

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

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
STATE OF LOUISIANA, et al,)
)
Defendants.)

CIVIL ACTION NO. 2548
CONCLUSIONS OF LAW ^{*/}

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

2. This action, seeking as it does an injunction restraining the enforcement of a State statute by restraining the action of State officers is a proper one to be heard by a district court of three judges.

3. The Attorney General of the United States is authorized to institute this action under 42 U.S.C. 1971(c) to obtain a judgement declaring the invalidity and enjoining the enforcement of State statutes on the ground that the enforcement of such statutes deprives otherwise qualified citizens of the right to vote without distinction of race.

4. The State of Louisiana is properly joined as a defendant by reason of its responsibility as a sovereign state to execute its laws and also under the provision of 42 U.S.C. 1971(c) as amended.

*/ Citations of authority and explanations of law as to those Conclusions that we regard warrant such treatment are blocked in single space.

5. The defendants who are members of the Board of Registration of the State of Louisiana, and the defendants Hugh E. Cutrer, Jr. as Director and Ex Officio Secretary of said Board are properly made defendants in this action by reason of their capacity as agents of the defendant State and by reason of their responsibility of Louisiana law to prescribe by general rules and regulations the method of the administration of the voter registration laws and procedures and the quality and forms of records and documents used in the registration process; and by virtue of the authority of the Board to remove at will any registrar of voters in the State of Louisiana.

6. Each of the sixty-four registrars of voters in the State of Louisiana is an agent of the defendants.

7. 42 U.S.C. 1971(a) secures to every citizen, otherwise qualified, the right to vote without distinction of race or color "any constitution, law, custom, usage or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding." This section prohibits the use of any voter qualification requirement which deprives citizens of that right.

8. The Louisiana interpretation test as a voter qualification requirement is contrary to the Fourteenth and Fifteenth Amendments to the Constitution of the United States and 42 U.S.C. 1971(a).

a. The interpretation test was adopted for the purpose of perpetuating the disfranchisement of Negroes.

- b. The interpretation test was put into use is a setting calculated to guarantee its discriminatory enforcement.
- c. The interpretation test vests registrars with arbitrary and unlimited discretion to determine which persons are qualified to vote.
- d. The interpretation test has been used to discriminate against Negroes.

See Davis v. Schnell, 336 U.S. 933 (1949); Lassiter v. Northampton Election Board, 360 U.S. 45; and Gomillion v. Lightfoot, 364 U.S. 339 (1960).

Regardless of the Court's view of the necessity or propriety of any injunction in this case, it is bound to declare the statute unconstitutional. See U.S. v Parke Davis, 365 U.S. 125.

9. In parishes where the interpretation test has been used and a high percentage of the adult white persons but a low percentage of the adult Negroes have become registered to vote, the use of the new "citizenship" test absent a re-registration violates the Fifteenth Amendment and 42 U.S.C. 1971(a).

- a. No test can be imposed which by reason of previous registration will exempt most of the white persons from it and subject most of the Negroes to it.
- b. A state may not seal the effects of discrimination into the voting

system by adopting exclusionary or burdensome registration requirements.

See Guinn v. United States, 238 U.S. 347 (1915); and Lane v. Wilson, 307 U.S. 268 (1938).

In Lassiter, a unanimous Court said:

Appellant argues that that is not the end of the problem presented by the grandfather clause. There is a provision in the General Statutes for permanent registration in some counties. Appellant points out that although the cut-off date in the grandfather clause was December 1, 1908, those who registered before then might still be voting. If they were allowed to vote without taking a literacy test and if appellant were denied the right to vote unless she passed it, members of the white race would receive preferential privileges of the ballot contrary to the command of the Fifteenth Amendment. That would be analogous to the problem posed in the classic case of Yick Wo v. Hopkins, 118 U.S. 356, where an ordinance unimpeachable on its face was applied in such a way as to violate the guarantee of equal protection contained in the Fourteenth Amendment. But this issue of discrimination in the actual operation of the ballot laws of North Carolina has not been framed in the issues presented for the state court litigation. Cf. Williams v. Mississippi, 170 U.S. 213, 225. So we do not reach it. But we mention it in passing so that it may be clear that nothing we say or do here will prejudice appellant in tendering that issue in the federal proceedings which await the termination of this state court litigation.

In Lassiter the Court further said:

A literacy test, fair on its face, may be employed to perpetuate that discrimination which the Fifteenth Amendment was designed to uproot.

For over six years after the interpretation test began to be used in the

twenty-one parishes in Louisiana, almost all white applicants registered freely and without being really required to interpret any section of the Louisiana Constitution. Under those procedures a large percentage of the white persons of voting age are now registered to vote and in many of these parishes are registered permanently. This includes white persons with extremely low levels of comprehension.

