S. Bar

No. 22492

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA, APPELLANT

v.

WINNICE J. P. CLEMENT,
REGISTRAR OF VOTERS, WEBSTER PARISH
LOUISIANA AND STATE OF LOUISIANA, APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

BRIEF FOR APPELLANT

JOHN DOAR,
Assistant Attorney General.

EDWARD L. SHAHEEN,
United States Attorney.

HAROLD H. GREENE,
GERALD P. CHOPPIN,
PAUL S. ADLER,
Attorneys,
Department of Justice,
Washington, D. C. 20530.

INDEX

CASES

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 22492

UNITED STATES OF AMERICA, APPELLANT

v.

WINNICE J. P. CLEMENT,
REGISTRAR OF VOTERS, WEBSTER PARISH
LOUISIANA AND STATE OF LOUISIANA, APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

BRIEF FOR APPELLANT

STATEMENT OF THE CASE

I. The Pleadings and Procedure

On February 18, 1963, the Attorney General, acting in the name of the United States, filed a

complaint in the United States District Court for the Western District of Louisiana against Winnice J. P. Clement, Registrar of Voters of Webster Parish Louisiana, and the State of Louisiana, under 42 U.S.C. 1971, as amended by Part IV of the Civil Rights Act of 1957 (71 Stat. 637) and the Civil Rights Act of 1960 (74 Stat. 90) (R. 3). The complaint alleged, inter alia, that the defendants had discriminated against Negro applicants for registration (1) by applying different and more stringent requirements, procedures and standards to Negro applicants than to whites; (2) by testing all Negro applicants on their ability to interpret either the State or federal constitution, but not so testing all whites; (3) where whites were tested, by giving whites preferential treatment in the selection of sections to be interpreted and in the evaluation of the interpretation given; and (4) in a situation where 53% of the white persons eligible to vote are registered and only 1.4% of the eligible Negroes are registered, by requiring a new multiple choice citizenship test of all persons not yet registered (R. 5-6). The complaint

further alleged that the acts and practices of the defendants have deprived and will continue to deprive Negro citizens, who are otherwise qualified to vote, of the right secured by 42 U.S.C. 1971 to be entitled and allowed to vote without distinction of race or color and that the above-mentioned deprivations of the right to vote have been and are pursuant to a pattern or practice of racial discrimination (R. 6). The prayer of the complaint was for a finding that the acts and practices described therein constitute deprivations of the right to vote and that these deprivations were and are pursuant to a pattern or practice and for a permanent injunction to restrain the defendants from:

> (a) engaging in any act which would deprive any citizen in Webster Parish of the right to register and the right to vote without distinction of race or color;
>
> (b) adopting or applying to Negro applicants for registration different and more stringent requirements, procedures, and standards than those applied to white applicants for registration in determining whether such applicants are qualified to register to vote in Webster Parish;
>
> (c) applying to Negro applicants for registration to vote in Webster Parish any test or requirement which imposes a higher standard than the standard applied to white voters who are currently registered and who registered prior to the adoption of any such test or

requirement (R. 7).

In the proposed decree filed by the United States, the district court was requested to order the registrars to register any Negro who (1) is a citizen, not less than 21 years old;(2) meets the residence requirements; (3) is literate in that his handwriting is legible,[1/] and (4) is not disqualified by reason of bad character or conviction of a disqualifying crime (R. 23). On April 16, 1963, the defendants filed their answer in which they denied the allegations of discrimination (R. 8). The case was tried on July 22 and 23, 1963.

II. The Facts, the Law and the Decree

The district court filed its findings of fact, conclusions of law, and decree on July 14, 1964 (R. 26-37; see also 231 F. Supp. 913 (W.D. La., 1964)). The following facts are taken from the court's findings.

1/ This is analogous to the relief granted in United States v. Lynd, No. 22477, June 16, 1965 (C.A. 5) where this Court ordered that "in judging literacy, the registrar. . . is not to take into account bad handwriting and spelling so long as the answers to the questions are legible. . . ."

