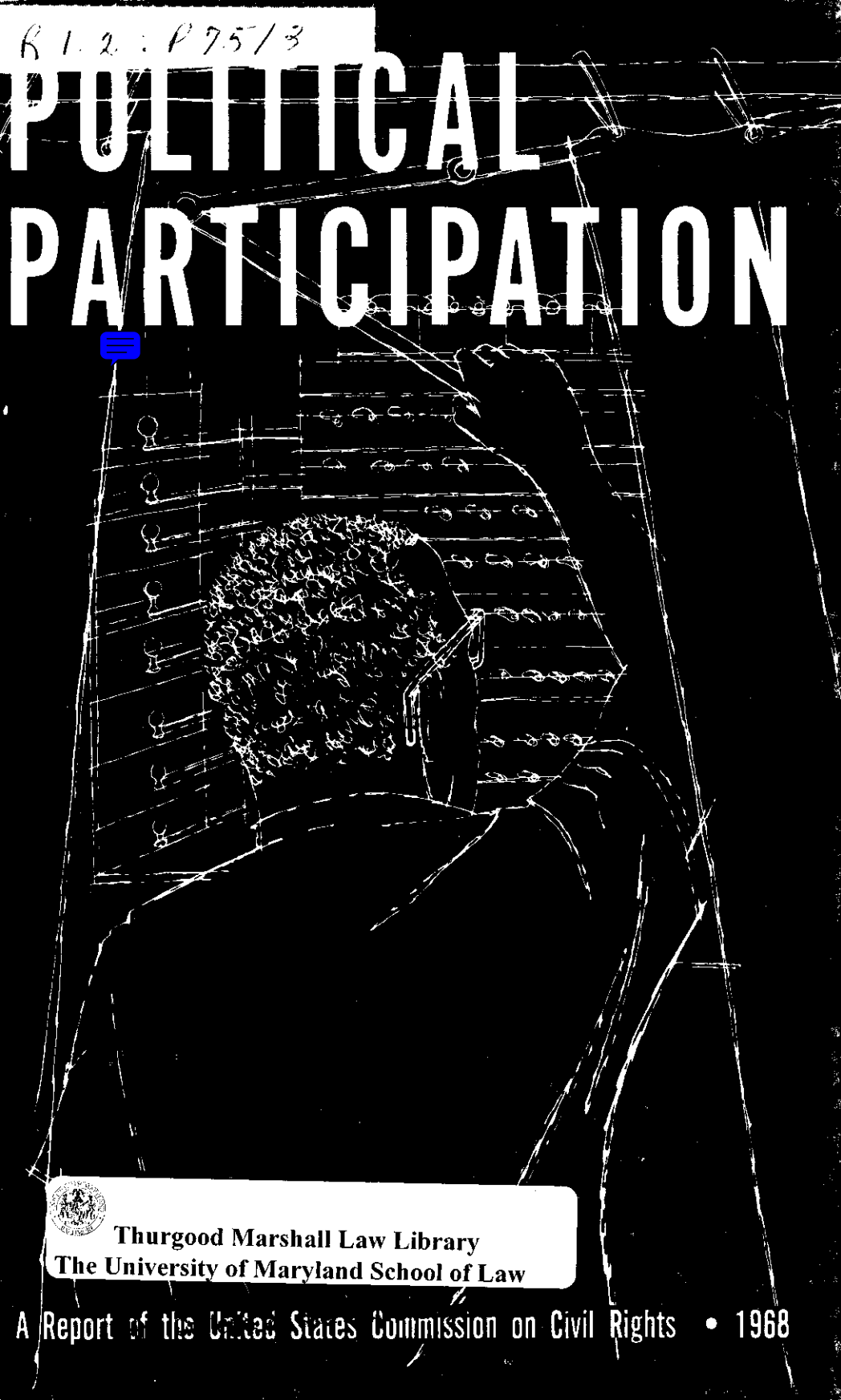
POLITICAL PARTICIPATION



A Report of the United States Commission on Civil Rights • 1968

U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws;
- Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and
- Submit reports, findings, and recommendations to the President and the Congress.

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POLITICAL PARTICIPATION

A study of the participation by Negroes in the electoral and political processes in 10 Southern States since passage of the Voting Rights Act of 1965

United States Commission on Civil Rights
Washington, D.C.
May 1968

For sale by the Superintendent of Documents, U.S. Government Printing Office
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Letter of Transmittal

THE U.S. COMMISSION ON CIVIL RIGHTS
Washington, D.C., May 1968

THE PRESIDENT
THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
SIRS:

The Commission on Civil Rights presents to you this report pursuant to Public Law 85–315, as amended.

This report deals with political participation by Negroes since the passage of the Voting Rights Act of 1965. The information in the report was obtained by the Commission primarily from field investigations and analysis of the files of the U.S. Department of Justice. The Commission has found that the Voting Rights Act has resulted in a great upsurge in voter registration, voting, and other forms of political participation by Negroes in the South. In many areas, there has been voluntary compliance.

Nevertheless, many new barriers to full and equal political participation have arisen, including measures or practices diluting the votes of Negroes, preventing Negroes from becoming candidates, discriminating against Negro registrants and poll watchers, and discriminating against Negroes in the appointment of election officials. Intimidation and economic dependence in many areas of the South continue to prevent Negroes from exercising their franchise or running for office fully and freely. Negroes still are excluded from the affairs of many State and local party organizations or feel unwelcome. Neither the Democratic nor the Republican national party organization has taken adequate steps to deal with this problem.

We urge your consideration of the facts presented and the recommendations for corrective action.

Respectfully yours,

JOHN A. HANNAH, *Chairman*
EUGENE PATTERSON, *Vice Chairman*
FRANKIE M. FREEMAN
REV. THEODORE M. HESBURGH, C.S.C.
ROBERT S. RANKIN

WILLIAM L. TAYLOR, *Staff Director*

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Introduction

In the first week of March 1965 Negro and white demonstrators attempting to march from Selma, Alabama to Montgomery, the State capital, to dramatize their appeal for full voting rights, were attacked and tear-gassed by Alabama law enforcement officers. Five months later the Voting Rights Act of 1965 was signed into law.

In enacting the Voting Rights Act, Congress placed on the statute books for the first time an effective instrument for meeting the problem of racial discrimination against Negro applicants for voter registration. As a result of the Act, Negro voter registration in the South has risen substantially.

In this study the Commission sought to determine the extent to which unregistered Negroes in the South have since registered to vote; the extent to which the newly registered Negroes in the South are voting; whether those who are voting are encountering obstacles because of their race; whether, and to what extent, obstacles confront Negro candidates and prospective Negro candidates for public and party office; and the extent to which Negroes are participating fully in party affairs. The objective of the Commission study was to determine whether any changes in Federal law or policy are necessary to guarantee to Negroes in the South the right to vote and participate fully and freely in political activity.

This study was begun in November 1966. Since that time Commission attorneys and other staff members have visited 55 counties in 10 Southern States (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia). They interviewed Negro political and civil rights leaders, Negro candidates for office, and Negro voters, and met with leading party officials at the State and county level in each State visited.

Visits were made to counties with histories of racial discrimination against Negroes in the voter registration process or in which racial discrimination occurring since the Voting Rights Act had been reported. Among the counties visited were those in which Negroes had been elected to office and those in which Negroes had been defeated for elective office, those to which Federal examiners and Federal election observers authorized by the Voting Rights Act had been dispatched, and those to which these Federal officials had not been sent. An effort was made to

obtain a geographic distribution of counties visited within each State, and to visit urban as well as rural areas.

In preparing this report, Commission staff interviewed U.S. Department of Justice officials and officials of National, State, and local political parties and reviewed Department of Justice files, Federal observer reports, and judicial opinions, pleadings, and evidence in pending litigation relating to the subject of Negro political participation.

The material in this report is based primarily on the 1966 elections in the States studied. Allegations arising out of the 1967 elections have been included, although many have not been investigated by Commission staff.

It should be stressed that this study does not purport to be a complete catalog of all progress in or obstacles to Negro participation in the electoral and political processes of the Southern States. The incidents described in this report are intended to characterize the typical difficulties experienced by Negro candidates and voters in the South because of their race since the passage of the Voting Rights Act.

PART I

History of Negro Political Participation

Since the franchise was first guaranteed to Negroes, there has been a history in the South of efforts to render the guarantee meaningless. As devices have been struck down, others have been adopted in their place. An understanding of this history is relevant to an understanding of the progress of Negroes in the South under recent Federal laws and the obstacles which they face in achieving full and free participation in the electoral and political processes.

The Reconstruction Period

The end of the Civil War did not immediately bring the right of suffrage to the ex-slaves. The former Confederate States still were governed by the same men who had led them during secession. The legal rights that Negroes had were little better than those they had had under slavery,[1] and "[n]o serious consideration was given to broadening the franchise to include even a few Negroes." [2]

The Reconstruction program of 1867 took power away from the white Southern governments and gave it to the military rulers of the five military districts established.[3] Under the Radical Reconstruction legislation these military rulers, within a year, registered more than 700,000 Negroes to vote, slightly more than the number of whites then registered

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[1] William A. Dunning, Reconstruction, Political and Economic 1865–1877 at 54–59 (first published 1907; Harper Torchbook ed. 1962); see U.S. Commission on Civil Rights, Freedom to the Free 32–35 (1963); 1 W.L. Fleming, Documentary History of Reconstruction 273–312 (1906).

[2] John Hope Franklin, Reconstruction: After the Civil War 42 (1961). Those Southern States that had once permitted free Negroes to vote had all disfranchised them by 1835. Franklin, supra at 80. See also Kenneth M. Stampp, The Era of Reconstruction 1865–1877 at 47 (1965). Full equality for Negroes at the polls existed in only five Northern States in 1865. Joseph James, The Framing of the Fourteenth Amendment 13 (1956). See W.E.B. DuBois, Black Reconstruction in America, 1860–1880 at 293 (1964); C. Vann Woodward, The Strange Career of Jim Crow 20 (2d rev. ed. 1966).

[3] Act of March 2, 1867, 14 Stat. 428; Dunning, supra note 1, at 95–96.

in the South.[4] The Freedmen's Bureau tried to inform the Negroes of their new political rights and to protect them in the exercise of those rights.[5]

Dissatisfied with the temporary suffrage arrangements in the reconstruction legislation and with the provisions in the 14th amendment—unclear in their application to the franchise—Congress proposed the 15th amendment, which became a part of the Constitution on March 30, 1870.[6]

This amendment contains the declaration that the right to vote "shall not be denied . . . on account of race, color, or previous condition of servitude." [7]

Negroes played a large role in the political process in several Southern States in the decade following the War. Negroes participated in all Southern radical governments, although they exercised control in none of them. They were in the majority in South Carolina's first radical legislature, which contained 87 Negroes and 69 whites, although they controlled only the lower house.[8] No Negro became Governor of any

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[4] Franklin, supra note 2, at 80. The military governments registered 660,000 whites, all of whom were required to subscribe to an "ironclad oath" which excluded all who had been disfranchised for participation in rebellion, and all who, after holding State or Federal office, had given aid and comfort to enemies of the United States. Id. at 81; Dunning, supra note 1, at 96. Franklin notes that "the number of native whites who qualified and registered is impressive." Franklin, supra note 2, at 81.

[5] See generally Stampp, supra note 2, at 131–36 and George R. Bentley, A History of the Freedmen's Bureau, ch. 13, The Bureau and the Ballot (1955).

[6] Franklin, supra note 2, at 83-84.

[7] The full text of the amendment reads:

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

The 15th amendment was implemented by the Act of May 31, 1870. 16 Stat. 140. The Act, defined as a "criminal code upon the subject of elections by Congress" (Cong. Globe, 41st Cong., 2d Sess. 3656 (1870); Williams of Oregon), declared that all otherwise qualified citizens were entitled to vote and to have all tests for voting administered without regard to race, color or previous condition of servitude. Secs. 1–2. The offer to perform any act prerequisite to voting, if wrongfully refused, was to be deemed performance of such an act (sec. 3); judges, inspectors, and election officials, who wrongfully refused "to receive, count, certify, register, report, or give effect to the vote of any such citizen" were to be fined five hundred dollars or imprisoned for from one month to one year. Id. The Act provided criminal punishments and civil remedies for bribery, threats, intimidations, or other unlawful attempts to prevent the free exercise of the right of suffrage. Secs. 4–6.

Acts such as impersonating another voter, preventing a qualified voter from voting, and causing any officer of election not to comply with his duties were made punishable by a maximum of a five hundred dollar fine and three years in jail. Sec. 19. Acts pertaining to the registration of voters which were made unlawful included intimidation, bribery, threat, hindrance of registration, refusal to receive a legal vote and receipt of an illegal vote. Sec. 20. Persons deprived of election to any office by exclusion of votes on account of race could bring suit to recover possession of such office in a Federal or State court. Sec. 23.

The 1870 Act was amended and extended the next year by the Act of Feb. 28, 1871 (16 Stat. 433), which authorized the Federal courts to appoint supervisors of elections and made interference with the discharge of their duties a Federal offense. Penalties for violation, severe under the Act of 1870, were made even more severe.

[8] The upper house contained twice as many white persons as Negroes. Stampp, supra note 2, at 167–68.

Southern State, although South Carolina, Mississippi, and Louisiana had Negro lieutenant governors. In addition, at various times during the Reconstruction period South Carolina had a Negro secretary of state and speaker of the house; Mississippi, a Negro secretary of state, superintendent of education, and speaker of the house; and Louisiana, a Negro secretary of state, treasurer, and superintendent of public education. On the national level, the South during this period sent 14 Negroes, six from South Carolina, to the House of Representatives. In 1869, after the Republicans assumed control, Mississippi sent two Negroes, Blanche K. Bruce and Hiram R. Revels, to the Senate.[9]

Nearly all of these Negro officeholders were men of ability and integrity.[10] They were, moreover, seldom vindictive in the use of their newly gained political power and were generally conservatives on all issues except civil and political rights.[11]

One Negro secretary of state in South Carolina, Francis L. Cardozo, "was regarded by friends and enemies . . . as one of the best educated men in South Carolina, regardless of color." [12] Negro legislators in Alabama helped to adopt the 14th and 15th amendments and to put a State system of schools into operation.[13] Negro members of the Georgia Legislature—who were able to take their seats only after the State Supreme Court declared them eligible—introduced many bills on education, the jury system, city government reform, and woman suffrage.[14] In Florida, Negro members of the Reconstruction government were primarily interested in relief, education, and suffrage, and in North Carolina Negroes helped to inaugurate a system of public schools.[15]

Notwithstanding the substantial Negro voter registration and significant Negro participation in the political process, Negro voting and political participation was hindered by harassment and intimidation and subjected to exploitation. Facts collected by a subcommittee of the House Committee on Elections in the Louisiana contested election cases of 1868 showed

> that over 2,000 persons were killed, wounded and otherwise injured in [the State] within a few weeks prior to the presidential election; that half the State was overrun by violence; midnight raids, secret

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[9] V. Wharton, The Negro in Mississippi 157–66 (first published 1947; Harper Torchbook ed. 1965). Revels completed the unexpired term of Jefferson Davis. Senators Bruce and Revels were the only Negroes to sit in the Senate before the election of Senator Edward W. Brooke of Massachusetts in 1966.

[10] See Stampp, supra note 2, at 167.

[11] Id. at 168.

[12] John Hope Franklin, From Slavery to Freedom 313–14 (2d rev. ed. 1956).

[13] Id. at 314.

[14] Id.

[15] Id. at 315. See also Franklin, supra note 2, at 85–94. For more detailed descriptions of Negro officeholders in each of the Southern States see DuBois, supra note 2: Alabama, 490–91; Arkansas, 547; Florida, 513; Georgia, 498–99, 504–07; Louisiana, 469–70; Mississippi, 436, 441–42, 445; North Carolina, 528–29, 535; South Carolina, 417–19; Texas, 557–58, 561; Virginia, 540.

> murders, and open riot kept the people in constant terror until the Republicans surrendered all claims, and then the election was carried by the democracy.[16]

Before elections, a member of the North Carolina Klan testified at a hearing of a select congressional committee, members would go around and give Negroes orders to stay at home.[17] In South Carolina, a white person testified: "I heard men proclaim that the order had been issued to shoot any colored man who voted for the reform ticket. . . . Undoubtedly, it was believed by the colored people." [18]

When they did vote, Negroes were exploited by both sides. There was testimony that the Republicans in some areas made them swear not to vote for anybody but Republicans, leading them to believe that if they did not vote Republican, "they would be put back into slavery, and their wives made to work on the road." [19] In the December 1870 elections for the Georgia Legislature, a witness testified, the Democrats

> got altogether probably about thirty colored democrats. Well, they would carry them into a room and put a cloak on them, bring them out and vote them, and then carry them back again and put a high hat on, and bring them out and vote them again. . . . I am satisfied there were seven or eight hundred illegal votes given there. I do not think there are more than sixteen hundred or seventeen hundred democrats in the county, . . . yet on that occasion they polled twenty-seven hundred votes. . . .[20]

The testimony before the committee revealed the use of a variety of methods for reducing the opposition's vote. Candidates were systematically scratched off ballots.[21] Negroes were harassed by election officials "asking questions not pertinent . . . [with] the result . . . that out of 1500 voters" only 400 to 500 voted during the day; [22] votes were stolen from the boxes; [23] polls were not opened at all because of "the tremendous crowd of republicans present wanting to vote;" [24] the door to the voting place was blocked by police favoring the Democrats who allowed in only those who would vote Democratic.[25] By such techniques, Georgia, for example, with Republican voters in the majority by a margin of 20,000, showed a Democratic majority of more than 46,000 out of a

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[16] Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States, Rep. No. 41, 42d Cong., 2d Sess., pt. 1, at 21–22 (1872) [hereinafter cited as Select Committee Report].
[17] Id., pt. 2, at 225 (North Carolina).
[18] Id., pt. 3, at 240 (South Carolina).
[19] Testimony of Mr. Sayre, Ala., id., pt. 1 at 298–99; see also documents in H.R., 43d Cong., 2d Sess., No. 261, App. B.
[20] Select Committee Report, pt. 7, at 1038 (Georgia).
[21] Id., pt. 3, at 180 (South Carolina).
[22] Id., pt. 7, at 1087.
[23] Id., pt. 9, at 1151 (Alabama).
[24] Id., pt. 10, at 1462.
[25] Id., pt. 6, at 253 (Georgia).

total electorate of 102,411 white and 98,507 Negro registered voters in the statewide election of November 1868.[26]

The End of Negro Participation

The end of the Negro's tenuous foothold in politics in the South is symbolized by the Compromise of 1877, in which Southern Democrats helped to resolve a contested presidential election by supporting Republican Rutherford B. Hayes, with the understanding that the demands of white southerners would be looked upon with more favor than they had been in the past. But with regard to the political power of Negroes in the South, this compromise in effect recognized a *fait accompli*.[27]

In Mississippi, the takeover by Democratic white supremacists was completed in 1875. While in 1873 the Democrats carried only 39 out of 74 counties, in 1875 they carried 62. Nevertheless, Negroes continued to hold offices, primarily through operation of the "fusion principle", under which the white Democratic executive committee of the county, in return for Negro support, would consult with Negro leaders on the number of offices to be distributed to Negroes.[28]

In order to consolidate its power, the white supremacist Democratic machine in Mississippi continued to resort to violence and fraud at the polls, as "[w]ith mock solemnity, newspapers reported that boxes containing anti-Democratic majorities had been eaten by mules or horses." [29] The 1890 Mississippi Constitutional Convention adopted the scheme of requiring, as a prerequisite for registration, a "reasonable" interpretation of the Constitution to eliminate the Negro voter without obviously violating the 15th amendment.[30] By this time, although there still were Negroes in the State legislature under the fusion system from Adams, Bolivar, and Sharkey Counties, more and more Negroes, "rebuffed by unfriendly registrars, frowned on by the mass of the white population, and absolutely forbidden to support any candidates save those of a party

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[26] Id. at 454, 456 (Georgia).

[27] See generally C. Vann Woodward, Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction (1951).

During the Civil War and for a few years after its end there was much discussion of economic measures to help the Negroes in the South. There was widespread realization "that there was a close relationship between the securing of civil and political rights . . . and the establishment of economic independence. . . ." Stampp, supra note 2, at 123. The redistribution of land to Negroes was the favored method of achieving this economic independence. Although a few experiments in land reform were made, in the end the program was defeated. Id. at 128–29 (for a description of one such experiment, see Wharton, supra note 9, at 38–41). According to Stampp, "[t]he failure of land reform probably made inevitable the ultimate failure of the whole radical program. . . ." Supra at 129.

[28] Wharton, supra note 9, at 175, 197, 202–04.

[29] Id. at 204.

[30] See Wharton, supra note 9, at 214–15. This scheme, known as the Mississippi Plan, quickly was adopted in other Southern States. See note 34 infra.

based on white supremacy," [31] simply abandoned their efforts to vote.[32]

Between 1895 and 1910 other Southern States set up similar qualifications for voting, and new ones such as the "good character" tests, enacted disfranchising constitutions which required the payment of a poll tax,[33] set up property qualifications for registration, and required applicants to pass literacy and "civic understanding" tests.[34] Throughout the South residency requirements were lengthened and the list of disfranchising crimes expanded to include offenses believed more often committed by Negroes, such as petty larceny. To assure white control even in predominantly Negro localities, electoral machinery was centralized, and in most of the States the appointment of registration and election officials, who were given broad discretion, was placed in the hands of State, rather than local, officials.

But "if the Negroes did learn to read, or acquire sufficient property, and remember to pay the poll tax and to keep the receipt on file, they could even then be tripped by the final hurdle devised for them—the

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[31] Wharton, supra note 9, at 215.

[32] The Democratic Party in South Carolina eliminated most of its Negro members by ruling at its convention in 1890 that in Democratic primaries "only white Democrats should be allowed to vote, except that Negroes who voted for General Hampton in 1876, and who have voted the Democratic ticket continuously since, may be permitted to vote." George B. Tindall, South Carolina Negroes 1877–1900, at 67 (1966). As in Mississippi, the 15th amendment was nullified by giving registration officials great discretion in deciding the qualifications of a potential voter, and resorting to fraud and intimidation for increased effectiveness. In 1876, Republican voters in South Carolina—the majority of whom were Negroes—cast 91,870 votes; in 1888 they cast only 13,740. Id. at 73.

In 1871 and again in 1874, 1876, 1878, 1883, and 1891, Virginia altered its legislative districts with the effect of reducing Negro representation. The 1874 measure abolished the township system of the carpetbaggers which had permitted Negroes to exercise political control in areas in which they constituted a majority of the population, and took control of local government in the Black Belt from the Negroes' hands. Virginia also adopted a new election code in 1894 which required voters to secure registration certificates long in advance of the election and preserve and show them at the polling place, imposed restrictions on the amount of time a voter could spend in the polling booth, and provided that the names of candidates be arranged by office rather than by party. The practical effect of the code was to disfranchise illiterate Negroes. In some voting precincts from one-third to one-half of the ballots had to be thrown out because they were marked incorrectly. In addition, using as a model the original Mississippi Plan, Virginia changed its Constitution to require of a prospective voter that, among other things, he be able to read the Constitution or give a reasonable interpretation of certain passages, and pay a poll tax. P. Lewinson, Race, Class and Party 65–66 (1965).

[33] The poll tax was a reliable means of curtailing the franchise and reducing the Negro vote. See Woodward, supra note 2, at 84; V.O. Key, Jr., Southern Politics 578–618 (1949); and U.S. Commission on Civil Rights, Freedom to the Free 57–58 (1963). The 24th amendment, ratified in 1964, prohibits the use of the poll tax in Federal elections. In Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966), the Supreme Court held the poll tax unconstitutional as applied to State elections.

[34] See generally Key, supra note 33, at 553–77 and Woodward, Origins of the New South, ch. 12, The Mississippi Plan as the American Way (1951). To avoid disfranchising whites many States passed a so-called grandfather clause. The effect of the grandfather clause was to permit certain classes of individuals, defined so as to exclude Negroes, to register permanently within a specified period without the necessity of meeting literacy or other tests. The grandfather clause was declared unconstitutional in litigation arising in Oklahoma. Guinn v. United States, 238 U.S. 347 (1915).

white primary." [35] This was a declaration by the Democratic Party that only whites were eligible for membership or allowed a voice in the nomination of party candidates. Since nomination by the Democratic party was tantamount to election, debarment from the nominating process was the equivalent of disfranchisement.[36] The earliest primaries had been local, informal, and unregulated by law. Statutory recognition and regulation began in the mid-1880's and soon spread throughout the South.[37] Permission was given to the parties either to formulate rules of membership themselves or to impose qualifications beyond those laid down by statute.[38] By 1930, in 11 Southern States the Democratic Party barred the Negro from a share in the nominating process by statewide rule or by rules of the county and city Democratic committees restricting the Negro to nonpartisan and special elections and to general elections, in which his Republican vote was a mere gesture.[39]

Because of such devices,[40] and the Negro's growing psychological and economic dependence upon the white man, intimidation by violence became less and less necessary to assure that the Negro would stay away from the polls and cease to run for office—although violence still was employed as were such tactics as massing at the polls to keep Republicans and independents from voting, stuffing of ballot boxes, use of boxes with false bottoms, manipulation of the vote counts, and tampering with the registration books.[41] Polling places were set up at points removed from Negro communities, and the location of polling places was changed without notice or Negroes were told of a change which never was made.[42]

When the Negro sought to redress the denial of his 15th amendment rights, he was rebuffed. For example, Wilmington, North Carolina redistricted in a way disadvantageous to Negroes, but a Federal court refused to exercise its equity powers to enjoin the subsequent election, holding that other remedies were available.[43] In *Giles v. Harris,*[44] the Supreme Court held that equity could not intervene to protect purely political rights such as the right to vote. When the Negro plaintiffs sued at law the court denied recovery on technical grounds.[45]

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[35] Woodward, supra note 2, at 84; see also Key, supra note 33, at 424–42.

[36] See Edward McChesney Sait, American Parties and Elections 53 (4th ed. H.R. Penniman, 1948).

[37] Sait, supra note 36, at 299–300. By 1900 North Carolina was the only State in the South without a primary law. Id. at 300 n. 14. Virginia had no general State primary election law, but had numerous statutes regulating primaries in particular counties. Ernst Christopher Meyer, Nominating Systems: Direct Primaries versus Conventions in the United States 136–38 (1902).

[38] Sait, supra note 36, at 53.

[39] Lewinson, supra note 32, at 112, 114.

[40] See Franklin, "Legal" Disfranchisement of the Negro, 26 J. Negro Education 241 (1957).

[41] See Woodward, supra note 34, at 51–58.

[42] Lewinson, supra note 32, at 64.

[43] Holmes v. Oldham, 12 Fed. Cas. No. 6643 (C.C.E.D.N.C. 1877).

[44] 189 U.S. 475 (1903).

[45] Giles v. Teasley, 193 U.S. 146 (1904).

By 1900, the Negro vote in the South virtually had disappeared. Figures from Louisiana attest to the efficacy of the methods used to disfranchise the Negro. In Louisiana in 1896, there were 130,334 Negroes registered to vote; in 1900, after a new constitution had incorporated aspects of the Mississippi Plan, there were only 5,320.[46] Excluded from the Democratic primary, those Negroes who were on the registration rolls had political power only in very limited circumstances.[47]

Invalidation of the White Primary and Continued Efforts to Disfranchise Negroes

In 1944, after almost half a century of Negro disfranchisement, the United States Supreme Court in *Smith v. Allwright* [48] voided as unconstitutional the white primary, "the most formidable barrier of all" the disfranchising devices.[49]

Southern States reacted to *Allwright* in three ways.[50] Some—Florida, Texas, Tennessee, North Carolina, and Virginia—did nothing more than express dissent, "chiefly for the record." [51] Others—Georgia, South Carolina, Arkansas, and Mississippi—sought to divorce the process of selecting party candidates from governmental action.[52] Finally, some States—Alabama and Louisiana—relied upon other devices, such as literacy or good character tests, to limit Negro suffrage.[53]

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[46] Woodward, supra note 2, at 85; Lewinson, supra note 32, at 80–81. By 1904, Negro registration in Louisiana was a mere 1,342.

[47] "[T]here were four circumstances in which there might be an appreciable Negro vote in a Southern community. One was the case of the presidential election, which may be dismissed as insignificant from the viewpoint of effective Negro political power. The two which were most significant were nonpartisan municipal elections, and referenda. Cases under a fourth heading—unexpected contests for office—while most sensational, were exceptional; they depended on such accidents as some politician's resignation or removal, death, or courage to bolt from his party." Lewinson, supra note 32, at 162.

[48] 321 U.S. 649 (1944).

[49] Woodward, supra note 2, at 141. Exclusion of Negroes from primary elections had been voided when dictated by State statute, Nixon v. Herndon, 273 U.S. 536 (1927), or when mandated by the State executive committee in the exercise of a power delegated to it by the State legislature, Nixon v. Condon, 286 U.S. 73 (1932). But the Supreme Court previously had upheld exclusion of Negroes from party primaries when required by a resolution of the State party convention acting on its own. Grovey v. Townsend, 295 U.S. 45 (1935).

[50] The history of the *Allwright* decision and the subsequent efforts to circumvent it is traced in Weeks, The White Primary: 1944–1948, 42 Am. Pol. Sci. Rev. 500 (1948) and Key, supra note 33, at 621–43.

[51] Key, supra note 33, at 626.

[52] Id.

[53] Alabama, by an amendment to the State constitution, tightened its voting qualifications to insure white domination of the electoral process. The so-called Boswell Amendment provided that if a person desiring to register was not physically disabled, he had to demonstrate an ability to read and write, to "understand and explain" any article of the United States Constitution in English, possess "good character" and an understanding of "the duties and obligations of good citizenship

Footnote continued on following page.

Because the Supreme Court had stressed that in Texas, where the *Allwright* case arose, party primaries were regulated in large part by State statute, the South Carolina Legislature attempted to remove the primary from the reach of the decision by repealing all State laws and constitutional provisions relating to primary elections. Subsequently, the Democratic State convention established as a qualification for membership in the Democratic clubs and participation in the primary election that the voter "be a white Democrat." [54] A Negro denied the right to cast a ballot in the 1946 Democratic primary election sued to void this provision, and the Federal courts struck it down as unconstitutional.[55]

No longer able expressly to exclude Negroes from the primaries, the Democratic State convention in South Carolina met again and took a different tack. Although Negroes still were excluded from party membership, they were to be permitted to vote in the primaries if they were registered voters and took an oath pledging to support the principles of the Democratic Party of South Carolina, which included belief in "State's Rights" and "the social and educational separation of the races" and opposition to any Federal voting rights legislation or "any Federal legislation setting up the proposed so-called F.E.P.C. law." [56] In subsequent legal action the Federal district court held unconstitutional the exclusion of Negroes from club membership and enjoined administration of the oath.[57]

In Arkansas a similar strategy was adopted. The legislature tried for two years a scheme in which the primaries for Federal offices were separated from those for State and county offices, on the theory that the constitutional guarantee protecting Negro suffrage extended only to the former. The legislature centered its effort on a provision allowing political parties to prescribe their own qualifications for membership and participation in primary elections. The effect was to give legal sanction to the resolutions of the 1944 Democratic State convention which excluded Negroes from party membership and therefore from becoming candidates for public or party office, but allowed Negroes to vote in the primary election if they "openly declared (their) allegiance to and sympathy with the principles and policies of the Democratic Party of Arkan-

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under a republican form of government" and show that he had been employed for the preceding 12 months. Key, supra note 33, at 632. A successful action was brought to have the amendment declared unconstitutional. A three-judge Federal district court held that the "understanding" test provided no objective standard by which a board of registrars could decide to accept or reject any prospective elector, and that the amendment constituted a grant of arbitrary power to voter registration officials for the purpose of enabling them to discriminate against Negro applicants. Davis v. Schnell, 81 F. Supp. 872 (S.D. Ala.), *aff'd per curiam,* 336 U.S. 933 (1949).

[54] As quoted in Key, supra note 33, at 627.

[55] Elmore v. Rice, 72 F. Supp. 516 (E.D.S.C. 1947), *aff'd,* 165 F.2d 387 (4th Cir. 1947), *cert. denied,* 333 U.S. 875 (1948).

[56] Key, supra note 33, at 629 n.19.

[57] Brown v. Baskin, 78 F. Supp. 933, 942 (E.D.S.C. 1948), *injunction issued,* 80 F. Supp. 1017 (E.D.S.C. 1948), *aff'd,* 174 F.2d 391 (4th Cir. 1949).

sas." [58] The principles of the party, as adopted at that convention, included "preservation of existing laws relating to the segregation of races in schools, public conveyances and other lawfully designated places;" the "legal prohibition of intermarriage of persons of White and African descent," and "preservation of the constitutional provision which requires payment of a poll tax as a qualification of an elector." [59]

The Civil Rights Acts of 1957, 1960, and 1964

Although the right to vote had been guaranteed by law to Negroes since the adoption of the 15th amendment, its vindication prior to 1957 had depended almost entirely upon private litigation. In the Civil Rights Act of 1957,[60] Congress gave the U.S. Attorney General statutory authority to institute suits on behalf of Negroes deprived of voting rights, and in 1960 [61] and 1964 [62] passed supplementary legislation strengthening the 1957 Act. These Acts, however, did not produce a significant rise in Negro voter registration except in limited areas.

The chief means of limiting the franchise in the 1950's and early 1960's was the literacy test. State laws vested wide discretion in local registrars in administering these and other qualification tests. Although the Department of Justice had a right to sue, litigation was protracted and successfully reached only a small percentage of counties where Negro registration was being limited.

Meanwhile, dramatic events were drawing public attention to the issue of voting rights discrimination, as well as discriminatory exclusion of Negroes from the affairs of the Democratic Party in Mississippi. In 1964, members of a predominantly Negro political organization, the Mississippi Freedom Democratic Party, challenged the seating of the regular Democratic Party delegation of that State at the Democratic National Convention, claiming that Mississippi Negroes had been prevented from registering to vote through intimidation and the discriminatory administration of voter registration tests and that Negroes had been totally excluded from participation in the precinct meetings and other affairs of the Mississippi Democratic Party.[63] In 1965, the American public witnessed on television the beating of demonstrators in Selma, Alabama, who were seeking to achieve for Negroes the right to vote without discrimination. Congress thereupon adopted a more direct approach to dealing with these problems.

[58] As quoted in Key, supra note 33, at 638.

[59] Id. After a few thousand Negroes voted in the 1946 Mississippi Democratic primary, the Mississippi Legislature adopted the essence of the Arkansas plan, barring from participation in primary elections any person not "in accord with the statement of principles of the party holding such primary" as declared by the State executive committee at least 60 days before the primary election. Id. at 640.

[60] 71 Stat. 637.

[61] 74 Stat. 90.

[62] 78 Stat. 241. These statutes are codified in 42 U.S.C. § 1971 (1964).

[63] For an account of the proceedings on this challenge see pp. 139–40 infra.

PART II

Progress Under the Voting Rights Act of 1965

The Voting Rights Act of 1965 departed from the pattern set by the 1957, 1960, and 1964 Acts in that it provided for direct Federal action to enable Negroes to register and vote without reliance upon often protracted litigation required by previous legislation. The Act suspended literacy tests and other discriminatory voter registration tests and requirements in six Southern States (Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia) and in 40 counties in North Carolina.[1] It also sought to deal with the abuse of the broad discretion vested in local registrars, by providing for the assignment by the U.S. Civil Service Commission, in counties designated by the Attorney General, of Federal examiners to list persons qualified to vote. In addition, the Act provided

[1] Section 4 of the Act suspends the use of literacy tests and other specified prerequisites to registration or voting (education or knowledge tests, character tests, and voucher requirements) in any State or political subdivision where any such test or device was in effect in November 1964 and where less than 50 percent of the voting age residents were registered or where less than 50 percent voted in the November 1964 presidential election. In addition to the States and political subdivisions cited in the text the formula covers the State of Alaska, three counties in Arizona, one county in Hawaii, and one county in Idaho.

Under section 4(a), a State or political subdivision may remove itself from coverage by filing a suit in the U.S. District Court for the District of Columbia and convincing the court that no test or device has been used for the purpose or with the effect of denying the right to vote because of race or color during the preceding five years. Section 4(a), 42 U.S.C. § 1973b(a) (Supp. II, 1967). A judgment may be obtained more quickly if the Attorney General advises the court that he believes the tests have not been used to discriminate on the basis of race or color during the five years preceding the filing of the action.

As of Jan. 16, 1968, the State of Alaska, three counties in Arizona, one county in Idaho, and one county in Hawaii had removed themselves from coverage by obtaining consent judgments in the U.S. District Court for the District of Columbia. Letter from D. Robert Owen, First Assistant to the Assistant Attorney General, Civil Rights Division, to David Rubin, Deputy General Counsel, U.S. Commission on Civil Rights, Jan. 16, 1968. See State of Alaska v. United States, Civil No. 101–66, consent judgment entered Aug. 17, 1966; Apache County, Arizona v. United States, Civil No. 292–66, consent judgment entered Aug. 12, 1966; Elmore County, Idaho v. United States, Civil No. 320–66, consent judgment entered Sept. 22, 1966; Wake County, North Carolina v. United States, Civil No. 1198–66, consent judgment entered Jan. 23, 1967. In the Arizona case a group of Navajo Indians, dissatisfied with the Attorney General's acquiescence, filed a motion to intervene. Although the court held that it had discretion to allow intervention, it determined that intervention was inappropriate in the circumstances of the case. Apache County v. United States, 256 F. Supp. 903 (D.D.C. 1966). In two cases North Carolina counties have sought to remove themselves from coverage, but the Attorney General has not consented. Gaston County, North Carolina v. United States, Civil No. 2196–66, filed Aug. 18, 1966; Nash County, North Carolina v. United States, Civil No. 1702–66, filed June 27, 1966.

for the assignment of Federal observers to monitor elections in counties where examiners are serving under the Act.[2]

Since the passage of the Voting Rights Act there has been a significant increase in numbers of Negroes registered, voting, and running for office in the Southern States.

Records of the Civil Service Commission show that as of December 31, 1967, Federal examiners had been assigned to 58 counties in Southern States and had listed as eligible to vote 158,094 persons, including 150,767 nonwhites and 7,327 whites.[3] In addition, officials of the Department of Justice have estimated that as of May 3, 1967, an additional 416,000 Negro citizens had been registered by local voting registrars since the passage of the Act.[4]

Negro registration now is more than 50 percent of the voting age population in every Southern State. Before the Act this was true only of Florida, Tennessee, and Texas. The biggest gain has been in Mississippi, where Negro registration has gone from 6.7 to 59.8 percent. But there also have been important gains in other States. In Alabama, the percentage has gone from 19.3 to 51.6; in Georgia, from 27.4 to 52.6; in Louisiana, from 31.6 to 58.9; and in South Carolina, from 37.3 to 51.2. The following table shows the changes in voter registration by race since the enactment of the Voting Rights Act of 1965:

Voter Registration by Race Before and After Passage of the Voting Rights Act of 1965[a]

State	Pre-Act Registration [b]	Post-Act Registration [c]	Pre-Act Percent of Voting Age Population Registered	Post-Act Percent of Voting Age Population Registered
Alabama:				
Nonwhite	92,737	248,432	19.3	51.6
White	935,695	1,212,317	69.2	89.6
Arkansas:				
Nonwhite	77,714	121,000	40.4	62.8
White	555,944	616,000	65.5	72.4
Florida:				
Nonwhite	240,616	299,033	51.2	63.6
White	1,958,499	2,131,105	74.8	81.4
Georgia:				
Nonwhite	167,663	332,496	27.4	52.6
White	1,124,415	1,443,730	62.6	80.3

See footnotes at end of table.

[2] For a more detailed description, see Part V, infra.

[3] U.S. Civil Service Commission, Memorandum on Voting Rights Program, January 1968. Under the Voting Rights Act, Federal examiners do not "register" voters, but rather "examine applicants concerning their qualifications for voting" and place the names of those qualified on a list of eligible voters. Secs. 7 (a) and (b), 42 U.S.C. §§ 1973e (a) and (b) (Supp. II, 1967). State or local election officials are obligated to place the names of those persons listed by the Federal examiners as qualified on the official voting list. Id.

[4] U.S. Commission on Civil Rights, Civil Rights Digest, September 1967, at 4.

Voter Registration by Race Before and After Passage of the Voting Rights Act of 1965[a]—Continued

State	Pre-Act Registration[b]	Post-Act Registration[c]	Pre-Act Percent of Voting Age Population Registered	Post-Act Percent of Voting Age Population Registered
Louisiana:				
Nonwhite	164, 601	303, 148	31.6	58.9
White	1, 037, 184	1, 200, 517	80.5	93.1
Mississippi:				
Nonwhite	28, 500	263, 754	6.7	59.8
White	525, 000	665, 176	69.9	[d] 91.5
North Carolina:				
Nonwhite	258, 000	277, 404	46.8	51.3
White	1, 942, 000	1, 602, 980	96.8	83.0
South Carolina:				
Nonwhite	138, 544	190, 017	37.3	51.2
White	677, 914	731, 096	75.7	81.7
Tennessee:				
Nonwhite	218, 000	225, 000	69.5	71.7
White	1, 297, 000	1, 434, 000	72.9	80.6
Texas:				
Nonwhite	[e] 2, 939, 535	400, 000	[e] 53.1	61.6
White		2, 600, 000		53.3
Virginia:				
Nonwhite	144, 259	243, 000	38.3	55.6
White	1, 070, 168	1, 190, 000	61.1	63.4

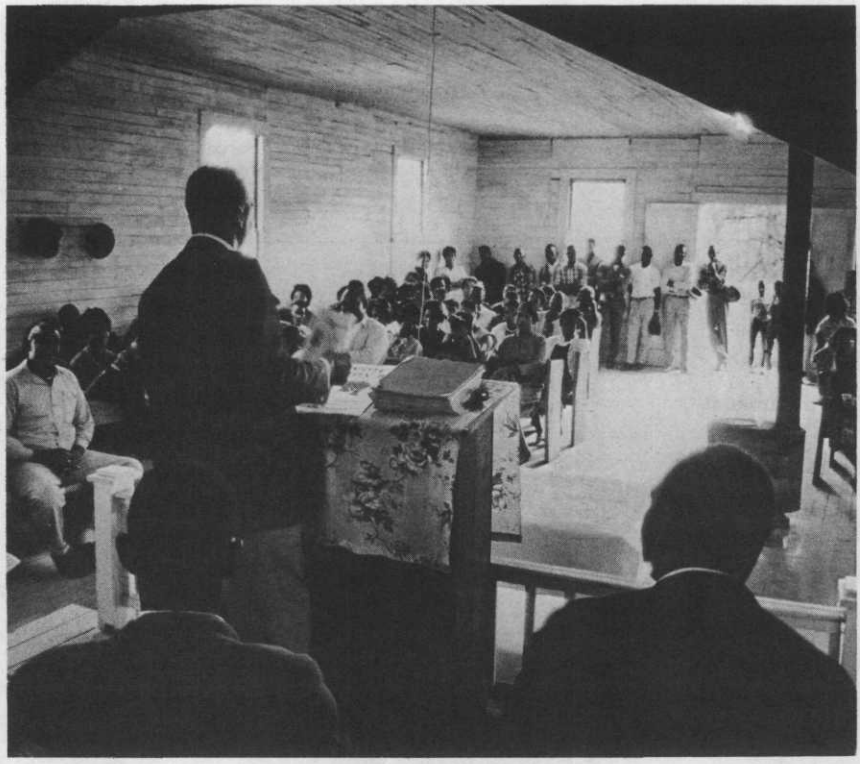
[a] Appendix VII contains county by county estimates of pre-Act and post-Act registration by race.

[b] All pre-Act registration statistics are from Information Center, U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965. The registration statistics for Alabama are as of May 3, 1964; Arkansas, October 1963; Florida, May 1964; Georgia, December 1962; Louisiana, Oct. 3, 1964; Mississippi, Nov. 1, 1964; North Carolina, 1964; South Carolina, Nov. 1, 1964; Tennessee, Nov. 1, 1964; Texas, Nov. 3, 1964; and Virginia, October 1964. These statistics represent estimates based on official and unofficial sources and vary widely in their accuracy. Even where official figures were available, registrars frequently failed to remove the names of dead or emigrated voters and thus reported figures which exceeded the actual registration. Unofficial figures which came from a variety of sources are subject to even greater inaccuracies.

[c] The statistics for Alabama are as of Oct. 31, 1967; for Georgia, Aug. 31, 1967; for Louisiana, October 1967; for Mississippi, Sept. 30, 1967; and for South Carolina, July 31, 1967, and were obtained from the Department of Justice. The statistics for the other States are estimates of the Voter Education Project of the Southern Regional Council contained in Voter Registration in the South, Summer 1966. The VEP accumulated its statistics during the summer of 1966. The figures were compiled from a variety of sources—public and private, official and unofficial. In this report the term "Post-Act Registration" is intended to refer to the total number of persons registered before and after the passage of the Voting Rights Act, and not only to persons registered since the passage of the Act. In addition to the persons listed there were 14,297 registered voters in Alabama, 33,694 in Florida, and 22,776 in Georgia whose race was unknown.

[d] Mississippi statistics have been adjusted to include those registrants whose race was unknown by dividing persons according to the following formula: 75 percent of the pre-Act registrants whose race was unknown were considered white; 75 percent of the post-Act registrants whose race was unknown were considered Negroes. The unadjusted 1967 percentages were 41.1 percent Negro and 78.7 percent white. The unadjusted totals were 181,233 Negro, 571,598 white, and 176,099 unknown.

[e] Percentages and totals by race are not available.



Since passage of the Voting Rights Act of 1965, more Negroes each year are campaigning for political office across the South. Here, a candidate addresses an audience in rural Alabama.

The substantial rise in Negro voter registration has been accompanied by a significant increase in the number of Negroes actually voting. A survey by the Voter Education Project of the Southern Regional Council found that in 1966, the growing Negro vote was a major factor in elections across the South, supplying the winning margin for a U.S. Senator in South Carolina, at least one Governor, in Arkansas, and at least two members of the U.S. House of Representatives.[5] The Project estimated that in Arkansas, 80,000 to 90,000 of a total of between 115,000 to 120,000 registered Negroes voted in the November 1966 general elections; in South Carolina, 100,000 of 191,000; and in Georgia, 150,000 of 300,000. In Alabama, the Negro turnout for the May 3, 1966 primary was estimated at 74 percent of the total Negro registration of just under 250,000; in the general election, faced with a choice between two segre-

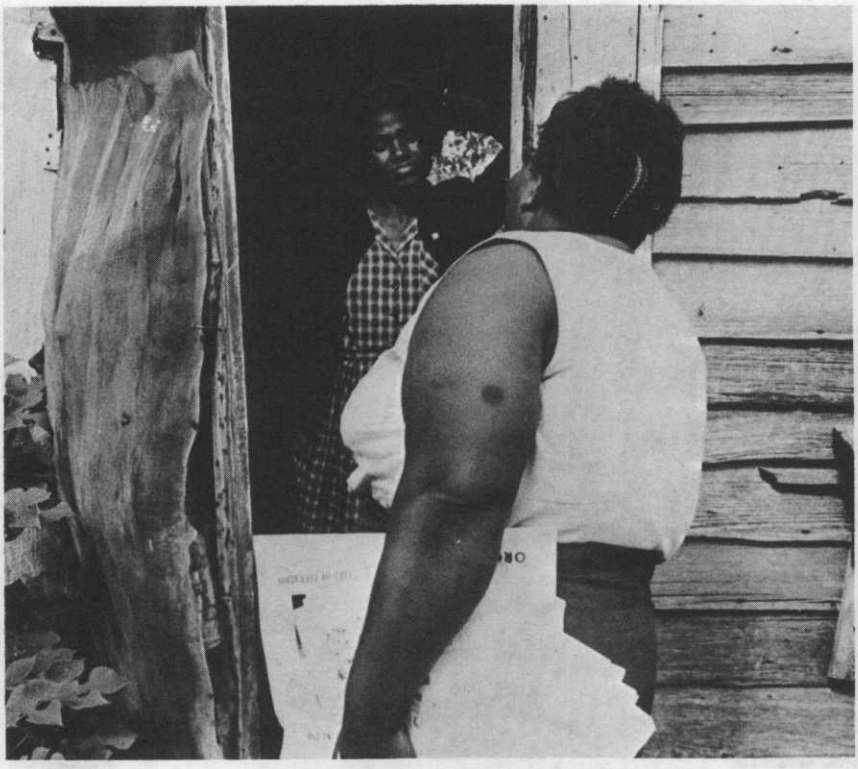
[5] Voter Education Project, Press Release, What Happened in the South, 1966, Dec. 14, 1966. Major contributions to this progress have been made by voter registration campaigns such as the Southern Regional Council's Voter Education Project and other drives conducted by civil rights organizations.

Negro voters crowd into a polling place.

gationists who were the major candidates in the Governor's race, less than half the registered Negroes voted. In Mississippi an estimated 50,000 to 55,000 of an approximately 170,000 registered Negroes voted in the general election. In Louisiana, where there were no major statewide contests, a sampling of several Negro precincts indicated turnouts of 50 to 60 percent of those registered.

After the 1966 elections, the number of local Negro officeholders and legislators in the 11 Southern States was 159; after the 1967 elections the number exceeded 200—more than twice as many as were serving when the Voting Rights Act of 1965 was passed. Although the vast majority of Negro officeholders hold minor posts, in 1966, 20 Negroes—11 in Georgia, 6 in Tennessee, and 3 in Texas—were elected to State legislatures in the South, a total increase of 9. Negroes also were elected to posts at the county level in such Deep South States as Georgia, Louisiana, Alabama, and Mississippi. Lucius Amerson, elected sheriff of Macon County, Alabama, became the first Negro sheriff in the South since Reconstruction.

In 1967, 22 Negroes were elected to office in Mississippi including the first Negro representative in the State legislature in almost 100 years,



A Negro candidate seeks the support of a prospective voter.

and seven were elected in Virginia, including a member of the State house of representatives and a sheriff. In Mississippi, notwithstanding reports of harassment and intimidation of Negro candidates and voters,[6] Negroes won victories in five predominantly Negro counties in which there had been great resistance to civil and political rights for the Negro. In Holmes County a Negro was elected to the State house of representatives and to the post of constable. A Negro constable and a Negro justice of the peace were elected in Issaquena County. Madison and Bolivar Counties now have Negro county supervisors.[7] As of February 1, 1968, 24 Negroes were serving in State or local offices in Alabama, 29 in Mississippi, 37 in Louisiana, 21 in Georgia, 33 in Arkansas, 16 in Florida, 10 in North Carolina, 11 in South Carolina, 26 in Tennessee, 15 in Texas, and 24 in Virginia.[8]

A dramatic example of the effect of the Act is afforded by Selma, Alabama, symbol of resistance to the exercise of the franchise by Negroes. When Dr. Martin Luther King began his campaign for Negro voting

[6] Delta Ministry Reports, November 1967, at 1.
[7] Southern Courier, Nov. 11–12, 1967, at 1.
[8] See Appendix VI.

rights three years ago, Selma had only about 500 registered Negro voters. As of February 9, 1968, there were about 5,300; a Negro minister was running for mayor, and six other Negroes for the city council. The city had four Negro policemen, and the Dallas County sheriff's office, once occupied by James G. Clark, a militant segregationist, had two Negro deputies under former city public safety director Wilson Baker, a moderate who beat Clark in the 1966 election. Lines of communication reportedly had opened between city officials and civic leaders and Negro spokesmen.[9]

Holmes County, Mississippi—another area where public officials and the white community had been deeply resistant to Negro voting—provides another striking illustration. In Holmes County, Negroes of voting age outnumber whites by two to one. Before passage of the Act the registration rolls of the county carried the names of 4,800 white voters—more persons than the 1960 census indicated were in the white voting age population of the county—but the names of only 20 Negro voters.[10] The county was one of the first to be designated for Federal examiners, and by December 31, 1967, as a result of Federal listing activity and registration with the local registrar, 5,844 Negroes had been registered to vote in the county.[11] In 1966, not a major election year in Mississippi, three Negro candidates ran for local office in the county.[12] In the 1967 general election, 12 Negro candidates ran for State and county posts [13] and two of them won office, including a seat in the Mississippi House of Representatives.[14]

Although gains have been made in many areas, the progress should not be permitted to obscure the difficulties experienced by Negro candidates and voters as the result of discriminatory or intimidatory actions on the part of public or party officials or of private citizens. Part III of this report is devoted to a discussion of obstacles to full and free participation by Negroes in the electoral and political processes of the South.

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[9] Baltimore Sun, Feb. 9, 1968, at A–7.
[10] Information Center, U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965.
[11] U.S. Civil Service Commission, Memorandum on Voting Rights Program, January 1968.
[12] Interview with Henry Lorenzi, civil rights worker in Holmes County, Feb. 15, 1967.
[13] Southern Courier, June 24–25, 1967, at 1.
[14] Id., Nov. 11–12, 1967, at 1.

PART III

Obstacles to Negro Participation in the Electoral and Political Processes

In its investigation the Commission sought to determine whether new strategems had been devised to deny or hinder equal participation by Negroes in the electoral and political processes. This section identifies actions by governmental bodies, political parties, public and party officials, and private persons which may have the effect of barring, deterring, or reducing political participation by Negroes in the South.

A major theme running through the history of Southern politics has been the fear of a Negro take-over of the political and governmental structure.[1] As one Southern political scientist has written, "The Negro unwittingly has exercised a tyranny over the mind of the white South, which has found continuous expression in the politics of the region." [2]

The passage of the Voting Rights Act of 1965, the most significant step toward Negro enfranchisement since the 15th amendment, and the effects of that Act once again raised the old fears of Negro domination. For many, the choice appeared to be the same as that following the Civil War when white Mississippians felt that universal Negro suffrage meant Negro government on the one hand or illegal election contrivances on the other.[3]

The hostile reaction to extended Negro enfranchisement under the Act appears to have been less organized than, say, the reaction to the Supreme Court's school desegregation decision in *Brown v. Board of Education*.[4] Except in a few cases, notably in Mississippi, there has been nothing like the Southern Manifesto or the Virginia statewide "massive resistance" program. In some areas local officials have complied with the Act. Nevertheless, according to reports received by Commission staff from across the South, there have been resistance to change in varying degrees in the Deep South States of Mississippi, Alabama, Louisiana,

[1] See generally V. O. Key, Jr., Southern Politics (1949); C. Vann Woodward, The Strange Career of Jim Crow (2d rev. ed. 1966).

[2] S. Cook, Political Movements and Organizations, in The American South of the 1960's at 131 (Leiserson ed. 1964).

[3] F. Johnston, Suffrage and Reconstruction in Mississippi, 6 Publications of the Mississippi Historical Society at 205 (1902).

[4] 347 U.S. 483 (1954); 349 U.S. 294 (1955).

Georgia, and South Carolina and isolated incidents in other Southern States.

According to these reports, Negro candidates and newly-enfranchised Negro voters in the South have experienced discrimination at almost every step in the political and electoral process. A number of techniques reportedly have been used in Mississippi and Alabama to dilute the votes of newly-registered Negroes, generally by combining predominantly Negro voting districts with predominantly white voting districts to cancel out the effectiveness of the voting power of Negroes. There have been complaints that, in some Southern States—principally in Mississippi, Georgia, and Alabama—measures have been adopted and administrative practices have been employed to make it more difficult for prospective Negro candidates to get on the ballot and be elected to office—in Mississippi on a statewide basis and in Alabama and Georgia in a few counties. In all of the States and in more than half of the counties visited there were complaints of discrimination in the electoral process itself. Such complaints were widespread in the counties visited in the Deep South States.[5]

Threats of violence and economic sanctions and actual reprisals against Negro candidates and voters have been reported in some areas of Mississippi, Louisiana, South Carolina, Alabama, Georgia, and Virginia. In some areas, Negroes fear reprisals for engaging in "forbidden" activities and their position of economic dependence reportedly hinders full realization of their civil and political rights.

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[5] Discrimination in the electoral process has not been confined to the South. Before the November 1967 mayoralty election in Gary, Indiana, in which a Negro, Richard Hatcher, was the Democratic candidate, the Department of Justice brought a suit under Section 12(d) of the Voting Rights Act against the Lake County Boards of Election, Registration, and Canvassers, and against various officials alleging that the defendants had engaged in illegal acts and practices for the purpose and with the effect of diluting the vote of Negro citizens of Gary. Specifically, the Department of Justice—and also candidate Hatcher in a private suit that was consolidated with the Department of Justice action—accused the defendants of "[a]dding to the voter rolls as eligible voters in white precincts the names of persons who are not eligible to vote" and of purging the registration rolls "in a manner designed to decrease the Negro vote but not the white vote." Complaint at 5, 6, United States v. Lake County Election Board, Civil No. 4809, N. D. Ind., Nov. 6, 1967. The court found these accusations supported by the facts. Concerning the second allegation it found specifically that on Oct. 25, 1967, the Election Board sent letters to at least 5200 registered voters in Gary. "These letters were directed largely to persons registered in precincts which are entirely or almost entirely Negro." Findings of Fact at 2–3. The persons to whom the letters were sent were not to be allowed to vote unless certain information was furnished to the Election Board. The court found that these letters had the purpose of depriving Negro citizens of Gary of the right to vote. Id.

Chapter 1

Diluting the Negro Vote

Many new devices involve the dilution of the significantly expanded Negro vote through such measures as conversion from elections by district to elections at-large, laws permitting the legislature to consolidate predominantly Negro counties with predominantly white counties, and reapportionment and redistricting statutes.[6]

Switching to At-Large Elections

Where Negroes are heavily concentrated in particular election districts their votes can be diluted effectively by converting to at-large elections, in which their votes are outweighed by white votes in adjoining districts. This technique has been used in Mississippi and Alabama.

Mississippi

Mississippi was strongly affected by the Voting Rights Act of 1965. Before the Act only about 7 percent (28,500) of Mississippi's Negro voting age population was registered to vote.[7] On the other hand, about 70 percent of the white voting age population was registered.[8] From the passage of the Act until the cut-off registration date for the statewide primary on June 7, 1966, Federal examiners listed 33,231 Negroes in 23 Mississippi counties to which they had been assigned.[9] The State's

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[6] The Commission does not suggest that every measure which involves the dilution of Negro votes is necessarily motivated by racial considerations. Consolidation of counties in some cases may have a legitimate purpose even where the votes of Negroes are in fact diluted. Nor does every measure which has the effect of diluting the votes of Negroes necessarily have an adverse effect on Negro voters. For example, some would argue that it is better for Negroes to constitute 40 percent of the voters of two districts—almost half the constituencies of two representatives—than 80 percent of the voters of one district.

[7] Information Center, U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965, at 9. The registration figures for Mississippi are unofficial statewide totals as of November 1964.

[8] Id.

[9] U.S. Civil Service Commission, Cumulative Totals on Voting Rights Examining, Apr. 16, 1966. Once it is determined that a political subdivision is covered by the suspension of tests provision of the Voting Rights Act of 1965, the Attorney General may direct the U.S. Civil Service Commission to appoint Federal examiners for the

Footnote continued on following page.

total Negro registration was estimated at 132,000 that same month.[10]

At least 30 bills relating to elections or the political process were introduced in the 1966 regular and special sessions of the Mississippi Legislature, many apparently in reaction to the increased Negro vote in many parts of the State. The legislature passed 12 bills and resolutions which substantially altered the State's election laws.

After the June 7 primary a statute approved by the Mississippi Legislature allowed voters to decide if members of the county boards of education would be elected at-large.[11] Six of 11 counties which were exempted from the general requirement that the issue be submitted to the voters had predominantly or almost majority Negro populations. Four of the other five counties are approximately one-third Negro. The statute required at-large elections in Hancock,[12] Lafayette, Lincoln, Lowndes, Warren, and Wayne Counties and permitted at-large elections in Benton and Marshall Counties when directed by the county boards of education. Other statutes passed during the regular session of the legislature provided for at-large election of county boards of education in Coahoma, Washington, and Leflore Counties.[13]

Until May 1966 each Mississippi county was divided into five supervisors districts, and one member of the board of supervisors—the governing authority of the county—was elected by the voters of each district.[14] In May, a new law granted a local option to the county boards of supervisors to provide for at-large election of members of the board.[15]

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subdivision who are to prepare and maintain lists of persons eligible to vote in any election. The Attorney General may designate a political subdivision for Federal examiners if he has received 20 meritorious complaints alleging voter discrimination or he believes that the appointment of examiners is necessary to enforce the guarantees of the 15th amendment. See § 6 of the Act. Because the Act requires that the names of all persons eligible to vote in any election must be sent to the State election officials at least 45 days prior to the election, those persons who qualified within the 45 day period were not eligible to vote in the June primary election. See § 7(b) of the Act.

[10] N.Y. Times, June 8, 1966, at 27.

[11] Senate Bill 1966, Miss. Laws, 1966, ch. 404, codified as Miss. Code 6271–03.5 Supp. 1966), approved June 16, 1966. Upon receiving a petition for an at-large election signed by at least 25 percent of the qualified voters of the county, the board of supervisors within 60 days must call a special election to submit the proposal to county residents. The proposal is accepted or rejected by a majority vote. In accord with previous statutes governing the election of board members, residents of municipal school districts are not permitted to participate in selecting board members, or in proposing or voting on the method of selection.

[12] After Jan. 1, 1967.

[13] House Bill 275, Miss. Laws, 1966, ch. 431, approved May 10, 1966; House Bill 1074, Miss. Laws, 1966, ch. 428, June 15, 1966.

[14] Miss. Code § 2870 (Recomp. 1956).

[15] House Bill 223, Miss. Laws, 1966, ch. 290, amending Miss. Code § 2870 (Recomp. 1956), approved May 27, 1966. Each supervisor still must represent and be a resident of a particular district. The burden of preventing the order from becoming final is placed upon the voters of the county. Notice of the adoption of the order must be published in a newspaper of general circulation 12 months before the next general election. If within 60 days after the order is adopted and published, 20 percent of the voters of the county sign and present a petition to the supervisors objecting to the change, the question must be submitted to the voters. The voters then accept or reject the change by a majority vote of all voters of the county participating in the election.

The new statute permits any board of supervisors to adopt an order under which each supervisor would be elected by all the voters in the county.

It has been contended that this enactment was racially motivated and has the effect of permitting county supervisors to dilute the Negro vote to prevent the election of Negroes to county governing bodies.[16] Almost all sponsors of the bill in the State house of representatives either were from counties with potential Negro majorities or counties in which at least one supervisors district had a potential Negro majority. For example, in Oktibbeha County—home of one of the sponsors of the new act—District Five contains about 1,500 more voting-age Negroes than voting-age whites.[17]

In the fall of 1966 the boards of supervisors of Adams and Forrest Counties, pursuant to the new law, ordered that board members be selected at-large at all future elections. In July 1967 Negro residents of both counties filed suits asking a Federal district court to void the statute and set aside the orders. The plaintiffs received an adverse ruling in the district court [18] and the case is pending on appeal to the Supreme Court.[19]

Alabama

Registration in Alabama also has been affected substantially by the Voting Rights Act. Within two weeks after passage of the Act, six Alabama counties were designated for Federal examiners. Subsequently, six

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[16] Memorandum of the Lawyers' Committee for Civil Rights Under Law, Mississippi Legislation, Regular Session 1966: Elections 1–2 (August 1966) [hereinafter cited as Lawyers' Committee Legislation Memo]. The memorandum concludes:

> The amendment . . . helps counties like Oktibbeha. In an at-large election a Negro candidate running in a county where at least three beats [districts] are white has little chance . . . of getting on the board. He would be defeated by the white bloc vote.

[17] Id. at 2.

[18] Marsaw v. Patterson, Civil No. 1201W, S.D. Miss., Oct. 5, 1967 (Adams County); Fairley v. Patterson, Civil No. 2205H, S.D. Miss., Oct. 5, 1967 (Forrest County). The complaints—almost identical in their wording—set out two claims for relief. First, the plaintiffs charged that the statute was being enforced in contravention of Section 5 of the Voting Rights Act of 1965, which voids any "standard, practice or procedure with respect to voting" passed by a State covered by the Act unless that State first has obtained approval from the Attorney General of the United States or the United States District Court for the District of Columbia, 42 U.S.C. § 1973(c) (Supp. II, 1967). Second, they alleged that the statute and the orders had the purpose and effect of abridging on account of their race, votes of Negro residents of the two counties, preventing the election of Negro candidates to county boards of supervisors, and deterring potential Negro candidates from running for the office. The plaintiffs contended that the purpose and effect of the new laws would be the same in all counties, like Adams and Forrest, where there was a countywide white voting majority, but a Negro voting majority in one or more individual supervisors districts.

Prior to trial the plaintiffs amended their complaints to delete the second claim for relief, reportedly for reasons of trial strategy. Letter from Denison Ray, Chief Counsel of the Lawyers' Committee for Civil Rights Under Law, to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Oct. 22, 1967. After a hearing on the two cases on Oct. 3, 1967, a three-judge Federal district court ruled that Section 5 of the Voting Rights Act was not applicable to the challenged legislation.

[19] Fairley v. Patterson, *appeal docketed,* 36 U.S.L.W. 3315 (U.S. Feb. 6, 1968) (No. 1058).

more counties were so designated. By the time of the primary election on May 3, 1966, Federal examiners had listed 59,063 Negro applicants.[20] In the wake of the increased Negro registration, some local Democratic Party executive committees which formerly elected their members by district switched to elections at-large.[21]

BARBOUR COUNTY.—As a result of voter registration following passage of the Voting Rights Act of 1965, Negro registrants became a majority in four beats (districts) in Barbour County, Alabama.[22] In March 1966 the county Democratic executive committee altered the method of selecting its members by converting from election by beats or districts to countywide election. Conversion to the new method was made 16 days after six Negroes had qualified as candidates for committee membership.

When the six Negro candidates were defeated in the May 1966 primary election—held countywide under the new rule—they brought suit in Federal district court attacking the action of the committee. Answering the complaint, the committee argued that the change had been made to comply with the constitutional principle that elected public officials must represent equal, or nearly equal, population areas. Looking at the context of the change the court termed this justification "nothing more than a sham." [23] It held that the change was racially motivated and "born of an effort to frustrate and discriminate against Negroes in the exercise of their right to vote" in violation of the 15th amendment and enjoined the committee from holding future elections under the new scheme.[24]

MONTGOMERY COUNTY.—In similar fashion, the January 29, 1966 resolution of the Montgomery County Democratic Executive Committee ordering the 1966 primary election changed the method of selecting committee members from precinct to countywide elections.[25]

According to a representative of a Montgomery County civil rights organization, Negroes constituted a majority of the registered voters in several precincts in the county by the time of the primary election.[26] The practical effect of the January resolution was to deny these voters the opportunity to elect Negro committeemen.[27] The chairman of the committee, who took office after the resolution was passed, told a Commission

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[20] U.S. Civil Service Commission, Cumulative Totals on Voting Rights Examining, Apr. 30, 1966.

[21] In Alabama State law permits parties to establish rules governing elections to party office. Ala. Code, tit. 17, § 336 (1958).

[22] Information on Barbour County taken from the Findings of Fact in Smith v. Paris, 257 F. Supp. 901 (M.D. Ala. 1966).

[23] Id. at 905.

[24] Id. at 904.

[25] Resolution of the Montgomery County Democratic Executive Committee § 3(A), Jan. 29, 1966.

[26] Interview with E. D. Nixon, president of the Montgomery County NAACP, Nov. 10, 1966. Montgomery County was designated for appointment of a Federal voting examiner on Oct. 1, 1965. By Jan. 29, 1966, a total of 9,344 Negro applicants had been listed by the examiner. U.S. Civil Service Commission, Cumulative Totals on Voting Rights Examining, Jan. 29, 1966.

[27] Nixon interview.

staff member that the purpose of the change was to correct malapportionment and provide all voters in the county with an equal voice in the selection of committee members. He conceded, however, that the effect of the change would be to prevent the election of Negro committeemen in precincts with a majority Negro registration.[28]

Consolidating Counties

Another device which can have the effect of diluting the Negro vote is the consolidation of counties having Negro voting majorities with counties having white voting majorities.

Less than a week after the June 1966 primary election, the Mississippi Senate and House of Representatives, respectively, passed a resolution submitting to the voters a constitutional amendment to permit the legislature by a two-thirds vote to consolidate adjoining counties.[29] Formerly, counties could be consolidated only if a majority of voters in the affected counties voted for consolidation.[30] The amendment was approved by the electorate of the State in a statewide referendum on November 8, 1966.

The legislative history of the amendment suggests that the legislature was motivated by racial considerations in approving the resolution. The measure passed the house in March,[31] but was tabled in the senate in May.[32] In the June 7 primary the Negro candidate for U.S. Senator sponsored by the Mississippi Freedom Democratic Party—an independent Negro political organization—won majorities in two counties, including Claiborne County. The next day, Senator P. M. Watkins of Claiborne County revived the county consolidation proposal.[33] Opponents of the resolution contended that it was designed to permit consoli-

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[28] Interview with Truman M. Hobbs, chairman of the Montgomery County Democratic Executive Committee, Nov. 11, 1966.

Previously, on Jan. 11, 1963—less than two months after a Federal district court had found that there had been racial discrimination in the registration of voters in Montgomery County and issued an injunction barring further discrimination, United States v. Penton, 212 F. Supp. 193 (M.D. Ala. Nov. 20, 1962)—the Montgomery City Democratic Executive Committee had adopted a resolution altering the method of choosing committeemen from election by ward to a citywide vote. The present chairman of the committee denied that the measure was designed to discriminate against Negro candidates. Letter from Jesse M. Williams, Jr., chairman of the Montgomery City Democratic Executive Committee, to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, May 9, 1967.

[29] House Concurrent Resolution 36, Miss. Const., art. 14, § 271 (Supp. 1966), passed June 10, 1966.

[30] See Miss. Const., art. 14, § 271 (1942).

[31] New Orleans Times-Picayune, Mar. 31, 1966, at 1.

[32] New Orleans Times-Picayune, May 24, 1966, at 21.

[33] Jackson Daily News, June 8, 1966, at 1A, 16A; Clarion-Ledger (Jackson, Miss.), June 9, 1966, at 1A, 16A; New Orleans Times-Picayune, June 9, 1966, at § 2, p. 14.

dation of counties heavily populated by Negroes with predominantly white counties. "All they're trying to do is avoid a few Negro votes," charged Senator E. K. Collins of predominantly white Jones County.[34] Collins also argued that the bill was being revived in the senate "just because a few Niggers voted down there [in Claiborne County]." [35] Senator Ben Hilbun of predominantly white Oktibbeha County, who also opposed the measure, commented during the senate debate: "We get so concerned because some Negroes are voting in a few counties, we are going to disrupt our entire institutions of government."[36]

A proponent of the amendment, Senator Bill Corr from predominantly Negro Panola County, told the senate that he had abandoned his former opposition to the bill because "a lot of things have happened" in the meantime.[37] He referred to the primary victory of Lucius D. Amerson, Negro candidate for sheriff in Macon County, Alabama, and to the results of Mississippi's congressional primaries the day before.[38]

The Mississippi Freedom Democratic Party and several Negro plaintiffs have challenged the constitutionality of the amendment in Federal court, charging among other things that its purpose and effect is to permit counties to be combined to dilute the Negro vote and, by eliminating counties with Negro voting majorities, prevent the election of Negro candidates.[39] As of March 1, 1968, the case had not yet been decided by the Federal district court. No action had been taken to combine any of Mississippi's counties.

Reapportionment and Redistricting Measures

City dwellers and suburbanites long have had their votes diluted by legislative malapportionment and maldistricting. The apportionment and districting processes also are potent weapons for dilution of Negro votes. In the South, there is evidence that these processes are being used in some areas for this purpose.

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[34] Id.
[35] Id.
[36] Id.
[37] Id.
[38] Id. Press reports indicate that speakers for the bill generally represented predominantly or largely Negro areas while opponents of the measure generally came from predominantly white counties.
[39] Mississippi Freedom Democratic Party v. Johnson, Civil No. 4082, S.D. Miss., filed Jan. 24, 1967. The complaint also charges that the measure violates Section 5 of the Voting Rights Act of 1965. The provisions of Section 5 are summarized, note 18 supra.