Negroes on the other hand were eliminated and were not permitted to register through the discriminatory use of the interpretation test.

After the filing of this suit, the State of Louisiana changed its rules. It now imposes a new burdensome requirement on all applicants. They must be ready to answer a multiple-choice "citizenship" test. The defect in this new procedure is that in the twenty-one parishes where the interpretation test has been used it violates the United States Constitution and hence the State must be compelled to abandon it.^{1/}

It is not now open to the State of Louisiana to freeze onto the registration rolls the effect of past discrimination against Negroes. The State from now on cannot impose high standards, even if applied uniformly, when the effect of these standards will be to make registration in the future more difficult for Negroes as a class than it has been in the past for white persons as a class.

In Ross v. Dyer, 312 F.2d 191, (C.A. 5, 1963), the Court of Appeals for the Fifth Circuit said:

The District Judge in his memorandum opinion reasoned that "the colored plaintiffs do not seek the same treatment as is afforded white students, to which they are entitled; in fact they seek a different, and superior, treatment, by reason of their race. The law does not grant them this." But we think that logic alone is insufficient to overcome the

^{1/} The United States takes no position at this time as to the constitutionality of the use of the test in the other Louisiana parishes. Relevant facts on that issue would be under what circumstances white persons were registered in the past and under what circumstances Negroes were kept off the registration rolls. Another relevant fact would be whether educational opportunities have been in fact equal for whites and Negroes.

practical effect of this rule which as to some Negro families perpetuates a segregated system despite the plain purpose of the stair-step plan to ameliorate it. That it applies equally to white and Negro overlooks the fact that as to one group, compulsory attendance at certain schools has been the result of unconstitutional discrimination. The purpose of the court decree is to eradicate that unconstitutional deprivation of equal protection, no matter how felt or manifested. Ordinarily, on a declaration by a court of unconstitutional deprivation of rights, the relief is immediate and complete.

In United States v. Dogan, No. 19638 the Court said:

Sheriff Dogan's new instructions by necessary result, re-creates and perpetuates the very discrimination which prevailed under his former instructions and practices.

10. Full and adequate relief in this case requires not only a declaration of the invalidity of the interpretation test and an injunction restraining its enforcement but an order restraining the defendants and their agents, the registrars, in the twenty-one parishes where the interpretation test has been used from enforcing as against future applicants for registration the new "citizenship" test in the absence of a complete re-registration of all voters.

In determining whether an injunction of this type should issue the guidelines for this Court have been laid down in U.S. v. Alabama, et al, 304 F.2d. 583 (5th Cir. 1962). Under the principle in that case, this Court should decide whether the defendants and their agents, the registrars, have been guilty of gross abuse in conducting registration in the past. In this case

the use of the vicious interpretation test has been widespread and the abuses in the administration of the test have been flagrant. This being true this Court, under the principle of U. S. v. Alabama, supra, must decide whether the defendants have made any effort to eliminate the effects of the past discrimination and abuses. Simply by ceasing to use the interpretation test, whether voluntarily or under court order, the defendants do not eliminate the effects of the discrimination against Negroes. The imposition of the new "citizenship" test not only does nothing to eliminate the effects of the discrimination but in itself is contrary to the requirement of the Fifteenth Amendment. See Guinn v. United States, supra; Lane v. Wilson, supra; Lassiter v. Northampton Election Board, supra; Ross v. Dyer, supra; and United States v. Dogan, supra.

To restrain the use of the new "citizenship" test in these twenty-one parishes is not to impose a burden on Federal-State relations. Quite to the contrary, our view is that inaction in view of the long history of discrimination against Negroes in connection with voting in Louisiana would have the inevitable effect of imposing an even heavier burden on Federal-State relations. Despite judicial pronouncements over the years of the principles and meaning of the Fifteenth Amendment, discrimination against Negroes in the voting process continues. The time has come for decisive action - for this Court to do everything within its power to insure that all citizens actually have an equal opportunity to participate in the political process.

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

STATE OF LOUISIANA, et al,)

Defendants.)

CIVIL ACTION NO. 2548

PROPOSED DECREE

It is ORDERED, ADJUDGED, AND DECREED that the provisions of Article 8, Section 1 of the Louisiana Constitution and the provisions of the statutes of Louisiana insofar as they establish the requirements that electors must be able to give an interpretation of any portion of the Constitution of the United States or Constitution of the State of Louisiana are invalid and in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

It is ORDERED that the defendants, their agents, employees, and successors, including all parish registrars and their successors, and all persons in active concert and participation with them are enjoined from enforcing or giving any further effect to the requirements of Article 8, Section 1 of the Louisiana Constitution and the statutes implementing Article 8, Section 1 insofar as they pertain to the interpretation test as a prerequisite to registration to vote and voting.

