IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1970

Nos. 43 Original, 44 Original, 46 Original and 47 Original

STATE OF OREGON, *Plaintiff,*

—vs.—

JOHN N. MITCHELL, Attorney General of the United States, *Defendant.*

STATE OF TEXAS, *Plaintiff,*

—vs.—

JOHN N. MITCHELL, Attorney General of the United States, *Defendant.*

UNITED STATES, *Plaintiff,*

—vs.—

STATE OF ARIZONA, *Defendant.*

UNITED STATES, *Plaintiff,*

—vs.—

STATE OF IDAHO, *Defendant.*

BRIEF ON THE MERITS BY THE STATE OF MISSISSIPPI AS AMICUS CURIAE AND REQUEST FOR ORAL ARGUMENT

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TABLE OF CONTENTS

Subject Index

Index of Authorities

CASES:

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Nos. 43 Original, 44 Original, 46 Original and 47 Original

STATE OF OREGON,
Plaintiff,

vs.

JOHN N. MITCHELL, Attorney General of the United States.

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STATEMENT

This brief is submitted by A. F. Summer, Attorney General for the State of Mississippi on behalf of the State

of Mississippi, and in support of all other States having a similar interest in the outcome of the cases styled as heretofore set out. *These States are engaged in a struggle for survival as living instruments of government.* The Order of the Chief Justice of the United States as to these causes, dated August 25, 1970, provides that as there is an apparent willingness of all parties to expedite the proceedings to clarify a matter of paramount interest to the people of the United States of America and to the respective States, that all briefs should be filed by October 12, 1970. As two States are plaintiffs in this litigation and as two States are defendants, the State of Mississippi assumes that the Chief Justice has authorized any other States that might want to have their position recorded and their views considered by the Supreme Court of the United States to have until October 12, 1970, to file their briefs. This brief is, therefore, filed under the provisions of the Rules of the Supreme Court of the United States (Rule 42, sub-section 4).

It is the position of the State of Mississippi that the 1965 Voting Act (Pub. L. 89-110, hereinafter referred to as the 1965 Act) is primarily responsible for a situation that could lead to a decision by this Court in this case that would severely affect all of the States of the United States of America and would immediately create a totally centralized federal government with absolutely no powers delegated to or reserved to the respective States under the Constitution of the United States. Such a decision would also result in a severe limitation on the existing power of the Supreme Court of the United States as the Court would never again be in a position to declare an act of its co-equal branch of the federal government, the United States Congress, to be unconstitutional due to the fact that the powers asserted by Congress had either been delegated or reserved to the states by not being specifically delegated to the Congress.

The President of the United States announced in June, 1970, that in his opinion, the uniform voting mandates of the act in question were unconstitutional. However, the President proceeded to sign the entire Act (Pub. L. 91-285, hereinafter referred to as the 1970 Act), trusting in the judgment of the United States Supreme Court and primarily for the purpose of enacting into law an extension of the 1965 Act.

The State of Mississippi is somewhat in the position that Attorney General Robert Kennedy said he was in during the preconvention stages of the Presidential campaign of 1964, when the President issued a statement to the press stating that no member of his Cabinet nor any person who regularly met with the Cabinet would be considered as a Vice Presidential nominee to run with the President. The Attorney General said at that time that he regretted considerably that so many nice people had been thrown overboard with him.

In all probability, had it not been for the *ex post facto* feature of the 1965 Voting Act setting November 1, 1964 as the date of the applicability of "test or device," the State of Mississippi would not be affected by the Voting Rights Act of 1965 at this time as new voting laws and constitutional amendments were passed by the Mississippi State Legislature more than two months before the 1965 Act was passed.

To illustrate the effect of the Mississippi laws that were passed in June, 1965, we quote from page 653 of the opinion of the Fifth Circuit in *U. S.* v. *Ramsey*, 353 F.2d 650 (1965), as follows:

> "Time has also been working in Mississippi, and working for good. By constitutional amendments approved overwhelmingly by her people and by legislation, Mississippi has adopted a simplified procedure

> and standards, and now the only prerequisites for registration are (a) ability to read and write, (b) citizenship, age and residence, and (c) absence of felony conviction, thus eliminating the good-moral-character, the duties-of-citizenship, and the read-and-interpret requirements, which have been the engine of discrimination for so long."