A. Findings of Fact and Conclusions of Law

Appellee Clement has been Registrar of Voters in Webster Parish since 1940 (R. 26). In October of 1956 there were 12,957 white persons and 1,773 Negroes registered to vote. A complete reregistration of voters was begun on January 1, 1957 after which there were 12,250 white persons and 130 Negroes registered to vote (R. 26-27).[2]

The court found that between January 1957 and September 1962 and again in February and March of 1963 (in response to increased Negro registration activity) appellee Clement used the oral interpretation test of the state or federal constitution as a device to discriminate against Negroes.[3] On September 13, 1962, the

---

2/ A new registration period began on January 1, 1961 and by June 30, 1963, just prior to the trial of this case, there were 8,914 whites and 229 Negroes registered to vote. Permanent registration was adopted on May 6, 1964 (R. 27).

3/ This test was found to have been administered only to Negroes, and in such a way that 3 public school principals, 4 public school teachers, 1 dentist and 1 insurance agent failed the test (R. 28). The history and development of the Louisiana registration laws has been extensively traced in United States v. Louisiana, 225 F. Supp. 353 (E.D. La. 1963) aff'd. 380 U.S. 145 (1965). Insofar as they are relevant to the instant case they are set out in the appendix, infra, pp.

appellee registrar was found to have begun using the multiple-choice citizenship test, when 53% of the white and only 1.3% of the Negro population was registered to vote (R. 28-29). [4/] In addition, the court found that appellee Clement had used various "slow-down" tactics in order to limit Negro registration. Negroes were registered one-at-a-time while whites were registered as many as four-at-a-time. Negroes were sometimes required to identify themselves with two witnesses, although white persons were never required to do so. (R. 29).

The court also found that between September 13, 1962, and June 25, 1963, the defendants used the application form as a device to discriminate against Negro voters in Webster Parish. Negroes were rejected for inconsequential errors and were not given any help in correcting their forms. At the same time, white persons were given whatever help they needed to complete the form. Of the 527 white persons who applied for registration between September 13, 1962, and June 25, 1963, only one was rejected on the basis of the application form. During this same period, 24 out of 178

4/ The "Preamble" test was adopted at the same time as the citizenship test.

Negro applicants were rejected for errors on the form, even though every one of the 24 passed the multiple-choice citizenship test (R. 29-30).

The court held that the decline in Negro registration between 1956 and 1960 and the token Negro registration since 1961, coupled with a steady trend in white registration, created a presumption that Negroes had been deprived of the right to vote without distinction of race or color (R. 31). The court further held that (1) denying registration to Negroes because of errors or omissions on their application forms while registering whites who have made similar errors, (2) using the interpretation test, or any other test, as a device to discriminate against Negroes and (3) denying Negroes an opportunity to attempt to register and discouraging Negroes from attempting to register through the imposition of procedures and requirements not imposed upon white applicants, were violations of the Fourteenth and Fifteenth Amendments and 42 U.S.C. 1971(a) and that it could be reasonably inferred that other Negroes, otherwise qualified to vote, had been discouraged from attempting to register by these discriminatory acts of the registrar (R. 32).

The court further held that the State of Louisiana was a proper party defendant and that the acts and practices of the appellee registrar were the acts and practices of the State of Louisiana (R. 30). Finally, the court held that these discriminatory acts by these appellees were pursuant to a pattern or practice (R. 33).

B. The Decree

In its decree the court enjoined the appellees from engaging in any act or practice which involves or results in distinctions of race or color in the registration of voters in Webster Parish, Louisiana and from applying different and more stringent registration qualifications, requirements, procedures and standards to Negro applicants for registration than are applied to white applicants for registration and from using the application form in any manner and for any purpose different from and more stringent than that for which it is used in registering white persons in Webster Parish (R. 34). However, the court refused to grant the United States relief against the appellees' unconstitutional freeze (R. 32). The court ordered the appellee registrar to

submit each month, to the clerk of the court and the appellant United States, a report as to his progress in receiving and processing applications for registration during the preceding calendar month (R. 34-35). The costs of the case were taxed against the appellee Clement, in her official capacity as registrar (R. 35).[5/]

