

Before the Credentials Committee
of the
Democratic National Committee

Regarding the Filling of the
Alabama Vacancy on the
Democratic National Committee

Brief

on behalf
of the
National Democratic Party
of
Alabama
and
The Rev. William McKinley Branch
its National Committeeman

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1969

INTRODUCTION

The one-party system of the South is an institution with an odd dual personality. In state politics the Democratic party is no party at all but a multiplicity of factions struggling for office. In national politics, on the contrary, the party is the Solid South; it is, or at least has been, the instrument for the conduct of "foreign relations" of the South with the rest of the nation.

....

We ought to be both specific and candid about the regional interest that the Democratic party of the South has represented in national affairs. It must be conceded that there is one, and only one, real basis for southern unity: the Negro. . . . [N]owadays -- apart from the indubitably potent habit of voting Democratic -- about all that remains to provide southern solidarity is the Negro.

.....

The maintenance of southern Democratic solidarity has depended fundamentally on a willingness to subordinate to the race question all great social and economic issues that tend to divide people into opposing parties. Contrariwise, solidarity is threatened as these other questions come to outweigh in the public mind the race issue. Analysis of southern voting in presidential elections and by southerners in the House and Senate reveal clearly the foundation of southern unity in national politics. The same analysis points with equal clarity to elements of diversity within the changing south that are driving wedges into its unity.

- V. O. Key, Jr. Southern Politics, 316 (1949)

The way is hard and progress is slow. Yet until greater emancipation of the white from the Negro is achieved, the southern political and economic system will labor under formidable handicaps. The race issue broadly defined thus must be considered as the number one problem on the southern agenda. Lacking a solution for it, all else fails. Id., 675.

The contested seat from Alabama is but a part of this document. We intend to present to you as understandably as is possible the facts behind the decisions made in Chicago, the sole hope for the Democratic Party in the face of Republican

southern strategy, and the moral and legal rightness of our cause.

We believe that political power follows right. Those who act beyond the borders of morality and the law, who rely on chicanery, custom and prejudice and their oft times mistaken view of self-interest eventually fall from power as they ought.

Our story is neither pretty nor non-divisive. It lapses into personalities only when there has been a lapse by persons from accepted standards of behavior.

White southerners have long played the game of politics and they have played it simply as a game. The morality of politics and politicians is perhaps a morality apart from that of other fields and men.

But in the South where whites have voted and counted (or counted out) for generations they enter today's game with a quick deal and a marked deck. When dealing with each other, with men and women of equal experience, that the conduct and morality do seem somewhat proper. The dealer has the advantage, he deals for the house, a mansion with many rooms; but when the dealer seeks to take the mansion, marks an already stacked deck, and with the guileless approach of the Mississippi River boat gambler beats his politically inexperienced rivals with half-truths outright misrepresentation and basic and willful deceit, then a kind of unfairness pervades the proceedings.

With an air of southern paternalism and the hard fist of total control George C. Wallace and Robert S. Vance pro-

*favorite son
Independent Party*

tected themselves last August in Chicago. That is but a part of the story.

The future of the Democratic Party in the South and nation is at stake not so much in this challenge but in the reasoning behind your decision.

The Republican Party's southern strategy has now been publicly stated. Here it is analyzed.

The Democratic Party's southern strategy is history. Here it is clearly stated and analyzed.

A program for victory of the Democratic Party not merely in the South but in the nation is offered.

We may not win this contest in Washington in 1969, just as we did not win in Chicago in 1968.

We may not win in Alabama in 1970 or at the Democratic National Convention in 1972.

But we do not come here as dancing black and white men and women seeking totin' food, eating fried chicken and watermelon, laughing when it ain't funny and scratchin' where it don't itch. We come here as Democrats who side with the underdogs of America and seek political and social justice.

We are certain that the white bloc vote of Deep South members of this Committee and their allies will oppose us and may do so with a sincerity based upon not merely a misreading of the past but more importantly a misreading of today and the future.

If we are to begin a National Democratic Party in the South it must be on an integrated grass-roots basis. The Demo-

Independent

cratic Party and its National Committee surely are not social clubs. If they are then please do not vote for us.

Our sole obligation here is to present you with the truth as we see it. If our facts or ideas are wrong we will eventually lose. If we are correct we may still in the long run personally lose. But if we are correct and lose your votes now and in 1972 then we will not have failed. This is especially true since we are to directly confront you with the facts and a program. The failure, if failure there be, then will be yours not ours.

For the National Democratic Party, not the National Democratic Party of Alabama or even the Alabama Democratic Party is on trial.

SOUTHERNERS AND THE POLITICS OF RACE

These men, in making the decision to be that sort of Southerner, knew they had thereby opted to be state or regional political successes, and not national.

Some of those who have made this decision -- to put aside all else for political success, have been, and are, good, decent men who have had many bitter hours of loneliness and guilt. Others have gloried in their prejudices and their commitment to regional demands, "customs," "traditions."

-Ralph McGill, Atlanta Constitution, Oct. 30, 1968, p. 10, col. 3.

Mr. McGill was speaking of southern Democrats prior to casting his last ballot for the national Democratic nominees. He had supported Vice-President Humphrey in his quest for the nomination. Indeed, he returned with him from Mexico when President Johnson announced his retirement from the Presidency.

Ralph McGill had defended the war -- how proud he was of his Marine Corps service in World War I -- and of his President.

Ralph McGill - ~~Alabama~~ ~~Ed-Atlanta~~ Constitution Press

Immediately prior to the 1968 Democratic National Convention he devoted his column to support of the National Democratic Party of Alabama (NDPA). He did this as the almost desperate attempt of an American Southerner to make outsiders understand what was happening in Alabama and in the area of his birth and life and love.

He failed in that.

But Ralph McGill knew perhaps better than any other man the "good, decent men who have had many bitter hours of loneliness and guilt." Those whom he had known were southern Democrats.

Were he alive today his compassionate enmity would have been directed at the President, the Attorney General, the Secretary of Health, Education and Welfare and their principal political strategist.

For they will find little glory and few victories in the politics of race.

Republicans and the Politics of Race

1. The Republican Premise

"[T]he South is turning into an important presidential base of the Republican Party," writes Kevin P. Phillips, in The Emerging Republican Majority (1969)¹

Phillips, President Nixon's principal voting patterns and trends analyst and now Special Assistant to Attorney General Mitchell, quite naturally professes that he does "not purport to set forth the past strategies or future intentions of Richard M. Nixon, his campaign organization or administration."

He occasionally expresses his "opinion" that the South is to become a Republican presidential base not because of "Republican civil rights law enforcement procedures--the laws undoubtedly will be fully enforced--but from erosion of the non meaningful Southern Democratic tradition." Indeed, in one footnote he contends:

Maintenance of Negro voting rights is essential to the GOP. Unless Negroes continue to displace white Democratic organizations, the latter may remain viable as spokesmen for Deep Southern conservatism.

But the Administration's actions do not underscore the sincerity of these phrases. It just won't work that way.

The Phillips-Mitchell-Nixon view of "the future of Southern Politics" follows:

1. The Dixiecrat movement "served many conservatives as a way station between a no longer appealing Democratic Party and increasingly Southern-concerned GOP. . . . Now that the national Democratic Party is becoming the Negro party throughout most of the South, the alienation of white Wallace voters is likely to persist."

1. Quotations from The Emerging Republican Majority, Arlington House, 1969, will not be cited by page reference. Elsewhere herein page references will be made.

2. "In the Deep South, [as contrasted with the Outer South] however, the majority of the white electorate is suspicious of both major parties, and the Nixon Administration's undoubted enforcement of civil rights and voting rights laws may keep third-party flames flickering." (emphasis added).

There then follow several assumptions:

a. The third party movement will inevitably fail and the Negro takeover of the Democratic Party structure will push white voters into the Republican Party.

b. "[W]hite psychological dispositions to fight a hopeless rearguard action are shrinking in the face of the inevitable."

c. "[T]he national Democratic party is becoming so alien to the white south as to underscore GOP preferability."

d. The middle-class opinion molders are already Republican. They will be followed by the white populists.

e. A "new political cycle has begun" which will render impractical the white South's resort to third party movements to stalemate the Electoral College.

f. The Deep South will be contained by the emerging Republican enclaves, the Outer South.

As the Republican strategist puts it:

For national political reasons, the Republican Party cannot go to the Deep South, but for all of the above-mentioned reasons, the Deep South must soon go to the national GOP.

But into each of these Republican assumptions are the following bases:

1. Out-migration of Negroes to the North and West will continue.

2. An urban in-migration of white middle-class citizens who will increase the population and consequently the electoral strength of the South will continue.

3. "The probable inability of the Wallacites to take the field in 1972, given the parochialism of their 1968 popular and electoral vote pattern and their vulnerability to a relatively conservative 1968-72 Republican administration should add an important national bloc of popular votes and a key Deep Southern group of electoral votes to the barebones Republican triumph of 1968."

4. Democratic failure has resulted from an inability "to defuse the racial tension sundering the nation."

5. A pro-Negro stance naturally results in the defection of ethnic Northern white groups to the Republican Party.

6. "Electing a Catholic president, however, was a part of the status quest which was otherwise leading many Catholics toward Republicanism."

7. Although "[n]o other voting bloc was so loyally Democratic in 1968 as the black community" (ten-to-one Humphrey majorities) Negroes are neither a highly registered or voting group. ("[I]n New York City, Negro assembly districts have typically cast less than half the number of ballots cast in Italian, Irish and Jewish districts.")

in the No. + N.E.

8. The Democratic party in the Northeast will increasingly become the party of "silk-stocking voters, Yankees, Negroes and Jews--against whom Northeastern Catholics have traditionally aligned themselves."

9. The flight to the suburbs is at least in large part a flight from black Americans.

10. "To understand the position of the Northeast in national politics, it is also useful to consider the position of the South as a historic political foe of the Northeast; the two never seem to be going in the same partisan or ideological direction."

*Variation of Coalition politics
problem between N.E. + South grassroots.*

The Phillips-Mitchell-Nixon strategy arrives at the following conclusions:

1. The Outer South. (Florida, Virginia, North Carolina and Tennessee)

"Their 50 electoral votes are vulnerable only to Republican administration policies which keep alive third-party sentiment."

2. "The Contingent South"--The conservative Deep South and Arkansas (totaling 53 electoral votes) will join GOP ranks--by default--against Northern liberal Democrats, provided simply that Republican policies pay sufficient attention to conservative viewpoints to undercut third party movements and create a national Republican vs. national Democratic context."

3. "Texas"--Without third-party interference, Texas (25 electoral votes) will support moderate conservative national Republicanism against Northern Democratic liberalism."

2. The inherent weaknesses of the Republican premises.

Although the Phillips-Mitchell-Nixon analyses were eminently successful in 1968 their victory was as due to a year of locusts as to strategy.

a. The obvious.

(1) The disaster in Chicago's streets--regardless of fault--plagued the Democratic nominee. It would have cast a shroud upon any candidacy "victoriously" emerging from the stockyards. Senators McCarthy and McGovern, even Mayor Daley or for that matter Hugh Hefner or Sam Jones, a by-stander nominee, would have left Chicago a politician crippled by disorder.

Even George Corley Wallace who, for all the sympathy he may have received due to hecklers, still suffered from the voters' feeling that he (had caused) (meant) (brought) trouble.

In 1968 the white voter wanted no trouble even if he agreed with the troublemakers.

And President Nixon in Miami Beach suffered from not even a Ralph and Alice Cramden spat--"one of these days, Alice, you're going to get it!"--but Nixon "got it" and made Norton his Vice-Presidential nominee.

From Miami to the White House there was no difficulty; no debate; one major heckling outburst arising from the grape-strikers; no visits to those areas which unfortunately were accurately described as, if you've seen one, you've seen them all. The Nixon campaign seemed surrounded by little Louisa Mae Alcott midwestern girls bearing signs--"Bring us together."

(2) Student rebellion, Chicago, and Wallace each provided Nixon with the "order" issue (less controversial than "law," of course) for almost every disturbance factor was Democratic.

The students worked for Senators McCarthy or Robert F. Kennedy, Wallace was a Democrat, so were Negroes and everyone who is no one knows that all (but Harding) college campuses are centers of left-wing agitation, left-wing agitators being Democrats.

(3) Three televised assassinations and state and near-state funerals in five years were more than most Americans could bear. Those assassinated were Democrats. And, there must be a substantial body of non-thought in the nation that each of their "killed" leaders somehow exacerbated tensions, then got themselves killed and that further exacerbated tensions.

(4) John F. Kennedy had offered America a generational bridge; Martin L. King had offered black America its second-to-last hope for effective non-violent black leadership and Robert F. Kennedy had offered a mystically personal bridge between the poor and oppressed, the Appalachian white, the Spanish speaking, the Catholic poor, the black man, and government. By August, 1968, they were dead. With them died--at

least for a time-- the interest of the disaffected in governmental processes. Most importantly, with them died hope.

(5) Countless working poor, lower middle class Americans who were plagued by inflation, taxes, debts, poor municipal services, hot summers with the pleasure of a cold beer but without air conditioning were bombarded nightly with reports of demonstrations by youngsters whose richer parents could send them to college. They saw long hair and Afros and to many of them the Democratic Party must have seemed to offer a Black Panther in every garage, a generation gone to pot.

(6) The war was a Democratic War. Nixon and John Foster Dulles had died political and natural deaths by 1965, Quemoy and Matsu and French Indo-China were words of the past as were "brinksmanship," "agonizing reappraisal" and "massive retaliation." Middle class parents as well as the very poor had by 1968 realized their sons would not be able to remain in college for a perpetual duration. As their concern grew over their sons, it grew over their war.

The Republican strategy--what may now be termed strategy may then have been merely a style roughly equivalent to Harding normalcy--appeared inviting to millions of Americans who had moved from the Main Street of Sinclair Lewis to the white suburbs where, although they seemed not to know it, crime was increasing more rapidly than in the cities and their sons and daughters were smoking grass while Daddy mowed the lawn.

b. The miracle.

