutional rights, all of which means of achieving the above objectives are guaranteed by the Constitution of the United States to all citizens regardless of color or creed and are privileges flowing from national citizenship.

18. In or about February 1960, several of the defendants and divers other co-conspirators, the names of whom are to the plaintiffs presently unknown, entered into a conspiracy, individually

and under the authority of their offices, to prevent the plaintiffs and others from accomplishing their objectives as aforesaid and to deprive the plaintiffs and others of the equal protection of the laws and of their equal privileges and immunities under the laws and from exercising their rights and privileges as citizens of the United States, and to deprive them of their rights, privileges and immunities secured by the Constitution and laws of the United States and entered into a conspiracy to deprive the plaintiffs of their rights to access to a free press, free speech and peaceful assembly as well as the right to petition for redress of grievances guaranteed to them under the 1st Amendment of the Constitution, as incorporated in the 14th Amendment thereto. See affidavit, incorporated herein.

19. Pursuant to the above stated rights, several Negro students of the Alabama State College, in or about February 1960, responding to the spiritual inspiration and leadership of the plaintiffs and others, entered the lunchroom located in the Montgomery County Court House and peaceably sat down therein to order food. The said lunchroom, notwithstanding its location in the Court House, is normally used only by white persons. Service of food was refused to said students solely because they were Negroes. The persons then in charge of the lunchroom promptly closed the counter and the students seeking to be served were required to move out to the corridor of the Montgomery County Court House. While the said students were in the corridor, persons who identified themselves as being associated with the office of the defendant Patterson, together with a Montgomery City policeman, arrived and took photographs of each of the persons there present.

20. Following this infringement upon their constitutional rights, the students, when they sought, under the spiritual guidance of certain of the plaintiffs herein, to exercise their constitutional rights of peaceful assembly on the steps of the State Capitol and to hold a brief religious devotional service, the defendants herein and in particular the defendant Patterson, utilizing his authority as Governor of Alabama and ex officio chairman of the Board of Education of Alabama, directed that student-participants in the aforesaid attempted exercise of constitutional rights be forthwith

expelled from Alabama State College and deprived of an opportunity to education. The expulsions have had the practical effect of deterring and prohibiting these students and all Negro citizens of the State of Alabama, including the plaintiffs herein, from exercising their rights to access to a free press, freedom of speech, freedom of religion, and the right to petition for redress of grievances, all of which are protected by the Constitution of the United States.

21. On or about Sunday, March 6, 1960, the plaintiff Abernathy, together with numbers of other clergymen and approximately 1,000 persons, sought peaceably to hold a prayer meeting on the steps of the State Capitol to pray for the students who had been expelled from Alabama State College. Pursuant thereto said plaintiff Abernathy and others assembled at the Dexter Avenue Baptist Church in Montgomery. Thereafter, the Police Commissioner of Montgomery, acting in concert with the other defendants and divers persons presently unknown to the plaintiffs, directed his officers to prevent the plaintiff Abernathy and others from proceeding to the Capitol, aimed fire hoses at such persons, and directed those there assembled at the Church to leave in groups of not more than twelve, thereby depriving certain of the plaintiffs and their supporters from exercising their right peaceably to assemble, to petition for redress of grievances, and to worship, as guaranteed by the Constitution of the United States. These actions of the defendants have had the practical effect of deterring and prohibiting the plaintiffs and the Negro citizens of Montgomery and of the State of Alabama from exercising their constitutional rights as above described.

22. On the said Sunday, several hundred white citizens of Montgomery and adjacent communities, in the presence of the police, openly threatened violence against the plaintiff Abernathy and others. The said white citizens had assembled there initially without being restrained by the Montgomery Police Commissioner, with arms and brickbats to threaten violence upon the plaintiff Abernathy and those assembled with him, thus deterring and prohibiting the plaintiffs and the Negro citizens of Montgomery and of the State of

Alabama from exercising the rights guaranteed to them by the Constitution of the United States of America.

23. On and after March 8, 1960, the police, while responsible to the defendants herein, and under the color of ordinance thereafter enacted by certain of said defendants, proceeded to break up all demonstrations against segregation, however peaceable, and pursuant thereto, they there and then instituted actions under their direction, designed to intimidate and deter Negro citizens of Montgomery and the State of Alabama from exercising any or all of the rights guaranteed to them under the Constitution and the laws of the United States in order to achieve the objective of equality under the law, likewise guaranteed by the Constitution and laws of the United States. These actions of the defendants continue until this day, creating at the present time in the City of Montgomery and the State of Alabama an atmosphere which effectively frustrates the utilization of constitutional rights by the plaintiffs and the Negro citizens of the State.