It is ORDERED that the defendants, their agents, employees, and successors and in particular the local registrars and their successors in the following twenty-one parishes: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn, are enjoined from:

1. 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.
2. 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 from becoming registered voters in the State of Louisiana.
3. Using the new multiple-choice "citizenship" test as a prerequisite to registration and voting, in the absence of a complete re-registration of all voters.

It is further ORDERED that the Three-Judge Court is dissolved and this matter is returned to the jurisdiction of Judge E. Gordon West for further proceedings as may be necessary and appropriate.

It is ORDERED that the plaintiffs shall re-
cover costs and disbursements.

Done this 27th day of November 1963.

JOHN MINOR WISDOM
CIRCUIT JUDGE

HERBERT W. CHRISTENBERRY,
DISTRICT JUDGE

E GORDON WEST
DISTRICT JUDGE

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

UNITED STATES OF AMERICA,
PLAINTIFF,

VERSUS

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. CUTLER, JR.,
DIRECTOR AND EX OFFICIO
SECRETARY OF THE BOARD OF
REGISTRATION OF THE STATE
OF LOUISIANA,

DEFENDANTS.

PLAINTIFF'S PROPOSED FINDINGS
OF FACT, CONCLUSIONS OF LAW,
AND DECREE

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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
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UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF LOUISIANA, et al,
Defendants.

CIVIL ACTION NO. 2543

PLAINTIFF'S PROPOSED FINDINGS OF FACT

I.

- 1.0 Defendants Jimmie H. Davis, C. C. Aycock and J. Thomas Jewel are the 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. Defendant Hugh E. 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. The Board of Registration is an agency of the defendant State of Louisiana. The office of the Board is in Baton Rouge, Louisiana.
- 2.0 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 E. 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 voters of the State.

- 3.0 Under Louisiana law, registration is, and has been since 1864, a prerequisite to voting in any election.
- 4.0 Each parish in Louisiana has a registrar of voters who is an appointed official and an agent of the defendant State. All of the registrars in Louisiana are white citizens. Under Louisiana law the registrars of voters determine whether each applicant for registration meets the qualifications for registration to vote.
- 5.0 Louisiana law provides for periodic registration for all parishes that do not contain a municipal corporation of one hundred thousand population, but gives each parish the option of adopting permanent registration. Parishes which contain a municipal corporation of 100,000 population must have permanent registration. Under the periodic system all voters in the parish must re-register every four years. The present four-year period commenced January 1, 1941. Under the permanent registration system a voter is not required to re-register unless his name is removed from the voter rolls for his failure to vote in two consecutive years or for any grounds set forth in the laws. At the time of the trial, 42 of the 64 Louisiana parishes were under the permanent registration system.
- 6.0 The understanding and interpretation test as a voter qualification in Louisiana was adopted in 1901 for the purpose of creating a device to discriminate against Negroes.
- 6(a) The discriminatory purpose of the understanding and interpretation test was reaffirmed in the 1950's when state officials urged that the test be used to disfranchise Negroes. Until that time the test was not needed and was not used.
- 7.0 The interpretation test has consistently been used to discriminate against Negroes.

¶ In twenty-one parishes where the interpretation test has been used only 3.6 percent of the adult Negroes were registered to vote as of December 31, 1962, whereas 66.1 percent of the adult white persons were then registered to vote. Before the interpretation test was introduced in these parishes, 25,361 Negroes were registered to vote. By August 31, 1962 only 10,351 Negroes were registered. The registration of white persons was not discernably affected.

7.2 Negroes highly qualified by literacy standards have been denied registration for their failure to interpret a section of the Constitution to the satisfaction of the registrar in the following parishes: Bienville, DeSoto, East Feliciana, Jackson, Morehouse, Ouachita, Plaquemines, Richland, Union and Webster. ~~Many of the applications of Negro school teachers were rejected as~~
~~invalid.~~ In these same parishes there are white voters who have supposedly passed the interpretation test but whose application cards indicate that they are barely literate.