The most remarkable event of November, 1968, was not that the Democratic Party lost the election but that a deeply divided party, due largely to the personal efforts of the nominees and the efforts of organized labor¹ did so well. There were many more voters opposed to the Vice-President than were for him. But, in a two-man race in a year of domestic tranquility Mr. Nixon would have managed to emerge the loser. And even as it

1. See, e.g., T. H. White, The Making of A President 1968, 364-66 (1969).

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was Richard M. Nixon won no popularity contest.

c. The assumptions upon which the Republicans base their future.

1. The "way station" premise.

The Phillips-Mitchell-Nixon treatise is correct. The Dixiecrat movement did serve today's southern Republicans as a "way station." But, if the Dixiecrat movement served as a "way station," today's Deep South party organizations are conduits. There is now no need for a "way station;" there is no need to stop.

These party "organizations" have produced an histrionic trio: Governors Williams, Wallace and Maddox. They "preserve and protect" Senators Eastland, Stennis, Long, Ellender, Sparkman, Allen, Russell, Talmadge, and even Thurmond. They produce L. Mendel Rivers. They provide the powerful overseers of Banking and Finance, Taxation, Housing, the Military, Agriculture, Labor and the Judicial power of America.

Deep South Democrats elect these men with the assistance of Republicans.

They vote for Republican nominees for President or run in their own ringer, and year in and year out lose an increasing number of voters and elected officials to real-honest-to-God Republicans. These "organizations" do this with your sanction. For there are no national Democratic organizations (except in Mississippi) in the Deep South. If these party leaders organized their own desks as often as they do their own precincts they'd be able to personally handle the waste paper drive for the next war their Congressional ambassadors produce.

The Democratic Party in the Deep South (and certainly in Alabama) now consists of local officeholders intent on maintaining their own fiefdoms, educating no voters, avoiding all national party identification, let alone labor, be it organized

or personal grass roots political work. They have replaced the post-office-and-federal-judge-patronage-Republicans. They are intent on living out what is to them a generation of Negro and national idiocy. "Survive, survive" is their creed. To sneak by the voters "just one more time" is their challenge.

In deepest disagreement with the organization of labor, farm or factory, out of sympathy with the poor--white, black and Spanish speaking, working and non-working--and serving their corporate usually Republican and absent masters, their principal form of exercise is leaping at conclusions; their collective aspiration the savoring of a California grape. They are the politicians for whom the late Ralph McGill had "nothing but contempt and condemnation for the[ir] leadership of the past and present."

As he said,

It was, and is, possible to be angry about the leadership and decisions that caused this [the isolation of the South] to be true. One can have nothing but cold contempt and condemnation for the leadership of the past and present that has made this so. The people of the South have suffered much, but most of it has been piled on their backs by their own leaders. Nearly all of this misdirection and deceit has come from the region's politicians, many of them so grotesque it seems impossible they could have been influential. R. McGill, The South and The Southerner, v-vi (1964)

But what is even more "grotesque" is that today, the personal influence of "the region's politicians" remains untouched.

2. The Republican Party's civil rights enforcement "may keep third-party flames flickering."

This premise is faulty but in a rather strange way. First, Republican "civil rights enforcement" could hardly fan a campfire. Second, the obvious moves to weaken voter registration laws, diffuse civil rights activity across the land, and slacken school desegregation enforcement result in further inflaming but two traditionally Democratic voter groups--Negroes and De-

partment of Justice attorneys.

3. The very strange Phillips-Mitchell-Nixon assumptions.

(a. & b.) The third party movement will inevitably fail and the "[w]hite psychological dispositions to fight a hopeless vanguard action are shrinking in the face of the inevitable."

Somehow the same Harvard-Yale syndrome--a doctrine of sweet reason--infects Northern Republicans and Democrats. For example, the entire Republican thesis seems as linked to the career of George Corley Wallace¹ as to that of President Nixon.

These Republicans mystically conceive of a George Wallace alive and well and not running. But George Wallace is the Sammy Glick of American politics. If asked why he runs, he might reply softly? "because it is there."

Secondly, Administration weakening of civil rights enforcement and deactivation of the Supreme Court has made every southern segregationist recognize that his course is not a "hopeless rear guard action" and that nothing is "inevitable."

Thirdly, that wouldn't matter for a number of years anyway for as any white or black southerner knows, much of the White South of the present and past is more willing to die (but still more willing to kill) for a cause lost than for a cause found. Lost causes are the soul food of much of the White South.

"'These people,'" said William Faulkner, 'would fight another civil war, knowing they would lose.' But there are many ways to fight." R. Sherrill, Gothic Politics In the Deep South, 2, (1968)

These White Southerners march backwards periodically like an off-key-and-off-course Salvation Army unit out to make sinners. And the White Southerner of the past has from time to time converted the nation and its leaders into merely chang-

1. In The Emerging Republican Majority, Mr. Wallace is mentioned on 90 of 474 pages.

ing the hymnal's words to "bringing in the slaves."

(c) If "[t]he National Democratic party is becoming more alien to the white South as to underscore GOP preferability" means that much of the white South prefers a lily-white political party the Phillips-Mitchell-Nixon assumption is correct. If their assumption is based upon economic issue alienation, their assumption is incorrect. It may be safely assumed that this assumption is related to the politics of race.

(d) Middle-class opinion makers are Republican thus white populists will follow them says the guidebook. That assumption is no doubt based upon the lives and times of Huey P. Long, Jimmy Davis, Earl Long, Theodore (The Man) Bilbo, James E. Folsom, Eugene Talmadge, Lester Garfield Maddox, Coleman (Old Coley) Blease, Pitchfork Ben Tillman, and Misses and Mrs. James Ferguson and Wallace. One of the most upper of Alabama's middle class "opinion makers" is the Postmaster General. It is extremely doubtful that he could defeat George Wallace at a convention of those who carry mail to the Postmaster General's own RFD box.

(e) A "new political cycle" will make resort to third party movements impractical. To consider that in context with their fellow campaigner, Senator (Major General) J. Strom Thurmond waiting in the wings, George C. Wallace shuffling on and off stage from the left or right, and the Bull Mooses and Populists of yesterday, Robert LaFollette, Henry Wallace and New York's current Liberal and Conservative Party movements is interesting. Regarding much of the White South--with or without George Wallace--this statement would no doubt elicit from Portnoy's psychiatrist

"Now vee may perhaps to begin. Yes?"

(f) They assume the Deep South will be contained by the Outer South. This is a political theory somewhat akin to that currently being followed in Southeast Asia. It was also followed in the 1860's, no doubt, but then a turnback at Gettysburg became necessary. Unfortunately for their strategy ideas are not well met by Armies and racism is at first merely an idea.

Regarding their factual bases:

1. Out-migration of Negroes from the South may not continue. Indeed the Administration's welfare proposals will provide an increase in benefits for the 20 states below the \$1600 level and those states are primarily in the South.¹ Due to the necessity of abandoning the food stamp program to participate in Nixon welfare, persons in but a few states will actually benefit by the new plan. They are:

Alabama (103,000 on AFDC as of February, 1969),
Arkansas (40,000), Florida (174,000), Mississippi
(104,000), South Carolina (38,000), Texas (168,000),
Puerto Rico (181,000), and the Virgin Islands
(2,000).²

In fact the effects of the Administration welfare plan in the major urban centers of the North may actually encourage re-migration of blacks back to the Deep South.

2. The growing urban in-migration of the white middle class may bring with it enough educated liberals to alter--with blacks and poor whites--the past 1964 politics of race strategy now being employed by the Administration. Prior to 1964--in 1952, 1956 and 1960--the Republicans carried major southern urban areas without employing racial politics. Their growth and strength was then almost completely urban across the Deep South. The white middle class in-migrators (or perhaps enough of them--there need not be a majority) might wind up in a liberal if not silkstockinged Democratic Party.

3. The "inability of the Wallaceites to take the field in 1972" is probable only if there are no fields in 1972.

4. It is somewhat doubtful that by 1972 the Republicans will have been able "to defuse the racial tension sundering the nation."

1. J. R. Kramer, The Nixon Family Deprivation System, The National Council on Hunger and Malnutrition in the United States, 1-2 (August 11, 1969).

2. Id., 1.

5. The efforts of organized labor in the 1968 campaign should have demonstrated an ability to overcome racial hostility on the part of Northern ethnic groups where dollars and cents and a threat to economic livelihood is concerned-- and where the concern does not grow out of rising unemployment.

6., 7. and 8. Relate to the relationship of Catholic voters to the Democratic Party and the comparatively low turnout of Negro voters. The answer to this is rather simple. Negroes are only now becoming a voting group. With hope or a sense of purpose Negroes will vote.¹ And Catholics can certainly be impelled to vote for a political party which presents a progressive choice for all Americans.

9. and 10. Whites are fleeing to the suburbs (so, what's new? and who isn't trying to?) and the Northeast and South never seem to be going in the same partisan or ideological direction (except for that period ranging from Tweed through Crump through Franklin Delano Roosevelt; indeed President Truman lost both New York and the Deep South).

1. Regarding "a sense of purpose" in a Birmingham Alabama Box (9-1) in the early 1960's there were approximately 1500 registered voters, of whom but four were white. Only four people failed to vote and Police Commissioner Connor's opponent received all but two of the votes cast.

d. The Results of Republican racial politics.

There is but one group of Americans who can make the Phillips-Mitchell-Nixon plan work. They are the leaders of the National Democratic Party. Commenting on The Emerging Republican Majority thesis the National Observer¹ noted:

But Frederick G. Dutton, a liberal Democrat (he was an important campaign aide to Robert Kennedy), isn't so sure. "Fifteen per cent of the voters in the South are, or could be, blacks. Liberal whites number maybe 15 to 18 per cent. Thus, you could probably build a base across the board of maybe as much as 40 per cent of the vote. That's significant. And, if I'm right, Wallace or someone very much like him will be around for a long time. That means you are going to have a three-way split in the South. A new kind of Democratic Party could take advantage of that."

It is a dilemma for national party leaders. If they actively work for a new Democratic Party in the South -- black, Mexican, intellectual -- they will lose their members of Congress. But if they accept the status quo, they also accept obliteration in Presidential politics.

Liberals think the party should make the break. "It would be meaningful not only in the South," says a young Democrat, "but it would be a signal to kids all across the country that the Democratic Party really stands for something."

To sum up: The Deep South has severed the last of its ties with the national Democrats, at least in terms of Presidential politics. White Southerners won't vote any more for the party's liberally oriented Presidential candidates. In time, the Democratic Party in the South will be controlled by minority groups. The Outer South is less intransigent, but there is obviously a movement in those states away from Washington liberalism and probably towards the Republicans.

There is still, however, the question of George Wallace and third-party politics. The Nixon strategists believe the Wallace voters are in motion -- from the Democrats to the Republicans; that the Wallace candidacy has served them as a "way station" in this progression. That, at this time, is only speculation. But it is something to watch closely in the new decade.

1. "The Future of American Politics: A New Order -- or No Order At All," The National Observer, Sept. 8, 1969, p. 14, cols. 1-2.

The National Democratic Party must simply face the facts. As far as Senator Eastland's concerned, give him a farewell party, a round or two of drinks, a chorus of Auld Lang Syne and let him go, go, go.

Or, if he changes his mind let him come along on an honest, practical, real, liberal and winning adventure in American politics.

And, who knows, some Jim Eastlands and many of their white followers might do just that. The other day Greene County's Sheriff Lee threw his arm across Dr. Ralph David Abernathy's shoulder. And they walked together down the street.

Not too many years ago Mr. Justice Black's sister-in-law termed herself a racist. Now she has changed.

Hugo LaFayette Black has shed many of Alabama's customs and ways.

And, after all even George Wallace has changed, from time to time, his mind.

Democrats And The Politics Of Race

1. Alabama

Indeed, if there is to be found anywhere in the United States today a totalitarian society, it would be the state of Alabama. Whether the condition is Wallace's personal handiwork or whether he has merely served as a political accomplice, the truth is that the state was transformed, during his administration, into a psychological and ideological monolith, more insular and intransigent than even Mississippi in that the popular mentality has been given consistent and undistracted political articulation--the final deep foxhole of the South. It would seem that what Wallace has managed to do is convert the Folsom revolution--the immediate and personal involvement of the masses in the politics of the state--into a kind of popular totalitarianism: the Folsom revolution simply set the stage for this in the manner that some divines like to imagine that the Roman Empire existed to facilitate the propagation of Christianity.

In any event, the racial conflicts of the past ten years and the solitary apostolic histrionics of Wallace have left Alabama with a single provincial vision of itself in the nation and the world, and a single ruthless expectation for unanimity--not only in ideas but also in habits, in morality, even in dress . . .
M. Frady, Wallace, 209-211 (1968)

Alabama belongs to him now. He is all alone with the people, and they are all alone with him. But having accomplished this--and now in his attempt to enlarge awesomely the scale of his incarnation "of the majority of the folks" --he seems to have acquired a peculiar air of final personal loneliness and isolation, as if he had withdrawn more and more into himself. Id. at 212-13

It is not by coincidence that Alabama was selected as the site of the Dixiecrat Convention in 1948 or, for that matter the convention of the Southern Conference on Human Welfare in 1938.

Throughout its history the state has been a bitter and isolated early and important battlefield where the trumpet call to conscience has brought forth derision;

the call for social justice the full power of the established economic, political and social order.

Prior to the 1830s the state had its abolitionists and its leaders in the struggle for women's rights.¹ Thereafter, festering in the cauldron of slavery, hatred and divisiveness gurgled. From there more than a century ago they were spewed across the land. Almost in lockstep with history the spokesmen of racism still scurry forth from Alabama.

