



12-1-1961

Federal Jurisdiction -- Diversity of Citizenship -- Corporation's Principal Place of Business -- Multiple Incorporation

Glen B. Hardymon

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

Glen B. Hardymon, *Federal Jurisdiction -- Diversity of Citizenship -- Corporation's Principal Place of Business -- Multiple Incorporation*, 40 N.C. L. REV. 122 (1961).

Available at: <http://scholarship.law.unc.edu/nclr/vol40/iss1/17>

present. Thus in *Kearney* the court put the burden of proving the validity and continued existence of the first marriage upon parties who did not have personal knowledge of the facts, but in *Williams* it refused to place the burden on the party who did have personal knowledge.

If the court is basing its refusal to allow the intervenor the benefit of the presumption because she is an intervenor rather than a defendant, the court is putting unwarranted stress on who gets to court first and instigates the suit. The fact that the second wife has gone through the requisite marriage ceremony and has lived with a man as his wife for several years without any objection from his former wife should have the same significance regardless of whether she is the plaintiff, defendant or intervenor. If, on the other hand, the court is refusing to allow the intervenor the benefit of the presumption because it has decided to no longer afford the second marriage a presumption of validity, the court, as stated in the dissenting opinion in *Williams*, should expressly overrule the *Kearney* case and specifically state what the law is in this state.

Regardless of why the court in *Williams* failed to give the benefit of the presumption to the intervenor, the better policy would seem to be to uniformly place the burden on the party attacking the validity of the second marriage. Not only does public policy¹⁰ dictate that the second marriage be presumed valid, but also the first wife is in a better position to give evidence about the contract to which she is a party than the second wife. Thus it is hoped that at its next opportunity the court will make clear that the presumption of validity of the second marriage, as adopted in the *Kearney* case, is available to all parties, regardless of their position in the action.

H. MORRISON JOHNSTON, JR.

Federal Jurisdiction—Diversity of Citizenship—Corporation's Principal Place of Business—Multiple Incorporation

In *Kelly v. United States Steel Corp.*¹ the Third Circuit Court of Appeals was called upon for the first time to interpret the term "principal place of business" as used in the diversity jurisdiction

¹⁰ Marriage being an accepted and desirable social institution, the court should favor the parties alleging the marriage by presuming them innocent of bigamy and by presuming the children by the union legitimate.

¹ 284 F.2d 850 (3d Cir. 1960).

statute.² The plaintiff initiated action in the federal district court alleging diversity of citizenship as the grounds for jurisdiction. The complaint alleged that the plaintiff was a citizen of Pennsylvania and the defendant a Delaware corporation with its principal place of business in New York. The defendant sought dismissal for want of jurisdiction claiming that diversity of citizenship was lacking in that Pennsylvania, and not New York, was its principal place of business. The district court dismissed the action for want of jurisdiction. On appeal, the court of appeals affirmed.

The sole question before the court was the location of the defendant's principal place of business. In determining this, the court pointed out that it was a question of fact to be determined by the court, and that what facts were significant and determinative in this matter were left to the court's discretion.³ However, it was considered unsound to attempt to find a single factor or criterion by which the question of the principal place of business could be determined. The court proposed that the proper method was to analyze the question and attempt to select, after an examination of the entire corporate structure, the combination of factors which pointed to some one place as the principal place of business.

The plaintiff introduced evidence⁴ which showed that final approval of over-all corporate policy and financial matters was made by the board of directors from the New York offices. It was contended that this, along with other similar activities carried on in the New York executive offices, was sufficient to establish New York as the defendant's principal place of business.

However, after an examination of all phases of the corporation's activities, the court concluded that the occasional meeting of the policy making directors in New York was not sufficient to establish this site as the defendant's principal place of business. The court held that Pennsylvania, where the corporate policy was actually

² "For the purposes of this section and section 1441 of this title, a corporation shall be deemed a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." 72 Stat. 415, 28 U.S.C. § 1332(c) (1958).

³ "The conclusion that certain facts are or are not helpful in deciding the question is a question of legal standard, or legal concept, and is one for a court to decide as a question of law." 284 F.2d at 852.

