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

UNITED STATES OF AMERICA,
PLAINTIFF,

versus

CIVIL ACTION NO. 2881

JOHN ALLEN BLACKBURN, MRS. W. F.
BARNETTE, DUDLEY PEARSON, AS
REGISTRARS OF VOTERS OF PERRY
COUNTY, ALABAMA,

DEFENDANTS.

BRIEF IN SUPPORT OF
PLAINTIFF'S APPLICATION
FOR AN ORDER REQUIRING
JOHN ALLEN BLACKBURN,
MRS. W. F. BARNETTE, AND
DUDLEY PEARSON TO SHOW
CAUSE WHY THEY SHOULD NOT
BE HELD IN CIVIL CONTEMPT
AND FOR AN ORDER REQUIRING
SAID PERSONS TO REGISTER
CERTAIN REJECTED APPLICANTS.

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C O N T E N T S

	<u>PAGE</u>
I. NATURE OF THE PROCEEDINGS	1
II. THE PARTIES	2
III. A CHRONOLOGY OF EVENTS LEADING TO THIS PROCEEDING	3
IV. THE REGISTRATION REQUIREMENTS AND PROCEDURES	5
A. <u>Provisions of Alabama Law</u>	5
<u>Blank Application for Registration Questionnaire and Oath (1952 to 1964)</u>	10
<u>Blank Application for Registration Questionnaire and Oaths (1964)</u>	14
B. <u>Provisions of This Court's Orders</u>	19
C. <u>Provisions Under the Practices of the Board of Registrars</u>	22
V. SINCE NOVEMBER 15, 1962 THERE HAS BEEN NO SIGNIFICANT INCREASE IN THE NUMBER OF NEGROES REGISTERED IN PERRY COUNTY	26
Chart I Applications for Regis- tration acted upon by the Perry County Board of Registrars	27
Chart II Registered Voters of Perry County March 20, 1964	28
VI. THE DEFENDANTS HAVE CONTINUED TO DENY REGISTRATION TO QUALIFIED NEGRO CITIZENS	29

VII.	THE DEFENDANTS HAVE USED A HIDDEN SIGNATURE LINE AS A DEVICE TO DISCRIMINATE AGAINST NEGROES	33
A.	<u>Qualified Negro applicants are Rejected As a Result of The Registrars Failure to Administer The Oath To Them</u>	34
1.	Negro applicants whose loyalty is beyond doubt are rejected for not signing the Oath	34
2.	The registrars do not administer the Oath or advise Negro applicants of the necessity for signing it	36
B.	<u>The Registrars Instruct White Applicants to Sign the Oath</u>	45
C.	<u>The Adoption and Use of the Oath- Signing Device Is in Violation of this Court's Injunction</u>	48
VIII.	THE DEFENDANTS HAVE USED THE SUPPORTING WITNESS REQUIREMENT AS A DEVICE TO DISCRIMINATE AGAINST NEGROES	50
A.	<u>In Perry County, the Voucher Require- ment places a Heavy Burden upon Negro Applicants But Not upon White Applicants for Registration</u>	51
B.	<u>The Voucher Procedure Is Administered to Negroes Unfairly and Discriminatorily</u>	51
C.	<u>Applications of White Persons Were Signed by Vouchers Without the Effort or Even the Knowledge of the White Applicants</u>	56
D.	<u>The Voucher Requirement Violates Due Process of Law</u>	58
E.	<u>The Adoption and Use of the Voucher Requirement Is In Violation of This Court's Orders.</u>	60

IX.	THE DEFENDANTS HAVE CONTINUED TO DISCRIMINATE AGAINST NEGRO APPLICANTS BY USING THE APPLICATION FORM AS A STRICT EXAMINATION	62
A.	<u>The Defendants Still Reject Qualified Negro Applicants on Account of Formal, Technical and Inconsequential Errors or Omissions on Their Application Forms</u>	62
B.	<u>The Defendants Have Not Used the Application Form as a Test for White Applicants</u>	67
X.	IN 1964 THE DEFENDANTS ADOPTED NEW MORE ONEROUS TESTS AND HAVE USED THEM TO DISCRIMINATE AGAINST NEGROES	75
A.	<u>The Board's Supplemental Test Was Adopted and Has Been Used to Discriminate Against Negroes</u>	76
	Chart III	
	ACTION TAKEN BY REGISTRARS ON APPLICATIONS FILED BETWEEN JANUARY 27, 1964 AND FEBRUARY 17, 1964	77
B.	<u>The Part III Test is Discriminatory and Violates the Order of This Court</u>	84
	Chart IV	
	ACTION TAKEN BY REGISTRARS ON APPLICATIONS FILED SINCE THE ADOPTION OF THE PART III TEST	86
XI.	THE DEFENDANTS HAVE FOLLOWED PROCEDURES DESIGNED TO DELAY THE REGISTRATION OF NEGROES	87
1.	The registrars have failed to notify rejected applicants of the specific reason for their rejection.	88
2.	The registrars have waited unreasonably long periods before notifying Negro applicants that their applications have been rejected.	93
3.	The Registrars have unreasonably limited the number of applicants who can apply simultaneously.	99
4.	White applicants are permitted to apply first regardless of the order in which they appear for registration to vote.	103

5.	Negroes must still search for the Board of registrars in order to apply.	105
6.	The registrars have delayed the registration of Negroes by refusing to receive and process applications on some of the regular registration days.	110
XII.	THE DEFENDANTS HAVE DISCRIMINATED AGAINST NEGROES BY FREEZING THE WHITE VOTERS INTO PERMANENT STATUS AND FREEZING THE NEGROES OUT	114
Freeze #1:	The rejection of applicants for failing to sign the Oath.	115
Freeze #2:	The rejection of applicants for failing to produce Supporting witnesses.	116
Freeze #3:	The rejection of applicants for technical errors or omissions in their applications.	117
Freeze #4:	The rejection of applicants for failing to understand and explain satisfactorily questions about government.	118
Freeze #5:	The rejection of applicants for failing to pass a completely new test of their ability to read and write and of their knowledge of government.	119
XIII.	THE RELIEF	122
	<u>Proposed Findings of Fact</u>	
	<u>Proposed Conclusions of Law</u>	
	<u>Appendix</u>	
	<u>Proposed Decree</u>	
	<u>Appendix</u>	

THE FOLLOWING TABLES FOR THIS BRIEF COMPRISE
A SEPARATE VOLUME ATTACHED HERETO:

TABLE A	THE WITNESSES
TABLE B	DESCRIPTION OF EXHIBITS
TABLE C	RACE IDENTIFICATION OF APPLICANTS November 15, 1962 through March 16, 1964
TABLE D	CHRONOLOGY OF APPLICATIONS FILED WITH THE BOARD OF REGISTRARS November 15, 1962 through March 20, 1964
TABLE E	SUPPLEMENTAL ORDER OF THE SUPREME COURT OF ALABAMA

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

UNITED STATES OF AMERICA,	)	
	)	
PLAINTIFF,	)	
	)	
vs.	)	CIVIL ACTION NO. 2881
	)	
JOHN ALLEN BLACKBURN, MRS. W. F.	)	
BARNETTE, DUDLEY PEARSON,	)	
AS REGISTRARS OF VOTERS OF	)	
PERRY COUNTY, ALABAMA,	)	
	)	
Defendants.	)	
	)	
	)	

BRIEF IN SUPPORT OF PLAINTIFF'S
APPLICATION FOR AN ORDER RE-
QUIRING JOHN ALLEN BLACKBURN,
MRS. W. F. BARNETTE, AND
DUDLEY PEARSON TO SHOW CAUSE
WHY THEY SHOULD NOT BE HELD
IN CIVIL CONTEMPT AND FOR AN
ORDER REQUIRING SAID PERSONS
TO REGISTER CERTAIN REJECTED
APPLICANTS.

I

NATURE OF THE PROCEEDING

This is a proceeding upon plaintiff's application for an order requiring the defendants to show cause why they should not be held in civil contempt of this Court's Orders of November 15, 1962, and May 17, 1963, and for an order requiring said defendants to register certain applicants for registration who were denied

the right to register to vote in Perry County, Alabama.

II

THE PARTIES

The plaintiff is the United States of America.

The defendants are the Registrars of Voters of Perry County Alabama. John Allen Blackburn is the Chairman of the Board. He has served continuously as a member of the Board since about 1954. C. Dudley Pearson was appointed as a member of the Board during January 1964. Mrs. W. F. Barnette was appointed as a member of the Board on or about October 1, 1963. These three defendants reside in Perry County, Alabama.

During the period from the original Order of the Court on November 15, 1962, to October 1, 1963, Neely B. Mayton and Floyd Bamberg served as registrars but they were not reappointed in October 1963.

The State of Alabama was 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. The State was dismissed as a party on April 23, 1964.

III

A CHRONOLOGY OF EVENTS LEADING TO THIS PROCEEDING

The original action was brought on August 27, 1962, by the Attorney General of the United States pursuant to 42 U.S.C. 1971. Plaintiff's motion for a preliminary injunction was heard on October 26, 1962, and on November 15, 1962, the Court enjoined the defendants Neely B. Mayton, Floyd Bamberg, John Allen Blackburn, and the State of Alabama from further discrimination in the registration of voters in Perry County, Alabama, and from engaging in certain acts and practices enumerated in the Decree.

On January 8, 1963, the plaintiff filed with the Court an application for an order requiring the defendant registrars to show cause why they should not be held in civil contempt of the preliminary injunction issued by the Court on November 15, 1962.

On May 17, 1963, the Court issued additional orders requiring the defendant registrars to process on special registration days applications by 174 Negro citizens of Perry County who had on January 8, 1963, applied to the Court seeking registration to vote pursuant to the provisions of 42 U.S.C. 1971(e). The Order of May 17 supplemented the Order of November 15, 1962, in that it specified certain additional procedures to be followed by the defendant registrars in conducting registration to vote in Perry County. The Order of May 17 also required the defendant registrars to file with the Court a monthly report showing the action of the Board during the preceding month.

On September 9, 1963, the Court ordered the defendant registrars to show cause on October 3, 1963, why they should not be held in civil contempt of the Orders of this Court. This hearing was postponed on September 30, 1963.

On about October 1, 1963, the terms of office of the defendant registrars, Neely B. Mayton, John Allen Blackburn, and Floyd Bamberg, expired, at which time John Allen Blackburn was reappointed and made the Chairman of the Board. Mrs. W. F. Barnette was appointed as a member of the Board on or about October 1, 1963. C. Dudley Pearson was appointed as a member of the Board in January 1964.

The Order of November 15, 1962, was personally served on the former members of the Board and on John Allen Blackburn on November 26, 1962. The Order of May 17, 1963, was personally served upon the former members of the Board and John Allen Blackburn on May 28, 1963. Copies of both orders were personally served upon Mrs. W. F. Barnette on October 8, 1963, and upon C. Dudley Pearson on February 14, 1964. Mrs. Barnette was duly substituted as a defendant under Rule 25(d), Federal Rules of Civil Procedure, by Order of this Court of October 3, 1963. C. Dudley Pearson was duly substituted as a defendant under Rule 25(d), Federal Rules of Civil Procedure, by Order of this Court on February 3, 1964.

On March 6, 1964, the plaintiff filed with the Court an application for an order requiring the defendant registrars to show cause why they should

not be held in civil contempt of the Orders of the Court and for an order requiring the defendants to register certain Negro applicants whose applications for registration to vote had been denied since November 15, 1962.

On March 6, 1964, the Court ordered the defendant registrars to show cause on April 24, 1964, why they should not be held in civil contempt of the Orders issued by this Court on November 15, 1962, and May 17, 1963, and why they should not be required to register certain rejected Negro applicants. The date of this hearing was subsequently reset for April 23, 1964, and the hearing was held on April 23 and 24, 1964.

IV

THE REGISTRATION REQUIREMENTS AND PROCEDURES

A. Provisions of Alabama Law

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;

^{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.

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 State Constitution which may be submitted to him by the Board of Registrars;
4. The applicant must be of good character and he 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 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 Perry 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.

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. 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.

Although the Alabama Constitution and statutes which authorize use of a questionnaire provide that the questionnaire shall be answered in writing by the applicant without

assistance, they do not provide that the applicant must answer a certain percentage of the questions as a pre-requisite to becoming a registered voter. On the contrary, they provide that the questionnaire "shall be so worded that the answers thereto will place before the registrars information necessary or proper to aid them to pass upon the qualifications of each applicant." (Title 17, §31, Code of Alabama.)

During the period from about January 1952 to February 1964 the Boards of Registrars throughout the State used a four page application form which was prescribed by the Supreme Court of Alabama.^{2/} A copy of this four page application form used in processing applicants for registration to vote is set forth on pages 10 to 13 below.

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.^{3/} This new application form requires that the applicant provide more detailed personal information about himself. It also differs from the prior form in that

^{2/} 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 Perry County Board of Registrars during 1961.

^{3/} This new application form was first used in the processing of applicants for registration to vote in Perry County on March 2, 1964.

it provides four questions to be answered by the applicant relating to his knowledge of government and provides excerpts from the Constitution one or more of which are to be read by the applicant to a registrar. The applicant is also required to write several words from the dictation of a registrar.^{4/} In addition to administering the oaths to the applicant the new form requires that a registrar administer Part III of the form to the applicant. The registrar (or a clerk) is also required to fill out Part I of the form. A copy of this new five page application form is set forth on pages 14 to 18 below.

^{4/} Different knowledge of government and reading tests are used each month by the insertion in the form of a new Part III.

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

QUESTIONNAIRE

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:.....
.....
.....

OATH

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

_____, (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 _____, 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 _____ years (or months). He is a bona fide resident at _____ 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 employers 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. Provisions of This Court's Orders

On November 15, 1962, the Court found that the defendants had engaged in acts and practices since at least 1959 which had the purpose and effect of depriving Negroes of their right to register to vote without distinction of race or color. Pursuant to this finding, the Court enjoined the defendants from engaging in any act or practice which involves or results in distinctions based on race or color in the registration of voters in Perry County.

This Court's Order of November 15, 1962, enjoined Neely B. Mayton, John Allen Blackburn, Floyd Bamberg, and the State of Alabama, their agents, officers, employees and successors in office, from:

1. Engaging in any act or practice which involves or results in distinctions based on race or color in the registration of voters in Perry County, Alabama.
2. Failing to meet, receive, and process applications for registration to vote on the days and at the times and places specified by the laws of the State of Alabama.
3. Receiving and processing all applications for registration in the order of the applicant's appearance without regard to race or color.
4. Failing to pass on each application for registration within a reasonable time.
5. Failing to notify in writing each applicant of the action taken on his application for registration, whether accepted or rejected, within a reasonable time; and if rejected, the specific reason or reasons for his rejection.
6. Refusing to permit rejected applicants to reapply for registration as often as they desire, provided such rejected applicant applies after a waiting period of sixty days from the date of his rejection.

7. Failing to register all applicants who meet the following qualifications:

- (a) He is a citizen of not less than twenty-one years of age.
- (b) He has resided in the State one year, in the county six months, and in the precinct three months.
- (c) He embraces the duties and obligations of citizenship.
- (d) He is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy, habituation to drink, or dope addiction.
- (e) He is able to demonstrate his ability to read or write by answering the questions on the application form and questionnaire.

8. From rejecting applicants for formal, technical, and inconsequential errors or omissions in their application forms.

This Court's Order of May 17, 1963, required the Registrars of Voters of Perry County to:

- A). Meet at least two full days each calendar month at the Court House of Perry County, Alabama, in Marion, Alabama, and during such times receive and process applications from any and all applicants without regard to race or color, provided that said applicants are residents of Perry County and present themselves to the Board as a bona fide applicant for registration;
- B). Maintain working hours during which bona fide applicants may apply for registration on such days as set out in (A) above, such working hours to commence at 9:00 a.m. and end at 4:00 p.m., with one hour for lunch;
- C). Meet regularly on non-registration days, not including Saturdays, Sundays and holidays, specifically to inspect, process, reexamine and take action upon, within forty-five days from the date of this order, the 173 letters submitted to the Court in this cause by persons seeking to become registered voters, and to register those among the 173 found qualified under State law;

- D). Allow applicants to apply for registration in the order in which they appear at the registration office, and process their applications in that order;
- E). Adopt any reasonable regulations necessary for the expeditious receipt and processing of applications;
- F). Notify an applicant within thirty days after the receipt of any application as to the action taken thereon by the Board; if the application is accepted, the registration certificate shall be mailed to the applicant; if the applicant is rejected, the notification shall be also mailed to the applicant, stating thereon that the applicant was rejected and the reason or reasons for such rejection.

The Order of May 17 also stated:

IT IS FURTHER ORDERED by this Court that the defendants ... file with the Clerk of this Court, in writing, on or before the 15th day of each month after the date of this decree and until otherwise ordered by this Court, (a) a report, excepting the 173 applications mentioned in (C) above, concerning the progress of the Board in receiving and processing the applications for voter registration during the month immediately preceding such report; and (b) a semi-monthly report on the 1st and 15th of each month, commencing June 1, 1963, as to the 173 applications mentioned in (C) above.

C. Provisions Under the Practices of the
Board of Registrars^{5/}

In administering registration in Perry County, whether within or outside the provisions of State law and the provisions of the Orders of this Court, the Board of Registrars has imposed the following additional requirements.

1. The application form is used as an examination so that the applications are "graded," and applicants are rejected if they fail to answer correctly any question on the form which the Board considers "important."

(Tr. 309)

2. Since December 1962, the applicant has been required to produce a supporting witness to vouch for him. (Tr. 307) The supporting witness must be a registered voter in Perry County and must verify by his signature on the form under oath that the applicant is a legal resident in the county.

(Tr. 308)

3. Since December 1962, the applicant has been required to sign the dotted line under the Oath on the application form. (Tr. 308)

^{5/} This section represents in essence a summary of relevant parts of the testimony of registrars John Allen Blackburn and C. Dudley Pearson. 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.

An applicant is rejected if he fails to sign this line.

4. Beginning on January 27, 1964, applicants were required to answer correctly the question: "How many members of the Federal House of Representatives are currently accredited to the State of Alabama? Why?"
5. Beginning on January 31, 1964, applicants were required instead to read aloud and write his understanding of Article X of the United States Constitution: "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."
6. Beginning on March 2, 1964, applicants have been required to answer correctly the four questions in insert Part III relating to facts about government. (Tr. 310)
7. Since March 2, 1964, applicants have been required to write words from the Constitution at the dictation of the registrars; and applicants are rejected if they misspell words. (Tr. 310)
8. Since March 2, 1964, applicants have been required not only to read but to interpret provisions of the Constitution set forth in insert Part III of the application form; and applicants are rejected for unsatisfactory interpretations. (Tr. 234, 235, 330, 331)

According to the testimony of the registrars, their general procedures have been as follows:

Since November 1962, the Board has used at least five different rooms in the county courthouse for receiving and processing applications for registration. (Tr. 276, 277) The Board has not posted public notices regarding the room in which they were to meet, but the registrars left instructions in the Probate Office as to where the Board was meeting in the event persons should inquire as to the Board's meeting place. (Tr. 277) The Board has recently been informed that it may permanently use the vault below the Probate Office. This room can accommodate from twenty-five to thirty persons. The Board can process about ten applicants simultaneously. (Tr. 277-279)

The Board has not adopted any formal written rules or regulations relating to the registration procedures or to the receipt of applications. They have no written rules other than those set forth in the laws of Alabama and in the Orders of this Court. (Tr. 274, 275)

When application forms are filled out and submitted to the Board, they are graded by each member of the Board. (Tr. 293) The determination of the Board as to whether the applicant possesses the qualifications entitling him to register is based solely upon the information contained in the application form. The Board does not go to sources outside the application form except police records. (Tr. 290, 291) Thus, the reason for the rejection of any application can be determined

from an examination of the application. (Tr. 291) The errors or omissions on the form, that is, the reason for the rejection, is often written by the registrar on the application itself. (Tr. 291, 292) Rejected applicants are sent notices of rejection. The Board does not grade an application until after the supporting witness has signed his portion of the form. (Tr. 295) The applicant is allowed thirty to sixty days for his supporting witness to sign the form. If the witness does not sign within that period, the applicant is rejected. (Tr. 295)

The Board does not permit an applicant who is rejected to reapply until sixty days have expired following the date that his application form has been acted upon by the Board. (Tr. 305)

In February 1964, the Board began to file monthly reports with the Court relating to the action taken on applications. The Board now intends to continue to make these reports to the Court pursuant to the Order of the Court issued on May 17, 1963. (Tr. 300)^{6/}

^{6/} The Board did not file any reports prior to February 1964. The Board reports reflect only those applications acted upon by the Board and do not list those filed during the month covered by the report which are held pending Board action.

V.

SINCE NOVEMBER 15, 1962 THERE HAS BEEN
NO SIGNIFICANT INCREASE IN THE NUMBER
OF NEGROES REGISTERED IN PERRY COUNTY.

The evidence in this case shows that virtually all of the white persons who applied for registration to vote from at least November 1959 to the original hearing in this case on October 26, 1962 were registered to vote. During this same period no Negro was registered although numerous attempts were made by Negroes to become registered voters in Perry County, Alabama. 7/

The Court issued an injunction on November 15, 1962 enjoining the defendants from engaging in acts and practices of discrimination the Court found to exist. The following chart shows the defendant's performance since the Court's Decree.

7/ See "Analysis of Perry County Voter Registration Records" filed by the plaintiff on October 26, 1962 during the hearing of plaintiff's motion for a preliminary injunction.

C H A R T I

APPLICATIONS FOR REGISTRATION ACTED UPON BY THE PERRY COUNTY BOARD OF REGISTRARS 8/

November 15, 1962 to March 20, 1964

<u>Period</u> ^{9/}	<u>Applica-</u> <u>tions</u> <u>Processed</u>		<u>Accepted</u>		<u>Rejected</u>		<u>Percent</u> <u>Rejected</u>	
	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
Nov. 15, 1962 to Oct. 1, 1963	<u>W</u> 53 <u>N</u>	257	49	44	4	213	8%	83%
Oct. 1, 1963 to Jan. 27, 1964	<u>W</u> 124 <u>N</u>	181	107	32	17	149	14%	82%
Jan. 27, 1964 to Mar. 20, 1964	<u>W</u> 43 <u>N</u>	74	30	6	13	68	30%	92%
Undated Applications	<u>W</u> 5 <u>N</u>	15	0	0	5	15		
Totals	<u>W</u> 225 <u>N</u>	527	186	82	39	445	17%	84%

8/ The number of accepted and rejected applications by date of application is set forth in Table D attached to the brief. The race of these applicants is set forth in Table C attached to the brief.

9/ The periods of registration are set forth according to the different registrars who have served on the Board of Registrars since the Decree. They are as follows: from 11-15-62 to 10-1-63 the Board consisted of John Allen Blackburn, Neely B. Mayton and Floyd Bamberg; from 10-1-63 to 1-27-64 the Board consisted of John Allen Blackburn and Mrs. W. F. Barnette, and on about 1-27-64 C. Dudley Pearson was also appointed to this Board as the third member.

