

Landberg

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

UNITED STATES OF AMERICA,
PLAINTIFF,

versus

CIVIL ACTION NO. 2255-N

THE STATE OF ALABAMA and
PERRY O. HOOPER, Judge
of Probate of Montgomery
County, Alabama,

DEFENDANTS.

SUMMARY OF THE PLAINTIFF'S CASE

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INTRODUCTION

Pursuant to the pre-trial order issued by Judge Johnson on December 10, 1955, we submit here a summary of the case which the United States intends to present. This summary is in two sections. The first, which follows, is a list of citations and references to statutes, judicial decisions, official reports and documents, statements by public officials, newspapers, and other references on which we intend to rely.*/ In the case of certain material relating to the adoption of the Alabama Constitution of 1901, and special tables prepared by the Bureau of the Census, which we realize are not readily accessible to the defendants, we are providing counsel for the defendants with copies of the documents themselves.

Also pursuant to the pre-trial order, we submit herewith the summaries of the depositions taken by the United States in this action. The summaries are bound in three volumes with a table of contents at the beginning of the first volume. We have attempted to summarize fairly the entire deposition, giving page references to the testimony. For the convenience of the reader and for reference in future briefing, we have divided the summaries into sections and titled each section.

We have felt it unnecessary to repeat citations in our Brief in Opposition to the Defendants Motion to Dismiss and our Supplementary Brief on the Issue of Law. The legal positions presented by these briefs and the citations given in them should be considered in conjunction with the materials presented here.

*/ We may wish to present additional evidence in rebuttal to the proof offered by defendants.

LIST OF CITATIONS

I. THE POLL TAX AS A PREREQUISITE TO VOTING IN ALABAMA VIOLATES THE FIFTEENTH AMENDMENT

A. The purpose of making the poll tax a prerequisite to voting was to disenfranchise Negroes.

1. Voting by Negroes prior to the Constitutional Convention of 1901. 1/

a. Documents

- (1) Senate Executive Document No. 53, 40th Congress, 2d Session.
- (2) The Huntsville Republican for October 18, 1902.
- (3) History of Alabama, by A. B. Moore (1934).
- (4) Alabama Constitution of 1875 Art. VIII, IX, X, XII.
- (5) Alabama Constitution of 1867 Art. VII, IX, XI.
- (6) An Act to legalize the Assessment of Taxes in the State of Alabama made in the year 1868, Approved August 18, 1868.
- (7) An Act to Establish Revenue Laws for the State of Alabama, No. 1, approved December 31, 1868.

b. Statistics

- (1) Abstract from Eleventh U.S. Census Report, 1890, Tables 1, 7, 8, 20.
- (2) U.S. Census Report for 1900. Part I, Vol. I of chapter "Citizenship and Years in the United States," Tables XI, LIII, LI, No. 68.

2. Action by the Constitutional Convention of 1901. 2/

1/ Copies of all materials in Subsection A. 1., (except for the History of Alabama by A. B. Moore) have been furnished to the defendants.

2/ Copies of all materials in Subsection A. 2. (a) - (d) have been furnished to the defendants.

- a. Official Proceedings of the Constitutional Convention, State of Alabama, 1901, pages 7-10; 13-14; 1662-3; 2388-9; 2391; 2811; 2813; 2837; 2843-4; 3018; 3333; 3363; 3367-8; 3374; 3376; 3380-1.

- b. Newspaper Reports:

Birmingham, Age Herald

May 8, 11, 16, 17, 1901

Mobile, Daily Register

May 9, 1909

April 21, 1901

May 16, 28, 1901

July 2, 9, 1901

Montgomery Advertiser

May 14, 16, 17, 21, 22, 23, 1901

June 9, 1901

July 11, 16, 24, 25, 26, 27, 28,
30, 31, 1901

Huntsville, The Republican

October 18, 1902

- c. Constitution of 1901 and Legislation Enacted Thereunder

Alabama Constitution of 1901

Art. VIII

Art. XIV

Proclamation of Ratification
(Vol. 1, p. 339, Ala. Code,
1960 Ed.)

