

Alternative Voting in Alabama

Alternative voting (also called 'modified at-large voting') was first used as an election procedure in Alabama during the 1980s. When the procedure was introduced, it was as novel and as questionable as the first Caesarians used to deliver babies. Today, after several election cycles, alternative voting systems in Alabama are as politically acceptable as C-sections are in delivery rooms.

In Alabama today, thirty-two different governing bodies use some form of alternative voting. Three are county governments, one is a county Democratic Committee, and twenty-eight are municipalities. Of these governing bodies, twenty-three use limited voting, five use cumulative voting, and four replaced numbered posts with pure at-large [see glossary.] With the exception of the Conecuh County Democratic Executive Committee and the city of Fort Payne, all of the alternative voting systems in Alabama were first used in 1988 as a result of settlement agreements in the landmark, omnibus redistricting lawsuit, *Dillard v. Crenshaw County, et. al.* In that case, the Alabama Democratic Conference sued 180 jurisdictions in the state, challenging at-large elections.

First Run: Conecuh County, Alabama

The first known application of an alternative voting system in Alabama was in the election of members to the Conecuh County Democratic Executive Committee in the September 1982 primary election. It came as a result of a federal lawsuit filed by blacks challenging the discriminatory manner by which members were being elected to the committee. Prior to the court challenge, the Conecuh County Democratic Executive Committee elected members by a strange system which divided the county into two separate malapportioned districts, with each district electing 15 members at-large from numbered places [see glossary] and with a majority vote requirement. This system was adopted in 1971.

Prior to 1971, the Conecuh County Democratic Executive Committee elected two committee members from each of the sixteen different beats or precincts in the county. Between 1980 and 1982, plaintiffs' lawyers discovered this change from the former 32-member committee and learned that it had not

been submitted to the Justice Department for preclearance. Consequently, the court ruled in July 1982 that the multi-member, dual district, at-large manner of electing executive committee members was legally unenforceable because it had not been precleared.

The question became: what shall the remedy be? Understandably, a major concern of black political leaders was how fair representation on the committee could be achieved and how might black voters be able to elect representatives of their choice to the committee. This is especially pertinent given the fact that in large precincts with several voting boxes at different locations, blacks constituted a voting age population majority in a number of the voting boxes, but not in the precinct at-large.

Black leaders recognized the impracticability of trying to subdivide sixteen voting precincts into mini-districts in an effort to create black voting majorities in some areas. Yet they didn't know what else to propose; the absence of adequate census block data (1982) would have made it virtually impossible to draw sixteen fairly apportioned precincts (or beats) in the county based on population.

Hearing about this problem, Edward Still, a voting rights attorney based in Birmingham, Alabama, stepped in and proposed to the plaintiffs that they consider something called "limited voting" as a solution. In limited voting, [also known as the 'one vote system' when voters have only one vote] voters cast fewer votes than the number of seats [see description in glossary.] After some discussion about how limited voting works, the leadership of the Conecuh County Democratic Conference and the Conecuh County Branch NAACP decided to support the concept.

Remarkably, this first known application of limited voting in Alabama went over extremely well. There was virtually no local resistance to the plan, despite the fact that the local Democratic Party leadership and the probate judge had made it extremely difficult for blacks to be elected to the committee in the past. As a result of the change, blacks went from making up less than 10 percent of the county committee to over 40 percent after the election in 1982.

Without question, the overwhelming electoral success that blacks achieved in 1982 in getting elected to the Conecuh County Democratic Executive Committee, coupled with the relative ease with which voters accepted the new system, convinced Alabama voting rights attorneys as well as the leaders of the Alabama Democratic Conference that alternative voting systems should be proposed as a remedy option to settle some legal challenges to at-large elections in the future.

Implementation of the First Alternative Voting System in Alabama

Looking back to 1982, several factors contributed greatly to the successful implementation of the first alternative voting system in Conecuh County, Alabama: namely, extensive voter education and outstanding community organizing on the part of the black political leadership. Here is how the Conecuh County alternative voting system evolved.

First, Edward Still prepared for the community leaders and the election officials a brief outline in plain language stating exactly how limited voting works and how it would operate in the election of Democratic Executive Committee members. His outline stated specifically how many executive committee members were to be elected in each precinct based on population, along with how many limited votes could be cast in each precinct.

Second, the leaders of the Conecuh County Democratic Conference and the Conecuh County Branch NAACP took the initiative in selectively recruiting black candidates to run for seats on the Democratic Executive Committee. They targeted every precinct in the county with a black population of 25 percent or higher.

Third, sample ballots and fliers were prepared by the Alabama Democratic Conference endorsing all black candidates recruited locally. The guide ballots were distributed to black voters door-to-door and in churches throughout the county in targeted precincts. For easy identification, the marked ballots were canary yellow in color and contained the picture of Joe L. Reed, State Chairman of the Alabama Democratic Conference. The flier also contained

stepwise information instructing voters on how to use the new limited voting system correctly.

Fourth, several countywide meetings were called and community training sessions held to provide black voters and precinct leaders an opportunity to ask questions and to practice using limited voting on unofficial ‘practice ballots.’

The Dillard Case Brings Alternative Voting Out of the Closet

In 1985, less than three years after the Conecuh County Democratic Executive Committee introduced alternative voting, the next best opportunity to propose using alternative voting in Alabama and to measure its effectiveness in electing black candidates came when the Alabama Democratic Conference decided to challenge at-large elections statewide. An omnibus lawsuit was prepared. Over the course of a year, a carefully orchestrated litigation strategy developed, replete with meetings, conference calls, surveys, research on the electoral histories of black candidates, and ferreting out the legislative history of at-large elections in Alabama. Ultimately, 180 jurisdictions were sued: 145 municipalities, plus another 35 county commissions and school boards. The case became known as *Dillard v. Crenshaw County et. al.*

The strategy developed by the biracial litigation team of voting rights lawyers and black political activists in the Alabama Democratic Conference was straightforward and simple:

1. The case was filed in the Middle District of Alabama (in Montgomery.)
2. A county commission in the Middle District would be sued first. (Crenshaw County, with a black population of 26.17 percent, was the chosen county.)
3. The next step would be to get class certification.
4. If class certification was granted, the legal team’s next move was to

petition the court to amend the lawsuit to include other county commissions in the Middle District of Alabama that elected their members at-large.

