

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF LOUISIANA  
NEW ORLEANS DIVISION

UNITED STATES OF AMERICA,  
Plaintiff

v.

CIVIL ACTION NO. 9146

DIAZ D. McELVEEN, E. RAY McELVEEN,  
SAXON FARMER, and EUGENE FARMER,  
Individually and as members of the  
White Citizens Council of Washington  
Parish, Louisiana;  
CURTIS M. THOMAS, Registrar of Voters  
of Washington Parish, Louisiana; and  
the WHITE CITIZENS COUNCIL of  
Washington Parish, Louisiana,  
Defendants

*June 29, 1957*

C O M P L A I N T

The United States of America, plaintiff, brings this suit against Diaz D. McElveen, E. Ray McElveen, Saxon Farmer, and Eugene Farmer, individually and as members of the White Citizens Council of Washington Parish, Louisiana (hereinafter referred to as the Individual Defendants); Curtis M. Thomas, Registrar of Voters of Washington Parish, Louisiana (hereinafter referred to as the Defendant Registrar); and the White Citizens Council of Washington Parish, Louisiana (hereinafter referred to as the Defendant Citizens Council), and alleges that:

1. This action is brought under Part IV of the Civil Rights Act of 1957 (P.L. 85-315, 71 Stat. 634; 42 U.S.C. Sec. 1971) to obtain relief as provided for in said statute against acts and practices by the defendants which would deprive other persons of rights and privileges secured by subsection (a) of Section 1971 of Title 42 of the United States Code; namely, the right and privilege of citizens of the United States who are otherwise qualified by law to vote at any election by the people in the State of Louisiana and Washington Parish to be entitled and allowed to vote at all such elections without distinction of race or color.

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

3. Under the laws of the State of Louisiana, registration is a prerequisite to voting in any election. In Washington Parish, Louisiana,

registration is permanent and a registered voter is not required to re-register unless his name is cancelled from the registration rolls in accordance with law.

4. At the times indicated below the numbers of persons registered to vote in Washington Parish were as follows:

October 6, 1956: 1843 Negroes, 15,529 white persons;  
November 4, 1958: 1517 Negroes, 11,444 white persons; and  
June 16, 1959: 236 Negroes, 11,436 white persons.

5. The substantial decline in the number of Negroes registered to vote in Washington Parish which occurred between the dates November 4, 1958, and June 16, 1959, as detailed in Paragraph 4, resulted from the acts and practices described hereinafter of the defendants by which -- in violation of 42 U.S.C. Sec. 1971(a) and (c), and in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States -- Negroes were deprived of the right to vote because of their race or color.

6. The Individual Defendants are registered voters of Washington Parish, Louisiana, and are officers and members of the Defendant Citizens Council.

7. Under Section 245, Title 18, Louisiana Revised Statutes, 1950 (the full text of which appears in Appendix A), which is applicable to parishes which have adopted the permanent registration system and which, therefore, is applicable to Washington Parish, any two bona fide registered voters of the parish are vested with authority to file affidavits with the registrar of voters challenging the right of any persons to remain on the registration rolls. It is made mandatory by said statute that, upon the filing of such affidavits, the registrar shall notify by mail the persons thus challenged by sending to them a printed citation requiring them to appear in person at the registrar's office within ten days and prove, by written affidavit of three bona fide registered voters, their right to remain on the registration rolls.

8. By this statutory provision, Section 245 vests in registered voters authority to perform the state functions of investigating and making an initial determination whether persons are qualified to vote, and of requiring persons who have already been adjudged qualified voters by the

registrar of voters, to come forward and prove their right to remain registered voters. By said section, registered voters are constituted agents of the State for the purpose of performing said state functions.

9. During the period November 4, 1958, and June 16, 1959, and particularly the last four months of said period, the Individual Defendants, acting as agents of the State of Louisiana pursuant to and under the authority of Title 18, Section 245, of the Louisiana Revised Statutes, 1950 hereinabove referred to, filed with the office of the Defendant Registrar 1377 affidavits challenging the legality of the registration status of Negro voters and ten affidavits challenging the registration status of white voters.

10. The affidavits of challenge referred to in Paragraph 9 were almost without exception based on minor technical deficiencies in the registration records, such as minor misspellings, petty deviations from printed instructions, failure to compute age with exact precision, and allegedly illegible handwriting.