Alabama

In 1962, a three-judge Federal district court, in a decision affirmed by the Supreme Court, held that malapportionment in the Alabama Legislature violated the equal protection clause of the 14th amendment. The court rejected two measures passed by the Alabama Legislature because they failed to correct the inequities, but ordered into effect a combination of the two plans as a provisional measure until the legislature passed a constitutional scheme.[40]

The Alabama Legislature did not pass further reapportionment legislation until its Second Special Session in the fall of 1965 [41]—six weeks after passage of the Voting Rights Act of 1965—when a new apportionment plan consisting of two acts was signed into law. The three-judge court held the act providing for reapportionment of the State senate constitutional, but ruled the act reapportioning the house invalid.[42]

The main objection to the senate plan was that it provided for one district which comprised a population 25.7 percent greater than the average.[43] This deviation, the court ruled, was justified because it maintained the integrity of the county unit and minimized the number of multi-member districts. Noting that strong inferences of a legislative purpose to prevent the election of Negroes to the State senate could be drawn, the court nevertheless concluded that inferences indicating a legitimate purpose were equally justifiable.

The court found, however, that 21 districts in the house deviated irrationally by more than 10 percent from the population norm, and that the house scheme violated the State constitutional prohibition against multi-member districts. In addition, the court held "that the legislature intentionally aggregated predominantly Negro counties with predominantly white counties for the sole purpose of preventing the election of Negroes to House membership." [44]

The plan grouped predominantly Negro Macon County and predominantly white Elmore and Tallapoosa Counties into a single house district allotted three representatives, with the stipulation that the district delegation must include residents of each county but be elected by a

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[40] Sims v. Frink, 208 F. Supp. 431 (M.D. Ala. 1962), *aff'd sub nom.* Reynolds v. Sims, 377 U.S. 533 (1964).

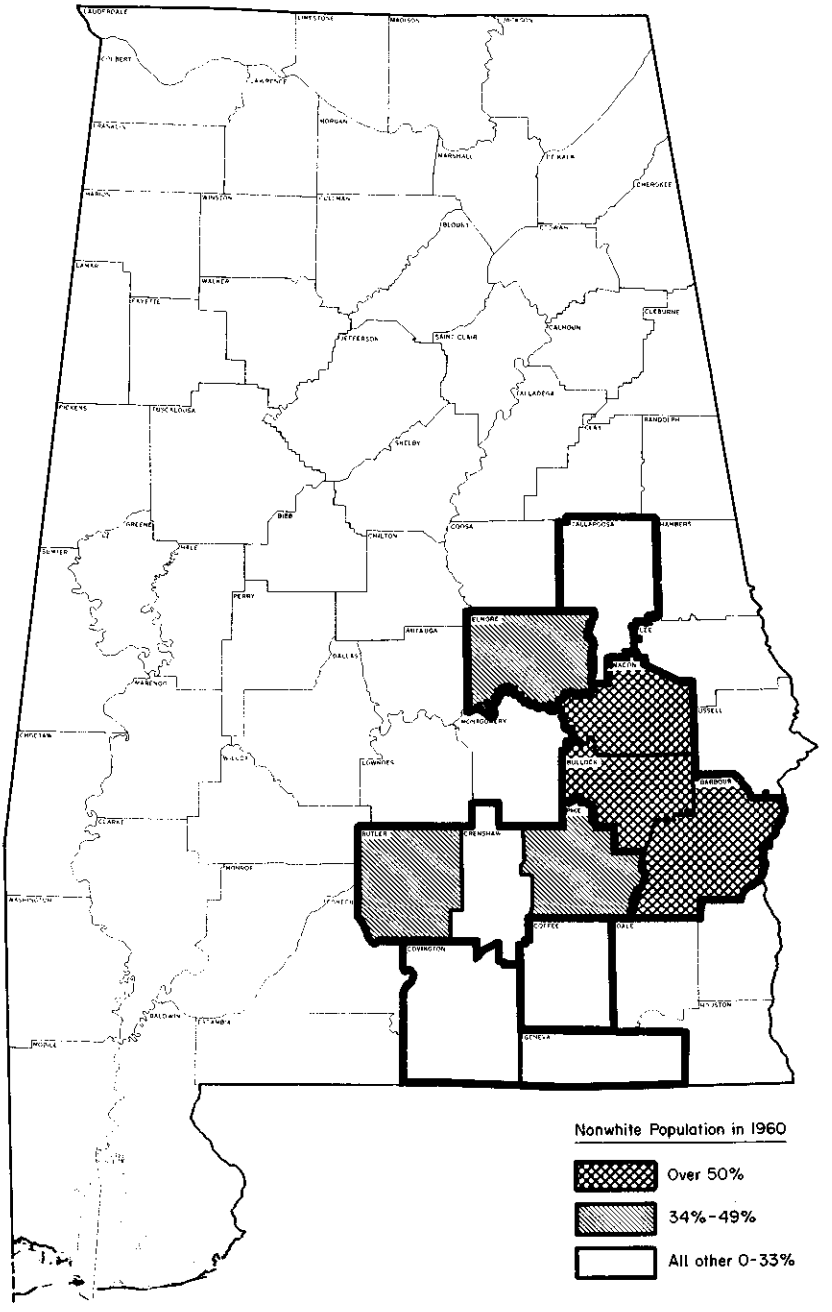
[41] Ala. Acts 1965, 2d Sp. Sess., No. 47, p. 69 (senate) and No. 48, p. 70 (house of representatives).

[42] Sims v. Baggett, 247 F. Supp. 96 (M.D. Ala. 1965).

[43] The population mean, or norm, is reached by dividing the total State population by the number of seats in the legislative house to be apportioned.

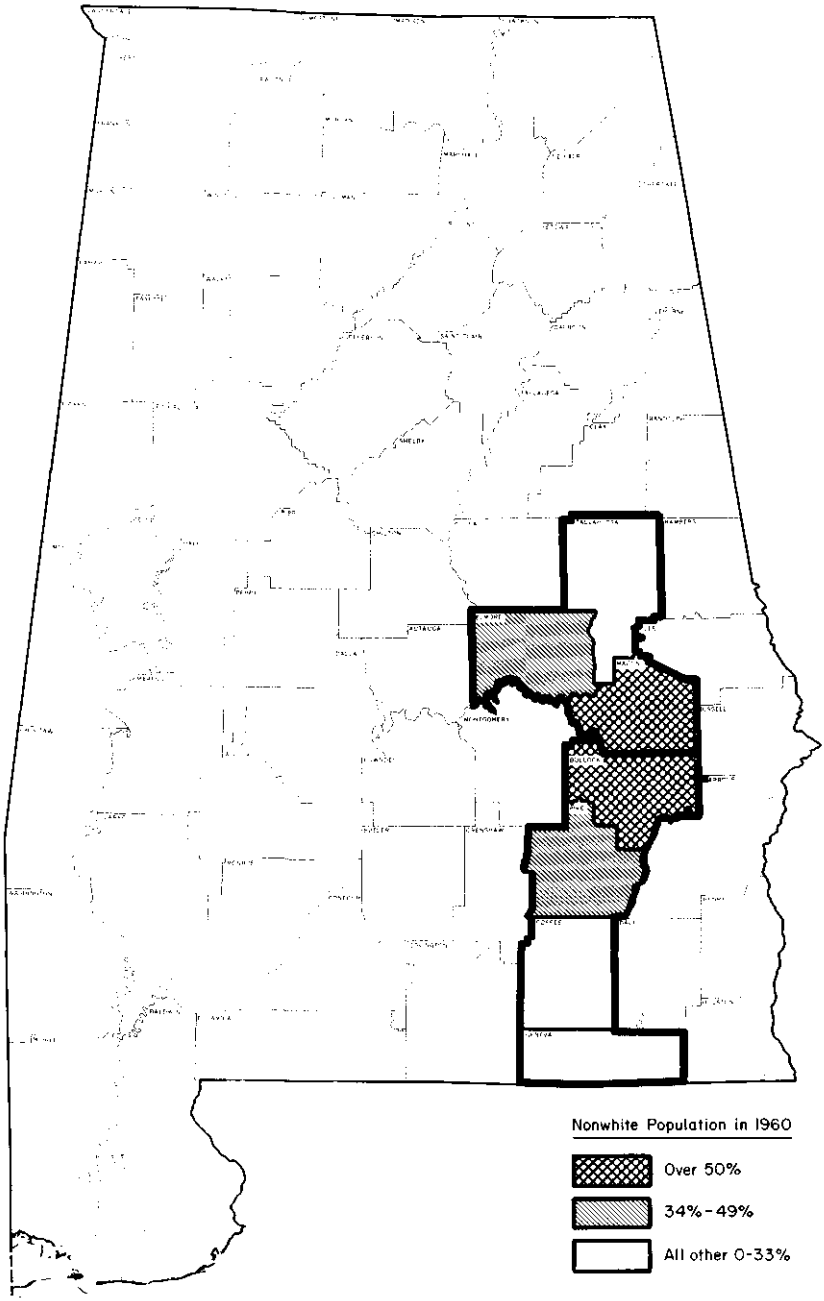
[44] 247 F. Supp. at 109.

This is map #2. Caption is on page 29.



Map No. 1—The State legislature's reapportionment plan for the Alabama House of Representatives, ruled unconstitutional by a Federal district court, combined majority Negro counties with majority white counties to prevent the election of Negroes to the Alabama House. The heavy lines indicate house district lines.

This is map #1. Caption is on page 28.



Map No. 2—The reapportionment plan decreed by the court minimized the number of multi-county, multi-member house districts and created districts of contiguous counties regardless of the Negro population percentage.

majority vote of the entire district. Analyzing the purpose of the plan, the court concluded:

> The conclusion is inescapable that Elmore, Tallapoosa and Macon were combined needlessly into a single House district for the sole purpose of preventing the election of a Negro House member. In the Bullock-Pike-Coffee-Geneva House district to which the Legislature proposes to allot three members, the inference is also clear that there is no purpose other than racial considerations. The obvious effect of this grouping, from a racial standpoint, is to equalize the 71.9% of nonwhite citizens in Bullock County.[45]

Holding that the house plan contravened both the 14th and 15th amendments to the U.S. Constitution, the court declared it invalid and enjoined its enforcement.[46]

Mississippi

The new Mississippi election laws enacted in 1966 included several reapportionment and redistricting statutes which had the effect of diluting Negro voting strength.

In October 1965, before the 1966 regular session of the Mississippi Legislature, the Mississippi Freedom Democratic Party and several Negro plaintiffs filed a complaint in Federal district court attacking the boundaries of the State's congressional districts and the apportionment of the seats in both houses of the State legislature on grounds of racial discrimination and gross disparity of population between districts.[47] Before a three-judge Federal district court was convened to hear the case, the legislature enacted a bill redrawing the boundaries of the five congressional districts.[48] The plaintiffs then amended their complaint to challenge the validity of the new legislation on the ground that it was racially

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[45] Id. (footnote omitted). Referring to the recent passage of the Voting Rights Act, the assignment of Federal examiners to the State, the history of racial discrimination in Alabama, and that State's denial to Negroes of constitutionally protected voting rights, the court observed:

> The House plan adopted by the all-white Alabama Legislature was not conceived in a vacuum. If this court ignores the long history of racial discrimination in Alabama, it will prove that justice is both blind and deaf.
>
> . . . .
>
> In the present case, we have a situation where nonwhites have been long denied the right to vote and historically have not been represented by nonwhites in the councils of state.

[46] On Oct. 4, 1965, the district court decreed a plan of apportionment for house of representatives districts in the Nov. 8, 1966 general election.

[47] The description of the complaint and amended complaint is taken from the opinion of the district court and papers filed in the case. Connor v. Johnson, 11 Race Rel. L. Rep. 1859 (S.D. Miss. 1966).

[48] House Bill No. 911, Miss. Laws, 1966, ch. 616, approved Apr. 7, 1966, codified as Miss. Code § 3305 (Supp. 1966).

motivated, that the redistricting did not follow the boundaries of the economic, geological, and geographic regions of the State, and that the effect of the plan was to deprive Mississippi Negroes of the opportunity for congressional representation by at least one Negro Congressman. The complaint alleged that Mississippi Negroes were entitled to be represented by a Negro Congressman since they constituted 43 percent of the State's population.

Rejecting these contentions, the district court held that in evaluating the constitutionality of the redistricting plan, it could consider only whether population disparities between districts violated constitutional requirements. Because the variation in population among the five districts was no greater than 3.2 percent from the population norm, the court held that the population disparity was not unconstitutional.[49] The court also commented that the plaintiffs had failed to prove that the drawing of the district boundaries was racially motivated [50] and found no indication that the effect was to dilute or negate Negro votes.

The plaintiffs then appealed to the U.S. Supreme Court. They argued that the new legislation

> creates five congressional districts in each of which the white vote will, presently and in the foreseeable future, outweigh the Negro vote, and thus preserves a white majority in all five of the state's congressional districts, despite a 43% Negro population in the state as a whole, which is largely concentrated in one compact and geographically discrete section of the state.[51]

Citing legislative history, the plaintiffs observed that the act was a compromise between a senate plan which would have given one district a substantial Negro majority, and a house plan which would have precluded a nonwhite majority in any district. They noted that although the act provided for a nonwhite majority in one district, Negro voting strength would not predominate even there because eligible white voters outnumbered eligible nonwhite voters. The act divided the Delta region of western Mississippi (where most of the State's Negro population lived and which traditionally had been considered an historic, geographic, and economic unity) into three new congressional districts.[52] The plaintiffs

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[49] 11 Race Rel. L. Rep. at 1863.

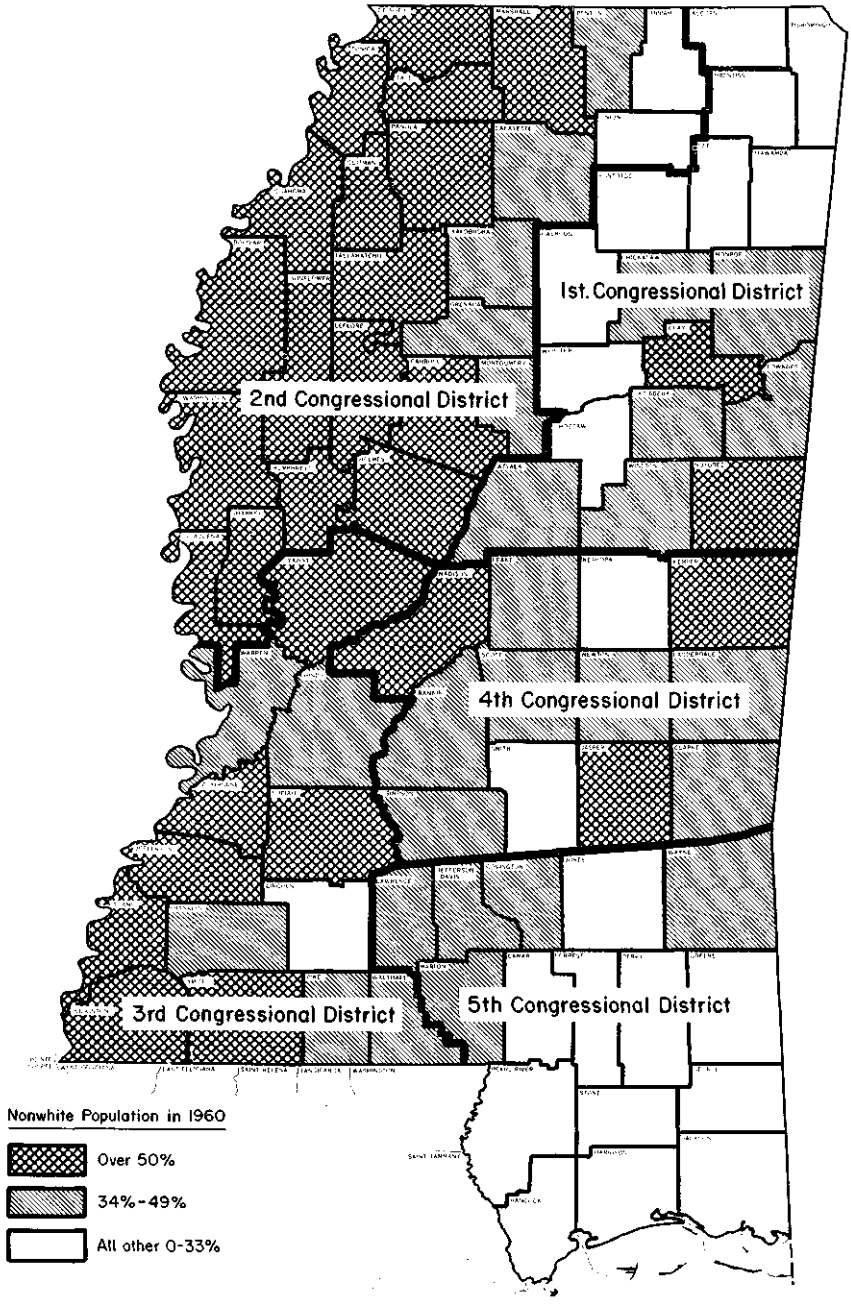
[50] Id. at 1862. "They proved that there were newspaper reports as to what a few legislators thought or said, but the solemn acts of the Congress or of State legislatures may not be impeached or invalidated on nothing more than newspaper reports." (Citation omitted.)

[51] Appellants' Jurisdictional Statement at 4, Connor v. Johnson, 386 U.S. 483 (1967).

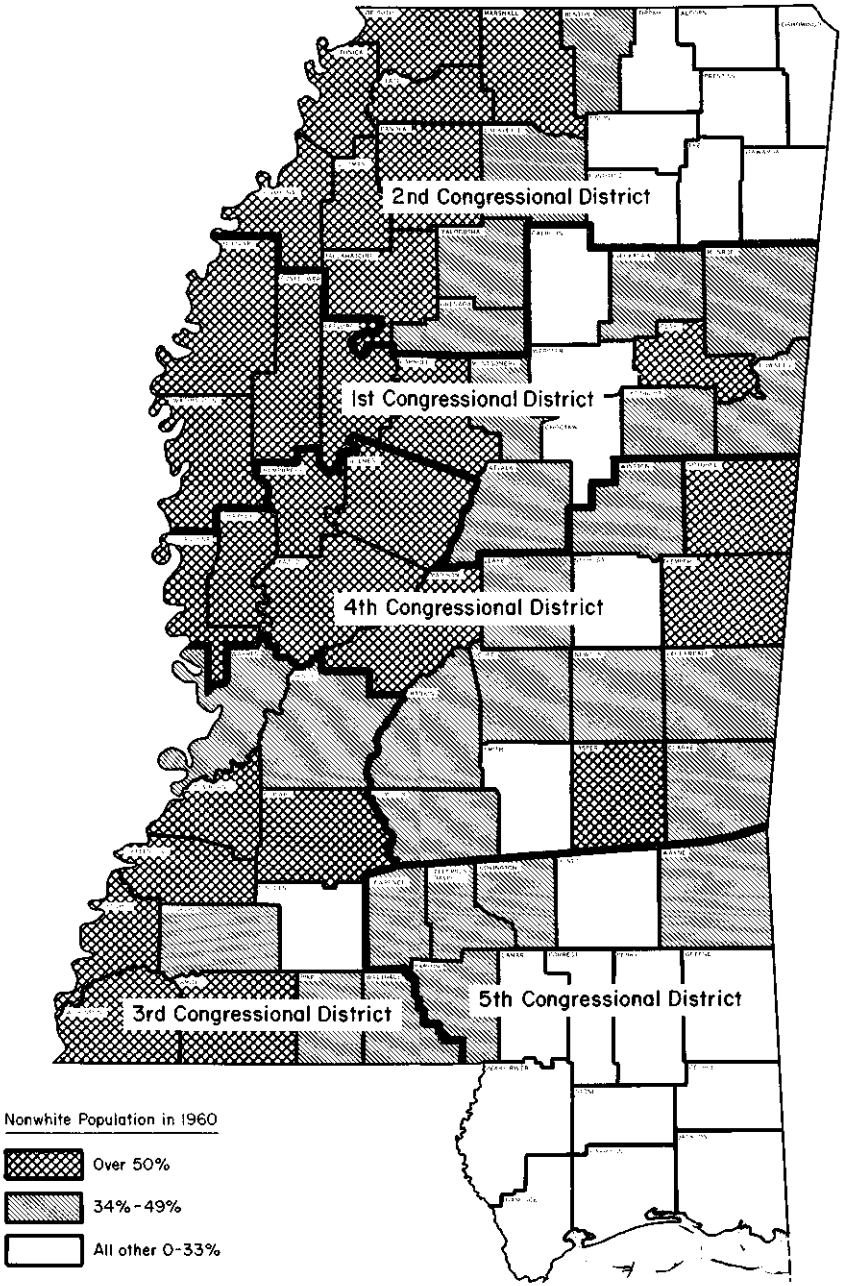
[52] This move, plaintiffs contended, not only had a racial effect, but also showed the racial motivation of the legislature:

> As long as Negroes were directly denied the franchise, this caused no problem in the establishment of voting districts. Once Negroes in Mississippi obtained the legal right to vote . . . their majority status in the Delta became a threat to those previously in political control of the state. The present gerrymandering of districts followed.

Id. at 7.



Map No. 3—Prior to the 1966 re-drawing of Congressional district lines by the Mississippi Legislature, the 2nd Congressional District covered most of Mississippi's Delta region and contained more than half of the majority Negro counties in the State.



Map No. 4—The 1966 Congressional redistricting plan adopted by the State legislature divided the Delta counties among three new Congressional districts, excluding from the new 2nd Congressional District nine majority Negro counties which had been in the old 2nd District.

argued that additional evidence of racial motivation could be found in a newspaper account of debates in the Mississippi House of Representatives on the bill, indicating that supporters as well as opponents of the measure viewed the division of the Delta as a means of diluting the substantial Negro vote.[53]

The defendants argued in the Supreme Court that the district court's finding that the legislation had no racial purpose or effect could be overturned only if it were "clearly erroneous." They contended that the Delta region previously had been divided into electoral districts for the election of State supreme court justices and for the election and appointment of members of several State commissions and administrative agencies.[54] Without hearing oral argument, the Supreme Court summarily affirmed the lower court judgment without opinion, one Justice dissenting.[55]

The Federal district court took no action on the section of the plaintiffs' complaint challenging the apportionment of seats in the Mississippi Legislature until the end of the regular session, whereupon the court, finding "disparities [in apportionment] that defy rational explanation," [56] held the apportionment in conflict with the equal protection clause of the 14th amendment and directed the legislature to enact a fair apportionment by December 1, 1966.

A special session of the legislature, convened in November 1966, passed a bill reapportioning the seats in both houses, and the bill was approved by the Governor on the December 1 deadline.[57] In several instances, the legislature combined counties in which Negroes constituted a majority of the population and a majority of the registered voters in legislative districts with counties having white population and voting majorities. For example, majority Negro Claiborne County was joined in a senatorial district with majority white Hinds County. Jefferson County, with a 70

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[53] "Did the Negro situation enter in this redistricting plan?" asked Rep. Odie Trenor. . . . When he go not answer to his question he said, "we all know the Negro situation was the main factor."

Rep. Thompson McClellan of Clay said, "When this bill is attacked in the courts they're going to look into what areas were moved, where they were moved and for what purposes they have been moved. They were moved so there shall not be a majority of certain groups in a district. The courts will consider a similar case and they'll throw this out. We will have congressmen elected at-large or by districts fixed by the Supreme Court.

"This patently was drawn in a manner to devalue the vote of a certain group of people."

Backers of the plan did not deny that the Delta area was split up to divide the heavy Negro vote.

Id. at 10 quoting Jackson Daily News, Jan. 14, 1966.

[54] Appellees' Motion to Dismiss or Affirm, Connor v. Johnson, 386 U.S. 483 (1967).

[55] 386 U.S. 483 (1967). Mr. Justice Douglas was of the view that probable jurisdiction should have been noted and the case set down for oral argument.

[56] Connor v. Johnson, 256 F. Supp. 962, 966 (S.D. Miss. 1966).

[57] Senate Bill No. 1504, Miss. Laws 1966–67, Sp. Sess., ch. 41, Miss. Code §§ 3326, 3327 (Supp. 1966).

percent Negro population and a Negro voting majority, was combined with Lincoln County, which has a population 69 percent white.[58] In both cases the resulting district had a majority white population.

The three-judge district court reconvened to consider objections to this new legislation but, consistent with its earlier position that no factors other than population disparity were to be considered,[59] examined only the population characteristics of the new districts. It held the new legislation unconstitutional because of "glaring variations" in population figures among both house and senate districts,[60] and redrew the district lines itself.[61] Under the court's plan, only six senatorial districts and only two house districts varied more than 10 percent from the population norm. Although the court stressed that it was disregarding racial considerations entirely, the effect of the court's reapportionment was to undo several districts which had combined predominantly Negro with predominantly white counties.[62] On appeal the Supreme Court affirmed the district court's decision in a memorandum opinion without receiving briefs or hearing oral argument.[63]

Full-Slate Voting

During the field work for this report, Negro political and civil rights leaders complained about other State legislation apparently not designed

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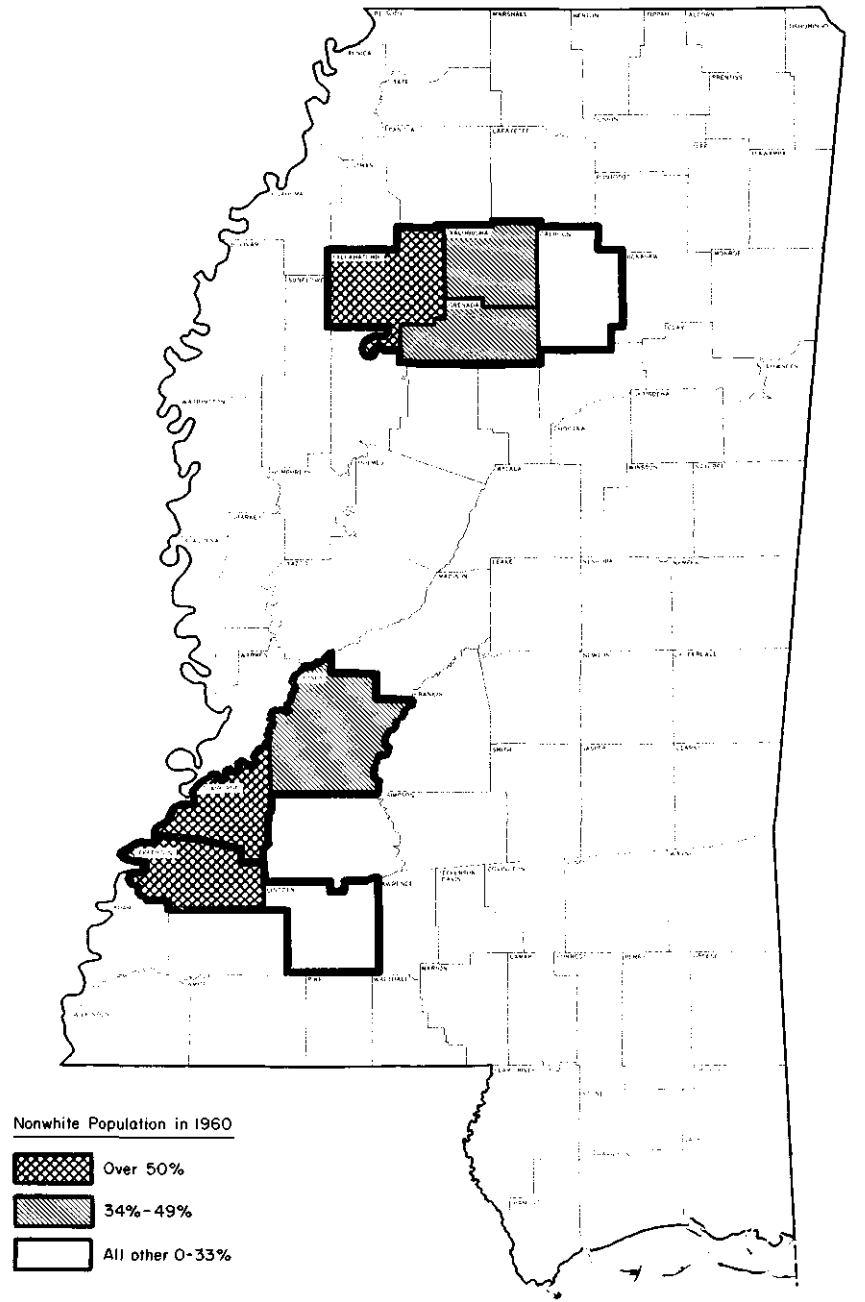
[58] Connor v. Johnson, 265 F. Supp. 492, 500 (S.D. Miss. 1967).
[59] Id. at 493.
[60] Id.
[61] Id. at 494.
[62] Id. at 498–99.
[63] 386 U.S. 483 (1967). In other Southern States reapportionment laws enacted prior to the Voting Rights Act of 1965 also have been challenged on the ground that their purpose and effect was to dilute the Negro vote. In each case, however, the courts either have ruled against the plaintiffs or have held that the issue was not properly presented.

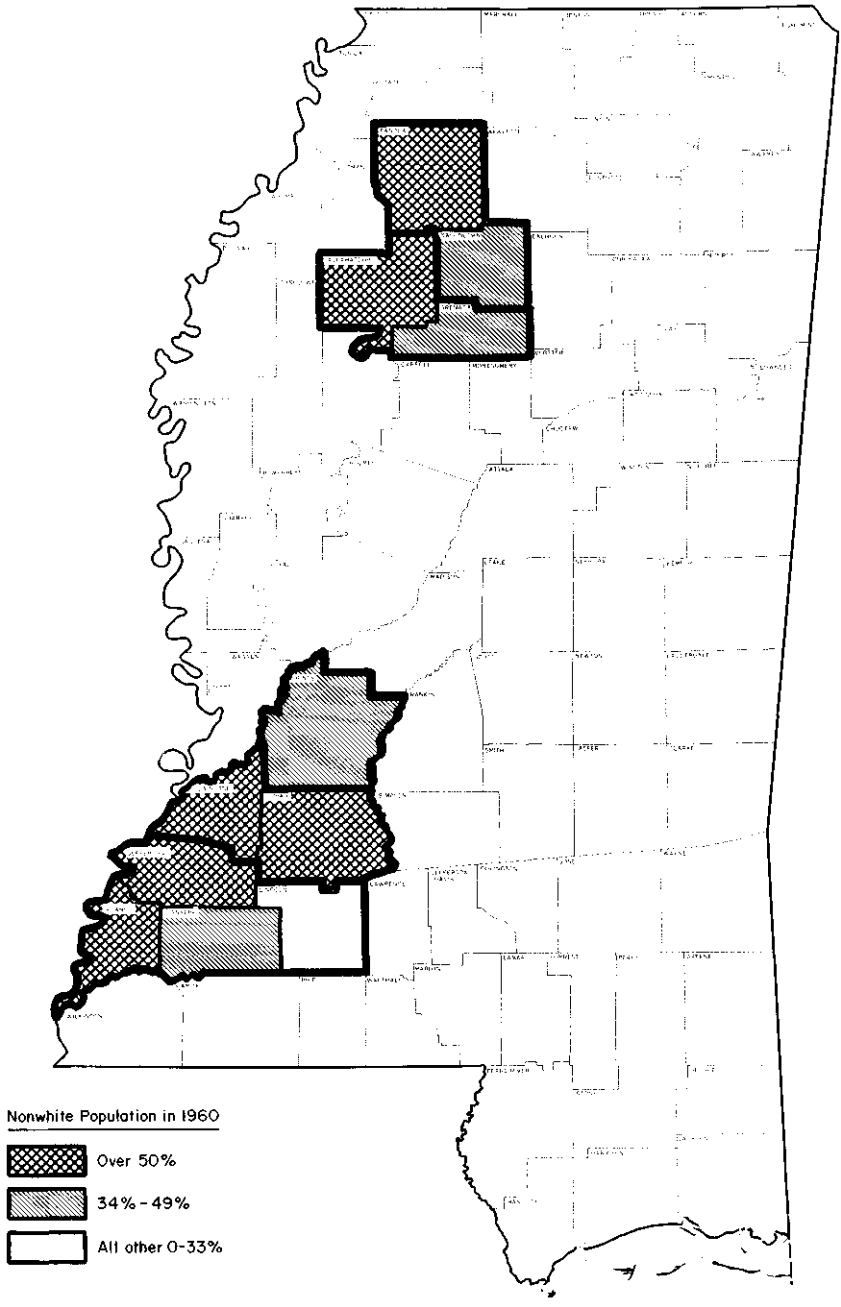
In Fortson v. Dorsey, 379 U.S. 433 (1965), the U.S. Supreme Court upheld a Georgia apportionment plan which provided for the election on a countywide basis of all senators whose districts were located within a county; the Court did not rule on the contention that the countywide election method was intended to minimize the strength of racial and political minorities in the populous urban counties, holding that the issue was not properly presented by the record.

In Mann v. Davis, 245 F. Supp. 241 (E.D. Va. 1965), *aff'd sub nom.* Burnette v. Davis, 382 U.S. 42 (1965), the Court affirmed a decision upholding a Virginia reapportionment statute which combined the city of Richmond, located in Henrico County, with the rest of Henrico County and provided for the at-large election of the eight city-county representatives to the Virginia House of Delegates, against the claim that it unconstitutionally diluted the votes of Negroes in Richmond. In 1967 Dr. W. Ferguson Reid, a Negro resident of Richmond, was elected to the Virginia House of Delegates.

In 1967 the Court invalidated a 1965 Texas apportionment plan but sustained the district court's judgment rejecting the plaintiffs' argument that multi-member districts were created in certain areas of the State (with single-member districts elsewhere) in order to minimize or cancel out the voting strength of Negroes, as well as liberal Democrats and Republicans. Kilgarlin v. Martin, 252 F. Supp. 404 (S.D. Tex. 1966), *rev'd sub nom.* Kilgarlin v. Hill, 386 U.S. 120 (1967).



Map No. 5—The Mississippi Legislature's reapportionment plan for the State senate combined majority Negro Claiborne, Jefferson, and Tallahatchie Counties with majority white counties to create in areas with heavy Negro population senatorial districts which contained white majorities.



Map No. 6—The Mississippi State Senate reapportionment decreed by the Federal district court voided the State legislature's plan and combined counties to make up senate districts regardless of the racial composition of the counties.

to dilute the Negro vote but allegedly having that effect. One frequently mentioned provision was the full-slate voting requirement. Under this requirement, where there is more than one post to be filled in a particular category, such as school board member, failure to vote for a number of candidates equal to the number of positions to be filled voids the ballot insofar as it applies to the office in question.[64] Full-slate voting creates special problems for Negro voters, who may be forced to vote for white candidates if their votes for a Negro candidate are to be counted, thus diluting the effect of their vote for the Negro candidate.

A Negro candidate in South Carolina, where such a requirement is in force,[65] complained that unless Negroes run in numbers sufficient to occupy all the posts in a given category, the Negro vote for Negro candidates inevitably will be diluted by votes which Negro voters themselves are required to cast.[66] For example, there are 10 at-large Richland County seats in the State house of representatives. According to the complainant, most Negroes in the community oppose contests by Negroes for all the county seats in the State legislature, fearing that such a display of aggressiveness would generate antagonism in the white community. If two or three Negro candidates seek the office, however, Negroes are forced by the statute to vote for seven or eight white candidates as well or their votes will be voided. The Negro votes for the white candidates are added to the votes cast for the white candidates by white voters, thus diluting the vote for the Negro candidates.

Persons attending a meeting of Negro political and civil rights leaders in Rocky Mount, North Carolina, made a similar complaint about the operation of the North Carolina statute.[67]

Zelma Wyche, a Negro candidate for city alderman in Tallulah, Louisiana, complained that as a result of that State's full-slate voting requirement many inexperienced Negro voters were disqualified in the April

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[64] In most States, the single-shot vote for one candidate where two or more candidates are to be elected to a particular office is voided, but this does not affect the validity of the rest of the ballot. See, e.g., Miss. Code § 3110 (Recomp. 1956).

[65] S.C. Code § 23–400.92 (Supp. 1966) provides in relevant part: "*Ballot improperly marked.*—If a voter marks more or less names than there are persons to be elected or nominated to an office . . . his ballot shall not be counted for such office; but this shall not vitiate the ballot, so far as properly marked." This provision is identical to the one in effect at the time of the interviews. Cf. S.C. Code § 23–357 (1962).

[66] Interview with Joseph Stroy, Negro, winner of preferential election for magistrate of Hopkins Township, Richland County, Dec. 5, 1966. Complaints against this provision were also received in interviews with Richard Miles, director of the South Carolina Voter Education Project, Dec. 5, 1966, and Matthew J. Perry, Negro attorney and legal advisor to the Voter Education Project, Dec. 5, 1966.

[67] Complaint received from participants in meeting on Negro voting held in Rocky Mount, N C., July 25, 1967. The North Carolina full-slate voting requirement applies only to county and municipal primary elections in certain political subdivisions named in the statute. N.C. Gen. Stats. § 163–175 (Supp. 1965).

1966 Democratic municipal primary election.[68] Three city aldermen were to be nominated in the primary election. To cast a valid ballot, a voter had to vote for three candidates. Wyche, the only Negro candidate, alleged that many Negroes pulled the lever of the voting machine only once to vote for him. Many Negroes were voting for the first time and, in Wyche's view, received inadequate instructions from the election officials. The disqualifications, he believes, contributed to his defeat.

[68] Interview with Zelma Wyche, Mar. 20, 1967. Bruce Bains, civil rights worker in Madison Parish with the Congress on Racial Equality, and Harrison Brown, secretary of the Madison Parish Voters League, a Negro civil rights and political organization, and Democratic nominee for member of the parish school board in the November 1966 general election, both interviewed Mar. 20, 1967, also expressed the view that a large number of votes cast by inexperienced or illiterate Negro voters inadvertently were voided by the voters in the 1966 elections because of the Louisiana full-slate requirement.

Chapter 2

Preventing Negroes from Becoming Candidates or Obtaining Office

Since the passage of the Voting Rights Act of 1965, measures also have been adopted to prevent Negroes from becoming candidates or obtaining office. These measures include abolishing elected offices, extending the terms of incumbent white officials, substituting appointment for election, increasing filing fees, and otherwise stiffening the requirements for getting on the ballot. In addition, Negroes elected to county office in Mississippi have encountered difficulty in securing the bonds which under State law they must obtain before assuming office. Abortive efforts also have been made to challenge the right of victorious Negro candidates to take their seats.

Abolishing the Office

When Walter Singletary, a prominent Negro farmer in Baker County, Georgia, filed to run for justice of the peace in the predominantly Negro Hoggard Mill district, the post was abolished by the county commissioners.

During the second week of February 1966 Singletary, now deceased, went to the office of the county ordinary and qualified to run for the justice of the peace position vacated by the death of the incumbent.[69] According to the county attorney, Singletary's candidacy created the occasion for the county commissioners to re-evaluate the functions of justices of the peace in Baker County.[70]

The minutes of the county commissioners indicate that on February 22, 1966, a special call meeting was held "at the instance and request of several citizens of the county who expressed their interest in the consolidation of several militia districts in the county into one county-wide district." [71] The minutes record that the question was discussed

[69] County ordinaries in Georgia have a variety of administrative and minor judicial duties, among them holding elections for justice of the peace when a vacancy occurs. Ga. Code § 24-407 (1959).

[70] Interview with Earl Jones, Baker County Attorney, Nov. 16, 1966.

[71] Minutes of the County Commissioners of Baker County, Feb. 22, 1966.

thoroughly and that "[i]t was generally observed that hardly any of the outlying districts actually performed any duties at all." [72] A three-man commission was appointed to consolidate all the militia districts into one countywide district and the next day at another special call meeting the report of the commission was accepted and the change accomplished.[73]

According to the county ordinary the effect of this action was to abolish only the vacant post for which the Negro candidate had filed, since Georgia law prohibits abolition of an office during the term of the incumbent.[74] The action of the county commissioners will not take effect in the other militia districts until the terms of the present justices of the peace expire in 1968. Although the county attorney, in a staff interview, maintained that the move was a reform measure because the county justices of the peace had been doing little business,[75] it was the belief of a Democratic Party official and Negro residents of the county that the change was made to prevent the election of a Negro as justice of the peace.[76]

Extending the Term of Incumbent White Officials

In Bullock County, Alabama the county commissioners are elected to staggered terms. Primary elections to nominate candidates for two county commission seats were scheduled to be held on May 3, 1966. In July 1965, shortly before enactment of the Voting Rights Act of 1965, legislators representing Bullock County, where the Negro voting age population is almost twice as large as the white voting age population, introduced local legislation to extend for two years the terms of office of the Bullock County commissioners. The bill was passed by both houses and approved by the governor on August 20, 1965, two weeks after passage of the Voting Rights Act.[77] The effect of the new law was to cancel the previously scheduled primary election.[78]

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[72] Id.

[73] Minutes of the County Commissioners of Baker County, Feb. 23, 1966.

[74] Interview with Mrs. T. A. Rogers, Baker County Ordinary, Nov. 15, 1966.

[75] Jones interview.

[76] Interviews with Ralph B. Phillips, chairman of the Baker County Democratic Executive Committee, Nov. 15, 1967; Mrs. Grace Miller, member of the Baker County Movement, a Negro civil rights organization, Nov. 14, 1966; and Mrs. Josie Miller, official in the Baker County Movement, Nov. 15, 1967.

[77] Ala. Acts 1965, No. 536. The text of the statute may also be found at 11 Race Rel. L. Rep. 980 (1966). The factual description relating to the passage of the Bullock County statute is taken from the opinion of the Federal district court, cited note 79 infra.

[78] According to a press report, when would-be Negro candidates visited the county courthouse in late February 1966 to qualify to run for the office of county commissioner, they were told that no elections for the office were to be held in 1966. Until then they had been unaware of the change. N.Y. Times, Mar. 12, 1966, at 16.

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An action was brought in Federal district court to void the new law as unconstitutional, and the court, one judge dissenting, issued an injunction against its enforcement.[79] Circuit Judge Rives, in his opinion, concluded that the statute had a racially discriminatory effect:

> Act No. 536 freezes into office for an additional two years persons who were elected when Negroes were being illegally deprived of the right to vote. Under such circumstances, to freeze elective officials into office is, in effect, to freeze Negroes out of the electorate. That is forbidden by the Fifteenth Amendment.[80]

Judge Rives also believed that Section 5 of the Voting Rights Act encompassed any kind of practice with respect to voting, and therefore enforcement of the change embodied in the new legislation, without approval of the U.S. District Court for the District of Columbia or the U.S. Attorney General, contravened that section.

District Judge Johnson, concurring in the decision, believed that the history of voting discrimination against Negroes in the county, taken with the absence of any reasonable explanation for the statute, justified a conclusion that the introduction and passage of the statute were racially motivated.[81]

Substituting Appointment for Election

For many years county superintendents of education in Mississippi were elected at the same time and in the same manner as other county officers.[82] A statute passed after the June 1966 primary election established a mechanism generally applicable throughout the State by which the office may be made appointive. The act itself made the office appointive in certain counties.[83]

Under the new act the voters of a county may require the county board of supervisors to hold an election on the question of whether the school superintendent must be appointed by presenting a petition containing the names of 20 percent of the qualified electors of the county. The act, however, *requires* that the superintendent be appointed by the county board of education in Madison, Holmes, Humphreys, Noxubee, Jefferson, Claiborne, Lincoln, Coahoma, Copiah, and Hancock Counties.[84]

All but two of the counties in which appointment is required by the act have Negro population majorities.[85] Since all county boards of

[79] Sellers v. Trussell, 253 F. Supp. 915 (M.D. Ala. 1966).
[80] Id. at 917 (citations omitted).
[81] Id. at 918–19.
[82] Miss. Code § 6252 (Recomp. 1956).
[83] House Bill 183, Miss. Laws, 1966, ch. 406; Miss. Code § 6271–08 (Supp. 1966).
[84] The statute does not apply to Hancock County until 1972. The school superintendent of Washington County had been made appointive by previous legislation.
[85] Lawyers' Committee Legislation Memo at 21–22. The memo maintains that the act was racially motivated and has the effect of preventing the election of Negro school superintendents.

education affected by the change presently are white and their members are elected to staggered 6-year terms, the bill, by providing that the superintendent is to be appointed by the county board, makes it possible to retain a white superintendent in office for several years (until a Negro majority is elected to the county board) in counties with Negro voting majorities.

In July and August 1967 three suits were filed in Federal district court to enjoin enforcement of the new law and to restrain the county boards of education from appointing county school superintendents in Holmes, Claiborne, and Jefferson Counties. A plaintiff in the Jefferson County action, Seth Ballard, alleged that he intended to qualify and run as a candidate for county superintendent of education in the November 1967 general election. The three-judge Federal district court ruled against the plaintiffs,[86] and the cases are pending on appeal to the Supreme Court.[87]

Another Mississippi statute enacted in 1966 provided that where territory is added to a municipal separate school district, the school trustee representing the supplemental area shall be elected. An exception was made for Grenada County, where Negroes constitute close to a majority of the population. The statute provides in effect that the school trustee representing the area outside the municipality of Grenada must be appointed by the county board of supervisors rather than elected by residents of the area.[88]

Increasing Filing Fees

In at least one Alabama county, filing fees have been raised apparently to preclude Negroes from running for office.

[86] Griffin v. Patterson, Civil No. 4148J, S.D. Miss., Oct. 5, 1967 (Holmes County); Bunton v. Patterson, Civil No. 1204W, S.D. Miss., Oct. 5, 1967 (Claiborne County); Ballard v. Patterson, Civil No. 1200W, S.D. Miss., Oct. 5, 1967 (Jefferson County). The complaints alleged, first, that the new legislation had been passed and enforced contrary to Section 5 of the Voting Rights Act of 1965 (supra note 18), and second, that by making the office of county school superintendent appointive in counties with Negro voting majorities, such as the counties involved in the litigation, the act had the purpose and effect of preventing the election of Negro candidates, and denying or abridging the votes of registered Negroes in those counties. The plaintiffs further contended that all-white or nearly all-white county boards of education, such as those in these three Mississippi counties, had been elected at a time when Negroes were largely denied the ballot due to racial discrimination and that such boards were "not likely seriously to consider the appointment of qualified Negroes to the office of county superintendent of education, thus denying or abridging, on account of race or color, the right of those persons to participate in Government as office-holders."

As in the actions to void legislation permitting at-large election of county boards of supervisors, the second claim for relief subsequently was deleted—according to the plaintiffs' attorney, for reasons of trial strategy. Ray letter, supra note 18.

The three-judge Federal district court, at a hearing on Oct. 3, 1967, held Section 5 of the Voting Rights Act inapplicable to the challenged legislation.

[87] Bunton v. Patterson, *appeal docketed* 36 U.S.L.W. 3315 (U.S. Feb. 6, 1968) (No. 1059).

[88] House Bill 200, Miss. Laws, 1966, ch. 410, amending Miss. Code § 6328–07 (Supp. 1966).

Under the rules of the Alabama Democratic Party, filing fees for most candidates seeking county office are set by the county Democratic executive committee.[89] In February 1966—six months after Lowndes County had been designated for a Federal examiner[90]—the Lowndes County Democratic Executive Committee raised the filing fee for candidates in the Democratic primary tenfold.[91] For example, the filing fee for the office of sheriff was raised from $50 to $500 and for member of the board of education from $10 to $100.

In Lowndes County, where Negroes constitute 81 percent of the population, the per capita income is $507 a year.[92] An attorney for an independent Negro political organization—the Lowndes County Freedom Organization—charged that the increase in filing fees was intended to create an obstacle to Negro candidacy in the Democratic primary.[93] The county solicitor, a member of the white community with experience in local Democratic party politics, also indicated to a Commission staff member that he believed the county committee raised the fees to prevent Negroes from running in the Democratic primary.[94]

Negro candidates in 1966 did not run in the Democratic primary in Lowndes County, but instead ran as independent candidates of the Lowndes County Freedom Organization in the general election. All seven were defeated.[95]

Adding Requirements for Getting on the Ballot

In Mississippi, State statutes have added to the requirements for qualifying as a candidate for the apparent purpose of preventing Negroes from running for office.

For example, a statute passed by the Mississippi Legislature directly after the June 1966 Democratic primary stiffened the requirements for qualifying as an independent candidate in the general election.[96] The new law increased the number of signatures of registered voters required

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[89] Alabama Democratic Party Rules, Rule 16 (adopted July 6, 1962).

[90] Lowndes County was designated for a Federal examiner on Aug. 9, 1965, U.S. Commission on Civil Rights, The Voting Rights Act . . . The First Months 49 (1965).

[91] Interview with Carlton L. Perdue, county solicitor of Lowndes County, Nov. 8, 1966. See also N.Y. Times, Mar. 12, 1966, at 16.

[92] U.S. Bureau of the Census, 1960 Census of Population, Supplementary Report PC (51)-48, Table 3 at 8. Per capita income figure is as of 1959.

[93] Interview with Morton Stavis, attorney for the Lowndes County Freedom Organization, Nov. 7, 1966.

[94] Perdue interview.

[95] Birmingham Post-Herald, Nov. 10, 1966, at 44.

[96] House Bill 68, Miss. Laws, 1966, ch. 614, amending Miss. Code § 3260 (Recomp. 1956), approved June 15, 1966.

on the nominating petition;[97] required each elector "personally" to sign the petition and include his polling place and county;[98] required independent candidates to file their petitions before or on the day of party primary elections,[99] and disqualified any person voting in a primary election from running as an independent candidate in the general election. As of November 1967, 19 independent Negro candidates reportedly had been disqualified under this statute, most under the provision disqualifying a person who votes in a primary from running as an independent in the general election.[100]

After the bill became law three Negro members of the Mississippi Freedom Democratic Party sought to qualify as independent candidates in the general election for the offices of U.S. Senator and Member of the U.S. House of Representatives.[101] Two, Clifton Whitley and Dock Drummond, had been defeated in the June Democratic primary. The three attempted to file their nominating petitions with the Mississippi secretary of state during the last week of September, but the petitions were rejected, solely or in part on the ground that none of them contained the number of signatures required by the new law.

Whitley's petition as a prospective candidate for U.S. Senator contained 3,540 signatures, of which 2,055 were certified by county registrars. The old statute had required only 1,000 signatures to qualify; the new statute required 10,000. The two prospective candidates for U.S. Representatives, Dock Drummond and Emma Sanders, had 537 signatures, of which 449 were certified, and 386 signatures, of which 218 were certified, respectively. The former statute required 200 signatures to qualify as a candidate for this office, while the new statute required 2,000.

The three aspirants to office then sued in Federal district court to void the new law, alleging that its purpose and effect were to abridge on ac-

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[97] Under the new law, for an office elected by voters of a county, senatorial district, supervisors district, or municipality having a population of 1,000 or more, the petition must contain the signatures of 10 percent of the voters of the political subdivision or the signatures of at least 500 voters, whichever is the lesser. For an office elected by the voters of a supervisors district or a municipality with less than 1,000 population, the petition must contain the signatures of 10 percent of the voters of the subdivision. Formerly, there were no such percentage requirements. Candidates in the first category needed the signatures of only 50 voters; candidates in the second category needed the signatures of only 15 voters. Cf. Miss. Code § 3260 (Recomp. 1956).

[98] Formerly, the petition only had to be "signed by . . . qualified electors." Miss. Code § 3260 (Recomp. 1956). On appeal, plaintiffs challenging this statute contended that the new provision was open to the construction that handwritten signatures were required even from illiterates. Appellants' Jurisdictional Statement, Whitley v. Williams, cited note 104 infra.

[99] Formerly, independent candidates could qualify up to 40 days prior to the general election. Miss. Code § 3260 (Recomp. 1956).

[100] Delta Ministry Reports, November 1967.

[101] Factual description taken from the complaint and the opinions of the Federal district court in Whitley v. Johnson, infra.

count of their race their right to run as independent candidates and discriminatorily to abridge the right of Negro voters to vote for candidates of their choice.[102] They also asserted that the statute was being enforced in violation of Section 5 of the Voting Rights Act of 1965.

Prior to the November 1966 general election the plaintiffs obtained a temporary injunction allowing their names to appear on the ballot, but the court did not pass on the substantive questions presented.[103] In the general election, all plaintiffs were defeated. Subsequently, to expedite the case, the plaintiffs by stipulation eliminated their claim that the statute was racially discriminatory and rested their case on the charge that the statute was being enforced in violation of Section 5 of the Voting Rights Act. A three-judge Federal district court rejected this claim, and the case is now on appeal to the U.S. Supreme Court.[104]

Two Mississippi statutes of local application passed during the 1966 regular session barred from the county boards of education in Coahoma, Washington, and Leflore Counties anyone not a resident freeholder and the owner of real estate valued at $5,000 or more.[105] The requirements for a county board candidate in other counties remain what they were previously, i.e., he "must be a bona fide resident and a qualified elector of . . . [the] school district." [106] Census figures indicate that in the affected counties many more white persons than Negros own their residences.[107] In the three counties white persons own almost twice as many of the owner-occupied dwellings as nonwhites, even though whites comprise a minority of the population in each county. More than 55 percent of the white homes in these counties, but less than 10 percent of the nonwhite homes, are owner-occupied. In Leflore County, where Negroes make up approximately 65 percent of the population, less than 5 percent of the nonwhite residences are owned by their occupants as contrasted with more than 45 percent of the white residences.

In its 1966 regular session the Mississippi Legislature also enacted legislation which made it more difficult to qualify as a candidate for the office of school district trustee.

In Mississippi the governing body of a municipal separate school district is the board of trustees.[108] School district trustees are elected at

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[102] Whitley v. Johnson, Civil No. 4025, S.D. Miss., filed Oct. 20, 1966.

[103] Whitley v. Johnson, 260 F. Supp. 630 (S.D. Miss. 1966).

[104] Whitley v. Johnson, Civil No. 4025, S.D. Miss., Oct. 31, 1967, *appeal docketed sub nom.* Whitley v. Williams, 36 U.S.L.W. 3349 (U.S. Mar. 5, 1968) (No. 1174).

[105] House Bills 275 and 1074, supra note 13. The Lawyers' Committee Legislation Memo concludes that the purpose of these provisions was to discriminate against Negroes. Id. at 18.

[106] Miss. Code § 6328–07(f) (Supp. 1966).

[107] Data from U.S. Bureau of the Census, U.S. Census of Housing: 1960, Vol. 1, States and Small Areas, Mississippi, Final Report HC (1)–26, Table 33 (1961); U.S. Bureau of the Census, U.S. Census of Population: 1960, General Population Characteristics, Mississippi, Final Report PC (1)–26B, Table 28 (1961).

[108] The powers of boards of trustees of school districts are set out at Miss. Code § 6328–24 (Supp. 1966).

a mass meeting which all registered voters residing within the school district are eligible to attend.[109] Meetings for this purpose must be held at a school within the district on the first Saturday in March. Prior to enactment of the new statute, there was no formal procedure for qualifying to run.[110] Candidates were nominated at the mass meeting and elected by secret ballot. There was a run-off election if no candidate received a majority. The new legislation required candidates to submit a nominating petition containing the certified signatures of 25 voters 10 days before the scheduled election even though public notice of the election was not to be given until one week before the election.[111]

Soon after passage of the bill five Negroes from Clay and Bolivar Counties filed a complaint in Federal district court seeking a temporary restraining order and an injunction against its enforcement.[112] When the new law went into effect on February 21, candidates for school district trustee had less than 48 hours to qualify because they had to submit their nominating petitions by February 23 for the election which was set for March 5. The plaintiffs contended that no newspaper in the State had published a story about the new qualification requirement prior to the filing deadline, and only one government official had publicized the new requirement. One of the complainants alleged that she had experienced difficulty in getting information from official sources on how to qualify.[113]

The plaintiffs also attacked the statute for not requiring notice of the pending election until after the deadline for qualifying as a candidate. They argued that this provision, as well as the nominating petition requirement, deprived them of due process of law as guaranteed by the 14th amendment. They further contended that the purpose and effect of the statute was to maintain white political supremacy in the State by excluding Negro candidates from the 1966 school trustee elections and by depriving Negro voters of the right to vote for Negro candidates.

A temporary restraining order against enforcement of both statutes was issued by the court,[114] and the plaintiffs were permitted to qualify and run. All were defeated overwhelmingly, however,[115] and the plaintiffs withdrew their complaint.[116]

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[109] Miss. Code § 6328–09 (Supp. 1964).
[110] Id.
[111] House Bill 446, Miss. Laws, 1966, ch. 411, approved Feb. 21, 1966, and Senate Bill 1880, Miss. Laws, 1966, ch. 412, approved Feb. 22, 1966, now codified in Miss. Code § 6328–09 (Supp. 1966).
[112] Boyd v. Johnson, Civil No. DC668, N.D. Miss., filed Mar. 2, 1966.
[113] For a detailed discussion of this complaint, see pp. 52–53 infra.
[114] Boyd v. Johnson, Civil No. DC668, N.D. Miss., temporary restraining order issued Mar. 2, 1966.
[115] N.Y. Times, Mar. 6, 1966, at 75.
[116] Information supplied by clerk's office, Oct. 10, 1967.

Withholding Information

In some areas of the South during 1966, public and party officials reportedly failed or refused to provide prospective Negro candidates with pertinent information about elective office.

Dallas County, Alabama

Organizers of the Dallas County Independent Free Voters Organization—an independent Negro political organization—reported difficulty in obtaining the necessary information to run independent Negro candidates for county and State offices in the November 1966 general election.

Stuart House, Negro field secretary for the Student Non-Violent Coordinating Committee and one of the organizers of the Free Voters Organization, reported that he visited the office of Bernard Reynolds, probate judge of Dallas County, in late April 1966 seeking information on how independent candidates could qualify.[117] According to his account, the judge's secretary told him that Judge Reynolds was "not there right now" and added: "You can wait for him in the hallway." House reported that Judge Reynolds was in another room but came out when he heard the discussion whereupon House questioned him about the method by which independent candidates could qualify. Judge Reynolds allegedly responded that he was not a lawyer and that the Alabama Code was just as ambiguous to him as it was to House. House reported that Judge Reynolds chastised him for not obeying the secretary's order to wait in the hallway and that he eventually was told not to return to the office again. House indicated that other visits to obtain information from Judge Reynolds also were unsatisfactory and that the judge had failed to answer most of the questions posed by representatives of the Free Voters Organization.

Questioned about these requests for such information, Judge Reynolds said that he did not remember specific visits but acknowledged that during this period he had received frequent requests for information from civil rights workers.[118] When asked by a Commission attorney about his responses to such requests, Judge Reynolds replied: "I gave damn few answers and said the answer to most questions could be found in the Alabama Code." He conceded that many of the Code's election provi-

[117] Interview with Stuart House, Apr. 25, 1967. Under Alabama law, the probate judge of the county has numerous responsibilities with regard to primary and general elections. He has the duty of having printed on the official ballots the names of all candidates who have been nominated or have otherwise qualified to run for office in primary and general elections. Ala. Code, tit. 7, § 145 (1958). He also is custodian of the official list of registered voters, Ala. Code, tit. 17, §§ 38, 90, and serves as a member of the three-man appointing board which selects election officials, Ala. Code, tit. 17, § 120, custodian of the sealed election returns, and member of the board which canvasses the results of general elections. Ala. Code, tit. 17, §§ 139, 199.

[118] Interview with Bernard A. Reynolds, probate judge of Dallas County, Apr. 26, 1967.

sions were ambiguous. The judge admitted that he might have given some rude answers to civil rights workers seeking election information, but maintained that he had been very busy during the period in question. He said he was not a lawyer and thus not in any position to give legal opinions on matters involving interpretation of the Alabama Code. Further, he claimed he was not under any legal obligation, as probate judge, to respond to every question about candidates qualifying to run for office.

Taliaferro County, Georgia

In Taliaferro County, Georgia, four of six Negroes who sought to qualify in 1966 as candidates for membership on the county Democratic executive committee failed, according to their accounts, because the committee called a convention to nominate candidates for committeeman without adequate notice, and because party officials discriminatorily withheld necessary information, made false statements with respect to required procedure, and refused to permit them to qualify before the deadline.[119]

The prospective candidates reportedly first attempted to qualify on June 14, 1966, when Robert L. Billingsley and Calvin G. Turner, with three other Negro residents of the county, visited the secretary of the county Democratic executive committee, Ralph Golucke, in his office in the Taliaferro County courthouse and asked about qualifying.[120] According to their accounts, Golucke responded that he could not take their qualifying papers until August 8, 1966 even though August 6, 1966 was the last possible day on which a prospective candidate could qualify.[121] On two later occasions James Milton Leslie and Joseph Heath, other prospective Negro candidates, reportedly were given the same information.[122]

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[119] Their accounts were given in affidavits filed with the State Democratic executive committee protesting the alleged discrimination and in interviews with a Commission staff member.

[120] Affidavits of Calvin G. Turner, Aug. 31, 1966, and Robert L. Billingsley (undated), filed in proceedings before the special primary subcommittee of the Georgia Democratic Executive Committee; interviews with Calvin G. Turner and Robert L. Billingsley, Jan. 6, 1967.

[121] The Rules of the State Democratic executive committee then in effect provided:

> Any county Democratic Executive Committee may call a county convention on or before August 1, 1966, for the purpose of nominating candidates for membership on the County Democratic Executive Committee. In the event a convention is not called as herein provided, or if any other members of the local Democratic Party desire to qualify as candidates for membership on the County Democratic Executive Committee, they may do so by qualifying with the Chairman or his designee no later than August 8, 1966, or seven days after the date of the County Convention, whichever shall first occur. The names of all such persons nominated or qualified shall be placed upon the ballot to be used in such primary for such purpose.

Georgia Democratic Party Rules, Rules 10–B (adopted May 19, 1966).

[122] Turner affidavit; affidavit of Joseph Heath, Aug. 31, 1966. Although Golucke acknowledged that he had talked to Joseph Heath about the manner of qualifying

Footnote continued on following page.

On Saturday, July 30, at 10 a.m., the county Democratic executive committee held a nominating convention in the office of the ordinary in the courthouse at Crawfordville, the county seat, and nominated candidates to run for membership on the committee in the September primary. Notice of the convention, which all members of the party were eligible to attend, was sent to white members but not to Negroes.[123] The convention was attended by about 30 persons, all white, and lasted for about half an hour.[124]

Under party rules, persons desiring to run for committeeman, but not nominated by the convention, then had until August 6 to qualify. On Friday August 5, Turner, who by then had seen a copy of the party rules, went to Golucke's office in another attempt to qualify, but Golucke reportedly told him again that August 8 was the only day on which he could do so.[125] When Turner went to the committee chairman, J. D. Nash, he was told he would have to qualify with Golucke.[126]

The next morning Lorraine Bowman Howard, a Negro resident of Taliaferro County who had not previously attempted to qualify, called Nash and told him that she would be coming to his office to qualify as a candidate for membership on the committee. According to her affidavit, Nash tried to discourage her, stating that he thought being a member of the committee was just a lot of hard work. When Nash arrived at his office he told her she would have to qualify with Golucke, but finally qualified her after she insisted she wanted to qualify with Nash.[127]

A short time later, at a few minutes past 10 o'clock, Rolene Wynne and her sister-in-law, Roberta Wynn, Negro residents of the county who also had not previously attempted to qualify, went to Nash's office to qualify as candidates for committee membership. Nash reportedly refused to qualify them because they had come after the 10 a.m. dead-

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to run for the county executive committee in July, he denied having seen Billingsley and Turner. Golucke claimed that when he talked to Heath, he had not yet received a copy of the rules of the State Democratic executive committee governing filing to run for the county committee. Golucke neither affirmed nor denied that he had given Aug. 8 as the qualifying date. Interview with Ralph Golucke, secretary of the Taliaferro County Democratic executive committee, Jan. 6, 1967.

[123] Negroes who attempted to qualify with party officials claimed they received no notice of the convention. Turner and Billingsley interviews. Golucke stated in an interview that notice of the nominating convention had been posted on the bulletin board inside the courthouse for a week before the convention, but did not recall seeing in the local newspaper any notice or news of the convention before it was held. Approximately 30 announcements were sent out by mail, to both members and nonmembers of the county executive committee. Golucke did not recall whether any notices were sent to Negroes. Golucke interview.

[124] Golucke interview.

[125] Turner interview; Turner affidavit.

[126] Turner affidavit. In an interview Golucke stated that under the Rules of the Taliaferro County executive committee, candidates for committeeman must qualify with the secretary or, in his absence, the chairman.

[127] Affidavit of Lorraine Bowman Howard, Aug. 31, 1966.

line—a deadline of which the two women were unaware and which they had no way of knowing about.[128]

Joseph Heath asserted that he intended to go to Golucke's office on August 8, in accordance with Golucke's instructions, but when he learned that Mrs. Rolene Wynne and Mrs. Roberta Wynn has been told they were too late to qualify on August 6, he did not attempt to qualify on the 8th.[129]

Turner, on the other hand, received a call from Nash on August 5, asking him to come to Nash's office the next day to qualify but he did not appear.[130] On Monday morning, August 8, he received another call from Nash who said that Turner could qualify if he visited Nash at his home that day. Turner complied and thus qualified to run two days after the alleged deadline.[131] He believes Nash changed his mind because he knew Turner would protest that he had attempted to qualify within the appropriate period but had not been permitted to qualify.[132]

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[128] Affidavits of Mrs. Rolene Wynne and Roberta Wynn, both Aug. 31, 1966; interview with Mrs. Rolene Wynne, Jan. 6, 1967.

According to the attorney for the prospective candidates at a subsequent hearing before a special primary subcommittee of the State's Democratic executive committee the evidence showed that the 10 a.m. deadline had been established in a letter from the executive secretary of the State executive committee, Travis B. Stewart, to the county committee. Interview with Mrs. Isabel Gates Webster, attorney for the prospective candidates, Jan. 5, 1967. Rolene Wynne gave the following account of the episode at Nash's office:

> We went in and said we wanted to qualify (me and my sister-in-law, Roberta Wynn). Both of us spoke to Mr. Nash, Chairman of the Taliaferro County Democratic Executive Committee, and he said, "All right, you have your ten dollars?" I told him yes and was ready to give it to him. Lois Richards [deputy registrar of voters] put her head in his office door and said, "The time's up, it's past ten o'clock." Nash looked at his watch and said, "Oh yes, ten o'clock was the deadline." (It was nine past ten). He said, "But I don't guess a few minutes will hurt." She said, "No, you have to go by the letter and the letter said ten o'clock. You have to go by the law." So I told him then, "I didn't get the word until 9:00 or 9:30 A.M. If I had the hour, I could have been here when the office opened."
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> He said, "The letter said ten o'clock, read the letter." I don't know who it was to or who it was from, but the letter said that the time for qualifying would be out at 10 A.M. Saturday, August 6th. The time was on the letter twice. I said, "If I had known when they were having their meeting, I could have figured out the time." He said that it was in the paper that the meeting was on Saturday, July 30th. I said, "We can't qualify Monday either?" He said, "No, the deadline was out today at ten unless you see the committeemen." I said, "Who are they?", and he said, "Sheriff Moore, Ralph Golucke, and others." He didn't say who the others were. Nash then said, "If they say it will be O.K. to take you a few minutes late, it will be all right." I saw Sheriff Moore and he said, "I'm in the dark about it. I know nothing about any of this." I went back to Nash's office and said I wanted to see the date on the letter. It was August 4th, 1966. It also said Atlanta, Georgia. I said, "You mean that us being a few minutes late would make the difference when we didn't know that Saturday was the deadline." He said, "Yes." I asked, "Did you tell Calvin what hours to be there when you called him last night?" He answered, "No. I didn't think to tell him the time." He said that Calvin could come in any time during the morning and be qualified because he had been there twice Friday, "But that's just for Calvin cause he was here Friday," he said.

Affidavit of Mrs. Rolene Wynne.

[129] Heath affidavit.

[130] Turner affidavit.

[131] Turner affidavit; Turner interview.

[132] Turner interview.

Those who were denied the opportunity to qualify or who claimed to have been misled petitioned the State Democratic executive committee to "supersede all powers and duties of the Taliaferro County Democratic Executive Committee . . . concerning the forthcoming primary and general election." [133] The petitioners charged that the primary laws and the regulations of the State executive committee relating thereto "are not being, and will not be, fairly, impartially, or properly enforced, or applied by the County (Taliaferro) Executive Committee." [134]

On September 1, 1966, the petitioners received a hearing before an all-white special primary subcommittee of the State Democratic executive committee in Atlanta. The special primary subcommittee found against the major grievances of the Negro petitioners.

The subcommittee ruled that the nominating convention had been properly held; that proper notice had been given; that under party rules the proper deadline for qualifying was 10 a.m., August 6; that those petitioners who "inquired about qualifying" before the convention or applied after the deadline were not entitled to be qualified, but that Calvin G. Turner and Lorraine B. Howard had been properly qualified.[135]

The subcommittee made no specific determination whether information on when to qualify had been withheld from Negroes, whether potential Negro candidates had intentionally been misled as to the proper qualifying date, or whether racial discrimination had been involved in denying the applications to qualify. The subcommittee found no reason to believe that State law or party rules governing primary elections would not be fairly enforced by the county executive committee and therefore denied the petition to supersede the powers of the county committee.

Clay County, Mississippi

Dawson Horn, chairman of the Council of Community Organizations (COCO)—a coalition of civil rights organizations in Clay County—complained to a Commission staff member that one of the chief obstacles

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[133] The Petition (Amended and Substantiated) by the Citizens of Taliaferro County, Georgia, Addressed to the State Democratic Executive Committee of Georgia Petitioning the State Committee to Supersede the Taliaferro County Democratic Executive Committee, at 1. The statutory basis for the complaint was section 34–903 of the Georgia Election Code. The Negro petitioners coupled the claims regarding the nominating convention and their efforts to qualify as candidates for committee membership with charges that the county deputy voting registrar had failed to make voter registration lists available upon request and failed to register some Negro applicants as provided by State law, and that the name of one of the Negro candidates, Lorraine B. Howard, was misspelled on the official ballot.

[134] The Petition at 6.

[135] Findings and holdings of the special primary subcommittee of the Georgia State Democratic executive committee, Sept. 1, 1966. The misspelling of the name of Mrs. Howard was ordered corrected. Allegations not relating to party officials, such as the charges relating to voter registration, were deemed to be outside the jurisdiction of the State Democratic executive committee.

to Negro political participation in the county was the difficulty in obtaining election information.[136]

During the summer of 1966 in meetings with the leading members of the white community, Negro civil rights leaders asked the county attorney for a list of the names of all registered voters in the county. According to Horn's account, the county attorney was to transmit the request to the clerk of the circuit court, who in Mississippi also functions as voter registrar. The clerk reportedly responded that representatives of Negro civil rights organizations could copy the names from the registration books, but he would not furnish them with a list of registrants.[137]

Jimmy Walker, the circuit clerk, acknowledged, however, that he had prepared a list of registered voters for the "wet element" in the September 1966 liquor referendum and that he had been paid $25 for the list. Walker said that the Negroes sought such a list before its preparation for the September 1966 referendum and that he agreed to furnish the list after the referendum. Since he received no further request for the list after the liquor referendum, Walker said he did not furnish the list to members of the Negro community. Voting lists will be made available to whites and Negroes on an equal basis, the circuit clerk affirmed, so long as he is adequately paid for the service.[138]

Walker indicated that he would provide information about qualifying to any prospective candidate acting "in good faith" and that he made no distinction between Negro and white candidates.

Lincoln County, Arkansas

In 1966, two Negro candidates for local office in predominantly Negro Lincoln County, Arkansas, failed to get on the ballot because public officials misled them or gave them erroneous information as to the proper official to receive the $1 statutory filing fee.

Under Arkansas law a person may secure a place on the ballot as an independent candidate for township office by filing with the county election commissioners a nominating petition containing the required number of signatures of registered voters,[139] but the nominating petition must be "accompanied by the receipt of the treasurer or collector of each county in which any candidate is to be voted for" showing payment of a $1 filing fee.[140] To obtain a place on the ballot for city office, the fee must be paid to the appropriate city treasurer.[141]

Although Negroes comprise 62 percent of the voting population of

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[136] Interview with Dawson I. Horn, who also is the president of Mary Holmes Junior College, a predominantly Negro institution, Feb. 28, 1967.
[137] Id.
[138] Interview with Jimmy Walker, Feb. 28, 1967.
[139] Ark. Stat. Ann. §§3–261, 3–262 and 3–837 (1947).
[140] Id. at § 3–261(g) (Supp. 1961).
[141] Id.

