

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

FERNANDO SANGA, LUIS AMBRIZ, JUAN
HERNANDEZ, CECELIA WEYSOUTH, RAYMOND
REYES, RUBEN REZENDEZ, MARGARET ANN
RODRIGUEZ, GEORGE KYPUROS, ROSE
CASTANEDA, on their own behalf and
on behalf of all persons similarly
situated, and AD HOC COMMITTEE ON
CHICANO RIGHTS, an unincorporated
association,

Petitioners,)

vs.

S.F. 23511d
NO. _____

MARCH RONG EU, Secretary of State of
the State of California, HARRY FREE,
Imperial County Clerk, H. L. MASINI,
Fresno County Clerk-Recorder, DONALD
A. LOWES, San Benito County Clerk-
Auditor-Recorder, RICHARD C. NEAL,
Santa Cruz County Clerk-Recorder,
HOWARD C. MENZEL, Santa Barbara
County Clerk-Recorder, ROBERT T.
DENNY, San Diego County Registrar
of Voters, VERA K. GIBSON, Kern
County Clerk, and GEORGE A. MANN,
Santa Clara County Registrar of
Voters,

Respondents,)

SUPREME COURT
FILED
G. E. BIRCH, Clerk

PETITION FOR EXTRAORDINARY RELIEF IN THE
NATURE OF MANDAMUS, WITH SUPPORTING
POINTS AND AUTHORITIES

PETER HART WEINER
2130 Fulton Street
San Francisco, CA. 94117
Telephone: (415) 666-6504

RALEH ARRIOLA
Legal Aid Society of San
Diego, Inc.
305 Center Street
Chula Vista, CA. 92010
Telephone: (714) 427-0491

ALBERT H. MEYERHOFF
RALPH SANTIAGO ABASCAL
JUAN URANGA
DOUGLAS HITCHCOCK
JAMES E. GONZALES, II
ROBERT T. OLMOS
STEVEN BELASCO

California Rural Legal Assistance
115 Sansome Street, Suite 90C
San Francisco, CA. 94104
Telephone: (415) 421-3405

1 IN THE SUPREME COURT
2 OF THE STATE OF CALIFORNIA
3

4 FERNANDO SANGA, LUIS AMBRIZ, JUAN)
HERMANDEZ, CECELIA WEYMOUTH, RAYMOND)
5 REYES, RUBEN RECENDEZ, MARGARET ANN)
RODRIGUEZ, GEORGE KYPUROS, ROSE)
6 CASTANEDA, on their own behalf and)
on behalf of all persons similarly)
7 situated, and AD HOC COMMITTEE ON)
CHICANO RIGHTS, an unincorporated)
8 association,)

9 Petitioners,)

10 vs.)

11 MARCH FONG EU, Secretary of State of) NO. _____
the State of California, HARRY FREE,)
12 Imperial County Clerk, H. L. MASINI,)
Fresno County Clerk-Recorder, DONALD)
13 A. LOWES, San Benito County Clerk-)
Auditor-Recorder, RICHARD C. NEAL,)
14 Santa Cruz County Clerk-Recorder,)
HOWARD C. MENZEL, Santa Barbara)
15 County Clerk-Recorder, ROBERT T.)
DENNY, San Diego County Registrar)
16 of Voters, VERA K. GIBSON, Kern)
County Clerk, and GEORGE A. MANN,)
17 Santa Clara County Registrar of)
Voters,)

18 Respondents.)
19)

20
21
22 PETITION FOR EXTRAORDINARY RELIEF IN THE
23 NATURE OF MANDAMUS, WITH SUPPORTING
24 POINTS AND AUTHORITIES
25
26

1 TO THE HONORABLE DONALD R. WRIGHT, CHIEF JUSTICE, AND TO THE
2 HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF
3 CALIFORNIA:

4 PRELIMINARY STATEMENT

5 This action challenges unprecedented violations of elections
6 laws designed to facilitate voter registration. There are only four
7 months between the primary and general elections in which to regis-
8 ter to vote. For nearly two of these months, respondent county
9 elections officials brought registration activity to a virtual
10 standstill. They and the Secretary of State continue to impede the
11 registration of California's 1,360,000 potential language minority
12 voters by failing to provide bilingual oral registration assis-
13 tance and outreach programs required by state and federal law.

14 Specifically:

15 (1) The number of active deputy registrars has been reduced
16 by 89% because each county respondent has (a) withdrawn registration
17 books from existing registrars and (b) refused to deputize new reg-
18 istrars, thus violating Elections Code § 201 (requiring an unlimi-
19 ted number of registrars and decentralized registration locations;

20 (2) Potential voters were discouraged from registering by
21 (a) the refusal to give deputy registrars their materials and
22 (b) the active discouragement of registration by county elections
23 officials, thus violating Elections Code § 203 (requiring continu-
24 ous registration);

25 (3) Despite the fact that the named counties have high per-
26 centages and numbers of Spanish-speaking adult citizens (270,000 in

1 all), of whom many (over 29,000) are illiterate, no county has
2 provided bilingual oral registration assistance to persons in need
3 of it, all in violation of section 203(c) of the Voting Rights
4 Act of 1965, as amended, 42 U.S.C. § 1973aa-1a(c), and Elections
5 Code § 201(d).

6 (4) Respondent Secretary of State has been aware of
7 county failures to provide bilingual oral assistance or to
8 assess the need therefor and has further been aware of county
9 curtailment of the registration process, but has taken no
10 action as the State's chief elections officer to enforce the
11 law through appropriate regulation or other systematic adminis-
12 trative action.

13 (5) No respondent county elections official has implemented
14 an outreach plan to identify and register the county's qualified
15 electors, as required by Elections Code § 202, and the Secretary
16 of State has failed to promulgate minimum requirements for such
17 plans, as required by § 202.

18 This widespread breakdown of voter registration processes
19 affects the well-being of all Californians who are concerned with
20 decreasing participation in the electoral process, but impinges
21 most on petitioners and the group to which they belong. Respon-
22 dents' curtailment of registration, failure to implement an effec-
23 tive outreach program, and refusal to provide needed bilingual oral
24 registration assistance will greatly impede petitioners in their
25 struggle to obtain political redress for a history of pervasive dis-
26 crimination against them in many walks of life. Respondents' acts,

1 and refusals to act have substantially diluted their fundamental
2 right to cast an effective vote for the candidates and issues of
3 their choice.

4 Because these issues are of great public importance and
5 must be resolved quickly before registration is ended on October 4,
6 1976, petitioners respectfully invoke the original jurisdiction
7 of this Court and pray that a peremptory writ of mandate issue
8 directing respondents to:

9 (a) Extend the deadline for voter registration for the
10 1976 general election until ten days prior to the election, in
11 order to compensate for two months of reduced registration
12 opportunities;

13 (b) Implement forthwith outreach programs to (i) identify
14 and (ii) register qualified voters, including affirmative action
15 to foster the registration of language minority citizens;

16 (c) Provide adequate bilingual oral registration assistance;
17 and

18 (d) As to respondent Secretary of State, enforce the
19 requirements of (a) through (c) above through appropriate regula-
20 tions or other systematic administrative action.

21 PARTIES

22 I

23 Petitioners Fernando Sanga (Imperial County), Luis Ambriz
24 (Fresno County), Juan Hernandez (San Benito County), Cecelia
25 Weymouth (Santa Clara County), Raymond Reyes (Kern County), Ruben
26 Recendez (Fresno County), Margaret Ann Rodriguez (Kern County),

1 George Kypuros (Santa Cruz County), and Rose Castenada (Santa
2 Barbara County) are adult California citizens of Mexican-American
3 heritage, who speak Spanish and who have been taxpayers of their
4 respective counties for the year preceding the filing of this
5 action.

6 II

7 Petitioner Sanga is a Deputy Registrar and is Chairperson of
8 the Imperial County Voter Registration and Education Project, whose
9 purpose is to increase registration among Mexican-American citizens.
10 Petitioner Ambriz is a Deputy Registrar in Fresno County and is also
11 the Director of the San Joaquin Voter Registration Project, whose
12 purpose is to increase registration among Spanish-surnamed residents
13 of Fresno County. Petitioner Kypuros is the Executive Director of
14 La Coalicion, which provides services primarily to low-income
15 Mexican-Americans in Santa Cruz County. Petitioner Reyes is a
16 Deputy Registrar in Kern County. Petitioners Rodriguez and
17 Recendez have both attempted to become Deputy Registrars in Kern
18 and Fresno Counties, respectively, but have been unable to do so
19 due to the respondents' curtailment of registration and deputiza-
20 tion complained of herein.

21 III

22 Petitioner Ad Hoc Committee on Chicano Rights is an unin-
23 corporated association located in San Diego County, California.
24 Petitioner sues on its own behalf and that of its members. The
25 Committee was formed in 1971, and has as a principal purpose the
26 increase of voter participation and awareness among Mexican-American

1 citizens. It has fifty paid members and 150 other supporters.
2 The Committee has conducted many registration drives and has reg-
3 istered approximately 2,000 voters in the last year. Some of its
4 members are Deputy Registrars. Many of its members are property
5 taxpayers in the County of San Diego, who are monolingual in
6 Spanish and need assistance in registration and voting.

7 IV

8 Individual petitioners bring this action on their own behalf
9 and on behalf of all other similarly situated Mexican-American
10 electors who speak Spanish in the State of California.

11 The members of this class are so numerous that it is imprac-
12 tical to bring them all before the Court. There is a well-defined
13 community of interest among the members of the class in the ques-
14 tions of law and fact here involved, and the class is ascertainable.
15 The claims of petitioners as representative parties are typical of
16 the claims of the class, and petitioners as representative parties
17 will fairly and adequately protect the interests of the class.
18 Respondent County Clerks and Registrars have acted and refused to
19 act in all respects stated herein on grounds generally applicable
20 to each county subclass, and respondent March Fong Eu has acted
21 and refused to act in all respects stated herein on grounds gener-
22 ally applicable to the state-wide class, thereby making appropriate
23 final relief with respect to the class as a whole. Adjudication of
24 this controversy as a class action is necessary to protect the
25 rights of the class and will be beneficial to the litigants and the
26 Court.

V

1
2 All petitioners bring this action as California taxpayers.
3 Each pays state sales taxes, and each individual petitioner pays
4 state income taxes. In addition, petitioners Sanga, Hernandez,
5 Weymouth, Kypuros, and Castaneda bring this action as county tax-
6 payers and have paid real property taxes in the county of their
7 residence within one year prior to the commencement of this action.

8 VI

9 Respondent March Fong Eu is Secretary of State of the State
10 of California, is charged by law with administering and enforcing
11 election laws throughout the State, and is empowered to adopt regu-
12 lations to assure their uniform application and administration of
13 applicable elections laws.

14 VII

15 Respondent Harry Free is the County Clerk of Imperial County.
16 Respondent H. L. Masini is the County Clerk-Recorder of Fresno
17 County. Respondent Donald A. Lowes is the County Clerk Auditor and
18 Recorder of San Benito County. Respondent George A. Mann is the
19 Registrar of Voters of Santa Clara County. Respondent Richard C.
20 Neal is the County Clerk-Recorder of Santa Cruz County. Respondent
21 Howard C. Menzel is the County Clerk-Recorder of Santa Barbara
22 County. Respondent Robert T. Denny is the Registrar of Voters of
23 San Diego County. Respondent Vera K. Gibson is the County Clerk
24 of Kern County. All said respondents are the chief elections
25 officials of their respective counties. Each said respondent is
26 sued in his official capacity.

1 do so. (See Exhibits 7, 8, 10, 17, 19, 20, 21, and 23, attached
2 hereto and incorporated herein as if fully set forth.)

3 XI

4 Respondent county elections officials, and each of them,
5 withdrew books of Affidavits of Registration and other registra-
6 tion supplies from 80% to 100% of existing deputy registrars after
7 the June 8, 1976 primary election and failed and refused to return
8 said books or any other registration supplies to these registrars
9 until July 29, 1976, despite repeated requests and demands by
10 petitioners. (See Exhibits 1, 2, 6, 9-14, 16, 19, 20, and 23,
11 attached hereto and incorporated herein as if fully set forth.)

12 Respondent county elections officials hence failed to provide suf-
13 ficient registration materials to deputy registrars in violation of
14 Elections Code § 280, or the public in violation of Elections Code
15 § 321.9, between June 8, 1976 and (at the earliest) July 29, 1976.

16 XII

17 As the direct and proximate result of respondents' actions,
18 the total number of deputy registrars with registration materials
19 was reduced, between the primary and July 29, by 89%.

20 XIII

21 The following chart sets out, for purpose of comparison, the
22 total number of registrars by county prior to the June 8th primary
23 and the greatly reduced number of registrars as of July 29, 1976,
24 due to the actions of respondents complained of herein:

25 ---

26 ---

1	<u>County</u>	<u>Pre-Primary No.</u>	<u>July 29 No.</u>
2	Kern	351	16
	San Benito	40	less than 10
3	San Diego	1,641	300
	Santa Barbara	300-400	10-15
4	(Santa Maria Area only)	(61)	(3)
5	Santa Clara	3,500	200-250
	Santa Cruz	289	30-40
6	County Totals	6,121-6,221	556-621

7
8 (The figure of 89% reduction is a minimum figure,
9 reached by using the lowest figure for pre-primary
10 registrars and the highest for July 29. See Exhi-
11 bits 16, 18-23, attached hereto and incorporated
12 herein as if fully set forth.)

13
14
15
16
17
18
19
20
21
22
23
24
25
26
XIV

In all counties except Santa Clara, this low level of regis-
trars continued subsequent to July 29, for a period of up to an
additional two and a half weeks.

XV

During the period complained of herein, potential voters
sought to register and were unable to do so as a direct and proxi-
mate result of respondents' reduction of the number of deputy reg-
istrars and active discouragement of registration. (See Exhibits
2, 3, 8, 9, 16, and 20, attached hereto and incorporated herein as
if fully set forth.)

XVI

Petitioner Sanga surrendered his book of Affidavits of Reg-
istration after the primary election of June 8, 1976, upon the
written directive of respondent Free. On July 6 and 7, 1976,
petitioner requested the return of his book in order to conduct

1 voter registration. Respondent refused this request and stated
2 that any person wishing to register must do so in the County Clerk's
3 office. On August 4, 1976, upon learning that postcard forms were
4 available, petitioner Sanga again requested registration materials.
5 Respondent again refused, stating that the cards were available only
6 to "certain people." (See Exhibit 1, attached hereto and incorpo-
7 rated herein as if fully set forth; see also Exhibits 11-13 attached
8 hereto and incorporated herein as if fully set forth.)

9
10 XVII

11 Petitioner Hernandez surrendered his book of Affidavits of
12 Registration thirty days before the primary election of June 8, 1976
13 upon the directive of respondent Lowes. On or about June 15, 1976,
14 petitioner requested the return of his book in order to conduct
15 voter registration in San Benito County. Respondent refused this
16 request, stating that materials would not be issued until the new
17 procedures for postcard registration were clarified. Petitioner
18 was told that he would be contacted when materials were available.
19 Respondent did not contact petitioner for almost two months. On
20 August 7, petitioner was informed that materials would be available
21 on August 10, 1976. Petitioner Hernandez has been unable to reg-
22 ister several voters who asked him to register them between June 15
23 and August 10, 1976, due to respondent's refusal to give him regis-
24 tration materials. (See Exhibit 2, attached hereto and incorporated
25 herein as if fully set forth; see also Exhibit 16, attached hereto
26 and incorporated herein as if fully set forth.)

XVIII

1
2 Petitioner Reyes surrendered his book of Affidavits of Reg-
3 istration upon the directive of respondent Gibson. After the pri-
4 mary, petitioner requested the return of his book in order to con-
5 duct voter registration in Kern County. Respondent refused this
6 request. Petitioner has therefore been unable to register several
7 persons who have sought his assistance in registration. (See Exhi-
8 bit 9, attached hereto and incorporated herein as if fully set
9 forth.)

XIX

10
11 Petitioner Rodriguez desires but has been unable to register
12 to vote in Kern County due to respondent Gibson's withdrawal of
13 registration materials from deputy registrars. Further, petitioner
14 wishes to become a deputy registrar but has been unable to do so
15 because respondent held no classes to deputize new registrars
16 between the primary and August 1, 1976. (See Exhibit 8, attached
17 hereto and incorporated herein as if fully set forth.)

XX

18
19 Petitioner Ambriz surrendered his books of Affidavits of
20 Registration before the primary election of June 8, 1976, upon the
21 directive of respondent Masini. Petitioner requested the return
22 of said books on or about June 9, 1976, in order to conduct voter
23 registration in Fresno County on behalf of the San Joaquin Voter
24 Registration Project, of which he is director. Respondent refused
25 to give petitioner the books or other registration materials.
26 Petitioner Ambriz has been unable to register voters as a result of

1 respondent's refusal to give him registration materials. (See Exhi-
2 bit 6, attached hereto and incorporated herein as if fully set forth;
3 see also Exhibit 14, attached hereto and incorporated herein as if
4 fully set forth.)

5 XXI

6 Petitioner Recendez is a registered voter in Fresno County.
7 On or about June 29 and July 29, 1976, petitioner made two separate
8 requests to respondent Masini to become a deputy registrar. Respon-
9 dent refused petitioner's request and told him that no classes were
10 being given until the postcard forms were received. (See Exhibit 7
11 attached hereto and incorporated herein as if fully set forth.)

12 XXII

13 Petitioner Weymouth contacted a deputy registrar of Santa
14 Clara County on or about June 22, 1976, and told him that her two
15 adult sons wished to register to vote. The deputy registrar informed
16 petitioner that he could not register her sons because respondent
17 Mann had withdrawn books of Affidavits of Registration from all the
18 deputies in the Gilroy area. As a result of respondent's withdrawal
19 of registration materials from deputy registrars, petitioner has
20 been unable to obtain assistance in registering her sons to vote.
21 (See Exhibit 3, attached hereto and incorporated herein as if fully
22 set forth; see also Exhibit 20, attached hereto and incorporated
23 herein as if fully set forth.)

24 XXIII

25 Petitioner Ad Hoc Committee on Chicano Rights has several
26 members who are deputy registrars in San Diego County. On or about

1 May 9, 1976, these members surrendered their books of Affidavits of
2 Registration upon the directive of respondent Denny. Petitioner's
3 members have made repeated requests for the return of these books
4 or for other registration materials. Respondent refused these
5 requests. Petitioner's members were unable to obtain materials
6 until August 9, 1976, and were unable to register voters during the
7 intervening period, a fact which has injured both petitioner's mem-
8 bers and petitioner as an organization. (See Exhibit 10, attached
9 hereto and incorporated herein as if fully set forth; see also Exhi-
10 bit 21, attached hereto and incorporated herein as if fully set
11 forth.)

12 XXIV

13 Respondent Neal failed and refused to deputize new registrars
14 and to distribute new registration supplies in Santa Cruz County
15 from June 8, 1976, until at least August 16, 1976, solely as a mat-
16 ter of administrative convenience pending the return from vacation
17 of an employee. (See Exhibit 19, attached hereto and incorporated
18 herein as if fully set forth.)

19 XXV

20 Respondent Menzel recommended to the Santa Barbara Board of
21 Supervisors that it cease paying deputy registrars for registra-
22 tions as of July 1, 1976. The said Board of Supervisors ordered
23 the cessation upon respondent's recommendation, who based his
24 advice upon the grounds that "it is immoral to pay people to get
25 other people to perform their civic responsibility." (See Exhibit
26 23, attached hereto and incorporated herein as if fully set forth.)

1 Respondent knew or should have known that this action would, and in
2 fact did, decrease the number of active registrars in the County.
3 (See Exhibits 22 and 23, attached hereto and incorporated herein as
4 if fully set forth.)

5 XXVI

6 Respondent Secretary of State is charged with enforcing
7 Elections Code §§ 201, 203, 280, and 321.9. Respondent knew or
8 should have known that respondent county officials have acted as
9 alleged in paragraphs X through XXV, supra.

10 XXVII

11 Section 324 of the Elections Code requires respondent
12 Secretary of State to provide respondent county elections officials
13 with registration materials and supplies. Respondent has failed and
14 refused to provide such materials and supplies to respondent county
15 officials between June 8, and July 29, 1976, and has failed to pro-
16 vide such materials in some counties until over a week after July 29,
17 1976.

18 XXVIII

19 As the direct and proximate result of respondents' breaches
20 of duty, public funds have been and will be expended illegally by
21 failure to comply with and enforce Elections Code §§ 201, 203, 280,
22 321.9, and 324. Petitioners have been and will continue to be
23 injured in their capacity as California and county taxpayers because
24 of said illegal expenditures in that total registration opportunities
25 have been reduced for all California citizens by virtue of county
26 withdrawal of registration books and refusals to deputize new

1 registrars pending receipt of the postcard system.

2 SECOND CAUSE OF ACTION

3 FAILURE TO CONDUCT OUTREACH

4 XXIX

5 Petitioners refer to and incorporate by reference the alle-
6 gations in paragraphs I through VII and IX through XXVIII above as
7 if expressly set forth herein.

8 XXX

9 Elections Code § 202 requires counties to implement programs
10 to identify and register all qualified electors in the county and
11 further requires the Secretary of State to promulgate minimum
12 requirements for such programs. The section was enacted and filed
13 with the Secretary of State on September 14, 1975.

14 XXXI

15 Respondent Secretary of State failed and refused to hold a
16 hearing on proposed outreach regulations for eight and a half
17 months, until June 4, 1976. Respondent knew or should have known
18 that such a delay would cause respondent county officials to delay
19 their own compliance with section 202 past the effective date of
20 the statute on July 1, 1976.

21 XXXII

22 Notwithstanding that a hearing on said proposed regulations
23 was held on June 4, 1976, respondent has failed and refused and
24 continues to fail and refuse to file any final regulations regard-
25 ing outreach. Furthermore, respondent has failed even to utilize
26 the power available to her to adopt a temporary outreach plan by

1 means of emergency regulations pursuant to Government Code § 11421.

2 XXXIII

3 Petitioners are informed and believe and thereon allege that
4 on June 24, 1976, respondent Secretary of State's Elections Division
5 Chief, William Durley, attended a meeting with County Clerks and
6 Registrars from throughout the State, including many if not all of
7 respondent county elections officials herein. At said meeting,
8 Mr. Durley told the assembled clerks and registrars that they would
9 not be required to finalize their own outreach plans until respon-
10 dent Secretary of State completed and filed regulations, that
11 respondent Secretary of State would require a certain format for
12 proposed county plans, and that the format would be distributed to
13 each county. (See Exhibits 20, 24, and 25, attached hereto and
14 incorporated herein as if fully set forth.)