7.3 The commencement of the use of the interpretation test coupled with the wholesale purging of Negro voters alone effected gross discrimination. Citizens Council members challenged the registration of large numbers of Negro voters on the ground that they had not satisfied all the requirements of the Louisiana voter qualification laws at the time they registered in that they had failed to take the interpretation test or had failed to complete the application form without errors or omissions. In fact, the challenged Negroes had satisfied all the requirements imposed by the registrar at the time they registered. White voters were not purged although their registrations suffered from the same alleged deficiencies as did those of the Negroes who were purged. In the parishes where this occurred Negro registration during a four-year period declined by about 10,000 while the white registration increased by about 2,350. In most parishes where there were purges, Negroes were unable to gain reinstatement in the manner prescribed by Louisiana law, therefore, they were required to re-register and had to pass the interpretation test. The white voters, not having been challenged, in effect were exempted from the test. The discrimination brought about by the purges and the use of the interpretation test was frozen into the system in parishes such as Bienville, DeSoto, Jackson, Ouachita and Rapides, which have permanent registration. In all parishes where the understanding and interpretation test was used, it was a significant deterrent to Negro registration.

7.4 In addition to the discriminatory effect of the interpretation test brought about by the purge of Negro voters, the interpretation test has been administered so as to discriminate against Negroes.

7.41 In 1954 when the interpretation test was first used in Plaquemines Parish there were approximately 4,100 white persons and only about 60 Negroes permanently registered to vote. There are in this parish 8,533 white

persons and 2,897 Negroes of voting age; yet by August 31, 1952 only 51 Negroes were registered to vote whereas 6,726 white persons were registered to vote. Between 1954 and March 12, 1952, 99% of all applications of white persons were accepted while at least 44% of all applications of Negroes were rejected on the basis of the interpretation test.

7.410 White applicants received preferential treatment in the selection of sections to be interpreted. They were given easier test cards than were given to the Negroes. In 1959, 93% of the 1,586 white applicants received either test card No. 2 or test card No. 3 which are the easiest cards in the set of 25 then in use. Each of these cards (No. 2 and 3) has a clause on freedom of speech and another on freedom of religion. All but seven of the white applicants passed the test in 1959. During the same year only four of the twenty Negroes who applied were registered. No Negro got either card No. 2 or card No. 3. They always got more difficult cards.

7.411 Negroes were discriminated against also in the grading process. The most rudimentary interpretations, if they may be called interpretations, at all, were accepted from white persons as being satisfactory -- interpretations such as the following:

The Section.

The people shall have the right peaceably to assemble.

The Interpretation.

Always"

The Section.

Every person has the natural right to worship God according to the dictates of his own conscience.

The Interpretation.

"That is his right."

The Section.

No law shall be passed to curtail or restrain the liberty of speech or of the press.

The Interpretation

Never

The Section.

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

The Interpretation.

"That is his right".

Negroes who made a bonafide effort to interpret were denied registration on the basis of their interpretations.

The Section.

All legislative powers herein granted shall be vested in a Congress of the United States.

The Interpretation.

"All laws or powers given to anyone or group shall go through United States Congress."

The Section.

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

The Interpretation.

"The Supreme Court is the highest court and its decision is final unless Congress says different for a practical reason or reasons."

The Section.

The people have the right peaceably to assemble.

The Interpretation.

"That one may assemble or belong to any group, club, or organization he chooses as long as it is within the law."

7.412 The registrar assisted white applicants but not Negroes with their interpretations. The white applicants were often told what to write as their interpretations. On January 20, 1955, for example, twenty-six white applicants received the same test card and gave virtually identical interpretations. On September 13, 1958 twelve white applicants received the same test provision as those on January 20, 1955, and all gave virtually identical interpretations although their answer was different from the answer used by the applicants on the earlier date.

7.413 On the basis of these practices, particularly the past practice of giving white applicants easier sections to interpret, a preliminary injunction was entered against the Registrar by the United States District Court for the Eastern District of Louisiana. (See U.S. v. Fox, et al., No. 11625).

7.42 In East Feliciana Parish the interpretation test has been administered so as to discriminate against Negroes.

7.421 In February 1953, there were 1275 Negroes and 2730 white persons registered to vote in East Feliciana Parish. With the appointment of a new registrar in February, 1953, the interpretation test was inaugurated. By August 31, 1962, 2502 white persons and only eighty Negroes were registered to vote.

7.422 In September, 1958, 565 Negroes and 73 white persons were removed from the voter registration rolls on the basis of affidavits of challenge filed by two members of the Citizens' Council of East Feliciana Parish. One of the grounds for removal in the case of 557 of the Negroes was that they had not been required to read and interpret a section of the Constitution. None of the voters, white or Negro, had been required to pass the interpretation test prior to February 1958. Subsequently, the registrar himself challenged about 1500 voters (including about 417 additional Negroes) on the ground that they had failed to date their applications. By mid-1959 the registration rolls were reduced to 1934 white persons and 50 Negroes.