Gould Township in Lincoln County, no Negroes have held elective office in the township in recent years.[142] In 1966 two Negro residents of the county, Hunter Bynum and Mrs. Carrie Dillworth, attempted to qualify as independent candidates respectively for justice of the peace of Gould Township and mayor of the city of Gould.[143]

On September 23, 1966, Mrs. Dillworth went to the office of the county clerk in Star City, the county seat, with her nominating petition. The clerk was out, but one of his deputies referred her to the chairman of the county election commission, T. I. Burns. Burns indicated that before Mrs. Dillworth could qualify to run for office she had to pay the filing fee. In subsequent litigation, Burns testified: "I told her if I wasn't mistaken that she should pay her filing fee to her city treasurer in Gould." [144] When Mrs. Dillworth indicated that she thought she could pay the fee in Star City, the county seat, Burns said to her that he wasn't sure, but "to go and check with our city treasurer." [145] Mrs. Dillworth then went to the office of the city treasurer of Star City, John Carter, and, after some discussion, Carter accepted her filing fee and gave her a receipt. Burns then accepted Mrs. Dillworth's nominating petition.

The next day Mrs. Dillworth accompanied the Negro candidate for justice of the peace, Hunter Bynum, to the county clerk's office to file his nominating petition. The clerk's office was closed, so the two went to see Burns who, according to his testimony, told Bynum "that he hadn't paid his filing fee and that he should have paid it in Gould to the city treasurer" [146] but sent the two candidates to Carter's office. Bynum paid his filing fee to Carter, who accepted the money. Then Bynum gave the nominating petition and receipt to Burns, who accepted them. This was the last day for filing as a candidate in the November general election.

On September 29, 1966, the county election commissioners met and disqualified both Mrs. Dillworth and Bynum from appearing on the ballot—Bynum on the ground that he should have paid his fee to the county treasurer instead of the city treasurer, and Mrs. Dillworth on the ground that she should have paid her fee to the city treasurer of Gould instead of Star City. At the meeting Burns did not tell the other commissioners that he had sent the two candidates to the city treasurer of Star City.[147]

In the November general election, Bynum ran as a write-in candidate and lost to another write-in candidate. Prior to the election, Bynum filed suit in Federal district court seeking to be put on the ballot, but the dis-

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[142] Unless otherwise indicated, the account is taken from the opinion of the U.S. Court of Appeals for the Eighth Circuit, Bynum v. Burns, 379 F.2d 229 (8th Cir. 1967).
[143] 379 F.2d at 230.
[144] Id.
[145] Id.
[146] Id. at 232.
[147] Id. at 230–31.

trict court refused to grant this relief. After the election and on appeal, Bynum asked that the election be set aside. The U.S. Court of Appeals, however, affirmed the decision of the lower court, ruling that there had been no proof of racial discrimination ("There is nothing in the record to indicate that Bynum was treated differently than any other citizen would have been treated under the same or similar circumstances"),[148] that the candidates should have sought the advice of their own lawyers,[149] and that there was no showing that Burns intentionally had misled Bynum.[150]

Withholding Certification of Nominating Petition

Another tactic reportedly employed in some areas of Mississippi to forestall Negro candidacy or harass prospective Negro candidates has been to withhold or delay the required certification of the nominating petition.

The Mississippi statute passed after the June 1966 primary election which increased the number of signatures required on the nominating petitions of independent candidates also added a requirement that there be attached to each nominating petition a certificate from the registrar of each county in which the candidate is running showing the number of signatures of qualified electors appearing on the petition.[151]

Campaign workers of Negro candidates affiliated with the Mississippi Freedom Democratic Party (MFDP) reported difficulty in some counties in getting signatures on petitions nominating Negro candidates certified by white circuit clerks, who also serve as voter registrars, and in getting the nominating petitions accepted by county election commissioners. In the legal action challenging the new statute, the plaintiffs filed an affidavit executed by Laurence Guyot, State chairman of the MFDP, alleging "that he has been informed by the plaintiffs and by some of their campaign workers, that in a number of instances they were able to obtain certification of the signatures on plaintiffs' petitions only after a great deal of resistance, trouble, and harassment by State registrars and county election commissioners and in a few instances they were totally

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[148] Id. at 232.

[149] Id. at 231. According to John A. Walker, attorney for the plaintiff, there is only one attorney in Lincoln County, and he is white. The closest Negro attorney is 40 miles away and the attorney selected by the plaintiff to represent him lives 90 miles away. Interview with John A Walker, Feb. 22, 1968.

[150] 379 F.2d at 231. Bynum died shortly after the decision was rendered, and no further appeal was taken.

[151] Miss. Code § 3260 (Supp. 1966). For a description of the act and of the challenge to it, see pp. 44–46.

unable to obtain certification of the signatures on plaintiffs' petitions by virtue of the refusal of the appropriate State official." [152] The Commission received complaints that Negro candidates had experienced difficulty or harassment in obtaining certification of their nominating petitions in Carroll County [153] and Neshoba County.[154] In Neshoba County Mrs. Mary Inez Batts, affiliated with the Mississippi Freedom Democratic Party, decided in the fall of 1966 to run for the Beat Five seat on the county board of education in the November 1966 general election.[155] Mississippi law provides that candidates for membership on the county board of education must file with the county election commissioners a nominating petition containing the signatures of not less than 50 qualified electors who reside within the candidate's beat.[156]

According to her account, Mrs. Batts, along with her friends and neighbors, circulated a nominating petition and collected the signatures of approximately 60 registered Negroes.[157] When she presented her nominating petition at the office of the circuit clerk on Saturday, October 8, the deadline for filing, an employee of the circuit clerk reportedly informed her that she had not collected a sufficient number of signatures to qualify, stating that the other candidates had obtained more than 110 signatures, and that she would have to get more than 100 signatures (in view of the deadline, before 5 o'clock that day).[158] According to Mrs. Batts, a civil rights worker who accompanied her insisted that either the officials in the clerk's office reject the petition in writing or certify the signatures and accept the nominating petition. Officials in the clerk's office then reportedly summoned the county attorney and conferred with him out of the hearing of the Negro candidate and her helpers. After this conference, the county attorney allegedly indicated to the group that he was representing the officials in the clerk's office in the matter and therefore could not give the candidate legal advice. "There's something else you have to do, but I won't tell you," he was reported as saying.

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[152] Affidavit of Lawrence Guyot, Oct. 25, 1966, filed in Whitley v. Johnson, 260 F. Supp. 630 (S.D. Miss. 1966).

[153] Interview with Mrs. Barbara Shapiro, attorney with the Lawyers' Committee for Civil Rights Under Law, Feb. 13, 1967.

[154] Interview with Mrs. Mary Inez Batts, Feb. 14, 1967.

[155] Members of the county boards of education in Mississippi are elected to staggered terms of office. Miss. Code § 6271–02 (Supp. 1966). In 1966, members representing county supervisors District Five were up for election. In Neshoba County, as in some other parts of the State, supervisors districts are referred to as "beats."

[156] Miss. Code § 6271–03 (Supp. 1966). Where there are less than 100 qualified electors residing in the supervisors district, the petition must be signed by at least 20 percent of the qualified electors in the district.

[157] Information on the effort to qualify obtained in interview with Mrs. Mary Inez Batts, Feb. 14, 1967.

[158] The official also reportedly declared that three of the persons who had signed the petition were not registered voters, but after some discussion retreated from this position. Id.

Ultimately, the petition was submitted to the county election commissioners who accepted the petition.[159]

Questioned about Mrs. Batts' complaint, the attorney for the county election commission stated: "It was my opinion that the petition presented was not in strict conformity of law and I advised Mrs. Batts that we would file anything she handed or submitted to be filed, and the only reason that there was any hesitancy was the questions about her petition being in strict compliance with the law. . . ." [160]

According to the complaint filed in a Federal lawsuit, it is the custom in Rankin County, Mississippi, for the circuit clerk and voting registrar to act as agents for the election commissioners in accepting petitions of candidates to be put on the ballot.[161] On June 8, 1967, the complaint states, three prospective independent Negro candidates—John Q. Adams, Eli Watson, and Joseph Sidney Tucker, the only Negroes seeking public office in the county at the time [162]—filed petitions to qualify for the November 7 general election.[163] Adams wanted to run as an independent candidate for the post of supervisor of District Three in Rankin County, and Watson and Tucker for constable and justice of the peace respectively for the same district.[164] The clerk, Mrs. J. R. Bradshaw, purportedly accepted the petitions, which complied with the statutory criteria and were filed prior to the filing deadline,[165] and gave the candidates receipts,[166] but then got an informal ruling from the Mississippi attorney general that the filing was invalid because it was done with the clerk and

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[159] Members of the commission reportedly told Mrs. Batts that they had to turn her petition over to the State attorney general for an opinion as to its legality, and summoned her to a meeting of the commission to be held the next day, Tuesday, October 11. At the meeting, one of the commissioners allegedly challenged the petition on the ground that all the signatures on page three of the petition were in the same handwriting—a ground not cited by the employee in the circuit clerk's office. According to Mrs. Batts, she indicated that she had left this page with friends to collect signatures. The deputy sheriff of Neshoba County, Cecil Price, reportedly told Mrs. Batts at the commission meeting that if she had circulated the page, she would be in trouble, but if she had not seen her friends signing the names of others, she had committed no offense. At the close of this meeting the county election commissioners accepted Mrs. Batts' nominating petition. Mrs. Batts was on the ballot in November but lost the election. Id.

[160] "As best I can remember, one of the reasons I felt her petition might be insufficient was because she stated she wished to comply with provisions of a certain statute which dealt with another type election. I advised her the purposes of the discussion were to deal fairly with her and so she would not be misled. I did not merely want her to file something void and not get on the ticket and in some way be misled by some techinicality [sic], as I felt it my duty to warn her if there were insufficiencies in the petition that she should be called attention to." Letter from Laurel G. Weir to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 10, 1967.

[161] Complaint in Adams v. Ponder, Civil No. 4216, S.D. Miss., filed Oct. 31, 1967, at 3 [hereinafter cited as Adams complaint].

[162] Id. at 1–3.

[163] Id. at 1–2.

[164] Id.

[165] Id. at 3.

[166] Letter from Denison Ray, chief counsel, Lawyers' Committee for Civil Rights Under Law, to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 3, 1967.

not with the county election commission.[167] Even though the election commissioners apparently were aware of what was going on, the complaint asserted, neither they nor the clerk informed the candidates of the alleged defect [168] and the commissioners refused to put their names on the ballot.[169]

Imposing Barriers to the Assumption of Office

For many of the Negroes who successfully ran for office in the November 1967 election in Mississippi, winning a majority of the votes was not the last hurdle to overcome before assuming office. In Mississippi Negroes elected to office had difficulty in obtaining bonds.[170] Mississippi law requires most county officials to post a bond to cover any losses they might cause.[171] If these officials do not post bond in time for their swearing-in ceremonies their positions can be declared vacant and new elections held. Although all finally were successful, the oath-taking for some came only after a long struggle to find companies willing to write the required bonds. Their final success in obtaining bonds was attributed to the efforts of lawyers and civil rights groups in the North and South in putting pressure on the bonding companies[172] and to "the glare of publicity."[173]

Abortive efforts were made to prevent the only Negroes elected to the Mississippi and Louisiana legislatures in 1967 from assuming office. Robert Clark, elected to the Mississippi House of Representatives on November 7, 1967, was challenged by the candidate he had defeated on the grounds that he had not qualified properly as a candidate.[174] The challenge was dropped a few days before the legislature convened.[175] Ernest N. Morial, a prominent New Orleans attorney and former president of the New Orleans Branch of the National Association for the Advancement of Colored People (NAACP), was elected to the Louisiana House of Representatives in the February 6, 1968 general election.[176]

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[167] Id.
[168] Id.
[169] Adams complaint at 4.
[170] V.E.P. News, Dec. 1967, at 1; Southern Courier, Dec. 23–24, 1967, at 1; Id., Jan. 6–7, 1968, at 1.
[171] Miss. Code § 2872 (Recomp. 1956).
[172] Southern Courier, Jan. 6–7, 1968, at 1.
[173] Wall Street Journal, Dec. 21, 1967, at 8; Southern Courier, Dec. 23–24, 1967, at 1. The companies involved—northern insurance companies—claimed that their delay in bonding was strictly for business reasons. Charles Evers of the Mississippi NAACP said, however: "A lot of poor whites don't even own a chicken, and they get bonded." Id.
[174] N.Y. Times, Dec. 10, 1967, at 45.
[175] Southern Courier, Jan. 6–7, 1968, at 1.
[176] Information obtained from the office of the Louisiana Secretary of State, Feb. 28, 1968.

A suit filed shortly after the primary challenging Morial's residency was dismissed.[177]

Julian Bond, a Negro and officer of the Student Non-Violent Coordinating Committee, a civil rights organization, was elected to the Georgia House of Representatives in June 1965. He was denied his seat because of his statements, and statements to which he subscribed, criticizing the policy of the Federal Government in Vietnam and the operation of the Selective Service laws and complaining that it was hypocritical "to maintain that we are fighting for liberty in other places and we are not guaranteeing liberty to citizens inside the continental United States." [178] He protested the debarment on several grounds, one of which was that the challenge to his being seated was racially motivated. His seat was restored to him by a decision of the U.S. Supreme Court, which held that in disqualifying Bond because of his statements, the Georgia House of Representatives had violated his first amendment rights.[179] The Court did not reach the question of racial discrimination, although the lower court—noting that seven Negroes were seated in the Georgia House on the same day that Bond was excluded—determined that racial discrimination was not involved.[180] Bond finally was permitted to take his seat as a member of the Georgia House on January 9, 1967.

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[177] V.E.P. News, November 1967, at 1.

[178] Bond v. Floyd 385 U.S. 116 at 121 (1966) *reversing* 251 F. Supp. 333 (N.D. Ga. 1966).

[179] Id. at 137.

[180] 251 F. Supp. 333, 339 (N.D. Ga. 1966).

Chapter 3

Discrimination Against Negro Registrants

In addition to the various legislative and administrative measures designed to dilute the Negro vote and to prevent the election of Negroes to office, Negroes experienced during 1966 other practices excluding them from full participation in the electoral and political processes in the South. These practices included exclusion from precinct meetings at which party officials were chosen, omission of the names of registered Negroes from voter lists, failure to provide sufficient voting facilities in areas with heavy Negro registration, harassment of Negro voters by election officials, refusal to assist illiterate Negro voters, provision of erroneous or inadequate instructions to Negro voters, disqualification of Negro ballots on technical grounds, failure to afford Negro voters the same opportunity as white voters to cast absentee ballots, and discriminatory location of polling places. The Commission staff also found instances of racially segregated voting facilities and voter lists in some Southern counties.

Exclusion From Precinct Meetings

Political parties in some Southern States select party officials and convention delegates at precinct-level meetings to which all members of the party are invited. Often these meetings along with subsequent higher level conventions are substitutes for party primary elections. Negroes consider it essential to participate in such meetings if they are to have a meaningful role in party affairs. A South Carolina NAACP official stated: "If you don't get in at the precinct meeting, you are out." [181]

In 1964, Mississippi Negroes attempted for the first time in recent years to play a role in the Democratic Party organization of that State. This largely unsuccessful effort produced complaints that Mississippi Negro Democrats had been denied the opportunity to participate fully

[181] Interview with Rev. I. DeQuincy Newman, South Carolina field director of the NAACP, Dec. 6, 1966.

in Democratic Party precinct meetings. Negroes alleged that in addition to being threatened with economic or physical harm to deter participation, they had been excluded from the meetings, denied relevant information with respect to their time and place, or denied full parliamentary rights at the meetings.[182]

During its 1966 field investigation, Commission staff received reports in some areas that Negroes participated fully in precinct meetings, while in other areas complaints were made similar to those voiced by Mississippi Negroes in 1964.

South Carolina

Officers of the party precinct club, delegates to the county convention, and a precinct representative on the county executive committee are elected at precinct meetings in South Carolina.[183] The precinct representative generally is responsible for the selection of election officials to serve at the polls.

Three counties in South Carolina were visited by Commission staff. In one county Negroes reported they participated fully in precinct meetings. In the other two counties Negroes reported either outright exclusion from precinct meetings or denial of the right to participate fully.

Richland County

In Richland County, Negroes maintained control of Democratic Party offices in precincts they had controlled in the past such as Wards 9, 18 and 19 in Columbia.[184] Negro leaders also reported gains in precincts traditionally dominated by whites but in which Negroes constituted a majority of the population.

Because of the extensive organizational efforts of Negro political organizations approximately 200 Negroes attended the February Democratic Party precinct meeting in rural Hopkins precinct in south Richland County. Only three or four white persons were present.[185] Negroes were elected to all the precinct offices; two Negroes and one white person were elected delegates to the county convention.

Since 1960, Negroes have been attempting to elect Negro officers to

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[182] 110 Cong. Rec. 20742 (1964) (Brief of the Mississippi Freedom Democratic Party).

[183] South Carolina Democratic Rules, Rules 3, 8, 9, (1964); S.C. Code §§ 23–254 (Supp. 1966), 23–258, 23–259 (Supp. 1966). The delegates to the county convention elect delegates to the State convention, who choose the delegates to the National convention. S. C. Democratic Party Rules, Rule 9; S.C. Code § 23–259 (Supp. 1966); S.C. Laws, 1950, No. 858, § 6–H.

[184] Interview with Matthew J. Perry, Negro attorney and legal adviser to the S.C. Voter Education Project, Dec. 5, 1966.

[185] Information on the Hopkins precinct activity obtained in an interview with Joseph Stroy, Negro winner of preferential election for magistrate of Hopkins Township, Dec. 5, 1966.

the suburban College Place Democratic precinct club.[186] In February 1964, white precinct officials, after learning of plans to secure a large Negro turnout, produced enough white persons to outnumber the Negroes. During an intensive campaign conducted in 1966 by the North Columbia Civic Club, a Negro civic and political organization, captains were appointed for each residential street in the Negro neighborhood to organize and encourage Negro residents to attend the precinct meeting. The meeting was announced in all Negro churches, a telephone network was established, and car pools were organized. On the night of the meeting the Negroes purposely arrived just before the meeting was to convene so as to give the white voters no time to bring in more white persons. The meeting was attended by approximately 135 Negroes and 40 whites. Negroes were elected to the positions of president, secretary, and county executive committeeman; 10 Negroes and 10 whites were chosen as delegates to the county convention.

Dorchester County

In Dorchester County, however, Negro voters were denied an equal chance to participate in the 1966 Democratic Party precinct meeting in rural Ridgeville.

On the announced meeting day, eight registered Negro voters arrived at the Ridgeville school, the meeting place, about an hour before the meeting was scheduled to begin.[187] According to Negroes present, the 10 white persons attending the meeting were surprised to see the Negroes and immediately recruited additional white persons. When the meeting was called to order at 10:15 a.m., 15 minutes after it was scheduled to begin, a large number of white persons, including families with their children, reportedly were present. According to this account, whenever a Negro voter attempted to nominate a Negro for precinct office, the chairman invariably ruled him out of order. The white persons in attendance reportedly derided the Negroes and laughed at their attempts to speak, make a point of order, or nominate Negroes for office. All precinct officers and county convention delegates elected at the meeting were white.

After the meeting, the leader of the Negro group, Mrs. Victoria DeLee, sent complaints to the State Democratic executive committee. She was told by the executive director of the committee that the prescribed method of challenging the procedure at the precinct meeting was to contest the

[186] Information on the College Place precinct activity obtained in an interview with Rev. Collie L. Moore, Negro president of the College Place Democratic Club, Dec. 6, 1966.

[187] Information on the Ridgeville precinct meeting and subsequent complaint relating to it obtained from interview with Mrs. Victoria DeLee, chairman of the Ridgeville precinct branch of the Dorchester County Voters League, Dec. 7, 1966, and interview with Mrs. Anna Williams, a member of the executive committee of the DCVL, Dec. 8, 1966. Both Mrs. DeLee and Mrs. Williams were present at the Ridgeville precinct meeting.

seating of the precinct delegation at the county convention. After unsuccessfully pursuing her grievance at the county convention, Mrs. DeLee complained to the credentials committee of the State convention in Columbia. After a full hearing, the credentials committee rejected Mrs. DeLee's plea that the Dorchester County delegation not be seated.

Richard Miles, then director of the South Carolina Voter Education Project who attended the challenge proceedings at the State convention, reported that no disciplinary action, formal or informal, was taken against the delegation.[188]

Williamsburg County

Negro Democratic voters in Williamsburg County constituted a majority of the persons present at four of the 33 Democratic precinct meetings held in the county during 1966 and at each of the four meetings elected Negro precinct club officers. At another precinct meeting where they did not constitute a majority, Negroes were given an equal opportunity to participate in the proceeding.[189] But Negroes were excluded from attendance or denied a full opportunity to participate in other precinct meetings in the county.

Raymond Fulton, an official of the Williamsburg County Voters League, a Negro civil rights organization, reported that when he asked the president of the Black River Precinct Club about the time and place of the February precinct meeting, he was rebuffed with the question: "What in the hell do you want to know for?" [190] After considerable discussion, the Negro official said he finally received the information he sought and arrived at the meeting with 30 registered Negro voters, outnumbering the 20 white persons present.

Before the meeting, he stated, the Negroes had decided at a political participation workshop to try to divide the elected posts between Negroes and whites, electing Negroes to the county executive committee and as county convention delegates and leaving the other precinct posts to whites. According to his account, the white persons at the meeting apparently were aware of this strategy, because after the precinct president, secretary, and treasurer were elected, a white person moved that the elected officers also serve as executive committeemen and county convention delegates. There reportedly was no vote on this motion. The precinct organization president, who had been elected to succeed himself, reportedly decided against further elections. There were no nominations

[188] Interview with Richard Miles, Dec. 12, 1966.

[189] Interviews with Furman Dimery, member of the Williamsburg County Voters League, Dec. 6, 1966, and Jesse Lawrence, a Negro candidate for the State house of representatives in the Democratic primaries in June 1966, an official of the Williamsburg County Voters League and a member of the Commission's South Carolina State Advisory Committee, Dec. 8, 1966.

[190] Interview with Raymond Fulton, chairman of the Black River precinct branch of the Voters League, Dec. 8, 1966. The account of the Black River Democratic Precinct Club meeting was given by Fulton.

for executive committeemen or county convention delegates, Fulton stated.[191]

The denial of an opportunity to elect a Negro county committeeman was particularly frustrating to the Negroes, the Negro official declared, because the county committeeman selects the polling officials who serve on election day. Consequently, all election officials serving in the Black River precinct during the primary election and the primary run-off were white.

A Negro complainant in the Mount Vernon precinct told a Commission staff member that four or five registered Negro voters went to a store on the morning of February 26, 1966 to attend a precinct meeting which they understood was to begin at 10 o'clock. When they arrived shortly before the stipulated time, the store was deserted. The Negro voters inquired of three white persons at a nearby church about the meeting. Denying knowledge of the meeting, the whites were hostile toward the Negroes. Unable to locate the precinct meeting and fearful of the hostility of the whites, the Negroes left. At the June Democratic primary all the clerks and managers at the Mount Vernon precinct polling place were white, the complainant reported.[192]

Omission of Registered Negroes From Voter Lists

During 1966 and 1967, it was reported that in some counties in Mississippi, Alabama, Louisiana, Georgia, and South Carolina the names of Negro registrants were omitted from the official poll lists or listed with the wrong party designation.

Mississippi

In 1967 the Law Students Civil Rights Research Council (LSCRRC) assigned 55 law students to Mississippi to educate voters, orient Negro poll watchers, provide technical advice to Negro candidates, and document instances of intimidation and irregularities in the November 1967 general election. A report on their activities, which were coordinated with similar activities of volunteer lawyers from the North by the

[191] Id.

[192] Account given in an interview with Laura Mae Conyers, Dec. 9, 1966. Similarly, a complaint was made that in Barnwell County registered Negro voters were excluded from February precinct meetings of the Democratic Party in two precincts, and although permitted to attend in another precinct they were denied an opportunity to participate. Interview with Rev. I. DeQuincy Newman, State field director of the National Association for the Advancement of Colored People, Dec. 6, 1966.

Asked for his response to these complaints, the chairman of the Williamsburg County Democratic Party, James M. Connor, stated that subsequent to his election as county chairman after the 1966 precinct meetings and county convention, he had "received no complaints regarding the precinct meetings at the Black River and Mt. Vernon precincts." Letter from James M. Connor to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 14, 1967.

Lawyers Constitutional Defense Committee (LCDC) stated that during the election voters had been subjected to a number of illegal practices in the nine counties visited by the law students. "The most common practice" the report said, "was to inform Negro voters that they were not registered to vote in a particular precinct. In some instances Election Managers refused to check with the Chancery Clerk to make sure his list was up to date. In other instances (which the report stated were "quite common") the election manager refused to allow the allegedly ineligible voter to cast a challenged ballot," in violation of Mississippi law.[193] A lawsuit challenging these alleged practices has been filed in Yazoo County.[194]

Bullock County, Alabama

Fred Gray, a Negro lawyer who unsuccessfully sought the Democratic nomination for a seat in the Alabama Legislature, alleged in a suit to void the results of the 1966 run-off primary in Bullock County, that the names of many registered Negroes were omitted from the official poll lists. Alabama law stipulates that before one can cast a valid ballot his name must appear on the official poll list. If his name does not appear on this list, he may cast a "challenged ballot." [195] The Gray complaint asserted that almost all of the Negro registrants whose names were omitted from the poll lists were refused permission to cast challenged ballots, and that "in the few instances in which the named Negro electors, whose names had been omitted from the poll lists, insisted upon and were permitted to cast challenged ballots, such ballots were not counted or indicated on the official certificates of results. . . ." [196]

West Feliciana Parish, Louisiana

Louisiana has a closed primary system. A person is permitted to vote in a primary election only if he is registered as a member of the party conducting the primary.[197] In the 1966 Democratic primary election in which a Negro was running for the parish school board, many Negroes registered as Democrats were not allowed to vote, according to reports from Negro leaders, on the ground that they were registered as Repub-

[193] Report on the Mississippi Election Project 10–11. Under Mississippi law a voter has the right to cast a "challenged ballot." Miss. Code § 3170 (Recomp. 1956) (primary elections).

[194] Johnson v. Hood, Civil No. 7543, S.D. Miss., filed Jan. 3, 1968.

[195] Ala. Code, tit. 17, §§ 355 (primary election), 188 (general election) (1958).

[196] Gray complaint at 15. Shortly before publication of this report the Federal district court found that the probate judge had made changes in beat assignments as to where persons were to vote prior to the election, but that these changes were not racially discriminatory and were justified by the tremendous increase in registration in 1965 and 1966. The court recognized that this must have created confusion, but found "that the evidence indicates that no Negro was unable to vote due to the published changes nor that any change was incorrect." There were 17 challenged ballots but all were counted. Gray v. Main, Civil No. 2430–N, M.D. Ala., Mar. 29, 1968, slip opinion at 36–38.

[197] La. Rev. Stat., §§ 118:33 (Supp. 1966), 118:308 (1951).

licans or as Independents. Estimates varied, but Negro leaders believe that between 40 and 60 Negroes, most of whom were believed to be registered as Democrats, discriminatorily were denied the ballot in the August 1966 Democratic primary election on the ground that they were not registered Democrats.[198]

Alvin White, Jr., a successful Negro candidate for the parish school board, said that as many as 50 or 60 Negro voters reported that they had registered as Democrats but were not permitted to vote because the voting registrar claimed they had registered as Republicans or Independents.[199] Nathaniel Smith, vice-chairman of the West Feliciana Parish Voters League, a Negro political and civil rights organization, believes that approximately 40 Negroes had this experience.[200]

One Negro who was not allowed to vote was Mrs. Margaret Miller, who recalled registering in September 1965, and filling out the registration form herself. She did not attempt to vote in the August 13 primary election, but did try to vote in the Sepember 17 run-off primary. When she appeared at the polling place and asked for her ballot, she said, she was told by one of the commissioners that she could not vote in the Democratic primary because she was registered with the States' Rights Party, a political organization generally considered to support racial segregation and oppose civil rights for Negroes. The commissioner showed her a copy of of what she understood to be the registration form, which contained a check mark beside the States' Rights Party. Mrs. Miller believes, however, that she registered with the Democratic Party and not with the States' Rights Party.[201]

Sumter County, Georgia

In the Americus municipal Democratic primary on November 15, 1966, in which a Negro candidate, Rev. J. R. Campbell, lost a race for alderman, many persons claiming to be registered voters—a majority of them Negro—were not permitted to vote. A poll watcher for the Negro candidate believed that approximately 100 Negroes were turned away by election officials because they were not registered to vote.[202]

Although the voting lines were not segregated on the basis of race as had been done in 1965,[203] they were segregated on the basis of sex. The polling place manager on the male side related that about 25 persons, most of them Negro, attempted to vote but they were not on his list of

[198] Interviews with Alvin J. White, Jr., and with Nathaniel Smith, Mar. 24, 1967.
[199] White interview.
[200] Smith interview.
[201] Interview with Mrs. Margaret Miller, Mar. 24, 1967.
[202] Interview with Sammy Mahone, Nov. 16, 1966. Sumter County and Americus have a dual registration system. Thus, to be eligible to vote in municipal elections, a voter must (1) be a resident of Americus and (2) be registered to vote both in the county (where registration is at the county courthouse) *and* in the city (where registration is at the city hall).
[203] See p. 82–83 infra.

those registered.[204] A few, including some Negroes, returned with registration certificates. The manager on the female side incidated that 15 to 20 women, mostly Negroes, were not on his list of qualified voters and that eight to 10 of them, half of whom were Negro, returned with registration certificates.[205] The Negroes who returned with certificates were allowed to vote. Both managers attributed the discrepancy to clerical errors in transcribing the names of registered voters from the registration book to the voters list.[206]

Failure to Provide Sufficient Voting Facilities

Zelma Wyche, a Negro, sought the Democratic nomination for alderman of the city of Tallulah in Madison Parish, Louisiana in the April 9, 1966 municipal primary election. He believes that a factor contributing to his defeat was the difficulty experienced by Negroes in casting their ballots in Precinct Three, then the only precinct in which Negroes constituted a majority of the registered voters.[207] A single polling place was provided in the precinct, Wyche related, with the result that the 1,400 voters were required to wait in long lines. When the polls opened at 6 a.m., he said, 600 persons, mostly Negroes, were standing in line. He believes that because of the long wait, many Negro voters, who would have voted for him, tired of waiting and went home without casting ballots.

Harassment of Negro Voters by Election Officials

In at least one Alabama county Negro voters cited instances of harassment and intimidation by election officials during 1966.

Rev. Linton I. Spears, a Negro candidate for county commissioner of Choctaw County, reported numerous instances of harassment and intimidation of Negro voters in the May 3, 1966, Democratic primary election. Negro poll watchers at one ballot box allegedly overheard an election official ask Negro voters: "Why do all you niggers want to vote for Spears?"[208]

[204] Interview with C. C. Bridges, Nov. 17, 1966.

[205] Interview with E. A. Tomlin, Nov. 17, 1966.

[206] Bridges and Tomlin interviews. Five or six registered Negro voters reportedly were not permitted to vote at the Ridgeville precinct polling place and between five and 10 were not allowed to vote at the St. George No. 1 polling place in Dorchester County, S.C. Interviews with Mrs. Victoria DeLee, an official with the Dorchester County Voters League, a civil rights organization, Dec. 7, 1966, and Mrs. Geneva Tracy, president of the Dorchester County chapter of the Congress of Racial Equality, Dec. 7, 1966.

[207] Interview with Zelma Wyche, Mar. 20, 1967. Another reason given for his defeat was the full-state voting requirement, discussed pp. 38–39 supra.

[208] Interview with Rev. Linton I. Spears, Jan. 4, 1967.

Negro voters in some areas of the South in 1966 had to stand in line for long periods of time to cast their ballots because election officials were not prepared for such large turnouts. Here, Negroes wait in line to vote in Lowndes County, Alabama.

The candidate's wife, who served as a poll watcher at the Lisman polling place in a predominantly Negro area, reported instances of harassment there.[209] All election officials at the polling place were white.[210] Mrs. Spears stated that Negroes waiting to vote were not permitted to talk to each other and that she heard one election official use abusive language when addressing Negro voters.

It also was reported that voters were not allowed to place their ballots in the ballot box themselves, but were required to hand the ballots to an election official, M. T. Ezell, Jr.—the first cousin of C. R. Ezell, Rev. Spears' principal white opponent—who deposited the ballots. Many Negroes, Mrs. Spears said, felt that this arrangement (required by Alabama law [211] and followed for all voters), allowed the election official to learn the identity of the candidate for whom they voted.

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[209] Interview with Mrs. Linton I. Spears, Jan. 4, 1967.

[210] A timely request for the appointment of Negro election officials nominated by the Negro candidate was turned down. See pp. 102–03 infra.

[211] Ala. Code tit. 17, §§ 179, 184 (1958).

Many Negroes voted for the first time in their lives when they participated in the general election at the Benton polling place in predominantly Negro Lowndes County, Alabama, on November 8, 1966.

Rev. Spears won a plurality in the primary but failed by six votes to receive a majority which would have averted the necessity for a run-off. After the primary the U.S. Department of Justice granted the Choctaw County Civic League's request for Federal observers at the May 31 run-off where he was defeated. The run-off election, Rev. Spears said, "was so different there was no comparison between it and the May 3rd election." [212] With Federal observers present, he reported, election officials allowed voters to deposit their ballots in the boxes themselves, and there was little intimidation or abuse of Negro voters.

The chairman of the county Democratic executive committee said he thought the May 3rd primary election had been conducted fairly and in fact had congratulated all election officials for the "fine job" they had done.[213]

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[212] Rev. Spears interview.

[213] Interview with Albert H. Evans, Jr., chairman of the Choctaw County Democratic Executive Committee, Jan. 4, 1967. A copy of the letter of congratulations was obtained from Mr. Evans. It reads:

This is just a note to thank each of you and congratulate you for the fine job you

Footnote continued on following page.

Refusal to Assist or Permit Assistance to Illiterate Voters

The Voting Rights Act of 1965 has enfranchised otherwise eligible illiterates in States where literacy tests have been suspended. Federal courts construing the Act have held that "if an illiterate is entitled to vote, he is entitled to assistance at the polls which will make his vote meaningful." [214] In several counties in Alabama, South Carolina, and Mississippi there have been reports that election officials have refused to provide or allow adequate assistance to illiterate Negro voters. In addition, illiterate voters in some Southern States have been denied the use of aids to enable them to overcome their lack of literacy. In some areas of Mississippi illiterates have been denied the use of sample ballots even though such use is not prohibited by State law. In Virginia officials have rejected write-in ballots cast by illiterates through the use of gummed labels.

Bullock and Barbour Counties, Alabama

Under Alabama law governing primary elections, if a qualified elector is unable to read or is physically incapacitated from marking his ballot, he may request assistance from two polling place inspectors who must assist him in the presence of each other.[215] Alabama illiterates also are entitled to assistance at the polls by virtue of the Voting Rights Act.

In his suit to void the results of the 1966 run-off primary election, Fred Gray, Negro candidate for the State house of representatives, alleged that at several polling places in Bullock and Barbour Counties election officials refused to adequately assist Negro voters, including illiterates, as required by State and Federal law. The complaint stated:

> At several polling places in Bullock and Barbour Counties election officials refused to assist Negro voters requiring help because of unfamiliarity with voting machines and procedures; refused to assist Negroes who could sign their names but were otherwise functionally illiterate; refused to permit Negroes to use persons of their choice to assist them in voting at voting machines as required by the law of the State of Alabama; refused to supply the proper number of voting officials to assist Negro illiterates and attempted to humiliate and

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did in conducting the Democratic Primary of May 3rd. There were many new voters and I know the election was conducted, in some of the boxes, under trying circumstances.

* * * * * * *

Looking back on the election, I am convinced that all of you did a good job. The Executive Committee has had the usual run of complaints from some of the candidates but I am genuinely pleased that there have been so few valid complaints coming out of the May 3rd Primary.

[214] United States v. Louisiana, 265 F. Supp. 703, 708 (E.D. La. 1966), *aff'd per curiam*, 386 U.S. 270 (1967); United States v. Mississippi, 256 F. Supp. 344, 348 (S.D. Miss. 1966); Morris v. Fortson, 261 F. Supp. 538 (N.D. Ga. 1966).

[215] Ala. Code, tit. 17, § 359 (1958).

mortify Negroes requesting assistance. White electors requesting assistance at all times received polite and courteous treatment from poll officials.[216]

Greene County, Alabama

In Greene County, Alabama, Negro voters in the 1966 Democratic primary election reportedly were denied on account of their race the use of sample ballots to assist them in voting. It also was reported that voting officials, in purporting to assist Negro illiterates in casting their votes, marked the ballots contrary to the wishes of the voters they assisted.

Four Negro candidates and four functionally illiterate Negro voters sued to void the primary election. Their complaint stated that sample ballots were used by voter organizations in instructing illiterate Negroes on voting procedures so they could cast their ballots within the 5-minute limit imposed by Alabama law [217] without having to seek assistance from voting officials who were almost exclusively white. The plaintiffs alleged that prior to the election the county probate judge instructed election officials not to allow illiterate Negro voters to enter the voting booths with sample ballots or cards bearing the names of candidates. Voting officials, however, were instructed to allow *literate* voters and *white illiterate* voters to take sample ballots or cards into the voting booths, the complainants alleged.[218]

On election day, the complaint says, illiterate Negro voters uniformly and consistently were not allowed to use sample ballots and thus were forced to request the assistance of white voting officials. The plaintiffs alleged that out of sight of Negro poll watchers and Federal observers "[t]he great majority of Negro illiterate voters instructed the voting officials assisting them to mark their ballots for the various candidate plaintiffs. In numerous instances the white voting officials failed and refused to mark the ballots as instructed. Rather they designated a vote for the various white candidates." [219]

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[216] Complaint in Gray v. Main, Civil No. 2430–N, M.D. Ala., filed July 5, 1966, at 14, 15. Racial discrimination in the assistance of voters and the denials of adequate assistance allegedly "had the purpose, intent, and effect of discouraging and excluding from the elective process other Negro electors who needed assistance in casting their ballots." Gray complaint at 18. In its opinion, the court found that no voter was refused assistance, but that there was a dispute over who were the proper parties or officials to render assistance. The court held that the evidence was insufficient to establish a "burdensome discriminatory practice." Gray v. Main, Civil No. 2430–N, M.D Ala., Mar. 29, 1966, slip opinion at A–6 to A–7.

[217] Under Alabama law, when voters are waiting to vote and the other voting booths are filled, the voter is not permitted to take longer than five minutes to mark his ballot. Ala. Code, tit. 17, § 177 (1958).

[218] Gilmore v. Greene County Democratic Party Executive Committee, Civil No. 66–341, N.D. Ala., filed May 27, 1966, at 3–8 [hereinafter cited as the Gilmore complaint].

[219] Gilmore complaint at 8.

Dallas County, Alabama

Under Alabama law governing *general* elections, a voter who needs assistance in filling out his ballot because of illiteracy or physical handicaps "may have the assistance of any person he may select." [220] In two reported instances, Negro poll watchers allegedly were denied the opportunity to assist illiterate Negro voters requesting their help.[221] In describing one of these instances, Mrs. Clara Walker, a Dallas County Independent Free Voter Organization poll watcher at a polling place in Precinct Four, complained to a Commission staff member that the election officials managing the polling place refused to allow her to assist a Negro voter who requested help.[222]

Dorchester County, South Carolina

South Carolina law provides that a voter unable to read or write is permitted to be assisted by a poll manager and a bystander of his own choice who must be an elector of the precinct.[223] On November 8, 1966, the day of the general election, a number of illiterate Negro voters who had gone to the Ridgeville precinct polling place in Dorchester County, requested the assistance of Negroes affiliated with the local civil rights movement to help them vote. According to complaints, however, the poll manager, claiming to be acting in accordance with instructions from the U.S. Attorney in Columbia, refused to permit Negroes who had registered in 1965 to receive assistance in voting from anyone except the poll officials, all of whom were white.[224]

During the late afternoon illiterate Negro voters reportedly asked Mrs. Victoria DeLee and Mrs. Anna Williams, both Negro, to assist them but the poll manager refused to allow Mrs. DeLee and Mrs. Williams to do so. According to this account, Mrs. DeLee protested to the poll manager and telephoned the office of the U.S. Attorney and the Department of Justice in Washington. A Department of Justice attorney was sent to Ridgeville and intensive efforts were made to gain compliance with the law. At approximately 6 p.m. Negro illiterates registered in 1965 finally received assistance in casting their ballots.

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[220] Ala. Code, tit. 17, § 176 (1958).

[221] Interview with Clarence Williams, chairman of the Dallas County Independent Free Voters Organization, Nov. 9, 1966.

[222] Interview with Mrs. Clara Walker, Nov. 9, 1966.

[223] S.C. Code § 23–400.56 (Supp. 1966).

[224] Information on the incident obtained in interviews with Mrs. Victoria DeLee, chairman of the Ridgeville precinct branch of the Dorchester County Voters League, Dec. 7, 1966, and Mrs. Anna Williams, a member of the executive committee of the Voters League, Dec. 8, 1966. The rationale for the alleged refusal to allow assistance to *1965* Negro registrants is unclear. The poll manager died after the election and therefore could not be interviewed.

Williamsburg County, South Carolina

In Williamsburg County, eyewitnesses reported that poll managers in the 1966 Democratic primary election did not permit illiterate Negro voters to select bystanders of their own choice to assist them in the Black River, Mount Vernon, and several other precincts.[225] In Bloomingdale and Central precincts, where a similar complaint was made, it was reported that the poll manager refused to discuss the matter with a Negro candidate who challenged the refusal.[226]

Reports that assistance to Negro illiterates was not permitted were made in four additional precincts.[227] Relying in part upon these complaints, losing Negro candidates unsuccessfully challenged the results of the election before the county and State Democratic executive committees.[228]

Holmes County, Mississippi

In Holmes County, an attorney supervising law students in observing the November 1967 general election in West, Durant, and Goodman precincts reported that the white manager asked questions calculated to intimidate or embarrass illiterate Negro voters, such as "You can read, now, can't you?" [229]

During the August 8, 1967 Democratic primary in Holmes County, election officials in some areas refused to allow the use of sample ballots, either by all voters or just by voters receiving assistance. In some cases the use of sample ballots was allowed only after strong objections from law students.[230] The Federal observer reports for the August 8, 1967 Democratic primary in Mississippi show that in polling places in Tchula,[231] Lexington [232] and Thornton [233] no one was allowed to use sample ballots. In Ebenezer [234] and in another polling place in Lexing-

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[225] Interview with Virgil Dimery, chairman of the voter registration committee of the Williamsburg County Voters League, Dec. 9, 1966, and Laura Mae Conyers, poll watcher at the Mount Vernon precinct polling place, Dec. 9, 1966.

[226] Interview with Jesse Lawrence, Negro candidate for member of the State house of representatives, Dec. 8, 1966.

[227] Id.

[228] The election protest is described at pp. 95–96 infra.

[229] Letter from Herbert A. Schwartz to James Lewis, Nov. 10, 1967, LCDC Holmes County, Mississippi, Nov. 7, 1967 election file. See also copy of notes of law student Dick Roisman, describing events at the Durant polling place, in Commission files.

[230] Report on the Mississippi Election Project at 11.

[231] Reports of Federal observers, Tchula, Holmes County, Mississippi, Aug. 8, 1967 primary election.

[232] Reports of Federal observers, Lexington, Holmes County, Mississippi, Aug. 8, 1967 primary election.

[233] Reports of Federal observers, Thornton, Holmes County, Mississippi, Aug. 8, 1967 primary election.

[234] Reports of Federal observers, Ebenezer, Holmes County, Mississippi, Aug. 8, 1967 primary election.

ton [235] illiterate voters were not allowed to use sample ballots, although other voters were.[236]

Richmond, Virginia

In the 1966 election in the Fourth Congressional District, which includes Richmond, a write-in campaign for a Negro candidate for the U.S. House of Representatives, S. W. Tucker, was conducted. It was felt that such a campaign would pose difficulties for illiterate voters, who would need help in writing in the candidate's name and might be deterred from participating in the write-in campaign because of the resulting lack of privacy. Therefore "stickers"—gummed labels on which Tucker's name was printed—were prepared, in order that illiterate voters could vote for Tucker by pasting the sticker on the ballot in the appropriate blank for write-in votes. The State Board of Elections refused to count the votes—numbering several thousand—cast in this manner. A suit challenging this refusal was filed, but a three-judge district court refused to overrule the board. The case is pending on appeal to the Supreme Court.[237]

Giving Inadequate or Erroneous Instructions to Negro Voters

Baker County, Georgia

In a special election in Baker County in July 1966 to fill a vacant seat on the county board of education, Negro candidate Davie Cowart lost in a contest with two white candidates. For the ballots cast in this election to be counted, the stub containing the ballot number at the bottom of each ballot had to be torn off by the voter. There were several complaints that because Negroes, many voting for the first time, were not instructed by the election officials to detach the stub, they cast ballots which were invalidated.

One Negro voter reported that neither she nor several other Negroes who went with her to vote at the courthouse in Newton were instructed

[235] Reports of Federal observers, Lexington, Holmes County, Mississippi, Aug. 8, 1967 primary election.

[236] A sample ballot enables a voter to remember the candidate for whom he wishes to vote. For an illiterate voter a sample ballot is particularly helpful, for the voter need merely tell the person giving the assistance that he wishes to vote for the persons indicated on the sample ballot. Mississippi law neither expressly prohibits nor expressly permits the use of sample ballots.

[237] Allen v. State Board of Elections, 268 F. Supp. 218 (E.D. Va. 1967), *appeal docketed,* 36 U.S.L.W. 3193 (U.S. Sept. 28, 1967) (No. 661). On Feb. 14, 1968, the Department of Justice filed a brief at the request of the Supreme Court. It argued that Virginia's refusal to allow the use of stickers violates Section 5 of the Voting Rights Act. See p. 165 note 62 infra.

by the election officials (all of whom were white) to tear the stub from the ballot before placing it in the ballot box.[238] The one voter among them who did detach the stub as required, she said, reported that he had been so instructed at a civil rights movement meeting.

Similar complaints were voiced by Negroes who voted at the Hoggard Mill polling place.[239] According to the official election returns, election officials voided four ballots at Hoggard Mill and 81 ballots at the Newton courthouse polling pace. The poll manager at Newton courthouse told a Commission staff member that most of the ballots were voided because they were improperly marked or because the stubs were not detached.[240] He denied any knowledge of discriminatory instructions given to white and Negro voters and acknowledged that Negro voters were entitled to assistance from election officials if they requested it.

Madison Parish, Louisiana

On February 23, 1968, the Department of Justice filed suit in U.S. District Court in Shreveport, Louisiana to invalidate an election in Tallulah, Louisiana, claiming that election officials released erroneous instructions on the use of voting machines. Their action, the complaint charged, deprived Negro voters of the right to cast effective ballots in the election of a village marshal.[241]

Clayton W. Cox, a white candidate for the marshal's post, received 1,954 votes and Zelma C. Wyche, a Negro candidate, received 1,659 in the special municipal election on February 6, 1968 in conjunction with a statewide general election. Official instructions distributed in Tallulah before the election advised that a voter could cast ballots for all candidates of a political party by turning the party lever. Because of mechanical limitations of the voting machines, it was later determined that party levers would not register votes in the marshal's election and separate votes for marshal would be required. Neither the election commissioners nor Wyche was advised of the change by the custodian of the voting machines in Madison Parish, and the erroneous instructions were posted on voting machines on election day, the complaint asserted. It said Wyche's supporters had been urged to vote the Democratic ticket on the basis of the erroneous information while supporters of Cox, a Republican, had been urged to vote for him individually.

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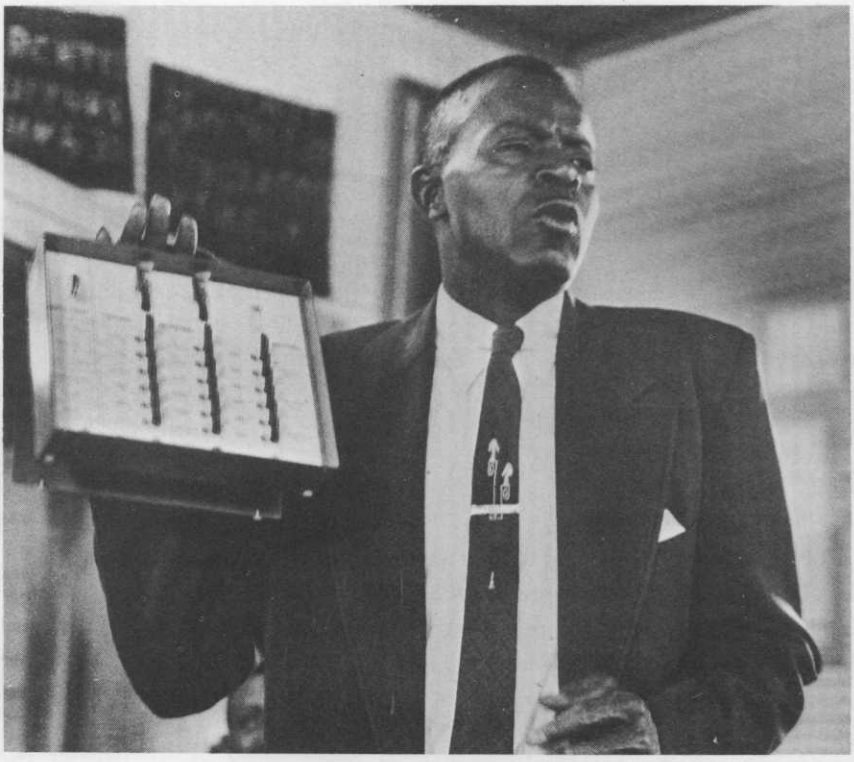
[238] Interview with Mrs. Mendel Cowart, Nov. 16, 1966.
[239] Interview with Davie Cowart, the candidate, Nov. 16, 1966.
[240] Interview with Earl Jones, Nov. 16, 1966.
[241] United States v. Post, Civil No. 13571, W.D. La., filed Feb. 23, 1968. The conduct of the election officials, the complaint charged, violated Sections 2 and 11(a) of the Voting Rights Act and Section 1971(a) of Title 42 of the United States Code. Subsequently, the defeated candidate filed a similar complaint.



Many Negroes, voting for the first time, were unfamiliar with the mechanics of casting a ballot. Here, a community leader explains how to use a voting machine.

The complaint said 486 Tallulah voters who participated in the general election failed to cast ballots for marshal. Results of the marshal's race were inaccurate, it asserted, because of the erroneous instructions. The Department sought a court order declaring the marshal's election void, and ordering a new election within 90 days.

Disqualification of Negro Ballots on Technical Grounds

During 1966 in some counties in Alabama and Georgia Negro ballots were disqualified on technical grounds under circumstances indicating racial motivation.

Dallas County, Alabama

In the 1966 Democratic primary election in Dallas County, five Negro candidates sought nomination for county offices. In addition, Wilson

Baker, a moderate white candidate supported by the Negro community, sought the Democratic nomination for the office of sheriff against white incumbent James Clark, who had the reputation of being hostile toward civil rights and Negro progress.

When the ballot boxes were canvassed by the county Democratic executive committee to tabulate the official returns, the committee voted to exclude the votes in six ballot boxes.[242] The vast majority of the votes in these boxes had been cast by Negroes registered by Federal examiners under the provisions of the Voting Rights Act of 1965.

The county executive committee said the votes were excluded from the canvass because no certificates of results had been prepared by election officials and placed in or attached to the outside of the boxes, as required by Aabama law.[243] The votes in these boxes were rejected despite the absence of evidence of vote fraud, and even though members of the county Democratic executive committee had been able to conduct unofficial tabulations of the vote in the disqualified boxes with little apparent difficulty, and some of the persons conducting such tabulations had urged inclusion of some of the boxes.

In a suit brought by the U.S. Department of Justice challenging the exclusion, the Federal district court held that failure to count the votes in the excluded boxes violated rights secured by the Voting Rights Act of 1965 and was inconsistent with State law, and ordered that the votes be counted. Although the court-ordered inclusion of the six boxes did not affect the results of the election as far as the Negro candidates were concerned, it did obtain the nomination of the moderate white candidate for sheriff,[244] who was elected to the office in November.

Choctaw County, Alabama

In the May 1966 Democratic primary and run-off elections in Choctaw County, Rev. Linton I. Spears, a Negro, was defeated in his bid to obtain the Democratic nomination for the District Two seat on the Board of County Commissioners [245] although Negroes constituted a majority of the

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[242] Unless otherwise noted, the facts concerning this incident are taken from the findings of fact and opinion of the court in United States v. Executive Committee of Democratic Party of Dallas County, Alabama, 254 F. Supp. 537 (S.D. Ala. 1966).

[243] There was evidence that the election officials who had failed to resolve all tally discrepancies and fill out the certificates of results had been inadequately trained and instructed by those responsible for the conduct of the election.

[244] N.Y. Times, May 5, 1966, at 1.

[245] According to the official returns, the vote in the first primary was:

Spears	910
Ezell	539
Reynolds	377
Total Votes of Opponents	916

The vote in the primary run-off election was:

Ezell	1,051
Spears	872

registered voters in the district.[246] Rev. Spears and civil rights leaders charged that he did not get a majority vote in the first primary election because of racially motivated irregularities, including disqualification of ballots by election officials in violation of State law.[247]

Negro poll watchers reported that nine ballots at the Halsell polling place were disqualified because the voters' "X" marks were placed on the wrong side of Rev. Spears' name.[248] Since in the first primary the Negro candidate had been only six votes short of a majority, the nine disqualified ballots, if counted, might have made him the winner. Asked about this complaint, the chairman of the county Democratic executive committee acknowledged that under Alabama law if the election official can determine from the ballot precisely how the voter intended to vote, the ballot should be counted even though the voter may not have followed the directions on the ballot exactly.[249] Thus, according to the chairman, if an "X" is made beside the name of a candidate but not in the box specified, the ballot nevertheless should be tallied.

Rev. Spears complained about the disqualified ballots to the chairman of the county committee.[250] The chairman advised him to ask for a recount, and said he would need a lawyer for this purpose.[251] Rev. Spears contacted a Negro lawyer in Mobile but later decided that he could not afford to contest the election and dropped his challenge. He believes the failure to count the nine disqualified ballots was racially motivated.[252]

Sumter County, Georgia

Sammy Mahone—representative of Rev. J. R. Campbell, Negro candidate for alderman in the Americus Municipal Democratic primary in November 1966—asserted his belief that a large number of ballots for Rev. Campbell were rejected by election officials for insufficient legal reasons.[253] A "scratch-out" ballot was used in this primary. To cast a "scratch-out" ballot, the voter deletes the name of the candidate for whom he does not wish to vote. Although Mahone was not permitted to inspect the disqualified ballots, he overheard election officials discussing their reasons

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[246] Interview with William H. Harrison, president of the Choctaw County Civic League, a civil rights organization, Jan. 4, 1967, and Anthony S. Butler, chairman of the Civic League's franchise committee, Jan. 4, 1967.

[247] Id. and interview with Rev. Linton I. Spears, Jan. 4, 1967. Other complaints were that the Civic League was not permitted to obtain lists of the registered voters for each box to determine whether voters were casting their ballots in the proper boxes; that the white employers of local Negroes intentionally were placed as election officials at District Two boxes to intimidate their Negro employees; that the election officials, all of whom were white, harassed and intimidated Negro voters; and that there was discrimination in the selection of election officials.

[248] Harrison and Spears interviews.

[249] Interview with Albert H. Evans, Jr., chairman of the Choctaw County Democratic Executive Committee, Jan. 4, 1966. See Ala. Code, tit. 17, § 193 (1958).

[250] Spears interview.

[251] Evans interview.

[252] Spears interview.

[253] Interview with Sammy Mahone, Nov. 16, 1966.

for rejecting certain ballots. According to his account, ballots were rejected because voters did not use heavy enough lines in scratching out the names of candidates, placed check marks beside the favored candidate instead of marking out the name of an opponent, or wrote in the name of Rev. Campbell at the bottom of the ballot in the space designed to accommodate write-in choices for posts on the Americus Democratic Executive Committee. Mahone was unable to determine with certainty, however, whether the rejected ballots had been cast for the Negro candidate or his opponent.

The official returns showed 42 disqualified ballots. The Americus city clerk, who was custodian of the official returns and who had considerable experience in municipal and electoral affairs, told a Commission staff member that the usual practice was to count any ballot which clearly indicated the voter's choice, regardless of whether the vote was cast according to the technical requirements of the law.[254] Thus, according to the clerk, election officials in the past usually had counted "scratch-out" ballots marked with a check or where the line striking out the disfavored candidate was not heavy but still perceptible enough to indicate the voter's intention.

All balloting in the Americus election was done at a single polling place—which was segregated according to sex. The manager of the male side of the polling place admitted that ballots were not counted if the voter had checked his choice instead of crossing out the name of the opposing candidate. He denied, however, that ballots were disqualified when the stroke used to cross out the opposing candidate was light or when Rev. Campbell's name was written in at the bottom of the ballot.[255] The manager of the female side of the polling place stated that he followed the same criteria except that in some instances ballots containing check marks or crosses beside a candidate's name were counted where the intention to vote for a particular candidate was clear.[256]

Denial of Equal Opportunity to Vote Absentee

Harrison H. Brown, a Negro resident of Madison Parish, Louisiana, won the Democratic nomination for member of the parish school board from Ward Four in the August 1966 Democratic primary election. Brown was the first Negro to win a primary election in Madison Parish in this century. In October 1966 a white write-in candidate, J. T. Fulton,

[254] Interview with City Clerk A. T. Gatewood, Jr., Nov. 17, 1966.
[255] Interview with C. C. Bridges, Nov. 17, 1966.
[256] Interview with E. A. Tomlin, Nov. 17, 1966.

qualified to run as an independent against Brown and in the November general election won by a margin of 269 votes.

Madison Parish has a majority Negro voting age population with approximately 5,000 voting age Negroes and 3,000 voting age whites. Ward Four is predominantly Negro. At the time of the general election, 2,660 Negroes and 2,329 whites were registered to vote in the ward.

After the election, Brown filed suit in Federal district court charging fraud in the solicitation of absentee ballots. He alleged that of 512 absentee ballots cast, 510 were for Fulton. No more than 50 absentee ballots, he stated, had been cast in any previous election in the parish. Brown charged a conspiracy by white officials and others to encourage white voters to sign false affidavits stating their intention to be out of the parish on election day, and thus to qualify for absentee ballots.[257] This defrauded Negro voters and contributed to the defeat of the Negro candidate, he charged.

Brown asked the court to nullify the election and declare him the winner or order a new election. The U.S. Department of Justice also filed a separate complaint asking that the election be set aside, and the two cases were consolidated for hearing.

The district court held that although the defendants had acted in good faith in attempting to comply with Louisiana absentee voting laws, there had been discrimination against the Negro voting population of the parish.[258] The election officials had discriminated, the court found, by allowing absentee ballots to be cast by inpatients in a white nursing home, by white residents in their private homes, by the residents in a white section of the parish, and by the white employees of a local plantation without affording the same opportunities to Negro voters of the parish. The court determined that this discrimination was sufficient to void the election and ordered that a new election be held for the school board post.

Discriminatory Location of Polling Places

Commission staff investigators received complaints that in 1966 Negroes had been deterred from voting in certain areas of Mississippi by the location of polling places in plantation stores where Negro plantation workers could be intimidated easily by the plantation owner and where they were afraid to vote for fear that a principal source of credit would be withdrawn. It was reported also that some polling places in at

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[257] La. Rev. Stat. §18:1071 (1959) provides that "any qualified registered voter of the State who expects to be absent from the parish in which he is qualified on the day of holding any special, general, or primary election . . . may" cast an absentee ballot. Sec. 18:1073 provides that the application for an absentee ballot must be made by sworn affidavit.

[258] Brown v. Post, Civil Nos. 12,471 and 12,583, W.D. La., Jan. 24, 1968.

least one Mississippi county were located in white institutions such as schools and churches which Negroes customarily were not expected or allowed to enter.

Clay County, Mississippi

An official of the Clay County Freedom Democratic Party, a Negro political and civil rights organization, complained that the polling place in a rural precinct during the November 1966 general election had been located in the store of one of the big plantations in Clay County. The location of the polling place was alleged to have deterred voting by Negroes.[259]

A detailed description of the balloting at this polling place, the J. T. Brand plantation store in Caradine precinct, is contained in the report of Federal observers who were present:

> Mr. J. T. Brand's [the plantation owner's] cotton gin was directly across the highway from this general store and he was in and out, all day long, visiting. . . . The whole atmosphere, throughout the day, was of a social gathering, rather than an official election. A large cheese ring was on the counter and all were encouraged to have some with crackers provided free of charge by Mr. J. T. Brand. . . . There were many people, friends, wives, and voters that remained for social conversation during the day. Most of the voters were members of the Brand family, the officials and their wives and neighbors of the Brands and other officials. Most everyone called each other by their first names or initials and as a result the voting was very informal and after voting most of the voters remained from 5 minutes to all day, socializing, and for cokes, candy, cheese and crackers.[260]

Of the approximately 55 Negroes registered to vote in that precinct,[261] only one voted in the November general election even though Negro candidates for U.S. Senator and Member of the U.S. House of Representatives were on the ballot.[262] The report of the Federal observers describes the conduct and demeanor of this Negro voter:

> Prior to [the one Negro voter's] entrance to the store, I observed him walking toward the store in a slow, and in my opinion, apprehensive manner. He finally came up onto the porch, looked inside, and then walked to the right of the porch, where the voting instruc-

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[259] Interviews with Mrs. Dora Adams, Feb. 28, 1967; Dawson I. Horn, president of Mary Holmes Junior College and chairman of the Council of Community Organizations, a coalition of civil rights organizations, Feb. 28, 1967; and Isaac Coleman, a SNCC field secretary working in the county, Feb. 28, 1967. According to Horn, a request to change this polling place was denied.

[260] Report of Federal observers, Caradine precinct, Clay County, Miss., Nov. 8, 1966 general election.

[261] Information obtained from the Department of Justice, Mar. 25, 1968.

[262] Report of Federal observers, supra note 260.

tion card was posted. I don't know if he was reading the card or if anyone else had seen him. Finally, Mr. Loden [a polling place manager] saw him and asked him if he wanted to vote. Prior to his entrance, a period of 5 to 10 minutes had elapsed since I first saw him and he was only in the store a few minutes. Both during the period before he entered the store and while [he was] in the store, both myself and Mr. Forester [the other Federal observer] thought he looked very nervous and apprehensive. Mr. Forester remarked that he looked like "a whipped pup." [263]

Hinds County, Mississippi

Rev. Ed King, a white candidate of the Mississippi Freedom Democratic Party who sought the Democratic nomination for Member of the U.S. House of Representatives in the June 1966 primary election, complained that the location of polling places in the city of Jackson, seat of Hinds County and the Mississippi State capital, deterred Negroes from voting.[264] He asserted that the Jackson polling places were located primarily in white areas and in white institutions, including white churches in which Negroes are not permitted to attend services. He felt that polling places in precincts with a substantial Negro population should be located in Negro institutions, such as predominantly Negro schools.

In response to this complaint, the attorney for the county board of supervisors, which under Mississippi law has responsibility for establishing polling places,[265] stated that the voting places in Hinds County "are fixed without regard to race or color." [266]

Racially Segregated Voting Facilities and Voter Lists

Racially segregated voting and related facilities have been reported in some areas.

On July 20, 1965—17 days before enactment of the Voting Rights Act of 1965—a special election was called in Americus, seat of Sumter Coun-

[263] Id. Joe Harris, a field worker for the Delta Ministry, a civil rights organization, complained to Commission staff that many polling places in the most rural portions of Sunflower County, Mississippi, were located in plantation stores. He believed that many registered Negroes are afraid to vote in the stores operated by plantation owners because of the threat of economic sanctions. Interview with Joe Harris, Mar. 2, 1967. The clerk of the county board of supervisors, responding to this complaint, denied that the location of polling places in plantation stores deterred Negros from voting. Letter from Jack E. Harper, Jr., to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 16, 1967.

[264] Interview with Rev. Ed King, Feb. 13, 1967.

[265] Miss. Code § 3209 (Supp. 1966).

[266] Letter from John M. Putnam, attorney for the Hinds County Board of Supervisors, to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 15, 1967.

ty, Georgia, to fill a vacancy caused by the death of the local justice of the peace. A Negro, Mrs. Mary F. Bell, lost in a race against five white men for the position, and successfully sued to set aside the election.[267]

According to the statement of facts—largely admitted by the defendants—by the U.S. Court of Appeals for the Fifth Circuit, the officials for the special election, which was supervised by the county ordinary, conducted the election on a segregated basis. Voter lists for the election were segregated on the basis of race. The polling booths were segregated by race and sex with booths designated for "white males," "white women," and "Negroes." During the balloting a number of qualified Negro women voters sought to cast their votes in the "white women" polling booth. When they refused on constitutional grounds to leave the booth after being ordered to do so by the deputy sheriff acting under the county ordinary's direction, they were arrested.

The Fifth Circuit held that the election "was conducted under procedures involving racial discrimination which was gross, state-imposed, and forcibly state-compelled," [268] ordered the election set aside, and directed the calling of a new special election.[269]

Although in the 1966 Sumter County elections the voting lines were racially desegregated,[270] the U.S. Department of Justice filed suit in 1967 to enjoin the maintenance of racially segregated voting facilities in Johnson County, Georgia.[271]

In predominantly Negro Lowndes County, Alabama, police officials maintained segregated parking facilities at one polling place during the November 1966 general election, although the voting lines were desegregated.

In the same election seven Negro nominees of the Lowndes County Freedom Organization, whose symbol was the black panther, contested the major elective offices in the county. The polling place in Lowndesboro—one of eight polling places in the county—was located in a building directly adjacent to the Lowndes County Christian Academy, a segregated private school established by whites to avoid public school desegregation. A Commission staff member observed that white voters

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[267] The circumstances of the special election and the charges of discrimination growing out of it are described in the opinion of the Court of Appeals for the Fifth Circuit. Bell v. Southwell, 376 F.2d 659 (5th Cir. 1967), *reversing* 11 Race Rel. L. Rep. 1360 (M.D. Ga. 1966).

[268] 376 F.2d at 659.

[269] In parallel companion cases before the Federal district court, the district judge had enjoined the same defendants from maintaining racial segregation at the polls and segregated voter lists, and from prosecuting the Negro women for remaining in the white women's polling booth. United States v. Chappell, 10 Race Rel. L. Rep. 1247 (M.D. Ga. 1965).

[270] Sumter County voting facilities still were segregated by sex in 1966. See p. 66 supra.

[271] United States v. Attaway, Civil No. 962, S.D. Ga., filed June 23, 1967; United States v. Brantley, Civil No. 694, S.D. Ga., filed Aug. 18, 1967.

were permitted to park their cars on the grounds of the private school.[272] Negroes, however, were directed by Y. C. Nichols, a uniformed Lowndesboro police officer, to park on a dirt road directly south of the polling place.

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[273] Staff memorandum to the files from Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 8, 1966.

Chapter 4

Exclusion of and Interference with Negro Poll Watchers

The primary election laws of most Southern States grant each candidate or his appointed representative, usually termed a "poll watcher," the right to remain in each polling place to observe the balloting during the election and the tabulation of the ballots after the polls have closed. Negro candidates and civil rights leaders generally consider this an important right and appoint poll watchers whenever a Negro candidate is running for office. In areas where Negro election officials have not been appointed, or where Negroes appointed to serve as election officials are identified with the white community, poll watchers are considered to be the only resource through which Negro candidates can monitor the election process to deter irregularities and to identify instances of racial discrimination and vote fraud.

In general and special elections, Negro candidates who do not receive the nomination of an organization qualified under State law as a political party generally are at a disadvantage. The laws of most Southern States provide generally for the selection of poll watchers to represent such political parties and all party nominees running in the election. An independent candidate not running as the nominee of a qualified political party generally is not granted by law the right to designate poll watchers to observe the election process. As a matter of practice, however, in most counties independent candidates are allowed to station poll watchers in polling places in general and special elections.

During 1966 there were reports that Negro poll watchers discriminatorily were excluded from polling places, restricted in their activities, or mistreated in some areas of the South during primary elections in which State law gave them the right to observe the conduct of the election. In some areas of Alabama, Negro poll watchers were allowed to observe general elections while in other areas they reportedly were denied this opportunity. In some areas of Mississippi, Negro poll watchers, while allowed to attend general and special elections, reportedly were harassed and mistreated in the primary. In Georgia, where State law requires that

ballots be counted in public, Negro poll watchers reportedly were not permitted to inspect disqualified ballots. In 1967 there were reports of harassment of Negro poll watchers at general and special elections in Mississippi.

South Carolina

Under South Carolina law, each candidate in a contested primary election is entitled to appoint watchers to observe the balloting in any polling place he may designate.[273] In at least one South Carolina county during 1966, there were reports that Negro poll watchers were subjected to intimidation and in many precincts were not permitted to watch the balloting.

In the June Democratic primary and the primary run-off in Williamsburg County, four Negroes ran for office: one for State senator, two for State representative, and one for county road commissioner.[274] In the county road commissioner election, the Negro candidate won majorities in both the primary and general elections. Each of the other candidates received pluralities but not majorities in the primary and lost in the run-off. There were complaints that in the primary and run-off elections poll watchers designated by the Negro candidates were not permitted by election officials to observe the balloting as stipulated by State law.

During the first primary, an owner of property adjacent to the polling place in Piney Forest precinct allegedly refused to permit watchers designated by the Negro candidates to remain in the polling place to observe the counting of the ballots.[275] Negro candidates received reports from their poll watchers in seven additional precincts that the watchers were not permitted to view the balloting—in some precincts by the action of poll managers, in others by local police officials, and in still others by unidentified white persons.[276] Negro poll watchers reported that they were able to observe balloting in three precincts located in predominantly Negro areas.[277]

The primary run-off pitted three Negro candidates against white candidates for State legislative offices and the reported incidents increased in number and significance. At Piney Forest, the poll managers reportedly changed the location of the Negro poll watchers several times.[278] Finally, according to an eyewitness, the owner of the adjacent property arrived,

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[273] S.C. Code § 23–400.64 (Supp. 1966).

[274] Interview with Furman Dimery, Dec. 6, 1966.

[275] Interview with Jesse Lawrence, Negro candidate for the State house of representatives, Dec. 8, 1966. Lawrence also is an official of the Williamsburg County Voters League, a civil rights organization, and a member of the South Carolina State Advisory Committee to the U.S. Commission on Civil Rights.

[276] Interview with Jesse Lawrence and Virgil Dimery, State senatorial candidate and chairman of the voter registration committee of the Williamsburg County Voters League, Dec. 9, 1966.

[277] Interviews with Laura Mae Conyers, Raymond Fulton, and Paul Murray, Dec. 9, 1966.

[278] Account given in the Lawrence interview.

announced that he "didn't allow no niggers on his property" and ordered the poll watchers out of the area. According to this account, the election officials charged with enforcing State law made no attempt to resist the owner's order.

Another complainant alleged that at the Sandy Bay precinct polling place a man exhibiting a pistol attempted to intimidate Negro poll watchers and voters.[279] Election officials at two other precincts reportedly refused to discuss with a Negro candidate the rights of poll watchers and bystanders to assist illiterate voters.[280]

According to an eyewitness at the Black River precinct polling place, the poll manager did not permit an officially designated poll watcher with the proper identification and credentials to remain in the polling place or to assist illiterate Negro voters. When the poll watcher attempted to enter the polling place the manager threatened to strike him, this witness reported.[281]

Difficulties also were reported at several other precincts. The Negro candidates believe that the intimidation or ejection of their certified Negro poll watchers had the effect of intimidating Negro voters.[282]

Alabama

Under Alabama law each candidate in a primary election is entitled to appoint for each polling place a poll watcher who is entitled to watch the conduct of the election and, after the polls have closed, to observe the counting of the ballots.[283] In general elections each qualified party is entitled to watchers—appointed by the chairman of the county executive committee, the beat committeeman, or the party nominees—having the same privileges.[284] In 1966, in at least one Alabama county, Negro poll watchers at primary elections reportedly were excluded from the polls or made to comply with rules which made it impossible for them to perform their tasks. In the 1966 general election, independent Negro candidates were allowed to station poll watchers at polling places in some Alabama counties but in at least one county, watchers for independent Negro candidates were excluded from several polling places.