15 XXXIV

16 Respondent county elections officials, and each of them,
17 failed and refused to implement plans to identify and register
18 qualified electors from the effective date of the statute (July 1,
19 1976) until at least August 15, 1976. Respondents' failure to con-
20 duct outreach programs, and specifically programs to register lan-
21 guage minority citizens, continues to the present day.

22 XXXV

23 As the direct and proximate result of respondents' breaches
24 of duty, public funds have been and will be expended illegally by
25 failure to comply with and enforce Elections Code § 202 and the
26 Voting Rights Act of 1965, as amended. Petitioners have been and

1 will continue to be injured in their capacity as California and
2 county taxpayers because of said illegal expenditures.

3 In addition, petitioners and the class of minority language
4 citizens they represent have suffered injury in that respondents'
5 failure to implement effective programs to identify and register
6 qualified electors, in violation of state law, specially impinges
7 on minority language citizens, who have been historically disen-
8 franchised and continue to be registered in proportions less than
9 other segments of the population, thereby also diluting the effec-
10 tiveness of the votes of minority language voters who share special
11 concerns and political objectives.

12 THIRD CAUSE OF ACTION

13 FAILURE TO PROVIDE BILINGUAL
14 ORAL REGISTRATION ASSISTANCE

15 XXXVI

16 Petitioners refer to and incorporate by reference the alle-
17 gations in paragraphs I-VII, IX-XXVIII, and XXX-XXXV above as if
18 expressly set forth herein.

19 XXXVII

20 Section 203(c) of the Voting Rights Act of 1965, as amended,
21 42 U.S.C. § 1973aa-1a(c), requires provision of all registration
22 assistance on a bilingual basis in each county named in this peti-
23 tion. The only exception to this blanket requirement is that a
24 county which has adequately analyzed local needs for such assistance
25 within the county may provide such assistance on the basis of such
26 needs. (28 C.F.R. § 55.17.) No county herein has made such an

1 analysis.

2 XXXVIII

3 Sections 201(d) and 1635 of the Elections Code have since
4 1974 required respondent county elections officials to (i) identify
5 each county precinct in which 3% or more of the voting-age citizens
6 cannot register or vote in English without assistance and (ii) make
7 reasonable efforts to recruit bilingual registrars and precinct
8 officials to provide assistance in languages other than English.

9 XXXIX

10 Respondents, and each of them, know or should know that
11 bilingual oral registration assistance is needed in their respec-
12 tive counties. Respondents know or should know that the United
13 States Census Bureau has determined that over 270,000 of their
14 voting-age citizens are Spanish speaking, and that over 29,000 of
15 these Spanish-speaking citizens are illiterate. Further, respon-
16 dents know or should know that the proportion of Spanish-speaking,
17 voting-age citizens and their rate of illiteracy both rise markedly
18 in rural areas, such as the counties of San Benito (32.5% Spanish-
19 speaking, voting-age citizens, 16.6% illiterate), Imperial (27.1%,
20 16.6%, respectively), Fresno (17.3%, 18.4%, respectively), and
21 Kern (12.3%, 17.5%, respectively), and the urban barrios of San
22 Diego, Santa Clara, Santa Cruz (Watsonville), and Santa Barbara
23 (Guadalupe) Counties.

24 XL

25 Further, respondents know or should know that the United
26 States Census Bureau has determined that citizens of Spanish origin

1 who register to vote is 55% of the percentage of White, non-Spanish
2 origin citizens who register. Further, twice the percentage of
3 Spanish-origin citizens as other groups fail to register solely
4 because they do not know how to do so, demonstrating the need for
5 bilingual oral registration assistance.

6 XLI

7 Notwithstanding respondent county officials' knowledge of
8 the need for bilingual oral registration assistance in their respec-
9 tive counties, respondents have failed and refused since 1974 to
10 analyze local needs for such assistance under Elections Code
11 § 201(d) and have continued to fail and refuse since August 6,
12 1975 to analyze local needs for such assistance under § 203(c) of
13 the Voting Rights Act.

14 XLII

15 Further, respondent county officials have failed and refused
16 since 1974 to make reasonable efforts to recruit bilingual regis-
17 trars for precincts covered by Elections Code § 201(d) and have
18 continued to fail and refuse since August 6, 1975 to recruit bilin-
19 gual registrars as required by § 203(c) of the Voting Rights Act.
20 (See Exhibits 6, 7, 17-23, attached hereto and incorporated herein
21 as if fully set forth.)

22 XLIII

23 Further, respondent county officials have failed and refused
24 since 1974 to provide bilingual oral registration assistance in
25 precincts needing such assistance pursuant to Elections Code
26 § 201(d) and have continued to fail and refuse since August 6, 1975,

1 to provide such assistance throughout the county or in areas of
2 analyzed need as required by § 203(c) of the Voting Rights Act.

3 XLIV

4 Respondents Masini (Fresno County), Free (Imperial County),
5 and Menzel (Santa Barbara County) have further failed and refused
6 to comply with § 203(c) of the Voting Rights Act by making public
7 statements in their official capacities encouraging antagonism
8 toward and noncompliance with the Act by subordinates and English-
9 speaking county citizens. Respondent Masini distributed a letter
10 at the polls to voters asking that comments on bilingual provisions
11 of the Act be sent to their Congressperson or Senators. The letter
12 was distributed only in the English language. A copy of the letter
13 distributed in December 1975 is attached hereto as Exhibit 15 and
14 incorporated herein as if fully set forth.

15 XLV

16 Respondent Secretary of State is well aware that respondent
17 county officials have failed and refused since 1974 to comply with
18 §§ 201(d) and 1635 of the Elections Code, and that they have con-
19 tinued to fail and refuse since August 6, 1975, to comply with
20 § 203(c) of the Voting Rights Act. Respondent knows specifically
21 of the noncompliance complained of in this cause of action from
22 (a) her own 1974 survey of compliance, (b) investigations of the
23 United States Civil Rights Commission, (c) investigations of the
24 California Attorney General, and (d) testimony of witnesses in
25 congressional hearings on the 1975 amendments to the Voting Rights
26 Act.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

XLVI

Notwithstanding respondent Secretary of State's knowledge of said noncompliance and of the need for bilingual oral registration assistance, respondent has failed and refused to require compliance by enacting regulations, assisting counties in their administration of the law, or referring violations to the California or United States Attorney General, all of which actions respondent has the authority to take.

XLVII

As the direct and proximate result of respondents' breaches of duty, public funds have been and will be expended illegally by failing to comply with and enforce § 203(c) of the Voting Rights Act of 1965, as amended, and Elections Code § 201(d). Petitioners have been and will continue to be injured in their capacity as California and county taxpayers because of said illegal expenditures.

In addition, petitioners and the class of minority language citizens they represent have suffered injury in that respondents' failure to provide equal opportunities for bilingual oral assistance in registration and voting, in violation of state and federal law, has abridged the right to vote for millions of California minority language citizens and diluted the effectiveness of the vote of minority language voters who have special concerns not shared by non-minority language voters.

1 effectiveness of the vote of minority language voters who have
2 special concerns not shared by non-minority language voters.

3 FAILURE TO ERADICATE EFFECTS

4 OF PAST DISCRIMINATION

5 LI

6 Respondents' actions complained of in this action perpetuate
7 a history of past discrimination against petitioners and the class
8 they represent. The effect of this discrimination has been to
9 exclude language-minority citizens from the political process and
10 reduce the proportion of registered voters among language-minority
11 citizens.

12 LII

13 Respondents, and each of them, are charged by law with
14 administering applicable elections laws so as to eradicate the
15 effects of past discrimination against petitioners and the class
16 they represent, in the exercise of the franchise.

17 LIII

18 Respondents know that such past discrimination exists, and
19 that it adversely affects the franchise of language-minority citi-
20 zens. Respondents know that:

21 (1) Language-minority citizens were completely denied the
22 franchise from 1894 until 1970;

23 (2) Until 1974, language-minority citizens were barred
24 from speaking any language other than English at the polls;

25 (3) Legislative districts were for years drawn so as to
26 dilute the voting strength of language-minority citizens; and

1 (4) Official and de facto segregation of and discrimination
2 against language-minority children in education has long existed
3 and continues to exist in California.

4 LIV

5 Respondents further know that the effects of this discrim-
6 ination are that:

7 (1) Language-minority citizens have twice to three times
8 the illiteracy rate of English-speaking citizens; and

9 (2) Language-minority citizens register to vote at only 55%
10 of the rate at which English-speaking citizens register.

11 LV

12 Notwithstanding respondents' knowledge of said past dis-
13 crimination and its continuing effects, respondents have taken no
14 action whatsoever to eradicate the effects of that past discrim-
15 ination on language-minority citizens. To the contrary, respon-
16 dents' actions perpetuate and exacerbate those effects.

17 THE EXERCISE OF ORIGINAL JURISDICTION
18 AND EXTRAORDINARY RELIEF IS WARRANTED

19 LVI

20 Respondent March Fong Eu, as Secretary of State, has at all
21 times mentioned herein been able to perform her duty to ensure
22 county compliance with §§ 201-03, 280, and 321.9 of the Elections
23 Code and with the Voting Rights Act, but notwithstanding such
24 ability and petitioners' repeated demands, respondent has failed
25 and refused and continues to fail and refuse to perform said duties.
26 Unless and until compelled by this Court to do so, respondent will

1 continue to fail and refuse to perform her duties under California
2 and federal law.

3 LVII

4 Respondent county elections officials have at all times
5 mentioned herein been able to perform their duties to comply with
6 §§ 201-03, 280, and 321.9 of the Elections Code and with the
7 Voting Rights Act of 1965, as amended, and specifically with
8 §§ 4(f)(2) and 203(c) thereof (42 U.S.C. §§ 1973b(f)(2) and 1973aa-
9 la(c), but notwithstanding such ability and petitioners' repeated
10 demands, respondents have failed and refused and continue to fail
11 and refuse to perform said duties. Unless and until compelled to
12 do so by this Court, respondents will continue to fail and refuse
13 to perform their duties under California and federal law.

14 LVIII

15 Time is of the essence in this action. Petitioners have no
16 plain, speedy, and adequate remedy in the ordinary course of law
17 in that loss and dilution of the right to vote is not calculable
18 in money damages, and in that a less speedy remedy through the
19 ordinary course of trial and appeal could not result in relief
20 effective before the 1976 general elections. Petitioners have no
21 available administrative remedies to pursue.

22 LIX

23 Petitioners seek extraordinary relief from this Court in
24 the first instance because, in addition to the matters set forth
25 in the immediately preceding paragraph, the matters involved are
26 of great public importance to the people of the State of California,

1 and their speedy determination is necessary to ensure adequate
2 relief prior to the 1976 general elections. California Consti-
3 tution, Article I, section 10; California Rules of Court, Rule 56(2).

4 WHEREFORE, petitioners pray that:

5 (1) An alternative writ of mandate issue to respondent
6 county elections officials directing each of them to:

7 (a) Extend the last day for registration to
8 the tenth day before the general election in 1976;

9 (b) Implement forthwith outreach programs to
10 (i) identify and (ii) register all qualified voters
11 in the county, including affirmative action to iden-
12 tify and register language-minority citizens;

13 (c) Provide forthwith adequate bilingual oral
14 registration assistance to qualified electors in
15 the county;

16 (d) Take such further steps as may be neces-
17 sary to assure a minimum of registration opportuni-
18 ties, information and outreach to language-minority
19 citizens prior to the general election; or

20 in the alternative, show cause before this Court why they have not
21 done so and why a peremptory writ of mandate should not issue.

22 (2) An alternative writ of mandate issue to respondent
23 Secretary of State directing her to:

24 (a) Enforce the provisions of the Court's writ to
25 county officials;

26 ---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

(b) Issue regulations regarding county duties to provide nondiscriminatory outreach programs;

(c) Issue regulations regarding county duties to provide bilingual oral registration assistance; or in the alternative, show cause before this Court why she has not done so, and why a peremptory writ of mandate should not issue.

(3) On return of the alternative writ and upon hearing on the order to show cause, a peremptory writ of mandate issue commanding respondents to perform the acts prayed for in paragraphs (1) and (2) above.

(4) For recovery of petitioners' costs including reasonable attorneys' fees, pursuant to 42 U.S.C. § 19731(e);

(5) This Court grant such other and further relief as this Court may deem just and proper.

DATED: August 24, 1976.

Peter Hart Weiner
PETER HART WEINER

ALBERT H. MEYERHOFF
RALPH SANTIAGO ABASCAL
JUAN URANGA
DOUGLAS HITCHCOCK
JAMES E. GONZALES, II
ROBERT T. OLMOS
STEVEN BELASCO
California Rural Legal Assistance

RALPH ARRIOLA
Legal Aid Society of San Diego, Inc.

By *Albert H. Meyerhoff*
ALBERT H. MEYERHOFF
Attorneys for Petitioners

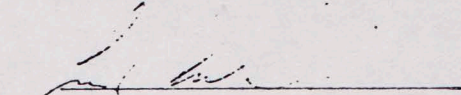
VERIFICATION

I, the undersigned, say:

I am one of the petitioners in the above-entitled matter. I have read the foregoing petition and know the contents thereof; that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 21st day of August, 1976.



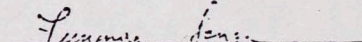
LUIS M. AMBRIZ

VERIFICATION

I hereby declare under penalty of perjury that I am a party to the above-entitled matter; that I have read the foregoing document and know the contents thereof, and the same is true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe it to be true.

DATED: Aug 24 / 76

Imperial County
Voter Registration
Education Project


By: Fernando Sanga
Chairperson

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27

DECLARATION

I, JUAN HERNANDEZ, declare as follows:

I am a citizen of the United States and a resident of San Benito County, California. I am a tax paying property owner in San Benito County. I am also a registered voter and a deputy registrar in and for San Benito County.

At the request of the San Benito County Registrar of Voters, I turned in my Affidavit of Registration book to the Registrar of Voters approximately thirty days before the June primary election. About one week after the primary election, I went to the office of the Registrar and requested the return of my Affidavit of Registration book. I needed the book in order to attempt to register more voters before the November general election.

The County rejected my request and informed me that Affidavit of Registration books would not be issued until after the State of California clarified new procedures for voter registration. I was told that the County would contact me after clarification from the State had been received.

I was never contacted until August 7, 1976. On that date, I received a letter from the Registrar of Voters stating that a meeting of all deputy registrars would be held on August 10, 1976. The purpose of the meeting is to instruct deputy registrars of the new registration procedures handed down by the State.

Since the June primary election, I have received numerous calls from people eligible to vote requesting that I

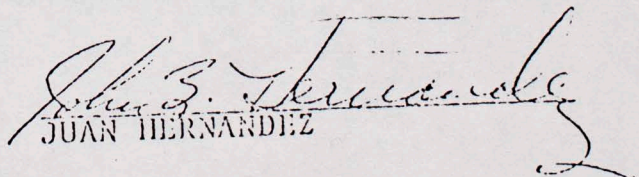
register them. Unfortunately, I have had to inform these people of my inability to register them because of the actions of the Registrar of Voters. Most of the people who have contacted me are Chicano potential voters.

I have, for many years, been an active member of the Chicano community in San Benito County. I have been active in efforts to improve the socio-economic status of Chicanos and particularly farmworkers, in San Benito County.

Throughout my years of effort, I have realized that Chicanos must have an effective political voice in order to improve their socio-economic status. This is one of the reasons why I have been a deputy registrar for approximately ten years.

In my ten years as a deputy registrar, I have become identified as a resource for Chicanos who would otherwise be excluded from the political process in San Benito County. This is why it is particularly important that I have as much time as possible to attempt to register Chicanos. Because of the County actions described above, my efforts this year have been substantially curtailed and there is a real possibility that a significant segment of the San Benito County population will become and/or remain disenfranchised.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Hollister, California, August 10, 1976.


JUAN HERNANDEZ

DECLARATION

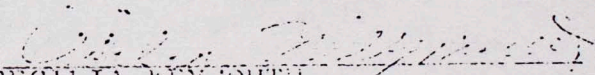
I, CECILIA WEYMOUTH, declare:

I am a registered voter and property taxpayer in the County of Santa Clara, State of California. I am active and an active in involving Chicanos in the electoral process specifically by encouraging Chicanos to register to vote.

Approximately two weeks after the primary election held June 8, 1976, I contacted Conrad Lather, a Deputy Registrar of Voters for Santa Clara County, to have my sons register to vote. He informed me that he could not register anyone because the Santa Clara County Registrar of Voters had not issued Affidavit of Registration books. As of this date I have been unable to have my sons register because of the delay entailed by the changeover from personal registration to registration by postcard.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Gilroy, California, August 9, 1976.


CECILIA WEYMOUTH

DECLARATION OF GEORGE KYPUROS

1
2
3 I. GEORGE KYPUROS, do declare as follows:

4 1. I am a citizen of the United States, and over the age
5 of eighteen years.

6 2. I reside in the City of Watsonville, County of Santa
7 Cruz.

8 3. I am a taxpayer of that City and County as well as of
9 the State of California and of the United States.

10 4. For 2 1/2 years I have been the Executive Director of
11 La Coalicion, a social service center located in Watsonville
12 which serves low-income area residents. Approximately 75% of
13 the clients served are exclusively Spanish speakers.

14 5. I am a bilingual Chicano and am actively involved in
15 civic affairs. Personally and professionally I am deeply con-
16 cerned about the rights of limited-English speaking and non-
17 English speaking Mexican American Citizens.

18 6. I believe that many such citizens in Santa Cruz County
19 are unable to participate fully in public affairs because they are
20 not registered to vote. It is crucial that they be registered in
21 order to be able to properly exercise their rights.

22 7. I am informed and believe that Santa Cruz County has
23 greatly curtailed voter registration since the June 1976 primary
24 election. I am further informed and believe that Santa Cruz
25 County has not implemented programs to register non-English
26 speaking citizens to vote, nor has the County provided bilingual
27 registrars to encourage and obtain voter registrations.

28 8. The effect of the County's failure to act has been to

1 deny equal opportunity to non-English speaking citizens and
2 limited-English speaking citizens who need help in voting.

3 I declare under penalty of perjury that the foregoing is
4 true and correct and that this declaration was executed on this
5 10th day of August, 1976, at Watsonville, California.

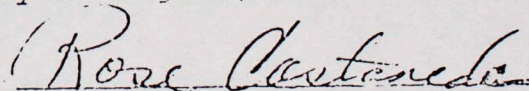
6
7
8 GEORGE KYPUROS
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION

I, ROSE CASTANEDA, declare as follows:

1. I am a citizen by birth of the United States of America.
2. I permanently and currently reside with my husband and teenage child at 402 West Creston Street in the City of Santa Maria, County of Santa Barbara, State of California.
3. My husband and I own the above-described home and pay all property taxes on it. I am a taxpayer of the County of Santa Barbara and of the State of California.
4. I am a duly registered voter in the County of Santa Barbara, and I vote regularly in elections held here.
5. I am fluently bi-lingual in Spanish and English, both orally and in writing.
6. I maintain a continuing interest in candidates and election issues in this County and State; I have personally distributed election literature to prospective voters in Santa Barbara County in the past; I desire very much to increase the participation in elections here by persons qualified to vote who may be kept from voting because they are fluent only in the Spanish language; I desire to help in this effort, and seek increased assistance from those voting officials of the County and State who are responsible for increasing the voting participation by our citizens.

I declare under penalty of perjury that the foregoing is true and correct, on this 10th day of August, 1976.



ROSE CASTANEDA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DECLARATION

I, LUIS AMBRI, declare:

I have been a member of the San Joaquin Valley Education Project since 1974. I have been a project representative for the past several years. I am a
surnamed residents of Fresno County.

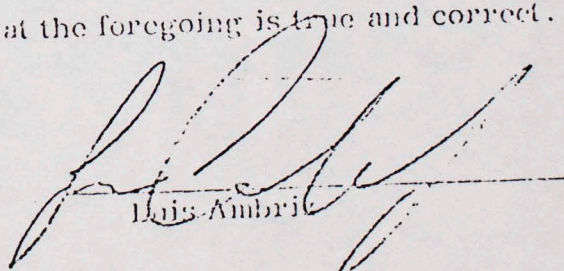
On June 9, 1976 I spoke to Francis Jones of the Fresno County Election Department. I asked if I could obtain affidavit books to continue voter registration in Fresno. Mrs. Jones responded by saying that no registration books were being issued and that registration was stopped until the new postcards came in. I asked when that would be and the response was that she did not know.

As a result of this delay the project suffered a thirty (30) day setback. Considering the project's limited resources, those 30 days were instrumental in obtaining our goal. We lost considerable time which could not be made up before the deadline of voter registration.

I also spoke with Patrick Helm of the Fresno County Election Department and asked him if any effort had been made to locate, identify and properly place bilingual poll workers in priority areas in Fresno. The response was that no outreach had been done; when I asked why not, he said that there were no methods of targeting.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 9, 1976.


Luis Ambri

DECLARATION

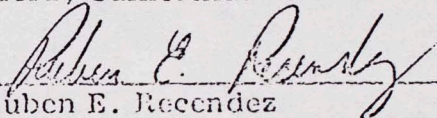
I, Ruben E. Recendez, declare:

On June 29, 1976, at approximately 4:10 p.m., I called the Fresno County Election and Voter Registration office under the number 488-3246 listed in the Fresno telephone directory.

I stated that I wanted to be a deputy registrar. The individual who answered, later identified as Aracelia Ramirez, stated that at this time they were not issuing registration books. She stated that sometime in the middle of July a class would be conducted, by a Mrs. Jones, on the new procedure for registering voters and that the new procedure would involve the mailing of registration cards to prospective voters. Before I concluded the conversation I asked if there was any possibility of registering potential voters immediately, she answered in the negative.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on June 30, 1976, at Madera, California.



Ruben E. Recendez

DECLARATION

1 I, RUBEN E. RECENDEZ, declare:

2 On July 29, 1976, at approximately 3:45 p.m. I called the Fresno County
3 Registrar's Office and spoke to Mrs. Sherlock, the office manager. She
4 stated that she had been told that classes for new deputy registrars
5 would begin in the middle of July. I asked her if she had any information
6 regarding the classes. She stated that she had been told that classes
7 she stated that classes for new deputy registrars would begin within two weeks
8 that they were awaiting the issuance by the State of the new voter registration forms
9 by mail. Ms. Sherlock stated that until they receive those forms they could not
10 schedule classes for new deputy registrars.