7.423 Between February 1958 and March 1961, about 93% of the white applicants have been accepted (2624 applied, 2251 were accepted); only 32% of Negro applicants were accepted (255 applied, 81 were accepted). Seventy-two Negro applicants (or 54% of those who took the interpretation test) failed the test, while 71 white applicants (or only 3% of those who allegedly took the test) failed to satisfy the registrar with their interpretations. Eight of the 41 Negro school teachers who have taken the test have failed it. At least eight illiterate white persons were registered during the same period.

7.424 Some white persons who registered during the interpretation test era were not required to read or explain anything to the registrar.

7.425 When the test was applied to white persons it was often little more than a sham. Thus, 193 white persons registered in a single day. Mrs. Eva Doss, a white lady, was asked very simply whether she thought everyone should go to the same church. And then he read it off--something about did I think everyone should go, you know, every human being should go to the same church, and I told him I thought they should go to the church of their choice.

7.426 Negroes were required to read the section then to give a perfect interpretation. Rev. Thomas H. Phillips, a Negro, was rejected after interpreting the clause on illegal search and seizure as: To search you would have to get an authorized authority to read a warrant.

7.43 In Webster Parish the interpretation test has been used to discriminate against Negroes.

7.431 The interpretation test was introduced at about the time a new registration period began. Prior to that time there were 1,773 Negroes registered to vote. At the end of the new registration period which commenced

January 1, 1957, and terminated December 31, 1960, only 130 Negroes had become registered. The level of white registration remained virtually unaffected.

7.432 Not all applicants were required to interpret a section of the constitution. If the registrar knew the applicant, she was more likely to dispense with the test. She knew a greater proportion of the white people than Negroes.

7.433 While more than 75% of the adult white persons in the parish became registered, highly qualified Negroes were denied registration under the interpretation test. Included among the disfranchised were a Negro school principal, a Negro dentist, a Negro school teacher, and a Negro insurance agent.

7.434 Negroes have been given sections to interpret so complicated that none but those trained in the law could be expected to interpret. One Negro was given the first part of Article 10, Section 1 of the Louisiana Constitution dealing with the power of taxation and the limitations thereon. Another Negro was asked to interpret Article 7, para. 41 of the Louisiana Constitution which sets forth the classes of cases which may be tried by a judge, those which may be tried by a jury, and the number of jurors who must concur in different classes of cases. Another Negro was assigned Article 14, para. 24.2 of the Louisiana Constitution authorizing the issuance of bonds for the purpose of constructing and extending the sewerage, water and drainage system of the city of New Orleans, and imposing limitations upon the exercise of that authority.

7.44 In Bienville Parish the interpretation test has been used to discriminate against Negroes.

7.441 In Bienville Parish the combined use of the interpretation test and the purge of Negro voters reduced the number of Negro voters from 537 to 35. After the purge no Negro was registered for at least five years.

7.442 In September 1956, members of a local citizens' council challenged the registration status of about 600 voters in Bienville Parish. About 9% of those challenged were Negroes. They were then removed from the voter rolls by the registrar. The challenges were based on alleged errors made by the registrants in filling out their approved original applications. Over 80% of the approximately 5,300 white voters (who were not

challenged) had the same deficiencies on their original applications.

7.443 After the Negroes were purged, the Parish adopted permanent registration and the white voters were thus permanently disfranchised. The use of the interpretation test in the Parish began about ten months before the purge. The Negroes seeking to reregister were thus required to interpret a section of the constitution to the satisfaction of the registrar.

7.444 During the five year period following the purge, highly qualified Negroes sought to reregister but none were accepted. Five Negro school teachers including one with a Master's Degree from Stanford University and another with a Master's Degree from Columbia University, were denied registration on the basis of the interpretation test. One of the Negro teachers, Mrs. Thelma Tobin, was required to interpret the following provision:

Art. 10, Para. 16:

Section 16. Rolling stock operated in this State, the owners of which have no domicile therein, shall be assessed by the Louisiana Tax Commission, and shall be taxed for State purposes only, at a rate not to exceed forty mills on the dollar of assessed value.

The rejected interpretation was:

"My understanding is that it means if the owner of which does not have residence within the state, his rolling stock shall be taxed not to exceed forty mills on the dollar.