At the time the Court's Decree was issued on November 15, 1962 only 4.7% of the Negro citizens of voting age in Perry County were registered to vote. Today still only 6.1% of the Negroes of voting age are registered.

CHART II

REGISTERED VOTERS OF PERRY COUNTY

March 20, 1964

	<u>Persons of 10/ Voting Age</u>	<u>Persons 11/ Registered</u>	<u>Percent of Voting Age 12/ Registered</u>
White	3,441	4,391	100%
Negro	5,202	315	6.1%

Despite the injunction issued by this Court and the numerous attempts by Negroes to register to vote since that injunction, there still has been no significant change in the number of Negroes registered to vote in Perry County.

10/ These figures are obtained from Pl. Ex. 6, Official Bureau of Census Population Statistics for Perry County, Alabama - 1960.

11/ These figures are obtained from Pl. Ex. 40, the current registration book for Perry County.

12/ The percentage of persons of voting age registered is actually lower for both white persons and Negroes than reflected in this Chart. The number of persons registered includes some persons who have died or moved from Perry County and whose names have not been purged from the registration book. These persons cannot be identified except through the reidentification of voters which is conducted in the various counties when authorized by the State Legislature.

VI

THE DEFENDANTS HAVE CONTINUED TO DENY REGISTRATION TO QUALIFIED NEGRO CITIZENS

There is set forth in the Appendix to plaintiff's proposed Findings of Fact a list of 165 Negro citizens who have applied for and been denied registration to vote in Perry County between November 15, 1962 and March 20, 1964. All of these applicants filed one or more applications during this period which show that they possess all of the qualifications and none of the disqualifications to register to vote in Perry County. The Order of this Court of November 15, 1962, clearly expresses the qualifications that an applicant must possess in order to be registered in Perry County.

- (a) He is a citizen of not less than twenty-one years of age.
- (b) He has resided in the State one year, in the county six months, and in the precinct three months.
- (c) He embraces the duties and obligations of citizenship.
- (d) He is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy, habituation to drink, or dope addiction.
- (e) He is able to demonstrate his ability to read or write by answering the questions on the application form and questionnaire.

A few examples will demonstrate the extent to which the defendants have gone in denying registration to qualified Negro citizens in defiance of this Court's Order.

Washington Carter, a Negro, is 27 years old. He was born in Perry County and has lived there all his life. He finished Lincoln High School at Marion. He spent two years in the Army and is presently active in the Army Reserves. Carter has a family and owns and farms a 160-acre farm in Perry County. He has never been arrested. He has attempted to register nine times in Perry County, and has submitted five applications for registration since the injunction issued by this Court on November 15, 1962. (Pl. Ex. 10 - B52, B54, B55 and Pl. Ex. 12) The Board of Registrars has rejected each of these applications and Carter still is not registered to vote. Each of Carter's applications shows that he possesses all of the qualifications for registration to vote (and none of the disqualifications). A copy of his rejected application dated October 7, 1963 follows.

Lozella Nelson, a Negro, is 40 years old. She has lived in Perry County all her life. She has a ninth grade education and has never been convicted of an offense. Nelson has submitted five applications for registration to vote in Perry County since November 15, 1962. The Board has rejected each application. (Pl. Ex. 10 - B260, B261, B262, B263 and Board Report for March, 1964). Each of the four application forms which are in evidence show that Lozella Nelson possesses all of the qualifications for registration to vote (and none of the disqualifications). A copy of her rejected application dated October 21, 1963 follows.

Wrong answer to 6 (a)

Notified 12/2/63

-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Washington Carter do hereby apply to the Board
Perry County, State of Alabama, to register as an elector under the Constitution and
of Alabama, and do herewith submit answers to the interrogatories propounded to me by said Board.

trars of
State

Washington Carter
Name of applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Washington
Feb. 5, 1937 Perry County, Route 1, Box 1:
newbern Alabama

tea

2. Are you now or have you ever been affiliated with any group or organization which advocated the overt
States Government or the government of any State of the United States by unlawful means: no (a) If

United
facts:

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

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

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

abama:

6. Name some of the duties and obligations of citizenship: To maintain law
order, To uphold Law of government, or
Law of the United States of America

7
e

(a) Do you regard these duties and obligations as having priority over the duties and obligations you owe to
organization when they are in conflict: no

cular

7. Give the names and post office addresses of two persons who have present knowledge of your present bona
fide place as stated by you: James B. Carter Route 1, Box 15
newbern Ala Hampton D. Lee, Mari

ce at

2a

8. Are you married or single: married (a) If married, give name, residence and place of birth of your husband

the

may be: Helaria Carter Uniontown Alabama
July 6, 1941

9. 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: Newbern Alabama

Washington Carter

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

(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: Army

11. 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 5, 1937 (a) When did you become a bona fide resident of Perley

County: Feb 5, 1937 (b) When did you become a bona fide resident of 4 Ward or precinct

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

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

none supporting witness

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

15. 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:

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

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

High School graduated

18. 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:

19. Have you ever served in the Armed Forces of the United States Government: yes (a) If so, state when and for approximately how long: 1960 two years active

20. 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:

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

O A T H

STATE OF ALABAMA Perry COUNTY

Before me, Bulmarie Barnett, a registrar in and for said county and state, personally appeared Washington Carter, 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 foregoing questions are true and correct to the best of my knowledge, information and belief. I do further solemnly swear and 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.

Washington Carter

Sworn to and subscribed before me in the presence of the Board of Registrars this the 7 day of Oct-, 1963

Bulmarie Barnett

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

Washington Carter, an applicant for registration who being by me, Bulmarie Barnett, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Washington Carter 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:

(Any member present may administer oath.)
My name is Washington Carter, 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 152, Constitution, and Title 17, Section 18, Code of Alabama 1960. If applicant cannot make foregoing statement, facts shall be determined 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 7 day of Oct-, 1963

Bulmarie Barnett
(Member of County Board of Registrars)
(Mrs J. W. Barnett)

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 Perry COUNTY

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

James Carter (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Washington Carter 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 James Carter, My occupation is farming, I reside at Hewbern Ala, My place of business or employment is at Hewbern Ala.

The name of my employer is Self. I am a duly registered, qualified elector in 4 precinct (or ward) in Perry County in the State of Alabama. I have known the applicant

Washington Carter (Give Applicant's name) for life years (or months). He is a bona fide resident at

Hewbern Ala 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) James Carter

Sworn to and subscribed before me in the presence of the Board of Registrars this the 21 day of Oct 1963.

(Signed) Mr. J. W. Bassette
(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, 1940.

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wrong ans - to no 1 A -
notified 11/2/63
Oct. 15-63
APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Lozella Nelson do hereby apply to the Board of Registrars of
Perry 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.

Lozella Nelson
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Lozella Nelson
May 13, 1924 Perry County Marion, Ala.
Route 3, Box 193

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

3. 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:

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

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

6. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:
NO

7. Name some of the duties and obligations of citizenship: obey the law of
united state government

(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: NO

8. 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: William A Tubbs Route 3 Box 193 B
Marion Ala

Bernice Scott Rt. 3 Marion Alabama

9. 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: Retha Nelson Sept 21, 1931
Perry County Marion Alabama

10. 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:

Lozella Nelson
Route 5 Box 143
Marion Alabama

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

Farming

(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:

12. 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: May 13th 1924 (a) When did you become a bona fide resident of May 13, 1924

County: Perry (b) When did you become a bona fide resident of Ward or precinct 7

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

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

15. Has your name been previously stricken from the list of persons registered: NO

16. 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:

17. Have you ever been legally declared insane: NO (a) If so, give details:

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

9th Grade

19. 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:

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

21. 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:

OATH

STATE OF ALABAMA Berry COUNTY

Before me, Eula Mae Barnett, a registrar in and for said county and state, personally appeared Lozella Nelson, 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 15 day of Oct., 1963.

Lozella Nelson
Eula Mae Barnett
Berry County
Member of the Board of Registrars for

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Berry COUNTY

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

Lozella Nelson, an applicant for registration who being by me, Eula Mae Barnett, a member of said Board, first duly sworn as follows: "I do solemnly

(Full name of applicant)
(Any member present may administer oath)
swear (or affirm) that in the matter of the application of Lozella Nelson 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 Lozella Nelson, 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 18, 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) Lozella Nelson
(Name of Applicant)

Sworn to and subscribed before me this the 15 day of Oct., 1963.

Eula Mae Barnett
(Member of County Board of Registrars)
(Mrs J. W. Barnett)

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 Perry COUNTY

Before the County Board of Registrars in and for said State and County personally appeared Bernice Scott (Name of Witness) who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Lozella Nelson 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 Bernice Scott. My occupation is House Wife. I reside at Marion Ala. My place of business or employment is at Marion Ala. The name of my employer is Self. I am a duly registered, qualified elector in 7 precinct (or ward) in 2 Perry County in the State of Alabama. I have known the applicant Lozella Nelson for birth (or months). He is a bona fide resident at Marion Ala. and to my knowledge has resided thereat for the past birth 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
I know of a law abiding citizen of Perry County Alabama.
(Signed) Bernice Scott

Sworn to and subscribed before me in the presence of the Board of Registrars this the 21 day of Oct - 1963.

(Signed) Eulamar Barnett
(Member of the Board)
(J. W. Barnett)

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.

Orethia Huff, a Negro, was born in Perry County and has lived there all her life. She is 25 years old and is a high school graduate. She applied for registration to vote on November 11, 1963. The Board of Registrars rejected her application and she still is not a registered voter. (Pl. Ex. 10-B 165). Huff's application shows her to possess all the qualifications for registration to vote (and none of the disqualifications). A copy of this rejected application follows.

Mattie L. Essex, a Negro, submitted four applications to the Perry County Board of Registrars since November 15, 1962 which were rejected by the Board. (Pl. Ex. 10 - B97, B98, B100). Essex is 27 years old. She has lived in Perry County all of her life. She has a ninth grade education. She has never been arrested. Each of her four rejected application forms shows her to possess all of the qualifications to register to vote (and none of the disqualifications). The Board of Registrars after rejecting Essex four times finally determined on her fifth attempt that she is qualified. They registered her on March 16, 1964. (Board Report for March 1964). A copy of her rejected application dated February 17, 1964 follows.

en. XX

10115 and 164

Nov. 11-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

Orethia Huff
Perry

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.

Orethia

Huff

Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: *Orethia Huff*

Dec. 28, 1936 Perry County, Alabama.
Route 1, Box 136 Pratt, Alabama.

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

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

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

5. 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:

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

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

Graduate of the 12th Grade

8. 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:

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

10. 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:

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

12. 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:

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

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

15. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no

16. Name some of the duties and obligations of citizenship: Obey the laws
and honor the flag

(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: _____

17. 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: Rev. J. S. Mattam

Route 1 Box 910 Little Alabama.
Mrs. Blanche Warford Little, Ala.

18. 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: Vester Louis Huff Perryville Alabama

in Perry County

19. 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 known

by the name of Oretia Huff and
have lived at Rt. 1 Box 136 Spratt -
Alabama for the past five years

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

(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: Mrs. Winnie

Brooki of Michie Alabama.
117 North Lafayette Street.

21. 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: Dec 28, 1936 (a) When did you become a bona fide resident of Perry

County: at birth (b) When did you become a bona fide resident of 13 Ward or precinct 13

4/29/58

O A T H

STATE OF ALABAMA Perry COUNTY

Before me, J. A. Blackburn, a registrar in and for said county and state, personally appeared Orethia Huff, 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.

Orethia Huff

Sworn to and subscribed before me in the presence of the Board of Registrars this the 11 day of Nov., 1963

J. A. Blackburn
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

Orethia Huff, an applicant for registration who being by me, J. A. Blackburn, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Orethia Huff 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 Orethia Huff, 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

None never 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 128, Constitution, and Title 17, Section 18, Code of Alabama 1960. 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 Self Employed

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

REMARKS

(Signed) Orethia Huff
(Name of Applicant)

Sworn to and subscribed before me this the 11 day of Nov., 1963

J. A. Blackburn
(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 Perry COUNTY

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

Jesse S. Melton _____, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Orethia Huff for registration in this election, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is Jesse S. Melton, My occupation is Farming, I reside at Butt, Ala. My place of business or employment is at RT 1 Box 89 Butt.
The name of my employer is Self I am a duly registered, qualified elector in 10 precinct (or ward) in Perry County in the State of Alabama. I have known the applicant Orethia Huff for 25 years (or months). He is a bona fide resident at Perry and to my knowledge has resided thereat for the past 25 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) Jesse S. Melton

Sworn to and subscribed before me in the presence of the Board of Registrars this the 18 day of Nov. 1963.

(Signed) Mrs. J. H. Barrett
(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.

APPLICATION FOR REGISTRATION QUESTIONNAIRE AND OATH

I, Mattie L. Essex 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.

Mattie L. Essex
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Mattie L. Essex
7/2/37 Perry County Ala., Box 189 Marion, Ala.

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

3. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no

4. Name some of the duties and obligations of citizenship: Obey the Constitution of the United States bear Arms when called upon.

(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

5. 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. H. W. Lee Marion, Ala.
Mr. Albert Essex Ala. 2, Box 189 Marion, Ala.

6. 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: Mr. Albert Essex 9/5/34 Perry County, Marion, Ala.

7. 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: Perry County
Mattie L. Essex

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

(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: no

9. 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: 7/2/37 (a) When did you become a bona fide resident of Perry

County: Monroe (b) When did you become a bona fide resident of Marion Ward or precinct 4

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

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

Given wrong answer

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

13. 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:

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

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

Finish 9th Grade

16. 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:

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

18. 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:

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

20. 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:

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

OATH

STATE OF ALABAMA Ferry COUNTY

Before me, Mrs J. W. Barnett, a registrar in and for said county and state, personally appeared Mattie L. Essex, 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 17 day of Feb, 19 64

Mrs J. W. Barnett
Member of the Board of Registrars for Ferry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Ferry COUNTY

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

Mattie L. Essex
(Full name of applicant)

, an applicant for registration who being by me,

Mrs J. W. Barnett
(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 Mattie L. Essex 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 Mattie L. Essex, 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 18, 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 Meridian, Ala.

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

REMARKS

(Signed) Mattie L. Essex
(Name of Applicant)

Sworn to and subscribed before me this the 17 day of Feb, 19 64

Mrs J. W. Barnett
(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

Albert Essex
(Name of Witness)

, who being first duly sworn as follows: "I solemnly swear

or affirm) that in the matter of the application of Mattie Lue Essex 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 Albert Essex, My occupation is Farming, I reside at

Marion Ala., My place of business or employment is at Marion Ala.

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

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

Mattie Lue Essex for 15 years (or months). He is a bona fide resident at

(Give Applicant's name)

Peru County 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) Albert Essex

Sworn to and subscribed before me in the presence of the Board of Registrars this the 11 day of Feb. 1964

(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.

READ: ARTICLE X

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.

1. Please read aloud and then record in writing your understanding of the above.

To my understanding the powers to the United States by the Constitution that are respectively to the states and people are reserved.

*Apparent lack
of comprehension*

Feb 17 1964
Date

Mattie Essex
Signature

These are but a few examples of qualified Negro applicants who have been denied registration since the injunction was issued by this Court on November 15, 1963. Additional examples are discussed throughout this brief. If the Registrars had sought to register all qualified applicants as they were obligated to do, these applicants would have been registered. Instead, the registrars elected to violate the Orders of the Court by establishing additional and more stringent requirements in an attempt to justify the rejection of Negro applicants whom they were duty bound to register.

VII

THE DEFENDANTS HAVE USED A HIDDEN
SIGNATURE LINE AS A DEVICE TO
DISFRANCHISE NEGROES

One of many requirements for registration to vote in Alabama is that applicants must subscribe a loyalty oath. 13/ The printed Oath appears on the third page of the application form with a dotted line beneath it apparently for the signature of the applicant but not designated for signature. Set forth below is a copy of the Oath as it appears at the top of page 3 on the application form which was in use prior to March 1964.

OATH

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

13/ Constitution of Alabama 1901, Section 181 (Amendment XCI).

Six questions on the questionnaire also deal with the loyalty of the applicant, two of which cover the exact subjects treated in the Oath. ^{14/} They are:

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

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. Qualified Negro Applicants Are Rejected As a Result of the Registrars Failure to Administer the Oath to Them

1. Negro applicants whose loyalty is beyond doubt are rejected for not signing the Oath

On at least 180 rejected applications filed by Negroes from November 15, 1962 to March 20, 1964, the registrars wrote on the forms as a reason for the rejections that the applicants failed to sign the Oath. Yet 155 of these applicants stated elsewhere on their application forms that they would support and defend the Constitution of the United States and the Constitution

^{14/} The other four questions dealing with the loyalty of the applicant are: (1) "Will you bear arms for your country when called upon by it to do so: (a) If you answer no, give reasons:" (2) "Do you believe in free elections and rule by the majority:" (3) "Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:" and (4) "Do you regard those duties and obligations [of citizenship] as having priority over the duties and obligations you owe to any other secular organization when they are in conflict:". Another question requires the applicant to: "Name some of the duties and obligations of citizenship".

of the State of Alabama, and that they are not now nor have 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. One hundred fifty-four of these applicants also stated on their forms that they were willing to bear arms for our country when called upon by it to do so.

These Negro applicants include men and women who are, or should be, respected members of their community. They include veterans, ministers, school teachers and farmers. Seventy-eight of them have lived in Perry County all their lives. None of the applicants has ever been either arrested, charged with, or convicted of any disqualifying crime.

The rejected applications of James D. Pickens and Aurelia G. Martin are excellent examples. James D. Pickens applied for registration with the Perry County Board of Registrars on July 15, 1963. He is a Negro citizen. He is 47 years old, was born in Perry County, and has lived continuously in Perry County for over ten years. He is employed by the Perry County Board of Education as a school teacher. He served in the Armed Forces for seven years. He answered all six of the loyalty questions on his application form correctly and stated as some of the duties and obligations of citizenship:

(1) To defend the U.S. against all enemies (2) To vote (3) To be informed of all issues of political, educational economic etc.

The notation on his rejected application form by the registrar states that Pickens was rejected because "He would not sign Oath." (P1. Ex. 10-B303) His application form is reproduced following this page.

Aurelia G. Martin is a 76 year old Negro lady who has lived in Perry County since 1910. She applied for registration to vote in Perry County on November 18, 1963. She answered the six loyalty questions on the questionnaire correctly and gave as some of the duties and obligations of citizenship:

As a good citizen I am To be loyal to
all the rules and regulations of the
United States government and the
government the State of Ala.

She stated under "Remarks" on the same page with the Oath:

I have always tried to be a loyal
citizen in my country and to do my
part helping others.

Her application was rejected on the ground that she "Failed to sign oath." (P1. Ex. 10-B222) A copy of this application is set forth following that of James D. Pickens.

2. The registrars do not administer the Oath or advise Negro applicants of the necessity for signing it

It is the duty of the registrars to administer the Oath to all applicants. The Oath by its own terms provides that the registrar is to swear the applicant and that the applicant is to subscribe the

Registered 8-15-63 Would not sign oath

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. James D. Pickens do hereby apply to the Board of Registrars of Polk 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.

James D. Pickens
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: James D. Pickens
July 9, 1916, Uniontown, Alabama
P.O. Box 121, Marion, Alabama
2. Give a brief statement of the extent of your education and business experience: I am a graduate of Alabama State College for Negroes, Montgomery, Ala.
I have completed work for Master District
3. 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: _____
4. Have you ever served in the Armed Forces of the United States Government: Yes (a) If so, state when and for approximately how long: During World War II. 7 years
5. 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: _____
6. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: Yes
7. 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: _____
8. Will you bear arms for your country when called upon by it to do so: Yes (a) If you answer no, give reasons: _____
9. Do you believe in free elections and rule by the majority: Yes
10. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: NO
11. Name some of the duties and obligations of citizenship: (1) To defend the U.S.
Against Communism (2) To vote
(3) To be informed of all issues
Political, educational, economic etc.

(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

12. 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. John Dickerson,

Mr. James Webb

13. 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: Mae Ella Dickerson, Marion, Alabama

Born April 1928 in Bankston, Fayette County, Alabama

14. 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: Uniontown, Alabama

Marion, Alabama

15. If you are self-employed, state the nature of your business: Not Self-employed

(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: Teacher

Perry County Board of Education

16. 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: 1916 (a) When did you become a bona fide resident of Perry

County: 1952 (b) When did you become a bona fide resident of 1961 Ward or precinct

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

I do not expect to change my place of residence

18. Have you previously applied for and been denied registration as a voter: Yes (a) If so, give the facts: I do not know the facts. I filed application

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

20. 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:

21. Have you ever been legally declared insane: No (a) If so, give details:

OATH

STATE OF ALABAMA Perry COUNTY

Before me, H. B. Mayhew, a registrar in and for said county and state, personally appeared James D. Pickens, 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 15 day of July, 1963

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

James D. Pickens, an applicant for registration who being by me, H. B. Mayhew

(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 James D. Pickens 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 James D. Pickens, 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 1945 in Perry Co. Ala. or another state
(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 Marion Baptist Academy

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

REMARKS

(Signed) James D. Pickens
(Name of Applicant)

Sworn to and subscribed before me this the 15 day of July, 1963.
H. B. Mayhew
(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 10 day of , 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 Perry COUNTY

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

Jim C. Webb (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of James D. Pickens 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 Jim C. Webb, My occupation is Barber, I reside at Marionale Perry County, My place of business or employment is at 115 Jefferson St Marionale. The name of my employer is Self employed. I am a duly registered, qualified elector in 1947 precinct (or ward) in Perry County Court House County in the State of Alabama. I have known the applicant James D. Pickens for 10 years (or months). He is a bona fide resident at Marionale and to my knowledge has resided thereat for the past 10 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) Jim C. Webb

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

(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, 1900.

X +

Failed to sign Oath

Nov. 18, 1963

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Perry do hereby apply to the Board of Registrars of Perry 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.

Aurelia G. Martin
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Aurelia G. Martin
Were born in the year 1889 at Perry County near Selma, Ala.
2. 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 lived in Perry County
But for the last fifty three years I have been known
by the name foregoing name.
Route 1 Box 101 Perry Co. Ala.
3. 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: I have been
engaged as a Farmer
4. 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: 1889 (a) When did you become a bona fide resident of Perry County: 1910 (b) When did you become a bona fide resident of 1910 Ward or precinct: 9
5. If you intend to change your place of residence prior to the next general election, state the facts:
6. Have you previously applied for and been denied registration as a voter: No (a) If so, give the facts:
7. Has your name been previously stricken from the list of persons registered: No
8. 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:
9. Have you ever been legally declared insane: No (a) If so, give details:
10. Give a brief statement of the extent of your education and business experience:
Six grade

11. 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: _____

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

13. 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: _____

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

15. 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: _____

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

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

18. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no

19. Name some of the duties and obligations of citizenship: Be loyal to all the rules and regulations of the United States Government and the Government of the State of Ala.