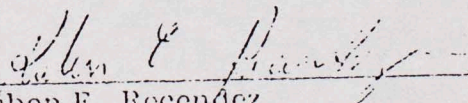
11 I stated that on June 28, 1976 I had called regarding the same question, and
12 had been told that classes would begin in the middle of July. Again, she referred
13 the fact that registration classes could not begin without the aforementioned forms
14 from the State.

15 I asked if there were any possibility of securing a registration book to begin
16 immediately registering possible voters. Ms. Sherlock stated that only "dependent
17 deputy registrars" were being given books and that there was no possibility of
18 securing a book.

19 She stated that at this point the only thing I could do was to go into the office
20 and sign up to take the classes to become a deputy registrar.

21 I declare under penalty of perjury that the foregoing is true and correct.

22 Dated: July 30, 1976.

23
24
25 
26 Ruben E. Recendez

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF KERN)

4 I, Margaret Ann Rodriguez, first being duly sworn,
5 depose and say,

6 1. I am a resident of Kern County and reside at 30745
7 Burbank Street in Shafter, California.

8 2. I was born and raised in Kern County and am presently
9 eighteen years of age.

10 3. I am eligible to vote but have not been able to
11 register due to the unavailability of a local deputy registrar.
12 It is a great inconvenience for me to travel to Bakersfield to
13 register. Bakersfield is approximately twenty - two (22) miles
14 distant and I have no available transportation.

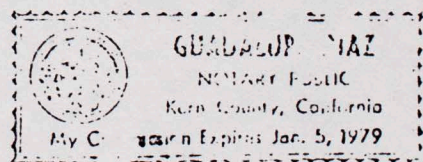
15 4. I am bilingual and would like to become a deputy
16 registrar since there is a tremendous need for bilingual regis-
17 trars in Shafter. However I cannot become a registrar until I
18 register and take classes for deputy registrars. At this time
19 no classes have yet been offered and the only class that is
20 scheduled shall be in Bakersfield.

21 Executed on August 10, 1976 in Shafter, California.

22 *X Margaret Ann Rodriguez*
23 MARGARET ANN RODRIGUEZ

24 Subscribed and sworn to before me
25 this 10th day of August, 1976.

26 *[Signature]*
Notary Public, County of Kern
State of California



1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF KERN)

4 I, Raymond Reyes, first being duly sworn, depose and
5 say:

6 1. I am a resident of Kern County and reside at 114
7 West 15th Place, Delano, California.

8 2. I was born and raised in Kern County and am presently
9 thirty-one years of age.

10 3. I am bilingual and have been a deputy registrar
11 since February 1971.

12 4. I have received numerous contacts by individuals
13 desiring to register. I am presently unable to register anyone
14 due to the fact that I have not been furnished registration
15 supplies by the Kern County Clerk's office.

16 5. I was informed by the County Clerk's office that
17 registration supplies was being held up pending arrival of
18 registration materials from the Secretary of State's office.

19 6. In July I contacted the Kern County Clerk's office
20 to request my registration supplies. To this date I have not
21 received any response and I have no idea when I shall receive
22 my supplies and be able to start registering people.

23 7. My experience as a deputy registrar is that there
24 is a great need for bilingual registrars in Kern County. However
25 it has been my impression that there has been no effort to recruit
26 or encourage bilingual registrars. Quite to the contrary, it is
my impression that the county clerk's office has minimized the

1 need for bilingual registrars in excessive reliance on postcard
2 registration.

3 8. It is my further impression that non-English speaking
4 voters in Delano do not receive equal treatment due to the lan-
5 guage obstacle and inadequately qualified election officers.

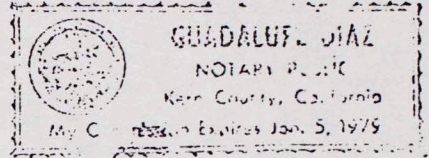
6 Executed on August 10, 1976 in Delano, California.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Raymond Reyes
RAYMOND REYES

Subscribed and sworn to before me
this 10th day of August, 1976.

Guadalupe Diaz
Notary Public, County of Kern
State of California



Declaration of Herman Baca
on behalf of the Ad Hoc
Committee on Chicano Rights

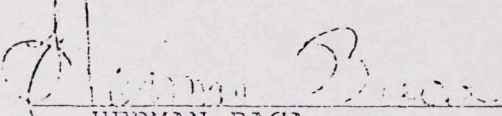
Herman Baca declares:

1. I am the chairman of the Ad Hoc Committee on Chicano Rights, an unincorporated Association in San Diego County, California.
2. The address and headquarters of said Association are 1837 Highland Avenue, National City, California.
3. The Ad Hoc Committee has been in existence for approximately five years.
4. At present the Association has approximately 50 paid up members and 150 non paid supporters.
5. One of the main purposes of the Association is to increase voter awareness and participation in the electoral process.
6. During the last year the Association has conducted registration drives to increase participation by all citizens, especially the Spanish Speaking Citizens of San Diego County and it has registered approximately 2,000 persons.
7. Some of the Association members are deputy registrars, others are registered voters and others are citizens not yet registered to vote.
8. Many of its members are property owners, monolingual in Spanish, who pay property taxes and need voter information and assistance in getting registered in the Spanish Language.

9. The members who are deputy registrars were asked to return and did return their affidavit of registration books approximately 30 days before the June 8, 1976 election and new books were not reissued to them until August 9, 1976. Our members, therefore, were unable to register people during said period.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 11, 1976 at National City, California.


HERMAN BACA

DECLARATION OF JAMES E. GONZALES II

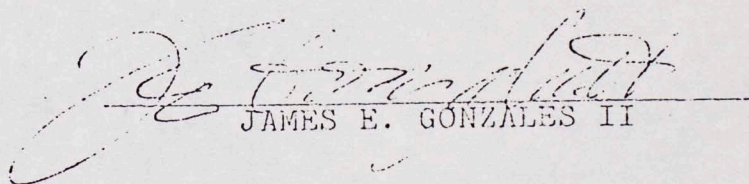
James E. Gonzales II declares as follows:

I am an attorney practicing law in Imperial County, California. On July 29, 1976 at 4:45 p.m. I contacted the Electoral Commission of the Imperial County Clerk's Office to inquire as to the status of voter registration in Imperial County. I spoke with the Commission's clerk named Maria Elena Boggiano who informed me of the following.

As of this date there is no voter registration being conducted in Imperial County other than in the Office of the County Clerk of Imperial County. The reason for this is that all voter registration materials were withdrawn from Imperial County deputy registrars because the new postcard registration statute became effective July 1, 1976 and the Imperial County Clerk has not received the new materials from the Secretary of State.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed this 29th day of July, 1976 at El Centro, California.



JAMES E. GONZALES II

DECLARATION OF DOROTHY JIMENEZ

Dorothy Jimenez declares as follows:

I am a Mexican-American citizen and registered voter of the County of Imperial.

On August 3, 1976, at 12:30 p.m. I contacted the Elections Department of Imperial County Clerk's Office to make sure that my voter registration book had been returned. I spoke with an elections clerk named Maria Elena Boggiano who informed me that my book had been turned in.

I then asked the clerk if I could be issued another voter registration book because I knew people who wished to register. The clerk advised me that registration books were not being issued anymore. I then asked if their office had received the new post-card materials and if I could be issued some, as I am a Deputy Registrar. She said that I could not be issued the materials because their office had not yet received them from the Secretary of State and that Imperial County was not the only County having this problem. I asked the clerk what I was to do about registering people to vote. She told me to send them to the County Clerk's Office because their office was the only agency in the County registering and using the old voter registration books.

I asked whether I would be issued the new postcard materials as soon as their office received them. The clerk said that the new voter registration materials were only to be issued to certain agencies such as City Hall and the Department of Motor Vehicles.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed this 4th. day of August, 1976 at El Centro, California.

Dorothy Jimenez
DOROTHY JIMENEZ

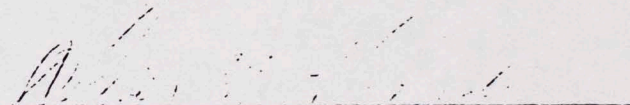
DECLARATION OF OLIVER M. ALVARADO

I, Oliver M. Alvarado, a resident and voter of Imperial County, a property owner and taxpayer and a deputy registrar, hereby declare the following:

On August 4, 1976, at approximately 2:30 p.m., I was in the County of Imperial Elections Office in order to inquire of the new postcards for voter registration. Specifically, I wanted to obtain some of these postcards to register people who had requested this of me. I spoke with a staff member who said the County had not as yet received the postcards. I then asked the staff member if they could send me about 200 of the postcards when they were received. The staff member then stated that Mr. Free would be distributing the postcards to certain registrars and that I should contact him in this regard. I then asked to speak with Mr. Free but was told that he was out to lunch.

I declare under penalty of perjury, that the above is true and correct to the best of my knowledge.

Executed this 9 day of August, 1976, at El Centro, California.



OLIVER M. ALVARADO

DECLARATION OF CRUZ BUSTAMANTE

I, the undersigned, say:

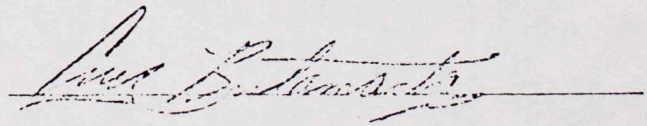
I am and have been a resident of Fresno County, California, for the past eighteen years.

On at least four separate occasions during the month of July 1976, I spoke personally to Pat Holm, Francis Jones and Richard Jansen of the Fresno County Elections Office to request affidavit books for voter registration. After finally obtaining the affidavit books, both Holm and Jones told me that I was the only person in Fresno County receiving affidavit books. Their reasoning was that they did not want too many books out because of problems that occur in their recovery. They stated that until the new postcard registration books came in, they were not deputizing any others or letting out any books.

On Tuesday, August 3, 1976, I spoke to Pat Holm, who indicated to me that the new postcard registration books still were not available.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 9th day of August, 1976.



CRUZ BUSTAMANTE

OFFICE OF H.L. MASINI, FRESNO COUNTY CLERK-RECORDER
AND EX OFFICIO CLERK OF THE SUPERIOR COURT

LEE PALMER ASSISTANT COUNTY CLERK
J.W. BARNETT ASSISTANT COUNTY RECORDER
RICHARD S. JANSEN ELECTIONS SUPERVISOR

November 17, 1975

TO: EACH VOTER IN THE SPECIAL ELECTION TO BE HELD ON DECEMBER
9, 1975

FROM: H. L. MASINI, COUNTY CLERK

RE: VOTING RIGHTS ACT

You will find that all of the material enclosed in your sample ballot envelope for this election has been provided in both the English and Spanish languages. In addition, on election day you will be asked by your precinct board whether you wish to vote your ballot in the English or Spanish language.

This office and all election officers in Fresno County are required by Federal law to conduct this and future elections in both the English and Spanish languages. Under the Voting Rights Act of 1965, as amended in 1975, it has been determined that Fresno County has more than 5 percent of citizens of voting age which are members of a single language minority group (Spanish heritage) and we are required to provide registration, voting notices, forms, instructions, assistance, other materials or information relating to the electoral process, including ballots in both the English and Spanish languages. Under the Voting Rights Act there are only four (4) language minority groups: (1) American Indian; (2) Asian American; (3) Alaskan Natives and (4) Spanish heritage.

We are requesting your assistance in aiding your precinct board members to comply with the law in this election. They are required to provide ballots and instructions in both the English and Spanish languages only and to ask each voter's preference at the time you vote.

This is a Federal law and we suggest that you direct any comments to:

Congressman B. F. Sisk
2217 Rayburn Building
Washington, D.C. 20515

Congressman John Krebs
431 Cannon Building
Washington, D.C. 20515

Senator Alan Cranston
452 Senate Office Building
Washington, D.C. 20510

Senator John V. Tunney
1415 Senate Office Building
Washington, D.C. 20510

Very truly yours,

H. L. Masini, County Clerk

By *Lee Palmer*
Lee Palmer
Assistant County Clerk

LP:mt

EXHIBIT -15-

REPLY TO ELECTIONS DIVISION

TELEPHONE: (209) 488-3246

CLERK'S DIVISION

Room 401, Courthouse
100 Van Ness Avenue

-Mailing Address:

P.O. Box 1628

Fresno, California 93717

-Telephones: Area Code 209

Clerk 488-3375

Civil 488-3352

Probate 488-3617

Criminal 488-3449

Juvenile 488-3646

Calendar Clerk 488-3446

JUVENILE TRAFFIC DIVISION

Room 302, Courthouse
100 Van Ness Avenue

-Mailing Address:

P.O. Box 1628

Fresno, California 93717

-Telephone: (209) 488-3619

RECORDER'S DIVISION

Room 302, Hall of Records
1281 Tulare Street

-Mailing Address:

P.O. Box 700

Fresno, California 93712

-Telephones: Area Code 209

Assistant Recorder 488-3471

Vital Statistics 488-3476

Legal Department 488-3471

ELECTIONS DIVISION

1234 "L" Street
Fresno, California 93721

-Telephone: (209) 488-3246

DECLARATION OF PETER HART WEINER

RE SAN BENITO COUNTY

I, PETER HART WEINER, declare:

On August 9, 1976, at approximately 10:15 a.m., I talked by telephone with Mrs. Mildred Robins, who identified herself as the Elections Clerk of San Benito County.

Mrs. Robins informed me that there were approximately thirty-five roving and five stationary Deputy Registrars in the County. She further stated that most Registrars had turned their books in before the Primary. Others were then asked to surrender their books. As of the date of our conversation, fewer than ten Deputy Registrars in the County had their books. The postcards were not yet available.

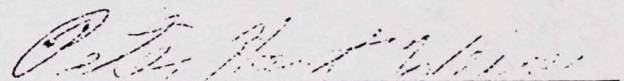
Mrs. Robins further stated that no classes had been held between the close of registration and the present day, and that the first class would be held on approximately August 11, or August 12, 1976.

I asked Mrs. Robins what people had done if they wished to register between the Primary and the present day. "If new people came in, I sort of discouraged them," she stated. Mrs. Robins told me that she explained to such persons that she would contact them after the new system came in, and that they could register at that time. She estimated that five or six persons had been in this category.

I further asked Mrs. Robins whether the County would take steps to identify unregistered voters and implement plans to register them. She stated that the County had no plan to identify unregistered voters, but that she knew where most of them were. "The only thing we have problems with is the Spanish people," she stated. I asked whether the County was taking steps to identify Spanish-speaking, qualified electors and register them. Mrs. Robins replied that she had spoken with one woman, who worked at a cannery, who will help, as well as the head of the Democratic Central Committee. She further stated that she did not know what else the County could do with regard to identifying and registering unregistered voters, except to allow them to come in and register.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 10th day of August, 1976.



PETER HART WEINER

DECLARATION

I, JOSEPH MILLWOOD, declare as follows:

I am a resident of San Benito County, California, and registered to vote in that County.

On August 2, 1976, I spoke by telephone with Millie Robins of the registrar's office of the County of San Benito. In response to my inquiry as to whether I could become a deputy registrar, she stated that classes would be held, in compliance with federal regulations, on August 11, 1976, and August 12, 1976, in Hollister, California, for all former deputy registrars and any persons wishing to become deputy registrars. She stated that after taking this class, the persons attending would be sworn in and given registration books.

In response to my further inquiries, Ms. Robins informed me that there is currently, to her knowledge, no program in San Benito County to recruit bilingual deputy registrars (although they will be advertising for bilingual personnel for the election board), and that, to her knowledge, there is no program to identify unregistered voters in San Benito County.

I declare under penalty of perjury that the foregoing is true and correct; executed at Gilroy, California, August 2, 1976.

Joseph Millwood
JOSEPH MILLWOOD

1 STATE OF CALIFORNIA)
2 COUNTY OF KERN) ss.

3 I, Robert T. Olmos, first being duly sworn, depose and
4 say:

5 1. I am an attorney at law employed by California Rural
6 Legal Assistance as Directing Attorney of the Delano CRLA Office.

7 2. I am a resident of Delano, Kern County, California and
8 have been such since August 1972.

9 3. On August 9, 1976, I was informed by the Kern County
10 Clerk's Office that there were a total of sixteen active deputy
11 registrars for Kern County of whom four are bilingual. I was also
12 informed that at the close of registration for the June primary
13 election, there were a total of three-hundred and fifty-one (351)
14 deputy registrars of whom twenty-two (22) were bilingual.

15 4. I was further informed by the Kern County Clerk's
16 Office that registration materials had been held up pending
17 arrival of the post card registration forms from the Secretary of
18 State's Office, that all registrars would be expected to attend
19 the regular classes and that there is presently only one class
20 that is scheduled which is to be conducted in Bakersfield.

21 5. I was informed by the Tulare County Clerk's Office
22 that registration has been delayed due to failure of the Secretary
23 of State's Office to timely provide them with the necessary
24 registration materials; that as of August 10, 1976 only seventy-
25 five (75%) percent of the current deputy registrars have been
26 provided with registration supplies; that they have no information

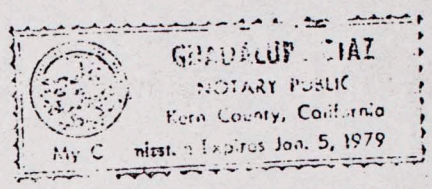
1 available regarding the number of bilingual registrars in Tulare
2 County and that no classes for deputy registrars have been
3 offered and only one is scheduled thus far.

4 Executed on August 10, 1976, in Delano, California.

5
6 Robert T. Olmos
7 ROBERT T. OLMOS

8
9 Subscribed and sworn to before me
10 this 10th day of August, 1976.

11 Guadalupe Diaz
12 Notary Public, County of Kern
13 State of California



13
14
15
16
17
18
19
20
21
22
23
24
25
26

DECLARATION OF PETER HART WEINER

RE SANTA CRUZ COUNTY

I, PETER HART WEINER, hereby declare:

On August 6, 1976, at approximately 1:15 p.m., I spoke by telephone with Mrs. Dorothy Coolidge, Assistant Supervisor of Elections for Santa Cruz County.

Mrs. Coolidge informed me that the County had had 289 roving Deputy Registrars for the Primary in addition to thirty permanent Deputy Registrars located at public offices and a few other locations. The permanent Registrars account for approximately 25% of registrations.

Many, although not all, of the permanent Registrars have had affidavit books throughout the last several months, including the period from June 8, through the present. That is because these Registrars never turned their books in to the central County office. Mrs. Coolidge further informed me that the County does not deputize individual Registrars. They must be part of a registration drive, with some responsible person in charge of all the affidavits. With regard to the roving Deputies, Mrs. Coolidge stated that the Democrats had taken a few books out after the Primary, and that other people had called in asking when they could start registration again. "We have been holding off reissuing the books because of the postcards," Mrs. Coolidge explained, stating that books had not been issued again to these roving Registrars in expectation

that the books would come in.

Mrs. Coolidge further stated that the books of postcards for the Deputy Registrars had arrived last week, approximately July 29 or 30. However, these books have not been distributed, either. The Supervisor of Elections, Alice Myren, is on vacation until August 16. "She does not want us to start this postcard thing until she comes back," stated Mrs. Coolidge. She further stated that this delay would also include the postcards for Deputy Registrars. Mrs. Coolidge said that the County had held no Deputy Registrar classes since the Primary. "No one has asked us," she stated. I asked Mrs. Coolidge what the County was then doing to recruit Registrars. "Well, just if they call in and want to start a registration drive and have four or five people with them," she responded. Otherwise, there is no recruitment of registrars. I asked Mrs. Coolidge whether there was any recruitment of bilingual Registrars. "No," she stated, explaining that the affidavits and postcards were in Spanish, and there was therefore no need for bilingual Registrars. When I informed Mrs. Coolidge that there were many illiterate people who might need oral assistance in Spanish or English and therefore need the services of a Deputy, she replied that the postcard system certainly made the County more subject to fraudulent registrations.

I further asked Mrs. Coolidge whether the County had an outreach plan. She stated that Alice Myren had directed a Mr. Neal to consider where the postcards would be placed. I

then asked whether the County would have any outreach of a bilingual nature. She responded that Mr. Neal would at some time go down to Watsonville and speak with representatives of the Spanish-speaking community. However, she stated, Ms. Myren does not want anything to start until she comes back on August 16.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 6th day of August, 1976.

Peter Hart Weiner

PETER HART WEINER

DECLARATION OF PETER HART WEINER

RE SANTA CLARA COUNTY

I, the undersigned, say:

On August 2, 1976, at approximately 9:00 o'clock, a.m., I spoke by telephone with Mr. George A. Mann, Santa Clara County Registrar of Voters-Recorder.

Mr. Mann informed me that there are approximately 3,500 Deputy Registrars in the County. Approximately 1,000 of these Registrars are in fire stations. "Overall, I'd say the fire stations have done most of our registering," Mr. Mann stated. From the close of registration through July 29, 1976, the fire stations had no registration materials. On July 29, Mr. Mann delivered to the fire stations registration materials.

Mr. Mann stated that a memorandum letter had been sent to the other 2,500 Registrars. The letter is not sent after every election, but was sent this time because of the advent of the postcard system. The letter stated that the Registrars could get their registration books if they wanted them, but stated that they should wait, if possible, until the postcards were available. The letter also mentioned that people might not wish to continue being Registrars because of the new postcard system, and that the County would therefore cancel them as Registrars unless they heard from the Registrars to the contrary. Only 750 persons have responded that they wish to continue as Registrars. Only 200 to 250 Registrars have registration

books at this time.

Mr. Mann also stated that the County has held no registration classes since the Primary. Classes will be held in the future when the cards come in.

I asked Mr. Mann what plan the County had developed for outreach. Mr. Mann replied that he had tentative ideas on outreach and had contacted various organizations. He told the organizations that a meeting would be scheduled after the post-cards were available, to discuss how they might best be utilized. No outreach plan is currently in effect, nor has one been written.

I asked Mr. Mann why the outreach plan had been delayed. Mr. Mann replied that there was concern in the counties about reimbursement for costs, and that the counties had therefore waited for the Secretary of State to file her regulations regarding outreach. Moreover, Mr. Mann confirmed that on June 24, 1976, William Durley, head of the Elections Division for the Secretary of State, told a meeting of County Clerks and Registrars of Voters that they need not file any outreach plans until the Secretary of State had filed her regulations regarding outreach. In addition, Mr. Durley stated that the Secretary of State would have a required format for such plans, and that the counties should wait until the format had been distributed.