Alabama Code (As Recompiled in 1958)

Title 14, Section 71

Title 17, Sections 38, 136, 137, 138

Title 51, Chapter 13

- d. Statistics

- (1) Alabama Official and Statistical Register for years 1907 and 1911.
- (2) Alabama Official Directory for 1903, 1905.

e. Texts:

- (1) Constitutional Development in Alabama, 1798-1901, M. A. McMillan; University of North Carolina Press: 1955. ?
- (2) History of Alabama, A. B. Moose; University Supply Store, University of Alabama: 1934.

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

1. Materials on Education

a. Statistics:

The following chart sets forth the page numbers of Annual Reports issued by the Alabama State Board of Education, for the years indicated, containing data in the categories shown, on which the plaintiff will rely:

<u>Category</u>	<u>1930</u>	<u>1940</u>	<u>1950</u>	<u>1960</u>	<u>1964</u>
Pupil Enrollment	162	71,75	77,81	12	12
Value of School Property	163	34	42	*	*
Number of Teachers	166	135	22	14	81,85
Current Expenses Per Pupil Enrolled	165	29	35	23	23
Average Length of School Term	161	103, 107	22	13	13
Average Annual Teacher Salary	157	28	34	13	23

* Data not supplied by race.

b. Letter:

Letter of transmittal to the State Board of Education from the State Superintendent of Education in the Annual Report for the year 1938.

c. Elective Course Offering and Books per Pupil:

Data on high school elective course offerings and the number of books per pupil in the forty-three school districts listed below. This data is contained in the 1964-1965 Applications for Secondary School Accreditation for the school districts issued by the State of Alabama.

Department of Education:

County Districts

Autauga	Escambia	Madison
Baldwin	Etowah	Marengo
Barbour	Eufaula	Marshall
Bullock	Franklin	Mobile
Butler	Geneva	Monroe
Calhoun	Greene	Pickens
Chambers	Hale	Pike
Chilton	Henry	St. Clair
Clay	Houston	Shelby
Conecuh	Lee	Troy
Dale	Lowndes	Tuscaloosa
	Macon	

City Districts

Attalla	Gadsden	Opelika
Auburn	Huntsville	Russellville
Dothan	Lanett	Tuscaloosa

d. School Surveys:

Materials relating to holding power,
physical facilities, and educational opportuni-
ties from the following surveys of individual
school districts conducted by the Alabama State
Department of Education:

Report of the Survey of Autauga County Schools,
1928-1929

Report of Survey of Chilton County Schools,
1928-1929

Report Partial Survey of Choctaw County Schools,
1946-1947

Report of Partial Survey of Wilcox County Schools,
1946-1947

Report of a Partial Survey of the Lauderdale County
Schools, 1946-1947

Report of Partial Survey of the Limestone County
Schools, 1946-1947

Report of a Partial Survey of Cleburne County
Schools, 1946-1947

Report of a Partial Survey of the DeKalb County
Schools, 1946-1947

Report of Partial Survey of Conecuh County Schools,
1946-1947

Report of a Partial Survey of the Jackson County
Schools, 1946-1947

Report of a Partial Survey of the Coosa County
Schools, 1946-1947

Report of a Partial Survey of the Crenshaw County
Schools, 1946-1947

Report of a Partial Survey of the Bibb County
Schools, 1946-1947

Report of a Partial Survey of the Butler County
Schools, 1946-1947

Report of a Partial Survey of the Franklin County
Schools, 1946-1947

Report of Survey of the Butler County Negro Schools,
1949-1950

Report of a Partial Survey of the Geneva County
Schools, 1946-1947

Report of a Partial Survey of the Blount County
Schools, 1945-1946

Report of a Partial Survey of the Colbert County
Schools, 1946-1947

Report of a Partial Survey of the Washington County
Schools, 1946-1947

Report of a Partial Survey of the Chambers County
Schools, 1946-1947

Report of a Partial Survey of the Henry County
Schools, 1946-1947

Report of a Partial Survey of the Talladega County
Schools, 1946-1947

Report of the Survey of Talladega County Schools,
1937-1938

Report of a Partial Survey of the Clarke County
Schools, 1946-1947

Report of the Survey of Clarke County Schools,
1937-1938

Report of a Partial Survey of the Elmore County
Schools, 1946-1947

Report of the Survey of Elmore County Schools,
1937-1938

Report of a Partial Survey of the Houston County
Schools, 1946-1947

Report of the Survey of Rural Schools of Houston
County, 1938-1939

Report of a Partial Survey of the St. Clair County
Schools, 1946-1947

Report of the Survey of St. Clair County Schools,
1938-1939

Report of a Partial Survey of the Chilton County
Schools, 1946-1947

Report of the Survey of Chilton County Schools,
1939-1940

Report of Survey of Montgomery County School System,
1939-1940

Report of a Partial Survey of the Clay County
Schools, 1946-1947

Report of Survey of Clay County School System,
1940-1941

Report of Survey of Randolph County School System,
Including the City of Roanoke, 1940-1941