⁴ Upon challenge of the jurisdiction, the party invoking federal jurisdiction must prove that the requisite jurisdictional facts are present. *Metro Industrial Painting Corp. v. Terminal Constr. Co.*, 181 F. Supp. 130 (S.D.N.Y. 1960).

formulated and where the business activities were centered, was the principal place of business.

While the exercise of co-ordination and direction of corporate policy and affairs from Pennsylvania was the apparent basis of the decision, the court did not disregard the physical operations of the corporation. The location of the majority of the corporate assets and steel production in Pennsylvania, while of lesser importance than the control factors previously mentioned, was considered by the court to lend weight to the finding that Pennsylvania was the principal place of business.

The *Kelly* case is a good example of the difficulty which the courts may encounter in determining the principal place of business, especially when considering a gigantic corporation such as United States Steel Corporation. Therefore, resulting decisions are often, admittedly, somewhat artificial.⁵ While the question of the principal place of business has long been of significance in the bankruptcy law,⁶ it is only since the 1958 amendment of the Judicial Code that this concept has become important in the field of federal jurisdiction.

Prior to the 1958 amendment, the law was well established that a corporation for diversity purposes was a citizen of the state in which it was incorporated.⁷ In 1958, pressured by an ever-increasing case load in the federal courts,⁸ Congress enacted the new

⁵ 284 F.2d at 853.

⁶ The test of the "principal place of business" is one of the jurisdictional criterion for the bankruptcy courts. Bankruptcy Act, 66 Stat. 420 (1952), 11 U.S.C. § 11 (1958).

⁷ Originally the term "citizen" as used in the federal constitution was not interpreted to include corporations. *Bank of the United States v. Deveaux*, 9 U.S. (5 Cranch.) 61 (1809); *Hope Ins. Co. v. Boardman*, 9 U.S. (5 Cranch.) 57 (1809); *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch.) 267 (1806). But in *Louisville, C. & C. R.R. v. Letson*, 43 U.S. (2 How.) 497 (1844), the Court held that a corporation was deemed a citizen of the state in which it was incorporated regardless of the citizenship of the stockholders. Corporate citizenship underwent a final change in *Marshall v. Baltimore & O. R.R.*, 57 U.S. (16 How.) 314 (1853), where it was held that the stockholders of the corporation were conclusively presumed to be citizens of the state in which the corporation was incorporated. This fiction of the corporate citizenship continued until the 1958 amendment.

⁸ "In the years following World War II the judicial business of the United States district courts increased tremendously. Total civil cases filed are up 75 percent and the private civil business has more than doubled in the districts having exclusively Federal jurisdiction. Most of the increase has occurred in the diversity of citizenship cases, which have increased from 7,286 in 1941 to 20,524 in 1956. A large portion of this caseload involves corporations. Of the 20,524 diversity of citizenship cases filed in the district courts during fiscal 1956 corporations were parties in 12,732 cases, or 62

diversity provision, the effect of which was to give some corporations dual citizenship. Under the statute a corporation is a citizen of both the state of its incorporation and the state in which its principal place of business is located.

The new citizenship in the state of the corporation's principal place of business was created to eliminate the evil of a local business bringing its litigations into the federal courts simply because it was incorporated in some other state. It was hoped that by enlarging the corporation's citizenship the number of corporate cases in which jurisdiction was based on diversity could be decreased.⁹

In adopting the criterion of the principal place of business as one of the means of conferring corporate citizenship, Congress was not creating a new concept, but was in fact adopting the term from the bankruptcy statute.¹⁰ It was believed that by using this standard many of the problems of interpretation could be avoided because the courts would find sufficient guidance in the interpretation of the phrase in the bankruptcy cases in which the location of the principal place of business had been in issue.¹¹ But by examining the bankruptcy cases, it will be seen that Congress could hardly have selected a more confusing term.

It is stated in the bankruptcy cases¹² that what constitutes the principal place of business is a question of fact to be determined in each particular case. Thus, being a question of fact, the nature of the corporate business and its activities must be considered.¹³ As to this the bankruptcy cases are in harmony. But in determining the principal place of business, the bankruptcy cases have derived two distinct tests based upon a consideration of two different types of evidence. One line of cases¹⁴ holds that the principal place of

percent." S. REP. No. 1830, 85th Cong., 2d Sess., 2 U.S. CODE CONG. & AD. NEWS 3100 (1958).

⁹ *Id.* at 3101-02.