The first of these national leaders was William Lowndes Yancey. Of him it has been said:

. . . Resigning from Congress, he became a bitter opponent of compromise between the North and South, was author of the famous "Alabama Platform" of 1847 which demanded Federal Protection for slavery in the Territories, fought vigorously against the compromise measures of 1850, anticipated the coming conflict between the sections, and became the recognized leader of the radicals in the South. He led the seceders from national Democratic Nominating Convention at Charleston in 1860; 1860; and then made a canvass of the North, speaking in many states. "It was he more than any other," says Woodrow Wilson, "who taught the South what Douglas really meant, he more than any other who split the ranks of the Democratic party at Charleston, made the election of Douglas impossible, and brought Mr. Lincoln in." Just before the Civil War, Yancey was sent by the Confederate government as the head of a commission, consisting besides himself

1. Cf. e.g., the testimony of Virginia Durr, appendix at 75a-84a.

"From the very beginning, the fight in America for the liberation of the Negro slaves was, therefore, closely coordinated with the fight for women's emancipation. It is interesting to note that the Southern states, in the early beginning of the political emancipation of women during the first decades of the nineteenth century, had led in the granting of legal rights to women. This was the time when the South was still the stronghold of liberal thinking in the period leading up to and following the Revolution. During the same period the South was also the region where abolitionist societies flourished, while the North was uninterested in the Negro problem. Thereafter the two movements developed in close interrelation and were both gradually driven out of the South. G. Myrdal, An American Dilemma, Appendix 5, [footnote continued on next page]

of P. A. Rost and Dudley Mann, to secure recognition for the Confederacy by various European governments; but after vain attempts in London and Paris, he returned in 1862, and thereafter until his death was a member of the Confederate Senate. 23 New International Encyclopedia, 788 (1904) (emphasis added)

As Yancey confronted the nation so also did John Brown.

It was not the men but their ideas that led so many American citizens to their deaths and the Democratic Party to its destruction.

The Democratic Party foundered on the question of slavery, sought compromise with the single subject upon which there could be no compromise, and inevitably it lost - and continued to lose for many years.

From Yancey through Wallace Alabama has produced the strident voices of American racism.¹

But there is one difference now.

True the confrontations that take place on Alabama's soil shake the nation; but, for as long as the battle is fought there, for as long as the politicians of that state are confined to warfare over their own courthouses and satrapies, they are limited in time, talent, temperment and funds. It is only when they are free at home that they march abroad.

The NDPA intends to keep them busy at home, very busy, in the very center of reaction - the Black Belt. It is there that the courthouses must first be captured and,

[footnote continued]

A Parallel To The Negro Problem, 1075 (1944).

Only the five Deep South states plus Virginia and Maryland refused to ratify the Nineteenth Amendment.

1. In a sense, Wallace is common to us all. That, finally, is his darkest portent. There is something primordially exciting and enthralling about him, and there still seems to be just enough of the wolf pack in most of us to be stirred by it and to [footnote continued on next page]

it is there that the NDPA will capture them.

Had there been - if indeed there ever could have been - a masterplan for peaceful social revolution, its politics would have called for the obliteration of the vestiges of slavery in the South, the replacement of the section's Ambassadors in the Congress with liberal men or men of lesser rank, the registration and voting and organization of the black and white poor and those who reside in what the Phillips-Mitchell-Nixon treatise refers to as "the Latin Crescent."

That opportunity has been not yet completely lost.

But it is imperative that the importance of this single relatively small, poor, and ignorant state be remembered.

[footnote continued]

answer to it. As long as we are creatures hung halfway between the mud and the stars, figures like Wallace can be said to pose the great dark original threat." Frady, supra, iii.

Alabama has in its recent past produced:

The Rev. Dr. Martin Luther King, Jr., who first rose to national prominence during the Montgomery bus boycott.

Mrs. Coretta Scott King, born and reared in Perry County, Alabama.

The Rev. Ralph David Abernathy, who like Martin King was first a minister in Montgomery, Alabama. The Rev. Mr. Abernathy was born and reared in Marengo County, Alabama, and his wife was born and reared in nearby Perry County, Alabama.

The Rev. Andrew J. Young, his first church also in Alabama, met and married a young lady from Perry County.

The Rev. Fred L. Shuttlesworth, a native of Birmingham, Alabama, demonstrated to a city and the nation that he was more determined to win his freedom than his oppressors were to keep it from him.

It was on Alabama's highways that one Freedom bus was burned, the other bus's riders meeting with the thuggery of The Order's ultimate enforcers. It was in Birmingham's streets two years later that the Civil Rights Act of 1964 was passed. And it was in the sounds of thudding clubs at Selma's Edmund Pettus Bridge that debate over the Voting Rights Act of 1965 was ended.

Perhaps only Alabama could produce a Bull Connor -- the last holder of this vacant committee seat; a George Corley Wallace, a Sheriff Jim Clark or an ignorant, now deceased, Al Lingo who could commandeer Wallace's public and private army and in the freudian manner of a man who somehow knows the real import of his task change its name from the Highway Patrol to the State Troopers.

Alabama has on but one occasion since 1944 -- once in a quarter of a century-cast its entire electoral vote for the nominees of the National Democratic Party. To capture that electoral award, its Ambassador to the Outside World was placed on the national party's ticket.¹

1. Senator Sparkman no doubt compiled an excellent Congressional record on economic issues but, as with his companion Senator Hill, he too became a captive of the politics of race.

Men and regions are bound by their history until they break that history's chains.¹ As Cash put it:

The mind of the section, that is, is continuous with the past. And its primary form is determined not nearly so much by industry as by the purely agricultural conditions of that past. So far from being modernized, in many ways it has actually always marched away, as to this day it continues to do, from the present to the past. W. J. Cash, The Mind of the South (1941).

But today in Alabama there is more than a single marching song, more than a single direction, more than a "march away . . . from the present to the past." Since the 1870's there has always been a movement for reform. Since the 1870's it has been beaten, kicked, slugged, tricked, stolen, disenfranchised and bludgeoned into defeat.

The state has a common tradition with the other Deep South states -- they each have their Black Belts and coastal towns, their hill country Populists and Republican whites, their areas where voters are still trapped by the influence of the

1. See E. M. Morgan, Basic Problems of Evidence 360 (1962): ". . . in most instances the historical fact is a subject of judicial notice"; accord, Morris v. Harmer's Heirs' Lessee, 32 U.S. (7 Pet.) 553, 558 (1833). For a number of years this has been the rule in the Fifth Circuit. See United States ex rel. Goldsby v. Harpole, 263 F.2d 71, 82 (5th Cir.), cert. denied 361 U.S. 838 (1959) (" . . . it is our duty to take judicial notice that lawyers residing in many southern jurisdictions rarely, almost to the point of never, raise the issue of systematic exclusion of Negroes from juries."); Meredith v. Fair, 298 F.2d 696, 701, cert. denied 371 U.S. 828 (1962); United States ex rel. Seals v. Wiman, 304 F.2d at 67. See Smith v. Paris, 257 F. Supp. 901, 904 (M.D. Ala. 1966), modified and aff'd, 386 F.2d 979 (5th Cir. 1967) and cases there cited (court must take into account the long history of racial discrimination in Alabama and view legislative purpose in this light). Regarding the effect of a history of discriminatory practices, see Patton v. Mississippi, 380 U.S. 128, 143, 144 (1965).

The judicial use of southern history in the racial-electoral context is illustrated by United States v. Louisiana, 225 F. Supp. 353 (E.D. La. 1963) (three-judge court), aff'd, 380 U.S. 145 (1965).

Unfortunately, we often ". . . need education in the obvious more than investigation of the obscure." Holmes, Law and the Court, in Collected Legal Papers 291, 292-93 (1921). "The plaintiffs here only want 'for the Court to see what '[a]ll others can see and understand * * *'" United States v. Mississippi (S.D. Miss., 1964), 229 F. Supp. 925, 998 (dissenting opinion) reversed, 1965, 380 U.S. 128" Hamer v. Campbell, 358 F.2d 215, 220 (5th Cir. 1966). (each emphasis added)

Civil War.¹

But Alabama also has . . .

2. Birmingham, a city which

. . . was never truly "Southern." It was born of coal, from ore and limestone. It never knew crinoline or lace. The chemical smoke and slag from its early furnaces made mock of magnolias and mockingbirds. It came into being just before the turn of the century, and it had a dramatic effect on the small farms of the state.

Nowhere was the sharecropper and tenant evil so wretchedly fixed as in Alabama.

. . . . One of the wells from which hate and prejudice are drawn is fear of economic competition. The poor white man escaping from his tenant farm or from the few scraped acres where his father had worn out a life, had no more skills than the Negro. The fingers of both were curved to fit the handles of plows and hoes. But one had a white skin, and that was a symbol of being better and of deserving more.

So the Negro cropper or tenant, as he came to Southern cities, was kept in his "place" there as rigidly as he had been on the cotton farms. The new and magic city of Birmingham was made to grow and her night skies to glow with the pourings of steel by those persons, white and black, who hurried in from the poor, inadequate segregated schools, which in the early days of the city's development were open for only a few months each winter. Their stamp has been on it ever since. R. McGill, The South and the Southerner v-vii (1964).

1. To a degree the voting patterns of at least a portion of the North were also determined by the Civil War. "If one plots on the map of Indiana clusters of underground railroad stations and points at which Union authorities had difficulties in drafting troops, he separates on the whole, Republican and Democratic counties." V. O. Key, Jr., and F. Munger, "Social Determinism and Electoral Decision. The Case of Indiana," in Burdick and Brobeck, eds. American Voting Behavior, 281-99 (1959).

In Birmingham's mines and mills, labor, black and white, was fully exploited. The state's regard for children and women and the rights of man was subordinated to those interests within and without the state who controlled the wealth of Birmingham.

The Big Mules had come to stay. They made a lasting alliance with Alabama's Black Belt. The tie that bound them was, of course, the Alabama Democratic Party.

3. A Substitute for Slavery

Slavery abolished, Alabama and the Deep South searched for other means of retaining involuntary servitude.

Black codes, vagrancy and idleness statutes (and ordinances) provided a "legal" means for the acquisition of cheap labor. Convicted men and women were leased back to the plantation owner from whose thralldom they had escaped or they were sent into the mines of Birmingham.

The added evil of the system as far as blacks were concerned was that no options were provided. If peonage was unlawful it did not seem less preferable than being convicted of a non-committed crime and then returned to the same master to work-off never payable fines and court costs.

Sheldon Hackney in Populism to Progressivism in Alabama (1969) describes the relationship of the lease and fee systems as follows:

. . . . [T]he most inhumane aspects of the convict lease system and the fee system were illustrated for all to see in Butler County. Innocent men, usually defenseless Negroes but sometimes itinerant whites, were being arrested, charged with unlawfully riding the trains, and sentenced to long leases in the mines to pay for their fine and court fees. The sheriff was paid by the railroads to be especially diligent in enforcing the railroad laws. When he made an arrest, he took the accused before the probate judge where numerous witnesses appeared to testify, at the regular witness fee, and all the court officers earned fees for their services in connection with the trial. The defendant paid for the overabundance of "due process" with cash or by a long stint in the mines. After the story came to public attention, a state examiner found that 91 men had been sentenced to the mines on the single charge of riding trains illegally in the previous three months alone. Id. 265-66.

a. The rebellion of labor against the convict lease.

In 1891-92 the Tennessee "miners of the Tennessee Coal, Iron and Railroad Company [T.C.I.] had gone to war with the question of convict labor."¹ Hackney, supra, 59. The 1892 Homestead steel strike overshadowed this rebellion. And the Pullman strike coupled with marches on Washington threatened the established order.

The threats to society were not remote from Alabama. At noon on April 20, 1894, the volatile mineral district was ignited by the 7,000 or more miners who struck in sympathy for the United Mine Workers. Id.

Following dynamitings and shootings, state troops entered Birmingham. They stayed until August 18.

The strikers were at a disadvantage. The mine operators had convict labor and were in a region with a surplus of unskilled labor. Id., 59-60.

Coal production remained at 60 per cent and even though the railroads were struck they kept the trains running.

The strikers numbered between 7,000 and 10,000 men of both races and several nationalities. Id., 60.

In one gun battle at Pratt mines four were left dead and ten wounded. A dynamite and a shotgun victim were found. A few days later two strikers managed to kill two deputies. Yet the leaders of the state (the Alabama Democratic Party) were publicly proud of the happy contentment of "their" people.

b. Labor was joined by the Populists but abandoned by the Alabama Democratic Party.

Based on a common belief in the value of labor and a common sense of exploitation, they [the Populists] constructed a bridge of cooperation between the country and urban labor of which they were proud. Id., 61

They had "common enemies" and the Birmingham Age-Herald

1. "Miners opposed the lease system because convict labor had the effect of setting a ceiling on the wages of free miners and depressed what were already unsafe working conditions." Hackney, supra, 74.

. . . [M]ine operators were quite happy with the system, especially as a check against strikes. . . . [T]he death rate for convict miners was four times the rate for free Negro miners in the same county and 10 times that for free white miners." Id., 144-45. The leasing of convict labor did not end in Alabama until 1928. Id. 213.

in the manner of its successor papers commented on one speech made by a populist Alabamian (white Alabamians are and will remain conservative, the Phillips-Mitchell-Noon treatise tells us and the Alabama Democratic Party agrees):

No socialist in Chicago and no anarchist in France could have uttered a worse sentiment than that in a public speech, or made a lower appeal to the prejudices and passions of man. Id.

Then as now Alabama Democratic Party leaders exacerbated the race issue and by this means kept wages down and organizers out.

By 1908 Birmingham's labor faced United States Steel which had but recently acquired T.C.I.

Despite this the U.M.W. struck 18,000 strong; black and white together. True to form the Alabama Democratic Party's Governor (a "Progressive") broke the strike with the state troops.¹

As with almost all of the Alabama Democratic Party leaders ". . . neither the status of the Negro nor the status of the laborer was included in [then Governor] Comor's mandate for change." Id. 323.