11. In examining the Washington Parish registration records for the purpose of filing the affidavits of challenge referred to in Paragraph 9, the Individual Defendants limited their examination almost exclusively to the registration records of Negro voters while making only a token examination of the registration records of white voters.

12. The Individual Defendants in examining the Washington Parish registration records for the purpose of filing the affidavits of challenge referred to in Paragraph 9, relied upon the slightest technical deficiencies, including those described in Paragraph 10, which they found in the records of Negro voters upon which to base the challenges. At the same time, the Individual Defendants exercised virtually no challenges of white voters whose registration records the Individual Defendants knew or should have known contained technical deficiencies similar to those which formed the basis for the challenge of the Negroes.

13. As a result of the acts and practices of the Individual Defendants, as described in Paragraphs 9 through 12, the names of those voters whom they challenged were stricken from the registration rolls of Washington Parish. Among the Negro voters whose names were thus stricken were:

William Bailey, Jr.  
408 Church Street  
Bogalusa, Louisiana

James Cyrus  
546 Avenue "U"  
Bogalusa, Louisiana

Joe Dean  
638 Avenue W  
Bogalusa, Louisiana

J. D. Godbolt  
725 Avenue T  
Bogalusa, Louisiana

Rev. W. M. Granderson  
420 Church Street  
Bogalusa, Louisiana

Robert Hicks  
924 East 9th Street  
Bogalusa, Louisiana

Mrs. Allie Mae Moses Johnson  
638 1st Avenue  
Bogalusa, Louisiana

Willie C. Monk  
507 Church Street  
Bogalusa, Louisiana

Sam Myles  
657 Avenue S  
Bogalusa, Louisiana

Mrs. Geraldine Maddox Page  
1007 So. Dauphine Street  
Bogalusa, Louisiana

Moses Richmond  
804 Dauphine  
Bogalusa, Louisiana

Rev. Frank C. Shumake  
819 East 9th Street  
Bogalusa, Louisiana

Henry Sims  
665 2d Avenue  
Bogalusa, Louisiana

Mrs. Ethel A. Smith  
920 East 7th Street  
Bogalusa, Louisiana

Lionel Verdin  
521 First Avenue  
Bogalusa, Louisiana

Albert Z. Young  
834 East 7th Street  
Bogalusa, Louisiana

Samuel Rogers  
Rte. 1 Box 138 A  
Varnado, Louisiana

Albert Wilson  
928 17th Street  
Franklinton, Louisiana

14. The acts and practices described in Paragraphs 9 through 12 were engaged in by the Individual Defendants while acting as agents of, and under authority of the law of the State of Louisiana and in accordance with the prevailing custom and usage in said State, all for the purpose and with the effect of depriving Negroes solely because of their race or color of their right to register and vote.

15. By the acts and practices described in Paragraphs 9 through 12, the Individual Defendants prevented the Defendant Registrar from performing his duty under 42 U.S.C. Sec. 1971(a), and under the Fourteenth and Fifteenth Amendments to the Constitution of the United States, of administering the registration laws without distinction based on race or color; and said Individual Defendants thereby subverted the capacity of the office of the Defendant Registrar to function in accordance with law.

16. The Defendant Registrar assumed office in September 1949, and has been acting in that capacity up to the time of the filing of this complaint.

Under the laws of Louisiana, said Defendant Registrar in his official capacity is responsible, among other things, for registering all qualified applicants for registration, for keeping and preserving all registration records, and for cancelling from the registration rolls the names of all voters who lose their right to remain on the rolls.

17. When the affidavits of challenge referred to in Paragraph 9 were filed with the Defendant Registrar, he knew that said affidavits related almost exclusively to Negro voters; that the purpose of said affidavits was to effect discrimination based on race or color against Negro voters; and that the said affidavits related to technical deficiencies equally applicable to many white voters against whom affidavits of challenge were not filed.

18. In response to the filing of affidavits of challenge referred to in Paragraph 9, and, acting pursuant to and under the authority of Title 18, Sec. 245, of the Louisiana Revised Statutes, 1950, the Defendant Registrar -- notwithstanding his knowledge as alleged in Paragraph 17 hereof of the discriminatory purpose and effect of said affidavits of challenge -- mailed or caused to be mailed Citations to Appear to the persons whose registration status had thus been challenged. Said Citations required those challenged to appear at the Defendant Registrar's office within ten days to prove their right to remain on the registration rolls. Said Defendant Registrar, following intermediate legal proceedings, subsequently cancelled all the names of the voters thus challenged from the registration rolls.