The registrar said she did not accept it, "because she didn't say it was for non-resident owners." Another Negro, Mr. Moses Smith, was asked to interpret a portion of Article 14, Section 24 of the Louisiana Constitution which reads in part as follows:

The provisions of Act No. 110 of the General Assembly, approved July 3, 1890, and Act No. 4, approved June 3, 1915, (except insofar as said latter Act shall have been altered, superseded or repealed by Act No. 51 of 1920), respectively, and the respective amendments to the Constitution of this State, ratifying and carrying same into effect are hereby recognized as being in full force and effect, and all of the rights, powers, duties and functions of the Board of Liquidation, City Dept., in connection with or respect to the several classes of bonds issued or to be issued in accordance with the statutes and amendments, and all vested rights of the present or

This Section of the Louisiana Constitution consists of approximately ten pages. Mr. Smith was asked to interpret nearly a page of it. White persons with little or no education passed the interpretation test. Two of them had no education at all. There is no evidence that any white person was denied registration.

7.445 On the basis of these and other practices, the United States District Court for the Western District of Louisiana found that the Registrar had discriminated against Negroes. (U.S. v. Association of Citizens' Councils of Louisiana, et al., 196 F. Supp., 908 (1961).

7.45 In Red River Parish the interpretation test has been used to discriminate against Negroes.

7.451 In Red River Parish the combined use of the interpretation test and periodic registration reduced the number of Negro voters from 1,512 to 30. White registration remained substantially unaffected.

7.452 As of March 17, 1956, there were 3,575 white persons and 1,512 Negroes registered to vote in Red River Parish. As of August 31, 1956, 3,047 white persons and 30 Negroes were registered. The interpretation test was introduced in the parish in late 1956, and a new registration period commenced January 1, 1957. Ninety-three percent of the white persons of voting age became registered during the interpretation test era.

7.453 Generally the interpretation test was administered orally so that no record was made of the sections selected or the answers given. For a short period test cards were used and that showed that white persons were generally given easier sections to interpret than were Negroes. Two hundred and eighty of the white applicants (or over 85%) were asked to interpret the three provisions on Form #4 which is the easiest card in the set of five used. Only 2 of the 30 Negro applicants received the same provisions to interpret. The white applicants received the following provisions which appear on Form #4 to interpret:

Every person has the natural right to worship God according to the dictates of his own conscience.

Any person may speak, write and publish his subjects on all subjects, being responsible for the abuse of that liberty.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

34% of the Negro applicants and only 2.5% of the white applicants received Form #3 to interpret. Each of the three provisions had to be interpreted to the satisfaction of the registrar. The provisions on Form #3 are:

Any person may speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

No person shall be compelled to give evidence against himself in a criminal case.

No ex-post facto law, nor any law impairing the obligations of contracts, shall be passed.

7.454 The Registrar consciously selected the test cards for applicants and, according to him, he selected a card that he thought the particular applicant could answer. His selection of sections to be interpreted

7.46 In Jackson Parish the interpretation test has been used to discriminate against Negroes.

7.461 In Jackson Parish the interpretation test was not used until about March 1950. Negro voters had previously been purged from the voter rolls and after the interpretation test was put in use there was no increase in Negro registration.

7.462 In October 1950 members of a local citizens' council challenged about 900 of the 1113 Negro voters and caused their removal from voter rolls. Only thirteen white persons were similarly challenged although over 50% of the application forms of white voters contained the same deficiencies for which Negroes were challenged.

7.463 When the use of the interpretation test began in March 1950 there were 434 Negroes registered to vote in Jackson Parish. As of August 31, 1952, there were 470 Negroes registered.

7.464 At least 12 Negroes who applied to register during the interpretation test era were denied registration for failing to interpret to the satisfaction of the registrar. Among them were 2 Negro school teachers. Mrs. Joan Dunn, a Negro college student, testified that the registrar gave her a card containing sections of the Constitution and asked her to read it; after she read it, the registrar took the card back; then asked her to interpret what she read. Mrs. Dunn did not know at the time she read the provisions that she was going to have to interpret them. She failed the test. Two white witnesses having a seventh grade and a fifth grade education, respectively, could not recall taking any interpretation test, although they registered during the period the interpretation test was in use.

7.47 In Ouachita Parish the interpretation test has been used to discriminate against Negroes.

7.471 The Registrar of Voters of Ouachita Parish used the interpretation test as a registration requirement between about April 1950 and September 1952. Due to the combination of purges and use of the interpretation test among other requirements not previously used the registration of Negroes decreased from 5,782 in March 1950 to 952 as of August 31, 1952. During this same period white registration increased from 24,154 to 24,975.

7.472 In April and May 1956, private citizens challenged the registration status of more than 3000 Negroes. Most of these Negro voters were

removed from the rolls. The Challenges were based on alleged deficiencies in the original registration of the Negro, including the assertion that those challenged were unable to give a reasonable interpretation of a section of the Constitution. Up to that time, none of the voters, white or Negro, had been required to interpret any portion of the Constitution.