Bullock County

In the May 1966 Democratic primary election in Bullock County, Negro candidates qualified and ran for office for the first time in recent

[279] Id.
[280] Id.
[281] Interview with Raymond Fulton, chairman of the Black River precinct branch of the Williamsburg County Voters League, Dec. 9, 1966.
[282] V. Dimery and Lawrence interviews. The Negro candidates challenged the results of the election before the State Democratic executive committee, but the challenge was unsuccessful. The election protest is described on pp. 95–96 infra.
[283] Ala. Code, tit. 17, § 357 (1958).
[284] Ala. Code, tit. 17, § 126 (1958).

history. Three Negro candidates ran for the offices of member of the State house of representatives, tax assessor, and sheriff, respectively. Two Negro candidates ran in a special election the same day for seats on the Bullock County Court of County Commissioners. All five candidates received large numbers of votes but each failed to receive a majority, necessitating a run-off primary election on May 31, 1966, in which they were defeated.

Before the election the attorneys for the Negro candidates reportedly explained to the Bullock County probate judge and his legal adviser that their clients planned to assign poll watchers to every voting machine or ballot box, and asked the probate judge to inform the election officials of the rights of the Negro watchers.[285] In the suit brought by Fred Gray, candidate for the State house of representatives, to void the run-off, however, it was alleged that the Bullock County election officials were not instructed to allow the Negro watchers freedom of movement and inquiry, and that at a meeting of election officials severe restrictions were placed upon the freedom of the Negro watchers to communicate with others, and to enter, remain at, leave, and record events at the polling places.[286] The complaint stated:

> On the morning of May 31, 1966, poll watchers in Bullock, Barbour, and Macon counties reported to their assigned polling places and presented letters from Negro candidates authorizing them to act as poll watchers. They brought with them paper, pencils and lists of registered voters assigned to ballot boxes or machines for which they were to act as poll watchers.
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> In Bullock County attempts of poll watchers to perform their lawful tasks were uniformly resisted. They were informed of the meeting of voting officials held the night before and told that as a result of the said meeting they had no right to use paper, pencil or registration lists; that their presence was in violation of law; that they must leave the polling place immediately or face arrest, conviction, fine and/or imprisonment. In some polling places poll watchers were completely excluded. In other instances at other polling places poll watchers were made to conform to rules which were so rigorous and unreasonable that it was impossible for them to perform their assigned tasks. Where poll watchers insisted that they had a lawful right to remain at the polling places and did so, they were not permitted to use public bathroom facilities or drinking fountains. They were not permitted freedom of movement or lawful inquiry at the polling places.[287]

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[285] Interview with Solomon S. Seay, attorney for Fred D. Gray, candidate for State house of representatives, Nov. 11, 1966.

[286] Complaint in Gray v. Main, Civil No. 2430–N, M.D. Ala., filed July 5, 1966, at 9–10 [hereinafter cited as the Gray complaint].

[287] Id. at 13–14.

In its opinion the Federal district court found that there was a conflict of legal authority on the number of poll watchers allowed by Alabama law for each polling place and on the rights of poll watchers to checkoff the names of the voters who cast their ballots on election day.[288] The court also determined that there was sufficient provocation on the part of some Negro poll watchers to justify disciplinary efforts by polling place officials.[289] On these issues the court held that the actions of the polling place officials were not arbitrary or wrongful. However, the court found that the closing of the restroom facilities at one polling place was an "instance of discrimination" and condemned the restrictions placed upon the poll watchers' use of pens, pencils, and paper.[290] In its decree, the court enjoined further such interference.

Dallas County

In the 1966 Democratic primary election in Dallas County, five Negro candidates associated with the Dallas County Voters League ran for State and county offices. Negro poll watchers named by these candidates to observe the conduct of the election experienced no difficulties or mistreatment, according to one of the candidates.[291]

On November 8, Negro candidates affiliated with the Dallas County Independent Free Voters Organization—reportedly the more militant of the two Negro organizations—ran for county office as independents and appointed watchers for each polling place in the county.[292] In contrast to the treatment accorded poll watchers of the Voters League candidates, and to the practice in Lowndes County (where independent Negro candidates associated with the Lowndes County Freedom Organization were allowed to assign poll watchers to observe the November election), the chairman of the Free Voters Organization reported that its Negro poll watchers were excluded and in some cases chased away from five polling places.[293] In one polling place, Negro watchers reportedly were threatened with a shotgun.[294] Additional complaints were voiced that in violation of State law, some Negro poll watchers were denied an opportunity to challenge ballots cast by persons whom the poll watcher knew or suspected were not qualified to vote.[295] The probate judge said he was satisfied with the conduct of the election.[296]

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[288] Gray v. Main, Civil No. 2430–N, M.D. Ala., Mar. 29, 1968, slip opinion at 29–34.
[289] Id. at 35.
[290] Id. at 36.
[291] Interview with Rev. F. D. Reese, president of the Dallas County Voters League, Nov. 9, 1966.
[292] Interview with Clarence Williams, chairman of the Dallas County Independent Free Voters Organization, Nov. 9, 1966.
[293] Id.
[294] Id.
[295] Id.
[296] Interview with Bernard Reynolds, probate judge of Dallas County, Apr. 26, 1967.

Mississippi

Mississippi law provides that in primary elections each candidate or his representative has a right to be present at the polling place; may observe the conduct of the election; and may challenge the qualifications of persons offering to vote.[297] In general and special elections two "challengers" selected by each organization qualified as a political party under State law may remain within the polling place to challenge the qualifications of persons presenting themselves to vote.[298] There appears to be no provision of Mississippi law giving independent candidates in general or special elections the right to have poll watchers, representatives, or challengers at the polling place. Nevertheless, in some areas of the State, Negro candidates for office in general and special elections during 1966 and 1967 appointed poll watchers who were able to observe the conduct of the election without interference. In Claiborne County, for example, a Negro candidate in a 1966 general election for the District Five seat on the county board of education reported that he was permitted to station watchers at the polling places and even served as a watcher himself at one polling place.[299] Poll watchers in other counties, however, reportedly experienced difficulty in fulfilling their functions.

Holmes County

Mrs. Elra Johnson, a poll watcher for Rev. Clifton Whitley, the Mississippi Freedom Democratic Party candidate for U.S. Senator in the November 1966 general election, reported that election officials permitted her and another Negro resident of Holmes County, Mrs. Barbie Reed, also an officially designated poll watcher for Whitley, to remain in the polling place at Durant city hall. According to Mrs. Johnson's account, however, a Durant city policeman directed them to remain at least 20 feet from the two tables where the election officials were seated, preventing them from closely observing the activities of the officials. Although the polling place was in the city hall where many chairs were available, the election officials, all of whom were white, told the two Negro poll watchers, according to Mrs. Johnson: "You'll have to stand all day."

During the morning, Mrs. Johnson related, she used the lavatory facilities in the city hall, but found them locked when she returned to use them again. Election officials told her, she said, that if she left the polling place for any reason, no one could undertake her duties for her. "No one can relieve you," she reportedly was told by the manager of

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[297] Miss. Code § 3128 (Recomp. 1956).

[298] Miss. Code § 3248 (Recomp. 1956). But see § 3269 which provides in relevant part: "A person shall not be allowed in the room in which the ballot boxes, compartments, tables, and shelves are, except the officers of the election and those appointed by them to assist therein."

[299] Interview with Floyd D. Rollins, Mar. 21, 1967.

the polling place. According to this account, poll watchers who arrived at the polling place at around noon to relieve the two women were not allowed to do so.

At this point Mrs. Johnson reportedly left the polling place and made several phone calls complaining of this treatment to, among others, Federal officials at the Federal examiner's office, the mayor of Durant, and the clerk of the chancery court. The clerk, Mrs. Johnson related, after denying that he could furnish chairs for the poll watchers, told Mrs. Johnson: "They [the election officials] don't want you up there. You better go home." [300]

The chairman of the county election commission, William Moses, told Commission staff that he first heard of the complaint of mistreatment of poll watchers in Durant when he received a call from an attorney in Jackson inquiring about the lack of chairs for the Durant poll watchers.[301] Moses stated he informed the attorney that the physical facilities of the polling places technically were outside the jurisdiction of the county election commission and were the responsibility of the county sheriff. He resolved the complaint, however. He related that he simply told the manager of the polling place to use her common sense in determining whether poll watchers should be permitted to sit down. After a telephone conversation which she could not hear, Mrs. Johnson reported, the polling place manager remarked to her: "I don't see why you can't have a chair." According to Mrs. Johnson, she then obtained some chairs from a nearby Negro cafe.[302]

During the counting of the ballots, Mrs. Johnson reported, she was not able to get a tally of the votes because the counters did not call out the votes as had been the custom, but exchanged notes to tabulate them. She reported also that she was not permitted to see disqualified ballots adjudged by the election officials to be spoiled.[303] The chairman of the election commission, in an interview, indicated that upon request poll watchers customarily are permitted to see spoiled ballots in Holmes County.[304]

Grenada County

Poll watchers representing the Negro candidate for city councilman had difficulty monitoring the election process in a February 1967 special election in Grenada, according to reports from the candidate and civil rights workers and observations of a Commission staff member.

According to his account, two days before the election Negro candidate U. S. Gillon visited the chairman of the city election commission

[300] Unless otherwise indicated, the account of this incident was given in an interview with Mrs. Elra Johnson, Feb. 15, 1967.
[301] Interview with William Moses, Feb. 15, 1967.
[302] Mrs. Elra Johnson interview.
[303] Id.
[304] Moses interview.

and requested, first, that his representatives be permitted to examine the ballot boxes on election day before the polls opened to determine whether they were empty and, second, that he be allowed to station poll watchers to observe the conduct of the election from inside the polling places.[305] The election commission chairman, Gillon related, denied both requests, asserting that "everyone's honest." Gillon could assign poll watchers outside but not inside the polling place, the chairman reportedly indicated.

On the day of the election, Gillon reported, he sent poll watchers, all of whom were Negro, into the polling places even though the election commission chairman had denied his request, whereupon the chairman relented and allowed the watchers to observe the election. In addition, Federal observers, sent by the U.S. Department of Justice at Gillon's request, were present at the polling places on election day. According to Gillon, however, when the polls were closed the Negro poll watchers were not permitted to inspect the disqualified ballots and were not told why the approximately 30 ballots ruled spoiled were disqualified.

Because no candidate received a majority of the votes, a run-off election was held two weeks later between the two candidates (one of whom was Gillon) receiving the highest number of votes. On the day of the run-off, February 27, a civil rights worker helping Gillon's campaign complained to a Commission staff member that the election officials had so arranged the ballot boxes that the poll watchers for the Negro candidate were unable to observe the balloting at each box.[306] Robert Johnson of the Southern Christian Leadership Conference related that watchers were limited to one per polling place, but at least two of the polling places contained more than one ballot box located in separate parts of the building. He complained that single poll watchers for candidate Gillon were unable to observe balloting at the two boxes at Grenada Fire Station No. 2 because the boxes were separated by a fire engine, and at the polling place located in the building occupied by the Grenada County Health Department because the three ballot boxes were located in separate rooms. Johnson indicated then that he was requesting the city election commission to permit more than one poll watcher at these polling places.

During the day these two polling places were visited by a Commission staff member who had obtained permission to enter the polling places from the chairman of the city election commission. By the time the staff member arrived at the fire station polling place, poll watchers for the Negro candidate had stationed themselves on each side of the fire engine which separated the two ballot boxes so that they could see the

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[305] Interview with U. S. Gillon, Feb. 26, 1967.

[306] Interview with Robert Johnson, project director for the Southern Christian Leadership Conference, Feb. 27, 1967.

balloting at each box. At the Grenada County Health Department, however, the staff member observed that there were three ballot boxes in separate rooms but only one Negro poll watcher, who was able to observe the balloting in only one of the rooms.

C. H. Calhoun, chairman of the city election commission, when interviewed by a Commission staff member, indicated that the use of poll watchers was unusual in city elections. He said that to his knowledge Mississippi law authorized only one poll watcher per polling place, although he did permit two poll watchers of the Negro candidate to observe the balloting at the fire station.[307]

A U.S. Department of Justice attorney confirmed that when first approached regarding the use of poll watchers, the chairman of the election commission ruled against allowing poll watchers altogether.[308] According to the attorney, however, the day prior to the first election the State attorney general, during a visit to Grenada, ruled in an informal meeting that the Negro candidate should be allowed one poll watcher per polling place. At the time, each polling place had only one box, and therefore this ruling would have allowed adequate surveillance of the election by the candidate's representatives. At the February 27 run-off election, according to this account, additional boxes were placed in each polling place to relieve congestion and delays in voting, but the initial ruling of one watcher per polling place was not changed.[309]

Georgia

Georgia law requires that ballots must be counted publicly after the polls are closed, although it does not require election officials to allow poll watchers of the candidates to observe the balloting inside the

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[307] Interview with C. H. Calhoun, Feb. 27, 1967. Federal observers, however, were in each room and observed the balloting at each ballot box, as was the case at each of the other polling places in the city.

[308] Interview with Robert Atmore, attorney for the Civil Rights Division, Department of Justice, Feb. 27, 1967.

[309] Id. According to reports of the law students sent by the Law Students Civil Rights Research Council to observe the November 1967 general election in Mississippi, poll watchers often were told that the authorizations which they carried, signed by their candidates, were invalid, or that the authorization required the signature of the chancery clerk. In one instance, poll watchers reportedly were told that they needed a new authorization every time they wanted to re-enter the polling place. These practices are illegal under Mississippi law. See Miss. Code § 3248 (Recomp. 1956). Although in almost every instance the poll watchers finally were admitted after protests from watchers, law students or lawyers, once inside the polls the watcher reportedly often faced open hostility from the white officials. The report summarizing the student's findings states:

> A number of devices were employed to diminish or destroy the effectiveness of the representatives of Black candidates. Many were refused seats in the polling places and had to stand all day. Others were not allowed to watch the clerks who are responsible for determining whether an individual is eligible to vote. In a number of instances poll watchers were told that they could not stand within thirty (30)

Footnote continued on following page.

enclosed portion of the polling place.[310] In at least one Georgia county during 1966, Negro poll watchers, unlike other watchers, were not allowed to see disqualified ballots.

In the November 1966 special election to fill a vacancy on the Americus Board of Aldermen, Rev. J. R. Campbell's poll watchers reportedly were harassed in their efforts to observe the counting of ballots. After the polls were closed, his representatives were permitted to observe the ballot counting, but allegedly were not allowed to examine the ballots disqualified as unlawfully marked or spoiled. When one of Rev. Campbell's representatives asked to see the disqualified ballots, an election manager reportedly told the other election officials: "Don't let them see nothing." [311] The election manager denied making the statement, but admitted that he had been instructed to keep the poll watchers a sufficient distance away from where the ballots were being counted so that they could not inspect the disqualified ballots.[312] Two weeks previously, in the general election, disqualified ballots were shown to representatives of the Republican candidates for their comments.[313]

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feet of the polls, a clear violation of Mississippi law. Poll watchers in the town of Moorehead, Sunflower County, were ejected from the polls for using voting lists in deciding who should or should not be challenged [a situation remedied by the intervention of one of the lawyers].

Report on the Mississippi Election Project at 9–10. The report further states that at certain precincts in Mississippi during the counting of the votes after the November election, Negro poll watchers were not permitted to observe the tallying. Two means reportedly were used to prevent observation: placing the Negroes where they were unable to see and threatening them or ordering them out of the polling place.

[310] Information provided by the office of the Georgia secretary of state, Nov. 8, 1967. See Ga. Code §§ 34–1319, 34–1320, 34–1321 (Supp. 1967).

[311] Interview with Sammy Mahone, Negro poll watcher for candidate Rev. J. R. Campbell, Nov. 16, 1966.

[312] Interview with C. C. Bridges, polling place manager, Nov. 17, 1966.

[313] Interview with Robert J. Maginnis, chairman of the Sumter County Republican Executive Committee, Nov. 18, 1966.

Chapter 5

Vote Fraud

In 1966 there were complaints that election officials in several Southern counties committed vote fraud to prevent the election of Negro candidates.

Williamsburg County, South Carolina

In Williamsburg County, South Carolina the Negro candidates in the primary run-off election claimed a 250 vote discrepancy between the number of valid ballots cast according to the count of poll watchers and Voters League members stationed at the polls and the final official tally by election officials.[314] After they challenged the election results, the Negro candidates were allowed to inspect the voting records. The inspection, according to their account, revealed that in seven precincts there were no poll lists containing the signatures of those who had voted, as required by State law; in three or four precincts, the number of signatures on the poll lists was greater than the number of votes indicated by the final tally; in one precinct there was no signature sheet at all; and in other precincts the names were typed on the poll list, or were printed instead of written, or all the signatures were in the same handwriting.[315]

After the election the defeated Negro candidates for the State house challenged the results before the county Democratic executive committee and the losing Negro candidate for the State senate filed a challenge with the State Democratic executive committee.[316] The contest-

[314] Interview with Virgil Dimery, Negro candidate for the State senate, Dec. 9, 1966.

[315] Dimery interview and interview with Jesse Lawrence, candidate for the State house of representatives, Dec. 8, 1966.

[316] The candidates charged many irregularities, including refusals of poll managers to allow poll watchers to assist Negro voters; refusals of poll managers to allow voters to select a bystander for assistance; barring of poll watchers from polling places; intimidation of voters by persons bearing arms; threats by police officials to arrest poll watchers; denial to poll watchers of the right to observe the counting of the ballots; refusals by poll managers to discuss election procedures with Negro candidates; and discrepancies between the number of votes cast for Negro candidates according to the counts of poll watchers and the official tallies. Election Protest, filed July 2, 1966.

ants asked that the election be set aside and that another primary run-off be ordered.

The State executive committee held a hearing in Columbia at which all the candidates were given an opportunity to present evidence in support of their allegations. Although the committee allowed the contestants access to the voting records, it refused to order a second primary run-off.[317] The committee concluded that in only two or three cases was any concrete testimony or evidence presented which would in any way substantiate the suggestion that Negroes had been discouraged from participating in the primary run-off, and concluded that "nothing which took place in the primary could have in any way changed the results. . . ." [318] The county executive committee, which made no independent investigation of the complaints, adopted the conclusions of the State committee and denied the protest.[319]

Bullock, Barbour, and Macon Counties, Alabama

As previously indicated, Fred Gray, a Negro who sought the Democratic nomination for a seat in the Alabama House of Representatives in the May 1966 Democratic primary election, was defeated in the primary run-off according to the official returns. Four other Negro candidates running for local offices in Bullock County were defeated as well. All three of the counties in the house district in which Gray ran were predominantly Negro. At the time of the election, the number of Negroes registered to vote exceeded the total white voting age population as set forth in the 1960 census.[320]

After the election, the Negro candidates and Negro voters in the May 31 primary run-off election sued in Federal district court to set aside the election, charging, among other things, that many white persons had been permitted to cast illegal ballots to prevent the election of the Negro candidates.[321] The complaint alleged that at the time of the election, in each county in the district, the number of white persons on the registration rolls exceeded the white voting age population. It was further alleged that

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[317] Dimery and Lawrence interviews and interview with James Connor, chairman of the Williamsburg County Democratic Executive Committee, Dec. 9, 1966.

[318] Letter from Donald L. Fowler, executive director of the Democratic Party of South Carolina, to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, June 7, 1967.

[319] Connor interview.

[320] Voter Education Project, Voter Registration in the South, Summer 1966.

[321] Gray v. Main, Civil No. 2430–N, M.D. Ala., filed July 5, 1966.

> because of the failure of defendant Boards of Registrars and their chairmen to purge the registration lists as required by law,[322] at least and approximately 5,547 names of white persons are listed as eligible to vote in Alabama House District 31 in excess of the number of white persons eligible to vote in the said District. Votes may be entered in the names of these persons without any discrepancy, imbalance, fraud, or error being evident upon the face of the officials records. . . .[323]

The plaintiffs charged that in violation of the 14th and 15th amendments to the U.S. Constitution, "[n]umerous white persons in Barbour, Bullock and Macon Counties were permitted to cast illegal absentee or regular ballots by the various election officials of those counties. . . ." [324]

In its opinion, the Federal district court concluded that despite extensive investigation and use of discovery by the plaintiffs and the Department of Justice, no specific evidence had been uncovered of illegal voting by whites. The court found that census data were not an accurate standard by which to judge excessive registration because many persons not physically present in the county, and thus not counted by the census, might be qualified under Alabama law to vote in the county.[325]

However, in Bullock County there was evidence that when voter registration officials purged the voter lists different standards had been applied to white and Negro voters which appeared to discriminate against Negro voters. The court found that the manner of purging those who had died or moved away from the county gave rise to suspicion, and the court established a procedure for fair and nondiscriminatory purging of voter lists.[326]

Further, in a stipulation attached to the opinion, the plaintiffs and Macon County voter registration officials agreed that the official voter list for the 1966 primaries contained a number of names of persons who were not legally qualified voters in the county and that these names should be removed. They also stipulated that a purge list submitted to the probate judge in January 1966 had not been acted upon and that the names on that list should have been purged from the registration rolls. The parties agreed to a consent decree, made part of the court's decree, which established a fair procedure for purging disqualified voters.[327]

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[322] Ala. Code, tit. 17, § 44 (1958) requires that the board of registrars of each county must purge the voter registration rolls every two years.

[323] Gray complaint at 8, 9.

[324] Id. at 17. The plaintiffs sought to have the election set aside. A hearing has been held on the merits, but the trial judge has not yet decided the case.

[325] Gray v. Main, Civil No. 2430-N, M.D. Ala., Mar. 29, 1968, slip opinion at 18–29.

[326] Id. at 38–40, 45.

[327] Id. at A–9 to A–13.

Greene County, Alabama

In Greene County, Alabama the Negro candidates for county office, all of whom were defeated in the May 1966 Democratic primary election, brought an action in Federal district court alleging, among other things, fraud in the conduct of the election.[328] Eighty-one percent of the county population was Negro in 1960,[329] and by the time of the primary election the number of registered Negroes exceeded the white voting age population of the county.

The complaint asserted that when the list of eligible voters was published in April 1966, it contained large numbers of names of deceased persons and persons ineligible to vote in the primary because they no longer resided in the county. The candidates charged that the purpose of this alleged fraud was to defeat them because of their color and to dilute the votes of the Negro voters, and asked that the election be set aside or that they be named the winners in the election.

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[328] The plaintiffs also charged that there had been discrimination in the selection of election officials in that only four of the 96 officials appointed were Negroes, that illiterate Negro voters discriminatorily were denied the right to use sample ballots to assist them in voting, and that white election officials assisting illiterate Negro voters failed to mark the ballots as instructed. Gilmore v. Greene County Democratic Party Executive Committee, Civil No. 66–341, N.D. Ala., filed May 27, 1966.

[329] 1960 Census. Because of extended litigation on a supplemental complaint in this case, the plaintiffs have not yet had a hearing on their original complaint.

Chapter 6

Discriminatory Selection of Election Officials

Primary and general elections in the South are conducted by officials specially appointed to serve on election day at each polling place.

Election officials usually are divided into categories according to the functions they perform. In one category are officials variously termed managers, inspectors, or judges. Their job generally is to supervise the balloting process, to determine that each person receiving a ballot is a registered voter, to assist disabled or illiterate voters, to supervise the tallying of the ballots and to decide which ballots should be rejected for being mis-marked or for other irregularities. Another category of election officials is composed of those who perform clerical functions such as keeping a record of the persons voting in the election and recording the final tallies after the ballots have been counted. In some States there are separate officials appointed to perform tasks such as carrying the final tallies to a central office or keeping the peace in the polling place.

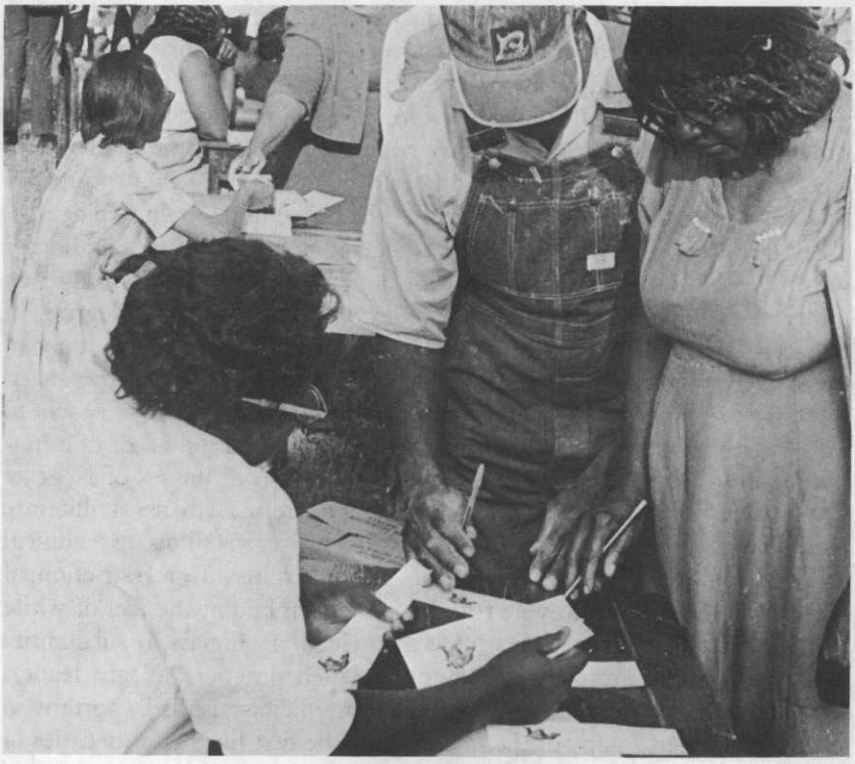
In many areas Negro election officials nominated by candidates were selected and served during 1966 and 1967. When this study was undertaken, however, complaints of discrimination against Negroes in the selection of election officials were widespread and arose in many of the States visited by the Commission staff. Negro leaders interviewed by staff investigators considered such discrimination a major obstacle to full Negro political participation. Most of the charges of discrimination against Negro registrants—including omission of names of Negroes from voter lists, harassment of Negro voters, refusal to assist illiterate Negro voters, discriminatory disqualification of Negro ballots on technical grounds, racial segregation in polling places, exclusion or restriction of Negro poll watchers, and vote fraud—have been laid at the feet of white election officials. The presence of Negro election officials in substantial numbers served to restrain and eliminate such practices. Negro leaders feel that the selection of Negroes as election officials also is important so that Negro voters, many of them voting for the first time after decades of discrimination, will not feel intimidated in casting their ballots and will have confidence in the integrity of the electoral process.

Alabama

In some Alabama counties Negroes were selected to serve at the polls as election officials. Negro leaders reported, however, that even in some of these counties the Negro officials were selected on the basis of whether their opinions were acceptable to the white community and they only served at polling places in predominantly Negro areas. In other Alabama counties Negroes either were not chosen as election officials or were appointed in token numbers despite requests for the appointment of Negroes by Negro candidates and civil rights leaders.

Lowndes County

In the November 1966 general election in predominantly Negro Lowndes County seven Negro candidates ran for county office under the black panther emblem of the independent Lowndes County Freedom Organization. Although Alabama law has been interpreted in some counties as not giving newly formed political organizations a right to nominate persons to serve as election officials, the probate judge appoint-



In many areas of the South, Negroes formed independent political organizations to run Negro candidates for office. Here, workers for the Lowndes County Freedom Organization in Alabama solicit supporters.

ed Negro election officials from the Freedom Organization to serve at every ballot box in the county.[330] A poll watcher for the Freedom Organization at one polling place, chosen at random, reported to a Commission staff member that of the eight election officials manning the two boxes at the polling place, three were Negro and five were white.[331]

Bullock, Barbour, and Macon Counties

Alabama law provides that each candidate in a primary election may submit to the county executive committee of the party in whose primary he is running a list of nominations of persons to serve as election officials.[332] This list must be presented to the committee at least 25 days before the election. The party county executive committee must then "so far as practicable" select from the lists submitted to it a list of six persons to serve as election officials at each election precinct and forward this list to the county appointing board, composed of the probate judge, the sheriff, and the clerk of the county circuit court. If the list submitted to the board contains a sufficient number of names of persons who are qualified to serve, the county appointing board appoints those whose names appear on the list to conduct the primary election.

Solomon Seay, attorney for the Negro candidate seeking the Democratic nomination for a seat representing Bullock, Barbour, and Macon Counties in the State house of representatives, indicated that Negro election officials were appointed in each county for the May 1966 Democratic primary and run-off.[333] Negro election officials, he reported, generally were selected from lists of names submitted by the Negro candidates for office. He believes, however, that the respective probate judges selected some Negroes whose names did not appear on these lists because they had opinions acceptable to the white community.

Dallas County

Negro candidates sought nomination for county office in the May 1966 primary election in Dallas County. According to the probate judge of the county, without any request from the Negro community for the appointment of Negro election officials, the appointing board met and decided on its own to ask Negro candidates and leading members of the Negro community, selected by the appointing board, to submit names of Negroes to serve.[334] Leaders of the Dallas County Voters League, a Negro political and civil rights organization with which the

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[330] Interview with Morton Stavis, attorney for the Lowndes County Freedom Organization, Nov. 7, 1966.

[331] Interview with Miss Janet Dewart, poll watcher at the Letohatchee polling place, Nov. 8, 1966.

[332] Ala. Code, tit. 17, § 349 (1958).

[333] Interview with Solomon Seay, attorney for candidate Fred D. Gray, Nov. 11, 1966.

[334] Interview with Judge Bernard A. Reynolds, Apr. 26, 1967.

five Negro candidates in the primary election were associated, were among those who submitted names.[335] The appointing board selected persons whose names were submitted by the Voters League leaders.[336]

According to Voters League officials, however, Negroes served as poll officials only in the Negro areas of the county.[337]

Choctaw County

In 1966, the Democratic primary election in Choctaw County was held on May 3; hence, the deadline for the submission of candidates' lists of election officials (25 days earlier) was April 8. On April 7, Rev. Linton I. Spears, a Negro candidate who sought the Democratic nomination for Choctaw County Commissioner, submitted to Albert H. Evans, Jr., chairman of the county Democratic executive committee, a list of 22 persons, all Negroes, to serve as election officials at eight boxes in the primary election.[338] On April 9, Rev. Spears received a letter dated April 8 from the chairman of a subcommittee of the county executive committee charged with managing the primary election, stating that prior to receipt of the Spears list "the subcommittee had already met and named the election officials for the May primary." [339]

Upon receiving this letter the Negro candidate, according to his account, arranged to meet immediately with Evans in an effort to have Negro election officials appointed.[340] Approximately four meetings took place, but the chairman refused to commit himself to the appointment of Negro officials.[341]

In the May 3 primary, Rev. Spears was six votes shy of a majority and the election was forced into a run-off on May 31.[342] The Choctaw County Civic League—a Negro civil rights organization with which Rev. Spears was affiliated—sought on behalf of the candidate the appointment of Negro election officials to serve at the May 31 election, at which he was defeated. A petition containing 169 signatures of local Negroes was sent to the county Democratic executive committee requesting, among other things, the appointment of two Negro election officials for every ballot box in the county from a list of nominees submitted by the Civic League.[343]

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[335] Interview with Rev. F. D. Reese, president of the Dallas County Voters League, Nov. 9, 1966.

[336] Id.

[337] Id. and interview with Rev. P. H. Lewis, first vice-president of the Dallas County Voters League and candidate for the State house of representatives in the 1966 Democratic primary election, Nov. 9, 1966.

[338] Interviews with Rev. Linton I. Spears and with Albert H. Evans, Jr., chairman of the Choctaw County Democratic Executive Committee, Jan. 4, 1967.

[339] Id. Copy of letter supplied by Evans.

[340] Spears interview.

[341] Id.

[342] See note 245 supra.

[343] Interview with William H. Harrison, president of the Choctaw County Civic League, Jan. 4, 1967; U.S. Commission on Civil Rights Complaint No. 6257 from William H. Harrison.

On May 16, according to the president of the Civic League, a committee of five Civic League members met with Evans to complain of irregularities and to request the appointment of Negro officials.[344] The request was denied and only white persons served as election officials in the run-off.[345]

The question of the appointment of Negro election officials was critical to Choctaw County Negroes. Both the Negro candidate for county commissioner and the president of the Civic League had received many reports from Negro voters and poll watchers in the May 3 primary that Negro voters had been abused, intimidated, illegally disqualified, and instructed by white election officials to place their ballots in the wrong box, nullifying votes for Rev. Spears.[346] In a complaint to the Attorney General of the United States, the Civic League president attributed many of these irregularities to the fact that the election officials were white and the county executive committee refused to appoint Negroes as election officials.[347]

The chairman of the Choctaw County Democratic Executive Committee acknowledged that Rev. Spears had asked him on April 7 to appoint Negro election officials.[348] He indicated that he had forwarded the request to the chairman of the subcommittee which had been delegated the power to conduct the party primary election. The county committee did not submit the names of any Negroes to the appointing board, Evans related, because on April 6, one day prior to receiving Rev. Spears' request, the subcommittee already had met and drawn up a list of nominees to serve as election officials.

Evans stated that he did make an effort to permit Negroes to serve as election officials by encouraging white persons appointed to such posts not to appear at their assigned polling places on the morning of the election. Alabama law provides that when no election officials report for duty by 8 a.m., the voters at the polling place may select from among themselves officials to conduct the election.[349] This effort to obtain Negro election officials failed, the chairman said, because the white appointees refused to cooperate.[350]

Montgomery County

According to the chairman of the Montgomery County Democratic Executive Committee, election officials in primary elections traditionally have been selected from lists of names forwarded by committeemen rep-

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[344] Harrison compliant.
[345] Id.
[346] Harrison and Spears interviews.
[347] A copy of this complaint was sent to the U.S. Commission on Civil Rights. Harrison complaint.
[348] Evans interview.
[349] Ala. Code, tit. 17, § 349 (1958).
[350] Evans interview.

resenting each precinct in the county.[351] No committeeman submitted names of Negroes and no Negro officials were appointed to serve in the primary or run-off primary in 1966. Because primary election officials ordinarily are retained for the general election, no Negroes served in the general election, to the best of the chairman's knowledge.

Greene County

In a suit to void the results of the primary election in Greene County Negro candidates complained, among other things, of discrimination in the selection of election officials.[352] According to their complaint, 81 percent of the county population and a majority of the registered voters are Negro. Pursuant to Alabama law, they claimed, the Negro candidates submitted the names of 75 persons to serve as election officials. Of the approximately 100 officials chosen, however, only four were from the list submitted by the Negro candidates. As of February 28, 1968, the Federal district court had not ruled on this portion of the complaint.[353]

Mississippi

In 1966 and the early part of 1967, Negroes were appointed as election officials in some Mississippi counties. In other counties, either requests for the appointment of Negroes were ignored or Negroes were appointed only in token numbers. Complaints were made that the only Negroes chosen were those who had not participated in civil rights activity. In at least one instance it was reported that a Negro election official, because of his race, was not allowed to assist illiterate voters. Although hundreds of county commissioners of election—the persons who select election officials in Mississippi—were appointed during 1966, all of the appointees were white.

In the 1967 primary and general elections, considerable progress was made in the appointment of Negro election officials in Mississippi, but many problems still remained.[354]

Mississippi Statewide and Jefferson and Claiborne Counties

In Mississippi, the county commissioners of election are appointed to 2-year terms by the State Board of Election Commissioners, composed of the Governor, the secretary of state and the attorney general.[355] These

[351] Interview with Truman M. Hobbs, Nov. 11, 1966.
[352] Gilmore v. Greene County Democratic Party Executive Committee, Civil No. 66–341, N.D. Ala., filed May 27, 1966, item VI.
[353] Information supplied by clerk's office, Feb. 28, 1968.
[354] See Part V, p. 168 infra.
[355] Miss. Code §§ 3204 (Supp. 1966), 3205 (Recomp. 1956).

commissioners appoint the election managers [356] and bailiffs [357] for general and special elections. The managers in turn appoint the clerks.[358] The county election commissioners also are responsible for receiving nominating petitions of independent candidates for local offices, preparing ballots for general elections, and supervising generally the conduct of all general elections.[359]

On September 1, 1966, the State Board of Election Commissioners appointed 246 persons—all white—to serve on county election commissions. In October 1966 Negro voters and Negro candidates for public office from Jefferson and Claiborne Counties filed a lawsuit against the State Board of Election Commissioners complaining of systematic exclusion of Negroes from county election commissions as well as discrimination in the selection of election managers by the commissions.[360] The plaintiffs asked for an injunction voiding all 1966 appointments of county election commissioners, enjoining the State Board from refusing to appoint Negroes to the office, ordering the board to appoint Negroes and whites "in such proportions that the ratio of Negro to white election commissioners is not disproportionate to the ratio of Negro to white persons in the state," [361] and restraining the holding of general elections in Mississippi in November 1966 unless new commissioners were appointed in accordance with the prayer for relief.

The Federal district court found that none of the county election commissioners appointed on September 1 by the State Board of Elections was Negro, and that no Negroes had ever been appointed to county election commissions during the terms of the incumbent members of the State Board, going back to 1948.[362]

Nevertheless, the court refused to grant the requested relief. The court ruled that although all the county election commissioners of Jefferson and Claiborne Counties were white, they had not discriminated in the selection of election officials. Evidence presented at the hearing showed that in Jefferson County 26 Negro election officials had been appointed to serve in 13 of the 17 precincts in a June 1966 special election and 27 Negroes had been appointed to serve in 15 precincts in an August special election. In Claiborne County, which has eight precincts, affidavits filed by county election commissioners showed that for the two special elections held in that county, 15 Negro managers had served in the first election

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[356] Miss. Code § 3243 (Recomp. 1956). The managers are responsible for insuring that the election is conducted fairly and for judging the qualifications of voters. Miss. Code § 3244 (Recomp. 1956).

[357] Miss. Code § 3246 (Recomp. 1956). The bailiffs are responsible for keeping the peace at the polling place and guaranteeing to all voters unobstructed access to the polls.

[358] Miss. Code § 3245 (Recomp. 1956).

[359] Miss. Code §§ 3205, 3260–63, 3253 (Recomp. 1956).

[360] Allen v. Johnson, Civil No. 4021, S.D. Miss., filed Oct. 4, 1966.

[361] Complaint at 7.

[362] Allen v. Johnson, Civil No. 4021, S.D. Miss., Oct. 27, 1966.

and 12 Negro managers had served in the second election. Election commissioners in those counties indicated in affidavits that they intended to continue this policy of appointing Negroes to assist in managing elections.

The court also held that there was no evidence of discrimination by the white county election commissioners in the performance of their other duties. The court found that independent Negro candidates running for office in Jefferson and Claiborne Counties had no difficulty having their nominating petitions accepted by the election commissioners and getting on the ballot in the general election. The court also found that since the incumbent county election commissioners had begun their terms of office in 1964, there had been no challenge to the right of Negroes to run for public office. Further, the court determined that whatever discrimination in voter registration had occurred in the past, for which the county election commissioners as judges of the qualifications of voters under Mississippi law were responsible, had been eliminated by judicial decisions and Federal voting rights legislation.

Finally, the court noted that the members of the State Board of Election Commissioners had denied that they would discriminate against Negroes in future appointments. Weighing the possibility of continued discrimination against the disruption that would be caused by granting the plaintiffs' request to set aside the appointments already made and delay the general election which was scheduled for two weeks hence, the court ruled against the disruption of the electoral process and dismissed the plaintiffs' complaint. The case is now pending on appeal to the U.S. Court of Appeals for the Fifth Circuit.

In Claiborne County, Negro election official Daniel A. Newman complained that although he was permitted to assist voters in casting their ballots in the June 1966 primary election he was not allowed to perform this function in the November general election.[363] In the June election no Negro candidates ran for local office, but in November there was a contest between a Negro and a white candidate for the Beat Five seat on the county board of education.

Federal observers present at the Beat Five polling place in June listed Newman in their report as an assistant manager and noted that he had assisted Negroes in voting.[364] The observers' report on the November election lists Newman as a clerk and states that the chief manager of the polling place, S. J. Mann, expressly prohibited Newman from assisting

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[363] Interview with Daniel A. Newman, Mar. 21, 1967. Although the Mississippi Legislature has repealed the State statute providing for the assistance of illiterate voters, Federal courts have interpreted the Voting Rights Act of 1965 to require that Mississippi election officials must render assistance to illiterate voters. See p. 70 supra. Prior to its repeal, the Mississippi voter assistance statute provided that the managers of a polling place must designate one of their number to perform this function, Miss. Code § 3273 (Recomp. 1956), and this remains the practice in many parts of the State.

[364] Report of Federal observers, Beat 5, Claiborne County, Miss., June 6, 1966 primary election.

voters at the voting booths. White election officials were assigned to assist voters, however.[365]

One observer, reporting on the November election, noted: "When I spoke to Mr. Newman I addressed him as Mr. Newman. Mrs. Sorrels [a white manager] asked me to please call him Dan. She said, 'You calling him Mr. Newman makes me sick.' I continued to call him Mr. Newman." [366]

Interviewed by a Commission staff member, S. J. Mann asserted that Newman had been appointed clerk for both elections and thus was not authorized under Mississippi law to assist illiterate voters.[367] He stated that Newman had not assisted illiterate Negroes to vote in either election.[368]

Grenada County

In a February 1967 municipal special election in the city of Grenada, Negro election officials were selected to serve in token numbers, and civil rights workers and Negro leaders charged racial discrimination in the selection process.[369]

At the special election, registered Negro voters constituted approximately 40 percent of the registered voters,[370] but only two of the 34 election officials were Negro.[371] Approximately two weeks before the election, U.S. Gillon, Negro candidate for city councilman, and members of the Grenada County Freedom Movement, a Negro civil rights organization, reportedly requested the chairman of the city election commission to appoint Negroes to serve as election officials.[372] According to Gillon, C. H. Calhoun, city election commission chairman, responded that the commission was not able to appoint Negroes but that all the election officials would be honest. Calhoun denied that he had received a request for the appointment of Negro election officials.[373]

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[365] Report of Federal observers, Beat 5, Claiborne County, Miss., Nov. 8, 1966 general election.

[366] Id.

[367] Interview with Shelby J. Mann, Mar. 22, 1967.

[368] Charles Evers of the Mississippi NAACP is reported to have charged that in the second Mississippi primary in 1967, Negro election officials were not allowed to assist Negro voters in Claiborne, Jefferson, and Wilkinson Counties. Freedom Information Service, Mississippi Newsletter, Sept. 1, 1967, at 1. According to the chief of the Civil Rights Division of the Department of Justice, no irregularities involving assistance to illiterates occurred in these counties at the second primary in 1967. Letter from Stephen J. Pollak, Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, to William L. Taylor, Staff Director, U.S. Commission on Civil Rights, Mar. 13, 1968.

[369] Interview with Robert Johnson, Feb. 27, 1967.

[370] Clarion-Ledger (Jackson, Mississippi), Mar. 1, 1967, at 2.

[371] Two Negro clerks were appointed by the election manager at the Ward One polling place.

[372] Interview with U. S. Gillon, Feb. 26, 1967.

[373] Interview with C. H. Calhoun, Feb. 27, 1967.

Sunflower County

In the June 1966 primary election and the November 1966 general election, Negro candidates for seats in the U.S. Senate and House of Representatives were on the ballot in Sunflower County. At that time, although Negroes constituted a substantial majority of the county's voting age population, they made up less than 20 percent of its registered voters.[374] Some Negroes were selected to serve as election officials.[375] A civil rights worker charged, however, that only Negroes who never had engaged in civil rights activities were chosen.[376]

Oscar Giles, a leader of the Mississippi Freedom Democratic Party in Sunflower County, noted that in the general election five Negro clerks served at the polling place in Indianola, the county seat, but he complained that they were closely identified with the white community and never had participated in civil rights activity.[377] "They won't use anyone to be an election official or to serve on a jury who has done civil rights work," he commented.[378]

Holmes County

In Holmes County, where Negroes constituted a majority of the registered voters,[379] three Negro candidates ran for office in the November 8, 1966 general election.[380] Despite a request, the Holmes County Commissioners of Election reportedly failed to designate any Negroes to help manage the general election.[381]

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[374] Registration figures reported by the Voter Education Project of the Southern Regional Council, Voter Registration in the South, Summer 1966.

[375] Interview with Mrs. Fannie Lou Hamer, Mar. 2, 1967.

[376] Under Mississippi law managers of primary elections are appointed by the respective party county executive committees two weeks before the date of the primary election. Miss. Code § 3115 (Supp. 1966). As with special and general elections, the managers appoint the clerks. Miss. Code § 3116 (Recomp. 1956).

[377] Interview with Oscar Giles, Mar. 2, 1967.

[378] Giles interview.

[379] Figures provided by the U.S. Civil Service Commission show estimated Holmes County registration at the time of the election to be as follows:

Total Voting Age population, 1960		Nonwhites registered (as of 10–22–65)	Listed (as of 11–5–66)	Total	Total whites registered (as of 10–22–65) and Listed (as of 11–5–66)
Nonwhite	White				
8, 757	4, 773	1, 302	3, 952	5, 254	4, 801

Current State voter registration figures were not available at the time of the November 1966 general election and, therefore, all registration figures are as of Oct. 22, 1965, when the Department of Justice made a complete analysis of registration by race in the county. Voters "listed" were deemed qualified to vote by Federal examiners. Not all of these persons would have been qualified to vote in the November general election, however, because of the qualification deadline, i.e., 45 days prior to any election. See Voting Rights Act of 1965 § 7(d), 42 U.S.C. § 1973e (d) (Supp. II, 1967).

[380] Interview with Henry Lorenzi, civil rights worker affiliated with the Mississippi Freedom Democratic Party, Feb. 15, 1967. The candidates affiliated with the Mississippi Freedom Democratic Party ran as independents for the U.S. House of Representatives seat for the Second Congressional District, justice of the peace for Beat Five, and the Beat Five seat on the county board of education, respectively.

[381] Lorenzi interview.

Workers for the Holmes County branch of the Mississippi Freedom Democratic Party (MFDP) reported that William Moses, chairman of the Holmes County Election Commissioners, indicated in conversations with representatives of the Holmes County MFDP before the election that if a list of names of Negroes willing to serve as election officials were submitted to him during the last week of September, the county election commissioners would appoint Negro managers and bailiffs for the November 8 election.[382]

On September 27, 1966, Ralthus Hayes, Negro candidate for Member of the U.S. House of Representatives and a member of the executive committee of the Holmes County branch of the Mississippi Freedom Democratic Party, reportedly sent Moses a letter containing the names of 52 Negroes who were willing to serve as election officials in 10 precincts and requesting that three Negroes be appointed to each ballot box.[383]

Eugene Montgomery, a precinct leader for the Holmes County MFDP, reported that he visited Moses in late October to inquire about the request for the appointment of Negro election officials. After acknowledging receipt of the letter, Montgomery said, Moses told him that there would be a meeting of the election commissioners the following evening and that the commission would try to grant the request. According to Montgomery, Moses said: "All I'm interested in is a fair election." Reportedly, Montgomery declared: "Well, we can't have a fair election without Negro election officials," and Moses replied: "Gene, you know that before white people would sit at the table with Negro people, they would sooner die and go to hell." [384]

No formal response was received from the election commissioners until the names of the appointed poll workers appeared in a local newspaper on November 3, five days before the election. All of the persons named were white. Reportedly, a committee of Negroes associated with the county MFDP then arranged a meeting with Moses to discuss his refusal to appoint Negroes, but nothing came of the meeting.[385]

Moses acknowledged receiving a written request for the appointment of Negro election officials containing the names of Negroes willing to serve.[386] He stated that the members of the election commission, all of whom were white, had been willing to accede to the request, but that when the proposal was submitted to the white clerks, managers, and bailiffs previously appointed by the commission these election officials rejected the proposal and indicated generally that they were unwilling to

[382] Id.; letter from Mrs. Henry Lorenzi to the U.S. Department of Justice, Civil Rights Division, Oct. 10, 1966.

[383] Letter from Ralthus Hayes to William Moses, Sept. 27, 1966. A copy of this letter was provided to the Commission by Alvin J. Bronstein, attorney for the Holmes County Freedom Democratic Party.

[384] Interview with Eugene Montgomery, Feb. 15, 1967.

[385] Lorenzi interview.

[386] Interview with William Moses, chairman of the Holmes County Election Commission, Feb. 15, 1967.

work with Negro election officials. Some of the white officials told Moses, according to his account, that they would not report for duty on election day if Negroes were selected. Because the white election officials were unwilling to agree to the appointment of Negroes, Moses indicated, all 48 election officials who served in the general election were white.[387]

Moses denied that he had made any agreement with MFDP officials on the appointment of Negroes. Although he acknowledged that he had met with Montgomery before the general election, he denied making the statement attributed to him by Montgomery that white election officials would sooner die than serve with Negroes. Asked whether the county election commissioners had any intention of appointing Negroes to serve in the 1967 general election, Moses refused to commit himself to the appointment of Negroes. He indicated that he believed in being fair, but he also declared: "I believe in segregation." [388]

Negro candidates and civil rights workers in Holmes County considered the failure to appoint Negro poll officials to be a major barrier to voting by Negroes. A Negro candidate for justice of the peace, Rev. R. L. Whitaker, thought the failure to appoint Negroes had contributed to his defeat.[389] Relying upon the alleged promise of the county election commission to appoint Negro election officials, he said Negro candidates gave little consideration to the appointment of poll watchers. As a result, he indicated, on election day poll watchers were organized hastily and surveillance by Negroes of the balloting and the counting of the ballots was inadequate. He also believed that Negroes are deterred from voting by the absence of Negroes serving as clerks and managers. "If we had [Negro] poll officials more Negroes would have voted," he said.[390]

Eugene Montgomery believed that discrimination in the appointment of election officials had undermined any confidence Holmes County Negroes might have in the electoral process.[391] He related that many Negroes in the county feel that unless there are Negro officials their votes will not be counted fairly. Montgomery also pointed out that under Mississippi law only a designated election manager may assist illiterate voters in casting their ballots. Appointment of Negro managers, therefore, also is necessary, he believes, so that illiterate Negro voters will feel that they are being assisted fairly when their ballots are marked for them.[392]

Considerable progress was made in 1967 in securing the appointment of Negro election officials throughout Mississippi and in Holmes County.[393] Problems remained, however. Lawyers and law students

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[387] Id.
[388] Id.
[389] Interview with Rev. R. L. Whitaker, Feb. 15, 1967.
[390] Id.
[391] Montgomery interview.
[392] Id.
[393] See p. 168 infra.

attending the 1967 general elections in Mississippi reported a lack of aggressiveness on the part of some Negro election officials in helping illiterate Negroes who requested their assistance. As a result, it was noted, many illiterate Negroes, who might otherwise have been assisted by the Negro officials, were assisted by white officials. Several instances of this were reported in Holmes County. A law student who was present at the election in Lexington gave this description of the scene:

> Our carefully coached illiterate or semi-literate voters would arrive with a sample ballot and request to be aided by a particular named Negro manager. The white manager or supervising manager would announce that [the Negro manager] was not available although he in fact was right there and able to help (in numerous cases his readiness and willingness are open to question) and proceed to give the help himself.[394]

The law student reported that:

> Mr. Green managed to help one voter all day long. . . . Scores of others who asked for his help specifically were aided by his white counterpart who, while not forbidding him to take any action, merely pre-empted it by being more aggressive.[395]

According to the law student this Negro manager—who was not among those nominated by the Freedom Democratic Party, but was chosen by the all-white election commission—was fairly typical of Negro election officials in Lexington.

There were several reported incidents in which the white officials who rendered assistance did so in a discriminatory or inadequate manner. Cases were reported of a white election official mismarking the ballots of Negro illiterates,[396] giving false instructions,[397] not marking the ballots of persons assisted,[398] reading the names of Negro candidates in a low voice,[399] discouraging Negroes from requesting assistance,[400] and not allowing Negroes to use sample ballots.[401]

Georgia

Similar complaints of discrimination in the selection of election officials during 1966 were made in Georgia.

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[394] Report by Jerry Gutman, Nov. 8, 1967, LCDC Holmes County, Mississippi, Nov. 7, 1967 Election File.

[395] Id. at 3.

[396] Letter from Richard Parker to Alvin Bronstein, Nov. 15, 1967, LCDC Holmes County, Mississippi, Nov. 7, 1967 Election File.

[397] Id.

[398] Report of Beth Livezey and Ruby Roy, Nov. 7, 1967, LCDC Holmes County, Mississippi, Nov. 7, 1967 Election File.

[399] Report of Beth Livezey, supra.

[400] Report of Dick Roisman, Nov. 7, 1967, LCDC Holmes County, Mississippi, Nov. 7, 1967 Election File.

[401] Report of Ruby Roy, supra.

Baker County

In 1960, Negroes accounted for 58.9 percent of the population of Baker County,[402] and by the summer of 1966 Negroes constituted 32 percent of the registered voters.[403] Nevertheless, Negroes have not been appointed as election officials in special, primary, or general elections in the county.

At a special election in July 1966 a Negro candidate sought election to the county board of education. On the day before the election local civil rights leaders on behalf of the Negro candidate asked Mrs. T. A. Rogers, the county ordinary, to appoint Negroes as election officials.[404] The request was denied by Mrs. Rogers, according to her account, because the election officials already had been chosen.[405] As a matter of local custom, lists of nominees to serve as election officials are submitted to the ordinary by the justices of the peace of each militia district in the county, and the final list of appointments is drawn up by the ordinary three or four weeks before the election.[406]

Mrs. Rogers told a Commission staff attorney, however, that no Negro election officials ever had been appointed during her 14 years in the ordinary's office as clerk and then as ordinary. Further, she had no plans to appoint Negroes because she wanted to "prevent trouble." She stated that Negro election officials might cause problems because the counting of the ballots sometimes takes all night.[407]

Under Georgia law election officials for party primary elections are appointed by the party county executive committee.[408] In Baker County, the chairman of the county Democratic executive committee is responsible under local practice for the conduct of the Democratic primary and for the selection of election officials.[409] There was no request for Negro election officials to serve in the September primary and no Negroes were selected by the party chairman. In an interview the chairman asserted that he would "work them if any qualified Negroes applied who were capable of handling the job." He indicated, however, that the burden of

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[402] U.S. Dept. of Commerce, Bureau of the Census, Negro Population, by County: 1960 and 1950, U.S. Census of Population: 1960, Supplementary Reports, Series PC(S1)-52.

[403] Voter Education Project, Voter Registration in the South, Summer 1966.

[404] Interview with Mrs. Josie Miller, affiliated with the Baker County Movement, a local civil rights organization, Nov. 15, 1966.

[405] Information on the appointment of special and general election officials obtained in interview with Mrs. T. A. Rogers, ordinary of Baker County, Nov. 15, 1966.

[406] Id.

[407] Local civil rights leaders made no request for the appointment of Negroes to serve in the general election in November 1966. There were no Negro candidates in that election and the Negro community was reported to have considered the contest for Governor and other State offices "white folks day" and didn't want to get involved in disputes between the "white folks." Miller interview.

[408] Ga. Code §§ 34–103 (ac), 34–501 (Supp. 1967).

[409] Information on the appointment of Democratic primary election officials obtained in interview with Ralph B. Phillips, chairman of the Baker County Democratic Executive Committee, Nov. 15, 1966.

applying was on the Negroes and that the county executive committee was making no affirmative efforts to include Negroes in party affairs.[410]

Sumter County

In 1960, Negroes in Sumter County constituted 53 percent of the population and in 1966 constituted 27 percent of the registered voters. Many registered Negroes resided in Americus, the county seat.

Rev. J. R. Campbell, Negro candidate for alderman in the November 15, 1966 municipal primary election, asked the mayor of Americus to appoint Negroes as election officials.[411] Responsibility for conducting the election, however, rested with the Americus Municipal Democratic Executive Committee and its chairman. When the election was held, all clerks and managers at the polling place were white, although Negroes were employed to pin "I have voted" tags on the voters as they left the polling place.[412] The chairman of the Americus Municipal Democratic Executive Committee admitted that no Negroes had been appointed to serve as officials, and declined to discuss the matter further.[413]

Dougherty and Taliaferro Counties

In Dougherty and Taliaferro Counties Negro election officials were appointed in token numbers. A Negro attorney in Dougherty County, where Negroes constitute 34 percent of the population and about one-fourth of the registered voters, indicated that no Negroes had served as clerks or managers in the Democratic primary in 1966, and to his knowledge, only three Negroes had served as election officials in the November general election.[414]

The present chairman of the Dougherty County Democratic Executive Committee confirmed that there were no Negro poll officials in the 1966 Democratic primary election.[415] He added that to the best of his knowledge, although he was not chairman at the time and did not know definitely, there were no "applications" from Negroes to serve. He related that three Negroes assisted him in the general election:

> In the General Election I assisted the County Ordinary who conducts the election, as superintendent at one of the polling places. She had three Negro applications and I volunteered to take them as

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[410] Id.

[411] Interview with Rev. J. R. Campbell, chairman of the Sumter County Movement, Nov. 16, 1966.

[412] Interviews with the managers of the polling place, C. C. Bridges, Nov. 17, 1966, and E. A. Tomlin, Nov. 17, 1966.

[413] Interview with William E. Smith, chairman of the Americus Municipal Democratic Executive Committee, Nov. 16, 1966.

[414] Interview with C. B. King, attorney for the Albany Movement, a civil rights organization, Nov. 16, 1966.

[415] Letter from Wilson Smith to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Jan. 22, 1967. Smith was not chairman of the county executive committee at the time of the 1966 Democratic primary election.

officials in my precinct. They were very efficient and seemed to work out very well. I presume that at the next primary we will have applications from Negroes and if we do they will be accepted.[416]

Similarly, a civil rights leader and Negro candidate for office in Taliaferro County, where Negroes constitute 62 percent of the population and a majority of the registered voters, complained that in the Democratic primary election in which three Negroes ran for county and party offices, only three of the 20 election officials selected by the all-white county Democratic executive committee were Negroes.[417] He further complained that in his view the Negroes selected to serve were controlled by the white community and did not take any effective action to deter or correct irregularities which prevented the Negro candidates from winning.[418]

South Carolina and Louisiana

In South Carolina Negro, as well as white, election officials were appointed during 1966 to serve in primary elections in Richland County, where Negroes were a majority at some of the precinct meetings and had been selected as party county executive committeemen.[419] In Dorchester County and Williamsburg County, in precincts where the county committeemen elected at February precinct meetings were white, polling places were manned exclusively by white officials.[420]

There were no complaints of discrimination in the selection of election officials in the three Louisiana parishes visited by Commission staff.[421]

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[416] Id.

[417] Interview with Calvin G. Turner, Negro candidate for county commissioner and candidate for the county Democratic Executive Committee, Jan. 6, 1967.

[418] Id. The candidate also complained that there were numerous irregularities of great variety, including extensive voting by white nonresidents, fraudulent use of absentee ballots, denials to registered Negroes of the right to vote, restrictions upon assistance to illiterate voters, and capricious challenges against ballots cast by Negroes with the aid of a sample ballot.

[419] Interview with Rev. I. DeQuincy Newman, state field director of the South Carolina National Association for the Advancement of Colored People, Dec. 6, 1966. Negroes have served as election officials in predominantly Negro and predominantly white precincts in Richland County for approximately eight years. Id; interview with Matthew J. Perry, counsel for South Carolina NAACP, Dec. 5, 1966.

[420] Interviews with Benjamin Warner, president of the Dorchester County Voters League, a Negro civil rights organization, Dec. 8, 1966, Raymond Fulton, chairman of the Black River precinct branch of the Williamsburg County Voters League, a civil rights organization, Dec. 8, 1966, and Laura Mae Conyers, poll watcher at the Mount Vernon precinct polling place, Dec. 9, 1966.

[421] Negro commissioners were appointed to serve in the August 1966 primary election in Madison Parish. Interview with Harrison Brown, Negro candidate for membership on the Madison Parish School Board, Mar. 20, 1967. In the other two parishes lists of nominees to serve as commissioners in the primary were submitted by Negro candidates to the party parish committees too late. Interviews with Henry A. Montgomery, Negro candidate for membership on the Concordia Parish School Board, Mar. 21, 1967, and Alvin White, Jr., Negro candidate for member of the West Feliciana Parish School Board, Mar. 24, 1967.

Chapter 7

Intimidation and Economic Dependence

Intimidation and Harassment of Politically Active Negroes

Negroes who have attempted to register and vote in many areas of the South in recent years have been subjected to physical violence and economic sanctions.[422] Since the passage of the Voting Rights Act and the assignment of Federal examiners to many counties where Negroes had experienced the greatest hardships in attempting to register, there have been fewer incidents of intimidation related to voter registration.

Nevertheless, in some areas persons engaged in voter registration work and in aiding Negro citizens to exercise their voting rights reportedly continue to be harassed, shot at, and subjected to economic reprisals. There have been reports that hostile whites have threatened Negro candidates and campaign workers for Negro candidates with economic and physical harm. In some instances the threats have materialized in the form of violence, abuse of legal process, and economic sanctions.

Louisiana

CONCORDIA PARISH.—Negroes active in voter registration efforts in Ferriday, Louisiana, reportedly have been subjected to harassment and intimidation by hostile whites.

In November 1966, shots fired into her home wounded Mrs. Carrie Washington who, as secretary of the local NAACP organization, was active in initiating a drive to register Negro voters. At the beginning of the drive in July 1966, she reported, she personally urged and assisted Negroes to register and subsequently served as a coordinator of the

[422] See U.S. Commission on Civil Rights, Law Enforcement: A Report on Equal Protection in the South (1965); Voting in Mississippi (1965); and 1961 Report, Vol. 1, Voting.

activities of about 40 civil rights workers. During the drive, she placed stickers on the side of her house which urged:

Register Now . . .
Voting Means Freedom
NAACP

On the evening of November 2, 1966, Mrs. Washington reported, she heard a loud noise in the adjoining portion of her duplex residence. While outside investigating the noise, she was struck by six pellets of buckshot which she believes were fired from a shotgun aimed from across the road in front of her house. She never saw the assailants and no arrests were made in the case, which was reported to the FBI. Mrs. Washington believes she was shot because of her voter registration activity.[423]

Mrs. Washington and her mother, Mrs. Alberta Whatley, who also is active in civil rights activities, reported eight additional instances of violence against Ferriday Negroes whch occurred in 1965 and 1966.[424] Four of these incidents allegedly were directly related to civil rights and voter registration activities. Two homes belonging to Negroes active in civil rights and voter registration work were bombed and shot into, a service station owned by a Negro active in civil rights work was bombed, and the building which served as the headquarters for the voter registration campaign was fired upon, according to Mrs. Washington and Mrs. Whatley. During this same period, the two women related, three Negro homes and a Negro church were bombed or shot into for no apparent reason, since the owners of the homes had not been directly affiliated with civil rights activity and the church had not been used for that purpose.

This campaign of racial violence also has had the effect of deterring Negroes from seeking political office, Mrs. Whatley indicated. "The people are just afraid; they've been so put down here."

West Feliciana Parish.—After he was elected in 1966 to the parish school board in predominantly Negro West Feliciana Parish, Louisiana, a Negro carpenter reported, he was boycotted by white persons and has had difficulty finding other work.[425]

Before his candidacy, Alvin White, Jr., made his living doing carpentry work for white people in the parish. In the August 13, 1966 primary election, White won the Democratic nomination to represent Ward 10

[423] Information on this incident obtained from interview with Mrs. Carrie Washington, Mar. 21, 1967. A Commission staff investigator found several shotgun pellets in the side of her residence.

[424] Interviews with Mrs. Alberta Whatley and Mrs. Carrie Washington, Mar. 21, 1967.

[425] Interview with Alvin White, Jr., Mar. 24, 1967.

on the West Feliciana Parish School Board. He was unopposed in the November general election. After the primary election, according to his account, his former white customers no longer hired him. He said he had applied for work at a local paper mill, and had been required to undergo several physical examinations. His application had been pending for several months at the time of the interview. White believes that both the white boycott and the delay in acting upon his application for employment at the mill were prompted by his candidacy.

MADISON PARISH.—Bruce Bains, a civil rights worker affiliated with the Congress of Racial Equality, believes that during 1966, harassment of Negro voters by a white candidate materially affected the outcome of a primary election in Madison Parish where a Negro was running.

In the August 1966 primary election, Rev. F. W. Wilson, a Negro, ran for the Ward Two seat on the parish school board. According to Bains, a plantation owner—also a candidate—threatened to evict her Negro workers and close a Negro church on the plantation if they supported Rev. Wilson.[426] The Negro candidate failed to get a majority in the primary election by five votes, and lost in the run-off primary to his white opponent, the plantation owner.

South Carolina

In Dorchester County, South Carolina, several instances of harassment and intimidation of Negroes associated with efforts to vote and participate in politics in 1966 were reported. Two allegedly were related to the efforts of Mrs. Victoria DeLee and Mrs. Anna Williams to urge and aid registered Negro voters to vote in the general election.

In the November 8, 1966 general election James P. Harrelson, a white person supported by Negro voters, was the successful candidate for State senator.[427] On the night of Thursday, November 10, two anonymous telephone calls to the DeLee residence reportedly conveyed this message: "Harrelson won but you are going to lose."

Two nights later, November 12, the DeLees reported that Mr. DeLee, armed with a gun, chased a car occupied by unidentified persons from their yard. Because the occupants continued to drive back and forth in front of the residence that evening, the DeLees sat up until 2:30 a.m. After they had been in bed about an hour, they awakened to discover flames around their house. Mrs. DeLee, it was reported, seized two chil-

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[426] Interview with Bruce Bains, Mar. 20, 1967.

[427] Information on this incident obtained in an interview with Mrs. Victoria DeLee, Dec. 7, 1966, and telephone interview with S. B. DeLee, Dec. 8, 1966.

dren who were staying with them that night and ran to safety. After they had evacuated the house, Mrs. DeLee said, she heard an explosion near the front of the house under the eaves of the roof. The house burned to the ground. Mrs. DeLee believes the house was set on fire by hostile whites because of her activities in assisting registered Negro voters to vote. White persons in the community friendly to Mrs. DeLee reportedly have told her that it is general knowledge and belief in the white community that the house was set on fire by her white antagonists.

On November 10, 1966, Ned Williams, husband of Mrs. Anna Williams, was discharged from his job. According to his account, the following occurred: He was approached before lunch by the superintendent of the mill who inquired, "Victoria DeLee and Anna Williams had that argument on voting day?" [428] Williams replied: "I was working. I don't know nothing about that." The superintendent then reportedly responded: "I can't work no politicians on this job. Pick up your check at 4 o'clock and leave." Subsequently, it was reported, mill officials attributed the discharge to economy measures, but Williams believes he was the only worker laid off. Williams stated that his efforts to gain employment elsewhere have failed even though the firms to which he has applied have hired new workers. He believes he has been blacklisted by the mill from which he was discharged because of his wife's efforts in aiding registered Negro voters to vote.

Mississippi

CLAY COUNTY.—Prior to the 1966 general election, the manager of a Clay County plantation store in which a polling place was located was reported to have said that he would shoot any black people who came to the store to vote.[429]

GRENADA COUNTY.—The first Negro candidate to enter a political race in Grenada County since Reconstruction days, U. S. Gillon, ran unsuccessfully in a special election for the Grenada County City Council in February 1967. The day after Gillon lost the run-off election, a warrant charging him with fraudulent receipt of old age assistance payments was issued for his arrest. He believed the warrant was issued as a reprisal for his candidacy.[430]

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[428] Information on this incident obtained in interview with Ned Williams, Dec. 8, 1966. The incident which was alleged to have caused Williams to be discharged is described at p. 72 supra.

[429] Interviews with Mrs. Dora Adams, official in the Clay County Freedom Democratic Party, and Isaac Coleman, a SNCC field secretary working in the county, Feb. 28, 1967.

[430] Unless otherwise indicated, information on this incident obtained in telephone interview with U. S. Gillon, Nov. 3, 1967.

According to Gillon's account, he began receiving old age assistance payments from the Mississippi State Welfare Department in 1964 and continued to receive them until he ran for office, except for a few months in late 1964 and 1965 when he lived outside the State. His other income consisted of retirement benefits from the State of Illinois, a former employer, and social security retirement checks.

Gillon was a candidate for a vacant city council seat in a municipal special election on February 13, 1967. He finished second in a race with three white candidates. Just prior to the run-off election on February 27, he related, two persons who identified themselves as being from the Mississippi State and Grenada County Welfare Departments visited him in his home on the pretense of investigating his eligibility to receive State welfare payments. Gillon's white opponent in the run-off election had charged that he was a "retired Chicago policeman." [431] The two welfare officials allegedly told Gillon that he had been receiving old age assistance payments for which he was ineligible because of his other income. Gillon explained that county welfare department officials had known about his other income yet had not disqualified him for State welfare benefits. According to his account, Gillon told the welfare officials that he would be willing to repay any money to which he was not entitled if the welfare officials proved to him that he had been ineligible to receive it.

Gillon said he signed a statement declaring he had no intention of defrauding the State Welfare Department and indicating his willingess to repay the money he had received at the rate of $10 per month.[432] The welfare officials seemed satisfied with this arrangement, and he heard no more about it, Gillon related.

In the run-off election on February 27, Gillon lost to the white candidate who had received the most votes in the first election. The following day Grenada Justice of the Peace J. R. Ayres issued a warrant

[431] During the campaign, Gillon related, he repeatedly had denied that he had been a policeman in Chicago. According to Gillon, his principal occupation when he lived in Illinois had been as an elevator operator for the University of Illinois. He believes the "retired Chicago policeman" label was used by his opponent as part of a smear campaign to pursuade voters that Gillon was not a resident of Grenada. Gillon interview, Feb. 26, 1967.

[432] The text of the signed statement is as follows:

> My name is U. S. Gillon, colored male, age 68. I live at 714 E. Govan Street, Grenada, Mississippi. I received old age assistance from the Grenada County Welfare Department until my case was closed when they learned that I was receiving State Retirement from the State of Illinois. I thought that when a person reached the age of 65 that they were eligible for Old Age Pension. I did not know that income entered the picture or had anything to do with receiving old age assistance. I listened carefully to the visitors when they asked me if I was receiving money from social security, or railroad retirement, or if I had bonds, etc. I did not hear them ask me if I received state retirement from any state.
>
> I had no intention of defrauding the State Welfare Department and I am willing to make full restitution. I will pay $10.00 each month to the State Department of Public Welfare until I have repaid the $924.00 that I received to which I was not eligible.

Copy of the statement provided by Gillon's attorney.

for Gillon's arrest based upon an affidavit filed by the Grenada County Prosecuting Attorney, Jim McRae Criss.[433] The charge was the fraudulent receipt of old age assistance payments.

Gillon believes he was charged with the offense because he ran for the city council seat and there was a substantial Negro vote for him.[434] He told a Commission staff member why he thought the warrant was issued for his arrest: "Because I ran for office and they weren't expecting Negroes to vote. They just couldn't take it. The idea was to get the leader, and they could stop the people." [435]

NESHOBA COUNTY.—A Negro candidate in Neshoba County reportedly was ticketed and fined for fictitious traffic violations, harassed by law enforcement officers, arrested and jailed, and had his car impounded between the time he announced he would seek nomination to the U.S. Congress and the June 7, 1966 primary.[436]

Officials of the Mississippi Freedom Democratic Party first announced in January 1966 that Rev. Clint Collier of Philadelphia, Mississippi, would be a candidate for the Fourth Congressional District seat in the Democratic primary.[437] Even before he formally qualified to run for the office, he related, he was given a traffic ticket by Sheriff Lawrence Rainey and his deputy, Cecil Price, in March 1966, for illegally parking his car on the highway.