SPECIFICATION OF ERRORS

1. The District Court erred in not granting freezing relief.

2. The District Court erred in not awarding costs against the State as well as against the Registrar.

5/ After the entry of judgment the United States filed a motion under Rule 59(e) Federal Rules of Civil Procedure to amend the judgment with respect to the taxing of costs to have costs taxed against the State of Louisiana (R. 36). The district court consolidated this case with United States v. Crawford, No. 22501 which deals with substantially identical issues. The court held that the "real offender" was the registrar and that in the "interest of comity between these two sovereigns" it "deemed it best" not to tax costs against the State of Louisiana (R. 47).

ARGUMENT

I

The District Court Erred in Not Granting "Freezing" Relief.

The findings of fact entered by the trial court are unequivocal. By a combination of discriminatory devices employed over a substantial period of time, devices expressly found to constitute a "pattern or practice," appellee registrar has effectively registered the great majority of whites and very few Negroes under different standards. This discrimination has been perpetuated by the recent adoption of permanent registration. This Court has recognized the appropriateness of freezing relief under these facts. United States v. Lynd, No. 22477, June 16, 1965 (C.A. 5). United States v. Wilbur Ward, No. 21717, May 25, 1965 (C.A. 5). For earlier examples of the application of freezing relief, see United States v. State of Mississippi, 339 F. 2d 679 (C.A. 5, 1964) (Walthall County); United States v. Duke, 332 F. 2d 759 (C.A. 5, 1964); United States v. Dogan, 314 F. 2d 767 (C.A. 5, 1963). This position has been confirmed by the Supreme Court in Louisiana v. United States, 380 U.S. 145 (1965), affirming 225 F. Supp. 353 (E.D. La. 1963). As the Court there said, 380 U.S. at 154:

submit each month, to the clerk of the court and the appellant United States, a report as to his progress in receiving and processing applications for registration during the preceding calendar month (R. 34-35). The costs of the case were taxed against the appellee Clement, in her official capacity as registrar (R. 35)[5].

SPECIFICATION OF ERRORS

1. The District Court erred in not granting freezing relief.

2. The District Court erred in not awarding costs against the State as well as against the Registrar.

5/ After the entry of judgment the United States filed a motion under Rule 59(e) Federal Rules of Civil Procedure to amend the judgment with respect to the taxing of costs to have costs taxed against the State of Louisiana (R. 36). The district court consolidated this case with United States v. Crawford, No. 22501 which deals with substantially identical issues. The court held that the "real offender" was the registrar and that in the "interest of comity between these two sovereigns" it "deemed it best" not to tax costs against the State of Louisiana (R. 47).

ARGUMENT

I

The District Court Erred in Not Granting "Freezing" Relief.

The findings of fact entered by the trial court are unequivocal. By a combination of discriminatory devices employed over a substantial period of time, devices expressly found to constitute a "pattern or practice," appellee registrar has effectively registered the great majority of whites and very few Negroes under different standards. This discrimination has been perpetuated by the recent adoption of permanent registration. This Court has recognized the appropriateness of freezing relief under these facts. United States v. Lynd, No. 22477, June 16, 1965 (C.A. 5). United States v. Wilbur Ward, No. 21717, May 25, 1965 (C.A. 5). For earlier examples of the application of freezing relief, see United States v. State of Mississippi, 339 F. 2d 679 (C.A. 5, 1964) (Walthall County); United States v. Duke, 332 F. 2d 759 (C.A. 5, 1964); United States v. Dogan, 314 F. 2d 767 (C.A. 5, 1963). This position has been confirmed by the Supreme Court in Louisiana v. United States, 380 U.S. 145 (1965), affirming 225 F. Supp. 353 (E.D. La. 1963). As the Court there said, 380 U.S. at 154:

> We bear in mind that the [district] court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future (emphasis added). 6/

Thus was freezing relief against the citizenship test approved.[7/]

1. Neither the "Preamble"[8/] test nor the use of the application form as a test were within the express terms of the Supreme Court's decision in

---

6/ United States v. Atkins, 323 F. 2d 733 (C.A. 5 1963), relied on by the district court in the instant case, must be considered limited to its own peculiar facts. The district court noted that United States v. Louisiana, supra was contrary authority. At the time, that case had not yet been affirmed by the Supreme Court.

