DENYING U.S. CITIZENS

A RIGHT TO VOTE?

A Primer in Racism of the 1910's

Judge agrees to hear case on voting rights

JUDI SHIMEL

ST. THOMAS — A Superior Court judge has agreed to set a trial date in a civil case aiming to clear the way for Virgin Islanders to vote in federal elections.

Superior Court Judge Adam Christian set April 20 as the date to file motions in the case of Michael Charles. Charles, a student at the University of the Virgin Islands, is suing Supervisor of Elections John Abramson Jr. and demanding that Abramson set up procedures for Virgin Islanders to vote for the president of the United States and members of Congress.

"The court will set dates for the final pretrial conference, jury selection, and trial via a separate order," the judge said.

Charles was listed as the original plaintiff in the case as it was first filed Aug. 24, 2011. In subsequent filings, it was modified to reflect Charles' representation of "all persons born-in and residing in the U.S. Virgin Islands."

The judge's actions followed the filing of a request for a stipulated scheduling order by St. Thomas attorney Russell Pate. That filing came about six months after the case was originally submitted to Superior Court.

In an order dated Feb. 23, Christian said further scheduling, leading to a civil trial, will be from the bench.

The civil suit contends that Virgin Islanders are being "denied fundamental rights that are necessary under the Constitution of the United States of America — the fundamental right to vote for president, the House and Senate representatives who have power of governance over the islands and the fundamental right and ability to run for these respective federal offices to make sure the needs of their voter constituency are adequately represented."

Pate also said he has filed similar papers in Superior Court on St. Croix and in the federal courts on St. Croix and St. Thomas.

In the St. Croix cases, the plaintiff's name is Bevron Goodwin. That case was assigned to Superior Court Judge Harold Willocks.

"On St. Croix, it's before Judge Willocks but he hasn't scheduled it on his calendar yet," the attorney said.

Pate also explained some of the strategy behind the lawsuits. Challenges arising over the rights of territorial citizens to vote in federal elections have largely come from Puerto Rico up until now, he said, and they have targeted the federal courts.

This time, he said, the lawsuit also is aimed at a territorial court. If successful, Pate hopes to get the election process rolling and get duly elected federal officials sent to Congress in an attempt to have them seated as full voting members.

If the lawsuit succeeds, the attorney says he also wants to see the Election System enfranchise a Virgin Islands electoral college to cast votes for U.S. president.

He also wants to have a court change the status of District Court judges appointed to serve in the Virgin Islands. Right now, the suit states, federal judges in the VI are appointed to 10-year terms, while their stateside counterparts are assigned for a lifetime.

Ultimately, Pate says he would like to see these challenges decided by the U.S. Supreme Court.

Pate also explained that Charles and Goodwin were chosen by him as plaintiffs because they represented, in his mind, average Virgin Islanders.

"I just got a guy who was born on St. Croix and one who was born on St. Thomas who talked to me about the Virgin Islands not having the right to vote," he said.

The defendant in the case says he largely agrees with the lawsuit's intent. But Abramson also says that's about as far as it has gone with him.

"I've never had anything to do with this yet. All I've done is receive the filing," Abramson said.

He did, however, admit to reading the document after forwarding a copy to Attorney General Vincent Frazer.

"I have read them extensively," Abramson said. "I think the action's good."

Based on that reading, Abramson said the case is based on a set of early 20th century legal filings known as the Insular Cases, which discussed the rights and privileges of persons living in the U.S. controlled areas of the Philippines, Puerto Rico and the Marianna Islands.

Charles' lawsuit uses stronger language, characterizing the Insular Cases as deeply racist in a way that would be considered shocking by today's standards.

The lawsuit says the views expressed in those documents formed the basis of a famous Supreme Court segregation case, "Pleussy v. Ferguson" which stated that a black man is less than a human being in the eyes of the law.

Pleussy v. Ferguson prevailed through most of the 1900s until it was over turned by the 1954 Supreme Court decision in "Brown v. Board of Education."

"They were caught in a cycle. There are the 1901 Insular Cases; they're saying that those people who were in charge then were of a different mindset. The plaintiff said the thinking of society has changed, but in law you keep using the old cases as the basis of legal arguments," Abramson said.

Assistant Attorney General Carol Thomas-Jacobs, responding to the lawsuit on behalf of the Justice Department in December, said the defense did not have enough knowledge to decide whether the allegations contained in the civil suit were either true or false.

Judge to hear V.I. case for right to vote in federal elections

By MICHAEL TODD
Daily News Staff

ST. THOMAS — A case pursuing the right to vote and vie for federal office for territorial residents earned a space in the V.I. Superior Court's June docket.

Superior Court Judge Adam Christian in late February ordered the case will go to court with tentative pre-trial dates in April and June.

"The court will set dates for the final pre-trial conference, jury selection and trial via a separate order," Christian wrote.

Local attorney Russell Pate last year filed the initial complaint in both districts of local and federal Virgin Islands courts suing several agencies for federal voting rights.

Having a court date in Superior Court marks the first formal step toward bringing a right to vote case to jury trial in the territorial courts, Pate said.

The complaint was filed in four cases, which are pending before U.S. District Judges Curtis Gomez and Wilma Lewis and V.I. Superior Court Judges Harold Willocks on St. Croix and Christian on St. Thomas.

Pate's case argues that the denial of federal voting rights, dating from the early 1900s, when the United States bought the territories, stems from segregation and Jim Crow laws of the time amid fears of the new U.S. Virgin Islands' black majority.

In the case before Christian, St. Thomas-born plaintiff Michael Charles is suing the V.I. Elections System and Elections Supervisor John Abramson Jr.

Abramson has said he supports any effort to equalize territorial and stateside Americans' civic rights.

Federal voting rights are long overdue in the Virgin Islands — and in all U.S. territories, where about five million potential federal voters live, Abramson said.

Pate said the Superior Court cases seek a specific remedy to an almost 100-year-old political problem during a relevant stage of constitutional growth: an election year.

Pate's complaint asks that the Elections System of the U.S. Virgin Islands, or citizens of the U.S. Virgin Islands, are given the right to vote for U.S. President, to register to run for U.S. President, and to register to run for Congressional office in House and Senate positions and to vote for those running for Congressional office, House and Senate positions, and that those elected to represent the U.S. Virgin Islands be presented to Congress to be seated accordingly.

Charles' suit is filed "on behalf of all other persons born in and residing in the U.S. Virgin Islands," according to court documents.

In the trial court, judges can write opinions and lay case law footings that can establish a territorial voice for voting rights, Pate said.

In Charles' Superior Court case, the defendants — Abramson and the V.I. Elections System — answered Pate's complaint with a motion in December.

The defendants, "agree that citizens of the United States living in the U.S. Virgin Islands deserve every right and privilege that is afforded to any other U.S. citizen under the constitution," according to the government's answer filed in Superior Court on St. Thomas.

In the case pending in the Superior Court's St. Croix District, Pate is representing St.Croix-born plaintiff Bevron Goodwin, also described in court documents as representing all Virgin Island residents.

At the federal level, Gomez has not awarded a discovery process, and the Federal Elections Commission, which is a defendant in the District Court cases on St. Thomas-St. John and St. Croix, has filed a flurry of motions to dismiss the case.

An FEC spokeswoman has told The Daily News the commission will not comment on the cases.

A history of non-statehood

Virgin Islanders became U.S. citizens in 1927.

The U.S. Department of the Interior assumed federal authority over the Virgin Islands in 1931.

Self-government was structured by the Organic Act of 1936.

The revised Organic Act of 1954 established a more thorough governing framework.

The U.S. Virgin Islands is one of 13 unincorporated territories, or insular areas, according to the U.S. Office of Insular Affairs.

Unincorporated territories are not protected by the entire U.S. Constitution.

Three unincorporated territories exist in the Caribbean: Navassa Island, Puerto Rico and the U.S. Virgin Islands.

The Pacific region is home to 10 unincorporated territories: American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, the Northern Mariana Islands and Wake Atoll.

Incorporated territories, however, have full U.S. constitutional protection.

Only one incorporated territory exists: the 1.56-square mile Palmyra Atoll, which is a U.S. Fish and Wildlife Service national wildlife refuge open to permitted visitors only.

"Incorporation is interpreted as a perpetual state," according to the Office of Insular Affairs website. "Once incorporated, the territory can no longer be de-incorporated."

U.S. Citizens from the U.S. Virgin Islands can work for the Commander in Chief, they just cannot vote for him.

Right-to-vote lawsuit advancing in local court system

By MICHAEL TODD
Daily News Staff

A case introduced in local and federal Virgin Islands courts in both districts suing several agencies for territorial citizens' right to vote and run for federal office advanced in the V.I. Superior Court's St. Thomas-St. John District.

The case, which attorney Russell Pate filed last year, argues that federal voting rights have been denied since the United States bought the territories in the early 1900s — when segregation and Jim Crow laws prevailed amid fears of the new U.S. Virgin Islands' black majority.

"This was a terrifying idea to an all-white federal government," according to the complaint Pate filed in September.

On Feb. 3, Superior Court Judge Adam Christian granted a March 3 discovery deadline for the case in Superior Court in the St. Thomas-St. John District.

Pate filed the complaint in four cases, which are pending before U.S. District Judges Curtis Gomez and Wilma Lewis and V.I. Superior Court Judges Harold Willocks on St. Croix and Christian on St. Thomas.

V.I. Attorney Vincent Frazer said he would study the case more closely before commenting, but Pate said Frazer's office solidified the case's advancement in the trial court.

Pate said the case is the first right-to-vote suit brought before a U.S. territorial court.

St. Thomas-born Michael Charles is the plaintiff suing the V.I. Election System and Elections Supervisor John Abramson Jr.

Charles' suit is filed "on behalf of all other persons born in and residing in the U.S. Virgin Islands," according to court documents.

In the trial court, judges can write opinions and lay case law footings that can establish a territorial voice for voting rights, Pate said.

Abramson said he supports any effort to equalize territorial and state-side Americans' civic rights.

"We should be up in arms being treated as second-class citizens, fighting the social, economic and political forces that precluded bringing this vestige of colonialism to an end," Abramson said. "I think this is long overdue in the territory."

Federal voting rights are lacking in all U.S. territories, where about five million potential federal voters live, Abramson added.