5. Then, if the last request was granted, the legal team would be prepared to approach the trial judge again, requesting that the suit be amended further to challenge at-large elections in county commissions, county school boards and city councils statewide, including those outside the Middle District of Alabama.

The plan of action succeeded. Through good planning and careful legal maneuvering, the *Dillard* case grew from a one-county lawsuit involving the Crenshaw County Commission in 1985 to a mammoth case of 180 jurisdictions by the end of 1987, aided largely by a series of comprehensive, well-written orders by the trial court judge who ruled for the plaintiffs.

Big Case, More Choices

Unexpectedly, the magnitude of the *Dillard* case gave the legal team and black political advocates a rare opportunity to seriously discuss and select a range of remedies to settle the lawsuit. Indeed, if this had been a typical, single-jurisdiction lawsuit, alternative voting options probably wouldn't have been considered. Nevertheless, after considerable discussion, it was decided by consensus that single-member districts, limited voting, and cumulative voting should be employed in the *Dillard* settlements.

As the *Dillard* case progressed, one of the biggest assignments became determining which jurisdictions would be selected for an alternative voting remedy, and which ones would get a single-member district assignment. That duty was given to me. As the state field director of the Alabama Democratic Conference, my appointment was based on the legal team's respect for my knowledge of black political organizations and their strength throughout the state, coupled with my familiarity with census data and the concentration of black populations in many of these localities.

To jump start the process, I prepared a comprehensive table listing all of the jurisdictions which I thought were ripe for being picked as an alternative

voting site. In making my selections, I looked at several items:

1. The overall size or total population of each jurisdiction
2. The black population percentage in the jurisdiction
3. The location of the black population in the jurisdiction (i.e. whether it was concentrated in one or more contiguous areas to allow for the creation of a single-member majority black district, or if the black population was dispersed throughout the county or municipality so as to prevent the drawing of a majority black district.)
4. The economic resources and the size of the governmental work force employed by these localities

Given the fact that most of the *Dillard* jurisdictions admitted liability early on, once the trial court ruled that their at-large election systems violated Section 2 of the Voting Rights Act, the legal team delegated me to serve as a first contact remedy/mediator between the plaintiffs' lawyers and the defendants. In effect, I was assigned the task of corresponding with the defendants in each jurisdiction and proposing one or more settlement options to serve that jurisdiction.

As a plaintiffs' representative for the Alabama Democratic Conference, I adopted the following procedure. First, I would always consult with local black leaders in the affected jurisdiction or county to apprise them of my remedy proposals so as to get their feedback before proceeding. Second, defendants were contacted by letter and a follow-up telephone call, stating a remedy preference to settle the lawsuit. Third, the plaintiffs' lawyers would always be informed by letter of the remedy proposed. And fourth, in instances where a district plan was being proposed, a draft of a preferred remedy plan would often be mailed to the defendants.

In instances where an alternative voting system was recommended, the letter would state which system was preferred and why. Overall, more limited voting remedies were recommended and preferred because I felt it was easier to make the case to defendants that having one limited vote was analogous to having a single-member district without the district lines. For example, as I explained, in a single-member district plan with five districts, a voter can only

vote for one candidate of their choice in the district where he or she resides, although five members will be elected.

Similarly, in a limited vote plan where five seats are to be elected on the governing body, the voter is usually limited to one vote for the one candidate of their choice.

Another important function I performed as a remedy negotiator involved the discretion I was given by plaintiffs' lawyers to determine and recommend whether the number of seats on the challenged governing body needed to be increased in order to provide the remedial relief and electoral representation blacks expected.

Of the 30 *Dillard* jurisdictions that use an alternative voting system [here, plurality at-large is considered an alternative system] today, only seven of them increased the size of their governing bodies (all from five to seven members) in order to settle the lawsuit and to remedy the Section 2 violation of the Voting Rights Act. This is especially noteworthy because it demonstrates the great confidence the plaintiffs' lawyers placed in the role of the citizens/mediator to decide these matters.

In the overall scheme of things, this was extremely important in achieving a successful outcome. If the plaintiffs had simply deferred arbitrarily to settle the lawsuit without affirmatively recommending an increase in the size of some of the governing bodies, the success rate of black candidates would have been diminished considerably. Except for the Calhoun County Board of Education, black candidates have been elected in at least one election cycle since 1988 in all six municipalities where the number of seats was increased from five to seven.

Incidentally, in reviewing the first draft of a 'Tentative Remedy Proposal' prepared by me in 1987, the chart lists some 94 jurisdictions as targets for consideration for alternative voting settlements. From this evidence alone I felt quite confident regarding the ability of voters to elect black candidates using an alternative voting system.

Interestingly, my first 'Tentative Remedy Proposal' chart did not

contain any recommended cumulative or pure at-large voting options. As it turned out, the latter two alternative voting systems evolved later in the *Dillard* case, as defendants and plaintiffs simply wanted to settle and see what the outcome would be when they chose to experiment with one of the other alternative voting remedies.

What explains, then, why only 30 percent of the 94 targeted jurisdictions agreed to adopt an alternative voting system? The plaintiffs' representative cites the following main reasons:

1. Many defendants simply preferred a single-member district system because it was more familiar.

2. Some local candidates and incumbents preferred a district system because they desired to run in a limited, known geographical territory rather than run at-large using alternative voting.

3. Some local officials were simply opposed to the idea of all candidates competing together in a political free-for-all; some thought the system was unfair or unconstitutional.

4. Others held the belief that something was basically wrong with an alternative election system in that it eliminated the runoff and the majority vote requirement.

