Department of Justice

A REVIEW OF THE ACTIVITIES OF THE

DEPARTMENT OF JUSTICE

IN

CIVIL RIGHTS

1966

INTRODUCTION

by

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A farmer, Francis Joseph Atlas, complained to the federal government that he had tried for 10 years to register and vote. That was in 1960 when neither Atlas nor any other Negro was registered in East Carroll Parish, Louisiana. In 1966, Atlas not only cast but also received votes--enough to be elected to the Parish school board.

The experience of this Louisiana farmer dramatically reflects our nation's progress in the field of voting rights.

One of the most vital of the civil rights set forth in the Constitution is the right to vote, for the ballot provides the most effective means of attaining and preserving justice. To make this fundamental right equally available to all citizens, President Johnson proposed and the Congress enacted the Voting Rights Act of 1965.

During 1966, implementation of this historic legislation received high priority in the Civil Rights Division of the Department of Justice, headed by Assistant Attorney General John Doar. The results were impressive. By year's end, it was clear that the Act and its enforcement had done more to vindicate the right to vote than any single act since women's suffrage was granted 46 years ago.

Also in 1966, suits filed by the Civil Rights Division under the Voting Rights Act resulted in elimination of the poll tax from our system of government. Other litigation produced historic decisions concerning school desegregation and jury discrimination.

The year 1966 will be remembered as a year of substantial gain in achieving equal rights for all Americans.

VOTING

1. Administration of the Voting Rights Act

Long-standing barriers between the Negro American and the ballot box were removed as a result of the Voting Rights Act. Negroes showed an eagerness to accept the resulting rights and responsibilities.

The Act, which suspended literacy tests and devices that had been used to bar Negroes from the polls, also gave the Attorney General the responsibility of designating counties for federal examiners to list voters and federal observers to observe the conduct of elections. It was the Civil Rights Division's responsibility to gather facts upon which the Attorney General would base his decisions concerning examiners and observers.

Examiners were usually assigned on one of two grounds-- that local registrars were still imposing a literacy qualification or that registrars did not expand their facilities and working hours to accommodate the masses of new Negro applicants, as they had in the past to meet high registration demands by whites and as they would need to do to correct the effects of past discrimination. Examiners have been assigned in 47 counties: 13 in Alabama, 1 in Georgia, 6 in Louisiana, 25 in Mississippi and 2 in South Carolina.

With the approach of 1966 primary and general elections, the Department of Justice undertook to determine whether local officials were making adequate preparation to assure that newly-registered voters could vote freely and with proper assistance at the polls, if desired. Among the questions explored were whether federally-listed persons were placed on the local voting rolls, whether there were an adequate number of polling places to handle the influx of new voters and whether racial discrimination was practiced in the appointment of voting officials.

Observers were present during primary elections in 7 counties in Alabama, 6 in Louisiana, 14 in Mississippi and 2 in South Carolina. During the general election, on November 8, observers were assigned to 8 counties in Alabama, 1 in Georgia, 5 in Louisiana, 7 in Mississippi and 1 in South Carolina.

In the 17 months since the Act was passed, Negro voter registration had risen 68 percent from 687,000 to 1.17 million in the five states where the Act had its principal impact; Alabama, Louisiana, Mississippi, South Carolina and Georgia.

The rate of adult Negroes registered in these states was up from 28 to 49 percent.

Of the new voters, about 360,000 were registered by local officials in voluntary compliance with the Act. Estimated totals, by state, were: Mississippi 81,000, Alabama 80,000, Louisiana 80,000, Georgia 78,000, and South Carolina 44,000.

The others, listed by federal examiners, totaled more than 125,000--60,000 in Alabama, 49,000 in Mississippi, 12,000 in Louisiana and 4,500 in South Carolina.

But it takes more than registration statistics to tell the story of 1966:

--A part of the story was that Negroes not only registered but also turned out by the hundreds of thousands on election day to exercise the most basic right of citizenship.

--More and more, political programs and appeals--for so long oblivious to Negro citizens--were geared to all the people.

--Representative government was served by an increased participation in the political process by both Negroes and whites. For example, the voter turnout in Dallas County, Alabama jumped from 6,401 in 1964 to 15,717 in 1966.

--Another part of the story was the organized voter registration efforts of Negroes themselves.

--Also meaningful was the number of Negroes who sought important state and local offices, and the many who were victorious.

