IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 77-1844

CITY OF MOBILE, ALABAMA, et al., *Appellants,*

v.

WILEY L. BOLDEN, et al., *Appellees.*

ON APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT

REPLY BRIEF FOR APPELLANTS

C.B. ARENDALL, JR.
WILLIAM C. TIDWELL, III
TRAVIS M. BEDSOLE, JR.
Post Office Box 123
Mobile, Alabama 36601

FRED G. COLLINS
City Attorney
City Hall
Mobile, Alabama 36602

CHARLES S. RHYNE
WILLIAM S. RHYNE
DONALD A. CARR
MARTIN W. MATZEN
1000 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036

Counsel for Appellants

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Constitution and Statutes:

Miscellaneous:

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978

No. 77-1844

CITY OF MOBILE, ALABAMA, *et al.*,
Appellants,

v.

WILEY L. BOLDEN, *et al.*,
Appellees.

ON APPEAL FROM THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT

REPLY BRIEF FOR APPELLANTS

This Brief responds to the Brief for the Appellees in No. 77-1844,[1] and to the Briefs of the United States (in Nos. 77-1844 and 78-357)[2] and the Lawyers' Committee for Civil Rights Under Law in No. 77-1844[3] as *Amici Curiae.*

ARGUMENT

At the outset, and in light of the attempt of the Appellees to broaden the issues in this case without preserving issues by cross-appeal, it is necessary to establish what is — and what is not — involved in this particular case. This is a Fourteenth Amendment case solely. Issues under the Fifteenth Amendment[4] and §2 of the Voting Rights Act, 42

[1]Cited Appellee Br., p. ____.

[2]Cited U.S. Amicus Br., p. ____.

[3]Cited Lawyers' Comm. Amicus Br., p. ____.

[4]Appellees continue to argue that a showing of purpose is not necessary to a dilution claim under the Fifteenth Amendment, because *Washington v. Davis.* 426 U.S. 229, did not expressly overrule *dicta* in

(footnote continued on next page)

U.S.C. §1973,[5] were rejected by the Court of Appeals below and have not been cross-appealed.[6]

The attempt by the Appellees and their *Amici* to add in their defense of the judgments of the courts below issues rejected by the courts below, merely indicates the fear of the Appellees and *Amici* of resolution of the Fourteenth Amendment voting issue, the sole issue to which we devote the balance of this reply.

The Defendants below were four: the City of Mobile and its 3 incumbent Commissioners.[7] Neither the State of Alabama nor any of its Legislators officially or personally were joined. Thus, the focus of this case is whether the incumbent City Commissioners created or maintained, with racially discriminatory intent, an obstacle to full black participation in City at-large elections.

(footnote continued from previous page)

Fortson v. Dorsey, 379 U.S. 433. This contention, rejected by the Fifth Circuit in its opinion in the companion case of *Nevett v. Sides*, 571 F.2d 209, 217-221 (5th Cir. 1978), *pet. cert. filed*, No. 78-492, which was incorporated in its opinion in this case, is both frivolous in light of *United Jewish Organizations v. Carey*, 430 U.S. 144, 166-67, and not the subject of any cross-appeal. See *Brennan v. Arnheim and Neely, Inc.*, 410 U.S. 512, 516; *United States v. Pennsylvania Industrial Chemical Corp.*, 411 U.S. 665, 660-61 (Appellees not permitted absent cross-appeal to raise issues resolved against them below).

[5]Appellees' assertion that §2 of the Voting Rights Act affords them a purpose-less cause of action for dilution was also properly rejected by the Court of Appeals below (571 F.2d at 242 n. 3; Juris. St. 4a-5a) as without foundation in any precedent. That section only recites the language of the Fifteenth Amendment. Section 5 of the Act, 42 U.S.C. §1973c, which speaks of purpose and effect in the disjunctive, has no application to the maintenance of at-large Commission elections in Mobile. No cross-appeal has been taken on this point either.

[6]Similarly, not before the Court is Appellees' attempt, Br. 37, to argue that, contrary to the decision below, intent is not required under the Fourteenth Amendment or Fifteenth Amendment, Br. 53, 82.

[7]App. 17.

The Amicus brief of the United States merges the City (No. 77-1844) with the County School Board (No. 78-357); but the facts of the two cases are different, the electoral processes are different[8] and the administration of each is different.[9]

The City case must be decided on its own facts.