Report of the Survey of the Monroe County School
System, 1940-1941

Report of the Survey of the Monroe County Negro
Schools, 1950-1951

Report of the Survey of the Coffee County and the
Enterprise City School Systems, 1940-1941

Report of the Survey of the Hale County School
System, 1944-1945

Report of the Survey of the Shelby County School
System, 1944-1945

Report of the Survey of the Walker County School
System, 1944-1945

Report of the Survey of the Tuscaloosa County
School System, 1944-1945

Report of the Survey of the Pickens County Board
of Education, 1944-1945

Report of the Survey of the Morgan County School
System, 1944-1945

Report of the Survey of the Macon County School
System, 1944-1945

Report of the Survey of the Selma City School
System, 1945-1946

Report of the Survey of the Marshall County School
System, 1944-1945

Report of the Survey of the Huntsville-Madison
County School Systems, 1947-1948

Report of the Survey of the Madison County Board
of Education, 1944-1945

Report of the Survey of the Russell County School
System (Negro only), 1944-1945

Report of the Survey of the Lowndes County School
System (Negro only), 1945-1946

Report of the Survey of Calhoun County School
System, 1945-1946

Report of the Survey of the Escambia County Board
of Education, 1945-1946

Report of the Survey of the Marengo County Schools,
1946-1947

Report of the Survey of the Greene County School
System, 1946-1947

Report of the Survey of the Lee County Schools,
1946-1947

Report of the Survey of the Dale County Schools,
1946-1947

Report of the Survey of the Eufaula City School
System, 1947-1948

Report of the Survey of the Huntsville City
School System, 1947-1948

Report of the Survey of the Bessemer City School
System, 1947-1948

Report of the Survey of the Montgomery County
School System, 1947-1948

Report of the Survey of the Auburn Schools,
1948-1949

Report of the Survey of the Choctaw County School
System, 1947-1948

Report of the Survey of the Sumter County School
System, 1947-1948

Report of the Survey of the Franklin County School
System, 1948-1949

Report of the Survey of the Jackson County School
System, 1949-1950

Report of Survey of the Troy City Schools,
1949-1950

Report of a Survey of the Sylacauga City Schools,
1949-1950

Report of a Survey of the Andalusia City Schools,
1949-1950

Report of a Survey of the Dallas County School
System, 1950-1951

Report of a Survey of the Clarke County School
System, 1950-1951

Report of a Survey of the Sheffield City Schools,
1953-1954

e. School Enrollment and Years of School
Completed.

(1) U. S. Bureau of the Census, U. S.
Census of Population, 1950; Vol II,
Characteristics of the Population,
Part 2, Alabama. Table 65.

(2) U. S. Bureau of the Census, U. S.
Census of Population: 1960, Vol I,
Characteristics of the Population,
Part 2, Alabama, Tables 46, 47, 83,
87, 103, and 138.

f. Testimony

(1) Deposition of Dr. C. G. Gomillion

2. Materials on Occupation and Income

a. Publications

Annual and Lifetime Income in Relation to
Education, 1939-1959; by Herman P. Miller,
Special Assistant, Office of Dir. U.S.
Bureau of the Census, published in the
December 1960 issue of The American Economic
Review pp. 962-986.

b. Testimony

(1) Deposition of Mollie Orshansky with
exhibits, and special tables prepared by
U. S. Bureau of the Census. 2a/

(2) Deposition of Tax Collectors with
respect to employment practices at
the county level.

(3) Deposition of Hale County Tax Collector
with respect to Negro income

(4) Deposition of Dr. C. G. Gomillion

c. Employment statistics from State of Alabama

These statistics have been submitted
to the defendants in the form of a
Request for Admission.

