

Vote act challenged

WASHINGTON

The first full - scale hearing on the constitutionality of the new voting rights act will come not from Southern plaintiffs, but from New York.

Chief Judge David L. Bazelon of the U. S. Court of Appeals here will soon name a three - judge panel to hear arguments of John and Christian Morgan, New York City voters, who contend the measure would dilute their voting power.

Their objection is based on the provision permitting Spanish - speaking Puerto Ricans to vote, although they are disfranchised under state law.

MEANWHILE A federal district judge in Virginia ruled he had no jurisdiction in a suit challenging the law because Congress specifically by - passed all but one court.

In Louisiana, a federal judge ruled he did have jurisdiction but then he dismissed a suit to bar federal voting registrars in that state.

Judge Thomas J. Michie of the Western District group line.

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—Act challenged

Court of Virginia ruled in a suit brought by Lynchburg attorney Frank McConn and two other Lynchburg residents, Edward J. Stoll and Victor Vernon Jr.

Michie said Congress intentionally limited jurisdiction on suits seeking to overthrow the voting rights law to the U. S. District Court in Washington, D. C.

"The principle is well established that Congress may limit the jurisdiction of the lower federal courts as it sees fit."

THE JUDGE said Congress established the courts and could "take all jurisdiction from them if it so desired." "I am not persuaded that Congress has limited this court's jurisdiction in a manner which denies any citizens of the United States of a constitutional right."

McCann's suit originally was aimed at purging voters registered under the federal 1965 voter rights law on grounds that the law favored illiterates at the expense of persons who were qualified under state laws.

DOWNNS IN Alabama five

counties have asked a federal court to give them permission to violate at least two sections of the voting rights act.

Three of the five counties have a colored population of more than 50 per cent, one has a colored population of more than 75 per cent, and four have federal registrars sent because of discrimination against non-white voting applicants.

The counties - Hale, Dallas, Wilcox, Perry and Choctaw - have asked United States District Judge Daniel H. Thomas to let them remove the names of all registered voters from registration lists and to begin re-registration under standards prohibited by federal law.

U. S. Judge Frank M. Johnson Jr., sitting in Montgomery, has already turned down a similar request made by the boards of registrars of Macon and Elmore counties.

In rejecting their request, Judge Johnson held it was "completely without merit." He said to grant the motion would undo the progress toward registration of all qualified voters in those counties and be tantamount to start-

ing the cases again from scratch.

He said it was unrealistic to suppose that the effects of discrimination previously found by the courts would be overcome by complete purgation.

THE COUNTIES' registration boards asked Judge Thomas to let them use a state-written literacy test, and to reject applicants if they refuse to give names and addresses of two county residents "having knowledge of their length of residence."

The 1965 Voting Rights Act makes the use of literacy tests illegal and also prohibits the use of "voucher" systems to establish voting credentials.

The motion, filed by Attorney Frank Mizell, Jr. of Montgomery, also asked that applicants who fail such tests be prohibited from re-applying "until others have been given ample opportunity." Mizell is legal counsel for the State Sovereignty Commission, an official segregation watch-dog agency.

All five of the registration boards have been charged with discriminating against colored residents.

OTHER ATTACKS on the voting act are scheduled and one county board of registrars has indicated they prefer registering whites to colored persons. Two other Alabama counties maintain the voting rights act does not apply to them.

The Dallas County (Selma) Board of Registrars announced "a record number" of white persons had been registered to vote there in one day. Board Chairman V. B. Atkins, Sr. said 155 white people applied and were registered on August 16.

Atkins said he hoped colored people in Dallas County "keep on going across the street (to federal examiners) and the white people come to us."

Registrars in Perry and Wilcox County said they intended to abide by an earlier Justice Department order instead of new voting regulations under the 1965 voting law.

Wilcox County Board of Registrars Chairman A. L. Wall said Alabama Attorney General Richmond Flowers had advised him to continue using a literacy test established by a federal court.

Perry County Registrar Joe Scarborough said his county would continue using procedures - including a literacy test - laid down March 16, 1965 by a federal court.