The State of Mississippi, therefore, does not take the responsibility for the fact that the 1965 Voting Act extension provision for five additional years was available to be tied into the 1970 Act and thus be used as a lever to pass and to influence the President of the United States to sign a law that, in his opinion, is unconstitutional. However, as the State of Mississippi was one of the States originally singled out by the 1965 Voting Act, we feel compelled to make a vigorous effort to aid our sister States in their fight to preserve rights that are, by the Constitution, expressly delegated to said States.

As this case is similar to the case of *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966), and is one "of urgent concern for the entire country," the State of Mississippi takes the position that its powers and prerogatives are equally affected along with the rights of the people of all of the other States. The State of Mississippi contends that it should be considered as an intervening party in connection with this entire litigation. However, for the purpose of clarity and brevity, the State of Mississippi, the Attorney General of the State of Mississippi, the authors of this brief and people of the State of Mississippi whose interest will be vitally affected appear here in the status of *amici curiae* and will be referred to as *amicus*.

STATEMENT OF INTEREST OF AMICUS CURIAE, AS TO JURISDICTION AND STATUTE INVOLVED

The State of Mississippi as *amicus curiae* respectfully requests the Court to permit it to adopt by reference the statement as to interest of *amici curiae* set out on pages 1 through 3 of the Brief of the Attorney General of the State of Indiana, Hon. Theodore L. Sendak, who was joined in said statement by numerous other states. The State of Mississippi would further respectfully request that the statement as to jurisdiction and statute involved as set out on page 1 of the Brief of Hon. Crawford C. Martin, Attorney General of the State of Texas, be adopted by reference for the purposes of this brief.

QUESTIONS PRESENTED

Whether or not the 1970 Act is constitutional insofar as it (1) suspends literacy voting requirements on a nationwide basis, (2) completely abolishes durational residency requirements in presidential elections, (3) requires uniform nationwide standards as to absentee registration and absentee balloting in presidential elections, and (4) reduces to 18 the minimum age for voting in all elections.

MOTION FOR ORAL ARGUMENT

Under the provisions of Rule 44 (specifically subsection 7 wherein motions for oral argument on the part of a State as *amicus curiae* are favored), the State of Mississippi respectfully moves that a portion of the oral argument in this case be afforded to the Attorney General of the State of Mississippi, or to a member of the Bar of this Court to be designated by said Attorney General. The State of Mississippi would not unduly infringe on the time of the other participants who, in all probability, will

more ably argue this case. However, due to the unique status of the State of Mississippi as to the experience that has been acquired while operating under the 1965 Act, and for the reasons set out in the Statement portion of the brief, the proposed argument could provide assistance to the Court.

Therefore, the State of Mississippi respectfully requests and moves the Court to grant to it the right to participate in the oral argument based on the grounds set forth herein.

SUMMARY OF ARGUMENT

Point I of this brief entitled "An Analysis of the Constitutional Provisions Involved Clearly Show the 1970 Act to Be Unconstitutional" shows conclusively that the clear and unambiguous wording of the Constitution itself expressly delegates to the States the power to set qualifications for electors in all elections. There is also a quotation from James Madison who is historically recognized to be the principal draftsman of the Constitution itself set out in Point I. *Amicus* submits that Point I of this brief emphasizes the fact that this Court has the choice in a matter involving a question of constitutional interpretation between the Constitution itself and the opinion of James Madison on the one side and the opinion of the proponents of the 1970 Act on the other side.

Point II of this brief is entitled "If Held to Be Constitutional, the 1970 Act Will Provide the Machinery for Abolishing the Electoral College by Vote of a Simple Majority by Both Branches of the United States Congress" and this proposition shows clearly that the 1970 Act is a part of a Machiavellian effort to eliminate the electoral college system from the American political scene.

Point III is entitled "The *Morgan* Decision Is Not Authority for Holding the 1970 Act Constitutional" and *amicus* contends that the discussion set out in this proposition shows conclusively that the *Morgan* decision is not a valid precedent for holding that §5 of Amendment Fourteen has authorized the United States Congress to preempt the field of setting voter qualifications in spite of the fact that this power was expressly delegated to the States by the Constitution. Point III clearly shows the 1970 Act to be an unconstitutional and unreasonable infringement on the right of the States to fix voter qualifications and procedures, and that the 1970 Act unduly trespasses on the legitimate prerogatives of the States and imposes a substantial administrative burden thereon.