In Louisiana's West Feliciana Parish, where no Negro had been registered before 1965, two Negroes--Alvin White, Jr. and Raymond Minor--were elected school board members as was Francis J. Atlas in East Carroll Parish. In Macon County, Alabama, Lucius D. Anderson became the nation's first Negro sheriff. In Jefferson County, Mississippi, a Negro was elected to the school board, becoming the first member of his race to win county office in Mississippi in this century. Negroes won a number of other elections throughout the south for such offices as legislator, county commissioner and school board member.

2. The End of the Poll Tax

For many years, a number of southern states required citizens to pay a poll tax in order to vote. Although the tax was small, it served as a deterrent to voting for many white and Negro citizens, particularly the poor Negro. In Section 10 of the Voting Rights Act, Congress directed the Attorney General to file suits seeking to outlaw the tax where its payment was a precondition to voting.

Immediately after the Act's passage, federal suits were filed against the four states which still levied such a tax--Alabama, Mississippi, Texas and Virginia.

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On February 19, 1966, a three-judge federal court ruled unanimously in the Texas case that the state's poll tax was an unconstitutional restriction on the right to vote. Two weeks later, the Alabama tax was also ruled unconstitutional.

Before the government's Mississippi and Virginia cases could be decided, the Supreme Court of the United States handed down its decision in a suit brought by private citizens and joined by the Department of Justice. The tax, said the Supreme Court, violated both the due process clause and the equal protection clause of the 14th Amendment. Thereafter the remaining Virginia and Mississippi cases were decided in conformity with the Supreme Court's decision and the poll tax was dead.

3. Litigation Under the Voting Rights Act

The Department was called upon to defend the constitutionality of the Voting Rights Act and to participate in a number of important cases arising under it.

Soon after passage of the Act, a number of legal challenges were filed in the south to prevent local officials from carrying out provisions of the Act. In addition, South Carolina asked the Supreme Court to enjoin the Act's enforcement and declare it unconstitutional.

On March 7, 1966, the Supreme Court rejected South Carolina's argument and upheld the Act as "a valid means for carrying out the command of the 15th Amendment."

"Hopefully," the Chief Justice said, "millions of nonwhite Americans will now be able to participate for the first time on an equal basis in the Government under which they live."

Other federal courts, acting on authority of the Supreme Court decision, disposed of other challenges to the Act's provisions.

Three suits arose involving the constitutionality of Section 4(e) of the Act which protects the voting rights of citizens educated in American flag schools in languages other than English. The section is applicable most significantly to Spanish-speaking Puerto Ricans unable to pass the English literacy tests in New York.

In one of these suits a three-judge court in the District of Columbia concluded in a split decision that the Section was unconstitutional. However, on June 13, 1966, the Supreme Court affirmed the Section, holding that New York could not deny the ballot to Puerto Ricans unable to pass the English literacy tests because their education was in the Spanish language.

On February 14, 1966, the United States District Court in Baton Rouge ruled out the government's attempt to block certain Louisiana landowners from bringing reprisals against sharecroppers who had registered the vote. The Court held that the government had not proved the existence of intimidation and that the intimidation section of the Act was unconstitutional.

Another suit brought under the Act prevented the arbitrary postponement of elections in Bullock County, Alabama, where Negro registration had caught up with white registration. Still another suit forced the counting of votes from six, predominantly Negro, precincts in Dallas County, Alabama--changing an election's outcome.

EDUCATION

Efforts to equalize educational opportunities were bolstered at year's end with a sweeping decision handed down, at the request of the Department, by the United States Fifth Circuit Court of Appeals.

The Department had asked the Court on April 4 to consolidate and expedite seven southern school desegregation cases and, in deciding them, to lay down judicial guidelines for the desegregation of schools in conformity with the administrative guidelines of the Department of Health, Education, and Welfare.

HEW's guidelines declared that public school systems would have to desegregate completely by the fall of 1967 in order to qualify for federal financial assistance. The guidelines also provided detailed procedures for implementing so-called "Freedom of Choice" desegregation plans. However, HEW did not require school districts under court order to follow its guidelines. And many court-ordered plans fell below the guidelines' standards.

To document the need for uniform judicial standards, the Civil Rights Division prepared a massive appendix to its legal brief tracing the course and status of all school desegregation litigation in the Fifth Circuit, which covers Florida, Georgia, Alabama, Mississippi, Louisiana, and Texas.