7/ Webster was one of twenty-one parishes in which the use of the citizenship test as well as the interpretation test was barred by the Court's decision. The interpretation test was declared unconstitutional and was struck down.

8/ The Preamble test requires an applicant to copy from dictation a part of the Preamble to the Constitution of the United States on the citizenship test answer cards.

United States v. Louisiana, supra. To obtain the fullest implementation of the rationale of that case freezing relief should be extended to these other devices. See, United States v. Lynd, supra; United States v. Wilbur Ward, supra; United States v. State of Mississippi (Walthall County) supra; United States v. Duke, supra.[9/]

2. Although stringent statutory tests are required of all prospective applicants, and have been at least since 1960, such tests have not been applied

---

9/ The use of the application form as a tricky test is barred by §101(a)(2)(B) which provides that, no applicant should be rejected for any immaterial error on, inter alia, the application form. The oral "Preamble" test is barred by §101(a)(2)(C), 42 U.S.C. 1971(a)(2)(C) which prohibits the use of any literacy test not in writing. And §101(a)(2)(A), 42 U.S.C. 1971(a)(2)(A) provides freezing relief. The relief we are asking for in the instant case would thus conform to the new law. Cf. United States v. Alabama, 362 U.S. 602 (1960); Ziffrin v. United States, 318 U.S. 73 (1942); Vandenbark v. Owens-Corning Glass, 311 U.S. 538 (1941).

to white applicants. Thus, an injunction directed only against future discrimination does not provide adequate relief. Appellees are left at large to apply those remaining statutory registration requirements which the large majority of white persons, registered during a period of flagrant discrimination, have not had to meet. Such a situation is inherently discriminatory. Complete relief requires, and the United States asked below, that the Preamble test be enjoined from future use (R. 24). If the evil effects of past discrimination are to be erased and the continuation or repetition of these discriminatory practices -- found to be so "deeply engrained" in the "laws, policies, and traditions" of the State of Louisiana -- are to be prevented, every aspect of the registration process must be brought within the freeze. Certainly there is no more appropriate device to be so reached than one which has been developed in tandem with a test against which freezing relief has already been granted. See Louisiana v. United States, supra.

Furthermore, the mere continued existence of a difficult test, considered in the light of past discrimination in the use of similar tests, is likely to inhibit Negroes from seeking to exercise their newly-vindicated rights. The inhibiting effects of

past discrimination were well-recognized by the district court in United States v. Manning, 215 F. Supp. 272, 288 (W.D. La. 1963). The court there said that the evil of discrimination is that it:

> [B]ars not only the individual concerned from all elections but inhibits other qualified voters from running the guantlet [sic] of discriminatory and humiliating practices by a registrar and his deputies.

In fact, in the instant case, the court specifically found, as a matter of law, that it could be inferred that Negroes had been discouraged from attempting to register by the discriminatory acts of the registrar (R. 32). Many Negroes, in the fullness of their knowledge of how such tests have been used in the past, will never attempt to make what they reasonably believe to be a futile effort.

3. Freezing relief should also be granted against the use of the application form as a test. When submitted by a white person, the application was treated as an information form, but for the Negro it was a test of skill.[10/] Compare United States v. State of Mississippi, supra. White persons were given whatever aid they needed in filling out the application form, as the district court specifically found, and

---

10/ Indeed, the application form itself became such a stringent test that even Negroes who managed to pass the citizenship test were failed on the application form (R. 30).

immaterial errors on their forms were ignored. Negro applicants must now be given an opportunity to register under these same conditions. Louisiana v. United States, supra; United States v. Lynd, supra; United States v. Wilbur Ward, supra; United States v. State of Mississippi, supra.