Since there is no obstacle to full black participation *within* the at-large system[10] in the City of Mobile, the Appellees must divert their attention to the maintenance of the at-large system itself.[11]

Since the record reflects no maintaining action (or inaction) by the City Commissioners, the Appellees must divert their attention to the actions of State Legislators.[12]

There is nothing in the record to suggest — and Appellees do not argue — that any Mobile Commissioners

---

[8]The City of Mobile has non-partisan elections. The only slating organization of record below is the local branch of the National Association for the Advancement of Colored People, the Non-Partisan Voters League (NPVL). The NPVL endorsed the two white incumbent City Commissioners who were opposed in the most recent City election.

The County School Board is elected in partisan elections at-large. The Alabama Legislature is elected in partisan elections from single-member districts.

[9]The City Commissioners are both legislators and administrators. The County School Board appoints an administrator whose tenure and duties would not be affected by either affirmance or reversal in No. 78-357. In contrast, affirmance in No. 77-1844 will give effect to the 60-page order (Juris. St. 1d-63d) establishing an entire and entirely new administrative structure for the City of Mobile.

Therefore, the City is, both factually and constitutionally, different from both the County School Board in No. 78-357 and the State Legislature. See Opposition to Mot. to Affirm (No. 77-1844), pp. 1-5.

[10]Cf., *White v. Regester*, 412 U.S. 755, 767.

[11]All agree that an at-large electoral system is not *per se* unconstitutional. Appellee Br., pp. 40-42; Lawyers' Comm. Amicus Br., p. 4; U.S. Amicus Br., p. 41.

[12]Appellee Br., pp. 21-24.

were involved in the proposal or defeat of any special electoral legislation[13] concerning Mobile, cited throughout Appellees' Brief.

So, at bottom, Appellees are left only with their next argument, set out in their Brief, pp. 24-25:

> "No black has ever been elected to the at-large commission, and no black has ever won any at-large election in Mobile City. . . ."[14]

Thus, Appellees — and the Amicus Lawyers' Committee[15] — have only the argument that Appellees heretofore[16] have avoided: that the evil is the at-large system itself and the description of the evil is the failure of the at-large system to guarantee black Mobilians proportional representation by race.

The Appellees urge this Court to correct the evil by declaring a constitutional right in each voter to be represented by one of his own race, and a corresponding constitutional obligation in all local governments to constantly restructure themselves so as to insure this result.[17]

---

[13]The Appellees then quote from *Arlington Heights*, 429 U.S. 252 (Appellee Br., p. 24). The legislative intent on which the Court in *Arlington Heights* focused was that of the defendant Village Board. By analogy to their argument in this case, Appellees would see the proper focus in *Arlington Heights* to be the state legislature in Springfield in authorizing the village to make zoning decisions at all.

[14]But the United States admits, Br., pp. 43, 88, that no inference arises solely from the failure to elect blacks.

[15]Lawyers' Comm. Amicus Br., pp. 9-10.

[16]See Mot. to Affirm, p. 5.

[17]A logical implication of Appellees' position is a right in white citizens to resist maintenance of at-large elections where the black voting population approaches 50%. Cf., the companion case *Nevett v. Sides*, 571 F.2d 209, 214 n. 6 (5th Cir. 1978), *pet. cert. filed*, No. 78-492. In that circumstance, white voters would claim a Fourteenth Amendment right to proportional representation by race.

This retrenchment of position forces Appellees and Amici to oppose this Court's decisions in *Whitcomb v. Chavis*, 403 U.S. 124, *White v. Regester*, 412 U.S. 755, and *United Jewish Organizations of Williamsburgh, Inc. v. Carey*, 430 U.S. 144, which hold that the focus of a constitutional voting rights[18] case is racial equality of electoral access and participation rather than electoral result, and that states are permitted — but not required — to provide systems which guarantee proportional representation. It leaves Appellees arguing that this Court did not mean what it said in those cases, and urging a license for District Courts such as the one below to dispense with meaningful findings concerning concrete impediments to effective black electoral participation in favor of speculation about the causes and cures for the failure of any qualified black to run for City Commissioner in Mobile, notwithstanding black success at-large elsewhere.[19]