ARGUMENT

POINT I

An Analysis of the Constitutional Provisions Involved Clearly Show the 1970 Act to Be Unconstitutional.

There are numerous specific constitutional provisions involved in this litigation, including Article I, §2, clause 1 which states as follows:

> "1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, *and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.*" (Emphasis supplied)

The Constitution clearly delegates to the States the power to set qualifications for electors with the one stipulation that these qualifications cannot be more restricted than the qualifications for voting for those holding office in the most numerous branch of the state legislatures.

An argument can be made that the authority expressly delegated to the States as set out in Article I, §2, clause 1 was only a delegation of authority in connection with election of members of the federal House of Representatives and that the Congress recaptured the right to regulate these elections through Article I, §4, clause 1, which states as follows:

> "1. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing (sic) Senators.*" (Emphasis supplied)

However, this argument is not very persuasive when the language of the Seventeenth Amendment, which deals with the popular election of United States Senators, is considered in conjunction with Article I, §4, clause 1. The Seventeenth Amendment states as follows:

> "The Senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. *The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.*
>
> "When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: Provided, That the Legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by *election as the legislature may direct.*
>
> "This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution." (Emphasis supplied)

Article I, §2, clause 1 and the Seventeenth Amendment contain a clear delegation of authority to the state legislatures to set qualifications for voters in all elections. The Congress has the power to modify only the standard set by the State for the election of United States Senators and Representatives under authority of Article I, §4, clause 1. The U.S. Supreme Court in the case of *Wesberry* v. *Sanders*, 376 U.S. 1 (1964), decided that congressional election districts in the several States must be substantially equal in population. The dissenting opinion written by Justice Harlan reviewed, from the standpoint of admitted historical accuracy, the Constitutional Convention of 1787, and dealt specifically with Article I, §2, clause 1. This opinion in footnote 15 refers to an article by James Madison as set out in *The Federalist*, No. 54, and we quote as follows:

> "It is a fundamental principle of the proposed Constitution, that as the aggregate number of representatives allotted to the several States is to be determined by a federal rule founded on the aggregate number of inhabitants, *so the right of choosing this allotted number in each State is to be exercised by such part of the inhabitants, as the State itself may designate.*" (Court's italics)

It is extremely clear that the complete historical background as to the drafting of the Constitution uniformly shows that the state legislatures were granted the right to set the qualifications for voting, and that the U.S. Congress retained a supervisory power, more or less, as a matter of self-protection in connection with the election of United States Senators and members of the United States House of Representatives.

The Fifteenth Amendment gives Congress the power to enforce by law the right to vote, if so denied, because of race, creed or color. The Nineteenth Amendment gives Congress the power to enforce the right of women to vote,

and the relatively recent Twenty-Fourth Amendment gives Congress the power to enforce by law the right of citizens to vote for President, Vice President or U.S. Senator or Representative without being required to pay poll tax or any other tax. *If the Congress was given the power by §5 of the Fourteenth Amendment to constitutionally enact the 1970 Act, there could have been no reason for the adoption of the later amendments.*

It is quite apparent from the amendments listed above that a majority of the Congress has never, prior to this time, taken the position that it has the right to set voter qualifications in the individual states without a constitutional amendment.

Article II, §1, clause 2 of the Constitution states, in part, as follows:

> "2. Each State shall appoint, *in such Manner as the Legislature thereof may direct,* a Number of Electors, * * *". (Emphasis supplied)

Amicus contends that it would create a difficult situation if this Court were to decide that some portions of the 1970 Act are constitutional, but that the provisions of the 1970 Act dealing with special elections for United States Senators and the manner of selecting Presidential electors are delegated powers and are exclusive powers of the States.

This Court has the authority to insist that in matters involving our dual system of government, everyone must play by the "rules of the game." What can possibly be wrong with resolving the matter of 18, 19 and 20-year old citizens acquiring the right to vote under the "rules of the game" as written in the Constitution?