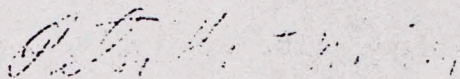
Mr. Mann also stated that the Secretary of State had scheduled her hearings on outreach regulations at a date only four days prior to the Primary (June 4, 1976), thereby making county participation in the hearing almost impossible.

them to recommend bilingual Registrars. There has been no final adoption of an outreach plan, he stated.

Mr. Kirkpatrick further told me that the County held no classes for Deputy Registrars between the Primary and July 30, 1976. He stated that they were waiting for the positions to come in.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 10th day of August, 1976.



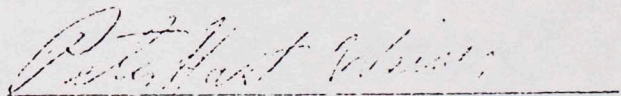
PETER HART WEINER

I asked Mr. Mann what the County was doing to provide bilingual oral assistance for the over 10,000 illiterate Spanish-speaking adult citizens in Santa Clara County. "Not as much as we maybe should," replied Mr. Mann. Mr. Mann stated that the County has used word-of-mouth to recruit bilingual Registrars. He is now considering hiring paid Deputies until the election, as Orange County is doing.

I informed Mr. Mann that I was concerned about increasing registration opportunities and asked him whether registration until the tenth day before the election would be feasible. Mr. Mann replied that it would be feasible if those registering after the 30th day before the election then voted by absentee ballot. Mr. Mann stated that that proposal had once been entertained at the legislative level, and "that's something the Clerks felt possibly they could live with." Mr. Mann further stated that such a system might be expensive because of postage costs and processing costs, but could be accommodated.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 3d day of August, 1976.



PETER HART WEINER

DECLARATION OF PETER HART WEINER

PE SAN DIEGO COUNTY

I, PETER HART WEINER, hereby declare:

On August 5, 1976, at approximately 1:30 p.m., I spoke by telephone with Mr. Keith Boyer, Assistant Registrar of Voters for San Diego County.

Mr. Boyer informed me that the County had 1,641 Deputy Registrars prior to the Primary. These Registrars registered approximately 100,000 persons between February 23, and May 9, 1976. There were then terminated 566 Registrars for various reasons, chiefly for having failed to register any voters, leaving a total of 1,075 active and working Deputy Registrars. Some of the active Registrars are located in libraries and City offices; the others are roving Deputies.

The general County practice is to send registration books out to the Deputies almost immediately after the Primary. This year, libraries and City Clerks were given back their books in June. Some workers for Assemblyman Kapiloff asked for books so that they could work at the Del Mar fair. By early July, a total of 245 locations, including the libraries or a single Deputy's home, were available, totaling approximately 300 Registrars. As to the other active Registrars, Mr. Boyer stated, "We were all waiting for these cards. We were telling them that the cards would be in. About a week ago, though, postcard registration had been delayed so much that we told

people to come in. At the same time, we started getting the cards this week." It was not until July 29, according to Mr. Boyer, that Deputies began getting their books or the cards again. Mr. Boyer stated that the County decided to wait because the Secretary of State gave them the impression that the cards were "just around the corner."

Mr. Boyer further stated that the County has held no Deputy Registrar classes or deputized any Registrars since the Primary. Usually, he stated, the County would hold classes. Because of a demand from Assemblyman Kapiloff's staff, the County did hold some classes on July 29 and July 30, at which half a dozen or so people took part. I asked Mr. Boyer whether the County had made any effort to recruit Registrars for these classes or any other classes. He told me that "It is the political parties who do it," and that the County made no efforts to recruit Registrars.

I then asked Mr. Boyer whether the County had an outreach program. He stated that they were then working on their plan. He further stated that they would not have a finalized program until the Secretary of State finalized her regulations, but that they were now proceeding actively to formulate a plan because the Secretary of State had delayed so long. With regard to the outreach plan, Mr. Boyer stated that the County was working with the Jaycees of San Diego City and the political parties. I asked whether the County was recruiting bilingual Registrars. Mr. Boyer stated that the County is not recruiting bilingual

Registrars but is trying to have existing bilingual Registrars work in bilingual areas. I asked Mr. Boyer whether he knew how many bilingual Registrars he had, or how many were needed. Mr. Boyer stated that he did not know. Mr. Boyer stated, however, that the affidavit and postcards were also in Spanish. I asked what would be done for a person who could not read either in English or Spanish. "If a person is completely alone and illiterate, I don't know what you would do," Mr. Boyer responded. He further stated at that time that he was very much in favor of continuing the use of Deputies to help such people and the handicapped. He stated, however, that the Secretary of State's instructions for the postcards implied that the postcards are only for self-registration, and that another person could not give assistance in filling it out.

Mr. Boyer further stated that the County's outreach program would have utility installers leave a card with a number to call for getting the postcard and might also involve outdoor advertising. He did not know whether any was contemplated in Spanish, but he doubted that it would be.

I asked Mr. Boyer whether any outreach was contemplated for registering the historically unenfranchised, particularly language minorities. The County is not spending money for knocking door to door, Mr. Boyer stated, but will respond to individual requests for assistance in registration. We further discussed the need for bilingual oral assistance. Mr. Boyer first stated that he thought none was needed because people did

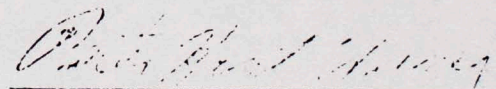
not seem to prefer the Spanish written materials. Upon further reflection, Mr. Boyer agreed that oral assistance is needed: "I know that in the welfare office people will often reach for an English form, but they need to speak Spanish to the welfare worker," Mr. Boyer stated.

I stated my concern that registration had been curtailed and asked Mr. Boyer whether it would be possible to extend registration to the tenth day before the election. "There's always a way to engineer it. There's probably a system that could be made," Mr. Boyer responded. He further stated that he would wish to give any proposal further study.

Mr. Boyer then stated that he was interested in how many people had registered this July as opposed to July of other years. On or about August 6, 1976, Mr. Boyer telephoned my office and gave several statistics regarding registration. Among these was the following: 10,636 persons registered during the month of July 1976. During July of 1972, the last presidential election year, 20,433 persons registered.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 11th day of August, 1976.



PETER HART WEINER

DECLARATION OF STEVEN BELASCO

I, the undersigned, say:

I am a consulting attorney for California Rural Legal Assistance in Santa Maria, California.

On August 9, 1976, I went to the office of the County Clerk of Santa Barbara County in Santa Maria and spoke with Ms. Pam Greene, a clerk-typist, for the purpose of obtaining the following information:

1. The number of deputy registrars of voters in northern Santa Barbara County.
2. The number of deputy registrars of voters to whom registration materials were issued by the Santa Barbara County Clerk's office in Santa Maria in 1976, prior to the primary election held on June 8, 1976.
3. The number of deputy registrars of voters who surrendered voter registration materials, including completed and blank voter registration forms, at the Santa Barbara County Clerk's office in Santa Maria in 1976, prior to the primary election.
4. The number of deputy registrars of voters to whom voter registration materials were issued by the Santa Barbara County Clerk's office in Santa Maria in 1976, subsequent to the primary election of June 8, 1976.
5. The number of deputy registrars of voters who had voter registration materials issued by the Santa Barbara County Clerk's office in Santa Maria as of August 9, 1976.

In response to my inquiries, Ms. Greene said that she could not provide me with the information I requested, but that she would let me go through the office index of deputy

registrars of voters for the Santa Maria area, which contained all of the information I had requested for the Santa Maria area. I obtained the following figures corresponding to the above questions by going through the said index:

1. There were 205 deputy registrars of voters in the Santa Maria area.
2. There were 61 deputy registrars who were issued registration materials prior to the June 8 primary.
3. There were 61 deputy registrars who surrendered voter registration materials prior to the June 8 primary.
4. There were 12 deputy registrars issued registration materials subsequent to the June 8 primary.
5. There were 3 deputy registrars who were issued registration materials as of August 9, 1976.

After I obtained this information, I spoke briefly with Ms. Greene. I asked why there were so few deputy registrars of voters who had voter registration materials as of August 9, 1976. Ms. Greene responded that she thought it was because they were no longer being paid for their services. I asked when the deputy registrars had been informed that they would no longer be compensated for their services, and Ms. Greene told me that a letter so informing them had gone out in mid-June to all deputy registrars.

On August 9, 1976, I also called the Santa Barbara County Clerk's office and spoke with Robert Kirkpatrick, who was described to me as a "supervisor." I asked Mr. Kirkpatrick how interested citizens could get involved in County efforts to

promote registration among non-English and minimal-English-speaking persons, and he told me that "the only thing we have there is to deputize to go out and register."

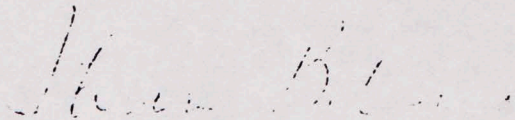
Mr. Kirkpatrick also stated that deputy registrars are no longer compensated. When I asked him if this new policy was affecting the work of deputy registrars, he said that he was not sure. He then added that the policy might be reviewed because some persons felt that it was discouraging deputy registrars from registering voters. Mr. Kirkpatrick stated that he knew of some deputy registrars who registered voters primarily for the compensation. "They made a little business out of it," he said.

On or about August 2, 1976, I phoned the Santa Barbara County Clerk's office, asked for the Elections division, and spoke with a person who identified herself simply as "Louise." I asked her how citizens interested in County efforts to promote registration among non-English or minimal-English-speaking persons could "get involved." She said she knew of no such efforts on the part of the County. I asked her if she knew another person at the Elections division who might be able to help me, and she replied that she did not. I asked her further if the Elections division of the County Clerk's office could help citizens interested in promoting the registration of persons who speak little or no English by providing lists of unregistered voters, and she said that the County only had

lists of registered voters.

I declare under penalty of perjury that the foregoing
is true and correct.

Executed at San Francisco, California, August 11, 1976.



STEVEN BELASCO

DECLARATION OF PETER HART WEINER

RE SANTA BARBARA COUNTY

I, PETER HART WEINER, declare:

On June 23, 1976, I attended a meeting in Los Angeles, California, from approximately 7:00 a.m., until 10:00 p.m. Howard Menzel, the Clerk of Santa Barbara County, was also present at that meeting. During that meeting, Mr. Menzel stated to me that he had personally recommended to the Board of Supervisors of Santa Barbara County that they should cease paying Deputy Registrars for registering voters. He then asked, "Do you want to know why I did that?" I responded in the affirmative. Mr. Menzel then stated, "I think it is immoral to pay people to get other people to perform their civic responsibility." It appeared to me that this statement was made in great heat and with great conviction.

On or about August 9, 1976, I spoke by telephone with Robert Kirkpatrick, who identified himself as Chief Deputy Registrar of Voters of Santa Barbara County. Mr. Kirkpatrick informed me that there had been as many as 600 active Deputy Registrars in the County at one time, and that there had been approximately 300 to 400 prior to the 1976 Primary election. He stated that he did not have any accurate count of the specific number of Deputy Registrars during the Primary election. Mr. Kirkpatrick further stated that it was not the usual practice of the County to ask for the surrender of the books of

affidavits of registration. At this election, however, he informed me that the County did ask for the surrender of the books because the forms were to be changed, and there was no longer to be payment for registration after July 1, 1976, in Santa Barbara County. The books were therefore called in to avoid confusion and claims for payment.

Mr. Kirkpatrick further informed me that when it became apparent that the postcards would not arrive by July 1, a few Registrars were allowed to retrieve their books. However, only ten or fifteen Registrars at most got the books, and these were principally persons working for the political parties. Some city offices also were given books.

Mr. Kirkpatrick further stated that he did not know how much incentive it was to pay for registration of voters. He also stated, however, "There were some who made a business out of it. Some of them make a few hundred dollars at it." He added that the County might reconsider its decision not to pay Deputy Registrars.

I asked Mr. Kirkpatrick whether the County had an outreach program to identify and register unregistered voters. He replied that the County is not planning to identify unregistered voters, although one can find them by going door to door.

Mr. Kirkpatrick also stated that the County is not recruiting Registrars. However, he stated, there have been articles in the paper about Registrars. He also stated that at a meeting with Mexican-American activists the County had asked

DECLARATION OF PETER HART WEINER
RE CITY AND COUNTY OF SAN FRANCISCO

I, the undersigned, say:

On July 30, 1976, at approximately 2:00 o'clock, p.m., I interviewed the Registrar of Voters-Recorder of the City and County of San Francisco, Mr. Thomas P. Kearney.

I asked Mr. Kearney whether San Francisco had an outreach plan. Mr. Kearney replied that there was no plan yet. He stated that he attended a meeting on June 24, 1976, in Los Angeles, of County Clerks and Registrars. At that meeting, Mr. Kearney stated, Mr. William Durley, Chief of the Elections Division of the Secretary of State's office, told the County Registrars and Clerks not to submit outreach plans until the Secretary of State had published regulations regarding such plans. Mr. Kearney further stated that the Secretary of State said that they would want a particular format, which would be sent to the counties. This is the reason, Mr. Kearney stated, that no outreach plan has yet been developed.

Mr. Kearney further stated that the City intended to rely on volunteer groups, such as the Chinese Democratic Club and Front Lash, to accomplish registration goals. "We're depending on the volunteer situation," Mr. Kearney stated.


I showed Mr. Kearney a copy of the Census Bureau's publication on illiteracy rates among adult language-minority citizens (Series P-25, No. 627, issued June 1976) and asked Mr. Kearney

what the City was doing to recruit bilingual registrars.

Mr. Kearney pulled a sheet of paper from his desk with the same statistics for the City and County of San Francisco and stated that he was already aware of the statistics. Mr. Kearney further responded, "We are not doing anything on our own to recruit bilingual registrars." He went on to say that he relied on the Chinese and Latino communities to provide such registrars.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, this 3d day of August, 1976.



PETER HART WEINER

DECLARATION OF PETER HART WEINER

RE ALAMEDA COUNTY

I, the undersigned, say:

On August 3, 1976, at approximately 11:30 a.m., I spoke by telephone with Mr. James A. Riggs, Alameda County Registrar of Voters.

Mr. Riggs informed me that Deputy Registrars were able to get their registration books after the Primary, if they asked for them. He stated that the Deputies were encouraged to wait until the postcards were available. He did not know how many Registrars had been deterred from registering new electors because of the delay in the availability of postcards.

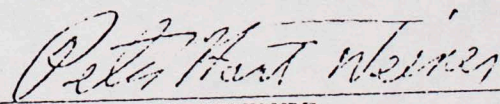
Mr. Riggs stated that the County has not held registration classes until now, although one or two dozen Deputies have been newly deputized as a result of informal training. I then asked Mr. Riggs about his outreach program to identify and register unregistered, qualified electors. Mr. Riggs stated that there was no outreach plan on paper yet, but that a meeting is scheduled with community groups to discuss outreach on August 5, 1976. Mr. Riggs stated that the development of an outreach plan was delayed in part because the Secretary of State had not filed regulations concerning such programs, pursuant to § 202 of the Elections Code. He confirmed that on June 24, 1976, at a meeting of County Registrars of Voters and County Clerks, Mr. William Durley, head of the Elections Division of the Secretary of State's

office, told the Clerks and Registrars that they did not have to file outreach plans by July 1, 1976; that they could delay filing them until twenty days after the Secretary of State filed her regulations; and that they should wait to do so, so that they could do so according to the format chosen by the Secretary of State. Mr. Riggs stated further that he has discussed with County Counsel the question of being reimbursed by the State for any outreach expenditures that the County may incur. He stated that they have a legal right to reimbursement from the State for reasonable expenditures, because there has been no S.B. 90 waiver of reimbursement.

I told Mr. Riggs of my concern that registration has been slowed throughout the State and asked what administrative means would be feasible to extend registration. Mr. Riggs stated that the most feasible system would be for people to register in a few places in the County after the 29th day before the election, voting in that office at that time. By coordinating the registration and voting activity in that way, Mr. Riggs stated that late registration would be practical. Asked whether that system would work if registration were extended until ten days before the election, Mr. Riggs responded, "That's just fine."

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, August 3, 1976.



PETER HART WEINER

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

FERNANDO SANGA, LUIS AMBRIZ, JUAN HERNANDEZ, CECILIA WEYMOUTH, RAYMOND REYES, RUBEN RECENDEZ, MARGARET ANN RODRIGUEZ, GEORGE KYPUROS, ROSE CASTANEDA, on their behalf and on behalf of all persons similarly situated, and AD HOC COMMITTEE ON CHICANO RIGHTS, an unincorporated association,

Petitioners,

vs.

MARCH FONG EU, Secretary of State of the State of California, HARRY FREE, Imperial County Clerk, H. L. MASINI, Fresno County Clerk-Recorder, DONALD A. LOWES, San Benito County Clerk-Auditor-Recorder, RICHARD C. NEAL, Santa Cruz County Clerk-Recorder, HOWARD C. MENZEL, Santa Barbara County Clerk-Recorder, ROBERT T. DENNY, San Diego County Registrar of Voters, VERA K. GIBSON, Kern County Clerk, and GEORGE A. MANN, Santa Clara County Registrar of Voters,

Respondents.

S.F. 23511

NO. _____

SUPREME COURT

FILED

C. B. [unclear], Clerk

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR EXTRAORDINARY RELIEF IN THE NATURE OF MANDAMUS

PETER HART WEINER
2130 Fulton Street
San Francisco, CA. 94117
Telephone: (415) 666-6504

RALPH ARRIOLA
Legal Aid Society of San Diego, Inc.
305 Center Street
Chula Vista, CA. 92010
Telephone: (714) 427-0491

ALBERT H. MEYERHOFF
RALPH SANTIAGO ABASCAL
JUAN URANGA
DOUGLAS HITCHCOCK
JAMES E. GONZALES, II
ROBERT T. OLMOS
STEVEN BELASCO

California Rural Legal Assistance
115 Sansome Street, Suite 900
San Francisco, CA. 94104
Telephone: (415) 421-3405

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

FERNANDO SANGA, LUIS AMBRIZ, JUAN
HERNANDEZ, CECILIA WEYMOUTH, RAYMOND
REYES, RUBEN REZENDEZ, MARGARET ANN
RODRIGUEZ, GEORGE LYPUIROS, ROSE
CASTANEDA, on their behalf and on
behalf of all persons similarly
situated, and AD HOC COMMITTEE ON
CHICANO RIGHTS, an unincorporated
association,

Petitioners,

vs.

MARCH FONG EU, Secretary of State
of the State of California, HARRY FREE,
Imperial County Clerk, H. L. MASINI,
Fresno County Clerk-Recorder, DONALD
A. LOWES, San Benito County Clerk-
Auditor-Recorder, RICHARD C. NEAL,
Santa Cruz County Clerk-Recorder,
HOWARD C. MENZEL, Santa Barbara
County Clerk-Recorder, ROBERT T.
DENNY, San Diego County Registrar
of Voters, VERA K. GIBSON, Kern
County Clerk, and GEORGE A. MANN,
Santa Clara County Registrar of
Voters,

Respondents.