[18]Appellees proffer an ill-conceived analogy (Br. 61) between the sort of claim they raise and the one-person, one-vote claim governed by the rule of *Reynolds v. Sims*, 377 U.S. 533. They urge that at-large elections "underweight" black votes. A *Reynolds*-type redistricting cures the evil that, proportionally, voters are not represented *by anyone*. But Appellees' class is underpresented only insofar as a black must be represented *by a black*. At-large elections, of course, are a mathematically perfect remedy for the one-person, one-vote problem. See, *e.g.*, *Zimmer v. McKeithen*, 485 F.2d 1297, 1301 (5th Cir. 1973) (en banc); *aff'd sub nom. East Carroll Parish Sch. Board v. Marshall*, 424 U.S. 626 (at-large plans have "zero population deviation").

[19]See Appellants' Br., p. 11 and n. 14.

I

NO ELECTORAL OBSTACLE, INTENTIONAL OR OTHERWISE, TO FULL BLACK ELECTORAL PARTICIPATION IS PRESENT IN THIS CASE.

This brings us to the quality of evidence which the Appellees and *Amici* cite in defending the analysis of the Courts below. The evidence is a search for a substitute for that electoral obstacle which the Fourteenth Amendment requires be proved, and whose existence the record in this City case precludes.

The Appellees thus seek a form of license for district judges to eschew evidence in favor of judicial notice as local residents.[20] If such license is given by this Court, there is neither need nor ability in appellate courts to review the local federal judicial soothsayers.

However, a review of the evidence in this case reveals a complete absence of any voting obstacle and a complete absence of evidence of discriminatory intent by the Mobile City Commissioners.

Appellees recount (Br., p. 75) the District Court's "finding" that Mobile blacks are denied access to the political process because they are deterred from candidacy by the certain prospect of defeat. The finding is hinged on the existence of a phenomenon of white bloc voting, which as the United States points out (U.S. Amicus Br., pp. 12-17), was discerned not on the basis of any head-to-head contest between black and white Commission candidates (because, as the District Court found, there have been no serious or

[20] "In conducting the 'sensitive inquiry' contemplated by *Arlington Heights*, the district judge [in No. 77-1844] was able to bring to bear an understanding of local political, legislative and racial realities born of years of legal, judicial and practical experience in the state." Appellee Br., p. 35.

able black candidates for Commission seats)[21] but on an assessment of the electoral experience of a white candidate, Joseph Langan, known to espouse civil rights causes and attract solid support from blacks.[22] The District Court, contradicting the candidate's own explanation (App. 111-15), conjectured that his defeat in a 1969 bid for a fifth consecutive Commission term must have been attributable to white backlash generated by the extent of his black support. The District Court, ignoring statistical evidence and expert testimony that more recent City Commission elections had shown little racial polarization (App. 503-07), elevated the so-called backlash to the status of a "usual" pattern. 423 F. Supp. at 388, Juris St. 8b. Even the United States concedes (U.S. Amicus Br., p. 16) that "race was not a factor" in any subsequent City Commission election.

---

[21]Appellees attack (Br., p. 75) this negative description of the candidacies of those (3) blacks who have run as merely Appellants' view. It was, however, the finding of the District Court. 423 F.Supp. at 388, Juris. St. 8b. Cf., for partisan elections to the County School Board in No. 78-357, the discussion at U.S. Amicus Br., pp. 15-17, and 423 F.Supp. at 388.

The City does *not* agree to the Solicitor General's intertwining of the facts and law as to the political processes of the City with those of the State Legislature, the Mobile County Government, and the Mobile County School Board, all of whom have partisan primary elections and a factual and legal record of their own which is inapplicable to the record of the City of Mobile. Insofar as the Solicitor General attempts to ignore this fact he falls into the errors of the District Court and the Court of Appeals below, who, finding no evidence of intent adverse to the City of Mobile, reached out and applied to the City the experience and differing political processes of the County, School Board and Legislature.

The Appellees go even further, by adopting findings from other cities and other states. Br., p. 31-32.

[22]The District Court also relied for this conclusion on its own intuitive understanding of "common knowledge." (App. 65-67) Cf., *Palmer v. Thompson*, 403 U.S. 217, 224-26, where reversal was urged unsuccessfully on the basis of common knowledge that the City of Jackson, Mississippi had closed its swimming pools in order to avoid the necessity of integration.