(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

20. 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: Rev. J. S. Milton

Route 1 - Sutton, Alabama

Mr. Ben Milton Rt. 1 Box 122 - Sutton, Ala.

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

OATH

STATE OF ALABAMA Perry COUNTY

Before me, J. B. Blackburn, a registrar in and for said county and state, personally appeared

Aurelia G. Martin, 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 18 day of Nov, 1963

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

Aurelia G. Martin, an applicant for registration who being by me,

J. B. Blackburn, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Aurelia G. Martin 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 188, Constitution, and Title 17, Section 18, Code of Alabama 1960. 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

I have always tried to be a law-abiding citizen in my country and I do my part in helping others.

(Signed) Aurelia G. Martin (Name of Applicant)

Sworn to and subscribed before me this the 18 day of Nov, 1963

J. B. Blackburn (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 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 Perry COUNTY

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

Jesse S. McLean (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Aurelia G. Martin 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 Jesse S. McLean, My occupation is Farming, I reside at Suttle Ala, My place of business or employment is at Suttle Ala. The name of my employer is Self. I am a duly registered, qualified elector in 10 precinct (or ward) in Perry County in the State of Alabama. I have known the applicant Aurelia G. Martin (Give Applicant's name) for 30 years (or months). He is a bona fide resident at Spratt Ala 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) Jesse S. McLean

Sworn to and subscribed before me in the presence of the Board of Registrars this the 18 day of Nov 1963

(Signed) Mr. J. W. Hamette
(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, 1940.

Oath before a member of the Board of Registrars. ^{15/}
Moreover, unlike the other four places on the ~~form~~
application form where the applicant's signature is
required, the line under the Oath contains no in-
structions that the applicant should sign his name
there. It is inevitable that many applicants will not
sign the line under the Oath unless the Oath is duly
administered to them or they are specifically instructed
to sign it.

The defendant registrars have refused to perform
their duty to administer the Oath to Negro applicants
and have rejected these applicants knowing that they
are loyal citizens.

Marjorie Carr, a Negro, has lived in Perry County
all her life. She is a school teacher and has a B.S.
degree. She has applied for registration in Perry
County twice since the Court's Decree, and both of her
applications have been rejected even though they
demonstrate she is highly qualified to be a voter
(Pl. Ex's 10-B46, B47). She testified that when she
applied on November 14, 1963, she was told by the

^{15/} In U.S. v. Penton, et al. (M.D. Ala., Civil Action
No. 1741-N, Nov. 20, 1962), the U.S. District
Court enjoined the registrars of Montgomery County
from rejecting applicants on the ground that they
failed to sign the Oath. The Court in that case
stated in its order: "The registrars are under a
duty to have the applicant sign in the appropriate
places unless he refuses to do so after it is
called to his attention." As in this case, the
registrars of Montgomery County had been using
the signing of the Oath as a device to discrimi-
nate against Negroes.

registrar to fill out pages one and two of the form, that she was told nothing about page three which contains the Oath (Tr. 49, 52, 53). Carr filled out the first two pages perfectly and had a supporting witness sign her form as she was instructed to do. The six answers she gave to the loyalty questions show her to be loyal. She listed as some of the duties and obligations of citizenship:

To respect and obey the law, respect the flag, love and respect for my country, support and defend the constitution.

The notation on her form by the registrar shows that she was rejected because she "Failed to sign Oath."

A copy of this application follows this page.

Rosa Bell Ward is a Negro resident of Perry County where she has lived for thirty years. She is a high school graduate. Both of her rejected application forms filed since the Court's Decree show her to be qualified for registration (Pl. Ex's 10-B406, B407). She applied for registration on November 14, 1963, the same day as did Marjorie Carr. Ward testified (Tr. 57):

Q. What instructions did you receive about filling out that form?

A. No instructions whatever. They just gave me the form to fill out.

Q. They didn't tell you to sign any place on the form?

A. No.

William Milton, a Negro, lives in Uniontown in Perry County. Milton has always lived in Perry County except back about 1943 when he lived in Ohio, where

col XX

Failed to sign Oath

Nov. 14-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Marjorie M. Carr do hereby apply to the Board of Registrars of
Perry 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.

Marjorie M. Carr
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Marjorie M. Carr,
April 30, 1938 - Perry County - P.O. Box 247 - Uniontown
Alabama

2. Name some of the duties and obligations of citizenship: To respect and obey the law
respect the flag, love and respect for my Country,
support & defend the constitution.

(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

3. 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: A. M. Hayden - Uniontown, Alabama
J. H. Jones - P.O. Box 247 - Uniontown, Alabama

4. 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: Willie Fred Carr - Uniontown, Alabama
Jefferson County

5. 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: Uniontown, Alabama
Marjorie M. Carr

6. 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: Marengo County Board
of Education - Linden, Alabama

7. 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: April 30, 1938 (a) When did you become a bona fide resident of Levy

County: April 30, 1938 (b) When did you become a bona fide resident of _____ Ward or precinct: 4th Precinct

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

9. Have you previously applied for and been denied registration as a voter: Yes (a) If so, give the facts: I never
because I didn't supply supporting evidence

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

11. 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:

12. Have you ever been legally declared insane: No (a) If so, give details:

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

I completed Elementary School and High School,
2 1/2 years of college

14. 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:

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

16. 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:

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

18. 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:

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

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

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

No

OATH

STATE OF ALABAMA Perry COUNTY

Before me, Mrs J. W. Barnett, a registrar in and for said county and state, personally appeared

Marjorie M. Carr, 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 14 day of Nov, 1963

Mrs J. W. Barnett
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

Marjorie M. Carr, an applicant for registration who being by me,

Mrs J. W. Barnett, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Marjorie M. Carr 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 14 day of Nov, 1963

Mrs J. W. Barnett
(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

Andrew M. Hayde (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of *Marjorie Carr* 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 *Andrew M. Hayde*, My occupation is *Self*, I reside at *Uniontown Ala.* My place of business or employment is at *Uniontown Ala.*

The name of my employer is *Self*. I am a duly registered, qualified elector in *3* precinct (or ward) in *Uniontown Perry* County in the State of Alabama. I have known the applicant

Marjorie Carr (Give Applicant's name) for *20* years (or months). He is a bona fide resident at

Uniontown Ala. and to my knowledge has resided thereat for the past *20* 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 *17* day of *Nov.* 19 *63*.

(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.

he was registered to vote. Milton is 60 years old and owns and works a 245 acre farm. He has an 8th grade education. He applied on June 11, 1963 (Pl. Ex. 10-B252), and was rejected for omissions on his form and for failing to sign the Oath (Pl. Ex. 25). Milton testified he was not asked to sign the Oath; that not signing it was an oversight (Tr. 192, 193, 198). Milton reapplied on October 21, 1963 (Pl. Ex. 10-B253). He was again rejected for failing to sign the Oath. The notice to him apparently stated that he "Failed to sign an important statement". ^{16/} He testified that registrar Blackburn gave him no instructions, but just gave him the form to fill out (Tr. 194). He did not sign the Oath because he overlooked it (Tr. 198). Milton returned and applied for a third time on January 27, 1964 (Pl. Ex. 10-B254). This time he signed the Oath. When he was given his application form, he was told simply to sign it. When he tried to find out if he had signed in the proper places, he was given no response other than to take the form back and look it over. His uncontradicted testimony on this point is as follows (Tr. 195):

Q. Do you recall any instructions that were given you?

A. On this form?

Q. Before you received it, did they tell you anything?

^{16/} Milton stated on his subsequent application that he was denied registration for failing to sign an important statement (Pl. Ex. 10-B254).

A. No, just told me to sign it.

Q. When you finished, did you ask the registrars anything about this form?

A. Yes, sir.

Q. What did you ask them?

A. I asked had I signed every place that I was supposed to.

Q. Whom did you ask?

A. Mr. Pearson.

Q. Did you know Mr. Pearson?

A. Yes.

Q. He lives in Uniontown?

A. I think so.

Q. What did he say when you asked him whether you had signed all the places?

A. He told me to take it back and look it over and see if I had signed everywhere I wanted to.

Q. Did you go back and look it over?

A. Yes, sir.

Q. Did you sign any additional places?

A. No, sir.

Although Milton had signed the Oath for the first time, his application was rejected for failing to answer "... correctly one or more pertinent questions." (P1. Ex. 26) Milton still is not a registered voter.

The testimony of other Negro witnesses also confirms that the registrars do not administer the Oath or clearly instruct all Negro applicants to sign

the Oath. ^{17/}

Some Negro witnesses testified that they were instructed to sign the Oath. ^{18/} Their testimony shows that when Negroes are instructed to sign the Oath they will sign the Oath. Marjorie Carr and Rosa Bell Ward applied in June 1963 and were instructed to sign the Oath. They signed it. Both applied again on November 14, 1963, and, as discussed earlier, were not told anything about signing the Oath and did not sign it. Gladys Turner, a Negro, has applied for registration four times in Perry County since the Court's Decree and was finally registered on her fourth attempt. She was administered the Oath in November 1962 and signed it (P1. Ex. 10-B392, Tr. 101). When she applied again on June 13, 1963, she signed the Oath (P1. Ex. 10-B393, Tr. 102). On her application of October 7, 1963, she was not given any

^{17/} For the testimony of other Negro applicants not instructed to sign the Oath see the following witnesses concerning their attempts on the date cited: Washington Carter, 6-28-63 (Tr. 21); Gladys Turner, 10-7-63 (Tr. 103) and 1-6-64 (Tr. 104); Emma Peterson, 7-15-63 (Tr. 261); Robert Jones, 10-21-63 (Tr. 71); Ella D. Stewart, 10-21-63 (Tr. 139); and Willie Miles, 10-24-63 (Tr. 219).

^{18/} The following witnesses testified they were told to sign the Oath on the applications made on the date cited: Gladys Turner, 11-19-62 (Tr. 101); Washington Carter, March 1963 (Tr. 17); Marjorie Carr, 6-6-63 (Tr. 47); Mary Slater, 6-13-63 (Tr. 124); Rosa Bell Ward, 6-14-63 (Tr. 56); Dorothy Heard, 11-5-63 (Tr. 172); Freddie Black, 1-6-64 (Tr. 233); and Emma Peterson, 2-17-64 (Tr. 266).

instructions and did not sign the Oath (Pl. Ex. 10-B394, Tr. 103). On her application of January 6, 1964, she did not receive any instructions and she signed the Oath (Pl. Ex. 10-A70, Tr. 104, 105). The records of the Perry County Board of Registrars reveal at least 46 Negro applicants who had similar experiences - applicants who signed the Oath on an earlier rejected application and on subsequent applications failed to sign it and were rejected for that failure.

Negro witnesses testified concerning twenty-six application forms filed since October 1, 1963. On only three of these occasions were the applicants told about the Oath. ^{19/} The instructions they were given on these three occasions were far from clear. Freddie Black, a Negro, is 64 years old. He has a 6th grade education and has lived in Uniontown for 43 years. He has applied three times and each application has been rejected. He signed the Oath when he applied on June 17, 1963 (Pl. Ex. 10-B30). On January 6, 1964, Black did not sign the Oath (Pl. Ex. 10-B31). He testified regarding his next application on April 20, 1964 (Tr. 233):

Q. Did someone tell you to sign that Oath?

A. They told me I could read it and if I understood it I could sign it, if I wanted to, or I could leave it off, if I wanted to.

^{19/} Of the eight times Negro witnesses were told about signing the Oath, five of these times occurred between November 15, 1962 and June 16, 1963. See the preceding footnote.

Q. They did not say that you should sign it?

A. No, sir.

Q. Did anyone have you hold your hand up?

A. No, sir.

Black signed the Oath. ^{20/} Emma Peterson, a qualified Negro applicant who is a high school graduate, has been rejected all three times she has applied since the Court's Decree and still is not registered (Pl. Ex's 10-B299, B300, B301). She testified to receiving instructions similar to those given Freddie Black when he applied on April 20, 1964, when she filled out her third application on February 17, 1964 (Tr. 266, 267). She signed the Oath on this attempt. The third Negro witness told about the Oath since October 1, 1963, applied on November 5, 1963. She is Dorothy Heard, who is 24 years old and has lived in Perry County all her life. She is a high school graduate. She has applied three times since the Court's Decree and still is not registered although her forms clearly show her to be qualified. Heard testified as follows about her application on November 5, 1963 (Tr. 172, 173):

A. She said to read carefully and answer all questions, read the oath, and sign where you are supposed to sign.

Q. Did she point to where you were supposed to sign?

^{20/} It should be noted that on this occasion he received the new application form wherein the Oath signature line is designated for that purpose.

A. No.

Q. Did you sign all the places on page 3 where you thought you were supposed to sign?

A. Yes.

Q. Did anyone administer the Oath, read anything to you, or have you raise your hand?

A. No.

Dorothy Heard signed her name in two spaces on the Oath page under the section called "Supplemental Application For Registration, And Oath." She did not sign the dotted line under the Oath. She was rejected and the registrar wrote on her form "Fail to sign oath."
(Pl. Ex. 10-B143)

Not only have the registrars used the signing of the Oath as a device to reject qualified Negroes, but they have failed to notify these applicants that they were rejected for failing to sign the Oath. ^{21/} The notice sent out by the registrars after October 1, 1963, merely states: "You failed to sign an important statement." ^{22/} This is in effect no notice at all. The Oath is not an important statement, at least not important enough for the defendants to point it out to the Negro applicants.

The defendants have attempted to make it appear that they have performed their duty to administer the

^{21/} The lack of adequate notice is treated more fully in Part XI infra.

^{22/} For examples see Pl. Ex's 15, 16, 19 and 23.

Oath, and that the Negro applicants "refused" to sign the Oath. The defendants have done this by writing self-serving comments on the rejected applications of Negroes, such as "would not sign Oath" or "refused to sign Oath." However, the evidence is clear that the defendants do not instruct Negro applicants to sign the Oath, and the exhibits and testimony show that the Negro applicants are willing, and have not refused, to sign it.

On some of the application forms, the registrars have placed checkmarks under the Oath either to indicate an omission or to make it appear that they have instructed the applicant to sign. However, Negroes repeatedly testified that page three of the application form (the Oath page) was blank when they received it, or that if parts of page three had been completed by the registrar the applicants did not notice it, and were not instructed about it. ^{23/}

B. The Registrars Instruct White Applicants to Sign the Oath

During the period November 15, 1962 through March 20, 1964, the Oath was signed by white applicants on 94% of the applications filed by them (202 applications of 215 filed). Stated another way, the Oath

^{23/} See the testimony and application forms of Marjorie Carr (Tr. 49); Washington Carter (Tr. 21); Willie Miles (Tr. 219 to 221); William Milton (Tr. 192, 193, 198); Emma Peterson (Tr. 261); Gladys Turner (Tr. 103); and Rosa Belle Ward (Tr. 57).

was not signed on 6% of the applications; whereas the Oath was not signed on 40% of the Negro applications.

This discrepancy arises because the registrars perform their duty with respect to white applicants and clearly instruct them to sign the Oath. ^{24/} Proof of this fact is confirmed by the testimony of white witnesses who testified at the hearing on April 24, 1964.

Charles Stapleton is a white registered voter in Perry County. He is 44 years old and works in a factory. He has a 9th grade education. He testified as follows regarding his application of May 7, 1963 (Tr. 119, Pl. Ex. 10-C26):

Q. What instructions did you receive when you filled this form out?

A. The man wanted me to fill it out to the best of my knowledge.

Q. When you finished, you turned it over to him?

A. I give it back to him.

Q. Did he then have you sign the Oath?

A. He sure did.

Q. Did he show you where to sign here?

A. He put his hand here and told me everywhere to sign.

24/ Prior to November 15, 1962, white applicants were not required to sign the Oath. Between April 1959 and November 15, 1962, only about 20 white persons out of 453 (or 4%) who applied signed the Oath. However, after the Oath became a requirement, practically all white persons signed the Oath. (See. Pl. Ex. 8 and additional applications introduced by stipulation.) It is apparent that white applicants receive instructions regarding the signing of the Oath.

Joe Vann, a white person, who is 44 years old and who has a 7th grade education, applied for registration to vote on December 5, 1963. He was registered by the Board. He was shown how to fill out the form and told where he should sign it. Vann stated he had difficulty understanding the form (Tr. 62, 63, Pl. Ex. 10-C121).

Annie Lee Parker, a white registrant, is 37 years old and has a high school education. She applied on December 16, 1963, and testified that the only instruction she could recall was that when the lady gave her the form the lady told her to read the Oath and sign it. Parker read the Oath and saw where to sign it. She signed under the Oath and sat down and filled out her form (Tr. 154, 155, Pl. Ex. 10-C130).

Linda F. Calhoun is also a white registered voter of Perry County. She is a housewife, is 23 years old, and has completed a year of college education. She testified that when she applied for registration in Perry County on October 7, 1963 with two other white persons, her husband and Mrs. Sims, the lady registrar (Mrs. Barnette) "showed us where to sign our name." (Tr. 129, Pl. Ex. 10-C52)

Lois F. Boyett is a white person registered to vote on July 15, 1963. She testified that the registrar put two marks on her form where she was to sign her name in the Oath and Supplemental Application and Oath (Tr. 183, Pl. Ex. 10-C33).

Ode11 Rylee, a white registrant, applied for registration on December 3, 1963. She is 22 years old and has a 7th grade education. She testified that "naturally" she was instructed to sign the Oath by Mrs. Barnette (Tr. 244, P1. Ex. 10-C112).

C. The Adoption and Use of the Oath-Signing Device Is in Violation of this Court's Injunction

The most fundamental aspect in this Court's injunction of November 15, 1962, is Paragraph 1 which enjoins the defendants from "Engaging in any act or practice which involves or results in distinctions based on race or color in the registration of voters in Perry County, Alabama." The use of the Oath-signing device has both involved and resulted in distinctions of race. Negro applicants who possessed all of the qualifications and none of the disqualifications for registration to vote have been denied registration by the use of this device. The defendants have assisted or directed white persons in the signing of the Oath and have refused to do this with Negroes.

The original Decree provides in Paragraph 7(c) that the defendants are enjoined from failing to register all applicants who meet the qualifications set forth in Paragraph 7 including the qualification that they embrace the duties and obligations of citizenship. It is clear from the evidence that the registrars have totally disregarded this portion of

the Court's Decree by engaging in the practice of denying registration to Negroes on the ground that they have failed to sign the Oath, although other parts of their applications demonstrate them to be loyal and to embrace the duties and obligations of citizenship. Even those Negro applicants who have signed the loyalty Oath willingly on earlier applications are denied registration if on subsequent applications they overlook that signature line. This is in willful violation of this Court's Orders.

The Court in Paragraph 8 of its original Decree enjoined the defendants from rejecting applicants for formal, technical and inconsequential errors and omissions in their application forms. The defendants by their conduct admit that the failure to sign the Oath is purely a technicality. They are not interested in the loyalty of Negro applicants, otherwise they would find it elsewhere in the application or ask the applicant about it.

The Court in its original Decree of November 15, 1962, enjoined the defendants from failing to notify in writing rejected applicants of the specific reason or reasons for their rejection. The defendants know there are at least four places on the application form which could be signed by the applicant, yet they refuse to notify him as to which "statement" he failed to sign. This refusal defeats the purpose of the notice requirement and is tantamount to no notice at all.

VIII

THE DEFENDANTS HAVE USED THE SUPPORTING WITNESS REQUIREMENT AS A DEVICE TO DISCRIMINATE AGAINST NEGROES

On the back of the four-page application form beginning at about the middle of the page is a section entitled "Examination of Supporting Witness". It is to be filled out and sworn to by a person who is a duly registered qualified elector of the county. He witnesses that he has known the applicant for a given period, that the applicant is a bona fide resident of a given address and has resided there for a given period. The supporting witness also states under oath that he knows of no reason why the applicant is disqualified from registering.

This supporting witness requirement is commonly known as and will be referred to hereafter as the "voucher" requirement.

The voucher procedure is not required by Alabama law, but is entirely in the discretion of the county board of registrars. Some counties do not have this requirement. ^{25/} The requirement was not imposed in Perry County through all the years prior to the date of the injunction of this Court, November 15, 1962.

^{25/} Dallas County, Alabama, for example, did not have this requirement at least at the time of the trial in May 1962 of U.S. v. Atkins, et al. (Civil Action No. 2584, S.D. Ala.). This Court can also take judicial notice of court records in the Middle District of Alabama which show that the voucher requirement is not used in Montgomery or Elmore Counties (U.S. v. Penton, et al., Civil Action No. 1741-N; U.S. v. Cartwright, et al., Civil Action No. 1957-N).

A. In Perry County, the Voucher Requirement Places a Heavy Burden upon Negro Applicants But Not upon White Applicants for Registration

The most obvious discriminatory impact of the voucher requirement arises from the fact that nearly all the white persons of voting age in Perry County were already registered at the time the voucher requirement was adopted and therefore did not need vouchers, whereas nearly all the Negroes of voting age are not registered and will be required to produce persons to vouch for them. This fact alone proves a violation of this Court's Orders and 42 U.S.C. 1971(a).

B. The Voucher Procedure Is Administered to Negroes Unfairly and Discriminatorily

Of the 326 applications filed by Negroes and processed by the registrars between the date of this Court's injunction (November 15, 1962) and March 20, 1964, 224 lacked the signatures of vouchers. This is 42.6%. On the other hand, only twenty-five of the 215 applications of white persons lacked such signatures (or 11.6%). No one can doubt that many of these Negro applicants are qualified to register and to vote in Perry County.

The uncontradicted testimony of Negro witnesses discloses that the registrars often failed to advise them that they needed a voucher and later rejected their applications for failing to produce a voucher. To be sure several of the written notices of rejection sent to Negro applicants stated that they were rejected

for failing to produce a supporting witness, but under the Board's procedure it was then too late to produce one - the rejected applicant must execute a completely new application. A study of the application forms and testimony of Negro applicants who were rejected for failing to produce a voucher demonstrates the discriminatory impact of the voucher requirement.

On June 6, 1963, Martha W. Boddie, a college graduate and school teacher, who has lived in Perry County all her life, applied to register. She filled out a perfect application form, except for furnishing a voucher. She was rejected. Her application is reproduced on the following page (Pl. Ex. 10B-34).

The same day, Marjorie Carr and her husband, Willie F. Carr, both college graduates, applied and were later rejected for not having a supporting witness (Pl. Ex's 14 and 18), although they too filled out perfect forms and both testified they were not informed of the requirement (Tr. 47, 88). ^{26/}

The evidence also shows that for a time following this Court's Decree the Board required Negro applicants to obtain two vouchers, one of whom had to be a white voter. The applications filed by white persons during

^{26/} The following rejected applications were submitted by Negroes who signed the Oath and made no error or omission for which the Board was rejecting applications but whose applications lacked signatures of vouchers: Pl. Ex's 10-B7, 8, 18, 30, 34, 36, 37, 45, 46, 48, 50, 62, 63, 95, 107, 129, 157, 158, 171, 178, 179, 181, 184, 189, 191, 193, 194, 195, 203, 206, 214, 241, 247, 302, 331, 340, 344, 352, 365, 377, 380, 387, 390, 391, 392, 397, 402, 406, 428, 431, 432.

