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United States v. Mississippi (p. 597-606)

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[fol. 909] ANSWER TO INTERROGATORY NUMBER 10(a) AS TO THE FACTUAL BASIS FOR THE ASSERTION CONTAINED IN PARAGRAPH 27 OF THE COMPLAINT THAT THE PROPOSED AMENDMENT TO SECTION 244 OF THE MISSISSIPPI CONSTITUTION OF 1890 WAS DESIGNED TO PERPETUATE IN MISSISSIPPI "WHITE POLITICAL SUPREMACY," A RACIALLY SEGREGATED SOCIETY, AND THE DISFRANCHISEMENT OF NEGROES.

The factual basis for the assertion contained in Paragraph 27 of the complaint that the proposed amendment to Section 244 of the Mississippi Constitution of 1890 was designed to perpetuate in Mississippi "white political supremacy," a racially segregated society, and the disfranchisement of Negroes is as follows:

1. In June 1951, the United States Court of Appeals for the Fifth Circuit made it clear that the interpretation portion of section 244 could not be used as a registration requirement where the applicant could read.¹

2. In 1952 the Mississippi Legislature passed a joint resolution proposing an amendment to Section 244 of the Mississippi Constitution of 1890 which provided that as a prerequisite for registration to vote the applicant must be able both to read and to give a reasonable interpretation of any section of the Mississippi Constitution.² The proposed amendment was submitted to the voters in a general election and was not adopted.³

[fol. 910] 3. In its next regular session on April 24, 1954, the Legislature, again adopted a similar resolution to amend Section 244.⁴ The proposed amendment required that an applicant for registration be able to read and write any section of the Mississippi Constitution and give a reasonable interpretation thereof to the county registrar and, in addition, that the applicant be able to demonstrate to the county registrar a reasonable understanding of the duties and

¹ *Peay v. Cox*, 190 F 2d 123, (Fifth Cir., 1951).

² P. 54-1, Mississippi Laws, 1952, Ch. 454.

³ A-54, Defendant's admission in Answer to Complaint on behalf of the State of Mississippi p. 5, par. 24.

⁴ P. 54-2. Mississippi Laws, 1954, Ch. 427.

obligations of citizenship under a constitutional form of government.⁵ The proposed amendment also required for the first time in Mississippi that persons applying for registration must make a sworn written application for registration on a form to be prescribed by the State Board of Election Commissioners.⁶ Persons who were registered to vote prior to January 1, 1954, were expressly exempted from the new, more stringent requirements.⁷

4. On May 1, 1954, the Mississippi Legislature created a twenty-five member Legal Education Advisory Committee.⁸

5. According to the *Clarion-Ledger* of August 1, 1954, in July, the Legal Educational Advisory Committee, together with Governor Hugh White, met with a group of Mississippi Negro leaders to discuss preserving a voluntary [fol. 911] equal but separate public school system in Mississippi. The Negroes rejected the proposal and as a result Governor White called "for an extraordinary session of the Legislature to convene on September 7 to consider submitting to the people a constitutional amendment empowering the Legislature, by two-thirds vote of both houses, to abolish the public schools, or to authorize counties and separate school districts to abolish the schools if efforts are not to force integration of the races in the schools and this becomes the last resort to prevent integration."⁹

6. On August 13, 1954, according to the *Clarion-Ledger* of that date Governor White expressed the view that:¹⁰

There is no thought among the Advisory Committee to abolish the public schools. . . . But the constitutional amendment must be passed as a weapon to hold over Negro heads to keep them from trying to force integrated schools upon Mississippi.

⁵ P. 54-2. Mississippi Laws, 1954, Ch. 427.

⁶ P. 54-2. Mississippi Laws, 1954, Ch. 427.

⁷ P. 54-2. Mississippi Laws, 1954, Ch. 427.

⁸ P. 54-3. Mississippi Laws, 1954, Ch. 420.

⁹ P. 54.6. The *Clarion-Ledger*. Jackson, Miss. August 1, 1954. P. 16, col. 2.

