UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

ROBERT HICKS Plaintiff v. JESSE H. CUTRER, et al. Defendants	CIVIL ACTION NO. 66-225 DIVISION "B"

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO SUPPLEMENT PLAINTIFF'S COMPLAINT

This memorandum is filed in support of plaintiff's motion to supplement the complaint. The motion is necessitated by the recent action of the Bogalusa Commission Council, repealing the parade ordinance challenged in the original complaint herein and reenacting that ordinance with even more stringent provisions and, at the same time, the Commission Council passed a companion ordinance which contains other limitations on the rights, free speech and free assembly in Bogalusa. Such supplemental pleadings in these circumstances are specifically contemplated and authorized by Rule 15(d) of the Federal Rules of Civil Procedure:

> "(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrence or events which have happened since the date of the pleadings sought to be supplemented...."

This motion to supplement the Complaint should be granted for the following reasons:

First, the events and transactions set forth in this motion to supplement, all of which occurred since the filing of the Complaint, are a continuation, and indeed an extention, of the efforts described in the Complaint of the Bogalusa Commission Council to frustrate and deny the First Amendment rights of plaintiff and those similarly situated. The "night time" prohibition, which was challenged in plaintiff's initial Complaint and was the subject of the earlier hearing on the motion for preliminary injunction, has been reenacted in Article 83 D(1) of the new ordinance. Although the Commission Council repealed the applicability of this ordinance to "demonstrations" shortly after this suit was instituted, the new ordinance once again extends to "demonstrations". Furthermore, even more stringent prohibitions have now been added by Ordinance 755. All marches on Columbia Road, no matter at what hours, are barred. Moreover, the "notice" provision of the act, which merely required a party to inform the city of a proposed march has been repealed. In its stead, a new system of issuing permits for parades, has been adopted, which vests in the cognigant public officials unrestricted discretion to deny a permit or to reroute parades. Thus, the basic cause of action against defendants remains the same; defendants have merely extended the means and techniques of depriving plaintiff and those similarly situated of their First Amendment rights.

Second, the earlier hearing on the motion for preliminary injunction contains a full description of the importance to Negroes of marching on Columbia Road. The provisions in the prior ordinance which prohibited marches on Columbia

Road during certain hours has now been replaced in Ordinance 755 with an absolute prohibition of such marches at anytime. Because of the adequacy of the record on this point, there is no need for any further hearings prior to a decision on the plaintiff motion for preliminary injunction barring enforcement of Ordinance 755.

Third, Article 83, as reenacted vests broad discretion in the cognizant public officials to deny a permit or reroute a parade. These new provisions are clearly unconstitutional on their face and no further testimony as to these provisions is necessary. On the basis of the present record, the court can rule on the motions for preliminary equitable relief as they relate to the Complaint as supplemented by the attached motion.

For these reasons, the Motion to Supplement Plaintiff's Complaint should be granted.

Respectfully submitted,

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