Rejected 6-28-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Martha W. Boddie do hereby apply to the Board of Registrars of
Perry 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.

Martha W. Boddie
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Martha W. Boddie
July 7 1922 - Uniontown, Ala.
P. O. Box 461 Uniontown, Alabama

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

3. 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:

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

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

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

No

7. Name some of the duties and obligations of citizenship: Bear arms for your Country,
Defend your Constitution, Attend Church
Support Charitable Organizations

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

8. 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: A. M. Hayden P.O. Box 201 Uniontown, Ala
Lawrence Johnson - Marion, Alabama

9. 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:

10. 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: P.O. Box 461. Uniontown, Ala.

Martha W. Boddie

11. 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: Marengo Co. Board of

Education. Linden, Ala. (Teacher)

12. 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: 7-7-22 (a) When did you become a bona fide resident of Barry

County: At birth (b) When did you become a bona fide resident of _____ Ward or precinct 3

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

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

Did not hear from questionnaire turned in

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

16. 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: No

17. Have you ever been legally declared insane: No (a) If so, give details: _____

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

Finished High School in Uniontown, Ala.

Junior College - Selma University, Selma, Ala.

B. S. Degree - Alabama State College - Montgomery, Ala.

19. 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: _____

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

21. 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: _____

OATH

STATE OF ALABAMA Perry COUNTY

Before me, Floyd Bonbrue, a registrar in and for said county and state, personally appeared Martha W. Boddie, 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.

Martha W. Boddie

Sworn to and subscribed before me in the presence of the Board of Registrars this the 6 day of June, 1963.

Floyd Bonbrue

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

Martha W. Boddie, an applicant for registration who being by me,

Floyd Bonbrue, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Martha W. Boddie 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 Martha W. Boddie, 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 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 102, Constitution, and Title 17, Section 13, Code of Alabama 1960. 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 Morengo County Board of Education, Linden, Ala.

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

REMARKS

Will do my best to prove worthy as being a qualified voter of this County

(Signed) Martha W. Boddie

(Name of Applicant)

Sworn to and subscribed before me this the 6 day of June, 1963

Floyd Bonbrue

(Member of County Board of Registrars)

this same period show that white applicants were not ~~to~~ required to and did not obtain two vouchers, and that none of their vouchers had to be Negroes.

Stephen T. Davis, who has completed three years of college and who was formerly a voter in Tuscaloosa County, applied for registration on December 17, 1962. He testified he was told by Mayton (Chairman of the Board) to list two persons, one Negro and one white, on his form and have them identify him. Only the Negro vouched for him, and he was rejected on May 6, 1963, for "only one supporting witness." (Pl. Ex. 10-B80) A copy of his four-page application follows.

Albert Turner applied on November 19, 1962. His application form is perfect and contains the signatures of two vouchers. Yet his application was rejected, ^{27/} presumably because neither voucher is white.

Two other Negro applicants testified they were instructed by a registrar to obtain a white and Negro voucher during the period between November 15, 1962 (the date of the injunction) and May 17, 1963 (the date of the supplemental order). Washington Carter testified: ^{28/}

^{27/} He was subsequently registered on June 14, 1963 (Pl. Ex. 10-A40).

^{28/} This application was rejected on May 6, 1963 (Pl. Ex. 10-B52). See also the testimony of Ella Dee Stewart (Tr. 134 - no application form is in evidence).

only 1 appearance page 5-6-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Stephen Tucker Davis do hereby apply to the Board of Registrars of Perry 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.

Stephen Tucker Davis
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Stephen Tucker Davis
Oct. 17, 1934, Montgomery County, Ala.,
P.O. Box 74 Uniontown, Ala.
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:
I am a 3th year College Student,
my business experience includes pastoring
churches and part-time salesman
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: To obey the law of the local, city, state, and United States.
And to qualify and become a registered voter

(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: C. M. Hayden P.O. Box -

Uniontown, Ala. MR. Ballard - Owner
of Ballard's Pure Oil Service Station Uniontown, Ala.

14. 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: Eula Davis P.O. Box 74 - Uniontown, Ala.
Birth place, Halt, Ala. Tuscaloosa County.

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: P.O. Box 74 - Uniontown, Ala
+ Route 1, Box 141, Tuscaloosa, Ala.
Names - Stephen T. Davis + Rev. S. T. Davis

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

(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: Central Laundry
Co, Halt, Ala

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: Oct 12, 1934 (a) When did you become a bona fide resident of Perry
County: Deerfield 1968 (b) When did you become a bona fide resident of _____ Ward or precinct 3

18. If you intend to change your place of residence prior to the next general election, state the facts: I do not

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: _____

OATH

STATE OF ALABAMA

COUNTY

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

Stephen Tucker Davis, 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 17 day of Dec., 1962

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

Stephen Tucker Davis

(Full name of applicant)

, an applicant for registration who being by me,

Floyd Bamberg

(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 Stephen Tucker Davis, 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 Calif., Tusculum

1958

(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.)

I have not

3. My present place of employment is A.M.E. Church

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

REMARKS

(Signed)

Stephen T. Davis

(Name of Applicant)

Sworn to and subscribed before me this the 17

day of

Dec.

1962

Floyd Bamberg

(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 Perry COUNTY

Before the County Board of Registrars in and for said State and County personally appeared Andrew M. Hayden (Name of Witness) who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Stephen Tucker Davis 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 Andrew M. Hayden, My occupation is Minister, I reside at Uniontown Ala, My place of business or employment is at Andie's Bully Bee & Co
The name of my employer is Self I am a duly registered, qualified elector in Box 1 precinct (or ward) in Uniontown Perry County in the State of Alabama. I have known the applicant Stephen Tucker Davis (Give Applicant's name) for 2 years (or months). He is a bona fide resident at Uniontown 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
I recommend this person highly as good citizen and as a minister of the Gospel of Jesus Christ, and support this recommendation.
(Signed) Andrew M. Hayden
Sworn to and subscribed before me in the presence of the Board of Registrars this the 17 day of Dec 2/1962 19____
(Signed) Frank Bonkers (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 141, Code of Alabama, 1940.

Q. When you finished, did he say anything to you about getting someone to come in and sign your form?

A. Yes.

Q. What did he tell you?

A. I had to have two registered voters, and I had both Negroes, and he told me I had to get a white registered voter to vouch for me.

Q. Did he say you also had to have a Negro?

A. Yes, a Negro and a white registered voter.

During this same period, four^{additional} applications of Negroes were rejected although they had signed the Oath, made no errors or omissions for which applicants were being rejected and had furnished one supporting witness. 29/

The requirement that Negroes had to have two vouchers continued in June 1963. Robert Jones applied on June 11, 1963. He testified he was instructed to have two "references" sign his form (Tr. 68). 30/
But no white applicant, at any time, was required to produce two vouchers.

29/ See the applications of Linton Rutledge (Pl. Ex. 10-B326 - rejected May 6, 1963); Annie Mae Perry (Pl. Ex. 10-B295 - rejected May 6, 1963); Ernest Norfleet (Pl. Ex. 10-B269 - dated December 3, 1962); and Walter Mae Harper (Pl. Ex. 10-B138 - dated December 3, 1962).

30/ See also the testimony of Freddie Black (Tr. 230 - application of June 17, 1963 - Pl. Ex. 10-B30); Carrie W. Wilson (Tr. 112 - application of June 14, 1963 - Pl. Ex. 10-B416); and Willie L. Miles (Tr. 217 - application of June 17, 1963 - Pl. Ex. 10-B247).

The unfair discrimination against Negroes by the use of the voucher device was compounded by the fact that Negro applicants who obtained vouchers and were rejected for some other technical reason were required upon making a new application to obtain a voucher again. No matter how many times a Negro applicant is rejected and subsequently files a new application, he is required each time to obtain a voucher. This fact proves not only discrimination but the lack of good faith of the defendants; for if they were interested in establishing the bona fide residence of an applicant by the sworn statement of a qualified voter, one such statement should be entirely adequate. This is particularly true where, as in Perry County, the practices of the defendants necessitate repeated applications by the same applicant whose circumstances do not change.

Dorothy Hornbuckle applied on July 3, 1963. She furnished a voucher, but was rejected for not signing the Oath. She applied again on November 5, 1963, filled out a perfect form, but was rejected for lack of a voucher (Pl. Ex. 10-B156). An identical experience was had by Virginia S. Johnson, a high school graduate previously registered in Randolph County, Alabama, and the state of Connecticut. (Pl. Ex. 10 - B192, 193)

There have been 526 applications filed by 318 Negroes in Perry County during the period from November 15, 1962 to March 20, 1964. A supporting witness was required for each application even though many of the Negro applicants have applied and furnished supporting witnesses several times.

C. Applications of White Persons Were Signed
by Vouchers Without the Effort or Even the
Knowledge of the White Applicants

The defendants saw to it that the applications of white persons were signed by supporting witnesses. White voters who became registered since November 15, 1962, testified that they did not know they needed a voucher. They testified they did not request anyone to serve as their voucher, and that they did not know anyone had served as their voucher.

Charles Stapleton, for example, testified as follows (Tr. 119, 120):

Q. Did he [the registrar] say anything to you that someone would have to come in and sign the form for you?

A. No, sir.

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

A. No, sir.

Q. Did you know whether anyone went in and signed the form for you?

A. No, sir, I still don't.

Stapleton's application is reproduced on the following page. It appears he answered Q5(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" - "yes," and that someone else filled in the name of the reference who also served as his voucher.

James R. Ingram was registered on June 17, 1963.

~~No longer valid~~

~~No longer valid~~

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Charles Edward Stapleton do hereby apply to the Board of Registrars of Barry 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.

Charles Edward Stapleton
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Charles E. Stapleton
Uniontown Ala. Mar 22 1939
Uniontown Ala Rt 2 Box 133

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

3. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: No

4. Name some of the duties and obligations of citizenship: maintain aid to the
citizen 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

5. 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: Yes
B. J. Rasmussen

6. 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:

7. 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: Uniontown Ala

8. If you are self-employed, state the nature of your business: None

- (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: Chuba Stelf Vinton Ala

9. 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: Birth (a) When did you become a bona fide resident of Birmingham

County: Birmingham (b) When did you become a bona fide resident of 3 Ward or precinct 3

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

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

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

13. 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: _____

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

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

4th grade in school Set up man

16. 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: _____

17. Have you ever served in the Armed Forces of the United States Government: yes (a) If so, state when and for approximately how long: 6 months during Korea

18. 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: _____

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

20. 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: _____

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

O A T H

STATE OF ALABAMA Bureau COUNTY

Before me, Charles E. Stapleton, a registrar in and for said county and state, personally appeared

Charles E. Stapleton

, 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.

Charles E. Stapleton

Sworn to and subscribed before me in the presence of the Board of Registrars this the 6 day of May, 1963

N. B. May Jr.

Member of the Board of Registrars for Bureau County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Bureau COUNTY

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

Charles E. Stapleton

(Full name of applicant)

, an applicant for registration who being by me,

N. B. May Jr.

(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 Charles E. Stapleton, 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 1960. 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 6 day of May, 1963

N. B. May Jr.
(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA Perry COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared Charles E. Stapleton
(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 1 day of July 1963 in 3 precinct (or ward) in said county.

(Signed) N. B. May Jr.
Chairman

(Signed) Floyd Barber
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 Perry COUNTY

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

Robert J. Yelcherton who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Charles Edward Stapleton 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 Robert J. Yelcherton, My occupation is Merchant, I reside at Uniontown, My place of business or employment is at Uniontown.

The name of my employer is Self, I am a duly registered, qualified elector in 3 precinct (or ward) in 3 Perry County in the State of Alabama. I have known the applicant

Charles Edward Stapleton for 20 years (or months). He is a bona fide resident at Uniontown and to my knowledge has resided thereat for the past 20 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) Robert J. Yelcherton

Sworn to and subscribed before me in the presence of the Board of Registrars this the 17 day of June 1963.

(Signed) N. B. May Jr.
(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 141, Code of Alabama, 1940.

He testified to the following conversation between
him and registrar Mayton (Tr. 213, 14):^{31/}

Q. Did you have any discussion with him
[the registrar] about obtaining some-
one to sign that application form
for you?

A. Not as I remember.

Q. Did you go and ask anyone to sign
your application form?

A. I didn't ask anybody.

Q. I am referring to Mr. Yelverton.
Did you talk to him before you
filled out the application form?

A. No, sir.

Q. Did you talk to him after you
filled out the form?

A. I talked to him but not about
registration.

Q. Do you know Mr. Yelverton?

A. Yes, sir.

Q. Where does he live?

A. Pretty close to where I live. He
runs a store.

Q. Do you know where Mr. Mayton lives?

A. No, sir.

^{31/} See P1's Ex. 10-C32. Several other white witnesses, all registered, testified they did not ask the person who vouched for them to do so and did not know of the requirement. See the testimony and application forms of Joe Vann (Tr. 64, P1. Ex. 10-C121); Lonnie H. Holliday, Jr. (Tr. 82, 3, P1. Ex. 10-C28); Neva W. Harper (Tr. 96, P1. Ex. 10-C7); Linda F. Calhoun (Tr. 129, P1. Ex. 10-C52); Linda A. Fuller (Tr. 164, 5, P1. Ex. 10-C6); Hazel Crowe (Tr. 179, P1. Ex. 10-C5); Louise R. Ingram (Tr. 241, P1. Ex. 10-C30); and Odell Ryle (Tr. 244, 5, P1. Ex. 10-C112).

Judge Thomas: Who is Mr. Yelverton?

A. The one that runs Mr. Ed Curtis' store.

Judge Thomas: You did not ask him to sign it?

A. No, sir.

D. The Voucher Requirement Violates Due Process of Law

The evidence leaves no other conclusion but that the purpose in addition to the effect of the voucher requirement in Perry County is to discriminate against Negroes. But if we assume that it has a legitimate purpose - to verify the length of residence of the applicant - the method used is so arbitrary and unreasonable that it is utterly without due process of law. The right to vote cannot be denied by state arbitrariness; yet the voucher requirement does just that.

The length of residence of an applicant can easily be established by reasonable means. First, the applicant states his length of residence under oath. That should be enough. That is enough in other counties. Second, if there is any doubt about the length of residence of a specific applicant, he should be given the opportunity to prove the fact by his own evidence - such evidence as driver's licenses, homestead exemption certificates, tax receipts, rent receipts, public utility receipts, bank transactions, etc. Third, if he has no such proof or there is still a reasonable doubt as to his length of residence, the registrar should

make appropriate inquiry of one of the two references given by each applicant, or the applicant should be permitted to have his reference send a letter or a note to the registrars or some other simple method for establishing the fact of his residence.

When one considers the variety of reasonable methods available to the registrars - registrars who after being enjoined from discriminating adopted the present method in the exercise of their discretion - the voucher requirement in Perry County must be viewed as a device totally devoid of reason or justification. Perry County is a rural county. Registration is ordinarily conducted at the Courthouse in Marion on the first and third Mondays of the month. Persons can vouch only in the presence of a registrar on registration days. They must be willing to come from any or all parts of the county, no matter how remote from the courthouse, during the working hours on working days. They must be willing to come not only once but as many times as a man gets rejected for technical errors. They must come promptly, as it has been impossible for them to determine in advance at what time an application will be rejected for lack of a voucher^{32/}

^{32/} Registrar Blackburn testified that the Board waited 30 to 60 days before rejecting applicants because of failure to produce a supporting witness. (Tr. 295) However, 29 otherwise qualified Negro applicants were rejected for lack of a voucher within 30 days of the date of application (Pl. Ex's 10-B34, 46, 48, 62, 107, 129, 157, 158, 171, 179, 181, 184, 189, 191, 193, 194, 195, 206, 214, 352, 365, 377, 390, 392, 397, 406, 428, and 432) and 6 were rejected more than 60 days after they had applied (Pl. Ex's. 10-B30, 50, 95, 247, 331, and 402). The time ranged from 3 days (Pl. Ex. 10-B179) to 4 months (Pl. Ex's. 10-B95 and 402).

and the applicant must find one of these persons - a person who knows him, who is a registered voter, who is willing to state under oath that he knows of no reason why the applicant is disqualified from registering, and who is willing to make the trip no matter how far on a registration day during registration hours no matter how often.

E. The Adoption and Use of the Voucher Requirement Is In Violation of This Court's Orders.

1. The injunction issued November 15, 1962, enjoins the defendants from "engaging in any act or practice which involves or results in distinctions based on race or color in the registration of voters in Perry County." The defendants have violated this portion of the decree by adopting and using the supporting witness requirement to discriminate against Negroes.

2. Paragraph 7 of the Decree of November 15, 1962, enjoins the defendants from failing to register all applicants who meet the qualifications specifically listed in subparagraphs (a) through (e) thereof. The Registrars of Voters of Perry County have violated this portion of the Decree by rejecting applicants who meet those qualifications on the ground that said applicants did not meet an additional qualification - that of producing a supporting witness.

3. Paragraph E of this Court's Order of May 17, 1963, requires the defendants to "adopt any reasonable regulations necessary for the expeditious receipt and

processing of applications." The registrars have violated this portion of the Order. They adopted the supporting witness requirement as a regulation but it is totally unreasonable. They adopted the supporting witness requirement which is not "necessary" but is inconsistent with the expeditious receipt and processing of applications.

4. Paragraph 8 of the Order of this Court of November 15, 1962, enjoins the defendants from rejecting applicants on account of formal, technical or inconsequential errors and omissions in their application forms. To omit the signature of a supporting witness is formal and inconsequential, especially in those cases where applicants have on previous applications produced supporting witnesses.

IX

THE DEFENDANTS HAVE CONTINUED TO DISCRIMINATE
AGAINST NEGRO APPLICANTS BY USING THE
APPLICATION FORM AS A STRICT EXAMINATION

A. The Defendants Still Reject Qualified Negro
Applicants on Account of Formal, Technical
and Inconsequential Errors or Omissions on
Their Application Forms

A review of pages 1 and 2 of the large number of rejected applications filed by Negroes since November 15, 1962, leaves no room for doubt that the registrars continue to reject Negro applicants for errors and omissions which are formal, technical and inconsequential. This, despite the clear language of Paragraph 8 of this Court's Order of November 15, 1962, which enjoins the defendants "from rejecting applicants for formal, technical and inconsequential errors or omissions in their application forms."

The meaning of this portion of the injunction is unambiguous. It simply means that where the information on executed applications shows the applicants to possess the substantive qualifications to register to vote, the applicants cannot be rejected for errors or omissions - all such errors or omissions are necessarily of a formal, technical and inconsequential nature. Therefore, any rejection of an application which shows the applicant to possess all of the qualifications and none of the disqualifications to register to vote is in violation of Paragraph 8 (and also of Paragraph 7) of the Order of November 15, 1962.

The notations placed by the registrars on the rejected applications prove that the registrars are not looking to the substantive qualifications of the Negro applicants but are instead looking for technical errors to serve as a basis for rejection.

At least 122 applications were filed between November 15, 1962 and March 20, 1964 by qualified Negroes who were rejected solely or in part (as indicated on their forms) for technical errors or omissions in one or more of the 21 parts which comprise the Questionnaire. With little effort, it can be determined from the information which does appear on these applications that the applicants possess all of the qualifications and none of the disqualifications to register to vote. A few examples will illustrate the discriminatory impact of this practice of the registrars.

Bessie B. Rawls, a Negro, applied for registration to vote on June 12, 1963. (Pl. Ex. 10-B313) She is 71 years old, has been a resident of Perry County all her life. Her application form clearly shows that she is qualified for registration to vote. Her answers to the loyalty questions and the fact that she signed the Oath put her loyalty beyond doubt. Her supporting witness attested to her residence and qualifications. Her only "error" was that she made the common mistake of listing the names of persons who have known her name and where she has lived during the last five years instead of listing the names by which she has been known for the past five years in answer to Q15(3). Solely for this highly formal, technical and inconsequential error this applicant was rejected. A copy

of her four-page application follows.

Hattie Carter, a Negro, applied for registration on January 21, 1963 and her form was also rejected for formal, technical, and inconsequential omissions. (Pl. Ex. 10 - B51). Her form shows that she is 51 years old, has lived in Perry County all her life and that she possesses none of the disqualifications for registration. She shows by the answers on her form and her attesting to the Oath that she is a loyal citizen. Her supporting witnesses verify that she meets the residence requirement and ~~possesses~~ the qualifications for registration. She was rejected for failing to list her husband's name in answer to Q5a(2a), and for failing to give her precinct number in answer to Q8b(5b).^{33/} A copy of Carter's application form follows.

Sam Sanders, a Negro, applied for registration to vote on June 13, 1963, October 7, 1963, and January 29, 1964. All three of his applications have been rejected even though each of them shows Sanders possesses the qualifications to register to vote. (See Pl. Ex. 10 - B334, B335, B336). Each of these applications shows Sanders to have been born in Perry County in 1926 and to have lived there all his life; to be a graduate of Lincoln High School; to be employed by a local drug store; and to possess none of the disqualifications for registration to vote. Jim Webb signed each of the three forms as the

^{33/} Carter also failed to complete the supplemental application and oath on page three; however, the Board has not regarded this as grounds for rejection. The Board has completed this portion for many applicants and registered many other applicants in spite of omissions in this portion of the form.

Registered ^{wrong answer to question No 10-} 6-28-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Bessie E. Rawls do hereby apply to the Board of Registrars of Parry 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.

Bessie E. Rawls
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Bessie E. Rawls
10-18-1891 - Marion, Ala.
Newbern Ala P.O. Box 235
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:
Lincoln School Finished 10th Grade
House keeper
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: Support & defend the Constitution of the state United State and the Constitution of the state of Alabama

(a) Do you regard these 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: Beatrice Jackson Newbern Ala
H. D. Lee Marion Ala

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: Newbern Ala P.O. Box 235-
Beatrice Jackson Newbern Ala
H. D. Lee Marion Ala

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

(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:

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: 10-10-1891 (a) When did you become a bona fide resident of 10-10-1891
County: Perry (b) When did you become a bona fide resident of 1914 Ward or precinct 4

18. If you intend to change your place of residence prior to the next general election, state the facts: No Change

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:

OATH

STATE OF ALABAMA

COUNTY

Before me, W. B. Mayton, a registrar in and for said county and state, personally appeared

Bessie E. Rawls, 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 12 day of June, 1963.

Member of the Board of Registrars for July 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

Bessie E. Rawls, an applicant for registration who being by me,

W. B. Mayton, a member of said Board, first duly sworn as follows: "I do solemnly

swear (or affirm) that in the matter of the application of Bessie E. Rawls 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 Bessie E. Rawls, 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 1956- & 1969

(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 1960. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

I haven't never been convicted of any.

