

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF LOUISIANA  
BATON ROUGE DIVISION

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

CIVIL ACTION NO. 2548

STATE OF LOUISIANA: JIMMIE )

H. DAVIS, C. C. AYCOCK, J. )

THOMAS JEWEL, AS MEMBERS OF )

THE BOARD OF REGISTRATION )

OF THE STATE OF LOUISIANA: )

AND HUGH E. CUTRER, JR., )

DIRECTOR AND EX OFFICIO )

SECRETARY OF THE BOARD OF )

REGISTRATION OF THE STATE )

OF LOUISIANA, )

Defendants. )

AMENDED COMPLAINT

The United States of America alleges that:

1. This action is instituted by the Attorney General of the United States pursuant to the provisions of 42 U.S.C. 1971, as amended, and pursuant to 28 U.S.C. 2201.

2. This Court has jurisdiction of this action under 42 U.S.C. 1971(d), 28 U.S.C. 1345 and 28 U.S.C. 2281.

3. Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are members of the Board of Registration of the State of Louisiana by virtue of their official positions as Governor, Lieutenant Governor and Speaker of the House of Representatives of the State of Louisiana, respectively. Each of these defendants has an office in Baton Rouge, Louisiana. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.

4. Hugh B. Cutrer, Jr., is the Director and Ex Officio Secretary of the Board of Registration and in that capacity is an agent of the defendant State. His office is in Baton Rouge, Louisiana.

5. Under the Constitution and laws of Louisiana, the Board of Registration is required to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the character and forms of records and documents used in the registration process. The Board is authorized to remove, at will, any registrar of voters in the State of Louisiana. It is the duty of the defendant Director, Hugh B. Cutrer, Jr., who was appointed by the Board, to administer the rules and regulations of the Board, and to perform such other duties as may be directed by the Board in connection with the powers of the Board and the promotion of registration of the voters of the State.

6. The right to vote is essential to a republican form of government. It is secured by Sections 2 and 4 of Article I of the Constitution of the United States and by the Fourteenth, Fifteenth, and Seventeenth Amendments thereto.

7. Under Louisiana law, registration is, and has been since at least 1898, a prerequisite to voting in any election. In 42 of the 64 parishes registration is permanent.

8. Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All registrars of voters in the State of Louisiana since at least 1898 have been white citizens. Under Louisiana law registrars of voters determine whether each applicant for registration is qualified to vote.

9. Prior to the adoption of the Louisiana Constitution of 1898 approximately 44 percent of the registered voters in Louisiana were Negroes. The Constitution of 1898 established literacy and property requirements as conditions prerequisite to voting but exempted from these requirements all persons who were entitled to vote on or before January 1, 1867, and their sons and grandsons. This exemption is hereafter referred to as the "grandfather clause."

10. Under the operation of the "grandfather clause" white political supremacy became a fact in Louisiana. In 1910 only six-tenths of one percent of the registered voters in Louisiana were Negroes.

11. The Louisiana Constitution of 1921 replaced the "grandfather clause" with an interpretation test, a similar "grandfather clause" having been invalidated under the Fifteenth Amendment by the United States Supreme Court in 1915. Article VIII, Section I of the Louisiana Constitution of 1921 provided that a citizen in Louisiana, otherwise qualified, could register to

vote if he were able to read any clause in the Louisiana Constitution or the Constitution of the United States and give a reasonable interpretation thereof. A citizen unable to read and write could qualify if he were able to understand and give a reasonable interpretation of any section of either Constitution when read to him by the registrar of voters. The purpose of adopting this interpretation test was to provide a means by which the disfranchisement of Negroes could be perpetuated. This test was adopted in a state where the public educational facilities were and are racially segregated.

12. From 1921, when the interpretation test was adopted until 1944, the percentage of registered voters in Louisiana who were Negroes never exceeded one-half of one percent. In 1944 the United States Supreme Court invalidated the practice of excluding Negroes from participation in primary elections. Prior to that time, Negroes were not permitted to vote in Democratic primary elections in Louisiana.

13. During the period from 1944 until March 1956, the percentage of registered voters in Louisiana who were Negroes rose from two-tenths of one percent to approximately fifteen percent. Many registrars of voters in Louisiana did not apply the interpretation test during this period.