Other, secondary reasons were expressed or observed:

5. Some incumbents didn't want to run against each other in an open, competitive field.

6. Some critics of alternative voting felt that the system would enable one-issue candidates and crackpots with a small, loyal following to have an easier time getting elected in a non-district setting.

7. Some defendants' lawyers and their hired demographers tacitly opposed alternative voting because it would reduce significantly the potential

number of hours they could bill a jurisdiction with drafting a district plan.

8. County commissioners often opposed the system because they “couldn’t understand” who would be held responsible for maintaining roads and providing services to constituents if no commissioner had a designated territory (district) to maintain.

9. Some Democratic officials expressed privately that an alternative election system would likely enable more Republicans to get elected locally.

10. Some incumbents didn’t like the idea of giving up staggered terms and having to run concurrently. They argued that alternative voting could lead to experienced representatives being defeated at one time and the possibility of electing all new representatives who wouldn’t know what to do, and no one around to show them.

Are There Any Commonalities in the Jurisdictions That Have Adopted An Alternative Voting System in Alabama?

In general, yes. Twenty-eight of the 32 jurisdictions, or 90.3 percent of them, are municipalities. Eighteen of these municipalities are quite small, with a total population of less than 500 people, based on the 1990 census. Sixteen of the 31 jurisdictions using the system have a black population that is less than 25 percent. Only one jurisdiction has a black population greater than 50 percent.

Out of the 28 municipalities in the group, only two are county seats, Centre in Cherokee County and Fort Payne in DeKalb County. Seventeen of the 28 municipalities, or 60.7 percent lost population between the 1980 and the 1990 census. Ten of the municipal jurisdictions are located in west Alabama in counties that comprise a region called the “Black Belt.” It is one of the poorest areas in the nation. The number of persons with incomes below the national poverty line ranges from a low of 21.1 percent in Waverly to a high of 48.7 percent in Pine Apple. Twenty-three of the municipalities had an average poverty rate that was at least 15 percent higher. All are specified class municipalities based on the municipal code of Alabama and have a total population of less than 12,000 people.

Selling Alternative Voting to Defendants and Citizens

Although we at the Alabama Democratic Conference and the plaintiffs' lawyers take considerable pride in the fact that we were able to sell a brand new voting system to some 30 jurisdictions in Alabama, there is still some disappointment in not being able to persuade more jurisdictions to use it.

In the negotiations, several trends became evident. Generally, the larger or more populous jurisdictions were less likely to accept an alternative voting remedy. Except for Chilton County and the Calhoun School Board, no other county governments in the *Dillard* case agreed to use alternative voting as a remedy to settle the lawsuit. Whereas they were willing to admit liability to a Section 2 Voting Rights Act violation, they were not willing to embrace alternative voting.

Bill Baxley, one of Alabama's most liberal trial lawyers and a former attorney general, represented one of the county governments at trial. He opposed alternative voting as a remedy even though he was shown that it was impossible to draw a majority black district in the county he defended because of a dispersed black population.

In Shelby County, the county commission went to the extreme and created a nine single member district plan with a majority black district rather than run the risk of the court ordering an alternative voting plan. The minority plaintiffs preferred using alternative voting in Shelby County so that the commission would not have to have such a large governing body.

To settle the lawsuit, the plaintiffs agreed to the commission's nine single member district plan. Amazingly, the commission did not flinch, squirm or complain about the resources when it increased the size of its body from five to nine members under the new district plan.

Remarkably, when black citizens in the 'hard luck' *Dillard* counties learned that it was not possible or feasible to draw a majority black district in a single-member district plan, their willingness to try an alternative remedy for relief was fantastic. To a large degree, the successful breakthrough in Chilton

County and its reluctant acceptance of cumulative voting are due largely to the influence of two individuals: Robert Binion, the Chairman of the Chilton County Democratic Conference, and John Hollis Jackson, the attorney for the Chilton County Commission.

Their styles were different. Binion was loud, demanding, and sincere. Jackson was reserved, but committed. Street-smart politically, Binion called on the ADC state office to “give [his] people something.” He invited me to several community meetings in Chilton County to talk about “this alternative voting stuff.” After hearing the concept explained, Binion was sold and convinced the people to talk of alternative voting as a viable remedy. Binion, members of the community, and I discussed the alternative voting remedy proposal in black community churches and at a series of community meetings. On the other hand, John Hollis Jackson did an effective soft sell in the white community, despite published opposition from a local newspaper editor and an incredulous county commission and school board.

In cumulative voting, voters are given the same number of votes as there are seats. Voters may dispense their votes in any fashion. Once the dye was cast to settle the lawsuit and use cumulative voting as a remedy, Jackson did a masterful job in achieving consensus and bringing all factions along as he led the way in educating the public about how the new system would work. He announced the settlement at a news conference and used the opportunity to begin explaining the system. Jackson eventually persuaded the newspaper editor to use the paper as an additional tool to educate the public on the workability of the new system. It didn’t take long for the incumbent commissioners, school board members, other prospective candidates and election officials to learn the basics of the new system. In a matter of months, communities throughout Chilton County were abuzz with a wealth of information, contacts, and practice opportunities preparing them for their first chance at alternative voting.

To a large degree, I credit the begrudging and benign acceptance of the cumulative voting plan in Chilton County to John Hollis Jackson, the lawyer for the Chilton County Commission. Unlike most lawyers who represented defendants in the *Dillard* case, Jackson is an attorney who showed courage, took risks and was willing to be an active catalyst for change in the face of local opposition and criticism.

The Power of Attorneys to Influence Settlements

In assessing the positive alternative voting outcome in Chilton County measured against a general unwillingness among county governments in the *Dillard* case to accept an alternative voting remedy to settle the lawsuit, I attribute the general political impasse to a lack of will on the part of defense attorneys to influence a positive outcome and achieve closure. Moreover, I believe that had more defendants' attorneys behaved as Jackson did in Chilton County—by showing some real leadership—more county governments would have consented, reluctantly perhaps, to adopt an alternative voting system. In retrospect, I see the legal power influence and deference given to the local attorney as a “critical piece” in the puzzle of predicting a successful outcome.