7.473 With the purge of Negro voters, the interpretation test was introduced in Ouachita Parish. Persons challenged were subjected to the test in order to reregister, persons not challenged were not. In the six years that followed, 43 applications of Negroes (or 37.5% of those taking the interpretation test) were rejected where the applicants failed to give the interpretation to the satisfaction of the registrar. During the same period only 2 applications of white persons (or less than one-half of one percent of those taking the test) were rejected where the applicants failed to give an interpretation to the satisfaction of the registrar.

March 1, 1956 - August 31, 1961

	<u>Passed Test</u>	<u>Failed Test</u>	<u>Percent</u>
Negro applications	819	493	37.57
White applications	11,555	53	0.46

7.474 One Negro school teacher, was denied registration three times for failing to interpret sections of the constitution to the satisfaction of the registrar. She finally became registered on her fourth attempt. On one occasion she was denied registration for failure to interpret satisfactorily the Fourth Amendment to the Constitution of the United States. She told the registrar that the Fourth Amendment means that nobody could just go into a person's house and take their belongings without a warrant from the law, and it had to specify in this warrant that they were to search and seize. The registrar told her that this was wrong. On her fourth attempt when she finally became registered she was required to interpret Article III, Section I of the United States Constitution. Another Negro school teacher who tried to register after 1953 and failed the interpretation test never tried again because she felt that she had interpreted the section correctly the first time and that there would be no point in returning. Still another Negro applicant was rejected after giving her interpretation because she (the registrar) said I was saying it right, but it wasn't like she wanted me to say it."

7.48 In other parishes where the interpretation test has been used

the registrars have not kept records sufficiently for a conclusive determination as to what extent discrimination has been practiced. But a study of the application forms of white persons accepted for registration during the interpretation test period discloses that many of the applicants have not acquired a high level of literacy. The manner in which these applications were filled out -- the printing, the handwriting, the misspelling of simple words -- reveals the interpretation test to be a sham rather than a legitimate device for measuring the qualifications of voters. For example, in Franklin Parish, white applicant Ruehus Lambert wrote "FRDUM POOF-SPETCH" as his interpretation of Art. 1, Sec. 3 of the Louisiana Constitution. The remainder of his interpretation test answers and his application form also show that he cannot spell simple words and is barely able to form letters.

8.0 The understanding and interpretation test vests the registrar with uncontrolled discretion to determine subjectively which persons are qualified to vote.

9.0 The understanding and interpretation test bears no reasonable relationship to literacy or to any qualification for voting within the legitimate interest of the state.

discriminate against
Negroes and has

10.0 ^{has caused} The effect of the use of the interpretation test has been to reduce^{discriminate against} drastically the percentage of Negro voters in the parishes where the test has been used. In the ~~twenty-one parishes where the test has been used~~. In the ~~twenty-one parishes where the test has been used~~ Negro voters represented 13.7% of the ~~total registered voters prior to the resurrection of the interpretation test~~. On December 31, 1960 Negro voters represented 5.8% of the ~~total registered voters in the twenty-one parishes~~.

11.0 In the twenty-one parishes where the understanding and interpretation test has been used the new "citizenship" test inaugurated in August 1962 makes registration more difficult for all future applicants than it was for white persons prior to the commencement of the use of this test.

12.0 At no time have the defendants ordered a reregistration in those parishes where the interpretation test has been used or in any parish since the introduction of the "citizenship" test, nor have the defendants taken any other steps to correct the discriminatory effect of the use of the interpretation test.

IN THE UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF LOUISIANA

BATCH ROUGE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

STATE OF LOUISIANA, et al,
Defendants.

CIVIL ACTION NO. 2548

CONCLUSIONS OF LAW

1. This Court has jurisdiction over this action under 42 U.S.C. 1971 (d), 23 U.S.C. 1345 and 23 U.S.C. 2231.
2. This action is a proper action to be heard by a district court of three judges.
3. The Attorney General of the United States is authorized to institute this action under 42 U.S.C. 1971(c).
4. The State of Louisiana is properly joined as a defendant.
5. The defendant members of the Board of Registration of the State of Louisiana, and the defendant Hugh E. Cutrer, Jr. as Director and Ex Officio Secretary of said Board, are properly made defendants in this action.
6. Each of the sixty-four registrars of voters in the State of Louisiana is an agent of the defendants.
7. The existence and enforcement of the provisions of Article 8, Section 1 of the Constitution of Louisiana, and of Title 18, Sections 35 and 36 of the Louisiana Revised Statutes, in so far as they relate to the understanding and interpretation test as a prerequisite to voting, is in violation of the Fourteenth and Fifteenth Amendments to the Constitution of the United States.
8. In parishes where the understanding and interpretation test has been used and a high percentage of the adult white persons but a low percentage of the adult negroes have become registered to vote as a result of one or more barriers to negro registrations, the adoption and use of the so-called "citizenship" test absent a re-registration of all voters violates the Fifteenth Amendment and 42 U.S.C. 1971(a). No requirement can be

imposed which by reason of
able effect of exempting a
most of the Negroes to it.
nation into the voting sys-
registration requirements.