24. On or about March 29, 1960, supporters of the plaintiffs and the movement for equality which they lead, on their own, and pursuant to their own responsibility, utilizing the channel of a free press, inserted in the NEW YORK TIMES, a newspaper of national and international reputation, a paid advertisement signed by approximately 64 prominent Americans from all walks of life, a copy of which advertisement is annexed hereto and made a part hereof as Exhibit B. This advertisement expressed the opinions, criticisms and comments of these prominent Americans on the developments in the City of Montgomery and the State of Alabama, as described above, for the purpose of:-

a) Educating the general public on important social and political issues in the free market place of ideas;

b) Soliciting support for the defense of the Reverend Martin Luther King, Jr., a leader of the movement in which the plaintiffs participate as active leaders, in a then pending criminal prosecution brought by the State of Alabama against the Reverend Dr. King;

c) Soliciting support for the plaintiffs herein and their supporters in their peaceful activities for the enforcement of

their right to vote, as guaranteed by the 15th Amendment to the Federal Constitution; and

d) Soliciting support for the Negro students of the City of Montgomery and the Negro citizens of that city and the plaintiffs herein in their peaceful efforts to end segregation and achieve the constitutional promise of equality before the law.

25. The defendants herein at some time thereafter conspired and planned under the color of law and utilizing their official positions as well as the judicial machinery of the State, to deter and prohibit the plaintiffs and their supporters as set forth above, from utilizing their constitutional rights and in particular their right to access to a free press, by instituting fraudulent actions in libel against the plaintiffs, without any basis in law or fact, in the Alabama State courts, arising out of the aforesaid advertisement. Said libel actions were also against the NEW YORK TIMES.

26. Pursuant to the above described conspiracies, the defendants Patterson, James, Sullivan and Parks have instituted actions in libel against the plaintiffs, as a result of which fraudulent judgments, without any basis in law or fact, have been awarded to the defendant Sullivan, the Police Commissioner, and to the defendant James, the Mayor of the City of Montgomery, in the amount of \$500,000 each in the Circuit Court for Montgomery County, Alabama, and which judgments represent the highest ever awarded in libel actions in the State of Alabama. As a result of the fraudulent and extraordinarily high judgments, plaintiffs are required under Alabama law, to post supersedeas bonds in the amount of \$1,000,000 each, thereby making it absolutely impossible for the plaintiffs to avail themselves of the rights usually afforded to other citizens under the Alabama statute to obtain a stay of execution pending their exercise of the statutory right to appeal.

27. The judgments rendered in the two cases already tried, are null and void and deprive the plaintiffs of their constitutional rights and serve to actively deter and discourage the plaintiffs, their supporters and other Negro citizens of the City of Montgomery and State of Alabama from exercising constitutional

rights of freedom of speech, press and assembly, secured to them by the First Amendment, as incorporated into the 14th Amendment.

28. These judgments awarded to the defendants Sullivan and James of \$500,000 each are null and void for the following additional reasons, among others:

a) The actions represent a concerted effort on the part of the defendants named herein, all of whom are State officers and who are acting under color of State law, without any foundation in law or fact, to punish individual citizens for the exercise of constitutional rights, and particularly for the exercise of the right to comment upon matters of grave social and political importance, which rights are particularly protected by the 1st Amendment as incorporated in the 14th Amendment.

b) The jury verdicts are null and void as violative of the 14th Amendment to the United States Constitution and, in particular, Section 1 of the 14th Amendment, in violation of the due process clause and the equal protection clause of the said Amendment as well as the 13th Amendment, in that the actions were tried in a courtroom in which segregation of Negro and white citizens was enforced pursuant to the specific orders of the presiding judge, over the objection of counsel for the plaintiffs herein. See Exhibits attached to Affidavit of counsel.

29. The verdicts were null and void and violative of the due process and equal protection clauses of the 14th Amendment in that the defendants in those actions were unable to obtain a fair and impartial trial because of the highly prejudicial atmosphere in the community, an atmosphere developed to a great degree by the defendants herein, for the following reasons:

a) The year 1961 has been officially proclaimed and designated by Proclamation of the Governor of Alabama, one of the defendants herein, as the "Centennial Year" commemorating the outbreak of and events pertaining to the rebellion of 1861. Montgomery, Alabama has been designated and referred to as the "Cradle of the Confederacy", and as such, the Montgomery community has evidenced widespread and intense interest in such centennial commemoration as

above referred to, which has manifested itself by male members of the community growing beards and affecting a tie suggestive and commemorative of the mode and fashion of dress prevalent during the era embracing the year 1961; the female members of the community are likewise affecting the dress and mode of attire of females of the same era.

