

Mr. WALSH. Yes, sir.

The CHAIRMAN. Would you say that the proceeding before the voting referees would be purely ministerial or administrative, or would it be adjudicative?

Mr. WALSH. As I would visualize the proceeding, it would be ex parte, but it would lead to an adjudication; the referee spares the judge the job of testing as to whether a man can read and write, how old he is, and where he lives. The referee gets that.

The CHAIRMAN. Would you say that is adjudicative, judicial?

Mr. WALSH. It is not adjudicated until the judge has ratified it. It is a step in an adjudicative process.

The CHAIRMAN. It is a step in the judicial process, as an aid to the court.

Mr. WALSH. Yes. But before the court acts finally, the referee's tentative findings and recommendations are given to the State registrar and all of the other parties in the underlying proceeding, so that they may challenge them if they see fit.

Then, if they challenge them—supposing the Negro applicant says, "I live on the corner of Third Street and First Avenue in this congressional district," and the State registrar has information that he does not live there, that he really lives in another county altogether, in a different congressional district. I would assume that the judge in those circumstances, as a matter of consistent practice, will require that the referee's report be served on the State registrar or the other State defendant in this action; and that then, if that State registrar files exceptions to that portion of the report and indicates that there is a substantial issue of fact as to where this man lives, there will be a hearing, the same as there would be in any kind of a court proceeding.

Mr. HOLTZMAN. And the court would finally determine that.

Mr. WALSH. That is right. I suppose the court could refer that back to the referee himself, or he could determine it himself.

The CHAIRMAN. Let us assume a pattern of practice where a group is involved. Does that mean the voting referee would have to make a determination based on the deprivation or the discrimination in each individual case in that group?

Mr. WALSH. No, sir. The voting referee would not make that determination. That is the whole purpose of this statute, to avoid the need for that determination in each individual case. Once the judge has found the existence of a pattern or a practice of discrimination which involves a State official who has something to do with the voting process, then all the applicant has to show is that (1) he is qualified to use the voting process and (2) that that State official is not letting him do it.

The CHAIRMAN. But each individual will have to indicate and prove he is qualified.

Mr. WALSH. Yes, sir, he would.

The CHAIRMAN. But as far as the discrimination is concerned, the referee would not have to find that each individual has been discriminated against, for example, judge from the general tenor of the evidence that there is a pattern or practice.

Mr. WALSH. Congress, if this bill prevails and passes, will have made a legislative finding that the probability is so high that that is