

council form of government; it included two at-large seats but, at the request of the black community, three single-member districts.⁸³ One black council member was elected from the 62 percent black district.⁸⁴

Approximately one-third of Alabama's county commissions were elected by single-member districts in 1965; sixteen sought to adopt at-large elections during the next two decades.⁸⁵ The Department of Justice objected to eleven of these changes and precleared the remainder because the black population was either too small or too geographically dispersed to constitute a black-majority district. Justice also objected to the adoption of at-large elections for three county school boards.⁸⁶

Section 5 review was sometimes the cause of changes to district elections in Alabama. In most jurisdictions, however, the principal means of securing equitable election plans was through litigation. A number of federal court decisions in the early 1970s signaled that black plaintiffs in such cases would receive a fair hearing.

The Influence of Sims v. Amos and White v. Regester

In 1972 a three-judge panel decided in *Sims v. Amos* to outlaw further use of multimember districts in the apportionment of seats in the Alabama legislature, at least in part as a remedy for racial vote dilution.⁸⁷ Newspaper coverage of public reaction to the decision displayed widespread agreement among attorneys, legislators, local officials, and political observers that elimination of multimember districts would substantially increase black representation.⁸⁸ Implementation of the court's districting plan in 1974 increased the number of black legislators from two to fifteen.⁸⁹

Three weeks after the court struck down multimember districts as racially discriminatory in *Sims v. Amos*, the Selma city council discovered that it had to change its method of elections. Because the city's population had passed the 20,000 mark by 1970, the state's municipal election code required Selma to choose between going to ward elections or cutting the number of council seats from ten to five. The black community petitioned for acceptance of single-member districts, and city council members agreed. Mayor Joe Smitherman seems to have played a role in persuading the council to choose ward elections, despite their recognition that such a change would "lead to the election of the council's first black members."⁹⁰

Two communities apparently switched on their own initiative to district elections; the change even seems to have been motivated, in part, by a desire to provide minority representation. In 1972 the college town of Auburn adopted a mixed plan, with two members elected by each of four wards, plus a council president elected citywide.⁹¹ More surprising was the switch to single-member districts in the state's capital city. Under the leadership of Mayor James Robinson, Montgomery adopted the mayor-council form of government with nine single-member districts. According to a recent study, "Montgomery adopted districts as the price

to be paid for black assent to, and Justice Department approval of, a referendum to change from a commission to a strong-mayor system."⁹² The county's two white state senators successfully fought to eliminate all at-large seats on the grounds that "having at-large councilmen would discriminate against blacks since the city has a greater percentage of whites," warning opponents that the federal courts might strike down the new law if at-large seats were included.⁹³

Two weeks earlier, on 18 June 1973, the Supreme Court had for the first time found the use of at-large elections, together with numbered-place and majority-vote requirements, unconstitutional on the grounds of racial vote dilution in a Texas redistricting case, *White v. Regester*.⁹⁴ In the same year the Fifth Circuit set forth specific guidelines by which trial courts should decide such vote-dilution lawsuits in a Louisiana case, *Zimmer v. McKeithen*.⁹⁵ Alabama politicians now had fair warning that the at-large numbered-place system was open to legal challenge.

The Creation of an Alabama Voting Rights Bar

Thereafter, a new generation of voting rights lawyers challenged the use of at-large elections in community after community; when successful, as they usually were, these lawsuits transformed the racial politics of Alabama beyond recognition. Most of the work was done by young Alabama whites, educated at the University of Alabama Law School but affiliated with public-interest legal organizations, such as the NAACP Legal Defense and Educational Fund and the American Civil Liberties Union.⁹⁶ The Voting Section of the Department of Justice brought numerous cases; most of its attorneys handling Alabama cases were young whites from outside the South.⁹⁷ The so-called voting rights bar proved to be far more successful than its opponents were, at least in part because plaintiffs' attorneys and lawyers from the Justice Department were specialists who knew more about case law in this complex field than did those who represented state and local defendants.

The ability of private attorneys to bring successful voting rights litigation, which as a rule involved heavy expenses and a lengthy appeals process, was dependent on their ability to recover reasonable fees and expenses. In *Sims v. Amos*, the court had awarded the plaintiffs' attorneys fees under the established theory that lawyers representing class-action members in public-interest litigation acted as "private attorneys general" in seeking enforcement of federal law.⁹⁸ This prospect was thrown into doubt in 1975 by a Supreme Court decision in an unrelated case.⁹⁹ Congress revised the Voting Rights Act in 1975 to clarify its intention that private attorneys successfully representing the claims of minority voters receive expenses and reasonable fees for their time.¹⁰⁰

White attorneys took great pains to consult closely with local black plaintiffs, most of whom were members of the Alabama Democratic Conference (ADC), the leading statewide black political organization. In 1972 loyalist party chairman Robert Vance, who had persuaded the State Democratic Executive Committee to remove the white supremacy symbol of a rooster from its campaign literature only