

IN THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

UNITED STATES OF AMERICA,
PLAINTIFF,

versus

CIVIL ACTION NO. 63-609

BERNARD G. HINES,
WILLIAM S. HOLMAN, RUBY P. TARTT,
MEMBERS OF THE BOARD OF REGISTRARS
OF SUMTER COUNTY, ALABAMA;
AND STATE OF ALABAMA,

DEFENDANTS.

BRIEF IN SUPPORT OF
PLAINTIFF'S FINDINGS OF
FACT, CONCLUSIONS OF LAW
AND DECREE

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 63-609
	)	
BERNARD G. HINES, WILLIAM S.	)	
HOLMAN, RUBY P. TARTT, MEMBERS	)	
OF THE BOARD OF REGISTRARS OF	)	
SUMTER COUNTY, ALABAMA, AND	)	
STATE OF ALABAMA,	)	
	)	
Defendants.	)	

BRIEF IN SUPPORT OF PLAINTIFF'S
FINDINGS OF FACT, CONCLUSIONS
OF LAW AND DECREE

I

NATURE OF THE ACTION

This action was brought on December 16, 1963, by the Attorney General of the United States pursuant to 42 U.S.C. 1971 against the members of the Board of Registrars of Sumter County, Alabama, and against the State of Alabama, The action seeks to enjoin the defendants from engaging in discriminatory acts and practices which have deprived Negro citizens of the United States of the right to register to vote without distinction of race or color. The action also seeks specific relief and specific orders to insure

the fair, non-discriminatory operation of the office of the Registrars of Sumter County, including a request for an order requiring the defendants to register specific Negro citizens.

II

THE PARTIES

The plaintiff is the United States of America. Its standing to bring this suit is established by 42 U.S.C. 1971 (a) and (c), which provide in substance that whenever there are reasonable grounds to believe that any person has engaged in any act or practice which would deprive others of the right to vote without distinction of race, the Attorney General may institute an action for preventive relief including an injunction or other order.

The defendants are the State of Alabama and the members of the Board of Registrars of Sumter County, Alabama -- Bernard G. Hines, chairman; William S. Holman, member; and Ruby P. Tartt, member. These defendants reside in Sumter County, Alabama.

Bernard G. Hines and William S. Holman have served as members of the Sumter County Board of Registrars since June 1963. Ruby P. Tartt has served as a member of the Board since December 1952.

The State of Alabama is made a defendant in this action under the provisions of 42 U.S.C. 1971(c) as amended by the Civil Rights Act of 1960.

III

THE REGISTRATION REQUIREMENTS AND PROCEDURES

A. Registration Requirements and Procedures Under the Constitution and Laws of Alabama

Under the Constitution of Alabama, Section 178, registration is a prerequisite to voting in any election in Alabama. Registration is permanent and persons who become registered to vote are not required to re-register except when they move from one county to another or are otherwise purged from the voter rolls.

The substantive qualifications for registration to vote under Alabama law are generally as follows:^{1/}

1. The applicant must be a citizen and 21 years of age or older;
2. The applicant must have resided in the State one year, in the county six months, and in his voting precinct three months prior to any election in which he seeks to vote;
3. The applicant must be able to read and write any article of the United States Constitution which may be submitted to him by the Board of Registrars;
4. The applicant must be of good character and must embrace the duties and obligations of citizenship;
5. The applicant is disqualified from voting if he is an idiot or insane person or if he has been convicted of any of several enumerated crimes.

Persons are registered to vote by the county board of registrars appointed by the Governor, Auditor, and Commissioner of Agriculture and Industries (Title 17, §21, Code of Alabama). Each board is to be composed of

^{1/} The requirements and procedures for registration and voting in Alabama are contained in Article VIII of the Constitution of Alabama of 1901, §§177-196; and in Title 17 of the Code of Alabama 1940, §§1-426.

three members, but the duties of each board may be carried out by a majority of two members. (Title 17, §34, Code of Alabama)

In the processing of applications for registration the board of registrars may make such rules and regulations as it deems proper for the receipt of applications for registration and the accomplishing in as expedient a manner as possible the registration of those entitled to register. (Title 17, §53, Code of Alabama)

The statutes provide for the times and places for conducting the registration of voters. In general, for counties the size of Sumter, the boards of registrars are to meet on the first and third Mondays of each month, with five additional consecutive days in July, ten additional consecutive days in January in even-numbered years, and extra registration days in each precinct in the Fall of each odd-numbered year. (Title 17, §§26-30, Code of Alabama)

In order to determine whether an applicant meets the requisite qualifications, the board of registrars has the power to examine generally under oath all applicants for registration and to take testimony touching upon their qualifications. Each member of the board is authorized to administer the oath. (§186, Constitution of Alabama)

The Constitution and laws of Alabama provide that each applicant shall be furnished by the board of registrars a written questionnaire, the form and contents of which shall be prescribed by the Supreme Court of Alabama.

The questionnaire is to be answered in writing by the applicant in the presence of the board without assistance.^{2/} The purpose of this questionnaire is to assist the registrars in determining whether the applicant possesses the requisite qualifications. (Title 17, §31, Code of Alabama. See also, §181 as amended by Amendment XCI, Constitution of Alabama.)

Incorporated in the questionnaire is an oath to support and defend the Constitution of the United States and the Constitution of Alabama, and a statement by the applicant disavowing belief in or affiliation with any subversive group. The answers to the questionnaire and the oath are to be duly signed and sworn to by the applicant before a member of the board of registrars.

During the period from about January 1952 to February 1964, the boards of registrars throughout the State of Alabama used a four-page application form which

^{2/} There is no requirement that the applicant, as a prerequisite to becoming a registered voter, must answer every question, or that every question must be answered in a certain manner, or that the applicant must answer a certain number or percentage of the questions.

was prescribed by the Supreme Court of Alabama.^{3/}

A copy of this four-page application form used in processing applicants for registration to vote is set forth on pages I - A through I - D.

On January 14, 1964, the Supreme Court of Alabama prescribed a new application form to be used by the boards of registrars throughout the State in conducting voter registration.^{4/} A copy of this new five-page application form is set forth on pages II - A through II - E.

^{3/} Prior to 1960, the order of the questions on the questionnaire remained standard on all application forms. In 1960, the questionnaire which was prescribed by the Supreme Court retained the identical questions but the order in which they appeared was arranged in twenty different sequences. These variations first appear in the registration records of the Sumter County Board of Registrars on August 7, 1961. Throughout this brief where the number of the question is one of the rearranged forms is cited it is followed by a number in parenthesis which refers to the number of the same question on the attached blank form.

^{4/} A copy of this Supplemental Order is set forth in Table E. This new application form was first used in the processing of applicants for registration to vote in Sumter County on February 17, 1964.

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, _____ do hereby apply to the Board of Registrars of _____ County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Name of Applicant

Q U E S T I O N N A I R E

1. State your name, the date and place of your birth, and your present address: _____

2. Are you married or single: _____ (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: _____

3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: _____

4. If you are self-employed, state the nature of your business: _____

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: _____

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: _____ (a) When did you become a bona fide resident of _____ County: _____ (b) When did you become a bona fide resident of _____ Ward or precinct _____
6. If you intend to change your place of residence prior to the next general election, state the facts: _____

7. Have you previously applied for and been denied registration as a voter: _____ (a) If so, give the facts: _____

8. Has your name been previously stricken from the list of persons registered: _____
9. Are you now or have you ever been a dope addict or an habitual drunkard: _____ (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can: _____

10. Have you ever been legally declared insane:..... (a) If so, give details:.....

11. Give a brief statement of the extent of your education and business experience:
.....
.....
.....

12. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude:..... (a) If so, give the facts:.....
.....

13. Have you ever served in the Armed Forces of the United States Government:..... (a) If so, state when and for approximately how long:.....

14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country:..... (a) If so, state the facts:.....
.....

15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama:.....

16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means:..... (a) If so, state the facts:
.....
.....

17. Will you bear arms for your country when called upon by it to do so:..... (a) If you answer no, give reasons:.....
.....
.....

18. Do you believe in free elections and rule by the majority:.....

19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:
.....

20. Name some of the duties and obligations of citizenship:.....
.....
.....
.....

(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict:.....

21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you:.....
.....
.....

O A T H

STATE OF ALABAMA COUNTY

Before me, , a registrar in and for said county and state, personally appeared , an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the day of , 19 .

Member of the Board of Registrars for County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

, an applicant for registration who being by me, (Full name of applicant)

, a member of said Board, first duly sworn as follows: "I do solemnly (Any member present may administer oath)

swear (or affirm) that in the matter of the application of for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is , and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

1. I was previously registered in the following State and County in the years named

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 15, Code of Alabama 1940. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

3. My present place of employment is

4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

(Signed) (Name of Applicant)

Sworn to and subscribed before me this the day of , 19 .

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA.....COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared.....
(Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be registered and he was duly registered on this the.....day of....., 19....., in.....precinct (or ward) in said county.

(Signed).....
Chairman

(Signed).....
Member

(Signed).....
Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA.....COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

....., who being first duly sworn as follows: "I solemnly swear
(Name of Witness)
(or affirm) that in the matter of the application of.....for registration
as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is....., My occupation is....., I reside at
....., My place of business or employment is at.....

The name of my employer is..... I am a duly registered, qualified elector in.....
precinct (or ward) in.....County in the State of Alabama. I have known the applicant

.....for.....years (or months). He is a bona fide resident at
(Give Applicant's name)
.....and to my knowledge has resided thereat for the past.....years (or
months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in
pursuance thereof.

Space for further remarks

(Signed).....

Sworn to and subscribed before me in the presence of the Board of Registrars this the.....day of.....,
19.....

(Signed).....
(Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1940.

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATHS

PART I

(This is to be filled in by a member of the Board of Registrars or a duly authorized clerk of the board. If applicant is a married woman, she must state given name by which she is known, maiden surname, and married surname, which shall be recorded as her full name.)

Full Name: Last First Middle

Date of Birth: Sex Race

Residence Address:

Mailing Address:

Voting Place: Precinct Ward District

Length of Residence: In State County

Precinct, ward or district

Are you a member of the Armed Forces?

Are you the wife of a member of the Armed Forces?

Are you a college student? If so, where

Have you ever been registered to vote in any other state or in any other county in Alabama? If so, when and in what state and county and, if in Alabama, at what place did you vote in such county?

Highest grade, 1 to 12, completed Where

Years college completed Where

PART II

(To be filled in by the applicant in the presence of the Board of Registrars without assistance.)

I, , do hereby apply to the Board of Registrars of County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama and do hereby submit my answers to the interrogatories propounded to me by the board.

(Signature of Applicant)

1. Are you a citizen of the United States?

2. Where were you born?

3. If you are a naturalized citizen, give number appearing on your naturalization papers and date of issuance

4. Have you ever been married? If so, give the name, residence and place of birth of your husband or wife

Are you divorced?

5. List the places you have lived the past five years, giving town or county and state.....
.....
6. Have you ever been known by any name other than the one appearing on this application?..... If so, state what name
.....
7. Are you employed?..... If so, state by whom. (If you are self-employed, state this.).....
.....
8. Give the address of your present place of employment
9. If, in the past five years, you have been employed by an employer other than your present employer, give name of all em-
ployers and cities and states in which you worked
10. Has your name ever been stricken for any reason from any list of persons registered to vote?..... If so, where, when,
and why?
11. Have you previously applied for and been denied registration as a voter?..... If so, when and where?.....
.....
12. Have you ever served in the Armed Forces?..... If so, give dates, branch of service, and serial number
.....
13. Have you ever been dishonorably discharged from military service?.....
14. Have you ever been declared legally insane?..... If so, give details.....
.....
15. Give names and addresses of two persons who know you and can verify the statements made above by you relative to
your residence in this state, county and precinct, ward or district.....
.....
16. Have you ever seen a copy of this registration application form before receiving this copy today?..... If so, when and
where?
17. Have you ever been convicted of any offense or paid any fine for violation of the law?..... (Yes or No) If so, give the
following information concerning each fine or conviction; charge, in what court tried, fine imposed, sentence, and, if
paroled, state when, and if pardoned, state when. (If fine is for traffic violation only, you need write below only the
words "traffic violation only.").....
.....
.....
.....

(Remainder of this form is to be filled out only as directed by an individual member of the Board of Registrars.)

PART III

Part III of this questionnaire shall consist of one of the forms which are Insert Part III as herein below set out. The insert shall be fastened to the questionnaire. The questions set out on the insert shall be answered according to the instructions therein set out. Each applicant shall demonstrate ability to read and write as required by the Constitution of Alabama, as amended, and no person shall be considered to have completed this application, nor shall the name of any applicant be entered upon the list of registered voters of any county until after such Inserted Part III of the questionnaire has been satisfactorily completed and signed by the applicant.

INSERT PART III (1)

(The following questions shall be answered by the applicant without assistance.)

- 1. What city is the capital of the United States?.....
 - 2. How many states are there in the United States?.....
 - 3. How many senators from each state are in the United States Senate?
 - 4. The president of the United States is elected for a term of how many years?.....
-

INSTRUCTIONS "A"

The applicant will complete the remainder of this questionnaire before a Board member and at his instructions. The Board member shall have the applicant read any one or more of the following excerpts from the U. S. Constitution using a duplicate form of this Insert Part III. The Board member shall keep in his possession the application with its inserted Part III and shall mark thereon the words missed in reading by the applicant.

EXCERPTS FROM THE CONSTITUTION

- 1. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."
 - 2. "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."
 - 3. "Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed."
 - 4. "The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."
-

INSTRUCTIONS "B"

The Board member shall then have the applicant write several words, or more if necessary to make a judicial determination of his ability to write. The writing shall be placed below so that it becomes a part of the application. If the writing is illegible, the Board member shall write in parentheses beneath the writing the words the applicant was asked to write.

HAVE APPLICANT WRITE HERE, DICTATING WORDS FROM THE CONSTITUTION.

.....

.....

.....

Signature of Applicant:.....

PLEASE INSERT PART III HERE

PART IV
OATHS

STATE OF ALABAMA

..... COUNTY

Before me,.....
a registrar in and for said county and state, personally appeared.....,
an applicant for registration as an elector, who being first duly sworn deposes and says:

"I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further personally swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with any group or party which advocated or advocates the overthrow of the United States or the State of Alabama by unlawful means. I do further solemnly swear (or affirm) that in the matter of this application for registration I have spoken the truth, the whole truth and nothing but the truth, so help me God."

.....
(Signature of Applicant)

Sworn to and subscribed before me this the.....day of....., 19.....

.....
(Signature of Board Member)

EXPLANATION AND REMARKS

(Board members interviewing applicants may place here any special explanations, such as of residence status, or other remarks for purposes of clarification. If person is blind or is otherwise physically handicapped to such an extent that he cannot fill out this application form, the circumstances are to be recorded here, along with an explanation of the method used to determine if the person is, in fact, literate and can spell words and recognize those spelled to him, or can read large block letters and words in the case of persons with sight handicaps.)

PART V
ACTION OF THE BOARD

STATE OF ALABAMA

.....COUNTY

The applicant,, appeared before the board of registrars for said state and county in a regular session and executed the foregoing application in the manner prescribed by law. The Board, having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, as amended, and having fully considered the foregoing application for registration, questionnaire and oaths, adjudges said applicant entitled to

be registered and he was duly registered this the day of, 19.....

Signed:
Chairman
.....
Member
.....
Member

(NOTE: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member must vote on each application. Not until this is done may a certificate be issued the applicant.)

The Applicant,, due to failure to meet the requirements of state law for registration as an elector, is hereby rejected on this the day of, 19

Signed:
Chairman
.....
Member
.....
Member

PART VI
EXAMINATION OF SUPPORTING WITNESS

(The witness shall be placed under oath to tell the truth, the person administering the oath being a Board member or other person authorized to administer oaths and acting under the direction of the Board.)

Name of Witness

Address

Place of Voting

"I have known the applicant for years and months
and I have personal knowledge that his place of residence is

and that he has resided in the State of Alabama at least one year and in County for at least six months."

.....
Signature of Witness

Sworn to and subscribed before me this the day of, 19.....

.....
(Person Administering Oath)

Date

B. The Registration Requirements And Procedures
Of The Sumter County Board Of Registrars 5/

The current Board of Registrars is composed of Bernard Hines, Chairman, William Holman, and Ruby Tartt.

The Board meets in an office on the second floor of the Sumter County Courthouse at Livingston, Alabama (Tr. 323). There are signs posted in the courthouse indicating where the Board meets (Tr. 325). The Board processes applicants for registration on regular registration days from 9 a.m. to 4 p.m. with one hour for noon lunch (Tr. 324, 325). The Board's office consists of two rooms in which about twelve applicants can apply simultaneously. The Board since June 1963 has had as many as six applicants applying at one time (Tr. 326).

When an applicant appears at the registration office, he is given an application form and is told to fill it out. The applicant is told that if he has any questions he can ask one of the registrars about it (Tr. 590).

The Board has adopted no formal written rules or regulations relating to the registration procedures or to the receipt of applications (Tr. 323). The Board has agreed orally that in order to be registered the applicant must give a "reasonable" answer to all the questions on the application form (Tr. 322, 323, 339).

5_/ This section represents in essence a summary of relevant parts of the testimony of the registrars. It will be seen from the proof detailed in subsequent portions of this Brief that the procedures and requirements testified to by the registrars are not applied uniformly to white and Negro applicants.

The Board determines from the completed application whether it will register the applicant (Tr. 340, 341). The Board does not administer the Oath to the applicant and does not require the applicant to sign it as a prerequisite to registration (Tr. 344, 591, 592). The applicant is required to obtain a registered voter in Sumter County to appear before the Board and sign the applicant's form as a supporting witness (Tr. 592, 601).

The Board mails certificates to applicants who are registered, but does not notify rejected applicants of their rejection. Applicants are told that if they do not receive a registration certificate within a reasonable time they will know they were not registered (Tr. 329, 603). The reasons for the rejection of applicants since at least June 1963 can be determined from the applicants' rejected application forms (Tr. 340, 341). The registrars often place marks such as asterisks and checkmarks on rejected applications indicating those portions the registrars feel do not meet the Board's requirements for registration (Tr. 339). There are no restrictions on the times rejected applicants can reapply (Tr. 329, 596).

At least two registrars must act on an application (Tr. 621). The registrars usually grade the application forms after the applicants leave the office (Tr. 603, 619). On some occasions the registrars have graded the application form at the time it was submitted and have issued a registration certificate to the applicant before he left the office (Tr. 601).

IV

NEGROES HAVE BEEN SYSTEMATICALLY
EXCLUDED FROM PARTICIPATION IN
THE ELECTORAL PROCESS IN SUMTER
COUNTY

A. Less Than 5% Of The Negroes Of Voting Age
In Sumter County Are Registered To Vote

CHART 1

REGISTERED VOTERS OF SUMTER COUNTY
April 1, 1964

	<u>Persons of Voting Age</u> <u>6/</u>	<u>Persons Presently Registered</u> <u>7/</u>
White	3,061	3,238
Negro	6,814	315

This discrepancy between the percentage of Negroes and white persons registered to vote in Sumter County clearly establishes a presumption of discrimination.

6/ See Pl. Ex. 33, Official Bureau of Census Population Statistics for Sumter County, Alabama - 1960.

7/ The number of persons presently registered to vote is obtained by counting the names appearing on the Official List of Electors, Sumter County, Alabama, for 1964. See Pl. Ex. 32, and see Table G, III, which sets forth the race identification for the persons on the voters list. The figure for white persons registered exceeds the figure for white persons of voting age due partly to the time differential to which they relate and partly to the fact that the voter rolls have not been purged of persons who have died or moved out of the county. For these same reasons, the figure for Negroes registered is undoubtedly higher than the actual number of voters.

B. Negro Citizens Have Been Excluded From The
Electoral Process In Sumter County, Alabama

Although Negroes have comprised more than 65% of the persons of voting age in Sumter County since at least 1900, they constitute less than 10% of the persons registered to vote. ^{8/} This has resulted from the exclusion of Negroes from the voting rolls since at least 1932. ^{9/}

^{8/} For example, in 1930 Negroes constituted 76% of the persons of voting age in Sumter County and in 1960 they constituted 69% of the persons of voting age. See P1. Ex. 33.

^{9/} It is apparent that Negroes were similarly excluded from the voting rolls prior to 1932. Contrary to the white persons presently registered to vote, all Negroes presently registered were registered since 1932. This is confirmed by comparing the Negroes on the 1964 List of Registered Voters (Table H, Part III) to the list of Negro registrants setting forth where each Negro registrant appears on the registration books (Table H, Part II).

CHART 2

REGISTRATION OF VOTERS IN SUMTER COUNTY, ALABAMA ^{10/}

January 25, 1932 through April 1964

	<u>White</u>	<u>Negro</u>
Persons Registered	4,069	346
Percent of Total Registered	92.2%	7.8%

<u>Year</u>	<u>Persons Registered</u>		<u>Year</u>	<u>Persons Registered</u>	
	<u>White</u>	<u>Negro</u>		<u>White</u>	<u>Negro</u>
1932	32	0	1948	129	0
1933	194	3	1949	61	0
1934	222	0	1950	130	5
1935	108	0	1951	66	3
1936	78	0	1952	144	14
1937	120	0	1953	33	1
1938	138	0	1954	588	232
1939	180	0	1955	53	1
1940	72	0	1956	126	6
1941	132	0	1957	61	1
1942	51	0	1958	83	2
1943	83	0	1959	41	0
1944	42	0	1960	105	1
1945	78	0	1961	76	7
1946	382	0	1962	110	39
1947	156	1	1963	119	16
			1964		
			(Jan.-Apr.)	76	13

^{10/} The number of persons registered from 1932 through April 1964 is obtained from the registration books, Pl. Ex's 5, 6, 7 and 48. The source for the race identification of these registrants is set forth in Table G.

From January 1954 to May 1964, the Board processed 486 applications filed by Negroes. Of these, 165 were rejected and 321 were accepted. ^{11/} During the same period, the Board processed 1,450 applications filed by white persons. Of these, the Board accepted 1,433 and rejected 17 applications. Since May 1954, the Board has processed 235 applications filed by Negroes and rejected 111, or 47.2%. ^{12/} During this same period, the Board processed 935 applications filed by white persons and rejected 16, or 1.7%.