19. By the acts described in Paragraph 18, Defendant Registrar participated in and imparted the authority of his office to the illegal acts and practices described in Paragraphs 9 through 12 which were engaged in by the Individual Defendants as agents of the State of Louisiana, and acting under the authority of the laws of that state.

20. Defendant Citizens Council is incorporated under the laws of the State of Louisiana, and is domiciled in Washington Parish, Louisiana. One of its purposes is to maintain racial segregation in said state.

21. Defendant Citizens Council at all times pertinent to this

Complaint was acting pursuant to a state-wide program of allied organizations for the removal of Negroes from the voting rolls.

22. The acts and practices described in Paragraphs 9 through 15, which were engaged in by the Individual Defendants as agents of the State and under the authority of state law, were carried out at the direction of and under the control of the Defendant Citizens Council, of which the Individual Defendants are officers and members.

23. There are reasonable grounds to believe that, unless enjoined by this Court, the Defendant Registrar will continue to treat as valid the challenges to voters based on race or color as described in this Complaint, which challenges have resulted in the removal of the names of Negro voters from the registration rolls of Washington Parish; that said Defendant Registrar will not restore to the registration rolls of said Parish any of those persons whose names have been illegally removed therefrom unless they qualify for registration de novo; and that the Defendants will continue to engage in illegal acts and practices the same as or similar to those set forth in this Complaint.

WHEREFORE, Plaintiff respectfully prays:

(a) That this Court issue a permanent injunction:

(1) enjoining the Individual Defendants individually and as members of the Defendant Citizens Council, and enjoining the Defendant Citizens Council and all officers and members thereof, from causing or initiating challenges or filing any affidavits of challenge which have as their purpose or effect discrimination based on race or color against voters, and from further engaging in illegal acts and practices the same as or similar to those set forth in Paragraphs 9 through 15 of this Complaint;

(2) enjoining the Defendant Registrar from giving any legal effect whatsoever to the challenges referred to in Paragraph 9 hereof, or from giving any legal effect to any prior proceedings or orders based directly or indirectly upon such challenges.

(3) enjoining the Defendant Registrar, his successors, agents, and employees having actual notice of this order, from acting upon or giving effect to any challenges which might hereafter be made which have as their purpose or effect discrimination based on race or color against

voters;

(4) enjoining the Defendant Registrar, his successors, agents, or employees having actual notice of this order, from requiring the voters whose names were illegally challenged and removed from the registration rolls of Washington Parish to register de novo or to take any further steps whatsoever as a condition precedent to their reinstatement forthwith as registered voters of said Parish.

(b) That this Court grant such additional relief as justice may require or as may be required in aid of the jurisdiction of this Court, including the issuance, upon proper application, of instructions where the Defendant Registrar has reasonable doubt as to his obligations and duties under this Court's order.

By direction of the Attorney General of the United States:

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JOSEPH M. F. RYAN, JR.  
Acting Assistant Attorney General

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M. HEPBURN MANTY  
United States Attorney

APPENDIX A

Title 18, Section 245, of the Louisiana Revised Statutes, 1950

§ 245. Illegal registration or loss of right to vote:  
notice to registrant; cancellation of name on  
failure to prove right

Upon a written affidavit signed and sworn to in duplicate before and filed with the registrar or his deputy by any two bona fide registered voters of the parish, to the effect that after reasonable investigation and on information and belief certain persons are illegally registered, or have lost their right to vote in the precinct, ward, or parish in which they are registered by reason of removal or otherwise, the registrar shall immediately, or, in any event, within forty-eight hours, notify the registrants by mailing to them postage prepaid, under P. O. Form 3547-Requested, at the addresses given in the registration records, the duplicate copy of affidavit, together with a printed citation requiring them to appear in person before the registrar or his deputy within ten days from the date of the mailing of the duplicate affidavit and citation, which date shall be stated in the citation, and prove their right to remain on the registration rolls by written affidavit of three bona fide registered voters in the form as provided in R.S. 18:132. The registrar shall immediately make a similar publication, as provided for in R.S. 18:132, and if the challenged registrants fail, within the same delays provided in that Section, to prove their right to remain on the rolls, as in that Section provided, the registrar shall cancel their names from the registration records as provided by R.S. 18:135.