3. My present place of employment is

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

REMARKS

(Signed) Bessie E. Rawls

(Name of Applicant)

Sworn to and subscribed before me this the 12 day of June, 1963

W. B. Mayton
(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 Perry COUNTY

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

(Name of Witness) who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Bessie E. Rawls 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 Hampton D. Lee, My occupation is Montician, I reside at Maun, Ala, My place of business or employment is at Maun

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

Bessie E. Rawls for 25 years (or months). He is a bona fide resident at (Give Applicant's name)

Newbern, Ala and to my knowledge has resided thereat for the past 25 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) Hampton D. Lee

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.

Rejected 5-6-63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

Mr. Hattie Carter

do hereby apply to the Board of Registrars of

Perry 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.

Mr. Hattie Carter

Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Mr. Hattie Carter

January 27 1912 Perry County Route 1 Box 152 Newbern, Ala

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

No

3. Name some of the duties and obligations of citizenship: Define the Constitution and

ObeY The laws of the City County and State

(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

4. 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. Hampton D. Lee Marion, Alabama

Mr. James Carter Newbern, Alabama

5. 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: Newbern, Alabama Perry County

6. 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: Newbern, Ala Hattie Carter

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

(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: _____

8. 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: 1912 (a) When did you become a bona fide resident of Perry County: 1912 (b) When did you become a bona fide resident of _____ Ward or precinct 1912
9. If you intend to change your place of residence prior to the next general election, state the facts: No
10. Have you previously applied for and been denied registration as a voter: No (a) If so, give the facts: _____
11. Has your name been previously stricken from the list of persons registered: No
12. 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: _____
13. Have you ever been legally declared insane: No (a) If so, give details: _____
14. Give a brief statement of the extent of your education and business experience:
High School Graduate
15. 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: _____
16. Have you ever served in the Armed Forces of the United States Government: No (a) If so, state when and for approximately how long: _____
17. 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: _____
18. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: Yes
19. 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: _____
20. Will you bear arms for your country when called upon by it to do so: Yes (a) If you answer no, give reasons: _____
21. Do you believe in free elections and rule by the majority: Yes

OATH

STATE OF ALABAMA Perry COUNTY

Before me, Floyd Bamberg, a registrar in and for said county and state, personally appeared Hattie Carter, 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.

Mrs. Hattie Carter

Sworn to and subscribed before me in the presence of the Board of Registrars this the 21 day of January, 1962
Floyd Bamberg
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION. AND OATH

STATE OF ALABAMA Perry COUNTY

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

Mrs. Hattie Carter, an applicant for registration who being by me,
(Full name of applicant)

Floyd Bamberg, 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 Hattie Carter
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 1960. 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 _____

Floyd Bamberg
(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 Orange COUNTY

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

Hampton D Lee
(Name of Witness)

who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Hattie Carter 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 Hampton D Lee, My occupation is Portician, I reside at Marion, My place of business or employment is at Marion.

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

Hattie Carter for 20 years (or months).³ He is a bona fide resident at Newbern R#1 Box #152 and to my knowledge has resided thereat for the past 25 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) Hampton D. Lee
James Carter

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

(Signed) I _____ (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 248, Code of Alabama, 1901.

supporting witness verifying that Sanders met the residence requirements and that Webb knew of nothing that would disqualify Sanders from registration. Sanders signed the loyalty Oath on each of these three application forms. The first two applications filed by Sanders in June and October 1963 were rejected because Sanders failed to answer the question, "Do you regard those duties and obligations [of citizenship] as having priority over the duties and obligations you owe to any other secular organization when they are in conflict?" The Board rejected Sanders for this formal, technical, and inconsequential omission even though there could be no reasonable doubt that Sanders was loyal and that he embraced the duties and obligations of citizenship. He subscribed to the Loyalty Oath, answered all of the remaining loyalty questions consistently with that Oath and listed duties and obligations of citizenship on his form. Sanders on his third application filed on January 29, 1964 answered all of the loyalty questions correctly in addition to signing the Loyalty Oath. However, he was rejected for the third time because he was not able to answer the question, "How many members of the Federal House of Representatives are currently accredited to the State of Alabama? Why?" This question was given to Sanders by the Board in addition to the requirement that he fill out his application form. A copy of the application form filled out by Sanders on October 7, 1963, follows.

The rejected application of Alice H. Brown, a Negro, demonstrates not only the technicalities for which the Board rejects Negro applicants, but the unreasonable extent

Failed to answer # 9 A Notified 10/13 Oct. 7, 1963

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Sam Sanders do hereby apply to the Board of Registrars of Perry 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.

Sam Sanders
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Sam Sanders
11-22-26 Perry County Marion Ala. D.O. 1962

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

3. 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: _____

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

5. 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: _____

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

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

8. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: No

9. Name some of the duties and obligations of citizenship: To Vote to help support his County

(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: _____

10. 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: Jim Webb Marion, Ala.
Jim Woods Marion, Ala.

11. 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: Perry County 3-6-27

12. 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: Moving, Ala. Sam Sanders

13. If you are self-employed, state the nature of your business: No I am not

(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: Scruggs for Drugs major Ala. James L Scruggs P.O. Box 220 Maun, 11/8.

14. 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: 11-22-26 (a) When did you become a bona fide resident of 11-22-26 Perry County: 11-22-26 (b) When did you become a bona fide resident of 1 Ward or precinct 11-22-26

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

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

17. Has your name been previously stricken from the list of persons registered: NO

18. 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:

19. Have you ever been legally declared insane: NO (a) If so, give details:

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

I am Sam Sanders I finish Lincoln High School

21. 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:

OATH

STATE OF ALABAMA Perry COUNTY

Before me, J. G. Blackburn, a registrar in and for said county and state, personally appeared Sam Sanders, 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.

Sam Sanders

Sworn to and subscribed before me in the presence of the Board of Registrars this the 7 day of Oct., 1963

J. G. Blackburn
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA Perry COUNTY

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

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

J. G. Blackburn, 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 Sam Sanders, 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 18, 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 Scruggs For Drugs

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 7 day of Oct., 1963

J. G. Blackburn
(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 Perry COUNTY _____

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

Lucie C. Webb (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Sam Sanders 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 Lucie C. Webb, My occupation is Barber, I reside at Marion Ala Perry County, My place of business or employment is at Marion Ala. The name of my employer is Self employed. I am a duly registered, qualified elector in 1947 precinct (or ward) in Coyt House Prec County in the State of Alabama. I have known the applicant Sam Sanders (Give Applicant's name) for 15 years (or months). He is a bona fide resident at Marion Perry County 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) Lucie C. Webb

Sworn to and subscribed before me in the presence of the Board of Registrars this the 7 day of Oct, 1943

(Signed) J. A. Blackburn
(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.

to which the registrars go to construe an answer as an error on an application filed by a Negro. Brown's application shows the applicant to possess the qualifications for registration to vote. (P1. Ex. 10 - B40) She is 32 years old, is a resident of Perry County, is a high school graduate and possesses no disqualifications for registration. She submitted a good application form and a supporting witness signed her form. There can be no reasonable doubt concerning her loyalty or that she embraces the duties and obligations of citizenship as these attributes are clearly shown by her taking and subscribing the Loyalty Oath, the duties and obligations listed in answer to Q2(20) on her form, and by her answers to the questions touching upon her loyalty. Still the Board rejected her solely for her ambiguous answer, "I do not no," to the ambiguous and confusing question on her form: "Q21(19) Will you give aid and comfort to the enemies of the United States Government or the government of the state of Alabama?" Regardless of what the applicant meant by this answer to interpret this answer as showing that the applicant is not loyal and therefore not qualified is indefensible. A copy of her application form follows.

These experiences illustrate how the registrars in Perry County have disregarded the Order of this Court of November 15, 1962, and have continued to use the

XX

Wrong answer to no. 21

Nov. 14 - 61

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

I, Alice H. Brown do hereby apply to the Board of Registrars of
Perry 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.

Alice H. Brown
 Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Alice H. Brown
January 22, 1932, P. O. Box 474, Uniontown,
Alabama.

2. Name some of the duties and obligations of citizenship: Obey by the rules and
regulations of our town and State.
Help to keep our place a nice and respectful one.
At all times keep the streets clean.

(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

3. 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: D. A. Lewis, P. O. Box 1, Uniontown, Ala.
Professor R. R. Davis, Uniontown, Ala.

4. Are you married or single: Widow (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: James Brown Jr., Deceased June 22, 1955

5. 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: Uniontown, Alabama
D. A. Lewis, P. O. Box 1, Uniontown, Alabama
Professor R. R. Davis, P. O. Uniontown, Alabama

6. 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: Mrs. Francis Hatch
Nurse-Maid, Post Office, Uniontown, Alabama

7. 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: January 29, 1950 (a) When did you become a bona fide resident of Uniontown, Perry County Alabama (b) When did you become a bona fide resident of _____ Ward or precinct _____
8. If you intend to change your place of residence prior to the next general election, state the facts: I do not intend to change my residence
9. Have you previously applied for and been denied registration as a voter: no (a) If so, give the facts: _____
10. Has your name been previously stricken from the list of persons registered: no
11. 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: _____
12. Have you ever been legally declared insane: no (a) If so, give details: _____
13. Give a brief statement of the extent of your education and business experience: I finished 12 years of High School in 1950 from the Dunbar High School in Bessemer, Alabama
14. 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: _____
15. Have you ever served in the Armed Forces of the United States Government: no (a) If so, state when and for approximately how long: _____
16. 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: _____
17. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
18. 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: _____
19. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
20. Do you believe in free elections and rule by the majority: yes
21. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: I do not no

OATH

STATE OF ALABAMA

Perry COUNTY

Before me, J. D. Blackburn, a registrar in and for said county and state, personally appeared

Alice H. Brown, 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.

Alice H. Brown

Sworn to and subscribed before me in the presence of the Board of Registrars this the 14 day of Nov., 1963

J. D. Blackburn
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA

Perry COUNTY

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

Alice H. Brown, an applicant for registration who being by me,

(Full name of applicant)

J. D. Blackburn, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of Alice H. Brown 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 Alice H. Brown, 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 I have never registered to vote in any State before.
(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 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 Mrs. Francis Hatcher, part time

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

REMARKS

(Signed) Alice H. Brown
(Name of Applicant)

Sworn to and subscribed before me this the 14 day of Nov., 1963

J. D. Blackburn
(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 Perry COUNTY

Before the County Board of Registrars in and for said State and County personally appeared _____ (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Alice B Brown 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 D. H. Keever, My occupation is Mechanic, I reside at Uniontown, My place of business or employment is at Uniontown.
The name of my employer is _____ I am a duly registered, qualified elector in _____ precinct (or ward) in Uniontown Perry County in the State of Alabama. I have known the applicant Alice B Brown for 36 years (or months). He is a bona fide resident at Uniontown 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) D. H. Keever

Sworn to and subscribed before me in the presence of the Board of Registrars this the 14 day of Nov. 1963

(Signed) J. A. Blackburn (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, 1960.

application form as an arbitrary test.^{34/}

The purpose of the registrars in rejecting qualified Negro applicants on account of formal, technical and inconsequential errors and omissions is to restrict the registration of Negroes in Perry County. This purpose is even more apparent from the fact that the application form has not been used as a test for white applicants for registration.

B. The Defendants Have Not Used the Application Form as a Test for White Applicants

Between November 15, 1962 and March 20, 1964, 83% of all white persons who filed applications with the Perry County Board of Registrars were accepted for registration. This fact alone proves that the complicated application form was not used as a test for them.

Some white applicants have been accepted even though their application forms contain the same errors or

^{34/} For other examples of Negro applicants who signed the oath and produced a supporting witness but were rejected solely for formal, technical and inconsequential errors see the following application forms found in P1. Ex. 10: B5, B19, B73, B81, B137, B182, B210, B213, B238, B260, B264, B287, B334, B361, B369, B386, B169, B21, B148, B54, B61, B335, B261, B265, B291, B358, B384, B225, B142, B165, B350, B362, and B371.

omissions for which Negro applicants were denied registration.^{35/} The registrars simply chose to disregard the errors and omissions on these applications filed by white persons.

Other white applicants were assisted in completing their application forms.

Lonnie Holliday, Jr., a white person, is 24 years old and has an 11th grade education. He applied for registration in about May 1963 and was registered by the Board. (Pl. Ex. 10-C28) Holliday testified that he wrote the original incorrect answers to two of the loyalty questions, Q5a(20a) and Q20(15), but that the corrections were not in his handwriting, he did not see the corrections made on his form, and he did not know who made the corrections. (Tr. 80-82) The changes were quite apparently made by Mr. Mayton, the then Chairman of the Board.^{36/} A copy of these portions of his application follows page 69.

^{35/} Of the white applicants who were registered although their forms contained an error or omission in one of the loyalty questions, one failed to answer and three answered incorrectly the question relating to whether the duties and obligations of citizenship have priority over duties and obligations owed to other secular organizations (Pl. Ex.'s 10-C7, C13, C18, C19); two failed to answer and one answered incorrectly the question relating to whether the applicant would bear arms for his country if called upon to do so (Pl. Ex's 10-C78, C92, C155); and four answered incorrectly the question relating to whether the applicant would give aid and comfort to the enemies. (Pl. Ex's 10-C107, C114, C129, C169). For examples of other white applicants who were registered although they failed to answer a question requiring a positive response from the applicant see Pl. Ex's 10-C138, C2, C24, C64, C100, C131, and C160.

^{36/} This is particularly apparent when comparing the handwriting of Mayton found on the oath page of the applicant's form and on other application forms where parts have been completed by Mayton.

Anna Dozier, a white person, applied on March 18, 1963, and was registered to vote.(P1. Ex. 10-C21) She is 30 years old, has an 11th grade education, and has lived in Perry County for seven years. It is apparent from viewing her application form that another person wrote the applicant's present address in answer to Q1 (the only place her address appears on the form) and also changed the incorrect answers to the loyalty questions, Q14(19) and Q15a(20a) to correct answers. These changes also appear to be in the handwriting of registrar Mayton.^{37/} Dozier also incorrectly listed the names of references in answer to Q18(3) on her form, the same error for which Bessie Rawls, a Negro whose application is discussed earlier, was rejected. In contrast to Rawls, Dozier did not even list her present address in answer to this question. A copy of these portions of Dozier's form is reproduced on the following page.

The registrars not only gave assistance to white applicants but they permitted the applicants to receive assistance from other persons.

Joe Vann, a white person, applied once for registration to vote on December 5, 1963, and was registered.

^{37/} For other examples where answers and information were written by someone other than the applicant in response to the Questionnaire on pages 1 and 2 of the form see P1. Ex's 10-C40, C18, C26, and C7. Although the latter applicant, Neva Harper, denied such assistance, the answers to Q12(19), Q18, 18a and b (5, x 5a and b) and the signature under the Oath are clearly in the handwriting of another, and apparently that of registrar Mayton.

Lonnie H. Holliday, Jr.

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Lonnie Houston Holliday Jr.
Dec 12-14-39 1206 Washington Street Mobile, Ala
2. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
3. Do you believe in free elections and rule by the majority: yes
- (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
20. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes

OATH

STATE OF ALABAMA Bay COUNTY

Before me, James H. B. May, a registrar in and for said county and state, personally appeared Lonnie Houston Holliday Jr., an applicant for registration as

Anna A. Dozier

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Anna A. Dozier
August 8, 1933 Tuscaloosa Co.
Mobile Ala. Central St
2. Have you previously applied for and been denied registration as a voter: NO (a) If so, give the facts: _____
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: no
15. Name some of the duties and obligations of citizenship: To help support your government.
Help in your county
- (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

(P1. Ex. 10-C121) He is 44 years old, has a 7th grade education, and lives in Uniontown in Perry County. He filled out his application form at Grady Averett's store at Uniontown during precinct registration. He testified that Averett showed him how to fill out the form, and that Averett would help him with the questions he did not know. Vann had difficulty understanding questions on the form and Averett helped him with those questions. (Tr. 62, 63) A copy of Vann's accepted application form is reproduced on the following page. It appears that Vann had a great deal of difficulty in understanding the application form.

Lois Boyett, a white person, applied for registration on July 15, 1963, and was registered to vote. (P1. Ex. 10-C33) She answered incorrectly the question relating to whether she would give aid and comfort to the enemies. After she left the registration office, her husband corrected her answer on her form. (Tr. 184).

Analysis of the application forms filed between November 15, 1962 and March 20, 1964 (P1. Ex. 10) discloses that many white applicants received assistance in correcting answers on their forms. On 56 of the applications of white persons, one or more of the five loyalty questions was originally answered incorrectly. Of these, 35 (or 63%) were changed to correct answers. During this same period, 129 of the applications of Negroes contained incorrect answers to one or more of the loyalty questions; of these, only four (or 3%) were changed to correct answers. Since the discrepancy does not follow educational lines, it can only be attributed to the degree of assistance rendered to white applicants and not to Negro applicants.

O.K. entered

Dec. 5. 63

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

Joe Vann

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.

Joe Vann
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Edwin Alan
June 15, 1919, Mrs. Lillie May Vann
Mr. Elighbell, Vann - Anniston, Ala
2. If you intend to change your place of residence prior to the next general election, state the facts: no
3. Have you previously applied for and been denied registration as a voter: yes (a) If so, give the facts: failed the test on it
4. Has your name been previously stricken from the list of persons registered: _____
5. 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: no I am not one
at all. I never been one at all.
6. Have you ever been legally declared insane: no (a) If so, give details: no
7. Give a brief statement of the extent of your education and business experience: I am a carpenter, help. I help my brother
I have work in the paper, work with
my brother law; Mr. J. R. Powell
8. 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: I never have been in any at all
9. Have you ever served in the Armed Forces of the United States Government: yes (a) If so, state when and for approxi-
mately how long: I went in at May 1941 and came out Oct. 1945
10. 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: no
no
11. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
12. 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: _____

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

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

15. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no

16. Name some of the duties and obligations of citizenship: Don't compete and
propaganda - and farm -
note

(c) 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

17. 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 Lucille Allen Mrs J H
flowers both at habersville
of Marietta

18. 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: _____

19. 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 lived in Chatam
County for the last five years.
I stay with my sister.

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

(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: same

21. 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: yes (a) When did you become a bona fide resident of pennington
County 2 years (b) When did you become a bona fide resident of _____ Ward or precinct 15

OATH

STATE OF ALABAMA

PERRY COUNTY

Before me,

Joe Vann
J. A. Blackburn

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

Joe Vann, 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 foregoing questions are true and correct to the best of my knowledge, information and belief. I do further solemnly swear 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 advocated the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Joe Vann

Sworn to and subscribed before me in the presence of the Board of Registrars this the 5 day of Dec., 1963

J. A. Blackburn

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA

PERRY COUNTY

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

Joe Vann

, an applicant for registration who being by me,

J. A. Blackburn
(Registrar for said county and state)

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

swear (or affirm) that in the matter of the application of *Joe Vann* 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.

(Under Section 101, Alabama Constitution, and Title 17, Section 24, Code of Alabama 1960, if applicant cannot make necessary statement, then state so and registration will be 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 5 day of

Dec., 1963

J. A. Blackburn
(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA Perry COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared Joe Vann (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, do judge said applicant entitled to be registered and he was duly registered on this the 14 day of Dec - 1963, in 3 precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) Mrs. J. W. Barnett Member

(Signed) J. D. Blackburn 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 Perry COUNTY

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

Grady Barnett (Name of Witness)

who being first duly sworn as follows: "I solemnly swear

(or affirm) that in the matter of the application of Joe Vann 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 Grady Barnett, My occupation is Retired, I reside at

Monticello, My place of business or employment is at Retired

The name of my employer is Self I am a duly registered, qualified elector in 3

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

Joe Vann for 2 years (or months). He is a bona fide resident at

Monticello 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

(Signed) Grady Barnett

Sworn to and subscribed before me in the presence of the Board of Registrars this the 5 day of Dec - 1963

(Signed) Mrs. J. W. Barnett (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.

That the application form is used as a strict test for Negroes and Negro applicants are not assisted is borne out by the fact that no Negro applicant has been registered in Perry County who gave an unsatisfactory answer to any one of the loyalty questions. Virtually all of the accepted applications of Negroes are errorless when measured by the standards of the Board.^{38/}

Negro witnesses testified to the failure of the Board to offer or provide assistance to them. Robert Jones, a Negro, has applied four times since the Decree of this Court and each of his applications show him to be qualified, yet they were rejected. (Pl. Ex. 10-B198, B199, B200, B201) Jones testified that the registrars never gave him any instructions, just gave him the form to fill out. (Tr. 71) Gladys Turner, a Negro, filled out four application forms since November 15, 1962 and the first three were rejected although they showed her to be well qualified for registration. (Pl. Ex. 10-B392, 393, 394, A70) She is 30 years old, has lived in Perry County 28 years and has two years of college. She was given no instruction on filling out the form, merely told to complete it. (Tr. 103, 105, 107) Ella Dee Stewart, a Negro,

^{38/} The Board has not regarded certain imperfections in the form as grounds for the rejection of any applicants. Examples are the failure to state the spouse's place of birth; the omission of the date the applicant became a resident in his ward or precinct; the omission of the name of the county and/or a signature by the applicant in the "Application for Registration" at the top of the first page of the form.

has applied four times since the Court's Decree and each form has been rejected although each shows her to be qualified. (Pl. Ex. 10-B369, B370, B371, Table D, part B.) She likewise testified to receiving no instructions other than to fill her form out carefully. (Tr. 139, 141)

Negroes who have sought assistance have been refused assistance. William Milton, a Negro, has applied three times since the Decree and each application has been rejected. (Pl. Ex. 10-B252, 253, 254) His first notice of rejection dated June 28, 1963 stated he "Refused to sign the Oath;" (Pl. Ex. 25). His second application dated October 21, 1963 was rejected because he failed to sign an important question. (See Q5 on Pl. Ex. 10-B254) Milton had not been instructed where to sign on either form so on this third application he requested the registrar to check and see if he had signed where he was supposed to. He was merely told to look over his form again and see if he had signed where he wanted to. (Tr. 185) Rosa P. Martin, a Negro, applied on December 16, 1963 and her application was rejected because she failed to sign an important question. (Pl. Ex. 10-B229, Tr. 202) When she returned on January 20, 1964 she asked if she could sign the statement she missed. She was told she could not, that she had to take the whole test over. (Tr. 205)

The Board notifies applicants by mail that they have been rejected. However, it is evident from the notices of rejection which are in evidence and the testimony of the Negro witnesses that they are not informed of the specific reason for their rejection. When Washington Carter, a Negro who has unsuccessfully attempted to register nine

times since the Decree including the filing of five applications, attempted to learn of the specific reason for his rejection, he was told by the Board that they were not able to tell him what was wrong with the form. (Tr. 31)

The testimony of these Negro witnesses only confirms what the registration records so graphically show - the application form is applied as a strict test for Negro applicants.