^{11/} Of the 321 applications filed by Negroes which have been accepted since January 1, 1954, 232 were accepted from January 1, 1954 to May 17, 1954, the date of Brown v. Board of Education, 347 U.S. 483.

^{12/} This figure does not include 35 undated rejected applications filed by Negroes. See Table C, p. 26.

CHART 3

ACCEPTED AND REJECTED APPLICATIONS OF WHITE AND NEGRO APPLICANTS^{13/}

<u>Year</u>		<u>Total Applied</u>		<u>Accepted</u>		<u>Rejected</u>	
		<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
1954	<u>W</u> <u>N</u>	587	265	585	233	2	32
1955	<u>W</u> <u>N</u>	54	13	53	2	1	11
1956	<u>W</u> <u>N</u>	125	7	125	6	0	1
1957	<u>W</u> <u>N</u>	61	2	61	1	0	1
1958	<u>W</u> <u>N</u>	83	2	83	2	0	4
1959	<u>W</u> <u>N</u>	42	0	41	0	1	0
1960	<u>W</u> <u>N</u>	105	1	105	1	0	0
1961	<u>W</u> <u>N</u>	76	18	76	7	0	11
1962	<u>W</u> <u>N</u>	109	83	109	40	0	43
1963	<u>W</u> <u>N</u>	122	31	119	16	3	15
1964	<u>W</u> <u>N</u>	78	17	76	13	2	4
Undated:							
1-1-54 to	<u>W</u>	0		0		0	
3-15-63	<u>N</u>		35		0		35
Undated:							
6-1-63 to	<u>W</u>	8		0		8	
Feb. 1964	<u>N</u>		8		0		8

^{13/} These figures are obtained from Table C: Chronology of Application Forms Filed With the Sumter County Board of Registrars.

QUALIFIED NEGROES HAVE BEEN DENIED
REGISTRATION BY THE DISCRIMINATORY
AND ARBITRARY USE OF THE SUPPORTING
WITNESS REQUIREMENT

A. Discrimination By The White Voucher Rule

1. Negro applicants were denied registration unless they had a white voter to vouch for them

The Board of Registrars of Sumter County, Alabama, from at least 1954 to at least 1960, required the signature of a white voter in order for any applicant to become registered to vote.

Although the adult Negroes outnumber the adult white persons in Sumter County by more than two to one, from 1954 until Albert Clark signed as a supporting witness for Roberta Martin in 1960, no Negro signed as a supporting witness for any applicant. Albert Clark, who was registered early in 1954, served continuously as the courthouse janitor, but he was not a voucher for any applicant until 1960. Lillian Lemon, a Negro, testified that in 1954 the Negro community understood that a white voucher was required (Tr. 471).

The discouraging and disfranchising impact of the white voucher rule is amply demonstrated by the testimony and exhibits in this case. When Bernice McCoy, a Negro school teacher, applied for registration in 1956, she was told by the registrar to get a white voucher. She asked three different white ladies to vouch for her: Mrs. Simpson was not a registered voter, and was thus

ineligible to vouch; the other two ladies, one of whom was a courthouse employee, declined to vouch for her (Tr. 181). Bernice McCoy was rejected (Pl. Ex. 2-69).

Carrie Evans is also a Negro school teacher in Sumter County. She applied for registration to vote in 1955. She first asked a white lady, Mrs. Gay, to vouch for her, but Mrs. Gay did not do so. Carrie Evans testified (Tr. 215):

Mrs. Gay told me to bring it
[the application form] over there
and let her sign it for me. And
I went back to tell the lady
[the registrar] about it and she
told me she could not let me
carry it out.

Carrie Evans then asked a white man, Mr. Harris, to sign for her. He said that he would (Tr. 215). Her application is not signed by any supporting witness and it was rejected (Pl. Ex. 2-50).

Roberta C. Martin is a Negro who is 40 years old and has been teaching school in Sumter County for more than eighteen years. She lives about ten miles from the Sumter County Courthouse. She first attempted to register in Sumter County on February 1, 1954 (Pl. Ex. 2-106). Her husband, Robert Martin, had become registered the month before and was vouched for by A. G. Horn, the circuit clerk (Pl. Ex. 1-13). Roberta Martin was told by the registrar to get a white person to sign her form. Her father-in-law had arranged in advance to have Mr. Mellowen, a white merchant in Livingston, vouch for her. The registrar assured her that Mr. Mellowen would come over to sign her form (Tr. 50):

A. Yes, sir. She told me he would

be over to the courthouse sometime and he didn't mind signing for me, he would sign.

Mellowen did not sign for her and Roberta Martin never heard from that application form. She did not get registered but she paid her poll tax and actually voted in an election in 1954. When she tried to vote again later, she was not allowed to.

Martin applied again for registration on July 2, 1956 (Pl. Ex. 2-107). The registrar again told her to get a white person to sign for her. Martin asked Mrs. Stegall, a white lady who worked at the bank, to vouch for her (Tr. 53):

A. I talked to Mrs. Lewis Stegall, and she told me she would sign my application, and we had to wait until she went to dinner and when she went to dinner she came back and we walked over to the courthouse together, but she didn't sign it. She told me I was a nice person, but she just couldn't sign.

Martin never heard from that application.

Martin applied again for registration on March 7, 1960 (Pl. Ex. 1-235). She was accompanied by her husband, Robert Martin, who had been registered to vote since January 1954. Again the lady registrar told her to get a white man to sign for her (Tr. 55-56). She went to three or four white persons, including Mr. Mellowen, to get them to sign for her. Most of them owned businesses in Livingston (Tr. 56).

A. I went to several different ones to get them to sign, each one said no.

Martin went back to the lady registrar and told her that these white voters would not sign for her.

Martin testified (Tr. 57):

A. Well, at that time she [the registrar] said, well, you are going to have to get a white man, and Judge Dearman said anybody, just so it is a registered voter, and we went on and signed and got someone.

Q. After Judge Dearman said that, did you go and talk to someone?

A. Yes, sir. I went out and got someone.

Q. Who did you talk to?

A. Albert Clark.

Q. Who is Albert Clark?

A. He is janitor of the courthouse.

Q. Is he white or Negro?

A. He is a Negro.

Martin finally was registered on this application.

When Atlas Campbell applied for registration in February 1954, the registrar told him to get someone who had an office in the courthouse to sign his application (Pl. Ex. 2-37). Campbell testified (Tr. 290, 291):

Q. Did you take it to someone in the courthouse?

A. Yes, sir. I took it to the tax collector's office, Mr. Joe Patton.

Q. Did you take it anywhere else?

A. Yes, sir. I taken it to the sheriff's office.

Q. Did you take it anywhere else?

A. Yes, sir. I took it to the county clerk's office.

* * *

Q. Did these persons sign your form for you?

A. No, sir, wouldn't either one sign them.

Q. Did you ask someone else to sign your form?

A. Yes, sir. I asked Mr. Frank Bullock, Jr., to sign it, and he signed it.

Campbell never received any notice whether his application was accepted or rejected.

Annie Mae Underwood is a Negro and was formerly a school teacher in Sumter County. She now lives and is registered to vote in Marengo County where she became registered without having to produce a supporting witness. In Sumter County she applied for registration on December 5, 1955 (P1. Ex. 2-144), and the registrar told her she had to have someone vouch for her - someone that knew her (Tr. 94). Underwood apparently did not understand that it had to be a white person, for she went immediately outside and found a Negro lady, Mrs. Larkin, to vouch for her. Mrs. Larkin agreed to do it and they went back in together. Underwood testified as to what happened then (Tr. 95):

A. Well, when I went back in the Registrar's Office, he was looking at my form, and he just told me -- when he saw her, he just said she wouldn't do.

One Negro witness, Simon Hill, testified for the defendants that when he applied for registration on January 18, 1954 (P1. Ex. 1-34), he was told that anybody regardless of race who had been voting for two or three years could vouch for him (Tr. 197). Sheriff Scott, a white man, vouched for him (Tr. 193-94). Hill is illiterate (Tr. 192). The Sheriff and the Tax Collector

helped him fill out his application form (Tr. 193).

2. For white applicants the supporting witness requirement was treated as a mere formality

During the very period when Negroes who wished to vote were required to try, often unsuccessfully, to get a white voter to sponsor their applications, the registrars applied the supporting witness requirement to white persons in form only.

The Board supplied white applicants with supporting witnesses; white registrants frequently did not even know their applications had been signed by a supporting witness.

Mark O. Billingsley is a white voter who has a 4th grade education. He registered on April 19, 1954 (Pl. Ex. 3-514). The County Tax Collector, Joe Patton, signed his application as the supporting witness.

Billingsley testified (Tr. 297, 299):

Q. ...Were you told to get someone to sign your application form for you?

A. No, sir.

Q. You were not? Do you know whether anybody signed your application form for you?

A. No, sir.

* * *

THE COURT: Did you ask Mr. Patton, did you go to get Mr. Patton to sign this for you, or not?

A. No, sir; I didn't get him.

J. B. Galloway, a white voter with a second grade education, registered on the same day as Billingsley - April 19, 1954 (Pl. Ex. 3-526). His application was

filled out by another person. Mr. A. L. Dearman, the county bridge foreman, (Pl. Ex. 3-2) signed as his supporting witness. Galloway testified that he did not ask anyone to sign his form (Tr. 209):

Q. Did you go out and ask someone to come in and sign your form?

A. No, sir.

Q. You are a registered voter now?

A. I am supposed to be.

Lue Ada Wright is a white voter with a 7th grade education. She registered on January 8, 1954 (Pl. Ex. 3-69). Her application was also filled out by another person. Mr. A. L. Dearman also signed this application as the supporting witness. She testified that she did not ask her supporting witness to sign for her. She testified about this as follows (Tr. 89):

Q. Do you know Mr. A. L. Dearman?

A. Yes, sir. That is Mr. Lonnie Dearman.

Q. Do you recall asking him to sign your application form?

A. No, sir. I have never asked him to sign anything in my life.

3. The white voucher rule is unconstitutional

On its face and as applied the white voucher rule is unconstitutionally discriminatory. The notion that persons in order to vote must be sponsored by a white voter defies all reasonable classification and collides with the Fifteenth Amendment which forbids the abridgement of the right to vote on account of race. In practice in Sumter County which is racially segregated and where

it is unpopular for Negroes to vote, the rule makes Negro voting not a right, not a privilege, but a matter of racial grace.

The officials and citizens of Sumter County realistically regard the voucher system as one of screening the qualifications of applicants.^{14/} But the State cannot constitutionally clothe private citizens with the power to conduct elections or to pass upon the qualifications of electors. Cf. Terry v. Adams, 345 U.S. 461. The unconstitutionality is compounded where, as here, one racial group is given the power to judge the voter qualifications of another racial group. U.S. v. Manning, 205 F.Supp. 172 (W.D. La. 1962);^{15/} U.S. v. Ward (W.D. La. Civil Action No. 854, 1963);^{16/} Byrd v. Brice, 104 F.Supp. 442 (W.D. La. 1952), aff'd 201 F.2d 665; Hunt v. Arnold, 172 F.Supp. 847 (N.D. Ga. 1959);

^{14/} See Section D , infra.

^{15/} Judge Dawkins in the Manning case concluded as a matter of law that "Manning [the registrar of voters] cannot constitutionally deny to Negroes in East Carroll Parish the opportunity to apply for registration and to become registered voters only on the ground that he does not know them, or that they have not previously been registered, or that they have not produced two registered voters to make affidavits of identity on their behalf." 205 F.Supp. at 174.

^{16/} Judge Dawkins in the Ward case concluded as a matter of law that "A registrar [of voters] cannot constitutionally use the identification [voucher] requirement in any manner which will impose a heavier burden upon Negro applicants than upon white applicants."

Meredith v. Fair, 298 F.2d 696 (1962).^{17/}

4. The defendants have taken no steps to correct the discriminatory effect of the white voucher rule

The defendants purport to have abandoned the white voucher rule.^{18/} If so, it was a quiet abandonment.

There is no evidence that the defendants or their predecessors published any general notices in Sumter County to the effect that the white voucher rule would be discontinued. The evidence shows in fact that even with specific Negro applicants the defendants did not tell them "You no longer need to get a white person to sign for you."

For example, Gussie Jimerson, a Negro, who formerly lived and was a voter in West Virginia testified that when she applied for registration in Sumter County on July 2, 1963, she was merely told to get a supporting witness to sign for her. She stated on cross examination (Tr. 274):

Q. They told you you had to get a supporting witness?

^{17/} But see U.S. v. Logue (Civ. Action No. 3031-63, S.D. Ala. 1964) which seems contrary to these principles and is of doubtful authority. That case is presently pending on appeal. In any event, that case relies on Mitchell v. Wright, 69 F.Supp. 698 (N.D. Ala. 1947) and Williams v. Wright, 249 Ala. 9 (1947), neither of which involved the white voucher rule. Logue differs from the instant case: there, any registered voter could vouch (and no Negroes could vouch) but here even registered Negroes cannot vouch; there, the Court found no Negroes had tried to get a white voucher, but here abundant evidence exists of Negroes attempting and failing to get a white person to vouch for them.

^{18/} Chairman Hines testified that they permit any qualified voter to vouch regardless of race (Tr. 592).

A. Yes, sir.

Q. Did they tell you they had to be a white person?

A. No, sir. They didn't say.

Jimerson and her husband tried unsuccessfully to get two public officials to vouch for them (Tr. 271, 272). Jimerson did not get a supporting witness (Pl. Ex. 2-84).

Her husband, Will Jimerson, remembered the following details (Tr. 280):

Well, the lady [the registrar] asked me did I have anybody to sign for me, and I told her I did not know anyone there in Livingston but the Judge, and after she told me just someone to sign it, so I thought about the tax assessor, I know him, so I asked him; and he told me he was under bond, and for that he wasn't allowed to sign them. So then the policemen in York, he was there, and he knew me.... After I talked to him, he told me he wouldn't be the proper one, said Maybe the Judge might be the proper one to sign it. So the judge was busy, and I waited and waited awhile and he never did see time to come see what I wanted, so I went on back home.

It is obvious that the defendants did nothing to reverse the well-entrenched understanding in the Negro community^{19/} that the Negroes needed white sponsors in order to vote. Despite the alleged abandonment of the rule in 1960, we still find that the vast majority of supporting witnesses obtained by Negroes are white voters. We see too about a third of the Negro applicants fail to get any supporting witnesses.

^{19/} See the testimony of defense witness Lillian Lemon described above at page 14.

	<u>White Voucher</u>	<u>No Voucher</u>	<u>Negro Voucher</u>
1960	0	0	1
1961	9	3	7
1962	42	39	2
1963	14	11	11
1964	<u>12</u>	<u>2</u>	<u>4</u>
Total	77	55	25

In a racially segregated community such as Sumter County we would expect that Negroes who felt the freedom of choice would choose their supporting witnesses from among their Negro friends and relatives. As the Court pointed out in Hunt v. Arnold, 172 F.Supp. at 856 (N.D. Ga. 1959):

The Court takes judicial notice of the fact that it is not customary for Negroes and whites to mix socially or to attend the same public or private educational institutions in the State of Georgia, and that by reason of this presently existing social pattern, the opportunities for the average Negro to become personally acquainted with the average white person, ... are necessarily limited.

Despite this fact, the records show that since 1960 only 16% of the application forms filled out by Negroes were witnessed by Negroes.

The failure of the defendants to give any adequate notice to Negro applicants regarding the white voucher rule is dramatically demonstrated by the experience of two Negroes who applied for registration on July 3, 1963. T. K. Randolph and Fred Adams both testified that when they applied they were told to list two persons as references on the application form (in question 21), one white reference and one Negro reference (Tr. 27; Tr. 255). They in fact each listed one white and one Negro reference (Pl. Ex's 2-123, 2-1). Both of these applicants got the

impression from whatever was said to them that the registrars would contact a reference and have him sign as a supporting witness (Tr. 29; Tr. 256). No one signed for them.^{20/}

Beyond the question of notice of the abandonment of the rule the good faith, if not the duty, of the regustrars would have required them to review the rejected applications filed by Negroes during the white voucher period with a view toward remedial action. The rejected Negroes should either have been put on the voter rolls immediately or sent notices inviting them to obtain Negro supporting witnesses. Neither was done. The defendants cannot escape the fact that qualified Negroes applied unsuccessfully during the period of the white voucher rule. They cannot escape the fact that they did nothing about it even though they purportedly abandoned the rule.

There was, for example, in the files of the defendants the rejected application of George A. Boggus, Jr. (Pl. Ex. 2-23). He applied for registration on January 18, 1954. He was a school teacher and had been teaching in Sumter County for twelve years. His application form shows clearly that he possesses all of the

^{20/} Although Chairman Hines testified that he had given no such instructions and knew of none (Tr. 592), there was no showing that he was actually present when this incident took place. Randolph and Adams testified that only two members of the Board were present, a man and a lady (Tr. 25; Tr. 253). In any event, the significant fact is their understanding of what took place.

qualifications and none of the disqualifications for registration to vote in Sumter County. His application form is an example of perfection but no one signed for him as a supporting witness. His application was rejected. Noted on his application is the observation: "Void no witness."

There were numerous other applications of Negroes in the files of the registrars which had been rejected at the time the registrars "changed" the white voucher rule. An example is that of Devie W. Witt, another Negro school teacher, who applied for registration unsuccessfully in 1958. His application is clearly marked on the first page: "Held for supporting witness Sept. 15- '58" (P1. Ex. 2-61).

Though the formality of the white voucher rule may have been "abandoned," the purpose and effect of it persisted. Demonstrably, the registrars regarded the rule as a part of a system by which the registration of Negroes depended on the consent of the white voting community rather than upon the qualifications of Negroes. The Negroes knew this too. It was to the advantage of Negroes to get white vouchers whenever possible. During 1960 through April 1964, only 9% of the Negroes who obtained white vouchers were denied registration. During the same period, 72% of the Negroes who obtained Negro vouchers were rejected.

	White Voucher			Negro Voucher		
	<u>Ac- cepted</u>	<u>Re- jected</u>	<u>% Re- jected</u>	<u>Ac- cepted</u>	<u>Re- jected</u>	<u>% Re- jected</u>
1960	0	0	-	1	0	0%
1961	7	2	22%	0	7	100%
1962	39	3	7%	1	1	50%
1963	13	1	7%	3	8	73%
1964	11	1	8%	2	2	50%
Total	70	7	9%	7	18	72%

The experience of Susie Levy is illustrative of the attitude of the registrars as to the virtue of the white voucher. Susie Levy is a Negro who lives on a farm in Sumter County. She has lived in the county all of her life. She has an 11th grade education. She filed an application form on August 21, 1961 - the same day that three white persons were accepted. The only distinguishable differences between her form and that, for example, of Willie M. O. Roberts is that she had a Negro voucher and Roberts had a white voucher.

Levy's application was signed by John C. Evans, a Negro (Pl. Ex. 2-98). Roberts' application was signed by J. C. Scales, a white person (Pl. Ex. 3-1014A). Levy was rejected and Roberts was accepted. Levy's voucher, John Evans, was apparently "introduced" to the Board by J. B. Thomas, a white man. But this was not sufficient. The registrars noted on Levy's application:

Negro introduced as a supporting witness by Mr. J. B. Thomas. Failed to complete as witness (the Board Members did not know him).

The only distinction was that Evans was a Negro

supporting witness. True, he failed to complete the supporting witness portion of the form but the registrars themselves completed the supporting witness portion of the three white persons who applied for and were accepted for registration that same day (Pl. Ex's 3-1013, 3-1014, 3-1014A).

Levy went back and made another application on July 2, 1962. This time she got Mr. J. B. Thomas, a white man, to vouch for her. Her application was accepted. Noted on the first page of this application is the following (Pl. Ex. 1-266): "2nd try - No one on Board knew first supporting Negro witness brought in by Mr. J. B. Thomas."

B. Other Recent Methods of Discrimination Under The Supporting Witness Requirement

1. The burden of the requirement falls far more heavily upon Negroes.

With the vast majority of adult white persons permanently registered to vote in Sumter County and but a token percentage of the adult Negroes, the supporting witness requirement inevitably results in discrimination. This inevitable effect arises from two facts: (1) the white persons, having already registered without being required to furnish vouchers, will not have to obtain supporting witnesses, whereas nearly all the Negroes will have to meet this burden; (2) the few white persons who will hereafter register have benefit of a vast voting population from which to draw their witnesses -- their neighbors, their friends, their relatives -- whereas the similar sources for Negroes is exceedingly limited.

In a rural county like Sumter, where many persons live in places remote from the courthouse at Livingston, the hardship of the voucher requirement is compounded. Yet, in Montgomery, for example, where there are a great many more voters and potential voters and the registrars can know only a small portion of them, and where the population turnover is much greater, the voucher requirement is not used at all.^{21/}

Added to these discriminatory effects are other discriminatory practices of the registrars. Even after the alleged abandonment of the white voucher rule the defendants still continue to make distinctions based on race in the administration of the supporting witness requirement.

2. Since 1960, the registrars have continued to assist white persons to obtain the signatures of supporting witnesses and have denied such assistance to Negroes.

On August 5, 1963, David Jones, a Negro, applied for registration to vote in Sumter County (Pl. Ex. 42). He is a high school teacher of American History and Physical Education. He lives over fifteen miles from the courthouse at Livingston. His application was rejected for lack of a supporting witness. Regarding the supporting witness, Jones testified as follows (Tr. 166-67):

^{21/} The Court can take judicial notice of the records in the United States District Court for the Middle District of Alabama in the case of United States v. Penton, et al., Civil Action 1741-N (1962). See also the testimony in this case of Annie Mae Underwood (Tr. 97) showing that the supporting witness requirement does not exist in Marengo County.

Q. What instructions did he give you regarding the witness?

A. He told me to return back home and find a registered voter to sign the registration blanks and when I returned home, I found the registered voter, but I didn't return back to Livingston to follow it up, and that is where we left it.

Q. Who did you go and talk to?

A. I talked with the man in Pinola named Claiborn Harvey.

Q. Is he white or Negro?

A. Negro.

Q. What discussion did you have with him?

A. I just asked him would he go down and be a witness for me, and he said he would. And I was supposed to go by the third Monday in August, and an emergency came up where I had to go to Mobile, and I didn't go by and pick him up, and neither did he go to Livingston.