2a/ Copies of the tables are being furnished to the defen-
dants.

d.-e. Employment

U. S. Bureau of Census, U. S. Census of Population: 1960, Vol. I, Characteristics of the Population, Part 2, Alabama, Table 122, pp. 2-379 to 2-387; Part 2, Alabama, Table 124, pp. 2-400 to 2-411.

f. Housing

U.S. Census Report on Housing, HC(1), No. 2, Tables 7 and 11.

g. Income

U.S. Bureau of the Census, U. S. Census of Population: 1960, Vol. I, Characteristics of the Population, Part 2, Alabama, Tables 65-67, 69, 86, 88 and 133-146.

C. The State of Alabama by law, practice, custom and usage has maintained and promoted white political supremacy and a racially segregated society.

1. Desegregation Cases

(a) Transportation:

Baldwin v. Morgan, 287 F.2d 750 (1961); Bowman v. Birmingham Transit Co., 280 F.2d 531 (1960); Baldwin v. Morgan, 251 F.2d 780 (1961); U.S. v. City of Montgomery, 201 F. Supp. 590 (M.D. Ala., 1962); Lewis v. Greyhound, 199 F. Supp. 210 (M.D. Ala., 1961); U.S. v. U.S. Knights of the Ku Klux Klan, 194 F. Supp. 897 (M.D. Ala. 1961); Browder v. Gayle, 142 F. Supp. 707 (M.D. Ala. 1956).

(b) Schools:

Woods v. Birmingham Board of Education, 334 F.2d 369 (1964); Armstrong v. Board of Education of Birmingham, 333 F.2d 47 (1964), 220 F. Supp. 217 (1963); Franklin v. Parker, 223 F. Supp. 724, 331 F.2d 831 (5th Cir. 1963); Gunn v. Norton, 8 Race Rel. L. Rep. 1395 (1963); Davis v. Board of School Commissioners of Mobile, 318 F.2d 63 (1963), 219 F. Supp. 542 (1963); Brown and U.S. v. Bessemer Board of Education, CA 65-366 (N.D. Ala.); Stout and U.S. v. Jefferson County Board of Education, CA 65-396 (N.D. Ala.);

Boykins and U.S. v. Fairfield Board of Education, CA 65-499 (N.D. Ala.); Hereford v. Huntsville Board of Education, 8 Race Rel. L. Rep. 908 (1963), 9 Race Rel. L. Rep. 1183 (1964); Bennett v. Madison County Board of Education, 9 Race Rel. L. Rep. 1166 (1964); Carr v. Montgomery Board of Education, 232 F. Supp. 705 (1964); Harris v. Bullock County Board of Education, 232 F. Supp. 959 (1964); Miller v. Board of Education of Gadsden, 9 Race Rel. L. Rep. 1191 (1964); Lee v. Macon County Board of Education 221 F. 297 (1963), 231 F. Supp. 772 (1963); Malone v. Mate, CA 63-178 (N.D. Ala.); U.S. v. Wallace, 222 F. Supp. 485 (1963); Shuttlesworth v. Birmingham Board of Education, 162 F. Supp. 372 (1958); Gainer v. School Board of Jefferson County, 135 F. Supp. 559 (1955).

(c) Juries:

Norris v. Alabama, 294 U.S. 587 (1935); Patterson v. Alabama, 294 U.S. 600 (1935); Rogers v. Alabama, 192 U.S. 226 (1903); Seals v. Wiman, 304 F.2d 53 (5th Cir. 1962).

(d) Public Facilities:

City of Montgomery v. Gilmore, 277 F.2d 364 (5 Cir. 1960); Faulkner v. City of Gadsden, 9 Race Rel. L. Rep. 276 (1964); Cobb v. Montgomery Library Board, 207 F. Supp. 880 (M.D. Ala. 1962).