In Charles' Superior Court case, the defendants — Abramson and the V.I. Elections System — answered Pate's complaint with a motion in December.

The defendants, "agree that citizens of the United States living in the U.S. Virgin Islands deserve every right and privilege that is afforded to any other U.S. citizen under the constitution," according to the government's answer filed in Superior Court on St. Thomas.

In the case pending in Superior Court's St. Croix District, Pate is representing St.Croix-born plaintiff Bevron Goodwin, also described in court documents as representing all Virgin Island residents.

At the federal level, Gomez has not awarded a discovery process, and the Federal Elections Commission, which is a defendant in the District Court cases on St. Thomas-St. John and St. Croix, has filed a flurry of motions to dismiss the case.

An FEC spokeswoman has told The Daily News the commission will not comment.

Pate said the federal government's motions to dismiss represent "total hypocrisy," as the U.S. Justice Department continues battling for voting rights stateside.

In recent months, the U.S. Justice Department has scrutinized at least eight states' laws requiring voters to present state IDs before casting ballots.

The state laws have been challenged — and in South Carolina's case, barred — for violating the federal Voting Rights Act, which was enacted in 1965 to extend voting privileges during the civil rights movement.

"This same government is against U.S. citizens voting in the Virgin Islands and against correcting the racist actions of the past that stripped the islands of constitutional voting rights," Pate said.

The historic absence of federal voting rights in the territories is legally reversible, Pate said.

"By the time the Virgin Islands was purchased in 1917, there was not one black representative in Congress, the federal judiciary, and of course, the president or his executive cabinet," according to Pate's complaint.

"In 1917, the USVI would have been the only majority black jurisdiction," Pate said.

Pate said the U.S. Constitution never acknowledges the existence of permanent territories.

The U.S. Supreme Court during the early 1900s denied the application of constitutional law in the Virgin Islands by designating them "unincorporated territories" and denying voting rights in "majority non-white jurisdictions," he said.

He said it was the U.S. Supreme Court that left territorial Americans unable to vote or participate in federal elections.

"Really, it was the U.S. Supreme Court that created this problem, like they created segregation," Pate said. "And only the Supreme Court can correct it."

In each War and Conflict, U.S. Citizens from the Virgin Islands serving in the United States Armed Forces are deployed to serve, protect and even die for the security and freedom of the United States of America. Except, these war heroes have NO Rights to Vote.

V.I. attorney waging battle to gain federal vote for USVI

By MICHAEL TODD
Daily News Staff

ST. THOMAS — Two of the most powerful rights citizens in a democracy have are the ability to vote and to choose who creates the laws to which they are subjected.

V.I. attorney Russell Pate in September filed suit in U.S. District Court against six federal agencies to provide those two rights to the residents of the U.S. Virgin Islands.

On Monday, Ronald Sharpe, U.S. Attorney for the Virgin Islands, filed to dismiss the complaint.The Federal Election Commission had already filed to dismiss on Nov. 7.

Pate's complaint seeks to give residents of the territory the ability to elect and run for the U.S. presidency. He compares territorial suffrage with the historic struggles for voting rights that required revolutionary changes to include minorities and women.

The suit targets the U.S. Federal Election Commission; U.S. Election Assistance Commission; Federal Voting Assistance Program; U.S. Commission on Civil Rights; U.S. Department of Justice Civil Rights Division; and U.S. Department of the Interior's Office of Insular Affairs.

Sharpe's suit seeks to dismiss "for failure to state a claim for which relief can be granted."

Four Federal Election Commission attorneys on Nov. 7 responded to Pate's complaint in a motion to dismiss on the grounds the commission — created in 1974 — lacks jurisdiction over the historic decisions designating those eligible to vote in federal elections.

The Daily News called and left messages for the commission's General Counsel Anthony Herman, Associate General Counsel David Kolker, Assistant General Counsel Kevin Deeley and attorney Benjamin Streeter III on Friday. Those attorneys are named in the request to dismiss the complaint.

Attorney Russell Pate's complaint seeks to give residents of the territory the ability to elect and run for the U.S. presidency.

The Daily News sought to ask whether the commission believes that people should vote for the public officials who govern them.

Commission Public Affairs Specialist Julia Queen said the office could not comment on the case.

Queen would not comment on the case.

Pate filed the motion on behalf of Michael Charles "and on behalf of all other persons born in and residing in the U.S. Virgin Islands," according to court documents.

Pate's motion states that Virgin Islanders must abide by federal laws, but they cannot vote for the elected officials who write those laws or run for federal offices that enact them.

According to the Federal Election Commission's motion, "Congress has delegated to the commissioned a cabined and well-defined range of jurisdiction: to civilly enforce and administer federal law regulating campaign finance in federal elections and matching funds for primary and general election presidential candidates."

Pate's complaint asserts that the commission's jurisdiction should apply equally to all U.S. citizens.

"There is no right so sacred and hallowed as the fundamental right that each citizen has the right to vote for elected representatives in their local and federal government and that these same citizens shall have the ability to run for elected office for each area of government which exercises control over their locale," Pate's motion states.

The U.S. Constitution empowered all people to vote from its inception, but who earned the right to vote changed over time, according to Pate.

"The voting rights for women and those of African, Asian and Native American descent only came after monumental efforts for equality," Pate wrote.

The suit also claims that the fundamental right to representation has been denied to residents of the U.S. Virgin Islands.

Pate cites what he considers the foundation for denying territories the right to vote: Insular Cases.

"The reason the Virgin Islanders were denied the right to vote and the right to run for federal office is due to the prejudiced, racist and bigoted rationale of a number of dated Supreme Court cases known as the Insular Cases," Pate wrote.

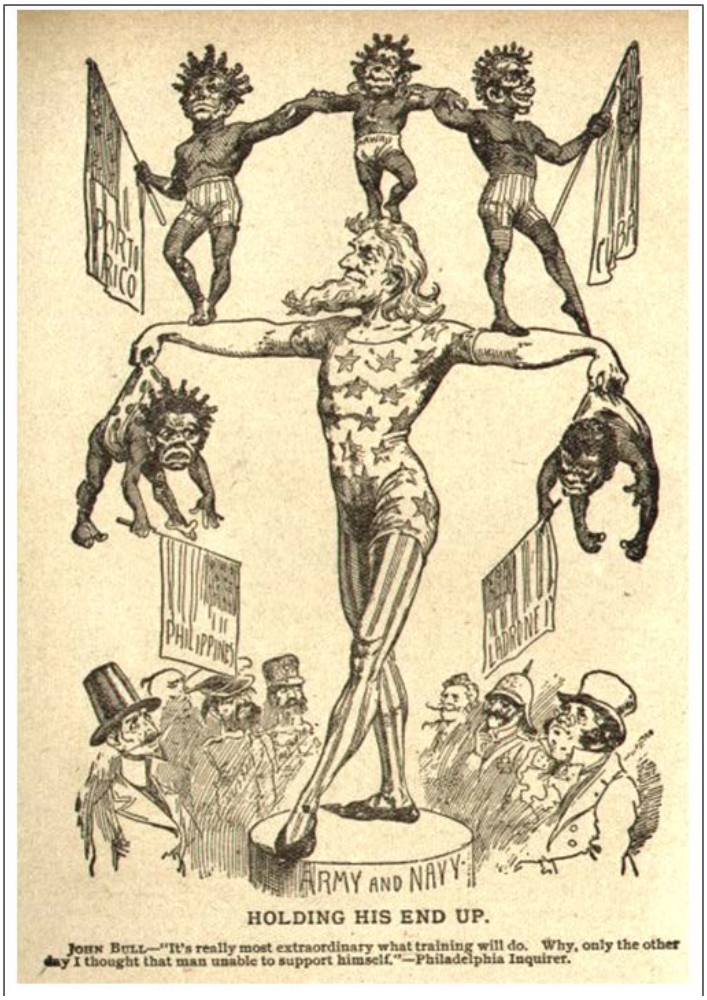
The Insular Cases are a series of U.S. Supreme Court cases involving the status of U.S. territories acquired during the Spanish-American War in 1898 that were administered by the War Department Bureau of Insular Affairs. Those precedents are the basis for the federal governance of all territories today.

Those cases, Pate wrote, established a basis to deny minority voting rights.

"The majority of the Supreme Court then adopted the erroneous rationale of Plessy v. Dred Scott — that blacks are inferior — and applied this to the Insular Cases to withhold any potential voting rights for future U.S. jurisdictions, which would be non-white majorities."

— Contact reporter Michael Todd at 774-8772 ext. 304 or email mtodd@dailynews.vi.

The Klu Klux Klan marched on
Washington, DC after
President Woodrow Wilson
instituted segregation in DC
and fired black government workers.



HOLDING HIS END UP.

JOHN BULL—"It's really most extraordinary what training will do. Why, only the other day I thought that man unable to support himself."—Philadelphia Inquirer.

UNCLE SAM

A caricature of the inhabitants
of the New Territory" showing
the new U.S. Citizens as
"pickaninnies" and unfit
for
Constitutional Voting Rights.

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

Michael Charles, *individually, and on behalf of all other persons born-in and residing in the U.S. Virgin Islands*,	)	Civil No. 505 / 2011
v.	)	ACTION FOR DAMAGES and EQUITABLE RELIEF
U.S. Federal Election Commission, U.S. Election Assistance Commission, Federal Voting Assistance Program, U.S. Commission on Civil Rights, U.S. Department of Justice, Civil Rights Division, and United States Department of the Interior Office of Insular Affairs,	)	**JURY TRIAL DEMANDED**
Defendants.	)	

SECOND AMENDED COMPLAINT

COMES NOW the Plaintiff, Michael Charles, by and through his undersigned counsel, J. Russell Pate, Esquire, of The Pate Law Firm, and hereby files his Complaint against the Defendants. In support thereof, the Plaintiff alleges as follows:

1. This Court has jurisdiction pursuant to 4 V.I.C. §76(a).
2. Plaintiff is a resident of the U.S. Virgin Islands.
3. Defendants are agencies and instrumentalities of the government of the United States of America.
4. Venue is appropriate in this forum since the wrongful acts which are the basis of this action arose within this District.
5. The Court has the ability to determine and declare the rights of the parties and to make ruling on declaratory judgment and equitable relief.