Paragraph 7e of the Order of this Court of November 15, 1962 enjoins the defendants from failing to register applicants who are able to demonstrate their ability to read and write by answering the questions on the application form and questionnaire. This is simply an expression of the requirement that applicants must be able to read and write, and no more. At the time of the trial of this case, the filling out of the application form and questionnaire was the only reading and writing the applicant was asked to do; and when a white applicant was not capable of this he was not required to complete his form as someone else would. The defendants cannot in good faith assert that paragraph 7e of the Order gives them license to reject an applicant on the ground that he failed to answer or incorrectly answered any particular question on the form.

Any such assertion is not only utterly unreasonable but is put to rest by Paragraph 8 of the Order which enjoins the defendants "from rejecting applicants for formal, technical and inconsequential errors or omissions in their application forms." The defendants have thus

violated Paragraphs 7 and 8 of the November 15 Order
in addition to Paragraph 1 which enjoins them from en-
gaging in any act which involves or results in dis-
tinctions based on race.

X.

IN 1964 THE DEFENDANTS ADOPTED
NEW MORE ONEROUS TESTS AND HAVE
USED THEM TO DISCRIMINATE AGAINST
NEGROES

From the date of this Court's injunction to January 27, 1964, voter applicants in Perry County were required to fill out an application form satisfactorily and to furnish a supporting witness. These two requirements were used discriminatorily by the defendants to prevent the registration of qualified Negroes.

On January 27, 1964 (at about the time Dudley Pearson joined the Board of Registrars), a new requirement was added to the others - applicants were required to answer the question:

How many members of the Federal House of Representatives are currently accredited to the State of Alabama? Why?

On January 31, 1964, this requirement was replaced by the requirement that applicants read aloud and write their understanding of "Articles X" of the United States Constitution:^{38a/}

Article X. 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.

On March 2, 1964, the defendants initiated the use and are still using the new application form and tests prescribed and promulgated by the Supreme Court of Alabama. Briefly, the new tests (the contents of which are changed every month) require the applicant

^{38a/} The defendants use the title Article X. More commonly this section is referred to as the Tenth Amendment.

to answer four questions on government; to read a portion of the United States Constitution; and to write from dictation portions of the Constitution.^{39/}

The new questions used in January and February 1964 will be hereafter referred to as the "Board's Supplemental Test" - for it was purely a contrivance of the Board of Registrars of Perry County. The new test, the use of which began in March 1964, will be hereafter referred to as the "Part III Test" - for that is its designation and its position in the new application form.

A. The Board's Supplemental Test Was Adopted and Has Been Used to Discriminate Against Negroes

The discriminatory impact of the Board's Supplemental Test is dramatically illustrated by the action taken by the registrars on applications during that period.

^{39/} A copy of both the old application form and new application form (including one set of tests) is set forth at the beginning of the Tables attached to this Brief immediately preceding page A-1. The Supplemental Order of the Supreme Court of Alabama setting forth all of the tests to be used is reproduced in Table E.

CHART III

ACTION TAKEN BY REGISTRARS ON APPLICATIONS FILED BETWEEN JANUARY 27, 1964 AND FEBRUARY 17, 1964 ^{40/}

<u>Date</u>	<u>Applications Processed</u>		<u>Accepted Applications</u>		<u>Rejected Applications</u>		<u>Percent Rejected</u>	
	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
1-27-64	<u>W</u>	1	1		0		0%	
	<u>N</u>	13		0		13		100%
1-28-64	<u>W</u>	6	2		4		67%	
	<u>N</u>	7		0		7		100%
1-29-64	<u>W</u>	0	0		0		0	
	<u>N</u>	6		0		6		100%
1-30-64	<u>W</u>	3	2		1		33%	
	<u>N</u>	8		1		7		88%
1-31-64	<u>W</u>	10	7		3		30%	
	<u>N</u>	5		0		5		100%
2-3-64	<u>W</u>	4	3		1		25%	
	<u>N</u>	5		2		3		60%
2-17-64	<u>W</u>	6	6		0		0%	
	<u>N</u>	12		0		12		100%
Total	<u>W</u>	30	21		9		30%	
	<u>N</u>	56		3		53		95%

Registrar Pearson testified that the Board began requiring applicants to interpret portions of the Constitution because it would provide "...additional evidence to help us decide on the applicant's ability to read and understand what they read." (Tr. 327)

He admitted that he was instrumental in initiating this test and sought to justify it on the ground that

^{40/} These figures are obtained from Table D attached to the Brief.

previous standards have not been adequate (Tr. 328), but he also admitted that he did not look over the application forms filed before he took office and he did not study the standards that had previously been used. Even so, he testified: "I don't think we are requiring them to pass a more strenuous test. If they can read and write, they should be able to read and understand these simple things we have added." (Tr. 328)

Chairman Blackburn admitted that as long as he has served on the Board (since 1953) applicants have never before been required to interpret a provision of the Constitution. He gave as the purpose for using this new test: "Well, more or less, I suppose to determine if they really had any intelligence at all. Anybody that could read any kind of newspaper or had any intelligence could answer those questions." (Tr. 312)

The Board's Supplemental Test was imported from neighboring Dallas County. Pearson consulted with Mr. Blanchard McLeod who is the Circuit Solicitor in both counties and he met with the Dallas County Board of Registrars for two days. This Court can take notice of the fact that the Dallas County Board, as with the Perry County Board, is under an injunction prohibiting discrimination in the registration process, and that supplemental enforcement proceedings are also pending in the Dallas County case (United States v. Atkins, et al., Civil Action No. 2584).

Qualified Negro applicants who have been rejected under the Board's Supplemental Test would have been registered but for that test.

William Milton, a Negro, has applied for registration in Perry County three times since November 15, 1962. All of his applications have been rejected (Pl. Ex's 10-B252, B253, B254). Milton is 60 years old. He owns and farms 245 acres in Perry County. He has an eighth grade education and has lived in Perry County all his life except in about 1943 when he lived in Ohio, where he was registered to vote. Each of Milton's three applications clearly shows him to possess all of the qualifications and none of the disqualifications for registration to vote. The applications Milton filed on June 11, 1963, and October 21, 1963, were rejected because of omissions on his applications. On January 27, 1964, Milton filled out a perfect application form. He also signed the Oath and produced a supporting witness. Milton testified that after he completed filling out his application the registrar gave him a paper with the question "How many members of the Federal House of Representatives are currently accredited to the State of Alabama? Why?" Milton wrote his answer "I don't know but two and they speak for the State of Alabama." He testified that he was referring to Mr. John Sparkman and Mr. Hill. When Milton finished, he returned the paper to the registrar who looked at it but said nothing (Tr. 196). Written next to his answer on the supplemental test is the comment "Apparent lack of understanding." Milton

later received a notice from the Board dated February 10, 1964, stating his application had been rejected because "[He] failed to answer correctly one or more pertinent questions." (Pl. Ex. 26) A copy of his application form and supplemental test follows this page.

Robert Jones, a Negro, applied four times for registration in Perry County since the Court's injunction. Each of his applications shows him to be qualified for registration and his testimony confirms that he is qualified (Tr. 66). He is 57 years old and has lived in Perry County all his life. He has a ninth grade education. He rents and farms a 500 acre farm in Perry County. He has never been arrested. When Jones applied on January 27, 1964, he completed an application which met the Board's standards. However, his application was rejected for his answer to the supplemental test relating to the number of representatives. His answer was "I don't know." The notation "Apparent lack of understanding" appears next to his answer. Jones later received a notice from the Board dated February 10, 1964, which stated his application had been rejected because "[He] omitted one or more pertinent questions." (Pl. Ex. 17)

Jones returned and applied again on February 17, 1964. This time he again filled out an application which meets the standards of the Board. However, this time he was required to interpret Article X of the United States Constitution. His answer was "The Rights

Rejected
APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

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

William Milton
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: William Milton
Born 12-3-1903, Perry Co. Uniontown Ala.
Q 702. Box 107

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

(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: none

3. 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: 12-3-1903 (a) When did you become a bona fide resident of Perry
County: 12-3-1903 (b) When did you become a bona fide resident of 3 Ward or precinct N 913

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

5. Have you previously applied for and been denied registration as a voter: yes (a) If so, give the facts: fail
to sign an important question

6. Has your name been previously stricken from the list of persons registered: never has been reg

7. 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: never has been

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

9. Give a brief statement of the extent of your education and business experience:
8th grade, farmer all my life.
after being old enough to work

10. 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:

11. 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:

12. 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: _____

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

14. 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: _____

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

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

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

it will not

18. Name some of the duties and obligations of citizenship: to obey the laws of state and county

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

19. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the time of filing this form:

Jay Strather, Uniontown, Ala.

Henry Fikes, Uniontown, Ala.

20. Are you married or single: m, (a) If married, give name, residence and place of birth of your husband or wife, as the case may be: Rebecca B. Milton born in Perry County, Uniontown, Ala.

21. 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: Uniontown, Ala.

William Milton

OATH

STATE OF ALABAMA

Perry COUNTY

Before me, C.D. Pearson, a registrar in and for said county and state, personally appeared

William Milton, 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 27 day of January, 1964.

Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA

Perry COUNTY

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

William Milton

(Full name of applicant)

, an applicant for registration who being by me,

C.D. Pearson

(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 William Milton 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 William Milton, 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 21 March

never been registered in Alabama
(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 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 Uniontown, Ala.

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

REMARKS

(Signed) William Milton
(Name of Applicant)

Sworn to and subscribed before me this the 27 day of January, 1964.

(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, touch- ing his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Regis- tration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be regis-

tered 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 ma- jority 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 Perry COUNTY

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

Joe Strother....., who being first duly sworn as follows: "I solemnly swear (Name of Witness)

(or affirm) that in the matter of the application of William Milton..... 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 Joe Strother..... My occupation is farming..... I reside at Uniontown Ala..... My place of business or employment is at Uniontown.....

The name of my employer is Self..... I am a duly registered, qualified elector in 3..... precinct (or ward) in Perry..... County in the State of Alabama. I have known the applicant

William Milton..... for 40 years (or months). He is a bona fide resident at

Uniontown Ala..... and to my knowledge has resided thereat for the past 40 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) Joe Strother

Sworn to and subscribed before me in the presence of the Board of Registrars this the 27 day of January 19.....

(Signed) Ch. Keasler (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, 1900.

QUESTIONS

**How many members of the Federal House of Representatives
are currently accredited to the State of Alabama ? Why ?**

Please answer below in writing

*I don't know But two and they
speak for the State of Alabama
(apparent lack of understanding)*

William Milton
(Signature)

1-27-64
Date

to Vote and the Majority Rules by the People." Again the notation "Apparent lack of Understanding" appears next to his answer. He later received a notice of rejection dated March 2, 1964, which states "[He] failed to answer correctly one or more pertinent questions." (Pl. Ex. 17) Both of his applications met the arbitrarily high standards of the Board and he would have been registered had they been submitted prior to the adoption of the Board's Supplemental Test.

The experiences of Milton and Jones are not unique. The registrars knew that with the repeated applications filed by Negro applicants more and more of them would eventually qualify even under the Board's arbitrary standards. They needed an additional device so they resorted to supplemental tests. ^{41/}

The Board's Supplemental Test has been graded unreasonably and discriminatorily by the registrars. It is not sufficient for a Negro applicant to show that he has knowledge of the subject matter of the test. The Negro applicant must have the exact answer

^{41/} From January 27, 1964 to February 17, 1964, at least 11 applications were filed by Negro applicants which were rejected solely because of the applicants' answers to the Board's Supplemental Test. Each of these applications met the standards of the Board and the applicants signed the Oath and furnished supporting witnesses. The Pl. Ex. 10 number and the number of rejected applications previously filed by the same applicant are as follows: B3 (two previous app's); B10 (two previous app's); B11 (three previous app's); B55 (three previous app's); B108 (one previous app.); B113 (one previous app.); B114 (two previous app's); B151 (two previous app's); B334 (two previous app's); B423 (two previous app's); and B428 (one previous app.).

to satisfy the defendants. Clara Gibson, a 66 year old Negro, has applied for registration in Perry County three times since October 1, 1963. Each of her applications has been rejected. Each of them clearly shows that she possesses the qualifications and none of the disqualifications to register set forth under this Court's Order. On January 28, 1964, she applied for registration and filled out a perfect application except for minor errors in Q14b(5b) and Q1 of the Supplemental Application, both omissions for which the Board does not reject applicants. Gibson signed the oaths on her form and produced a supporting witness. Gibson was rejected solely for her answer to the supplemental test. A copy of her application and supplemental test is reproduced on the following page.

The defendants in grading the supplemental test of white applicants have given them the benefit of the doubt as to whether they understood the question. Negroes have not received similar treatment. The following answers are disclosed in the registration records with respect to the question about the number of representatives from Alabama:

Doris H. Kinard
White - Accepted
Applied - 1-30-64
Pl. Ex. 10-C161

answer
"8 Redistricting"

Larry M. Poole
White - Accepted
Applied - 1-30-64
Pl. Ex. 10-C162

answer
"8 Redistricting"

Albert Richards
Negro - Rejected
Applied - 1-30-64
Pl. Ex. 10-B317

answer
"two Senete Eight
Reasentives"
[Board notation -
apparent lack of
understanding above
question]

Col. d

Registered

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Clara Gibson do hereby apply to the Board of Registrars of Perry 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.

Clara Gibson
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Clara Gibson
Wallace County July 4 1897
Rt 2 Box 61A Uniontown Ala
2. Have you ever served in the Armed Forces of the United States Government: No (a) If so, state when and for approximately how long: _____
3. 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: _____
4. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
5. 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: _____
6. Will you bear arms for your country when called upon by it to do so: yes (a) If you answer no, give reasons: _____
7. Do you believe in free elections and rule by the majority: yes
8. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: No
9. Name some of the duties and obligations of citizenship: Obey Federal and State Law and Support Same
- (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
10. 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: H. C. Fikes Uniontown Ala
C. W. Royal Uniontown Ala

11. 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: *Robert Gibson Uniontown Ala Perry County*

12. 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: *Uniontown Ala Clara Gibson*

13. If you are self-employed, state the nature of your business: *Farming*

(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:

14. 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: *July 4 1897* (a) When did you become a bona fide resident of *Perry* County: *Dec 20 1974* (b) When did you become a bona fide resident of _____ Ward or precinct _____

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

16. Have you previously applied for and been denied registration as a voter: *yes* (a) If so, give the facts: *2 Mis answering some of the important questions*

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

18. 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:

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

20. Give a brief statement of the extent of your education and business experience: *Finished 8th Grade Studied the 9th and 10th Has experience as a Retail Grocer and Farmer*

21. 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:

O A T H

STATE OF ALABAMA Perry COUNTY

Before me, J. A. Blackburn, a registrar in and for said county and state, personally appeared

Clara Gibson, 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 28 day of Jan, 1964

J. A. Blackburn
Member of the Board of Registrars for Perry 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 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 Clara Gibson, 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 Perry County Union Tenn Ala

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

REMARKS

I am a member of Missionary Baptist Church
Uniontown Ala Bible Class Teacher

(Signed) Clara Gibson
(Name of Applicant)

Sworn to and subscribed before me this the 28 day of Jan, 1964

J. A. Blackburn
(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 Perry COUNTY

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

H.C. Trikes, who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Clara Gibson 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 H.C. Trikes. My occupation is Farming. I reside at Uniontown. My place of business or employment is at Uniontown.

The name of my employer is Self. I am a duly registered, qualified elector in 3 precinct (or ward) in Perry County in the State of Alabama. I have known the applicant

Clara Gibson for 60 years (or months). He is a bona fide resident at

Uniontown 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) H.C. Trikes

Sworn to and subscribed before me in the presence of the Board of Registrars this the 28 day of Jan, 1964

(Signed) J. A. Blackburn
(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.

QUESTIONS

How many members of the Federal House of Representatives
are currently accredited to the State of Alabama? Why?

Please answer below in writing

Senator - liston Hill

Senator John Sparkman

Don't know how many more

Why there are there 2 Beline to
help make select and to support and
uphold the laws of the State of Alabama.
(apparent lack of understanding)

Clara Gibson
(Signature)

Jan 28 1964
Date

Aurelia G. Martin
Negro - Rejected
Applied - 1-30-64
Age - 75
Pl. Ex. 10-B223

answer
"Eight Representatives.
These are required to
take care of all federal
requirements of the
Federal government of
Alabama."
[Board notation -
applicant apparently
lacked comprehension
of question due to
limited ability to
read.]

James H. Harris
Negro - Rejected
Applied - 1-30-64
Pl. Ex. 10-B14

answer
"8 to the house of
Representatives and
to the state of Alabama."
[Board notation -
apparent lack of com-
prehension]

The following answers are contained in the registra-
tion records with respect to the interpretation
of Article X:

Mrs. Homer Keasler
White - Accepted
Applied - 1-31-64
Pl. Ex. 10-C160

answer
"I believe that no one
should have power over
any one to Make them
do any thing they
don't want. You should
have the right to go
to school with just
your own kind. White
& Negroe's should
have differnet eating
place's, and living
places. I do not
believe in the Civil
rights bill."

Mrs. Wayne Swindal
White - Accepted
Applied - 2-?-64
Pl. Ex. 10-C175

answer
"Congress is the law-
making body of the
Constitution. I be-
lieve in each state
making laws of it's
own and abiding by them."

Carolyn Parsons
White - Accepted
Applied - 2-3-64
Pl. Ex. 10-C169

answer
"When certain powers
aren't granted by the
Constitution a state has
the right to have it
put to a vote by the
people of the state."

Robert Jones

Negro - Rejected
Applied - 2-17-64
Pl. Ex. 10-B201

answer
"The Rights to Vote
and the Majority Rules,
by the People"
[Board notation -
apparent lack of
understanding.]

B. The Part III Test is Discriminatory
and Violates the Order of This Court

The Negro applicant now finds that he must answer correctly four questions on government; he must give a satisfactory interpretation of a section of the Constitution; and he must write from dictation words from the Constitution selected by the defendants. This is in addition to filling out the application form, signing the Oath, and providing a supporting witness.

The test on its face is more burdensome and more onerous than any to which the white voters of Perry County have previously been subjected. This fact alone presents a discriminatory freeze in Perry County.

A reading of the Part III Test does not suggest that the reading test is an interpretation test, but it is clear that the defendants are using it as an interpretation test.

Freddie Black testified that when he applied for registration on April 20, 1964, he was required to interpret a section of the Constitution from the Part III Test (Tr. 234, 235). His application form shows that he was required to read and interpret the following provision (Pl. Ex. 32):

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.

His test indicates that he gave the following interpretation:

In Voting the majority of Voters gets whoever they are Voting for - The Voters are the people.

A three-judge federal court sitting in Mobile held many years ago that this kind of test was unconstitutional. See Davis v. Schnell, 81 F.Supp. 872 (S.D. Ala. 1949); aff'd 336 U.S. 933 (1949).

There is nothing on the face of the Part III Test to suggest what standards should be used in giving and grading the four questions on government, the reading test, and the dictation test. The defendants have decided on their own to require that all four questions on government be answered correctly, that the applicant be required to interpret as well as read the portion of the Constitution, and that the dictated words must be spelled to the satisfaction of the Board.

The discriminatory result of the administration of the Part III Test is demonstrated by the following Chart.

CHART IV

ACTION TAKEN BY REGISTRARS ON APPLICATIONS FILED SINCE THE ^{42/} ADOPTION OF THE PART III TEST

<u>Date</u>	<u>Applications Processed</u>		<u>Accepted Applications</u>		<u>Rejected Applications</u>		<u>Percent Rejected</u>	
	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
3-2-64	<u>W</u>	9	5		4		44%	
	<u>N</u>	6		2		4		67%
3-16-64	<u>W</u>	4	4		0		0%	
	<u>N</u>	12		1		11		92%
		—	—	—	—	—	—	—
Total	<u>W</u>	13	9		4		31%	
	<u>N</u>	18		3		15		83%

The use of the Part III Test in Perry County violates the Order of this Court. It violates Paragraph 1 of this Court's injunction which prohibits discrimination and it violates Paragraph 7 which sets forth the qualifications to be tested in Perry County.

^{42/} These figures are obtained from Table D attached to this Brief.

XI.

THE DEFENDANTS HAVE
FOLLOWED PROCEDURES
DESIGNED TO DELAY THE
REGISTRATION OF NEGROES.

The Board of Registrars has attempted to obstruct and prevent the registration of qualified Negro applicants through the use of the application form as a strict examination and the adoption of the requirements that applicants sign the Oath, produce a supporting witness and interpret a provision of the Constitution. In addition to these practices the Board has followed numerous additional procedures designed to delay and prevent the registration of qualified Negro applicants. These are: (1) failing to notify Negro applicants of the specific reason for their rejection; (2) failing to act upon applications filed by Negroes within a reasonable time and failing to notify them of such action within a reasonable time; (3) unreasonably limiting the number of Negro applicants who can apply at one time; (4) failing to process the applicants in the order in which they appear for registration; (5) failing to provide Negro applicants with reasonable notice of where the registrars will meet to receive applications for registration to vote; and (6) failing to receive and process applications on all of the regular registration days.

1. The registrars have failed to notify rejected applicants of the specific reason for their rejection.

The registrars have been required by the Orders of this Court to notify each rejected applicant of the specific reason for his rejection.^{43/} Instead of complying with these Orders the registrars have sought to delay the registration of rejected Negro applicants by refusing to notify these applicants of the specific reasons for their rejection. As a result many of these applicants, continue to make the same error or omission for which they were previously rejected.

Ella Stewart, a Negro, is 50 years old and has lived in Perry County all of her life except for a period of time from 1943 to 1957 when she lived in Birmingham. She has an eleventh grade education and she and her husband farm 52 acres which they own in Perry County.

^{43/}

The Court Order of November 15, 1962 enjoins the defendant registrars from:

"Failing to notify in writing each applicant of the action taken on his application for registration, whether accepted or rejected, within a reasonable time; and if rejected, the specific reason or reasons for his rejection."

The Court Order of May 17, 1963 requires the defendant registrars to:

"Notify an applicant within thirty days after the receipt of any application as to the action taken thereon by the Board; if the application is accepted, the registration certificate shall be mailed to the applicant; if the applicant is rejected, thenotification shall be also mailed to the applicant, stating thereon that the applicant was rejected and the reason or reasons for such rejection."