4. The district court found that the appellee registrar used various "slow-down" techniques to "delay and hinder the registration of Negroes" but did not apply such techniques in registering white persons (R. 28).[11/] Furthermore, the court also found that such "slow-down" techniques discouraged other qualified Negroes from attempting to register (R. 32).

11/ The court specifically found that for at least two years prior to September, 1962, the deputy registrar discriminatorily refused to process the applications of Negroes while she was alone in the office, although she processed the applications of white persons (R.28). Further, the court found that the registrar would register white applicants at the rate of four-at-a-time, even while she and the Deputy were in the office together, and, finally, that she required Negro, but not white, applicants to produce two witnesses to identify them and that this was an "unreasonable and arbitrary requirement" adopted for the purpose of "delaying and hindering registration of Negro applicants" (R. 28-29).

Effective freezing relief should also include a direction that appellees receive and process each applicant as expeditiously as possible to the extent that the physical facilities of the registration office permit, but in no case less than four applicants[12] at one time and in no case, refuse to process fewer than four applicants at one time. See United States v. Wilbur Ward, supra.[13]

5. Nor should the appellees be permitted to seek the lifting of these sanctions at the end of the first year. The effects of a long period of

---

12/ The number of white persons typically permitted to register at one time. If the appellant's request for relief is granted the amount of time required for the processing of each applicant will be greatly reduced, thus permitting a significant increase, considerably above the number of four, in the number of applicants who could be processed at one time.

13/ In the Wilbur Ward case, this Court set three applicants at a time as the minimum rate of processing, taking into account "the relative ease with which the small number of Negroes of voting age in George County (580) may be accommodated for registration." Clearly, it is not unreasonable to ask that the approximately 7000 Negroes in Webster Parish -- along with those few whites not yet registered -- be processed at the same pace as were whites in the past.

discrimination are not easily overcome. Time is also necessary to permit overcoming the discouragement and apathy created by years of discrimination. In fact, the district court found in the instant case "[f]rom the evidence shown it can be reasonably inferred that other Negroes otherwise qualified to vote were discouraged from attempting to register by the discriminatory acts of the Registrar" (R. 32). Indeed, recent legislative and judicial pronouncements have recognized the propriety of an open-ended freeze. Compare Louisiana v. United States, supra, and Title I of the Civil Rights Act of 1964, §101(a)(2)(A), 42 U.S.C. 1971(a)(2(A).

There were 7,045 Negroes of voting age in Webster Parish according to the 1960 census. In light of the history and circumstances in Webster Parish, a twelve month period is obviously too limited an opportunity for that large a number of Negroes to attempt to register, even under the encouragement provided by the decree sought herein.

II

The District Court Erred in Not Taxing Costs Against the State.

It was also error for the district court to award costs only against the appellee Clement in her

official capacity[14] and, not against the State of Louisiana as well. Cf. United States v. Lynd, supra.

The taxation of costs is governed by Rule 54(d) of the Federal Rules of Civil Procedure, which provides, in relevant part, that:

> Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs. . . .[15]

In the instant case the court did not tax costs against the State even though it held that the State was properly joined as a party defendant and that the unlawful and discriminatory acts and practices of the appellee registrar were those of the appellee State as well (R. 30). Costs were taxed in the amount of $2,336.59 (cf. R. 38).

---

[14] We do not urge on this appeal that the District Court should have taxed costs against the Registrar in his personal capacity. The demand letter of the United States and appellee's response are printed in the Appendix p. infra. The response in the case of United States v. Katherine Ward is printed in the Record (R. 41).

[15] The Rule also provides that "costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law." The Civil Rights Act of 1957, 42 U.S.C. 1971(c) provides that "[i]n any proceeding hereunder the United States shall be liable for costs the same as a private person."