There have been some exceptions to the Alabama Democratic Party's traditions -- James E. Folsom and from time to time Governor Bibb Graves -- but by and large the Alabama Democratic Party's Governors have been more than intent on serving the interests of steel and textiles and Power and the large land owners of the Black Belt.

To exactly the same degree that organized labor is a part of the National Democratic Party, the Black Belt Bourbon Big Mule tradition is a part of the Alabama Democratic Party.

In Alabama it is Alabama Democrats who pass "right to work" laws, harass organized labor, and heed the becks and calls of Power, Steel, and Textiles.

1. See Hackney, supra, 316-323.

During this period conservatives were usually sent to Washington to serve as Alabama Democrat Party ambassadors. Yesterday's Lister Hill and John Sparkman, Carl Elliott and Robert E. Jones, Jr., while always "right on that race question" were usually "really right" on economic and social matters. But as racism grew they each retreated into the more conservative caverns of Congressman George W. Andrews, Bill Nichols, Tom Bevill, Walter W. Flowers and Senator James B. Allen.

The Hugo LaFayette Blacks, the Bankheads and the Hills and Sparkmans of yesterday are gone now.

Their nostalgic tradition has no more force in the Alabama Democratic Party than does a pressed rose in the now yellowed pages of an elderly lady's diary.

Jesse Jackson
attempts

Those Populists of yesterday (and their latent fire is there in the poor whites of the South kindled now by George Corley Wallace but waiting for the call of economic freedom) do not seem to have been typically conservative Southerners. Then "[t]he Alabama Alliance News thought the government should one day have a duty to provide employment at a living wage to all who might apply." Hackney, supra, 110. "[T]he Populists after 1896 talked openly of redistributing the wealth." Id. The question was "whether that prosperity now monopolized by the few shall become the inheritance of all." Id. "The Populist solution was still to take the control of money away from the monied classes and give it to government, and then put government back in

the hands of the producing classes." Id., iii.

As the Populists were defeated by the Alabama Democratic Party, absorbed by it or the Republicans or withdrew from the political arena, the misconception arose that they all turned to fascism or racism or both. But even in the 1920's the cry of the white southern working man was heard again.

". . . Joseph Manning, in his book, The Fadeout was reasserting the old Populist class antagonisms, condemning persecution of Negroes, and calling for an increase of Christian love and democracy as a cure for social ills. In 1924 W. H. Skaggs published The Southern Oligarchy, [The Social Oligarchy: An Appeal in Behalf of the Silent Masses of Our Country Against the Despotism Rule of the Few, New York, 1924] a long indictment of the reactionary political practices and social policy of the alliance of large planters and industrialists which had defeated populism." Skaggs also reasserted his faith in democracy and bitterly condemned racism, the Ku Klux Klan, peonage, political corruption, "Bourbonism," child labor, and the convict lease system." Id. 118.

That old lady's diary and its pressed rose are not really remembrances of good men. They are the memories of the electorate which put them there.

The early populist dream is the nostalgic.

Poor men and women in Alabama and across the south once dreamed of a political party of black and white southerners joined against their enemies along economic lines.

The Alabama Democratic Party's better ambassadors may have dreamed that dream long ago. But they are no longer dreamers.

Their failure lies in their lack of faith in the capacity of white men to change their minds; in their unwillingness to

educate an electorate to changing times; in their fear of their own people; and in their failure to bring the disenfranchised into the mainstream of their party.

That is where their dream ended and an American and party nightmare began.

And now the poor whites of their state march behind the little drummer of a racist tune. But their economic problems, their grievances and frustrations remain. They and their grievances are there now waiting for a truly liberal National Democratic Party.

4. The Alabama Democratic Party Deprives The Negroes of the Right to Vote *gmp*

Even "[t]hough the issue of race had proven ineffective in preventing the defection of the alienated to the Populist Party, it did inhibit the solidification of the groups interested in various types of moderate reforms." Hackney, supra, 122.

"Though the [Alabama] Democrats, by one means or another, managed to be the chief beneficiary of Negro suffrage, they tried to energize Negrophobia and direct it against the Populists." Id., 47.

But there were in the Alabama Democratic Party during the 1890's some Progressives just as there are today. Democratic election machinery out-counted the Populists in 1892 and 1894. By 1896 the Populists were in disarray.

"But the Progressives' urge to put 'fair play' into the law did not extend to Negro grievances. Indeed, when it came to insuring ethical conduct in elections, Progressives and other white Alabamians eliminated the theft of Negro votes by eliminating Negro voting. Id., 146.

This was done by the Constitution of 1901 -- "[t]he Big Mules and the Black Belt -- already had their reassurances," id., 165, -- thereby killing Populism, Republicanism and democracy. The "organizing genius of Alabama Progressivism"

told the Jefferson County Democratic Party that "time has demonstrated the negro [sic] has no capacity to rule, but a great capacity to ruin. The negro [sic] . . . was disfranchised years ago by fraud and the purpose now was to do it by constitutional enactment." Id., 175.

The Constitution was adopted but not by an overwhelming margin (70,305 to 40,505) with those in ". . . the mining towns, and the old Populist beats in general," opposing it. Id., 178.

"True to their pledge, patriotic poll managers neutralized any Negro opposition brave enough to present itself. The large majorities for the convention in the Black Belt made it seem as if Negroes were voting for their own disfranchisement, but nothing could be further from the truth. There was, however, an air of tragic resignation. 'It is good bye with poor white folks and niggers now', wrote one Negro editor, 'for the train of disfranchisement is on the rail and will come thundering upon us like an avalanche, there is no use crying, we have got to shute the shute.'" Id., 179.

Seventeen counties cast more votes for disfranchisement than the number of their potential white electorate! Again the Black Belt provided the margin of victory. The old Populist electorate, or what was left of it, was defeated one last time." Id., 229.

The "fighting Grandfather Clause," the cumulative poll tax, literacy and understanding tests colored the electorate lily white. Now the Alabama Democratic Party adopted the open primary as its forum for electing state officials. Politics was "white folks business" and the Alabama Democratic Party's white folk counted the votes. The general election became a formality and populism and "left wingism"¹ were destroyed.

5. The Democratic Party and Racial Segregation.

Florida's Democratic Legislature adopted the first Jim Crow law in 1887.² Thereafter every southern state fell in line and our party thrust upon blacks a new and "peculiar" southern institution. Indeed, it was to be, in reality, a "great" Democratic President who finally formalized the Tilden-Hayes Compromise. And it was during his administration that -- although he didn't know it -- a new Democratic Party was being born.

1. "The very passion for "Americanism" in the South was at least in great part the passion that the South should remain fundamentally unchanged. . . . Almost the sole content of immediate actuality in these phantasmagoric terrors was, as is well known, just the peril of the labor movement, to the interests, real or imagined, of the ruling classes, and particularly the possibility of a labor movement that should stand to the left of the highly conservative American Federation of Labor as shaped by Samuel Gompers, William Green, and Matthew Wall" Cash, supra, 303.

2. C. Vann Woodward, The Strange Career of Jim Crow 90-91 (1957).

"Woodrow Wilson became President in the semi-centennial year of the Emancipation Proclamation, but his inauguration brought no new birth of freedom for American Negroes. It brought instead the deepening shadows of segregation and proscription." Vol. X, A History of the South, G. B. Tindall, The Emergence of The New South 1913-1945, 143 (1967).

For Wilson was himself if Princetonian also a white Southerner and a segregationist. "The Wilson years saw the consolidation of segregation, but they also saw the beginnings of a movement, the Great Migration, which after emancipation was the greatest watershed in American Negro history." Id., 146.

"The Great Migration laid the social basis for the emergence of the New Negro, and just as it got underway in 1915 Negro history passed a significant landmark with the death of Booker T. Washington." Id., 157

It was from this Great Migration that southern Negroes, were transformed into Northern voters and, it was in that Northern Negro vote that the seeds of southern labor freedom were being sown. But the brilliant Democrat, Wilson, remained in Washington firing Negro officeholders and approving the mythology of The Birth of a Nation ("like writing history with lightning") which ". . . could hardly [be] exaggerate[d] [in] its significance in fixing for a generation the popular image of Reconstruction or in preparing the way for a revival of the Klan." Id., 186-87.

Wilson became involved after the NAACP, although worried over the question of censorship, had begun a campaign to ban the showing of the "classic."

Thomas Dixon, the author of the novel upon which the film was based "hurried to Washington to see the Southern-born President Wilson." E. F. Goldman, Rendezvous With Destiny, 176 (1952). Wilson praised the movie and Dixon was off to the then Chief Justice of the Supreme Court of the United States, Edward White. According to Dixon the following transpired:

"'You tell the true story of the Klan?' asked White."

"'Yes - for the first time -'

"He . . . leaned toward me and said in low tense tones:

'I was a member of the Klan, sir. . . . Through many a dark night, I walked my sentinel's beat through the ugliest streets of New Orleans with a rifle on my shoulder. . . . You've told the true story of that uprising of outraged manhood?'

"'In a way I'm sure you'll approve.'

"'I'll be there!' he firmly announced." Id. 176-77.

Thus Woodrow Wilson helped close both white minds and freedom's doors. But, as they moved in the night off southern farms black men were on a journey to freedom land. There they were to give birth to a new nation.

6. The New Deal and the beginnings of a truly National Democratic Party.

The Southern segregationist was always correct when he said "give 'em an inch and they'll take a mile."¹

Franklin Delano Roosevelt gave black America the inch. In 1932 he made inroads into the then migrated Negro vote of the North. In Chicago he carried 23 per cent of the Negro vote; in Detroit he carried 36.7 per cent. Tindall, supra, 543.

"By 1936 . . . [Roosevelt's] Black Cabinet of Negro advisors numbered between thirty and forty." Id., 544. Slowly, very slowly, racial barriers within the federal government were removed.

"Yet, for all his caution, Roosevelt -- and especially his wife -- communicated to Negroes a sense of concern. 'People like you and me are fighting for the day when a man will be regarded as a man regardless of his race,' he once told Mrs. Bethune. 'That day will come, but we must pass through

1. All men will take at least a mile. But the Phillips-Mitchell-Nixon forces will soon discover that when the southern segregationist is provided an inch, he'll try to take a race.

perilous times before we realize it.'" Id., 556.

During these years " . . . underneath the stagnant surface of Negro life new forces stirred, new directions emerged, new expectations quickened." Id., 573.

Franklin Delano Roosevelt dreamed of a truly New South. Those dreams were killed in Birmingham, Alabama, by none other than (you'd never guess he's been around so long) -- the Alabama Democratic Party's last National Committeeman -- T. Eugene ("Bull") Connor.

For the South ". . . little could be done until the Democratic party had dealt with its conservative wing. By mid 1938, Roosevelt had at least decided to try to pluck out a few of its larger feathers." T. A. Krueger, And Promises to Keep, 16 (1967).

"August 9, [1938] a Report [on Economic Conditions of the South] came to the President. Two days later, in an address at Barnesville, Georgia, he publicly declared his opposition to the re-election of Senator George while the latter sat silently behind him on the speakers' platform." Id.

Out of the New Deal and Mrs. Roosevelt and the authors of "The Report" the Southern Conference for Human Welfare was organized. Its purpose: ". . . to remedy the abuses of the Southern industrial order." Id., 20.

Its convention of 1938 was to be held in Birmingham, then described as ". . . potentially . . . the most progressive and [actually] the most reactionary city in the South. This

is the point in the South at which, above all others, the struggle between absentee ownership and Southern labor heads up." Id., 21.

On November 20, 1938, they met - black and white together - in Birmingham's Municipal Auditorium. Two days after the conference began the Alabama Democratic Party's own Bull Connor required that those in the auditorium be racially segregated. They complied with Commissioner Connor's edict but ". . . condemned the action of Birmingham City officials in enforcing existing segregation ordinances, as affecting sessions of this conference." They called for future conferences to be held where delegates would not be subjected to racial separation. Id., 29-30.

Gunnar Myrdal was there and saw

". . . for the first time in the history of the region, since the era of the American Revolution, the lonely Southern liberals met in great numbers - actually more than twelve hundred - and that they, in this new and unique adventure, experienced a foretaste of the freedom and power which large-scale political organization and concerted action give." Id., 34, Tindall, supra, 636-37.

There they had been together at last in a joint movement for economic betterment -- Senators Bankhead and Pepper, then National Committeeman Brooks Hays, Mr. Justice Hugo L. Black, Congressman Luther Patrick -- but Birmingham's lion of racism cut the auditorium and the movement in half. Soon to be Senator Lister Hill was not heard from again. Senator Bankhead wrote

"The expressions made in favor of social race equality and in favor of the sectional Wagner lynching bill demonstrate that a majority of those participating do not understand fundamental Southern conditions." Id., 38.

Senator Pepper and Brooks Hays continued their interest.

But this group had served as ". . . the one regional group that ever effected a broad coalition of liberals and radicals." Tindall, supra, 636. Eleanor Roosevelt, Ralph McGill, Aubrey Williams, Virginius Dabney and Frank Graham had been

there too as were black leaders from across the South.

The movement failed because (due to Mr. Connor's intervention and the resolution for decency) it acted ". . . with[out] the accepted caution of Southern liberals who dodged open challenges to racial barriers." Id., 637. It existed (although mortally wounded) until 1946. Id., 636-41, passim.

"Roosevelt's death indeed 'cast the Southern liberals adrift,' and the accession of Truman heartened the conservatives who had helped to engineer his nomination. 'President Truman,' the Speaker of Mississippi's House of Representatives wrote in May, 'has begun well and is making rapid progress toward returning this country to Fundamental Americanism.'" Tindall, supra, 730.

But in Harry S. Truman the Deep South Democrats had made another mistake.

The march of freedom was to begin in earnest.

And as the Negro moved forward the Alabama Democratic Party moved as is its tradition to far right field and, in fact, to the far side of the foul line.

It nominated now Senator (Major General) J. Strom Thurmond for President and not a single Alabamian was allowed to cast his ballot for the incumbent Democratic President, Harry S. Truman; but it didn't matter for, without the Deep South, and New York state everyone (especially the brilliant strategists of the Alabama Democratic Party) knew that no Democrat could be elected.