(e) Voting:

Gomillion v. Lightfoot, 364 U.S. 339 (1960); U.S. v. Logue (Wilcox County) 344 F.2d 290 (5th Cir. 1965); U.S. v. Atkins, 323 F.2d 733 (5th Cir., 1963); Reynolds v. Sims, CA 1744-N, Opinion of District Court, Oct. 2, 1965; U.S. v. Bruce, CA 3202-63 (S.D. Ala.) reversed, 1965, 5th Cir.; Williams v. Wallace, 240 F. Supp. 100 (M.D. Ala. 1965); U.S. v. Clark, 10 Race Rel. L. Rep. 236 (S.D. Ala. 1965); U.S. v. Ford (Choctaw County) 9 Race Rel. L. Rep. 1330 (S.D. Ala. 1964); U.S. v. Hines (Sumter County), 9 Race Rel. L. Rep. 1332 (M.D. Ala. 1964); U.S. v. Cartwright (Elmore County), 230 F. Supp. 873 (M.D. Ala. 1964); U.S. v. Parker (Montgomery County), 236 F. Supp. (M.D. Ala. 1964); U.S. v. Penton (Montgomery County), 212 F. Supp. 193 (M.D. Ala. 1962); U.S. v. Hayton, 7 Race Rel. L. Rep. 1136 (Perry County), (S.D. Ala. 1962); U.S. v. Alabama (Bullock County), 7 Race Rel. L. Rep. 1146, 1152 (M.D. Ala., 1961); U.S. v. Alabama (Macon County), 192 F. Supp. 677 (M.D. Ala. 1961); Davis v. Schnell, 81 F. Supp. 872 (S.D. Ala. 1949), aff'd. 336 U. S. 933 (1949).

2. Segregation Statutes

(a) Alabama Constitution, 1901

ARTICLE XIV, §§256, 270

AMENDMENT CXI, §§256, 270

(b) Alabama Code

TITLE 12 - Counties
§188: County Jail

? TITLE 14 Crimes and Offenses
§§360, 360: Miscegenation

TITLE 44 - Paupers
§10:

TITLE 45 - Penal and Correctional Institutions
§§ 52, 121, 122, 123, 123, 248

TITLE 46 - Nurses
§189(19): White females can't nurse
Negro men.

TITLE 48 - Public Utilities
§186: Train stations
§196, 197: Train coaches
§§301(31a), 301(31b), 301(31c): Bus stations
and busses.
§464: Penalty for passenger not following
segregated train scheme.

TITLE 52 - Schools
§§24, 33, 36, 44(1), 45, 49, 52, 61(8),
297, 335, 339, 443, 452, 454, 455,
455(3), 466, 519, 573, 590, 591, 613(1),
451(C).

3. Public Statements of Officials

- a. Message of Governor William D. Jelks to the
Legislature of Alabama, January 13, 1903,
Journal of the House of Representatives, of
the State of Alabama, Session of 1903.
- b. Message of Governor William D. Jelks to the
Legislature of Alabama, January 9, 1907,
Journal of the Senate of the State of Alabama,
Session of 1907.
- c. Message of Governor Braxton Comer to the
Legislature of Alabama, January 10, 1911,
Journal of the Senate of the State of
Alabama, Session of 1911.

- d. Message of Governor John Patterson to the Legislature of Alabama, May 2, 1961, Journal of the House of Representatives of the State of Alabama, Regular Session of 1961.
- e. Message of Governor John Patterson to the Legislature of Alabama, January 8, 1963, Journal of the House of Representatives of the State of Alabama, Organization Session of 1963.
- f. Message of Governor George Wallace to the Legislature of Alabama, March 19, 1963, Journal of the House of Representatives of the State of Alabama, Second Extraordinary Session of 1963.
- g. Message of Governor George Wallace to the Legislature of Alabama, May 7, 1963, Journal of the House of Representatives of the State of Alabama, Regular Session of 1963.
- h. "The Wallace Plan for Progress, A Statement of Principle," Campaign Platform of George Wallace, May 7, 1963, Journal of the House of Representatives of the State of Alabama, Regular Session of 1963.
- i. Mobile Press Register, September 2, 1944. (Statement of Chairman of State Democratic Executive Committee of Alabama.)
- j. Birmingham News, October 30, 1946. (Advertisement in support of Boswell Amendment.)
- k. Birmingham News and Marion Times Journal, October 31, 1946. (Advertisements in support of Boswell Amendment.)
- l. Statement of George Wallace, Birmingham News, June 1, 1950.
- m. Statement by Governor John Patterson, Birmingham News, January 19, 1959.
- n. Statement by Governor John Patterson, New York Times, January 30, 1959.
- o. Statement by George Wallace, New Orleans Times-Picayune, February 17, 1959.
- p. Statement by Governor George Wallace, The Montgomery Advertiser, March 8, 1962.