I also saw how the failure of the local attorney to be a “nudge guy” worked to stall negotiations with the Covington County Commission. In Covington County, the local Alabama Democratic Conference leadership persuaded the chairman to the county commission to put the issue of alternative voting on the agenda at a county commission meeting.

In a private meeting held a week or two before the commission meeting, the chairman of the Covington County Commission told black leaders that he felt confident in being able to get enough votes to settle the lawsuit at the meeting. I attended the meeting with the black leaders and the commission chairman. I admit to leaving that meeting feeling “reasonably optimistic.”

However, at the subsequent commission meeting, I witnessed the slow death of alternative voting as soon as the commission chairman turned the meeting over to the county attorney. With the press present, the attorney went into what I call “a chicken, four corners legal defense and advice to do nothing!”

The commission chairman was visibly taken aback by the lawyer's response. I was given an opportunity to speak for alternative voting. Unfortunately, the packed chamber of black people supporting the proposal and the commission chairman's secret desire to see that proposal approved could not undo the damage caused by the attorney's action that day. The matter was tabled. It has not been brought up again.

1992: Good Bait, But Only One Bite

After the 1990 census, we made a concerted effort to get more *Dillard* jurisdictions to consider adopting an alternative voting plan. With one or two exceptions, most of the target jurisdictions had adopted and begun using a district system of some kind in 1986 and 1988. With the new census, the ADC saw this as an excellent opportunity to broach the subject of alternative voting again. Furthermore, now that they had concrete evidence of the successful workability of alternative voting in Alabama from the 1988 elections, the commitment to foster more alternative voting systems was greater than ever.

Consequently, shortly after the 1990 census data were made public in 1991, the *Dillard* jurisdictions were reviewed and a “short list” was developed. We looked at old *Dillard* places that might be good bait—worth approaching to see if they might be willing to change from a district plan to alternative voting.

Voting rights attorney Edward Still took the lead. In April of 1992, Still drafted and mailed letters to 61 jurisdictions, suggesting they consider using limited or cumulative voting. On his ‘hit list’ were county commissions, county school boards and municipalities. For the most part, the jurisdictions had posed some difficulty for the ADC during the first round of redistricting. It may have been a small or dispersed black population, “overcompactness” of the black population, annexation to a municipality, a significant decrease in the black population percentage from the 1980 to the 1990 census, the factor of geographically small city size or the unusual geographic shape of a jurisdiction, or the impracticability of some county boards of education, especially in places where the case law excluded voters in municipalities (with their own city school systems within that county) from participating in county school board elections.

To the disappointment of the Alabama Democratic Conference, only one of the 61 jurisdictions, Carbon Hill, decided to change to an alternative voting system. Overall, the good bait plan didn’t work. The system got virtually no bites. Most jurisdictions chose to stick with the known and what had already worked for them. Perhaps the absence of enabling legislation in Alabama made these hopes for change more difficult to realize. Moreover, absent a lawsuit and consent decree, any jurisdiction in Alabama today that wants to adopt an

alternative voting system must get a local act passed in the legislature before it can do so legally. This is a big drawback.

An unspoken contributing factor responsible for many jurisdictions' decision to reject alternative voting in 1992 appears to be the desire of defendants' attorneys and demographers to profit from redistricting

The Town of Carbon Hill Adopts Limited Voting in 1992

In 1992, Carbon Hill was the only new jurisdiction in Alabama to adopt an alternative voting system since 1988. Carbon Hill was a defendant jurisdiction in the *Dillard* case. Carbon Hill provides a good example of why certain jurisdictions were appropriate for alternative voting systems.

Background. In 1980, Carbon Hill had a total population of 2,452. Of that number, 249 (10.15 percent) were black. By 1990, the town's total population declined slightly, to 2,115. Of that number, 192 (9.08 percent) were black. Before 1988, no blacks had ever been elected to the city council in Carbon Hill. Prior to the 1992 round of redistricting, Carbon Hill elected seven council members from single-member districts. Before the *Dillard* lawsuit, five council members were elected at-large from numbered places in Carbon Hill. There was a majority vote requirement.

Adoption of the New Plan. In a letter to me, attorney Edward Still stated that the town of Carbon Hill was considering adopting limited voting. That same letter indicated that a public hearing would be held on May 2, 1992, to discuss the matter. At some time between May and July, Carbon Hill adopted a limited voting plan and submitted it to the Justice Department for review and preclearance.

A chronology of the back-and-forth communications between the plaintiffs' lawyers, the defendants' attorneys, the Justice Department, local citizens, and myself was outlined by Still. In reading Still's summary, it is apparent that the black councilman, Russell Lyons, didn't like the proposed change. Nor did a white voter, Ms. Rawsy McCollum. In her opinion, the new

limited voting system would deny every voter the opportunity to have their own elected representative.

After talking with Lyons, I was able to “put out the brush fire” by assuring him that the limited voting system would actually benefit a black candidate’s chances of winning by making the entire pool of black voters in the town of Carbon Hill accessible to black candidates. I also pointed out the declining black population from the last census and convinced Lyons of the difficulties it posed in trying to maintain a majority black district in the future. A black candidate, Andrew Archie, was elected in 1992 with the new system, and reelected in 1996.

Fort Payne and the Uniqueness of its Alternative Voting System

Of the 32 jurisdictions in Alabama that use an alternative voting system, Fort Payne is the only locality to adopt its alternative voting system voluntarily, without a consent decree or the threat of a lawsuit. It did so by means of a local act of the Alabama Legislature in 1980. Its decision to adopt an alternative voting system is most surprising inasmuch as Fort Payne was never a target for a voting rights lawsuit. Moreover, no citizens group had complained to the council about changing the former at-large, numbered post election system.

Background. Fort Payne is the county seat of DeKalb County, where blacks constitute only 1.88 percent of the population. In Fort Payne itself, only 469 (4.8 percent) of the total population is black, based on the 1990 census.