The Court's action, the Department said, "should provide needed guidance to the district courts in this circuit and should greatly help the process of bringing all school districts within this Court's jurisdiction into conformity with the school desegregation requirements of the constitution. Additionally, resolution of the issues may well relieve this Court and the district courts of repetitious litigation on the same basic issues."

On December 29, the Court decided the cases with an inch-thick opinion which fully supports HEW's standards. The Court set forth a proposed decree for District Courts in the Fifth Circuit to use in school desegregation cases. It said, "Commencing with the 1967-68 school year, in

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accordance with this decree, all grades, including kindergarten grades, shall be desegregated and pupils assigned to schools in these grades without regard to race or color."

Said the Court: "The clock has ticked the last tick for tokenism and delay. . ." It said the "only school desegregation plan that meets constitutional standards is one that works."

There was little doubt that many plans were not working, despite substantial progress in desegregation during 1966. HEW's Office of Education reported that about 17 percent, or 489,000, of the Negro students in the 11 southern states enrolled in desegregated schools in September. While the figure was nearly three times larger than the percentage of a year earlier, it still represented only a beginning in many areas.

More than 100 written complaints were filed with the Department under provisions of the 1964 Civil Rights Act by citizens who felt that their children were being denied the equal protection of the laws in their school districts. Many of the complaints were resolved through negotiation by Department attorneys, without legal action.

But the Department's school desegregation litigation reached a record high in 1966. The Department filed or intervened in 66 school desegregation suits during the year. Court orders requiring or speeding desegregation of schools were obtained in 60 cases.

In several suits filed during 1966, the Department raised the issue of whether "community hostility" to school desegregation had negated "freedom of choice" plans.

Two suits of particular significance were pending before a three-judge federal court in Alabama as the year closed. In one, the Department supported the position that the Alabama State Board of Education and the State Superintendent of Education should be enjoined from interfering with school desegregation and required to take steps to desegregate the state's public schools. In the other, the Department challenged a state statute which purported to invalidate the HEW guidelines.

A number of suits challenging the issuance and implementation of HEW's guidelines were defended by the Department. They concerned Bessemer, Alabama; Dermott, Arkansas; Pasco County, Florida; Taylor County, Georgia; Forest County, Mississippi, and Lee County, South Carolina.

The Department also participated in five suits attacking the recently-enacted statutes of Alabama, Louisiana, Mississippi, North Carolina and South Carolina providing for state tuition grants to students attending private segregated schools. It was the Department's contention that the statutes were designed to support segregation. A three-judge court declared the North Carolina statute unconstitutional. None of the other cases was decided during the year.

PUBLIC ACCOMMODATIONS

The Department filed 34 suits in 1966, 18 more than the previous year, alleging racial discrimination in public accommodations.

One case involved 93 restaurants, most of them in the Shreveport, Louisiana area, that banded together in the Northwest Louisiana Restaurant Club. The Department alleged that the restaurants were not legitimate private clubs under terms of the 1964 Civil Rights Act, which exempts private clubs. An injunction was granted by a three-judge federal court requiring the restaurants to serve Negroes on the same basis as white customers.

At year's end, the Department had 43 cases pending in court involving public accommodations.

More important than the number of cases reaching court, however, was the amount of compliance with the public accommodations section of the 1964 Act. Often, voluntary compliance followed Departmental inquiry into complaints received.

After receiving a number of complaints alleging segregation of restrooms at service stations, the Civil Rights Division conducted a survey of hundreds of stations in the deep south. A high degree of compliance with the law was found in larger cities. Assurances of compliance were received from many station operators.

A similar survey of truck stops in South Carolina and Mississippi was conducted in 1966 and assurances of compliance were received from most of them.

PUBLIC FACILITIES

In 1966, the Department filed or participated in five suits seeking to desegregate public facilities that were owned, operated or managed by or for a state or local government.

One suit resulted in the end of enforced segregation in the public parks of Laurel, Mississippi. Others produced rulings that Beaconsfield Park in Macon, Georgia and the Cambridge, Maryland swimming pool were covered by the public facilities section of the 1964 Civil Rights Act.

Throughout the south, racial signs and other segregation practices were being eliminated by local officials in courthouses and other public buildings.