NO. _____

MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF PETITION FOR EXTRAORDINARY
RELIEF IN THE NATURE OF MANDAMUS

TABLE OF CONTENTS

	Page
INTRODUCTION	1
I. RESPONDENTS HAVE VIOLATED CALIFORNIA LAW REQUIRING THAT REGISTRATION BE MAINTAINED AT A HIGH LEVEL.	3
A. By Refusing to Deputize New Registrars, Respondents Have Violated Sections 201(a) and 201(f) of the Elections Code.	6
B. By Restricting the Use of Books of Affidavits of Registration, Respondents Have Violated Sections 201(a), 203, and 280.	6
C. By Failing to Provide Sufficient Registration Materials, Respondents Have Violated Sections 203, 280, 321.9, and 324.	8
II. RESPONDENTS HAVE VIOLATED THE VOTING RIGHTS ACT OF 1965 BY FAILING AND REFUSING TO PROVIDE NEEDED BILINGUAL ORAL ASSISTANCE IN REGISTRATION.	9
A. The Voting Rights Act by Its Terms Requires Bilingual Oral Registration Assistance	11
B. The Attorney General's Interpretative Guidelines Require Bilingual Oral Registration Assistance.	14
C. The Legislative History Confirms Congress' Concern with Provision of Oral Assistance in Registration on a Bilingual Basis.	17
D. Respondent County Elections Officials Have Failed and Refused to Provide Bilingual Oral Registration Assistance, and Have Violated Both the Voting Rights Act and Elections Code Section 201(d).	24
III. RESPONDENTS' FAILURE TO PROVIDE FOR OUTREACH VIOLATES ELECTIONS CODE SECTION 202 AND HAS A DISPARATE IMPACT UPON POTENTIAL LANGUAGE MINORITY VOTERS.	34

	<u>Page</u>
IV. RESPONDENTS' PERFORMANCE OF THEIR STATUTORY DUTIES MUST BE JUDGED IN LIGHT OF CONSTITUTIONAL REQUISITES.	40
A. Absent a Compelling State Interest, the Failure to Provide Bilingual Assistance in Registration Violates the Equal Protection Clause.	40
B. Duty To Eradicate Effects of Past Discrimination	41
V. THIS PETITION PROPERLY INVOKES THE ORIGINAL JURISDICTION OF THIS COURT BECAUSE THE ISSUES PRESENTED ARE OF GREAT PUBLIC IMPORTANCE AND MUST BE RESOLVED PROMPTLY.	47
VI. PETITIONERS HAVE STANDING.	50
A. Individual Petitioners Have Standing as Taxpayers.	51
B. Petitioners Have Standing to Enforce Voting Rights of Mexican-Americans and Other Language Minorities.	52
C. Petitioners Also Have Standing as Citizens to Compel Enforcement of the Law.	55
VII. THE REMEDY SOUGHT IS APPROPRIATE.	56
A. Mandate Is Proper.	56
B. The Relief Prayed for Is Proper.	57
CONCLUSION	59

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Cases</u>	
Ahlgren v. Carr, 209 Cal. App. 2d 243 (1962)	52
American Friends Service Committee v. Proconier, 33 Cal. App. 3d 252 (1973)	55
Arroyo v. Tucker, 372 F. Supp. 764 (E.D. Pa. 1974)	23
Aspira of New York, Inc. v. Board of Education of City of New York, 65 F.R.D. 541 (S.D.N.Y. 1975)	41
Barlow v. Collins, 397 U.S. 159 (1970)	56
Bennett v. Butz, 386 F. Supp. 1059 (D. Minn. 1974)	35, 36, 56
Bess v. Park, 132 Cal. App. 2d 49 (1955)	56
Blair v. Pitchess, 5 Cal. 3d 258 (1971)	52
Board of Social Welfare v. County of Los Angeles, 27 Cal. 2d 90 (1945)	55
Burrey v. Embarcadero Mun. Improvement Dist., 5 Cal. 3d 671 (1971)	47
Calderon v. City of Los Angeles, 4 Cal. 3d 251 (1971)	45, 51, 53
California League of Senior Citizens v. Brian, 35 Cal. App. 3d 443	55
California State Employees Association v. Williams, 7 Cal. App. 3d 390 (1970)	52
Castro v. State of California, 2 Cal. 3d 223 (1970)	28, 29, 40, 45, 47, 53, 54, 58
Choudry v. Free, ___ Cal. 3d ___, No. L.A. 30516, August 3, 1976	47, 53
Coalition for Ed., Dist. One v. Board of Elec., City of New York, 370 F. Supp. 42 (S.D.N.Y. 1974) aff'd 490 F. 2d 1090 (2d Cir.)	22, 23, 41, 42,, 43, 44, 58

	<u>Page</u>
County of Alameda v. Carleson, 5 Cal. 3d 730 (1971)	53
Crawford v. Board of Education, 17 Cal. 3d 280 (1976)	28, 44, 45, 54
Garza v. Smith, 320 F. Supp. 131 (W.D. Tex. 1970)	22
Gould v. Grubb, 14 Cal. 3d 661 (1975)	53
Graves v. Barnes, 343 F. Supp. 704 (N.D. Tex. 1972) aff'd sub nom. White v. Register, 412 U.S. 755 (1973)	20
Green v. Layton, 14 Cal. 3d 922 (1975)	57
Harmon v. City and County of San Francisco, 7 Cal. 3d 150 (1972)	51, 52, 56
Hollman v. Warren, 32 Cal. 2d 351 (1948)	56
Holman v. County of Santa Cruz, 91 Cal. App. 2d 502 (1949)	52
James v. Humphreys County Bd. of Elections Commissioners, 384 F. Supp. 144 (N.D. Miss. 1974)	22
Johnson v. Hamilton, 15 Cal. 3d 461 (1975)	4, 40, 47
Jolicoeur v. Mihaly, 5 Cal. 3d 565 (1971)	47, 49, 50, 56
Lau v. Nichols, 414 U.S. 563 (1974)	54
Lockhart v. Wolden, 17 Cal. 2d 628 (1941)	50
Lopez v. Dinkins, ___ F. Supp. ___, 73 Civ. 695	22
Los Angeles City and Cty. Emp. U., Loc. 99 v. Board of Ed., 12 Cal. 3d 851 (1974)	14
McDonald v. Stockton Metropolitan Transit Dist., 36 Cal. App. 3d 436 (1973)	55
No-Oil, Inc. v. City of Los Angeles, 13 Cal. 3d 68 (1974)	55
Oregon v. Mitchell, 400 U.S. 112 (1970)	21

	Page
Puerto Rican Organization for Political Action v. Kusper, 490 F. 2d 575 (7th Cir. 1973)	22, 41
Residents of Beverly Glen, Inc. v. City of Los Angeles, 13 Cal. 3d 68 (1974)	55
Ramirez v. Brown, 9 Cal. 3d 199 (1973), rev'd sub nom. Richardson v. Ramirez, 418 U.S. 24 (1974)	47, 50
Reynolds v. Sims, 377 U.S. 533 (1964)	40
Rockbridge v. Lincoln, 449 F. 2d 567 (9th Cir. 1971)	56
Rogers v. Detrich, 58 Cal. App. 3d 90 (1976)	55
Serna v. Portales Municipal Schools, 499 F. 2d 1147 (10th Cir. 1974)	54
Serrano v. Priest, 5 Cal. 3d 584 (1971)	52
Sierra Club v. Morton, 405 U.S. 727 (1972)	53
Silver v. Brown, 63 Cal. 2d 270 (1965)	52
Soria v. Oxnard School Dist. Bd. of Trustees, 328 F. Supp. 155 (C.D. Cal. 1971)	19, 45
Thorpe v. Housing Authority, 393 U.S. 268 (1969)	14
Torres v. Sachs, ___ F. Supp. ___, 73 Civ. 3921 (S.D.N.Y. 1973)	23, 41
Tyson v. Norton, 390 F. Supp. 545 (D. Conn. 1975)	35, 36
United States v. State of Louisiana, 265 F. Supp. 703 (E.D. La. 1966), aff'd 36 U.S. 270	22
United States v. State of Mississippi, 256 F. Supp 344 (S.D. Miss. 1966)	22
Williams v. Rhodes, 396 U.S. 23 (1968)	53
Williams v. Venneman, 42 Cal. App. 2d 618 (1941)	59
White v. Regester, 412 U.S. 755 (1973)	28, 41, 42, 44
Young v. Gness, 7 Cal. 3d 18 (1972)	47, 58

Statutes

<u>California</u>	Page
Civil Code §526a	52
Code of Civil Procedure	
§1085	56
§1086	56
Elections Code §201	1, 4, 10, 49, 54
§201(a)	4, 6, 8, 47
§201(d)	2, 24, 30
§201(f)	6
§202	2, 5, 34, 35, 37, 47
§203	1, 5, 6, 8, 9
§280	6, 8, 9
§321.9	8, 9
§324	5, 8, 9
§754	58
§755	58
§756	58
§1635	10, 30, 49, 54
§3573	58
§12172	29, 37
§20021	59
§20022	59
Cal. Stats., 1975, ch. 704	5, 37
ch. 1119	29, 37
California Constitution, Art. 6, §10	47
California Rules of Ct., Rule 56(a)	47

FEDERAL STATUTES

Page

7 U.S.C. § 2019(c)(5)	35
20 U.S.C. § 380b, et seq.	19
42 U.S.C. § 1971	53
42 U.S.C. § 1973	10
42 U.S.C. § 1973b(f)(1)	13
42 U.S.C. § 1973b(f)(2)	12
42 U.S.C. § 1973c	53
42 U.S.C. § 1973(f)(4)	12
42 U.S.C. § 1973aa	21
42 U.S.C. § 1973aa-1a	49, 54
42 U.S.C. § 1973aa-1a(a)	13
42 U.S.C. § 1973aa-1a(b)	12, 21
42 U.S.C. § 1973aa-1a(c)	1, 11, 12
42 U.S.C. § 1973aa-2	14
Voting Rights Act of 1965	11, 24, 33
§ 4(f)(1)	13
§ 4(f)(2)	12
§ 203(a)	13
§ 203(c)	1, 11, 12, 18
§ 204	14
Public Law 93-380	19
Public Law 94-73	10, 55
89 Stat. 402	10

FEDERAL REGULATIONS

Page

28 C.F.R.

§ 55.2(a)	. . . . .	14
§ 55.2(b)	. . . . .	14
§ 55.2(f)	. . . . .	14
§ 55.2(g)	. . . . .	14
§ 55.15	. . . . .	49
§ 55.17	. . . . .	16
§ 55.18(c)	. . . . .	15, 49
§ 55.20	. . . . .	15, 49
40 Fed. Reg. 46080 (1975)	. . . . .	14
41 Fed. Reg. 29997 (July 20, 1976)	. . . . .	12, 14

Miscellaneous

U. S. Bureau of the Census

Current Population Report P-20, "Voting and
Registration in the Election of November
1972" 10, 27

Current Population Report P-20, "Voting and
Registration in the Election of November
1974" 10, 20, 27, 28

"California: General Social and Economic
Characteristics" (PC(1)-06) 19, 26

"Language Minority, Illiteracy, and Voting Data
Used in Making Determinations for the Voting
Rights Act Amendments of 1975," Current Pop.
Rpts., p-25 26

U. S. Commission on Civil Rights, Ten Years
After (1975) 17, 31

U.S. Commission on Civil Rights, California
Advisory Comm., Hearings on Political Parti-
cipation of Mexican-Americans (1971) 45

U.S. Congress

House of Representatives, Committee on the
Judiciary, Subcommittee on Civil and
Constitutional Rights, "Hearings on
Extension of the Voting Rights Act of 1965,"
Part 1 (1975), 94th Cong., 1st Sess. 17

Senate, Committee on the Judiciary, Subcom-
mittee on Constitutional Rights, "Hearings
on Extension of the Voting Rights Act of
1965," (1975), 94th Cong., 1st Sess. 17, 18, 19, 20,
21, 23, 27, 30,
31

Senate Report No. 94-295 (1975) 17, 19, 20, 21,
23, 27

House Report No. 94-196 (1975) 17

1974 U.S. Code, Cong. & Adm. News 19
1975 U.S. Code, Cong. & Adm. News 17

California Attorney General, "Report to the
Attorney General Re Allegations of Voter
Discrimination, March 4, 1975, Local Election:
Kern, San Diego, and Imperial Counties" (April
16, 1976)

32, 33

California Secretary of State, "Statement of Vote,
General Election 1974"

4

INTRODUCTION

This action challenges unprecedented violations of elections laws designed to facilitate voter registration. There are only four months between the primary and general elections in which to register to vote. For nearly two of these months, respondent county elections officials brought registration activity to a virtual standstill. They and the Secretary of State continued to impede the registration of California's 1,360,000 potential language minority voters by failing to provide bilingual oral registration assistance and outreach programs required by state and federal law. Specifically:

(1) The number of active deputy registrars has been reduced by 89% because each county respondent has (a) withdrawn registration books from existing registrars and (b) refused to deputize new registrars, thus violating Elections Code § 201 (requiring an unlimited number of registrars and decentralized registration locations);

(2) Potential voters were discouraged from registering by (a) the refusal to give deputy registrars their materials and (b) the active discouragement of registration by county elections officials, thus violating Elections Code § 203 (requiring continuous registration);

(3) Despite the fact that the named counties have high percentages and numbers of Spanish-speaking adult citizens (270,000 in all), of whom many (over 29,000) are illiterate, no county has provided bilingual oral registration assistance to persons in need of it, all in violation of section 203(c) of the Voting Rights Act of 1965, as amended, 42 U.S.C. §1973aa-1a(c),

and Elections Code § 201(d).

(4) Respondent Secretary of State has been aware of county failures to provide bilingual oral assistance or to assess the need therefor and has further been aware of county curtailment of the registration process, but has taken no action as the State's chief elections officer to enforce the law through appropriate regulation or other systematic administrative action.

(5) No respondent county elections official has implemented an outreach plan to identify and register the county's qualified electors, as required by Elections Code §202, and the Secretary of State has failed to promulgate minimum requirements for such plans, as required by §202.

This widespread breakdown of voter registration processes affects the well-being of all Californians who are concerned with decreasing participation in the electoral process, but impinges most on petitioners and the group to which they belong. Respondent's curtailment of registration, failure to implement an effective outreach program, and refusal to provide needed bilingual oral registration assistance will greatly impede petitioners in their struggle to obtain political redress for a history of pervasive discrimination against them in many walks of life. Respondents' acts and refusals to act have substantially diluted their fundamental right to cast an effective vote for the candidates and issues of their choice.

Because these issues are of great public importance and must be resolved quickly before registration is ended on October 4, 1976, petitioners respectfully invoke the original jurisdiction of this Court, and pray that this Court issue a peremptory writ of mandate directing respondents to:

- (a) extend the deadline for voter registration for the 1976 general election until 10 days prior to the election in order to compensate for two months of reduced registration opportunities;
- (b) implement forthwith outreach programs to (1) identify and (2) register qualified voters, including affirmative action to foster the registration of language minority citizens;
- (c) provide adequate bilingual oral registration assistance; and
- (d) as to respondent Secretary of State, enforce the requirements of (a) through (c) through appropriate regulations or other systematic administrative action.

I.

RESPONDENTS HAVE VIOLATED CALIFORNIA LAW
REQUIRING THAT REGISTRATION BE MAINTAINED
AT A HIGH LEVEL.

This Court has recently emphasized "that it is difficult to conceive of principles more central to a political democracy than the free and untrammelled access of the public

to the ballot box...."Johnson v. Hamilton (1975) 15 Cal.3d 461, 468-69. As the then-Secretary of State said in regard to the 1974 general election:

"The biggest vote of all last November was a vote of no confidence. More than half of the people who could have voted refused...." Statement of Vote, General Election 1974, p.1.

This Court echoed this comment in particularly cogent terms:

"One disturbing phenomenon of the current political scene of which we may take judicial notice is an apparent substantial increase in voter apathy. The erosion and decay caused by the acid of indifference, unconcern, and lack of participation, if prolonged, may pose a danger to the democratic institutions, far more subtle and invidious than any other." Johnson v. Hamilton, supra., 15 Cal.3d 461, 471.

The Legislature has long recognized that government obtains its highest level of representation and legitimacy when voter registration and participation is at a high level. For that reason, often in contradistinction to other States, California has long required that counties provide varied, continuous, and substantial registration opportunities. Section 201(a) of the Elections Code ^{1/} provides:

"It is the intent of the Legislature that the election board of each county, in order to promote and encourage voter registrations, shall establish a sufficient number of registration places throughout the county, and outside the county courthouse, for the convenience of persons desiring to register, to the end that registration may be maintained at a high level."

Section 201 further provides that no limit be placed on the number of deputy registrars, that registrars be able to register voters anywhere in the county, that public offices may

^{1/} Hereafter, all code references are to the Elections Code unless otherwise specified.

be used for registration activity, and that obstacles be minimized for the registration of citizens who lack sufficient skills to register in English without assistance.

Section 203 prohibits any county from curtailing registration opportunities:

"The county clerk or his deputy shall accept affidavits of registration at all times except during the 23 days immediately preceding any election,..." (Emphasis added.)

Respondent Secretary of State is responsible for distributing registration materials in numbers requested by respondent county elections officials (Section 324), and county elections officials must provide them to deputy registrars and the general public in "a sufficient number of locations" and "sufficient quantities" "to the end that registration may be maintained at a high level."

The most recent expression of the priority that the Legislature assigns to maximization of registration was embodied in A.B. 822, ch. 704, Cal.Stats. 1975. A.B. 822 enacted the postcard registration system and the requirement of outreach (discussed below in Section III). Through these additional tools, it is expected by "the Legislature that voter registration be maintained at the highest possible level." (§202, emphasis added.)

Respondents have violated the above-mentioned statutes and the intent they express by drastically curtailing registration opportunities.

A.

By Refusing to Deputize New Registrars, Respondents
Have Violated Sections 201(a) and 201(f) of the
Elections Code.

Respondent county elections officials have placed a de facto limit on the number of deputy registrars within the county for two months, almost one half the total registration period before the general election, by refusing to hold classes or deputize new registrars during that period. Petitioner Recendez, for example, asked to become a deputy on two separate occasions, June 29 and July 29, 1975, and was refused each time by Fresno County officials on grounds that they would not deputize new registrars nor make registration materials available until the new postcard affidavits were received. The result of this failure has also been to limit the number of locations in which registration may take place. These county officials have thereby violated Sections 201(f) and (a), and respondent Secretary of State has failed to enforce these statutes pursuant to her statutory responsibility as the State's chief elections official. See Exhibits 7,8,10,17,19-21, and 23 to the Petition herein.

B.

By Restricting the Use of Books of Affidavits of
Registration Respondents Have Violated Sections
201(a), 203, and 280.

After the primary election of June 8, 1976, the normal course of action in the named counties would have been to make registration materials available to deputy registrars

almost immediately. This year, however, the named counties expected to begin using the new postcard affidavits for registration on July 1.

Solely for reasons of administrative convenience, respondents desired not to use the extant books of Affidavits of Registration pending receipt of the postcards.

Respondents therefore refused to make the books available to all but a very few registrars. Respondents continued to refuse to make the books available throughout the two month period between the primary and the dates they received the new postcard affidavits some time after July 29, 1976. See Exhibits 1,2,6,9-14,16,19 and 20 attached to the Petition herein. Petitioner Sanga, for example, requested the return of his book on two occasions but was refused by Imperial County officials. Even after the County received some postcards, they refused to give petitioner any because he was not a favored registrar. See Exhibit 1 attached to the Petition herein.

As a result, hundreds of registrars in the affected counties were unable to register voters who asked them for assistance in registering, and were further unable to seek out and make themselves available to other potential voters. In county after county, the total number of registrars was reduced as a result of this registration and the complementary restriction on deputizing new registrars. The following chart gives examples for counties in which the information was made available to petitioners:

<u>County</u>	<u>No. Registrars Pre-Primary</u>	<u>No. Registrars Post-Primary (Approx. July 29)</u>
Kern	351	16
San Benito	40	Less than 10
San Diego	1641	300
Santa Barbara	300-400	10-15
(Santa Maria Area only)	(61)	(3)
Santa Clara	3500	200-250
Santa Cruz	289	30-40
County Totals	6121-6221	556-621

In short, taking the lowest figure of pre-primary registrars and the highest estimate of post-primary registrars, the total number of registrars with materials was reduced by at least 89%! See Exhibits 16,18-23, attached to the Petition herein.

This unprecedented departure from California's tradition of procedures designed to maximize registration is a clear violation of §§201(a) and 280. As a result of these actions, potential voters were able to register, a violation of §203. See Exhibits 2,3,8, and 9 attached to the Petition herein. Petitioners Reyes and Hernandez, for example, are registrars who were unable to register voters who requested their assistance. Petitioners Rodriguez and Weymouth sought assistance but were refused due to a lack of deputy registrars with necessary materials. Moreover, elections officials in San Benito and Santa Clara County admitted asking potential registrants to delay registering until the postcards arrived.

C.

By Failing to Provide Sufficient Registration
Materials, Respondents Have Violated Sections
203, 280, 321.9, and 324.

Respondent Secretary of State is charged with providing sufficient registration materials to the county clerks (§324). County clerks are charged by law with providing registration materials to deputy registrars (§280) and the general public (§321.9). Respondents violated these sections by failing to provide these materials until almost halfway through the entire registration period prior to the General Election. As a direct result of these statutory violations, thousands of California citizens have been denied the right to register guaranteed them by §203. For example, in San Diego County alone, only ten thousand persons were able to register this July, as opposed to twice that number in July of the last Presidential election. (see Declaration of Peter Hart Weiner, attached as Exhibit 21 to Petition.)

The violations perpetrated by respondents this year will almost assure an even more dismal turnout and voting pattern in 1976, compared to 1974, unless respondents are required by this Court to compensate meaningfully for their drastic curtailment of registration opportunities during June and July by extending registration this year, and this year only, until 10 days prior to the election. As discussed infra, petitioners are informed that such a solution will be feasible and efficacious.

II.

RESPONDENTS HAVE VIOLATED THE VOTING RIGHTS ACT OF 1965, BY FAILING AND REFUSING TO PROVIDE NEEDED BILINGUAL ORAL ASSISTANCE IN REGISTRATION.

Congress, in 1965 and again in 1975, has also acted to expand the electoral participation of all citizens. The

1975 Amendments to the Voting Rights Act of 1965, P.L. 94-73, 89, Stat. 402, 42 U.S.C. §1973, et seq., provide a voting Bill of Rights for America's millions of language minority citizens. After hearing thousands of pages of testimony from all over the country, Congress was persuaded that extant laws affecting the franchise have effectively barred or substantially reduced the participation of language minority citizens in the electoral process. These laws may bar persons not literate in English from voting, bar the use of a minority language at the polls, require that English be the only language used in elections, or may simply fail to eradicate and compensate for a history of educational discrimination and neglect which has left America's language minority citizens with far less education and more illiteracy than the population as a whole.

The statistics tell much of the story of the effect of these practices. While 72% of the total qualified electorate in the United States is registered to vote, and (in part due to the Voting Rights Act) 66% of the Black population is so registered, only 44% of qualified Spanish-origin electors are registered to vote. (Bureau of the Census, Current Population Report P-20, no. 253, "Voting and Registration in the Election of 1972," Table I (reported in Senate Hearings, infra note 6, at 694); See also comparable figures for the 1974 election in id., no. 293, "Voting and Registration in the Election of November 1974).

Moreover, as Congress recognized, bilingual provisions such as California's Elections Code §201 and 1635 have not

been effectively enforced to require the provision of assistance to language minority citizens who need it.

The result of these Congressional hearings and deliberations, undertaken in the context of the success of the Voting Rights Act in increasing Black registration and voting in the South, was the extension of the Act's coverage to language minority citizens, with specific indication that Congress intended primarily to assist language minority voters who may need oral assistance in the language they best understand in order to be able to participate effectively in the electoral arena. The following discussion demonstrates that the Act itself, the Interpretative Guidelines issued by the U.S. Attorney General and a clear legislative history require that respondent county elections officials and the Secretary of State either provide oral bilingual registration assistance in every precinct of the 40 California counties covered by the Act or, in the alternative, analyze local needs for such assistance on the basis of available census and other demographic data and provide assistance in those precincts where required.

A.

The Voting Rights Act By Its Terms Requires
Bilingual Oral Registration Assistance.

Section 203(c) of the Voting Rights Act, 42 U.S.C. §1973aa-1a(c) in pertinent part provides that:

"Whenever any State or political subdivision subject to...this section provides any registration... notices, forms, instructions, assistance, or other materials or information relating to the electoral process, ... it shall provide them in the language of the applicable minority group as well as in the English language...." 2/ See also 42 U.S.C. §1973(f)(4) for similar language.

California provides registration instructions, assistance, and information in English, through county officials, deputy registrars, and now through non-deputized distributors of the postcard affidavit in public offices, utilities, and other locations. The express terms of the statute require in each jurisdiction that this assistance and information be provided on a bilingual basis. 3/

2/ A jurisdiction subject to §203(c) is a political subdivision where the Director of the U.S. Bureau of the Census determines that more than 5% of the citizens of voting age residing therein are members of a single language minority group and that the illiteracy of such persons as a group is higher than the national illiteracy rate. 42 U.S.C. §1973aa-1a(b).

In addition, all states and their political subdivisions are subject to the broad proscription of Section 4(f)(2), 42 U.S.C. §1973b(f)(2): "No...practice or procedure shall be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group."