Three weeks later, after he had filed his qualifying papers with the secretary of the State Democratic executive committee, Rev. Collier was charged with another traffic violation. On this occasion, according to his account, as he drove toward Dixon, a small community 14 miles south of Philadelphia, he was followed by Deputy Sheriff Price who kept his auto about 25 feet from Rev. Collier's vehicle. Upon reaching Dixon, Rev. Collier reportedly turned off the main highway, whereupon Deputy Sheriff Price stopped him and gave him a ticket for failing to signal for the turn. Rev. Collier believes he was ticketed not because he had violated

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[433] Letter from Jim McRae Criss to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Oct. 30, 1967; (Jackson, Miss.) Clarion-Ledger, Mar. 1, 1967, at 1. According to Mr. Criss, the affidavit he signed as county prosecuting attorney was based upon information furnished him by the Grenada County Welfare Department and the Mississippi State Welfare Department.

[434] The results of the first election were:

Robert Alexander	1,314
U. S. Gillon	1,068
Other two candidates combined	574

(Clarion-Ledger, Feb. 27, 1967).

The results of the run-off election were:

Robert Alexander	1,914
U. S. Gillon	1,228

(Clarion-Ledger, Mar. 1, 1967, at 2).

[435] Gillon interview, Nov. 3, 1967.

[436] Information obtained in interview with Rev. Clint Collier, Feb. 23, 1967.

[437] See, e.g., N.Y. Times, Jan. 7, 1966, at 34.

State law, but because he was a Negro candidate for public office. The fines for both tickets totaled $33.

This pattern of harassment continued in April 1966, according to Rev. Collier. On one occasion, neighbors told him that Sheriff Rainey had parked near his home at approximately 2 a.m. and had remained there for some time. Because Rev. Collier had made a speech in Canton that evening and spent the night there, he reported, he did not encounter Sheriff Rainey that evening.

Toward the end of April, driving from a campaign meeting in Canton, Rev. Collier was arrested by Willie Windham, a Negro police officer employed by the town of Philadelphia, who, according to the minister, had a reputation in the Negro community of being "a pawn of the white power structure." [438] Windham reportedly took Rev. Collier to the city jail and impounded his car. Rev. Collier said his daughter, who had been riding with him at the time, was left standing on the highway. He was charged with speeding, resisting arrest, and profanity. All these charges, he said, were groundless and motivated by his candidacy. He was forced to pay $10.50 to claim his car and was fined $58 upon conviction on the charges.[439]

HOLMES COUNTY.—Rev. R. L. Whitaker, a Negro resident of Holmes County, ran in 1966 for a justice of the peace post vacated by the death of the incumbent.[440] The special election originally had been scheduled for September 8, 1966, but was postponed until the November general election. In September 1966, Rev. Whitaker was appointed pastor of a Negro rural church with between 50 and 60 members located on one of the big plantations in the county. Two days after his appointment, the elders of the church voted to rescind the appointment.

From information he was able to gather, Rev. Whitaker concluded that his appointment was withdrawn because he was running for justice of the peace. The plantation on which the church is located is owned by white persons, and, according to the candidate, the elders feared that the church might be burned or other reprisals taken against it or its members if its pastor ran for public office. Only three or four Negroes on the plantation had registered to vote, he pointed out.

BOLIVAR COUNTY.—In Bolivar County, it was reported 12 persons who were passing out sample ballots on the day of the November 1967 general election were arrested for littering the streets, and subsequently were released without charge after the polls closed at 6 p.m.[441] In Beat Two, the day for distributing food stamps reportedly was changed from

[438] Collier interview.
[439] Id.
[440] Information on this incident obtained in interview with Rev. R. L. Whitaker, Feb. 15, 1967.

the usual day to election day, making it difficult, and in some cases impossible, for a large number of Negro voters to get to the polls.[442]

Alabama

In Alabama the chairman of the Dallas County Independent Free Voters Organization—the Negro political organization which ran eight Negro candidates as independents for county offices in the November 1966 general election—complained that arrests and prosecutions three days before the election of three workers of the Student Nonviolent Coordinating Committee (SNCC) who were campaigning for the Negro candidates were designed to harass the candidates and interfere with their campaigns.[443]

The petition of one of the SNCC workers for removal of the prosecutions from the State court to the Federal district court provides this version of the incident: [444]

From May to November the SNCC workers campaigned for the election of Free Voters Organization candidates. On the afternoon of November 5, one of the workers, Thomas Lorenzo Taylor, was operating a sound truck in Selma from which he broadcast voting information and encouraged Selma residents to vote for the Negro candidates. Other campaign workers were distributing leaflets urging voters to vote for the same candidates. When he double-parked the truck in front of the building housing the offices of SNCC and the Free Voters Organization, Taylor said, he left two lanes free for moving traffic but was ordered by a city policeman to move the vehicle. While he was preparing to comply with the order, the policeman reportedly struck him through the open window and when Taylor rolled up the window to defend himself, the police officer allegedly got a shotgun with which he struck the closed window of the truck.

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[441] Report on the Mississippi Election Project at 12.

[442] Id. In Wilkinson County, law students observing the 1967 general elections reportedly were followed wherever they went by the Highway Patrol. Id.

[443] Interview with Clarence Williams, Nov. 9, 1966.

[444] Petition for Removal in City of Selma v. Carmichael, Crim. No. 15,015, S.D. Ala., filed Nov. 6, 1966. The removal statute, 28 U.S.C. § 1443, provides in part: "Any of the following civil actions or criminal prosecutions commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending: (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof; . . . ." Removal in civil rights cases is discussed in U.S. Commission on Civil Rights, Law Enforcement: A Report on Equal Protection in the South 130–35 (1965). See Amsterdam, Criminal Prosecutions Affecting Federally Guaranteed Civil Rights: Federal Removal and Habeas Corpus Jurisdiction to Abort State Court Trial, 113 U. Pa. L. Rev. 793 (1965); Georgia v. Rachel, 384 U.S. 780 (1966); and City of Greenwood v. Peacock, 384 U.S. 808 (1966).

Meanwhile, 10 other police officers had converged on the scene, and when Taylor stepped from the cab of the truck, he allegedly was struck with the muzzle of the shotgun and forced at gun point to the nearby city jail. On the way to the jail, he allegedly was further assaulted by city policemen and firemen. He was charged with "Blocking Traffic—Resisting Arrest."

After Taylor was arrested and while he was being taken to jail, another SNCC worker, William Stuart House, began addressing a crowd which had gathered. According to the petition, House urged Selma residents to vote and elect Free Voters Organization candidates to end police brutality in Selma. Within a few moments, an official of the Selma Police Department demanded that House stop speaking to the crowd because it might cause a riot. House allegedly responded that the people were orderly and "it was only the City Police which continuously rioted." He was then arrested for "Inciting to Riot." It was alleged that the Negroes who made up the crowd had remained on the sidewalk in an orderly and peaceable manner.

Also after Taylor was arrested, but before House was taken into custody, the third worker, Stokely Carmichael, who then was chairman of SNCC, drove the sound truck from the scene and broadcast over the loudspeaker that Selma police used brutality and harassment to interfere with the campaign of the Negro candidates. Subsequent to House's arrest, as Carmichael picketed the city jail to protest the interference by police officers, he was approached by the mayor of Selma and police officers who ordered him to stop picketing. When he refused, he was arrested for "Inciting to Riot." The official report of Carmichael's arrest attached to the petition for removal read:

> Made remark in front of city building about Black Power & made provacative [sic] move toward police—also was on loud speaker urging a large group of Negroes to go to the jail and see about their brother. Also yelling Black Power.

In his petition, Carmichael charged that he

> was arrested by Police Officials of the City of Selma while peaceably engaged in activities which were designed to encourage voting in the November 8, 1966 elections and which are protected from prosecution by the Voting Rights Act of 1965. The arrests, on the other hand, were effectuated for reasons of race and color for the sole purpose of discouraging activities on behalf of the Negro electorate of Selma which might result in Negro participation in local affairs and the government of Dallas County.[445]

The three SNCC workers failed in their attempt to have their case removed to a Federal court.[446] On November 29, according to a newspaper

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[445] Petition for Removal, supra note 444, at 4.
[446] City of Selma v. Carmichael, 12 Race Rel. L. Rep. 349 (S.D. Ala. 1966).

Willie Ricks of the Student Nonviolent Coordinating Committee addresses Negro voters.

report, they were tried and convicted in Selma Recorder's Court.[447] Taylor was sentenced to pay a $60 fine or to serve 74 days in jail, House was sentenced to 30 days at hard labor and fined $100, and Carmichael was sentenced to 60 days at hard labor and fined $100.

Members of a Negro family in Dallas County believe their landlord refused to renew their lease partly because of their voter registration and other civil rights activities.

Until September 1965 Will and Pearl Moorer had been tenants farming 90 to 100 acres of land on the Minter Plantation for about

[447] N.Y. Times, Nov. 30, 1966, at 23. The three defendants appealed their convictions to the next highest State court and also brought an action in Federal district court requesting an injunction against their further prosecution and harassment. They cited as an additional ground that the statute under which Carmichael and House were arrested and convicted was unconstitutional. Carmichael v. City of Selma, Civil No. 4335–66, S.D. Ala., filed Nov. 21, 1966. In their answer the city officials denied all of the SNCC workers' claims. Answer filed Apr. 17, 1967. The case was heard by a three-judge Federal district court on Apr. 25, 1967, but as of Apr. 11, 1968, the judges had not rendered a decision in the case. The State court appeals have been stayed pending the Federal district court decision. Information supplied by clerk's office, Apr. 11, 1968.

31 years.[448] In September 1965 Will Moorer was the first Negro to be registered in the county under the Voting Rights Act of 1965. According to the Moorers, the owner of the plantation, James Minter, formerly had been willing to take his rent in kind, but in April 1966, Minter told the Negro family that he wanted the rent paid in cash only. In May 1966, Mrs. Pearl Moorer became the candidate of the Dallas County Independent Free Voters Organization for a seat in the State house of representatives.[449] In November 1966, the Moorers reported, Minter gave notice that he would not renew the lease on their farmland for 1967. Without this land to farm, the Moorers were unable to remain on the plantation.

The Moorers believe that their political activity was one of the reasons why Minter failed to renew their lease. According to their account, at one point Minter said to them: "If it weren't for you two, I could have handled the rest of the Negroes." The Moorers believe this was a reference to the fact that as a result of their efforts the Negroes on the Minter Plantation overcame their fears and registered to vote.[450]

Georgia

Rev. J. R. Campbell, Negro candidate in the special election in November 1966 to fill the vacancy on the Americus Board of Aldermen, reported that after the polls had closed he sat outside the polling place in his car awaiting the results.[451] From his car, he said, he saw white teenagers shouting insults and otherwise harassing Negro bystanders who had served as poll watchers outside the polling place. These teenagers also reportedly harassed him when he brought food to his representatives inside the polling place during the counting of the ballots

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[448] Interviews with Will and Pearl Moorer, Apr. 26, 1967.

[449] Mrs. Moorer did not get on the ballot in November because she failed to file a timely statement of financial responsibility with the probate judge of the county as required by the Alabama Corrupt Practices Act.

[450] The Moorers also believe Minter was motivated partially by the desire to gain control over more land to increase his farm subsidy payments under the Food and Agriculture Act of 1965.

In Lowndes County, Alabama, the chairman of the Lowndes County Freedom Organization, which ran seven independent Negro candidates in the November 1966 general election, reported that a Negro organizer for the Freedom Organization in the Fort Deposit area was beaten by unidentified white men after the polls had closed and had to be hospitalized. Interview with John Hulett, Nov. 9, 1966.

According to press reports, approximately two hours after the polls had closed 52-year-old Andrew Jones was standing beside his automobile, which was parked in front of the Fort Deposit City Hall, the area polling place, waiting for a Negro election official who was counting the votes inside. A white man allegedly approached him and asked him what he was doing there. He responded, according to this account, that he was waiting for one of the clerks at the polling place, and that he was going to leave when she finished counting the ballots. The white man reportedly told him to get out of there and swung at him, and thereupon another man ran up behind him and knocked him out. After he came to, he reportedly was taken to a local hospital where he was treated for a severe blow to the head. (Montgomery) Alabama Journal, Nov. 10, 1966, at 37; Birmingham News, Nov. 11, 1966, at 6.

[451] Interview with Rev. J. R. Campbell, Nov. 17, 1966.

that evening. The city police headquarters was near the polling place, but police officers did not interfere with this harassment, according to his account.

The principal poll watcher of the Negro candidate was arrested by a city police officer early the next morning. After the results of the election had been tallied and Rev. Campbell's defeat announced, some members of the local civil rights movement met to discuss the results. While driving home from this meeting in the local civil rights movement's minibus, the Negro poll watcher, Sammy Mahone, was stopped and arrested for driving an auto with an invalid registration.[452] His account was that the police officer who arrested him told him that the license plate on the vehicle belonged to another car. Mahone was taken to jail where, because the sheriff was not available to make bail, he spent the rest of the night. The next morning he was released on $100 bail. Rev. Campbell expressed the view that the arrest was a reprisal against Mahone for serving as his poll watcher in the municipal primary election.[453]

Asked for his response to the complaint, the Americus chief of police said that the city police were simply doing their duty and that the arrest had no relation to the election.[454]

Virginia

Moses Riddick, a Negro who ran as a candidate in the July 1967 Democratic primary election in Nansemond County and won the nomination for a second term on the county board of supervisors, reported election day Ku Klux Klan activity designed to deter Negroes from voting.[455]

Riddick stated that Negroes in the county, through the Independent Voters League (IVL), a Negro political organization, have used bloc voting to swing elections to candidates favored by the organization. On July 11, 1967, the day of the Democratic primary election, the Ku Klux Klan reportedly burned a cross in front of Riddick's home. According to Riddick, the Klan wanted to stop the IVL from encouraging bloc voting elsewhere, and also sought to divide the vote in Nansemond County. Therefore, he said, in an effort to confuse the Negro voters, one Klan group went through Negro communities with signs supporting the candidates backed by the IVL, followed by another Klan group which supported an opposing slate of candidates. Riddick said that this tactic created a great deal of confusion, and that because of the confusion and intimidation many Negroes stayed away from the polls on primary day.

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[452] Interview with Sammy Mahone, Nov. 16, 1966.
[453] Campbell interview.
[454] Letter from R. M. Chambliss, chief of police of Americus, Georgia to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, Nov. 9, 1967.
[455] Information obtained in interview with Moses Riddick, July 18, 1967.

General Intimidation Affecting the Exercise of Political Rights

It was reported in some areas that a significant deterrent to political activity by Negroes is a generalized climate of intimidation in the area, not necessarily related to the exercise of political rights.

Anna Williams, a member of the executive committee of the Dorchester County (South Carolina) Voters League—a Negro civil rights organization—was asked why more Negroes did not seek political office in the county. Among other reasons, she cited a long-standing campaign of harassment and intimidation of Negroes who attempted upward mobility. As an example, she said that when a Negro tried to establish a store in Ridgeville, hostile whites closed down his store and ran him out of town.[456]

Asked why more Negroes had not run for office in Sumter County, Georgia, and the city of Americus, Rev. Campbell responded that there had been a pattern of harassment of Negroes for civil rights activity in the county and that many people were afraid. "Some folks in Americus are afraid to breathe hard if they think it would displease the white man," he said.[457]

Economic Dependence as a Deterrent to Free Political Activity by Negroes

In the course of its investigation, the Commission heard complaints that even in the absence of specific threats or reprisals, the economic dependence of Negroes in the South inhibits them from engaging freely in political activity and voting for candidates of their own choice.

In many parts of the South, it is reported, whites are able to maintain their political and economic positions without resort to specific acts of physical violence or economic reprisal or to electoral irregularities.[458] The land and industry in the South are owned almost exclusively by whites. This economic domination of the region together with the history of racial violence previously alluded to, reportedly infects the entire political process in many areas. Although Negroes theoretically may have the right to a secret ballot, in many cases a Negro will not go to the polls

[456] Interview with Mrs. Anna Williams, Dec. 8, 1966.

[457] Campbell interview.

[458] Wall Street Journal, Nov. 2, 1966, at 1; Note, The Federal Agricultural Stabilization Program and the Negro, 67 Col. L. Rev. 1121, 1125 (1967). ("The economic dependence of Negro sharecroppers on white landowners and the history of violent reprisal by Southern whites against Southern Negroes keep the Negro 'in his place' far more effectively than individual threats or actions").

In a recent study by Donald R. Matthews and James W. Prothro, Negroes and the New Southern Politics (1966), the authors state that their data support the

Footnote continued on following page.

or cast his vote in a way that he thinks will offend the white persons who own the land and the industry, and upon whom he is absolutely dependent for his livelihood.[459]

In these circumstances, it is reported, there is no need for the white landowner or the white employer to direct the Negro sharecropper or worker not to run for office, not to vote, or to vote only for white candidates (although this sort of direction often does occur). In many cases the Negro worker reportedly *knows* what his white landlord or boss wants him to do and naturally conforms. A Negro brickmason in a rural North Carolina county told a Commission staff member: "You just know what you are supposed to do and what you are not supposed to do." [460]

Clay County, Mississippi

In a previous section it was reported how, in a rural area in Clay County, Mississippi, the selection of a plantation store as a polling place discriminated against Negroes who were dependent upon the plantation owner for their livelihood and the manager of the store for credit.[461]

As noted previously, only one of the approximately 55 registered Negro voters in the precinct (Caradine) voted in the November 1966 general election even though Negro candidates were on the ballot.[462] In the Au-

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argument that "[o]nly when there is a pool of educated and skillful leaders whose means of livelihood is not controlled by whites can sufficient leadership and political organization develop to ensure a relatively high rate of Negro registration in the South." Matthews and Prothro, supra, at 120. They show that Negro members of groups that are relatively independent of whites economically, such as ministers, lawyers, doctors, and morticians, are regarded as community leaders in greater proportion than would be warranted by their numbers alone. School teachers, who represent the largest group of highly educated Negro professionals in the South, are relatively underrepresented among community leaders. This, according to Matthews and Prothro, is because in most Southern communities teachers "are extremely vulnerable to white pressures." Id. at 180–82.

In another recent study, by Pat Watters and Reese Cleghorn, Climbing Jacob's Ladder: The Arrival of Negroes in Southern Politics (1967), the authors describe some of the behavior of Negro teachers resulting from these pressures. A Negro principal in a rural south Georgia county, for example, is reported to have "reduced the teaching of civics and government because it was in these classes that embarrassing questions most often were asked, . . . [and] acted with hostility . . . toward voter registration workers who had arrived in the community." Watters and Cleghorn, supra, at 97–98. In New Orleans there ware 1,600 Negro public school teachers, the largest element in that city's Negro middle class. Few of these teachers played important roles in community life. Id. at 96–97, citing Daniel C. Thompson, The Negro Leadership Class 46 (1963). See also 1 U.S. Commission on Civil Rights, Hearings, Jackson, Mississippi, 1965, at 215–22.

[459] See U.S. Commission on Civil Rights, 1961 Report, Vol. 1, Voting at 197–99 ("A dependent economic position appears to be one of the most significant factors that inhibits Negroes from registering and voting." Id. at 197). Illiterates must be assisted in casting their votes. In States such as Mississippi, where they may not have the assistance of friends or bystanders, they must be assisted by election officials, who usually (especially in rural areas) are white and are associated with the white political and economic power structure. In these circumstances, Negro illiterates cannot be assured of a secret ballot.

[460] Interview with Richard Butler, July 29, 1967.

[461] See pp. 81–82 supra.

[462] Report of Federal observers, Caradine Precinct, Clay County, Mississippi, Nov. 8, 1966 general election. Thirty-two votes were cast by whites.

gust 8, 1967 primary election, however, 64 Negroes registered to vote cast ballots.[463]

The primary explanation for this increase in Negro voting, according to a Department of Justice attorney who was in the county on election day, was that J. T. Brand, the plantation owner, was widely known throughout the precinct to favor the candidacy of J. Shelton Brand for membership on the county board of supervisors.[464] J. Shelton Brand was a relative of J. T. Brand.[465] One Department attorney felt that the knowledge that the candidate was favored by the plantation owner was sufficient to encourage Negroes in the precinct to vote overwhelmingly for J. Shelton Brand.[466]

In contrast to the Caradine precinct, in the Una precinct just down the road, Negro voters in large numbers voted against J. Shelton Brand and for one of his rivals, according to a Department of Justice attorney. The difference in voting behavior was attributed to J. T. Brand's economic domination of Caradine precinct.[467]

Concordia Parish, Louisiana

Henry A. Montgomery, a Negro candidate for the parish board of education in Concordia Parish—the first Negro candidate for office in the parish in this century—gave the following example of the deterrent effect of economic dependence on office-seeking by Negroes in the South. In Louisiana, each parish is divided into police jury wards. Each ward elects a member to sit on the police jury, the main governing body in most Louisiana parishes. In one ward, the candidate related, registered Negroes outnumbered registered whites by 39 to 19. Most of the Negroes in the ward, however, lived and worked on a large plantation owned by

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[463] Report of Federal observers, Caradine precinct, Clay County, Mississippi, Aug. 8, 1967 primary election; interviews with J. Harold Flannery and Michael Flicker, attorneys in the Civil Rights Division, Department of Justice, Dec. 5 and 11, 1967. Between the two elections the precinct was redistricted, increasing the number of registered Negro voters.

[464] Flicker interview.

[465] J. T. Brand told a Department of Justice attorney that he was not a "close" relative of J. Shelton Brand. Id.

Some of the election officials at the polling place in Caradine precinct during the 1966 and 1967 elections also were related to J. T. Brand. Billy Brand, one of the managers of the polling place, was a second cousin of J. T. Brand. A Miss Christine Brand was one of the two clerks. All of the election officials were white.

In the August 8 primary election many illiterate Negro voters specifically asked Billy Brand for assistance in marking their ballots. Flicker interview. The Report of the Federal observers indicates that 33 Negroes were assisted and that at least 11 of these were assisted by Billy Brand. The observers noted that all ballots were marked according to the voter's wishes. Report of Federal observers, Caradine precinct, Clay County, Mississippi, Aug. 8, 1967 primary election.

[466] Flicker interview. The official tally in the precinct for the county board of supervisors race was:

J. Shelton Brand	96
Wallace Cox	13
Howard Crosswhite	22

[467] Flicker interview.

a white person who was the president of the police jury of Concordia Parish. It was inconceivable, according to Montgomery, that Negroes living on this plantation and depending upon its owner for their livelihood would have been willing to contest his place on the police jury.[468]

Hardeman County, Tennessee

In the fall of 1966, four Negro candidates—the first ones in the county in recent years—ran for positions as county court magistrate (member of the county governing body) in Hardeman County. Mrs. Bernice Miller, chairman of the Hardeman County Civic and Voters League and a candidate herself, told a Commission staff member that she had had considerable difficulty persuading other Negroes to run for the post and had been unable to get the best qualified Negroes to run because Negroes in the county were economically dependent upon white persons. Many of the people she talked to about running, particularly school teachers, she said, expressed fear of being fired by their white employers and not being able to find other employment.

Mrs. Miller had similar difficulty, according to her report, in finding candidates to run for a post on the county board of education during the fall of 1966.[469]

Holmes County, Mississippi

In Holmes County three Negro candidates ran for local and Federal office in the 1966 general election.[470] In 1967, there were 12 Negro candidates for beat, county, and State office. Robert Clark, the first Negro to be elected to the Mississippi State Legislature in this century, was elected from a district including Holmes County in the 1967 general election.

Ralthus Hayes, an official of the Holmes County Freedom Democratic Party and candidate for the U.S. House of Representatives, stated that

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[468] Interview with Henry A. Montgomery, Mar. 22, 1967. Joseph Stroy, a successful Negro candidate in Richland County, South Carolina, also reported that Negroes economically dependent on white persons were unwilling for that reason to take the risk of running for office. Interview with Joseph Stroy, Dec. 5, 1966.

[469] Interview with Mrs. Bernice Miller, June 29, 1967. Negro leaders in many of the counties and in almost every State visited during the field investigation told Commission staff that the economic dependence of Negroes upon whites who might be hostile to Negroes elected to or running for office deterred Negro candidates from running. This point especially was emphasized by persons interviewed in Clay County, Mississippi (Adams and Coleman interviews); Grenada County, Mississippi (interview with Rev. S. T. Cunningham, chairman of the Grenada County Freedom Movement, Feb. 27, 1967); Richland County, South Carolina (Story interview); and Lowndes County, Alabama (Stavis and Logan interviews) in addition to the persons giving the accounts cited in the text.

Negroes and civil rights leaders interviewed in many parts of the South expressed the view that economic dependence of Negroes upon hostile whites was one factor deterring Negroes from registering or voting. This view was expressed in Neshoba County, Mississippi (interview with Johnny Brown, civil rights worker, Feb. 14, 1967); Holmes County, Mississippi (Lorenzi interview); Lowndes County, Alabama (Stavis, Logan, and Hulett interviews); Choctaw County, Alabama (Spears and Harrison interviews); and Baker County, Georgia (Grace Miller interview).

[470] Interview with Henry Lorenzi, Feb. 15, 1967.

although there still was some residual fear of harassment and intimidation from local white persons, Negro candidates generally felt free to run and Negro voters felt free to vote in Holmes County because of the large number of Negroes in the county who have their own farms or are economically independent of the white community. Hayes, himself an independent farmer and owner of 114 acres, remarked: "One of the major reasons the movement [in Holmes County] is as strong as it is, is because so many of the people are independent farmers." [471]

[471] Interview with Ralthus Hayes, Feb. 15, 1967.

PART IV

Negro Participation in Democratic and Republican Party Affairs

Participation in political party affairs is one way in which Negroes can become more significantly involved in the electoral and political process in the South. By participating in precinct and county political organizations and by holding party office at these levels, they could do much to assure that Negroes have an equal chance to become candidates for office. Their participation also would help assure fair elections.

During the field investigation for this study Commission staff explored with leading State and local officials of both national political parties the extent to which Negroes are participating in party affairs, and whether State and local Democratic and Republican organizations in the South were attempting to eliminate racial discrimination and make Negroes feel welcome in their activities.[1] These questions were discussed with party officials at the State level in each Southern State and with party officials at the county level in selected counties.

Negroes in Party Office

The administration of party affairs in the South generally is in the hands of State party executive committees, which are established by statute in many States. In some States, these committees adopt rules governing the qualifications for party membership and set policy between State party conventions. The committees play a significant role in managing party primary elections, such as calling the primaries, establishing rules governing their conduct, and deciding election contests. Party affairs are managed at the county level by county executive committees whose major function in many States is to conduct primary elections. Party rules in some States authorize the formation of party committees at the municipal level and at the level of other electoral districts, such as Congressional districts or State legislative districts.

There is no uniform method by which members of party committees are selected. In some States members are elected in primary elections; in

[1] The Voting Rights Act prohibits discrimination in elections for party office. Section 14(c)(1), 42 U.S.C. § 1973l(c)(1) (Supp. II, 1967).

other States they are selected at precinct meetings and party conventions. In a few instances, notably in the Democratic Party of Georgia [2] and the Republican Party of Virginia,[3] members of the State party executive committees are appointed by party officials or by party committees. In at least one county (Dallas) in Alabama, the county Democratic executive committee is self-perpetuating and vacancies caused by resignation or death are filled by members of the committee.[4]

As a general rule, relatively few Negroes hold responsible party office even in those States with a substantial Negro population. Only five of the 20 State party executive committees studied had any Negroes as members.[5] On State committees where Negroes do serve, they are represented in token fashion. Of the approximately 1,700 persons who served on such committees in the 10 Southern States, only about 10, or less than 0.6 percent were Negroes.[6]

Negroes were represented on some county committees. In the Democratic Party, no Negroes served on any county executive committee in Mississippi,[7] but Negroes had gained some seats on the Democratic executive committees of at least four of the 67 Alabama counties and five of the 64 Louisiana parishes.[8]

In the 1966 Democratic primary election in Alabama, six Negroes were elected to the 35-member Choctaw County Democratic Executive Com-

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[2] Georgia Democratic Party Rules, Rule 31 (adopted June 21, 1967) (100 members designated by the state chairman with the advice and consent of the party gubernatorial nominee; 100 selected by the respective Congressional district committees).

[3] Virginia Republican Plan of Organization, art. III, § 1 (adopted July 8, 1961, as amended through June 17, 1967) (various members appointed by the State central committee).

[4] Interview with Alston Keith, chairman of the Dallas County Democratic Executive Committee, Nov. 10, 1966.

[5] In Georgia, four Negroes were on the 200-member State Democratic executive committee. Three of these were elected by the Fifth Congressional District Committee, whose territory includes the Atlanta area, where Negroes are very active politically, and one was appointed by the State chairman. Interview with Joseph A. Sports, executive director of the Georgia Democratic Executive Committee, July 18, 1967. In the same State two Negroes served on the 28-member State Republican executive committee. One Negro, Dr. C. C. Powell, was elected parliamentarian of the party by the 1966 State convention and therefore served on the committee ex officio, and the other, William Merritt, was appointed to the committee by the State chairman. Interview with G. Paul Jones, chairman of the Georgia Republican Executive Committee, Jan. 6, 1967. In Louisiana, where members of the State Democratic and Republican committees are elected in primaries, two Negroes from the New Orleans area served on the State Republican central committee. Interview with Charlton H. Lyons, Sr., chairman of the Louisiana Republican State Central Committee, May 12, 1967. Only one Negro was on the 64-member Virginia Republican Executive Committee. Interview with Robert Corber, chairman, Feb. 21, 1968. The executive director of the North Carolina Republican State Executive Committee said that "one or two or more Negroes" were on his 220-member committee. Interview with Gene Anderson, Feb. 20, 1968.

[6] This percentage assumes that the North Carolina Republican Executive Committee has one Negro member. See note 5 supra.

[7] Interview with Bidwell Adam, chairman of the Mississippi State Democratic Executive Committee, Apr. 24, 1967.

[8] V.E.P. News, November 1967, at 1; January 1968, at 1 (Louisiana).

mittee;[9] 16 Negroes won seats on the 116-member Jefferson County Democratic Executive Committee,[10] 10 Negroes were elected to the 100-member Mobile County Executive Committee,[11] and Negroes gained a majority of the seats on the 10-member Macon County Democratic Executive Committee.[12] In the fall 1967 primary elections in Louisiana, nine Negroes were elected to parish Democratic committees.[13] Negroes also served on some county Democratic executive committees in Georgia, South Carolina, Tennessee, and Virginia.[14]

Negroes were represented to some extent on county Republican executive committees. Although they did not occupy any responsible party office at the county level in Louisiana,[15] Mississippi,[16] or South Carolina,[17] Negroes served on county Republican executive committees in some of the other States visited. Republican party officials in these States, with the exception of Arkansas, indicated, however, that the number of Negroes in county level positions and Negro participation in party affairs were low.[18]

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[9] Interview with Albert H. Evans, Jr., chairman of the Choctaw County Democratic Executive Committee, Jan. 4, 1967.

[10] Interview with Arthur Shores, president of the Jefferson County Democratic Council, a Negro political organization, Jan. 3, 1967.

[11] Interview with Charles M. Bancroff, chairman of the Mobile County Democratic Executive Committee, Dec. 10, 1967.

[12] Interview with Dr. C. G. Gomillion, Negro member of the Macon County Democratic Executive Committee, Nov. 13, 1966. In each of the counties where Negroes won county committee seats members of the county committee were elected by precinct or ward; successful Negro candidates for committee seats ran in predominantly Negro precincts or wards.

[13] V.E.P. News, January 1968, at 1.

[14] Interviews with Joseph A. Sports, executive director of the Georgia State Democratic Executive Committee, July 28, 1967 (at least two counties); Calhoun Thomas, Jr., executive director of the South Carolina State Democratic Executive Committee, Dec. 7, 1966 (five counties); James A. Peeler, Jr., chairman of the Tennessee Democratic Party, June 30, 1967 (at least one county); Congressman Watkins Abbitt, chairman of the Virginia State Democratic Party, Oct. 25, 1967 (at least three counties). Two other State Democratic party officials indicated that there might be some Negroes on county executive committees in their States but were unable to name any counties where this was the case. Interviews with Leon Catlett, chairman of the Arkansas State Democratic Executive Committee, Nov. 17, 1967, and with Perry E. McCotter, Jr., assistant executive director of the North Carolina State Democratic Executive Committee, July 24, 1967.

[15] Lyons interview.

[16] Interview with Clarke Reed, chairman of the Mississippi State Republican Executive Committee, Mar. 3, 1967.

[17] Interview with Harry S. Dent, chairman of the South Carolina State Republican Executive Committee, Dec. 6, 1966.

[18] Interviews with Charles O. Smith, chairman of the Alabama State Republican Executive Committee, Jan. 3, 1967; William F. Murgin, chairman of the Florida State Republican Executive Committee, May 24, 1967; G. Paul Jones, Jan. 6, 1967; Gene Anderson, executive secretary of the North Carolina State Republican Executive Committee, July 24, 1967; Claude K. Robertson, chairman of the Tennessee State Republican Executive Committee, June 26, 1967; and Robert Corber. In Arkansas, Negro participation in Republican Party affairs has been extensive. Interview with Odell Pollard, chairman of the Arkansas State Republican Executive Committee, Nov. 17, 1967. See p. 148 infra.

Willingness to Correct Racial Discrimination

State Party Organizations

In most Southern States primary elections are conducted by the political parties and not by government officials. In some States the regulations governing primaries are promulgated by the legislature; in others the regulations are a combination of State statutes and party rules. Typically, formal remedies are provided by State law or party rule for violation of the regulations, to be administered and implemented by the governing bodies of the parties themselves. Party rules usually provide a mechanism for the redress of grievances within the party.

In some cases, Negro candidates or candidates with Negro support have been successful in having their complaints of racial discrimination resolved by party officials.

In Georgia, no candidate may seek the Republican Party nomination or circulate a nominating petition as a Republican without first obtaining the approval of the party executive committee of the political unit in which he seeks office.[19] A right of appeal is granted from an adverse ruling by a county executive committee to the State executive committee or its special primary subcommittee.[20] In 1966 the Muscogee County Republican Executive Committee denied Rev. W. R. Walters (a Columbus, Georgia Negro active in voter registration who had been a Republican for 30 years and had held several party offices [21]) the right to circulate a nominating petition to run as the Republican candidate for a seat in the State house of representatives in the November general election on the ground that his views were inconsistent with recent party platforms.[22] He complained to the chairman of the State executive committee, which ruled that this was an inadequate reason for preventing him from running as a Republican candidate.[23] The State committee authorized him to circulate the nominating petition.

The South Carolina Democratic Executive Committee also resolved a complaint in favor of a Negro candidate. The Negro received a plurality in the primary election in Hampton County but was disqualified from the run-off by the county Democratic executive committee because he failed to file a statement of campaign finances immediately after the election as required by party rules.[24] The Negro candidate lost on appeal to the

[19] Rules of the Republican Party of Georgia for the Nomination of Candidates by the Primary Election of 1966: Petitions and Conventions, Rules 5(f), 10, 15 (adopted May 7, 1966).

[20] Id. at 5(f), 10.

[21] Letter from Rev. W. R. Walters to G. Paul Jones, dated Aug. 2, 1966. Copies of this correspondence supplied by Mike Hudson, executive director of the Georgia Republican Party.

[22] Minutes of the meeting of the State Republican executive committee, Aug. 15, 1966.

[23] Id.

[24] South Carolina Democratic Party Rules, Rule 16 (adopted Mar. 24, 1954, as amended through 1964).

county committee but the State committee reinstated him as a run-off candidate, ruling that no one had been prejudiced by his failure to file a timely financial statement.[25]

In other instances, party governing bodies have declined to take corrective action when presented with credible complaints by Negroes of discrimination by party officials.

In Taliaferro County, Georgia, Negroes complained that party officials, for racial reasons, had withheld information on how to qualify as a candidate, misled them as to the proper qualifying date, and denied their applications to qualify. They were unable to obtain any corrective action or specific ruling on these charges before the all-white subcommittee of the State Democratic executive committee designated to hear their complaints.[26] And in Dorchester County, South Carolina, even though Negroes reportedly were denied an equal opportunity to participate at the Ridgeville precinct meeting, no disciplinary action was taken against the precinct delegation, notwithstanding a contest within the party structure to the seating of the delegation at the county convention.[27]

In many cases involving alleged discrimination, Negroes made no effort to resolve complaints through the party machinery, apparently because they lacked confidence that the party officials accused of discrimination or responsible for allowing discrimination to occur would take remedial action.

Some party officials, when asked about complaints of racial discrimination, questioned or minimized the validity or significance of the complaints. In Arkansas, the chairman of the State Democratic executive committee told a Commission staff member that there was a cordial relationship between the races and "outsiders" were responsible for any trouble.[28] When the former chairman of the Louisiana Democratic Central Commitee was asked about complaints that Negroes in East and West Feliciana Parishes had difficulty running for office and voting in the Democratic primary election, he dismissed the complaints as "isolated instances." [29]

The Mississippi Freedom Democratic Party complained in 1964 that threats of economic and physical harm had prevented Negroes from attending precinct meetings; that Negroes had been denied equal opportunity to participate in the meetings by outright exclusion or parliamentary maneuvering; and that public and party officials had withheld from Negroes information about the time and place of the meetings.[30]

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[25] Thomas interview.
[26] See p. 52 supra.
[27] See pp. 62–63 supra.
[28] Catlett interview.
[29] Interview with C. H. Downes, Mar. 23, 1967. See e.g. pp. 65–66, 116–17 supra. The complaints from West Feliciana Parish were verified by a Commission staff member. The others were not.
[30] 110 Cong. Rec. at 20744 (1964) (Brief of the Mississippi Freedom Democratic Party).

Bidwell Adam, chairman of the Mississippi State Democratic Executive Committee, said the Negro complaints of exclusion from precinct meetings were "not by 10 or 20 percent justified." [31]

Some Southern State party officials admit that their organizations are unwilling to resolve complaints of discrimination. They assert that it must be done by the Federal Government and the Federal judiciary. Adam said that the Mississippi Democratic Party would do nothing to remedy the exclusion of only one or two Negroes from a precinct meeting or from a county convention, and that a more serious infraction, if it occurred, would have to be remedied by the Federal Government.[32]

Asked about complaints of discrimination in the selection of election officials in the 1966 Democratic primary election,[33] Joseph A. Sports, executive director of the Georgia Democratic Party, said that election officials are selected at the county level.[34] The State party does not use its power to prohibit discrimination. "We [the State party] don't send out any regulations prohibiting discrimination; we don't send out any regulations requiring discrimination," he said. Reacting to complaints that election officials appointed by the county Democratic executive committees in Georgia had discriminated against Negro registrants and failed to provide adequate assistance to Negro voters,[35] Sports commented that these matters were regulated by the Georgia Election Code. He said he did not know who would be responsible for correcting discrimination but that he was certain "the word has gotten out" to respect the civil rights of voters.

Under its own rules, the Alabama State Democratic Executive Committee has broad powers to discipline county committees and could prohibit discrimination by county committees if it wished.[36] Robert S. Vance, the State chairman, indicated in an interview, however, that as a practical matter the State executive committee is unlikely to take forceful corrective action on complaints of discrimination within the party.[37] At the time of the interview the committee was split over the question of loyalty to the national Democratic Party. Therefore, the chairman explained,

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[31] Interview with Bidwell Adam, Apr. 24, 1967.
[32] Id.
[33] See pp. 111–14 supra.
[34] Sports interview.
[35] See pp. 66–67, 74–75, 78–79, 82–83 supra.
[36] Alabama Democratic Party Rules, Rule 4, (as amended to July 6, 1962) provides:
The State Committee has supervisory power over County Committees and is authorized of its own motion to set aside any action of a County Committee when it may deem proper and legal to do so.
Rule 12 provides:
The State Committee, except as otherwise provided by law has sovereign, original, appellate, and supervisory power and jurisdiction of all party matters throughout the state, and each county thereof. It is empowered and authorized to prescribe and enforce rules, regulations, and penalties against the violation of party fealty including removing or debarring from party office or party privilege anyone within its jurisdiction, including a member of this committee, who violates such fealty or its rules, or its other lawful mandate.
[37] Interview with Robert S. Vance, Jan. 3, 1967.

he refrained from introducing controversial complaints or issues for consideration by the committee. As far as he was concerned, the State executive committee had "as few meetings as possible."

The Alabama State chairman questioned whether the State committee could act in response to specific allegations of discrimination. "We have no party discipline in Alabama," he said.[38] He had seen reports in the press that the Lowndes County Democratic Executive Committee had raised filing fees allegedly to exclude Negroes from the primary election,[39] but did not know what the State committee could do about it. Asked about the complaint that certain executive committees, for example the Montgomery County Democratic Executive Committee, had changed the method of selecting members allegedly to prevent the election of Negroes,[40] the chairman replied that "county committees are more or less autonomous" and in such a case the State committee could do nothing. The State chairman was unaware that the Dallas County Democratic Executive Committee was not elected, but was self-perpetuating. He felt it was "stupid" that no Negroes ever had been appointed members of the Dallas County Democratic Executive Committee.[41] The State executive committee had no authority to correct the discriminatory situation, he said. The Negro complainants, he remarked, could "file a Federal lawsuit."

National Party Organizations

At the Democratic Party's 1964 National Convention in Atlantic City, a predominantly Negro slate of delegates chosen at a State convention of the Mississippi Freedom Democratic Party, contending that Mississippi Negroes had been prevented discriminatorily from becoming registered voters and excluded discriminatorily from party precinct meetings, insisted that they be seated in place of the State's regular party delegates, all of whom were white.[42] The Convention's credentials committee, after hearing the rival claims, recommended as a compromise that any member of the regular Mississippi delegation could be seated if he took a party loyalty oath; that two members of the Mississippi Freedom Party delegation could be seated as at-large delegates from the State; that the rest of the Mississippi Freedom Party delegation could have floor privileges but no votes; that the party resolve to eliminate discrimination in party affairs before the 1968 convention; and that a special equal rights committee be appointed to draft standards of nondiscrimination for the seating of delegates to the 1968 convention. Although the Mississippi Freedom

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[38] Id.
[39] See pp. 43–44 supra.
[40] See pp. 24–25 supra.
[41] See p. 151 note 93 infra.
[42] For a recent summary of the events at the 1964 Atlantic City convention, see P. Watters and R. Cleghorn, Climbing Jacob's Ladder: The Arrival of Negroes in Southern Politics 289–92 and passim (1967).

Party delegates rejected the compromise and stood by their original claims, the convention adopted the recommendations of the credentials committee and instructed the Democratic National Committee to include in its convention call [43] the following paragraph:

> It is the understanding that a State Democratic Party, in selecting and certifying delegates to the Democratic National Convention, thereby undertakes to assure that voters in the State, regardless of race, color, creed or national origin, will have the opportunity to participate fully in Party affairs, and to cast their election ballots for the Presidential and Vice Presidential nominees selected by said Convention and for electors pledged formally and in good conscience to the election of these Presidential and Vice Presidential nominees, under the Democratic Party label and designation.[44]

In January 1965, in accordance with the convention resolution, the Democratic National Committee established a Special Equal Rights Committee, and the national party chairman appointed 18 members, in addition to the officers of the National Committee.[45] In October 1965 the Special Equal Rights Committee held a 2-day public hearing in Washington and received testimony regarding exclusion of Negroes from party affairs. Those testifying made recommendations for action by the national Democratic Party. Members of the staff of the Democratic National Committee, working for the Special Equal Rights Committee, collected State election codes and party rules from every State to determine whether there were any statutes relating to party affairs or party rules which were discriminatory on their face. Further, committee members and staff reported on observations made on field trips and information gathered through discussions with persons informed on voter participation in party affairs.

In April 1966 the committee made its first report to the Democratic National Committee. The report noted that in 1964 "some segments of the Party were openly hostile to the Negro and opposed to his participation in Party affairs" but considered that since then progress had been made. As evidence of this progress, the committee referred to the advances in Negro voter registration resulting from the passage of the Voting Rights

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[43] The convention "call" is the initial announcement by the Democratic National Committee that the Democratic National Convention will be held. The call sets forth the convention rules governing the selection and allocation of delegates which have been approved by the Democratic National Committee and which will be recommended for adoption by the Convention itself.

[44] Letter from Gov. Richard J. Hughes, of New Jersey, chairman of the Special Equal Rights Committee of the Democratic National Committee, to William L. Taylor, Staff Director, U.S. Commission on Civil Rights, Jan. 31, 1968.

[45] Unless otherwise indicated, information on the activities of the national Democratic Party obtained from the Hughes letter, supra note 44; letter to State party chairmen from Governor Hughes, July 26, 1967; Report of the Special Equal Rights Committee, Apr. 20, 1966; and interviews with John M. Bailey, chairman of the Democratic National Committee, and Louis Martin, deputy chairman in charge of the Minorities and Nationalities Division, Feb. 6, 1968.

Act, the removal of the "white supremacy" legend from the symbol of the Alabama Democratic Party, and the participation by 25 Negroes in the 1966 South Carolina party convention. The committee also stated that "action is in progress" to enable the Mississippi party to meet the requirements of the 1968 call. The report acknowledged that there was residual discrimination against Negroes in party affairs based largely on custom and practice, and the committee pledged to "remove these last vestiges of discrimination" by putting State parties on notice of the requirements of the 1968 call and by working with them to achieve voluntary compliance. The committee was not specific with regard to the discriminatory practices which remained, but indicated that if State parties failed to change "rules, laws, and procedures which tend to bar full Party participation," such inaction would mean forfeiting the right to sit in the 1968 convention. There was no mention of seating alternate delegations.

After the committee's report was issued, some of its members expressed views on guidelines for the establishment of nondiscrimination within the party which the committee could recommend to the national committee. At the beginning of February 1967, Mrs. Mildred M. Jeffrey of Michigan, a member of the Special Equal Rights Committee, and Joseph L. Rauh, associate counsel, proposed detailed guidelines providing for the exclusion of State party delegations and delegates who prevented Negroes from becoming registered voters or participating fully in party affairs. The proposal would have required that parties take affirmative steps to encourage Negro participation, and that if Negroes comprised less than 10 percent of the delegation to the convention from any State where they constituted more than 20 percent of the voting age population, the party justify this disparity. The credentials committee of the convention would have been empowered not only to exclude offending delegations but to seat a rival delegation.[46]

A new chairman of the Special Equal Rights Committee was appointed in March 1967 to replace the former chairman, Gov. David Lawrence, of Pennsylvania, who had died. In July the new chairman, Gov. Richard J. Hughes, in a letter to all State party chairmen set forth the committee's views on the nondiscrimination provision to be placed in the 1968 call. Governor Hughes indicated that the committee had ruled out as "not feasible in practice" the discrimination test included in the Jeffrey-Rauh proposal.[47] Earlier it had been reported that leaders of the Democratic Party had shelved the Jeffrey-Rauh proposal in part because it would have placed the party leadership at odds with party leaders in Southern States.[48] The chairman of the Democratic National Committee, John M. Bailey, interviewed by Commission staff, indicated that the

[46] Memorandum to the Special Equal Rights Committee from Mrs. Mildred M. Jeffrey and Joseph L. Rauh, Feb. 1, 1967.
[47] Washington Post, July 13, 1967, at 1.
[48] N.Y. Times, Mar. 8, 1967, at 27.

formula was dropped because it would have required the committee to adopt quotas for other minority groups as well.[49]

In his July letter the chairman of the Special Equal Rights Committee told State party chairman that the committee interpreted its mandate "as insuring an equal opportunity to participate in Party affairs for all Democrats of all States regardless of race, color, creed or national origin." He wrote that the committee "is determined to make certain that all delegations to the 1968 Democratic National Convention are broadly representative of the Democrats of the State." [50] The chairman warned that if any State party violated the 1964 convention resolution against discrimination, the committee would recommend to the credentials committee of the 1968 convention not only that the seats of the offending delegation be declared vacant, but that the vacant seats be filled "with a delegation broadly representative of the Democrats of that State." Included in the letter was a listing of six "basic elements" adopted by the committee as "minimal prerequisites" for facilitating and encouraging Negro participation in party affairs. These six points advised State parties that they should conduct open and well-publicized public party meetings, abandon party loyalty tests involving support of racial discrimination, support nondiscriminatory voter registration, and publicize the qualifications to run for party office and the procedures for the selection of members of party committees and other party officials.

In January 1968 the Democratic National Committee issued the call for the 1968 convention and included in the call the nondiscrimination resolution adopted by the 1964 convention. The letter sent to party officials by Governor Hughes in July 1967 was adopted by the Democratic National Committee as its policy statement and Mr. Bailey distributed copies of it with the call.

Neither the Hughes letter nor the 1968 convention call, however, specifically require State party organizations to guarantee against discrimination in many areas in which there are widespread complaints. The six points fail to deal with many forms of alleged discrimination which may violate the Voting Rights Act, such as switching to at-large elections of party officers to dilute the Negro vote; discrimination by party officials in the appointment of other party officials and in the selection of polling place officials for primary elections; and actions by polling officials in primary elections excluding or interfering with poll watchers for Negro

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[49] Bailey interview.

[50] Although this formula has been interpreted editorially by the N.Y. Times to mean that delegations from Southern States to the 1968 Democratic National Convention would have to include Negroes (N.Y. Times, Jan. 13, 1968, at 30) and this is the unofficial and informal understanding in some party circles (Martin interview), Chairman John M. Bailey in an interview with Commission staff indicated that the formula means only that the selection of convention delegates must be fair and nondiscriminatory, and that fairly selected all-white delegations from States with a substantial Negro population would not ipso facto be denied their seats. Bailey interview.

candidates, harassing Negro voters, or rendering inadequate assistance to illiterate or inexperienced Negro voters. Mr. Bailey and Mr. Louis Martin, deputy chairman of the Democratic National Committee, told Commission staff that the Special Equal Rights Committee had agreed to refer violations of the Voting Rights Act to the Department of Justice for appropriate action.[51] Mr. Bailey pointed out that if the Department of Justice brought a successful lawsuit against a party organization for violation of the Act this might constitute grounds for refusing to seat its delegation. The Department of Justice, however, has not effectively reached all aspects of discrimination in party affairs.[52] As a result, there is an enforcement vacuum in some areas where discrimination persists without redress from any source.[53]

Neither the 1964 convention nondiscrimination resolution nor the 1968 call provide specific guidelines as to what is to be required of State party organizations. The six points provide specific direction in some areas but party officials have indicated that the points are advisory only.[54] While the credentials committee of the 1968 national convention, in ruling on delegation challenges, may be guided by these points, they are not requirements the committee is obliged to enforce.[55]

Finally, the 1968 convention call does not require State Democratic Party organizations to overcome the effects of past discrimination by affirmative steps to encourage Negro participation, but only provides that all voters must have "the opportunity" to participate fully in party affairs, i.e., that discrimination must be eliminated. Three of the six

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[51] Bailey and Martin interviews.

[52] See pp. 163–64, 167–70 infra.

[53] There also is some doubt as to whether or to what extent the call and the six points cover discrimination in party affairs unrelated to the delegate selection process. In some Southern States, such as Mississippi and South Carolina, the delegates to the national convention are selected through the operation of a precinct mass meeting—county convention—state convention system unrelated to the party's primary elections, at which there may be discrimination. In other States, such as Arkansas, Georgia, and Louisiana, the delegates are chosen by the State party executive committee. This procedure also is separate from the primary election process.

Governor Hughes, in his letter to the Staff Director of the Commission, called attention to the fact that the six points covered more than the selection of delegates, and dealt with such matters as voter registration, voter participation in party elections and meetings, and running for party office. Chairman Bailey, however, interviewed by Commission staff, was unclear as to whether the credentials committee of the convention, which passes on delegation challenges, could consider discrimination in party affairs except as related to the delegate selection process.

[54] Although Governor Hughes, in his letter to State chairmen, refers to the six points as "minimum prerequisites," in the succeeding sentence he states: "Needless to say, I *hope* that your actions at least would coincide with these *thoughts* and, indeed, that your activities have gone beyond the *elements* we have set down in outline form." (emphasis added) Also Bailey and Martin interviews.

[55] Another problem is the limited means for finding facts where a delegation is challenged on the ground of discrimination in party affairs. The factual issue would have to be resolved at a hearing of the credentials committee in a forum likely to be a great distance from the residences of the witnesses. Chairman Bailey stated that if a challenge were made well in advance of the convention there was the possibility that the staff of the Democratic National Committee would make an independent investigation. Bailey interview.

points do advise State party organizations to undertake minimal affirmative efforts by publicizing public party meetings, party officer selection procedures, and qualifications for party office, but it is not suggested that State party organizations take such steps as specifically inviting Negro Democrats to party meetings or undertaking voter registration campaigns in Negro communities.[56]

The Democratic National Committee has the power to recommend,[57] and the Democratic National Convention has the power, as the supreme governing body of the national party, to pass strict requirements for party operation and conduct in all the States so long as these rules do not contravene provisions of State law.[58]

The Republican National Committee has adopted no rules or guidelines either requiring or advising State and local party organizations to eliminate discrimination or to take affirmative steps to encourage Negro participation in party affairs.[59] In March 1966 functions of the Minorities Division of the Republican National Committee were taken over by a new Division headed by a Negro, Clarence L. Townes, Jr., who also was appointed special assistant to the chairman of the Republican National Committee. Townes indicated in an interview, however, that his function was limited to providing assistance when the decision was made at the State or local level to seek Negro support, although he recognized that this often put him in a "begging position out in the hustings." [60]

In April 1966 two organizations composed of moderate and liberal members of the Republican Party—the Republicans for Progress and the Republican Advance at Yale University—after a study of Southern Republican party organizations—recommended that the Republican National Committee and the national Republican Party take a number of steps to eradicate discrimination in party activities and to encourage Negro interest and participation in Republican Party affairs in the South.[61] Among their recommendations were the elimination of segregation provisions in State party platforms, the adoption of procedures to

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[56] The Democratic National Committee itself has taken steps to attract Negroes to the Democratic banner. In 1967 the activities of the Minorities and Nationalities Division of the Democratic National Committee, under Louis Martin, included State, regional, and national workshops with Negro Democrats, working with leaders of civil rights organizations and supplying information to the Negro press and radio. Memorandum, Minorities and Nationalities Division, Louis Martin, deputy chairman.

[57] Clarence Cannon, Official Manual for the Democratic National Convention of 1964 at 10 (1964).

[58] Hughes letter to William L. Taylor.

[59] Unless otherwise indicated, information on the activities of the national Republican Party obtained in interviews with Clarence L. Townes, Jr., special assistant to the chairman of the Republican National Committee, Nov. 4, 1966, and Feb. 19, 1968.

[60] As of February 1968, Townes had a staff of nine salaried employees. Townes and his staff have sought to establish communications with Negro leaders and the Negro press. Report by the Chairman to the Republican National Committee, Jan. 23–24, 1967. They also have worked with State and local party committees in the South to develop Negro Republican organizations and to assist white Republican candidates in establishing liaison with the Negro community.

[61] Republicans for Progress, Press Release, Apr. 13, 1966.

terminate racial discrimination in party activities, voter registration campaigns among Negro citizens, and the nomination of more Negro Republicans as candidates for office. Townes believed that some of the criticism made by these groups of the Republican National Committee was unfair, but acknowledged that even the worthy recommendations would not be implemented. "How are we going to get them accomplished?" he asked. Party rules to eliminate discrimination, he stated, would only create "confusion and animosity" on the part of State party leaders.

The Republican National Committee is empowered by the Rules of the Republican National Convention to issue the call for the next national convention, and the delegates and alternates must be selected according to the rules set out in the call so long as they are not inconsistent with State law and other party rules.[62] The Republicans for Progress and Republican Advance, in their report, suggested that the Republican National Committee has the power to deny State party organizations votes on national party committees and to strip such organizations of official party recognition.[63]

Party Principles and Loyalty Oaths

Most of the Democratic and Republican Party organizations in the South no longer openly espouse racist or segregationist principles in official party statements. In Mississippi, however, both the Democratic and Republican State organizations not only continue to include such principles in their platforms, but are required by State law to exclude from participation in primary elections persons not in accord with those principles. Although the requirement is unenforceable, there have been complaints that it nevertheless discourages Negroes from attempting to participate in the affairs of the parties.

In Mississippi, the most recent platforms of both the Democratic and Republican State Parties contained provisions endorsing segregation of the races. At its 1964 convention the Mississippi Democratic Party adopted the following resolution:

> We believe in separation of the races in all phases of our society. It is our belief that the separation of the races is necessary for the peace and tranquility of all the people of Mississippi and the continuing good relationship which has existed over the years.[64]

Similarly, at its last State convention in 1964, the Mississippi Republican Party included the following plank in its platform:

[62] Republican National Convention Rules, Rule 24 (adopted July 13, 1964).
[63] Press Release, supra note 61, at 10–11.
[64] Quoted in 110 Cong. Rec. at 20744 (1964) (Brief of the Mississippi Freedom Democratic Party). When asked by a staff attorney for a copy of the 1964 platform or statement of principles of the Mississippi Democratic Party, the secretary of the State Democratic executive committee said he had no authority to release them. Letter from Byrd P. Mauldin to Frank R. Parker, Staff Attorney, U.S. Commission on Civil Rights, May 20, 1967.

> SEGREGATION—We feel that in the field of racial relations that Mississippi has its own distinct problem that can best be handled at the state level without outside interference. To this end, we feel segregation of the races is absolutely essential to harmonious racial relations and the continued progress of both races in the State of Mississippi.[65]

A Mississippi statute provides that "no person shall be eligible to participate in any primary election unless he . . . is in accord with the statement of the principles of the party holding such primary, which principles shall have been declared by the state convention of the party holding the primary. . . ." [66] The statute further provides that any party member or election official may challenge the eligibility of any voter and may ask the voter, under oath and in writing, "questions relating to his qualifications and whether or not he is in accord with the principles of the party stated by the state convention of such party. . . ." False testimony given under oath during such an inquiry is made punishable as perjury.

The Mississippi Freedom Democratic Party, in its challenge to the seating of the regular Mississippi delegation to the 1964 Democratic National Convention, charged that the party principles loyalty requirement, coupled with the convention resolution expressing belief in the separation of the races, constituted a barrier to the free participation of Negroes in party affairs.[67]

The chairman of the Mississippi State Democratic Executive Committee, Bidwell Adam, interviewed by Commission staff, stated that he did not believe the party principles loyalty test constituted a barrier to Negro participation in the activities of the Mississippi Democratic Party. He suggested that the loyalty test was unenforceable and said he did not know of any instances where the provision had been used to prevent Negroes from participating in any party primary election. He stated that the test "hasn't stopped any Negroes from registering or voting." It is the official policy of the State party, he declared, that "if

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[65] 1964 Platform of the Mississippi Republican Party, adopted in State convention May 30, 1964.

[66] Miss. Code §3129 (Recomp. 1956).

[67] See Brief submitted by the Mississippi Freedom Democratic Party, in 110 Cong. Rec. 20742–48 (1964). The authors of a study of State Republican Parties in the South have charged that the statutory provision requiring loyalty to party principles, coupled with the party platform endorsement of segregation, constitutes a barrier to Negro participation in the Mississippi Republican Party. J. Topping, J. Lazarek & W. Linder, Southern Republicanism and the New South 83 (1966). The authors state: "In order to meet the requirements for membership set out in Article III, a Mississippi citizen would have to be in accord with the pro-segregation stand of the party platform. Such a requirement would, if applied, ban all advocates of integration and practically all Negroes from participation. Ironically, the only Negroes who could even in theory meet this requirement for Republican membership would likely be Black Muslims or members of other separatist Black Nationalist groups."

any Negroes present themselves at a precinct meeting they would certainly have a right to vote for county convention delegates." [68]

Affirmative Efforts To Include Negroes in Party Affairs

Since Negroes in the South for generations have been excluded from party affairs by such devices as the white primary and by discrimination in voter registration—a condition of party membership in the South—the Commission sought to determine from party officials if they were attempting to counteract the effects of past discrimination by affirmative efforts to secure the participation of Negroes.

Leading officials of eight of the 20 State committees studied told Commission staff in interviews that their parties were making no affirmative efforts to encourage Negro participation or, if any were being made, they did not know of them. The State chairman of the South Carolina Republican Party, for example, stated that the party "is making no deliberate effort either to include or exclude Negroes." [69] The executive secretary of the North Carolina Republican Party summed up his party's policy with the remark: "The Republicans are not going out of their way to get Negroes. The Negroes must come to them." [70] In addition, no affirmative steps were being taken, according to party officials, by the Democratic Parties of Louisiana, Mississippi, North Carolina, or Tennessee, or by the Republican Parties of Alabama or Mississippi.

Officials of Republican State Party committees generally attributed their unwillingness to take affirmative steps to include Negroes in party affairs to political considerations. For example, officials in both Mississippi and South Carolina reported that public opinion polls taken in 1966 prior to the elections showed very few Negroes in their States were willing to vote for Republican candidates.[71] As a result, they stated, no attempt

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[68] Interview with Bidwell Adam, Apr. 24, 1967.

In Brown v. Baskin, 78 F. Supp. 933 (E.D.S.C. 1948), *aff'd,* 174 F.2d 391 (4th Cir. 1949), party rules conditioning voting in the Democratic primary upon taking an oath which pledged the voter to support social and educational separation of the races and opposition to a proposed Federal equal employment law were declared unconstitutional. More recently, Negro and white candidates for United States Senate and House of Representatives in the 1966 Democratic primary who were affiliated with the Mississippi Freedom Democratic Party brought an action to void, among other provisions, the Mississippi party principles loyalty requirement. Whitley v. Democratic Party of State of Mississippi, Civil No. WC 6616, N.D. Miss., filed Apr. 29, 1966. The State party chairman and the State Democratic executive committee, however, took the position that refusal to adhere to the party principles as declared in the party platform did not constitute an obstacle to the plaintiffs qualifying and running in the Democratic primary, and, after other issues were settled, the complaint was withdrawn by the plaintiffs.

[69] Interview with Harry S. Dent, Dec. 6, 1966.

[70] Interview with Gene Anderson, July 24, 1967.

[71] Adam interview and interview with Calhoun Thomas, Jr., executive director of the South Carolina Democratic Executive Committee, Dec. 7, 1966.

was made to woo Negro voters or affirmatively to include them in party affairs, not from motives of racial discrimination, but because they felt it would not produce political rewards for the party. Officials of Democratic Party organizations not making affirmative efforts to encourage Negro participation generally did not offer an explanation for their policy. Officials of the remaining 12 State committees asserted that they were taking affirmative steps to involve Negroes in party affairs. Perhaps the most extensive efforts reported were being made by the Arkansas Republican Party.[72]

After the 1964 general election, the Arkansas Republican Party hired a Negro staff member to serve as field coordinator in an effort to encourage Negro participation. Subsequently, another Negro was employed on the State executive committee staff to help with the 1966 general election.

Prior to the 1966 general election, the Arkansas Republican Party organized a voter registration campaign in 44 of the State's 75 counties to encourage Negroes as well as white persons to register and vote. Both white and Negro voter registration workers were used and their expenses were paid by the party. According to Johnny Lang, one of the two Negro field coordinators for the campaign, the Republican Party campaign, together with nonpartisan voter registration campaigns, accomplished the registration of nearly 20,000 Negroes.

The party also reportedly made an effort to encourage the appointment of Negro election officials to work at the polls in the primary and general elections. In 44 Arkansas counties, the Republican organization appointed a county committee to recommend appointments to party and governmental positions. Negroes, appointed to serve on 30 of these committees, recommended other Negroes to serve as election clerks and judges. Republican officials reportedly worked actively on election day to remove any barriers to Negro voting which they discovered.

After the election, which the Republican gubernatorial candidate won largely because of Negro support, the Arkansas Republican Party appointed a Human Resources Committee consisting of 15 Negroes from different counties across the State "to get Negroes active in the party on a day-to-day basis rather than just during elections." [73] Each Negro member was authorized to recommend one white member he knew he could work with to be appointed to the committee.

The Arkansas Democratic Party, according to its chairman, also has taken some steps to encourage Negro participation in its activities.[74] The

[72] Unless otherwise indicated, information on the Arkansas Republican Party was obtained in interviews with Odell Pollard, chairman of the State Republican executive committee, Everett A. Ham, Jr., assistant to the Republican national committeeman, Nov. 17, 1967, and Johnny Lang, field coordinator for the State Republican executive committee, Nov. 30, 1967.

[73] Lang interview.

[74] Interview with Leon Catlett, chairman of the Arkansas Democratic Executive Committee, Nov. 24, 1967.

State party recently hired a Negro staff member to serve as assistant to the executive director of the State committee. An effort was being made to invite Negroes to attend Democratic meetings and rallies throughout the State. Negroes also were helping to circulate the party newspaper.

In South Carolina, the State Democratic executive committee in cooperation with the U.S. Department of Justice, mailed to all county chairmen instructions on the conduct of primary elections and a questionnaire which the county chairmen were to return.[75] The purpose of this action, according to the State committee's executive director, was to make certain that the primaries were conducted fairly and without discrimination and to determine in advance if any difficulties or irregularities were expected. The U.S. Attorney in Columbia, Terrell Glenn, indicated that this letter was "extremely helpful" in deterring racial discrimination in the conduct of the primary elections and recommended that this should be done in other States where discrimination against Negroes in primary elections was expected.[76]

In Georgia, officials of both the State Democratic and Republican Parties reported that they were encouraging Negro participation in party affairs.[77] On June 27, 1967, the Rules of the State Democratic executive committee governing qualifications of party officers were changed to provide that elective and appointive offices "should be filled by those best qualified to serve without regard to race or sex." [78] The executive director of the party reported that statements had been made by party officials on television and at meetings, encouraging everyone to become party members.[79] He also revealed that he kept lists of persons he had determined to be "key Negro leaders" so that he might consult with them. Negro elected officials were invited to a party fund-raising dinner in February 1968, and Negroes attended the dinner.

The chairman of the Alabama Democratic executive committee reported that his party had taken steps to remove the symbols which previously had identified the party with white supremacy and racial segregation.[80] The party emblem had been a crowing rooster with a scroll above it containing the legend "White Supremacy" and a scroll below inscribed "For the Right." [81] In 1966 the party changed its rules to substitute the word "Democrats" for "White Supremacy." [82] Approximately four weeks before the 1966 general election Robert S. Vance, chairman of the State Democratic executive committee, appeared before a

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[75] Thomas interview.
[76] Interview with Terrell Glenn, Dec. 7, 1966.
[77] Interviews with Joseph A. Sports, executive director of the Georgia Democratic Executive Committee, July 10, 1967, and G. Paul Jones, chairman of the Georgia Republican Executive Committee, Jan. 6, 1967.
[78] Georgia Democratic Party Rules, Rule 3 (as amended June 21, 1967).
[79] Sports interview.
[80] Interview with Robert S. Vance, Jan. 3, 1967.
[81] Alabama Democratic Party Rules, Rule 1(b) (adopted July 6, 1962).
[82] Vance interview.

convention of the Alabama Democratic Conference, Inc., a Negro Democratic political organization, to discuss the accomplishments of the State party in improving conditions in Alabama. According to a newspaper report Vance was the first State committee chairman in recent times to address a Negro audience at a public meeting in Alabama.[83]

Officials of the Democratic Parties in South Carolina, Florida, and Virginia and the Republican Parties in Louisiana, Florida, Tennessee, and Virginia, also indicated that their organizations had been taking some affirmative steps to encourage Negro participation.[84]

Even in States where the party policy may be one of affirmative encouragement, it often is not implemented at the county level. In Alabama, where the State Democratic chairman claimed the party was making efforts to open the party to Negroes, county Democratic committee chairmen in two of the six counties visited reported that no affirmative steps were being taken to encourage Negro participation.[85] Democratic party leaders in the other four counties were not interviewed, but Negro civil rights and political leaders in these counties indicated that, to their knowledge, the local Democratic party organizations were not making any affirmative efforts to involve Negroes in their affairs.[86]

Similarly, in Georgia, where both the statewide Democratic and Republican Parties claim to be taking affirmative steps to include Negroes, Democratic and Republican county chairmen in both Baker and Sumter Counties admitted that their county committees were taking no such steps.[87]

The chairman of the Democratic committee of Nansemond County, Virginia, a State where the Democratic Party claims to have a program of affirmative encouragement, told Commission staff members that the county committee never has made any effort to bring Negroes or any

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[83] Southern Courier, Oct. 15–16, 1966, at 1.

[84] The chairman of the Louisiana Republican State Central Committee, however, expressed the view that his party was not doing enough to include Negroes. Despite his party's affirmative efforts, which included supporting the formation of a State human relations commission and private discussions with Negro leaders to obtain Negro participation, the State chairman believed that Negroes still felt excluded from the Louisiana Republican Party. "They don't feel a part of it," he said. Interview with Charlton H. Lyons, Sr., chairman of the Louisiana Republican State Central Committee, May 12, 1967.

[85] Interviews with Truman M. Hobbs, chairman of the Montgomery County Democratic Executive Committee, Nov. 11, 1966, and Alston Keith, chairman of the Dallas County Democratic Executive Committee, Nov. 10, 1966.

[86] Interviews with Rev. Linton I. Spears, Negro candidate for county commissioner in the May 1966 primary election, Jan. 4, 1967 (Choctaw County); Arthur D. Shores, president of the Jefferson County Democratic Council, a Negro political organization, Jan. 3, 1967 (Jefferson County); Sidney Logan, Lowndes County Freedom Organization candidate for sheriff in the November 1966 general election, Nov. 8, 1966 (Lowndes County); Fred D. Gray, candidate for the Alabama House of Representatives in the May 1966 primary election, Nov. 11, 1966, and Dr. Stanley Smith, faculty member at Tuskegee Institute and official of the Macon County Democratic Club, a Negro political organization, Nov. 12, 1966 (Macon County).

[87] Interviews with Ralph B. Phillips, chairman of Baker County Democratic Executive Committee, Nov. 14, 1966, and Wingate Dykes, chairman of the Sumter County Democratic Executive Committee, Nov. 18, 1966.

other group into the organization, although all who wished to participate were welcome.[88] Negro candidates for office in two other Virginia counties expressed the view that the local Democratic Party organizations were not encouraging Negro participation.[89]

In Halifax County, North Carolina, where there are several predominantly Negro precincts, Negro civil rights and political leaders told Commission staff that the local Democratic party organization had failed to publicize and inform leaders in the Negro community of precinct meetings.[90] A Negro candidate for city council said: "You just don't hear about those things." [91]

According to the chairman of the Halifax County Democratic Executive Committee, notices of precinct meetings were posted at the precinct voting places.[92] He said he had announced the meetings in 1966 to local newspapers and radio stations, but the local radio station had not publicized the meetings. The chairman did not recall whether there had been newspaper publicity. He said that the county executive committee had not considered the question of affirmative action to encourage Negro participation at precinct meetings and other party functions.[93]

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[88] Interview with Robert E. Parker, July 18, 1967.

[89] Interviews with Miss Ruth Harvey (Pittsylvania County) and Moses D. Knox (Greensville County), July 19, 1967.

[90] Interviews with August Cofield, chairman of the Halifax County Voters League, July 27, 1967; Rev. Clyde Johnson, assistant director of the Choanoke Area Development Association, July 28, 1967; and Joseph Exum, Negro candidate for city council in 1967, July 27, 1967.

[91] Exum interview.

[92] Interview with A. L. Hux, July 28, 1967.

[93] The failure of many Democratic and Republican Party organizations in the South to correct discrimination or take affirmative action to encourage Negroes to become involved in party affairs has led to the formation of independent Negro political organizations in many areas. A principal reason for the establishment of the Mississippi Freedom Democratic Party was the exclusion of Negroes from participation in the Mississippi Democratic Party. Brief of the MFDP, supra note 67, at 20742. The Lowndes County Freedom Organization was formed because the local Democratic Party organization traditionally had been dominated by white persons, and Lowndes County Negroes, who constituted a majority of the county population, wanted an independent organization which they themselves could control. Interview with Sidney Logan, Negro candidate for sheriff of Lowndes County in 1966, Nov. 8, 1966. According to a civil rights worker who helped organize the Dallas County Independent Free Voters Organization, the organization was formed because of numerous complaints of discrimination within the Democratic Party. Interview with Stuart House, Apr. 25, 1967. He cited unsuccessful demonstrations at the office of the county Democratic executive committee chairman to get some Negroes appointed to the committee. A Negro candidate for the Dallas County Court of County Revenue, the county governing board, said she ran as an independent candidate, rather than in the Democratic primary election, because she felt that the local Democratic Party was not open to Negroes. Interview with Mrs. Agatha Harville, Apr. 26, 1967. A faculty member at Tuskegee Institute, a predominantly Negro college in Macon County, Alabama, reported that local Negroes had organized the Macon County Democratic Club, made up of Negro Democrats, because Negroes were excluded from the local Democratic Party structure. Smith interview.