Q. Why didn't you go down after the third Monday in August?

A. Since that particular time, I have been off working, and I haven't had a chance. I have not been time the first or third Monday.

The Board gave as the reason for his rejection (Pl. Ex. 42):

Application in order except for supporting witness. Applicant failed to have one although the necessity of one was explained to him.

Other Negroes who applied for registration since 1960 testified to the same lack of assistance and similar difficulties in obtaining supporting witnesses. See for example the testimony summarized earlier in this brief of Will Jimerson (Tr. 280), Fred Adams (Tr. 256), and T. K. Randolph (Tr. 29).

White persons who have applied for registration in Sumter County since 1960 have found it easy and have received assistance from the registrars in obtaining supporting witnesses.

Steve Greenlee, a white man, applied to register on May 7, 1962 (Pl. Ex. 3-1162). His application was accepted. His form is signed by R. E. Simms, the Tax Collector, as the supporting witness. Regarding the supporting witness, Greenlee testified as follows (Tr. 37):

Q. Did you ask anyone to come in and sign the form for you?

A. There wasn't any form to sign. Mrs. Tartt signed the form.

Q. Did you contact anyone else and ask them to come in?

A. No, sir.

Mr. Simms signed as a supporting witness for 101 other white applicants. He has signed for 3 Negroes.

Lettie A. Sikes, a white woman, applied for registration and was registered on February 12, 1962 (Pl. Ex. 3-1117). Mr. Simms signed as her supporting witness. Sikes testified as follows (Tr. 249):

Q. Mr. Sims signed your application form?

A. I don't remember who did.

Q. Do you know Mr. Sims?

A. I did not until that day.

Glera M. Dial, a white woman, applied and was accepted for registration on February 5, 1962 (Pl. Ex. 3-1095). She was told to take her form to another office which she did. Sam Webb, the county tax assessor, signed

as her supporting witness. 22/ She did not know him at the time. She testified (Tr. 131):

Q. Can you recall if you took this form to Mr. Webb, do you know Mr. Webb?

A. Well, I know him now, but I didn't then. I don't know very many people.

Phelon Kimbrell, a white man, applied for registration and was accepted on February 5, 1962 (Pl. Ex. 3-1065). W. Tartt, the county register, signed as his supporting witness. 23/ Kimbrell did not know Tartt and did not ask him to sign for him. He testified that he did not know his supporting witness until the day he applied (Tr. 224).

Robert Harris, who is also white, applied and was accepted for registration on November 13, 1963 (Pl. Ex. 3-1286). M. Stephens, the county deputy sheriff, signed as his supporting witness. 24/ The testimony of Harris shows that a registrar went with him to find his supporting witness (Tr. 43).

Eddie Odell McElhenney, a white man who was registered on February 3, 1964, testified that after he filled out his form a registrar asked him who he knew in the courthouse, and then accompanied him to the office of his supporting witness (Tr. 264). C. Vaughan, a clerk for the county Board of Commissioners, signed as

22/ Sam Webb has signed as supporting witness for 129 white persons and 16 Negroes.

23/ W. Tartt has signed as supporting witness for 53 white persons and 19 Negroes.

24/ M. Stephens has signed as supporting witness for 20 white persons and 1 Negro.

his supporting witness.^{25/}

These facts demonstrate that the registrars give whatever assistance is needed to obtain signatures of supporting witnesses for white applicants. Conversely they deny such assistance to Negroes, and Negroes alone bear the brunt of this onerous requirement.

3. When Negroes apply, the registrars adhere rigidly to their rules under the voucher requirement; they waive those rules with white applicants

The unannounced rules of the registrars are that (1) the supporting witness must be a qualified voter of the county; (2) the supporting witness must have known the applicant for a sufficient length of time; and (3) the supporting witness must himself fill out that part of the form entitled "Examination of Supporting Witness."

We have already reviewed the testimony of white applicants showing that they did not know their supporting witnesses. This rule is simply ignored by the Board in its registration of white persons.

The case is the same with the rule that vouchers must be qualified voters. On January 21, 1963, the Board permitted two white applicants, John Snider (Pl. Ex. 3-1189) and Howard E. Fuller, Jr. (Pl. Ex. 3-1187) to vouch for each other. Obviously, one of them could not have been a registered voter at the time he vouched for the other,

^{25/} C. Vaughan has signed as supporting witness for 2 white persons and no Negroes.

In sharp contrast is the experience of Bernice McCoy, a Negro, who testified that when she applied for registration in 1956 (Pl. Ex. 2-69) the first of the three white ladies she asked to vouch for her "agreed to come to the courthouse, and we went and after we got there and read it, she wasn't a registered voter herself, and she could not sign it" (Tr. 181).^{26/}

The rule that the voucher must fill out the examination of supporting witness portion of the form is also applied rigidly to Negro applicants and breached for white applicants. The application of Susie Levy, Negro, filed on August 21, 1961 (Pl. Ex. 2-98) was rejected because her supporting witness did not fill, but did sign, the examination of supporting witness. By contrast, the application of Harold Bagby, white, filed February 4, 1963 (Pl. Ex. 3-1193) was accepted although his supporting witness did not sign. The Board remedied the difficulty by putting the voucher's name in the correct blank (Tr. 548).^{27/}

4. The statistics show the discriminatory effect of these practices.

A look at the statistics over the last ten years of all applications filed by white and Negro applicants and which were signed and not signed by supporting witnesses tells its own story.

^{26/} See also the testimony of Joe Bizzell, a Negro, who applied on February 1, 1954 (Pl. Ex. 2-21). He testified (Tr. 72-73): "After Mr. Dobson signed the form, the gentleman told him he wasn't qualified. The reason why, I couldn't say."

^{27/} For other such examples see Plaintiff's Exhibits 3-70, 619, 986; and see transcript 547, 561-62, 584-86.

	Supporting Witness		No Supporting Witness	
	<u>White Applicants</u>	<u>Negro Applicants</u>	<u>White Applicants</u>	<u>Negro Applicants</u>
1/54-4/54	566	239	1	9
5/54-12/54	21	12	0	3
1955	54	6	0	7
1956	125	8	0	2
1957	61	1	0	1
1958	83	3	0	2
1959	42	0	0	0
1960	105	1	0	0
1961	76	16	0	2
1962	110	44	0	39
1963	121	21	0	10
1964	77	16	1	1
Undated	2	16	6	27
Total	1443	383	8	103

5. These discriminatory uses of the supporting witness requirement are unconstitutional.

Any voter registration requirement which has the inevitable effect of placing a heavier burden upon Negroes than upon white persons violates the Fifteenth Amendment. See Gomillion v. Lightfoot, 364 U.S. 339.

The statistics alone, showing that a much higher percentage of Negro applicants than white applicants fail to obtain the signatures of supporting witnesses, raise a presumption of discrimination in the administration of the supporting witness requirement. See U.S. v. Manning, supra.

Add to this the assistance which is afforded white applicants in obtaining supporting witnesses, assistance which is not rendered to Negro applicants, and the violation of the Fourteenth and Fifteenth Amendments is conclusive. See U.S. v. Duke, 5th Cir. 1964, No. 20800.

C. The Arbitrary And Unreasonable Use Of The Supporting Witness Requirement

1. The registrars require rejected Negroes previously vouched for to get a supporting witness each time they reapply.

Assuming the purpose of the voucher requirement is to identify applicants or to ensure that only qualified applicants are accepted, an applicant who obtained one voucher would seem to have met the requirement. But the Sumter County Board of Registrars rejects applicants who obtained a voucher for an earlier rejected application when they fail to provide a voucher on a subsequent application.

Jack Vaughan Powell, a Negro school teacher who testified for the defendants, testified as follows about his two attempts to register, on the first of which he was rejected and on the second of which he was accepted.

1. July 2, 1963 (Tr. 372)

Q. After you had completed the questionnaire, did they tell you you needed a supporting witness?

A. That's right.

Q. Did you get a supporting witness?

A. I did.

2. August 5, 1963 (Tr. 374)

Q. Did they tell you at that time you needed a supporting witness?

A. They did.

Q. Did you get a supporting witness?

A. I did.

His first supporting witness was Mrs. Cora McGhee (Pl. Ex. 2-122). His second supporting witness, one month later, was Mr. H. J. Spears (Pl. Ex. 1-282).

Other examples of Negro applicants who were required to furnish supporting witnesses more than once are Margaret Brown (Pl. Ex's 2-33 and 2-34), Hattie Kate Bell (Pl. Ex's 2-4 and 1-296), Ennis Moton (Pl. Ex's 2-116 and 1-233A), and Charlie Evans Swain (Pl. Ex's 2-134 and 1-239).

The real purpose of such an arbitrary practice can only be to discourage reapplication by rejected applicants. Further, since almost all rejected applicants are and have been Negroes, the effect of the rule is to discriminate against Negroes.

2. The registrars will not accept any reasonable substitute for a supporting witness.

If the supporting witness is assumed to be a method of identification or proof of residence, it is the most arbitrary of all conceivable methods. If another, more reasonable method is available, it should be used, particularly in view of the difficulties involved in obtaining a supporting witness in a rural area such as Sumter County. There are in fact numerous alternative modes of proof which the applicant should be allowed to make. The Court listed some in U.S. v. Ward, supra:

- (1) Authentic licenses or permits issued by any governmental agency or authority, such as driving, hunting, or fishing licenses,

library cards, or automobile registrations; (2) Authentic military identification documents, such as selective service registration cards, discharge papers, or reserve unit identification cards; (3) Authentic records of the possession or ownership of real property, such as rent receipts, deeds or contracts to purchase or lease, receipts for deposits or utilities, or homestead exemption certificates.

It is anomalous that an applicant, having sworn on his application form as to his identity and length of residence, should have to do anything more. His application also shows his spouse, his employer, and two references, any of whom could easily be contacted by the Board for verification if any be needed.

3. No review is available of arbitrary refusals to vouch.

Voters need not vouch; they may at any time, whimsically or otherwise, refuse to act as a supporting witness. The record is replete with instances of arbitrary refusals to sign as a supporting witness. R. E. Simms, a county official, told Will Jimerson, a Negro (whom he knew), that Simms was "under bond" and could not vouch (Tr. 280). His having been under bond did not prevent him from vouching for 105 other applicants. Mrs. Lewis Stegall, white, told Roberta Martin, Negro, that Martin "was a nice person, but she just couldn't sign" (Tr. 53).

Obviously there is no appeal from a decision by a citizen not to vouch. Each such decision to grant or deny the right to vote is thus put beyond the pale of

the Board's review and of judicial review.

4. Qualified Negroes are denied registration by operation of the voucher requirement.

Of the sixty-four applicants that plaintiff is requesting this Court to order the defendants to register, forty-six filed at least one application form not signed by a supporting witness. Each applicant showed on his forms that he possessed all the qualifications and none of the disqualifications for registration to vote in Sumter County. Other qualified Negro applicants have been denied registration who were later registered or who have died or moved from Sumter County.^{28/}

Genzell W. Dykes is a Negro who applied and was rejected on August 6, 1962. Her form shows that she is a high school graduate who has lived in Sumter County since 1939 (Pl. Ex. 2-47). She lists as references two Negro voters who could have verified her residence had the Board contacted them. No supporting witness signed her form.

Fred Adams, a Negro carpenter, applied for registration and was rejected on July 3, 1963. The registrars found him to be qualified to vote, except for his lack of a supporting witness (Pl. Ex. 42). His form (Pl. Ex. 2-1) is reproduced following this page. These are but a few examples of the denial of registration to Negro applicants who possess all of the qualifications to register to vote. Any requirement which has this effect is wholly arbitrary.

^{28/} See, e.g. 2-23 (moved), 2-131 (died), and 2-106 and 2-107 (subsequent form accepted).

7/3/63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Fred Adams do hereby apply to the Board of Registrars of
Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Fred Adams
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Fred Adams 12-3-32
Jefferson County, Route 1 Box 25 Cuba, Ala.

2. Are you married or single: yes (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: Anna Mae Adams Cuba Ala Sumter County

3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Cuba Alabama Fred Adams

4. If you are self-employed, state the nature of your business: no

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Carpenter

Mr. M. R. Hancock York Ala

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 1932 (a) When did you become a bona fide resident of Sumter

County: 1937 (b) When did you become a bona fide resident of in Ward or precinct 18

6. If you intend to change your place of residence prior to the next general election, state the facts: no

7. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts:

8. Has your name been previously stricken from the list of persons registered: no

9. Are you now or have you ever been a dope addict or an habitual drunkard: no (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can:

10. Have you ever been legally declared insane: No (a) If so, give details: _____
11. Give a brief statement of the extent of your education and business experience:
High School graduate
12. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: No (a) If so, give the facts: _____
13. Have you ever served in the Armed Forces of the United States Government: Yes (a) If so, state when and for approximately how long: ~~11 April 53 to 16 April 53~~ 16 April 53 to 8 April 55
14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: No (a) If so, state the facts: _____
15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: Yes
16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: No (a) If so, state the facts: _____
17. Will you bear arms for your country when called upon by it to do so: Yes (a) If you answer no, give reasons: _____
18. Do you believe in free elections and rule by the majority: Yes
19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:
No
20. Name some of the duties and obligations of citizenship: Obey the laws of the country and State, defend and support the Constitution of the United States.
- (a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: Yes
21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: Mr. James Webb Cuba, Ala
Mr. A.P. Delaine Cuba Ala

O A T H

STATE OF ALABAMA COUNTY

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

_____, an applicant for registration who being by me, _____, (Full name of applicant)

(Any member present may administer oath)

_____, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Fred Adams, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

1. I was previously registered in the following State and County in the years named No

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 18, Code of Alabama 1901. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

3. My present place of employment is Mr. W. A. Hancock, York, Ala

4. I know of nothing that would disqualify me from being registered at this time. No

REMARKS

(Signed) Fred Adams
(Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____ (Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudge said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) _____ Member

(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

_____, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, My occupation is _____, I reside at _____, My place of business or employment is at _____.

The name of my employer is _____ I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant

_____ for _____ years (or months). He is a bona fide resident at _____ (Give Applicant's name) and to my knowledge has resided thereat for the past _____ years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) _____

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19_____.

(Signed) _____ (Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 161, Code of Alabama, 1901.

5. These arbitrary practices are unconstitutional.

The arbitrary rejection of applicants for voter registration violates the due process clause of the Fourteenth Amendment. U.S. v. Penton, 212 F.Supp. 193 (M.D. Ala. 1962); see also U.S. v. Manning, 215 F.Supp. 272 (W.D. La. 1963).

The voucher requirement is not reasonably related to any legitimate interest of the State of Alabama or of Sumter County. If it were meant to be a method of proof of identity or residence, almost any other conceivable method of proof is more reasonable, and there are many such methods. In truth, it is used as a method of vouching to the qualifications of applicants, but it is the job of the registrars to test voter qualifications.

D. The Supporting Witness Requirement Is Inherently Discriminatory In Sumter County

1. The requirement is commonly regarded as a sponsorship by which the sponsor judges the qualifications of the applicant

It cannot be disputed that the officials and the other people in Sumter County understand the voucher requirement to be just that - a requirement that a person in order to become registered must be sponsored by a registered voter. The sponsor regards himself as vouching to the registrars that the applicant is qualified to vote. This fact is leveled by the testimony of the defendants on white witnesses. Geiger Pinson who is a substantial farmer in Sumter County testified (Tr. 529):

Q. Mr. Pinson, what would you use in your judgment to determine this? Just describe what you would feel he had to be, white or Negro, in order for you to vouch for him?

A. Well, if he qualified as the elective laws or the laws of the State of Alabama prescribed.

Barnes Rogers, another of the defendants' white witnesses, testified regarding his having vouched for two Negroes (Tr. 425):

THE COURT: Is it your opinion they were qualified?

A. Yes, sir. I wouldn't have signed it had I thought otherwise.

Notations on application forms attest to the fact that the registrars themselves regard the voucher system as an affidavit as to qualifications. For example, the application form of Mattie Witt, Negro, dated January 28, 1954, contains the following notation (Pl. Ex. 1-100):

Mr. Hardin signed and recommended.

The application form of John C. Evans, also a Negro, bears this notation (Pl. Ex. 1-56):

Recommended by Harry Spidle.

Other such notations are found on Plaintiff's Exhibits 1-75, 1-70, 1-71, 1-152.

2. Negroes are sponsored by white voters only if they are regarded as "qualified"

Mary Shelton, a Negro, registered on January 20, 1954. On page 1 of her application is written the following (Pl. Ex. 1-69):

Recommended, by Lillie Allison as an excellent Negro.

The application form of another Negro, Theresa P. Savage, dated January 18, 1954, has the following notation in the remarks under the supporting witness portion of the form (Pl. Ex. 1-50):

Very intelligent, humble, and polite.

Barnes Rogers, a white witness called by the defendants, testified at the trial regarding his having vouched for two Negroes (Tr. 425):

Q. When you signed that form, why did you sign that form?

A. Well, because, as I say, Mrs. Tartt wanted somebody to sign it that knew them. I had known them all my life. They are property owners in Gainsville, and they are good citizens, and as far as their color, I see no reason why they should not be qualified as voters.

Q. You were signing that form because you thought they were good citizens?

A. That's right.

Andrew Parker, another white defense witness, testified that when he vouched for Dave Washington, a Negro, "I was signing it he was entitled to vote" (Tr. 516).

Even one of the 1,450 applications of white persons bears the notation (Pl. Ex. 3-159):

Mr. Hardin says a good guy.

3. Most Negroes are regarded by the white people as unqualified.

The defendants called a number of witnesses who are leading members of the white community in Sumter County - the probate judge, a mayor, the tax collector, the tax assessor, and the Chairman of the Board of

Commissioners. They were asked to testify as to their opinion of the qualifications of Negroes in Sumter County. This testimony is basically that the percentage of illiterate Negroes in Sumter County greatly exceeds that of white persons. The probate judge said that 95% of the white persons in Sumter County are literate but over half of the Negroes were illiterate (Tr. 573-74, 580). He testified (Tr. 579):

A. Well, I would say fifteen per cent of the Negroes in the county here were from an intelligent race, in other words, they could learn if they were taught.

Some of the public officials who testified in this vein for the defendants are among those officials who frequently vouch for applicants for registration. The following chart confirms that they believed that most Negroes are not qualified.

NAME AND TITLE OF OFFICIAL	NUMBER OF APPLICANTS VOUCHERED FOR			
	29/ January-April, 1954		May 1954-May 1964	
	White	Negro	White	Negro
Bratton, W. A. Deputy Sheriff, (Pl. Ex. 3-152)	13	5	24	
Davis, Christine City Clerk, York, (Pl. Ex. 3-1050)			10	1
Dearman, A. County Bridge Foreman, (Pl. Ex. 3-2)	80	6		
Dearman, Willie E. Probate Judge, (Tr. p. 569)	73	10	132	13
Fuller, Bessie Clerk of Probate Judge (Pl. Ex. 3-114)	14	3	15	
Grant, W. Mayor of York, (Tr. p. 431)			6	
Hardin, H. L. Justice of the Peace, (Pl. Ex. 3-399)	4	3		
Horn, A. G. Circuit Clerk, (Pl. Ex. 3-237)	18	6	19	
Larkin, Francis Probate Clerk, (Pl. Ex. 3-842)			55	
McDonald, J. L. Tax Assessor, (Pl. Ex. 3-26)	8	18		
Massingill, R. County Treasurer, (Pl. Ex. 3-214)	14		25	
Myrick, Mary S. Probate Clerk, (Pl. Ex. 3-118)	8	2	9	

29/ These statistics are obtained by counting the number of applications signed by each official, as shown in Table H. The title of the official is shown either in the Transcript or in the Examination of Supporting Witness of one of the forms he signed; the source is indicated in parentheses.

NAME AND TITLE OF OFFICIAL	NUMBER OF APPLICANTS VOUCHED FOR			
	January-April 1954		May 1954-May 1964	
	White	Negro	White	Negro
Patton, Joe Tax Collector, (Pl. Ex. 3-118)	118	48	89	5
Pinson, J. H. State Senator, (Pl. Ex. 3-265)	14	3		
Scales, J. C. Circuit Clerk, (Pl. Ex. 3-959)	10		1	
Scott, C. H. Sheriff, (Pl. Ex. 3-162)	28	13	11	
Simms, R. E. Tax Collector, (Tr. p. 539)			102	3
Smith, Roy License Inspector, (Pl. Ex. 3-451)	43	5	1	
Steinwinder, T. J. Board of Revenue, (Pl. Ex. 3-391)	14	1	1	
Stephens, Melvin Deputy Sheriff, (Pl. Ex. 3-1282)			20	1
Taritt, W. P. Register, (Pl. Ex. 3-123)	12	13	41	6
Taylor, Rhodes Veterans Service Office, (Pl. Ex. 1-55)		1		
Thomas, J. B. Justice of Peace			6	7
Webb, Sam Tax Assessor, (Tr. p. 552)			129	16
White, Addie Clerk, (Pl. Ex. 3-585)		1	2	1
Spears, H. J. Negro County Farm Agent (Pl. Ex. 2-64)				3
Total	471	138	698	56

4. Negroes will get vouched for or not vouched for by white persons depending altogether on the feeling of the white persons toward them.

The judgment to vouch or not to vouch is purely subjective. So too is the judgment of whether a Negro is qualified and ought to vote. The evidence in this case is overwhelming that the voucher system has been used as the method of control over the registration of Negroes. The white community including the registrars decide in each individual case which Negroes will, and which will not, be allowed to vote.

Early in 1954 quite a number of Negroes were the benefactors of decisions by white persons to vouch for them. We have seen that Deputy Sheriff Scott vouched for Simon Hill who was an illiterate Negro (Tr. p. 192). Dave and Lillian Lemon were vouched for by Barnes Rogers apparently at the request of Mrs. Tartt, one of the registrars. Rogers testified (Tr. p. 422):

- A. I was talking to Mr. Patton, who was tax collector, in his office and Mrs. Tartt came out in the hall and was looking for someone that knew these darkies, and spotted me, and they being from my section, she asked me if I would come in and vouch for them, and I went in and did so.

But after May 1954, the white community tightened up on Negro registration, and there was very little of it from then on.