3/ Jurisdictions covered by §203(c) include 35 counties in California, among which are all the counties named in this action. Four other counties are subject to both these bilingual provisions and special coverage requiring pre-clearance by the Attorney General or the U.S. District Court for the District of Columbia of any changes in electoral practices, pursuant to 42 U.S.C. §1973b(f)(4) and related sections. See 41 Fed.Reg. 29997, 30001-20002 (July 20, 1976) (list originally published in 1975). The language minority in each county named in this action is Spanish-speaking. (Id.)

Because much of the assistance provided is oral, bilingual oral registration assistance is obviously required and preferred over written assistance.

Lest there be any doubt of the plain meaning of the statute, and its preference for oral assistance, Congress has summarized the basis of the need for such assistance in Section 203(a), 42 U.S.C. §1937aa-1a(a):

"The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices." (Emphasis added.)^{4/}

^{4/} See also Section 4(f)(1), 42 U.S.C. §1973b(f)(1) (emphasis added):

"(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by proscribing other remedial devices.

When Section 203(c)'s requirement of bilingual "assistance" and "information" is read in light of the Congressional recognition of high illiteracy it is manifest that the assistance and information contemplated by the Act must be primarily oral in nature.

B.

The Attorney General's Interpretative
Guidelines Require Bilingual Oral
Registration Assistance.

Because the Attorney General (as well as private parties) is empowered to enforce the provisions of Section 203 through litigation (Sec. 204, 42 U.S.C. §1973aa-2), he has issued Interpretative Guidelines by which he will gauge compliance and consider the need for litigation to obtain compliance.^{5/} (28 C.F.R. §§55.2(a), (b), (f), and (g).) Although these guidelines do not have the force of law, they were issued almost contemporaneously with the enactment of the 1975 Amendments, by the enforcing authority, and are entitled to at least the same deference paid by this Court to opinions of the California Attorney General. Such opinions are of course entitled to considerable weight. See, e.g., Los Angeles City and Cty. Emp. U., Loc. 99 v. Board of Ed. (1974) 12 Cal.3d 851, 855. Accord: Thorpe v. Housing Authority, (1969) 393 U.S. 268, 274-76.

^{5/} Interim guidelines were published in October 3, 1975, 40 Fed.Reg. 46080. Proposed permanent guidelines were published April 21, 1976, 41 Fed.Reg. 16773, based on experience with the Act. After comment, the final Guidelines to which reference is made herein were published on July 20, 1976, 41 Fed.Reg. 29997. All section references are to 28 C.F.R. part 55, where the guidelines will be codified.

These guidelines expressly require oral assistance

"(a) General.

Announcements, publicity, and assistance should be given in oral form to the extent needed to enable members of the applicable language minority group to participate effectively in the electoral process.

"(b) Assistance.

The Attorney General will consider whether a jurisdiction has given sufficient attention to the needs of language minority group members who cannot effectively read either English or the applicable minority language...." (Sec. 55.20.)

In addition, the Attorney General has independently stated that he will consider statutory compliance with regard to registration in light of "whether...members of the applicable language minority group have an effective opportunity to register" and has suggested: "One method of accomplishing this is... to have only bilingual persons as registrars," in addition to providing written materials in the minority language. (Sec. 55.18(c), emphasis added.)

Neither respondent county elections officials nor the Secretary of State have complied with the Act as interpreted by the Attorney General. To the contrary, respondents have de-emphasized the use of deputy registrars entirely, curtailed their genuine use, and taken no steps to augment their woefully small staffs of bilingual registrars. (See, e.g., Exhibit 18, attached to the Petition herein (number of bilingual registrars reduced from 22 to 4 between primary and August 1).)

Had respondents undertaken to measure and analyse the need for such assistance, the Guidelines clearly provide that

assistance need not be provided throughout each county. It may be provided only when needed, a process called "targeting", instead of in every area of the county. (Sec. 55.17.) In the absence of such analysis and the design of a delivery system, the Act requires bilingual services on a comprehensive basis. Petitioners ask, however, only that respondents be directed to analyse the need for oral bilingual assistance, e.g., by analysing comparative literacy and language minority demographic data, and then be directed then to implement a program to deliver oral bilingual registration assistance where needed.

C..

The Legislative History Confirms Congress'
Concern With Provision of Oral Assistance
in Registration on a Bilingual Basis.

Prior to enacting the 1975 Amendments to the Voting Rights Act, both houses of Congress heard extensive testimony and prepared extensive Committee Reports.^{6/} The Senate alone heard from 28 witnesses in seven (7) days of hearings and received hundreds more prepared statements and other documents. (Sen. Hearings at iii-x, Sen. Report at 24.) Among this evidence was substantial documentation of California's experience with language minority voting rights and Congressional reaction to that experience with regard to the proposed Act. There can be no doubt, given this legislative history, that Congress intended the Act to require each covered jurisdiction, including the counties sued in this action, to provide bilingual oral registration assistance wherever needed by the specified language minority group.

Congressman Roybal was the primary California witness in both the House and Senate Hearings. (House Hearings at 922, Senate Hearings at 255.) He testified to various incidents of

^{6/} Hearings on Extension of the Voting Rights Act Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary, 94th Cong., 1st Sess., ser.1, pt. 1 (1975); House Report (Judiciary Committee) No. 94-196; Hearings on Extension of the Voting Rights Act of 1965 Before the Subcomm. on Constitutional Rights of the Senate Judiciary Comm., 94th Cong., 1st Sess. (1975) [hereinafter Sen. Hearings]; Senate Report (Judiciary Committee No. 94-295 (1975) [hereinafter Sen. Report], reprinted at 1975 U.S. Code, Cong., and Adm. News at 1458. Because the text of the Senate Bill was eventually adopted, reference is here made generally to legislative history in the Senate. See also U.S. Civil Rights Commission (1975) Ten Years After, made an appendix to the Hearings.

discrimination against Spanish-speaking voters in rural California, including many of the counties named in this action. (Senate Hearings at 261-263.) He further stated (id. at 262):

"Mexican-Americans must face the reluctance of county officials to employ bilingual registrars and election officials. There have been reports that county officials have told Chicanos they were not needed as registrars since the county already had a sufficient number (almost totally Anglo and English speaking)."

Congress was well aware that California already provides some mechanisms for providing bilingual assistance; but both Congressman Roybal and Arthur Fleming, Chairman of the U.S. Civil Rights Commission, testified that the law has been administered poorly, if at all:

"Aggravating these problems has been the absence of bilingual assistance, despite passage of a 1973 law mandating bilingual registration efforts. The law...[has] not been carried out effectively....A 1974 study by the California Secretary of State found that... 'the vast majority of County Clerks and/or Registrars of Voters in this state have... made little progress in assisting voters who have difficulty voting in English.'"

(Statement of Congressman Roybal, id. at 263, citing six of the eight counties named herein as having failed to take action; see also testimony of A. Flemming, id. at 98, and the 1974 Survey mentioned by Cong. Roybal, reprinted at id. 681-686.)

As Roybal later commented in arguing for passage of the mandatory provisions of Section 203(c):

"We have seen that California's 1973 law has not been enforced and actually is of limited value, for it leaves the 3% determination in the hands of the county clerk and calls only for 'reasonable efforts to recruit' (which is clearly no mandate at all)." Id. at 267.

In addition to these direct barriers to voting, Congress

became aware of the California legacy of unequal educational opportunity and its effect on voting participation. As the Senate Report notes, discrimination against language minorities in California schools is a matter of longstanding shame. The Report notes that until 1947 children of Asian descent were forced to attend separate schools and that Mexican-American children have also been segregated from Anglo children (citing Soria v. Oxnard School Dist. Bd. of Trustees (C.D.Cal. 1971) 328 F.Supp. 155). (Sen. Report at 28-29.) In addition to these overt signs of discrimination, Congress also received substantial evidence about the need for bilingual education^{7/} and the fact that less than 5% of California school children needing such an education in fact were provided it. (Testimony of V. Martinez, Senate Hearings at 756, 763.) The effect of this discrimination on Mexican-Americans was clear:

"That experience has had a crippling effect on their social and economic well-being as well as on their franchise. In California, the data shows that 14.0% of Mexican Americans 25 years and older have completed less than 5 years of elementary school. This is, indeed, an educational disaster, even more pronounced when compared to other groups; Blacks show 6.6% and Whites 4%." (Statement of Cong. Roybal, id. at 267; see Bureau of the Census, California: General Social and Economic Characteristics, 1970 Census (PC(1)-06) at Tables 46, 130 for data cited.)

One of the most striking effects of low literary and English-only elections is that 13% of the non-registered Spanish-origin

^{7/} Congress had previously heard considerable testimony on this subject in the process of enacting the Bilingual Education Amendments of 1974 (P.L. 93-380), providing for new programs and funds for bilingual education. See 20 U.S.C. §§880b et seq. For the legislative history of that statute see 1974 U.S. Code Cong. and Adm. News, p.4093.

citizenry did not register simply because they did not know where or how to do so. See Census Bureau, Current Population Reports, p.20, no. 293, "Voting and Registration in the November 1974 Elections", at Table 12.

Congress heard considerable testimony linking illiteracy and inferior educational opportunities to low voter registration and participation among language minorities. In particular, several witnesses referred to the Court's finding in Graves v. Barnes (N.D.Tex. 1972) 343 F.Supp. 704, 728, aff'd sub nom. White v. Regester (1973) 412 U.S. 755, 767-68, that unequal educational opportunities had resulted--in part due to English literacy requirements--in low Mexican-American voter registration and participation, and constituted evidence of discrimination in the electoral as well as educational area. (See, e.g., Sen. Hearings at 471-72 (Statement of George J. Korbel), 774 (MALDEF Memorandum), and 842 (Statement of Charles Morgan, Jr.); Sen. Report at 30.)

As the Senate Judiciary Committee concluded:

"In view of this overwhelming evidence..., it is not surprising that the registration and voting statistics of language minorities are significantly below those of the Anglo majority. In 1972, for example, only 44.4 percent of persons of Spanish origin were registered compared to 73.4 percent for Anglos. The data for 1974 indicates similar disparities: 34.9 percent of persons of Spanish origin were registered to vote compared to 63.5 percent for Anglos. Only 22.9 percent of Spanish origin persons voted in the 1974 national election, less than one-half the rate of participation for Anglos." (Sen. Report at 30; footnote references to census data omitted; 1972 data reprinted in Sen. Hearings at 694.)

Congress rejected the argument that the sole remedy for this historical disenfranchisement is better (and bilingual) education. After hearing testimony from such persons as the Chairman and former Staff Director of the U.S. Commission on Civil Rights concerning the potential availability of electoral information from the media, and the importance to the powerless of the ballot (Sen. Hearings at 94 (testimony of Arthur Flemming), 218 (testimony of Howard Glickstein)), the Senate Judiciary Committee declared:

"To be sure, the purpose of suspending English-only and requiring bilingual elections is not to correct the deficiencies of prior educational inequality. It is to permit persons disabled by such disparities to vote now.... This bill rejects the notion that the 'denial of a right deemed so precious and fundamental in our society [is] a necessary or appropriate means of encouraging persons to learn English.'" Senate Report at 34.

Congress' concern with the voting rights of language minorities, and especially illiterate language minorities, is thus plain.^{8/} Indeed, coverage under the Act is predicated not only upon the language minority group constituting 5% of a jurisdiction's population, but also upon its having an illiteracy rate higher than the national average. 42 U.S.C. §1973aa-1a(b).

^{8/} All illiterates are protected to some degree by 42 U.S.C. §1973aa, which bans any literacy test as a prerequisite to being permitted to register or vote. See Oregon v. Mitchell (1970) 400 U.S. 112.

Finally, the legislative history is replete with congressional citations to previous judicial interpretation of the Act. Early in the history of the Act, illiterate Black voters in the South were held entitled to effective oral assistance. United States v. State of Louisiana (E.D.La. 1966) 265 F.Supp. 703, aff'd 386 U.S. 270; United States v. State of Mississippi (S.D.Miss. 1966) 256 F.Supp. 344, 348; James v. Humphreys County Bd. of Elections Commissioners (N.D.Miss. 1974) 384 F.Supp. 114; see also Garza v. Smith (W.D.Tex. 1970) 320 F.Supp. 131.

When Puerto Rican voters in Chicago also requested oral assistance the Court agreed:

"If a person who cannot read English is entitled to oral assistance, if a Negro is entitled to correction of erroneous instructions [citations], so a Spanish-speaking Puerto Rican is entitled to assistance in the language he can read or understand." Puerto Rican Organization for Political Action v. Kasper (7th Cir. 1973) 490 F.2d 575, 580.

A long history of litigation in New York with respect to bilingual voting rights in school board elections also informed congressional intent. To protect Spanish and Chinese-speaking voters the Court ordered that the board not only provide bilingual oral assistance but also "inform Spanish-speaking and Chinese-speaking voters of all forms of bilingual assistance available". Lopez v. Dinkins (S.D.N.Y. 1973) 73 Civ. 695, cited in Coalition for Ed., Dist. One v. Board of Elec., City of N.Y. (S.D.N.Y. 1974) 370 F.Supp. 42, 45; aff'd 490 F.2d 1090 (2nd Cir. 1974). (Emphasis added.) The Court there rejected the board's proposal that assistance be available but offered "only 'upon request.'" (Id.)

Subsequently, in Torres v. Sachs (S.D.N.Y. 1973) 73 Civ. 3921, the Court specifically ordered:

"Said translators...shall be permitted to approach Spanish speaking voters for the purpose of offering assistance and shall be permitted to go behind the guard-rails for purposes of providing assistance."
(Cited in Coalition, supra, at 45; emphasis added.)

After the school board election was held, Spanish-speaking voters complained that the presence of inadequately instructed interpreters, the placement of polling places, and other intentional and unintentional acts with discriminatory effects had denied them their right to vote. Holding that these acts had possibly affected the outcome of the election, and that an adverse impact upon the voting rights of language minority voters was constitutionally actionable, the Court ordered the election to be set aside. Id. at 55-57.^{9/}

It was thus not a novel concept for Congress to contemplate requiring local jurisdictions to provide oral assistance in registration and voting to those who need it.

It is manifest from both the text of the Act and its legislative history that Congress intended for effective oral assistance to be available for language minority citizens whose lack of voter participation may be due to an inability to utilize written materials in any language.

^{9/} References to these cases are numerous throughout the Senate Hearings and Senate Report. See, e.g., Senate Hearings at 228 (Statement of Mr. Glickstein), 265-267 (Statement of Cong. Roybal), 777-778 (MALDEF Memorandum), 784-785 (Brief of United States in N.Y. v. United States), 940 (Letter of Mr. Teitelbaum); and Senate Report at 33, nn. 33-34. They have been relied upon by other courts in similar cases. See Arroyo v. Tucker, (E.D.Pa. 1974) 372 F.Supp. 764 (Lord, C.J.).

D.

Respondent County Elections Officials
Have Failed and Refused to Provide Bi-
lingual Oral Registration Assistance,
and Have Violated Both the Voting Rights
Act and Elections Code Section 201(d).

Bilingual oral registration assistance is not provided to those who need it in the counties named in this action, nor in most counties in California. Respondent county elections officials do not assure provision of such assistance. They have no plans to do so. They have made no systematic analysis of residence patterns to ascertain areas of high Spanish-speaking concentration or areas of high illiteracy. They have no plans to do so.

Nor is this county inaction a new phenomenon. As the legislative history of the Voting Rights Act makes clear, these same counties have since 1974 failed to comply even with the lax requirement of Elections Code section 201(d) that they make "reasonable efforts" to recruit bilingual registrars in areas where bilingual oral registration assistance is needed.

Respondents have no discretion to avoid the requirements of state and federal law. They must either analyse local needs on the basis of available demographic data, and provide assistance on that basis, or instead provide bilingual assistance on a comprehensive county-wide basis. Respondent officials have done little to nothing to perform these purely ministerial duties. Even where respondent officials are aware of some needs for bilingual oral registration assistance, they have failed and refused and will

continue to fail and refuse to hire or otherwise provide bilingual registrars unless compelled to do so, simply because noncompliance is administratively far more convenient and cheaper than is compliance.

Such noncompliance is not the necessary blight of county officials. In Orange County, for example, the Registrar of Voters has sought and obtained authority to hire 15 full-time bilingual registrars until the close of registration, in order to comply with Voting Rights Act requirements. See Exhibit A. attached to these Points and Authorities. Orange County has also analysed local needs for bilingual oral registration assistance with the help of census data and various computer programs.

Respondent county officials herein have no legitimate reasons for failing to act to identify and serve county needs for bilingual oral registration assistance. Information to assist the counties in their analysis is readily available. As a basis for analysis, the Census Bureau has published the percentage of those citizens who are illiterate. In the counties named in this Petition, the percentages are as follows:

<u>County</u>	<u>% Adult Spanish citizens</u>	<u>% Spanish illiterate</u>
Fresno	17.3	18.4
Imperial	27.1	16.6
Kern	12.3	17.5
San Benito	32.5	16.6
San Diego	8.5	6.0
Santa Barbara	11.9	8.1
Santa Clara	13.5	8.5
Santa Cruz	7.6	13.3

See Bureau of the Census, Language Minority, Illiteracy, and Voting Data Used in Making Determinations for the Voting Rights Act

Amendments of 1975, Current Population Reports Series P-25, No. 627, Table 2 (hereinafter Language Minority Census). Similar data was available from the 1970 Census publication, General Social and Economic Characteristics: California (PC(1)-06) at Table 119 (hereinafter 1970 Census: California).

San Benito and Imperial Counties have the highest and second highest concentration of potential Spanish-speaking voters in California. Santa Clara and San Diego Counties have the second and third highest number of potential Spanish-speaking voters in California. However, in all these counties, Spanish-speaking citizens are registered in proportions less than that of the general population. (Language Minority Census at Table 2.)

Similarly, Fresno and Kern Counties have among the four highest concentrations of illiterate potential Spanish-speaking voters in the State, concentrations more than quadruple the illiteracy rate for the State as a whole. (1970 Census: California at Table 46.) Illiteracy rates for the Spanish-speaking population in these counties has long been available to county officials. (1970 Census: California at Table 130.)

In all, the eight counties named here contain 1/6 of all voting age citizens in California, 1/5 of all voting age citizens of Spanish origin, and 1/4 of all potential Spanish-speaking citizens who are illiterate. (Language Minority Census at Tables 2, 4.)

There can be no doubt in the mind of any county official that these statistics speak eloquently of the need for immediate

action to provide bilingual oral registration assistance. Census figures show that Spanish origin registered voters vote in approximately the same proportion as other groups do, but that citizens of Spanish origin register only 65 percent to 65 percent as often as other citizens. These are the same figures cited in the legislative history of the Voting Rights Act as grounds for requiring the registration assistance petitioners seek to obtain by this action.^{10/}

Bilingual assistance would plainly serve to alleviate the present disparity in Chicano voter registration.

^{10/} See Senate Hearings at 694; Bureau of the Census, Voting and Registration in the Election of November 1972, Current Population Report P-20, no. 253, at Tables I and II; Id., Voting and Registration in the Election of November 1974, Current Population Report P-20, no. 293, at Tables I and II. See Senate Report at 31; Table 2.

The percentage of citizens registering, and the percentage of those registered who voted were as follows:

	Percent Registered		Percent of Registered Voting	
	1972	1974	1972	1974
Spanish origin	44	47	84	66
British origin	80		89	
German origin	79		90	
Black	66	56	80	62
Entire U.S.	72	64	87	72

Census figures again demonstrate the problem: while only 5 percent of Anglo and Black citizens fail to register because they do not know how or where to do so, 13 percent of Spanish origin citizens fail to do so due to ignorance born of their language minority. (Bureau of the Census, Voting and Registration in the Election of November 1974, Current Population Reports, P-20, no. 293, Table 12.)

County officials also have reason to know that the legacy of longstanding discrimination is often apathy, hopelessness, and alienation from the political process. They have reason to know that discrimination against Spanish language citizens in education, employment, and legislative districting, accompanied by denial or abridgment of the franchise at the polls, is a root cause of underregistration that can be remedied only by taking affirmative action to eradicate these effects of past discrimination and actively encouraging Spanish language citizens to participate fully in the choosing of our democratic representatives. White v. Regester (1973) 412 U.S. 755, 767-768; cf. Crawford v. Board of Education (1976) 17 Cal.3d 280, 291-301.

In enacting the Voting Rights Act amendments of 1975, Congress sought to extend full rights of participation in our democratic institutions to citizens who, in the oft-quoted words of Justice Sullivan:

"already face similar problems of discrimination and exclusion in other areas and need a political voice if they are to have any realistic hope of ameliorating the conditions in which they live." Castro v. State of California (1970) 2 Cal.3d 223, 240.

Congress determined, as the California Legislature had also recognized, that full participation would never be realized unless Spanish-speaking citizens were given information and assistance in a language they can understand. It is therefore doubly ironic in this Bicentennial year of 1976, as a result of the inaction and noncompliance of respondent Secretary of State and county elections officials,

"that petitioners, who are the heirs of a great and gracious culture, identified with the birth of California and contributing in no small measure to its growth, should be disenfranchised in their ancestral land, despite their capacity to cast an informed vote." Id. at 243.

E.

Respondent Secretary of State Has Failed and Refused to Discharge Her Duty to Enforce the Law.

The Secretary of State is charged by Elections Code section 12172^{11/} with enforcing and administering the elections laws of this state. In the performance of her duties she has several alternative means of enforcement: (a) referring violations to the California Attorney General for prosecution, (b) "assisting" (preempting) local officials in the performance of their duties, and (c) issuing regulations to assure uniform administration of the laws.

The Secretary has a ministerial duty to enforce elections laws; she has no discretion to allow valid laws to fall into desuetude. The Secretary of State is aware of the great need for bilingual oral registration assistance in most counties

^{11/} Stats. 1975, Ch.1119, eff. as urgency measure, Sept. 29, 1975.

of this State. (See Section D, supra.) Moreover, she has known since 1974, and knows now, that laws requiring bilingual assistance are being flaunted throughout California, yet has taken no action to enforce these laws nor articulated any reason whatsoever for not doing so. The extent of the Secretary of State's knowledge of non-compliance with elections laws by county officials includes the following:

In 1974, respondent's predecessor in office conducted a survey of county compliance with former Elections Code section 1611 (now renumbered as section 1635) which requires reasonable efforts to recruit bilingual precinct officials where needed. This section would logically be expected to be implemented prior to implementation of section 201(d), requiring bilingual registrars, because the use of bilingual precinct officials represents no added expense to the county. Nevertheless, the Secretary of State found that six of the eight counties named herein failed to even reply to the survey,^{12/} and that the vast majority of California counties had done nothing to comply

^{12/} The remaining two respondent counties, Santa Cruz and San Diego, did answer the survey but were not in compliance with section 1611.