Before and After. Prior to adopting its alternative voting system in 1980, Fort Payne elected five council members at-large from numbered posts, with a majority vote requirement. Black candidates ran for office several times unsuccessfully. The first election under the new system was in 1984. Under the new pure at-large alternative voting system [still a majoritarian system] five council members are elected at-large, but without numbered places. There is a runoff requirement if more than ten candidates qualify for council seats. Under the new system, voters cast from one to five votes. However, no candidate can be given more than one vote. If ten or fewer than ten candidates qualify for the

five seats, the top five vote-getters are elected by plurality outright. On the other hand, if more than ten candidates qualify for the five council seats, then the ten highest vote-getters in the runoff are declared the winners.

In the last municipal election held in August 1996, twelve candidates qualified to run for the five council seats, including two black candidates. In the first election the votes received by each candidate are listed below, ranked from highest to lowest (* indicates a black candidate):

Hal Holmes	1308
Bob Parker	1292
Dennis Benefield	1235
Johnny Eberhart	1229
David Hawkins	1228
Mary Anne Cole	1202
*Walter Watson	1073
Pete Little	768
Ron Sparks	601
Wayne Parker	498
*Roscoe Underwood	457
Jon Zlater	160

A ranking of the runoff election candidates in 1996, from highest to lowest (* indicates a black candidate):

Hal Holmes	1,504 (57.98percent)
*Walter Watson	1,460 (56.28percent)
Bob Parker	1,443 (55.63percent)
Dennis Benefield	1,380 (53.20percent)
Johnny Eberhart	1,322 (50.96percent)
David Hawkins	1,294 (49.88percent)
Mary Anne Cole	1,282 (49.42percent)
Pete Little	841 (32.42percent)
Ron Sparks	637 (24.56percent)
Wayne Parker	(withdrew)

We did not become aware of the Fort Payne alternative voting system until early summer 1996. It came up in a discussion at a local meeting of the DeKalb County Democratic Conference when black citizens asked me how they should go about deciding which black candidate to endorse or support, or if it would be politically feasible to support them both.

The Two Black Candidates. Prior to 1996, there had never been an effective, organized effort on the part of the black community to elect a black candidate. However, in 1996, both the DeKalb County Democratic Conference (an affiliate of the Alabama Democratic Conference) and the DeKalb County chapter of the Southern Christian Leadership Conference held a series of community meetings to educate and mobilize black voters to support one, if not both, black candidates.

Interestingly, both black candidates received more than 380 votes—380 being the number of blacks of voting age based on the 1990 census. Roscoe Underwood, a factory worker and former high school basketball star, had run for a council seat before. Walter Watson, who was elected in 1996, had never been a candidate. Watson is a clean-cut, soft-spoken minister backed heavily by the Southern Christian Leadership Conference. In reviewing the 1996 election returns, it is apparent that Underwood received few white votes. On the other hand, Watson undoubtedly received at least one vote from an estimated 400-500 available white voters.

Advantages of an Alternative Voting System

With a sixteen-year history and electoral record of using alternative voting in Alabama, it can be said with some certainty that these systems, overall, have worked well. Indeed, given the state's history of racial segregation and discrimination, black voter denial, average family median income, and level of education, one is moved to say that if alternative voting systems have been used successfully in Alabama to help elect more blacks to public office since 1982, then it ought to work elsewhere. The advantages of alternative voting systems as they have worked in Alabama are enumerated below:

1. They eliminate the requirement of jurisdictions having to redistrict themselves every ten years after a census is taken as is required of single-member district localities.

2. They eliminate numbered places and the majority vote requirement which is commonplace throughout the South. There are no runoff elections. The top vote-getters are elected by plurality in one election, in non-partisan races. In partisan elections, the Democratic and Republican nominees are the candidates who are the top vote-getters, by plurality, in their respective party primaries. In the general election, the top vote-getters in the party primaries run together in an interparty contest, with the top vote-getters declared the winners by plurality in the general election.

3. Minority candidates and women often benefit greatly from these systems because they allow minority and women voters to "plump" their limited or cumulative votes in a block in support of candidates that they prefer. Moreover, minority and women candidates are not viewed as running against each other or against specific incumbents.

4. The electability of good candidates under these systems is not skewed unduly toward incumbents, candidates with the most money, or those with the best business and professional ties.

5. Strong minority candidates are able to win under these systems, even with less resources and political connections.

6. It facilitates the establishment and/or use of voting centers for local elections, cutting down on the number of voting places required for elections in single-member district jurisdictions.

7. It saves jurisdictions a lot of money in that no runoff elections are required. Money is saved on printing costs for ballots, setting up voting machines and paying poll officials. It saves money for the candidates, too, because they don't have to spend additional money campaigning in a runoff.

8. In the long run, it saves money for the jurisdictions. They will

never have to pay lawyers and demographers to assist them in drawing redistricting plans to submit to the Department of Justice for preclearance, nor will they have to pay out any money to lawyers, demographers and experts to defend the fairness of their alternative voting system in court.

9. In small, less populated jurisdictions, these systems generally improve or increase the potential pool of good minority candidates to run and win simply because they do not restrict, or limit winnable candidate selection to the majority black district(s) as is often the case in single-member districts.

10. All the minority voters throughout the jurisdiction (in the city or county) always have the opportunity to vote and help elect the minority candidate(s) of their choice. Under a single-member district system, minority voters who live outside the majority black district(s) cannot help elect the minority candidate(s) of their choice for the simple reason that they aren't residents of the majority black district(s).

11. Preparing and publishing voters' lists, as required by law in Alabama, is made simpler because the alphabetical list does not have to be subdivided for poll officials to determine who is eligible to vote in a given district.

12. The printing and distribution of maps and the training of map readers to help educate voters, poll workers and election officials as to the location of district boundaries and knowing what voting precincts are within each single-member district becomes moot when alternative voting is used.

