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SPECIAL REPORT FROM  
STUDENT NONVIOLENT COORDINATING COMMITTEE  
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### JUSTICE DEPARTMENT ACTIVITY

#### In Dallas County, Alabama

The Justice Department has been active in litigation and investigation in the state of Alabama since passage of civil rights legislation in 1957 and 1960 and has brought some action under the Civil Rights Act of 1964. A culmination of this activity occurred on January 15, 1965, when the U.S. brought suit against the state of Alabama (defendants being the state and its Secretary of State) to prevent use of a difficult literacy test instituted in September, 1964, as one of the state's voter registration requirements.

The government contends that the new test violates the educational requirements for voting of the Civil Rights Act of 1964. This suit is similar to statewide suits pending against Louisiana (two such suits) and Mississippi. Previously, individual suits have been lodged against boards of registrars in various Alabama counties, contending discrimination of one variety or another. The government's current suit is seen to be applicable to all of Alabama's 67 counties, and, if ever ruled on favorably, would enjoin the state from engaging in any act which would deprive Alabama citizens of their right to register and vote. Whatever the promise of this new suit, it might be instructive to view the last few years of Justice Department activity in strife-torn Dallas County, where voter registration activities had been conducted by SNCC since 1962, to determine the Department's actual accomplishments in coming to the relief of Alabama's citizens. A brief tabulation follows:

U.S. v Victor B. Atkins, et al: Suit was filed against Dallas County Board of Registrars on April 13, 1961. The Justice Department had first to get a court order to examine records of registrars after delaying tactics by the Board. An injunction was sought to prevent further discrimination in voter registration by the registrars. Meanwhile, new registrars were appointed so the U.S. District Court denied granting the injunction on grounds that the new board had not engaged in discriminatory acts.

The Court did enjoin against the board's not allowing persons to reapply after failing the registration test.

The Justice Department appealed the case and the District Court was instructed by the Appellate Court to issue an injunction against the registrars' rejecting applicants for minor errors when otherwise qualified, against using tests without first submitting to the court the answers by which the test was to be graded, to stop using oral tests, and to give persons the reason for their rejection. This relief was granted on November 2, 1963, thirty months after litigation was started. Judge Cameron, federal judge who sat on the panel which heard the appeal, concurred with Judge Thomas's earlier remark that "The whole country should be proud of the job now being done by the present Board of Registrars of Dallas County."

U.S. v Dallas County, et al: Complaint was filed by the Justice Department on June 26, 1963, against the County, Sheriff Clark, the State District Solicitor Blanchard McLeod, and Dallas County Solicitor Henry Reese. This was an attempt to get federal district Court to enjoin conduct of these officials from intimidating potential Negro registration applicants. Judge Thomas refused to grant relief, which would have, among other things, prevented Sheriff Clark and his agents from attending voter registration meetings. Appeal of this decision by the Justice Department on June 27, 1963, failed.

This injunction was to have been preliminary to a hearing, which was then postponed by the District Court to an unspecified date because of unrest in Selma. The Justice Department succeeded in getting a hearing, but only after first requesting a writ of mandamus from the appeals court. The threat of this writ possibly forced the District Court to set a date for the hearing, and the Appellate Court then had no necessity to issue the writ. On October 15, 1963, before Judge Thomas, the hearing was held. Judge Thomas then denied the request for an injunction on March 19, 1964. The Justice Department has the case on appeal.

U.S. v McLeod, et al: Filed by the Justice Department November 12, 1963, naming as defendants Blanchard McLeod, the state District Solicitor; Sheriff Jim Clark; State Circuit Judge James Hare; M.H. Houston, Clerk of the Circuit Court; the Foreman of the Circuit Court Grand Jury; and the Dallas County Citizens Council's officers. The Justice Department sought to enjoin these persons from conduct intimidating persons attempting to register and asked that the County

Grand Jury be temporarily restrained from requiring Justice Department personnel to appear until a court hearing could be conducted about this procedure. This was shortly after the Justice Department had become embroiled in controversy with the state, having to do with voter registration demonstrations and an incident whereby Martin Luther King was transported in a Justice Department rented car from Birmingham to Selma. It was a clear attempt to investigate and embarrass the Justice Department

Federal Circuit Judge Thomas refused to issue an order restraining the defendants' harassment techniques. On November 13, 1963, the Court of Appeals reversed Judge Thomas's decision, and thereby prevented the Grand Jury of Dallas County from calling up such persons as Burke Marshall and John Doar, who were busily engaged in doing the business of their office.