¹⁰ Bankruptcy Act, 66 Stat. 420 (1952), 11 U.S.C. § 11 (1958).

¹¹ S. REP. No. 1830, 85th Cong., 2d Sess., 2 U.S. CODE CONG. & AD. NEWS 3100, 3102 (1958).

¹² *E.g.*, *In re Hudson River Nav. Corp.*, 59 F.2d 971 (2d Cir. 1932); *In re Diamond Star Timber Corp.*, 64 F. Supp. 849 (N.D.N.Y. 1946); *In re DeSoto Crude Oil Purchasing Corp.*, 35 F. Supp. 1 (W.D. La. 1940).

¹³ *E.g.*, *In re Diamond Star Timber Corp.*, *supra* note 12; *In re Devonian Mineral Spring Co.*, 272 Fed. 527 (N.D. Ohio 1920); *In re Worcester Footwear Co.*, 251 Fed. 760 (D. Mass. 1918).

¹⁴ *E.g.*, *Shearin v. Cortez Oil Co.*, 92 F.2d 855 (5th Cir. 1937); *In re Guanacevi Tunnel Co.*, 201 Fed. 316 (2d Cir. 1912); *In re Portex Oil Co.*, 30 F. Supp. 138 (D. Ore. 1939); *In re American & British Mfg. Corp.*, 300

business is where the home office or nerve center of the corporation is located, while other cases¹⁵ have taken the position that it is where the actual operations of the corporation are carried on.

Under the home office or nerve center test the location of the principal place of business is held to be the same as that of the main or central office of the corporation from which radiates the power and control over all corporate activities.¹⁶ In determining this focal point of corporate activities, the location of the managing offices, stockholder's meetings, board meetings, executives, books and records, and banking activities, are all significant factors, although no one factor is conclusive evidence of the principal place of business.

Under the actual operations test the court first determines what the principal business of the corporation actually is¹⁷ and then considers the location of the facilities needed to carry on this primary activity.¹⁸ The site of these facilities is deemed the principal place of business. The location of factories, personnel, production equipment, mines and quarries are the prime objects with which the court is concerned. The location of control over these physical assets is only secondary.

While Congress made it clear that it was permissible for the courts, when applying the jurisdictional test of the principal place of business, to be guided by the standards established in the bankruptcy cases, they failed to indicate which of the two tests should be applied. In examining the cases decided since the 1958 diversity provision went into effect, in which the main issue has been the determination of the principal place of business, it will be seen that the courts have, at various times, adopted both of the bankruptcy tests.

Fed. 839 (D. Conn. 1924); *In re Worcester Footwear Co.*, *supra* note 13; *In re Matthews Consol. Slate Co.*, 144 Fed. 724 (D. Mass. 1905).

¹⁵ *E.g.*, *In re Pusey & Jones Co.*, 286 Fed. 88 (2d Cir. 1922); *Dryden v. Ranger Ref. & Pipe Line Co.*, 280 Fed. 257 (5th Cir. 1922); *Continental Coal Corp. v. Roszelle Bros.*, 242 Fed. 243 (6th Cir. 1917); *Watters v. Hamilton Gas Co.*, 10 F. Supp. 323 (S.D. W. Va. 1935); *In re Tygarts River Coal Co.*, 203 Fed. 178 (N.D. W. Va. 1913).

¹⁶ *In re Matthews Consol. Slate Co.*, 144 Fed. 724 (D. Mass. 1905); See generally 1 COLLIER, BANKRUPTCY §2.19(2) (14th ed. 1956).

¹⁷ *E.g.*, *In re Tygarts River Coal Co.*, 203 Fed. 178 (N.D. W. Va. 1913); *In re Elmira Steel Co.*, 109 Fed. 456 (N.D.N.Y. 1901).

¹⁸ *In re Tygarts River Coal Co.*, *supra* note 17; See generally 1 COLLIER, *op. cit. supra* note 16.

