

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF TEXAS; CECIL A. MYERS,
Presiding Judge, and JACK ROCHE,
Associate Judge of Election for
Precinct Number 239 of Travis County,
Texas; LESTER PALMER, Mayor of
Austin, Texas; the TRAVIS COUNTY
DEMOCRATIC EXECUTIVE COMMITTEE;
TRUEMAN O'QUINN, Chairman of the
Travis County Democratic Executive
Committee; the TRAVIS COUNTY
REPUBLICAN EXECUTIVE COMMITTEE;
ROBERT G. FARRIS, Chairman of
the Travis County Republican
Executive Committee; and FRITZ
ROBINSON, Tax Assessor-Collector
for Travis County, Texas,

Defendants.

CIVIL ACTION NO. _____

C O M P L A I N T

The United States of America, plaintiff,
alleges that:

1. This action is instituted by the
Attorney General of the United States pursuant
to Section 10(b) of the Voting Rights Act of
1965 and 42 U.S.C. 1971(c).

2. This Court has jurisdiction of this
action under Section 10(c) of the Voting Rights
Act of 1965, 42 U.S.C. 1971(d), 28 U.S.C. 1345,
and 28 U.S.C. 2281.

3. The defendant State of Texas through its officials and agents administers and collects poll taxes as a precondition to voting in general, special and primary elections in Texas. The principal State offices are in Austin, Texas.

4. The defendant Cecil A. Myers is the Presiding Judge and defendant Jack Roche is the Associate Judge for Precinct Number 239 of Travis County, Texas and, in their official capacities, they are agents of the State of Texas. Each of these defendants resides in Austin, Texas.

5. Under Texas law, judges of election supervise polling places in general and special elections of county, state, and federal officials and, in particular, assure that no person votes in such elections unless he has paid his poll taxes or has obtained a certificate of exemption.

6. The defendant Lester Palmer is Mayor of Austin, Texas, and he resides in Austin, Texas.

7. Under Texas law, mayors of municipalities appoint presiding judges and alternate presiding judges of election for each polling place in each general and special municipal election. Such judges supervise polling places and, in particular, assure that no person votes in such elections unless he has paid his poll taxes or has obtained a certificate of exemption.

8. The defendant Travis County Democratic Executive Committee and the defendant Travis County Republican Executive Committee are unincorporated

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associations and, in conducting primary elections, these Committees are agents of the State of Texas. The offices of the defendant Committees are located in Travis County, Texas. The defendant Truman O'Quinn is Chairman of the Travis County Democratic Executive Committee and he resides in Travis County, Texas. The defendant Robert G. Farris is Chairman of the Travis County Republican Executive Committee and he resides in Travis County, Texas.

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9. Under Texas law, the chairman of the county executive committee of the political party, with the assistance and approval of such committee, appoints judges of election who conduct primary elections for municipal, county, state and federal offices. Such judges have general supervision over polling places and, in particular, they assure that no person votes in such elections unless he has paid his poll taxes or obtained a certificate of exemption.

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10. The defendant Fritz Robinson is the County Tax Assessor-Collector for Travis County, Texas, and he resides in Travis County, Texas.

11. Under Texas law, county tax assessor-collectors collect poll taxes and compile and certify lists of qualified voters, by election precincts, for use in general, special and primary elections. Only persons whose names appear on such lists are eligible to vote in general, special and primary elections in Texas.

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A 12. Article VIII, Section 1, of the Texas Constitution authorizes the legislature to impose a poll tax.

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13. Article VI, Sections 2 and 3, of the Texas Constitution and Article 5.10 of the Texas Election Code require a prospective voter, as a pre-condition to voting in general and special elections in Texas, to pay his poll taxes, or, if he is exempt from poll taxes, to obtain a certificate of exemption.

A 14. Article 13.21 of the Texas Election Code provides that no primary election shall be legal unless lists of qualified voters are used for reference in such elections.

A 15. Article 5.09 of the Texas Election Code provides that the poll tax must be paid during the four-month period between October 1 of the assessment year and January 31 of the year of the election.