5. The supporting witness requirement cannot operate fairly in Sumter County because it is a racially segregated community.

The conclusion is inescapable from the evidence that white voters will vouch for only those Negroes they regard as "good Negroes." White persons have testified that they "know most of the Negroes" in their community. But white persons never have Negroes vouch for them presumably because they are either not that friendly with Negroes or there are too few Negro voters in the county to know who they are. The Negro is under the same handicap even with the white voucher rule removed - it does not follow that because there are Negro voters, Negroes will vouch for Negroes; or that Negroes desiring to vote know who the Negro voters are and are friendly enough with them to get them to vouch.

There is ample evidence too that the Negro applicant in Sumter County still has a far better chance of becoming registered if he obtains a white person to vouch for him. This fact is unquestionably due to the segregated nature of the community. Between 1960 and April 1964, 72% of the Negro applicants who were vouched for by Negroes were rejected; only 9% of the Negro applicants who were vouched for by white persons were rejected. It may be natural, if not inevitable, that in this community white registrars will give greater weight to the sponsorship by white persons than to the sponsorship by Negroes.

6. The supporting witness requirement in
Sumter County is unconstitutional

In a racially segregated community where almost all the voters are white and very few are Negroes, it violates the Fifteenth Amendment to require prospective voters to produce a supporting witness who is a registered voter. This is the fact of Sumter County. The violation would not be cured even if there were as many Negro voters as there were white voters, because applicants who would obtain white supporting witnesses would invariably stand a better chance to become registered to vote.

VI.

THE DEVELOPMENT OF THE USE OF THE APPLICATION FORM AS A MEANS OF RESTRICTING NEGRO REGISTRATION.

Less than 5% of the Negroes of voting age are registered in Sumter County. For many years Negroes apparently failed to seek to register to vote for only four Negroes were registered from 1932 to 1950. In 1954 after the cumulated poll tax was abolished about 250 Negroes applied in the first five months of that year and the majority of these Negroes were registered. Following May 1954 the registration of Negroes reverted to a very few each year until 1962 when the attempts of Negroes to register began to show a marked increase.^{30/}

We have already seen how Negroes for many years in order to register had to have the approval of a registered white voter. During these same years Negro applicants also had to have the favor of the registrar. After the registrars began to allow Negroes to vouch for Negroes, the Board then found new methods to restrict the registration of Negroes. The Board began to use the application form as a strict examination or test. By disregarding the obvious qualifications of the Negro applicants and by focusing on formal, technical and inconsequential errors and omissions control of Negro registration was maintained.

White persons on the other hand have faced no such restrictions in obtaining the franchise in Sumter County.

^{30/} See Chart 3, p. 13.

A. White Persons Were Registered
Under Lax and Reasonable Standards

White persons have freely registered from at least January 1954 to June 1963. Virtually no white applicants were rejected during this period. Of the 1,287 white applicants only four or 0.3% were rejected.^{31/} The only qualifications applied to white persons were that they be old enough and live in the county and state long enough.^{32/}

Literacy was not a requirement for registration to vote for white persons. George Dennis, a white person, applied and was registered on April 21, 1958 (Pl. Ex. 3-837). He was born in 1904 and has a 5th grade education. He went to the registrar's office and was given an application form. A member of the Board of Revenue asked Dennis questions and filled out his form for him. Dennis testified that he cannot read and write too good, that he doubted that he could read the application form - and that he could not understand words on the form. He also testified that his eyes were weak. (Tr. pp. 184 to 187, 190).

J. B. Galloway, a white registrant, applied and was registered on April 19, 1954 (Pl. Ex. 3-526). He was born in 1903, is a logging contractor and has a second grade education. He testified he could not read or write good.

^{31/} See Table C attached.

^{32/} Occasionally the Board did not apply these qualifications strictly. Jimmy Brown, white, applied in 11-1-55 (Pl. Ex. 3-597) and was registered even though he did not meet the two year requirement for residence in the state. His name was placed on the registration book for 11-1-55 (Pl. Ex. 7-48) and written on his application is: "Will have been in county 2 years May '56 no certificate issued that date."

He signed his name in several places and the rest of his form was filled out by Roy Smith, a white person. (Tr. pp. 207 to 208).

Other white witnesses likewise testified that their forms were filled out by someone else.^{33/}

Analysis of the accepted application forms filed by white persons reveal that other white applicants encountered similar experiences. From 1954 to 1963 more than sixty application forms of white applicants were filled out entirely or substantially by a person other than the applicant.^{34/} Many of these were filled out by the registrars themselves.

The registrars presumed that the white applicants embraced the duties and obligations of citizenship. They knew the applicants were loyal and that they were qualified for registration. The registrars did not reject them for failing to answer or incorrectly answering one or more of the questions on the application form relating to the applicant's embracing of the duties and obligations of citizenship and loyalty.^{35/} From January 1954 to June 1963 at least 206 white registrants failed

33/ See Wynn Holley, 5th grade education, Pl. Ex. 3-232, Tr. p. 64; Lue Ada Wright, 7th grade education, Pl. Ex. 3-69, Tr. p. 84; Earl Stallings, 8th grade education, Pl. Ex. 3-16, Tr. p. 101; and Mrs. Wynn Holley, 5th grade education, Pl. Ex. 3-165, Tr. p. 145.

34/ See Table D, Part I, for a list of the application forms filed by white registrants which have four or more questions filled out by someone other than the applicant.

35/ These questions are numbered 15 through 20(a) on page I-B of the blank application form following page 6 of this brief. They deal with defending the constitutions, affiliation with groups advocating the overthrow of the government, bearing arms for the country, believing in the free elections and rule of the majority, giving aid and comfort to the enemies, naming the duties and obligations of citizenship and the priorities of these duties and obligations over those owed to any other secular organization.

to answer or answered incorrectly one or more of these questions.^{36/}

The registrars also presumed that the white applicants were of good character and that they did not possess any disqualifications. From January 1954 to June 1963 at least 118 white registrants failed to answer one or more of the questions which ask for personal information about the applicant.^{37/} When the information was essential in registering white applicants the registrars saw to it that it was placed on the application forms.

Thus, many applications of white registrants have all or part of the question relating to the applicants' dates of residence in state and county filled out by someone other than the applicant. Tom Shaw, a white person with a sixth grade education, testified this question was answered by someone else on his application form (Tr. p. 313).^{38/} Other applications of white applicants have information sought in the first question relating to date of birth, place of birth and address of the applicant filled out in part by someone other than the applicant.^{39/}

Thus, it is apparent that from January 1954 to June 1963 the registrars registered white applicants under fair and reasonable requirements.

^{36/} See Table D, Part I. These applicants are listed chronologically in this table and the number of these questions not answered or answered incorrectly are listed under Column "A".

^{37/} See Table D, Part I. These applicants are listed chronologically in this table, and the number of these questions not answered or answered incorrectly are listed under Column "B".

^{38/} For other examples of this question being filled out by someone else see the following applications of white registrants: Pl. Ex. 3-974, 1143, 1213, 1145, 979, 798, 781, 782, 970, 858, 830, 821, 844, 1028, 1005, 1050, 1202, 1201, 1305, 1095, 1169, 266, 1134, 1059, 999, 967, 748, 847, and 788.

^{39/} See for example the following applications of white registrants: Pl. Ex. 3-1173, 896, 1054, 104, 538, 537, 78, 243, 397, 444, 803, 948, 1148, 667, 1153, 1110, 431, 309, 1162, 494, and 934.

B. Qualified Negro Applicants Were Denied
Registration Arbitrarily

We have already seen that Negro applicants were required for many years to have the signature of a white voucher in order to become registered to vote. In addition, Negro applicants from at least 1954 to June 1963 had to also have the personal approval of the registrars in order to be registered. It is apparent that Negro applicants were not all treated similarly during this period.

Many of the Negroes who applied in 1954 and some who applied from 1955 to 1963 met the registrars' favor and they were registered under the same requirements and procedures under which white applicants were registered. These Negro applicants were also registered with errors and omissions on their forms,^{40/} and a few even had their applications completely or substantially filled out by someone else, including by the registrar.^{41/} Simon Hill, a Negro, was registered on the date he applied, January 18, 1954 (Pl. Ex. 1-34). He is 68 years old and has lived in Sumter County all his life. He is a farmer and owns 80

^{40/} See Table D, Part I. From January 1, 1954 to June 1963, 88 Negro registrants failed to answer or answered incorrectly one or more of the questions relating to embracing the duties and obligations of citizenship and loyalty and 53 Negro registrants failed to answer one or more of the questions seeking personal information about the applicant.

^{41/} See Table D, Part I. During 1954 at least 14 Negro registrants had four or more questions filled out on their application forms by persons other than the applicants. Contrary to the white registrants this degree of assistance does not appear on Negro applications after 1954.

acres. He has never gone to school and cannot read or write (Tr. p. 192). When he applied the Sheriff and Tax Collector filled out his application for him and signed as his voucher.

Atlas Campbell, a Negro, applied several days later on February 1, 1954, and he encountered a different experience (Pl. Ex. 2-37). He owns 100 acres of land which he farms in Sumter County. His application shows he has lived in Sumter County since his birth in 1908, has completed the 8th grade and has never been convicted of a disqualifying offense. Frank Bullock, Jr., a white voter, signed Campbell's form as his voucher. Although Campbell's application shows him to be qualified for registration the Board rejected him. "Unsatisfactory" is written at the top of his application form. Campbell testified that he never heard from the Board about his application (Tr. p. 291). On the same day Campbell was rejected substantial portions of the application forms of one white registrant and three Negro registrants were filled out by someone other than the applicant.^{42/} Despite the fact that Campbell met the requirements for registration the registrars would not register him.^{43/}

^{42/} See Table D, Part I.

^{43/} The few errors appearing on Campbell's form cannot be the reason for his rejection. On this same day 13 white registrants failed to answer correctly a total of 20 questions on their forms and 18 Negro registrants failed to answer correctly a total of 23 questions on their forms. See Table D, Part I. A question mark appears on Campbell's form near the duties and obligations of citizenship which he listed - "farming." John Sims, a white person applied on 3-15-54 and was registered. He listed "Rail Road and Farming" as his duties and obligations of citizenship. (Pl. Ex. 3-443).

Joe F. Martin, a Negro (Pl. Ex. 2-105) applied for registration to vote on December 7, 1955. He was born in Sumter County on August 28, 1934 and states on his application he has been a resident of Sumter County since his birth on August 28, 1934. Martin's application form shows he is a high school graduate, has served in the Army two years, and that he possesses none of the disqualifications for registration. W. E. Walker, a white service station operator in Livingston, signed as Martin's voucher. The registration books show that Martin was not registered and written at the top of page one on Martin's form is "Unsatisfactory." On November 15, 1955 a white registrant's application was filled out by someone other than the applicant (Pl. Ex. 3-604). Other white persons applying in November 1955 and January 1956 made the same errors as Martin and were registered (Pl. Ex.'s 3-618, 3-619 and 3-631).

On March 7, 1955 Ennis Moton, a Negro, applied and was rejected (Pl. Ex. 2-116). He has lived in Sumter County since his birth in 1900. He is a farmer and has a tenth grade education and has never been convicted of a disqualifying offense. Joe Bates, a white voter, signed his form as Moton's voucher. Moton's form shows him to be well qualified for registration. Still he was rejected and registrar Tartt wrote at the top of his application: "Failed to fill out 7 questions correctly." The errors are marked on Moton's form and are the same as those found on accepted applications filed by white and Negro applicants from 1954 to 1963. It is apparent that the omissions were

not the reason for this rejection, but rather it was the Board's desire not to register this Negro applicant. On the preceding registration day the application form of a white registrant was filled out by another person (Pl. Ex. 3-580).

Margaret Brown, a Negro, testified that she applied for registration to vote for the first time in about 1957 (Tr. p. 300). Her application form shows her to be well qualified for registration. (Pl. Ex. 2-34). She has lived in Sumter County since her birth in 1918, has an 11th grade education and is employed as a maid at the state teachers college at Livingston. Sally Godfrey, a white person employed as a clerk in the Tax Assessor's office, signed as Brown's voucher attesting to Brown's residence in the county and that she was qualified for registration. Still Brown was rejected and the word "incomplete" was written at the top of her application form. Brown testified that she was merely given the application form and told to fill it out, that she was given no other instructions. (Tr. pp. 302, 303). A copy of the application form filed by Brown on this date follows this page: ^{b4/}~~page:~~

b4/ Page three of Brown's application form is not filled out but portions of this page have been completed by the registrar for other applicants. See Pl. Ex.'s: 3-51, 3-557, 3-567, 3-634, 3-988, 3-1033, 3-1091, 3-1106, 3-1109, 3-1236, 3-1245, 3-3, 3-36, 3-571, 3-749, 3-905, 3-1117, 3-1168, 3-1171, 3-1183, 3-1185, 3-1191, 3-1194, and 3-1199.

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Margaret Campbell Brown do hereby apply to the Board of Registrars of
Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State
of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Margaret C. Brown
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Margaret C. Brown
Sum April 19, 1918 Livingston, Ala.
P. O. Box 513

2. Are you married or single: Single (a) If married, give name, residence and place of birth of your husband or wife, as the
case may be:

3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which
you have been known during the last five years: Livingston, Alabama
Margaret Brown

4. If you are self-employed, state the nature of your business:

(a) If you have been employed by another during the last five years state the nature of your employment and the name
or names of such employer or employers and his or their addresses: maid
State Teachers College, Livingston, Ala.

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such
bona fide resident: 4/19/1918 (a) When did you become a bona fide resident of Sumter
County: 4/19/1918 (b) When did you become a bona fide resident of 7 Ward or precinct

6. If you intend to change your place of residence prior to the next general election, state the facts: X

7. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts:

8. Has your name been previously stricken from the list of persons registered: no

9. Are you now or have you ever been a dope addict or an habitual drunkard: no (a) If you are or have been a dope
addict or an habitual drunkard, explain as fully as you can:

10. Have you ever been legally declared insane: no (a) If so, give details: _____
11. Give a brief statement of the extent of your education and business experience: I completed the 11th grade in High School. I have worked for 15 years as a mail
12. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: no (a) If so, give the facts: _____
13. Have you ever served in the Armed Forces of the United States Government: no (a) If so, state when and for approximately how long: _____
14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: no (a) If so, state the facts: _____
15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: no (a) If so, state the facts: _____
17. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
18. Do you believe in free elections and rule by the majority: yes
19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no
20. Name some of the duties and obligations of citizenship: Honesty, Obedience to all Laws of our Country
- (a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: yes
21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: Mrs R. A. Allison, Livingston, Ala.
Mr. W. J. Mellen, Livingston, Ala.

OATH

STATE OF ALABAMA

COUNTY

Before me, _____, a register in and for said county and state, personally appeared

_____, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocates or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA

COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

(Full name of applicant)

_____, an applicant for registration who being by me,

(Any member present may administer oath)

_____, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

1. I was previously registered in the following State and County in the year named _____

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

2. I have never been convicted of any offense disqualifying me from registration.
(Board should call applicant's attention to Section 174, Constitution, and Title 17, Section 12, Code of Alabama 1901. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless duly pardoned and sworn to for reinstatement.)

3. My present place of employment is _____

4. I know of nothing that would disqualify me from being registered at this time.

WITNESSES

(Signed)

ACTION OF THE BOARD

STATE OF ALABAMA

COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____

(Name of Applicant)

who executed the foregoing Application in the matter and form therein stated. The Board having further examined said applicant under oath, testing his qualifications under Section 141, Constitution of Alabama, 1901, as amended, and having duly considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath of assent, adjudge said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____

Chairman

(Signed) _____

Member

(Signed) _____

Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA

COUNTY

Before the County Board of Registrars in and for said State and County personally appeared _____

Margaret Campbell Brown, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Lacey P. Godfrey, My occupation is Clerk, I reside at Livingston, Ala., My place of business or employment is at Gov. Benson's office. The name of my employer is Gov. L. B. Slaton. I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant Margaret C. Brown for 15 years (or months). He is a bona fide resident at Livingston, Ala. and to my knowledge has resided there for the past 15 years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) _____

Lacey P. Godfrey

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

19____

(Signed) _____

Member of the Board

Note: This application (blank, when duly executed, on the first registration of the "list" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, where it is to be kept in a safe place and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1901.

Susie Gulley, a Negro, shows by the application she filed on April 21, 1958 that she possesses the qualifications for registration to vote. (Pl. Ex. 2-59) She shows that she was born in 1909 and that she has lived in Sumter County for at least five years and probably all her life. She has a 7th grade education and possesses none of the disqualifications for registration. Jack Gregory, a white person, signed as her voucher. Still she was rejected and "Incomplete" was written at the top of her form. Betty Wells, a white person, also applied on this same day and was registered although her form is no more "complete" than is Gulley's form.^{45/}

Ora D. Isaac, a Negro, applied on October 6, 1961. (Pl. Ex. 2-75) Her application form shows her to be qualified. She was born in 1911 and has lived in Sumter County since at least 1926. She possesses none of the disqualifications for registration. Tom Beville, a Negro, signed her form as her voucher. Still her application form was rejected and no notation was made on her form about the rejection.^{46/}

^{45/} Gulley failed to answer the question relating to the priority of the duties and obligations of citizenship she had listed. She also answered Q5, the residence question improperly, but it is apparent from other answers that she meets the residence requirements.

Wells failed to answer Q20 (list duties and obligations of citizenship), Q11 (give education and business experience) and Q21 (list two references). Other portions of the Questionnaire on her form appear to have been filled out by Registrar Tartt.

^{46/} Three white applicants applying within a week of Isaac had one or more questions on their forms filled out by another person. See Table D, Part I.

Victoria Thomas, a Negro, applied for registration on April 16, 1962 and was registered to vote. (Pl. Ex. 1-264) She was born in 1906 and is a substitute teacher. The Probate Judge, Wilbur Dearman, vouched for her. She failed to fill out correctly a substantial portion of her application form. She failed to answer the questions relating to whether her name had ever been stricken from the list of persons registered, whether she had ever been a dope addict or drunkard, what her education and business experience had been and she failed to list two references. She also failed to answer the questions relating to giving aid to the enemies and relating to the priority of the duties and obligations of citizenship she had listed. Registrar Tartt wrote on her application - "Not filled in properly but passed."

Other Negro applicants during this same period submitted application forms showing they were well qualified and had a white voucher sign their forms but still were rejected.^{47/} These Negro applicants can only have been rejected because the registrars preferred not to register them, certainly not because they failed to meet the requirements under which all of the white applicants and some of the Negro applicants were being registered.

^{47/} See the application forms of Alonzo Rice (Pl. Ex. 2-124; 2-1-54); Henry Richardson (Pl. Ex. 2-129; 2-1-54); Wiley Stanton (Pl. Ex. 2-133; 2-7-55; Wilbert Burton (Pl. Ex. 2-36; 10-18-54); William Beville (Pl. Ex. 2-15; 11-8-54); Coralee Beville (Pl. Ex. 2-6; 11-15-54); Willie Rice (Pl. Ex. 2-128; 11-8-54); Eldora Branch (Pl. Ex. 2-25; 11-15-54); Sallie Wabington (Pl. Ex. 2-145; 12-6-54); Jim Branch (Pl. Ex. 2-27; 10-6-61); Emmet James (Pl. Ex. 2-79; 1-25-54); William Jordon (Pl. Ex. 2-90; 1-25-54); Fred D. Howze (Pl. Ex. 2-72; 2-1-54); Jim Branch, Jr. (Pl. Ex. 2-29; undated); John Houston (Pl. Ex. 2-71; undated); and Charlie E. Swain (Pl. Ex. 2-134; undated).

C. The Present Registrars Rejected Qualified Negroes By Using The Application Form As A Strict Test

Registrars Hines and Holman took office in June 1963. The third member, Ruby Tarrt, has been serving as a registrar continuously since 1954. The Board of Registrars met in June 1963 and agreed that the Board would require as a prerequisite to registration that all applicants give what the Board considered as a reasonable answer to all questions on the form and furnish a supporting witness (Tr. pp. 322, 323, and 340). When the Board adopted this new and more strict requirement it was obvious that many qualified applicants would be rejected for many of the applicants who had been registered since 1954 had failed to give an answer to all questions. The registrars also knew that practically all eligible white persons were registered to vote while only very few eligible Negroes were registered.

From June through August the Board rejected fourteen of the seventeen Negroes who applied and rejected only one out of the nineteen white applicants. From June 1963 until the Board began to use the new application form on February 17, 1964 the Board rejected 22 out of 36 Negro applicants or 61% of those who applied. During the same period the Board rejected 11 out of 141 white applicants or 8% of those who applied.

The registrars began to use the application form as a strict test in order to restrict the registration of Negro applicants. This is illustrated by the unreasonable manner in which they have applied this "test" to Negro applicants.

Janie Mason has been a Negro school teacher in Sumter County for 33 years. She has lived in Sumter County all her life, since 1911, and owns property in the county. She applied for registration on July 2, 1963 and was rejected even though her application form shows her to be highly qualified for registration to vote. (Pl. Ex. No. 2-109) A copy of her application form follows this page. She testified that when she applied she was given an application form and that after she had filled it out she returned it to the registrars who looked it over. The registrars said nothing to her and did not administer the Oath to her or tell her where to sign her form. She heard nothing from the application. (Tr. p. 108) The registrars rejected her application form because it was "Incomplete and answer un-acceptable".

The answer the Board is referring to was to the question: "Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama": Mason's answer was: "I will do all in my power." There can be no reasonable doubt that Mason is a loyal citizen. Not only does she hold an important position in her community, but she answered all the other questions concerning her loyalty correctly including her answer to the question whether she will bear arms for her country: "Yes - I will do all I can if called upon because I am a loyal citizen of the U.S.A." Registrar Hines explained this rejection:

Q. The Board considers her answer unreasonable?

A. That's right, and she would give aid and comfort to the enemies of the United States Government and the Government of Alabama, I would do all in my power.