It is hardly undisputed (contrary to the United States' suggestion, Amicus Br., p. 12) that "no . . . candidate identified with blacks has ever won an at-large election for any office in or for the city. . . ." As we pointed out,[23] in the City of Mobile, blacks participate vigorously in the electoral process, identifying their preference principally through the Non-Partisan Voters League, the only slating organization active in the City's nonpartisan elections.[24]

Appellees disparage (Br., p. 80) the impact of the NPVL's endorsement by arguing that in 1973 Commissioner Greenough's opponent, Bailey, actually received a greater share of the black vote in the City election. This attempt to fill the vacuum in the District Court's analysis only does it further damage: Bailey was the candidate who had defeated Langan in the 1969 City Commission contest so

---

[23]Appellants' Br., pp. 9-10.

[24]The distinction between this case and *Chavis* is that there qualified blacks ran rather than slated whereas here qualified blacks slated rather than ran.

To give effect to this distinction is to hold that the only defense for a City is to guarantee electoral victory by black candidates, qualified or not. This Court would have to hold that no white Commissioner — not even those endorsed by Mobile's black leadership — is capable of fairly administering a government for black Mobilians. (See App. 143).

This Court has ruled precisely to the contrary in *Dallas County v. Reese*, 421 U.S. 477, and *Dusch v. Davis*, 387 U.S. 112.

As the Joint Center for Political Studies points out in commentary on its roster of black elected officials, effective black political participation *cannot* be measured simply by a count of black elected officials:

> "Black political progress can be monitored in as many different ways as there are avenues of political activity. Public officeholding is only one of the many ways in which blacks may impact the political arena. Others include voter registration; voting; membership in political parties or other political organizations; service in appointive office; and active support of and/or opposition to issues and candidates." *National Roster of Black Elected Officials*, Joint Center for Political Studies, Volume 8 at xiv (1978).

crucial to the District Court's theory about polarization and backlash, a theory which posited Bailey to be anathema to the black community.

The only real safeguard against such *ex cathedra* "findings" by the district courts is a realistic requirement that plaintiffs in such dilution cases as this prove the present existence in the City's voting or political processes of some identifiable barrier to effective black participation, and that the identified barrier is the result of an impermissible racial purpose in the City's incumbents.[25]

[25]The Appellees see the gravamen of this case, not as the existence *vel non* of an obstacle to full electoral participation, but the mere existence of bloc voting. (Br., pp. 46-50, discussing *White v. Regester* and *Whitcomb v. Chavis*. See also, Appellee Br., pp. 69-70). Neither *Amici* nor Appellees make any attempt whatsoever to reconcile this view with this Court's decision in *United Jewish Organizations, supra,* that neither the Fourteenth nor the Fifteenth Amendment touches the outcome of elections, even where the regular outcome is minority defeat occasioned by racially polarized voting. 430 U.S. at 166-67. Their putative distinction of *Chavis* (defeats explained by partisan rather than racial voting) was explicitly rejected in *United Jewish Organizations,* 430 U.S. at 166-67. Their argument (Br. 7, 44-46) that *Regester* turned on the effects of racial voting, rather than the existence of exclusionary slating and registration (absent here) suffers from the same infirmity. *Id.* The Appellees summarize:

> "The franchise is a valuable right because it can be exercised to decide 'issue-oriented elections.' [citation omitted] But that right is rendered nugatory if candidates are regularly defeated, not because of their ideas or ideology, but because of the color of their skin or of that of their supporters." Appellee Br., p. 49.

This analysis requires findings which the social scientists in this case said could not be made. The first is a finding that candidates are defeated *because of* their race. Statisticians and political science experts steadfastly deny that their regression analyses admit of such causal proof. (App. 60-61). They would express an inability to distinguish this causation from that partisan or "issue-oriented" defeat which Appellees, Br., p. 53, endorse. Moreover in this case where there were no qualified black candidates, Appellees must assert that Com-

(footnote continued on next page)

The most chimerical of the findings in this case concern the discriminatory intent which this Court has held necessary to a Fourteenth or Fifteenth Amendment claim in *Washington v. Davis,* 426 U.S. 229; *Village of Arlington Heights v. Metropolitan Housing Development Corp.,* 429 U.S. 252; and *United Jewish Organizations, supra,* 430 U.S. at 166-67.