THE PATE LAW FIRM
Royal Dane Mall
P.O. Box 890
STT, VI 00804
340.777-5270

GENERAL ALLEGATIONS

6. In the United States, a country founded on the principles of equality and democracy, there is no right so sacred and hallowed as the fundamental right that each citizen has the right to vote for elected representatives in their local and federal government and that these same citizens shall have the ability to run for elected office for each area of government which exercises control over their locale. Only when a person from the voting public is elected will the peoples' will be done, that the government may be, as stated by our great Emancipator: "[A] government of the people, by the people, for the people."
7. It is understood that the Constitution of the United States is an evolving document, a charter of progress towards liberty, democracy, and equality. However, at the signing of the Constitution, it only provided the right to vote for white landowning men. The voting rights for women and those of African, Asian, and Native American descent only came after monumental efforts for equality. The Voting Rights Act of 1965 provided more equal enfranchisement, however, over fifty years later, citizens under the United States' flag are still denied the right to vote for federal representatives and run for federal office.[1]
8. The United States Virgin Islands is a Territory of the United States of America.
9. United States Virgin Islanders are purportedly citizens of the United States of America, yet they are denied the full application of the Constitution of the United States, in particular, the essential right to vote at all levels of government, which

[1] "History has seen a continuing expansion of the scope of the right of suffrage in this country. The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of a representative government." *Reynold v. Sims*, 377 U.S. 533, 555 (1964).

includes the ability to vote for U.S. President, House, and Senate representatives, who have power over governance of the islands, and the fundamental right and ability to run for these respective federal offices to make sure the needs of their voter constituency are adequately represented.[2]

10. U.S. Virgin Islanders are subject to, and governed by, federal law via various agencies of the executive branch of the federal government, but U.S. Virgin Islanders have no elective say in electing the President, who is the chief of the executive branch.[3]

11. U.S. Virgin Islanders are also subject to federal law via the judicial branch of the U.S. government, but U.S. Virgin Islanders have no elective say in electing the President[4] of the United States of America who exercises the nomination power over Supreme Court Justices, Third Circuit Judges, and also all federal judges for the District of the Virgin Islands – these jurists ultimately determine the interpretation of federal and local law in the U.S. Virgin Islands. Further, Virgin Islanders have no elected say in

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[2] *Igartúa v. United States*, 626 F.3d 592, 615 (1st Cir 2010)(Torruella, dissenting) ("The Constitution is not an instrument that can be picked at, or chosen from, at random. The principled implementation of the Constitution requires that it be honored in its totality, and in an integrated way. *Cf. Colgrove v. Battin*, 413 U.S. 149, 187, 93 S. Ct. 2448, 37 L. Ed. 2d 522 (1973) (Marshall and Stewart, dissenting) ("The Constitution is, in the end, a unitary, cohesive document and every time any piece of it is ignored or interpreted away in the name of expedience, the entire fragile endeavor of constitutional government is made that much more insecure.")).

[3] See, Albert H. Howe, editor, *The Insular Cases: The Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of United States including the Appendixes Thereto* (Gov. Printing Office. Washington. 1901 at p.134)("You have officers in the Territories. All of them are required to take an oath or affirmation to support the Constitution. How can they support the Constitution unless by respecting and enforcing its principles and provisions? What is the Constitution of the United States? Is not its very first principle that all within its influence and comprehension shall be represented in the Legislature which it establishes, with not only the right of debate and the right to vote in both Houses of Congress, but a right to partake in the choice of the President and Vice-President?")

[4] See, *Ballentine v. USA*, Civ. No. 1999-130, 2001 U.S. Dist. LEXIS 16856 (DVI)(Moore, T.) ("A key aspect of this diminished citizenship is that citizens residing in the Virgin Islands have no voice in formulating Congressional legislation or in electing the executive whose agencies and programs directly affect our lives.").

the Senate which holds confirmation power of judges in the District Court of the Virgin Islands.

12. U.S. Virgin Islanders are further subject to Selective Service registration and many Virgin Islanders serve, and have served, honorably in the U.S. military; some have shed blood in battle and others gave their lives for the United States of America and their home, the U.S. Virgin Islands. Although our veterans served in the military under the President, as their Commander and Chief, they have no ability to vote for the President and no ability to run for President.

13. Many Virgin Islanders desired to vote in the 2008 elections, and were aggrieved and distraught that as U.S. citizens they could not participate in such an historic election which resulted in this Country's first President of African descent.

14. The reason Virgin Islanders were denied the right to vote and the right to run for federal office is due to the prejudiced, racist, and bigoted rationale of a number of dated Supreme Court cases known as the *Insular Cases*.[5] Of course, these cases were not written by the Supreme Court in a vacuum;[6] they were a product of the

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[5] See, *De La Rosa v USA*, 417 F.3d 145, 163 (1st Cir. 2005)(Torruella, dissenting) ("The racism which caused the relegation of the Negro to a status of inferiority was applied to the overseas possessions of the United States."); See also, *Ballentine v. USA*, Civ. No. 1999-130, 2001 U.S. Dist. LEXIS 16856 (DVI) (Moore, T) ("Not surprisingly, the *Insular Cases* have been, and continue to be, severely criticized as being founded on racial and ethnic prejudices that violate the very essence and foundation of our system of government as embodied in the Declaration of Independence and repeated in such documents as the Gettysburg Address and Civil Rights law.")(citations omitted).

[6] U.S. House of Representative, *Blacks Americans in Congress*: 1870-2007 (Gov. Printing Office, Washington, D.C., 2008 at p.171)("Segregation and disfranchisement seemed viable – even rational – alternatives to mounting racial violence in the South. Federal incation mirrored public complacency. In this social context, congressional inertia and a series of devastating Supreme Court rules were broadly reflective of an American public that was not receptive to the concept of a multiracial society. The passivity of the federal government on the issue of disfranchisement enabled and encouraged the southern states [to discrimination.]")

accepted attitude in the nineteenth and early twentieth centuries that all persons not of pure white-skinned European pedigree were an inferior race.[7]

15. These dated *Insular Cases* shock the conscience of the modern public. The cases closely resemble the faulty racist, sexist, and xenophobic reasoning of such abominable case as *Dred Scott v. Sandford,* 60 U.S. 393 (1857)*, Minor v. Happersett,* 88 U.S. 162 (1874), *Pace v. Alabama,* 106 U.S. 583 (1883), *Plessy v. Ferguson,* 163 U.S. 537 (1896)*, Cumming v. Richmond County Board of Education,* 175 U.S. 528 (1899), *Giles v. Harris,* 189 U.S. 475 (1903), *Gong Lum v. Rice,* 275 U.S. 78 (1927), and *Korematsu v. United States,* 323 U.S. 214 (1944).[8]

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[7] For example, the importance of white skin, see:

In re Saito, 62. F. 126,127 (D. Mass 1884)("[T] color of the skin is considered the most important criterion for the distinction of race, and it lies at the foundation of the classification which scientists have adopted […] [T]hey have been classified as the white, black, yellow, red, and brown races.");

In re Halladjian, et al. 174 F. 834 (D. Mass 1909)("[A]pplicants [for naturalization] may now, as always, be naturalized if they are white, and may not be naturalized if they are not white.");

In re Alverto, 198 F. 688 (E.D. Penn. 1912)(Denying naturalization petition on basis of race, stating: "The petitioner is, ethnologically speaking, one-fourth of the white race and three-fourths of the brown race.")

See also, oral argument of Albion Tourgee before the Supreme Court in *Plessy v. Ferguson*, where he stated: "How much would it be worth to a young man entering upon the practice of law, to be regarded as a white man rather than a colored one? Six-sevenths ($6/7^{th}$) of the population are white. Nineteen-twentieths ($19/20^{th}$) of the property of the country is owned by white people. Ninety-nine hundredths ($99/100^{th}$) of the business opportunities are in the control of white people. These propositions are rendered even more startling by the intensity of feeling which excludes the colored man from the friendship and companionship of the white man. Under these conditions is it possible to conclude that the reputation of being white is not property? Indeed, is it not the most valuable sort of property, being the master-key that unlocks the golden door of opportunity?"

[8] It does not take a scholar to know the *Insular Cases* are racist and wrong. However, a scholarly publication is available, *The Supreme Court and Puerto Rico: The Doctrine of Separate and Unequal* (1985), written by the now First Circuit Justice, the Honorable Juan R. Torruella. The book sets out in painstaking detail how and why the *Insular Cases* are utterly irreconcilable with the Constitutional and principles and ideals of the Founding Fathers.

Further, see, *America's Virgin Islands: A History of Human Rights and Wrongs*, Boyer, William W. (2010 2d Ed at P.101 for discussion on *Insular Cases*). Boyer's book is the most current comprehensive history of unequal treatment and racism imposed on the U.S. Virgin Islands by the federal government. Counsel will be happy to provide the Court with these books.

16. The Spirit of the Constitution and the principles and ideals of the Founding Fathers held that voting is indisputably one of the most fundamental and sacred rights of a citizen of the United States.[9]

17. It must be recognized that the Supreme Court that decided the *Insular Cases* was the exact same court which upheld the racist holding of *Plessy v. Ferguson*, 163 U.S. 537 (1896).[10] The briefs and oral arguments of the *Insular Cases* before the Supreme Court make over fifty-five (55) citations to the authority of the abominable

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[9] *Bartlett v. Strickland*, 129 S. Ct. 1231, 1240 (2009)(plurality)("Passage of the Voting Rights Act of 1965 was an important step in the struggle to end discriminatory treatment of minorities who seek to exercise one of the most fundamental rights of our citizens: the right to vote");

Cal. Democratic Party v. Jones, 530 U.S. 567, FN5 (2000)(Addressing the "fundamental right of citizens to cast a meaningful vote for the candidate of their choice.");

Burson v. Freeman, 504 U.S. 191, 214 (1992)("Voting is one of the most fundamental and cherished liberties in our democratic system of government.");

Mobile v. Bolden, 446 U.S. 55 (1980)(the Fifteenth Amendment guards against "purposefully discriminatory denial or abridgment by government of the freedom to vote").