b) There has been and continues to be extensive and continuous publicity given to such commemoration by various media of expression, including the press, radio and television. In the City of Montgomery certain "Highlights of the Montgomery Civil War Centennial Commemoration" have been scheduled for the week of February 12-18, inclusive, including torchlight parades, historical re-enactments, pageants, fireworks and contests. Because of the relationship between the nature of the subject matter of this action and certain of the issues of the Civil War, to wit, the issue of segregation of the races, and the feeling presently engendered in this community by reason of the revival of such issues in the minds of the community, with respect to slavery and the total problem of the previous condition of Negro citizens prior to the Emancipation Proclamation, and the emotions and feelings of sectionalism engendered thereby, the plaintiffs herein were not able to secure a fair and impartial trial.

c). In addition, the name of Court Square in the City of Montgomery has been changed to "Confederate Square", with attendant publicity on, to wit, October 31, 1960. As a result, the cases which were brought by the defendants Sullivan and Parks resulted in verdicts against the plaintiffs herein in the sum of \$1,000,000, which verdicts were the highest ever awarded in libel actions in the State of Alabama and could only have been the result of the passionate prejudice revived by the celebration and other events embraced within the Civil War, among others.

d) The verdicts were null and void in that plaintiffs were unable to obtain a fair and impartial trial in that plaintiffs are members of an eligible class of electors systematically excluded from participating in the electoral selection of judges pursuant to Section 152 of the Alabama Constitution of 1901 and as a consequence

thereof, the imposition of judicial powers over plaintiff members of the systematically excluded class resulted in a denial of due process of law and equal protection of the law as guaranteed by Section 1 of Amendment 14 of the United States Constitution.

e) The verdicts herein are null and void and violative of the due process clause of the 14th Amendment in that there is not a scintilla of legally relevant evidence sufficient to sustain the verdicts rendered.

f) The verdicts herein are null and void in that they are the result of bias, prejudice and passions on the part of the jury and therefore violate the due process and equal protection clauses of the 14th Amendment.

30. It is obvious that the judgments already awarded by the jury are excessive and punitive. The verdicts clearly show that they resulted from bias, passion and prejudice and other improper motivations on the part of the jury.

31. As a part of the conspiracy aforesaid, said actions were contrived and manufactured by the defendants Patterson, Sullivan, James and Parks, to enrich themselves by taking advantage of sentiments against the plaintiffs herein resulting from their well-known past and present views on the subject of segregation and civil rights.

32. Plaintiffs further allege and aver that the verdicts rendered against them are an unconstitutional usurpation of judicial machinery on the part of the defendants herein, acting under color of authority of the State of Alabama, in that the institution of said libel actions for alleged defamation of the defendants in their governmental capacity infringe upon the plaintiffs' and their supporters' rights of freedom of speech, press and association, in contravention of the 1st Amendment as incorporated by the 14th Amendment to the Constitution of the United States, and said verdicts have the practical effect of deterring and/or discouraging plaintiffs' exercise of their constitutionally protected rights of freedom of speech, press and assembly.

33. Plaintiffs are unable financially to post supersedeas bonds in the amount of \$2,000,000, in order to stay execution pending appeals in the two cases which have been tried. By virtue

of not being able to post the bonds required, the plaintiffs have been subjected to continuous harassments with respect to the modest personal and real property in which several have a mere equity. Plaintiffs are in addition thereto subjected to preparation for further trials in the Parks and Patterson cases, which are still pending in the Circuit Court of Montgomery County, Alabama.

34. Accordingly, plaintiffs are subjected to immediate and irreparable injury and loss:

a) They are subjected to the immediate loss and damage as a result of levies and attachments of all of their property, both real and personal, which they own, individually as well as jointly, and

b) Unless this Honorable Court gives relief, the plaintiffs herein and the Negro citizens of the State of Alabama will be deterred from using the media of a free press and all other rights guaranteed under the 1st Amendment, as incorporated in the 14th Amendment, to present the injustices to which they have been submitted.

35. Unless defendants are enjoined from executions, garnishments and sale of plaintiffs' properties pending outcome of said appeals, they, and each of them, will suffer immediate and irreparable injury and harm, in addition to the immediate and irreparable injury to the exercise of constitutionally protected rights.

36. The plaintiffs have no plain, adequate and complete remedy at law which can protect the plaintiffs' rights of freedom of expression, of press and assembly, and unless this Court gives relief, plaintiffs will be further relegated to a segregated court system. The plaintiffs have not and cannot, under the present segregated organization of the Alabama State courts, receive a fair and impartial trial. Therefore, recourse to such a system would be no remedy at all consistent with the guarantees of the Constitution.