A few months later . . .

When the car of the Dixiecrat candidate, Governor J. Strom Thurmond, approached the reviewing stand, Truman suddenly discovered that he had something to say that required turning to the man beside him. A Presidential guest, Tallulah Bankhead, hardly a woman for indirection, let out a foghorn of boos. It was all quite appropriate. On orders from the White House, for the first time Negroes were invited to all the top social events of the Inaugural. Even some of the attempts at unofficial Jim Crow were defeated. The New York delegation, including fifteen Negroes, was shunted from hotel to hotel and when it finally made arrangements at the Roosevelt, the rooms assigned to the Negroes immediately developed grave telephone difficulties. New York City's white Deputy Commissioner of Housing, Frank Jones, had an idea. Noting that the owners of the Roosevelt also controlled several New York hotels, he began to wonder out loud if the civic interest of New York did not require an exhaustive reinspection of these hotels. Suddenly all the telephone difficulties disappeared. The assaults on racial segregation at the Inaugural, Walter White of the NAACP enthused, were "a miracle . . . almost as incredible as the spectacular reelection of President Truman." Goldman, supra, 328-329.

Indeed, a social revolution was under way.

A new Democratic Party structure in the South was inevitable. That inevitable restructuring should take place here and now -- today.

THE ALABAMA DEMOCRATIC PARTY VS. THE
NATIONAL DEMOCRATIC PARTY OF ALABAMA

1. The Nominees

Albert Rains, Alabama¹
Democratic Party

Residence address:
221 Alpine View
Gadsden, Alabama

Born March 11, 1902, DeKalb County, Alabama. Educated in the racially segregated public schools of DeKalb County, and the racially exclusive Snead Junior College (then a Methodist owned school named Snead Seminar), Boaz, Alabama, and University of Alabama. Admitted to the bar in 1928.

Present Positions

Chairman of the Board of First City National Bank, Gadsden, Alabama; member of the law firm of Rains & Rains, Gadsden, Alabama; member of the Boards of Trustees of Snead Junior College, Boaz, Alabama, and Jacksonville State College, Jacksonville, Alabama.

1. No attempt has been made to gloss over Mr. Rains, no doubt, numerous contributions to his community. We have merely been restricted to public documents and published works such as Who's Who in America. Country and civic club memberships are not there listed. He has been a successful businessman participating in numerous ventures involving the ownership of radio stations and real property. He does receive, of course, \$11,250 per year as a retired member of Congress. Consequently, it is conceded that he is better able financially to meet the burdens of National Committee duties than is the Rev. Mr. Branch.

William McKinley Branch,
National Democratic Party
of Alabama

Residence address:
Route 1, Box 130
Forkland, Alabama

Born May 10, 1921, the third of eight children (all four grandparents were slaves -- two were sold from Kentucky to Alabama the other two were native), in Greene County, and the racially exclusive Selma University and Alabama State College. He is presently taking a correspondence course in law from LaSalle University. Was called to the pulpit at age 11.

Present Positions

Pastor of Ebenezer Baptist Church, Forkland, Alabama, and Christian Valley Baptist Church, Boligee, Alabama¹; member of the Board of Directors of the Southern Rural Project; President of Greene County NAACP; President, Greene County Civic Organization²; President, Alabama

1. These small rural congregations provide him with his only income. Five of his brothers and sisters have moved to Detroit in order to make a living. This was after the local bank rejected the application of three of the brothers for a VA loan to buy a cattle farm (they were eligible because of their service in World War II and Korea).

Rev. Mr. Branch is staying in Greene County.

2. A political education group interested in economic development and upgrading the status of the underprivileged; that organization is, to his sorrow, all Negro.

Economic Development Council;
Co-Chairman, Greene County
NDPA; organizer for NDPA
throughout Alabama.

Former Positions

Deputy Solicitor, Etowah
County (Gadsden) (1930-35);
City Attorney, Gadsden
(1935-44); Member, Alabama
House of Representatives
(1942-44); Member of Congress
(1945-64) (Member of Banking
and Currency Committee
and Chairman of Housing Sub-
Committee 1955-64); Did not
run for re-election in 1964;
succeeded by James D. Martin
Republican; also has served
as Chairman of the United
States Conference of Mayors
Special Committee on Historic
Preservation which published
With Heritage So Rich (1966).

Former Positions

Junior high school teacher
of history and government
(1947-62), his and his wife's
teaching jobs terminated
because of their support of
Negro voter registration;
proprietor of small grocery
store in his yard; Past
President of Greene County
Democratic Conference; Past
President, Greene County
Education Association.

1. Unsuccessful financially
but served well as a gathering
place for civil rights, voting,
and antipoverty activities.

Political Development and
Record, Particularly on
Racial and Economic Matters

While in Congress, became nationally known as a spokesman for housing interests.¹

When in 1961 ". . . there was a strong feeling that the expected Executive Order banning racial discrimination in Federally assisted housing would severely damage the F.H.A. and V.A. programs . . . representative Albert Rains, the Democratic party's chief spokesman in the House of Representatives on matters of housing, said that 'the anti-bias order could be disastrous' in its effect on housing." New York Times, Dec. 6, 1961, p. 79, col. 1.

1. Upon the occasion of his then pending retirement from Congress according to The New York Times, Aug. 14, 1964, p. 12, col. 1:

"Mr. Rains has been a member of the Banking and Currency Committee almost since his arrival in Congress in 1945 and has been Chairman of the Housing Subcommittee since 1955. He has figured prominently in all of the housing programs to go before Congress during his tenure and is widely regarded as the Congress' leading expert in this field.

'His leadership,' representative Carl Albert of Oklahoma, the Democratic leader, told the house, 'has resulted in the enactment of the most significant legislation in the history of the United States.

'It's a proud record,' Mr. Rains responded, 'but it's your record not mine.'"

Political Development and
Record, Particularly on
Racial and Economic Matters

Recalls his father's admiration for Roosevelt¹ and the New Deal; he and family and friends supported Truman and Kennedy.²

Registered to vote about 1954.

First became conscious of racial problems when he noticed how his father was treated by local store keepers;³ concern "really bloomed out" over the Autherine J. Lucy incident (1956) and reached full flower when George C. Wallace stood in the school house door (1963).

Although he had met Dr. Martin L. King, Jr., and Rev. Ralph David Abernathy in Montgomery during the bus boycott and encouraged people to support

1. Parents were not, however, able to vote for Roosevelt, they only becoming registered in the late 1950's after intensive study of the intricacies of the numerous forms. Less than 200 Negroes in the heavily (81%) Negro county were registered at the time.

2. These were the candidates who promised to combat the problems of race and poverty. Choosing local candidates to support was a little more difficult. After some Negroes had registered, there were election year promises to fix the roads, etc. At first, Rev. Branch and his friends believed these promises - they had always been taught to tell the truth and assumed others had, too.

3. Rev. Branch's own children felt the sting of racial insult as they were in the first small group of Negroes (in an 81% Negro county) to enroll in formerly all-white schools. His daughter Pat was one of the first two Negro children to graduate from Greene County's integrated public high school. She now attends Tuskegee Institute.

Congressional voting record includes votes:

For Taft-Hartley Act
For Landrum Griffin Act
(vote for motion to suspend rules and pass)

Against all Civil Rights bills which came before the House during his term, culminating in vote against Civil Rights Act of 1964. He was not then seeking re-election to the House of Representatives.

Signer of two Southern Manifestoes.¹

it, he did not become openly active in civic, civil rights, and political affairs until later, then losing his teaching job. There has been a taboo against Negro teachers participating in such activities.¹

Has been seeking, since 1962, to have a biracial committee appointed for Greene County.

Organized Greene County NAACP in 1964.

He has been helping sixty or so Negro families who were evicted in December 1965 as a result of voter registration (and is now preparing to do the same for those who will be evicted this winter (after the crops are in) for having "voted under the eagle" for NDPA).

1. The copy of one of these is reproduced in the Appendix at 73a-74a. The manifesto submitted July 13, 1956, by Rep. William M. Tuck (D. Va.) provided in part:

WHEREAS, under the guise of pious language the civil rights bill, HR 627, proposes to establish a Commission on Civil Rights, and to provide for an additional Assistant Attorney General, and further purports to strengthen the Civil Rights statutes and protect the right to vote; and

Under the Constitution the states are the sole judges of the qualifications of voters and throughout the long history of the United States the manner in which our elections are held has been a time-honored function of the States. The broad language of the bill would open practically the entire field of elections, including state primaries, to Federal intervention. The intrusion of the Federal Government into this field has not heretofore been permitted or even considered, except in precise instances clearly defined by the Fourteenth and Fifteenth Amendments. If additional powers in [footnote continued on following page]

1. In fact, according to the widespread belief in Greene County, no Negro's job is safe if he does those things. The possibility of economic reprisal does not rest lightly upon people like Rev. Mr. and Mrs. Branch (they have seven children).

Managed 1966 reelection campaign of Senator John J. Sparkman.

A current project is raising funds and support to buy land and build and staff a trade school and college; this, together with industrial development, could stem and even reverse the Negro out-migration from Greene County.

Candidate for Congress and Presidential Elector (pledged to Humphrey-Muskie) in 1968. Campaigned actively throughout his district and placed second in field of five in congressional race, carrying his home county and Sumter County, two of the three Alabama counties carried by the Humphrey-Muskie ticket.

Has said on many occasions he has no further political ambitions.

Plans to continue to run for office. And to win.

[footnote continued from preceding page]

matters of elections are deemed to be necessary to be vested in the Federal Government, then Congress should attack the problem squarely by proposing an amendment to the Constitution.

No one has the wildest idea of the purpose for which the extraordinary powers created by this legislation will be employed and to grant them by such vague language as is contained in the bill approaches recklessness.

The people in the United States who entertain notions that the so-called racial issue is paramount in the sum total coverage of these proposals are due for a rude awakening when their own real civil rights will be invaded if this legislation should be adopted. Our real civil rights spring from the Bill of Rights, which, among other things, provides that all matters not prohibited to the States nor delegated to the Federal Government are reserved to the States or the people.

It is an unfortunate fact, however, that this bill will add further fuel and flame to discord engendered by certain agitators and if adopted could only result in deterioration of the goodwill and the harmonious relations existing between the races and grievous injury to the steady progress and advancement of the very people whom the proponents profess to assist.

[footnote continued on following page]

The Political Views of the Rev. Mr. Branch

He believes in and supports the platform of the NDPA (see Appendix 54a-63a).

He believes in racial integration and is opposed to separatism.

The Rev. Mr. Branch's wife, also has run for office. She made the run-off for County Tax Collector in the 1966 Democratic Primary but was defeated. She has encouraged and cooperated with her husband in all of his activities.

During the 1968 campaign he stated:

the reason why I am running for U.S. Congressman today is because of negligence on the part of the Rooster Party of Alabama, the Democratic Party of Alabama. Transcript of Proceedings before the Credentials Committee, 1179.

The Alabama Democratic Party's:

system is such that we have hundreds and thousands of poor little naked boys and girls roaming the backwoods and hills of Alabama who cannot even have a wholesome meal. Id. at 1180.

[footnote continued from preceding page]

Be it, therefore, further resolved that we invite and urge every member of like mind in the House of Representatives and in the Senate, where the rules of procedure are more flexible, to join with us in the employment of every available legal and parliamentary weapon to defeat this sinister and iniquitous proposal.

The Civil Rights Manifesto was signed by the following 83 Representatives, all of whom are Democrats

ALABAMA -- Frank W. Boykin, George M. Grant, George W. Andrews, Kenneth A. Roberts, Albert Rains, Armistead I. Seldon, Jr., Carl Elliott, Robert E. Jones, George Huddleston, Jr.
. . . .

Congressional Quarterly, 462 (1956)

While:

Here we sit from our respective states in conference and then we have a nice home to go back to.

But just think about it. How are we going to do it? What are we going to do? What is the Democratic Party going to do? What are we going to do in November?

If you were to consider the National Democratic Party of Alabama, you will also take the key that you are now holding and unlock the political padlock that has locked up the true progress of Alabama. I don't care who you are and where you come from, to say that Alabama is all right, it is truly upside down. There is discrimination. There is impartiality [sic: partiality] in every face [sic: phase] of government in Alabama. I am saying to you that if we would work together we could carve out the tunnel of hope and go through the mountain of despair and win the 5th Congressional District of Alabama, make the State of Alabama the South and the whole United States of America truly a land of freedom and the home of the brave.

Thank you. Id.

2. The Alabama Democratic Party's Credibility

The following representations were made by the Alabama Democratic Party in its Convention Credentials Committee Brief authored by Robert S. Vance, 9-10.

The vituperative character of NDPA's public utterances was matched by their corresponding disregard for state election requirements. Without any discernible compliance with the state law governing the formation of political parties, NDPA apparently decided just to "fake it." If a political convention is to be held, it is necessary that delegates be selected at specific times and places in county conventions or mass meetings. NDPA claims that it met this requirement. But its statement in paragraph 2 on page 6 of its brief to the effect that it held county conventions in sixty-seven counties in Alabama on May 7, 1968, is a monstrous misstatement of fact. It is doubtful that they held a single county meeting on that critical date. If so, it was certainly kept from the people of Alabama as one of the better guarded secrets of the year. They were asked on primary day whether they held any such county convention but declined to give any details. According to The Huntsville Times on May 8, 1968, the Chairman of NDPA refused to reveal the names of candidates and state convention delegates. When asked why, he reportedly said, "Because we just decided not to, that's all." The full story of the one county convention that they then claimed was held appeared in a rather humorous report in the May 12, 1968 Huntsville Times (Exhibit 12A). The accuracy of the story has since been verified by affidavit (Exhibit 12B). That county conventions were not held in other places as represented in Brief to this Committee is established by the affidavits of all the major political reporters in the state (Exhibits 13A, 13B, 13C and 13D). The legal inadequacies of its procedure has apparently caught up with NDPA because the Secretary of State of Alabama, upon the presentation of evidence, has now ordered that such party show cause why it should not be excluded from the ballot in the state of Alabama (Exhibit 14). (emphasis added)

On August 23, 1968, Mr. Vance orally presented the following to this party's Credentials Committee:

Well, it caught up with them and they implied that the Secretary of State had done something wrong. What she did was to receive evidence from someone in Huntsville that they didn't hold meetings and she said, "Show something before I strike you off the ballot," and they answered with vituperation. These were not people excluded. I said this wouldn't be a race case. I assume all the responsible Negro leaders in the State of Alabama oppose it. They didn't say anything about it in their brief, but race is always the way to hit that string when you are dealing with a group of people over the entire State. Shake them up a little bit. "Let's talk about race in Alabama." Transcript, 1198-99.

a. The representations of Mr. Vance were erroneous. Mr. Vance knows that they were erroneous.