Evans v. Cornman, 398 U.S. 419, 422 (1970)("The right to vote, as the citizen's link to his laws and government, is protective of all fundamental rights and privileges.");

Fortson v. Morris, 385 U.S. 231, 250 (1966)("A vote […] is the sacred and most important instrument of democracy and of freedom.") *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)("The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heard of representative government.");

Wesberry v. Sanders, 376 U.S. 1, 17 (1964)(Black, H.)("No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right.");

Ayers-Schaffner v. Distefano, 37 F.3d 726, 731 (1st Cir. 1994)("It bears repeating that the right to vote is one of the most important and cherished constitutional rights […] we cannot conceive of a governmental interest sufficiently strong to limit the right to vote to only a portion of the qualified electorate."); See also, *De La Rosa v. USA*, 417 F.3d 145, 169 (Torruella, dissenting)(listing string cites)

George F. Edmunds, a U.S. Senator and lawyer, who was "justly regarded as the greatest living expounders of the Constitution" at the time of the *Insular Cases*, harshly criticized the *Insular Cases* stating, "[Elective representation by voting] has been, during the whole period of our national existence until now, considered to be axiomatic – the rock on which the edifice of just liberty and order should stand indestructible." Albert H. Howe, editor, *The Insular Cases*: *The Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of United States including the Appendixes Thereto* (Gov. Printing Office. Washington. 1901) citing to George F. Edmunds, *The Insular Cases*, North American Review. No. DXXXVII, August 1901.

[10] Justice Harlan was the lone dissent in *Plessy*.

Dred Scott case.[11] The majority of the Supreme Court then adopted the erroneous rationale of *Plessy* and *Dred Scott* – that blacks are inferior – and applied this to the *Insular Cases* to withhold any potential voting rights for future U.S. jurisdictions which would be non-white majorities.

18. Just as *Brown v. Board of Education* overruled *Plessy*, the *Insular Cases* should be properly overruled as an unconstitutional application of power to Congress, with Justice Harlan's dissent in *Downes v. Bidwell*, 182 U.S. 244, (1901) held as the correct, less racist, and most importantly, Constitutional approach. Justice Harlan stated:

> [W]e are now informed that Congress possesses powers outside of the Constitution, and may deal with new territory acquired by treaty or conquest, in the same manner as other nations have been accustomed to act with respect to territories acquired by them. In my opinion, Congress has no existence and can exercise no authority outside of the Constitution. Still less is it true that Congress can deal with new territories just as other nations have done or may do with their new territories. This nation is under the control of a written constitution, the supreme law of the land and the only source of the powers which our Government, or any branch or officer of it, may exert at any time or at any place.
>
> Monarchical and despotic governments,[12] unrestrained by written constitutions, may do with newly acquired territories what this Government may not do consistently with our fundamental law. To say otherwise is to concede that Congress may, by action taken outside of the Constitution, engraft upon our republican institutions a colonial system such as exists under monarchical governments. Surely such a result was never contemplated by the fathers of the Constitution. If that instrument had contained a word suggesting the possibility of a result of that character it would never have been adopted by the People of the United States. The idea that this country may acquire territories anywhere upon

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[11] See, Albert H. Howe, editor, *The Insular Cases*: *The Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of United States including the Appendixes Thereto* (Gov. Printing Office. Washington. 1901)

[12] Also, compare Harlan's dissent with the greatest living Constitutional scholar at the time of the United States' purchase of the Virgin Islands, George F. Edmunds, a U.S. Senator and lawyer – he liken Congressional rule without elected representation to despotism. "[H]owever benevolent and wise, a Congress in which they could have no vote, and whose power over their lives, liberties, fortunes and happiness was restrained by no constitutional barrier [is simply] a conclave of despots." George F. Edmunds, *The Insular Cases*, North American Review. No. DXXXVII, August 1901.

> the earth, by conquest or treaty, and hold them as mere colonies or provinces -- the people inhabiting them to enjoy only such rights as Congress chooses to accord to them -- is wholly inconsistent with the spirit and genius as well as with the words of the Constitution.
>
> *Id. at 380.* See also, *De La Rosa v. U.S.*, 417 F.3d 145, 163 (1st Cir. 2005)(Torruella, dissenting, citing to Justice Harlan).

Chief Justice Fuller also opposed Congressional power outside the Constitution identifying the exact *Pandora's Box* that would occur with an unconstitutional application of unequal rights:

> The Fifteenth Amendment declares that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Where does that prohibition on the United States especially apply if not in the territories?
>
> The government of the United States is the government ordained by the Constitution, and possesses the powers conferred by the Constitution. […] The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time, be passed by those intended to be restrained?
>
> The power of the United States to acquire territory by conquest, by treaty, or by discovery and occupation, is not disputed [however] the source of national power in this country is the Constitution of the United States; and the government, as to our internal affairs, possesses no inherent sovereign power not derived from that instrument, and inconsistent with its letter and spirit.
>
> That [majority's] theory [incorrectly] assumes that the Constitution created a government empowered to acquire countries throughout the world, to be governed by different rules than those obtaining in the original States and territories, and substitutes for the present system of republican government, a system of domination over distant provinces in the exercise of unrestricted power.
>
> *Downes v. Bidwell*, 182 U.S. 244, 347-373 (1901)(Fuller, dissenting).

Justice Black highlights that Congressional power outside the Constitution is not only a "grave concern" but a "dangerous doctrine" which would "undermine the basis of our Government:"

> These cases raise basic Constitutional issues of the utmost concern. The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution.
>
> When the Government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land. This is not a novel concept. To the contrary, it is as old as government. It was recognized long before Paul successfully invoked his right as a Roman citizen to be tried in strict accordance with Roman law.
>
> The rights and liberties which citizens of our country enjoy are not protected by custom and tradition alone, they have been jealously preserved from the encroachments of Government by express provisions of our written Constitution.
>
> This Court and other federal courts have held or asserted that various constitutional limitations apply to the Government when it acts outside the continental United States. While it has been suggested that only those constitutional rights which are "fundamental" protect Americans abroad, we can find no warrant, in logic or otherwise, for picking and choosing among the remarkable collection of "Thou shalt nots" which were explicitly fastened on all departments and agencies of the Federal Government by the Constitution and its Amendments.
>
> The concept that the Bill of Rights and other constitutional protections against arbitrary government are inoperative when they become inconvenient or when expediency dictates otherwise is a very dangerous doctrine and if allowed to flourish would destroy the benefit of a written Constitution and undermine the basis of our Government.
>
> *Reid v. Covert*, 354 U.S. 1, 3-14 (1957); See also, *Torres v. Puerto Rico*, 442 U.S. 465, 476 (1979)(Justice Brennan citing to Justice Black in *Reid*.)

19. The correct interpretation is that citizens of the United States living in the U.S. Virgin Island deserve every right and privilege that is afforded to any other U.S. citizens under the Constitution. Any status as “second-class citizenship” is unconstitutional. Returning full circle to Justice Harlan’s dissent:

> The Constitution is not to be obeyed or disobeyed as the circumstances of a particular crisis in our history may suggest the one or the other course to be pursued. The People have decreed that it shall be the supreme law of the land at all times. When the acquisition of territory becomes complete, by cession, the

> Constitution necessarily becomes the supreme law of such new territory, and no power exists in any Department of the Government to make "concessions" that are inconsistent with its provisions. The authority to make such concessions implies the existence in Congress of power to declare that constitutional provisions may be ignored under special or embarrassing circumstances. No such dispensing power exists in any branch of our Government.
>
> The Constitution is supreme over every foot of territory, wherever situated, under the jurisdiction of the United States, and its full operation cannot be stayed by any branch of the Government in order to meet what some may suppose to be extraordinary emergencies. If the Constitution is in force in any territory, it is in force there for every purpose embraced by the objects for which the Government was ordained. Its authority cannot be displaced by concessions.
>
> The meaning of the Constitution cannot depend upon accidental circumstances. We cannot violate the Constitution in order to serve particular interests in our own or in foreign lands. Even this court, with its tremendous power, must heed the mandate of the Constitution. No one in official station, to whatever department of the Government he belongs, can disobey its commands without violating the obligation of the oath he has taken. By whomsoever and wherever power is exercised in the name and under the authority of the United States, or of any branch of its Government, the validity or invalidity of that which is done must be determined by the Constitution.

Downes v. Bidwell, 182 U.S. 244, 384 (1901) (Harlan, dissenting)[13]

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[13] Justice Harlan's dissent in *Hawaii v. Mankichi*, 190 U.S. 197, 227 (1903) should also be held as good law after *Brown v. Board of Education*. Like Cassandra's warning, Justice Harlan's dissent was ignored. Yet, the passage of nearly 100 years has proven Justice Harlan's prediction tragically true! Justice Harlan's correct interpretation of the supreme power of the Constitution is:

"In my opinion, the Constitution of the United States became the supreme law of Hawaii immediately upon the acquisition by the United States of complete sovereignty over the Hawaiian Islands, and without any act of Congress formally extending the Constitution to those Islands. [The Court today] place[s] Congress above the Constitution [and holds] the will of Congress, not the Constitution, is the supreme law of the land only for certain peoples and territories under our jurisdiction. It mean[s] that the United States may acquire territory by cession, conquest or treaty, and that Congress may exercise sovereign dominion over it, outside of and in violation of the Constitution, and under regulations that could not be applied to the organized Territories of the United States and their inhabitants."

"[I]f the principles now announced should become firmly established, the time may not be far distant when […] the United States will acquire territories […] whose inhabitants will be […] controlled as Congress may see fit, not as the Constitution requires, nor as the people governed may wish. Thus will be engrafted upon our republican institutions, controlled by the supreme law of a written Constitution, a colonial system entirely foreign to the genius of our Government and abhorrent to the principles that underlie and pervade the Constitution. We will have two governments over the peoples subject to the jurisdiction of the United States, one, existing under a written Constitution, creating a government with authority to exercise only powers expressly granted and such as are necessary and appropriate to carry into effect those so granted; the other, existing outside of the written Constitution, in virtue of an

Justice Frankfurter's words best describe how the *Insular Cases* should be treated:

> [These] case[s] represent, historically, and jurisprudencely, an episode of the dead past about as unrelated of the world of today as the one-hoss-shay is to the latest jet airplane.
>
> *Kinsella v. Krueger,* 351 U.S. 470, 482 (1956)(Frankfurter, "Reservation").