*Scot Typewriter Co. v. Underwood Corp.*¹⁹ is the best example of an application of the home office test. The defendant was a Delaware corporation engaged in manufacturing, distributing and selling typewriters and business machines. The defendant's manufacturing plants were located in Connecticut, New Jersey and California, and sales offices were located in virtually all other states. However, its executive offices, from which the over-all supervision and co-ordination of sales and production, as well as a determination of corporate policy originated, were in New York. Under these facts the court applied the home office test and held that New York was the defendant's principal place of business. The court stated:²⁰

Where a corporation is engaged in far-flung and varied activities which are carried on in different states, its principal place of business is the nerve center from which it radiates out to its constituent parts and from which its officers direct, control and coordinate all activities without regard to locale, in the furtherance of the corporate objective.

An excellent example of an application of the actual operations test is found in *Mattson v. Cuyuna Ore Co.*²¹ The defendant corporation carried on extensive mining operations in Minnesota. All the mining property, personnel and equipment were located in Minnesota. However, the home office and chief executives of the corporation were in Ohio, and the business transaction out of which the litigation arose originated from these Ohio offices. It was the court's view that the home office was a mere incident to the corporation's existence, and that the principal place of business was that place where the corporation's actual mining operations were carried on.²²

While it is true that under the fact situation presented in *Kelly* the resulting determination of the principal place of business would have been the same regardless of which test was used, there was in

¹⁹ 170 F. Supp. 862 (S.D.N.Y. 1959).

²⁰ *Id.* at 865. For other cases applying the "home office test" see *Textron Electronics, Inc. v. Unholtz-Dickie Corp.*, 193 F. Supp. 456 (D. Conn. 1961); *Wear-Ever Alum., Inc. v. Sipos*, 184 F. Supp. 364 (S.D.N.Y. 1960); *Hughes v. United Eng'rs & Constructors, Inc.*, 178 F. Supp. 895 (S.D.N.Y. 1959); *Riley v. Gulf, M. & O. R.R.*, 173 F. Supp. 416 (S.D. Ill. 1959).

²¹ 180 F. Supp. 743 (D. Minn. 1960).

²² For other cases applying the "actual operations" test see *Gilardi v. Atchison, T. & S. F. Ry.*, 189 F. Supp. 82 (N.D. Ill. 1960); *Potocni v. Asco Mining Co.*, 186 F. Supp. 912 (W.D. Pa. 1960); *Webster v. Wilke*, 186 F. Supp. 199 (S.D. Ill. 1960).

Kelly a definite attempt to reject any single criterion as the sole test for the principal place of business. However, in two recent decisions the *Kelly* case has been construed as following both the actual operations and the nerve center tests. In *Potocni v. Asco Mining Co.*²³ the court applied the actual operations test and claimed to rely upon the then unreported decision of *Kelly v. United States Steel Corp.*,²⁴ while in *Textron Electronics, Inc. v. Unholtz-Dickie Corp.*,²⁵ the court viewed *Kelly* as an application of the nerve center test in spite of the court's language repudiating this test.²⁶ Therefore, considering the manner in which the district courts have interpreted the *Kelly* case, it is doubtful that the bankruptcy tests will be discarded, but in all probability these tests will continue to be the basis of future decisions.

The problem of determining the principal place of business is not the only difficulty the courts in the future will encounter. The question of the citizenship of the multi-state corporation and the effect the new statute will have on this citizenship is as yet undecided.

In the early cases²⁷ decided under the new diversity provision it was held that when a corporation had its principal place of business in a state other than the state of incorporation, the corporation would have dual citizenship; and if either of the citizenships coincided with that of the adverse party, there was no diversity within the meaning of the statute. In reaching this result the courts have emphasized the two following points: (1) the intention of the legislature was to limit jurisdiction, not broaden it; and (2) the statute clearly provides that a corporation is a citizen of the state of incorporation *and* the state of its principal place of business.²⁸

²³ 186 F. Supp. 912 (W.D. Pa. 1960).

²⁴ "I am in accord with the view expressed by my associate, Judge Joseph P. Willson, that the state wherein a corporation carries on its chief operations is the principal place of business of that corporation, *Kelly v. United States Steel Corporation*, Cal7251, filed February 17, 1960, officially unreported." *Id.* at 912-13.

²⁵ 193 F. Supp. 456 (D. Conn. 1961).

²⁶ *Id.* at 459.