For all practical purposes, the result of the District Court's order taxing costs only against the appellee registrar is to effectively deny costs to the United States, the prevailing party.[16/] Such a denial is considered appropriate only where neither side has entirely prevailed or where the litigation has arisen through the fault of both parties. Barron and Holtzoff, Vol. 3, Chapter 11, Section 1196; and see e.g., Chicago Sugar Co. v. American Sugar Refining Co., 176 F. 2d 1 (C.A. 7, 1949) cert. denied, 338 U.S. 948 (1950); Levine v. Berman, 178 F. 2d 440 (C.A. 7, 1950) cert. denied, 339 U.S. 982 (1950); In re Northern Indiana Oil Co., 192 F. 2d 139 (C.A. 7, 1951); Dubuque Fire and Marine Ins. Co. v. Union Compress W. Co., 146 F. Supp. 482 (W.D. La. 1956). The United States succeeded in proving its allegations of discrimination against both of the appellees. The pervasiveness of this discrimination and its effectiveness in barring Negro citizens from anything more than a token participation in the political life of the community was well ventilated in Louisiana v. United States, 380 U.S. 145 (1965) and by the district court in the instant case. 231 F. Supp. 713 (W.D. La., 1964). This lawsuit was made necessary by the single-minded devotion

---

16/ See Appendix, p. 26 infra.

of both appellees to the task of depriving American citizens of their right to vote. Clearly it was not the fault of the United States which made the suit necessary. It is equally clear that the United States is entitled to an effective award of costs which is possible only if the appellee State is also taxed. The district court's failure to do so was an abuse of discretion which this Court should remedy. See Yedlin v. Lewis, 320 F. 2d 35 (C.A. 5, 1963); Euler v. Waller, 295 F. 2d 765 (C.A. 10, 1961); Lyman v. Remington Rand, 188 F. 2d 306 (C.A. 2, 1951).

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the district court be reversed in part and that the district court be directed to grant the relief sought herein.

JOHN DOAR,
Assistant Attorney General.

EDWARD L. SHAHEEN,
United States Attorney.

HAROLD H. GREENE,
GERALD P. CHOPPIN,
PAUL S. ADLER,
Attorneys,
Department of Justice,
Washington, D.C. 20530

JULY 1965.

APPENDIX

CONTENTS

I

The Louisiana Registration Requirements

The qualifications required by each prospective registrant are found in Title 18, sections 31 and 35 of the Louisiana Revised Statutes. Section 31 sets out six qualifications which an applicant must possess: (1) he must be a citizen of the United States; (2) he must be twenty-one years of age; (3) he must have resided in the state for one year and in the parish for six months;[17/] (4) he must be "of good character" and understand "the duties and obligations of citizenship under a republican form of government;" (5) he must be able to read and write and must "demonstrate his ability to do so when he applied for registration by making, under oath administered by the registrar or his deputy, written application thereof in the English language or in his

---

17/ He must also have been resident in the municipality for four months, for municipal elections, and the precinct three months.

mother tongue.[18] The application must "contain the essential facts to show that he is entitled to register," and the form must be "entirely written, dated and signed by him, except that he may date, fill out and sign the blank application for registration in the presence of the registrar or his deputy, without assistance or suggestions from any person or any memorandum whatever other than the form of the application itself:" (6) he must be able to sign his name or make his mark.[19]

18/ Special provisions apply to persons unable to write their applications in the English language or who are physically disabled and cannot write. Also, under L.S.A.-R.S. 18:36, notwithstanding all the foregoing, illiterates may be registered. Although this statute remains on the books, an amendment to the Louisiana Constitution, adopted in 1960, omitted the constitutional basis for registration of illiterates. Thus, we assume that illiterates may no longer register. Compare, La. Const. Art. 8(d) (Supp.) with Article 8(d) prior to the 1960 Amendment. However, any person registered as of November 8, 1960 may not be removed from the rolls because of his inability to read or write for any reason. La. Const. Art. 8(b).

19/ L.S.A.-R.S. 18:32 sets out the contents and the form of the application for registration. This section was amended by Act No. 165 of the Louisiana Legislature, Acts of 1965, which became law on June 28, 1965 without the signature of the Governor. La. Const. Art. 5, §15.

Although now permitting the registrar to fill in certain information not considered a required part of the application form (e.g., the applicant's race, mother's maiden name and ward and precinct number), the form requires substantially the same information as required by the old law.

