

N.A.A.C.P. LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

April 3rd
1944

Hon. Francis J. Biddle
Attorney General of the United States
Department of Justice
Washington, D. C.

Dear Mr. Biddle:

We have just been advised that the United States Supreme Court has reversed the judgment of the circuit Court of Appeals in the case of Smith v. Allwright (Texas Primary case). Although the Department of Justice did not deem it wise to intervene in this case as amicus curiae, we are sure that the Department will now recognize that criminal jurisdiction over interference with the right to vote because of color extends to primary elections.

The decision in this case, along with the decision in United States v. Classic, clearly establishes the illegality of the practice in most of the states of the deep south of refusing to permit qualified Negro electors to participate in party primary elections. Immediately after the 1942 primaries the N.A.A.C.P. sent to the Department a large number of affidavits from Negro citizens in Texas, Arkansas and South Carolina, concerning the refusal to permit them to vote in primary elections. All of these complaints have been investigated by the FBI, but no further action has been taken.

Now that there can be no doubt that such exclusion is a federal crime, we urge you to issue definite instructions to all United States Attorneys, pointing out to them the effect of these decisions and further instructing them to take definitive action in each instance of the refusal to permit qualified Negro electors to vote in primary elections in states coming within the purview of the two decisions. We also suggest that this fact be made

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known, by the Department of Justice directly or through the several United States Attorneys, to the party officials in the several states now practicing the policy of refusing to permit qualified Negroes to vote in primary elections.

The present Texas Primary litigation lasted for a period of more than three years and was financed by voluntary contributions of the citizens of Texas and other fair-minded Americans. The precedent having been established, we now urge the United States Department of Justice to enforce the criminal statutes of the United States and to prosecute vigorously persons who deny to others rights guaranteed under the Constitution and laws of the United States, especially the right to vote.

Sincerely yours,

Thurgood Marshall,
Special Counsel

TM:AG

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Statement by Thurgood Marshall, Special Counsel,
National Association for the Advancement of
Colored People, 69 Fifth Avenue, New York 3, N.Y.

Re: Texas Primary Case

John P. ...

We have made a thorough study of the voting laws of the several states in the South. We have also made a survey of the different practices whereby Negroes are prevented from registering and/or voting in many of the Southern states. We are making every effort to see that the laws of the United States, as interpreted by the United States Supreme Court, will be enforced this year.

Earlier decisions in the Supreme Court have outlawed discriminatory registration practices. Today's decision by the Supreme Court re-establishes the right of qualified Negro electors to vote in primary elections. This decision moves a long way toward giving meaning to the purposes for which this war is being fought.

It is our hope that the officials in the several states affected by this decision will follow the decision in good faith. We are, however, calling upon the United States Department of Justice "to issue definite instructions to all United States attorneys, pointing out to them the effect of these decisions and further instructing them to take definitive action in each instance of the refusal to permit qualified Negro electors to vote in primary elections in states coming within the purview of the two decisions."

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