20. The *Insular Cases,* in sum, are in total diametrical opposition to our Constitution, which provides for the equal protection of all races, and, further, the principal that enfranchisement is the foundation of our personality liberties, civil rights, and our democratic system. Using the imperialistic and racist *Insular Cases*, U.S. citizens in the Virgin Islands have been conferred a second class, *Jim Crow* status.[14]

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unwritten law to be declared from time to time by Congress, which is itself only a creature of that instrument."

[14] See, *Igartúa v. United States,* 626 F.3d 592, 612 & 638 (1st Cir 2010)(Torruella, dissenting) ("This is a most unfortunate and denigrating predicament for citizens who for more than one hundred years have been branded with a stigma of inferiority […] Allowing the creation of a second class of U.S citizens on a permanent, or even indefinite, basis is not a proper exercise of the power of Congress under the Territorial Clause." Citing *U.S. Const. amend. XIV*).; John Adams Hyman, the Reconstruction black Congressman from North Carolina in 1875 – 1877 stated: "If the negro is a man, he is entitled to *all* the rights and privileges of any other man. There can be no grades of citizenship under the American flag." U.S. House of Representative, *Blacks Americans in Congress: 1870-2007* (Gov. Printing Office, Washington, D.C., 2008 at p.133)

See also, Albert H. Howe, editor, *The Insular Cases*: *The Records, Briefs, and Arguments of Counsel in the Insular Cases of the October Term, 1900, in the Supreme Court of United States including the Appendixes Thereto* (Gov. Printing Office. Washington. 1901 at p.562)("The case of Dred Scott simply held that the negro was so low in the scale of humanity that the States could not, by conferring freedom upon him, make him capable of becoming a citizen of the United States in the broad or passive sense. He was, therefore, neither citizen nor subject, but a being who, under the Constitution, was something different and apart from the rest of humanity."); *Id.* at p. 606 ("[B]ecause all women and all minors everywhere and all the men living in the Territories and having no representation and no right to vote, are all subjects.")

See also, *The Negro in Chicago: A Study of Race Relations and a Race Riot*. By Chicago Commission on Race Relations. (Univ. of Chicago Press 1922 at p.xxiii)("The relation of whites and Negroes in the United States is our most grave and perplexing domestic problem. Many white Americans, while technically recognizing Negroes as citizens, cannot bring themselves to feel that they should participate in government as freely as other citizens.")

21. Just as the courts have struck down the racist principle of separate but equal in *Plessy v. Ferguson,* Jim Crow laws, and interracial marriage bans,[15] so too the racist and bigoted denial of fundamental voting rights to U.S. citizens residing in the United States Virgin Islands from electing the President or members of Congress, as well as the ability to run for these federal offices must be struck down as this present system is not in accord with the fundamental principles of democracy found in the Constitution.

COUNT I

VIOLATION OF THE FOURTEENTH AND FIFTEENTH AMENDMENTS AS APPLIED VIA THE REVISED ORGANIC ACT [16]

PRIMA FACIE RACIAL DISCRIMINATION

22. By 1901 the United States Congress had purged itself of the last black [17] Congressman of the Reconstruction Era after the Civil War.

23. In 1913, Woodrow Wilson assumed the office of President of the United States. President Wilson openly supported the *Ku Klux Klan* and implemented segregation and *Jim Crow* policies of his native Virginia in Washington D.C.[18]

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[15] Most descriptive of the racism of the time is that President Obama's parents could have been arrested for their union. President Obama was born in 1961, yet marriage between blacks and whites was not held to be legal by the Supreme Court until 1967 in *Loving v. Virginia*, 388 U.S. 1. (1967).

[16] See, *Bernhardt v. Bernhardt*, 51 V.I. 341, FN4 (2009); See also, *United States v. Hyde*, 37 F.3d 116, 123, 30 V.I. 475 (3d Cir. 1994).

[17] For the sake of continuity the term "black" will be used for Americans of African descent. To be "black" has historically been a white construct, in that a person may be considered "black" simply by the "one-drop" theory of non-white blood. Homer Adolph Plessy, the plaintiff in *Plessy v. Ferguson*, was one-eighth black and seven-eighths white, and born a free person, yet under a Louisiana law enacted in 1890, he was classified as black. To present, President Obama is half-white, half-black, yet due to the history of discrimination in the United States, he is referred to as "black" since he would have been included in various segregation and Jim Crow laws.

[18] See, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II.* Blackman, Douglas, A. at p.357-9 (2009)(Pulitzer Prize Winner)("The election in 1912 of Woodrow Wilson, an openly white supremacist Democrat from Virginia, precipitated a dramatic

24. After President Wilson's promotion of the *Ku Klux Klan*, they openly marched in Washington, DC., as a public demonstration of power.

25. President Wilson idealized the antebellum South and demonized black political participation, calling the Reconstruction era of African American governance in the states "an extraordinary carnival of public crime," while the removal of black political activity was "by nature, the inevitable ascendancy of the whites."[19]

expansion of Jim Crow restrictions on African Americans. His administration largely introduced to Washington D.C., the demeaning southern traditions of racially segregated work spaces, office buildings, and restrooms. Wilson strongly backed the demands of southern leaders that their states be left alone to deal with issues of race and black voting […] ensuring there would be no challenge to the raft of laws passed to disenfranchise African Americans."

Further, one of President Wilson's best friends from his university days was Thomas Dixon, the author behind the racist movie *The Birth of a Nation*. President Wilson held showing of the movie at the White house for members of his cabinets, elected officials, and justices of the Supreme Court. *The Birth of a Nation* included extensive quotations from Woodrow Wilson's *History of the American People*, such as, "The white men were roused by a mere instinct of self-preservation… until at least there had sprung into existence a great *Ku Klux Klan*, a veritable empire of the South, to protect the Southern country." The *Ku Klux Klan* soared in popularity thanks to the endorsement of the President of the United States.

See also, U.S. House of Representative, *Blacks Americans in Congress*: 1870-2007 (Gov. Printing Office, Washington, D.C., 2008 at p.172-3("President Wilson introduced bills to segregate the federal civil service, the military and public transportation in Washington, DC. Having solidified absolute control over race issues in the South, southern members of Congress were sufficiently emboldened to prod Congress to enforce nationalized racial apartheid. [S]egregation was tacitly encouraged and widely practiced."

[19] See, articles from *The Chicago Defender* circa 1915 and 1918 attached as **Exhibits A**.

26. By the time the Virgin Islands was purchased in 1917, there was not one black representative in Congress, the federal Judiciary, and of course, the President or his Executive Cabinet. It was a government of white males with a lone white Congresswoman from Montana.[20]

27. President Wilson and the Congress of one hundred years ago knew that extending constitutionally mandated voting rights to U.S. Virgin Islanders would result in the first majority black jurisdiction capable of electing Congressional representatives[21] – elected officials which represented their voters – i.e., black Congressmen and black Senators. This was a terrifying idea to an all-white federal government. [22]

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[20] Congress' own historical book admits to its invidious and outrageous discrimination: "After winning the right to participate in the American experiment of self-government, African Americans were systemically and ruthlessly excluded from it: From 1901 to 1929, there were no blacks in the federal legislature. This era was defined by a long war on African Americans participation in state and federal politics, waged by means of southern laws, *Jim Crow* segregation, and tacit federal assent. Congress responded to civil rights measures with ambivalence or outright hostility" U.S. House of Representative, *Blacks Americans in Congress: 1870-2007* (Gov. Printing Office, Washington, D.C., 2008 at p.2 & 3)

[21] See, *Pollard v. U.S.*, 326 F.3d 397, 404, 45 V.I. 672, 697 (3d Cir. 2003) ("The Virgin Islands is the only United States jurisdiction […] which has a black majority.")

See, *Census of the Virgin Islands of the United States*, Eugene F. Hartley, Dept. of Commerce (Gov. Printing Office, Washington D.C. 1918 at p.44)("The total population of the Virgin Islands of the United States in 1917 is 7.4 per cent white, 74.9 per cent negros, and 17.5 per cent of mixed white and negro blood. No census of the Virgin Islands prior to that of 1917 was inquiry made as to the color or race of the people." Further at p.62 the federal report looked at the racial demographics of those who could vote: "Inquiry into males of voting age. Total numbers of males 21 years of age and over […] of such 11.4 per cent are white, 73.6 per cent are negro, and 11.8 per cent are mixed, and 0.4 per cent are of all other races.")

See, Theodoor de Booy & John T. Farris, *The Virgin Islands, Our New Possessions* (Philadelphia & London, J.B. Lippincott Co, 1918 at pp. 71, 144, and 201)("Fully ninety per cent of the total population of St. Thomas is negro. St. John has a population ninety-nine per cent colored. St. Croix supports a population where fully ninety-five per cent are colored").

[22] In Congress Rep. Thomas Spight of Mississippi objected to any ability of blacks to vote: "[N]egros and of mixed blood have nothing in common with us and centuries cannot assimilate them… They can never be clothed with the rights of American citizenship. Congressman Champ Clark of Missouri echoed the same sentiment regarding Hawaiians, "How can we endure our shame, when a Chinese Senator from Hawai'i, with his pig-tail handing down his back, with his pagan joss in hand, shall rise from his curule chair and in pidgin English proceed to chop logic with George Frisbie Hoar or Henry Cabot Lodge. In the Senate, Albert Beveridge of Indiana stated, "God has not been preparing the English-speaking and Teutonic peoples for a thousand years for nothing but vain […] self-admiration. No […] He has made us adept in government that we may administer government among the savage and

Thus, citizens of the U.S. Virgin Islands were denied the right to vote, the right to run for office, and the right of Electoral College.

28. As an example of the public and government sentiment against allowing Constitutionally mandated elective representation in the federal government in non-white majorities, see political cartoon on the next page from the Philadelphia Inquirer in 1900. The Virgin Islands, a true jurisdiction comprised of a majority of persons of African descent was soon to join this racist hyperbole.