Some Disadvantages of an Alternative Voting System

The observed disadvantages of alternative voting have been few. Among them are:

1. If too many black candidates run, which sometimes happens, it can fragment the black vote to the point where all the black candidates lose.
2. Black voters will rarely have the opportunity to influence the

election of white candidates and to help build coalitions on a governing body, unlike single-member and multi-member district systems, which more often allow minority voters in “influence districts” to help elect candidates in majority white districts.

The Recruitment of Black Candidates

Starting in 1988, when most of the alternative voting systems were implemented, we consistently stressed to black community leaders and organizers the importance of careful candidate selection and recruitment in the electability of black candidates in using this system. I wrote letters and made numerous telephone calls to local leaders explaining how the particular alternative voting system would work in their locality and urged them to recruit strong black candidates who had good reputations as well as good name recognition in the community. In those areas with a county unit or precinct organization of the Alabama Democratic Conference, they were encouraged to draft a consensus black candidate to run for office. Once they did that, they were instructed to make that known throughout the black community. The strategy behind this approach was meant to prevent weak, minor candidates from running.

In addition to writing letters and making telephone calls to local leaders in 1988, I traveled to many of the targeted alternative voting jurisdictions and assisted the local communities in discussions that led to community groups identifying and drafting black candidates. This aggressive effort led to over 60 percent of the alternative voting jurisdictions having black candidates run for council seats in 1988.

Failure to Recruit Black Candidates

Despite aggressive efforts to recruit black candidates in alternative voting jurisdictions in 1988, there were some difficulties:

1. In small municipalities where the total population was less than 500 and where the black population was often less than 150, black candidates were

often reluctant to run, especially if they didn't see much evidence of a town council's work in providing services to the community.

2. Prospective candidates were often reluctant to run in small municipalities, especially if they were aware of the town's limited resources and the absence of any full-time paid staff or operating departments (e.g. fire and police departments.)

3. There existed civic ignorance. In some cases, blacks were completely unaware of the presence of a functioning town council and any local elections ever being held.

4. A question of residency. Black citizens sometimes doubted whether they were actual residents of a local municipality, even though the census data indicated they were. The question of residency often stemmed from places that had poorly defined or non-existent city limit boundaries.

5. There existed timidity or a lack of confidence among blacks in thinking of themselves as eligible and electable public servants.

In the town of Heath, a well-known and well-liked black state trooper was actively recruited by the black community to run for the town council. He declined and gave as his reason the town's limited resources to realistically change things for the better.

In the towns of Providence and Myrtlewood, black leaders and city officials alike disputed or disagreed with the census figures. Blacks seemed to be unaware that the census counted them as being within the city limits. On the other hand, the officials claimed that the census count was inflated and incorrect.

Cost of Campaigning

Initially, when alternative voting systems were being agreed upon, there was some concern about the cost of campaigning at-large and the ability of black candidates to be competitive with white candidates in an open field. This factor has not been a deterrent to black candidates running and being extremely

competitive.

In most of the small municipalities that use alternative voting in Alabama, candidates can campaign door-to-door citywide in one day, and sometimes within an hour or two. Under these circumstances, candidates basically stick to printing a run-of-the-mill batch of campaign cards. As a matter of practice, candidates usually give the voters a campaign card as they go around. In addition, candidates often leave some campaign cards on the counters at local businesses. Rarely do candidates in these local races spend money on radio spots, funeral home fans, billboards, or other campaign paraphernalia such as T-shirts, caps and pencils. A batch of 1,000 campaign cards costs on average of \$125.00.

Likewise, in Chilton County, where an alternative cumulative voting system has been in use for three election cycles, black candidates have not found the cost of campaigning to be prohibitive. Even here, the preferred campaign tool used by black candidates is the campaign card. In the past elections black candidates in Chilton County have purchased and run a few radio spots over local stations. These 15 to 30 second spots tend to be affordable in small, rural markets. Also, most black candidates apparently have little difficulty in coming up with the money needed to print at least 500 "yard signs" for distribution and display throughout the county at private residences, along roadways and at busy intersections.

Helpful, too, has been the organized presence of black political organizations such as the Alabama Democratic Conference and the Alabama New South Coalition. We, along with the Alabama New South Coalition, provide important and invaluable in-kind assistance to black candidates at election time. Both organizations provide their network with thousands of marked sample ballots for free, which are distributed to black voters. The state headquarters of these two major black political organizations also send get-out-the-vote money to their county units during primary and general elections to aid in recruiting and paying campaign workers to assist the black candidates.

In 1994, the Alabama Democratic Conference contributed a total of \$1,669.00 to help get-out-the-black-vote in Chilton County. In 1996, the ADC

contributed a total of \$1,813.00 for GOTV [Get-Out-The-Vote] in that county.

In a final comment regarding campaign costs ... although Chilton County is the only county out of 67 in Alabama that elects its county commissioners and school board members at-large using the cumulative voting system, black candidates have managed to keep the cost of campaigning at a minimum through careful targeting. With an awareness of the presence of racially polarized voting in Chilton County, black candidates have in effect targeted and campaigned most actively in black communities, going door-to-door in the black neighborhoods due to their belief that the voters most favorably inclined toward their candidacies reside there. On the other hand, black candidates have tended to limit their campaigning among white voters to appearances at candidate forums, local festivals, and radio ads.

Partisan v. Non-Partisan Races

In Alabama, there seems to be no significant difference in the electoral success of black candidates who run in partisan versus non-partisan races using alternative voting. All municipal elections in Alabama are non-partisan. At the county and state levels, virtually all of the elected positions are contested in a closed primary where candidates qualify with one of the major parties and where voters are asked to declare whether they are voting Democratic or Republican at their polling places, prior to voting.

In Chilton County, one or more black candidates have competed for one of the seven seats on the county commission and also on the school board in each of the three election cycles held since 1988. A black candidate has been elected to each governing body since that time.

In the municipalities that now use alternative voting, black candidates have qualified to run in a majority of them since 1988. There has been some ebb and flow in terms of electoral success. For instance, in the town of Centre, one black candidate qualified and was elected to the council in 1988. In 1992, two black candidates qualified in the town of Centre, and both lost. In 1996, one black candidate qualified in Centre and won.