PART V

Enforcement of the Voting Rights Act of 1965

The U.S. Department of Justice has primary responsibility for enforcing the rights secured by the Voting Rights Act of 1965. Although examiners and observers charged with duties under the Act are appointed by the Civil Service Commission, these officials are assigned to political subdivisions designated by the Attorney General, who also has responsibility for enforcing provisions of the Act authorizing criminal prosecutions and suits for injunctive relief.

The progress in Negro voter registration and voting that has taken place since the Act is attributable in part to the enforcement program of the Department, including the assignment of examiners and observers in significant numbers, extensive and often successful informal efforts to secure compliance by local election officials with the provisions of the Act, and the institution of a number of lawsuits to secure voting rights. Discrimination and the effects of past discrimination have not been entirely eliminated, in part because of restrictive Department of Justice policies with respect to the assignment of examiners and observers and the functions of observers and limited manpower in the Department's Civil Rights Division.

Administrative Enforcement

The Examiner Program

The Voting Rights Act provides that in political subdivisions where voter qualification tests or devices are suspended, Federal examiners can be appointed by the Civil Service Commission to list applicants eligible to vote. The appointment may be ordered by the U.S. Attorney General upon his certification that he has received written complaints from 20 or more residents claiming voting rights discrimination and he believes them to be meritorious, or that in his judgment "the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment." [1] In making this latter judgment the Attorney General is

[1] Section 6, 42 U.S.C. § 1973d (Supp. II, 1967).

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authorized to consider, among other factors, whether the ratio of nonwhite to white persons registered to vote in the subdivision appears to be reasonably attributable to violations of the 15th amendment or whether substantial evidence exists that bona fide efforts are being made within the subdivision to comply with the amendment.[2] In a letter to local registrars shortly after passage of the Act the then Attorney General, Nicholas DeB. Katzenbach, stated that the following criteria would guide his judgment: whether the percentage of Negroes and whites over 21 in the county was disproportionate to the percentage of each which was registered and, if so, whether this was attributable to violations of the 15th amendment; whether the registrar had adopted application procedures to insure that all persons eligible under the Act had an opportunity to become registered; and whether officials were taking affirmative steps to overcome the effects of past discrimination.[3]

As of December 31, 1967, examiners had been sent to 58 counties in five Southern States.[4] Examiners in these counties had listed as eligible to vote a total of 158,094 persons, including 150,767 nonwhites and 7,327 whites.[5]

There are several reasons for the sharp increase in Negro voter registration in examiner counties and parishes. In many of these localities voter registration drives were mounted by private civil rights organizations. Voter registration in almost all of these areas was stimulated by a general knowledge and awareness of voting rights stemming from involvement of the county or parish in one to four years of voting rights litigation. But, according to a Department of Justice spokesman, the assignment of examiners itself generally has a significant effect in encouraging Negroes to register.[6] Representatives of private organizations en-

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[2] Id.

[3] Letter from Attorney General Nicholas DeB. Katzenbach to local registrars in Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia, Jan. 8, 1966. In memorandum dated Aug. 24, 1965, John Doar, then Assistant Attorney General in charge of the Civil Rights Division, stated: "The fact that 20 meritorious complaints were filed does not compel the appointment of an examiner. It is a factor to be added into the scale in considering whether substantial evidence of compliance exists." Memorandum on Procedures for the Continuous Evaluation of Counties Covered by 4(b) of the Voting Rights Act, Aug. 24, 1965.

[4] U.S. Civil Service Commission, Memorandum on Voting Rights Program, January 1968. This figure does not include Bolivar and Sunflower Counties, Mississippi, Choctaw County, Alabama, and Hancock County, Georgia, which had been designated for examiners but in which no listing activity had taken place. These counties were designated by the Attorney General for Federal examiners on the eve of an election to permit the assignment of Federal observers to monitor elections in them. A description of the implementation of the Act during the first months of its operation can be found in the Commission report, The Voting Rights Act . . . The First Months (1965).

[5] Id.

[6] Telephone interview with D. Robert Owen, First Assistant to the Assistant Attorney General, Civil Rights Division, Department of Justice, Feb. 7, 1968 [hereinafter cited as Owen interview]. The present Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, formerly First Assistant in that Division and successor to John Doar, questioned whether the assignment of examiners

Footnote continued on following page.

gaged in voter registration work agree. Vernon Jordan, director of the Voter Education Project of the Southern Regional Council, said that examiners "have a positive effect in increasing Negro voter registration in counties to which they are sent." [7] Marvin Wall, the Voter Education Project's director of research, stated: "Where the examiners are present the registration goes up tremendously almost at once." [8]

One year after the passage of the Voting Rights Act, the Voter Education Project studied the effects of Federal examiners and of private registration campaigns on Negro voter registration in the South.[9] The study found that the highest Negro registration was in counties where there were Federal examiners and where there had been a voter registration campaign. Next were counties with Federal examiners but without a voter registration campaign. Third were counties with a voter registration campaign but without Federal examiners. Lowest registration levels were found in counties with neither.[10]

Percentage of Negroes Registered to Vote in Particular Counties of the South [11]

	State		
	Alabama	*Mississippi*	*South Carolina*
Federal Examiners and Voter Education Project	69.5	51.7	67.0
Federal Examiners Only	63.7	41.2	71.4
Voter Registration Project Only	57.6	34.9	51.6
Neither	45.4	24.2	48.8

There are 185 counties and parishes in States covered by the Act in which less than 50 percent of the Negro voting age population is registered

alone has a significant effect in encouraging Negroes to register. In a letter to the Staff Director of the Commission, he stated: "My experience would indicate that—at least after the first few months of experience with the Voting Rights Act—the key factor is the mounting of a drive for voter registration. The assignment of examiners may help generate enthusiasm but its major significance is as a means to assure that full opportunities are available for registration where the State fails to meet its responsibilities." Letter from Stephen J. Pollak to William L. Taylor, Mar. 13, 1968 [hereinafter cited as Pollak letter].

[7] Telephone interview with Vernon Jordan, Jan. 25, 1968.

[8] Telephone interview with Marvin Wall, Jan. 25, 1968.

[9] Voter Education Project of the Southern Regional Council, The Effects of Federal Examiners and Organized Registration Campaigns on Negro Voter Registration, July 1966. See also, P. Watters and R. Cleghorn, Climbing Jacob's Ladder: The Arrival of Negroes in Southern Politics 244–48 (1967).

[10] Id. It should be noted that certain variables were not controlled. That is, the possible effects of such factors as the proportion Negro of the county population, pre-Act Negro registration, and the percentage of the labor force in agriculture were not considered. In addition, the sample used in some cases may have been too small to have statistical significance.

[11] Voter Education Project Report.

but which have not been designated for examiners (76 in Georgia, 16 in Mississippi, 32 in Alabama, 25 in South Carolina, 27 in North Carolina, and 9 in Louisiana).[12] The Department of Justice does not contemplate designating all such political subdivisions for examiners.[13] In a memorandum to Ramsey Clark, then Acting Attorney General, in January 1967, John Doar, then Assistant Attorney General in charge of the Department of Justice's Civil Rights Division, concluded that it would be contrary to the language of the Act to give conclusive weight to results alone in determining whether bona fide efforts were being made within a particular county to comply with the 15th amendment. He noted that if such a formula were adopted it "would necessarily result in a designation of a great number of counties for examiners", and expressed the fear that the "public would believe that the Federal examiners are a substitute for active local organizations" in accomplishing registration. This, he believed, "can be counterproductive as far as bringing Negroes out of the caste system and making them viable participants in our political life." [14]

Doar stated in an interview that during the preceding year the results of appointing examiners had been uneven, and that in some cases few Negroes had registered after an examiner was assigned to a county because there was no voter registration drive by private civil rights groups in the area. He felt that before a county should be designated for an examiner there should be the potential for registering at least a thousand new Negro voters.[15]

Doar affirmed the Department policy rejecting the recommendation made in previous Commission reports [16] that the Federal Government should undertake affirmative programs to encourage Negro voter registration in the South. He expressed the view that the Federal Government has no authority or business encouraging or supporting voter registration drives.[17]

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[12] Under Section 13 of the Voting Rights Act, a political subdivision designated for an examiner may petition for withdrawal of the examiner only when more than 50 percent of the non-white voting age population is registered to vote. 42 U.S.C. § 1973k (Supp. II, 1967).

[13] Interview with John Doar, Assistant Attorney General in charge of the Civil Rights Division during the period covered by this study, Dec. 22, 1967. On Nov. 29, 1967, the President appointed Stephen J. Pollak to succeed Mr. Doar. Mr. Pollak assumed office Jan. 3, 1968.

[14] "A political organization at the local level is needed and the designation of examiners alone and the subsequent registration of the Negro electorate by the Federal Government cannot achieve this." Memorandum dated Jan. 12, 1967, from John Doar to Ramsey Clark.

[15] Doar interview.

[16] See Voting in Mississippi (1965) at 62; The Voting Rights Act . . . The First Months at 4.

[17] Doar interview. Previously, on Nov. 21, 1965, then Attorney General Katzenbach, in a letter to Stephen Currier of The Plains, Virginia, President of The Taconic Foundation, wrote:

> My conclusion is that success turns principally on the effectiveness of a local registration drive which, of course, turns on the accomplishment of the local

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The Observer Program

The Act provides that in political subdivisions designated for Federal examiners, the Civil Service Commission, at the request of the Attorney General, may assign Federal election observers who are permitted to enter polling places during an election "for the purpose of observing whether persons who are entitled to vote are being permitted to vote" and to observe the votes being counted to determine if they are properly counted.[18]

The Department of Justice has made extensive use of the observer provisions of the Act.[19] Federal observers were assigned to monitor primary, general, and special elections (but not precinct meetings or party conventions at which party officials were elected) in five States during 1966 and 1967: Mississippi, Alabama, Louisiana, Georgia, and South Carolina. Varying numbers of observers served in one or more elections in 28 Mississippi counties, nine Alabama counties, seven Louisiana parishes, one Georgia county, and two South Carolina counties.[20]

In November 1966, some 600 Federal officials were in the South enforcing the provisions of the Act on election day.[21] At the primary election in Mississippi on August 8, 9, and 10, 1967 observers were present in 27 counties.[22] During 1966 and 1967, approximately 1,500 observers attended elections in the South.[23]

Federal observers have no power to force correction of discrimination or irregularities which they observe. They are instructed to observe and not to inject themselves into the election process except insofar as it may be necessary to carry out the observational function. Where election officials commit violations such as mismarking the ballots of illiterates, the observer does not normally attempt to correct the matter himself but presents the matter to his team captain, who relays the report to a

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organization. This is true whether or not federal examiners have been appointed for the county.

It has been suggested that this work can be done by the federal government. For a number of reasons, I don't think this is either possible or desirable.

The government has no budgetary approval for such a project. Besides, the only way that political participation can be permanently achieved is through many local organizations doing the routine, the drudgery, but step-by-step creating and developing a viable political organization. It seems to me that even if the federal government undertook to accomplish the actual registration of the mass of unregistered Negroes, when the federal government left, there would be little left for the future.

[18] Section 8, 42 U.S.C. § 1973f (Supp. II, 1967).

[19] Doar interview.

[20] Letter from Wilson M. Matthews, Director, Voter Examiner Task Force, U.S. Civil Service Commission, to David Rubin, Deputy General Counsel, U.S. Commission on Civil Rights, Dec. 18, 1967 [hereinafter cited as Matthews letter]. See Appendix V.

[21] Doar interview.

[22] Matthews letter.

[23] Information obtained from D. Robert Owen, First Assistant to the Assistant Attorney General, Civil Rights Division, Department of Justice, Dec. 13, 1967. This figure does not take into account the fact that some individuals served as observers on more than one occasion.

Department of Justice attorney.[24] The attorney then discusses the matter with the county officials charged with managing the election. If these officials fail to take corrective action, the Department may then bring suit.[25]

Although Federal observers cannot guarantee the absence of election day discrimination,[26] their presence often deters local election officials from engaging in discriminatory practices.[27] For example, Rev. Linton I. Spears, Negro candidate for county commissioner in Choctaw County, complained that white election officials had harassed Negro voters in the May 3, 1966 Alabama primary, but reported that there was "not much abuse" four weeks later at the primary run-off election, attended by Federal observers.[28]

The Department of Justice considers several factors when deciding where to assign observers.[29] One factor stressed by Doar is whether there

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[24] Owen interview. A group of observers assigned to monitor an election in a county is called a "team". Each such team has two co-captains who, with Department of Justice attorneys, coordinate the observer activities within the county.

[25] The determination whether to institute suit depends on the Department's assessment of the seriousness of the matter.

[26] In eight of the counties visited by Commission staff for this study to which Federal observers had been assigned, Negroes complained to Commission staff members that their voting rights had been denied at elections. In some instances the denials were admitted by election officials interviewed by Commission staff; in other instances election officials denied that discrimination had occurred. Accounts of some of the discriminatory practices are found in the reports of the Federal observers themselves. In two cases the Department of Justice brought suit to correct the discrimination. These related to the technical disqualification of ballots cast by Negro voters in the May 3, 1966 Democratic primary in Dallas County, Alabama (see pp. 76–77 supra) and the discrimination in the administration of the absentee balloting process in the Nov. 8, 1966, general election in Madison Parish, Louisiana (see pp. 79–80 supra).

[27] Doar interview; Owen interview.

[28] Interview with Rev. Linton I Spears, Jan. 4, 1967. See p. 69 supra.

[29] In a letter sent to local Alabama officials, the Attorney General stated "some of the factors which are important" in determining whether there is a need for Federal observers in a particular county:

1. Is the county prepared to deal with the rather sharp increase in the number of new voters?
2. Is the county prepared to deal with the further fact that some of these new voters will need assistance at the polls?
3. Have local officials made public commitments that the elections will be conducted freely and fairly?
4. Does the published list of eligible voters contain the names of all persons eligible to vote and are such persons assigned to the proper polling places?
5. Have the polling officials which have been designated by the appointing boards been fairly chosen from the lists submitted to them by candidates—particularly in areas where there is a substantial increase in Negro voters?
6. Have the registration rolls been properly purged of persons who have died, moved away, or otherwise become disqualified?
7. Are there grounds for believing that eligible persons will not have their votes counted because of their race or color?
8. Is there substantial evidence of bona fide efforts to comply with the Fifteenth Amendment in elections held in the county since the passage of the Act?

Letter from then Attorney General Nicholas DeB. Katzenbach to probate judges and chairmen of county Democratic executive committees in Alabama, Apr. 23, 1966. Letters to other election officials in other States enunciated substantially the same criteria.

is discrimination against Negroes in the selection of election officials.[30] Although the Department used observers extensively during 1966 and 1967, it did not assign them to all counties in which there was alleged discrimination against Negroes in the selection of election officials. For example, no observers were present at the May 3, 1966 primary election in Choctaw County, Alabama; the July 13, 1966 special school board election in Baker County, Georgia; the November 15, 1966 Americus municipal primary election in Sumter County, Georgia; or the Durant polling place in Holmes County, Mississippi in the November 1966 general election.[31] The respective election managers admitted that no Negroes had been selected to serve as polling officials in Sumter, Baker, or Choctaw Counties or in the Durant polling place at the cited elections. In each case, there were reports of racial discrimination during the election.[32]

Two other criteria used to determine the need for Federal observers are whether the county election officials have made preparations for giving assistance to new voters at the polls and whether the registration rolls have been properly purged of persons who have died, moved away, or otherwise become disqualified.[33] Negro leaders reported that election officials had failed to provide for adequate assistance to illiterate and inexperienced Negro voters in the July 13, 1966 special school board election in Baker County, Georgia; the June 1966 primary and primary run-off elections in Williamsburg County, South Carolina; and the May 1966 primary and primary run-off elections in Bullock and Barbour Counties, Alabama. There also were allegations that voter lists had not been properly purged for the 1966 primary elections in Barbour, Bullock, and Macon Counties, Alabama. No Federal observers were present at these elections. There were reports of discrimination and violations of the Voting Rights Act at each election.[34]

The reason given by Doar for not assigning Federal observers to elections in these counties was that the counties had not been designated for Federal examiners, a precondition to the assignment of observers under the Voting Rights Act.[35] The Attorney General, however, has designated counties for an examiner on the eve of an election for the purpose of permitting the assignment of observers to monitor the election. This procedure was followed, for example, for the November, 1966 general election in Hancock County, Georgia.[36] Doar acknowledged that "I think this election eve designation where we have done it has been very

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[30] Doar interview.

[31] Information on where observers were sent taken from the Matthews letter; the letter does not indicate that any observers were assigned to these elections.

[32] These reports discussed in Part III at pp. 66–69, 74–75, 77–79, 90–91, 94 supra.

[33] See note 29 supra.

[34] See Part III at pp. 65, 70–71, 72–73, 74–75, 86–89, 95–97 supra.

[35] Doar interview; Voting Rights Act, Section 8.

[36] Department of Justice, Press Release, Nov. 8, 1966.

effective" and that "maybe we made some mistakes" in not having more election eve designations.[37]

The Department does not announce publicly before election day where Federal observers will be assigned and does not identify Federal observers as such by use of a badge or other conspicuous identification.[38] The reasons for avoiding advance public announcement and conspicuous identification are: (1) to keep the Federal presence as inconspicuous as possible and thus avoid a reaction by hostile white persons which would be reflected in voting behavior and affect the outcome of the election, and (2) to permit the Attorney General to make the determination whether observers should be assigned to a county on the basis of the facts prevailing as close to the election as possible. Civil Rights Division attorneys collect information up until the eve of the election and this information forms the basis for the decision made by the Attorney General as to whether observers should be sent to any county. In some cases, for example, Negro election officials have been appointed in a county immediately before the election, and observers tentatively assigned to that county have been reassigned to another county. About 15 percent of the observers are reassigned in this fashion.[39]

This policy reportedly has caused difficulties for Negro voters. Federal observers are employees of the Civil Service Commission. In the case of a major election the majority of the observers come from the Commission's regional field offices, such as those in San Francisco, New York, Boston, and Chicago. For a minor election, the observers are recruited from the Southern regional field offices.[40] The observers are instructed to record the name of each voter and to observe closely the assistance being rendered to illiterate voters to ensure that the ballot is marked according to the voter's wishes. Some Negro voters, primarily in the Deep South, reportedly are deterred from voting because they associate the unidentified Federal observer, who usually is white and sometimes from the South, with the local election and registration officials who have been so hostile to Negro voting in the past.[41] Illiterate

[37] Doar interview.

[38] Doar and Owen interviews. On the day of the election the Attorney General announces publicly the counties to which the observers will be sent. If a county is designated for observers the captain of the observer team and a Department of Justice attorney go to the election managers on the day before the election and tell them that observers will come into the county the next day. The public is not informed on election day of the precincts to which the observers will be sent, or how many observers there will be in the county. Nor is this information given to the election managers when they are informed on the day before the election that observers will be present in the county. Doar interview; Owen interview.

[39] Owen interview; Pollak letter.

[40] Owen interview.

[41] Interview with Rev. Ed King, Mississippi Freedom Democratic Party candidate in 1966 for the Democratic nomination to the U.S. House of Representatives, Feb. 13, 1967. The view that unidentified Federal observers have been associated in the minds of some Negro voters with local election officials was also expressed, in interviews, by Charles Evers, Mississippi State field director of the NAACP, Mar. 25, 1968, and

Footnote continued on following page.

Negro voters, according to these complaints, fear that their actions in casting ballots and their choices of candidates are recorded for the purpose of subjecting them to reprisals after the election.[42] One complainant recommended that Federal observers wear some badge or other mark of identification to distinguish them from local election officials.[43]

In the view of Stephen J. Pollak, present Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, "the conclusion expressed that Federal observers intimidate Negro voters is inaccurate. . . . I have not heard the view expressed and believe that Negro voters have generally been informed as to the presence of Federal observers." [44]

Another Department of Justice spokesman stated that he had attended many elections in the South where observers were present but had never heard this complaint. He stated that it is likely that the illiterate voter recognizes the observer as a Federal employee. On the morning of the election, he said, the Department of Justice informs the Negro community that observers will be present for the election. In many places, he reported, the local officials advise the illiterate that he has the right to request the presence of the observer at the marking and casting of his ballot, and identify the observer to the illiterate.[45] In Mississippi and Alabama, according to another spokesman, the observer in most counties simply steps forward, asks the illiterate if he minds being watched, and in the great

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Marvin Wall, research director for the Voter Education Project of the Southern Regional Council, Mar. 19, 1968. Doar stated that there have been only "a small number" of Negro Federal observers, although efforts were being made to recruit more Negro observers. He indicated that there were many parts of the South where Negro observers were reluctant to serve for fear of reprisals or harassment.

[42] King interview. During the field study for this report, Commission staff members entered polling places to observe the balloting in the Feb. 27, 1967 run-off election in which U.S. Gillon, a Negro, was a candidate for the Grenada, Miss., City Council. In each polling place all of the observers were white, many were from Southern States, and there appeared to be no basis upon which Negro voters could distinguish the observers from the local election officials. Staff memorandum, Feb. 27, 1967.

The Report on the Mississippi Election Project, summarizing the reports of the law students sent by the Law Students Civil Rights Research Council to observe the 1967 general election in Mississippi states that the Federal observers were "indistinguishable from the local white election officials. In almost every instance they make no attempt to identify themselves as Federal as distinguished from local officials." Report on the Mississippi Election Project at 13 (1967).

[43] King interview.

[44] Pollak letter.

[45] Owen interview. In United States v. Louisiana, 265 F. Supp. 703 (E.D. La. 1966), *aff'd per curiam,* 386 U.S. 270 (1967), the election commissioners were required to advise each voter receiving assistance that Federal observers were present to observe the balloting and that the voter had the right to request the presence of the Federal observer to monitor the assistance rendered by the election officials. Id. at 715. The same procedure has been required by the Federal district court in South Carolina. United States v. County Executive Committee of Democratic Party of Clarendon County, S.C., Civil No. 66–459, D.S.C., June 22, 1966.

majority of cases, identifies himself.[46] He estimated that the observer identifies himself to the Negro illiterate in 90 percent of the cases.[46]

Litigation

In implementing the Voting Rights Act of 1965 the Department of Justice has instituted litigation to (1) secure substantive rights to Negro voters and candidates; (2) establish the constitutionality of the Act and implement its administrative provisions; and (3) remove economic burdens from the franchise.

The Voting Rights Act supplemented previous voting rights legislation by establishing additional civil and criminal remedies against interference with the voting rights of Negroes. Section 11(a) prohibits State and local officials from failing or refusing to permit any person to vote who is entitled to vote under any provision of the Act or is otherwise qualified to vote, or willfully failing or refusing to tabulate, count, and report such person's vote.[47] Section 11(b) prohibits any person, including private citizens, from intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any person for voting or attempting to vote, or for urging or aiding any person to vote or attempt to vote.[48]

Section 12(a) makes the violation of these and other provisions punishable by a fine of not more than $5,000 or imprisonment for not more than five years,[49] and Section 12(d) authorizes the United States Attorney General to bring actions for injunctive relief to restrain violations of the Act.[50]

Since the passage of the Voting Rights Act the Department of Justice has brought a number of actions to protect the substantive rights of Negro voters and Negro candidates, and has participated in others. The Department successfully attacked the attempt by the Alabama Legisla-

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[46] Telephone interview with Department of Justice attorney Robert Moore, Feb. 16, 1968. Sometimes circumstances do not permit the observer to identify himself. For example, there may be several voting booths and an observer, faced with the need to observe simultaneously assistance being given to more than one illiterate, may not have time to identify himself. Id.

[47] Section 11(a), 42 U.S.C. § 1973i(a) (Supp. II, 1967). The constitutionality of this provision was upheld in United States v. Executive Committee of Democratic Party of Dallas County, Alabama, 254 F. Supp. 537 (S.D. Ala. 1966).

[48] Section 11(b), 42 U.S.C. § 1973i(b) (Supp. II, 1967). Section 11(b) also prohibits, and Section 12(a) makes punishable, intimidation, threatening, or coercion of any person for exercising any powers or duties under specified sections of the Act. 42 U.S.C. § 1973i(b) (Supp. II, 1967). Section 11(c) imposes criminal penalties on persons who give false information about their eligibility to vote, who conspire to encourage false registration, or who pay or accept payment to register to vote, in a Federal election. 42 U.S.C. § 1973i(c) (Supp. II, 1967).

[49] Section 12(a), 42 U.S.C. § 1973j(a) (Supp. II, 1967).

[50] Section 12(d), 42 U.S.C. § 1973j(d) (Supp. II, 1967). The constitutionality of this provision was sustained in United States v. Executive Committee of Democratic Party of Dallas County, Alabama, supra note 47.

ture to extend the terms of incumbent white county commissioners in Bullock County, Alabama [51] and the disqualification on technical grounds of ballots cast mainly by Negro voters in Dallas County, Alabama.[52] In another case the Department successfully challenged, in a Louisiana parish, discrimination in the use of absentee ballots designed to defeat a Negro candidate for membership on the school board.[53] In another pending case, the Department, by order of the court, is participating as a friend of the court in a suit by Fred Gray, a Negro candidate for the Alabama House of Representatives, charging racially motivated vote fraud and other election irregularities.[54]

In two cases brought by the Department prior to the Voting Rights Act, but decided after the enactment of the law, Federal district courts held that the Act requires local election officials to give illiterates assistance at the polls to make their votes meaningful.[55]

The Department also has filed a suit to relieve polling place overcrowding which allegedly delayed voting by Negroes in a Mississippi county [56] and two lawsuits to desegregate racially segregated voting places in a Georgia county.[57] In the Mississippi case, county authorities volun-

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[51] United States v. Crook, 253 F. Supp. 915 (M.D. Ala. 1966). The details of this matter are discussed at pp. 41–42 supra.

[52] United States v. Executive Committee of Democratic Party of Dallas County, Alabama, supra note 47. The details of this incident are discussed at pp. 76–77 supra.

[53] United States v. Post, Civil No. 12583, W.D. La., Jan. 24, 1968. The details of this incident are discussed at pp. 79–80 supra.

[54] Gray v. Main, Civil No. 2430–N, M.D. Ala. filed July 5, 1966. The Department of Justice has also brought suit to set aside a 1968 special municipal election in Louisiana on the ground that election officials had given out erroneous information. See p. 75 supra.

[55] Until 1960, Louisiana provided assistance to illiterates in voting. In that year the legislature revoked the authority to give this assistance. In United States v. Louisiana, 265 F. Supp. 703 (E.D. La. 1966), *aff'd per curiam,* 386 U.S. 270 (1967), the court held that the failure to provide for assistance to illiterate voters conflicted with the Voting Rights Act of 1965. The court said (265 F. Supp. at 708):

> The Act provides for the suspension of literacy tests in states which have used such tests as a discriminatory device to prevent Negroes from registering to vote. Like any other law, this provision implicitly carries with it all means necessary and proper to carry out effectively the purposes of the law. As Louisiana recognized for 150 years, if an illiterate is entitled to vote, he is entitled to assistance at the polls that will make his vote meaningful. We cannot impute to Congress the self-defeating notion that an illiterate has the right [to] pull the lever of a voting machine but not the right to know for whom he pulled the lever.

The same question arose after Mississippi repealed its statute providing for assistance to illiterate voters. In United States v. Mississippi, 256 F. Supp. 344, 348 (S.D. Miss. 1966), the court said:

> We agree that the obvious sense of Congress is to assure not just registration but the full exercise of the right to vote itelf. . . . We think that some suitable arrangements must be made to afford this assistance; and there are ample resources under the Act to effectuate it. Cf: § 5; § 12(d) [footnote omitted].

Accord, Morris v. Fortson, 261 F. Supp. 538 (N.D. Ga. 1966).

[56] United States v. Executive Committee of Democratic Party of Leflore County, Miss., Civil No. GC6632, N.D. Miss., filed June 16, 1966. Both sides filed a stipulation of dismissal on Dec. 12, 1967.

[57] United States v. Attaway, Civil No. 962, S.D. Ga., filed June 23, 1967; United States v. Brantley, Civil No. 694, S.D. Ga., filed Aug. 18, 1967 (Johnson County, Ga.).

tarily complied with the Department's suggested changes. As of March 1, 1968 the Georgia cases had not yet been heard.

The Department has brought one criminal prosecution, filed one civil action, and participated in two private civil actions involving alleged harassment and intimidation of Negroes for registering and voting. In the criminal action, the Department obtained an indictment against 12 members of the Ku Klux Klan in Mississippi charging that they had conspired to kill Vernon Dahmer, a local Negro leader active in voter registration and voting efforts and to burn his home and store.[58]

Under Section 5 of the Act, when a State or political subdivision covered by Section 4 (the section suspending tests and devices) seeks to change its voting qualifications or procedures from those in effect on November 1, 1964, it either must obtain the approval of the U.S. Attorney General or initiate a suit in the U.S. District Court for the District of Columbia. If the Attorney General objects to the changes, they may not be enforced until the court rules that they do not have the purpose and will not have the effect of denying to any person the right to vote because of his race or color.[59]

Section 12(d) of the Act gives the Attorney General power to sue to prevent implementation of State voting qualifications or procedures administered without complying with the provisions of Section 5. Although the Department has "had several submissions under Section 5"—all but one from South Carolina when that State made extensive revision of its election laws in the Spring of 1966 [60]—there have been many laws affecting voting procedures which have not been submitted. During 1966, the Mississippi Legislature passed, and State and local officials administered, at least 12 measures allegedly having the purpose or effect of discriminating against Negro voters and candidates. None was submitted to the Department of Justice; nor was permission obtained from the U.S. District Court for the District of Columbia for the change.[61]

As of January 1968, only one suit had been brought by the Department

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[58] United States v. Bowers, Criminal No. 1436, S.D. Miss., indictment filed Feb. 27, 1967. Two of the three civil actions involved economic harassment and intimidation of Negro registrants, and in both cases judgment was entered for the defendants. United States v. Harvey, 250 F. Supp. 219 (E.D. La. 1966); Miles v. Dickson, 11 Race Rel. L. Rep. 1357 (M.D. Ala. 1966). The third civil action was a damage suit by a Louisiana Negro alleging threats against his life and property for attempting to register to vote. The trial court dismissed the action for lack of Federal jurisdiction, but the U.S. Court of Appeals reversed and the suit is now awaiting trial. Paynes v. Lee, 377 F. 2d 61 (5th Cir. 1967).

[59] Section 5, 42 U.S.C. § 1973c (Supp. II, 1967). In South Carolina v. Katzenbach, the Supreme Court held that it was constitutionally permissible for Congress, which had reason to believe that States covered by the Act would contrive new rules to evade its remedies, to forbid such States to institute new registration tests without approval. 383 U.S. at 334–35.

[60] Letter from D. Robert Owen, First Assistant to the Assistant Attorney General in charge of the Civil Rights Division, to David Rubin, Deputy General Counsel, U.S. Commission on Civil Rights, Jan. 16, 1968 [hereinafter referred to as Owen letter].

[61] Doar interview.

of Justice to enforce Section 5 of the Act.[62] Although most of the Mississippi statutes have been challenged in court by attorneys for private civil rights organizations, three had not been challenged as of January 1968.[63]

There is some question about whether Section 5 covers changes in party rules, as distinguished from changes in State or local laws. The Department has not sought clarification of this issue by instituting lawsuits to block such changes when administered without complying with Section 5. Some of these changes—such as those switching to at-large primary elections—allegedly have been designed to dilute the votes of Negroes and to defeat Negro candidates.

The Department has not brought suit to secure the nondiscriminatory selection of election officials, although efforts—often successful—have been made to secure voluntary compliance in this area.[64] No actions have been brought to enjoin exclusion of or interference with Negro poll watchers, except where racial discrimination has affected the outcome of the election. Nor were the instances of exclusion or interference with Negro poll watchers described in this report [65] remedied by other means. No suits have been brought, or other action taken, to prevent exclusion of Negroes from party precinct meetings, even though such exclusion is construed by the Department of Justice to contravene the provisions of the Voting Rights Act.[66]

In addition to vindicating the substantive rights of Negro voters and candidates, the Department has defended successfully the major provisions of the Act against constitutional attack. In *South Carolina v. Katzenbach* the Supreme Court upheld the provisions of the Act suspending tests and devices and authorizing the assignment of examiners as a "rational means to effectuate the constitutional prohibition of racial discrimination in voting [contained in the Fifteenth Amendment]." [67] The

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[62] United States v. Crook, supra note 51.

At the request of the Supreme Court the Department of Justice is participating in Allen v. State Board of Elections, *appeal docketed,* 36 U.S.L.W. 3117 (U.S. Sept. 28, 1967) (No. 661) a case challenging the refusal of the Board of Elections to allow illiterate voters to use printed stickers to cast a write-in vote (see p. 74 supra). After the passage of the Voting Rights Act Virginia determined that its requirement that write-in votes be cast in the voter's own handwriting was suspended insofar as it applied to illiterates. The Department of Justice takes the position that Virginia's new practice or procedure of requiring that an illiterate desiring to cast a write-in vote must request a judge of the election to assist him by writing the vote in the judge's handwriting cannot be used without first passing the scrutiny of either the Attorney General or the United States District Court for the District of Columbia.

[63] These statutes and the action challenging them are discussed in Part III, ch. 2.

[64] See p. 168 infra.

[65] See Part III, ch. 4 supra.

[66] Doar interview. At the time of the interview with Mr. Doar, the Department of Justice had not received since the passage of the Voting Rights Act any complaints of exclusion of Negroes from precinct meetings. Id.

[67] 383 U.S. 301, 324 (1966). See also Dent v. Duncan, 360 F. 2d 333 (5th Cir. 1966); Louisiana ex rel. Mitchell v. Moore, 12 Race Rel. L. Rep. 889 (W.D. La. 1967). The Department also has established the constitutionality of other provisions of the Act. Under Section 14(b), exclusive jurisdiction to issue injunctions against

Footnote continued on following page.

Department in litigation under the Act has implemented the administrative provisions of the Act by securing the transfer of federally listed voters to State voter registration lists,[67] and has obtained court orders requiring local election officials to permit Federal observers to monitor the balloting process.[69]

In addition, the Department has filed lawsuits to remove economic burdens from the franchise. Section 10 of the Voting Rights Act contains a congressional finding that the right to vote is denied or abridged in some areas by the requirement of payment of a poll tax as a precondition to voting and directs the Attorney General to institute suits to determine the constitutionality of such poll taxes.[70] Directly after the passage of the Voting Rights Act of 1965, the Attorney General pursuant to Section 10 filed complaints in Federal district courts in Alabama, Mississippi, Texas, and Virginia to invalidate the poll taxes enforced in those States as a precondition to voting in State elections.[71] Although the Supreme Court in 1937 had held that the requirement of payment of a poll tax to vote did not violate the Constitution,[72] three-judge district courts in the Texas [73] and Alabama [74] suits declined to follow that ruling and declared State poll taxes unconstitutional in February and March of 1966. On March 24, 1966 in a private action in

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enforcement of the Act is vested in the United States District Court for the District of Columbia, 42 U.S.C. § 1973*l*(b) (Supp. II, 1967). The only exception is the jurisdiction expressly vested by Section 9 in courts of appeals to decide challenges to listings by examiners. The constitutionality of Section 14(b) has been upheld in several Federal cases in which the Department was a party or participated. McCann v. Paris, 244 F. Supp. 870 (W.D. Va. 1965); United States v. Parker, 236 F. Supp. 511 (M.D. Ala. 1965); United States v. Louisiana, 265 F. Supp. 703 (E.D. La. 1966); Louisiana ex rel. Mitchell v. Moore, supra. In Perez v. Rhiddlehoover, 247 F. Supp. 65 (E.D. La. 1965) a Federal court held that, Section 14(b) notwithstanding, State courts have jurisdiction to issue injunctions against Federal examiners who, in registering voters, misapply State law not inconsistent with the Voting Rights Act.

[68] State ex rel. Gremillion v. Roosa, Civil No. 11365, consolidated with Manning v. Roosa, Civil No. 11364, W.D. La., dismissed without prejudice Sept. 8, 1965.

[69] United States v. Executive Committee of Democratic Party of Greene County, Alabama, and Executive Committee of Democratic Party of Sumter County, Alabama, 254 F. Supp. 543 (N.D. Ala. 1966); United States v. Executive Committee of Democratic Party of Marengo County, Alabama, 254 F. Supp. 543 (S.D. Ala. 1966); United States v. County Executive Committee of Democratic Party of Clarendon County, S.C., Civil No. 66–459, D.S.C., June 22, 1966. In the *Greene County* case, the court held that the Federal observer may monitor the assistance given an illiterate voter only if the illiterate requests it. In a Louisiana case brought by the Department before the enactment of the Act, a Federal court ruled subsequent to the Act that while an illiterate voter should not be accompanied by a Federal observer unless he wishes to be, election officials must advise each person receiving assistance that Federal observers are present and that he may, if he wishes, have the observer watch the marking and casting of his ballot. United States v. Louisiana, 265 F. Supp. 703, 715 (E.D. La. 1966), *aff'd per curiam*, 386 U.S. 270 (1967).

[70] 42 U.S.C. §§ 1973a–b (Supp. II, 1967).

[71] The payment of poll taxes as a prerequisite to voting in Federal elections already had been voided by the 24th amendment, passed in 1964.

[72] Breedlove v. Suttles, 302 U.S. 277 (1937).

[73] United States v. Texas, 252 F. Supp. 234 (W.D. Tex. 1966), *aff'd mem.*, 384 U.S. 155 (1966).

[74] United States v. Alabama, 252 F. Supp. 95 (M.D. Ala. 1966).

which the Department of Justice participated, the Supreme Court overruled the 1937 case and held that the 14th amendment voids State poll taxes as a prerequisite to voting.[75] Subsequent to this decision, Federal district courts in Mississippi [76] and Virginia,[77] in the suits filed by the Department, invalidated the poll tax provisions of those States.

Informal Negotiation and Persuasion

The Civil Rights Division of the Department of Justice has relied to a considerable extent upon informal negotiation and persuasion in its enforcement of the Voting Rights Act.

Under Section 12(e) of the Act, complaints of denials of the right to vote may be made within 48 hours after an election to the Federal examiner. A complaint, if it appears to the examiner to be well-founded, must be communicated to the Attorney General, who may "forthwith" file an action with the district court for an order providing for the immediate counting of the complainant's vote and requiring its inclusion in the total vote before the results of the election are deemed final or have any force or effect.[78] " . . . [T]he statutory procedure contained in the provision permitting the Attorney General to enjoin the certification of the election until the complainants have been allowed to vote and have their votes counted has, by its existence, made it much easier to deal with state election officials with respect to voting problems on election day." [79]

Division attorneys are assigned to particular counties on election day to deal with complaints on-the-spot.[80] About 50 Division lawyers were in the South during the general election in 1966.[81] In many areas, Division attorneys—with the leverage afforded by Section 12(e)—have been successful in persuading election officials to comply with the law.[82]

Election day complaints often have been resolved by attorneys on the scene. For example, when a polling official in Dorchester County, South Carolina at a 1966 election denied illiterate Negro voters the right to be assisted by a bystander of their choice, as provided by State law, the matter was settled through the intervention of a Division attorney who succeeded in persuading the polling place official to obey the law.[83] In the first primary election in Coahoma County, Mississippi, in 1967, Division attorneys succeeded in persuading local election officials to count ballots

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[75] Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966).
[76] United States v. Mississippi, 11 Race Rel. L. Rep. 837 (S.D. Miss. 1966).
[77] United States v. Virginia, 11 Race Rel. L. Rep. 853 (E.D. Va. 1966).
[78] 42 U.S.C. § 1973j(e) (Supp. II, 1967).
[79] Owen letter.
[80] Owen letter.
[81] Owen interview.
[82] Doar interview; interviews with Robert Moore, Attorney, Civil Rights Division, Dec. 4 and 5, 1967.
[83] See p. 72 supra.

cast for a Negro candidate for justice of the peace which had been fraudulently spoiled by polling officials, and to disqualify ballots illegally marked by one polling official for the white candidate. As a result, the Negro candidate, who otherwise might have lost the election, was declared the winner by a clear majority.[84]

Prior to election day State and local election officials are encouraged to comply with the Attorney General's criteria to avoid the assignment of Federal observers. Such informal negotiation and persuasion has stimulated compliance in many areas, including the appointment of election officials broadly representative of the community. Communities in the South generally are adverse to the appointment of Federal observers to monitor the local election process, although in a few cases the Department of Justice has had requests for observers from local officials to demonstrate to the local community the fairness of the electoral process.[85]

Civil Rights Division attorneys made a concentrated effort during 1966 and 1967 to persuade local party officials and election commissioners in Mississippi to appoint Negroes as polling place officials. In 1967, some Negroes were appointed in most of the Mississippi counties, though not all the precincts, in which the Department was active. This encompassed some 60 to 70 percent of the counties in the State and the counties where discrimination was most prevalent.[86] At the insistence of the Department of Justice, William Moses, chairman of the Holmes County, Mississippi Election Commission, and members of the Commission, discussed with the Negro candidates the appointment of Negro election officials for the November 1967 general election.[87] For this election Negro election officials, nominees of the Negro candidates, were assigned to every polling place in the county. The Department generally attempts to secure the appointment of Negroes who are representative of the Negro community and it seeks to insure that those who are chosen are qualified for the task. In Sumter County, Alabama, Federal observers were assigned to an election because the Department determined that three of the six Negro election officials appointed on the eve of the election were illiterate.[88]

The Department has not been successful in obtaining compliance through informal persuasion in all areas. During most of the period

[84] Doar interview; interview with J. Harold Flannery, Attorney, Civil Rights Division, Jan. 29, 1968.
[85] Owen interview.
[86] Owen interview; Moore interviews.
[87] Moore interviews.
[88] In Carroll County, on the other hand, it was reported that the Negro polling officials were not the ones suggested by the Negro candidates. In addition, Negroes appointed as polling officials reportedly lacked any information as to their duties and in some cases lacked any notice of their appointment. Report by Alex Capron, law student serving on the LSCRRC Mississippi Election Project (See p. 64 supra) in Carroll County, Beat 4, Nov. 8, 1967. As a result, it was reported, the Negro officials were not effective; some arrived late or not at all, and some were replaced by white persons. Id.

covered by this study, the Department had about 40 attorneys working full-time on Southern problems. They were responsible not only for voting problems but also for other matters such as school segregation, employment discrimination, and segregation in public accommodations.[89] Because of its limited manpower, the Department has had to concentrate its efforts in the States of Alabama, Louisiana, and Mississippi. In a memorandum to the then Acting Attorney General written in January 1967, outlining the Division's program for 1967, Doar stated:

> Georgia counties are small, and it takes a lot of shoe leather to cross and recross the State. Georgia has suffered from neglect of enforcement program. Ever since I've been here, we have always given high priority to Alabama, Louisiana, and Mississippi.[90]

As a result of a Division reorganization in September and November 1967, the number of attorneys working on exclusively Southern problems was reduced from approximately 40 to 27.[91]

There are continuing problems in Mississippi and in other States in the Deep South where the Department's enforcement effort is concentrated. In Louisiana, progress in the appointment of Negro election officials during the 1967 elections did not match that in Mississippi, although some Negro election officials were appointed.[92] As this report shows, for the 1966 elections in Alabama (where there were no elections in 1967) there were many counties in which Negro election officials were not appointed, or were appointed in token numbers, or were chosen on the basis of whether their activities or opinions were acceptable to the white community.[93] Although allowance should be made for the fact that the 1966 elections were the first elections subject to the Department's enforcement program after the Voting Rights Act, the enforcement problem is not solely one of obtaining the necessary experience in implementing the Act. In December 1967, Doar indicated that

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[89] Owen interview.

[90] Doar memorandum. Similarly, Owen stated that it was not possible to cover every county in every State because of lack of manpower, although he thought that coverage "had been pretty good." Owen interview.

[91] Prior to the 1967 reorganization of the Civil Rights Division, 40 attorneys were assigned to the Southeastern and Southwestern Sections which included Mississippi, Alabama, Louisiana, Georgia, Florida, and South Carolina. As of Mar. 13, 1968, 27 attorneys were assigned to the new Southern Section, which includes Mississippi, Alabama, Louisiana, Florida, and Georgia. South Carolina, along with North Carolina and Virginia, was placed in the new Eastern Section to which 11 attorneys were assigned. In addition, other attorneys in the Planning and Coordination Office and in the Title VI unit also deal with Southern problems as part of their regular duties. Where responsibilities under the Voting Rights Act in connection with elections have made heavy demands on manpower, the Assistant Attorney General has called on attorneys assigned to sections with responsibilities for States outside the South. Pollak letter. In its Fiscal 1969 budget request, the Department of Justice asked for 20 additional attorneys, based on the Division's overall enforcement program, and this request was approved by the Budget Bureau. Owen letter.

[92] Owen interview.

[93] See pp. 100-04 supra.

the Department of Justice did not have enough attorneys to contact and persuade all local election officials to appoint Negro polling officials.[94]

In addition, the very nature of the process of negotiation and persuasion requires Division attorneys to establish personal contacts with election officials in each county in which there are complaints. Often several meetings must be held with these officials before compliance is obtained. Where the complaint involves discrimination first occurring on election day itself, part of the election day must elapse before compliance, if any, is obtained, and there is no assurance other than the word of the election officials that the discrimination will not recur in the next election.

[94] Doar interview.

Findings

Progress Under the Voting Rights Act

1. Since the passage of the Voting Rights Act of 1965, Negro voter registration and political participation in the five States of the Deep South most affected by the Act have increased substantially. Negro voter registration in these States has more than doubled to reach an overall rate of more than half of those eligible. During 1966 and 1967, hundreds of thousands of Negro voters cast ballots for the first time. In many counties and parishes where resistance to the exercise of the franchise by Negroes had been exceptionally strong, Negroes have been appointed to serve as polling officials and have monitored elections as poll watchers for Negro candidates. During this same period more than 1,000 Negroes in the South ran for State, local, and party office. Almost 250 were elected to public office and many others to party office.

Remaining Problems

2. Negro voter registration and political participation have lagged in some areas. There remain 185 counties in six Southern States covered in whole or in part by the Act where less than 50 percent of the eligible Negroes are registered to vote and which have not been designated by the U.S. Attorney General for Federal examiners. Despite significant progress in many areas of the South and the lack of any "massive resistance" movement since the passage of the Voting Rights Act, Negro candidates and voters have experienced hostility on the part of white persons and many forms of discrimination by State and local governmental bodies, political parties, and public and party officials, primarily in areas of heavy Negro concentration in the Deep South, and, in isolated cases, in other Southern States. Some types of discrimination have been widespread.

Dilution of the Negro Vote

3. State legislatures and political party committees in Alabama and Mississippi have adopted laws or rules since the passage of the Act which have had the purpose or effect of diluting the votes of newly enfranchised Negro voters. These measures have taken the form of switching to at-large elections where Negro voting strength is concentrated in particular election districts, facilitating the consolidation of predominantly Negro and predominantly white counties, and redrawing the lines of legislative districts to divide concentrations of Negro voting strength. In other

Southern States, full-slate voting laws antedating the Act have had the effect of requiring Negroes, where a full slate of candidates of their choice is not running, to dilute their votes by voting for competing candidates as well.

Measures to Prevent Negroes from Obtaining Office

4. Since the passage of the Voting Rights Act, the Mississippi and Alabama Legislatures have promulgated laws designed to prevent or having the effect of preventing Negroes from becoming candidates or obtaining office. In Mississippi, Alabama, Georgia, and Arkansas, public and party officials and private corporations have engaged in acts and practices or promulgated rules having the same purpose or effect. These laws, rules, and practices have taken the form of—

(a) abolishing the office sought by the Negro candidate;
(b) extending the term of office of incumbent white officials;
(c) making formerly elective offices appointive;
(d) raising the filing fees required of candidates for party office and party nomination for public office;
(e) otherwise increasing the requirements for getting on the ballot;
(f) withholding from Negro candidates pertinent information about qualifying for office and other election information;
(g) withholding certification of the nominating petitions of Negro candidates; and
(h) imposing barriers to the assumption of office by successful Negro candidates.

Discrimination Against Negro Registrants

5. Officials charged with managing elections in some areas of the South have discriminated against Negro voters or otherwise violated the Voting Rights Act by—

(a) withholding from Negro party members information concerning the time and place of party precinct meetings and conventions at which party officials are elected, and preventing them from participating fully in such meetings and conventions;
(b) omitting the names of registered Negroes from the official voter lists;
(c) failing to provide adequate voting facilities in areas with greatly increased Negro voter registration;
(d) harassing Negro voters;
(e) refusing to provide or permit adequate assistance to illiterate Negro voters;

(f) giving inadequate or erroneous instructions to Negro voters;
(g) disqualifying ballots cast by Negro voters on technical grounds;
(h) failing to afford Negro voters the same opportunity as white voters to cast absentee ballots;
(i) establishing polling places in locations, such as plantation stores, likely to discourage voting by Negroes; and
(j) maintaining racially segregated voting facilities and voter lists.

Exclusion of and Interference with Negro Poll Watchers

6. During 1966 and 1967, authorized Negro poll watchers appointed by Negro candidates to monitor the election process in some areas of South Carolina, Alabama, Mississippi, and Georgia were excluded from polling places or harassed and interfered with in the performance of their duties.

Vote Fraud

7. Since the passage of the Voting Rights Act, officials in a few counties in the Deep South have engaged in practices of vote fraud to prevent Negro candidates from obtaining office.

Discrimination in the Selection of Election Officials

8. There has been widespread discrimination by public and party officials in the selection of polling officials in Alabama, Mississippi, Georgia, and South Carolina, although such discrimination was reduced substantially in Mississippi during 1967. In some areas, no Negroes have been selected to serve despite specific requests for the appointment of Negroes by local Negro leaders. In other areas, Negroes were appointed but served only in token numbers and in predominantly Negro areas only. In some areas, only Negroes who never had participated in civil rights activity and whose opinions were acceptable to the white community were selected. In some Mississippi counties Negro polling officials were selected, but barred from rendering assistance to illiterate Negro voters.

Intimidation

9. During 1966 and 1967, in some areas of Louisiana, South Carolina, Mississippi, Alabama, Georgia, and Virginia, Negro candidates and their campaign workers and poll watchers, as well as Negro voters and persons active in urging and aiding Negroes to register and vote, were subjected to various forms of harassment and intimidation, including harassing arrests by law enforcement officials and economic and physical reprisals.

There continued to exist in some parts of the Deep South a general climate of fear and intimidation deterring Negroes from exercising civil and political rights.

Economic Dependence

10. In many parts of the South, economically dependent Negroes—particularly tenant farmers and sharecroppers who depend upon white landlords, merchants, and bankers for land, goods, and credit—are deterred by their dependence from voting, voting for the candidate of their choice, and running for office. In some areas Negroes employed as teachers by local school boards are deterred from running for office for fear of being fired. Negroes who are economically independent, such as those who own their own land, participate more fully and freely in political activity.

Political Parties

11. Comparatively few Negroes hold office on Democratic and Republican State and county party committees in the Deep South, and no Negroes hold office on the vast majority of such committees.

12. Some Southern State parties, particularly in the Deep South, have failed to take steps to correct racial discrimination within their organizations. While several Southern State parties, notably the Arkansas Republican Party, have undertaken affirmative programs of varying scope and effectiveness to encourage Negro participation in party affairs, others in the Deep South have no such program. In the State parties which have a policy of affirmative encouragement, the policy often is not implemented at the local level.

13. The Mississippi statute requiring adherence to party principles, coupled with provisions of the Mississippi Republican and Democratic Party platforms endorsing segregation of the races, requires Mississippi Negroes to endorse racial segregation as a condition of voting or running as candidates in a primary election. Although not legally enforceable, this test is a deterrent to Negro participation in party elections and activities.

14. Although the national committees and staffs of both national political parties have taken some steps to eliminate discrimination and to encourage Negro participation in State party organizations, neither national party has yet established firm or comprehensive requirements providing for the elimination of discrimination in all aspects of party activity or for significant affirmative steps to overcome the effects of past discrimination.

U.S. Department of Justice Enforcement of the Act

15. In 1965, 1966, and 1967, Federal examiners were assigned to list qualified voters in 58 counties in the South. The assignment of Federal examiners generally has had a significant effect in increasing Negro voter registration. The Attorney General does not have a policy, however, of designating all counties for examiners where Negro voter registration is low and has rejected the view that the Federal Government should undertake affirmative programs to encourage Negro voter registration in the South.

16. Federal observers were sent to 47 counties in the States covered by the Act to observe primary, general, and special elections during 1966 and 1967, and served to deter and to detect election day discrimination and irregularities. No observers were sent, however, to several counties and precincts where Negro candidates were running for office and which met Department of Justice criteria permitting the sending of observers. In some of these counties and precincts no Negro election officials had been appointed and there were complaints of election day discrimination and violations of the Voting Rights Act. The Department of Justice has not instructed observers to point out to election officials and seek the correction of irregularities affecting Negro voters.

17. In some areas the identity of Federal observers, who monitor the election process at polling places, is not made known to voters. In these areas the observers, whose presence is not publicly announced in advance of election day, are indistinguishable from local election officials generally associated with past discrimination against Negroes, and may have a deterrent effect on Negro voting.

18. Since the passage of the Voting Rights Act the Department of Justice has brought a number of lawsuits to establish the constitutionality of the Act, to implement the provisions of the Act requiring placement of federally listed voters on the State voter lists and authorizing Federal observers to monitor elections, and to implement the congressional directive to attack the poll tax as a condition of voting in State elections. The Department also has brought lawsuits to guarantee the substantive rights of Negro voters and candidates under the Act, and in many areas of the Deep South where previously there had been substantial resistance to extension of the franchise to Negroes, has secured compliance with the Act through informal discussion and negotiation with State and local officials charged with the management of elections.

19. Discrimination and violations of the Act persist in some areas and have not been attacked effectively by the Department of Justice, primarily because the Department lacks adequate funds and staff to implement the Act fully. This discrimination includes denial of the rights of

Negroes to attend and participate fully in party precinct meetings and conventions at which party officials are selected, discrimination in the selection of Negro election officials, and exclusion of and interference with Negro poll watchers. The Department has not fully enforced Section 5 of the Act, which prohibits, in States or political subdivisions where voter registration tests and devices are suspended, the enactment or administration of any practice or procedure with respect to voting different from that in force on November 1, 1964, without the approval of the U.S. District Court for the District of Columbia or the U.S. Attorney General.

Conclusion

In the relatively short period since the passage of the Voting Rights Act, there has been significant progress in voter registration and political activity by Negro citizens. There has been a dramatic increase in Negro registration and voting reflected in the election of a sizable number of Negroes to office—many at the county level and some at the State level—and in the willingness of hundreds of Negro candidates to assume the risk of running for office. This increased Negro political participation has been reflected in greater responsiveness to the needs and concerns of Negroes, both by Negro and white officeholders and candidates, and in a decline in open appeals to racism by candidates and officials. Contrary to the dire predictions of violent reaction to implementation of the Act voiced during debate on the Voting Rights Act, progress in voter registration has taken place quietly and without major conflict. After an initial period of litigation which resulted in the constitutionality of the Act being upheld, local communities have accepted the presence of Federal examiners, and local registrars have suspended the use of voter registration tests and devices. Federal observers are now accepted in some communities as a guarantee that elections will be fairly conducted. This unprecedented progress—brought about through the implementation of the Act by the Department of Justice and the the Civil Service Commission, the efforts of private civil rights organizations, and the acceptance throughout the South of the administrative enforcement of voting rights—has vindicated the firm approach taken in the Voting Rights Act to problems of discrimination.

Despite this progress, however, it is clear that we are still a long way from the goal of full enfranchisement of Negro citizens. As this report discloses, many problems remain in securing to the Negroes of the South the opportunity to participate equally with white citizens in voting and political activity. There remain areas where the number of Negroes registered to vote is disproportionately low. Some Negroes, still discouraged by past discrimination, in effect are penalized for residing in counties and parishes which have not been designated for Federal examiners and where there has been no local voter registration drive. In areas where registration has increased, we have moved into a new phase of the problem. Political boundaries have been changed in an effort to dilute the newly gained voting strength of Negroes. Various devices have been used to prevent Negroes from becoming candidates or obtaining office. Dis-

crimination has occurred against Negro registrants at the polls and discriminatory practices—ranging from the exclusion of Negro poll watchers to discrimination in the selection of election officials to vote fraud—have been pursued which violate the integrity of the electoral process. Moreover, in some areas there has been little or no progress in the entry and participation by Negroes in political party affairs—the key to meaningful participation in the electoral process. Some of the practices found are reminiscent of those which existed at an earlier time during Reconstruction when fear of "Negro government" gave rise to intimidation and a number of election contrivances which finally led to disfranchisement of the Negro citizen.

Nor can Negroes be said to have an equal opportunity for political participation where, as is still true in some areas, they are subjected to threats and reprisals, or where they occupy, as they commonly do, positions of economic subservience making political independence and full political participation virtually impossible.

It is also important to keep in perspective the progress that has been achieved. As of the end of 1967, no Negro had been elected to a State executive office in any Southern State. No Negroes have been elected to either house of the State legislature in many Southern States where a sizable proportion of the population is Negro, including South Carolina, Alabama, North Carolina, Arkansas, and Florida. Mississippi, Louisiana, and Virginia each have only one Negro legislator. Negro representation on State committees of political parties in the South is even lower than Negro representation in State legislatures.

The gains that have been made have great potential—but they are fragile. If the gains are augmented and strengthened by firm action to deal with the remaining barriers, Negroes may secure enough influence and representation in the political process that the need for Federal intervention will end. If, on the other hand, new barriers are not attacked, the progress made thus far may not be translated into effective political representation, the current Federal presence may be of diminishing effectiveness, and the gains may be destroyed entirely if and when the Federal Government decides to end its intervention and restore to the States control over the registration process and determination of the qualifications of electors.

What kind of action is needed? First, it is necessary to broaden and strengthen enforcement of existing laws. The national political parties must assume responsibility for eliminating present practices of discrimination at the State and local levels and for taking affirmative action to secure participation of Negro citizens in party processes. The Federal Government must assume its share of the responsibility to eliminate illiteracy and provide information and assistance which will enable citizens to exercise fully the rights and duties of citizenship. And action must be

taken by the Government to overcome problems of economic dependence, in recognition of the fact that citizens will never be truly free to exercise their political rights if they must fear the economic consequences of their acts.

There is every reason to believe that if these steps are taken promptly and in concert the goal of full enfranchisement can be achieved. We believe that the only alternative to the steps we are proposing would be increased Federal control of the electoral as well as the registration process, a step which undoubtedly would be effective but which few would welcome.

The problems we have dealt with in this report arise in a special context—the long history of blatant efforts in some Southern States to keep Negroes totally disfranchised. But it should be recognized that many aspects of the report and recommendations may be relevant to other parts of the Nation.

Some of the problems in voting and political participation described in this report—such as economic dependence and educational and literacy disadvantages—are not peculiar to Negroes in the South, but are shared by Negroes in other parts of the country and by members of other minority groups, including Mexican Americans, Puerto Ricans, and Indians. Similarly, racial discrimination in the electoral process also has occurred in the North, and it has been charged that laws and practices in the West and the Southwest have prevented minorities from participating fully in the electoral process. There is a need for basic information on these problems, but the Federal Government, political parties, and local communities should take steps now to consider the relevance of the matters discussed in this report to communities throughout the Nation and to take affirmative remedial steps where appropriate.

Finally, the problems discussed in this report should be viewed in the context of the Nation's current crisis in race relations. The integrity of our processes of government is being questioned as well as its capacity to respond to conditions of economic and social injustice. We may lament the fact that, increasingly, protest is taking place outside our established political and legal framework in forms which frequently are destructive and self-defeating. But our laments are likely to sound hollow and to be unavailing if we do not take steps which will make possible a response to just grievances within our established political and legal processes. In meeting this objective, there is no task more important than taking the measures which will create representative government in which all citizens can participate fully and have confidence.

Recommendations

Enforcement of the Voting Rights Act of 1965

1. ***The Attorney General should assign examiners under Section 6 of the Voting Rights Act to all political subdivisions where Negro registration is disproportionately low.***

Section 6 of the Voting Rights Act of 1965 authorizes the U.S. Attorney General to designate political subdivisions for the appointment of Federal examiners where, in his judgment, the appointment is "necessary to enforce the guarantees of the fifteenth amendment." He is directed to consider in making this judgment, "among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment . . . ."

Suspension of voter registration tests in States and political subdivisions covered by the Act was predicated on a link between racial discrimination and low voter registration or low voting totals. It is reasonable to assume that where Negro voter registration continues to lag, many persons, because of past experience with prohibited discrimination, are deterred from seeking to register to vote with local officials, and, therefore, that disproportionately low Negro registration in a particular political subdivision covered by the Act is "reasonably attributable to violations of the fifteenth amendment." Only by affirmative efforts, including the assignment of examiners, can the continuing effects of past discrimination be overcome.

2. ***The Attorney General should request the Civil Service Commission to assign Federal observers under Section 8 of the Act to attend elections, including party precinct meetings and conventions at which party officials are elected, wherever there is reasonable cause to believe that discrimination will occur at the election. The Attorney General should announce publicly in advance of the election that Federal observers will be present and should assure that the observers are identified as Federal officials.***

Although the Attorney General has made wide use of his power to request the Civil Service Commission to assign Federal observers, and

these observers have served to deter discrimination at the polls, during 1966 and 1967 there were a number of political subdivisions in which election day discrimination was likely—including subdivisions in which Negro candidates were running and no Negroes had been appointed as election officials—to which observers were not sent. While these subdivisions had not previously been designated for Federal examiners—a precondition to the assignment of observers under the Act—the Attorney General could have, and has, designated subdivisions for examiners on the eve of the election.

The Attorney General has requested the Civil Service Commission to assign observers only to attend general, special, and primary elections. He has not requested observers to attend party precinct meetings or conventions at which party officials are elected, even though Section 8 of the Act provides for the assignment of observers "to enter and attend at any place for holding an election" in a subdivision in which an examiner is serving. Negroes have been excluded from, denied the opportunity to participate fully in, or denied information concerning the time and place of some of these meetings and conventions, including those held in a county in which an examiner was serving.

Where the Attorney General decides to request the assignment of observers to a particular political subdivision, he should announce publicly, in advance of election day, that observers will be present in the subdivision, and should assure that the observers are identified as such. This is contrary to present Department of Justice policy, which favors keeping the Federal presence as inconspicuous as possible in order to avoid triggering a reaction in hostile white persons which will be reflected in voting behavior and affect the outcome of the election. This possibility must be balanced against the benefits of increased publicity and identifiability.

The subdivisions where the assignment of observers is warranted are those in which there is a likelihood of discrimination at the polls. It is important for Negro voters in these subdivisions to know that observers will be present to deter local election officials from subjecting Negroes who attempt to vote to discrimination and the harassment, indignity, and humiliation which accompany it. Announcing the presence of Federal observers on the morning of election day is not sufficient to fully inform the Negro community and is not an adequate substitute for advance publication. Similarly, identification of the observers will serve to confirm to Negro voters that they will be afforded comparable treatment with other citizens at the polls.

Public announcement in advance of election day that observers will be present in a county should not affect the outcome of the election. Efforts can be made in advance to increase the understanding and appreciation within the white community of the role of Federal observers.

Local officials and the people generally should be made to understand that the presence of Federal observers is a good method for obtaining the agreement of everyone, Negro and white, that the election was a fair and an honest one. If the policy underlying the assignment of observers is made known to the community, the knowledge that observers will be present to assure that Negro registrants are allowed to vote should not alter white voting behavior any more than the presence of Federal examiners, who register the Negro voters and of whom the observers are a logical extension.

While it may be desirable for the Attorney General to know as closely as possible before the election the state of compliance by local officials with the Attorney General's criteria for the assignment of observers, there appears to be no reason why the determination whether to request the assignment of observers cannot be made known in advance of election day.

3. ***The Attorney General should take steps to secure in each State and political subdivision in which tests and devices are suspended, or in which discrimination prohibited by the Voting Rights Act has occurred, the appointment in each precinct of election officials broadly representative of the community, including the Negro community, either by informal means or by invoking remedies under the Act.***

The appointment of Negro election officials in areas where Negroes comprise a substantial portion of the population is, and should be, a central objective of the Department of Justice. Affording Negroes a share in the management of the election process serves to reduce the possibilities of discrimination against Negro voters and violations of the Voting Rights Act, instill confidence in Negro voters that elections are fairly conducted, and minimize the need for Federal intrusion into the local election process. Care must be taken to insure that Negroes are appointed in more than token numbers, and that the Negroes selected are qualified and not chosen on the basis of whether their activities and opinions are acceptable to the white community.

Should the Department determine that it lacks the manpower to negotiate voluntary compliance in areas where discrimination in the selection of election officials is widespread, the Attorney General should consider the possibility of instituting lawsuits under the Voting Rights Act, including statewide suits, to obtain the appointment of election officials broadly representative of the community.

4. ***The Attorney General should make full use of the sanctions available under the Voting Rights Act and other Federal laws to eliminate other practices which deny or abridge the right to vote on account of race or color. Such practices include racial discrimination in the treatment of election officials, discrimination against candidates, campaign***

workers, and poll watchers because of their race, and exclusion of party members from precinct meetings or failure to accord them notice or equal participation because of their race. The Attorney General should bring suit seeking to withhold certification of an election wherever there is evidence of discrimination which may have affected the outcome of the election or deterred voting by Negroes.

Although much has been done, by informal means and through litigation, to secure compliance with the nondiscrimination requirements of the Voting Rights Act and other Federal laws protecting the right to vote without discrimination (see 42 U.S.C. §§ 1971(a)-(c)), many problems remain and must be corrected. One effective sanction is the threat that an election infected with discrimination will be declared invalid. Courts have afforded such a remedy even where it has not been possible to determine whether the outcome of the election has been affected by the discrimination.[1] Where the outcome may have been affected, or where there is evidence that the discrimination is of such a nature as to deter Negroes from voting, the Attorney General should seek judicial relief withholding certification of the election and requiring the conduct of a new election free from discrimination.

5. ***The Attorney General should (1) instruct Federal observers that they have a duty to point out to local election officials irregularities affecting Negro voters and (2) take whatever other action may be necessary in States and political subdivisions covered by the Act to prevent such irregularities.***

As Judge Wisdom said for a three-judge Federal district court in *United States v. Louisiana*,[2] "if an illiterate is entitled to vote, he is entitled to assistance at the polls which will make his vote meaningful." By the same token election officials should not be permitted, by their own acts or omissions, to disqualify illiterate Negro voters, whose voting is made possible or facilitated by the Voting Rights Act.

In some areas, even though Federal observers have been present, local election officials have engaged in various practices resulting in the denial of adequate assistance to Negro illiterates or in the disqualification of their ballots. These practices include (1) failing to inform Negro illiterates of their right to assistance; (2) refusing to assist Negro illiterates; (3) refusing to assist Negroes who can sign their names but are otherwise functionally illiterate; (4) refusing to supply the proper number of voting officials to assist Negro illiterates; (5) humiliating Negro illiterates who need or request assistance; (6) marking the ballots of Negro illiterates contrary to their wishes; (7) permitting Negro illiterates to mis-

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[1] Bell v. Southwell, 376 F.2d 659 (5th Cir. 1967); Brown v. Post, Civil No. 12, 471, W.D. La., Jan. 24, 1968.

[2] 265 F. Supp. 703, 708 (E.D. La. 1966), *aff'd per curiam*, 386 U.S. 270 (1967), discussed Part V, note 55 supra.

mark their own ballots; (8) failing to instruct Negro illiterates on the use of voting machines; (9) failing to point out to Negroes disqualifying errors in the marking or casting of their ballots; (10) denying to Negro illiterates the right to use sample ballots where permitted by State law; and (11) denying to Negro illiterates the right to have the assistance of bystanders where permitted by State law.

Observers currently are instructed not to intrude into the election process beyond taking such steps as may be necessary to fulfill the observational function. They are not instructed to point out and attempt to secure the correction of irregularities, although in practice some observers do point out at least some types of irregularities to election officials. In some cases irregularities have been stopped and the offending election official dismissed after the practices have been reported to the captain of the observer team, then to a Department of Justice attorney, and then taken up with officials charged with managing the elections. Much or all of the election day may elapse, however, before the matter is settled. Where the obligation of the election official is clear, and there is a violation in the presence of the observer, an effort should be made to correct it on the spot by pointing out the irregularity to the official.

6. ***The Attorney General should promptly and fully enforce Section 5 of the Act, which prohibits States or political subdivisions in which tests and devices are suspended from enacting or administering without the approval of the U.S. District Court for the District of Columbia or the U.S. Attorney General, any standard, practice, or procedure with respect to voting different from that in force on November 1, 1964. Section 5 should be invoked against both statutes and party rules enacted after that date, including those governing elections, election districts, and qualifying and running for office.***

Failure to enforce the flat prohibition of Section 5 in the face of repeated violations—most notably in Mississippi—is bound to encourage the enactment and enforcement of additional measures having the purpose or effect of diluting or inhibiting the Negro vote or making it more difficult for Negroes to run for office. Swift and comprehensive enforcement of Section 5 is required to make it clear that such stratagems cannot succeed. The provisions of Section 5, construed in light of decisions of the Supreme Court, fairly admit of an interpretation that Section 5 covers party rules as well as State statutes.[3] Section 5 and judicial decisions construing it, can fairly be said to encompass—as standards or procedures "with respect to voting"—all measures governing elections, election districts, and qualifying and running for office.[4]

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[3] See Appendix II, p. 198 infra.

[4] See Sellers v. Trussell, 253 F. Supp. 915 (M.D. Ala. 1966) (opinion of Judge Rives), discussed pp. 41–42 supra.

7. *If the Attorney General determines or the courts rule that he lacks power to take any of the actions specified in (1) through (6) above, he should seek amending legislation to authorize him to take such action.*

8. *The President should request and Congress should appropriate additional funds to permit the hiring of sufficient personnel to carry out the foregoing recommendations and otherwise fully enforce the rights of all citizens to full and equal political participation regardless of race.*

The program evolved by the Department of Justice to enforce the Voting Rights Act is hampered by limitations of staff. These limitations are reflected in the absence of lawsuits in areas where they are needed to curb violations of the Act, and in the inability to cover adequately all geographical and substantive areas in which discrimination and violations of the Act are occurring. The process of informal negotiation and persuasion requires the presence of attorneys in large numbers to deal with local officials. In 1967 an effort to assure that personnel would be assigned to deal with problems of discrimination in the North as well as the South resulted in a reduction in the number of attorneys assigned exclusively to the South.

Federal Programs of Affirmative Assistance

1. *The resources of the Executive branch should be explored for the purpose of establishing an affirmative program to encourage persons to register and vote. Such a program should: (a) assure better dissemination of information concerning the right to vote and the requirements of registration, and (b) provide training and education to foster better understanding of the rights and duties of citizenship and the significance of voting, and to encourage persons to register and vote. Congress should repeal the 1967 amendment to the Economic Opportunity Act of 1964 prohibiting the use of program funds and personnel for nonpartisan voter registration activity.*

In two 1965 reports, Voting in Mississippi and The Voting Rights Act . . . The First Months, the Commission recommended an affirmative Federal program of citizenship training and voter registration. Now, as then, there are counties in the South where Negro voter registration is disproportionately low. In these areas, the effects of past discrimination against Negroes in the voter registration process have not yet been overcome. Although private civil rights organizations have an important role in this area, they lack the resources to finance and direct voter registration drives in all such counties, and few political party organizations have undertaken major drives to register Negro voters. The right to vote will not be realized fully unless the burden of taking affirmative action to

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encourage registration is shared by the Federal Government. Assistance and encouragement should not be confined to one class of citizens, but should be offered to all citizens regardless of race. Such a nonpartisan program is no more "political" in nature than Federal programs to remove obstacles to registration and voting, including proposed measures to eliminate residence requirements for voting in Presidential elections.

To assure better dissemination of registration and voting information, consideration should be given to the use of branch facilities and personnel of such agencies as the Post Office and the Department of Agriculture. To provide citizenship training and voter education and to encourage persons to register to vote, consideration should be given to the use of programs of adult education, literacy, and community action which are administered by the Department of Health, Education, and Welfare, the Department of Agriculture, the Department of Labor, and the Office of Economic Opportunity.