Although Santa Cruz county has a Spanish language population of 14,648 (of a total population of 123,790), only three 1611 precincts were found out of a total of 189 voting precincts. "In the light of the high residential concentrations of ethnic minorities, it seems likely that additional section 1611 precincts exist within Santa Cruz county which have yet to be identified.*** And although San Diego county reports having a large crop of bilingual deputy registrars who carry precinct officer applications, upon further investigation it was found that a small percentage of the deputy registrars can be considered 'working' deputy registrars." Secretary of State's Office Report on Compliance with Election Code section 1611 (October 31, 1974) reprinted as Exhibit 27 to Senate Hearings at 681-682.

with the law. As the survey concluded:

"the vast majority of County Clerks and/or Registrars of Voters in this state have...made little progress in assisting voters who have difficulty voting in English." (Senate Hearings at 681-686.)

In 1975, the United States Commission on Civil Rights published Ten Years After, a summary of experience with the first ten years of Voting Rights Act coverage. Among other findings, the Commission reported that Monterey County officials had not complied with state laws governing bilingual assistance:

"California law now requires county officials to recruit bilingual poll workers in precincts where 3 percent of the voting age population is non-English-speaking. Nevertheless, in obtaining poll workers, the county clerk of Monterey County depends chiefly on word of mouth for publicity. Not only were no special recruitment efforts made, but interested and qualified Chicanos who requested assignments from the county clerk were told that the quota was already filled. Visits to eight polling places by a Commission staff member revealed that there were only two bilingual election officials, both at one precinct...

.....

"California county officials have yet to comply fully with the translation provisions. [Elections Code §14201.5]....No Spanish facsimile ballot was posted at any of the eight polling places in Monterey County visited by a Commission staff member on November 5, 1974. Asked about use of the Spanish ballot, some election officials did not know what they were to do with them;...According to some persons in the area, the existence of Spanish facsimile ballots is not well known by the Spanish speaking citizens, nor is the fact publicized by the county either in English or Spanish." Id. at 114-115, 118-119.

On July 30, 1975, State Senator Alex P. Garcia transmitted to Attorney General Younger multiple charges of widespread voting

intimidation and discrimination. The Secretary of State was undoubtedly aware of these charges at the time and certainly no later than August 18, 1975, when respondent Free notified her of Senator Garcia's letter and the Attorney General's investigation of the matter. (The letters are attached to the subsequent Attorney General's Report.)

On April 16, 1976, Attorney General Younger transmitted to respondent a Report to the Attorney General re Allegations of Voter Discrimination, March 4, 1975 Local Election: Kern, San Diego and Imperial Counties [hereinafter, Report*] containing the results of his office's investigation of these charges. The Attorney General's Report found numerous violations of state elections laws. The worst of the three counties was clearly Imperial, where the Attorney General found widespread violations and antagonism toward Spanish-speaking citizens.

Among other findings, the Attorney General stated that respondent Free of Imperial County had (a) made no attempt to ascertain precincts in which 3 percent or more of the population needed assistance in registering or voting (Report at 41), and (b) had done nothing to eliminate widespread official antagonism toward Spanish-speaking voters (Report at 2, 42-43). The Attorney General's office therefore recommended that the County

* A copy of the Report is attached hereto as Exhibit B. A copy is already in the possession of respondent.

take immediate steps to "provide complete and effective assistance in registration and voting to such citizens." (Id. at 44) The Report also recommended strongly that respondent Secretary of State:

"undertake a vigorous program to advise and assist all county clerks in implementing the legislative and congressional policy of actively encouraging and assisting non-English speaking persons to vote." (Id. at 45.)

The Secretary of State has undertaken no such program.

Subsequently, because of his demonstrated concern, Senator Garcia requested respondent to tell him her plans to comply with the Voting Rights Act. (See Letter of Senator Alex P. Garcia Exhibit C.) When respondent failed to answer, Sen. Garcia sent a followup letter on August 4, 1976 (attached hereto as Exhibit D.) Respondent has not deigned to answer either letter.

Respondent has utterly failed and refused to take any systematic action whatsoever to ensure that counties analyse their needs for bilingual oral registration assistance and take steps to provide it now. The Secretary may choose to investigate each county's provision of assistance and refer matters to Attorney General Younger; she may wish to step in personally to assist counties in complying with the law; she may wish to issue binding regulations setting forth requirements to provide assistance. What the Secretary may not do is remain mute and paralysed in the face of county noncompliance with state and federal law and the grievous injury it portends for petitioner language minority citizens. The Secretary of State bemoans the

fact that one million fewer voters may be registered to vote this year (Sacramento Union, July 29, 1976, p.A1, cols. 3-6, "Voter Registration Flops in California", attached hereto as Exhibit E). Her firm action to enforce the law could achieve a vastly different and salutary result.

In light of respondent's nonfeasance, petitioners seek a writ of mandate directing her specifically to issue regulations or otherwise enforce applicable elections laws requiring the provision of bilingual oral registration assistance.

III.

RESPONDENTS' FAILURE TO PROVIDE FOR OUTREACH VIOLATES ELECTIONS CODE SECTION 202 AND HAS A DISPARATE IMPACT UPON POTENTIAL LANGUAGE MINORITY VOTERS.

The extent of the Legislature's desire to achieve registration at the highest possible level is embodied in Elections Code sec.202. That section directs the Secretary of State to, "adopt regulations requiring each county to design and implement programs intended to identify qualified electors who are not registered voters and to register such persons to vote." The Secretary of State is further directed to adopt regulations prescribing minimum requirements for such programs. If any county fails to design such programs, the Secretary of State is authorized to impose one on the county. In short, Section

202 provides the mechanism for the Legislature's desire to achieve maximum voter registration. Moreover, Section 202 places the responsibility for enforcement on the Secretary of State.

The concept of outreach is by no means a novel one. Since 1971 Congress has required states to implement outreach programs

"to inform low-income households concerning the availability and benefits of the food stamp program and insure the participation of eligible households." 7 U.S.C. §2019(e)(5).

The requirements of such a program have been amply adjudicated. Bennett v. Butz (D.Minn. 1974) 386 F.Supp. 1059; Tyson v. Norton (D.Conn. 1975) 390 F.Supp. 545 aff'd in relevant part sub nom. Tyson v. Maher (2d Cir. 1975) 523 F.2d 972. In Bennett the plaintiffs challenged the failure of the Secretary of Agriculture to insure the compliance of all participating states with the statutory requirement. As the Court summarized the evidence:

"The record before this Court demonstrates that the defendant Secretary and his subordinates delayed implementation of the outreach effort at the federal level, issued regulations and directives which were inconsistent with the Act; approved plans which in no way approached the outreach standards set by the Congress, and required of the states no remedial action to correct inadequacies in the outreach program....

"It was not until April 16, 1971, three months after the 1971 amendments were approved, that the Secretary issued proposed regulations to implement the Act.... The Secretary limited outreach to 'any communicative effort seeking the encouragement of program participation by eligible households.'....

"There is nothing in the record to show that the Secretary took any...forceful action even in those states most derelict in submission of plans. Rather, the record shows no more than occasional letters and

telephone calls made to delinquent state agencies." 386 F.Supp. at 1065-1066.

Because Congress' intended action "not only to inform poor people of the program's benefits but also to 'insure' their participation" (Id. at 1065), the Court found that the Secretary was required forthwith to "take all appropriate action to require implementation of outreach efforts in a manner consistent with the statute and the opinion of the Court,..." (Id. at 1072).

In Tyson, the plaintiffs complained that the state had an inadequate outreach program. Refusing to defer to a "watered down interpretation of the statutory mandate" on the part of the state and federal agencies (390 F.Supp. at 551), the Court found state efforts to be inadequate. Among other failings, the Court noted that the state had no specific timetable for reaching potentially eligible households (Id. at 555), had emphasized senior citizens "with little apparent attention being given to other distinct target groups," (Id. at 556), and had made "minimal use" of the media in only sending public service announcements to the media but not following up to ensure their use. (Id. at 556-557).

The outreach requirements in food stamps programs are similar to those required here. The Legislature has determined that respondents shall devise plans to identify and to register the unregistered voters of this state, to the end that the highest level of voter registration be maintained and our democratic institutions strengthened. The response of the Secretary of State and respondent county officials, however, has been all too similar to that of the defendants in Bennett and Tyson.

Despite the mandate of Section 202, the Secretary of State has failed to promulgate any regulation with regard to outreach programs. The Secretary's failure cannot be attributed to lack of notice. AB 828, of which Section 202 is a part, was filed with her office for chaptering on September 14, 1975. On September 29, 1975, she obtained the immediate authority to issue regulations to enforce state elections laws. (Stats. 1975, ch.1119, enacting Elec.Code §12172.) Nine months remained before the effective date of section 202 (July 1, 1976), in which to propose and adopt regulations implementing section 202. For eight of those months the Secretary of State did nothing whatsoever. At last, on June 1, 1976, she mailed notices to interested parties that a hearing would be held three (3) days later to consider proposed regulations.

At the hearing of June 4, 1976, the Secretary was urged to adopt regulations immediately on an emergency basis. (See Transcript, Public Hearing on Proposed Regulations to Implement Section 202, June 4, 1976 at 71-79; a copy of the Transcript is attached hereto as Exhibit F. A copy is already in the possession of respondent.) Witnesses at the hearing also testified at length that outreach must be conducted on a basis that reached all targeted groups, including persons who are illiterate and/or in need of bilingual assistance. (See, e.g., Transcript at 80-92 (Mr. Camacho); 133, 170 (Dr. Gutierrez); 166 (Mr. Weiner). Respondent was also specifically informed of the availability of census

data and personnel who could aid respondent with her analysis of outreach needs. (Transcript at 128-131, 159 (Dr. Gutierrez).)

Notwithstanding this testimony, and notwithstanding the Secretary's own pledges on June 4 to provide a "learned plan" for county use (Transcript at 41, 50, 56 (Mr. Durley)) and to make a list of unregistered voters available to each county (Transcript at 97 (Mr. Durley)), the Secretary has never filed regulations, has never provided lists of unregistered voters to county officials, and has failed to require that outreach programs be balanced so as to reach all targeted groups.^{13/}

Moreover, on June 24, 1976, at a meeting of County Clerks and Registrars of Voters, Ms. Eu's Elections Division Chief, Mr. William Durely, informed those attending that they need not prepare plans until the Secretary of State had filed her own regulations and had distributed a required format for such plans. See Exhibits 20, 24, and 25 attached to the Petition herein. Although this statement was undoubtedly without legal basis, it has further delayed implementation of outreach programs.

Respondent county officials have an independent duty to adopt and implement outreach plans to identify and register qualified electors in their counties. Respondents have not done so. In almost every case their efforts have been confined to

^{13/} Indeed, the only ideas proposed by the Secretary of State would exclude virtually all language minority citizens from their reach. These efforts include providing written displays of postcard affidavits in various public offices, asking high school civics teachers to approach high school seniors, and asking telephone installers to leave cards when they install new telephones. (Transcript 15-23; 84-90.)

the efforts mentioned above and in a few cases to meeting, once or twice with a local Spanish-speaking organization and asking that they volunteer to help. Respondents have not identified the unregistered voters in their counties, although they know such identification is possible. (Colusa County, for example, has done so.) Nor have they designed and implemented plans to actually register those who are not now registered.

Respondents' failures to implement outreach programs are not mere technical violations, but rather will perpetuate the very disparity in registration patterns and political participation that the Legislature and Congress sought to banish henceforth from our polity. If outreach is not conducted, or if it is conducted in such a way as to emphasize the registration of nonregistered Anglos, petitioners and the class they represent will fall further and further behind in their efforts to ameliorate their own social conditions born of discrimination and deprivation.

IV.

RESPONDENTS' PERFORMANCE OF THEIR STATUTORY DUTIES MUST BE JUDGED IN LIGHT OF CONSTITUTIONAL REQUISITES

A.

Absent a Compelling State Interest, the Failure to Provide Bilingual Assistance in Registration Violates the Equal Protection Clause.

It is too well settled to warrant extended discussion that classifications which operate to abridge or dilute the right to vote violate the equal protection guarantees of the California and United States Constitutions unless it can be shown that the action promotes a compelling governmental interest and is the least burdensome means available to achieve that goal. Castro v. State of California (1970) 2 Cal.3d 223, 234-236; Johnson v. Hamilton (1975) 15 Cal.3d 461, 471; Reynolds v. Sims (1964) 377 U.S. 533.

The actions of respondents complained of herein quite obviously have had a substantial and deleterious effect upon the right to register and vote. There is no compelling governmental interest in providing registration assistance only to English-speaking citizens in violation of federal law. In granting oral assistance generally to English-speaking citizens and not to Spanish-speaking citizens, respondents have denied petitioners the equal protection of the laws.

The applicability of an equal protection analysis in cases such as the one sub judice was recently discussed in

Coalition for Ed., Dist. One v. Board of Elec., City of N.Y.
370 F.Supp. 42 (S.D.N.Y. 1974). In that case, Puerto Rican and other minority citizens sued to invalidate a school board election. They alleged several Voting Rights Act violations and violations of the Fourteenth Amendment. In the process of granting relief to the plaintiffs because of defendants' failure to conduct a totally bilingual election, the Court commented on the close proximity of the statutory to the constitutional violation, holding that constitutional analysis is appropriate:

"Although specific practices...can be considered violations of specific sections of the Voting Rights Acts and Amendments (e.g., the lack of effective bilingual assistance violated 42 U.S.C. §1973b(e) and 42 U.S.C. §1973aa, Puerto Rican Organization for Political Action v. Kusper, 490 F.2d 575 (7th Cir. 1973), we view the policies and practices...in their totality, and find it unnecessary to evaluate them in any but general equal protection terms." Id. at 55, n.38. See also Torres v. Sachs, 60 F.R.D. 343 (S.D.N.Y. 1975); Aspira of New York, Inc. v. Board of Ed. of City of N.Y., 65 F.R.D. 541, 543 (S.D.N.Y. 1975).

B.

Duty to Eradicate Effects of Past Discrimination.

Respondents have a duty, in administering laws related to so fundamental a right as the franchise, to take affirmative action to eradicate the effects of past discrimination which have reduced the ability of Spanish-speaking citizens to participate effectively in the electoral process.

In White v. Regester (1973) 412 U.S. 755, the Supreme Court had occasion to pass upon this question in the context of

Texas reapportionment. There the Court affirmed with opinion a lower court finding that Mexican American citizens suffered from both direct and indirect discrimination affecting their right to vote. First, various Texas elections statutes made it more difficult for a minority to win elections. Second, Mexican Americans suffered from discrimination in education, employment, and other fields. Third, the fact that Mexican Americans

"are reared in a sub-culture in which a dialect of Spanish is the primary language provides permanent impediments to their educational and vocational advancement..." Id. at 768-769.

As a result, the Court found Mexican Americans were effectively removed from local political processes. The Supreme Court therefore affirmed the lower court's order that affirmative action be taken (the creation of single member districts from which Mexican Americans would probably be elected) to remedy

"the effects of past and present discrimination against Mexican-Americans, ...and to bring the community into the full stream of political life of the county and State by encouraging their further registration, voting, and other political activities." Id. at 769.

The Court in Coalition for Ed., Dist. One v. Board of Elec., City of N.Y., supra, 370 F.Supp. 42 also encountered two types of problems resulting in differential voting ratios by minority as compared to White voters. The first, consisted of statutory and regulatory violations having a discriminatory impact on minority voters. Such conduct included the late arrival

of election materials and inadequate instruction of interpreters. The second type of conduct was neutral on its face, including placing polling sites in middle-class housing projects, but had a disparate impact on minority voting patterns. (Id. at 49-54.) Discussing these two types of unintentional discrimination, the Court stated:

"We start from the established premise that racial or ethnic discrimination in the electoral process violates the Equal Protection clause of the Fourteenth Amendment, and the Fifteenth Amendment to the United States Constitution, as well as the Federal Voting Rights Acts. 42 U.S.C. §§1971, 1973.

"This is well-established because of the sanctity with which we regard the individual's fundamental right to vote and have his vote count equally with that of all other voters, [citations] combined with the suspicion with which we view any racial or ethnic distinction resulting from governmental actions or omissions. [citations]

" Governmental practices which result in distinctions among voters and potential voters are subject to the strictest judicial scrutiny when the distinctions run along racial or ethnic lines.

"Discrimination in voting rights is no less repugnant to the Equal Protection clause because it is the result of governmental administrative practices or procedures and not specific statutes. Yick Wo v. Hopkins, 118 U.S. 356, 6 S.Ct. 1064, 30 L.Ed. 220 (1886); [other citations].

"Nor have this and other circuits found it constitutionally significant that, as in this case, the largest racially discriminatory impact was not due to intentional discrimination of government officials, but rather was the natural result of their policies and pronouncements which on their face were neutral. [many citations] Racial discrimination, whether intentional or unintentional has been condemned as unconstitutional when the right to an effective vote is at stake. [many citations]." Id. at 54-55.

This Court has recently discussed a similar question: the duty of boards of education to eradicate the effects of residential segregation which impinge upon the right to equal educational opportunity. Crawford v. Board of Education (1976) 17 Cal.3d 280, 291-291. In Crawford, the respondents claimed that they had no duty to end de facto racial segregation. The Court doubted that such segregation would be found de facto, but ruled that in any event the respondent boards have a duty to take steps to alleviate racial imbalance in schools regardless of its cause. Id. at 291. This Court reasoned, among other things, that the cause of unequal and segregated education is not so important as the fact that it impinges greatly upon the fundamental interest in an education.

Here, no less than in Crawford, the cause of unequal access to the franchise is irrelevant to the tragic effect it has had and continues to have on the lives of Spanish-speaking citizens especially and on the integrity of our political and social fabric in general. Elections officials, no less than boards of education, have an affirmative duty to provide language minority citizens with equal opportunities to register and vote in a language they understand, and to eradicate the vestiges of past discrimination, so that the right to vote--most fundamental of all rights--will not be abridged, diluted, or denied. White v. Regester, supra; Coalition for Ed., Dist. One v. Board of Elec., City of N.Y., supra. That such past discrimination exists cannot be gainsaid.

From 1894 until 1970 minority language citizens were completely denied the franchise (Castro v. State of California (1970) 2 Cal.3d 223).

Until 1974 minority language citizens were barred from speaking any language other than English at the polls (former Elections Code, Sec. 14217).

Geographically compact and large Mexican American populations throughout the State were for many years gerrymandered so as to prevent the election of Mexican American candidates to local and state public office (see, e.g., Hearings, California State Advisory Committee to the U.S. Commission on Civil Rights (1971) at 95, 478 (testimony of Senator Carpenter, former Assembly Speaker Unruh); cf. Calderon v. City of Los Angeles (1971) 4 Cal.3d 251).

In addition, official and de facto discrimination against and segregation of minority language children in education has resulted in a minority language citizenry with lower levels of education and higher rates of illiteracy than those possessed by the population as a whole, and thus less able to register and vote without oral assistance. (See, e.g., former Political Code, Sec. 1662, requiring segregation of Chinese-American and Native American children; Soria v. Oxnard School District Board of Trustees (C.D.Cal. 1971) 328 F.Supp. 155 (segregation of Mexican American children); Crawford v. Board of Education (1976) 17 Cal.3d 280 (segregation of Mexican American and Black children). As a result, over 120,000 adult

California citizens who speak Spanish are illiterate, 29,000 of whom live in the counties challenged in this Petition.

Given this documented history of past discrimination and low levels of literacy and voter registration among Spanish-speaking citizens, respondents are constitutionally required to take affirmative action to eradicate this legacy of invidious treatment by providing adequate bilingual oral registration assistance where needed.

THIS PETITION PROPERLY INVOKES THE ORIGINAL JURISDICTION OF THIS COURT BECAUSE THE ISSUES PRESENTED ARE OF GREAT PUBLIC IMPORTANCE AND MUST BE RESOLVED PROMPTLY.

Petitioners seek extraordinary relief before this Court because the issues presented are of great public importance and must be resolved promptly. Cal.Const., art. 6, sec. 10; Rules of Court, Rule 56(a).

It is of great public importance to the people of California that registration be maintained at a high level, and that unnecessary barriers to registration be eliminated. Elections Code §§201(a), 202; Johnson v. Hamilton, *supra*, 15 Cal.3d 461, 471. Thus this Court has repeatedly struck down limitations in the electoral process. Castro v. State of California (1970) 2 Cal.3d 223 (denial of franchise to persons not literate in English); Jolicoeur v. Mihaly (1971) 5 Cal.3d 565 (limitation on where eighteen year olds could register to vote); Ramirez v. Brown (1973) 9 Cal.3d 199, *rev'd sub nom Richardson v. Ramirez* (1974) 418 U.S. 24 (denial of franchise to ex-felons); Young v. Gness (1972) 7 Cal.3d 18 (limitation on right to register to 54 days before election); Burrey v. Embarcadero Mun. Improvement Dist. (1971) 5 Cal.3d 671 (denial of franchise to non-landowners); Choudry v. Free (1976) ___ Cal.3d ___, No. LA 30516, August 3, 1976 (denial of right to seek electoral office to non-landowner). In all these cases except Castro, this Court exercised its original jurisdiction to resolve these controversies quickly.

The curtailment of general registration opportunities alleged in the Petition is unprecedented in recent California history. Whatever and whoever has caused this curtailment, the fact remains that registration drives and activity by county Registrars has been extremely limited due to confusion and administrative inaction connected with later delivery of the new postcard system for registration. At a time when respondent Secretary of State has publicly bemoaned low registration rates in this State, registration opportunities have also sunk to a modern low.

To rectify this dereliction of duty, petitioners seek an extension of the registration deadline to within 10 days prior to the election. Were petitioners to seek and obtain relief in a lower court, respondents would undoubtedly appeal the order to a higher court. There is no way for petitioners to secure a Superior Court decision and complete the inevitable appeal process in time for effective relief for the 1976 General Election. Without such relief, all registration will cease on October 4, 1976.

Of equal great public importance is the right to equal treatment in the distribution and administration of the franchise. Congress and the Legislature have decided, in their wisdom, that bilingual services shall be provided for potential registrants and voters who are in need of such services. Both Congress and the California Legislature have provided, moreover that oral assistance be given to those in need of it.