The towns of Dora, Kinsey and Fulton had blacks elected to their councils in 1988, but have no black council members serving today. In Dora, the black (incumbent) candidate was defeated in 1992. Two black candidates qualified that year. In Fulton, the black (incumbent) candidate was defeated in 1996 after serving two terms. In Kinsey, no black candidates qualified for office in 1996. The town of Rutledge had no black candidates to qualify in 1988, but saw a black council member elected in 1992 and 1996.

Multiple Black Candidates and Electoral Success

Of great concern among black plaintiffs' representatives in 1988 and even today are the issues of how to control or limit the number of black candidates who want to run for office, and under what circumstances should more than one black candidate be encouraged to run for these open plurality seats.

Sensibly, the Alabama Democratic Conference has found it necessary to inform the voting public that if several black candidates compete together against all other candidates in an open field, chances are great that none of the black candidates will win, especially if the small black voting block is fragmented badly enough.

Fortunately, this kind of voter education has worked well to limit the number of black candidates who have qualified for office in alternative voting jurisdictions since 1988. Even so, there have been some temporary setbacks in places like the towns of Centre and Dora where the black vote was so fragmented in 1992 that black candidates lost in each of those municipalities.

Nevertheless, black leaders still wish to experiment more effectively in future Chilton County elections as to the possibility of black voters being able to elect two black candidates to the county commission or to the school board, if higher turnout and better targeting can be achieved.

Consider this, in the June 1994 Democratic Primary Election, two black candidates, James Hill and Eddie Reed, were among the top seven Democratic nominees. Subsequently, their names appeared on the 1994 General Election

ballot, along with the nominees from the Republican Primary. Strategically, the Chilton County Democratic Conference chose to urge black voters to divide and share their seven cumulative votes between the two black candidates. The ADC ballot urged black voters to give Hill three cumulative votes and to give Reed four cumulative votes. Reed was elected. Hill lost. Likewise, two black candidates for the seven-member county commission were nominated in the Democratic Primary, but only one was elected in the finals of the General Election.

Several political scientists have made known the level of difficulty involved in black voters being able to elect more than one black candidate with alternative voting in instances where the black population percentage is quite small (less than 12 percent in Chilton County, for example.) I wonder and still believe that the realm of 'virtual electoral reality' for at least two black candidates can be realized someday if the following things happen and can be coordinated well:

1. Keep the field of black candidates limited to two. This may require local organizations being willing to cut deals to get some black candidates out of the race.

2. Educate black voters thoroughly on the workability of a dual (split) cumulative votes strategy. This might be achieved by requesting black voters countywide to either share their cumulative votes as 'equally' as they can between two black candidates, or to give all of their cumulative votes to one specific candidate, based upon a geographical boundary principle. For example, in a hypothetical county named 'Blackworth,' the county's black population is divided almost equally by the Alabama River, which bisects the county east and west. If the black registered voting population is 2,000 in that county and if census/registration data show that virtually equal numbers of registered voters live north and south of the river, then the black organizing strategies have two smart choices:

- a.) Explain, educate and encourage 1,000 registered voters on the north side of the river to vote exclusively for Candidate Y, by casting all seven of their cumulative votes for him or her;

b.) Explain, educate and encourage the 1,000 voters on the south side of the river to vote exclusively for Candidate Z by casting all seven of their cumulative votes for him or her. Or, if limited voting were used in this jurisdiction, the goal would be to get 1,000 black voters on the north side of the river to cast their one limited vote in favor of Candidate Y, while getting the 1,000 black voters on the south side of the river to cast their one limited vote for Candidate Z.

3. Estimate the possibility and probability of how black electoral success can be improved based upon the overall black population percentage in the locality.

In other words, if Chilton County's black population of 11 percent has been able to propel two black nominees in school board and county commission races into a General Election, what might the success rate be of both candidates being elected in a General Election, provided the black population percentage was at least 25 percent or higher, using our river model for organizing, and with increased black voter turnout?

In Conecuh County, a similar strategy was used in 1982 when black representation on the County Democratic Executive Committee was increased dramatically. In effect, local black leaders developed and organized a Mason-Dixon strategy for distributing ballots and educating black voters to cast their limited votes for selected black candidates based on geography. The community responded positively. The turnout was great and black voting was cohesive for the preferred candidates.

Incidentally, fifteen of the alternative voting jurisdictions in Alabama today have a black population percentage of 25 percent or higher. Two of them, excluding the Conecuh County Democratic Executive Committee, had two black candidates elected at the same time in one election cycle. They are Kinsey, which is 25.84 percent black and Waldo which is 36.89 percent black. For this discussion, Kinsey is more representative because there were no blacks on the city council prior to alternative voting. Two blacks were elected in Kinsey in 1988.

Electoral Success of Women

By and large, female candidates have fared quite well with alternative voting. In 1987, 14 (43.3 percent) of the 32 jurisdictions that use alternative voting today had no women serving on the governing bodies. Since 1988, only two governing bodies, the Chilton County Commission and the town of Lowndesboro, have not elected any women to their governing bodies at least once between 1988 and 1996.

In these 32 jurisdictions, the number of female elected officials grew from a low of 25 in 1987 (prior to alternative voting) to a high of 49 in 1992 (after alternative voting.) Between 1988 and 1998 women were elected to a majority of the council seats in at least five of the municipalities that use alternative voting.

Two women were elected to the Chilton County School Board in 1988. The same thing happened in Calhoun County. Each county has a seven-member board. Chilton County elects by cumulative voting, and Calhoun County elects its board members by a pure at-large system.

Women appear to run for office more frequently in alternative voting jurisdictions. Although female candidates weren't interviewed, I attribute this increase in part to the elimination of the numbered posts and the majority win feature, because as a practical matter women were no longer seen as competing against men or incumbents per se. Moreover, I see the system as giving women an excellent opportunity to organize themselves locally and plump their votes for a female candidate of their choice.