- q. Statement by Governor George Wallace, The Montgomery Advertiser, March 11, 1962.
 - r. Statement by Governor George Wallace, Birmingham News, December 14, 1962.
 - s. Statement by Governor George Wallace, The Tuscaloosa News, January 3, 1963.
 - t. Text of Governor George C. Wallace's Inaugural Address, Birmingham News, January 14, 1963.
 - u. Governor George Wallace, The Tuscaloosa News, January 14, 1963.
 - v. Statement by Governor John Patterson, Birmingham News, January 19, 1961.
 - w. Statement by Governor George Wallace, The Montgomery Advertiser, January 20, 1963.
 - x. Statement by Governor George Wallace, Birmingham News, February 9, 1963.
 - y. Statement by Governor George Wallace, The Montgomery Advertiser, March 15, 1963.
 - z. Statement by Governor George Wallace, Birmingham News, July 16, 1963.
 - (aa) Statement by Governor George Wallace, New York Times, March 24, 1964.
4. Other Documents Relating to Policy favoring White Political Supremacy
- a. Official Ballot, 1964 General Election
 - b. Tuscaloosa News, November 3, 1939 (editorial).
 - c. Birmingham News, May 7, 1946 (News story relating to first election since end of white primary).

2 Legislative Proposals and Resolutions^{8/}

House Bill 629	Session of 1911.
House Bill 12	Special Session, 1920.
House Bills 108, 236	Special Session of 1932.
House Bills 8, 157	Session of 1935.
House Bill 5	Session of 1939.
Senate Bill 13	Special Session of 1939.
House Joint Resolu- tion 8	Extraordinary Session of 1943.
Senate Joint Resolu- tion 42	Regular Session of 1943.
Senate Bill 34	Regular Session of 1945.
Senate Resolution 2	Regular Session of 1947.
House Bills 24, 591	Regular Session of 1949.
House Bills 40, 42	Regular Session of 1951.
Senate Bill 50	Regular Session of 1951.
Senate Bills 6, 72, 73, 437	Regular Session of 1953.
House Bills 29, 30, 63, 64, 143, 144, 546	Regular Session of 1953.
Senate Bills 6, 7, 14	Regular Session of 1955.

^{8/} We rely both on the proposals and their legislative histories as reflected in House and Senate Journals of the State of Alabama.

House Bill 28	Regular Session of 1955.
Senate Bills 2, 3, 167	Regular Session, 1957.
House Bills 270, 272, 661	Regular Session of 1961.
Senate Bill 27	Regular Session of 1963.
House Joint Resolu- tion 23	Organizational Session of 1963.
Senate Bill 128	Regular Session of 1965.

E. The Administration of the Poll Tax Requirement in
Alabama Discriminates Against Negroes.

1. Testimony

- (a) Depositions of Tax Collectors, William Dannelly, and Zelma F. Wyatt indicating procedures and discretionary actions which favor white persons and burden Negroes in payment of the tax.
- (b) Deposition of Albert Turner
- (c) Deposition of Dr. C. G. Gomillion
- (d) Deposition of Mollie Orshansky

2. Statistics

- (a) Number of Voters by race who qualified to vote in 1964 State elections by virtue of poll tax payment. 3/
- (b) Number of Voters by race who failed to qualify to vote in 1964 State elections because of their failure to pay poll tax for the two previous years. 4/
- (c) U. S. Bureau of the Census, U. S. Census of Population 1960, Vol. 1. Characteristics of the Population Part 2, Alabama. Tables 16, 17 and 27.
- (d) Special tables of number of Veterans by county and race. 5/
- (e) Congressional Record, 85th Congress, 1st Session, Vol. 103, Part 7, page 8602.
- (f) Current Population Reports p. 23, No. 14, "1960 Population of Voting Age and Votes Cast for President 1964, 1960 for States and Counties."
- (g) Statistical abstract of the United States, 1965, 86th Ed. published by U. S. Bureau of Census, Tables 510, 511, 525.
- (h) U. S. Census Report on Population, 1910, Alabama - Montana, Table No. 6 Males of Voting Age and Military Age."

3/ Subject of Request for Admissions.

4/ Subject of Request for Admissions.

5/ A copy of this table is being furnished to the defendants.

- (i) Report of the Thirteenth Annual Policy Conference on Democracy and the Constitution, published by Alabama Policy Committee, April 14, 1945 - Bulletin No. 14.