¹⁰ P. 54-7. The *Clarion-Ledger*, Jackson, Miss. August 13, 1954. P. 1.

7. During the same summer, 1954, white citizens councils were formed in Mississippi. The purpose of these organizations was the maintenance of racial segregation in the state.¹¹

In a circular of the Association of Citizens Councils of Mississippi, which sets forth the committees to be formed [fol. 912] in local citizens councils, the duties of each committee are stated:¹²

1. *Political and Elections Committee*—Screens all candidates in local and state elections against those who might be seeking the negro vote. If necessary, organize a white private election, within our group, to combat the negro bloc vote (as our old white primary). Discourage negro registration by every legal means.
2. *Information and Education Committee*—Gather information pertaining to segregation from all over our nation. Seek facts to present to our people. Educate all citizens, black and white, to the advantages of segregation and the dangers of integration. Handle press, radio and speakers. Coordinate with other similar organizations.
3. *Membership and Finance Committee*—Seeks white patriotic voters for membership. We must mobilize public opinion.
4. *Legal Advisory Committee*—Anticipates moves by agitators and devises legal means for handling any problem that may arise. Provides legal council for all members.

We will be in a position to support any national organization that we feel sanctions our ideals. If all eighty-two counties in Mississippi and the South were to organize, as we are doing, *what would our possibilities be?*

¹¹ P. 54-17. Robert B. Patterson. *The Citizen's Council Annual Report*. (Winona, Mississippi: Association of Citizens' Councils of Mississippi, 1955), p. 1.

¹² P. 54-18. "What is the Citizens' Council?" (Winona, Miss.: Association of Citizens' Councils of Mississippi, 1954).

8. An extraordinary sessions of the Mississippi Legislature convened September 9, 1954.¹³

9. In September 1954, the Legal Education Advisory Committee of the Mississippi Legislature submitted its statement of policy:¹⁴

[fol. 913] The Committee conceives its duty to be to devise the means and methods by which separate schools for the race shall be maintained in this state and to submit such plan to the legislature for its action thereon.

It was the sense of the committee that its first most important task is to determine what amendments to the state constitution are necessary to enable the legislature to effectively deal with the problem of segregation and integration in the public schools brought about by the decision of the Supreme Court of the United States of May 17, 1954, declaring that the doctrine of separate but equal facilities has no place in the education system of the nation, and that separate schools for the white and colored races based solely on race is in violation of the Fourteenth Amendment to the Constitution of the United States, therefore when a state undertakes to furnish education opportunities to its citizens [they] must be furnished to all regardless of race or color and without discrimination, thus abolishing our present school system set up under Section 207 of the constitution which provides: "separate schools shall be maintained for children of the white and colored races."

10. In September 1954, the Legislature adopted the resolution proposing a constitutional amendment to empower the Legislature to abolish the public schools or to authorize counties and separate school districts to abolish the schools.¹⁵

¹³ P. 54-19. *Journal of the Senate of the State of Mississippi, Extraordinary Session, 1954*, p. 3.

¹⁴ P. 54-20. *Journal of the House of Representatives of the State of Mississippi, Extraordinary Session, 1954*, p. 14.

¹⁵ P. 54-4. *Mississippi Laws, 1954*. Ex. Ch. 39.

11. On September 13, 1954, the work of the Citizens' Councils of Mississippi was acknowledged on the floor of the Mississippi House of Representatives. Mrs. Wilma B. Sledge, of Sunflower County, where the Citizens, Council was founded, stated:¹⁶

[fol. 914] The Citizens' Councils are a wide-spread group of local organizations composed of reliable white male citizens who believe that segregation is not discrimination and are organized for the sole purpose of maintaining segregation of the races. These councils will maintain segregation through unity and purpose, consolidation of public opinion, and utilization of all legal means available.

Each council accepts the responsibility of preventing intergregation of the races within its immediate territory. Should a consolidation of councils be necessary for concerted action, a centralized state control could be established within a matter of hours. This is true despite the fact that the combined membership has grown within the past two months to the extent that it is now numbered by the thousands.