Implementation of such an affirmative citizenship training and voter registration program would be hindered by a 1967 amendment to the Economic Opportunity Act of 1964 which prohibits the use of funds or personnel for the Administration's war on poverty in connection with "any voter registration activity." While there is a legitimate interest in prohibiting use of Government funds or personnel for partisan political purposes, the injunction should not be so broad as to cover politically neutral voter registration and citizenship training efforts necessary in some areas to remedy historic patterns of discrimination.

2. ***The Federal Government should publish and disseminate information about qualifying for office, the rights of candidates and voters, and the duties of election officials in those States in which tests and devices are suspended.***

In some areas prospective Negro candidates have had difficulty obtaining information about how to qualify to run for public and party office and other election information. In those States in which tests and devices are suspended, the Federal Government itself should provide this information. Under the Federal Voting Assistance Act of 1955, the Department of Defense currently provides information on State laws concerning voting and elections to members of the armed forces and Executive agencies of the Federal Government and their spouses and dependents.

3. ***The Federal Government should encourage the growth of local legal services programs, particularly in rural areas, and these should be authorized to render assistance to candidates in securing election information.***

Because many prospective Negro candidates cannot afford private attorneys, and because of the limited number of attorneys in the South willing to advise Negroes in civil rights or political matters, local legal

services programs operated by the Office of Economic Opportunity could play an important role in guiding prospective Negro candidates through the procedural requirements of running for office and in securing other election information. Funding of legal services programs is spotty throughout the South, and there are few programs in rural areas. More funds should be made available for such programs, particularly in the rural South.

Federal Programs to Reduce Economic Dependence

The Federal Government should undertake to reduce the economic dependence of Negroes to permit them to participate freely in voting and political activity.

It should be recognized that many of the problems described in this report can be overcome only by eliminating the economic dependence of Southern Negroes upon white landlords, white employers, and white sources of credit—dependence which deters Negroes from voting freely and seeking political office. To the extent that existing programs are capable of contributing to a reduction of such dependence, they should be fully implemented. The Commission is conducting investigations of problems of economic insecurity facing Negroes in the South and hopes to contribute along with other agencies to an understanding of the specific steps that should be taken to deal with such problems.

National Political Parties

The national political parties should take immediate steps to require State political party organizations, as a precondition to the seating of their delegations at their national conventions, to—

(1) ***eliminate all vestiges of discrimination at every level of party activity including primary elections, meetings, and conventions, and the election and appointment of party officials;***

(2) ***publicize fully, in such manner as to assure adequate notice to all interested parties (a) the time and place of all public meetings of the party at every level, in places accessible to, and large enough to accommodate, all party members; (b) a full description of the legal and practical procedures for selection of party officers and representatives at every level; and (c) a full description of the legal and practical qualifications for all officers and representatives of the party at every level; and***

(3) *take affirmative steps to open activities to all party members regardless of race.*

Prompt action by the national political parties before and at their forthcoming conventions could obviate the need for legislation by Congress to establish specific guidelines covering the activities of political parties to assure the accomplishment of these objectives.

As this report documents, Negroes continue to be excluded from full and equal participation in political party affairs, including precinct mass meetings and conventions, in some areas of the South. While some State party committees have taken affirmative steps of varying scope to overcome past discrimination by encouraging Negro participation, progress overall has been limited.

The national party organizations have not promulgated public and binding rules that afford full and equal participation in every aspect of party affairs—whether or not directly related to the choice of delegates to the national conventions. These rules should provide for the denial to the offending State party organization of the right to have its delegation seated at the national party convention and, in appropriate circumstances, the seating of a challenging delegation pledged to afford full and equal participation to Negroes. Absent such action by the national party organizations, it may be necessary for Congress to implement further the 15th amendment by promulgating specific guidelines governing the activities of political parties to insure that this objective is achieved.

New Legislation to Prevent Discrimination and Intimidation

1. ***Congress should (a) broaden the Civil Rights Act of 1968 to provide criminal penalties for intimidation of campaign workers and to reach economic as well as physical intimidation; (b) authorize victims of intimidation in connection with all forms of protected political activity to bring civil actions for damages and injunctive relief; and (c) provide that where a claim of intimidation in connection with voting or political activity is made in a civil case, a rebuttable presumption of unlawful motive shall arise upon a showing that the defendant has applied or threatened any physical or economic sanction against the plaintiff related in time to his voting or other political activity.***

Present Federal statutes are inadequate to protect Negroes who seek to exercise their right to vote and engage in political activity from harassment and intimidation by physical or economic means. While Section 11(b) of the Voting Rights Act, taken with Section 12 of the Act, provides penalties for intimidation of persons "for voting or attempting

to vote," "for urging or aiding any person to vote or attempt to vote," and for exercising powers and duties under the Act, the provision does not expressly cover persons acting as candidates, campaign workers, poll watchers, or election officials.

The recently enacted Civil Rights Act of 1968 provides criminal penalties for intimidation of persons engaging in "voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election." This bill, however, does not cover campaign workers, extends only to intimidation by "force or threat of force" and therefore does not cover economic intimidation, and does not provide for civil actions for damages or injunctive relief.

Civil cases brought by the Department of Justice to protect persons exercising voting rights from intimidation, especially economic harassment, often have not been successful because of the difficulties of proving the motive of the defendant. It would be reasonable and would facilitate proof, to establish a rebuttable presumption of unlawful motive when the alleged intimidatory act and the exercise of protected rights are closely related in time.

2. ***Congress should evaluate, after the 1968 elections, whether practices such as those described in this report persist in States and political subdivisions in which tests and devices are suspended. If such practices continue to exist, Congress should extend the suspension in such States and subdivisions for an additional period of time. In making its judgment, Congress should consider the facts in this report and whether remedial steps have been taken by the States and localities involved.***

By the terms of the Voting Rights Act, after August 6, 1970, States and political subdivisions in which voter registration tests were suspended will be free to petition a three-judge Federal district court in the District of Columbia for the right to resume the use of such tests. They will be permitted to do so if the district court finds that no test or device has been used in the State during the preceding five years for the purpose of discrimination. This provision will permit almost all States and subdivisions where these tests are now suspended to restore the use of literacy and constitutional interpretation tests, moral character tests, and voucher devices, and to require persons now on the registration rolls to meet such tests as a condition of voting in the future.

After the 1968 elections Congress should evaluate whether to fully implement the 15th amendment it is appropriate to continue suspension of these tests and devices. One of the factors which Congress should consider is whether practices such as those described in this report continue to exist. The purpose of suspending tests in the Voting Rights Act was to secure full enfranchisement of Negro citizens. So long as barriers continue

to exist the Federal Government cannot with confidence allow reinstitution of the tests.

3. ***In its evaluation Congress should determine whether the steps taken by the Department of Justice and the voluntary actions of political parties have eliminated patterns of discrimination against Negro voters and candidates in particular political subdivisions. If Congress determines that these actions have not proved effective, it should consider legislation giving the Federal Government greater control over the electoral process, including provisions authorizing Federal observers to render assistance to voters in marking and casting their ballots where the Attorney General determines that such assistance is necessary to secure 15th amendment rights.***

Experience under the Voting Rights Act indicates that although there has been significant general progress, officials in some counties continue to flout the law. In 1965, Congress enlarged Federal control of the registration process when experience demonstrated that discrimination persisted under earlier statutes despite extensive litigation. Similarly, if resistance continues to be maintained notwithstanding the Voting Rights Act and its enforcement, it may become necessary for Congress to give the Federal Government greater control over the electoral process in these hard-core areas. Such legislation might include provisions authorizing Federal observers to render assistance to voters in marking or casting their ballots where the Attorney General makes a specific determination that such assistance is necessary to secure 15th amendment rights.

Statement of Commissioner Patterson

One troubling aspect of this report is the evidence that notwithstanding some progress, there are Democratic and Republican Party organizations which neither are affording Negroes equal opportunity to participate nor taking meaningful affirmative steps to overcome the deterrent effects of past discrimination. The elimination of discrimination in the affairs of political party organizations and affirmative efforts to involve Negroes are not only constitutional imperatives, but also are in the practical interest of both major political parties and of our two party system of government. Negroes constitute a substantial and growing segment of the registered voters in many States. It is in the interest of national and local political party organizations to bring these new Negro voters—many of whom are forming independent political organizations—into their own folds. It would be undesirable indeed if the two major political parties in any area of the country became identified with white voters and Negroes were impelled to seek a political voice through separate parties.

Statement of Commissioner Rankin

I do not favor the repeal of the 1967 amendment to the Economic Opportunity Act of 1964. Because of the difficulty of defining and engaging in nonpartisan voter registration activity and the ease with which nonpartisan activity becomes partisan, I believe that this restriction serves a good purpose.

APPENDIX I

The Constitutional Duty of Political Parties Not to Discriminate on the Grounds of Race or Color

The 14th and 15th amendments require political parties to afford full and equal participation to Negroes in all aspects of party affairs which are related in any way to the choice of public officials. This includes primary elections, meetings, or conventions at which candidates for public office are chosen, or at which party officials who play a role in the management of such elections, meetings, or conventions are selected. Congress, which has the power to implement the 14th and 15th amendments by "appropriate legislation", may enact such legislation as may be necessary and proper to implement this requirement.

The courts have long recognized the important role of political parties in the electoral process, a process which was opened to Negroes by the 15th amendment. Early cases involved Article I, Section 4 of the Constitution, which gives Congress the power to regulate "the manner of holding elections" of Senators and Representatives. In *Newberry v. United States* [1] the issue was whether Congress under Article I, Section 4 could restrict the amount to be spent by a candidate for Federal office in his campaign. Four Justices construed the Federal power narrowly, to exclude primaries from the "elections" referred to in Article I, Section 4. A fifth Justice concurred for different reasons. Nevertheless, the opinion of the Court recognized that primaries affect the outcome of elections and lay the foundation for subsequent holdings that Federal power extends to this area.

Four Justices would have construed the power of Congress to regulate elections to extend to primaries. According to an opinion concurred in by three of them, "primary elections and nominating conventions are so closely related to final election, and their proper regulation so essential to effective regulation of the latter, so vital to representative government, that power to regulate them is within the general authority of Congress." [2]

The issue of the power of Congress to regulate primary elections under Article I, Section 4 was settled in *United States v. Classic*,[3] where the Court had to decide whether Federal criminal statutes protecting the exercise of "any right or privilege secured . . . by the Constitution" [4] could be constitutionally construed to cover the right of voters to have their votes counted in congressional primaries without fraud or unlawful interference. The Court held that Congress had the power to protect the right of citizens to

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[1] 256 U.S. 232 (1921).
[2] Id. at 285.
[3] 313 U.S. 299 (1941).
[4] Sections 19 and 20 of the Criminal Code, 18 U.S.C. §§ 51, 52, now 18 U.S.C. §§ 241, 242 (1964).

vote in a congressional primary [5] against infringement "where the primary is by law made an integral part of the election machinery." [6]

The principles of *Classic* soon were applied to the problem of the exclusion of Negroes from the party nominating process, which had been the subject of another developing line of cases.

The institution of the Southern "white primary" had been challenged in a number of cases. In *Nixon v. Herndon* [7] a Texas statute declaring that "in no event shall a Negro be eligible to participate in a Democratic party primary election" [8] was held in violation of the equal protection clause of the 14th amendment. Subsequently, the State executive committee of the Texas Democratic Party voted to limit primary participation to white Democrats, pursuant to a Texas statute empowering the executive committee to determine the qualifications of party members for voting or participation.[9] The Court held in *Nixon v. Condon* [10] that the committee was the "delegate" of the State and that its action therefore constituted discriminatory "state action" in violation of the 14th amendment. In *Grovey v. Townsend*,[11] however, the action of the State convention of the Texas Democratic Party in excluding Negroes from participating in party primaries, without a statute such as the one in *Condon*, was held to be private action with which "the State need have no concern" and which did not deprive Negroes of any rights under the 14th and 15th amendments.

The Supreme Court overruled *Grovey* in *Smith v. Allwright*.[12] The decision in *Classic*, "fusing . . . the primary and general elections into a single instrumentality for choice of officers," [13] had cast doubt upon the rationale of *Grovey* that party primaries did not constitute State action. In *Allwright* the Court held that the Texas statutory scheme for regulation of primaries made the action of the party "state action." Discrimination against Negro voters in party primaries was therefore held to violate the 15th amendment.

Southern attempts to avoid the effects of *Allwright* led to a broadening of its doctrine. In *Rice v. Elmore* [14] the Court of Appeals for the Fourth Circuit held that in South Carolina, where State law relating to general elections gave effect to the results of party primaries, such primaries were part of the election machinery of the State, even though all of the State's laws regulating primaries had been repealed. In *Brown v. Baskin* [15] the same court, following *Elmore*, invalidated a "test oath" prescribed by the South Carolina Democratic Party as a prerequisite for voting in primaries, on the ground that it was clearly designed to exclude Negro voters.[16]

Finally, in *Terry v. Adams* [17] the Supreme Court considered the consti-

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[5] U.S. Const., art. I, § 2.
[6] 313 U.S. at 318.
[7] 273 U.S. 536 (1924).
[8] Id. at 540.
[9] Nixon v. Condon, 286 U.S. 73, 82 (1932).
[10] 286 U.S. 73 (1932).
[11] 295 U.S. 45 (1935).
[12] 321 U.S. 649 (1944).
[13] Id. at 660.
[14] 165 F.2d 387 (4th Cir. 1947), *cert. denied*, 333 U.S. 875 (1948).
[15] 174 F.2d 391 (4th Cir. 1949).
[16] These cases were followed in Perry v. Cyphers, 186 F.2d 608 (5th Cir. 1951).
[17] 345 U.S. 461 (1953).

tutional power of a Texas county political association, the Jaybird Democratic Association, to exclude Negroes from its primaries. These primaries took place before the regular Democratic primary, but had a decisive effect on that primary and on every county election. The Supreme Court adopted the view of the Fourth Circuit that no election machinery could be sustained if its purpose and effect was to deny Negroes on account of their race an effective voice in the governmental affairs of their county, State, or community. The Supreme Court stated that the 15th amendment protects access by Negroes to "any election in which public issues are decided or public officials selected." [18]

The foregoing decisions left open the question of whether the 14th or 15th amendments reach primary elections at which only party officials or delegates to party conventions—rather than party nominees for public office—are chosen. In *Smith v. Paris*,[19] however, the U.S. District Court for the Middle District of Alabama invalidated a resolution of a Democratic Party county executive committee as violative of the 15th amendment even though it governed only the election of party officials.

Until 1966, of the 21 members of the Barbour County (Alabama) Democratic Executive Committee, 16 had been elected by beats. Prior to March 1966 no Negro had ever qualified to run as a member of the committee, and prior to the Voting Rights Act of 1965 few Negroes in the county were registered to vote. By March 1966, because of the Voting Rights Act, four beats had a majority Negro voting population, and several Negroes had qualified to run for the committee. During that month the county executive committee changed the method of electing committee members so that the 16 members previously elected by beats were elected on an at-large basis, although each candidate was still required to reside within a particular beat and to represent that beat. The court found that "if the election had been held under the system that had previously been in force . . . three . . . [Negroes] would very likely have been elected. Under the countywide vote system . . . all . . . were defeated by substantial majorities."[20] The court concluded that the method of electing committee members established by the executive committee "was born of an effort to frustrate and discriminate against Negroes in the exercise of their right to vote, in violation of the Fifteenth Amendment and 42 U.S.C. § 1981." [21] Given the circumstances of the committee's resolution, the court thought the inference of a discriminatory purpose compelled.

Although the court in *Smith v. Paris* did not give a rationale for holding the 15th amendment applicable to a party requirement governing an election to party office as distinguished from an election in which candidates for public office were nominated, such a rationale is easily supplied. Party offi-

[18] Id. at 468. Once the principle is established that primaries are an integral part of the State election process, and that political parties are agencies of the State subject to 14th and 15th amendment obligations when they manage party primaries, further duties follow. Not only must party officials not engage in racial discrimination as to voters in party primaries, but they must not discriminate on the basis of race in the selection of election officials, in according poll watchers their statutory rights, and in all other matters relating to the conduct of primary elections.

[19] 257 F. Supp. 901 (M.D. Ala. 1966) (Johnson, J.).

[20] Id. at 903.

[21] Id. at 904.

cials have a role in determining the persons who shall conduct primary elections to nominate candidates for public office, and in conducting the meetings and conventions which ultimately produce the delegates to the national conventions, who in turn choose the presidential and vice presidential nominees.[22]

An additional question is whether the 14th or 15th amendment reaches party activities other than primary elections—such as precinct meetings and conventions—at which nominees for public office, party officials, or convention delegates are selected.

When party nominees for public office are selected by means of party meetings and conventions, these meetings and conventions are in effect the primary election, and the constitutional restrictions associated with the conduct of party primaries must also apply. When the purpose of the mass meetings and conventions is to select party officials only, these meetings and conventions are still an "integral part of the procedure of choice" [23] of public officials because the party officials selected at these meetings and conventions are responsible in most States for the management of the primary election process itself. Further, in several States these party precinct meetings and county and State conventions are important steps in the process which leads to the selection of the national party candidates for President and Vice President of the United States. In States which do not have presidential primaries, attendance at the precinct meetings may be the only opportunity the ordinary voter has to influence the selection of his party's presidential and vice presidential nominees.[24]

The inclusion of party meetings and conventions within the ambit of the Constitution was recognized in *United States v. Fayette County Democratic Executive Committee*.[25] There the county Democratic executive committee had conducted a white primary election from which Negroes were excluded. After a complaint against the county committee charging violations of the 15th amendment was filed by the Department of Justice, the parties agreed to an injunction against the county committee excluding voters on account of their race from effectively participating in "any election." The decree defined "election" to include "the election *or selection of persons for public or political party office or political committee membership,* whether by means of voting *or by means of a convention.*" [26]

Political parties have a constitutional obligation not only to refrain from

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[22] In Section 14(c)(1) of the Voting Rights Act of 1965 ,42 U.S.C. § 1973*l*(c)(1) (Supp. II, 1967), Congress expressly defined the right to vote which was protected by that Act to include the right to vote "with respect to candidates for public *or party office* . . ." (emphasis added) This section is discussed more fully in Appendices II and III infra.

[23] United States v. Classic, 313 U.S. at 318.

[24] See Part IV supra.

[25] 5 Race Rel. L. Rep. 421 (W.D. Tenn. 1960).

[26] Id. at 422 (emphasis added).

A judicial recognition of the convention chain between the voter and national presidential and vice presidential nominees appears in *Stassen for President Citizens Committee v. Jordan,* 377 U.S. 927 (1964). California has a presidential party primary to choose the person whom the State delegation will support as the presidential nominee at the national convention, in lieu of making that selection at the county and State

Footnote continued on following page.

discrimination in all aspects of their affairs but also to take affirmative steps to overcome the effects of their own past discrimination.

It is settled that a State is under an affirmative duty to take whatever corrective action is necessary to undo the harm it created and fostered by its own discrimination or that of its agent.[27] Political party organizations—agencies of the State when their activities constitute an integral part of the electoral process—are not exempt from this constitutional obligation. Their responsibility to take affirmative action to involve Negroes in party affairs arises, in part, from past exclusion of Negroes from party primary elections throughout the South [28] and from continued efforts to exclude Negroes after the white primary was judicially invalidated.[29] Further, every political party organization in the South, through the operation of State statutes or party rules, has conditioned or now conditions party membership and participation in party primaries and mass meetings at which officers are selected, upon being a registered voter,[30] thus incorporating by reference the widespread

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conventions. Petitions to place Stassen's name on the primary ballot were challenged as bearing signatures which were not on the county clerk's indices. The Supreme Court of California upheld the challenge and the U.S. Supreme Court denied certiorari, 377 U.S. 914 (1964). Mr. Justice Douglas, joined by Mr. Justice Goldberg and Chief Justice Warren, dissented from the denial of certiorari. The names were not on the indices, he argued, not through any fault of the voter, "but for reasons that relate solely to the administrative convenience of the county clerks." Id. at 928. This, in the opinion of the three Justices, violated the voter's right to participate in the nominating process. Justice Douglas reasoned that congressional primaries had been held subject to constitutional requirements in the *Classic* and *Terry* decisions and then noted that the *Stassen* case differed only in that the voter was participating in choosing a nominee for his State delegation to support. He stated:

> The "mode of choice" [*United States v. Classic*, 313 U.S. at 316] in California for Presidential candidates is first, the nominating petition, second, the primary, third, the convention, and fourth, the general election. That fact that the "mode of choice" is enlarged to four stages is irrelevant to the constitutional purpose to protect "the free choice" of the people (ibid.) in federal elections.

[27] See United States v. Louisiana, 380 U.S. 145 (1965); United States v. Duke, 332 F.2d 759 (5th Cir. 1964) (discrimination in voter registration); and United States v. Jefferson County Board of Education, 372 F.2d 836 (5th Cir. 1966), *aff'd on rehearing en banc*, 380 F.2d 385 (5th Cir. 1967), *cert. denied*, 389 U.S. 840 (1967) (segregation in public schools). See also Cox, Constitutional Adjudication and the Promotion of Human Rights, 80 Harv. L.R. 91, 93 and passim.

[28] Nixon v. Herndon, supra note 7; Nixon v. Condon, supra note 10; Smith v. Allwright, supra note 12; Terry v. Adams, supra note 17; Rice v. Elmore, 165 F.2d 387 (4th Cir. 1947); United States v. Fayette County Democratic Executive Committee, 5 Race Rel. L. Rep. 421 (W.D. Tenn. 1960).

[29] See pp. 8–10 supra. See also V.O. Key, Jr., Southern Politics in State and Nation 625–63 (1948).

[30] Ala. Code, tit. 17, §§ 1, 12 (1958); Alabama State Democratic Executive Committee Resolution of Jan. 29, 1968; Arkansas Democratic Party Rules § 2(b) (Reprint 1960); Arkansas Republican Party Rules, § 1 (adopted Sept. 3, 1966); Fla. Code § 97.031 (1967); Georgia State Democratic Executive Committee Rules Governing Democratic Primary Elections, Rule 2 (adopted May 19, 1966); Georgia Republican Party Rules for the Nomination of Candidates by Primary Elections of 1966, Rule 3 (adopted May 7, 1966); La. Rev. Stat. § 18:306 (1951); Miss. Code § 3235 (Supp. 1966); North Carolina Democratic Party Plan of Organization, art. I, § 4 (Rev. January 1964); North Carolina Republican Party Plan of Organization, art. I, § 1 (adopted Mar. 12, 1966); N.C. Stat. § 163–104 (Supp. 1967); South Carolina Democratic Party Rules, Rule 6 (adopted Mar. 24, 1954, as amended 1964); South Carolina Republican Party Rules, Rule 4(c)(3) (adopted May 26, 1962); Tenn. Code § 2–815 (1955); Tennessee Republican Party Rules at 17 (adopted Oct. 7, 1967); Virginia Democratic Party Plan of Organization, Primary Plan at 11 (as amended through July 17, 1952); Virginia Republican Party Plan of Organization, art. 1, § 1 (as amended through June 17, 1967).

discrimination in the voter registration process which the Voting Rights Act was designed to correct. Finally, since the passage of the Voting Rights Act many Southern political party organizations have engaged in acts of discrimination or have failed to correct incidents of discrimination such as those described in this report.[31]

[31] See generally Part III supra.

APPENDIX II

Applicability of Section 5 of the Voting Rights Act to Party Rules

Section 5 of the Voting Rights Act of 1965 [1] provides that whenever any "State or political subdivision" in which voter registration tests and devices have been suspended attempts to enact or enforce "any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting" different from that in force on November 1, 1964, it must first obtain a declaratory judgment of the United States District Court for the District of Columbia that the new qualification or standard does not have the purpose or effect of denying or abridging the right to vote on account of race. This procedure may be circumvented only if the new qualification or standard has been submitted to the United States Attorney General and he has not objected to its enforcement within 60 days after it has been submitted to him. Section 5, which clearly reaches State legislation and local ordinances, may fairly be interpreted to cover party rules and procedures as well.

The Supreme Court has held that in prohibiting "any State" from denying or abridging the right of citizens to vote on account of race or color, the 15th amendment erects a barrier to discriminatory party rules which deny or abridge the right to vote or to participate in the procedure by which parties choose their nominees.[2] The reasoning applied by the Supreme Court in holding that discriminatory party rules are subject to 15th amendment limitations is equally applicable here. In *Smith v. Allwright* the Supreme Court held that

> state delegation to a party of the power to fix the qualifications of primary elections is delegation of a state function that may make the party's action the action of the state.[3]

The Court in *Allwright* concluded that because the primary elections in that case were conducted by the party under State statutory authority, the party became an agency of the State and the resolution of the State party convention excluding Negroes was the action of the State for purposes of the 15th amendment.

In States where tests are suspended by the Voting Rights Act, political parties similarly are regulated by State statutory provisions and are delegated certain powers and duties with regard to primary elections and the selection of party officials. In these States, political parties are given rule-making

[1] 42 U.S.C. § 1973c (Supp. II, 1967).

[2] Smith v. Allwright, 321 U.S. 649 (1944) (resolution of State party convention) Nixon v. Condon, 286 U.S. 73 (1932) (resolution of party State executive committee). See also Smith v. Paris, 257 F. Supp. 901 (M.D. Ala. 1966) (rule of county executive committee).

[3] 321 U.S. at 660.

power which is exercised to regulate and control the selection of party nominees for public office and of party officials. The delegation by the State of this authority and responsibility to a political party must make the party's action in passing such rules the action of the State for purposes of the 15th amendment and Section 5.

Congress indicated its intention that Section 5 cover party rules in its definition of "voting" (which is used in Section 5) contained in Section 14(c)(1) of the Act:

> The terms "vote" or "voting" shall include all action necessary to make a vote effective in any *primary*, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public *or party office* and propositions for which votes are received in an election.[4]

In enacting this definition, Congress must have known that there are States to which Section 5 applies where primary elections and the election of party officials are regulated by party rules, as well as State statutes. Indeed, in some States, the manner of selection of party officials is regulated almost entirely by party rules.[5] Therefore, if the right to vote as defined in Section 14(c)(1) is to be protected, Congress must have intended, and Section 5 must be interpreted, to include party rules.

Section 5, moreover, was enacted because of congressional anticipation, in light of past experience, that once their voter registration tests were suspended, States and subdivisions covered by the Act would institute new devices violating the 15th amendment. To interpret the Section 5 proscription less broadly than the 15th amendment itself would permit circumvention of the Act through discriminatory party rules or procedures, just as, after the white primary was declared unconstitutional in *Allwright*, certain States tried to circumvent the 15th amendment by repealing all legislation regulating primaries, thereby giving the parties a free hand to exclude Negroes.[6] It follows that States and political subdivisions in which tests are suspended are obligated by Section 5 of the Voting Rights Act to see that changes in party rules are submitted to the Attorney General for his approval or that the approval of the U.S. District Court for the District of Columbia is obtained.

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[4] 42 U.S.C. § 1973*l*(c)(1) (Supp. II, 1967) (emphasis added).

[5] For example, in Alabama, political parties may choose by party rule or resolution whether to hold primary elections or not and may establish rules and procedures governing the conduct of primaries and the selection of party officials. Ala. Code, tit. 17, § 336 (1958). County executive committees may hold elections for the selection of members, but are free to abolish elections and to establish their own rules for the selection of members. Ala. Code, tit. 17, § 342 (1958).

[6] See pp. 8–10 supra.

APPENDIX III

Authority to Assign Observers to Party Meetings and Conventions

Section 8 of the Votings Rights Act of 1965 [1] provides for the assignment at the request of the Attorney General of Federal observers to political subdivisions designated for Federal examiners. The function of the Federal observer is:

> (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permited to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated.

The Department of Justice has interpreted Section 8 to permit the assignment of observers to monitor primary, special, and general elections, but has not yet assigned Federal observers to elections of party officials or party nominees by means of precinct or mass meetings and county or State conventions.

The assignment of Federal observers to these meetings and conventions is authorized by the Act. The term "election" fairly embodies meetings and conventions at which party nominees and officials are chosen. See *United States v. Fayette County Democratic Executive Committee*,[2] where the final judgment, consented to by the parties, enjoined the county Democratic executive committee from excluding any voter on account of his race from participating in "any election," which was defined to include party primaries and party conventions.

Although no definition of "election" is provided either in Section 8 or elsewhere in the Act, a definition including in its coverage any election in which party officials or nominees are chosen can be inferred from the definition of "vote" and "voting" contained in Section 14(c)(1): [3]

> The terms "vote" and "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

Representative Jonathan B. Bingham, the author of an amendment which expanded the definition of "vote" in Section 14(c)(1), indicated on the floor of the House of Representatives that he viewed "all action necessary

[1] 42 U.S.C. § 1973f (Supp. II, 1967).
[2] 5 Race Rel. L. Rep. 421 (W.D. Tenn. 1950).
[3] 42 U.S.C. § 1973*l*(c)(1) (Supp. II, 1967).

to make vote effective in any primary, special, or general election" is including participation in party conventions. He stated:

> I recommended the addition of language which would extend the protection of the bill to the type of situation which arose last year when the regular Democratic delegation from Mississippi to the Democratic National Convention was chosen through a series of Party caucuses and conventions from which Negroes were excluded.[4]

[4] 111 Cong. Rec. 16273 (1965).

APPENDIX IV

Voting Rights Act of 1965

79 Stat. 437, 42 U.S.C. § 1973

AN ACT

To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965."

SEC. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.

SEC. 3. (a) Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided,* That the court need not authorize the appointment of examiners if any incidents of denial or abridgment of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) If any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or po-

litical subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided,* That no such declaratory judgment shall issue with respect to any plaintiff for a period of five years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgements of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the five years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(e) (1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school, in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

SEC. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory

judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided,* That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity: *Provided,* That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7. (a) The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine

applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in according with subsection (d): *Provided,* That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

SEC. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission

shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 10. (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the francise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment and section 2 of the fifteenth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the

United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purposes of this section.

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political subdivision with respect to which determinations have been made under subsection 4(b) and a declaratory judgment has not been entered under subsection 4(a), during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to elections, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this Act to make an application for listing, and shall issue a receipt for such payment. The examiner shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant.

SEC. 11. (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accept payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in

part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, or Delegates or Commissioners from the territories or possessions, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a) or (b), shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) or (b) shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order of temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c) (1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 of this Act, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial

district of the United States: *Provided,* That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Approved August 6, 1965.

APPENDIX V

Observation of Elections Under the Voting Rights Act of 1965[1]

(as of December 15, 1967)

Type of election	*Date of election*	*County or Parish*
ALABAMA		
1st general primary	May 3, 1966	Dallas, Greene, Hale, Marengo, Perry, Sumter.
2d general primary	May 31, 1966	Greene, Hale, Marengo, Perry, Sumter.
General	Nov. 8, 1966	Choctaw, Dallas, Greene, Hale, Lowndes, Marengo, Perry, Sumter, Wilcox.
GEORGIA		
General	Nov. 8, 9, 10, 1966	Hancock.
LOUISIANA		
Democratic primary	Aug. 13, 1966	E. Carroll, E. Feliciana, W. Feliciana, Madison, Ouachita, Plaquemines.
Democratic runoff	Sept. 17, 1966	E. Carroll, E. Feliciana, W. Feliciana, Madison, Ouachita.
General	Nov. 8, 1966	E. Feliciana, W. Feliciana, Madison, Ouachita, Plaquemines.
Democratic primary	Nov. 4, 1967	Desoto, Madison, E. Carroll, E. Feliciana, W. Feliciana, Plaquemines.
Democratic runoff	Dec. 16, 1967	E. Carroll, Madison.

[1] The information in this appendix was obtained from the U.S. Civil Service Commission. Federal observers attended the elections specified in the table in the counties and parishes indicated.

Type of election	*Date of election*	*County or Parish*
MISSISSIPPI		
1st general primary	June 7, 1966	Carroll, Claiborne, Clay, Holmes, Humphreys, Jasper, Jefferson, Jefferson Davis, Jones, Leflore, Madison, Neshoba, Noxubee, Rankin.
General	Nov. 8, 9, 10, 1966	Carroll, Claiborne, Clay, Franklin, Grenada, Hinds, Holmes, Humphreys, Jasper, Jefferson, Jefferson Davis, Jones, Leflore, Madison, Neshoba, Noxubee.
Municipal	Nov. 22, 1966	Leflore.
Municipal	Feb. 3, 1967	Grenada.
Municipal runoff	Feb. 27, 1967	Grenada.
Municipal	May 2, 1967	Moorehead, Sunflower.
Municipal runoff	May 22, 1967	Sunflower.
1st primary	Aug. 8, 9, 10, 1967.	Amite, Carroll, Claiborne, Clay, Coahoma, Desoto, Forrest, Franklin, Grenada, Hinds, Holmes, Humphreys, Issaquena, Jasper, Jefferson, Jones, Leflore, Madison, Marshall, Neshoba, Noxubee, Oktibbeha, Rankin, Sharkey, Simpson, Sunflower, Wilkinson.
2d primary	Aug. 28, 29, 30, 1967.	Benton, Carroll, Claiborne, Coahoma, Grenada, Holmes, Humphreys, Jefferson, Leflore, Madison, Marshall, Neshoba, Noxubee, Wilkinson.
General	Nov. 7, 1967	Bolivar, Carroll, Hinds, Holmes, Issaquena, Madison, Rankin, Sunflower, Wilkinson.
SOUTH CAROLINA		
1st general primary	June 14, 1966	Clarendon, Dorchester.
2d general primary	June 28, 1966	Clarendon.

APPENDIX VI

Negroes Holding Public Office in the South [1]

(as of February 1, 1968)

ALABAMA

Sheriff:		
Macon County	Lucius Amerson	1966.[2]
Mayor:		
Triana	Clyde Foster	
Hobson City	J. R. Striplin	1964.
City Council:		
Triana	David Barnes	
	Mrs. Jessie J. Bennie	
	Joe L. Fletcher	
	William Griffin	
Tuskegee	William Peterson	1966.
	Dr. Stanley H. Smith	1964.
	Dr. T. S. Williams	1966.
Hobson City	Lee D. Young	1964.
	C. R. Atkinson	1964.
	Charles Dumas	1964.
	A. Snow	1964.
	Charles Staton	1964.
School Board:		
Greene County	Rev. Peter Kirksey	1966.
Macon County	Dr. Charles Gomillion	1964.
	Mrs. Elizabeth H. Richardson	1965.
Board of Revenue:		
Macon County	Rev. V. A. Edwards	1964.
	Harold Webb	1966.
Tax Collector:		
Macon County	L. A. Locklair	1966.
County Coroner:		
Sumter County	James R. Weatherly	1966.
Justice of the Peace:		
Macon County	William C. Allen	1964.
	William C. Childs	1964.

[1] The information in this appendix was obtained from the Voter Education Project of the Southern Regional Council.

[2] The year designates the year of election.

ARKANSAS

School Board:

Bradley County		
Banks District	Shuley Lovett	1967.
Chicot County		
Eudora	Mrs. Mable Allen	1967.
Columbia County		
Walker	T. L. Story	1967.
	John Holmes	1967.
	Louis Copers	1967.
Conway County		
East Side	R. E. Hemphill	1967.
	J. D. Hammond	1967.
	Cain Crockran	1967.
	Ladell Morris	1967.
	Sammie A. Criswell	1967.
Jefferson County		
County District	Frank Hunter	1967.
	C. W. Olloway	1967.
	Jethro Fair	1967.
Dollarway	Arthur H. Miller	1967.
Linwood	J. C. Hamilton	1967.
	Dennis Curry	1967.
	DeArthur Grice	1967.
Sherrill	Mrs. Minnie Macklin	1967.
Wabbaseka	James Sims	1967.
	Andrew Walker	1967.
Barnes	C. W. Olloway	1967.
Little River County		
Ashdown	Donald Mills	1967.
Nevada County		
Oak Grove	Ira J. Tidwell	1967.
	Oscar Johnson	1967.
	Aaron Thompson	1967.
	Ivory Murphy	1967.
	Syble Dockery	1967.
Pulaski County		
Little Rock	T. E. Patterson	1967.
Sevier County		
County District	D. B. Bell	1967.
	Earl Austin	1967.
	Mervin Bell	1967.
	R. C. Cravens	1967.
	Joe Walls	1967.

FLORIDA

City Commission:		
Vero Beach	William Blackshear	
Miami	Mrs. Athalie Range	Appointed 1966, elected 1967.
Dania	Boisy Waiters	1966.
Melbourne	Nathaniel Nicolas	
City Council:		
Daytona	James Huger	1965.
Jacksonville	Mrs. Sallye Mathis	1966.
	Mrs. Mary Singleton	1966.
	Oscar Taylor	1967.
	Earl Johnson	1967.
Lawtey	Robert Scott	
Rivera Beach	Bobbie Brooks	
West Palm Beach	F. Malcolm Cunningham	
Delray Beach	O. F. Youngblood	1967.
Fort Pierce	Jackie Kenoe	
School Board:		
Vero Beach	Walter M. Jackson	
Civil Service Board:		
Jacksonville	Charles E. Simmons, Jr.	1967.

GEORGIA

State Senate:		
Fulton County	Leroy Johnson	1962.
	Horace T. Ward	1964.
State House of Representatives:		
Fulton County	William H. Alexander	1965.
	Julian Bond	1965.
	Benjamin D. Brown	1965.
	J. C. Daugherty	1965.
	Rev. J. D. Grier	1965.
	Mrs. Grace T. Hamilton	1965.
	John Hood	1965.
Muscogee County	Albert Thompson	1966.
Richmond County	R. L. Dent	1966.
Board of Aldermen:		
Atlanta	Q. V. Williamson	1965.
County Commissioner:		
Hancock County	James H. Smith	1966.
Liberty County	Earl Baggs	1966.
McIntosh County	Henry Curry	1966.

City Council:		
Augusta	David C. Albert	
	B. L. Dent	1964.
	Rev. C. S. Hamilton	1965.
School Board:		
Atlanta	Dr. Horace C. Tate	1965.
	Dr. A. C. Yancey	Appointed 1967.
Hancock County	Robert Ingram	1966.

LOUISIANA

State House of Representatives:		
Orleans Parish	Ernest N. Morial	1968.
Mayor Pro Tem:		
Grand Coteau	Peter Smith	1965.
School Board:		
East Carroll Parish	F. J. Atlas	1966.
Iberville Parish	J. W. Holmes	1966.
West Feliciana Parish	Raymond Minor	1966.
	Alvin White, Jr.	1966.
City Council:		
Grand Coteau	Russel Richard, Sr.	1965.
	John Bobb, Jr.	1965.
Alderman:		
Crowley	Harry Lee Fusillier	1966.
	Joseph A. Pete	1966.
Maringouin	Reed Greene	1966.
Police Jury:		
Ascension Parish	Raymond Julien	1968.
East Carroll Parish	Watson Sanders	1968.
	Rev. O. L. Virgin	1968.
St. James Parish	Oliver Cooper	1968.
St. John the Baptist Parish	Rudolph Sorapuru	1968.
St. Mary Parish	Joseph M. Davis	1968.
	Anderson Yancy	1968.
West Feliciana Parish	Eddie Davis	1968.
	Ledell Mackie	1968.
	Nathaniel Smith, Sr.	1968.
Constable:		
Natchitoches Parish	Larry Barthazar	1968.
Pointe Coupee Parish	Thomas Nelson	1968.
St. James Parish	Anatale Monduit	1968.
St. John the Baptist Parish	Roland Adams	1968.
	Joseph J. Borne	1968.
St. Landry Parish	Morris Barns	1968.
St. Mary Parish	Ernest Metz	1968.
	Leonard Tardy	1968.

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Justice of Peace:		
Pointe Coupee Parish..	Wesley Albert	1968.
	Charlie Harris	1968.
St. James Parish.....	Sultan Cezar	1968.
	Oliver Cooper	1968.
	Isaac Garritt, Jr	1968.
St. John the Baptist Parish	Whitmore Gordan	1968.
	Harvey Schexnayder	1968.
St. Mary Parish.....	Anderson Broussard	1968.

MISSISSIPPI

State House of Representatives:		
Holmes County.....	Robert Clark	1967.
Mayor:		
Mound Bayou.....	Wesley Liddle	
Vice Mayor:		
Mound Bayou.....	Herman Johnson	
Councilman:		
Mound Bayou.....	R. W. Jones	
	Mrs. Sally W. Griffin	
	Mrs. L. A. Reed	
	Rev. C. L. Woodley	
Constable:		
Adams County.....	Sandy Nealey	1967.
Claiborne County.....	Leander Monroe	1967.
Holmes County.....	Griffin McLaurin	1967.
Issaquena County.....	Melvin Smith	1967.
Jefferson County.....	Earlie Lott, Sr	1967.
Marshall County.....	McEwen Walker	1967.
Supervisor:		
Bolivar County.....	Kermit Stanton	1967.
Claiborne County.....	William Matt Ross	1967.
Jefferson County.....	Sylvester Gaines	1967.
Wilkinson County.....	James Jolliff, Jr	1967.
Chancery Clerk:		
Claiborne County.....	Mrs. Geneva Collins	1967.
School Board:		
Jefferson County.....	Robert Williams	1966.
Coroner:		
Marshall County.....	Osborn Bell	1967.
Justice of the Peace:		
Adams County.....	Rev. W. S. Scott	1967.
Claiborne County.....	Alexander Collins	1967.
Coahoma County.....	Rev. Dan Ferguson	1967.
	Charles Jones	1967.
Issaquena County.....	Matthew Walker	1967.

Jefferson County	Mrs. Martha Lee	1967.
	Willie Thompson	1967.
Madison County	U. S. Rimmer	1967.
Marshall County	James Malone	1967.

NORTH CAROLINA

City Council:		
Southern Pines	Felton J. Chapel	
Winston-Salem	C. C. Ross	
	Carl H. Russell	
Durham	John S. Setward	
	C. E. Boulware	
Lumberton	Rev. E. B. Turner	
Raleigh	Clarence E. Lightner	1967.
Charlotte	Fred Alexander	1965.
Winton	J. Ely Reid	
School Board:		
Hertford County	Howard Hunter	

SOUTH CAROLINA

County Board of Directors:		
Beaufort County	Leroy Brown	1966.
	Dave Jones	1966.
	Booker Washington	1966.
City Council:		
Beaufort	Joseph Wright	1967.
Richland County	Richard Johnson	1967.
	Freddie Campbell	1967.
Sumter County	Willie Jefferson	1967.
Charleston County	St. Julian Devine	1966.
Road Commission:		
Williamsburg County	Paul Murray	1966.
Magistrate:		
Richland County		
Gadsden Precinct	Mrs. Hattie Sims	1966.
Hopkins Precinct	Joseph Stroy	1966.

TENNESSEE

State House of Representatives:		
Shelby County	A. W. Willis	1964.
	J. O. Patterson	1966.
	Russell Sugarmon	1966.
Davidson County	M. G. Blakemore	1966.
	Mrs. Dorothy Brown	1966.
Knox County	Robert J. Booker	1966.

City Council:		
Nashville	Mansfield Douglas	
	John Driver	
	Robert Lilliard	
	Z. Alexander Looby	
	Harold M. Love	
	Robert Scales	
Memphis	Fred L. Davis	1967.
	James L. Netters	1967.
County Court:		
Fayette County	Gladys Allen	1966.
	Herbert Bonner[3]	
	William Hazlitt	1966.
	Sherman Perry	1966.
	Mrs. Geraldine Johnson	1966.
	Charlie Minor	1966.
	Cooper Parks	1966.
Shelby County	Jesse Turner	1966.
	H. T. Lockhard[4]	
Hamilton County	Rev. Robert Richards	1966.
School Board:		
Lauderdale County	Albert Lockard	1966.
Shelby County	Blair T. Hunt	
Magistrate:		
Haywood County 9th District	Dan Nixon	1966.
	A. D. Powell	1966.

TEXAS

State Senate:		
Harris County	Miss Barbara Jordan	1966.
State House of Representatives:		
Harris County	Curtis Graves	1966.
Dallas County	Joseph Lockridge	1966.
City Council:		
Malakoff	I. W. Brown	1966.
Port Arthur	Arthur Guidry	1964.
San Antonio	Rev. S. H. James	1965.
Huntsville	Scott Johnson	1966.
Hearne	John Miles	1966.
Waco	Dr. G. H. Radford	1966.

[3] Elected but never seated.
[4] Now the Governor's Administrative Assistant.

School Board:		
Houston	Asberry Butler	
Dallas	Dr. Emmett J. Conrad	
Beaumont	William H. Taft	1965.
Port Arthur	A. Z. McElroy	1968.
La Margue	George Drake	
Crosby	Wilbur Eagleton	

VIRGINIA

State House of Representatives:		
Richmond	W. Ferguson Reid	1967.
City Council:		
Richmond	B. A. Cephas	1966.
	Henry L. Marsh III	1966.
	Winfred Mundle [5]	1966.
Port Royal	Embria Byrd	
	Oliver Fortune	
Petersburg	H. E. Fauntleroy	1966.
	Joseph Owens	
Tappahannock	Ernest A. Gaines	1966.
Fredericksburg	Rev. Lawrence A. Davies	1966.
Dumfries	John Wilmer Porter	
Purcellville	Basham Simms	
Middleburg	Charles R. Turner	
Sheriff:		
Charles City County	James N. Bradby	1967.
County Clerk:		
Charles City County	Mrs. Iona W. Adkins	1967.
Board of Supervisors:		
Southampton County	S. O. Sykes	1967.
Nansemond County	Moses A. Riddick, Jr.	1967.
School Board:		
Hampton	William M. Cooper	
Richmond	Dr. Thomas H. Henderson	1965.
Lynchburg	Charles B. Hutchenson	
Portsmouth	David L. Muckler	
Newport News	Dr. Waldo Scott	
Justice of the Peace:		
Greensville	Murrell Owens	1967.
	Garland Faison	1967.

[5] Elected Vice-Mayor by City Council.

APPENDIX VII—Voter Registration

TABLE 1.—Registration by

State	1960 voting age population [1]		Pre-Act registration [2]	
			Number	
	White	Nonwhite	White	Nonwhite
Alabama	1, 353, 122	481, 220	935, 695	92, 737
Arkansas [4]	848, 393	192, 629	555, 944	77, 714
Florida	2, 617, 438	470, 261	1, 958, 499	240, 616
Georgia	1, 796, 963	612, 875	1, 124, 415	167, 663
Louisiana	1, 289, 216	514, 589	1, 037, 184	164, 601
Mississippi	751, 266	422, 273	525, 000	28, 500
North Carolina	2, 005, 955	550, 929	1, 942, 000	258, 000
South Carolina	895, 147	371, 104	677, 914	138, 544
Tennessee [5]	1, 779, 018	313, 873	1, 297, 000	218, 000
Texas [6]	4, 884, 765	649, 512		
Virginia [7]	1, 876, 167	436, 718	1, 070, 168	144, 259
Total	20, 097, 450	5, 015, 933	11, 123, 816	1, 530, 634

[1] The source of all population data in this appendix is the 1960 census.

[2] The source of all data on registration before the passage of the Voting Rights Act of 1965 is Information Center, U.S. Commission on Civil Rights, Registration and Voting Statistics, Mar. 19, 1965. The introduction to that report states: "The figures reproduced here are those currently available in Commission files from official and unofficial sources. . . . Registration figures themselves vary widely in their accuracy. Even where official figures are available, registrars frequently fail to remove the names of dead or emigrated voters and thus, report figures which exceed the actual registration. Unofficial figures which come from a variety of sources are subject to even greater inaccuracies." For more detailed information on sources see the tables for individual States.

[3] For the sources of these data see the tables for individual States and footnotes 4, 5, 6, and 7 infra. In this report the term "Post-Act Registration" is intended to refer to the total number of persons registered before and after the passage of the Voting Rights Act, and not only to persons registered since the passage of the Act.

TABLE 2.—Registration by

State	1960 voting age population		Pre-Act registration			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Alabama	374, 866	214, 804	214, 964	31, 732	57. 3	14. 8
Georgia	9, 022	9, 581	7, 675	990	85. 1	10. 3
Louisiana	183, 012	94, 621	128, 817	8, 939	70. 4	9. 4
Mississippi	284, 469	136, 739	129, 338	9, 158	83. 7	8. 1
South Carolina	12, 344	13, 105	12, 572	2, 273	100+	17. 3
Total	863, 713	468, 850	493, 366	53, 092	67. 2	11. 9

[1] This table contains State totals for all counties to which Federal examiners have been sent.

State—All Counties

Pre-Act registration [2]—Continued		Post-Act registration [3]				
Percentage		Number			Percentage	
White	Nonwhite	White	Nonwhite	Unknown	White	Nonwhite
69. 2	19. 3	1, 212, 317	248, 432	14, 297	89. 6	51. 6
65. 5	40. 4	616, 000	121, 000	.....	72. 4	62. 8
74. 8	51. 2	2, 131, 105	299, 033	33, 694	81. 4	63. 6
62. 6	27. 4	1, 443, 730	322, 496	22, 776	80. 3	52. 6
80. 5	31. 6	1, 200, 517	303, 148	.....	93. 1	58. 9
69. 9	6. 7	589, 066	181, 233	176, 099	91. 5	59. 8
96. 8	46. 8	1, 602, 980	277, 404	.....	83. 0	51. 3
75. 7	37. 3	731, 096	190, 017	.....	81. 7	51. 2
72. 9	69. 5	1, 434, 000	225, 000	.....	80. 6	71. 7
.....	.....	2, 600, 000	400, 000	.....	53. 3	61. 6
61. 1	38. 3	1, 140, 000	243, 000	.....	63. 4	55. 6
73. 4	35. 5	14, 750, 811	2, 810, 763	246, 866	76. 5	57. 2

[4] Post-Act registration statistics are from V.E.P. News, September 1967.

[5] Statewide statistics for post-Act registration are from V.E.P. News, September 1967. Because county figures showing white and nonwhite registration are not available, no separate table for Tennessee is included.

[6] Statewide statistics for post-Act registration are from V.E.P. News, September 1967. Figures showing pre-Act statewide white and nonwhite registration are not available. Because no county figures by race are available, no separate table for Texas is included.

[7] Statewide figures are from V.E.P. News, September 1967.

State—Examiner Counties [1]

Post-Act registration—Continued					Listing by Federal examiners [2]	
Number			Percentage			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
293, 020	127, 416	.....	87. 2	59. 3	5, 244	60, 316
9, 383	6, 013	.....	100+	62. 8	16	3, 397
145, 178	50, 413	.....	79. 3	53. 5	1, 770	24, 130
234, 268	94, 674	36, 360	90. 8	70. 9	243	57, 896
14, 192	9, 377	.....	100+	71. 6	16	4, 606
696, 041	287, 893	36, 360	83. 4	61. 9	7, 289	150, 345

[2] Under the Voting Rights Act, Federal examiners do not "register voters," but rather "examine applicants concerning their qualifications for voting" and place the names of those qualified on a list of eligible voters. State or local election officials are obligated to place the names of those persons listed by the Federal examiners as qualified on the official voting list. Secs. 7 (a), (b), 42 U.S.C. §§ 1973e (a), (b) (Supp. II, 1967).

TABLE 3.—Registration by State

State	1960 Voting age population		Pre-Act registration Number	
	White	Nonwhite	White	Nonwhite
Alabama	978, 246	266, 416	720, 731	61, 005
Georgia	1, 787, 941	603, 294	1, 116, 740	166, 673
Louisiana	1, 106, 204	419, 968	908, 367	155, 662
Mississippi	466, 797	285, 534	98, 176	3, 817
South Carolina	882, 803	357, 999	665, 342	136, 271
Total	5, 221, 991	1, 933, 211	3, 509, 356	523, 428

Table 4.—

County	1960 voting age population		Pre-Act registration [1] Number	
	White	Nonwhite	White	Nonwhite
*Autauga [3]	6, 353	3, 651	4, 991	50
Baldwin	22, 236	4, 527	20, 021	1, 100
Barbour	7, 338	5, 787	7, 107	450
Bibb	5, 807	1, 990	7, 192	475
Blount	14, 368	298	12, 600	150
Bullock	2, 387	4, 450	2, 300	1, 200
Butler	8, 363	4, 820	7, 239	248
Calhoun	44, 739	9, 036	29, 000	2, 200
Chambers	15, 369	6, 497	10, 083	850
Cherokee	8, 597	782	6, 438	288
Chilton	12, 861	1, 947	8, 139	700
Choctaw	5, 192	3, 982	5, 163	252
Clarke	7, 899	5, 833	8, 350	650
Clay	6, 470	926	6, 342	320
Cleburne	5, 870	385	5, 235	80
Coffee	14, 221	2, 985	9, 310	503
Colbert	21, 680	4, 575	16, 229	500
Conecuh	5, 907	3, 635	4, 385	400
Coosa	4, 201	1, 794	3, 800	350
Covington	18, 460	2, 876	12, 330	685
Crenshaw	6, 310	2, 207	5, 452	492
Cullman	25, 848	285	19, 850	250
Dale	14, 861	2, 743	8, 864	794
*Dallas	14, 400	15, 115	9, 463	320
DeKalb	23, 878	441	22, 950	250
*Elmore	12, 510	4, 808	11, 728	400
Escambia	12, 779	5, 685	11, 843	1, 150
Etowah	48, 563	7, 661	35, 200	1, 800
Fayette	8, 277	1, 291	9, 432	360
Franklin	12, 412	645	11, 787	800
Geneva	11, 357	1, 606	8, 043	75
*Greene	1, 649	5, 001	2, 305	275
*Hale	3, 594	5, 999	4, 824	236
Henry	5, 165	3, 168	4, 958	503

See footnotes at end of table.

—Nonexaminer Counties [1]

Pre-Act registration—Continued		Post-Act registration				
Percentage		Number			Percentage	
White	Nonwhite	White	Nonwhite	Unknown	White	Nonwhite
73. 7	22. 9	919, 257	121, 016	14, 297	94. 0	45. 4
62. 5	27. 6	1, 434, 347	316, 483	22, 776	80. 2	52. 5
82. 0	37. 1	1, 055, 339	252, 735	.....	95. 4	60. 2
76. 7	4. 5	354, 798	86, 559	138, 939	93. 5	50. 3
75. 4	38. 1	716, 904	180, 640	.....	81. 2	50. 5
71. 9	30. 2	4, 480, 665	957, 433	176, 012	87. 4	52. 5

[1] This table contains State totals for all counties to which Federal examiners have not been sent in the five States in which examiners have served.

Alabama

Pre-Act registration [1]—Continued		Post-Act registration [2]				Listing by Federal examiners [2]	
Percentage		Number		Percentage			
White	Nonwhite	White	Nonwhite	White	Nonwhite	White	Nonwhite
78. 6	1. 4	7, 508	2, 391	100+	65. 5	275	1, 017
90. 0	24. 3	20, 771	1, 382	93. 4	30. 5	.....	.....
96. 9	7. 8	9, 931	3, 684	100+	63. 7	.....	.....
100+	23. 9	8, 137	954	100+	47. 9	.....	.....
87. 7	50. 3	14, 116	163	98. 2	54. 7	.....	.....
96. 4	27. 0	3, 431	2, 854	100+	64. 1	.....	.....
86. 6	5. 1	8, 036	1, 835	96. 1	38. 1	.....	.....
64. 8	24. 3	34, 427	4, 463	77. 0	49. 4	.....	.....
65. 6	13. 1	12, 082	1, 458	78. 6	22. 4	.....	.....
74. 9	36. 8	9, 729	483	100+	61. 8	.....	.....
63. 3	36. 0	16, 371	774	100+	39. 8	.....	.....
99. 4	6. 3	5, 953	3, 044	100+	76. 4	.....	.....
100+	11. 1	10, 579	2, 614	100+	44. 8	.....	.....
98. 0	34. 6	8, 627	404	100+	43. 6	.....	.....
89. 2	20. 8	7, 565	144	100+	37. 4	.....	.....
65. 5	16. 9	11, 521	1, 007	81. 0	33. 7	.....	.....
74. 9	10. 9	21, 881	3, 009	100+	65. 8	.....	.....
74. 2	11. 0	5, 645	2, 103	95. 6	57. 9	.....	.....
90. 5	19. 5	5, 742	1, 026	100+	57. 2	.....	.....
66. 8	23. 8	16, 863	1, 066	91. 3	37. 1	.....	.....
86. 4	22. 3	6, 534	1, 299	100+	58. 9	.....	.....
76. 8	87. 7	25, 437	123	98. 4	43. 2	.....	.....
59. 6	28. 9	11, 955	1, 442	80. 4	52. 6	.....	.....
65. 7	2. 1	13, 134	10, 644	91. 2	70. 4	75	8, 972
96. 1	56. 9	26, 969	224	100+	50. 8	.....	.....
93. 7	8. 3	16, 072	2, 912	100+	60. 6	192	1, 558
92. 7	20. 2	15, 986	1, 904	100+	33. 5	.....	.....
72. 5	23. 5	43, 116	4, 197	88. 8	54. 8	.....	.....
100+	27. 9	9, 263	675	100+	52. 3	.....	.....
95. 0	100+	13, 952	734	100+	100+	.....	.....
70. 8	4. 7	10, 780	611	94. 9	38. 0	.....	.....
100+	5. 5	2, 057	3, 953	100+	79. 0	49	2, 053
100+	3. 9	4, 517	4, 104	100+	68. 4	34	3, 570
96. 0	15. 9	6, 715	1, 474	100+	46. 5	.....	.....

TABLE 4.—

County	1960 voting age population		Pre-Act registration [1] Number	
	White	Nonwhite	White	Nonwhite
Houston	22, 095	6, 899	12, 106	1, 000
Jackson	19, 298	1, 175	13, 034	350
*Jefferson	256, 319	116, 160	130, 804	23, 992
Lamar	7, 503	1, 027	8, 580	300
Lauderdale	31, 089	3, 726	21, 600	1, 200
Lawrence	10, 509	2, 471	11, 227	800
Lee	17, 547	8, 913	11, 384	1, 995
Limestone	16, 173	3, 579	11, 221	750
*Lowndes	1, 900	5, 122	2, 314	0
Macon	2, 818	11, 886	3, 733	3, 479
Madison [4]	54, 516	10, 666	32, 000	2, 000
*Marengo	6, 104	7, 791	6, 280	295
Marion	12, 656	383	7, 050	400
Marshall	26, 997	637	21, 925	125
Mobile [5]	121, 589	50, 793	69, 795	12, 917
Monroe	6, 631	4, 894	7, 017	325
*Montgomery	62, 911	33, 056	33, 000	5, 500
Morgan	30, 955	4, 159	18, 000	1, 200
*Perry	3, 441	5, 202	3, 006	289
Pickens	7, 336	4, 373	6, 511	438
Pike	9, 126	5, 259	10, 356	273
Randolph	9, 196	2, 366	9, 900	1, 100
Russell	13, 761	10, 531	7, 520	800
St. Clair	12, 244	2, 035	7, 726	850
Shelby [6]	14, 771	2, 889	12, 500	500
*Sumter	3, 061	6, 814	3, 275	375
Talladega	25, 635	9, 333	19, 000	3, 000
Tallapoosa	15, 310	4, 999	14, 880	903
Tuscaloosa	47, 076	15, 332	26, 000	6, 000
Walker	28, 148	2, 890	21, 602	1, 710
Washington	5, 293	2, 297	6, 068	700
*Wilcox	2, 624	6, 085	2, 974	0
Winston	8, 559	47	10, 354	15
Totals:				
Nonexaminer counties [7]	978, 246	266, 416	720, 731	61, 005
Examiner counties	374, 866	214, 804	214, 964	31, 732
All counties [8]	1, 353, 122	481, 220	935, 695	92, 737

[1] Source: Birmingham News, May 3, 1964.
[2] Source: U.S. Department of Justice. Statistics are as of Oct. 31, 1967.
[3] An asterisk indicates a county which has been designated by the Attorney General for appointment of Federal examiners and in which examiners have been appointed.
[4] The post-Act figures exclude 5,191 registered voters of unknown race.
[5] The post-Act figures exclude 8,357 registered voters of unknown race.

Alabama—Continued

Pre-Act registration [1]—Continued		Post-Act registration [2]				Listing by Federal examiners [2]	
Percentage		Number		Percentage			
White	Nonwhite	White	Nonwhite	White	Nonwhite	White	Nonwhite
54.8	14.5	15,831	1,834	71.6	26.6	.....	
67.5	29.8	18,714	633	97.0	53.9	.....	
51.0	20.7	181,083	63,978	70.6	55.1	4,122	19,126
100+	29.2	10,001	375	100+	36.5	.....	
69.5	32.2	19,217	1,397	61.8	37.5	.....	
100+	32.4	14,779	1,337	100+	54.1	.....	
64.9	22.5	14,140	3,066	80.6	34.4	.....	
69.4	20.9	14,486	1,285	89.6	35.9	.....	
100+	0.0	2,854	3,025	100+	59.1	23	2,730
100+	29.3	5,066	5,379	100+	45.3	.....	
58.7	18.8	42,988	3,187	78.9	29.9	.....	
100+	3.8	7,403	4,821	100+	74.7	193	4,890
55.7	100+	16,585	269	100+	70.2	.....	
81.2	19.6	17,816	192	66.0	30.1	.....	
57.4	25.4	107,455	25,663	88.4	50.5	.....	
100+	6.6	7,647	2,515	100+	51.4	.....	
52.5	16.6	45,302	19,504	72.0	59.0	174	9,991
58.1	28.9	27,720	1,298	89.5	31.2	.....	
87.4	5.6	5,563	3,861	100+	74.2	87	2,731
88.8	10.0	7,512	1,741	100+	39.8	.....	
100+	5.2	11,945	3,440	100+	65.4	.....	
100+	46.5	10,319	1,200	100+	50.7	.....	
54.6	7.6	12,879	4,219	93.6	40.1	.....	
63.1	41.8	11,431	922	93.4	45.3	.....	
84.6	17.3	13,211	987	76.7	34.2	.....	
100+	5.5	3,848	3,443	100+	50.5	9	12
74.1	32.1	22,376	4,288	87.3	45.9	.....	
97.2	18.1	18,024	1,880	100+	37.6	.....	
55.2	39.1	30,675	5,943	65.2	38.8	.....	
76.7	59.2	27,170	1,301	96.5	45.0	.....	
100+	30.5	7,785	1,475	100+	64.2	.....	
100+	0.0	3,679	3,780	100+	62.1	11	3,666
100+	31.9	11,411	40	100+	85.1	.....	
73.7	22.9	919,297	121,016	94.0	45.4	.....	
57.3	14.8	293,020	127,416	87.2	59.3	5,244	60,316
69.2	19.3	1,212,317	248,432	89.6	51.6	5,244	60,316

[6] The post-Act figures exclude 749 registered voters of unknown race.
[7] The post-Act total for nonexaminer counties exclude 14,297 registered voters of unknown race.
[8] The post-Act totals for all counties exclude 14,297 registered voters of unknown race.

TABLE 5.—Arkansas

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Arkansas	10,589	2,809	7,316	1,271	69.1	45.2
Ashley	9,012	4,258	6,822	1,650	75.7	38.8
Baxter	6,584	3	5,080	0	77.2	0.0
Benton	23,309	63	13,872	10	59.5	15.9
Boone	10,414	4	7,022	0	67.4	0.0
Bradley	5,837	2,372	4,323	1,059	74.1	44.6
Calhoun	2,496	1,056	2,442	785	97.8	74.3
Carroll	7,533	8	4,926	0	65.4	0.0
Chicot	4,817	5,555	3,913	2,919	81.2	52.6
Clark	9,419	2,725	6,048	1,095	64.2	40.2
Clay	12,645	3	6,950	0	55.0	0.0
Cleburne	5,697	1	3,907	0	68.6	0.0
Cleveland	3,246	832	2,699	445	83.2	53.5
Columbia	10,646	4,808	6,907	1,509	64.9	31.4
Conway	7,323	1,674	6,813	1,444	93.0	86.3
Craighead	26,047	881	15,019	301	57.7	34.2
Crawford	12,505	340	7,547	181	60.4	53.2
Crittenden	10,569	12,871	7,299	1,777	69.1	13.8
Cross	7,608	2,640	4,648	611	61.1	23.1
Dallas	4,122	2,049	3,276	1,004	79.5	49.0
Desha	6,103	4,802	4,670	2,445	76.5	50.9
Drew	5,926	2,506	3,987	1,190	67.3	47.5
Faulkner	12,850	1,246	10,731	560	83.5	44.9
Franklin	6,363	63	4,691	48	73.7	76.2
Fulton	4,237	4	3,595	0	84.8	0.0
Garland	27,811	2,964	19,495	2,317	70.1	78.2
Grant	4,794	256	3,738	94	78.0	36.7
Greene	14,835	11	9,022	4	60.8	36.4
Hempstead	8,333	3,717	5,970	1,581	71.6	42.5
Hot Springs	11,267	1,584	8,110	720	72.0	45.5
Howard	5,667	1,210	3,983	621	70.3	51.3
Independence	12,386	321	7,840	75	63.3	23.4
Izard	4,349	36	3,498	14	80.4	38.9
Jackson	11,117	1,736	7,357	1,031	66.2	59.4
Jefferson	27,284	17,505	17,462	7,733	64.0	44.2
Johnson	7,715	137	5,373	82	69.6	59.9
Lafayette	3,839	2,447	2,756	1,031	71.8	42.1
Lawrence	10,016	112	7,074	40	70.6	35.7
Lee	4,545	5,957	2,792	1,434	61.4	24.1
Lincoln	4,619	3,579	3,114	1,541	67.4	43.1
Little River	3,923	1,415	3,296	781	84.0	55.2

See footnote at end of table.

TABLE 5.—Arkansas—Continued

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Logan	10, 290	163	6, 518	45	63. 3	27. 6
Lonoke	11, 121	2, 518	7, 874	918	70. 8	36. 5
Madison	5, 552	7	3, 900	0	70. 2	0. 0
Marion	3, 938	2	3, 129	0	79. 5	0. 0
Miller	14, 327	4, 290	9, 290	1, 848	64. 8	43. 1
Mississippi	26, 739	9, 638	12, 366	3, 134	46. 2	32. 5
Monroe	5, 101	3, 914	3, 728	1, 281	73. 1	32. 7
Montgomery	3, 372	20	2, 750	0	81. 6	0. 0
Nevada	4, 619	1, 940	3, 360	1, 047	72. 7	54. 0
Newton	3, 403	2	2, 680	0	78. 8	0. 0
Ouachita	12, 021	6, 163	8, 756	3, 298	72. 8	53. 5
Perry	2, 892	82	2, 685	57	92. 8	69. 5
Phillips	10, 431	12, 208	6, 381	3, 963	61. 2	32. 5
Pike	4, 786	188	3, 395	98	70. 9	52. 1
Poinsett	14, 636	1, 446	8, 905	337	60. 8	23. 3
Polk	7, 686	8	5, 116	0	66. 6	0. 0
Pope	12, 431	370	8, 584	90	69. 1	24. 3
Prairie	5, 179	938	3, 728	429	72. 0	45. 7
Pulaski	118, 811	27, 822	67, 918	12, 960	57. 2	46. 6
Randolph	7, 427	94	4, 751	25	64. 0	26. 6
St. Francis	7, 963	8, 403	5, 613	2, 920	70. 5	34. 8
Saline	16, 990	1, 340	10, 175	388	59. 9	29. 0
Scott	4, 625	3	3, 320	45	71. 8	100+
Searcy	4, 942	1	3, 451	0	69. 8	0. 0
Sebastian	38, 180	2, 485	23, 355	750	61. 2	30. 2
Sevier	5, 910	499	3, 751	231	63. 5	46. 3
Sharp	4, 104	0	3, 520	0	85. 8	0. 0
Stone	3, 718	1	3, 441	0	92. 5	0. 0
Union	21, 725	7, 590	15, 133	2, 799	69. 7	36. 9
Van Buren	4, 565	56	3, 608	22	79. 0	39. 3
Washington	33, 359	311	17, 448	12	52. 3	3. 9
White	19, 172	659	12, 782	381	66. 7	57. 8
Woodruff	4, 836	2, 652	3, 528	1, 083	73. 0	40. 8
Yell	7, 395	253	5, 622	150	76. 0	59. 3
Total	848, 393	192, 629	555, 944	77, 714	65. 5	40. 4

[1] Official figures. Arkansas had no permanent registration prior to 1965. County registration figures represent sales of poll tax receipts, as reported by the State auditor as of October 1963. Current figures by county are not available.

TABLE 6.—

County	1960 voting age population		Pre-Act registration [1]	
			Number	
	White	Nonwhite	White	Nonwhite
Alachua	30, 555	9, 898	21, 534	4, 421
Baker	3, 203	807	3, 439	569
Bay	31, 940	4, 964	21, 634	3, 473
Bradford	5, 580	1, 345	4, 714	772
Brevard	58, 433	6, 494	49, 977	2, 570
Broward	189, 517	27, 009	153, 175	13, 430
Calhoun	3, 434	582	4, 606	440
Charlotte	8, 659	427	9, 652	294
Citrus	5, 174	829	5, 598	548
Clay	9, 508	1, 276	8, 084	1, 008
Collier	8, 163	1, 364	6, 970	489
Columbia	8, 092	3, 122	8, 552	2, 309
Dade	537, 448	75, 573	383, 304	41, 634
De Soto	6, 339	1, 343	4, 123	640
Dixie	2, 138	363	2, 861	375
Duval	203, 804	58, 430	130, 285	36, 972
Escambia	76, 688	18, 041	54, 151	11, 075
Flagler	1, 789	846	1, 860	294
Franklin	3, 186	779	3, 510	585
Gadsden	11, 711	12, 261	8, 015	1, 425
Gilchrist	1, 513	154	1, 721	97
Glades	1, 061	741	1, 142	287
Gulf	4, 196	1, 138	4, 063	737
Hamilton	2, 486	1, 621	2, 729	1, 056
Hardee	6, 734	552	5, 635	348
Hendry	3, 430	1, 180	3, 499	794
Hernando	5, 689	1, 151	5, 387	679
Highlands	10, 997	2, 251	10, 591	1, 352
Hillsborough	213, 950	31, 114	147, 270	18, 876
Holmes	6, 131	249	6, 511	185
Indian River	13, 182	2, 637	10, 672	1, 292
Jackson	14, 087	5, 390	11, 518	3, 382
Jefferson	2, 383	2, 600	2, 443	638
Lafayette	1, 536	152	1, 889	0
Lake	30, 535	6, 438	22, 972	1, 948
Lee	30, 363	4, 677	25, 979	1, 270
Leon	28, 241	12, 322	20, 783	6, 334
Levy	4, 483	1, 568	4, 857	543
Liberty	1, 525	240	2, 104	0
Madison	4, 380	3, 067	4, 632	1, 602
Manatee	42, 291	5, 278	31, 696	2, 444
Marion	21, 001	9, 283	18, 215	6, 377
Martin	9, 291	1, 753	8, 752	1, 062
Monroe	25, 512	2, 919	15, 922	2, 189
Nassau	7, 054	2, 076	6, 039	1, 474
Okaloosa	30, 816	2, 097	23, 334	1, 138
Okeechobee	2, 870	533	3, 063	394
Orange	137, 780	21, 771	89, 582	8, 381
Osceola	11, 697	1, 122	9, 836	508
Palm Beach	119, 342	29, 541	99, 123	11, 035
Pasco	22, 329	2, 391	20, 820	1, 052
Pinellas	255, 369	18, 121	189, 134	8, 462
Polk	97, 314	19, 224	67, 362	9, 010
Putnam	13, 095	5, 089	9, 054	1, 722
St. Johns	13, 771	4, 331	10, 919	2, 329
St. Lucie	17, 238	6, 527	13, 791	2, 338

See footnotes at end of table.