3. Evidence in Prior Cases

- (a) U.S. v. Hines (N.D. Ala., 1964).
Hearing of May 5-7, 1964.
Testimony and application form of Steve Greenlee - Tr. 37, Pl. Ex. 3-1162.

Testimony of Mark O. Billingsley
(Tr. 297-299) Pl. Ex. 3-514.

Testimony of Atlas Campbell
(Tr. 290-291).

Testimony of Roland Simms
(Tr. 539, 544).

- (b) U.S. v. Atkins (S.D. Ala.)
Hearing of May 1962
Testimony of Corrine Juanita Maston
(Tr. 63).

- (c) Davis v. Schnell, 336 U.S. 933 (1949)
Plaintiff's Exhibits 5-8 in the
Record on Appeal to the Supreme Court. 6/

4. Educational, Employment and Income Evidence. 7/

6/ Copies of these exhibits are being furnished to the defendants.

7/ We will rely here on material cited in the previous sections on education, employment and income.

II. THE POLL TAX AS A PREREQUISITE TO VOTING IN ALABAMA VIOLATES THE FOURTEENTH AMENDMENT.

A. The poll tax is not reasonably related to any legitimate interest the State may have in qualifying voters.

1. Statistics:

- a. U.S. Bureau of Census, Compendium of State Government Finances, 1955-1956, Tables 5, 21 and 1957-1964, Tables 5, 17.
 - b. Annual Reports of the Alabama State Auditor, State Comptroller, Department of Finance ~~for~~ the years 1903 through 1964. 9,10/
 - c. Annual Reports of the Board of Education, State of Alabama ~~for~~ the years 1903 through 1964. 11/
 - d. U.S. Bureau of the Census, U.S. Census of Population 1960, Vol. 1, Characteristics of the Population, Part 2, Alabama. Tables 15, 17 and 27.
 - e. Special table prepared by Bureau of the Census showing veterans by race by county. /
2. Testimony (Arbitrariness of time, place, manner of collection; notice, state interest; cost).
- a. Depositions of Tax Collectors.
 - b. Deposition of Phillip J. Hamm, Commissioner of Revenue.
 - c. Deposition of Zelma F. Wyatt.
 - d. Deposition of Circuit Judge Gaillard.
 - e. Depositions of Probate Judges.

9,10/ A table prepared from these reports is attached as Table A.

11/ This table is being furnished to the defendants.

3. Statutes:

- a. Alabama Constitution, Articles VIII and XIV, as amended.
- b. Alabama Code, Title 17, Chapter 7, Articles 2 and 3.
- c. Alabama Code, Title 51, Chapter 13.

4. Official Reports:

- a. Congressional Record Citations previously given in Briefs in this case by the United States.
- b. Hearings before the Committee on the Judiciary, United States Senate, on S. 1534, 89th Cong., 1st Sess., p. 196 (March 24, 1955).
- c. Opinions of the Attorney General of Alabama: Sept. 3, 1936 (Biennial Report: October 1, 1934, p. 511) April 2, 1936 (Biennial Report: October 1, 1934, Letter to Tax Collector of Pike Co.

5. Prior Testimony:

U.S. v. Hines, (W.D. Ala. 1954); Testimony of Wilbur Dearman, Tr. 584-587 (May 7, 1954).

6. Action by Alabama Legislature and Legislative Committees.12/

7. Official Records:

Autauga County Qualified Electors List: 1952, 1954, 1956.

Hacon County Qualified Electors List: 1952, 1954.

Montgomery County Qualified Electors List: 1952-1956.

Shelby County Poll Tax Receipts: 1952-1956.

St. Clair County Poll Tax Payers: 1952-1956.

12/ We incorporate here the material listed in the Fifteenth Amendment Section.

B. The poll tax requirement discriminates against the poor.

1. Testimony:

- a. Deposition of Mollie Orshansky with attached tables and exhibits.
- b. Depositions of Tax Collectors (Time, place, manner of collection).
- c. Special tables prepared by Bureau of the Census. 13/

III. CONGRESS HAS FOUND AND DECLARED THAT POLL TAX REQUIREMENTS ARE UNCONSTITUTIONAL.14/

13/ Copies of these materials are being furnished to the defendants.

14/ See previous discussion in brief submitted by the United States.