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servile peoples." See, 33 Cong. Reg. 2105 (1900); 33 Cong. Reg. 3616 and 56 Cong., 1st Sess. Pp 704-12 (1900). "Innumerable racist slanders were uttered on the House and Senate floors with virtual impunity from 1890 through the 1920s." For example, Congressman James Kimble Vardaman of Mississippi said, "To educate the negro is to spoil a good field hand." Congressman James Thomas Heflin stated, "[the right to vote] is "an inherent right for the white man and a privilege with the Negro." U.S. House of Representative, *Blacks Americans in Congress: 1870-2007* (Gov. Printing Office, Washington, D.C., 2008 at p.181). Congressman Tillman stated: "My democracy means white supremacy." *Id* at 158. Tillman also stated: "The action of President Roosevelt in entertaining that nigger [Booker T. Washington] will necessitate our killing a thousand niggers in the South before they learn their place again." Morris, Edmund, *Theodore Rex*, (Random House 2002).

This attitude of racism was evident even in the most open-minded and liberal of the federal government officials sent down to govern the U.S. Virgin Islands. In 1937, a federal government official, Hamilton Cochran, after living on St. Thomas for two years, wrote a book called, *These are the Virgin Islands*. He states: "The slow rise to power has naturally enhanced the negro's pride and ego to a point where he actually believes that he should be permitted to rule his own islands according to his own ideas […] it will be evidently be a long time before the negro is considered qualified to work out his own destiny unaided by the white man's brains and money" P.56-57. (Prentice-Hall, New York).

Further, see, *America's Virgin Islands: A History of Human Rights and Wrongs*, Boyer, William W. (2010 2d Ed at P.118)(Where Navy appointed Southern "white-supremacists" to govern the Virgin Islands. In 1922, Navy Governor Sumner E.W. Kittelle wrote to President Warren Harding, "I cannot too strongly urge that there be no change made in the organic law until a full generation has elapsed […] and above all the white element must remain in the lead and in supreme control."); Willocks, Harold W.L., *The Umbilical Cord: the History of the United States Virgin Islands from Pre-Columbian Era to the Present* (1995 2d ed. at pp. 263 & 282)(Describing that the "Navy and Marines brought with them the practice of overt racism." and quoting Gov. Kittle's statements in his annual report, "[I]t would be a sorry day for the Virgin Islands if any governmental authority should ever come to rest upon the shoulders of these professional malcontents [local black civil rights leaders.])"

Further, see, Theodoor de Booy & John T. Farris, *The Virgin Islands, Our New Possessions* (Philadelphia & London, J.B. Lippincott Co, 1918 at pp. 71)("The St. Thomian negroes are far more polite than any other negros in the West Indies; they do not seem to wish to be on a footing of equality with their white fellow citizens.")

HOLDING HIS END UP.

JOHN BULL—"It's really most extraordinary what training will do. Why, only the other day I thought that man unable to support himself."—Philadelphia Inquirer.

29. Further President Roosevelt moved to stack the Supreme Court specifically to uphold the racist *Insular Cases* because at a 5-4 plurality the judicial constitutional fiat of the High Court would be undone by new Justice who could look past race and properly apply the true purpose of the Constitution – that the Constitution was superior to Congress and that all jurisdictions under the United States flag are to have the ability to vote for representatives at every level of government rule.[23]

30. To present, the right to vote has been continually and purposefully denied as the U.S. Virgin Islands would still be the first majority black jurisdiction.[24]

31. Though racism was the evil bar that prevented rightful enfranchisement of U.S. Virgin Islands – and that evil cloud still remains today – the political reality is now that party-politics will never allow the U.S. Virgin Islands to have congressional representation because of the perceived disparate impact it will have on the Republican Party.

32. The Republican Party is nearly non-existent in the Virgin Islands. Republicans will never allow enfranchisement of the U.S. Virgin Islands because of the likely addition of Virgin Islands' Democrats in Congress and the Senate (and perhaps President, one day).

33. The U.S. Virgin Islands have been trapped in political limbo for nearly one hundred years by the opinions of the same racist Supreme Court that created "separate but

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[23] See, Hon. Gustavo A. Gelpi, *The Insular Cases: A Comparative Historical Study of Puerto Rico, Hawai'I, and the Philippines.* The Federal Lawyer (March/April 2011 at p.23)("President Roosevelt clearly favored the Court's imperialist groundwork. The initial Insular Cases , however, were decided by a 5-4 plurality. When Justice Horace Gray retired, it became paramount for Roosevelt to fill the vacancy with a candidate who would uphold the Court's precedent. Oliver Wendell Homes was his man. Letters to and from Roosevelt to the U.S. senator from Massachusetts, Henry Cabot Lodge, are evidence of Holmes' commitment to the Insular Cases as a condition of his appointment. Holmes joined the Court in 1902 and voted consistently in support of the doctrine.")

[24] The District of Columbia is, however, very close to becoming a majority black jurisdiction.

equal" in *Plessy v. Ferguson.* However, while the courts have endeavored to dismantle and reverse the vestiges of racism, nothing has been done about the United States Virgin Islands racist disenfranchisement.[25]

34. Further, with no Congressional representation, there is no political remedy. U.S. Virgin Islanders have no ability to elect legislators to change this disenfranchisement, and there exists no incentive for Republicans to move for a Constitutional Amendment.[26] The Virgin Islands are then left in constant and continuing violation of the most fundamental Constitutional right – elected representation.[27]

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[25] History does repeat itself. Slaves were purportedly free after the Civil War in 1865, yet for the next 100 years a type of "neo-slavery" was practiced by segregation, disenfranchisement, and the unequal and unfair application of petty laws like vagrancy, disorderly conduct, and disturbing the peace. Blacks had entered a second age of slavery. See, *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II.* Blackman, Douglas, A. (2009)(Non-Fiction Pulitzer Prize Winner).

In U.S. Virgin Island the federal government used to the denial of Constitutional rights, such as the deprivation of jury trials, to curtail advocates for enfranchisement and representative government. Civil Rights heroes, such as such as George E. Audain, editor of the *St. Thomas Mail Notes*, D. Hamilton Jackson, editor of the St. Croix *The Herald,* Ralph de Chabert editor of the *St. Croix Tribune*, and Rothschild Francis, editor of the St. Thomas *Emancipator* were charged with criminal libel and jailed without the fundamental right of a jury trial. See, *Francis v. Williams, District Judge*, 1 V.I. 567, 11 F.2d 860 (3d Cir. 1924). See also, Willocks, Harold W.L., *The Umbilical Cord: the History of the United States Virgin Islands from Pre-Columbian Era to the Present* (1995 2d ed. at pp. 264-7, 285); Boyer, William W., A*merica's Virgin Islands: A History of Human Rights and Wrongs*, (2010 2d Ed)(Pages 128 – 138, detailing the struggles of early civil rights leaders); See last, articles from *The Chicago Defender* circa 1923 and 1925 attached as **Exhibits B**.

Now the U.S. Virgin Islands borders on 100 years of disenfranchisement, a type of "neo-slavery" via status as second-class citizens.

[26] Like Puerto Rico, the U.S. Virgin Islands exist in a state of continuing unconstitutional limbo. See, *De La Rosa*, 229 F.3d 80, 89 (Torruella, J)("The United States citizens residing in Puerto Rico are caught in an untenable *Catch-22*. The national disenfranchisement of these citizens ensures that they will never be able, through the political processes, to rectify the denial of their civil rights in those very political processes.")

[27] *Igartúa v. United States*, 626 F.3d 592, 614 (1st Cir 2010)(Torruella, dissenting)("The suggestion that [this needs] a political remedy rather than a judicial remedy [is] ironic given that it is precisely the lack of political representation that is the central issue in this case. It is this lack of any political power by these disenfranchised U.S. citizens, and the cat and mouse games that have been played with them by the United States government, including its courts, that have resulted in their interminable unequal condition.") Torruella continues to extrapolate that this reasoning would mean that *Brown v. Board* was

35. The Plaintiff is a United States citizen and a resident of the United States Virgin Islands.

36. The Plaintiff is over the age of 18 and yet has no ability to vote for the President of the United States of American, or the House and Senate members which govern him.

37. The Plaintiff also has no ability to run for a representative position in the United States' House or Senate, which rule and regulate his locale.

38. The Plaintiff desires to run for a House or Senate position and further to vote for the United States President and House and Senate representatives which rule and regulate his locale.

39. He, along with all other eligible U.S. citizens residing in the U.S. Virgin Islands, have been denied the right to vote, the right to run for office, and the right to participate in the Electoral College, due to the prejudices and racism of nearly a century ago. This racism has continued unmitigated, with no implementation of a Constitutional representation in the federal government or any political indication in the foreseeable future that this will change.

COUNT TWO

INJUNCTIVE RELIEF

PROHIBITING REMOVAL FROM THE SUPERIOR COURT
ARTICLE IV FEDERAL COURTS ARE NOT CONSTITUTIONALLY INDEPENDENT

40. This case should not be removed because the federal judges of the Virgin Islands are not protected with life-tenure and judicial independence. The federal judges of the Virgin Islands are Article I judges, presiding over Article IV courts, appointed for

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not the way to overturn *Plessy v. Ferguson*, but instead African-Americans should have lobbied their white Congressional representatives for justice!

only ten (10) years, and thus only are vested in preserving the power of the Executive and the Legislative branches to secure there re-appointment.[28]

41. Honorable Thomas K. Moore, who advocated for equal treatment for U.S. Virgin Islanders, was not reappointed to another term because he did not conform to the expectations of federal executive and congressional power.[29]

42. Further, this case should not be heard by a judge in which the people of the Virgin Islands have no elected say in the executive who appoints the judge to the Territory and no elected say in the senate who confirms this nomination.

43. Treating federal judges in the District of the Virgin Islands as second-class judges represents an unconstitutional violation of the "separation of powers."

COUNT THREE

DECLARATORY RELIEF

MANDATING A SYSTEM OF ENFRANCHISEMENT OR THE IMPLEMENTATION OF ELECTORAL COLLEGE

44. This Court has the power of declaratory judgment. The Court should not shrink from this duty no matter how monumental the task. If courts only enforced easily remediated civil rights violations but not difficult breaches of fundamental

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[28] *USA v. Pollard*, 209 F. Supp. 2d 525, 543 (DVI 2002)(Moore)("I touch on one last point of double discrimination by Congress against the Virgin Islands and its residents. In 1966, Congress made the federal district court of Puerto Rico an Article III court whose judges serving during good behavior but left the District Court of the Virgin Islands as an Article IV court whose judges now serve ten-year terms. This is double discrimination because Congress not only treats the Virgin Islands differently from all the Sates but also treats it differently from our fellow unincorporated territory of Puerto Rico, a different treatment for which there is absolutely no conceivable rational basis. […] The District Court of the Virgin Islands nevertheless remains an Article IV court whose judges are without the guarantees of judicial independence.")

