

ing machine. Thus, the ballot of every Negro registered by a Federal registrar would be so clearly identified that for all practical purposes his ballot would not be secret.

6. There would be no effective method for protecting a federally registered person in his attempt to vote. Even though interference with the exercise of this right is a Federal crime, it is unrealistic to expect successful prosecutions for such a crime before a jury drawn from an unsympathetic community.

7. This right to vote would be exposed to restraining orders incidental to State court proceedings commenced on the eve of election and not concluded until it was too late to vote.

8. Finally, whatever type of administrative action is devised, it must be expected that it will not become effective until reviewed by the courts. There is no reason to resort to this doubly time-consuming administrative process when the courts themselves can be equipped with the means necessary to grant effective, expeditious relief.

In order to devise a plan free from these objections the Attorney General has recommended that Congress authorize a Federal judge, after finding the existence of a pattern or practice of racial discrimination in voting, to appoint an ancillary officer to be known as a U.S. voting referee who will be available for the prompt registration of Negroes who can show (1) that they are qualified to vote, and (2) that they have attempted to exercise that right but have been frustrated by State officers. A key feature of the Attorney General's bill is that where a pattern of discrimination against Negroes has been found, a qualified Negro who has been deprived of the right to vote is conclusively presumed to have been so deprived because of the existence of that pattern.

The way it is anticipated that this proposal will work is as follows: The Attorney General under section 1971(c) of title 42 U.S.C. will prove before a Federal court the existence of a practice or pattern of discrimination in a particular area. The court after finding that this pattern exists will enjoin its continuance. As incidental provisions of its order, it will appoint a person or persons to serve as voting referees. In its order it will detail the procedures which those referees are to follow.

The Attorney General's proposal does not contain any rigid set of procedures but does provide for the essential steps which must be taken. Assuming that Negroes are the race against whom the pattern of discrimination is found, it is contemplated that the referee will hear promptly any application by a member of that race. If he can prove ex parte (1) that he is qualified to vote, and (2) that he has tried to comply with the State's procedures and that he has been unable to so qualify because the State registrar denied his application, or refused to act upon it promptly, or made himself unavailable to hear the application, the referee will so find and recommend to the judge that he be ordered qualified to vote.