TABLE A

<u>Year Ending Sept. 30th</u>	<u>Gross Revenue ^{1/} Receipts</u>	<u>Poll Tax ^{1/} Receipts</u>	<u>Total School ^{2/} Expenditures</u>
1902	2,908,714	145,906	951,305
1903	3,201,840	101,644	1,233,470
1904	3,201,339	125,932	965,260
1905	3,353,537	90,685	938,788
1906	3,773,546	117,688	1,185,897
1907	3,975,454	102,055	1,386,975
1908	4,661,902	124,775	2,195,335
1909	4,707,245	103,097	2,431,707
1910	5,425,097	245,669	2,711,417
1911	5,463,566	143,118	2,858,069
1912	6,261,236	179,790	3,594,697
1913	6,288,992	137,113	3,920,742
1914	6,607,001	205,731	4,281,265
1915	6,694,538	133,098	4,416,565
1916	7,138,674	213,758	4,519,399
1917	7,670,642	141,066	4,569,163
1918	6,721,272	188,950	5,989,528
1919	8,558,391	155,391	7,258,398
1920	12,078,296	334,846	7,242,141
1921	13,430,728	232,977	11,335,171
1922	15,621,700	283,677	14,084,641
1923	18,692,362	214,413	14,720,047
1924	24,131,663	299,638	14,540,233
1925	30,666,000	195,854	15,174,841
1926	29,826,256	281,047	18,360,715

<u>Year Ending Sept. 30th</u>	<u>Gross Revenue ^{1/} Receipts</u>	<u>Poll Tax ^{1/} Receipts</u>	<u>Total School ^{2/} Expenditures</u>
1927	32,503,728	205,022	18,300,314
1928	48,138,177	392,997	21,107,043
1929	49,634,103	196,353	23,294,724
1930	44,319,216	283,618	22,654,507
1931	36,770,682	160,319	21,495,577
1932	32,222,246	242,910	18,542,177
1933	33,666,016	142,936	14,148,336
1934	41,311,473	210,015	18,672,027
1935	60,513,578	210,062	19,892,124
1936	48,240,683	309,678	21,439,934
1937	71,548,045	241,208	21,524,330
1938	91,761,348	212,676	21,242,488
1939	87,042,228	212,774	25,117,050
1940	95,269,002	244,699	24,308,388
1941	97,270,457	244,698	24,455,467
1942	128,481,495	432,687	17,677,990
1943	161,603,540	248,841	21,871,309
1944	141,381,671	437,226	22,991,760
1945	189,061,623	320,781	31,738,669
1946	205,110,881	546,412	38,341,995
1947	211,617,723	264,406	45,834,245
1948	307,300,926	475,556	60,774,201
1949	303,857,293	258,394	67,731,405
1950	316,119,690	434,072	64,206,447
1951	354,437,097	240,913	67,509,987
1952	435,988,065	509,859	87,817,065
1953	448,235,994	312,319	86,883,691
1954	451,044,069	548,543	96,638,345
1955	473,425,003	262,000	99,541,419

<u>Year Ending Sept. 30th</u>	<u>Gross Revenue ^{1/} Receipts</u>	<u>Poll Tax ^{1/} Receipts</u>	<u>Total School ^{2/} Expenditures</u>
1956	599,516,479	374,507	126,470,092
1957	618,203,837	277,261	133,951,398
1958	629,565,813	385,688	134,440,119
1959	690,837,178	260,490	141,504,222
1960	905,214,132	337,395	234,414,635
1961	872,712,867	268,606	294,088,094
1962	952,372,300	404,670	243,830,557
1963	951,299,150	289,648	212,086,251
1964	1,115,442,780	521,135	241,475,917

^{1/} Statistics cited are those reported in the Annual Reports of the State Comptroller, Division of Control and Accounts, Department of Finance of the State of Alabama, with the exceptions of the years 1958, 1959, and 1962. For these years statistics cited are those reported in the Annual Reports, State of Alabama Department of Education.

^{2/} Statistics cited are those obtained from the Annual, or Biannual Reports of the Board of Education, State of Alabama. In some years the totals represent the sum of individual county totals.

CERTIFICATE OF SERVICE

I, John M. Rosenberg, certify that on January 16, 1966, I served the foregoing Summary of Plaintiff's Case and Summaries of Depositions (3 vol.) on:

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