She also owns a house in Birmingham. She was registered to vote in Birmingham in 1955 and has attempted to register in Perry County on five occasions since the Court's Decree in November 1962. All of her application forms have been rejected by the registrars, although each shows her to possess the qualifications for registration to vote. She first applied in March 1963 and never received a notice from the registrars concerning that application. (Tr. 135)^{44/} She reapplied on June 13, 1963 and filled out a perfect form except for her answer to the difficult and confusing question relating to whether she regards the duties and obligations of citizenship which she listed on her form as having priority over the duties and obligations she owed to any other secular organization when they are in conflict. She answered this question "No." She was rejected for this answer although the other answers to the loyalty questions on her form and her subscribing to the Oath, put her loyalty beyond doubt. She received a rejection notice from the Board dated June 28, 1963. The reason given for her rejection was "improper answers to one or more important questions." (Pl. Ex. ■-23) Stewart testified she did not know what answers the Board was referring to when she received her notice. (Tr. 138) This is apparent as she continued to answer this particular question in the same manner. She returned and applied again on October 21, 1963. She filled out another

^{44/} This application form is missing from the Board's registration records and is not contained in Pl. Ex. 10.

application form and again answered this same question "No" and she also failed to sign the Oath on this form. She received a notice of rejection from the Board dated December 2, 1963 which set forth as her reason for rejection "Wrong answer and fail to sign important question." (Pl. Ex. 23) Stewart returned and filled out another application form on January 6, 1964. (Pl. Ex. 10-B371) She filled out a perfect application form but she answered the same question relating to the priority of the duties and obligations of citizenship: "No." She received another notice of rejection dated January 6, 1964 stating she was rejected because of "Wrong answer to important question." (Pl. Ex. 23) She testified regarding this notice (Tr. 142):

Q When you received this, did you know what that important question was?

A I didn't. I wondered what it was.

When the exact meaning of this question was pointed out to her during her testimony she replied - "I just was not thinking." (Tr. 147) A copy of her application of January 6, 1964 follows. Stewart applied again on March 16, 1964. She later received a notice of rejection dated April 20, 1964 which stated that her application form had been rejected because "You failed to answer correctly one or more pertinent questions" and "other reasons." (Pl. Ex. 23)

The registrars in notifying applicants merely give general reasons which provide the applicant no substantive information about why they were rejected. For example under

Wrong ans. to 16 A

replied Jan 6-67 Jan 6-67

APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH

1. Ella Dee Stewart do hereby apply to the Board of Registrars of
Perry 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.

Ella Dee Stewart
Name of Applicant

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Ella Dee Stewart
Dec. 20, 1913 Perry County
Macon, Alabama Route 3 Box 17
2. If you intend to change your place of residence prior to the next general election, state the facts: no
3. Have you previously applied for and been denied registration as a voter: yes (a) If so, give the facts:
Did not answer all questions full time. Jan 2
4. Has your name been previously stricken from the list of persons registered: no
5. 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: no
6. Have you ever been legally declared insane: no (a) If so, give details: no
7. Give a brief statement of the extent of your education and business experience:
High school 12th grade
8. 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: no
9. 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: no
10. 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: no
11. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama: yes
12. 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:
no

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

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

15. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama: no

16. Name some of the duties and obligations of citizenship: Obey the laws and rule

of Perry Co, Alabama and the U. S.

(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: no

17. 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 Edward Turner

Marion Alabama

Mr Lee Jones

Marion Alabama

18. 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: Jamathan Stewart

Perry County

Marion Alabama

19. 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:

Marion Alabama, Perry County
Ella Dee Stewart

20. If you are self-employed, state the nature of your business: Farm and Housewife

(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: no

21. 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: Dec. 20, 1913 (a) When did you become a bona fide resident of Perry

County: Mar. 15, 1953 (b) When did you become a bona fide resident of Marion Ward or precinct: Mar 15, 1953

OATH

STATE OF ALABAMA

Perry COUNTY

Before me, J. A. Blackburn, a registrar in and for said county and state, personally appeared

Ella Dee Stewart, 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 6 day of Jan, 1964

J. A. Blackburn
Member of the Board of Registrars for Perry County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA

Perry COUNTY

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

Ella Dee Stewart, an applicant for registration who being by me,

(Full name of applicant)

J. A. Blackburn, 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 Ella Dee Stewart, 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 Alabama Nov. 5th 1955
(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.)

no
3. My present place of employment is Marion Alabama

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

REMARKS

(Signed) Ella Dee Stewart
(Name of Applicant)

Sworn to and subscribed before me this the 6 day of Jan, 1964

J. A. Blackburn
(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 Perry COUNTY

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

Edward Turner (Name of Witness)

who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of Ella Dee Stewart 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 Edward Turner, My occupation is Bricklaying, I reside at Marion Ala, My place of business or employment is at Marion Ala

The name of my employer is Self I am a duly registered, qualified elector in 1-2 precinct (or ward) in Perry Co. County in the State of Alabama. I have known the applicant

Ella Dee Stewart for 5 years (months). He is a bona fide resident at

Perry County and to my knowledge has resided thereat for the past 5 years (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) Edward Turner

Sworn to and subscribed before me in the presence of the Board of Registrars this the 6 day of Jan 1964.

(Signed) Mrs. J. W. Barnett (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.

the notice of rejection presently being used the registrar^{45/}
checks one or more of the following reasons for rejection:

Police Record _____

Bad moral character _____

You omitted one or more pertinent
questions _____

You failed to answer correctly one
or more pertinent questions _____

Other reasons _____

Prior to February 1964 the registrars wrote the reason for
rejection in a space on the rejection notice. They gave
such reasons as: "Wrong answer to important question"^{46/};
"Failed to sign an important question"^{47/}; "Failed to
answer important questions"^{48/}; "No supporting witness"^{49/};
and "Wrong answer and fail to sign important questions".^{50/}
Sometimes, the registrar gave no reason at all.^{51/}

^{45/} See as examples P1. Ex. 29 and 17.

^{46/} See P1. Ex. 11

^{47/} See P1. Ex. 15, 16, 19 This phrase refers to the Oath.
In June 1963 the registrars sometimes gave as the reason for
rejection that the applicant refused^{48/} to or failed to sign
the Oath. See P1. Ex. 25 The registrars thereafter ceased
being this specific.

^{48/} P1. Ex. 17

^{49/} See P1. Ex. 16, 18, 22 and 30

^{50/} See P1. Ex. 23

^{51/} See P1. Ex. 19

It is apparent that Negro applicants since the Decree of this Court have not been and are not now informed of the specific reason for their rejection. The Negro witnesses testified that they did not know what their notice meant except that they had been rejected. They did not know what question they had'nt answered or answered incorrectly, or what statement they had not signed.^{52/}

^{52/} See the following testimony: Marjorie Carr, Tr. 50, 51; Rosa B. Ward, Tr. 58, 59; Robert Jones, Tr. 73; Gladys Turner, Tr. 104; Ella D. Stewart, Tr. 135, 136, 138, 142, 144; William Milton, Tr. 196; Willie M~~o~~ses, Tr. p. 219, 225; Freddie Black, Tr. 231; and Emma Peterson, Tr. 264.

2. The registrars have waited unreasonably long periods before notifying Negro applicants that their applications have been rejected.

The registrars have delayed the registration of qualified Negro applicants not only by rejecting them but by waiting unreasonably long periods before notifying them of their rejection. The registrars have elected to follow this practice in spite of specific orders to the contrary issued by this Court.^{53/}

Consider for example the period from November 15, 1962 to May 1963. Alberta Rutledge, a Negro, filled out an application for registration on February 18, 1963. (Pl. Ex. 10-B323) Her application form shows her to possess all the qualifications and none of the disqualifications for registration. Her supporting witness signed and completed the examination of supporting witness on the date she applied. The application form shows that the registrars did not act on her application until

^{53/} The Court's Order of November 15, 1962 enjoins the defendant registrar from:

4. Failing to pass on each application for registration within a reasonable time.

5. Failing to notify in writing each applicant of the action taken on his application for registration, whether accepted or rejected, within a reasonable time...

The Court's Order of May 17, 1963 requires the defendant registrars to:

- E). Adopt any reasonable regulations necessary for the expeditious receipt and processing of applications;

- F). Take whatever action is necessary upon the applications within a reasonable time after the filing of such applications;

- G). Notify an applicant within thirty days after the receipt of any application as to the action taken thereon by the Board; . . .

May 6, 1963 which was 2 1/2 months after the applicant applied. The Board rejected the applicant for failing to sign the Oath and for her incorrect answer to one loyalty question. Many Negro applicants who applied from December 1962 through February 1963 were not notified by the registrars about their applications until May 1963 when they were notified that they had been rejected.^{54/}

Stephen T. Davis, a Negro minister, applied on December 17, 1962. His supporting witness signed on the same date. (Pl. Ex. 10-B80) He testified he did not receive his notice of rejection until May 1963 as shown by his application form which states it was rejected on May 6, 1963 because he had only one supporting witness. (Tr. 161, 162)

^{54/} The following applications filed by Negroes were processed by the Board from November 15, 1962 to May 6, 1963. All of these applications were rejected except the two preceded by asterisks.

<u>Pl. Ex. 10</u>	<u>Date of Applica- tion</u>	<u>Date of Board Action</u>	<u>Pl. Ex. 10</u>	<u>Date of Applica- tion</u>	<u>Date of Board Action</u>
*A1	11-19-62	12-3-62	B367	1-7-63	5-6-63
B194	11-19-62	12-3-62	B95	1-7-63	5-6-63
B389	11-19-62	12-3-62	B402	1-7-63	5-6-63
B393	11-19-62	12-3-62	B49	1-21-63	5-6-63
B92	no date	12-3-62	B332	1-21-63	5-6-63
B124	no date	12-3-62	B50	1-21-63	5-6-63
B36	12-3-62	1-7-63	B51	1-21-63	5-6-63
B241	12-3-62	1-7-63	B52	1-21-63	5-6-63
B269	12-3-62	1-7-63	B376	3-18-62	5-6-63
B138	12-3-62	3-4-63	B153	no date	5-6-63
*A2	12-17-62	1-7-63	B295	no date	5-6-63
B255	12-17-62	12-17-62	B387	no date	5-6-63
B397	no date	12-17-62	B395	no date	5-6-63
B80	12-17-62	5-6-63	B326	no date	5-6-63
B425	no date	1-7-63			

The Board saw fit to act promptly on applications filed by white persons during this same period.^{55/}

The Court's Order of May 17, 1963 required the defendants to notify applicants of the action taken by the Board within thirty days after they applied. The Board instead elected to continue to unreasonably delay the notification to Negro applicants.

Oda Lee Osborne, a Negro, applied on July 3, 1963 and her supporting witness signed her form on the same day. (P1. Ex. 10-B283) The registrar did not act upon her application until August 19, 1963 at which time she was rejected. All three Negroes who applied on June 3, 1963 were not acted upon until August 19, 1963.^{56/} The two white persons who applied on this day were registered on the same day they applied, June 3, 1963.^{57/}

^{55/} The following applications filed by white persons were processed by the Board from November 19, 1962 to May 6, 1963. All of these applications were accepted except the two preceded by astrisks.

<u>P1.</u> <u>Ex.</u> <u>10</u>	<u>Date of</u> <u>Applica-</u> <u>tion</u>	<u>Date of</u> <u>Board</u> <u>Action</u>	<u>P1.</u> <u>Ex.</u> <u>10</u>	<u>Date of</u> <u>Applica-</u> <u>tion</u>	<u>Date of</u> <u>Board</u> <u>Action</u>
C1	11-19-62	11-19-62	C16	2-18-63	3-18-63
C2	1-7-63	3-4-63	C5	2-18-63	5-6-63
C3	1-21-63	3-4-63	C13	2-18-63	5-6-63
C4	1-21-63	3-4-63	*D19	2-18-63	5-6-63
C7	2-18-63	3-4-63	C19	3-4-63	3-4-63
C8	2-18-63	3-4-63	C20	3-4-63	3-4-63
C9	2-18-63	3-4-63	C18	3-4-63	3-18-63
C10	2-18-63	3-4-63	C23	3-18-63	3-18-63
C14	2-18-63	3-4-63	C21	3-18-63	5-6-63
C17	2-18-63	3-4-63	C22	3-18-63	5-6-63
C6	2-18-63	3-18-63	*D33	3-18-63	no date
C11	2-18-63	3-18-63	C24	no date	5-6-63
C12	2-18-63	3-18-63	C25	5-6-63	5-6-63
C15	2-18-63	3-18-63	C26	5-6-63	7-1-63

^{56/} See the following application forms: P1 Ex. 10-B258, B290 and B380.

^{57/} See P1. Ex. 10-C29 and C30. The testimony of both of these persons shows someone else obtained their supporting witness for them. See Table A, Christine Colburn and Louise Ingram.

Of the 27 Negroes who applied on June 17, 1963 all were rejected. Twenty-one of these applications were acted upon on August 19, 1963. The remaining six contain no date for the Board action.^{58/} The two white persons who applied on this date were accepted on July 1, 1963.^{59/} Twelve Negroes applied on July 3, 1963 and the Board rejected all of these applicants on August 19, 1963.^{60/} Eleven Negroes applied on July 5, 1963 and all were rejected. The date of the Board action appears on six of these and all six are August 19, 1963. No white persons applied on July 3 and 5, 1963.

The action of the registrars in October and November 1963 shows that the defendant registrars continued to delay the action on applications filed by Negroes. During the period from October 1 through November 4, 1963 the Board received 86 applications filed by Negroes. The application forms of these applicants show that the registrars rejected 70 of these, and that these rejected applicants were not sent their notices of rejection until December 2 and 3, 1963. However, the registrars had graded all of these rejected applications on or before November 4, 1963. The 16 Negroes who were accepted during this period were accepted on November 4, 1963.^{61/} The registrars could not have determined which applications were to be accepted without likewise determining which applications were to be rejected.

Following January 6, 1964 the registrars stopped recording on rejected applications the date of rejection or the date of notification to the applicant.

^{58/} See Pl. Ex. 10-B16, B43, B60, B90, B91, B121, B122, B123, B141, B144, B197, B217, B218, B220, B224, B275, B319, B321, B357, B383, B427. The following applications were filed on 6-17-63 but no date of board action appears on them: Pl. Ex. 10-B30, B64, B245, B247, B341 and B421.

^{59/} See Pl. Ex. 10-C31, C32. James Ingram who applied this date did not ask the person who signed his form to sign as his supporting witness. See Table A.

^{60/} See Pl. Ex. 10-B26, B69, B89, B109, B146, B156, B204, B283, B207, B226, B296 and B399.

^{61/} The rejected and accepted applications filed during this period are cited in Table D attached to this brief.

The registrars have compounded the affect of these delays by requiring that the applicants wait sixty days from the date of their rejection before they can reapply. This requirement falls as a far greater burden upon the Negro applicants than the white applicants because Negro applicants constitute the vast majority of the persons rejected by the registrars,^{and} because the registrars fail to act upon their applications promptly. The Court's Order of November 15, 1962 enjoins the defendants from:

6. Refusing to permit rejected applicants to reapply for registration as often as they desire, provided such rejected applicant applies after a waiting period of sixty days from the date of his rejection.

Paragraph G of the Court's Order of May 17, 1963 requires the Board to notify an applicant within thirty days after the date of his application the action taken thereon by the Board. Under the Court's Order an applicant should be able to reapply at least once every 90 days. However, the Board has seen fit to disregard the later provision in order to delay the rejected applicants opportunity to reapply. Thus, under the Board's procedure the Negroes who applied in January 1963 and who were rejected in May 1963 could not reapply until six months after their first application.^{62/} Or the Negro applicants who applied in October 1963 and who were not rejected until December 1963 could not reapply until four months after their October application.^{63/}

^{62/} See Footnote 54, page 94 for Negroes who are in this group.

^{63/} See footnote 61, page 96 for Negroes who are in this category.

In the past Negro applicants have been made aware of the 60 day requirement as the Board usually wrote on their notice of rejection- "You may apply again in 60 days."^{64/} Beginning in February 1964 the Board ceased to state on the notice that they had a limitation on how soon the applicant could reapply.^{65/} However, the Board did not terminate its 60 day limitation. The result had been that applicants are no longer informed of the limitation and are more likely to fall victim to the rule by reapplying before the 60 day period has expired.

Washington Carter, a Negro, after having been rejected four times reapplied on March 2, 1964 and his application was again rejected.^{66/} This time because he had reapplied within 60 days from his last rejection.^{67/}

Registrar Blackburn explained the reason for no longer notifying applicants of the 60 day limitation on reapplying (Tr. 307):

A. Well, we are pretty well swamped. We don't have time for all that writing. We don't have a stenographer.

^{64/} For example of such notices see Pl. Ex.'s 11, 14, 15, 16, 17, 18, 19, 22, 23, 25, 28, 30, 31 and 33.

^{65/} For example of such notices see Pl. Ex., 's 17, 23, 26, and 29.

^{66/} Carter applied on January 29, 1964. (Pl. Ex. 10-B55) The registrars acted on these applications in February after they had ceased informing applicants of the 60 day limitation on the notice of rejection.

^{67/} See Tr. 26, 27, 28.

3. The Registrars have unreasonably limited the number of applicants who can apply simultaneously.

The registrars are obligated to register all qualified applicants expeditiously. Furthermore, the Court in its order of May 17, 1963 ordered the registrars to "E). Adopt any reasonable regulations necessary for the expeditious receipt and processing of applications." The registrars have not only failed to fulfill these obligations, but they have delayed Negroes in their attempts to register by limiting the number who can apply simultaneously. Even though the Board has had facilities available to accommodate as many as 25 or 30 applicants, and is capable of processing about twelve at one time (Tr. 278), they have elected to use other facilities and limit the number of applicants.^{68/}

During November and December 1962 immediately following the Decree of this Court several hundred Negroes appeared at the courthouse in an attempt to register to vote. As many as about 200 Negroes were waiting in the court-house at one time during this period.^{69/} The

^{68/} The Board is permitted to use the vault below the Probate Office which will accommodate 25 to 30. (Tr. 278, 279) The Board often used these facilities prior to the Court's Decree on November 15, 1963. See the affidavits of the following Negroes which are attached to the original complaint and which are considered as evidence in the hearing on the preliminary injunction (Tr. 38, hearing of 10-26-62); Gladys Turner, Edward Turner, Linton Rutledge, Richard Ward, Rosa Belle Ward, Edmond Woods, Lula Mae Ford, Reboykin Jackson, Bessie E. Rawls, and Ernest Norfleet.

^{69/} For description of the numbers waiting to apply see the following testimony: M. Slater, Tr. 123; E. Stewart, Tr. 132, 133; C. Wilson, Tr. 109, 116; R. Jones, Tr. 67; E. Peterson, Tr. 259, 260; Rev. Davis, Tr. 159, 160; G. Turner, Tr. 101; W. Carter, Tr. 10 to 13, and M. Carr, Tr. 44 to 46. See also the applications of Negroes filed with the Court pursuant to 42 U.S.C. 1971(e) and the affidavits attached to plaintiff's application filed with the Court on January 8, 1963.

registrars used a room other than the courtroom in which to process the applicants, took only one at a time, and worked from about 9 a.m. to 1 p.m. Stephen T. Davis, a Negro minister, who has completed three years of college, applied for registration on December 17, 1962. He testified that he waited with about 135 Negroes that day. He waited in the courtroom a while then by the door to the registrars' office in the hallway. He observed the Board take one applicant at a time. Later he went into the office and applied. He was the only one applying and he filled out the form alone in a room near to the one the registrars were in. (Tr. 160) Gladys Turner, a Negro, who has two years of college and works as a nurse's aide, applied on November 19, 1962. She waited in the courtroom in the courthouse with many other Negroes and she was able to fill out an application form that day. Turner testified that the Board was taking one applicant at a time. Like Stephen Davis she filled out her form alone in a room other than the one the registrars were in. The testimony of six other Negroes who did not apply during this period but who were present waiting to apply confirms the testimony of Davis and Turner.^{70/}

Registrar Blackburn disagreed with this testimony (Tr. 275, 276):

Q Do you recall back in December 1962, right after the Court's order?

A Well, I don't know that I recall that.

^{70/} See the testimony of C. Wilson, Tr. 109, 116; M. Slater, Tr. 123; E. Stewart, Tr. 132, 133; W. Carter, Tr. 10, 13; M. Carr, Tr. 44, 46; and E. Peterson, Tr. 259, 260. See also the applications of Negroes filed with the Court pursuant to 42 U.S.C. 1971(e) and the affidavits attached to plaintiff's application filed with the Court on January 8, 1963.

Q Do you recall those large numbers of people waiting in the courtroom?

A Quite a few.

Q Didn't you take one at a time?

A No, sir, we took just as many as we could possibly take care of. Those Niggers lied.

Q If we look at the registration records, we could see how many you took on those days?

A I suppose you could. I am telling you what is a fact. I am under Oath.

Q The application forms you would have dated on specific dates would show how many you processed that day?

A I reckon it would. We took just as many as we could, in a room where we had two or three tables. When they testified we took one at a time, they told a straight lie.

The application forms show that about seven applications were filed on November 19, 1962, about four on December 3, 1962 and about five on December 17, 1962.^{71/} The registrars could process far more applicants than this as illustrated by the 29 applicants processed on June 17, 1963, the 35 processed on October 7, 1963 and the 32 processed on November 18, 1963.^{72/}

^{71/} See the list of applications filed from November 15, 1962 through May 6, 1963 and the dates they were acted upon as set forth for Negro applicants in footnote 54 on page 94, supra, and for white applicants in footnote 55 on page 95, supra. See also plaintiff's application and the affidavits attached thereto filed with the Court on January 8, 1963.

^{72/} See Table D attached to this brief. Also see the Board's "Daily Record of Those Applying to Register" for March 2, 1964 at 3:38 p.m. where nine applicants were applying at one time, and for March 16, 1964 at 10:25 a.m. and 2:30 p.m. when nine and ten applicants were applying at one time respectively. Pl. Ex. 40, pp. E4, E5.

The Board still processes fewer applicants than they are capable of handling. Rosa Pearl Martin, a Negro, testified she had to wait on January 20, 1964 for more than an hour while one applicant filled out a form (Tr. 203, 204) Robert Jones, a Negro, waited for more than three hours on February 17, 1964 before he was able to fill out a form. Tr. 73, 74) The Board began to keep a "Daily Record of Those Applying to Register" on January 27, 1964. (Pl. Ex. 40) This record sets forth the names of the persons who apply each day and the times during which they are processed. This record reveals that on the seven registration days between January 27 through February 17, 1964 the Board processed only four applicants at one time.^{74/} The record shows that on March 2 and 16, 1964 when the Board was meeting in the vault below the Probate Office they processed as many as ten applicants simultaneously.^{74/}

73/ The Board from the date of the injunction until March 1964 has seldom used the vault below the Probate Office for processing applicants even though the testimony and Board's records show many more applicants can be processed there at one time. When asked if there was any reason why the vault could not be used regularly, registrar Blackburn testified (Tr. 279):

Personally I would rather meet upstairs in the courtroom; if we had a crowd of people, they come to the vault and they just pack in there.

Blackburn also testified there were facilities in the vault to take 25 or 30 but that the Board could not attend to more than ten or twelve. (Tr. 278)

74/ The one exception is on February 17 when about six applicants applied simultaneously at about 3:30 p.m. One of these applicants, Robert Jones, waited for three hours on this date before he could apply at 3:30. Apparently the registrars took more than four in order to accommodate a white applicant. See discussion in the next section. The Daily Record shows the Board processed no more than four applicants at a time prior to 3:30 p.m. on this date.