This procedure would require young people in this country who believe strongly that members of this partic-

ular age group should vote to work within the system to encourage their congressmen to recommend a constitutional amendment by a two-thirds vote of both Houses of Congress to the state legislature. These interested citizens would then have an opportunity to encourage their state legislators to pass a resolution ratifying the constitutional amendment. In the intervening time, young citizens and their allies could encourage their state legislators in the individual states to adopt this voting procedure even prior to the ratification of the constitutional amendment. *Amicus* submits that it would be much sounder procedure to encourage the young citizens of the country to actively participate and take pride in reaching an obtainable result rather than to give this result to these citizens in a manner that violates the spirit and the letter of the Constitution.

POINT II

If Held to Be Constitutional, the 1970 Act Will Provide the Machinery for Abolishing the Electoral College by Vote of a Simple Majority by Both Branches of the United States Congress.

Consideration should be given to the fact that by setting uniform national voting standards, the Congress can assert the power to abolish the electoral college by a law passed by a simple majority of both Houses of Congress. It will be argued by proponents of the 1970 Act that this Act gives Congress no authority to simply pass a law changing the electoral college system in order to use a straight popular vote system for the election of the President and the Vice President. However, if Congress can pass a law setting national voting standards in all elections in clear violation of the fact that the Constitution itself delegates this power to the state legislatures, an argument can be made that this Court will be required by

the decision that it might make in this case to hold that §5 of the Fourteenth Amendment authorizes Congress to repeal the electoral college system. It would be a very simple matter to argue that the electoral college system as now administered by the states does not afford all of the voters in the United States equal protection or due process.

To be fair to all of the people represented herein, *amicus* admits that there has always been substantial support in the State of Mississippi for the abolition of the electoral college. Many political experts have taken the position that the electoral college procedure has, in our recent history, worked entirely to the advantage of minority groups in the large states that tend to vote a block vote in Presidential elections. As we all know, if a Presidential candidate carries by only one popular vote a State with a very large electoral vote, he will receive the entire electoral vote of that State. Many observers have long felt that minority block voting in the large States has brought about a political situation in this country where our two national parties have, based on this very practical consideration, given paramount consideration to the interest of such groups as opposed to the interest of the voters in the relatively small southern states. For example, we quote from Theodore White's book, *The Making of the President* 1960, pgs. 236-237 as follows:

> "And the leadership of the Negroes, like the leadership of so many minorities in the great cities of the United States, was to exert its *electoral strength.* For the Northern cities of the United States, commanding the *electoral votes necessary to make an American President*, have for generations provided a leverage on American power to shape and alter the world itself." (Emphasis supplied)

In spite of the considerations set out hereinabove, *amicus* will not urge this Court to declare constitutional a law that on its face purports to be for one purpose when in reality there can be little doubt that the primary purpose is to abolish the electoral college system. If the provisions of the 1970 Act are carefully analyzed, they amount to a uniform national voting standard consisting of (1) a uniform age requirement, (2) a uniform requirement for no-literacy test, without regard to the fairness with which said test had been administered in the past and in spite of the holding in the *Lassiter* case, (3) a uniform residential requirement for Presidential elections only, and (4) a uniform absentee ballot procedure for Presidential elections only.

It would be extremely difficult for a student of both the law and politics to avoid reaching the conclusion that if the aid and assistance of this Court can be secured, the law in question is for the purpose of setting up uniform voter qualifications throughout all fifty states with the design and purpose of abolishing the electoral college system by a simple majority vote of both Houses of the Congress. *Amicus* is convinced that this Court will not be misled in this case and will assert its power to protect all of the people of the United States from the implementation of a scheme designed to amend the Constitution by a simple act of Congress.

For the purpose of abolishing the electoral college, the action of the Congress, by passing the 1970 Act, is, to some degree, rational but is extremely Machiavellian. From a standpoint of good government, it is a totally irrational and an unwarranted interference with powers expressly delegated to the states.