① 7/2/63 - incomplete + Answer on - acceptable

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Janie Winston Mason do hereby apply to the Board of Registrars of Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Janie Winston Mason
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Janie Winston Mason
Born in Sumter County near Lenoirville
Ala. May 7, 1911

2. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts: _____

3. Has your name been previously stricken from the list of persons registered: no

4. Are you now or have you ever been a dope addict or an habitual drunkard: no (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can: X

5. Have you ever been legally declared insane: no (a) If so, give details: X

6. Give a brief statement of the extent of your education and business experience:

I am a Sumter County Negro Teacher
I hold a B. S. Degree from Alabama State
College, Montgomery, Ala. I am employed by the State

7. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: no (a) If so, give the facts: X

8. Have you ever served in the Armed Forces of the United States Government: no (a) If so, state when and for approximately how long: X

9. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: no (a) If so, state the facts: X

10. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes

11. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: no (a) If so, state the facts: _____

12. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons:

I will do so if I am called upon
because I am a legal citizen of the State

13. Do you believe in free elections and rule by the majority: yes

14. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:

+ I will do all in my power.

15. Name some of the duties and obligations of citizenship:

I believe some of the duties of a citizen is to be loyal, truthful, clean, patriotic and do all in his power to support the laws of his country, etc. & party.

(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: Yes

16. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you:

Mrs. Mary Roberts, Gainesville, Ala
Mrs. Elizabeth Murray Gainesville, Ala
Mr. James R. Weatherly, York, Ala.

17. Are you married or single: married If married, give name, residence and place of birth of your husband or wife, as the case may be:

John H. Mason, Heiger, Ala
Place of birth Sumter Co. Jan 3, 1917
Is the parent of Tom & Katie Giles

18. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years:

I have been where I am all my life. I have taught at Gainesville Jr High since 1955

19. If you are self-employed, state the nature of your business:

I am employed by the Sumter Co. Board of Education

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

I have only had one job all my life. I have taught 33 years for the County Board of Education

20. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: When I became (b) When did you become a bona fide resident of Gainesville 1911

County: Sumter (b) When did you become a bona fide resident of _____ Ward or precinct

21. If you intend to change your place of residence prior to the next general election, state the facts:

I plan to remain at Gainesville, Ala

STATE OF ALABAMA Sumter COUNTY

OATH

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as

an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Sumter COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

Janie Winston Mason
(Full name of applicant)

, an applicant for registration who being by me,

_____, a member of said Board, first duly sworn as follows: "I do solemnly

swear (or affirm) that in the matter of the application of Janie Winston Mason for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Janie Winston Mason and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

1. I was previously registered in the following State and County in the years named Never have been registered
(If applicant has never been registered in Alabama or any other state, he should so indicate.)

2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 18, Code of Alabama 1906. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and "right to vote restored.")

I have never been registered and I trust this application
Sumter County Board of Education

3. My present place of employment is

4. I know of nothing that would disqualify me from being registered at this time. I am hoping that I can become a qualified voter for my Co.

REMARKS



(Signed) _____
(Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____.

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____ (Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, trusting his qualifications under Section 124, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudge said applicant entitled to be registered and he was duly registered on this the _____ day of _____ 19____, in _____ precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) _____ Member

(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA COUNTY

Before the County Board of Registrars in and for said State and County personally appeared _____

who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____ My occupation is _____ I reside at _____

My place of business or employment is at _____

The name of my employer is _____ I am a duly registered, qualified elector in _____

precinct (or ward), in _____ County in the State of Alabama. I have known the applicant

_____ (Give Applicant's name) for 30 years (or months). He is a bona fide resident at _____

and to my knowledge has resided thereat for the past 30 years (or

months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) _____

Sworn to and subscribed before me in the presence of the Board of Registrars this _____ day of _____,

1963

(Signed) _____ (Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "list" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 124, Code of Alabama, 1940.

Q. That is the way the Board interpreted that answer?

A. Yes, sir, she would do everything in her power to help them. Whether she meant that or not, I couldn't be the judge of how she meant it.

The registrars, including Tarrt, had little doubt over the loyalty of the many applicants registered before 1963 who had even answered this same question "Yes."^{48/} to now attempt to justify Mason's rejection on the grounds that her loyalty is in doubt shows the extent to which the Board will apply the application as a test in order to reject qualified Negro applicants.^{49/}

^{48/} See the following application forms filed by white registrants on which the question relating to giving aid and comfort to the enemies is answered - "yes": Pl.Ex's. 3-10, 3-21, 3-26, 3-61, 3-106, 3-140, 3-145, 3-147, 3-190, 3-205, 3-255, 3-393, 3-497, 3-512, 3-712, 3-736, 3-737, 3-817, 3-937, 3-981, 3-1124, 3-1133, 3-1197, 3-1200, and 3-1283.

^{49/} Even the Board's attorney, Circuit Solicitor Boggs, agrees this is a "tricky question." (Tr. 343)

Jack V. Powell, a Negro, applied on July 2, 1963 and his application was rejected for highly technical omissions (Pl. Ex. 2-112). A copy of this application form follows this page. He is a high school English and Music teacher in Sumter County where he has lived all of his life. Powell is 28 years old and has completed five years of college. His application form shows that he is well qualified for registration to vote. The Registrar wrote "Incomplete" at the top of his application and marked the portions regarded incomplete. He was rejected because he failed to state the date he became a resident in the county and precinct. Yet, Powell states under "Remarks" on page three of his form that he has been living in Sumter County for 27 years and Livingston for 15 years; his support-witness states Powell has lived in Livingston for 15 years; and Powell states in answer to Q15 he has lived in Livingston for at least five years. The registrar also marked Q18 which requires no response by the applicant. The registrar next checked "My name is ..." in the Supplemental Application on page three. Powells' name appears six other places on the form, including his signatures to the Supplemental Application. The registrar then checked Q1 of the Supplemental Application although it is evident elsewhere on the form that Powell has never been registered before.

Powell has lived in the County all his life and states in answer to Q19 that he has not previously applied for and been denied registration as a voter; and in answer to Q20 that his name has never been stricken from the list of registered voters. Finally, Q2 of the Supplemental Application is marked. Yet, Powell states in answer to Q4

of the Questionnaire that he has not been convicted or charged with a disqualifying offense. Further, Q2 places the burden on the registrar to ascertain these facts about convictions (see fine print under Q2). This rejection is totally arbitrary and again illustrates the extent to which the registrars will use the form as a test to reject qualified Negroes. Powell's acceptance on a subsequent application only confirms his qualifications for registration. (Pl. Ex. 1-282) A copy of this rejected form follows this page.

The rejection of William L. Williams, a Negro, shows how arbitrary the Board is with qualified elderly Negroes who are to find the form difficult to complete perfectly. (Pl. Ex. 2-149). Williams, is 77 years old and has a 12th grade education. He has lived in Sumter County for 33 years. He applied in about August 1963 (Tr. p. 137, 138) The registrar noted on Williams' form that it was "incomplete", and marked where Williams failed to give certain information about his wife in answer to Q19(a) and failed to answer parts of the Supplemental Application. A copy of this application form follows this page.

① Incomplete

7/2/63

② Come back make at
new form & send
a certificate

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Jack Vaughan Powell do hereby apply to the Board of Registrars of
Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State
of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Jack V. Powell
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Jack V. Powell
3/12/36 Udo, Ala, Box 482 Livingston
Alabama
2. Have you ever been legally declared insane: NO (a) If so, give details: _____
3. Give a brief statement of the extent of your education and business experience:
12 years in Public School, approximately
5 years in College's Public School
Teacher
4. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: NO (a) If so, give the facts: _____
5. Have you ever served in the Armed Forces of the United States Government: NO (a) If so, state when and for approximately how long: _____
6. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: NO (a) If so, state the facts: _____
7. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: Yes
8. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: NO (a) If so, state the facts: _____
9. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
10. Do you believe in free elections and rule by the majority: yes
11. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: NO

12. Name some of the duties and obligations of citizenship: 1. Obey and respect the laws of the gov. 2. Loyal to one's Country. 3. Contribute to Country what is available and possible

(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: Yes

13. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: Attorney B. B. Church, Livingston
also, Attorney Powell Jr. & Son, Livingston,
Alabama

14. Are you married or single: Single (a) If married, give name, residence and place of birth of your husband or wife, as the case may be:

15. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Livingston, also,
Jack Vaughan Powell

16. If you are self-employed, state the nature of your business:

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Public School

Teacher, Santa County Board of
Education, Mr. E. W. Mellum

✓ 17. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 3/10/36 (a) When did you become a bona fide resident of Livingston

✓ Santa County: (b) When did you become a bona fide resident of _____ Ward or precinct

✓ 18. If you intend to change your place of residence prior to the next general election, state the facts:

19. Have you previously applied for and been denied registration as a voter: No (a) If so, give the facts:

20. Has your name been previously stricken from the list of persons registered: No

21. Are you now or have you ever been a dope addict or an habitual drunkard: No (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can:

STATE OF ALABAMA Sumter COUNTY OATH

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as

an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Sumter COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

Jack Vaughan Powell, an applicant for registration who being by me,
(Full name of applicant)

_____, a member of said Board, first duly sworn as follows: "I do solemnly

(Any member present may administer oath)
swear (or affirm) that in the matter of the application of _____
for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

✓ My name is ✓ _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

✓ 1. I was previously registered in the following State and County in the years named _____

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

✓ 2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 122, Constitution, and Title 17, Section 12, Code of Alabama 1901. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

3. My present place of employment is Sumter Co Bd of Ed.

4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

I've been living in Sumter County for 27 years and a Residence of 15 yrs for 15 yrs

(Signed) Jack V. Powell
(Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____ (Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudge said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) _____ Member

(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

_____, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Cora H. M. Ghee, My occupation is Teaching, I reside at Livingston, My place of business or employment is at Livingston, Ala
The name of my employer is Bd. of Education I am a duly registered, qualified elector in _____ precinct (or ward) in Kellyton, Cora County in the State of Alabama. I have known the applicant Jack V. Powell for 15 years (or months). He is a bona fide resident at Livingston and to my knowledge has resided thereat for the past 15 years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) Cora Howard M. Ghee

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19_____.

(Signed) _____ (Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "Note" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1901.

du cum 165

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, William L. Williams do hereby apply to the Board of Registrars of
Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State
of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

William L. Williams
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Gork
Butler Ala Feb 22 1887 It is Corn
2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such
bona fide resident: Feb 22, 1887 (a) When did you become a bona fide resident of Sumter
County: 23 years (b) When did you become a bona fide resident of 6 Ward or precinct 33 years
3. If you intend to change your place of residence prior to the next general election, state the facts: _____
4. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts: _____
5. Has your name been previously stricken from the list of persons registered: no
6. Are you now or have you ever been a dope addict or an habitual drunkard: no (a) If you are or have been a dope
addict or an habitual drunkard, explain as fully as you can: _____
7. Have you ever been legally declared insane: no (a) If so, give details: _____
8. Give a brief statement of the extent of your education and business experience:
I am a 12 grade I Ben Secretary of the Church
9. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: no (a) If so,
give the facts: _____
10. Have you ever served in the Armed Forces of the United States Government: no (a) If so, state when and for approxi-
mately how long: _____
11. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces
of the United States, or of any other country: no (a) If so, state the facts: _____
12. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes

13. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: No (a) If so, state the facts:

14. Will you bear arms for your country when called upon by it to do so: Yes (a) If you answer no, give reasons:

15. Do you believe in free elections and rule by the majority: Yes

16. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: I will not

17. Name some of the duties and obligations of citizenship: Be honest, Don't Lie, Don't Lie, Treat Everybody Right and attend to Your Business and Don't meddle no Body

(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: Yes

18. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: Lehas E. Swain, York Ala
Route 11, Drummonds, York Ala

19. Are you married or single: married (a) If married, give name, residence and place of birth of your husband or wife, as the case may be:

20. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: York Ala

21. If you are self-employed, state the nature of your business: Cosmetic and medicine

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

O A T H

STATE OF ALABAMA _____ COUNTY

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

_____, an applicant for registration who being by me,
(Full name of applicant)

_____, a member of said Board, first duly sworn as follows: "I do solemnly
(Any member present may administer oath)
swear (or affirm) that in the matter of the application of _____
for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

✓ My name is _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

✓ 1. I was previously registered in the following State and County in the years named _____

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

✓ 2. I have never been convicted of any offense disqualifying me from registering.
(Board should call applicant's attention to Section 102, Constitution, and Title 17, Section 18, Code of Alabama 1901. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

✓ 3. My present place of employment is _____

✓ 4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

(Signed) _____

(Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____.

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____ (Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) _____ Member

(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

Charlie Brown Jackson
(Name of Witness)

_____, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Charlie Brown Jackson, My occupation is Retired, I reside at 2101 K Ala, My place of business or employment is at _____

The name of my employer is _____ I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant

William L. Williams for 21 years (or months). He is a bona fide resident at
(Give Applicant's name)

2101 K Ala and to my knowledge has resided thereat for the past 2 years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

None

(Signed) Charlie Brown Jackson

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

(Signed) _____ (Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1901.

Mary Jane Moore, a Negro, applied in about August 1963 (Tr. p. 138; Pl. Ex. 2-115). She is 54 years old and has lived in Sumter County all her life. She has an 11th grade education and she and her husband own a house and three lots in Sumter County. Her application form shows that she is well qualified for registration to vote. When she was registered to vote the registrars gave her an application form and gave her no instructions except not to talk with the other Negroes who were with her. She was not administered an Oath or told where to sign her name on her application.^{50/} She never heard from her application (Tr. pp. 138, 142). The registrar wrote "Incomplete" on her application form and rejected it for inconsequential omissions. A copy of Moore's application form follows this page.

^{50/} Louise Swain (Pl. Ex. 2-135) and William L. Williams (see above) applied with Moore. None of these applicants filled out any portion of the oaths on page three of their forms.

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

incomplete

I, Mary Jane Moore do hereby apply to the Board of Registrars of Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

Mary Jane Moore
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Mary Jane Moore
Date of birth Aug. 31st 1909 P.O. Box 283
York, Ala.
2. Has your name been previously stricken from the list of persons registered: no
3. Are you now or have you ever been a dope addict or an habitual drunkard: no (a) If you are or have been a dope addict or an habitual drunkard, explain as fully as you can: _____
4. Have you ever been legally declared insane: no (a) If so, give details: _____
5. Give a brief statement of the extent of your education and business experience: Finished 11th grade. Maid in Dress Shop
York, Ala.
6. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude: no (a) If so, give the facts: _____
7. Have you ever served in the Armed Forces of the United States Government: no (a) If so, state when and for approximately how long: _____
8. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country: no (a) If so, state the facts: _____
9. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
10. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means: no (a) If so, state the facts: _____
11. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
12. Do you believe in free elections and rule by the majority: yes

13. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:

no

14. Name some of the duties and obligations of citizenship:

Defend the Constitution
of the united states, and the Constitution
of Alabama

(a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict: yes

15. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you: Charlie E. Smain, P.O. Box 283 York, Ala.

Robert H. Shummond, York, Ala.

16. Are you married or single: MARRIED If married, give name, residence and place of birth of your husband or wife, as the case may be: Donell Moore, place of birth, York, Ala.

17. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Mary Jane Moore

York, Ala

18. If you are self-employed, state the nature of your business:

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

19. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Aug 31st 1969 (a) When did you become a bona fide resident of Sydney

County: Aug 31st 1969 (b) When did you become a bona fide resident of 3rd Ward Ward or precinct 101

20. If you intend to change your place of residence prior to the next general election, state the facts:

21. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts:

O A T H

STATE OF ALABAMA _____ COUNTY

Before me, _____, a registrar in and for said county and state, personally appeared

_____, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

Member of the Board of Registrars for _____ County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

_____, an applicant for registration who being by me,
(Full name of applicant)

_____, a member of said Board, first duly sworn as follows: "I do solemnly
(Any member present may administer oath)
swear (or affirm) that in the matter of the application of _____
for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

✓ 1. I was previously registered in the following State and County in the years named _____

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

✓ 2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 122, Constitution, and Title 17, Section 15, Code of Alabama 1901. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

✓ 3. My present place of employment is _____

✓ 4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

(Signed) _____ (Name of Applicant)

Sworn to and subscribed before me this the _____ day of _____, 19____.

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____ (Name of Applicant) who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, testing his qualifications under Section 151, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudge said applicant entitled to be registered and he was duly registered on this the _____ day of _____ 19____ in _____ precinct (or ward) in said county.

(Signed) _____ Chairman
(Signed) _____ Member
(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA COUNTY

Before the County Board of Registrars in and for said State and County personally appeared _____ who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Charlie Evans Swain, My occupation is Retired, I reside at York Ala

The name of my employer is _____ I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant Mary Jane Moore for 53 years (or months). He is a bona fide resident at York Ala (Give Applicant's name)

_____ and to my knowledge has resided theret for the past 2 years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

None

(Signed) Charlie Evans Swain
Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____ 19____

(Signed) _____ (Member of the Board)

(Note: This application blank, when duly executed, or the final preparation of the "list" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 151, Code of Alabama, 1901.)

If the registrars intended to register all qualified Negro applicants these applicants would not have been rejected. Instead the registrars adopted the use of the application form as an arbitrarily and unreasonable examination. They knew that this would result in the rejection of qualified Negro applicants when they established the requirements and they were aware that this had been the result when they rejected these applicants. Their persistence in this unreasonable use of the application form confirms that their purpose is to restrict and discourage registration by Negroes. This is more evident in viewing the way in which the registrars had used the new application form since February 1964.

VII

THE DEFENDANTS HAVE DISCRIMINATED AGAINST NEGROES BY ADOPTING IN FEBRUARY 1964 MORE DIFFICULT TESTS AS PREREQUISITES FOR REGISTRATION

A. Qualified Negroes Are Now Denied Registration Under New More Difficult Tests

On February 17, 1964, the defendants began to use a new application form.^{51/} The new form consists of five pages and six parts.^{52/}

The major departure from the old form and the former procedure is in Part III. The applicant is required to answer four questions on government; he is required to read aloud from a section of the United States Constitution; and he is required to write excerpts from the Constitution. The contents of these tests are changed each month.^{53/}

^{51/} This form was prescribed and promulgated by the Supreme Court of Alabama. The previous application form had been in use since about 1952. Copies of the old application form and the new application form are set forth at the beginning of the Tables attached to this Brief immediately preceding page A-1.

^{52/} Part I contains essential background information about the applicant and is to be filled out by the Board of Registrars. Part II contains questions eliciting personal and background information about the applicant. The applicant is to fill out this Part. Part III consists of three tests - the first of the applicant's knowledge of government, the second of the applicant's ability to read, and the third of the applicant's ability to write. Part IV contains the loyalty oath which is to be read and signed by the applicant. Part V is the Action of the Board. Part VI is the Examination of Supporting Witness.

^{53/} The Supplemental Order of the Supreme Court setting forth the contents of each test to be used is reproduced in Table E. It is in evidence as Plaintiff's Exhibit 35. A more detailed description of this Supplemental Order, including a list of all questions on government and all provisions of the Constitution, is set forth in the description of exhibits, Table B.

Since the initiation of the use of the new application form, the defendants have processed ten applications filed by Negroes, of which six were accepted and four rejected (40% rejected). During the same period, the defendants have processed thirteen applications filed by white persons, of which eleven were accepted and two rejected (15% rejected).^{54/}

CHART 4

ACCEPTED AND REJECTED APPLICATIONS OF WHITE AND NEGRO APPLICANTS

February 17, 1964 through April 20, 1964

<u>DATE</u>	<u>TOTAL APPLIED</u>		<u>ACCEPTED</u>		<u>REJECTED</u>	
	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
2-17-64 <u>W</u>	13		11		2	
through <u>N</u>		10		6		4
4-20-64 <u> </u>						

Even in this short period of time it is clear not only from these statistics but from a review of the applications themselves and a study of the testimony that the Board is using the new application as a strict examination to reject qualified Negroes.

^{54/} These two rejections are of doubtful significance. One was filed by a white man named "John Jim Jones" (Pl. Ex.47), where Part I was apparently filled in by registrar Tarrt and the remainder of the application was completely blank. This suggests that he either had no time or lacked substantive qualifications altogether. The second rejected application was filed by T. E. Mallory on February 17, 1964 (Pl. Ex.47), a man who is obviously literate. His handwriting is excellent and his answers to the Part II questions are correct. He signed the oath and obtained a supporting witness but apparently did not take the Part III tests. His application is marked "Incomplete - Returned & filled out another form." Indeed he did file another application on March 16 and was accepted (Pl. Ex.46).

Richard Wilson, Jr., a Negro, applied for registration on April 20, 1964. His application was rejected (Pl. Ex.43). Wilson is 28 years old. He has a high school education. He has resided in Sumter County since birth. He signed the oath and obtained a supporting witness.

His application shows that he possesses all of the qualifications to register to vote under state law. His answers to questions in Part II put his ability to read and write beyond any doubt. Nevertheless he was denied registration.

In the Part III tests in answer to the question: "How many stars are there in the United States Flag?", he stated, "48". In answer to the question: "What is the lawmaking body of Alabama called?", he stated "Responsentive." Defendant Hines, who is the Chairman of the Board, testified that these answers were by themselves a sufficient ground upon which to reject Wilson (Tr. 347). A copy of Wilson's application form follows on the next five pages.

Joe James Ward, a Negro, applied for registration on February 17, 1964. His application was rejected (Pl. Ex. 44). Ward is 32 years old. He has a high school education. He has resided in Sumter County since birth. He served in the Armed Forces for two years. He signed the loyalty oath and obtained a supporting witness. His application form shows him to possess all of the qualifications to register to vote required under state law. The defendants purportedly rejected Ward for his performance on the Part III tests.

APPLICATION FOR REGISTRATION - QUESTIONNAIRE AND OATH

PART I

(This is to be filled in by a member of the Board of Registrars or a duly authorized clerk of the board. If applicant is a married woman, she must state given name by which she is known, maiden surname, and married surname, which shall be recorded as her full name.)

Full Name: Wilson Richard Jr
 Last First Middle
 Date of Birth: Nov 7, 1936 Sex: Male Race: Caucasian
 Residence Address: Cuba, Ala
 Mailing Address: Pt 1 Box 195
 Voting Place: Precinct 18 Ward District
 Length of Residence: In State Nov. 7, 1936 County Nov. 7, 1936
 Precinct, ward or district 18
 Are you a member of the Armed Forces? No
 Are you the wife of a member of the Armed Forces? No
 Are you a college student? No If so, where —
 Have you ever been registered to vote in any other state or in any other county in Alabama? No If so, when and in what state and county and, if in Alabama, at what place did you vote in such county?