²⁷ *Canton v. Angelina Cas. Co.*, 279 F.2d 553 (5th Cir. 1960); *Buck v. New York C. R.R.*, 275 F.2d 292 (7th Cir. 1960); *Webster v. Wilke*, 186 F. Supp. 199 (S.D. Ill. 1960); *Mattson v. Cuyuna Ore Co.*, 180 F. Supp. 743 (D. Minn. 1960); *Bryfogle v. Acme Mkt., Inc.*, 176 F. Supp. 43 (E.D. Pa. 1959); *Moesser v. Crucible Steel Co.*, 173 F. Supp. 953 (W.D. Pa. 1959); *Scot Typewriter Co. v. Underwood Corp.*, 170 F. Supp. 862 (S.D.N.Y. 1959); *Jacanski v. McCloskey & Co.*, 167 F. Supp. 537 (E.D. Pa. 1958).

²⁸ "The Act does not give an option to a plaintiff of treating a corpora-

Thus far, however, the courts have not been called upon to determine the effect of the 1958 diversity provision upon the citizenship of the true multi-state corporation—a corporation incorporated under the laws of more than one state.²⁹ Prior to the 1958 amendment, a majority of the cases³⁰ held that a corporation incorporated in the state in which suit was brought would be considered a citizen of that state alone, regardless of the fact that the corporation may have been incorporated elsewhere. This result was based on the theory that when the corporation is sued in a state in which it is incorporated, only the laws of that jurisdiction are brought into play, and the fact that the corporation is incorporated elsewhere has no relevance to that particular controversy.³¹ Thus if an action was brought in federal court in State *A* by a citizen of State *B* against a corporation incorporated under the laws of both States *A* and *B*, diversity was held to exist.³²

When this multi-state situation comes squarely before the court under the new statute, it is believed, in light of the clear language used in the statute,³³ that the multi-state corporation will be considered a citizen of any and every state in which it is incorporated regardless of where the action is brought; and if any one of these citizenships coincides with that of the opposing litigant, diversity will be found to be lacking. The clear intention of the legislature to limit diversity, as well as the cases holding that the litigants cannot choose whether citizenship will be by incorporation or the principal place of business, lend support to this view.

This view has not, however, received complete acceptance. The

tion as a citizen either of the state of incorporation or of the state where its principal place of business is located. The Act treats a corporation as a citizen of the state where it has its principal place of business as well as the state of incorporation. This is clearly indicated by the use of the conjunctive 'and'. The purpose of the law was to narrow jurisdiction, not to broaden it." *Canton v. Angelina Cas. Co.*, *supra* note 27, at 554.

²⁹ *Jaconski v. McCloskey & Co.*, 167 F. Supp. 537 (E.D. Pa. 1958).

³⁰ *E.g.*, *Jacobson v. New York, N. H. & H. R.R.*, 206 F.2d 153 (1st Cir. 1953), *aff'd mem.*, 347 U.S. 909 (1954).

³¹ *Lake Shore & M. S. Ry. v. Eder*, 174 Fed. 944, 945-46 (6th Cir. 1909).

³² *Pennsylvania R.R. v. St. Louis, A. & T. H. R.R.*, 118 U.S. 290 (1886); *Muller v. Dows*, 94 U.S. 444 (1876); *Boston & M. R.R. v. Breslin*, 80 F.2d 749 (1st Cir. 1935); *Boston & M. R.R. v. Hurd*, 108 Fed. 116 (1st Cir. 1901); *Lucas v. New York C. R.R.*, 88 F. Supp. 536 (S.D.N.Y. 1950); *cf. Seavey v. Boston & M. R.R.*, 197 F.2d 485 (1st Cir. 1952); *Delaware River Joint Toll Bridge Comm'n v. Miller*, 147 F. Supp. 270 (E.D. Pa. 1956).

³³ "[A] corporation shall be deemed a citizen of *any* State by which it has been incorporated and of the State where it has its principal place of business." 72 Stat. 415, 28 U.S.C. § 1332(c) (1958). (Emphasis added.)

position has been taken⁸⁴ that the law regarding the multi-state corporation prior to the 1958 amendment was so well settled that had Congress intended to effect a change in this law, such intention would have been expressed either in the statute or the legislative history of the act. Since this matter was apparently not considered by Congress, it is argued that the established law in this field is still in effect. Furthermore, in *Jaconski v. McCloskey & Co.*⁸⁵ the court, in a dictum, stated that "the 1958 amendment of the Revised Judicial Code is not understood to have direct bearing upon the bare question of the effect of multiple incorporation in diversity litigation."⁸⁶ When the problem of multiple incorporation is raised under the new diversity provision, the apparent failure of Congress to consider this situation and the pronouncement in *Jaconski* will undoubtedly lend strong support to the argument favoring a continuance of the old multi-state corporation case law.