JURIES

The Department participated in several cases which resulted in new jury-selection standards designed to end discriminatorily selected juries in both state and federal courts.

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Under the standards, as set forth by the United States Court of Appeals for the Fifth Circuit, jury commissioners have an affirmative duty to assure that potential jurors represent a true cross section of the community.

On the federal district court level, the Department participated in eight suits alleging that Negroes had been systematically excluded from jury service in violation of the equal protection clause of the 14th Amendment.

On February 7, a three-judge federal court found that Lowndes County, Alabama had systematically kept Negroes off its jury rolls and ordered the practice halted. In the same decision, Alabama was also ordered to stop excluding women from jury service. Later, discrimination was found and ordered halted in similar cases involving four other Alabama counties; Hale, Macon, Perry and Wilcox. Still pending were cases involving Dallas County, Alabama; Terrell County, Georgia, and Sharkey County, Mississippi.

The proposed Civil Rights Act of 1966, which failed to win Congressional approval, would have provided a thorough reform of jury-selection processes.

CRIMINAL LAW ENFORCEMENT

On March 28, the Supreme Court reinstated indictments in two cases which had been dismissed in District Courts. One concerned the slaying of three civil rights workers near Philadelphia, Mississippi and the other concerned the fatal shooting of Lemuel Penn, a Negro educator, as he drove through Georgia. Each involved an 1870 federal statue (Title 18, Section 241 of the United States Code) outlawing conspiracies to deprive citizens of their civil rights.

On July 8, two Ku Klux Klansmen previously acquitted of a state murder charge in the Penn death were found guilty of violating the federal statute. Each received the maximum sentence of 10 years. Four co-defendants were acquitted.

Indictments of 17 men in the case arising from the civil rights workers' deaths were dismissed, with consent of the Department, because the grand jury which returned them had been improperly selected under standards established in jury-selection litigation. The Department expected to seek new indictments in early 1967.

Several incidents in the Grenada, Mississippi area required enforcement activities by the Department. On July 20, Constable Grady Carroll assaulted a lawyer working with the President's Committee on Equal Rights Under Law when the lawyer attempted to serve him with a subpoena. Carroll was arrested, found guilty of criminal contempt and sentenced to four months in prison. On September 12, a group of Negro students was barred

from an all-white Grenada school by a crowd of hostile whites and some Negroes were assaulted. The District Court which had ordered the school desegregated issued an injunction requiring Grenada officials to provide protection for Negroes entering previously segregated schools. On September 17, the FBI arrested 13 men alleged to have participated in the school assaults and five of them were indicted October 4 for conspiring to deprive Negro children of a federally-protected right and with obstruction of a federal court order.

The Department prosecuted cases during 1966 against seven law enforcement officers--five in Mississippi and one each in Louisiana and Georgia--for inflicting summary punishment of persons in their custody. There were no convictions.

EMPLOYMENT

Under the equal employment practices section of the 1964 Civil Rights Act, the Department filed two suits during the year to enjoin alleged unlawful discrimination in employment. One case was brought in St. Louis against the Building and Construction Trades Council of St. Louis and local unions of Pipefitters, Sheet Metal Workers, Electricians, Plumbers and Laborers. The other was against Local 53 of the International Association of Heat and Frost Insulators and Asbestos Workers of New Orleans.

A number of complaints of employment discrimination was under study and investigation at year's end to determine whether legal action was warranted.

Among the cases referred to the Department by the Equal Employment Opportunity Commission was one involving the Newport News (Virginia) Shipbuilding and Dry Dock Company. Conciliation efforts, renewed at the request of the company, produced an agreement that the company would undertake a specific program to eliminate discrimination.

COORDINATION OF TITLE VI ACTIVITIES

The Attorney General is charged with coordinating the government's activities under Title VI of the 1964 Civil Rights Act, which rules out racial discrimination in federally-assisted programs. In late 1965, the Attorney General's guidelines for enforcement of Title VI were issued. Early in 1966, plans were completed for coordinating procedures to assure that medical facilities and schools which receive government funds do not practice racial discrimination. Under the plans, HEW assumed a number of responsibilities from other agencies which provide such federal assistance, reducing duplication of efforts both by the agencies and the recipients. At year's end, detailed information had been gathered from various federal agencies to evaluate their Title VI performances and insure that nondiscrimination assurances were being followed.