We quote Theodore White again, this time from *The Making of the President* 1968, p. 407 as follows:

> "To approve the theory of assembly-of-the-whole as a way of electing Presidents of the United States is to be so *unaware of present reality as to approach insanity.*"
>
> "There is, to begin with, the need to recognize that voting qualifications differ in every state. Four states permit citizens to vote under the age of 21—Georgia and Kentucky at 18, Alaska at 19, Hawaii at 20—the other forty-six do not. By altering its age laws to 18, or to 16, or to 14, any state can increase its proportion of the whole vote at will; it can also do so by altering its laws so as to include the large numbers of criminals, convicts, mentally incompetent now all variously excluded. Direct, national, one-man-one-vote elections would require a national election law establishing national qualifications and national registration in every one of the 3,130 counties of the United States.
>
> "But it requires more than that—it requires national surveillance of each of the approximately 167,000 voting precincts of the United States. And no national surveillance can work without the establishment of a national police system. Those who report elections know, alas, that the mores and morality of vote-counting vary from state to state. * * *
>
> "The present Federal system compartmentalizes voting in the United States by states; the votes of honest states are not balanced off or out-balanced by dishonest counting in other states; contagion of vote-stealing is limited. If all the 68,000,000 votes of 1960 and all the 73,000,000 votes of 1968 had been cast in one great national pool, then the tiny margins of victory in both elections would have evaporated. Each candidate would, necessarily, have had to call for a recount, and recounts would have continued, nation-

wide, for months. Vote-stealers in a dozen states would have matched crafts on the level of history; and, so slim was the margin, we might yet be waiting for the final results of both elections. And no practical proposal has yet been made to establish either national qualifications, national registration or, above all, national surveillance of counting." (Emphasis supplied)

POINT III

The Morgan Decision Is Not Authority for Holding the 1970 Act Constitutional.

The case of *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), dealt with the constitutionality of §4(e) of the Voting Act of 1965. The 1965 Act provides that no person who has successfully completed the sixth primary grade in a public school in, or private school accredited by, the Commonwealth of Puerto Rico in which the language of instruction is other than English shall be denied the right to vote in any election because of his inability to read or write English. The appellees in the *Morgan* case were registered voters in New York City who had filed the suit to challenge the constitutionality of §4(e) of the 1965 Act insofar as it *pro tanto* prohibited the enforcement of the election laws of New York requiring ability to read and write English as a condition for voting.

This Court will note that the foregoing material is paraphrased from the opening portion of the majority opinion of the Court in the *Morgan* case. This Court's opinion in the *Morgan* case states on page 647 as follows:

> "Under the distribution of powers effected by the Constitution, the States establish qualifications for voting for state officers, and the qualifications established by the States for voting for members of the most numerous branch of the state legislature also

> determine who may vote for United States Representatives and Senators, Art. I, §2; Seventeenth Amendment; Ex parte Yarbrough, 110 U.S. 651, 663, 28 L.Ed. 274, 278, 4 S.Ct. 152."

With total disregard for either the law or logic, the proponents of the 1970 Act are attempting to use the *Morgan* case as authority for holding the 1970 Act to be constitutional. When confined to the facts before the Court at that time, the *Morgan* case held that if a particular state law violated any of the guarantees of the Fourteenth Amendment, the Congress under §5 had the power to legislate as to this particular law. This Court indicated in two different portions of the majority opinion (pgs. 654 and 657) that the congressional act was designed to correct a state law that had brought about invidious discrimination but did not elect to base its decision on this point. The Court did not say that §5 of the Fourteenth Amendment gave Congress the right to legislate *generally* as to voter qualifications. No student of the Constitution should seriously contend that §5 gave the Congress any authority to do anything other than to pass appropriate legislation to enforce the provisions of the Fourteenth Amendment.

In the case of *S. C.* v. *Katzenbach,* supra, 326, this Court held as follows in regard to the power granted Congress by §2 to pass appropriate legislation to enforce §1 of the Fifteenth Amendment:

> "On the rare occasions when the Court has found an unconstitutional exercise of these powers, in its opinion Congress had attacked evils not comprehended by the Fifteenth Amendment. See United States v. Reese, 92 U.S. 214, 23 L.Ed. 563; James v. Bowman, 190 U.S. 127, 47 L.Ed. 979, 23 S.Ct. 678."

Amicus submits that this is certainly an occasion whereby this Court should exert its power to hold that the

1970 Act preempts the entire field of voting qualifications in a manner not comprehended by §1 of the Fourteenth Amendment.