While the problem of multiple incorporation is such that it will probably be settled when a case is properly presented to the court, the question of what is the principal place of business will be one which the courts will continue to encounter in the future. The courts have thus far developed no definite rules for determining the principal place of business, and the bankruptcy tests continue to be accepted. However, a new test by which the courts will determine which of the two existing tests shall be applied to a particular situation is apparently developing. In those cases in which the home office test was applied⁸⁷ a definite similarity can be seen in the type of corporations involved—corporations with activities in many separate states, no one state being completely dominate over any other. Conversely, in those cases in which the actual operations test has been accepted,⁸⁸ the corporations involved maintained virtually all their tangible assets in one state and exercised control over them

⁸⁴ Note, 27 GEO. WASH. L. REV. 595 (1959). Cf. FINS, FEDERAL JURISDICTION AND PROCEDURE 12 (1960); 3 VOLTZ, WEST'S FEDERAL PRACTICE MANUAL § 3142 (1960).

⁸⁵ 167 F. Supp. 537 (E.D. Pa. 1958).

⁸⁶ *Id.* at 540 (dictum). A similar dictum is found in *Fitzgerald v. Southern Ry.*, 176 F. Supp. 445, 446 (S.D.N.Y. 1959).

⁸⁷ *E.g.*, *Textron Electronics, Inc. v. Unholtz-Dickie Corp.*, 193 F. Supp. 456 (D. Conn. 1961); *Riley v. Gulf, M. & O. R.R.*, 173 F. Supp. 416 (S.D. Ill. 1959); *Scot Typewriter Co. v. Underwood Corp.*, 170 F. Supp. 862 (S.D.N.Y. 1959).

⁸⁸ *E.g.*, *Potocni v. Asco Mining Co.*, 186 F. Supp. 912 (W.D. Pa. 1960); *Webster v. Wilke*, 186 F. Supp. 199 (S.D. Ill. 1960); *Mattson v. Cuyuna Ore Co.*, 180 F. Supp. 743 (D. Minn. 1960).

from another state. Furthermore, on numerous occasions when the actual operations test has been applied, the courts have pointed out that their acceptance of the actual operations test is not a rejection of the applicability of the nerve center test under appropriate circumstances—when the activities of the corporation are scattered among many states.³⁹ Thus considering the manner in which the courts have applied the bankruptcy tests so far, it is arguable that when the corporation is concentrated in one state, the actual operations test will be applied, but in cases in which the corporate assets are dispersed among many states, the home office or nerve center test will be invoked.

It is still too soon, however, to ascertain whether this preliminary test will continue to be utilized to determine which of the bankruptcy tests will be applied. It is hoped that through continual development of this preliminary test, some degree of certainty will be introduced into the method of determining a corporation's principal place of business.

GLEN B. HARDYMON

Federal Jurisdiction—Political Question—Non-Justiciability of State Reapportionments

In a recent decision,¹ the United States Supreme Court once again declined to consider a voting right case under the equal protection clause of the fourteenth amendment. In this case, however, the Court invoked its jurisdiction under the fifteenth amendment. The petitioners, all Negroes, alleged that an act of the Alabama legislature² was a device to disenfranchise Negro citizens in the Tuskegee, Alabama municipal elections and that enforcement of this act would deny to them their rights guaranteed under the equal protection clause of the fourteenth amendment and their right to vote under the fifteenth amendment.³ The district court dismissed the action for lack of jurisdiction, stating that the question presented was of a political nature and thus not justiciable. This was affirmed by the court of appeals, but the Supreme Court reversed.

³⁹ *E.g.*, *Gilardi v. Atchison, T. & S. F. Ry.* 189 F. Supp. 82 (N.D. Ill. 1960); *Webster v. Wilke*, *supra* note 38.

¹ *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

² Ala. Acts 1957, No. 140.

³ The petitioners alleged that the act changed the originally square shaped municipal boundary into a twenty-eight sided figure that was designed to and in fact did, eliminate all but three or four of the Negro voters from the town.