(1) Mr. Vance vs. the Courts

It was 49 days before any judicial appraisal of these representations was made. A Judge of the United States Court of Appeals for the Fifth Circuit and two United States District Court Judges (one Republican and two Democrats) decided Hadnott v. Amos, 295 F. Supp. 1003 (M.D. Ala.).

Mr. Vance: "Well, it caught up with them and they implied that the Secretary of State had done something wrong."

The District Court: The Secretary of State is a candidate for presidential elector, which causes us to examine her acts with unusually careful scrutiny. 295 F. Supp. at 1009 n. 10.

Mr. Vance: The legal inadequacies of its procedure has apparently caught up with NDPA because the Secretary of State of Alabama, upon the presentation of evidence, has now ordered that such party show cause why it should not be excluded from the ballot in the state of Alabama

The District Court: The information consisted of a letter from two residents of Huntsville who had no personal knowledge of whether the mass meeting was held, accompanied by affidavits of two persons containing "evidence" of the most slender nature, largely circumstantial and in part hearsay, attempting to negative the certification that the meeting had been held.

Mr. Vance: They say the law requires a party to hold mass meetings in 67 different counties in the State of Alabama on a specific day, May 7, 1968, "and we did." Read, if you will, Exhibit 12-A, which describes the humorous little episode when the reporters in Huntsville tried to find the one meeting they then claimed they were having. The chairman told them it was at one time, the vice chairman said it was another time, and they finally concluded the only place it could be held was in the coffee shop which wouldn't hold 10 people, and the coffee shop owner filed an affidavit with the Secretary of State and said, "I know John Cashin. He wasn't in here at all." Transcript 1197. (emphasis added)

Mr. Vance: Who are the contestants? This gest [sic] to be sort of funny. They claim to be a political party. I invite your attention to this group of exhibits, because they claim they are on the ballot in Alabama. The McCarthy rump delegation says, "We are on the ballot." They did not start out as a McCarthy delegation. They started out as a dissident group in Huntsville. Dr. Cashin wanted to run a group up there he belonged to and he got out. That wasn't ancient history. That is this year. He had run for Mayor and the group had not been successful in getting even any local support. Transcript 1195-96

Mr. Vance neglected to mention that his "coffee shop owner" was totally -- quite literally totally -- blind.

The District Court: 3. The refusal by Mabel S. Amos, Secretary of State of the State of Alabama, to certify NDPA candidates insofar as it was based upon the letter and the affidavits described in the opinion of the court, was a violation of equal protection of the laws and of due process, as guaranteed by the Fourteenth Amendment to the Constitution of the United States.

4. The alleged failure of NDPA to hold a mass meeting in Huntsville, Alabama, on May 7, 1968, may not be the basis for any Judge of Probate denying a place on the ballot to any NDPA candidate, if the only evidence supporting such basis is the letter and affidavits described in the opinion of the court. 295 F. Supp. at 1014.

Mr. Vance: I said this wouldn't be a race case. . . . but race is always the way to hit that string when you are dealing with a group of people over the entire State. Shake them up a little bit. "Let's talk about race in Alabama."

The Supreme Court of the United States: We deal here with Fifteenth Amendment rights which guarantee the right of people regardless of their color or political persuasion to cast their votes effectively and with First Amendment rights which include the right to band together for the advancement of political beliefs. 89 S. Ct. at 1104. See Appendix 67a.

Mr. Vance: Without any discernible compliance with the state law governing the formation of political parties, NDPA apparently decided just to "fake it."

.

The legal inadequacies of its procedure has apparently caught up with NDPA because the Secretary of State of Alabama, [Wallace elector Amos] upon the presentation of evidence, has now ordered that such party show cause why it should not be excluded from the ballot in the State of Alabama.

The Supreme Court of the United States: The Alabama officials, therefore, acted unlawfully in disqualifying independent candidates in the 1968 election for failure to comply with the Garrett Act. 89 S. Ct. at 1105-1106. See Appendix 68a-69a

(2) Who faked what? And, after "faking it" who deceived this Party and its Credentials Committee?

The deception story begins at a meeting of the Alabama Democratic Conference in the Jefferson Davis Hotel, Montgomery, Alabama, on December 29, 1967. According to Dr. Cashin:

A Well, during this meeting, when they [Robert S. Vance and David J. Vance] explained that this is what they had cooked up, in that they were going to have these ten electors running with no other candidates, it was explained that there are -- there are some 2,000 Democratic offices located throughout the State, and they want to protect those, and they want George Wallace Electors to carry that -- say the Democrats in on Lyndon Johnson, who was the supposed National Candidate at the time would have ten electors under the Alabama Independent Democratic Party, pledged to the National nominee that would run out there by themselves, and Independent Democrats, in this way they felt that they would meet the call to the Convention by providing a means for the National Party to be on the ballot under the same emblem and designation of the Democratic Party of the State, and it is explained that it is not really two parties.

It is kind of a two-headed -- single kind of a two-headed Party, and at this meeting I became quite disgusted and told them so that I thought this was quite a farce, and they had created this climate of racism and would not allow a Negro to get elected as a delegate, and I think they had some responsibility for taking that situation rather than --

Q Does the question of County, Local and others [sic] offices come up?

A Yes, it did come up and I made the statement as far as I was concerned, Democrats are not still racists, as far as I am concerned and we would be just as well off -- I really didn't care whether or not those people did get into the office, especially if they got in on a George Wallace protest. Hadnott v. Amos, Deposition of John L. Cashin, Jr., at 217-18.

In this way they could "Protect Senator Hill [who had not then announced he would not seek reelection] and a lot of other local candidates." Id. at 242.

Mr. Vance conceded -- indeed seemed proud of this strategy. As he put it:

By nominating local candidates against Democratic and Republican nominees, they [the NDPA] insulate the national nominees from the

support of the very substantial number of the 2,000 Democratic public officials in Alabama who are National Party Democrats. Brief of the Democratic Party in Alabama at 12

On January 12, 1968, the NDPA was incorporated.

By January 15, 1968, Mr. Vance had ". . . objected strenuously to the use of any name or label incorporating the word 'Democrat' or 'Democratic' unless such name or label clearly indicates that the group being formed is an independent group." (emphasis added) Letter of John G. Bookout, (Deputy Alabama Attorney General) Sept. 29, 1968, Hadnott v. Amos, Exhibit E to Complaint, at 2.

Two days later the chairman of the Alabama Independent Democratic Party ("AIDP") (emphasis added) challenged successfully the use of the donkey emblem by the NDPA (Id., exh. F).¹

The "party within a party" worked one side of the street. The Alabama Democratic Party worked the other. But the object was at all times to direct Negro voter traffic to Alabama Democratic Party local, state and congressional nominees--candidates running on the ticket of George C. Wallace. As the AIDP chairman put it while discussing the Chairman of the Alabama Democratic Party and their comparative efforts:

Q Is he involved with your party in any way?
A He knows of its existence. I talked to Bob and exchanged ideas with Bob. He is objecting to some things we do. He can't tell us not to.

Q He has cooperated with you in other things?
A He has cooperated with us in some things.

Q What things?
A Well, the state executive committee filled all vacancies that occurred in the delegation to the Democratic Convention from persons who had been designated by the delegates by our executive committee. That is one of the cooperations. In general,

1. The Call to the 1968 Democratic National Convention specified that delegates would be seated only if the voters of the state were assured that Presidential Elector candidates pledged to support the convention's nominees would appear on the ballot under the Democratic Party emblem. The rooster is not the emblem of the Democratic Party in most states.

Bob is a loyalist Democrat and member of the loyalist faction. And I would say he has been friendly and cooperative to the extent that he could be where his interest is with that faction and what we have done to promote that interest. Id., Deposition of David J. Vann ("Vann"), 34-35.

That the AIDP and the Alabama Democratic Party were connected seems clear. ". . . [B]oth of the governing bodies of both organizations are represented through members on our Executive Committees." Id. at 11.

The NDPA continued its efforts. In Huntsville and twice in Montgomery prior to May 7, 1968, it held statewide meetings.¹ On May 4, 1968, it met in Montgomery, Alabama, to explain procedures to be followed on May 7, 1968, in order to have mass meetings throughout the state.² The mass meetings were held and nominations made for state, local and national office.³

1. Even the AIDP chairman attended an NDPA meeting ". . . in January of 1968. It was an open, public meeting. I was one of many people observing. George Wallace observed part of it." Id. at 15.

2. Alabama statutes require no notice of mass meetings or caucuses. NDPA notice was orally provided. Twenty-six people attended the single caucus of the AIDP. Vann at 5. AIDP invited "anybody that wanted to come. . . . I told people as I walked up and down the street. . . . I think I probably knew everybody there. But I have been active in politics in this area for a long time." Id. at 6-8. ". . . [A]nybody that came had a right to participate in it." Id. at 39. The AIDP meeting was not advertised, id. at 6, and although newspaper reporters were told ". . . when, where we were meeting. I don't recall whether it ever got in a newspaper story." Id. at 5.

A housewife (white) who had attended NDPA's mass meeting the same day had joined NDPA because:

A I don't feel that the present parties have been fair to minority groups. They are holding back progress and this sort of thing. And I felt that this party, as I found out, would offer more opportunity for people of the minority group to participate in and of the government.

Q Do you know that the party has a platform?

A The party has a wonderful platform.

Q Have you ever been, other than to the National Democratic Party of Alabama, have you ever been to a political meeting?

A Let me think. I don't think so. Deposition of Eileen Walbert 27.

3. There can be no doubt that the mass meetings, and a state convention with District and County caucuses were held. See depositions of Copeland, Pandow, Cashin, Schwenn, Merrill, [footnote continued on following page]

On July 20, 1968, the NDPA held its convention in Birmingham at the Tutwiler Hotel. There the delegates nominated candidates, confirmed nominations previously made, held District and County caucuses, adopted a party platform (a form of document almost unknown to Alabama's other political parties) and conducted party business. See Appendix 54a-63a.

Meanwhile Back in Huntsville

It is at this point in time that the labor of Mr. Vance and others gave birth to the "evidence" of which Mr. Vance was so proud at Chicago, the origin of which was unknown to NDPA, and which the three-judge federal court characterized as "'evidence' of the most slender nature, largely circumstantial and in part hearsay attempting to negative the certification that the meeting had been held." Hadnott v. Amos, supra, 295 F. Supp. at 1012.

In Huntsville, Alabama Democratic Party functionary, Jyles Machen, the President of the Young Democrats who ". . . is on the payroll of Congressman Bob Jones" (deposition of James Record, 9-10) and Julian Butler, a Huntsville attorney, were at work.

Messrs. Machen¹ and Butler prepared affidavits and had them signed by Messrs. Merrill (a newspaper reporter), Record (Chairman of Madison County Board of Commissioners and Alabama Democratic Party member), and Marlow (the blind witness) on July 17, 23, and August 13, 1968, respectively. Amos, Exh. A. On August 13, 1968, they prepared a letter for signature by Mesdames Dot Little (an AIDP candidate) and Helen Mims. Id.

On August 13, 1968, Mr. Machen presented the letter to a group of Democratic ladies at the Russell Erskine Hotel in

[footnote continued from preceding page]
Smith, Walbert, and Dickerson, passim, and Zylman, 20. There are also numerous sworn certificates which are unquestioned, copies of which are Exhibits to affidavits of Cashin and Zylman themselves attachments to the Motion for Temporary Restraining Order in Hadnott v. Amos.

1. Diligent efforts were made to find Mr. Machen in order to depose him but he was consistently unfindable.

1

Huntsville (Deposition of Helen Mims, 14-15) ". . . [T]hey felt that it would be in the best interest of our Party, the Democratic Party as a whole, and that they needed someone or somebody to present these to Mrs. Amos, or to the right party, and she apparently was." Id. at 21. Mrs. Little, the co-signer was like Mrs. Mims ". . . a real gun-ho [sic] Party worker, so she was interested in the effort." Id. at 23. Mrs. Mims had no personal knowledge of whether or not the Madison County meeting was held. But she felt ". . . that a positive action would be taken." Id. at 27.

Mrs. Little, is herself not new to politics -- (AIDP Presidential Elector Nominee and Executive Committee member, Member Madison County Democratic Executive Committee, Past President Madison County Democratic Women) -- in which she'd been involved: "Since I was a very young girl. I used to go out with my grandpaw in the county and get the people in Winston County registered to vote." Deposition of Dorothy Little, 8.

Mrs. Little is Mr. Vance's friend (they'd had a "Bob Vance Day in Madison County," Appendix 106a-107a) -- "I have had him engaged to speak at many meetings," Deposition of Dorothy Little at 15 -- and has talked with him and the AIDP chairman about their parties. Id. at 20-21. She discussed the National Convention and the letter with the AIDP chairman, id. at 38, but she denied the letter had anything to do with Credentials Committee challenges. Id. at 39. She had no personal knowledge of whether or not the NDPA meeting had been held. Id. at 41.