(Elections Code secs. 201, 1635; 42 U.S.C. sec. 1973aa-1a; 28 C.F.R. secs. 55.15, 55.18(c), 55.20.) Although the California provisions have been in effect since 1974, they have often been honored in the breach, as a survey taken by the Secretary of State in 1974 demonstrated. The federal provisions became effective in 1975 and were first applied statewide for the Primary Election. Analysis of the primary experience and the admissions of respondent registrars now indicates that there will be widespread noncompliance with both federal and state laws for the General Election unless judicial relief is granted. As with registration, there is no prospect of completing the usual process of trial and appeal prior to the General Election.

Finally, the same problems of need and speed attend the third aspect of this case, the requirement that each county implement a program designed to identify and register qualified electors.

In numerous recent cases, including those discussed above, this Court has deemed it appropriate to exercise its original jurisdiction when voting rights and election conduct issues were broached in the context of impending elections. As the Court stated in Jolicoeur v. Mihaly (1971) 5 Cal.3d 565, 570, n.1:

"We recognize such jurisdiction only in cases in which the issues presented are of great public importance and must be resolved promptly." [citation] Cases affecting the right to vote and the method of conducting elections are obviously of great public importance. Moreover, the necessity of adjudicating the controversy before the election renders it moot usually warrants our bypassing the normal procedures of trial and appeal."

Finally, there is one further reason why this Court should exercise its original jurisdiction. Petitioners' discussions and interviews with Registrars and Clerks in more than half of California's counties confirm that there is widespread confusion as to the nature and extent and concomitant performance of local and state duties under the various state and federal statutes, as indicated in the Declarations attached to the Petition and incorporated therein by reference. This "conflict of official action in the administration of...the laws...can be clarified only by decision of this Court...." Lockhart v. Wolden (1941) 17 Cal.2d 628, 634; cf. Jolicoeur v. Mihaly, supra, 5 Cal.3d 565 (Brief of Petitioner Common Cause alleged 28 counties on one side, 15 on other); Ramirez v. Brown, supra, 9 Cal.3d 199 (differential administration, county to county).

For the foregoing reasons, and to resolve what are really questions of first impression in California, exercise of the Court's original jurisdiction is appropriate and necessary.

VI.

PETITIONERS HAVE STANDING.

The petitioners in this action consist of individuals and organizations. Both have standing to complain of the illegal actions set forth in the Petition. The individuals are California citizens and taxpayers. Each of them is eligible to vote. Each of them is also of Mexican-American descent, and shares with other Mexican-Americans "distinct political interests, not shared by the general public, for which they seek

political redress...." Calderon v. City of Los Angeles (1971) 4 Cal.3d 251, 260. The organizations all have as their principal purpose the advancement of political issues and positions which will ameliorate the socioeconomic status of California's largest language minority group, Mexican-Americans. Both the organizations themselves and their members are directly affected by actions, such as those of respondents, which dilute Mexican-American and minority language voting strength or otherwise deprive the Mexican-American community of the benefit of corrective legislation designed to increase minority participation in the democratic process.

A.

Individual Petitioners Have Standing
As Taxpayers.

The individual petitioners herein are each taxpayers residing in their respective counties within the State. Pursuant to Code of Civil Procedure §526a, each sues because of the "failure on the part of the governmental body to perform a duty specifically enjoined", the standard for taxpayer standing. Harman v. City and County of San Francisco (1972) 7 Cal.3d 150, 160. The counties and Secretary of State have here failed to perform their specific duties to maintain continuous registration opportunities, deputize new registrars, provide bilingual registration and voting assistance, and conduct an active outreach program to identify and register all segments of the qualified but unregistered electorate. It is well settled that

petitioners have standing to challenge this governmental delay, partial performance, and neglect of duty.

It is well settled, for example, that petitioners may sue state officials under section 526a, Serrano v. Priest (1971) 5 Cal.3d 584, 618, n.3; California State Employees' Assn. v. Williams (1970) 7 Cal.App.3d 390; Ahlgren v. Carr (1962) 209 Cal.App.2d 243; that taxpayers may sue to enforce voting rights, Silver v. Brown (1965) 63 Cal.2d 270; Holman v. County of Santa Cruz (1949) 91 Cal.App.2d 502, 517; and that the partial performance of duties will not negate the cause of action, Harman v. City and County of San Francisco, *supra*.

It is unavailing to respondents that their neglect of duty may have resulted in a net saving to the public fisc, despite illegal expenditures. As Justice Sullivan noted in Blair v. Pitchess (1971) 5 Cal.3d 258, 268, it "is immaterial that the amount of the illegal expenditures is small or that the illegal procedures actually permit a saving of tax funds."

B.

Petitioners Have Standing to Enforce
Voting Rights of Mexican-Americans and
Other Language Minorities.

The individual petitioners and the overwhelming majority of the members of the organizational petitioners are Spanish-speaking California citizens of Mexican descent. This Court has often realized that this minority has distinct political interests

and needs a unified political voice "if they are to have any realistic hope of ameliorating the conditions in which they live". Castro v. State of California (1970) 2 Cal.3d 223, 240; cf. Calderon v. City of Los Angeles (1971) 4 Cal.3d 251, 260.

Petitioners' distinct political interests entitle them to complain of abridgements of the right to vote imposed on other members of the group, thus diluting their own voting strength and depriving them of an effective opportunity to prevail in the voting process. See, e.g., Choudry v. Free, supra; Gould v. Grubb (1975) 14 Cal.3d 661; Williams v. Rhodes (1968) 396 U.S. 23; Calderon v. City of Los Angeles, supra. Indeed, one of the primary objectives of the Voting Rights Act of 1965, 42 U.S.C. §§1971 et seq., is to ensure liberalized registration and voting processes so as to avoid dilution of minority voting strength. (See especially 42 U.S.C. §1973c.) Similarly, the organizational petitioners herein have standing to complain on behalf of their members. Sierra Club v. Morton (1972) 405 U.S. 727, 739; County of Alameda v. Carlson (1971) 5 Cal.3d 730; California League of Senior Citizens, Inc. v. Brian (1973) 35 Cal.App.3d 443, 448.

The petitioners herein are from one language and ethnic minority. They sue, however, to enforce rights granted by both state and federal law to Native American and Chinese citizens in Inyo and San Francisco counties, respectively; and to all language minorities by California election laws. To the

extent applicable--primarily to respondent Secretary of State--petitioners also assert standing to compel enforcement of the law on behalf of said minorities. As this Court has noted, treatment of different minority groups as a mixed "minority" may be appropriate in the enforcement of civil rights involving race or ethnic background. Crawford v. Board of Education (1976) 17 Cal.3d 280, 287, n.1. In this case such treatment is clearly proper. First language minorities often do share common goals and political interests distinct from the majority. Bilingual provision of almost all public services is one such interest. Elimination of discrimination based on language is another. See, e.g., Castro v. State of California (1970) 2 Cal.3d 223. Provision of bilingual education is a third such interest. See, e.g., Lau v. Nichols (1974) 414 U.S. 563; Serna v. Portales Municipal Schools (10 Cir. 1974) 499 F.2d 1147. Second, both the State Legislature and Congress, in granting statutory protection for the voting rights of language minorities, has seen fit to treat the voting interests of each group similarly (with the exception of eliminating the need for written materials to language minorities who have no written language). See Elec.Code §§201 and 1635, and the 1975 Amendments to the Voting Rights Act of 1965, Public Law 94-73, especially 42 U.S.C. §1973aa-1a. Third, respondent Secretary of State has neglected her duties to enforce the law toward all language minorities as a group, rather than singling out only Mexican-Americans, and has thus acted similarly with respect to all

NOV 26 1975

JSP:MWH:JLH:ryh
DJ 144-1261303

Mr. Herman Baca
Chairman
Ad Hoc Committee on Chicano
Rights
1837 Highland Avenue
National City, California 92050

Dear Mr. Baca:

This is in reply to your correspondence of October 16, 1975, which refers to the shooting death of Luis Roberto Rivera.

We have given careful consideration to the information you have furnished. As the result, we have requested the Federal Bureau of Investigation to conduct an inquiry into this matter. Should it develop that there has been a violation of a federal criminal statute, appropriate action will be taken.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

By:

Maceo W. Hubbard
Supervisory Trial Attorney
Criminal Section

members of minority language groups. Any relief granted against her should therefore properly be granted with respect to all applicable language minorities in the State.

C.

Petitioners Also Have Standing to
Citizens to Compel Enforcement of
the Law.

Finally, petitioners clearly have standing to bring this action because of the public interest in maintaining our participatory democracy:

"[W]here the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced...." Board of Soc. Welfare v. County of Los Angeles (1945) 27 Cal.2d 90, 100-101.

See also MacDonald v. Stockton Metropolitan Transit District (1973) 36 Cal.App.3d 436, 440; Residents of Beverly Glen, Inc. v. City of Los Angeles (1973) 34 Cal.App.3d 117, 121-127. Organizations as well as natural persons may utilize this public interest concept of standing to compel compliance with the law. See, e.g., No-Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 74 (city's issuance of oil drilling permits challenged by non-property owners); American Friends Service Committee v. Procunier (1973) 33 Cal.App.3d 252, 255-256 (standing to challenge prison regulations); Rogers v. Detrick (1976) 58 Cal.App.3d 90, 102; California League of Senior Citizens v. Brian (1973) 35 Cal.App.3d 443, 448.

VII.

THE REMEDY SOUGHT IS APPROPRIATE.

A.

Mandate Is Proper.

A writ of mandate will lie to compel the performance of an act which the law specifically enjoins, upon the verified petition of the party beneficially interested, in cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. Code Civ. Proc. §§1085, 1086; Harman v. City and County of San Francisco (1972) 7 Cal.3d 150, 160-161.

In the instant action, both federal and state law specifically enjoin the counties and state to maintain liberal registration processes, conduct outreach to maximize registration, and provide bilingual oral and written assistance wherever needed. As set forth above, in the discussion of standing, petitioners are beneficially interested. There is no speedy and adequate remedy to enforce these rights in the ordinary course of law. The remedy is clear and certain. Mandate is thus clearly appropriate. As stated in Jolicoeur v. Mihaly (1971) 5 Cal.3d 565, 570, n.2:

"The remedy invoked--mandate--is appropriate.... Voting registrars are public officers with the ministerial duty of permitting qualified voters to register. Mandamus is clearly the proper remedy for compelling an officer to conduct an election according to law. [Citations.] Mandamus is also appropriate for challenging the

constitutionality or validity of statutes or official acts. [Citations.]"^{14/}

B.

The Relief Prayed for Is Proper.

Petitioners seek a peremptory writ of mandate directing respondents to (a) extend registration, in order to compensate for two months of inactivity, (b) conduct outreach, and (c) provide bilingual oral registration assistance. This relief is appropriate to remedy the violations complained of herein. No other lesser action would give petitioners any effective relief prior to the 1976 general election on November 2, 1976.

It is of course well settled that it is no defense or barrier to the relief requested that it may cause administrative inconvenience or expense. Green v. Layton (1975) 14 Cal.3d 922, 927. As stated in Gould v. Grubb (1975) 14 Cal.3d 661, 675, "numerous cases have refused to permit the state to justify discriminatory legislation on the basis of similar 'administrative efficiency' interest. [Citations.]" Thus the fact that respondents might have to hire temporary help to aid in extended registration is no defense to the relief prayed.

^{14/} See, e.g., Donnellan v. Hite (1956) 139 Cal.App.2d 43 (compelling enforcement of zoning regulations) Hollman v. Warren (1948) 32 Cal.2d 351, 355 (compelling exercise of discretion); Bess v. Park (1955) 132 Cal.App.2d 49 (compelling exercise of discretion); see also Environmental Defense Fund, Inc. v. Hardin (D.C.Cir. 1970) 428 F.2d 1093, 1099, n.29 (citing many cases).

The fact that regulatory authority may in the first instance be discretionary does not preclude judicial review (Barlow v. Collins (1970) 397 U.S. 159, 165-166), and a court may appropriately require the agency to issue regulations or take other administrative action to enforce the statute. Rockbridge v. Lincoln (9th Cir. 1971) 449 F.2d 567, 570; Bennett v. Butz, *supra*, 386 F.Supp. at 1059.

Green, supra. As this Court has stated more than once:

"Avoidance or recoument of administrative costs, while a valid state concern cannot justify imposition of an otherwise improper classification, especially when, as here, it touches on 'matters close to the core of our constitutional system.'" Castro v. State of California (1979) 2 Cal.3d 273, 242; Young v. Gness (1972) 7 Cal.3d 16, 28, citing Castro.

In this instance the relief prayed for is necessary and feasible. Respondents are able to hire or otherwise provide bilingual registrars, and are capable of implementing immediate outreach programs. In addition, as set forth in Exhibits 20 and 25 to the Petition, an extension of registration is likewise possible under appropriately streamlined procedures, such as having late registrants vote by absentee ballot or at centralized polling places. This Court has previously approved such differential treatment for late registrants in order to grant the franchise to the maximum number of persons possible. Young v. Gness, supra. See, also, Elecs. Code secs. 754-756 (registration until one week of election for new residents) and 3573 (different ballot pamphlet rules for late registrants). The extension of registration until the tenth day before the election is as feasible as it is necessary.

Finally, the relief prayed for is also appropriate in order to avoid the possibility of the results of November election being called into serious question in the respondent counties as the result of the denial of registration opportunities set forth in the Petition. See, e.g., Coalition for Ed., Dist. One v. Board of Elecs., City of N.Y., (S.D.N.Y. 1974) 370 F.Supp. 42 (election set aside due to failures to act identical to those

complained of herein.) Under such circumstances California law clearly provides for setting aside such an election. Elec. Code §§2021, 2022; *Williams v. Ventresca* (1970) 42 Cal.App.2d 613.

CONCLUSION

California's voters will shortly be called upon to make important electoral choices--choices that will have a direct immediate impact upon their lives. The offices involved run from the County Sheriff and Supervisor to United States Senator and the Presidency. But petitioners and the class they represent have been frozen out of that process by the acts and omissions complained of herein as much as if the right to vote itself was still being denied them. This Court's original jurisdiction is properly and necessarily invoked; petitioners' prayer for peremptory relief should be granted.

DATED: August 24, 1976

Respectfully submitted,

Peter Hart Weiner
PETER HART WEINER

ALBERT H. MEYERHOFF
RALPH SANTIAGO ABASCAL
JUAN URANGA
DOUGLAS HITCHCOCK
JAMES E. GONZALES, II
ROBERT T. OLMOS
STEVEN BELASCO
California Rural Legal Assistance

RALPH ARRIOLA
Legal Aid Society of San Diego, Inc.

By *Albert H. Meyerhoff*
ALBERT H. MEYERHOFF

COUNTY OF ORANGE
GENERAL SERVICES AGENCY

SPECIAL SERVICES

R. L. MORRIS
DIRECTOR

T. R. EGAN
ASSISTANT DIRECTOR

REGISTRATION & ELECTIONS DIVISION
A. E. OLSON, REGISTRAR OF VOTERS
1300 S. GRAND AVE.
SANTA ANA, CA 92705
(714) 834-2241

Mr. Peter Wainer
California Rural Legal Assistance
115 Sanson Street, Ninth Floor
San Francisco, California 94104

Dear Mr. Wainer:

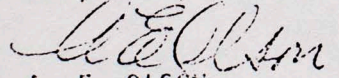
Thank you for sending me a copy of the minutes of the July 16 meeting of the Secretary of State's Advisory Committee on Outreach and Bilingual Elections.

I have a clarification to submit concerning the minutes, for record purposes. On page 4 of the minutes the statement is made: "Orange County, according to Mr. Al Olson of its Elections Department, has hired fifteen persons until the election on a full-time basis to conduct bilingual registration."

At the time of the July 16 meeting we had not actually hired the fifteen persons but had received management approval to do so and were proceeding with plans. As one consideration, we did not want to hire the bilingual persons until we had actually received the new registration cards, both the deputy registrar type and the voter mail-in type. Also, we had authorization to hire the people for the period beginning approximately August 1 and continuing through the close of registration for the November Election. We will probably be able to use some of the persons for other election tasks after the close of registration.

Since the meeting, we have proceeded with recruitment action. The County Personnel Department is doing the actual recruiting, and we are receiving recruiting assistance from the Labor Council for Latin American Advancement and from several community centers in the County.

Very truly yours,


A. E. OLSON
REGISTRAR OF VOTERS

copy: William Durley
Office of Secretary of State

AEO:cb

EXHIBIT A

2000 B STREET
SUITE 700
LOS ANGELES, CALIFORNIA 90012
(213) 629-5125

X SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 431-1119

ALEX P. GARCIA
TWENTY-FOURTH SENATORIAL DISTRICT
LOS ANGELES COUNTY

COMMITTEES
AGRICULTURE, WATER
RESOURCES
ELECTIONS AND
REAPPORTONMENT
HEALTH AND WELFARE
TRANSPORTATION
VETERAN

CALIFORNIA LEGISLATURE

Senate



June 30, 1976

Honorable March Fong Eu
Secretary of State
925 L Street, Suite 605
Sacramento, CA 95814

Dear March:

Because I share your sincere interest with respect to the just implementation of the Voting Rights Act amendments of 1975, I am submitting the following questions which I hope will give me greater personal insight into many of the issues raised recently concerning this very complex matter:

1. In general, what was done by your office and county election officials in the June primary to comply with the VRA?
2. Were you satisfied that all county election officials complied with the letter and spirit of the VRA in preparation for and in the conduct of the June primary election?
3. What was the total statewide cost (i.e., including every political subdivision) for all election materials printed in each language?
4. What was the statewide cost breakdown for each language used?
5. How did your office assess the language needs of voters prior to the distribution of election materials for the primary?
6. In general, were you satisfied with the efforts made by county election officials in their needs assessment of language minority voters?

7. Does your office have any plans as to conducting a more extensive needs assessment of language minority voters for the general election?
8. In general, does your office plan to make any changes for the general election with respect to meeting the requirements of the VRA?
9. How does your office intend to distribute the ballot pamphlet in languages other than English for the general election?
10. How many English language ballot pamphlets were not used in the June primary?
11. What specific plans does your office have to implement the voter registration outreach program with respect to language minority groups?
12. What would be the total statewide cost (i.e., including every political subdivision) if it were decided to blanket all counties covered by the VRA?
13. Has your office been able to estimate the number of English, Spanish and Chinese ballot pamphlets needed for the general election?
14. If so, does your office have a cost estimate for the general election with respect to the printing and distribution of the ballot pamphlet in English, Spanish and Chinese?
15. Because of the difficulty in making some county election officials identify 3 percent language minority precincts, would you favor having your office identify such precincts if the proper funding were made available?
16. Would your office be willing to monitor a representative sample of language minority precincts throughout the state on the day of the general election to determine if the VRA and state bilingual election laws are being complied with by local election officials?

Thank you, March, for your kind attention to these questions. I know that you have tried diligently for many, many months to

Honorable March Fong Eu . .
June 30, 1976
Page 3

address this very difficult issue in the fairest way possible.

I look forward to your reply.

Sincerely,

ALEX P. GARCIA
State Senator

APG:dg

cc: Honorable Omer L. Rains
Honorable Jim Keysor

The Sacramento Union

Oldest Daily
In the West

It's Thursday, July 29, 1972

Vote Registration Flops in California

By MICHAEL OTTEN
Staff Writer

The state's campaign to register a record number of voters in California for the presidential election this year has been a disaster.

The secretary of state's office is dismally predicting that about one million persons who registered to vote four years ago figure it is no longer worth it.

A postponed registration session, due to begin last July 1, is a month behind schedule. The Legislature is unable until June to decide to finance the program it authorized last year to make it easier to sign up voters.

Going back to 1972, the number of registered voters has increased by a new record in every presidential year. The biennial year could break the pattern by reducing the rolls by one million in this state.

Spurred by the 16-year-old vote and heavy registration drives, voter registration jumped nearly two million from 1970 to 1972 when 10,412,000 persons registered to vote in California, and cast 57,500,000 ballots in the Richard Nixon versus McGovern race.

For the June 8 primary, 5,111,790 of the 11.5 million potential voters in this state bothered to register and 5,630,713 voted.

This is a near 10 percent drop from the 1972 primary.

Why? Those in Secretary of State March Fong Eu's office are blaming the trouble on Watergate and the restricted media coverage of political candidates' political stances.

They say other states are reporting similar responses. One to concentrate efforts to make the registration process much easier.

"Unfortunately, people are turned off," said Eu. "I don't think the secretary of state is to blame. People are disenchanted because of Watergate. We

in government would be fully aware if didn't acknowledge it."

Grace said she is disappointed with million registered this year.

Heard the same thing said by his office in 1970. The decline of voters in 1970, 1971 and 1972 has not dealt issues in the primary the voter were not there this time.

Grace said that if the state were as the Republican state, it would probably be more than 10 million more than President Nixon's 1972 primary turnout.

—Te 37, Cal.

—From A1

mer governor's name recognition here. The lack of interest is also evident in Sacramento County with the city administration and city fathers. It is no longer worthwhile to register persons to vote at the 21 city fire stations.

Locally, 286,297 persons registered for the election last month. This is slightly more than the 275,112 persons who actually voted in the 1968 general election. That year a record 374,711 registered to vote. Sacramento County has 55 of 465,600 potential voters.

Ray Ortiz, assistant state elections officer, said the State Printing Plant Friday should begin running off the seven million voter registration postcards that will be distributed to the 55 counties.

He said some of the counties should have the cards by Aug. 3, with most of them by mid to late August.

No longer will a person have to stand before a deputy registrar and swear under oath the registration affidavit information is correct. A person will be able to obtain a registration postcard, fill out the information under penalty of perjury, and

mail it in at public expense. The registration deadline for the Nov. 2 election is Oct. 4.

Grace said the present system would result in a savings for voters, such as Los Angeles, where they will no longer have to pay special duplicate 35 cents for each person they register. He noted that Sacramento County reported better results with its volunteer registration program.

Ortiz said the secretary of state is working with the Department of Motor Vehicles to send registration cards to motorists who haven't registered and also with the superintendent of schools to send cards to the new 16 year-olds.

Carol Stick, Sacramento County registrar of voters, said once she receives the cards she will setup a special 24-hour-a-day telephone number for persons to call to have postcard registration forms sent to them.

She and the secretary of state are also required to implement programs to identify nonregistered qualified voters and to register them under threat of possible legal action by the state attorney general if they don't.