Highest grade, 1 to 12, completed 12th Where Kirtshike High School
 Years college completed None Where

PART II

(To be filled in by the applicant in the presence of the Board of Registrars without assistance.)

I, Richard Wilson Jr, do hereby apply to the Board of Registrars of Sumter County, State of Alabama, to register as an elector under the Constitution and laws of the State of Alabama and do hereby submit my answers to the interrogatories propounded to me by the board.

Richard Wilson Jr
 (Signature of Applicant)

- Are you a citizen of the United States? Yes
- Where were you born? Sumter County Cuba Alabama
- If you are a naturalized citizen, give number appearing on your naturalization papers and date of issuance No
- Have you ever been married? Yes If so, give the name, residence and place of birth of your husband or wife
Sumter County Cuba Alabama
- Are you divorced? No

PAGE 43

5. List the places you have lived the past five years, giving town or county and state *Cuba Smith*
Alabama
6. Have you ever been known by any name other than the one appearing on this application? *No* If so, state what name
7. Are you employed? *Yes* If so, state by whom. (If you are self-employed, state this.) *I elvins Conat*
Company
8. Give the address of your present place of employment *Route 1 Cuba Ala*
9. If, in the past five years, you have been employed by an employer other than your present employer, give name of all employers and cities and states in which you worked *Mr. Fred Benson*
Eutaw Alabama
10. Has your name ever been stricken for any reason from any list of persons registered to vote? *No* If so, where, when, and why?
11. Have you previously applied for and been denied registration as a voter? *No* If so, when and where?
12. Have you ever served in the Armed Forces? *No* If so, give dates, branch of service, and serial number
13. Have you ever been dishonorably discharged from military service? *No*
14. Have you ever been declared legally insane? *No* If so, give details
15. Give names and addresses of two persons who know you and can verify the statements made above by you relative to your residence in this state, county and precinct, ward or district *Mr. J. W. Davis York Ala*
Mr. M. L. Macomber York Ala
16. Have you ever seen a copy of this registration application form before receiving this copy today? *No* If so, when and where?
17. Have you ever been convicted of any offense or paid any fine for violation of the law? *No* (Yes or No) If so, give the following information concerning each fine or conviction; charge, in what court tried, fine imposed, sentence, and, if paroled, state when, and if pardoned, state when. (If fine is for traffic violation only, you need write below only the words "traffic violation only.")

(Remainder of this form is to be filled out only as directed by an individual member of the Board of Registrars.)

PART III

Part III of this questionnaire shall consist of one of the forms which are Insert Part III as herein below set out. The insert shall be fastened to the questionnaire. The questions set out on the insert shall be answered according to the instructions therein set out. Each applicant shall demonstrate ability to read and write as required by the Constitution of Alabama, as amended, and no person shall be considered to have completed this application, nor shall the name of any applicant be entered upon the list of registered voters of any county until after such Inserted Part III of the questionnaire has been satisfactorily completed and signed by the applicant.

INSERT PART III (3)

(The following questions shall be answered by the applicant without assistance.)

1. In what town or city is the courthouse located in this county? Livingston
2. How many stars are there in the United States Flag? 48
3. What is the lawmaking body of Alabama called? Representative
4. Those who shall be convicted of any crime punishable by imprisonment in the state penitentiary shall be disqualified from voting in Alabama. (True or false) True

INSTRUCTIONS "A"

The applicant will complete the remainder of this questionnaire before a Board member and at his instructions. The Board member shall have the applicant read any one or more of the following excerpts from the U. S. Constitution using a duplicate form of this Insert Part III. The Board member shall keep in his possession the application with its inserted Part III and shall mark thereon the words missed in reading by the applicant.

EXCERPTS FROM THE CONSTITUTION

1. "The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state."
2. "The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same."
3. ☒ "The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with themselves."
4. "The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice."

INSTRUCTIONS "B"

The Board member shall then have the applicant write several words, or more if necessary to make a judicial determination of his ability to write. The writing shall be placed below so that it becomes a part of the application. If the writing is illegible, the Board member shall write in parentheses beneath the writing the words the applicant was asked to write.

HAVE APPLICANT WRITE HERE, DICTATING WORDS FROM THE CONSTITUTION.

The electors shall meet in their respective states and the electors shall vote by ballot for president and vice president one of whom at least shall not be an inhabitant of the same state with themselves.

Signature of Applicant: Richard Wilson Jr.

PLEASE INSERT PART III HERE

PART IV
OATHS

STATE OF ALABAMA

Seventh COUNTY

Before me, Richard Wilson, Jr.

a registrar in and for said county and state, personally appeared

an applicant for registration as an elector, who being first duly sworn deposes and says:

"I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further personally swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with any group or party which advocated or advocates the overthrow of the United States or the State of Alabama by unlawful means. I do further solemnly swear (or affirm) that in the matter of this application for registration I have spoken the truth, the whole truth and nothing but the truth, so help me God."

Richard Wilson, Jr.
(Signature of Applicant)

Sworn to and subscribed before me this the 20 day of April, 1964

[Signature]
(Signature of Board Member)

EXPLANATION AND REMARKS

(Board members interviewing applicants may place here any special explanations, such as of residence status, or other remarks for purposes of clarification. If person is blind or is otherwise physically handicapped to such an extent that he cannot fill out this application form, the circumstances are to be recorded here, along with an explanation of the method used to determine if the person is, in fact, literate and can spell words and recognize those spelled to him, or can read large block letters and words in the case of persons with sight handicaps.)

PART V
ACTION OF THE BOARD

STATE OF ALABAMA

_____ COUNTY

The applicant, _____, appeared before the board of registrars for said state and county in a regular session and executed the foregoing application in the manner prescribed by law. The Board, having further examined said applicant under oath, touching his qualifications under Section 121, Constitution of Alabama, as amended, and having fully considered the foregoing application for registration, questionnaire and oath, adjudge said applicant entitled to be registered and he was duly registered this the _____ day of _____, 19____.

Signed: _____
Chairman

Member

Member

(NOTE: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member must vote on each application. Not until this is done may a certificate be issued the applicant.)

The Applicant, _____, due to failure to meet the requirements of state law for registration as an elector, is hereby rejected on this the _____ day of _____, 19____.

Signed: _____
Chairman

Member

Member

PART VI
EXAMINATION OF SUPPORTING WITNESS

(The witness shall be sworn under oath to tell the truth, the person administering the oath being a Board member or other person authorized to administer oaths and acting under the direction of the Board.)

Name of Witness: H. J. Adams
Address: P.O. Box 1000
Place of Voting: Livingston, Ala.

"I have known the applicant Richard Wilson for 17 years and 6 months
and I have personal knowledge that his place of residence is M.C. Holden, Cuba, Ala.

and that he has resided in the State of Alabama at least one year and in Livingston county for at least six months."

H. J. Adams
Sworn to and subscribed before me this the _____ day of _____, 19____.

(Person Administering Oath)

Date _____

Here is that portion of Part III on Ward's application containing the questions on government.

INSERT PART III (1)

(The following questions shall be answered by the applicant without assistance.)

1. What city is the capital of the United States? Washington D.C.
2. How many states are there in the United States? 51
3. How many senators from each state are in the United States Senate? 2
4. The president of the United States is elected for a term of how many years? 4

Here is the pertinent testimony of defendant Hines regarding Ward's performance on this test (Tr. 348-49):

- Q. Now, finally, I would like to show you the application form of Joe Ward, ... and ask you why this applicant was rejected?
- A. I would say the capital of the United States. What has he got there?
- Q. What does it look like?
- A. It looks like Washington.
- Q. What is the initials behind that that is written. You can read that, can't you?
- A. Yes.
- Q. What is that?
- A. It looks like D. C.
- Q. All right.
- A. How many states in the United States, he has fifty one.
- Q. You have errors [arrows] marked there indicating that the Board does not feel that is acceptable?
- A. That's right

Here is a copy of that portion of Ward's application relating to the reading and writing test.

INSTRUCTIONS "A"

The applicant will complete the remainder of this questionnaire before a Board member and at his instructions. The Board member shall have the applicant read any one or more of the following excerpts from the U. S. Constitution using a duplicate form of this Insert Part III. The Board member shall keep in his possession the application with its inserted Part III and shall mark thereon the words missed in reading by the applicant.

EXCERPTS FROM THE CONSTITUTION

1. "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

② "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state." *R...*

3. "Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed."

4. "The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."

Defendant Mines testified as to this portion of Ward's test (Tr. 349-50):

A. ... and I asked him to read this.
I initialed this myself, and he missed these words.

Q. He missed the words that are underlined?

A. That's right, and then I asked him. I believe, to copy this.

Q. Copy number 4 as a writing test?

A. Yes, It is a comma, looks like.

Q. Would the Board reject this person because they don't think he has sufficient literacy? You have these lines marked for mispronunciation or inability to pronounce. You say his writing doesn't look satisfactory?

A. Do you think this is satisfactory?

Q. What I am wondering, does the Board consider it satisfactory?

A. No, the Board did not consider it satisfactory.

* * *

Q. In other words, on account of these three things it is sufficient to reject the applicant; is that correct?

A. I think that is correct.

Ward was apparently rejected for illiteracy even though defendant Hines testified that an applicant's literacy is measured by the legibility of his handwriting, i.e., "any legible thing that we could make out ... enough to where we could find out what ... [the applicant] meant by the word." (Tr. 351)

Both Richard Wilson and Joe Ward graduated from Negro high schools in Sumter County.^{55/} Yet the defendants regard them as not sufficiently literate or educated to be qualified to vote in Sumter County.

B. The New Test Vests The Defendants With Raw Power To Grant Or Withhold Registration To Negroes

The testimony of defendant Hines concerning the applications of Richard Wilson and Joe Ward demonstrates the self-evident fact that the new requirements are not bona fide tests. No provision is made for a uniform and objective presentation of the material to all applicants;

^{55/} The application form of Richard Wilson, Jr., indicates in Part I that he graduated from Kinterbish High School (Pl. Ex. 43). The application form of Joe Ward shows in Part I that he graduated from the Sumter County Training School (Pl. Ex. 44).

and no standards are established for the grading of the performances of all applicants. Both conditions of testing are wholly within the control and discretion of the defendants.

The four questions on government give the appearance of being objective and uniform at least for those applicants who apply on the two registration days during the same month. There are no rules or standards to guide or control the relationship between the person being tested and the monitor - the applicant and the registrar; so that the degree of influence of the registrar with one applicant or another is entirely within the discretion of the registrar. Further, there are no established guidelines for the grading of the answers to the test - whether the applicant must answer some or all of the questions correctly; and what latitude of error the applicant will be allowed. The defendants in this case, at least with Negroes, have decided to require all four questions to be answered correctly and to leave no latitude for error, so that the answer "48" to the question "How many stars are in the United States Flag" is an unacceptable answer. The Defendants are compelled by their discretion and not by the law to be this rigid.

The reading test is even more saturated with subjectivity. This fact too is self evident but is sharpened by the printed instructions on the form: "The Board member shall have the applicant read any one or more of the following excerpts ... and shall mark through the words missed in reading by the applicant." The choice of

which section and how many sections any particular applicant will be required to read is wholly within the discretion of the Board member. Again we find no control in the presentation of the material to all applicants. Even more obvious is the lack of grading standards, for the applicant's performance is all oral and the registrar's appraisal of it is in his secret mind. Who but the registrar knows what it means to miss a word. Does it mean:

1. Skip the word.
 - a. Because he overlooked it.
 - b. Because he had no recognition of it.
2. Did not know the word.
 - a. Read it with extreme hesitation.
 - b. Read the wrong word instead.
 - c. Mispronounced it beyond recognition.
 - d. Mispronounced it recognizably but incorrectly.
3. Did not understand the word.
 - a. Gave an incorrect definition of it.
 - b. Gave an unsatisfactory explanation of it.
 - c. Did not understand it in the context of the sentence.

There must be scores of alternative grading standards but the defendants have adopted none.

Nothing tells the defendants, except their own whims, how many words an applicant can "miss" and still be registered.

In short, this is not a bona fide test - it is not a test to determine the applicant's effective ability to read, or to rate his ability to read in relation to others taking the same test.

The writing test contains the same defects. The defendants are instructed by the application form itself: "The Board member shall then have the applicant write several words, or more if necessary to make a judicial determination of his ability to write." Again, "HAVE APPLICANT WRITE HERE, Dictating Words from the Constitution". It is absolutely within the discretion of the registrars to determine subjectively without reference to any objective criteria what words the applicant will be required to write, how fast to dictate to the applicant, how clearly to dictate to the applicant, how often to repeat the words to the applicant, how much time to give the applicant, and how much latitude of error will be allowed the applicant.

Here, as with the reading test, there are no controls as to the presentation of the material to all persons being tested, and it is therefore not a test.

It is not an issue in this case whether these tests are unconstitutional on their face, or whether they can constitutionally be applied anywhere in Alabama. What is an issue is whether they can constitutionally be used in Sumter County. The evidence shows that Sumter County is a racially segregated community. In this context any requirement which vests the registrars with vast discretion to determine subjectively who shall and who shall not be registered to vote violates the Fifteenth Amendment because it presents too great of an opportunity to discriminate. This is particularly true where, as in Sumter County, there has been for a long time a pattern of racial discrimination in the registration of voters.

C. The New Tests Have The Inevitable Effect
Of Discriminating Against Negroes By
Freezing The White Voters Into Permanent
Status And Freezing The Negroes Out.

The new tests are clearly more stringent than any to which the white voters of Sumter County have been subjected. Prior to February 17, 1964, applicants had only to execute the Application for Registration, Questionnaire and Oath and there was no test on knowledge of government, reading, or writing from the Constitution.

At the time this new test was initiated into use in Sumter County, almost 100% of the adult white persons were permanently registered to vote in Sumter County; whereas less than 5% of the adult Negroes were registered.^{56/} This racial imbalance was brought about by the arbitrary and discriminatory practices of the Board of Registrars of Sumter County.

These statistics alone prove the inherent inevitability of "freezing in" the white voters and "freezing out" the Negroes. But the statistics need not stand alone. We have seen how the Negroes for many years were disadvantaged by the white voucher rule.^{57/} We have also seen that during the period of the white voucher the application form was not used as a test and that no other literacy or intelligence tests were used in measuring the qualifications of white voters.^{58/} Ninety-five percent of the adult Negroes are now faced with the new tests.

^{56/} The precise statistics of persons of each race presently registered to vote are set forth in Chart 1 of this Brief at page 9.

^{57/} See Part V of this Brief.

^{58/} See Part VI of this Brief.

There can be no doubt as to the freezing effect of the new tests. White persons of low literacy levels formerly could acquire the franchise freely, whereas Negroes could not in the absence of a white sponsor. Now, Negroes who have finished high school cannot satisfy the Board's tests.^{59/}

The "freezing" effect was described by the Court of Appeals as follows:^{60/}

It may be said that when illegal discrimination or other practices have worked inequality on a class of citizens and the court puts an end to such a practice but a new and more onerous standard is adopted before the disadvantaged class may enjoy their full rights, already fully enjoyed by the rest of the citizens, this amounts to 'freezing' the privileged status for those who acquired it during the period of discrimination, and 'freezing out' the group discriminated against.

The practice - which is prohibited by the Fifteenth Amendment - is equally if not more clearly present in this case than in the Duke case. After it became possible, though still discriminatory, for Negro applicants to produce Negro supporting witnesses, the defendants began to reject applicants for technical errors and omissions in their application forms. Now the freeze is compounded by new tests. The appropriate relief under the Fifteenth Amendment is to suspend the use in Sumter County of the more onerous requirements, as the Court of Appeals did in the Duke case involving Panola County, Mississippi.^{61/}

^{59/} See the summary of the denial of registration to Richard Wilson, Jr. and Joe Ward, supra.

^{60/} United States v. Duke, et al. (C.A. 5, No. 20800,) decided May 22, 1964.

^{61/} The appropriate remedies for the Board's practices are discussed more fully in Part IX, infra.

VIII

ACTS OF OFFICIALS OF SUMTER COUNTY WHICH DELAY AND DISCOURAGE THE REGISTRATION OF QUALIFIED NEGROES

1. The Rejection of Qualified Negroes

The rejection of qualified Negro applicants has discouraged Negroes from attempting to register to vote in Sumter County. In June 1963 the new registrars began to conduct the first voter registration in Sumter County since March 1963. Negroes in the county apparently were aware that a functioning Board again existed since 20 Negroes applied for registration during July and on the first registration day in August. The registrars rejected 16^{62/} of these applicants. Included among these rejected Negro applicants were three school teachers, four high school graduates, three applicants with 11th grade education and one with a 10th grade education. Negroes undoubtedly learned that these well qualified applicants had not been registered. The impact this had on the Negro community in Sumter County can be seen in the decline in Negro attempts to register to vote. More Negroes applied for registration during the seven registration days from July 1, 1963 through August 5, 1963 than applied on the subsequent 44 registration days from August 19, 1963 through February 3, 1964.

^{62/} See Table C. Included are the undated applications of William L. Williams (Pl. Ex. 2-149) and Louise Swain (Pl. Ex. 2-135). Mary Moore testified these applicants applied with her in July or August 1963 (Tr. pp. 137, 138).

2. Failure to Notify Rejected Applicants of
Their Rejection or the Reason for Their
Rejection

The Board delays and discourages Negro applicants by its practice of not notifying rejected applicants of their rejection or the reason for their rejection. This practice falls as a burden on Negroes and not white applicants since many Negroes and few white persons are rejected.

Janie Mason, a Negro, applied on July 2, 1963. (Pl. Ex. 2-109) She has lived in Sumter County all her life and has been a school teacher in the County for 33 years. (Her application is discussed above.) When she applied she was told by the registrar that she would hear from them. Her application was rejected and she never heard from the Board. (Tr. p. 109).

Tom K. Randolph, a Negro, has lived in Sumter County all his life. He graduated from high school and is 28 years old. He applied on July 3, 1963 and his application was rejected. He testified that the registrars told him that they would let him know whether he passed or not. He never heard from the Board (Tr. p. 29).

Registrar Hines testified that the registrars instruct applicants that if they do not receive a certificate certifying that they are qualified voters within a reasonable period of time, they know that they did not pass, and they can come back and try again (Tr. pp. 329, 330). This constitutes no notice at all. The applicant still is not informed whether he has been accepted or rejected, what constitutes a reasonable time or what the reason is

for his rejection if he has been rejected.

This does not even constitute reasonable notice under the State requirements for the applicant has but thirty days from the date of the denial of his application to appeal the decision of the Board.^{63/} However, the applicant is never notified when the limitation has begun to run. The inevitable effect of this practice is to discourage and delay the reapplication of rejected applicants.^{64/}

3. Exclusion of Negroes From the Political Activities in Sumter County

The exclusion of Negro citizens in Sumter County from participating in political activities has the effect of discouraging and delaying the registration of qualified Negroes. It is apparent that the white community regards the Negro as not having a proper place in the political affairs of the county.

Sam Webb, the Tax Assessor and Geiger Pinson, a white person, both testified that during an election there are six officials at each poll, five officers and one returning officer (Tr. pp. 522, 562. Since there are twenty voting boxes in the county there are 120 election officials for each election. These officials have always been

^{63/} See Title 17, Sec. 35, Code of Alabama, 1940.

^{64/} Federal Courts have previously required the defendant Board of Registrars to notify all applicants of their rejections and the specific reason for such rejection. See U.S. v. Penton, et al., 212 F. Supp. 193 (M.D. Ala. 1962); U.S. v. Mayton, et al., (C.A. No. 2881, S.D. Ala., 1962); U.S. v. Ford, et al., (C.A. No. 2829, S.D. Ala., 1964); U.S. v. Alabama, (C.A. No. 479E, M.D. Ala., 1961); and U.S. v. Alabama, (C.A. No. 1957N, M.D. Ala., 1961).

white persons to the memory of the white citizens of Sumter County who testified at the hearing.^{65/}

R. E. Sims who is the Tax Collector has lived in Sumter County all his life. He cannot remember any of the officials or employees in the county courthouse being Negroes except for the two janitors. (Tr. p. 550.)

Even the candidates for political office in the County exclude the Negro community from their campaigns. Sam Webb has been the Tax Assessor for Sumter County for about ten years. He testified that while campaigning in the county he has never gone to any type of Negro meeting place and publicly solicited the votes of Negroes nor has he ever gone to the Negro community and encouraged them to go down and register to vote (Tr. pp. 564, 565).

Phillip Willingham is the Chairman of the Board of Commissioners of Sumter County. He has held this position for 17 years. He testified that he has never campaigned among Negroes in Sumter County and has never solicited any of their votes. (Tr. pp. 461, 462.)

These facts show the extent to which Negro citizens have been excluded from participating in the political activities in Sumter County. Inescapably this has a discouraging effect on the Negro community.

^{65/} The following white citizens of Sumter County testified they had never seen a Negro poll official: Sam Webb, Tax Assessor (Tr. p. 564); R. E. Sims, Tax Collector (Tr. p. 543); Thelma Boswell (Tr. p. 484); James L. Parker (Tr. pp. 485, 486); Andrew Parker (Tr. p. 515); Geiger Pinson (Tr. p. 527); Frank Steagall (Tr. p. 538); and Wilbur Dearman, Judge of Probate. Dearman testified the wife of the principal of the Negro high school, Addie B. Jackson, was once appointed as a poll official but that she did not serve (Tr. p. 586). Jackson would have necessarily been appointed when she was not a registered voter as she registered for the first time on March 16, 1964. See P1. Ex. 48 and Table G, p. 16.

IX

THE DISCRIMINATION BY THE DEFENDANTS HAS BEEN PURSUANT TO A PATTERN AND PRACTICE - A SUMMARY

As an important part the implementation of the voting referee procedure established by the Civil Rights Act of 1960, the statute provides in subsection (e) that "In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall . . . make a finding whether such deprivation was or is pursuant to a pattern or practice."

The evidence clearly establishes that Negroes have been deprived of the right to vote without distinction of race pursuant to a pattern and practice of discrimination in Sumter County.