Unlike Helen Mims, whose political experience is great -- "Gosh. Well, first of all it all started when I was a little girl. My grandfather ran for Sheriff of Chilton County three times, I believe, and I used to go out in the cotton fields. That is how it got started. I guess that is where I got the itch." Mims, 9 -- most NDPA members are new to the electoral process. Their grandfathers were barred from voting by "grandfather clauses."

1. Extracts of sworn testimony are contained in the Appendix. Mrs. Mims speaks at 92a-103a. Mrs. Little speaks at 104a-120a. James Record speaks at 121a-124a. Hugh Merrill, III, speaks at 88a-89a. AIDP chairman David J. Vann speaks at 90a-91a. Governor Brewer speaks at 85a-87a.

So it happened that the "documentary evidence" from "[r]esponsible citizens" was received by Mrs. Amos on Wednesday, August 14, 1968, Amos, Exh. A. And on that day she wrote Dr. Cashin's predecessor as Chairman of NDPA that ". . . in view of this evidence, I must call upon you to show cause why the National Democratic Party of Alabama should not be excluded from the November general election ballot." Id. Exh. EE.

By coincidence, the Committee of Credentials of the 1968 Democratic National Convention convened on Monday, August 19, 1968. On August 17, Dr. Cashin requested "copies" id. at 167, of the documentary evidence. On August 21, 1968, Mrs. Amos wrote him in Huntsville (he was at the Conrad Hilton Hotel in Chicago, Illinois, as his request letter stated) offering to sell him twelve certified copies of the documents for \$126. (Id. Exh. DD, of course no "certified" copies had been requested.)

The only eye-witness evidence on which the Secretary of State could possibly have relied was the affidavit of A. W. "Buddy" Marlow, the blind proprietor of the Madison County Courthouse Coffee Shop. "At no time on May 7, 1968, did I hear anything resembling a mass meeting to select delegates to a political convention being held," he said. Deposition of A. W. Marlow 6-7. Mr. Marlow had never been to a political meeting. Id. at 32. Since May 7, 1968, Mr. Marlow has said he did not know the voice of either Mr. Howard or Dr. Cashin. Deposition of Mel Newman, 11-12. Mr. Marlow's attitude was "[t]erribly belligerent," Merrill 21; he ". . . is a very strong Wallace supporter . . ." Schwenn, 51. He told Mr. Schwenn (NDPA Senatorial candidate):

That he didn't want to be involved in politics, and that he didn't, in general words, he was completely unsympathetic to our group, and didn't want to have anything to do with it, and it could put them in a bad situation with the State. Id. at 55.

Mrs. Amos says she did not know her statements would

be used against NDPA at the Democratic National Convention.¹
Amos, 108.

But they were used -- effectively.

And lest it be overlooked the Huntsville meeting was the only one attacked. It is not clear to this day how the opponents of NDPA planned to justify the blanket statewide exclusion of the party from the ballot.

Meanwhile Back in Montgomery and Washington.

The Alabama Democratic Party was really interested in "insulating" its 2,000 state officeholders but the benefits of insulation, of course, were not to accrue to the national party's nominees.

So the NDPA was forced to go to court -- again and again and again:

| | |
|----------------|---|
| Sept. 10, 1968 | Candidates of the National Democratic Party of Alabama barred from the ballot by action of the Secretary of State. |
| Sept. 13, 1968 | Action filed United States District Court, Montgomery, Alabama, seeking declaratory and injunctive relief to place the names of nominees of the NDPA on the ballot for the November 5, 1968 general election. |
| Sept. 16, 1968 | Statutory three-judge district court convened. Hearing held. |
| Sept. 19, 1968 | Second hearing held. Three-judge court issues temporary restraining order granting plaintiffs relief. |
| Sept. 30, 1968 | Hearing held on preliminary and permanent relief. |
| Oct. 11, 1968 | District court files its opinion, Chief Judge |

1. Nevertheless, the Governor said:

A Oh, yes. Mrs. Mabel has been a public servant for many years, even before I knew her, continuously during this period of time. She has handled, during this period of time, matters that are politically quite sensitive, almost as a daily occurrence in her official duties.

I don't think anyone questions her integrity or her ability to deal quite fairly with any situation. Brewer, 18.

Frank M. Johnson, Jr., dissenting. The court held the questioned Alabama statutes constitutional on their face and in their application. But it also held Mrs. Amos's actions on the Huntsville (Vance Credentials Committee) "evidence" invalid. Plaintiffs immediately filed notice of appeal. Hadnott v. Amos, 295 F. Supp. 1003 (M.D. Ala., 1968) (three-judge court).

- Oct. 12, 1968 NDPA seeks temporary relief from Supreme Court Justice Black.
- Oct. 14, 1968 Mr. Justice Black recuses himself. (NDPA Presidential Elector nominee Virginia Durr is his sister-in-law.)
- Oct. 14, 1968 Eight justices of the Supreme Court order the NDPA's temporary restoration to the ballot pending special hearing before the Supreme Court. Hadnott v. Amos, 89 S. Ct. 138 (1968).
- Oct. 18, 1968 Supreme Court special oral argument.
- Oct. 19, 1968 Supreme Court orders restoration to the ballot of NDPA candidates in November 5, 1968 general elections. Hadnott v. Amos, 89 S. Ct. 227 (1968).
- Nov. 5, 1968 NDPA Negro candidates elected to various local offices -- Justice of the Peace, Constable, School Board, 17 in all -- but in Greene County NDPA candidates left off the ballot by probate court Judge J. Dennis Herndon who was locally responsible for preparing the ballot.
- Nov. 15, 1968 NDPA moves in Supreme Court to enjoin Greene County white candidates from taking office, and charges Judge Herndon with contempt of its October 19, 1968 order.
- The United States joins NDPA's constitutional claims amicus curiae by special leave of the Court, and obtains injunction from District Court enjoining Greene County's Alabama Democratic Party white candidates from taking office.
- Jan. 21, 1969 Argument before the Supreme Court.
- March 25, 1969 Supreme Court reverses District Court and remands the cause with directions (1) to issue an appropriate order requiring prevailing NDPA candidates in Etowah, Marengo and Sumter Counties to be treated as duly elected to the offices for which they ran; and (2) to require state and local officials promptly to conduct a new election in Greene County for the various county offices contested by NDPA candidates, at which election NDPA candidates are to appear on the ballot. Hadnott v. Amos, 89 S. Ct. 1101 (1969).
- Motion to hold Judge Herndon in contempt disposed of in separate opinion postponing decision and remanding question to the District Court. In re Herndon, 89 S. Ct. 1107 (1969).

June 2, 1969

District Court orders new election in Greene County July 29, 1969 in accordance with orders of the Supreme Court.

July 29, 1969

Greene County election is held. All six NDPA candidates omitted from November ballot are included and win election -- four to the Greene County Commission and two to the County School Board.

Throughout these proceedings NDPA was faced by a battery of unified Alabama Democratic Party lawyers. Alabama Democratic Party Attorney General MacDonald Gallion (himself a Wallace pledged elector candidate) put his staff to work; the Alabama Democratic Party's temporary Governor (himself a Wallace pledged elector candidate) hired a loyalist Alabama Democratic Party state committee member to serve as counsel for the Alabama Democratic Party's Secretary of State (herself a Wallace pledged elector candidate); the Alabama Citizens for Humphrey-Muskie including AIDP Chairman Vann¹ retained a loyalist Alabama Democratic Party state committee member as its counsel; and, finally, Greene County Probate Judge J. Dennis Herndon retained as one of his attorneys George A. LeMaistre, loyalist, state party treasurer, a bank president and treasurer for the Alabama Citizens for Humphrey-Muskie. His task was to defend the Judge on charges arising from the leaving of the names of the Greene County NDPA candidates off the ballot in the face of a Supreme Court order.

In unity there is strength or, at least, the appearance of a sense of common purpose, plan, scheme, or design.

b. Mr. Vance's gratuitous attacks on Richmond M. Flowers, Jr.

Before the Credentials Committee Mr. Vance attacked the NDPA for its association with former Alabama Attorney General Richmond M. Flowers, Jr. Richmond Flowers had been by August 23, 1968, indicted by an Alabama Federal grand jury. He was to be prosecuted by an Alabama Democratic Party U.S. District

1. Throughout the entire legal struggle David J. Vann, the AIDP's state chairman was both honest and straightforward in his dealing with NDPA. He campaigned actively for the Humphrey-Muskie ticket. This Mr. Vance did not do. See Appendix 15a-17a. Indeed, Mr. Vann was willing to (and did) enter into a stipulation that the AIDP elector candidates would not withdraw their names from the NDPA slate if the court allowed their names to appear on the ballot under both the AIDP and NDPA labels. The NDPA made this offer in order not to allow the Humphrey-Muskie vote to be fragmented. A state statute forbade this procedure and its constitutionality was in question. But the Alabama Citizens for Humphrey-Muskie refused to enter into this stipulation.

Attorney.

Mr. Flowers had campaigned in the 1966 Alabama Democratic Primary as an advocate of racial integration and liberalism in the state and nation. He had opposed George C. Wallace from the day of their inaugural address. Wallace had chosen the road of the Alabama Democratic Party, the turmoil trail of William Lowndes Yancey. Flowers had chosen the road of the National Democratic Party.

Prior to the 1966 primary election Flowers prosecuted the alleged slayers of Viola Gregg Liuzzo of Michigan and Jonathan Daniels of New Hampshire each of whom were shot down while seeking for black Americans the right to vote.

Mr. Vance, somehow believing that the rules of his game allowed him to attack publicly a then untried -- and quite possibly innocent -- man wrote the following

According to Dr. Cashin's statement as reported in the Birmingham News of Sunday, September 23, 1967, NDPA received guidance from former Attorney General Richmond Flowers. Flowers has remained an activist in this movement and participated from the outset through its most recent meetings. Flowers' motives for becoming involved in the NDPA movement may best be explained by him. It is widely speculated, however, that his involvement in presidential politics, particularly in purported support of the national nominee, arose from his desire to extricate himself from his own difficulties. (Exhibit 10.)^[1] Note that Mr. Flowers' indictment was announced not by a State prosecutor but by the Attorney General of the United States. Brief of Alabama Democratic Party, 8.

The author's response at the hearing before the Credentials Committee was:

We contend that we represent a majority of the [Democratic] voters of Alabama. I wouldn't mention this but Mr. Vance made much out of it in his brief. He made much out of the fact that Richmond M. Flowers, Jr., the Attorney General, has been indicted. He states the announcement was made by the Attorney General of the United States, and also made by the United States Attorney, of course, in Birmingham.

I want to point out to you that in the last election for Governor of Alabama, Lurleen Wallace got 480,000 votes, Richmond Flowers 172,000 votes. The next nearest man went 100,000 votes behind him.

1. Exhibit 10 was a front page article from the Birmingham Post-Herald, Sat., Aug. 3, 1968, cols 1-8, headline "By Federal Grand Jury, Flowers Indicted for Extortion." The timing of Mr. Flowers' indictment raised questions in some minds just as had the timing of the Secretary of State's statements regarding the NDPA's Huntsville meeting.

You may be well assured that we represent those people in the cross-section of Alabama who voted for him then, and because he is under indictment, we don't feel at all ashamed about it, and we feel that in keeping with the American Democratic processes and the processes of our constitution, the fact that the man is indicted shouldn't be used against him in briefs and bandied about by folks all over the place. Transcript, 1155.

Now Mr. Flowers has been convicted in a Birmingham Federal Court by an Alabama jury.

On reflection more should have been then said.

In the late afternoon of July 19, 1968, Mr. Flowers arrived at the Dinkler-Tutwiler Hotel in Birmingham.

He had been slugged, spat upon and since the 1966 gubernatorial race shunned by Alabama's nicer "respectable" white people. For two and one half years the Internal Revenue Service had possessed his financial records. Alabama Democrats rarely seem to suffer two and one half year audits. And, only occasionally following a murder or a similar offense do leaders of the Alabama Democratic Party find it necessary to face criminal charges.¹

Mr. Flowers was elated. At noon on July 19, 1968, his records had been returned to him and he had been given a clean bill of health.

On July 20, 1968, Mr. Flowers expected to be nominated by the NDPA convention as its candidate for the United States Senate Seat now held by James B. Allen, Governor Wallace's personal emissary to Washington and a member of the Rules Committee due to the intervention of the formerly "liberal" Senator Sparkman.²

In the early evening Mr. Flowers received a friendly visit from an Alabama Democratic Party member, a Federal official, who advised him that an indictment might soon come his

1. A tribute, no doubt, to their being law and order loving citizens except, of course, when the law (such as one relating to civil rights) conflicts with the Order.

2. See Appendix 4a.

way. Flowers was literally flabbergasted.

No money, few friends, and cleared by the Internal Revenue Service on the eve of his nomination for the United States Senate he was advised, in a friendly manner, that he probably was to be charged with extortion.

Knowing Alabama, the ways of its political machinery and that Flowers had attacked the use as an issue of the "one, and only one, real basis for southern unity: the Negro" NDPA members advised him that they believed the soon-to-come-charge was politically motivated and based on the politics of race at that.

Mr. Flowers desiring not to harm the fledgling political movement, a movement dedicated to the emancipation of the white and black poor of the South from their educated patrician state Democratic and Republican lords and out-of-state overlords refused to allow his name to be placed in nomination. He did this even though he knew and had been advised, that once he became a candidate his prosecution would then clearly appear to have been politically motivated. But according to Mr. Vance:

They were trying to sell the idea in Washington, going from door to door and then they withdrew Richmond from the front lines because of his indictment when his extortion and acceptance of bribery became public. Transcript, 1196-97.

That attack by Mr. Vance based on "his extortion and acceptance of bribery" (he was not even charged with bribery yet Mr. Vance had decided he was guilty of that too), prior to trial seemed unfair. There are some men who bind themselves to a set of rules even when seeking personal power. Others do not.

Mr. Vance had succeeded two days earlier in tarring the NDPA with the "McCarthy rump Delegation" label. Transcript, 818.