9. Full and adequate
declaration of the invalid-
and an injunction restrain-
defendants and the registra-
ing and interpretation test
applicants for registration
of a complete re-registrati-
would fully correct the disc-

previous history of registration has the inevit-
of the white persons from it and subjecting
A state may not seal the effects of discrimi-
by adopting exclusionary or burdensome

relief in this case requires not only a
of the understanding and interpretation test
white enforcement but an order restraining the
in twenty-one parishes where the understand-
has been used from enforcing as against future
the so-called "citizenship" test in the absence
of all voters or some other action which
minating effect of the interpretation test.

IN THE UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF LOUISIANA

BATON ROUGE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF LOUISIANA:
JIMMIE H. DAVIS, C. C. AYDOCK,
J. THOMAS JEWEL, AS MEMBERS OF THE
BOARD OF REGISTRATION OF THE STATE
OF LOUISIANA, and HUGH E. CIVERER,
JR., DIRECTOR AND EX OFFICIO SECRETARY
OF THE BOARD OF REGISTRATION OF
THE STATE OF LOUISIANA,

Defendants.

CIVIL ACTION NO. 2548

PROPOSED DECREE

Pursuant to the Findings of Fact, Conclusions of Law, and Memorandum Opinion entered in this case:

It is ADJUDGED AND DECREED that the provisions of Article 2, Section 1 of the Louisiana Constitution and the provisions of the statutes of Louisiana in so far as they provide for or relate to the requirement that electors must be able to understand or interpret any portion of the Constitution of the United States or the Constitution of the State of Louisiana are unconstitutional.

It is ORDERED that the defendants, their agents, and all parish registrars, their agents and successors are enjoined from enforcing or giving any further effect to the requirement of Article 2, Section 1 of the Louisiana Constitution and the statutes implementing Article 2, Section 1 in so far as they pertain to the understanding or interpretation test as a prerequisite to registration to vote.

It is ORDERED that in the following twenty-one parishes: Bienville, Claiborne, DeSoto, East Carroll, East Feliciana, Franklin, Jackson, LaSalle, Lincoln, Morehouse, Ouachita, Plaquemines, Rapides, Red River, Richland, St. Helena, Union, Webster, West Carroll, West Feliciana, and Winn, the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors are enjoined from:

1. Requiring, absent a general re-registration of all voters in the parish, any applicant for registration of voting age and possessed of the residence requirements as of August 3, 1962 to take the multiple-choice citizenship test as a prerequisite to registration to vote.
2. Enjoining 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.

It is further ORDERED that in the said twenty-one parishes the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, file with the Clerk of this Court on or before the 15th day of the second month and each succeeding month after the date of this decree a report covering registration during the preceding month, each of said reports to include the following:

- (1) The name, address, age, race, education, and length of residence in the parish of each person who sought to apply for registration during the preceding reporting period;
- (2) The action taken by each registrar with respect to each such applicant, that is, whether the applicant was accepted for registration or denied registration. The report shall include the certificate number of each accepted applicant and the specific reason or reasons for rejection of each rejected applicant.
- (3) The total number of persons, shown by race, registered to vote in the parish as of the end of the preceding month.

It is further ORDERED that in the said twenty-one parishes the defendants, the registrars of voters in the said twenty-one parishes, their agents and successors, make available to attorneys and agents of the United States, at any or all reasonable times, for inspection and photographing all documents, records, and papers relating to the registration of voters and to voting.

This Court retains jurisdiction of this action for the purpose of entering such additional orders as justice may require, including orders of

modification upon proof by the defendants that in one or more of the afore-
said twenty-one parishes the discriminating effects of the use of the
interpretation test have ceased to exist; or upon proof by the Plaintiff
that additional parishes not embraced in this decree have used the under-
standing or interpretation test to discriminate against Negroes.

The costs of this action are hereby taxed against the defendants.

Done this day of 1963.

JOHN MURDER WISDOM
CIRCUIT JUDGE

HERBERT J. CHRISTENBERRY,
DISTRICT JUDGE

E. GORDON WEST
DISTRICT JUDGE