14. In 1954, following the decision of the Supreme Court declaring unconstitutional the maintenance by states of racially segregated public schools, the Legislature of Louisiana created a Joint Legislative Committee to study means by which white supremacy and racial segregation could be preserved in Louisiana.

This Committee is hereafter referred to as the Committee on Segregation.

15. The Chairman of the Committee on Segregation, William M. Rainach, was a State Senator from a District, the 27th, which has a large population of Negroes, virtually none of whom are registered to vote. While he was Chairman of the Committee on Segregation, William M. Rainach helped to organize the Association of Citizens Councils of Louisiana, which was incorporated in January 1956, and became president and a member of the Board of Directors of the Association.

16. The purpose of the Association of Citizens Councils of Louisiana was to maintain white political supremacy and racial segregation in Louisiana and to organize local citizens' councils and coordinate their activities to promote these ends. Many such councils were organized in Louisiana.

17. To promote the objectives referred to in the preceding paragraph, the local all-white citizens' councils in at least eleven Louisiana parishes, purporting to act under a procedure authorized by Louisiana law, challenged the registration status and caused the removal from the voter registration rolls of thousands of Negro voters, but virtually no white voters. In these eleven parishes, the total number of white voters increased by 1033, while the total number of Negro voters decreased by 8,158 between March and October 1956.

18. In promoting the purging of Negro voters as described in the preceding paragraph, the Association of Citizens Councils prepared and distributed literature to local citizens' councils, registrars of voters and other

public officials in Louisiana. This literature included a pamphlet entitled "Voter Qualification Laws in Louisiana -- the Key to Victory in the Segregation Struggle" urging, among other things, a strict application of the interpretation test as a means of preserving white political supremacy and racial segregation in Louisiana. A copy of this pamphlet is attached hereto as Appendix A and is incorporated herein.

19. During 1958 and 1959 the Committee on Segregation and the Board of Registration held joint meetings for each of the eight congressional districts of Louisiana. These meetings were attended by public officials or their representatives, including the Committee on Segregation, the Board of Registration, the State Attorney General, registrars of voters, district attorneys, sheriffs, and police jury presidents, as well as by officers and members of the citizens' councils, all of whom were white citizens. The purpose of these meetings was to formulate a program for maintaining white political supremacy and racial segregation in Louisiana. The position taken by these state agencies was that the strict application of the interpretation test was the key to maintaining white political supremacy and racial segregation. The counsel for the Committee on Segregation told those in attendance that the interpretation test is a test of native intelligence, not "book learning", and that, "experience teaches -- that most of our white people have this native intelligence, while most Negroes do not." These state agencies distributed to the persons in attendance at these meetings, including the registrars of voters,

the pamphlet described in the preceding paragraph, and sets of 24 cards containing constitutional provisions to be used in administering the interpretation test. A copy of a set of these test cards is attached as Appendix B and is incorporated herein.

20. The Committee on Segregation also sent letters and other materials to the registrars of voters throughout Louisiana urging the registrars to enforce strictly the interpretation test in order to maintain segregation of the races, stressing that the registrars of voters are on the very front line of the battle to maintain segregation. A copy of one such letter from this Committee to a registrar of voters is attached as Appendix C and is incorporated herein.

21. In late 1956 in certain Louisiana parishes, particularly those in which most of the Negro voters were purged from the registration rolls, the registrars of voters began to require applicants for registration and re-registration to pass the interpretation test. In these parishes, white voters who, with almost no exceptions, had not been purged, were not subjected to the interpretation test. In the eleven parishes referred to in paragraph 17, from October 1956 until December 1960, the number of white voters in these parishes increased by 3264, while the number of Negro voters decreased by 2205.

22. In some of the parishes of Louisiana, including the four largest, the interpretation test has not been applied as a qualification for voter registration. The interpretation test has been applied in at least twelve parishes. Negro citizens in these parishes have been denied registration to vote on the ground that they did not interpret constitutional

sections to the satisfaction of the registrars. In these twelve parishes less than five per cent of the Negroes of voting age were registered to vote as of December 31, 1960. Throughout the rest of the State, over 35 per cent of the Negroes of voting age were registered to vote as of that date.