He had pledged undying fealty to the party's nominee and brought down the house at the Credentials Committee.

Chairman Hughes: Ladies and gentlemen, I am not calling for order to stop the applause, Mr. Vance. But we will stand in adjournment until 9:00 o'clock tomorrow morning in this room. Id., 821

He had won a debate with a McCarthy Democrat. Ironically, Mr. Vance The Loyalist was to return home to campaign for local and congressional candidates. And his then adversary, Joe Rauh, was to soon hit the campaign trail for the Humphrey-Muskie ticket.

Mr. Vance knew that he was in good shape on the challenge. There was no need to gratuitously attack Mr. Flowers.

Unless for some reason Mr. Flowers' case like that Huntsville "evidence" was preying on his mind.

Obviously, Mr. Vance, the Alabama Democratic Party and its officeholders have not played their game by the usual rules of fair play. But under the Constitution¹ fundamental fairness is to govern the conduct of the affairs of this nation and its people.

And according to the three-judge federal court, politics is no exception -- the use of the Huntsville materials was a violation of "essential fairness." 295 F. Supp. at 1013.

But some would at this point invoke the old paraphrase "It's not how you play the game, it's whether you win or lose." The NDPA and its nominees join issue on this ground, too. For Mr. Vance and his cronies in the Alabama Democratic Party have played the "game" as it has always been played -- and in that game Southern Negroes and poor and liberal whites always lose.

But some things have changed since the rules of the

1. Particularly the due process and equal protection clauses of the fourteenth amendment and the clear mandate of the fifteenth amendment.

Southern political game were last invented. Negroes now vote in the South.

True, they have only been voting in large numbers for about three years now. They don't have the same political heritage and experience as those who went out politicking with their granddaddies in the cotton fields. Some of them only learned recently that politicians don't always tell the truth. But they know another political axiom: "Reward your friends and punish your enemies."

The Alabama Democratic Party has done a masterful job of proving itself the enemy.

Maybe the political principles of the Alabama Democratic Party are even more crudely elementary. They may simply say that since politics is a dog-eat-dog business,¹ all who come into it do so at their peril. In other words politics is like the law which in all its majesty, forbids rich and poor alike to sleep under a bridge or steal a loaf of bread. But the Supreme Court of the United States thinks the rule is otherwise. Construing Alabama's Corrupt Practices Act, it said:

We refuse to accept a reading of an Act which gives such a loose meaning to words and such discretionary authority to election officials as to cause Fifteenth and First Amendment rights to be subject to disparate treatment. That risk is compounded here where the penalty is the irrevocable striking of candidates from the ballot without notice or an opportunity for contest and correction. 89 S. Ct. at 1104-05.²

1. Still, even among rivals, there is a certain cooperation among members of the "club" in laying out, or finding out, the ground rules. For example, in the Hadnott case the Judge of Probate of Autauga County, Alabama, testified that the various intra-county district boundaries were set by local act, he and other politicians knew them because they have been in politics all their lives, but about the only way a neophyte would find them out is to ask a politician, e.g., a prospective opponent. Deposition of Judge Edward Grouby at 20-21. But Negroes are not members of the "club". A publication by the United States Commission on Civil Rights, Political Participation contains, at 48, a chapter entitled "Preventing Negroes from Becoming Candidates or Obtaining Office," with a subchapter entitled "Withholding Information."

2. The dissenting opinion in the district court had become the basis for the Supreme Court's opinion:
[footnote continued on following page]

The Constitution provided the NDPA and its members the right to enter the political arena. The Supreme Court in effect overruled the Credentials Committee and the decision of the Chicago convention.

To the extent, if any, that the Credentials Committee based its decision on purely partisan political considerations its decision was made on an honest factual basis.

To the extent that it relied on false representations of material facts it was deceived.

Whatever other rules the NDPA may learn to play by, it is too young, inexperienced, and naive to lie.

Perhaps it will learn to do so from the leaders of Alabama and the Alabama Democratic Party.

Perhaps it will not.

[footnote continued from preceding page]

. . . it is not tolerable for this Court to allow these officials to make their first foray in the enforcement direction against a small, new, and almost surely impecunious group of candidates seeking to form a new party in Alabama. Hadnott v. Amos, 295 F. Supp. 1003, 1014 (M.D. Ala. 1968) (three-judge court) (Frank M. Johnson, Jr., Chief Judge, dissenting in part).

THE FUTURE

We have written of the past because it so often tells us not merely where we are going but also sometimes tells us where we are.

We have relied on facts and the truth as we know it. If there have been errors or omissions it is not because we care to deceive you. Our purpose in seeking this Committee Seat is far too important for us to demean it by trickery or by deceit. As we stated earlier it is not us but it is our ideas which are on trial.

This is not a trial of our Party or Mr. Branch or their Party or Mr. Rains. Concepts are on trial.

It is you and your ethical political judgments which are on trial. Can you conceivably select as your compatriot the choice of the 72 white male members of the Alabama Democratic Party's State Executive Committee to fill the seat formerly occupied by Bull Connor? Can you seat the choice of a lily white state Executive Committee which didn't even have electors pledged to the Party's national nominees on its ticket? Can you do this when 85 to 95 percent of the national party's Alabama votes were drawn from the black community?

But morality, legality and sanity aside to not seat the Rev. William McKinley Branch is just not very good politics.

To be quite candid about it, the NDPA is concentrating on the Black Belt. With your help and the help of organized labor we'll simultaneously move into Birmingham and Mobile. Montgomery is already in the NDPA's ranks.

Although the NDPA's nominees for Presidential Elector received but 54,144 votes compared with 142,435 for the nominees of the AIDP, NDPA carried two counties (Greene and Sumter) over those pledged to the candidacy of George C. Wallace. The AIDP Presidential Elector slate carried Macon County.

NDPA Presidential Elector nominees ran ahead of those of the AIDP in 16 counties. The bulk of its strength lay in

the Black Belt counties of Autauga, Barbour, Bibb, Bullock, Greene, Hale, Lowndes, Marengo, Montgomery, Perry, Pickens, Sumter, and Tuscaloosa, and in the North Alabama counties of Blount, Colbert, and Madison. The AIDP statewide margin was augmented by a 59,124 vote lead over the NDPA in Jefferson and Mobile Counties.

NDPA had but two weeks in which to campaign. It had little money -- enough to print some sample ballots and run a pre-election weekend campaign of radio spot announcements.

NDPA did not have the benefit of overlaid advertisements superimposed several times during each of the Humphrey-Muskie telecasts which urged the electorate to vote the AIDP slate.

NDPA had to confront the recurring charge that it would eventually lose its case in the Supreme Court and a vote for it was a thrown away ballot.

The NDPA was a cause of concern in Greene County. Its nominees now control both the school board and the county commission there. In adjoining Marengo County NDPA elected five justices of the peace. In adjoining Sumter County they elected four justices of the peace, three constables and the Chairman of the Board of Education. In Greene County their county co-chairman, Rev. Peter J. Kirksey, had already been elected to the school board. NDPA elected 23 of its 89 nominees to office. Alabama Democratic Party Negro elected officials from Sheriff Lucius Amerson down are joining up.

Alabama now has more Negro elected officials than any other southern state. More are coming in 1970 and 1972. Perhaps by then we will have elected a white liberal or two also.

In spite of the attacks and handicaps thrown in its path, NDPA thinks it did pretty well the first time out. The second time out it won. Winning can get to be a habit.

The NDPA offers the National Democratic Party a way to change Alabama and the Deep South. There is really no other way.

First, the Phillips-Mitchell-Nixon strategy (although doomed to failure by its false assumptions) is perfectly constructed for the building of a truly liberal Democratic Party in the Deep South.

Second, the building of such a party should attract the overwhelming majority of out-of-the-South college educated youth to the Democratic Party. Honesty has its political virtue. When coupled with candor and joined by a moral cause it is the most innocently effective of all political weapons.

Third, the National Democratic Party has nothing to lose. It lost the Deep South long ago. Recognition of this would lead rational men and women to the conclusion that it is time to build a party system in this area.

Fourth, whatever structure is used to rebuild in the South it must weld together the poor, white and black and Spanish speaking -- employed and unemployed; the intellectuals and their University communities; progressive religious leaders of all creeds; and the young. It must not be racially or otherwise exclusive. *The Rainbow precursor*

Since this by its nature resembles an educated populism, a difference with the past must be noted. During the Populist Period whites were constantly seeking or stealing or fearing that other whites would capture the Negro vote. The base of this party is black. It must reach from its strength out into the white community. Its approach thus in this respect is exactly the opposite of that of the parties of the 1890s. Here blacks are in the majority. They and liberal whites must reach out to convert white voters to their cause.

Above all else the party must remain racially integrated. A labor leader many years ago discovered the folly of separatism.

Debs' firm stand against racial prejudice was not solely due to general good will. He was convinced that any racial or religious division was harmful to the entire labor movement. A statement he made in 1903 helps illuminate this attitude: "The convention of the American Railway Union which resulted in the great railroad strike of 1894, after a fierce and protracted debate, turned down the

Negro and this was one of the factors in our defeat. The leaders of the opposition, as I remember them, proved subsequently to have been traitors to the union, sent to the convention, doubtless, at the instigation of the corporations to defeat the unity of the working class." R. Ginger, Eugene V. Debs: A Biography, 274 (1962).

His numerous organizing trips through the South had convinced him that white workingmen would be exploited so long as the Negroes were held in an inferior position. As early as January, 1898, Debs ironically wrote from Montgomery, Alabama: "It is no longer the pauper labor of Europe, but of the United States that we need to be 'protected' against. Congress should promptly erect a tariff along the Mason and Dixon's line." On his lecture tours of the Southern states, many of which were sponsored by branches of the AFL or of the YMCA, Debs always refused to speak before segregated audiences. In several cases he threatened to cancel engagements rather than yield to local prejudice. Id.

Five, the facts and the law seem to point to no rational technique other than that which the NDPA proposes.

1. The primaries are useless as liberalizers of the party.
 - a. There is no party registration in the Deep South states excepting Louisiana;
 - b. Republicans, John Birchers and Wallaceites vote in the primaries to conservatize the Democrats. Then in the general election they will move the Deep South even further to the right by casting their ballots for those even further to the right than the primary nominees.
 - c. There are run-off elections in the primaries and, since the election finally devolves into a two person race, the conservative is always destined to win unless the electoral unit's population is majority or near majority black.
 - d. The primary elections effectively disenfranchise the one-third of today's Deep South electorate which is functionally illiterate. Straight ticket voting under recognizable party emblems is essential for success with this electorate.¹

1. Cf. Each of NDPA's Greene County candidates ran in the Alabama Democratic Party's May, 1968, primary election. Each of them lost. When they ran on the NDPA ticket all emphasis was placed on the eagle emblem and straight ticket voting. They won and they did so despite an absentee vote against them of 204 to one.

(1) Marked sample ballots are not merely confusing but, in states like Alabama where the law requires that no candidate receive an alphabetical advantage the names on ballots are listed in a different order at each polling place. Sample ballot use is not merely impractical, it is impossible.

(2) The primary election officials are members of the Deep South Democratic parties; control of the election machinery can be placed in other hands only at general elections.¹

2. The general election offers (at least in so far as Presidential and congressional races are concerned) no runoff. With plurality voting Charles Evers would now be a member of Congress. Since Congress sets the date of the general election, state legislative alteration by adding runoff provisions would be constitutionally impermissible.

Six, this system allows at least an early possibility of plurality victory for national offices.

Seven, the entire plan has social worth. It attacks racism at the very center of resistance to the Democratic Party's national and international policy. It affords an opportunity for organized labor and civil rights forces to work together as

1. An example of the attitude of some southerners is found in the following letter to the Alabama Democratic Party's Secretary of State:

3-25-68

Hi Mabel--

Enclosed are the 150 party emblems--per your request. Please send the 150 back to me (the ones which had the motto marked out).

Congratulations on your diligent efforts, which resulted in the disqualification of some liberals.

Regards

Bill Mori
[Chairman of the Alabama
Conservative Party]
(Amos Pl. Exh. J)

in Charleston and Memphis. It carries with it the most profound interest and commitment of some of the nation's outstanding Negro leaders. Through congressional changes there will eventually come changes in the racial attitudes of those on the federal bench. With this (and with Negroes participating in and serving on local governmental bodies), trust in the law may become a part of black America's faith.

Perhaps most importantly the National Democratic Party would have the satisfaction of dealing simply and honestly with that problem which has sapped its energies for more than a century.

CONCLUSION

The traditions that have been followed by the Democratic Party in Alabama have produced victories for our party and they have produced leadership to which I can point with pride.

.
I firmly believe Alabama is in transition and that its direction is healthy and progressive. I have unbounded confidence that Alabama is working to solve its problems and I believe it is solving them because of its commitment to the Democratic institutions and to the Democratic Party.

.
I urge you to be guided and finally persuaded to this end by the same democratic principles and tolerances for differences which have made the Democratic Party great in the State and in this nation. With such considerations and persuasions, I can find nothing but confidence in the outcome of these challenges.

Thank you, Mr. Chairman. -Hon. John J. Sparkman's message delivered to Credentials Committee, Chicago, Illinois, August 23, 1968. Transcript, 1203, 1205, & 1206.

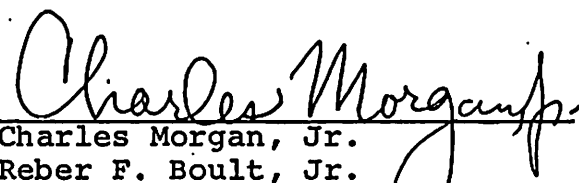
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". . . leadership to which I can point with pride":

| | |
|--------------------|---------|
| Richard M. Nixon | 138,064 |
| Hubert H. Humphrey | 191,687 |
| George C. Wallace | 643,518 |

- The Alabama Results
November 5, 1968.

Respectfully submitted,


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