[29] A comparison can be made between Judge Moore and the early newspaper editors who printed and published the unequal treatment of the U.S. Virgin Islands for all to read. The newspaper editors were harassed, jailed, and some deported. Judge Moore, through a more civil means, but just as invidious and discriminatory, was unceremoniously relieved of his position of judgeship.

constitutional rights, then *Brown v. Board of Education* and its progeny would have been dismissed as too difficult.[30]

45. Whether it is individual voters or Electoral College, the fact remains that the U.S. Virgin Islands are being denied the most basic and fundamental Constitutional right – the right to vote – and the Court must act to correct this injustice as politicians have failed to do so for nearly the past one hundred years. It is undisputable that the Virgin Islands was denied enfranchisement due to the racist, xenophobic, and discriminatory attitudes which permeated society in 1917 when an all-white President, Congress, Supreme Court, and federal judiciary governed America.[31]

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[30] See, *De La Rosa*, 417 F.3d 145, 160 (1st Cir. 2005)(Torreulla, dissenting)("The difficulty, complexity, or length of the process required for the United States to comply with the law of the land is irrelevant, as it has never been a test for redressability of a wrong. Cf. *Brown v. Bd. of Educ*., 349 U.S. 249 (1955)(ordering racial desegregation of schools occur "with all deliberate speed.")

[31] See, *Northwest Austin Mun. Util. Dist. No. One v. Holder*, 129 S. Ct. 2504, 2520 (2009) (C.Thomas, dissenting)("By 1872, the legislative and executive branches […] were once again firmly in the control of white[s…], who resorted to a variety of tactics, including fraud, intimidation, and violence, to take away the vote from blacks [….] A soon-to-be victorious mayoral candidate in Wilmington, North Carolina, for example, urged white voters in an 1898 election-eve speech: "Go to the polls tomorrow and if you find the negro out voting, tell him to leave the polls, and if he refuses kill him; shoot him down in his tracks." S. Tolnay & E. Beck, *A Festival of Violence: An Analysis of Southern Lynchings*, 1882-1930, p 67 (1995). This campaign of violence eventually was supplemented, and in part replaced, by more subtle methods engineered to deny blacks the right to vote. Literacy tests were particularly effective […] because prior to the Civil War, most of the slave States made it a crime to teach Negroes how to read or write. Literacy tests were unfairly administered; whites were given easy questions, and blacks were given more difficult questions, such as the number of bubbles in a soap bar, the news contained in a copy of the *Peking Daily*, the meaning of obscure passages in state constitutions, and the definition of terms such as habeas corpus.")(internal citations and quotation marks omitted).

See also, U.S. House of Representative, *Blacks Americans in Congress: 1870-2007* (Gov. Printing Office, Washington, D.C., 2008 at p.157, 159)("Poll taxes, were hugely successful at excluding blacks. Additional registration laws required documents many votes did not possess." The effectiveness of disenfranchisement cannot be overstated. In 1896 before literacy, poll tax, and property qualifications there were 130,000 registered black voters in Louisiana. By 1904 there were only 1,300 registered black voters.)

See also, article from *The Chicago Defender* circa 1920 about black man lynched for attempting to vote, attached as **Exhibit C**; "Between 1901 and 1929, more than 1,200 blacks were lynched in the South." U.S. House of Representative, *Blacks Americans in Congress*: 1870-2007 (Gov. Printing Office, Washington, D.C., 2008 at p.176

46. From 1901 through 1929, Congress had not one black representative. Black representation in Congress was negligible until the Civil Rights Act of 1964. Currently there are 535 seats in Congress, yet only 19 seats are held by blacks. Despite being 13% of the United States population, black Congressional representation is only 3.5% of Congress.

47. There is no Congressional will to reverse the racially motivated refusal to extend enfranchisement to the U.S. Virgin Islands. Congress is not so benevolent to cede its unconstitutional powers; it enjoys them too much. Republicans will never agree to a plan which would seat Virgin Islands' Democrats in Congress. This is no surprise, as politicians are not tasked with doing justice but with securing their re-election. The task of justice rests solely in the hands of the courts. Only the Court can cut the Gordian knot of political deadlock and free U.S. citizens in the United States Virgin Islands from the "stigma of inferiority" that continues the disenfranchisement that began with the implementation of Jim Crow.[32]

48. Like *Plessy*, it is the courts that created the ignominious *Insular Cases.* The damage done by *Plessy* would be engrained in society for fifty-six (58) years before the same High Court corrected itself with *Brown v. Board of Education.* Local courts then

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[32] See, *De La Rosa v. USA*, 417 F.3d 145, 160 (1st Cir. 2005) (Torreulla, dissenting) ("Considering that justice and equity are the hand-maidens of law, I believe it is the duty of this court to exercise its equitable power under Declaratory Judgment […] This is of the very essence of judicial duty.")

Igartúa v. United States, 626 F.3d 592, 613 (1st Cir 2010)(Torruella, dissenting)("[M]ore egregious is the fact that it is this judiciary that has mechanically parroted the [racist] underpinnings [of] unequal treatment of persons because of the color of their skin or other irrelevant reasons, was then the *modus operandi* of governments, and […] societies in general. [T]he continued enforcement of these rules by the courts is today an outdated anachronism. Such actions […] only serve to tarnish our judicial system as the standard-bearer of the best values to which our Nation aspires. Allowing these antiquated rules to remain in place, long after the unequal treatment of American citizens has become constitutionally, morally and culturally unacceptable in the rest of our Nation, is an intolerable state of affairs which cannot be excused by hiding behind any theory of law.

spent the next fifteen (15) years enforcing hundreds of declaratory orders to discontinue the invidious practices of discrimination.[33] The United States Virgin Islands approaches one hundred (100) years of racial discrimination and it is the courts alone who can overturn the racist and tortured rationale of the *Insular Cases.*

49. Lastly, one of the greatest institutions of the United States of America is its commitment to *Rule of Law*. No person, corporation, or even government, is above the Law. The United States is just another party, to be treated no higher than a private citizen.[34] When the United States or any government entity violates the law – in this case the Constitution – it is sanctioned just as any private citizen. That is our greatest triumph as a "[A] government of the people, by the people, for the people."

NOTICE OF ALLEGATION

OF PUNITIVE DAMAGES

50. The actions of the Defendants and the government of the United States of American were intentionally racially discriminatory in denying U.S. citizens residing the U.S. Virgin Islands the right to vote and run for office. This invidious racial discrimination continues to the present and represents extreme, outrageous,

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[33] *Igartúa v. United States*, 626 F.3d 592, 613 (1st Cir 2010)(Torruella, dissenting)("At the root of this problem is the unacceptable role of the courts. Their complicity in the perpetuation of this outcome is unconscionable. As in the case of racial segregation it is the courts that are responsible for the creation of this inequality. Furthermore, it is the courts that have clothed this noxious condition in a mantle of legal respectability.")

[34] See, *De La Rosa v. USA*, 417 F.3d 145, 183 (1st Cir. 2005)(Torreulla, dissenting) ("The United States is just another party in this case, as it is in thousands that are heard [in] courts throughout the nation. It has not higher standing than any other party, and is entitled to no higher privilege than private citizens. It is precisely because the courts of the United States are perceived by the world at large as upholding these high standards of impartiality [….]"

intentional conduct of the government to continue to deny the full provisions and protections of the U.S. Constitution to U.S. citizens in the U.S. Virgin Islands.

51. Each defendant is jointly and severally liable for the claims alleged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for:

A. The Court apply strict scrutiny for unequal treatment due to racial discrimination;

B. Award Plaintiff equitable relief that the federal government develop a procedure for the U.S. Virgin Islands, or citizens of the U.S. Virgin Islands, to vote for the U.S President, to register to run for U.S. President, and to register to run for Congressional office in House and Senate positions and to vote for those running for Congressional office House and Senate positions.

C. Award Plaintiff damages in an amount to be shown at trial;

D. Award Plaintiff punitive damages in an amount to be shown at trial;

E. Award Plaintiff reasonable attorney's fees and costs;

F. Award Plaintiff pre - and post-judgment interest;

G. Grant to Plaintiff such additional relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues triable by a jury.

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Respectfully submitted,

DATED: September 20, 2011

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"The rational and peacable instrument of reform, the suffrage of the people."

~Thomas Jefferson, *The Jeffersonian Cyclopedia*, John P. Foley, ed. (New York: Funk & Wagnalls Company, 1900), p. 842.

"A share in the sovereignty of the state, which is exercised by the citizens at large, in voting at elections is one of the most important rights of the subject, and in a republic ought to stand foremost in the estimation of the law."

Alexander Hamilton, *The Papers of Alexander Hamilton*, Harold C. Syrett, ed. (New York, Columbia University Press, 1962), Vol III, pp. 544-545.

FACTS ABOUT BIRTH OF A NATION PLAY AT THE COLONIAL
Mrs. K J Bills
The Chicago Defender (Big Weekend Edition) (1905-1966); Sep 11, 1915;
ProQuest Historical Newspapers The Chicago Defender (1910 - 1975)
pg. 3

FACTS ABOUT BIRTH OF A NATION PLAY AT THE COLONIAL

EXHIBIT
A

One Who Has Seen and Knows About the Early Days the Author Tries to Falsely Depict Tells It as It Was.

(By Mrs. K. J. Bills.)

I went to see the "Birth of a Nation" —not because I wanted to see it, but to be able to criticize intelligently. It is impossible to know what a play is unless one is an eye witness. I had heard so much said for and against the play I was determined to see for myself. There is nothing in the first part to which any reasonable person would object. It deals with historical facts which hold a person almost spellbound.