A 16. Article 2.01 of the Texas General Taxation Code provides in substance that:

- (a) the tax is imposed on every resident of the state between the ages of twenty-one and sixty;
- (b) the amount of the annual poll tax is one dollar and fifty cents, except that the tax is one dollar for insane or blind persons, persons suffering from certain permanent physical disabilities, and members of the active state militia;
- (c) one dollar of the tax is allocated to public education and the remainder to general revenue purposes; and
- (d) counties are authorized to levy a fee not in excess of twenty-five cents for collecting the poll tax.

17. In 1902 one of the principal purposes of making the poll tax a precondition to voting in Texas was to disfranchise poor persons, many of whom found political expression through the Populist party. Since 1902 the effect of the Texas poll tax requirement has been to impose a greater burden upon Negroes as a precondition to voting than upon white persons because, as alleged in paragraph 20, the median income of Negroes in Texas is lower than the median income of white persons.

18. The Texas poll tax requirement is not a precondition to the exercise or enjoyment of any right or privilege other than the exercise of the right to vote, and it serves and is intended to serve no purpose other than to restrict the exercise of the franchise. It is neither designed nor intended nor is it presently used for the purpose of raising revenue for the State of Texas. Texas poll tax revenues for the year 1964 comprised less than one quarter of one percent of the total revenues for public schools for that year in Texas.

19. The Texas poll tax requirement classifies potential voters between those who have paid and those who have not paid a tax which bears no rational relationship to voting. This classification is arbitrary and unreasonable and denies the equal protection of the laws to that class of persons who have not paid their poll taxes.

20. The State of Texas denies and for many years has denied Negroes educational opportunities equal to those afforded white persons with the result that the median income of Negroes in Texas is substantially lower than that of white persons.

21. As a result of their lower median income and as a result of the action of the State of Texas in depriving them of equal educational opportunities, payment of poll taxes in Texas imposes a heavier burden upon Negroes than it imposes upon white persons.

22. The Congress has found, and has expressed this finding in Section 10(a) of the Voting Rights Act of 1965, that the requirement of the payment of a poll tax as a precondition to voting (a) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (b) does not bear a reasonable relationship to any legitimate state interest in the conduct of elections, and (c) in some areas has the purpose or effect of denying persons the right to vote because of race or color. On the basis of these findings, the Congress has declared, in Section 10(a) of the Voting Rights Act of 1965, that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

23. The defendants, by enforcing the Texas poll tax requirement, deny qualified persons the right to vote and unreasonably restrict and deter qualified persons in the exercise of the right to vote in Texas in violation of the Constitution of the United States, including the due process and equal protection clauses of the Fourteenth Amendment, and the Fifteenth Amendment thereof, and in violation of U.S.C. 1971(a).

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, and Article VI, Sections 2 and 3, of the Texas Constitution, Article 2.01 of the Texas General Taxation Code. Article 13.21 of the Texas Election Code, and all other Texas statutes implementing the poll tax, insofar as they require the payment of a poll tax or any other tax as a precondition to voting in general, special and primary elections in Texas, are invalid under the Constitution of the United States, including the due process and equal protection clauses of the Fourteenth Amendment, and the Fifteenth Amendment thereof, and under 42 U.S.C. 1971(a).
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 from:
 - a. enforcing and giving any further effect to Article VIII, Section 1, and Article VI, Sections 2 and 3 of the Texas

Constitution, Article 2.01 of
the Texas General Taxation Code,
Article 13.21 of the Texas Election
Code and all other Texas statutes
implementing the poll tax, insofar
as they require the payment of a
poll tax or any other tax as a
precondition to voting in general,
special and primary elections in
Texas;

- b. requiring, as a precondition to
voting in general, special and
primary elections in Texas, the
payment of a poll tax or any other
tax;
- c. conducting any election in Texas in
which voting is conditioned on the
payment of a poll tax or any other
tax.

- 3. Order the defendant Fritz Robinson, as Tax
Assessor-Collector of Travis County, Texas,
his agents, employees, and successors,
henceforth to compile and certify all
lists of qualified voters in Travis County,
Texas, without regard to payment of the poll
tax or any other tax.

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

NICHOLAS deB. KATZENBACH
Attorney General

JOHN DOAR
Assistant Attorney General

ERNEST MORGAN
United States Attorney

JOHN L. MURPHY
Attorney
Department of Justice