The United States, Amicus Br., p. 38, says:

> "[T]he claimed justification for at-large voting was essentially that it produced political representatives with a broad, rather than a parochial, view. But where, as in these cases, voting is strongly polarized along racial lines, the broad view is likely to be simply the view of the majority racial group."

This passage is offered to prove discriminatory intent in the maintenance of the Commission form of government. Yet, it assumes the missing premise, an assumption not even the Fifth Circuit below makes. The missing premise is that political representatives are capable of representing only themselves, their party or their race.

(footnote continued from previous page)

missioner Langan was defeated — after being reelected for 16 years — not by *his* race, but by the race of *some* of his supporters. Lacking evidence of qualified black candidates, Appellees cite to a finding that the at-large system itself must "discourage" qualified blacks from running. Appellee Br., pp. 75-76. To attempt to psychoanalyze not only the candidates but every voter in Mobile in this fashion is ludicrous.

These are the findings which must be given effect if the judgment below is to be affirmed. Appellants feel that findings of this character are beyond the competence of any court, when the social science experts called by plaintiffs refuse to indulge in them.

But outlandish findings are not needed in a proper vote dilution case. Where the intentional creation or maintenance of an electoral obstacle is proved, the case proceeds in a competent and reviewable fashion.

Amicus offers this assumption as an *ipse dixit.* Yet, if true in a particular case, it is susceptible of proof: declining to seek or accept black endorsement, and eschewing the black vote, as well as the exclusion of any black input into the nominating process. Thus, the missing premise was *proved* in *Regester.*[26]

That proof is lacking here: the record of the City case is exactly contrary to the premise. The record reflects campaigning for black endorsement, and the decisive quality of that endorsement in City elections. (App. 141-42).

The evidence of racial intent upon which the District Court below ordered a new City administrative structure and on which the Court of Appeals affirmed the disestablishment of Mobile's Commission form of government, was that the Alabama Legislature had on two occasions rejected authorization of a mayor-council, part single-member district system for Mobile, and had been conscious of the likelihood that such a measure would have enhanced black candidates' chances of election. The repository of the only suggested "inactive maintenance" intent,[27] the State Legislators, are elected from single-member districts, specifically the 11-member Mobile County delegation to the House.[28] The United States neglects to mention that 3 of these 11 districted State legislators are black. See 423 F.Supp. at 389.[29]

There is *no* other electoral system under which the City of Mobile can preserve its own and entirely separate, strong *local* governmental interest.

---

[26]See also *Nevett v. Sides,* 571 F.2d 209, 222 (5th Cir. 1978), *pet. cert. filed,* No. 78-492.

[27]See U.S. Amicus Br., pp. 23, 28.

[28]*Ibid.*

[29]Juris. St. 10b.

There is real irony in the fact that Mobile was faulted by the Courts below because its 70-year-old at-large Commission Government was not changed by the Legislature to one which gave blacks a better chance to elect black officials. For the Voting Rights Act itself was designed and intended to make electoral changes difficult, indeed "freezing election procedures . . . unless they can be shown to be nondiscriminatory" was the purpose noted by this Court in *Beer v. United States,* 425 U.S. 130, 140.

During the pendency of this litigation (App. 255), Alabama State Senator Roberts introduced legislation to change the City's government to a mayor-council plan in which seven councilmen were to be elected by single-member district, with two members of the council plus the mayor to be elected at-large. (App. 249-50). The "major reason" for its introduction was the Senator's belief that this would be "a better form of government." (App. 251). He acknowledged that this was a view as to which "reasonable men may reasonably differ" (App. 261), and had attempted to alleviate somewhat the "tendency" of councilmen "to be concerned just with their particular district" by providing two at-large seats. (App. 253). The Senator also felt that he had written the bill in such a way as to eliminate "interference" by councilmen with parochial concerns "in the day to day operations of the City." (App. 259). Senator Roberts did not testify that his bill failed to pass for reasons other than racially neutral legislative disagreement with its policies and effectiveness. (App. 258).