23. In November, 1960, the voters of Louisiana approved an amendment to Article VIII of the Louisiana Constitution which, among other things, changed the interpretation test to require as a qualification for voting that an applicant for registration be able to understand and give a reasonable interpretation of any section of either Constitution. The amendment also requires applicants to read and to write from dictation any portion of the preamble to the Constitution of the United States. The amendment was proposed by the Louisiana Legislature as one of several measures to preserve racial segregation in Louisiana.

24. Pursuant to its authority to prescribe rules and regulations governing the method of administration of the voter registration laws and procedures and to supervise parish registrars of voters, <sup>the Board of Registration,</sup> in October 1961, in cooperation with the Committee on Segregation and the State Sovereignty Commission, promulgated a resolution requiring all registrars of voters in the State of Louisiana to enforce strictly the interpretation test.

25. The Constitution and laws of Louisiana providing for the interpretation test vest discretion in the registrars of voters to determine the qualifications of applicants for registration. These constitutional and statutory provisions impose no definite and objective standards upon registrars of voters for the



administration of the interpretation test. No requirement exists that answers given to the interpretation test be in writing or that they be reduced to writing. These provisions enable and require the registrars of voters in Louisiana to determine subjectively:

- (a) The manner in which the interpretation test is to be administered;
- (b) The length and complexity of the sections of the Constitution to be understood and interpreted by applicants;
- (c) What constitutes a reasonable interpretation of any section of the Constitution;
- (d) Whether the applicant's understanding and interpretation are satisfactory.

26. Louisiana registrars of voters, vested with the discretion described in the preceding paragraph, have used, are using, and will continue to use the interpretation test to deprive otherwise qualified Negro citizens of the right to register to vote without distinction of race or color. The existence of the interpretation test as a voter qualification in Louisiana, the threats of its enforcement and its enforcement have deterred, are deterring and will continue to deter otherwise qualified Negroes in Louisiana from applying for registration to vote.

27. The history of the interpretation test, the setting of white political supremacy and racial segregation in which this test was adopted and is enforced, and the discretion which is vested in the registrars of voters in the administration of this test render the interpretation test invalid on its face under 42 U.S.C.

1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

28. The Louisiana Constitution is in excess of 500 printed pages. Its provisions vary widely in subject matter and complexity to include such matters as the requirement that the English language be used in public schools (Art. XII, Sec. 12) and the application of certain debt taxes and water and sewer taxes to the liquidation of certain bonded debt obligations incurred by the City of New Orleans for public improvements (Art. XIV, Sec. 24). Interpretations of certain provisions of the Louisiana Constitution and the Constitution of the United States have differed widely even among those learned in the law.

29. There is no rational or reasonable basis for requiring, as a prerequisite to voting, that a prospective elector otherwise qualified be able to interpret certain sections of the Louisiana Constitution.

30. The defendants, unless restrained by order of this Court, will continue to require and permit registrars of voters to use the interpretation test as a qualification for registration for voting.

WHEREFORE, plaintiff prays that, pursuant to the provisions of 28 U.S.C. 2281, a District Court of three judges be convened in accordance with the procedures set forth in 28 U.S.C. 2284, and that said Court:

1. Adjudge, declare and decree that the provisions of Article VIII, Section 1 of the Louisiana Constitution and the laws of Louisiana, insofar as they pertain to the interpretation test, are invalid and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States;

2. Issue a preliminary and permanent injunction enjoining the defendants, their agents, employees, and

successors, and all persons in active concert and participation with them having actual notice of the Court's decree, from:

- (a) Enforcing and giving any further effect to the requirements of Article VIII, Section 1 of the Louisiana Constitution, and of the statutes implementing Article VIII, Section 1, insofar as they pertain to the interpretation test as a prerequisite to voting.
- (b) Engaging in any act which would deprive any citizen in the State of Louisiana of the right to register and the right to vote without distinction of race or color.
- (c) Engaging in any acts which would delay, prevent, hinder, or discourage Negro citizens, on account of their race or color from applying for registration and becoming registered voters in the State of Louisiana.

3. Order the defendants to direct the Registrars of Voters in Louisiana to cease using the interpretation tests as a voter qualification.

4. Issue all such additional orders which will insure the fair, equal, and non-discriminatory

administration of registration procedures in the State  
of Louisiana.

5. Grant such additional relief as justice may  
require, together with the costs and disbursements  
of this action.

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Assistant Attorney General

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KATHLEEN RUDELL  
United States Attorney

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