The second part—well, it is such an exaggeration that to a person who really knew and lived during that period it is not at all interesting. It is false from beginning to end. It is meant to create a greater race prejudice than already exists between the races. I shall mention some of the false impressions: Was there ever a congress composed entirely of Negroes who passed laws to govern all the whites in the South? Was there ever a time when the southern white people were at all as submissive to the blacks as this picture would have people believe? Does anyone believe that after the war the Negroes had no other ambition than to marry white women? Someone has said we as a race have enough hardships heaped upon us without creating a picture which actually lies. I wonder if Mr. Griffin lived during those days, and does he really remember things as they were.

The outrages of the Ku Klux were nothing like the picture shows them to be. There was no noise, no fast horseback riding, no clash between them and the Negroes. It is true they went around on horseback, but very quietly, like thieves. No one knew or heard any horses' feet. I remember well when a small child the Ku Klux came to my father's cabin. They knocked quietly, called him by name and made him open the door. Though they were masked, he knew their voices, for they were some of the gentlemen of his master's family. They asked for his gun. He gave it to them. They left as quietly as they came. They went to every other Negro cabin and did the same thing. There was no resistance, no fighting.

The part showing the black man chasing the little girl, compelling her to jump off a high place and kill herself, is meant only to stir up hatred. Nothing of this kind has ever happened since the world was created. The Negro has never been so brutal. Why was not some of this brutality shown while their masters were at war? It was then the Negroes had full charge of their masters' families. They protected them as no other person would have done.

I cannot understand why this was not cut out by the censors. They claim to be so very particular. No other race but this black American race would stand for the exhibition of pictures which are meant to poison the mind as this picture is. The Irish, German, Jewish, Polish, Swedish or any other race would have wrecked the Colonial theater long ago. No judge or censor bureau would have permitted it if it were showing any other race than the Negro.

BE STILL, SAD HEART; Jim Crowers Still in Saddle
The Chicago Defender (Big Weekend Edition) (1905-1966); Jan 19, 1918;
ProQuest Historical Newspapers The Chicago Defender (1910 - 1975)
pg. 12

BE STILL, SAD HEART;
Jim Crowers Still in Saddle

One question has been upon the lips of Lincoln's children since the government took over the railroads—only one question. It is this:

Now that the United States will operate the railroads, will Southern states be allowed to continue as common carriers the hog pens for the Race, or will all Americans, paying a like fare, ride in a common coach in Mississippi as well as in Illinois?

The Race is Federalist to the core. The serpent of states' rights the Race would crush with the heel of scorn. The theory upon which slavery fed to the full, and upon which slavery drew its last foul breath—states' rights—is the theory of the Jim Crow car, concubinage and lynching today!

Turning with eager heart to the Federal Government for relief from hourly ills, the Race turns from the wickedness of the state that shatters and spurns the mandate of the Constitution. And it was the Federal Constitution that gave the Race life and liberty and put the ballot in their hand.

Hope was high in the breast of the Race that the vulgarity of the South, as shown in the Jim Crow car, would be ended under Federal control of the railroads.

In no department of the government does the line of race or color hold the Race to the black; not in the letter of the law, though in the spirit of the law, as applied by Democratic charlatans, the yoke is heavier today than at any time since Hayes bartered away the sacrifice of Lincoln that power might follow crime.

The Negro Academy, embracing in its membership the scholars of the Race, in session at Washington last week, asked President Wilson to take down the Jim Crow signs in Southern trains and let democracy begin at home. The White House was indignant, we learn. The White House is easily insulted and readily indignant when any child of that Lincoln who was shot to death by the powers then and now opposed to liberty and equality asks for bread or protests the stones aimed by tireless hands at his loyal head.

The reply to the request was not written upon the parchment of state. No such courtesy was to be shown "insolent blacks." They were beside themselves, so it thought. Such reply as was to be made to this entreaty was intrusted to hands known for their readiness to slay a race and their willingness to stop the march of liberty.

This is the reply. It was handed the United Press. It appeared Sunday, January 6, in every daily newspaper in the South. Read it; read it and shudder:

(By the United Press)

Washington, Jan. 5.—What hopes Southern darkies may have had of riding in "white folks' cars" now that the government is operating them were dispelled tonight.

It became officially known that state regulations prescribing "Jim Crow" cars will not be interfered with by the railroad administration.

Indeed, all such regulations by state railroad commissions appeared likely to stand, for some time at least, it was said.

EXHIBIT

A

Many undertake the task of making the Race forget their God and Lincoln—neither of whom have they forgotten or will ever forget.

Ten years hence we will all wonder that for thirty years a great government allowed one-ninth of its population to be degraded by the Jim Crow car. The Jim Crow car will pass. It is passing now. This news from Washington is its death strangle.

And with the Jim Crow car will pass the Democratic party, the Jim Crow party, whose platform is hate.

"White folks' cars." What "white folks"? The "white folks" who make trouble on Southern railroads are bootblacks in the civilization of the real white people—the Northerner, whose money, inventive genius, industry, skill and scholarship have made a home for the round-shouldered, improvident breed that infests the South.

The Race in Indiana considers itself no better than the Race in Alabama. The "white folks" of Alabama are not as advanced as the white race in Indiana. If, then, the white race in Indiana can ride in cars with those of darker hue, why are separate cars necessary in Alabama?

If it is the color and race that offend, why is it in Southern cars Race women nursing white children are allowed by custom and by law to ride in the "white folks' cars"?

The Jim Crow car was created for no other purpose than to keep the Race in slavery. And we do not propose to accept the Jim Crow car. We propose to denounce the Jim Crow car as long as authorities approve the Jim Crow car or are silent thereupon.

The Jim Crow car to the contrary, let the Race remember that the Stars and Stripes is their flag. They saved it from the dust when the blood that now rules the land was shed in the effort to blot out its Stars and put up the bars instead of th. Stripes. Let us press on across the sea and call on William in the name of the land of our birth, and remember—

That God lives, the memory of Lincoln is deathless, and the Republican party, having been in Gethsemane, will now proceed to the mission of making men free!

PUT EDITOR IN JAIL FOR SCORING CITY OFFICIALS
The Chicago Defender (National edition) (1921-1967); Mar 17, 1923;
ProQuest Historical Newspapers The Chicago Defender (1910 - 1975)
pg. 9

EXHIBIT

B

PUT EDITOR IN JAIL FOR SCORING CITY OFFICIALS

New York, March 16.—Theodore Roosevelt, assistant secretary of the navy, has written to the National Association for the Advancement of Colored People promising investigation of complaints that free speech is being denied the natives of the Virgin Islands.

Complaint had been forwarded to Mr. Roosevelt in the following letter written by James Weldon Johnson, secretary of the National Association for the Advancement of Colored People:

"I send you enclosed a clipping from the March 7 issue of The Nation, the same being an article by Arthur Warner on a recent trial of an editor of a newspaper in the Virgin Islands for criticism of local administrative officials and his punishment for such criticism. These facts have been thoroughly corroborated by personal correspondence with prominent individuals in the Virgin Islands.

"On the surface this appears to be a violation of the right to free speech among the Virgin Islanders, which I am sure you would not approve.

"We are requesting that you be good enough to institute an investigation of these facts and a correction of what appears to be a gross evil. We will appreciate your immediate attention to this matter."

The editor punished for criticising local officials is Morenga Bonaparte, sub-editor of The Emancipator, published at St. Thomas, Virgin Islands.

VIRGIN ISLANDERS DEMAND EXPLANATION OF GOVERNOR
The Chicago Defender (National edition) (1921-1967); Mar 7, 1925;
ProQuest Historical Newspapers The Chicago Defender (1910 - 1975)
pg. 4

VIRGIN ISLANDERS DEMAND EXPLANATION OF GOVERNOR

New York, March 6.—Governor Philip Williams of the Virgin Islands has been called on by the colonial council, the native legislature, to explain statements alleged to have been made by Police Chief M. J. Nolan of St. Thomas that "these niggers down here don't want law and order." According to information received by the American Civil Liberties union, the popular demand for the removal of Nolan has been ignored by the naval administration.

The colonial council has also passed a resolution demanding a thorough investigation of the St. Thomas police force and another calling for an examination of the franchise law. An amendment to the code of laws making jury trials mandatory instead of optional with the judge has been taken up for passage.

All of the resolutions were introduced by Rothschild Francis, editor of the Virgin Islands Emancipator, recently sentenced to 30 days on a charge of criminal libel for criticizing the police. He was tried before Judge Washington Williams without a jury. His appeal to higher courts is being handled by the Civil Liberties union, which has been campaigning for a permanent form of civil government for the Islands.

A resolution providing for a new organic act and for permanent representation at Washington has just been passed by the colonial council, the union reports.

LYNCHED MAN WHO WANTED TO VOTE
The Chicago Defender (Big Weekend Edition) (1905-1966); Nov 6, 1920; ProQuest Historical Newspapers The Chicago Defender (1910 - 1975) pg. 1

EXHIBIT
C

LYNCHED MAN WHO WANTED TO VOTE

Florida Election Officials Use Gun and Rope to Kill Voter

Ocoee, Fla., Nov. 5.—When James Perry attempted to cast a vote for Warren G. Harding for President of the United States he was confronted with a pistol by white election officials and told to leave the polls. Perry insisted that he be permitted to vote, stating that he had paid his poll tax, and made known his intentions to support the Republican ticket. This caused his death. Perry, however, killed two white men before he fell dead.

Whites Give Warning

He was knocked down, dragged from the polls and carried to a churchyard near by, where a rope was placed about his neck and his body was riddled with bullets. His mutilated body was placed near the polling place with a sign attached to it, reading: "This is what we do to niggers that vote." A photo was made of Perry and is being sold at 25 cents by a local photographer. Several stores have placed the heinous photo on exhibition in windows.

Ku Klux Parade

It is claimed that word was passed on the morning of the election that all members of the Race were to be kept from the polls. That guns were to be used, if necessary, to "preserve the state for the Democrats." Ku Klux parades were held in Jacksonville and Lake City as a warning that trouble would occur if Race members endeavored to vote. In many places they were driven from the polls and their ballots, when marked, were thrown in the waste basket. The real motive for the Perry murder is charged to the fact that the dead man had advised women of his Race to meet with him at a church and march to the polls to vote.

This move was termed inadvisable and the women went alone. When Perry appeared a pistol greeted him. The white men who killed him are well known, but have not been arrested.