4. White applicants are permitted to apply first regardless of the order in which they appear for registration to vote.

Both orders issued by the Court require the registrars to process the applicants in the order in which they appear for registration.^{75/} The registrars have disobeyed these orders. The registrars have made no provisions to see that applicants who are waiting to apply are taken in any particular order, even when large numbers are waiting. Furthermore, when Negroes are waiting to apply and white persons arrive, the white applicants are taken ahead of the Negroes. Rosa Pearl Martin, a Negro, testified that she and her sister returned to the courthouse to reapply on January 20, 1964. The Board was meeting on the second floor of the courthouse in a small room off from the courtroom. Her sister went into the room and asked if they could fill out an application. She was told she had to wait until the one in the room finished. Martin and her sister waited for more than an hour. While they were waiting two different white men came in at different times to apply and were given application forms by registrar Barnette. They were permitted to fill out their form in the courtroom where Martin and her sister waited.

^{75/} Paragraph 3 of the Order of November 15, 1962 provides for: "Receiving and processing all applications for registration in the order of the applicant's appearance without regard to race or color."

Paragraph D of the Order of May 17, 1963 provides: "Allow applicants to apply for registration in the order in which they appear at the registration office, and process their applications in that order;"

Following this Martin went in and asked if she could fill out a form and was told she would have to wait until they finished in the room. She went back and waited in the courtroom a while longer before she was called into the room and permitted to apply. (Tr. 203 to 207) Robert Jones, a Negro, testified that when he applied on February 17, 1964 he and Julius Adams, a Negro who accompanied him, had to wait in the auditorium [courtroom] from before noon until about 3 or 4 p.m. The room where the applicants were applying was full. A white man came in to apply and was permitted to fill out his form in the auditorium which hadn't been used previously while Jones had been waiting. After the white man received his form Jones was then permitted to fill out his form in the auditorium.^{76/} (Tr. 73 to 75)

Dorothy Heard, a Negro, testified that she applied on November 5, 1963 at a small building at Pinetucky, when the Board was meeting in that precinct. There were both white persons and Negroes waiting outside the building to apply when the registrars arrived. The white persons went in first and applied. While the Negroes were waiting other white persons arrived to apply and they would go right in and apply. The Negroes applied after the white persons. (Tr. 171, 172)

^{76/} "The Daily Record of Those Applying to Register" maintained by the Board shows that Jones began to fill out his form at 3:30 p.m. on this date. See Pl. Ex. 40, p. E3.

5. Negroes must still
search for the Board
of Registrars in order
to apply.

Prior to the Court's injunction on November 15, 1962 Negroes often could not find the Board on a regular registration day.^{77/} White applicants didn't have this problem as they received and filled out application forms at their homes, at work, and at other places outside the presence of the registrars.^{78/}

The registrars have continued since the Decree to hinder attempts of Negroes to register by using different rooms in the courthouse on different registration days without providing any public notice of their whereabouts. The inevitable result has been that Negroes have had to continue to search for the Board of Registrars in order to apply for registration to vote.

Ella Stewart, a Negro, has attempted to register to vote on numerous occasions since the Decree and each application has been rejected. She previously had been a voter in Birmingham where she registered on her first attempt in a "short while." Her experience has been different in Perry County, where she still is not registered.

^{77/} See the affidavits of the following Negroes which are attached to the original complaint and which are considered as evidence in the hearing on the preliminary injunction (Tr. 38, hearing of 10-26-62): Lula Mae Ford, Gladys Turner, Linton Rutledge, Edmond Woods, Reboykin Jackson, and Bessie Rawls. See also the testimony on 10-26-62 of James Avery (Tr. 27, 28) and Ollie Rayborn. (Tr. 36)

^{78/} See testimony of white applicants at hearing on the preliminary injunction on 10-26-62.

In November and December 1962 she went to the courtroom on the second floor of the courthouse and waited with many other Negroes. She wasn't able to fill out a form on that date. (Tr. 132, 133) She returned in March 1963 and applied (Tr. 133):

Q Where did you go?

A I went up in the courthouse, to the same place. I didn't find anyone there, so I went across the courtroom to where I saw a light in there, and I knocked on the door, and a man came to the door, and I asked him was this where they were registering today, and he said they were, but they were filled up and I would have to wait. I waited a little while, and a man came out, and he said "just one" and I went in.

Stewart was told to get two registered voters to sign her form, including one white person. She returned two weeks later and placed the white person's name on her form as a reference. She found the registrars in the basement. (Tr. 135) Stewart never heard from that application. She went back to the courthouse and applied on June 13, 1963. The registrars were meeting in a room behind the courtroom on the second floor. (Tr. 137) Stewart returned and applied again on October 21, 1963. (Pl. Ex. 10-B370) (Tr. 138):

A When I got to the courthouse that morning, I met my sister. She said some witnesses had told her they [registrars] were meeting downstairs in the Probate Judge's office, and I went in to look and found a long line, about fifteen.

Q Were they Negroes or white people waiting?

A Negroes.

Stewart returned and applied again on January 6, 1964.
(Tr. 371):

Q Where did you go that time to apply?

A Upstairs, behind the Courtroom again.

Q On the second floor?

A Yes, sir.

Q How did you know they were up there that day?

A When I came in, I went back to the office, Mr. Lee's office [Probate Judge's office], and I didn't see anyone back there. I went upstairs. When I got up there, I saw five or six Negroes sitting on the outside and about four of them inside - no, that was the day there were just a few, one or two, sitting outside.

Stewart again unsuccessfully applied for registration to vote on March 16, 1964. (Tr. 143):

A We were in the basement. After I came in the courthouse, I went upstairs, and I didn't see anyone up there, so I came down the stairway and went to the basement, and, when I got down there, I saw about two Negroes standing and about three sitting, filling out forms.

Washington Carter, a Negro, has had similar experiences. He has filed five application forms since the Court's Decree and the registrars have rejected all of them. (Pl. Ex. 10-B52, 53, 54, 55, and Pl. Ex. 12)
Carter is 27 years old, has lived in Perry County all his life, is a high school graduate, owns and farms 160 acres and has served two years in the Army and is still active

in the Army reserves. He attempted to apply in about November 1962 but was unable to fill out a form. (Tr. 12) Carter returned on January 21, 1963.^{79/} He testified concerning this attempt (Tr. 16):

Q When you first got to the courthouse, where did you go?

A Upstairs, in the courthouse, where the registrars were before.

Q How long did you wait there?

A For an hour or so.

Q Did you see any registrars?

A No.

Q How did you find out where to go, to fill the form out?

A Well, one lady, she had been down, and she found out where the registrars were, and she came back upstairs and told us the registrars were downstairs instead of at the original place.

Q Was that a white person or Negro?

A Negro.

The next three applications Carter filled out on June 18, 1963, October 7, 1963, and January 29, 1964 he filled out in small rooms on the second floor of the courthouse near the courtroom. (Tr. 20, 22, 23) The last time he applied on March 2, 1964 he filled out a form in the basement of the courthouse. (Tr. 28)

^{79/} Carter could not recall the date; however, he stated he applied with his wife and mother. This date had to be January 21, 1963 as reflected by the dates on the forms of Delores Carter (Pl. Ex. 10-B50) and Hattie Carter (Pl. Ex. 10-B51). Their forms and Washington Carter's form were all rejected on 5-6-63.

The testimony of registrar Blackburn confirms the use of these different rooms for registration. He recalled having met in the Jury Room upstairs, in the Probate Judge's office, in the courtroom, in the vault in the basement under the Probate Judge's office, and in the Agricultural Extension Office. (Tr. 276, 277) Blackburn testified that the registrars never posted any sign or notice in the courthouse as to which of these several rooms they were meeting in. According to Blackburn, they left instructions in the Probate Office as to where they would be. (Tr. 277)

As difficult as it is for the Negro applicants to find the registrars it must be equally as difficult for their supporting witnesses.

6. The registrars have delayed the registration of Negroes by refusing to receive and process applications on some of the regular registration days.

After this Court issued its injunction on November 15, 1962, the attempts of Negroes to register to vote increased sharply. The registrars attempted to restrict the registration of Negroes by refusing to accept and process applications on normal registration days. The registrars try to justify this action on the pretext that they are authorized under State Law to use twelve of their registration days for clerical work each year. (Tr. 283, 284) In fact, their action was not to perform clerical work and their failure to process applications on these dates constitutes a violation of the Court's Orders.^{80/}

On March 21, 1963 the registrar published a notice in the local weekly newspaper stating they would not receive applications on April 1, 1963, because they had reserved the day to perform necessary clerical work. (Pl. Ex. 36)

^{80/} The Court Order of November 15, 1962 enjoins the defendant registrars from:

2. Failing to meet, receive, and process applications for registration to vote on the days and at the times and places specified by the Laws of the State of Alabama.

The Court Order of May 17, 1963 requires the defendant registrars to:

- A). Meet at least two full days each calendared month at the Court House of Perry County, Alabama, in Marion, Alabama, and during such times receive and process applications from any and all applicants without regard to race or color, provided that said applicants are residents of Perry County and present themselves to the Board as a bona fide applicant for registration;

Registrar Blackburn testified the clerical work consisted of processing applications. (Tr. 284) The registration records show that the Board did not receive or act upon any applications on April 1, 1963.^{81/}

On June 27, 1963 the registrar published another notice in the local weekly newspaper stating they would not receive applications on July 1, 1963 because they had reserved the day to perform necessary clerical work. (Pl. Ex. 37) The registration records show that the registrars did not receive any applications and acted upon only three applications on July 1, 1963. They accepted three applications which had been filed by white applicants in May and June 1963. The thirty applications filed by Negroes on the regular June registration days were all pending on July 1, 1963 but the Board did not act on these.^{82/} Furthermore, the Board had sufficient time

^{81/} See the list of applications filed from November 15, 1962 through May 6, 1963 and the dates they were acted upon as set forth for Negro applicants in footnote 54 on page 94 supra, and for white applicants in footnote 55 on page 95 supra. These applications also reveal that the Board had only 22 applications at the most pending when the notice was published March 21, 1963.

^{82/} All thirty were eventually rejected. The records show that 24 were rejected on August 19, 1963. See Pl. Ex. 10-B258, B290, B245, B16, B90, B91, B121, B122, B123, B141, B144, B197, B217, B218, B220, B244, B275, B319, B321, B357, B383, B427, B60, and B43. Two were rejected on July 15, 1963 or at a later date. See Pl. Ex. 10-B64 and B421. The dates that four others were rejected is not given. See Pl. Ex. 10-B30, B247, B341, and B380. The board could not have had more than 33 applications pending when the notice was published on June 27, 1963.

preceding July 1 to act on any applications that were pending. They were in special session during June, 1963 pursuant to this Court's Order of May 17, 1963. During the seven day period from June 19 through June 27, 1963 the registrars received only seven applications and processed thirteen.

On July 25, 1963 the registrars published another notice in the local weekly newspaper stating they would not receive applications on August 5, 1963 because they had reserved the day to perform necessary clerical work. (Pl. Ex. 38) The registration records show that no applications were received or acted upon by the registrars on August 5, 1963.^{83/} The registrars received applications only one day during August, the 19th.

On February 13, 1964 the registrars published a notice in the local weekly newspaper stating they would not receive applications on February 17, 1964 because they had reserved the day to perform necessary clerical work. (Pl. Ex. 39) The registration records reveal that no accepted application forms were acted upon on this date. After January 6, 1964 the registrars ceased to indicate the date of rejection, so it cannot be determined if any were rejected on this date. However, the records reveal

^{83/} The forms pending on August 5, 1963 were all filed by Negroes. In addition to the 30 filed in June 1963 which are set forth in footnote 82 supra, another 23 applications were filed by Negroes in July 1963. All of these were eventually rejected. The Board rejected 19 of them on August 19, 1963. See Pl. Ex. 10-B26, B69, B89, B109, B146, B156, B204, B283, B207, B226, B296, B399, B86, B85, B88, B130, B205, B234, and B299. The date the Board rejected four applications filed on July 5, 1963 is not indicated. See Pl. Ex. 10-B45, B87, B104 and B231.

that the two white persons and twelve Negroes applied on February 17, 1964.^{84/}

Emma Peterson, a Negro, applied on this date. This was her third application which, like the first two, was rejected although it shows her to possess all the qualifications for registration. She testified concerning her attempt to apply on February 17, 1963 that she saw a Negro outside the courtroom who told her they weren't registering that day. She went in anyway and waited in the courtroom where some white persons were also waiting. The registrars arrived shortly after her and went into a small room with the white persons who had been waiting (Tr. 265, 266):

A After the white people came out of the room, we went in, and I told them we wanted to fill out applications for registration to vote, and they said they were not filling out application forms that day, and they asked if we read in the Marion Times that they were not, and I said, No, I didn't know, I didn't take the Marion Times.

* * * *

A He asked me did I read in there where it was written in there they would not be registering on the third Monday any more, but they would be registering on the first Monday.

Q Did they permit you to fill out a form then?

A Yes, since we were there, they let me fill out a form.

It is apparent that there was no real need for the registrars to reserve these days for clerical purpose and they in fact did not use them for this purpose.

^{84/} The two white persons were subsequently accepted. The twelve Negroes were all rejected. See Table D attached to this brief.

XII

THE DEFENDANTS HAVE DISCRIMINATED AGAINST NEGROES BY FREEZING THE WHITE VOTERS INTO PERMANENT STATUS AND FREEZING THE NEGROES OUT

At the time of the hearing on the motion for preliminary injunction held October 26, 1962, almost 100% of the adult white persons were permanently registered to vote in Perry County. Less than 5% of the adult Negroes were registered.^{85/} This Court found that between November 1959 and October 1962 the Registrars of Voters of Perry County engaged in acts and practices of discrimination which deprived Negroes of the right to vote on account of their race.

During this period of discrimination, white persons were permanently registered under simple standards or no standards at all. Negroes were prevented from qualifying under those same standards by reason of a pattern of discrimination.

^{85/} According to the 1960 Census statistics, there were in 1960 3,441 white persons and 5,202 Negroes of voting age. The 1962 Voter Registration Books of Perry County showed 4,192 white persons and 245 Negroes registered to vote. This is considerably more than 100% for white persons, no doubt the result of the failure to purge the books of persons who had died or moved out of the county. Reducing to a more realistic figure would, of course, also include a reduction of the number of Negro voters. Although there have been 225 applications by white persons since November 15, 1962, the Census figures also show 564 white persons between the ages of 18 and 20 who would become of voting age and eligible to apply for registration during the period November 15, 1962 through March 20, 1964.

After this Court enjoined the Registrars of Perry County from discrimination, the registrars adopted and put into effect a host of new standards - standards which were far more onerous than any previously imposed upon white voters.

This is the clearest case of "freezing," recently denounced by the Court of Appeals for the Fifth Circuit in U.S. v. Duke, et al., No. 20800, decided May 22, 1964. The Court said in that case:

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 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.

We have in this case at least six freezing practices which the defendants have adopted and followed.

Freeze #1: The rejection of applicants for failing to sign the Oath.

Before the trial of this case on October 26, 1962, 96% of all white applicants failed to sign the Oath. They became permanently registered anyway for the signing of the Oath was not a requirement of the Board. Immediately following the issuance of the injunction of November 15, 1962, which enjoined the defendants from discriminating, the signing of the Oath was made a requirement in Perry County (although it was used as a subterfuge) and in the year and a half that followed at least 180 Negro applicants were rejected

for their innocent failure to sign the Oath.^{86/} The present registrars (the present defendants) were even more strict with the Oath requirement than their immediate predecessors in office. Registrar Blackburn who is the present Chairman of the Board and who has served on the Board since 1953 gave as the purpose for now requiring applicants to sign the Oath (Tr. 309).

I imagine because so many Communists were coming into the country.

Freeze #2: The rejection of applicants for failing to produce supporting witnesses.

The white persons who became permanently registered to vote in Perry County prior to the trial of this case on October 26, 1962 - in other words, 100% of the adult white persons in the county - were never required to obtain or produce supporting witnesses to vouch for them. Immediately after this Court's injunction issued on November 15, 1962, the Registrars of Perry County adopted and put into effect the requirement that applicants must have supporting witnesses to sign their applications, and applicants who fail to produce supporting witnesses are rejected. Between November 15, 1962 and March 20, 1964, at least 72 applications of Negroes were rejected for the lack of a supporting witness. The requirement imposes a severe

^{86/} The use of the Oath-signing device is discussed at length in Part VII above. Even apart from the freezing effect, this device was used discriminatorily against Negroes.

burden - the applicant must find a registered voter who will vouch for his residence and qualifications and persuade him to go to the courthouse and sign for him on one of the few registration days.^{87/} The present registrars (the present defendants) persist in this practice, although it is within their discretion to abandon it. The Chairman of the Board, Mr. Blackburn, gave as the purpose for the requirement (Tr. 308):

So many Niggers coming from one county to another, registering.

Freeze #3: The rejection of applicants for technical errors or omissions in their applications.

Before the trial of this case on October 26, 1962, the Questionnaire (the first two pages of the application form) was not used as a test. The applications of white persons who became permanently registered in Perry County - 100% of the white adults - were not "graded" as examinations. It mattered very little, if at all, what white persons put on their application forms. Immediately after the issuance of this Court's injunction of November 15, 1962, enjoining the defendants from discriminating against Negroes, the defendants began to use the application form as a strict test and to reject applicants who made errors or omissions, however inconsequential, in filling out their forms. Since November 15, 1962, at least 122 applications of Negroes

^{87/} The use of the supporting witness requirement is discussed at length in Part VIII above. Apart from its freezing effect it has been used discriminatorily against Negroes.

have been rejected on this ground.^{88/} The present registrars (the present defendants) continue this practice.

Freeze #4: The rejection of applicants for failing to understand and explain satisfactorily questions about government.

In January 1964 (some thirteen months after the issuance by this Court of the injunction enjoining discrimination), the present registrars began to require applicants to understand and explain satisfactorily selected questions on government. These questions are:

How many members of the Federal House of Representatives are currently accredited to the State of Alabama?
Why?

Article X. 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.

These questions were not a part of the application form and were contrived by the defendants all by themselves. The white persons who became permanently registered prior to that date - 100% of the white adults - were not subjected to this requirement.^{89/}

^{88/} The use of the application form as a strict examination is fully discussed in Part IX above. Apart from the freezing effect it has been used to discriminate against Negroes.

^{89/} This practice is more fully discussed in Part X above. Apart from the freezing effect it has been used to discriminate against Negroes.

Freeze #5: The rejection of applicants for failing to pass a completely new test of their ability to read and write and of their knowledge of government.

In February 1964, the defendants began to use a completely new test which requires applicants to answer correctly four out of four questions regarding government and to read correctly a section from the United States Constitution and to write legibly from dictation words selected from the Constitution. The test was initiated pursuant to a Proclamation issued by the Supreme Court of Alabama in its capacity as the designer of the registration questionnaire. As with the other new requirements which were added despite this Court's injunction, no white person who became registered prior to the institution of the test has been or will be required to take it.⁹⁹

Freeze #6: The delaying of registration.

Before the trial of this case on October 26, 1962, white persons were not even required to go to the registration office to register. They could register at home, at their leisure. Immediately after this Court issued its injunction on November 15, 1962, enjoining the defendants from discrimination, hundreds of Negroes appeared at the office of the registrars on regular registration days only to find that the registrars could take only one applicant at a time. Later the registrars increased the quota to five or six, but

⁹⁹ This new test is discussed more fully in Part of this Brief.

Negroes still must wait long periods of time. The burdens of all the new requirements also contribute substantially to the delay in registration. And there are many other delaying devices - failing to meet on regular registration days, unreasonably limiting the number of applicants who can apply on a registration day, failing to provide reasonable notice as to where the Board meets for the processing of applicants, failing to permit applicants to apply in the order in which they appear at the registration office, failing to act upon applications within a reasonable time after they have been filed with the Board, failing to notify applicants within a reasonable time of the action taken on the applicant's application form or as to when he can reapply once he has been rejected and failing to notify the applicant of the specific reason for his rejection.^{91/} The present registrars (the present defendants) persist in these delays.

Today there is still only about 6.1% of the Negroes of voting age registered to vote in Perry County. As the Court of Appeals said in U.S. v. Duke, et al., supra, quoting with approval from the dissenting opinion of Judge Rives in U.S. v. Ramsey:

^{91/} These delaying devices are discussed at length in Part XI of this Brief. Apart from the freezing effect, they are employed discriminatorily against Negroes.

"While theoretically applicable to all, these new requirements primarily affect those who bore the brunt of previous discriminations and tend to maintain the position of advantage which one class has already obtained over the other. See United States v. Louisiana (E.D. La.), 225 Fed. Supp. 353 (three-judge court; 733, 743-45; cf., United States v. Dogan, 5 Cir., 314 F. 2d 767," United States v. Ramsey, et al., 5 Cir., ... F.2d, dissenting opinion of Judge Rives, page

XIII

THE RELIEF

Because Negroes have for so long been denied the right to vote in Perry County the only appropriate relief is that which will insure the expeditious registration of all qualified Negroes. The Court must remove all procedural and substantive requirements which are roadblocks to the registration of Negroes. Every qualified Negro in Perry County who so desires should have the opportunity to register and to vote in the general election in November 1964.

First, the Negro citizens who have applied for and have been denied registration but whose applications demonstrate that they meet the qualifications set forth by this Court in light of the requirements which have been imposed on white voters in the past, should be registered immediately by order of the Court. Those Negro citizens are listed in the Appendix to plaintiff's proposed findings of fact. The Court should require this of the defendants as a condition to purging themselves of civil contempt.

Second, the defendants should be ordered to expedite registration by providing permanent facilities which will accommodate the registration simultaneous of at least twelve applicants. They should be required to establish specific procedures to insure that applicants are allowed to apply for registration in the order in which they appear for registration. They should be required to process all applications within ten days. These procedures established by the registrars should be filed with the Court, in writing, within two weeks after the issuance of the Court's Order.

Third, the defendants should be 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 Perry County. They should cease rejecting applicants for errors or omissions in their application forms, for failing to sign the Oath when the applicants are willing to do so, for failing to furnish a supporting witness, and for failing to pass any tests of reading, writing, understanding or knowledge, unless or until Perry County has a complete reregistration of all voters.

The defendants have brought about the tightest possible "freeze" of a discriminatory voting pattern. Despite the orders of this Court they continue in a pattern of discrimination. Despite the orders of this Court they continue to erect new, more onerous road blocks to Negro registration. 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.

Fourth, the Court should appoint voting referees for Perry County pursuant to 42 U.S.C. 1971(e), to be available in the event the defendants fail to perform their duty. The State of Alabama has abandoned its responsibility for fairness in the voting process in Perry County. It has forced that responsibility upon the Federal Court.

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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