All segregation problems confronting the respective councils are thoroughly studied by appropriate committees, and any action recommended have the complete sanction of legal advisors who are also members of the organization.

... In maintaining segregation, all city, county and state officials will receive complete support from their councils. Our Congressmen will receive like support.

All of Mississippi's law enforcement officers will be given any assistance they request.

Agitation promoted or fomented by out-of-state individuals and organizations will be nullified.

Candidates for offices at all levels will be carefully screened by the political committees.

... They (the councils) seek to educate all citizens,

¹⁶ P. 54-21. *Journal of the House of Representatives of the State of Mississippi, Extraordinary Session, 1954*, pp. 47-49.

both black and white, to the advantages of segregation and the dangers of integration.

The spontaneous growth of the councils is indicative of the fact that they are predicated on law, order and decency for both races.

But segregation will be maintained.

[fol. 915] . . . Every state in the South has been watching Mississippi. This is our decision and your pattern for the preservation of our way of life.

Ladies and Gentlemen, I am sure you agree with me that such motives and methods are laudable, timely, and imperative. They deserve the sanction and participation of all who are willing to mutually pledge their lives, their fortunes, and their honor to the preservation of an unsullied race. To falter would be tragic; to fail would be fatal. These will neither falter or fail.

12. Between October 28, 1954, and November 2, 1954, as indicated by newspaper reports, it was a matter of common knowledge throughout Mississippi that the purpose of the amendment to section 244 was to perpetuate the disfranchisement of Negroes. This fact was recognized by newspapers widely circulated and read in Mississippi.

The *Jackson Daily News* reported on October 28, 1954, a speech by Mr. Robert Patterson, Chairman of the Association of Citizens' Councils of Mississippi who stated:¹⁷

The amendment is intended solely to limit Negro registration.

In the same newspaper on November 1, 1954, the following comment appears:¹⁸

The amendment would raise voting requirements and its proponents admit it is designed to check the increasing number of Negro ballots.

¹⁷ P. 54-8. *Jackson Daily News*. Jackson, Miss. October 28, 1954.

¹⁸ P. 54-9. *Jackson Daily News*. Jackson, Miss. November 1, 1954.

The *Clarion-Ledger* on November 7, 1954, quoted a pre-election editorial in the *Natchez Times* regarding the proposed amendment to Section 244:¹⁹

As for the "dictatorial" powers which would be granted the registrar, we cannot get overly excited. An elected official usually reflects the wishes of a majority of the electors and he carries out local customs as a means of political preservation.

On election day, November 2, 1954, at least two such explanations were made in the *Clarion-Ledger*, the morning paper. On page one appears:²⁰

And the second [the proposed amendment to section 244] tightened up voting requirements and discouraged if not prevented further qualification of negroes for voting.

On the fourth page Charles M. Hill stated in his political column:²¹

However, there is a steady upturn of registration by negroes for the ballot. The constitutional amendment which appears on the ballot . . . is supposed to be a guard against that.

13. On November 2 the amendment to Section 244 of the Mississippi Constitution was submitted to and ratified by the voters of the state.²²

¹⁹ P. 54-10. *The Clarion-Ledger-Jackson Daily News*. Jackson, Miss. November 7, 1954.

²⁰ P. 54-11. *The Clarion-Ledger*. Jackson, Miss. November 2, 1954. P. 1.

²¹ P. 54-12. *The Clarion Ledger*, Jackson, Miss. November 2, 1954. P. 4.

²² P. 54-22. *Mississippi Official and Statistical Register*, 1950-1960. P. 392.

14. On November 3, 1954, the *Clarion Ledger* reported:²³

[fol. 917] With 347 precincts reporting the vote was 17,317 for the amendment to change the laws for qualification of voters to provide for reading and interpreting the state constitution as a requirement for the new registrants amendment is plainly aimed at negro voters and the provisions would not apply to those already qualified.