If a state voter qualification law does not violate the Fourteenth Amendment, §5 gives the Congress no authority whatsoever. If the position urged on this Court by the proponents of the 1970 Act is adopted by the Court, the U.S. Congress would have, by judicial sanction, exclusively preempted the subject matter of voting qualifications in all fifty states. As the Supreme Court in the *Morgan* case said that under the distribution of the powers effected by the Constitution that the States establish qualifications for voting, it is extremely difficult to believe that the Supreme Court is now going to permit the office of the Solicitor General to tell the Court that it said exactly the opposite. *Amicus* contends that the Court must have anticipated that an argument similar to the argument advanced by the proponents of the 1970 Act might be made in the future. In order to discourage any misunderstanding, the Court in footnote 10 to page 651 in the *Morgan* case stated as follows:

> "We emphasize that Congress' power under §5 is limited to adopting measures to enforce the guarantees of the Amendment;" * * *

In the *Morgan* case, the Court referred to Chief Justice Marshall's opinion in *McCulloch* v. *Maryland,* 4 Wheat. 316, 421, and we quote as follows:

> " 'Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.' "

The true test, therefore, established by the decision in the *Morgan* case is that Congress *is not authorized to*

pass laws that are not appropriate, that are not legitimate, that are outside the scope of the Constitution, that are, in fact, prohibited by the Constitution and that are totally inconsistent with the spirit and the letter of the Constitution. There is no indication that the decision in the *Morgan* case authorizes the Congress to preempt the entire field covering the matter of voter qualifications and procedures, a subject of admitted vital and paramount interest to the States.

Amicus does not contend that a minimum voting age below twenty-one is irrational but objects to Congress assuming the power to set the minimum age. There is certainly no rationality in the provision completely abolishing durational residential requirements. Any student of politics is aware of the frequent election frauds and abuses that are brought about by voting illiterates and even to a greater extent through the use of absentee ballots. No realistic argument can be made that the incorporation of these procedures into a law passed by a Congress that has no power to supervise elections in the individual states is in any way rational.

There is also the consideration that in Presidential elections, the residential requirement and the absentee voting requirement will be entirely at variance with reasonable and rational state laws on these subjects. When Presidential elections and state elections are held at the same time, some voters will be entitled to a Presidential ballot only, and other voters will be entitled to vote in the entire election. The very least amount of confusion that will result will be the expense and trouble of printing two different ballots.

All of the facts set out hereinabove indicate that the legislation in question is an unwarranted and irrational interference in the affairs of the states as to powers ex-

pressly delegated to the States by the Constitution. *Amicus* calls to the Court's attention the views of Justice Marshall when he was serving as Solicitor-General as set out in his brief in *Katzenbach* v. *Morgan,* supra, and we quote from 16 L.Ed.2d 1318, wherein the annotation of Justice Marshall's brief is set out as follows:

> "Section 4(e) does not unreasonably impinge on the right of the states to fix voting qualifications and procedures. Carrington v. Rash, 380 U.S. 89, 13 L.Ed.2d 675, 85 S.Ct. 775; Louisiana v. United States, 380 U.S. 145, 13 L.Ed.2d 709, 85 S.Ct. 817; United States v. Texas, (D.C. Tex.) 252 F.Supp. 234, affd. 384 U.S. 155, 16 L.Ed.2d 434, 86 S.Ct. 1383; United States v. Alabama, (D.C. Ala.) 252 F.Supp. 95.
>
> * * * "Since the challenged legislation does not unduly trespass on the legitimate prerogatives of any state and imposes no substantial administrative burden, it should be upheld."

Article IV, §4 of the Constitution requires that "The United States shall guarantee to every State in this Union a Republican Form of Government," * * * As the judicial power of the United States is vested in this Court, it has a duty to preserve some semblance of an even balance between the national and state governments and to hold each of these governments in their proper separate sphere. It is the special and preeminent duty of the Supreme Court of the United States to protect the dual system of government in this republic in accordance with the mandate of the Constitution of the United States. *South Carolina* v. *United States,* 199 U.S. 454 (1905).

CONCLUSION

Amicus respectfully submits in conclusion that this Court should declare the provisions of Public Law 91-285, insofar as they (1) suspend the use of literacy tests as prerequisites for voting in states or their political subdivisions not subject to suspension under the Voting Rights Act of 1965, (2) eliminate durational residency requirements in regard to voting for President and Vice President, (3) prescribe uniform nation-wide standards regarding absentee registration and absentee balloting in presidential elections, and (4) reduce to 18 the minimum age for voting in all elections to be unconstitutional.

Respectfully submitted,

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