WHEREFORE, plaintiffs respectfully pray:

1. That this Learned Court enter a permanent injunction:

a) Enjoining defendants, their agents, servants, employees and attorneys, from levying upon plaintiffs' property,

both real and personal, which has already been attached, as well as all future levies.

b) Enjoining defendants from proceeding with trials presently pending and which are instituted by the defendants, John Patterson and Frank Parks.

c) Restraining each of the defendants named herein, their agents, employees or attorneys, from engaging in the aforesaid conspiracy designed to deter and prohibit the plaintiffs from exercising rights guaranteed by the 1st and 14th Amendments with respect to freedom of speech, press, assembly, the right to petition for redress of grievances, and the right to free worship.

2. That this Learned Court make, declare and enter a declaratory judgment, declaring the judgments awarded to the defendants Sullivan and James to be null and void.

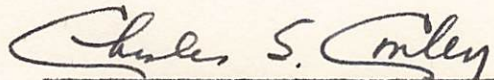
3. That this Learned Court, in the meantime, enter an Order Pendente Lite, enjoining the defendants herein, their agents, servants, employees and attorneys:-

a) From proceeding with all sales of automobiles and other personal property which has been attached and is about to be sold pursuant to present levys, including garnishments, and from proceeding to the selling of or the otherwise encumbering of or disposing of property of the plaintiffs in satisfaction of judgments entered in cases No. 27416 and 27417, which are pending before the Circuit Court of Montgomery County, Alabama, pending disposition of this action; and

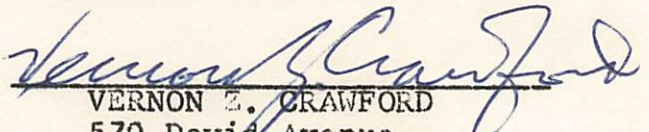
b) From proceeding in any manner whatsoever with the libel actions in the Circuit Court of Montgomery County, Alabama, entitled "Frank Parks v. New York Times Company, a corporation, et al." and "John Patterson v. New York Times Company,

a corporation, et al."

Respectfully submitted,



CHARLES S. CONLEY
530 South Union Street, Suite A
Montgomery 4, Alabama



VERNON E. CRAWFORD
570 David Avenue
Mobile, Alabama



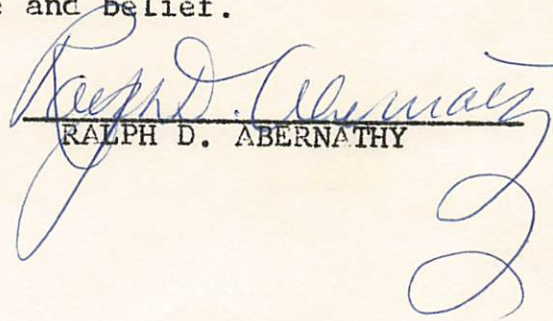
SOLOMON S. SEAY, JR.
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Montgomery, Alabama

ATTORNEYS FOR THE PLAINTIFFS

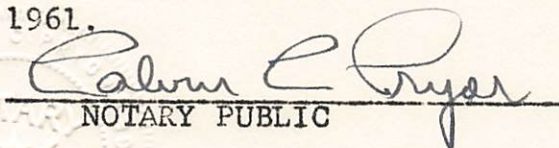
STATE OF ALABAMA)
) ss.:
COUNTY OF MONTGOMERY)

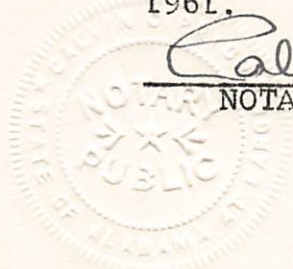
RALPH D. ABERNATHY, being duly sworn, according to law
upon oath, deposes and says:

That affiant is one of the plaintiffs herein; that he
has read the foregoing and knows the contents thereof, and that
the same is true to his own knowledge and belief.


RALPH D. ABERNATHY

Sworn to and subscribed before
me this 20th day of February,
1961.


NOTARY PUBLIC



DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Civil Action
File No. _____

RALPH D. ABERNATHY, J.E. LOWERY,
S.S. SEAY, SR., and FRED L.
SHUTTLESWORTH,

Plaintiffs,

v.

JOHN PATTERSON, individually and as
Governor of Alabama, EARL JAMES,
individually and as Mayor of Mont-
gomery, L.B. SULLIVAN, individually
and as Commissioner of Police of
Montgomery, FRANK PARKS, individ-
ually and as Commissioner of Public
Affairs of Montgomery, MAC SIM
BUTLER, individually and as Sheriff
of Montgomery County, RAY D. BRIDGES,
individually and as Sheriff of
Mobile County, HOLT A. McDOWELL,
individually and as Sheriff of
Jefferson County, and WILMER SHIELDS
individually and as Sheriff of
Marengo County,

Defendants.

AFFIDAVIT OF RALPH D. ABERNATHY

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Montgomery 4, Alabama