1. Blatant discrimination by the white voucher rule continued for at least six years.
2. Discrimination by the supporting witness requirement still persists.
3. Qualified Negro citizens have been denied registration in Sumter County throughout the whole ten-year period involved in this case.
4. Discrimination occurred in the use by the defendants of the application form as a strict test not only in its adoption which constituted a discriminatory "freeze", but

in its administration.

5. Discrimination is perpetuated by the use of the new Part III test both in its freezing effect and in its administration.

In short, during the ten-year period involved in this case, qualified Negro citizens in Sumter County have not been free to register to vote; the white citizens have. The long time pattern and practices of discrimination could not be more pronounced.

X

THE MOTION TO DISMISS THE STATE OF
ALABAMA AS A PARTY SHOULD BE DENIED

The defendant State of Alabama has moved that it be dismissed as a party and the Court has reserved its ruling. This motion is without merit and should be denied.

Section 601(b) of the Civil Rights Act, 42 U.S.C. 1971(c), specifically authorizes suit against a State^{66/} and in numerous cases arising in the Fifth Circuit an injunction has issued against a State in suits under this section.^{67/} These cases are discussed in the Plaintiff's Memorandum of Law which was filed at the trial in opposition to the State's motion to dismiss.

The State should be joined as a party defendant and an injunction issued against it wherever this is essential to

^{66/} 42 U.S.C. 1971(c) provides in pertinent part:

" . . . Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State."

^{67/} See, e.g., United States v. Dogan, 314 F.2d 767 (C.A. 5, 1963); United States v. Lynd, 301 F.2d 818 (C.A. 5, 1962), cert. denied, 370 U.S. 944; United States v. State of Louisiana, 225 F. Supp. 353 (W.D. La., 1963), appeal pending; United States v. Penton, 212 F. Supp. 193 (M.D. Ala., 1962); United States v. Alabama, 188 F. Supp. 759 (M.D. Ala. 1960), aff'd; State of Alabama v. United States, 304 F.2d 583 (C.A. 5, 1962), aff'd, 371 U.S. 37 (1962).

the granting of complete relief. This principle was clearly reaffirmed by the Fifth Circuit on May 22, 1964 in United States v. Duke,^{68/} a case analagous in all pertinent respects to the present case. In Duke the Court found that Negro applicants for registration to vote had been discriminated against pursuant to a pattern and practice and that the State had imposed new and more stringent requirements for registration, thus "freezing" the privileged status of registered white voters and "freezing out" qualified but unregistered Negroes. In reversing the trial court's dismissal of the State of Mississippi as a party, the Court said:

"The United States contends that the trial court erred in dismissing the state of Mississippi as a party defendant. We agree that this is an appropriate case for the joining of the state. Not only does the statute expressly provide for such joinder, but here it is evident that the state's presence is essential to the granting of complete relief. The principle [of] freezing contemplates the temporary suspension of the state statutes regulating registration unless the state shall see fit to cause reregistration of all the voters of this County. To become effective, this part^{69/} of the order must include the state as a party."

In the present case, the plaintiff has alleged and proved that qualified Negro applicants for registration to vote in Sumter County have been discriminated against because of their race and that this discrimination has been pursuant to a pattern and practice. Moreover, as in Duke, the State has imposed new and more stringent requirements

^{68/} United States v. Duke, et al., No. 20800.

^{69/} United States v. Duke, et al., No. 20800 at 24-25 (C.A. 5, 1964).

for registration to vote following a long period of discrimination. As in Duke, the plaintiff is asking the Court for an order requiring the defendant Registrars to register Negro applicants according to the same standards which were applied to white applicants during the period of discrimination; these standards are lower than those presently required by Alabama law. These facts and the teaching of the Duke case compel the conclusion that an injunction against the State is not only appropriate but necessary to afford complete relief in the present case.

XI

THE COURT SHOULD RECONSIDER ITS RULING .
ON THE DEFENDANT'S MOTION TO STRIKE
PARAGRAPH 9 OF THE COMPLAINT

This Court's order granting defendant's motion to strike paragraph 9 of the complaint was apparently based on the consideration that this allegation was not material to the case. However, the evidence introduced by both parties at the trial demonstrates the materiality of paragraph 9.

It is now clear that the Sumter County registrars are using the three new tests in such a way as to require a high level of education as a requisite to becoming registered to vote.

The defendants brought on evidence in an effort to show that a great many of the adult Negroes in Sumter County have not had much education and are illiterate, and the census statistics show that in 1960 the median education of Negroes of the age of 25 and older in Sumter County was about five years; whereas the median education of white persons over the age of 25 and older in Sumter County was about 11.5 years. See Pl. Ex. No. 52.

This is indeed a substantial difference in educational achievements. If the defendants are permitted to continue to use tests which require a high level educational as a prerequisites to registration in Sumter County, it will mean that a substantial number of citizens of the United States who reside in Sumter

County will be permanently disfranchised. Sumter County will have a republican form of government for white persons but not for Negroes.

It is not that the Negroes were uninterested in education; it is not that they asked not to be educated; rather, these educational differences between the adult white persons and the adult Negroes were brought about by the state itself. Plaintiff's offer of proof would show that the Negroes who are now adults were of school age years ago at which time inequalities of educational opportunities as between white children and Negro children were drastic. These inequalities are dramatically illustrated by a comparison of total expenditures for white and Negro schools; average teachers salaries in white and Negro schools; the pupil-teacher ratio in white and Negro schools; the expenditures per student in white and Negro schools; the educational levels of teachers in white and Negro schools and the average daily attendance of the white and Negro schools.

The contention of the plaintiff is that the State cannot consistently with the Fifteenth Amendment employ high educational standards as prerequisites to voting for those persons to whom the State has denied equal educational opportunities by reason of the race of such persons.

The allegation in paragraph 9 therefore is material and the proof offered by the plaintiff relevant to that issue.

XII

THE RELIEF

Because Negroes have for so long been denied the right to vote in Sumter County, Alabama, the only appropriate relief is that which will insure the expeditious registration of all qualified Negroes who desire to become registered. The Court should suspend, at least temporarily, the use in Sumter County of all procedural and substantive registration requirements which discriminate against Negroes and all such requirements which have not previously been applied uniformly to white persons now registered to vote.

The Court should order the immediate registration of those Negro citizens who have applied for and have been denied registration but whose applications demonstrate that they meet the qualifications which have been imposed on white voters in the past. The names of these Negro citizens are listed in the Appendix to Plaintiff's Proposed Findings of Fact.

The defendants should be specifically ordered to cease rejecting applicants on any ground other than the failure of the applicant to meet the substantive qualifications previously applied to white voters in Sumter County. The defendants should cease rejecting applicants for errors or omissions in their application forms, for failing to furnish a supporting witness, and for failing to pass any tests of reading, writing, understanding or knowledge, unless or until Sumter County has a complete re-registration of all voters

under fair standards.

The defendants have brought about a hard "freeze" of a discriminatory voting pattern in Sumter County. They initiated the use of the application form as a strict test; and they are now using the new application form with its more onerous tests. The inevitable effect is to freeze the white voters in in permanent status and to freeze the Negroes out. As the Court of Appeals stated in U.S. v. Duke, et al., No. 20800, decided May 22, 1964:

Effective relief is long overdue. The only effective relief here is by applying the principle of freezing the registration standards that were in effect when the great majority of the white citizens were registered. We conclude that the principle should be applied in this case without further delay.

The Court should enter a specific finding that the acts and practices of the defendants and their predecessors in office have deprived Negro citizens of the right to vote without distinction of race and that these deprivations have been and are pursuant to a pattern and practice of discrimination. The statute, 42 U.S.C. 1971(e), directs that the court shall make a finding as to whether such a pattern exists. It is the first step toward bringing the voting referee procedure into operation should it ever be needed in Sumter County. Once the finding is made, Negro citizens who thereafter may be denied registration by the Sumter County Board of Registrars are entitled to apply to this Court for an order entitling them to

vote. Courts have entered such findings in numerous cases brought under 42 U.S.C. 1971, including cases in Macon, Bullock, Montgomery, Perry and Choctaw Counties, Alabama.

Finally, specific provisions should be made to insure effective compliance with this Court's injunction. These provisions should include a requirement that the defendants file with this Court monthly reports reflecting the progress of registration in Sumter County. It should include a provision authorizing the United States to inspect and copy the voter registration records of Sumter County on a regular basis.

For the reasons set forth in this Brief, plaintiff requests this Court to enter judgment in accordance with Plaintiff's Proposed Decree.

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 63-609
	)	
BERNARD G. HINES, WILLIAM S.	)	PLAINTIFF'S PROPOSED
HOLMAN, RUBY P. TARTT, Members	)	<u>FINDINGS OF FACT AND</u>
of the Board of Registrars of	)	<u>PROPOSED CONCLUSIONS</u>
Sumter County, Alabama; and	)	<u>OF LAW</u>
STATE OF ALABAMA,	)	
	)	
Defendants.	)	
	)	

PROPOSED FINDINGS OF FACT

1. This action was brought on December 16, 1963, by the Attorney General of the United States pursuant to 42 U.S.C. 1971 against the members of the Board of Registrars of Sumter County, Alabama, and against the State of Alabama.

2. The defendants in this suit are the members of the Board of Registrars of Sumter County, Alabama, and the State of Alabama.

a. The Board members

Defendant Bernard G. Hines has been Chairman of the Board of Registrars of Sumter County since June 1963. Defendant William S. Holman has been a member of the Board since June 1963.

Defendant Ruby P. Tartt has been a member of the Board since December 1952. The defendant Board members reside in Sumter County, Alabama.

b. The State of Alabama

Voting qualifications in Alabama are defined by state law.

The board members are appointed by the Governor, Auditor, and Commissioner of Agriculture and Industries of the State of Alabama.

The form and contents of the questionnaire that applicants for registration must complete are prescribed by the Supreme Court of Alabama.

The salaries and expenses of the Board are paid by the State of Alabama, and the questionnaires are furnished by the Secretary of State.

The Board reports monthly to the Secretary of State.

3. Alabama law provides that registration is a prerequisite to voting in any election in the State. Registration is permanent so that persons who are once registered are not required to reregister. The substantive qualifications for registration under Alabama law are:

- a. The applicant must be a citizen and
21 years of age or older;
- b. The applicant must have resided in the
state one year, in the county six
months and in his voting precinct three
months prior to any election in which
he seeks to vote;
- c. The applicant must be able to read
and write any article of the United
States Constitution which may be sub-
mitted to him by the board of registrars;
- d. The applicant must be of good character
and he must embrace the duties and obli-
gations of citizenship;
- e. The applicant is disqualified from voting
if he is an idiot or insane person, or
if he has been convicted of any of
several enumerated crimes.

4. Sumter County as of the 1960 Census had a voting age population of 9,875, of whom 3,061 were white persons and 6,814 were Negroes.

5. The Official List of Electors of Sumter County, Alabama, lists 3,553 persons as being qualified voters on April 4, 1964, of whom 3,238 are white and 315 are Negro.

6. From January 1, 1954 to June 1, 1963, the Board registered 1,282 white applicants and rejected 4 applications filed by white applicants. During this same period, the Board registered 292 Negroes and rejected 139 applications filed by Negroes.

7. From June 1, 1963 to May 5, 1964, the defendants registered 151 white applicants and rejected 13 applications filed by white applicants. During this same period, the defendants registered 29 Negroes and rejected 26 application forms filed by Negroes.

8. During the period from January 1, 1954 to May 5, 1964, the defendant registrars and their predecessors in office engaged in racially discriminatory acts and practices in conducting the registration of voters in Sumter County. These acts and practices are:

a. The defendants and their predecessors in office have required the signature of an already qualified voter on that section of the application form entitled Examination of Supporting Witness. The Board has used the supporting witness requirement as a vehicle for discrimination in the registration of voters.

(1) From January 1, 1954 until March 6, 1960, the Board required applicants to obtain a white supporting witness as a prerequisite to registration.

(2) The white supporting witness requirement was abandoned on March 7, 1960, but the defendants and their predecessors in office have failed to eradicate the effects of the rule.

(a) Since the abandonment of the rule, neither the defendants nor their

predecessors have taken steps to register those qualified Negro applicants who were denied registration under the rule.

(b) The defendants and their predecessors have given preference to applicants with white supporting witnesses.

(3) The defendants and their predecessors have helped white applicants to obtain supporting witnesses, while failing to give such help to Negro applicants.

(4) The defendants and their predecessors have strictly applied the supporting witness requirement to Negroes but not to white applicants.

(5) The supporting witness requirement inherently discriminates against Negroes in Sumter County.

(a) Sumter County is a racially segregated community. Ten times more white persons than Negroes are qualified to serve as supporting witnesses. It is more difficult for Negroes to obtain supporting witnesses than for white persons.

b. During the period from January 1954 to June 1963, the defendants' predecessors denied registration to qualified Negroes despite their having produced supporting witnesses. White applicants similarly qualified were not

denied registration. No standard other than race is discernible as a reason for these rejections of Negroes.

c. The defendants discriminated against qualified Negro applicants by using the Application for Registration, Questionnaire and Oath as a strict test.

- (1) During the period from June 1963 to February 17, 1964 the defendants rejected 22 of the 36 (or 61%) applications filed by Negroes. During this same period, the Board rejected 11 of the 141 (or 8%) applications filed by white applicants.
- (2) Defendants' use of the application form as a strict test resulted in arbitrary rejections of highly qualified Negro applicants.
- (3) At the time that the defendants began using the application form as a strict test, almost all eligible white persons and less than 5% of the eligible Negroes in Sumter County were registered voters. The new, high standards of the Board will freeze this disproportionate registration unless enjoined.
- (4) Defendants' use of the application form as a strict test served to discourage qualified Negroes from attempting to register.

8. The defendants and their predecessors have engaged in the following arbitrary practices.

a. The defendants and their predecessors

arbitrarily rejected qualified applicants for the lack of a supporting witness even though the applicant had provided a supporting witness for earlier applications.

b. The defendants and their predecessors arbitrarily denied qualified applicants registration for the lack of a supporting witness even though alternative, reasonable means existed to determine the qualifications and identities of the applicants.

c. The defendants and their predecessors in office have not informed rejected applicants of their rejection or of the specific reasons for their rejection.

9. The Negro applicants listed in the Appendix I attached hereto and incorporated herein applied for registration to the Board of Registrars of Sumter County, Alabama, during the period from January 1, 1954 to May 5, 1964, and each was, at the time of his application, denied registration on account of his race or color; and each was, at the time of his application, qualified to register to vote under the laws of Alabama.

10. The defendants and their predecessors having engaged in the discriminatory acts and practices set forth in finding 8 have deprived Negro citizens in Sumter County, Alabama, of their right to register to vote without distinction of race or color. Such deprivations have been and are pursuant to a pattern and practice of racial discrimination.

PROPOSED CONCLUSIONS OF LAW

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

2. The Attorney General is authorized to institute this action on behalf of the United States under 42 U.S.C. 1971(c).

3. The State of Alabama is properly joined as a party defendant pursuant to 42 U.S.C. 1971(c).

4. Acts and practices of the defendant registrars which violate 42 U.S.C. 1971(a) are also the acts and practices of the defendant State. 42 U.S.C. 1971(c).

5. 42 U.S.C. 1971(a) forbids any distinctions in registration for voting based upon race or color.

6. The fact that the defendants have rejected 47% of the applications of Negroes and have accepted 92% of the applications of white persons creates the presumption that Negro citizens have been deprived of the right to register to vote because of race or color; and, in the absence of proof by the defendants that the rejected Negroes are not qualified under the registration standards and requirements applied to the accepted white persons, the plaintiff is entitled to the relief it seeks.

7. The use of the white voucher rule is a violation of the Fourteenth and Fifteenth Amendments and of 42 U.S.C. 1971(a).

8. The use of the supporting witness requirement in a racially segregated society such as Sumter County, where white voters outnumber Negro voters ten to one, violates the Fourteenth and Fifteenth Amendments and 42 U.S.C. 1971(a).

9. The arbitrary and unreasonable uses of the Supporting Witness requirement violates the due process clause of the Fourteenth Amendment.

10. The defendants' raising of the standards of grading the application form at a time when almost all eligible white persons and less than 5% of the eligible Negroes in Sumter County were registered voters constituted a freeze of this disproportionate registration, in violation of the Fourteenth and Fifteenth Amendments and of 42 U.S.C. 1971(a).

11. The denial of registration to qualified Negro citizens in Sumter County by the arbitrary use of the application form as a strict test is in violation of the Fourteenth and Fifteenth Amendments and of 42 U.S.C. 1971(a).

12. The commencement by the defendants in February 1964 to use three new tests as voter registration qualifications in Sumter County which require all future applicants for registration in Sumter County to demonstrate their knowledge of government, their ability to read orally from portions of the Constitution, and their ability to write from the dictation of registrars - tests to which persons who registered previous to that date were not subjected - is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments. Where, as is established by the evidence in this case, a majority of one race is already permanently registered while but a small minority of the other race has succeeded in registering, the defendants may not adopt new and more

stringent registration requirements or standards the effect of which is to perpetuate past discrimination.

13. The failure and refusal by the defendants to notify rejected Negro applicants of the reasons for their rejection is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments.

14. The practice of the defendants of denying registration to applicants on the ground that such applicants made errors or omissions in completing their application forms where, despite these errors and omissions, their applications show them to possess all of the substantive qualifications and none of the disqualifications to register to vote under the laws, customs, and usages of Sumter County, Alabama, is arbitrary and unreasonable and is in violation of the due process clause of the Fourteenth Amendment.

15. Under 42 U.S.C. 1971(c) this Court is authorized to order the defendants to register specific individuals where the Court has found that such individuals have been discriminated against on account of their race, and that they possessed all of the qualifications and none of the disqualifications to register at the time they applied for and were denied registration by the defendants.

16. The Negro citizens of Sumter County listed in Appendix I were qualified by law to vote at the time of their rejected applications for registration within the meaning of 42 U.S.C. 1971(a).

A P P E N D I X I

This Appendix sets forth the names of Negroes who have applied for registration to vote on one or more occasions between January 1, 1954 and May 5, 1964 and whose applications have all been rejected.

These applicants filed one or more applications which show that the applicants possess all of the qualifications and none of the disqualifications for registration to vote in Sumter County, Alabama.

This Appendix sets forth the names of the Negro applicants, the plaintiff's exhibit numbers and the dates of the applications for those applications filed by the applicants and certain information obtained from the applications. In addition to this information the applications show all of these applicants to be literate, to embrace the duties and obligations of citizenship and not to possess any of the disqualifications such as conviction for a disqualifying offense.

Adams, Fred
Pl. Ex. 2-1 7-3-63

His application shows that he was born in 1932 in Jefferson County, has lived in Alabama all his life and in Sumter County since 1937; that his address is Rt. 1, Box 25, Cuba, Alabama; that he is a veteran and is a farmer.

Archie, Phodia
Pl. Ex. 2-2 7-5-62

Her application shows that she was born in 1928 in Gainesville, Sumter County, and has lived there all her life; and that she is a farmer.

Bester, James E.,
Sr.
Pl. Ex. 2-5 2-15-54

His application shows that he was born in Sumter County in 1922 and has lived there all his life; that his address is General Delivery, Gainesville; and that he is a veteran.

Beville, Cora
Lee
Pl. Ex. 2-6 11-15-54
Pl. Ex. 2-7 10-6-61
Pl. Ex. 2-8 2-5-62
Pl. Ex. 2-9 4-2-62

Her application #2-8 shows that she was born in 1908 in Coatopa, Sumter County, and has lived in Sumter County all her life; that her address is Rt. 1, Box 46B, Coatopa, Alabama; and that she is a farmer.

Beville, Sallie R.
Pl. Ex. 2-12 10-6-61
Pl. Ex. 2-13 7-2-62
Pl. Ex. 2-14 8-6-62

Her form #2-13 shows that she was born in Sumter County in 1889, has lived in Alabama all her life; and that she has lived in Coatopa for at least the last 5 years. Her form #2-14 shows that she is a farmer.

Beville, William
Pl. Ex. 2-15 11-8-54
Pl. Ex. 2-16 10-6-61
Pl. Ex. 2-17 4-2-62
Pl. Ex. 2-18 3-5-?

His form #2-17 shows that he was born in 1882 in Coatopa, Sumter County, and that he has lived in Coatopa all his life. His form #2-15 shows that he is a farmer.

Binion, Tarlton			His application shows that
P1.Ex. 2-20	2-7-55		he was born in Sumter County
			in 1900 and has lived there
			all his life; that his address
			is Panola, Alabama, and that
			he is a farmer.
Bizzell, Joe			His application form #2-22
P1.Ex. 2-21	2-1-54		shows that he was born in
P1.Ex. 2-22	10-6-61		Alabama in 1907 and lived
			there all his life; that
			he has lived in Sumter County
			since 1926; that his address
			is Rt. 1, Box 112, Coatopa,
			Alabama and that he is a
			farmer.
Branch, Eldora			Her application #2-25 shows
P1.Ex. 2-25	11-15-54		that she was born in 1923
P1.Ex. 2-26	Undated		in Coatopa and has lived in
			Sumter County all her life;
			that her address is Rt. 1,
			Box 48-1/2, Coatopa, Alabama,
			and that she is a farmer.
Branch, Jim, Jr.			His form #2-29 shows that he
P1.Ex. 2-27	10-6-61		was born in Sumter County in
P1.Ex. 2-28	Undated		1921 and he has lived there
P1.Ex. 2-29	Undated		all his life; that his address
			is Rt. 1, Box 48-1/2, Coatopa,
			Alabama; and that he is a
			farmer.
Brown, Margaret Campbell			Her application #2-34 shows
P1.Ex. 2-34	About 1957		that she was born in 1918
P1.Ex. 2-33	7-1-63		in Livingston, Alabama and
			has lived in Sumter County
			all her life; that her address
			is P. O. Box 503, Livingston,
			Alabama; and that she is a
			maid.
Buchanan, Henry			His application shows that
P1.Ex. 2-35	7-5-62		he was born in 1908 in
			Sumter County and that he
			has lived in Sumter County
			for at least the last five
			years; that his address is
			Gainesville, Alabama; and
			that he is a farmer.