Florida

Pre-Act registration [1]—Continued		Post-Act registration [2]			
Percentage		Number		Percentage	
White	Nonwhite	White	Nonwhite	White	Nonwhite
70.5	44.7	25,595	6,216	83.8	62.8
100+	70.5	3,497	562	100+	69.6
67.7	70.0	23,587	3,345	73.8	67.4
84.5	57.4	4,899	907	87.8	67.4
85.5	39.6	65,360	4,217	100+	64.9
80.8	49.7	180,735	20,123	95.4	74.5
100+	75.6	4,007	390	100+	67.0
100+	68.9	11,887	320	100+	74.9
100+	66.1	7,011	565	100+	68.2
85.0	79.0	9,771	1,006	100+	78.8
85.4	35.9	8,763	753	100+	55.2
100+	74.0	8,792	2,558	100+	81.9
71.3	55.1	377,856	55,660	70.3	73.7
65.0	47.7	4,648	990	73.3	73.7
100+	100+	2,778	370	100+	100+
63.9	63.3	139,353	39,014	68.4	66.8
70.6	61.4	59,197	13,574	77.2	75.2
100+	34.8	1,942	388	100+	45.9
100+	75.1	3,423	533	100+	68.4
68.4	11.6	6,557	4,620	56.0	37.7
100+	62.9	1,833	88	100+	57.1
100+	38.7	1,185	267	100+	36.0
96.8	64.7	3,681	712	87.7	62.6
100+	65.1	2,695	1,063	100+	65.6
83.7	63.0	5,543	349	82.3	63.2
100+	67.3	3,400	753	99.1	63.8
94.7	59.0	5,746	733	100+	63.7
96.3	60.1	12,287	1,666	100+	74.0
68.8	60.7	156,642	20,117	73.2	64.7
100+	74.3	6,406	196	100+	78.7
80.9	49.0	11,732	1,571	89.0	59.6
81.7	62.7	11,485	3,525	81.5	65.4
100+	24.5	2,470	1,628	100+	62.6
100+	0.0	1,778	102	100+	67.1
75.2	30.3	25,834	2,715	84.6	42.2
85.6	27.2	32,313	1,914	100+	40.9
73.6	51.4	25,856	7,331	91.6	59.5
100+	34.6	3,910	613	87.2	39.1
100+	0.0	2,088	177	100+	73.8
100+	52.2	4,287	2,038	97.9	66.4
74.9	46.3	35,530	3,517	84.0	66.6
86.7	68.7	20,394	5,886	97.1	63.4
94.2	60.6	9,365	1,283	100+	73.2
62.4	75.0	16,828	1,945	66.0	66.6
85.6	71.0	5,858	1,561	83.0	75.2
75.7	54.3	24,140	1,349	78.3	64.3
100+	73.9	3,220	424	100+	79.5
65.0	38.5	101,777	10,455	73.9	48.0
84.1	45.3	10,005	627	85.5	55.9
83.1	37.4	105,762	18,611	88.6	63.0
93.2	44.0	24,631	1,145	100+	47.9
74.1	46.7	217,764	11,409	85.3	63.0
69.2	46.9	74,879	10,047	76.9	52.3
69.1	33.8	9,347	2,044	71.4	40.2
79.3	53.7	10,501	2,259	76.3	52.2
80.0	35.8	15,149	4,154	87.9	63.6

TABLE 6.—

County	1960 voting age population		Pre-Act registration [1]	
			Number	
	White	Nonwhite	White	Nonwhite
Santa Rosa	14, 710	1, 082	12, 322	789
Sarasota	49, 533	4, 125	36, 620	1, 161
Seminole	24, 372	7, 050	16, 017	2, 377
Sumter	5, 396	1, 523	5, 168	889
Suwannee	6, 409	2, 149	6, 970	1, 046
Taylor	5, 454	1, 724	5, 911	876
Union	2, 880	1, 082	2, 254	128
Volusia	74, 209	11, 615	57, 701	6, 428
Wakulla	2, 120	753	2, 603	552
Walton	7, 958	1, 086	8, 050	820
Washington	5, 364	1, 021	5, 800	892
Total	2, 617, 438	470, 261	1, 958, 499	240, 616

[1] Official figures. Official publication of the secretary of state of Florida, in the Capitol, May 1964.

TABLE 7.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Appling	5, 862	1, 401	7, 705	1, 359	100+	97.0
Atkinson	2, 486	812	2, 498	692	100+	85.2
Bacon	4, 203	536	6, 184	101	100+	18.8
Baker	1, 139	1, 285	1, 631	24	100+	1.9
Baldwin	16, 109	9, 235	5, 353	1, 477	33.3	16.0
Banks	3, 850	213	3, 696	30	96.0	14.1
Barrow	7, 865	1, 332	5, 848	312	74.4	23.4
Bartow	14, 942	2, 393	11, 239	1, 208	75.2	50.5
Ben Hill	5, 931	2, 436	3, 292	740	55.5	30.4
Berrien	6, 179	964	5, 078	561	82.2	58.2
Bibb	60, 429	26, 812	26, 827	5, 042	44.4	18.8
Bleckley	4, 528	1, 380	3, 346	45	73.9	3.3
Brantley	2, 854	384	3, 500	265	100+	69.0
Brooks	5, 059	3, 711	3, 097	445	61.2	12.0
Bryan	2, 289	1, 111	1, 972	817	86.2	73.5
Bulloch	10, 101	4, 337	7, 780	1, 403	77.0	32.3
Burke	4, 358	6, 600	3, 664	427	84.1	6.5
Butts	3, 195	2, 099	4, 086	1, 582	100+	75.4
Calhoun	1, 654	2, 393	1, 685	145	100+	6.0
Camden	3, 447	2, 059	2, 428	1, 176	70.4	57.1
Candler	2, 714	1, 200	2, 989	1, 066	100+	88.8
Carroll	19, 234	3, 595	11, 789	797	61.3	22.2
Catoosa	12, 370	172	7, 876	73	63.7	42.4
Charlton	2, 077	810	1, 096	204	52.8	25.2
Chatham	78, 118	37, 563	36, 072	10, 068	46.2	26.8

See footnotes at end of table.

Florida—Continued

Pre-Act registration [1]—Continued		Post-Act registration [2]			
Percentage		Number		Percentage	
White	Nonwhite	White	Nonwhite	White	Nonwhite
83.8	72.9	13,281	765	90.3	70.7
73.9	28.1	43,834	2,162	88.5	52.4
65.7	33.7	18,601	3,231	76.3	45.8
95.8	58.4	5,387	930	99.8	61.1
100+	48.7	5,563	1,134	86.8	52.8
100+	50.8	5,393	974	98.9	56.5
78.3	11.8	2,062	175	71.6	16.2
77.8	55.3	64,771	6,946	87.3	59.8
100+	73.3	2,684	602	100+	79.9
100+	75.5	7,909	862	99.4	79.4
100+	87.4	5,641	867	100+	84.9
74.8	51.2	2,131,105	299,033	81.4	63.6

[2] Official statistics, from Tabulation of Official Votes Cast in the General Election, Nov. 8, 1966, compiled by Tom Adams, Secretary of State. Statistics are as of Oct. 8, 1966. Statistics include only persons registered as Democrats or Republicans; there are 33,694 persons registered in other parties, for which no breakdown by race was obtained.

Georgia

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
7,400	1,281	.....	100+	91.4	.....	.....
3,202	806	.....	100+	99.3	.....	.....
4,671	300	.....	100+	56.0	.....	.....
1,560	921	.....	100+	71.7	.....	.....
6,984	1,934	207	43.3	20.9	.....	.....
3,668	78	.....	95.3	36.6	.....	.....
6,563	465	.....	83.4	34.9	.....	.....
13,903	1,532	.....	93.0	64.0	.....	.....
3,666	1,007	.....	61.8	41.9	.....	.....
5,844	844	.....	94.6	87.6	.....	.....
44,480	14,023	5,548	73.6	52.3	.....	.....
4,756	287	6	100+	20.8	.....	.....
4,047	378	.....	100+	98.4	.....	.....
3,545	940	.....	70.1	25.3	.....	.....
2,335	1,165	.....	100+	100+	.....	.....
8,775	2,277	.....	86.9	52.5	.....	.....
4,346	2,760	.....	99.7	41.8	.....	.....
4,143	974	.....	100+	46.4	.....	.....
1,898	588	.....	100+	24.6	.....	.....
3,286	1,551	.....	95.3	75.3	.....	.....
2,478	832	.....	91.3	69.3	.....	.....
14,232	2,372	.....	74.0	66.0	.....	.....
11,967	88	3	96.7	51.2	.....	.....
2,275	438	.....	100+	54.1	.....	.....
56,047	21,527	.....	71.7	57.3	.....	.....

TABLE 7.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Chattahoochee	8,061	1,830	338	17	4.2	0.9
Chattooga	11,460	1,025	8,733	906	76.2	88.4
Cherokee	13,964	517	14,300	325	100+	62.9
Clarke	23,895	6,740	8,907	1,451	37.3	21.5
Clay	1,130	1,441	900	150	79.6	10.4
Clayton	23,996	2,456	15,094	544	62.9	22.1
Clinch	2,373	1,256	2,293	339	96.6	27.0
Cobb	63,291	4,568	29,622	1,808	46.8	39.6
Coffee	9,682	2,977	8,000	2,000	82.6	67.2
Colquitt	15,982	4,081	11,362	1,117	71.1	27.4
Columbia	5,096	2,364	4,061	659	79.7	27.9
Cook	5,213	1,755	5,400	600	100+	34.2
Coweta	11,891	5,579	9,108	1,594	76.6	28.6
Crawford	1,596	1,611	1,403	284	87.9	17.6
Crisp	6,451	3,858	5,179	890	80.3	23.1
Dade	4,083	70	4,100	26	85.4	37.1
Dawson	2,148	1	1,835	0	85.4	0.0
Decatur	9,069	5,515	7,841	1,016	86.4	18.4
De Kalb	148,167	12,407	64,450	2,153	43.5	17.4
Dodge	7,392	2,328	8,794	2,180	100+	93.6
Dooly	3,581	2,866	4,252	722	100+	25.2
Dougherty	29,897	14,163	13,700	4,800	45.8	33.9
Douglas	8,595	1,268	8,489	916	98.8	72.2
Early	4,013	3,277	3,729	261	92.9	8.0
Echols	832	246	838	19	100+	7.7
Effingham	4,008	1,756	2,618	188	65.3	10.7
Elbert	7,752	3,127	8,787	934	100+	29.9
Emanuel	7,627	3,005	7,864	2,098	100+	69.8
Evans	2,738	1,308	2,206	483	80.6	36.9
Fannin	8,111	31	8,649	18	100+	58.1
Fayette	3,585	1,190	2,760	26	77.0	2.2
Floyd	38,230	5,949	21,045	1,653	55.0	27.8
Forsyth	7,328	4	5,418	0	73.9	0.0
Franklin	7,611	776	7,500	100	98.5	12.9
Fulton	247,892	117,049	109,262	35,834	44.1	30.6
Gilmer	5,431	7	4,106	4	75.6	57.1
Glascock	1,281	351	1,283	1	100+	0.3
Glynn	18,750	6,762	7,701	2,133	41.1	31.5
Gordon	11,441	669	8,423	321	73.6	48.0
Grady	7,205	3,364	4,080	629	56.6	18.7
Greene	3,565	2,998	2,665	1,538	74.8	51.3
Gwinnett	24,299	1,841	20,628	1,301	84.9	70.7
Habersham	10,676	518	8,223	200	77.0	38.6
Hall	27,726	2,789	13,174	733	47.5	26.3
Hancock	1,727	3,576	1,409	853	81.6	24.0
Haralson	8,571	642	7,162	384	83.6	59.8
Harris	3,310	3,102	3,340	263	100+	8.5
Hart	7,382	1,832	5,978	281	81.0	15.3
Heard	2,661	590	2,321	325	87.2	55.1
Henry	6,429	3,539	7,225	2,377	100+	67.2
Houston	17,742	4,228	7,799	413	44.0	9.8
Irwin	3,759	1,602	3,500	1,300	93.1	81.1
Jackson	10,228	1,309	6,679	408	65.3	31.2
Jasper	1,925	1,705	2,044	653	100+	38.3
Jeff Davis	4,116	909	6,130	56	100+	6.2
Jefferson	4,937	4,780	4,050	283	82.0	5.9

See footnotes at end of table.

Georgia—Continued

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
510	131	.....	6.3	7.2	.....	.....
9,384	956	59	81.8	93.3	.....	.....
13,855	614	535	99.2	100+	.....	.....
14,621	4,960	.....	61.2	73.6	.....	.....
1,214	398	.....	100+	27.6	.....	.....
19,977	777	.....	83.3	31.6	.....	.....
2,449	359	.....	100+	28.6	.....	.....
29,680	1,808	8,341	46.9	39.6	.....	.....
11,779	1,619	.....	100+	54.4	.....	.....
12,802	1,673	642	80.1	41.0	.....	.....
5,312	1,007	.....	100+	42.6	.....	.....
5,351	1,010	.....	100+	57.5	.....	.....
11,086	3,496	.....	93.2	62.7	.....	.....
1,548	739	28	97.0	45.9	.....	.....
6,462	1,915	.....	100+	49.6	.....	.....
4,242	60	.....	88.3	85.7	.....	.....
2,373	0	.....	100+	0.0	.....	.....
10,308	1,193	.....	100+	21.6	.....	.....
125,984	8,177	.....	85.0	65.9	.....	.....
7,013	1,871	.....	94.9	80.4	.....	.....
3,828	1,604	.....	100+	56.0	.....	.....
13,811	4,800	3,332	46.2	33.9	.....	.....
8,945	1,000	24	100+	78.9	.....	.....
4,099	655	.....	100+	20.0	.....	.....
855	19	.....	100+	7.7	.....	.....
4,006	617	.....	99.9	35.1	.....	.....
7,191	1,246	.....	92.8	39.8	.....	.....
6,869	1,954	.....	90.1	65.0	.....	.....
2,816	745	.....	100+	57.0	.....	.....
8,494	18	.....	100+	58.1	.....	.....
3,043	68	.....	84.9	5.7	.....	.....
25,885	2,647	.....	67.7	44.5	.....	.....
6,539	0	.....	89.2	0.0	.....	.....
7,669	728	.....	100+	93.8	.....	.....
184,242	77,064	.....	74.3	65.8	.....	.....
7,997	3	.....	100+	42.8	.....	.....
1,371	21	.....	100+	6.0	.....	.....
8,758	2,882	.....	46.7	42.6	.....	.....
10,832	544	.....	94.7	81.3	.....	.....
5,411	1,326	.....	75.1	39.4	.....	.....
3,446	2,638	.....	96.7	88.0	.....	.....
23,750	1,538	33	97.7	83.5	.....	.....
7,437	515	.....	69.7	99.4	.....	.....
17,485	1,224	.....	63.1	43.9	.....	.....
1,661	2,400	125	96.2	64.3	.....	.....
7,456	331	89	87.0	51.6	.....	.....
3,893	1,119	.....	100+	36.1	.....	.....
6,095	418	.....	82.6	22.8	.....	.....
3,094	376	.....	100+	63.7	.....	.....
8,551	3,174	.....	100+	89.7	.....	.....
14,220	2,318	.....	80.1	54.8	.....	.....
4,382	1,523	.....	100+	95.1	.....	.....
8,162	749	.....	79.8	57.2	.....	.....
2,238	830	.....	100+	48.7	.....	.....
5,607	591	.....	100+	65.0	.....	.....
4,524	2,623	.....	91.6	54.9	.....	.....

TABLE 7.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Jenkins	2,985	2,210	2,837	704	95.0	32.0
Johnson	3,455	1,261	3,208	262	92.9	20.8
Jones	2,655	2,185	2,570	923	96.8	42.2
Lamar	4,078	2,118	3,590	992	88.0	46.8
Lanier	2,158	756	1,794	359	83.1	47.5
Laurens	13,178	6,284	9,590	2,231	72.8	35.5
*Lee [4]	1,427	1,795	1,210	29	84.8	1.6
Liberty	5,310	3,176	2,000	2,014	37.7	63.1
Lincoln	1,974	1,336	2,437	3	100+	0.2
Long	1,527	635	2,201	1,061	100+	100+
Lowndes	20,746	8,459	8,943	1,673	43.1	19.4
Lumpkin	4,500	79	2,886	43	64.1	54.4
McDuffie	4,625	2,740	4,046	251	87.5	9.2
McIntosh	1,643	1,823	1,396	1,219	85.0	66.9
Macon	3,171	4,077	3,052	443	96.2	10.9
Madison	5,962	989	4,588	55	77.0	5.6
Marion	1,353	1,609	1,508	55	100+	3.4
Meriwether	6,547	4,990	4,508	950	68.9	19.0
Miller	3,095	946	3,220	6	100+	0.6
Mitchell	6,055	4,971	7,928	375	100+	7.5
Monroe	3,607	2,652	3,938	738	100+	27.8
Montgomery	2,520	1,288	2,385	715	94.6	55.5
Morgan	3,415	2,469	1,576	892	46.1	36.1
Murray	6,209	51	4,520	27	72.8	52.9
Muscogee	74,662	22,549	27,595	4,801	37.0	21.3
Newton	9,045	3,767	5,883	901	65.0	23.9
Oconee	3,228	681	2,317	89	71.8	13.1
Oglethorpe	2,964	1,709	2,763	259	93.2	15.2
Paulding	7,353	603	7,626	543	100+	90.0
Peach	3,650	4,562	2,539	679	69.6	14.9
Pickens	5,264	251	5,124	140	97.3	55.8
Pierce	4,432	1,135	3,876	380	87.5	33.5
Pike	2,584	1,643	2,520	496	97.5	30.2
Polk	15,065	2,442	10,490	1,395	69.6	57.1
Pulaski	3,018	1,843	3,020	235	100+	12.8
Putnam	2,297	2,204	2,303	563	100+	25.5
Quitman	581	707	793	38	100+	5.4
Rabun	4,392	43	5,089	29	100+	67.4
Randolph	2,878	3,663	2,495	423	86.7	11.5
Richmond	61,315	24,785	26,097	6,747	42.6	27.2
Rockdale	4,708	1,512	4,641	731	98.6	48.3
Schley	961	903	893	134	92.9	14.8
*Screven	4,557	3,729	3,530	863	77.5	23.1
Seminole	2,648	1,255	3,500	11	100+	0.9
Spalding	16,657	5,252	9,370	1,391	56.3	26.5
Stephens	9,975	1,355	8,242	627	82.6	46.3
Stewart	1,465	2,681	1,656	136	100+	5.1
Sumter	7,730	6,710	5,681	548	73.5	8.2
Talbot	1,437	2,507	1,448	219	100+	8.7
Taliaferro	917	1,073	946	828	100+	77.2
Tattnall	7,377	3,135	6,630	1,310	89.9	41.8
Taylor	2,767	2,004	2,940	389	100+	19.4
Telfair	4,938	2,087	3,959	325	80.2	15.6
*Terrell	3,038	4,057	2,935	98	96.6	2.4
Thomas	13,179	7,644	8,422	1,579	63.9	20.7
Tift	10,211	3,513	6,681	1,113	65.4	31.7

See footnotes at end of table.

Georgia—Continued

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
2,564	895	.....	85.9	40.5	.....	.....
3,424	642	.....	99.1	50.9	.....	.....
2,695	974	205	100+	44.6	.....	.....
3,913	1,114	.....	96.0	52.6	.....	.....
1,830	389	10	84.8	51.5	.....	.....
13,794	4,327	.....	100+	69.3	.....	.....
1,800	988	.....	100+	55.0	1	472
2,950	2,594	.....	55.6	81.7	.....	.....
2,341	636	.....	100+	47.6	.....	.....
2,273	1,095	.....	100+	100+	.....	.....
12,192	2,629	.....	58.8	31.1	.....	.....
4,467	109	.....	99.3	100+	.....	.....
4,559	1,133	.....	98.6	41.4	.....	.....
1,641	1,961	.....	99.9	100+	.....	.....
3,607	1,796	.....	100+	44.1	.....	.....
4,778	261	.....	80.1	26.4	.....	.....
1,599	280	.....	100+	17.4	.....	.....
5,690	1,966	.....	86.9	39.4	.....	.....
1,637	188	.....	52.9	19.9	.....	.....
5,761	1,474	.....	95.1	29.7	.....	.....
3,454	1,212	224	95.8	45.7	.....	.....
2,931	1,033	.....	100+	80.2	.....	.....
1,675	999	127	49.0	40.5	.....	.....
6,210	25	.....	100+	49.0	.....	.....
39,384	10,157	.....	52.7	45.0	.....	.....
7,107	2,002	.....	78.6	53.1	.....	.....
2,903	119	.....	89.9	17.5	.....	.....
3,035	448	.....	100+	26.2	.....	.....
7,735	551	30	100+	91.4	.....	.....
3,034	1,805	.....	83.1	39.6	.....	.....
6,129	196	.....	100+	78.1	.....	.....
4,666	649	.....	100+	57.2	.....	.....
2,630	701	.....	100+	42.7	.....	.....
12,768	1,784	.....	84.8	73.0	.....	.....
3,420	627	.....	100+	34.0	.....	.....
2,408	790	228	100+	35.8	.....	.....
685	181	.....	100+	25.6	.....	.....
4,415	33	.....	100+	76.7	.....	.....
2,598	1,139	.....	90.3	31.1	.....	.....
38,706	13,985	.....	63.1	56.4	.....	.....
4,977	903	.....	100+	59.7	.....	.....
1,165	332	7	100+	36.8	.....	.....
4,209	2,837	.....	92.4	76.1	10	1,467
3,690	425	.....	100+	33.9	.....	.....
12,494	3,246	.....	75.0	61.8	.....	.....
7,840	766	.....	78.6	56.5	.....	.....
1,700	707	.....	100+	26.4	.....	.....
8,527	3,134	.....	100+	46.7	.....	.....
1,483	650	.....	100+	25.9	.....	.....
1,054	1,172	.....	100+	100+	.....	.....
6,693	3,028	.....	90.7	96.6	.....	.....
2,843	653	.....	100+	32.6	.....	.....
4,547	1,260	.....	92.1	60.4	.....	.....
3,374	2,188	.....	100+	53.9	5	1,458
8,707	1,681	1,948	66.1	22.0	.....	.....
7,955	1,701	.....	77.9	48.4	.....	.....

TABLE 7.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Toombs	7, 513	2, 444	5, 962	431	79. 4	17. 6
Towns	2, 942	1	3, 514	0	100+	0. 0
Treutlen	2, 473	968	2, 638	45	100+	4. 6
Troup	20, 579	8, 577	11, 759	1, 732	57. 1	20. 2
Turner	3, 422	1, 535	3, 530	464	100+	30. 2
Twiggs	1, 969	2, 255	1, 698	246	86. 2	10. 9
Union	3, 957	1	5, 662	0	100+	0. 0
Upson	11, 159	3, 615	6, 404	655	57. 4	18. 1
Walker	26, 511	1, 388	24, 928	1, 019	94. 0	73. 4
Walton	9, 392	3, 076	6, 381	458	67. 9	14. 9
Ware	15, 671	4, 763	12, 365	2, 391	78. 9	50. 2
Warren	1, 911	2, 224	1, 640	188	85. 8	8. 4
Washington	5, 373	5, 451	5, 269	1, 542	98. 1	28. 3
Wayne	8, 204	1, 878	7, 171	809	87. 4	43. 1
Webster	775	975	766	9	98. 8	0. 9
Wheeler	2, 236	824	2, 302	474	100+	57. 5
White	4, 047	169	4, 220	242	100+	100+
Whitfield	24, 437	1, 085	17, 259	898	70. 6	82. 7
Wilcox	3, 309	1, 282	3, 059	230	92. 4	17. 9
Wilkes	3, 621	3, 101	3, 529	493	97. 5	15. 9
Wilkinson	3, 135	2, 279	3, 041	411	97. 0	18. 0
Worth	5, 324	3, 776	5, 855	296	100+	7. 8
Totals:						
Nonexaminer counties	1, 787, 941	603, 294	1, 116, 740	166, 673	62. 5	27. 6
Examiner counties	9, 022	9, 581	7, 675	990	85. 1	10. 3
All counties	1, 796, 963	612, 875	1, 124, 415	167, 663	62. 6	27. 4

[1] Unofficial figures. Published by the Atlanta Journal and Constitution, Apr. 28, 1963, representing registration as of December 1962.

Georgia—Continued

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
7, 099	902	.....	94. 5	36. 9	.....	
2, 600	0	.....	88. 4	0. 0	.....	
2, 112	601	.....	85. 4	62. 1	.....	
13, 387	2, 943	.....	65. 1	34. 3	.....	
2, 918	537	.....	85. 3	35. 0	.....	
1, 880	895	187	95. 5	39. 7	.....	
3, 500	0	.....	88. 5	0. 0	.....	
6, 913	961	.....	58. 8	26. 6	.....	
32, 101	1, 178	10	100+	84. 9	.....	
6, 800	982	35	72. 4	31. 9	.....	
13, 421	2, 801	.....	85. 6	58. 8	.....	
1, 965	1, 417	.....	100+	63. 7	.....	
5, 367	1, 672	763	99. 9	30. 7	.....	
8, 140	1, 218	.....	99. 2	64. 9	.....	
875	261	.....	100+	26. 8	.....	
2, 179	730	.....	97. 5	88. 6	.....	
4, 735	235	.....	100+	100+	.....	
20, 545	1, 010	8	84. 1	93. 1	.....	
3, 919	608	.....	100+	47. 4	.....	
3, 696	1, 088	.....	100+	35. 1	.....	
3, 427	975	22	100+	42. 8	.....	
5, 428	973	.....	85. 8	25. 8	.....	
1, 434, 347	316, 483	22, 776	80. 2	52. 5	.....	
9, 383	6, 013	0	100+	62. 8	16	3, 397
1, 443, 730	322, 496	22, 776	80. 3	52. 6	16	3, 397

[2] Source: U.S. Department of Justice. Statistics are as of Aug. 31, 1967.
[3] In calculating the percentage, registrants of unknown race were excluded.
[4] An asterisk indicates a county which has been designated by the Attorney General for the appointment of Federal examiners and in which examiners have been appointed.

TABLE 8.—

Parish	1960 voting age population		Pre-Act registration [1]	
			Number	
	White	Nonwhite	White	Nonwhite
Acadia	22, 399	4, 557	20, 187	3, 580
Allen	8, 357	2, 310	8, 343	1, 884
Ascension	10, 110	4, 171	8, 808	2, 448
Assumption	5, 877	3, 237	5, 141	1, 933
Avoyelles	15, 845	4, 717	13, 157	1, 756
Beauregard	8, 682	2, 145	7, 936	1, 048
Bienville	5, 617	4, 077	5, 007	584
*Bossier [3]	23, 696	6, 847	14, 934	599
*Caddo	87, 774	41, 749	62, 362	4, 954
Calcasieu	62, 987	14, 924	46, 918	8, 213
Caldwell	3, 843	1, 161	3, 786	361
Cameron	3, 642	239	3, 400	190
Catahoula	4, 110	1, 919	4, 080	236
Claiborne	6, 415	5, 032	5, 229	96
Concordia	5, 963	4, 582	5, 505	563
*DeSoto	6, 543	6, 753	5, 830	849
East Baton Rouge	87, 985	36, 908	75, 773	11, 990
*East Carroll	2, 990	4, 183	1, 939	136
*East Feliciana	7, 043	6, 081	2, 726	182
Evangeline	13, 652	3, 342	14, 055	3, 136
Franklin	8, 954	4, 433	7, 540	284
Grant	6, 080	1, 553	5, 966	618
Iberia	20, 200	7, 165	17, 670	4, 336
Iberville	8, 733	7, 060	7, 422	2, 971
Jackson	6, 607	2, 535	6, 078	1, 244
Jefferson	98, 013	14, 970	86, 430	8, 177
Jefferson Davis	12, 892	2, 881	10, 056	1, 549
Lafayette	35, 513	9, 473	32, 253	5, 863
LaFourche	25, 737	3, 078	24, 788	1, 963
LaSalle	6, 799	849	6, 961	272
Lincoln	9, 611	5, 723	6, 937	1, 314
Livingston	12, 306	1, 818	13, 156	1, 419
*Madison	3, 334	5, 181	2, 467	294
Morehouse	10, 311	7, 208	7, 690	491
Natchitoches	11, 328	7, 444	9, 743	1, 983
Orleans	257, 495	125, 752	162, 215	35, 736

See footnotes at end of table.

Louisiana

Pre-Act registration [1]—Continued		Post-Act registration [2]				Listing by Federal examiners [2]	
Percentage		Number		Percentage			
White	Nonwhite	White	Nonwhite	White	Nonwhite	White	Nonwhite
90.1	78.6	22,926	4,378	100+	96.1		
99.8	81.6	9,412	2,210	100+	95.7		
87.1	58.7	10,373	3,199	102.6	76.7		
87.5	59.7	5,913	2,293	100+	70.8		
83.0	37.2	15,504	3,242	97.8	68.7		
91.4	48.9	9,326	1,397	100+	65.1		
89.1	14.3	5,535	2,063	98.5	50.6		
63.0	8.7	17,688	3,077	74.6	44.9	26	1,409
71.0	11.9	65,217	20,912	74.3	50.1	87	7,291
74.5	55.0	53,662	10,514	85.2	70.5		
98.5	31.1	4,644	714	100+	61.5		
93.4	79.5	3,873	230	100+	100+		
99.3	12.3	5,170	1,092	100+	56.9		
81.5	1.9	5,982	2,083	93.3	41.4		
92.3	12.3	7,500	2,821	100+	61.6		
89.1	12.6	6,851	5,032	100+	74.5	6	2,235
86.1	32.5	89,550	21,285	100+	57.7		
64.8	3.3	3,208	2,882	100+	68.9	25	2,633
38.7	3.0	3,569	2,365	50.7	38.9	51	2,048
100+	93.8	15,866	4,231	100+	100+		
84.2	6.4	8,862	721	99.0	16.3		
98.1	39.8	6,915	944	100+	60.8		
87.5	60.5	19,988	5,769	99.0	80.5		
85.0	42.1	9,259	6,311	100+	89.4		
91.9	49.1	6,647	1,863	100+	73.5		
88.1	54.6	105,510	10,647	100+	71.1		
78.0	53.7	11,595	2,160	89.9	75.0		
90.8	61.9	36,792	6,732	100+	71.1		
96.3	63.8	28,009	2,559	100+	83.1		
100+	32.0	7,797	738	100+	86.9		
72.2	23.0	8,567	2,277	89.1	39.8		
100+	78.1	16,181	1,780	100+	97.9		
74.0	5.7	3,921	3,862	100+	74.5	14	492
74.6	6.8	9,252	1,408	89.7	19.5		
86.0	26.6	11,617	5,403	100+	72.6		
63.0	28.4	174,261	60,308	67.7	48.0		

TABLE 8.—

Parish	1960 voting age population		Pre-Act registration [1]	
			Number	
	White	Nonwhite	White	Nonwhite
*Ouachita	40, 185	16, 377	29, 587	1, 744
*Plaquemines	8, 633	2, 897	7, 627	96
Pointe Coupee	6, 085	5, 273	4, 384	1, 515
Rapides	44, 823	18, 141	32, 456	3, 792
Red River	3, 294	2, 181	3, 530	96
Richland	7, 601	4, 608	5, 688	381
Sabine	8, 251	2, 143	8, 735	1, 366
St. Bernard	15, 836	1, 105	18, 425	682
St. Charles	8, 117	2, 621	7, 969	2, 342
St. Helena	2, 363	2, 082	2, 059	560
St. James	4, 892	3, 964	4, 611	2, 537
St. John the Baptist	4, 982	4, 279	4, 475	3, 009
St. Landry	25, 550	14, 982	22, 131	10, 325
St. Martin	9, 781	4, 664	9, 397	3, 182
St. Mary	17, 991	7, 176	14, 782	3, 214
St. Tammany	16, 032	5, 038	18, 350	2, 807
Tangipahoa	22, 311	9, 401	19, 918	3, 247
Tensas	2, 287	3, 533	2, 154	60
Terrebonne	24, 393	5, 464	19, 132	1, 645
Union	7, 021	3, 006	6, 534	864
Vermilion	19, 710	2, 429	18, 972	2, 183
Vernon	9, 279	1, 268	9, 971	684
Washington	16, 804	6, 821	15, 795	1, 634
Webster	15, 713	7, 045	12, 002	803
West Baton Rouge	3, 974	3, 502	3, 642	1, 245
West Carroll	6, 171	1, 389	4, 078	76
*West Feliciana	2, 814	4, 553	1, 345	85
Winn	6, 790	2, 590	6, 947	1, 175
Totals:				
Nonexaminer parishes	1, 106, 204	419, 968	908, 367	155, 662
Examiner parishes	183, 012	94, 621	128, 817	8, 939
All parishes	1, 289, 216	514, 589	1, 037, 184	164, 601

[1] Official figures. Data furnished by secretary of state of Louisiana showing registration as of Oct. 3, 1964.

Louisiana—Continued

Pre-Act registration [1]—Continued		Post-Act registration [2]				Listing by Federal examiners [2]	
Percentage		Number		Percentage			
White	Nonwhite	White	Nonwhite	White	Nonwhite	White	Nonwhite
73.6	10.6	33,049	7,755	82.2	47.4	50	5,468
88.3	3.3	9,917	1,389	100+	47.9	1,492	1,254
72.0	28.7	6,014	3,722	98.8	70.6	.....	
72.4	20.9	37,579	8,821	83.8	48.6	.....	
100+	4.4	4,126	1,414	100+	64.8	.....	
74.8	8.3	7,128	1,000	93.8	21.7	.....	
100+	63.7	10,075	1,688	100+	78.8	.....	
100+	61.7	23,819	880	100+	79.6	.....	
98.2	89.4	9,457	2,825	100+	100+	.....	
87.1	26.9	2,808	2,042	100+	98.1	.....	
94.3	64.0	5,220	3,385	100+	85.4	.....	
89.8	70.3	5,692	3,689	100+	86.2	.....	
86.6	68.9	25,769	13,536	100+	90.3	.....	
96.1	68.2	10,689	4,151	100+	89.0	.....	
82.2	44.8	19,620	5,531	100+	76.0	.....	
100+	55.7	21,145	3,301	100+	65.5	.....	
89.3	34.5	23,535	5,736	100+	61.0	.....	
94.2	1.7	2,563	1,067	100+	30.2	.....	
78.4	30.1	23,093	2,900	94.7	53.1	.....	
93.1	28.7	7,417	1,647	100+	54.8	.....	
96.3	89.9	21,547	2,758	100+	100+	.....	
100+	53.9	11,697	858	100	67.7	.....	
94.0	24.0	18,126	3,943	100+	57.8	.....	
76.4	11.4	13,431	3,655	85.5	51.9	.....	
91.6	35.6	4,707	2,805	100+	80.1	.....	
66.1	5.5	5,724	362	92.8	26.1	.....	
47.8	1.9	1,758	2,195	100+	98.2	19	1,300
100+	45.4	7,870	1,647	100+	63.6	.....	
82.0	37.1	1,055,339	252,735	95.4	60.2	.....	
70.4	9.4	145,178	50,413	79.3	53.5	1,770	24,130
80.5	31.6	1,200,517	303,148	93.1	58.9	1,770	24,130

[2] Source: U.S. Department of Justice. Statistics are as of October 1967.
[3] An asterisk indicates a county which has been designated by the Attorney General for the appointment of Federal examiners and in which examiners have been appointed.

TABLE 9.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Adams	10,888	9,340				
Alcorn	13,347	1,756				
*Amite [4]	4,449	3,560				
Attala	7,522	4,262				
*Benton	2,514	1,419	2,226	55	88.5	3.9
Bolivar	10,031	15,939				
Calhoun	7,188	1,767				
*Carroll	2,969	2,704				
Chickasaw	6,388	3,054	4,548	1	71.2	0.0
Choctaw	3,728	1,105				
*Claiborne	1,688	3,969	1,528	26	90.5	0.7
Clarke	6,072	2,988	4,829	64	79.5	2.1
*Clay	5,547	4,444				
*Coahoma	8,708	14,604				
Copiah	8,153	6,407	7,533	25	92.4	0.4
Covington	5,329	2,032				
*De Soto	5,338	6,246				
*Forrest	22,431	7,495	13,253	236	59.1	3.1
*Franklin	3,403	1,842				
George	5,276	580	4,200	14	79.6	2.4
Greene	3,518	859				
*Grenada	5,792	4,323				
Hancock	6,813	1,129				
Harrison	55,094	9,670				
*Hinds	67,836	36,138	62,410	5,616	92.0	15.5
*Holmes	4,773	8,757	4,800	20	100+	0.2
*Humphreys	3,344	5,561	2,538	0	75.9	0.0
*Issaquena	640	1,081	640	5	100.0	0.5
Itawamba	8,523	463				
Jackson	24,447	5,113				
*Jasper	5,327	3,675	4,500	10	84.5	0.3
*Jefferson	1,666	3,540				
*Jefferson Davis	3,629	3,222	3,236	126	89.2	3.9
*Jones	25,943	7,427				
Kemper	3,113	3,221				
Lafayette	8,074	3,239				
Lamar	6,489	1,071	5,752	0	88.6	0.0
Lauderdale	27,806	11,924	18,000	1,700	64.7	14.3
Lawrence	3,878	1,720				
Leake	6,754	3,397	6,000	220	88.8	6.5
Lee	18,709	5,130				
*Leflore	10,274	13,567	7,348	281	71.5	2.1
Lincoln	11,072	3,913				
Lowndes	16,460	8,362	8,687	99	52.8	1.2
*Madison	5,622	10,366	6,256	218	100+	2.1
Marion	8,997	3,630	10,123	383	100+	10.6

See footnotes at end of table.

Mississippi

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
7,542	4,388	.....	69.3	47.0	.....	
8,928	460	2,250	71.1	100+	.....	
4,035	1,723	749	94.9	64.2	0	356
7,316	1,996	759	99.8	60.2	.....	
2,875	1,189	.....	100+	83.8	0	517
4,880	1,831	8,438	69.7	51.2	.....	
5,565	61	1,719	83.4	76.4	.....	
2,896	926	1,366	100+	72.1	0	900
7,500	2,371	.....	100+	77.6	.....	
4,312	719	.....	100+	65.1	.....	
1,865	3,092	.....	100+	77.9	1	1,343
5,745	751	.....	94.6	25.1	.....	
3,524	1,481	.....	63.5	33.3	3	1,431
7,163	7,668	2,727	90.1	66.5	17	4,292
8,540	4,159	.....	100+	64.7	.....	
5,169	1,013	.....	97.0	49.9	.....	
6,863	2,381	613	100+	45.5	2	1,221
20,384	4,302	1,165	92.7	67.5	5	953
3,114	1,171	.....	91.5	63.6	3	57
6,440	305	.....	100+	52.6	.....	
5,095	498	260	100+	65.5	.....	
7,505	2,537	.....	100+	58.7	1	1,405
7,336	724	.....	100+	64.1	.....	
17,450	1,996	15,824	35.2	100+	.....	
63,043	17,248	9,135	96.3	66.7	71	10,726
5,501	6,332	40	100+	72.7	7	4,537
2,824	1,810	841	90.7	43.9	8	1,420
871	643	.....	100+	59.5	2	59
7,606	287	3,230	100+	100+	.....	
15,841	1,649	5,224	70.1	100+	.....	
4,668	1,124	1,143	93.0	53.9	2	629
1,913	2,061	.....	100+	58.2	0	2,060
3,435	1,885	.....	94.7	58.5	4	1,12[illegible]
12,649	3,261	114	48.9	45.1	5	2,304
3,457	874	.....	100+	27.1	.....	
4,711	561	1,996	64.5	63.6	.....	
1,063	419	7,975	100+	100+	.....	
21,832	4,969	931	79.4	47.5	.....	
3,960	1,821	.....	100+	100+	.....	
7,227	2,161	.....	100+	63.6	.....	
15,403	1,906	.....	82.3	37.2	.....	
7,428	7,526	3,021	79.6	72.2	5	7,230
12,948	2,931	.....	100+	74.9	.....	
12,354	2,686	.....	75.1	32.1	.....	
6,287	7,037	.....	100+	67.9	31	6,586
12,047	2,501	.....	100+	68.9	.....	

TABLE 9.—

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Marshall	4, 342	7, 168	4, 229	177	97. 4	2. 5
Monroe	13, 426	5, 610				
Montgomery	4, 700	2, 627				
*Neshoba	9, 143	2, 565				
*Newton	8, 014	3, 018				
*Noxubee	2, 997	5, 172				
*Oktibbeha	8, 423	4, 952	4, 413	128	52. 4	2. 6
Panola	7, 639	7, 250	5, 922	878	77. 5	12. 1
Pearl River	9, 765	2, 473				
Perry	3, 515	1, 140				
Pike	12, 163	6, 936				
Pontotoc	8, 772	1, 519				
Prentiss	9, 535	1, 070				
Quitman	4, 176	5, 673				
*Rankin	13, 246	6, 944				
Scott	7, 742	3, 752	5, 400	16	69. 7	0. 4
*Sharkey	1, 882	3, 152				
*Simpson	8, 073	3, 186				
Smith	6, 597	1, 293				
Stone	2, 965	868				
Sunflower	8, 785	13, 524	7, 082	185	80. 6	1. 4
Tallahatchie	5, 099	6, 483	4, 464	17	87. 5	0. 3
Tate	4, 506	4, 326				
Tippah	7, 513	1, 281				
Tishomingo	8, 068	359				
Tunica	2, 011	5, 822	1, 407	38	70. 0	0. 7
Union	9, 512	1, 626				
*Walthall	4, 536	2, 490	4, 536	4	100. 0	0. 2
*Warren	13, 530	10, 726	11, 654	2, 433	86. 1	22. 7
Washington	19, 837	20, 619				
Wayne	5, 881	2, 556				
Webster	4, 993	1, 174				
*Wilkinson	2, 340	4, 120				
*Winston	6, 808	3, 611				
Yalobusha	4, 572	2, 441				
Yazoo	7, 598	8, 719				
Totals:						
Nonexaminer counties	466, 797	285, 534	98, 176	3, 817	76. 7	4. 5
Examiner counties	284, 469	136, 739	129, 338	9, 158	83. 7	8. 1
All counties	751, 266	422, 273	525, 000	28, 500	69. 9	6. 7

[1] Sources: County figures: Unofficial figures, furnished by the Department of Justice showing registration as of a median date, Jan. 1, 1964. Statewide figures: Unofficial registration figures as of Nov. 1, 1964, furnished by the Voter Education Project of the Southern Regional Council.

Mississippi—Continued

Post-Act registration [2]					Listing by Federal examiners [2]	
Number			Percentage [3]			
White	Nonwhite	Unknown	White	Nonwhite	White	Nonwhite
5, 643	4, 603	.....	100+	64. 2	.....	
2, 789	1, 669	11, 142	83. 0	79. 4	.....	
804	38	6, 181	92. 0	100+	.....	
6, 891	1, 013	1, 643	79. 9	87. 5	1	619
7, 097	1, 386	.....	88. 3	45. 9	0	610
2, 944	2, 620	.....	98. 2	50. 7	5	2, 236
386	763	8, 537	62. 4	89. 5	0	129
7, 548	3, 760	142	99. 3	53. 3	.....	
13, 390	1, 197	.....	100+	48. 4	.....	
4, 248	704	.....	100+	61. 8	.....	
2, 168	2, 834	9, 576	76. 8	75. 5	.....	
6, 679	559	.....	76. 1	36. 8	.....	
3, 462	387	8, 914	100+	100+	.....	
4, 035	2, 610	60	97. 0	46. 8	.....	
12, 503	1, 793	870	96. 0	35. 2	0	906
8, 808	1, 503	.....	100+	40. 1	.....	
5, 583	1, 330	972	100+	54. 2	0	286
8, 714	2, 070	41	100+	65. 9	0	1, 435
1, 041	392	6, 841	93. 6	100+	.....	
484	282	3, 181	93. 3	100+	.....	
7, 418	5, 548	.....	84. 4	41. 0	.....	
5, 595	3, 377	.....	100+	52. 1	.....	
4, 765	2, 171	.....	100+	50. 2	.....	
8, 352	675	.....	100+	52. 7	.....	
8, 810	193	.....	100+	53. 8	.....	
1, 564	504	2, 066	100+	35. 3	.....	
8, 463	394	.....	89. 0	24. 2	.....	
4, 855	1, 803	3	100+	72. 5	1	1, 246
13, 968	6, 315	117	100+	59. 7	27	1, 266
13, 385	3, 274	7, 174	76. 6	41. 9	.....	
7, 265	1, 225	.....	100+	47. 9	.....	
154	83	6, 875	96. 5	100+	.....	
2, 484	185	3, 263	100+	80. 1	42	16
5, 271	558	226	78. 3	20. 1	0	51
768	1, 126	3, 963	81. 8	86. 7	.....	
1, 622	2, 856	7, 342	93. 8	53. 8	.....	
354, 798	86, 559	138, 939	93. 5	50. 3	.....	
234, 268	94, 674	36, 360	90. 8	70. 9	243	57, 896
589, 066	181, 233	176, 099	91. 5	59. 8	243	57, 896

[2] Source: U.S. Department of Justice. Statistics are as of Sept. 30, 1967.

[3] These percentages were obtained by counting 75 percent of the persons of unknown race who registered before the passage of the Voting Rights Act as white and 25 percent as nonwhite and 75 percent of the persons of unknown race who registered after the passage of the Act as nonwhite and 25 percent as white.

[4] An asterisk indicates a county which has been designated by the Attorney General for the appointment of Federal examiners and in which examiners have been appointed.

TABLE 10.—

County	1960 voting age population		Pre-Act registration [1]	
			Number	
	White	Nonwhite	White	Nonwhite
Alamance	42, 755	7, 429	.....	5, 177
Alexander	8, 370	506	.....	.....
Alleghany	4, 588	119	.....	.....
Anson	7, 847	5, 218	.....	.....
Ashe	11, 276	115	.....	.....
Avery	6, 507	124	.....	.....
Beaufort	13, 737	6, 196	.....	.....
Bertie	6, 156	6, 261	.....	.....
Bladen	9, 173	5, 147	.....	.....
Brunswick	7, 602	3, 170	.....	.....
Buncombe	72, 249	8, 510	28, 894	5, 695
Burke	29, 506	1, 921	.....	.....
Cabarrus	35, 165	5, 380	.....	.....
Caldwell	25, 520	1, 723	.....	.....
Camden	1, 988	1, 054	.....	.....
Carteret	16, 030	1, 932	.....	.....
Caswell	6, 026	4, 129	.....	.....
Catawba	38, 542	3, 296	.....	.....
Chatham	11, 227	4, 026	.....	.....
Cherokee	9, 102	226	.....	.....
Chowan	3, 825	2, 507	.....	.....
Clay	3, 112	37	.....	.....
Cleveland	30, 356	6, 747	19, 827	2, 353
Columbus	17, 830	7, 382	.....	.....
Craven	22, 994	8, 242	.....	.....
Cumberland	58, 279	18, 789	.....	.....
Currituck	2, 845	1, 076	.....	.....
Dare	3, 467	237	.....	.....
Davidson	41, 462	4, 491	.....	.....
Davie	8, 898	1, 080	.....	.....
Duplin	14, 477	6, 955	.....	.....
Durham	47, 098	19, 475	.....	.....
Edgecombe	15, 515	12, 330	.....	.....
Forsyth	87, 219	24, 952	66, 800	12, 000
Franklin	9, 842	5, 554	.....	.....
Gaston	64, 154	8, 365	.....	.....
Gates	2, 714	2, 344	.....	.....
Graham	3, 324	125	.....	.....
Granville	11, 584	6, 966	.....	.....
Greene	4, 793	3, 268	.....	.....
Guilford	116, 748	27, 292	85, 689	16, 796
Halifax	16, 496	13, 766	15, 469	3, 644
Harnett	20, 061	6, 150	.....	.....
Haywood	23, 055	500	.....	.....
Henderson	21, 062	1, 170	.....	.....
Hertford	5, 606	6, 102	.....	.....
Hoke	3, 998	3, 747	.....	.....
Hyde	2, 201	1, 100	.....	.....
Iredell	31, 094	5, 517	.....	.....
Jackson	9, 227	841	.....	.....
Johnston	28, 259	6, 395	.....	.....
Jones	3, 248	2, 251	.....	.....

See footnotes at end of table.

North Carolina

Pre-Act registration [1]—Continued		Post-Act registration [2]			
Percentage		Number		Percentage	
White	Nonwhite	White	Nonwhite	White	Nonwhite
	69.7	38,517	5,221	90.1	70.3
		10,018	460	100+	90.9
		6,899	83	100+	69.7
		6,500	1,800	82.8	34.5
		13,038	110	100+	95.7
		6,018	41	92.5	33.1
		9,857	1,721	71.8	27.8
		5,997	3,951	97.4	63.1
		10,109	2,721	100+	52.9
		10,243	2,608	100+	82.3
39.9	66.9	69,379	5,608	96.0	65.9
		35,057	2,488	100+	100+
		32,973	2,953	93.8	54.9
		23,286	1,958	91.2	100+
		1,933	422	97.2	40.0
		12,170	1,190	75.9	61.6
		5,200	1,600	86.3	38.8
		24,968	4,406	64.8	100+
		11,962	1,874	100+	46.5
		8,957	142	98.4	62.8
		3,488	828	91.2	33.0
		2,902	30	93.3	81.1
65.3	36.3	20,093	2,406	66.2	35.7
		16,512	6,107	92.6	82.7
		12,001	3,473	52.2	42.1
		26,087	7,165	44.8	38.1
		2,624	397	92.2	36.9
		3,140	98	90.6	41.4
		10,110	987	100+	91.4
		15,812	3,185	100+	45.8
		36,717	16,176	78.0	83.1
		10,650	3,525	68.6	28.6
76.6	48.1	69,394	17,428	79.6	71.6
		10,923	2,045	100+	36.8
		43,924	4,243	68.5	50.7
		3,061	1,289	100+	55.0
		4,767	0	100+	0.0
		10,205	2,537	88.1	36.4
		5,070	795	100+	24.3
73.4	61.5	76,078	15,916	65.2	58.3
93.7	26.5	15,667	4,883	95.0	35.5
		11,666	1,177	58.2	19.1
		22,052	377	95.6	75.4
		17,419	651	82.7	55.6
		4,378	2,484	78.1	40.7
		2,962	1,354	74.1	36.1
		1,970	399	89.5	36.3
		23,858	2,965	76.7	53.7
		8,244	168	89.3	20.0
		22,924	2,575	81.1	40.3
		4,508	1,604	100+	71.3

TABLE 10.—North

County	1960 voting age population		Pre-Act registration[1]	
			Number	
	White	Nonwhite	White	Nonwhite
Lee	12, 041	2, 803		
Lenoir	19, 260	10, 293		
Lincoln	14, 893	1, 546		
McDowell	14, 693	755		
Macon	8, 573	180		
Madison	9, 574	75		
Martin	8, 052	5, 683		
Mecklenburg	123, 787	34, 150	72, 840	15, 284
Mitchell	7, 977	29		
Montgomery	8, 119	2, 075		
Moore	15, 733	4, 803		
Nash	21, 761	10, 573		
New Hanover	31, 641	10, 569		
Northampton	6, 178	7, 304		
Onslow	33, 988	5, 015		
Orange	19, 385	4, 978		
Pamlico	3, 708	1, 593		
Pasquotank	9, 409	4, 936		
Pender	5, 631	4, 085		
Perquimans	3, 083	2, 027		
Person	9, 994	4, 227		
Pitt	22, 621	13, 575		
Polk	6, 104	766		
Randolph	33, 477	2, 591		
Richmond	16, 019	5, 514		
Robeson	20, 851	21, 424		
Rockingham	33, 438	7, 398		
Rowan	42, 866	7, 209		
Rutherford	24, 020	2, 572		
Sampson	17, 378	8, 203		
Scotland	7, 812	4, 686		
Stanley	22, 056	2, 164		
Stokes	11, 786	1, 025		
Surry	26, 796	1, 423		
Swain	3, 878	756		
Transylvania	8, 687	405		
Tyrrell	1, 597	849		
Union	20, 044	4, 423		
Vance	11, 005	6, 520		
Wake	76, 799	22, 856	43, 869	12, 586
Warren	4, 439	5, 490		
Washington	4, 365	2, 643		
Watauga	9, 639	126		
Wayne	29, 349	15, 754	18, 187	5, 218
Wilkes	23, 779	1, 444		
Wilson	20, 566	10, 770		
Yadkin	13, 039	576		
Yancey	7, 856	76		
Totals	2, 005, 955	550, 929	1, 942, 000	258, 000

[1] Source: County figures: Unofficial figures furnished by Voter Education Project of the Southern Regional Council showing registration as of 1964. Registration figures for other counties are not available. Statewide figures: Unofficial estimates as of Nov. 1, 1964, furnished by the Voter Education Project of the Southern Regional Council.

Carolina—Continued

Pre-Act registration [1]—Continued		Post-Act registration [2]			
Percentage		Number		Percentage	
White	Nonwhite	White	Nonwhite	White	Nonwhite
		11, 551	1, 964	95. 9	70. 1
		15, 709	3, 673	81. 6	35. 7
		18, 456	1, 594	100+	100+
		14, 232	626	96. 9	82. 9
		8, 327	72	97. 1	40. 0
		8, 489	42	88. 7	56. 0
		7, 845	2, 203	97. 4	38. 8
58. 8	44. 6	100, 534	18, 470	81. 2	54. 1
		7, 505	15	94. 1	51. 7
		7, 959	1, 469	98. 0	70. 8
		13, 447	2, 162	85. 5	45. 0
		15, 412	2, 679	70. 8	25. 3
		23, 190	6, 799	73. 3	64. 3
		6, 062	4, 016	98. 1	55. 0
		8, 531	1, 488	25. 1	29. 7
		3, 125	766	84. 3	48. 1
		6, 079	2, 127	64. 6	43. 1
		5, 486	1, 672	97. 4	40. 9
		2, 327	995	75. 5	49. 1
		10, 298	2, 115	100+	50. 0
		27, 754	4, 507	100+	33. 2
		8, 459	805	100+	100+
		28, 054	1, 413	83. 8	54. 5
		13, 827	3, 820	86. 3	69. 3
		12, 859	9, 391	61. 7	43. 8
		26, 842	4, 330	80. 3	58. 5
		33, 211	4, 387	77. 5	60. 9
		24, 275	1, 525	100+	59. 3
		23, 326	7, 662	100+	93. 4
		5, 031	1, 620	64. 4	34. 6
		19, 559	1, 310	88. 7	60. 5
		7, 950	1, 550	67. 5	100+
		32, 480	964	100+	67. 7
		6, 378	97	100+	12. 8
		6, 242	398	71. 9	98. 3
		1, 111	424	69. 6	49. 9
		13, 513	1, 422	67. 4	32. 2
		8, 343	2, 495	75. 8	38. 3
57. 1	55. 1	64, 579	11, 853	84. 1	51. 9
		4, 548	2, 399	100+	43. 7
		3, 896	1, 346	89. 3	50. 9
		10, 081	97	100+	77. 0
62. 0	33. 1	17, 647	5, 010	60. 1	31. 8
		24, 440	1, 826	100+	100+
		12, 807	3, 114	62. 3	28. 9
		8, 917	68	100+	89. 5
96. 8	46. 8	1, 602, 980	277, 404	83. 0	51. 3

[2] Source: Alex K. Brock, Executive Secretary, State Board of Elections. Statistics are as of Feb. 2, 1967.

TABLE 11.—

County	1960 voting age population		Pre-Act registration [1] Number	
	White	Nonwhite	White	Nonwhite
Abbeville	8, 733	3, 215	6, 100	900
Aiken	33, 646	10, 040	26, 000	4, 000
Allendale	2, 531	3, 205	2, 900	504
Anderson	47, 542	9, 598	30, 000	7, 500
Bamberg	4, 371	3, 807	4, 169	1, 400
Barnwell	5, 652	3, 242	6, 800	1, 500
Beaufort	12, 098	7, 247	6, 500	3, 500
Berkeley	10, 122	7, 619	10, 000	4, 000
Calhoun	2, 623	3, 318	2, 415	487
Charleston	77, 909	35, 499	50, 310	13, 976
Cherokee	16, 037	3, 360	14, 245	1, 438
Chester	11, 172	5, 664	10, 088	3, 000
Chesterfield	12, 099	5, 219	10, 936	2, 400
*Clarendon [3]	5, 223	7, 735	4, 708	523
Colleton	8, 203	6, 180	8, 045	1, 870
Darlington	16, 706	9, 900	13, 000	5, 000
Dillon	8, 725	5, 529	6, 500	2, 500
*Dorchester	7, 121	5, 370	7, 864	1, 750
Edgefield	4, 103	3, 764	3, 950	650
Fairfield	4, 975	5, 536	5, 050	1, 650
Florence	27, 047	15, 951	23, 881	4, 458
Georgetown	8, 855	7, 173	6, 907	4, 604
Greenville	102, 365	18, 605	66, 040	8, 368
Greenwood	19, 218	6, 764	15, 714	2, 300
Hampton	4, 711	4, 052	4, 696	1, 025
Horry	27, 518	7, 429	20, 700	2, 300
Jasper	2, 689	3, 333	2, 580	1, 200
Kershaw	11, 258	5, 903	10, 862	2, 266
Lancaster	16, 213	4, 762	16, 265	1, 800
Laurens	19, 775	6, 818	9, 637	6, 400
Lee	4, 394	5, 446	4, 354	1, 150
Lexington	28, 774	4, 782	20, 500	3, 500
McCormick	1, 915	2, 248	1, 900	210
Marion	8, 103	7, 684	6, 470	1, 200
Marlboro	8, 230	5, 932	7, 800	1, 200
Newberry	12, 204	4, 954	11, 200	1, 000
Oconee	19, 762	2, 230	12, 100	1, 400
Orangeburg	16, 381	17, 355	15, 619	6, 483
Pickens	24, 015	2, 356	15, 300	1, 700
Richland	79, 050	32, 670	58, 750	8, 750
Saluda	5, 573	2, 327	5, 840	440
Spartanburg	73, 317	17, 047	57, 129	7, 171
Sumter	22, 004	15, 380	9, 800	4, 200
Union	12, 826	4, 125	13, 423	1, 438
Williamsburg	7, 560	10, 535	8, 067	1, 933
York	31, 799	10, 196	22, 800	3, 500
Totals:				
Nonexaminer counties	882, 803	357, 999	665, 342	136, 271
Examiner counties	12, 344	13, 105	12, 572	2, 273
All counties	895, 147	371, 104	677, 914	138, 544

[1] Source: Unofficial figures published by the Charleston News and Courier, Nov. 1, 1964.

South Carolina

Pre-Act registration [1] — Continued		Post-Act registration [2]				Listing by Federal examiners [2]	
Percentage		Number		Percentage			
White	Nonwhite	White	Nonwhite	White	Nonwhite	White	Nonwhite
69.8	28.0	7, 202	1, 142	82.5	35.5		
77.3	39.8	33, 582	8, 701	99.8	86.7		
100+	15.7	3, 063	1, 665	100+	52.0		
63.1	78.1	31, 242	2, 749	65.7	28.6		
95.4	36.8	4, 320	1, 378	98.8	36.2		
100+	46.3	6, 912	917	100+	28.3		
53.7	48.3	6, 130	3, 060	50.7	42.2		
98.8	52.5	10, 683	4, 253	100+	55.8		
92.1	14.7	2, 619	619	99.8	18.7		
64.6	39.4	54, 648	17, 991	70.1	50.7		
88.8	42.8	14, 991	1, 775	93.5	52.8		
90.3	53.0	11, 222	2, 569	100+	45.4		
90.4	46.0	10, 755	3, 984	88.9	76.3		
90.1	6.8	5, 491	5, 368	100+	69.4	13	3, 403
98.1	30.3	8, 597	2, 802	100+	45.3		
77.8	50.5	15, 763	5, 007	94.4	50.6		
74.5	45.2	7, 613	2, 865	87.3	51.8		
100+	32.6	8, 701	4, 009	100+	74.7	3	1, 203
96.3	17.3	4, 223	1, 073	100+	28.5		
100+	29.8	4, 945	2, 409	99.4	43.5		
88.3	28.0	25, 206	7, 976	93.2	50.0		
78.0	64.2	8, 758	4, 450	98.9	62.0		
64.5	45.0	69, 086	8, 757	67.5	47.1		
81.8	34.0	16, 339	2, 937	85.0	43.4		
99.7	25.3	5, 000	2, 387	100+	58.9		
75.2	31.0	20, 592	3, 063	74.8	41.2		
96.0	36.0	2, 953	2, 107	100+	63.2		
96.5	38.4	11, 972	3, 185	100+	54.0		
100+	37.8	17, 486	1, 946	100+	40.9		
48.7	93.9	11, 358	6, 282	57.4	92.1		
99.1	21.1	4, 680	2, 691	100+	49.4		
71.3	73.2	25, 777	2, 540	89.6	53.1		
99.2	9.3	2, 181	978	100+	43.5		
79.8	15.6	7, 236	3, 082	89.3	40.1		
94.8	20.2	8, 556	1, 593	100+	26.9		
91.8	20.2	10, 997	1, 897	91.1	38.3		
61.2	62.8	13, 871	1, 241	70.2	55.7		
95.3	37.4	16, 215	8, 478	99.1	48.9		
63.7	72.2	17, 725	1, 098	73.8	46.6		
74.3	26.8	57, 628	19, 621	72.9	60.1		
100+	18.9	5, 629	1, 119	100+	48.1		
77.9	42.1	59, 292	7, 850	80.9	46.0		
44.5	27.3	14, 141	8, 290	64.3	53.9		
100+	34.9	13, 040	1, 731	100+	42.0		
100+	18.3	9, 352	5, 847	100+	55.5		
71.7	34.3	23, 324	4, 535	73.3	44.5		
75.4	38.1	716, 904	180, 640	81.2	50.5		
100+	17.3	14, 192	9, 377	100+	71.6	16	4, 606
75.7	37.3	731, 096	190, 017	81.7	51.2	16	4, 606

[2] Source: U.S. Department of Justice. Statistics are as of July 31, 1967. All voters in South Carolina must reregister as of Jan. 1, 1968. S.C. Code § 23-67 (Michie ed. 1962).

[3] An asterisk indicates a county which has been designated by the Attorney General for the appointment of Federal examiners and in which examiners have been appointed.

TABLE 12.—Virginia

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Accomack	13, 148	6, 142	5, 698	979	43. 3	15. 9
Albemarle	15, 670	2, 576	6, 485	1, 215	41. 4	47. 2
Alleghany	6, 675	256	4, 650	800	69. 7	100+
Amelia	2, 261	1, 924	2, 447	888	100+	46. 2
Amherst	10, 523	2, 693	6, 702	1, 275	63. 7	47. 3
Appomattox	4, 245	1, 142	4, 041	505	95. 2	44. 2
Arlington	102, 364	5, 214	66, 054	2, 525	64. 6	48. 4
Augusta	21, 314	864	10, 163	339	47. 7	39. 2
Bath	2, 976	340	1, 632	116	54. 8	34. 1
Bedford	15, 258	3, 044	7, 788	1, 343	51. 0	44. 1
Bland	3, 504	146	1, 947	7	55. 6	4. 8
Botetourt	9, 045	778	4, 596	145	50. 8	18. 6
Brunswick	4, 637	4, 734	3, 671	914	79. 2	19. 3
Buchanan	16, 782	8	11, 221	0	66. 9	0. 0
Buckingham	3, 776	2, 208	1, 700	825	45. 0	37. 4
Campbell	15, 518	3, 291	6, 103	1, 132	39. 3	34. 4
Caroline	3, 793	3, 210	2, 602	1, 601	68. 6	49. 9
Carroll	13, 614	41	6, 627	11	48. 7	26. 8
Charles City	582	2, 126	490	943	84. 2	44. 4
Charlotte	5, 014	2, 500	4, 514	808	90. 0	32. 2
Chesterfield	35, 855	4, 862	29, 200	1, 794	81. 4	36. 9
Clarke	4, 016	786	3, 137	348	78. 1	44. 3
Craig	2, 053	3	1, 250	0	60. 9	0. 0
Culpepper	6, 964	2, 068	5, 054	807	72. 6	39. 0
Cumberland	1, 819	1, 647	2, 000	759	100+	46. 1
Dickenson	9, 791	64	7, 608	27	77. 7	42. 2
Dinwiddie	5, 212	8, 587	3, 241	1, 284	62. 2	15. 0
Essex	2, 241	1, 665	1, 640	667	73. 2	40. 1
Fairfax [2]	140, 605	9, 110	87, 261	1, 904	66. 2	21. 4
Fauquier	10, 726	3, 093	6, 734	1, 492	62. 8	48. 2
Floyd	6, 017	308	4, 483	155	74. 5	50. 3
Fluvanna	2, 790	1, 378	1, 366	222	49. 0	16. 1
Franklin	12, 801	1, 728	5, 249	451	41. 0	26. 1
Frederick	12, 479	232	5, 975	50	47. 9	21. 6
Giles	9, 629	232	6, 020	84	62. 5	36. 2
Gloucester	5, 341	1, 882	3, 873	1, 172	72. 5	62. 3
Goochland	3, 121	2, 312	1, 627	514	52. 1	22. 2
Grayson	10, 173	329	6, 778	173	66. 6	52. 6
Greene	2, 331	328	1, 726	125	74. 0	38. 1
Greensville	4, 499	3, 885	3, 467	1, 890	77. 1	48. 6
Halifax	11, 377	6, 769	6, 155	1, 700	54. 1	25. 1
Hanover	12, 432	3, 302	8, 784	1, 639	70. 7	49. 6
Henrico	66, 822	3, 397	47, 112	1, 527	70. 5	45. 0
Henry	17, 805	4, 113	9, 829	1, 574	55. 2	38. 3
Highland	2, 040	16	1, 497	10	73. 4	62. 5
Isle of Wight	4, 991	4, 317	4, 241	1, 893	85. 0	43. 8
James City	4, 845	2, 056	2, 688	960	55. 5	46. 7
King and Queen	1, 735	1, 617	1, 156	780	66. 6	48. 2
King George	3, 200	1, 009	1, 841	513	57. 5	50. 8
King William	2, 491	1, 864	1, 870	683	75. 1	36. 6
Lancaster	3, 613	1, 978	3, 078	1, 229	85. 2	62. 1
Lee	14, 072	100	11, 931	59	84. 8	59. 0
Loudoun	12, 014	2, 239	9, 423	979	78. 4	43. 7
Louisa	4, 917	2, 482	2, 844	1, 279	57. 8	51. 5
Lunenberg	4, 611	2, 534	2, 821	660	61. 2	26. 0
Madison	3, 883	898	2, 135	247	55. 0	27. 5

See footnotes at end of table.

TABLE 12.—Virginia—Continued

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
Mathews	3,809	1,062	2,218	326	58.2	30.7
Mecklenburg	10,474	6,624	4,670	620	44.6	9.4
Middlesex	2,586	1,363	1,684	538	65.1	39.5
Montgomery	18,091	960	7,065	355	39.1	37.0
Nansemond	6,965	9,806	4,104	2,792	58.9	28.5
Nelson	5,693	1,813	4,327	704	76.0	38.8
New Kent	1,325	1,229	1,185	501	89.4	40.8
Northampton	5,340	4,786	2,325	810	43.5	16.9
Northumberland	3,965	2,123	3,376	1,021	85.1	48.1
Nottoway	5,564	3,458	4,020	1,320	72.3	38.2
Orange	6,269	1,429	3,025	561	48.3	39.3
Page	9,121	271	7,015	85	76.9	31.4
Patrick	8,076	616	4,980	229	61.7	37.2
Pittsylvania	22,835	8,604	8,340	1,476	36.5	17.2
Powhatan	2,376	1,563	1,820	867	76.6	55.5
Prince Edward	5,125	2,896	3,085	1,112	60.2	38.4
Prince George	8,860	2,420	3,343	986	37.7	40.7
Prince William	24,477	2,217	9,617	438	39.3	19.8
Princess Anne	33,581	6,239				
Pulaski	14,802	1,030	6,470	366	43.7	35.5
Rappahannock	2,608	540	1,379	213	52.9	39.4
Richmond	2,713	1,132	1,644	353	60.6	31.2
Roanoke	35,014	2,211	27,474	977	78.5	44.2
Rockbridge	12,662	1,127	6,830	950	53.9	84.3
Rockingham	22,976	427	8,630	70	37.6	16.4
Russell	13,883	297	9,535	76	68.7	25.6
Scott	14,626	193	10,557	84	72.2	43.5
Shenandoah	13,416	188	9,436	115	70.3	61.2
Smyth	18,191	327	8,578	70	47.2	21.4
Southampton [3]	7,239	7,435	4,575	2,045	87.4	39.6
Spotsylvania	6,262	1,503	4,465	632	71.3	42.0
Stafford	8,594	971	3,685	712	42.9	73.3
Surry	1,479	1,842	1,621	1,140	100+	61.9
Sussex	2,662	3,706	2,536	1,354	95.3	36.5
Tazewell	23,237	1,071	13,716	768	59.0	71.7
Warren	8,211	587	5,235	250	63.8	42.6
Washington	21,146	546	9,188	249	43.5	45.6
Westmoreland	3,836	2,352	3,320	441	86.5	18.8
Wise	22,602	685	11,232	225	49.7	32.9
Wythe	12,299	523	10,030	283	81.6	54.1
York	9,596	2,428	6,552	1,623	68.3	66.8
INDEPENDENT CITIES						
Alexandria	50,548	6,025	32,918	2,548	65.1	42.3
Bristol	9,373	672	4,528	192	48.3	28.6
Buena Vista	3,390	156	1,018	23	30.0	14.7
Charlottesville	15,904	3,369	11,462	2,181	72.1	64.7
Chesapeake	30,450	9,428	21,514	3,672	70.7	38.9
Clifton Forge	2,920	600	2,225	435	76.2	72.5
Colonial Heights	6,049	17	4,337	0	71.7	0.0
Covington	6,206	751	2,860	1,005	46.1	100+
Danville	22,404	6,388	13,879	3,246	62.0	50.8
Fairfax [2]			5,822	41		
Falls Church	5,720	114	4,386	69	76.7	60.5
Franklin [3]			1,752	899		

See footnotes at end of table.

TABLE 12.—Virginia—Continued

County	1960 voting age population		Pre-Act registration [1]			
			Number		Percentage	
	White	Nonwhite	White	Nonwhite	White	Nonwhite
INDEPENDENT CITIES—continued						
Fredericksburg	6,717	1,471	3,713	621	55.3	42.2
Galax	3,073	152	1,500	20	48.8	13.2
Hampton	40,795	10,825	21,433	5,789	52.5	53.5
Harrisonburg	6,747	436	3,875	190	57.4	43.6
Hopewell	8,854	1,549	5,600	750	63.2	48.4
Lynchburg	27,728	6,574	16,708	3,446	60.3	52.4
Martinsville	8,084	2,972	6,172	1,233	76.3	41.5
Newport News	44,258	20,974	25,489	8,307	57.6	39.6
Norfolk	129,423	45,376	58,893	15,801	45.5	34.8
Norton	2,764	188	1,220	200	44.1	100+
Petersburg	12,528	9,821	6,353	3,919	50.7	39.9
Portsmouth	44,286	21,055	17,986	6,725	40.6	31.9
Radford	5,032	333	4,565	296	90.7	88.9
Richmond	90,508	53,719				
Roanoke	52,527	9,519	32,138	3,037	61.2	31.9
South Boston	2,639	969	1,975	540	74.8	55.7
Staunton	13,290	1,288	7,063	645	53.1	50.1
Suffolk	5,272	2,769	2,779	817	52.7	29.5
Virginia Beach	4,706	342	26,163	2,961	100+	100+
Waynesboro	8,667	548	5,963	335	68.8	61.1
Williamsburg	3,509	583	1,632	384	46.5	65.9
Winchester	9,200	708	5,135	174	55.8	24.6
Total	1,876,167	436,718	1,070,168	144,259	61.1	38.3

[1] Source: Official figures furnished by State Board of Elections as an estimate of registration as of October 1964. Registration statistics for Madison, Montgomery, and Pulaski Counties are as of April 1964. Current figures are not available.

[2] Because the city of Fairfax became an independent city, separate from the county of Fairfax, after the 1960 census the registration percentage for Fairfax County is based on the number registered in both the city and county of Fairfax.

[3] Because the city of Franklin became an independent city, separate from the county of Southampton, after the 1960 census the registration percentage for Southampton County is based on the number registered in both the city of Franklin and the county of Southampton.

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POLITICAL PARTICIPATION