Under Section 35 each applicant must "also be able to read any clause in the Constitution of Louisiana or of the United States and give a reasonable interpretation thereof"[20] and by virtue of Article 8, §1(c)(7) of the Louisiana Constitution he must be able to write, from oral dictation, a portion of the Preamble to the Constitution of the United States.

By resolution of August 3, 1962, in compliance with the 1962 Amendment to L.S.A. - R.S. 18:191, the State Board of Registration adopted a new test of an applicant's "duties and obligations of citizenship under a republican form of government."[21] A constitutional amendment, to similar effect, was adopted on November 6, 1962, and requires the Board of Registration to "prepare, adopt and issue a uniform, objective written test or examination for citizenship under a Republican form of government." (La. Const. Art. 8, §18 (1963 Supp.)

20/ This was declared unconstitutional in United States v. Louisiana, 225 F. Supp. 353 (E.D. La. 1963), aff'd., 380 U.S. 145 (1965).

21/ This test was barred from use in Red River Parish by United States v. Louisiana, 225 F. Supp. 353 (E.D. La. 1963) aff'd., 380 U.S. 145 (1965).

II

Letter Requesting Payment of Costs

Post Office Box 33

71102

January 19, 1965

Mrs. Winnice J. P. Clement
Registrar of Voters
Webster Parish
Minden, Louisiana

Re: U. S. v. Winnice J. P. Clement, et al
Civil Action No. 9334

Dear Mrs. Clement:

In captioned matter, as you will doubtless recall, judgment was rendered in favor of the United States of America, Plaintiff, and against the Defendants on July 14, 1964, which said Judgment was signed by U. S. District Judge Ben C. Dawkins, Jr., on that date. Costs were taxed against you by the Court in your official capacity as Registrar. On August 4, 1964, on motion of counsel for the United States and upon formal hearing, Court costs were taxed against you in your aforesaid capacity in the aggregate sum of $2,336.59.

The object and purpose of this communication is to make formal demand upon you for prompt payment of the accrued Court costs in accordance with the Judgment and in the aforesaid aggregate amount. Your remittance should be made payable to Alton L. Curtis, Clerk, U. S. District Court, Western District of Louisiana, and should be mailed direct to his office in the Federal Building, Shreveport, Louisiana.

Your preferred attention to this matter will be greatly appreciated.

Yours very truly,

EDWARD L. SHAHEEN
United States Attorney

By
E. V. BOAGNI
First Assistant United States Attorney

ELS:EVB:db

III

Registrar's Response to Letter
Requesting Payment of Costs

February 10, 1965

Mr. E. V. Boagni
First Assistant United States Attorney
Western District of Louisiana
407 Federal Building
424 Texas Avenue
Shreveport, Louisiana

RE: U. S. v. Winnice J. P. Clement,
et al, Civil Action No. 9334

Dear Mr. Boagni:

I am replying to your letter of January 19, 1965, addressed to Mrs. Winnice P. Clement, Registrar of Voters, Webster Parish, making formal demand for court costs in the captioned matter in the sum of $2,336.59 taxed against Mrs. Clement in her official capacity as Registrar of Voters.

Mrs. Clement has requested me to inform you that she does not have any funds whatsoever under her control in her official capacity, consequently she cannot pay the assessed cost.

Sincerely yours,

/s/ Harry J. Kron, Jr.

Harry J. Kron, Jr.
Assistant Attorney General

HJKjr:dm

cc: Mrs. Winnice P. Clement
Mr. Louis H. Padgett, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing brief and appendix for appellant has been served by official United States mail in accordance with the rules of this Court to the attorneys for appellees addressed as follows:

Honorable Jack P. F. Gremillion
Attorney General
State of Louisiana
Baton Rouge, Louisiana

Harry J. Kron, Jr.
Assistant Attorney General
State of Louisiana
Baton Rouge, Louisiana

Louis H. Padgett
District Attorney
Webster Parish
Bossier City, Louisiana

Dated this 15th day of July, 1965.

/s/ PAUL S. ADLER

PAUL S. ADLER
Attorney
Department of Justice
Washington, D.C. 20530