Campbell, Atlas Pl.Ex. 2-37	2-1-54	His application shows that he was born in Sumter County in 1908 and has lived there all his life; that his address is Rt. 1, Box 21, Livingston, Alabama; and that he is a farmer.
Clark, J. B. Pl.Ex. 2-40	Undated	His application shows that he has lived in Sumter County since 1922; that his address is P. O. Box 244, Livingston, Alabama; and that he is a janitor.
Clark, Jessie Pl.Ex. 2-41	8-6-62	Her application shows that she was born in Jefferson County in 1904 and has lived in Sumter County for at least the last five years; that her address is Rt. 1, Box 46, Coatopa, Alabama; and that she is a farmer.
Daniel, Robert Earl Pl.Ex. 2-42	2-7-55	His application shows that he was born in Sumter County in 1900 and has lived there all his life; that his address is Panola, Alabama; and that he is a farmer.
Delaine, April Hammond Pl.Ex. 2-43	7-2-63	His application shows that he was born in 1933 in Cuba, Alabama; that he has lived in Sumter County for at least the last five years; that his address is Rt. 1, Box 26, Cuba, Alabama; and that he is a veteran and is now a brickmason.
Dykes, Genzell W. Pl.Ex. 2-47	8-6-62	Her application shows that she has lived in Sumter County since 1939; that her address is Rt. 1, Box 25, Coatopa, Alabama; and that she is a farmer.

Evans, Carrie Pl.Ex. 2-50	8-1-55	Her application shows that she was born in 1927 in York, Alabama, and has been a resident of Sumter County since 1950; that her address is P. O. Box 54, Coatopa, Alabama, and that she is a teacher.
Gee, Josephine Pl.Ex. 2-52 Pl.Ex. 2-53	7-5-62 8-6-62	Her application #2-53 shows that she was born in Alabama in 1911 and has lived in Sumter County since 1952; that her address is P. O. Box 11, Gainesville, Alabama; and that she is a farmer.
Gillespie, Ruby Pl.Ex. 2-57	7-5-62	Her application shows that she was born in 1898 and has lived in Alabama in Sumter County since 1941; that her address is Rt. 1, Box 77, Coatopa, Alabama; and that she is a farmer.
Gray, Lewis Pl.Ex. 2-58	4-16-62	His application shows that he was born in 1901 in Alabama and has lived in Sumter County since 1929; that his address is Epes, Alabama; and that he is a veteran of World War I.
Gully, Jim Pl.Ex. 2-60	4-16-62	His application shows that he was born in 1901 in Sumter County and has lived there all his life; that his address is Livingston, Alabama; and that he is a farmer.
Gully, Susie Pl.Ex. 2-59	4-21-58	Her application shows that she was born in Alabama in 1909 and has lived in Sumter County at least the last five years; that her address is Livingston, Alabama; and that she is a farmer.
Halsey, Amanda Pl.Ex. 2-61	About 1961	Her application shows that she was born in 1899 in Sumter County and has lived there all her life; and that her address is York, Alabama.

Hare, Ed		His application #2-64 shows that he has lived in Sumter County since 1909; that his address is Rt. 1, Box 168, Cuba, Alabama; and that he is a farmer.
Pl.Ex. 2-62	7-6-62	
Pl.Ex. 2-63	Undated	
Pl.Ex. 2-64	Undated	
Pl.Ex. 46	4-20-64	
Harris, Carrie Lee		Her application shows that she was born in 1915; that she has lived in Sumter County all her life; that her address is Coatopa, Alabama, and that she is a farmer.
Pl.Ex. 45	4-20-64	
Hearn, Horice		His application shows that he was born in Sumter County in 1900 and has lived there all his life; that his address is Cuba, Alabama; and that he owns a store and farms.
Pl.Ex. 2-66	1-18-54	
Houston, Earl		His application shows that he was born in 1888 in Sumter County and has lived there all his life; that his address is Gainesville, Alabama; and that he is a farmer.
Pl.Ex. 2-70	Undated	
Houston, John		His application shows that he was born in 1913 in Sumter County and has lived there all his life; that his address is Panola, Alabama; and that he is a farmer.
Pl.Ex. 2-71	Undated	
Howze, Fred D.		His application shows that he was born in 1903 in Alabama and has lived in Sumter County since 1926; that his address is Rt. 1, Box 55, Coatopa, Alabama; and that he is a farmer.
Pl.Ex. 2-72	2-1-54	
Hunter, Will T.		His application shows that he was born in 1910 in Sumter County and has resided there since 1928; that his address is York, Alabama; and that he is a truck driver.
Pl.Ex. 2-73	7-9-63	

Isaac, Ora D.		Her application #2-76 shows
Pl.Ex. 2-75	10-6-61	that she was born in 1911 in
Pl.Ex. 2-76	7-2-62	Sumter County and has lived
Pl.Ex. 2-77	8-6-62	there all her life; and that
		her address is Rt. 1, Box
		46-1/2, Coatopa, Alabama.
Jemison, R. H.		His application shows that
Pl.Ex. 2-28	7-3-63	he was born in 1927 in Sumter
		County and has lived there
		all his life; and that his
		address is Rt. 1, Box 14,
		Cuba, Alabama.
Jimerson, Gussie		Her application shows that
Pl.Ex. 2-84	7-2-63	she was born in Alabama in
		1903 and has resided in
		Sumter County since 1954;
		that her address is P. O.
		Box 383, York, Alabama; and
		that she is a maid.
Jimerson, Will		His form shows that he was
Pl.Ex. 2-85	7-2-63	born in Alabama in 1893 and
		has resided in Sumter County
		since 1954; that his address
		is P. O. Box 383, York, Alabama;
		and that he is a retired car-
		penter.
Johnson, Cora		Her application #2-86 shows
Pl.Ex. 2-86	7-16-62	that she was born in Sumter
Pl.Ex. 2-87	8-6-62	County and has lived there
		since 1921; that her address
		is Rt. 1, Box 43D, Coatopa;
		and that she is a housewife.
Jones, David O.		His form shows that he was
Pl.Ex. 2-89	8-5-63	born in Sumter County in
		1939 and has been a resident
		of Sumter County since 1957;
		that his address is P. O. Box
		124, Panola, Alabama; and
		that he is a teacher.
Jordan, William		His application shows that
Pl.Ex. 2-90	1-25-54	he was born in Alabama in
		1898 and that he has lived
		in Sumter County since 1938;
		that his address is Coatopa,
		Alabama; and that he is a
		farmer.

Kirkland, Willie
Pl.Ex. 2-93 1-17-55

His application shows that he was born in Alabama in 1886 and has lived in Sumter County since 1942; that his address is Panola, Alabama; and that he is a farmer.

Larkin, Lillie Mae
Pl.Ex. 2-94 Undated

Her application shows that she was born in Sumter County in 1898 and has lived there all her life; and that she is a farmer.

Larkin, R. D.
Pl.Ex. 2-95 Undated

His form shows that he has lived in Sumter County since 1890; that his address is Cuba, Alabama; and that he is a farmer.

Levy, Curtis
Pl.Ex. 2-96 10-1-62
Pl.Ex. 2-97 Undated

His application #2-96 shows that he was born in Sumter County in 1915 and has lived there all his life; that his address is Coatopa, Alabama; and that he is a farmer.

Little, Jesse H.
Pl.Ex. 2-100 Undated

His application shows that he was born in 1906 in Sumter County and has lived at his present address since 1944; that his address is Rt. 1, Box 69A, Panola, Alabama; and that he is a farmer.

Mason, Janie
Winston
Pl.Ex. 2-109 7-2-63

Her form shows that she was born in Sumter County in 1911 and has lived there all her life; that her address is Gainesville, Alabama; and that she is a teacher.

Miller, Rosa L.
Pl.Ex. 2-111 Undated

Her application shows that she was born in 1928 in Sumter County and has lived there all her life; that her address is P. O. Box 21, Epes, Alabama; and that she is a teacher.

Moore, Alexander Pl.Ex. 2-112	7-6-62	His application shows that he was born in 1914 in Sumter County and has lived there all his life; that his address is Rt. 1, Box 18, Livingston, Alabama; and that he is a farmer.
Moore, Easy Pl.Ex. 2-114	1-26-54	His application shows that he was born in 1896 in Sumter County and has lived there all his life; and that his address is Livingston, Alabama.
Moore, Mary Jane Pl.Ex. 2-115	About August 1963	Her application shows that she was born in 1909 in Sumter County and has lived there all her life; that her address is P. O. Box 283, York, Alabama; and that she is a maid and typist.
Pipkin, James O. Pl.Ex. 2-118	Undated	His application shows that he was born in 1921 in Alabama and has been a resident of Sumter County since 1951; that his address is P. O. Box 379, York, Alabama; and that he is a veteran and is a farmer.
Portis, Howard Pl.Ex. 2-119	10-21-57	His application shows that he was born in 1908 in Sumter County and has lived in Alabama all his life; that he has lived in Sumter County for at least the last five years; that his present address is Rt. 1, Box 44, Toomsaba, Mississippi, (a post office which serves parts of Sumter County); and that he is a farmer.
Portis, Lonzie Pl.Ex. 2-120 Pl.Ex. 2-121	8-6-62 7-2-63	His application #2-121 shows that he was born in Sumter County in 1918 and has lived there all his life; that his address is Rt. 1, Box 55, Cuba, Alabama; and that he is a farmer.

Randolph, Tom King
Pl.Ex. 2-123 7-3-63

His application shows that he was born in 1935 in Sumter County and has lived there all his life; that his address is P. O. Box 474, Livingston, Alabama; and that he is a brickmason.

Rice, Alonzo
Pl.Ex. 2-124 2-1-54

His application shows that he was born in 1896 in Sumter County and that he has lived there for at least the last five years; that his address is Rt. 1, Box 43D, Coatopa, Alabama, and that he is a farmer.

Rice, Rosie L.
Pl.Ex. 2-125 11-8-54
Pl.Ex. 2-126 10-6-61
Pl.Ex. 2-127 7-2-62

Her application #2-125 shows that she was born in Sumter County in 1906 and has lived there all her life; that her address is Rt. 1, Box 43B, Coatopa, Alabama; and that she is a farmer.

Swain, Leona
Louise
Pl.Ex. 2-135 Undated

Her application shows that she was born in Alabama in 1906 and has lived there all her life; that she has lived in Sumter County since 1948; and that her address is York, Alabama.

Taylor, Melnor
Pl.Ex. 2-138 7-5-62
Pl.Ex. 2-139 Undated

Her application #2-139 shows that she was born in 1914 in Sumter County and has lived there all her life; that her address is Rt. 1, Box 54, Coatopa, Alabama; and that she is a farmer.

Travis, Beatrice
Pl.Ex. 2-142 Undated

Her application shows that she was born in Alabama in 1910 and that she has lived in Sumter County for at least the last five years; that her address is Coatopa, Alabama; and that she is a supply teacher.

Wabbington, Sallie
Pl.Ex. 2-145 12-6-54

Her application shows that she was born in Sumter County in 1906 and has lived there all her life; that her address is Rt. 1, Box 228, Coatopa, Alabama; and that she is a housewife.

Ward, Joe J.
Pl.Ex. 44 2-17-64

His form shows that he was born in Sumter County in 1932 and has lived there all his life; that his address is Livingston, Alabama; that he is a veteran; and that he is self-employed in the pulp-wood business.

Williams, William
L.
Pl.Ex. 2-149 Undated
Pl.Ex. 2-150 Undated

His form #2-149 shows that he was born in Alabama in 1887 and has lived there all his life; that he has lived in Sumter County for 33 years; and that he sells cosmetics and medicine.

Wilson, Richard, Jr.
Pl.Ex. 43 4-20-64

His form shows that he was born in Sumter County in 1936 and has lived there all his life; that his address is Cuba, Alabama; and that he works for the Delaine Construction Company

Winston, Bessie
Pl.Ex. 2-151 10-6-61
Pl.Ex. 2-152 7-2-62
Pl.Ex. 2-153 8-6-63

Her application #2-152 shows that she was born in 1911 in Sumter County and that she has lived there for at least the last five years; that her address is Rt. 1, Box 43B, Coatopa, Alabama; and that she is a farmer.

Winston, Felix
Pl.Ex. 2-154 11-8-54
Pl.Ex. 2-155 10-6-61
Pl.Ex. 2-156 7-2-62
Pl.Ex. 2-157 8-6-62

His form #2-154 shows that he was born in 1917 in Sumter County and has lived there all his life; that his address is Rt. 1, Box 43D, Coatopa, Alabama; and that he is a farmer.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	CIVIL ACTION NO. 63-609
	)	
BERNARD G. HINES, WILLIAM S.	)	<u>PLAINTIFF'S PROPOSED DECREE</u>
HOLMAN, RUBY P. TARTT, Members	)	
of the Board of Registrars of	)	
Sumter County, Alabama; and	)	
STATE OF ALABAMA,	)	
	)	
Defendants.	)	
	)	

Pursuant to the Findings of Fact and Conclusions
of Law entered this date:

1. This Court finds specifically that the defendants and their predecessors in office have engaged in acts and practices which have deprived Negro citizens in Sumter County, Alabama, of the right secured by 42 U.S.C. 1971(a), and that these deprivations of this right have been pursuant to a pattern and practice of racial discrimination.

2. It is ORDERED, ADJUDGED and DECREED that the defendants, the State of Alabama, Bernard G. Hines, William S. Holman, and Ruby P. Tartt, individually and as members of the Board of Registrars of Sumter County, Alabama, their agents, officers, employees, successors in office, and all persons in active concert

with them be and each is hereby enjoined from engaging in any act or practice which involves or results in distinctions of race or color in the registration of voters in Sumter County, Alabama. Specifically, each of said defendants and persons is enjoined from:

- a. Applying different and more stringent registration qualifications, requirements, procedures, and standards to Negro applicants than those which have been applied to white applicants since January 1954 in determining whether or not such applicants were or are qualified to register to vote in Sumter County, Alabama;
- b. Using the application form in any manner or for any purpose different from and more stringent than that for which it has been used in registering white persons in Sumter County, Alabama, since January 1954. Specifically, the application form is to be used to obtain and record essential information from which it can be determined whether applicants possess the qualifications set forth in subparagraph c below. The application form is not to be used as an examination or test. No applicant shall be denied registration because of errors or omissions in his application form;

c. Failing to register applicants who meet the following qualifications:

- (1) He is a citizen of not less than 21 years of age;
- (2) He has resided in the State, the county, and his precinct the required period;
- (3) He embraces the duties and obligations of citizenship as demonstrated by his willingness to take and subscribe the Oath as provided by law;
- (4) He is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy.

d. Rejecting any applicant for registration on the ground that he failed satisfactorily to complete one or more of the tests provided for in Part III of the application form;

e. Requiring any applicant for registration to obtain or furnish a supporting witness to sign his application or otherwise to vouch for him.

f. Delaying, hindering, preventing or discouraging Negro citizens, on account of their race, from applying for and becoming registered to vote in Sumter County, Alabama.

3. It is further ORDERED that said defendants shall pass upon each application for registration and shall

notify each applicant of the action by the registrars on his application, whether accepted or rejected, within fifteen days of the date of each application. If any applicant is rejected, the registrars shall notify the applicant of the specific fact or facts constituting the basis for his rejection.

4. It is further ORDERED that said defendants within ten days of the date of this Decree place upon the current and permanent registration rolls of Sumter County, Alabama, and any official copies thereof, the names of the Negro citizens listed in Appendix II, which is attached hereto and is incorporated herein. Within ten days of the date of this Decree, each person listed in Appendix II shall be notified that his name has been placed on the permanent voter registration rolls of Sumter County, Alabama, by mailing to such person the appropriate certificate of registration entitling him to vote. The defendants shall file with the Clerk of this Court within fifteen days from the date of this Decree a written report reflecting their compliance with this paragraph.

5. It is further ORDERED that said defendants submit to the Clerk of this Court in writing, with a copy sent to the plaintiff, on or before the fifteenth day of each month after the date of this Decree and until further order of this Court, a report as to their progress in receiving and processing applications for registration during the preceding calendar month. This report shall include:

- (1) The dates and places applications were received during the preceding report period and the hours during which the registrars were available to receive applications.
- (2) The action taken by the registrars on applications for registration during the preceding report period which with respect to accepted applications will state the name and race of each applicant, the date of his application, and the date the certificate of registration was mailed or given to the applicant; and with respect to rejected applications, the name and race of each rejected applicant, the date of his application, a duplicate copy of the notification of his rejection, the reason for his rejection, and the date on which such notification was mailed or given to the applicant.

6. It is further ORDERED that said defendants preserve all applications for registration, registration books, and all other papers and records relating to registration in Sumter County, Alabama, and make all such records available for inspection and copying by agents of the United States at any reasonable times.

7. It is further ORDERED that the motion of the defendant State of Alabama to dismiss it as a party defendant is hereby denied.

The costs incurred in this proceeding to date
are hereby taxed against the defendants.

Done this _____ day of _____, 1964.

UNITED STATES DISTRICT JUDGE

A P P E N D I X II

<u>NAMES</u>	<u>ADDRESSES</u>	<u>DATES OF APPLICATION</u>
Adams, Fred	Rt. 1, Box 25 Cuba	7-3-63
Archie, Phodia	Rt. 1, Box 25 Gainesville	7-5-62
Bester, James E., Sr.	Gen. Del. Gainesville	2-15-54
Beville, Cora Lee	Rt. 1, Box 46B Coatopa	11-15-54 10-6-61 2-5-62 4-2-62
Beville, Sallie R.	Rt. 1, Box 46A Coatopa	10-6-61 7-2-62 8-6-62
Beville, William	Rt. 1, Box 46A Coatopa	11-8-54 10-6-61 4-2-62 3-5-?
Binion, Tarlton	Box 142 Panola	2-7-55
Bizzell, Joe	Rt. 1, Box 112 Coatopa	2-1-54 10-6-61
Branch, Eldora	Rt. 1, Box 48 $\frac{1}{2}$ Coatopa	11-15-54 Not Dated
Branch, Jim	Rt. 1, Box 48 $\frac{1}{2}$ Coatopa	10-6-61 Not Dated Not Dated
Brown, Margaret Campbell	Box 503 Livingston	Not Dated 7-1-63
Buchanan, Henry	Rt. 1, Box 17 Gainesville	7-5-62
Campbell, Atlas	Rt. 1, Box 15 Livingston	2-1-54
Clark, J. B.	Box 244 Livingston	Not Dated
Clark, Jessie	Rt. 1, Box 46 Coatopa	8-6-62
Daniel, Robert Earl	Panola	2-7-55

<u>Names</u>	<u>Addresses</u>	<u>Dates of Application</u>
Delaine, April Hammond	Rt. 1, Box 26 Cuba	7-2-63
Dykes, Genzell W.	Rt. 1, Box 25 Coatopa	8-6-62
Evans, Carrie	Box 54 Coatopa	8-1-55
Gee, Josephine	Box 11 Gainesville	7-5-62 8-6-62
Gillespie, Ruby	Rt. 1, Box 42 Coatopa	7-5-62
Gray, Lewis	Epes	4-16-62
Gulley, Jim	Livingston	4-21-58
Gulley, Susie	Livingston	4-21-58
Halsey, Amanda	Box 435 York	Not Dated
Hare, Ed	Rt. 1, Box 168 Cuba	7-6-62 Not Dated Not Dated 4-20-64
Harris, Carrie Lee	Rt. 1, Box 306 Coatopa	4-20-64
Hearn, Horice	Rt. 1, Box 32 Cuba	1-18-54
Houston, Earl	Rt. 1, Box 33 Panola	Not Dated
Houston, John	Rt. 1, Box 33 Panola	Not Dated
Howze, Fred D.	Rt. 1, Box 55 Coatopa	2-1-54
Hunter, Will T.	Box 511 York	7-9-63
Isaac, Ora D.	Rt. 1, Box 46 $\frac{1}{2}$ Coatopa	7-2-62 8-6-62 10-6-61
Jemison, R. H.	Rt. 1, Box 19 Cuba	7-3-63
Jimerson, Gussie	Box 383 York	7-2-63

<u>Names</u>	<u>Addresses</u>	<u>Dates of Application</u>
Jimerson, Will	Box 383 York	7-2-63
Johnson, Cora	Rt. 1, Box 43D Coatopa	7-16-62 8-6-62
Jones, David O.	Box 124 Panola	8-5-63
Jordan, William	Rt. 1, Box 13 Coatopa	1-25-54
Kirkland, Willie	Panola	1-17-55
Larkin, Lillie Mae	Rt. 1, Box 73 Cuba	Not Dated
Larkin, R. D.	Rt. 1, Box 73 Cuba	Not Dated
Levy, Curtis	Rt. 1, Box 111 Coatopa	10-1-62 Not Dated
Little, Jesse H.	Rt. 1, Box 12 Panola	Not Dated
Mason, Janie Winston	Box 25 Gainesville	7-2-63
Miller, Rosa L.	Rt. 16C Epes	Not Dated
Moore, Alexander	Rt. 1, Box 18 Livingston	7-6-62
Moore, Easy	Box 472 Livingston	1-26-54
Moore, Mary Jane	Box 283 York	July or August 1963
Pipkin, James O.	Box 379 York, Ala.	Not Dated
Portis, Howard	Rt. 1, Box 44 Toomsba, Miss.	10-21-57
Portis, Lonzie	Rt. 1, Box 55 Cuba	8-6-62 7-2-63
Randolph, Tom King	Box 474 Livingston	7-3-63

<u>Names</u>	<u>Addresses</u>	<u>Dates of Application</u>
Rice, Alonzo	Rt. 1, Box 43D Coatopa	2-1-54
Rice, Rosie L.	Rt. 1, Box 43B Coatopa	11-8-54 10-6-61 7-2-62
Swain, Leona Louise	Box 283 York	Not Dated
Taylor, Melnor	Rt. 1, Box 54 Coatopa	7-5-62 Not Dated
Travis, Beatrice	Coatopa	Not Dated
Wabbington, Sallie	Rt. 1, Box 288 Coatopa	12-6-54
Ward, Joe James	Gen. Del. Livingston	2-17-64
Williams, William L.	Box 266 York	Not Dated Not Dated
Wilson, Richard, Jr.	Rt. 1, Box 195 Cuba	4-20-64
Winston, Bessie	Rt. 1, Box 43B Coatopa	10-6-61 7-2-62 8-6-63
Winston, Felix	Rt. 1, Box 43D Coatopa	11-8-54 10-6-61 7-2-62 8-6-62