Publicity and Public Support

For the most part, the press' coverage and reporting on alternative voting has been good. Chilton County's cumulative voting system has attracted the most attention and media coverage primarily because it was the only county government in Alabama to adopt cumulative or limited voting. Initially, in Chilton County in 1988, the editor/publisher of a Chilton County local newspaper, the *Independent Advertiser*, panned the idea of cumulative voting.

He got on board eventually, however, and urged in his paper that the public learn the new system. The larger Calhoun County met limited publicity and little public criticism when it adopted a pure at-large system for electing its school board members in 1988.

In 1996, a white Democratic candidate, Tim Mims, ran on a platform of abolishing cumulative voting in Chilton County for a return to the at-large, numbered places with a residency and majority vote requirement. His campaign motto was “Put Chilton County Back in the Hands of the People.” Mims was elected to the Chilton County Commission in 1996 with some black support. He is a funeral home employee and a former mayor of the town of Maplesville. Since 1996, Mims and a small group of followers have advertised in the Chilton County papers stating their intent to get rid of cumulative voting. This group meets monthly and has publicly advertised requests for donations to promote their cause. At this juncture the group has not attracted much publicity or public support. There is no known activity or organized group effort elsewhere to repeal alternative voting in any other jurisdiction in Alabama.

One of the most positive and supportive news stories on alternative voting appeared in the *Gadsden Times*. The story focused on the town of Centre, which adopted a seven-member cumulative voting plan. City attorney Al Shumaker, who was instrumental in getting the council to consent to cumulative voting, was upbeat and optimistic from the beginning. He took a long range view of the system, and here are some of his comments:

1. “It may be several years before we begin to see whether it’s a good idea or a bad idea.”
2. “I do not see this election as the test, but more as to how it works in the council. If it polarizes groups in the council, it’s not a good idea. But I don’t think that will happen.”
3. “I think people will find they can get behind a candidate and be able to get someone elected that otherwise couldn’t get elected.”
4. “I see it as giving the city a different mix than what we have now.”

5. “I do not view [the new method] as helping or hurting blacks. [Rather] I see it as a method where a lot of different groups in town could elect a representative to the council. It may be women, teachers, union workers, or whatever, but by combining their forces in an effort together, and each member casting all seven votes for one person, they could get their candidate elected.” Shumaker felt confident that a black candidate “would be electable in this situation.”

At city hall, there were mixed views on the new system. The mayor expressed reservations about how the seven-member council would work or get along. Plus he expressed some financial concern about the city having to pay two additional council members a stipend of \$300.00 a month. On the other hand, the city clerk believed that most people understood the system based on how few inquiries he received. The clerk noted the growing public interest which manifested itself in the number of candidates who qualified that year. Sixteen candidates qualified for the council, more than had done so in the past five elections.

Summary

To sum, alternative voting systems have made a difference in Alabama. The work of a host of community activists, civil rights organizations, attorneys, and others interested in fair representation have helped to create local governments that look like their communities. African Americans, women, and even those whose political ideology is not popular in this area of the country now have a fairer method of voicing their concerns and affecting public policy. Once a stronghold of the confederate south, Alabama is now leading the nation with innovative strategies to correct past wrongs rooted in racism and divisiveness.

As Lani Guinier states, “It [election reform] is about how power itself is exercised and shared. It is about opening up a different kind of conversation, during and following elections because elections become a forum for voters choosing their representatives and expressing their ideas. It is about giving people in motion an incentive to stay in motion. It is about giving citizens their

due.”

The goal should be a simple one ... a fair system where the minority is not closed from or eliminated in the political system. The right of representation belongs to all. This very democratic ideal is expressed in many Alabama communities where a majority does not always silence a minority voice; where elections matter because the system invites us to participate. This perspective on democracy is inclusive democracy, a model for empowerment, and an invitation to make our election system work!

Glossary

At-Large Election – Candidates are elected from the entire area, not districts.

Constituent – Citizens residing in a particular candidate’s area or district.

Cumulative Voting – Voters cast as many votes as there are seats, but are not limited to giving a candidate one vote. Voters can concentrate their votes on one or more candidates. Winners are determined by a plurality.

District Election/Single-Member District – Candidates run for office representing certain districts. Only one candidate can be elected from the district.

Limited Voting – Voters cast fewer votes than the number of seats. Winners are determined by totaling all votes cast. For example, in a race to elect five individuals, voters would only vote for 1, 2, 3, or 4 candidates. When voters cast only one vote it may be called the ‘one vote system’ [see glossary.]

Multi-Seat Election – More than one candidate is elected from a particular district.

Numbered Posts – Positions, somewhat similar to designated areas, where candidates run from a particular “post” but still have to be elected at-large. Some numbered posts require that the candidate be a resident of the particular post.

One-Person, One-Vote Principle – Law stipulating that everyone’s vote must be counted equally.

One Vote System - Voters cast one vote in an election for more than one seat. For example, in a 3-seat school board race, voters would cast only one vote.

Plurality – The person, or persons with the most votes win.

Proportional Representation – Proportional representation (PR) describes a range of voting systems used in most democracies. The principle of PR is that parties or individuals should win seats in legislative assemblies in proportion to their share of the popular vote.

Voting Rights Act – 1965 federal law ensuring equal opportunity and fairness in the voting process. **Section 2 and Section 5** of the Voting Rights Act are of particular importance.

Section 2 prohibits minority vote dilution which is basically tactics, legislation, situations, etc. that weaken the voting strength of minorities. Section 2 prevents municipalities from enacting practices designed to give minorities an unfair chance to elect candidates of their choice and is enforceable nationwide.

Section 5 of the Voting Rights Act requires certain areas of the country to obtain “preclearance” from the US Attorney General or the US District Court for the District of Columbia for any changes with reference to voting. These areas are known as “covered jurisdictions.”

Winner-Take-All System – Generally, our American election system where 51 percent of voters can win 100 percent of representation; unlike a system where seats are distributed according to a proportion or percentage of the vote.