Though the United States as *Amicus* now urges (Br., pp. 96-97) that some variant of the entirely at-large Commission might have been adopted to retain its key feature of at-large officials with mixed legislative/administrative functions, it is clear that the Attorney General has longstanding objections to the retention of at-large elements in any electoral change subject to the Voting Rights Act. Even now the United States is resisting the Dallas 8-3 plan with

which this Court dealt in *Wise v. Lipscomb*, ____ U.S. ____, 98 S. Ct. 2493, with the assertion that retention of 3 at-large seats is suggestive of impermissible racial purpose. Memorandum in Response to Plaintiffs' Motion for Summary Judgment, pp. 24-28, in *City of Dallas v. United States*, Civil Action No. 78-1666 (D.D.C.).

There is no reason to suppose that anything less than a fully single-member districted plan for the City of Mobile (e.g., the plan proposed by Senator Roberts) would have been satisfactory to the United States if it had been adopted by the Alabama Legislature.

The United States insists on proportional representation by race.

Quite apart from the fact that the evidence showed that much of the debate in the Alabama Legislature in this case centered on the relative merits of the two forms of government, Appellees' flagrant hyperbole[30] misses the mark because the issue in the case is the intent of the Mobile City Commission, not the intent of the non-party State of Alabama or its Legislature.[31]

---

[30]Appellees characterize this as "two affirmative and express legislative decisions" (Br., p. 35) and say that this proves that the Legislature "acted from racial malice" (Br., p. 36) so stark as to come within the ambit of *Gomillion v. Lightfoot*, 364 U.S. 339 (Br., p. 18). Cf., *Palmer v. Thompson*, 403 U.S. 217, 224.

[31]Amicus Lawyers' Committee proffers a theory to fill this gap: that the Mobile Commission knew that at-large elections unconstitutionally deprive blacks of a right to proportional representation because "public officials in the South can hardly claim to be unaware" of that fact. (Br., pp. 15, 19). Neither Court below, obviously, was willing to extend the "recognized effect" theory (rejected in both *Washington v. Davis*, 426 U.S. at 252, and *Arlington Heights*, 429 U.S. at 260) quite that far. The argument is also diametrically at odds with the position taken by Appellees (Br., pp. 68-69, 70-71) that the at-large successes of blacks around the country are not relevant to the Mobile City case.

There was no claim of any "discriminatory maintenance" on the part of the City Commissioners or candidates, and no showing even of any peripheral involvement of City officials in the Legislature's treatment of these two bills.

Rather, the Commissioners' interest in this case is in retaining the Commission form itself. That form of government is necessarily elected at-large. The strong governmental interest in retaining a system where named administrators are elected by, and responsible to, all Mobilians exercising equal votes, is detailed at Juris. St., pp. 9-10. This interest is not replicated in any other case before this Court, today or in *Chavis* or *Regester.*

Even assuming, however, that the transactions in the Alabama Legislature are a salient consideration here, they reveal no unconstitutional purpose whatever. At most they embody a refusal to implement an "affirmative action" measure that is constitutionally permissible but not constitutionally required.

CONCLUSION

The principle on which Appellees' case rides is the one rejected in *United Jewish Organizations.* The distillate of their lengthy brief and of the opinions below is this:

> "White voters are entitled to cast their ballots on any basis they may please, including that of race. But they are not entitled to have the State maximize the impact of racially based votes by means of at-large elections." (Br., p. 50).

Appellants say that this stands the rule clearly articulated in *Chavis, Regester,* and *United Jewish Organizations* precisely upside down. Minority groups are not entitled to have the state maximize and concentrate their voting strength so as to guarantee electoral victories. A constitutional vote dilution case stands ready to eliminate

clearly identified obstacles created or maintained by the Mobile Commissioners to full black electoral participation.[32] When the lack of an electoral obstacle is admitted — as it has been here — Mobile's Commission form should be permitted to continue.

Respectfully submitted,

C. B. ARENDALL, JR.
WILLIAM C. TIDWELL, III
TRAVIS M. BEDSOLE, JR.
Post Office Box 123
Mobile, Alabama 36601

FRED G. COLLINS
City Attorney
City Hall
Mobile, Alabama 36602

CHARLES S. RHYNE
WILLIAM S. RHYNE
DONALD A. CARR
MARTIN W. MATZEN
1000 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036

Counsel for Appellants

[32]We have pointed out that remedies exist for the other evils adumbrated by Appellees: employment, municipal services, racial terrorism, school segregation. See Appellants' Br. p. 16 n. 19.