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JOHN F. DAVIS, CLERK

No. 26, ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, 1965

STATE OF LOUISIANA, PLAINTIFF

v.

NICHOLAS deB. KATZENBACH, ATTORNEY GENERAL
OF THE UNITED STATES, DEFENDANT

MEMORANDUM FOR THE DEFENDANT

THURGOOD MARSHALL,
Solicitor General,
Department of Justice,
Washington, D. C., 20530.

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MEMORANDUM FOR THE DEFENDANT

The State of Louisiana seeks to postpone this Court's consideration of the constitutionality of the Voting Rights Act of 1965. Two alternative motions to this end have been filed: the first is a motion to delay the scheduled hearing of *South Carolina v. Katzenbach*, No. 22, Original, until a United States district court in Louisiana (and perhaps also in Alabama and Mississippi)¹ has determined the questions involved in applying the Act to that State; the second is a motion for leave to file an original bill of complaint, to be referred to a Master, combined with a request that the hearing in No. 22, Original, be post-

¹ See Louisiana's Brief, p. 11.

poned to await the Master's report. There is also an informal suggestion that the Court vacate its previous order granting South Carolina leave to file the original complaint in No. 22, Original, and deny that motion for lack of jurisdiction.² The Attorney General of the United States, the defendant in No. 22, Original, who is sought to be made defendant in the present case, opposes each of these applications.

While, as we have already had occasion to state,³ we believe this Court has jurisdiction to entertain Louisiana's original bill of complaint—like that filed by South Carolina—no compelling reason is shown why Louisiana cannot fully protect its interest by participating in the argument in No. 22, Original, as it was invited to do by this Court's order of November 5, 1965. We submit that the constitutionality of the Voting Rights Act of 1965 as applied to Louisiana does not turn on any facts peculiar to the local context. But, if there were special considerations applicable only to that State, those questions would not be foreclosed by the decision here in *South Carolina v. Katzenbach* and could appropriately be determined

² See Louisiana's Brief, pp. 1-5, which argues that this Court lacks jurisdiction to entertain South Carolina's original complaint and that the proper forum for that controversy is the United States District Court for the District of Columbia.

³ See Brief in Support of Motions for Leave to File Original Complaints and Motions for Expedited Consideration, in *United States v. Alabama*, *United States v. Mississippi*, and *United States v. Louisiana*, Nos. 23, 24, and 25, Original, this Term, pp. 7-13; Memorandum for the Defendant in *South Carolina v. Katzenbach*, No. 22, Original, this Term, pp. 1-2.

in supplemental district court proceedings. If Louisiana were willing to abide by the schedule fixed by the Court in No. 22, Original, there would be no serious obstacle to granting leave to file here and consolidating this case for hearing with No. 22. But that is not Louisiana's request; its motion for leave to file (which, elsewhere, Louisiana says should be denied)⁴ is expressly predicated on a delay and reference to a Master.

Nor is there any independent basis for postponing the argument in No. 22, Original. The schedule in that case responds to the realities. We need not repeat here the reasons for expedition fully articulated in our brief in Nos. 23, 24 and 25, Original, this Term, motion for expedition granted, October 25, 1965, leave to file denied, November 5, 1965. The suggestion that this Court might hear the appeal from a district court decision with respect to the application of the Voting Rights Act to Louisiana by March 15, 1966 (see Brief, p. 11), involves a far more serious abbreviation of the normal time than does the present schedule in No. 22, Original. Moreover, it is not shown that comparable speedy action in district court proceedings is contemplated in Alabama or Mississippi—much less in South Carolina, where no such suit is pending.

The motion for leave to file a complaint in No. 26, Original, and the motion labelled "for extension of

⁴ See Louisiana's Brief, pp. 1-5.

time to argue", appertaining to No. 22, Original,
should be denied.

Respectfully submitted.

THURGOOD MARSHALL,
Solicitor General.

DECEMBER 1965.