The *Meridian Star* reported the same day:²⁴

Slowly mounting returns today gave a 19 to 1 lead to a proposed amendment to restrict negro voting in Mississippi.

The *Gulfport Daily Herald* stated on November 4, 1954:²⁵

Mississippians will have to know how to read and write before they can register to vote under a constitutional amendment approved in Tuesday's general election.

The amendment was aimed at placing new restrictions on Negro voters. Previously, the only restrictions was that applicants be able to read or understand the constitution when it was read to them.

The *Clarion-Ledger* also reported on November 4:²⁶

Mississippi voters defeated a similar amendment just two years ago. Reasons for the shift in public opinion, resulting in approval of the amendment Tuesday, are too well known to need discussion. Chief among the recent events and developments inspiring

²³ P. 54-13. The *Clarion-Ledger*. Jackson, Miss. November 3, 1954. P. 1.

²⁴ P. 54-14. The *Meridian Star*. Meridian, Miss. November 3, 1954. P. 1.

²⁵ P. 54-15. The *Daily Herald*. Gulfport, Miss. November 4, 1954. P. 1.

²⁶ P. 54-16. The *Clarion-Ledger*. Jackson, Miss. November 4, 1954.

this shift of public opinion was the U. S. Supreme Court's decision outlawing segregation in the public schools even when equal facilities are provided.

We believe that under existing conditions and prospects our people were wise to approve this amendment. It should prove an effective weapon in the fight to retain segregation in and out of the schools.

[for 918] 15. On December 21, 1954, the people of Mississippi ratified the constitutional amendment which authorized the Legislature to abolish the public school system.²⁷

16. In January 1955, another extraordinary session of the Mississippi Legislature was called for the purpose of inserting in the Constitution the amendment to section 244 and that the amendment to authorize abolition of the public schools. Both amendments were inserted during this session.²⁸

17. In August, 1955 the annual report of the Citizens' Council stated in reference to the adoption and ratification of the two Constitutional amendments:²⁹

The first major accomplishment by the first project undertaken by our Councils on a state level was the passage of the Constitutional Amendment to raise voter qualifications in Mississippi. Although this same amendment failed to pass in 1952, it passed by a tremendous majority when the people of Mississippi through the Citizens' Councils, were informed of the necessity and reason for the passage of this amendment. It is impossible to estimate the value of this amendment to future peace and domestic tranquility in this state.

Our next major effort was the school amendment. On December 21st of last year the people of Mississippi passed the amendment that gave the Legislature the power to abolish the public schools as a last resort in

²⁷ P. 54-23. *Mississippi Official and Statistical Register*, 1956-1960. P. 397.

²⁸ P. 54-5. *Mississippi Laws, 1955*, Ex. Ch. 132, 133.

²⁹ P. 54-17. Robert B. Patterson. *The Citizens' Council Annual Report* (Winona, Mississippi: Association of Citizens' Councils of Mississippi, 1955), p. 1.

order to prevent racial integration in these schools. In passing this amendment we told the world in no uncertain terms that before we would submit to integration we would abolish our schools and set up state-supported private schools. Against organized opposition, [fol. 919] the Citizens' Councils threw their strength behind the passage of this bill. The Council officers felt that if integration came to Mississippi our schools would automatically be destroyed, and we felt that this amendment was merely a legal statement or principle and fact that expressed the sentiment of the people of Mississippi.

18. The effect of the Amendment to Section 244 of the Mississippi Constitution was to disfranchise Negroes who applied to become registered to vote.

In Warren County, where a study was made, Negro registration between 1947 and 1955 totaled over 1900.

In March, 1955 the amendment to Section 244 of the Constitution was put into operation.

For the entire period, March, 1955 through 1962, Negro registration in Warren County has not exceeded 265.

A similar situation exists in Hinds County, Mississippi, where Negro registration for one year, 1954-1955, prior to the implementation of the Amendment to Section 244, exceeded 800.

For the entire seven-year period, 1955 through June, 1962 Negro registration has remained under 1250 persons.