Incidentally, a letter of Burke Marshall's (see Congressional Record, Feb. 7, 1964, page 2425) reveals that such Justice Department activity hardly warranted harassment by Alabamans. Marshall explained the function of the Justice Department's man-on-the-scene Henderson, who was later sacked for the King car incident:

"Mr. Henderson has been particularly valuable to the U.S. in keeping this Department advised as to the scope and nature of planned demonstrations. On each of such assignments, the local FBI agents were aware of Mr. Henderson's presence and, I believe, the local sheriff and the Chief of Police are also aware of his presence. To date I have received no complaint about Mr. Henderson's handling of his assignments. On the contrary, it has happened that local law enforcement officers have sought and obtained information from Mr. Henderson in their preparation for handling tense situations."

Judge Thomas issued the court order as directed by the Appellate Court on November 14, 1963. From December 5 - 18 hearings were held before Thomas's court to resolve the matter of U.S. v McLeod, et al. On March 19, 1964, Judge Thomas ruled against the Justice Department, dissolving the previous injunction. The Justice Department asked Judge Thomas that a temporary injunction be granted pending appeal. This was denied on March 30, 1964. The case is now on appeal.

State Circuit Judge James Hare issued an injunction during July, 1964 against demonstrations by all groups in Selma. The Justice Department asked Judge Thomas to overrule Hare. This move was combined with the following two suits.

U.S. v. Clark, et al: On September 2, 1964, former Attorney General Kennedy filed suit against Sheriff Clark, his deputies and posse, State Solicitor McLeod, State Judge James Hare, County Judge Reynolds, and the City of Selma. The Justice Department asked for a three Judge panel to hear the arguments and issue an injunction against the defendants on the grounds that "the defendants have used their official posts to maintain and enforce racial segregation in public facilities and accommodations to preserve white supremacy."

and that

"throughout their respective tenures in office the defendants have engaged in a pattern of conduct with the purpose of preventing desegregation of public accommodations and of interfering with the exercise by Negroes of their right to vote."

U.S. v Warren County et al: Also filed by the Justice Department on September 2, 1964, was this suit against five Selma restaurants for violation of Title II of the Civil Rights Act dealing with discrimination in public accommodations.

On December 7, 1964, hearing on U.S. v Warren Co., et al was conducted in Selma before a three judge panel which included Judge Thomas. On December 8, 1964, hearing was begun on U.S. v Clarke, et al. On December 24, 1964, the hearings were completed. Briefs must be filed by both sides by mid-February, and the court is expected to rule within the next few months.

This history of Justice Department activity spotlights the legal state of affairs in Selma and Dallas County: the impotency of the courts to relieve an inevitable situation produced by cases not yet ruled on or that remain tied up in the federal court system on appeal. Congressman Resnick's (NY) recent remarks in the Congressional Record seem well founded:

"As early as 1961, soon after the passage of the 1960 Civil Rights Act, the Justice Department filed suit against the Board of Registrars of Dallas County. Four years and five more Federal suits later effective relief is yet to be forthcoming, and the first voting referee is yet to be appointed. The extraordinary concentration of the legal resources of the Justice Department has been to no avail."

Sheriff James Clark, with three federal suits pending against his brutal actions, continues to outrage the nation. And the lines of applicants continue to queue up so that Negro citizens may have their brief, futile encounter with the Dallas County Board of Registrars.

The Justice Department has broken their activities down to a fine science, as displayed by this statement included by the Department in January, 1964, during a hearing before the House Appropriations Committee:

"During the fiscal year over 30,000 records were photographed in 11 Alabama counties. Some 31,000 applications in 12 Alabama counties were processed of which 23,000 were analyzed to determine whether cases should be filed. Some 10,000 were processed in cases where the Division has received favorable judgements or concluded successful negotiations. In six Alabama counties, voter registration records are photographed at regular intervals and must be processed on a continuing basis. Since the close of the fiscal year, records have been photographed in an additional 14 Alabama counties."

Perhaps we need to charge the Justice Department with something more than a mindless mechanical approach to a vital problem. On January 21, 1965, Judge Thomas was petitioned by NAACP lawyers to issue an injunction against Sheriff Clark's repressive acts. Thomas granted this relief on January 23, saying:

"Under the guise of enforcement there shall be no intimidation, harrassment, or the like, of the citizens of Dallas County legitimately attempting to register to vote, nor of those legally attempting to aid others in registering to vote, or encouraging them!"

On the scene was U.S Deputy Marshall Fountain, policing the Federal Judge's ruling for the Justice Department. He chose to enforce the ruling to its strictest letter, even denying registration drive leaders the right to speak to applicants in line or bring them food and water. Inspection of the statement of Judge Thomas's rule given above indicates this Justice Department man's sudden zeal for enforcement exceeded the bounds of the court order. There were no complaints from Sheriff Clark, at whom the injunction was aimed.

And there have been no complaints from him since then.