

Mr. WALSH. Page 7 of my statement; yes, sir.

Mr. MEADER. You think that is what the court will do, but you do not think it should be written into the law, that the procedure that you outline on page 7 should be incorporated in the bill as a requirement?

Mr. WALSH. That is right. I did not think it was necessary. I think any judge would do it that way, Congressman Meader. That is the way he would do it.

The only thing we needed this bill for was to make clear what the applicant would have to show in order to qualify to vote before the referee. That was the important part of the bill.

The incidental procedures of how the referee shall report to the court and when, and exactly how notice will be given to the other parties of the action, we intend to leave to the judge. He would follow the usual practices you do where you have a referee to report to you.

Mr. MEADER. Well, it is conceivable that the judge in his order appointing the referee might provide, not for an ex parte proceeding, but an adversary proceeding before the referee.

Mr. WALSH. He could. He could do that.

Mr. MEADER. But your provision on page 7 has nothing to do with an adversary proceeding before the referee, but only on exceptions to the report of the referee before the judge.

Mr. WALSH. What I have done in my statement is outline the way in which I would anticipate the judge would proceed. This is not to say he would not have had power under the bill to proceed in some other way if he saw fit.

If anyone of us were the judge responsible for this proceeding—now, picture yourself. You have just had tried before you a proceeding by the U.S. attorney in which he has proven that there is a pattern of racial discrimination in the administration of the election laws. As a judge, you have found that the pattern exists. Then, you are asked to enter an order which is going to rectify these wrongs.

One of the things you will do is enjoin the State registrar, or whoever the State officer is, from following that pattern any more. And the second thing you will do is, or that I think you would do, realizing that there are a large number of people who have been hurt this way; instead of trying to hear all those people yourself, as a judge who has a lot of other things to do, you are going to appoint a man you have confidence in as a voting referee—in other words, that is just an easy title for a special master that Federal judges use for many purposes. You appoint him to hear persons who feel they have been aggrieved.

Ordinarily, when you open up a proceeding like that, and a person wants to take advantage of a judgment which somebody else has obtained, he would have to come in and prove to the referee that he was in exactly the same position as the persons under consideration in the original case; in other words, that he was a qualified voter, that he tried to vote, and that he had been discriminated against because of his race.

The great value of this proposed bill is that it eliminates that last element of proof. Where a judge has just found a pattern or a practice of racial discrimination, it seemed a silly thing to leave it to the master or the referee to fight it out all over again.