

It will not be necessary for the applicant to prove anew the existence of the pattern or practice of discrimination which the judge has already found. Neither will it be necessary for him to prove that the denial of his right to register was because of that pattern. This difficult element of proof is the one which the statute would eliminate. Congress would in effect provide that where the Court has found a pattern of discrimination against Negroes, it is so obvious that this pattern is the only cause for the denial of registration to a fully qualified Negro applicant that the applicant need not prove this causal link. Such a procedure is clearly appropriate both as a statutory means of enforcement of the 15th amendment and as legislative facilitation of a court's ancillary procedures for the enforcement of its own decrees.

After the referee has heard the voter, he will make his findings and recommendations to the judge. The judge in his order will have provided for notice to the other parties of the action and for an opportunity for them to be heard in opposition. This would ordinarily be by serving upon the State registrar and the U.S. attorney and other appropriate parties to the original action the report of the referee and an order to show cause on a specified date why the persons named in the report should not be authorized to vote. On the return date unless the papers filed in opposition raise a substantial issue of fact there should be no need for a hearing in which the applicant would be required.

It is expected that the judge will provide for a swift sifting of captious objections in the same way in which courts eliminate frivolous contentions by pretrial proceedings or by summary judgment. Here the issues will ordinarily be so simple that a judge should be able to act on a large number of applications at a single hearing and upon short notice.

With respect to literacy qualifications, or the explanation of the meaning of constitutional provisions, as required by some States, there will be no need for the applicant to appear before the court. His answers to the referee will ordinarily not be subject to dispute; their adequacy may be a matter for argument between counsel but there will be no occasion to require the applicant to submit to further examination.

Finally, in those areas in which the State law requires identification by already registered voters, the court or the referee may use their subpoena power to compel the attendance of witnesses.

After the appropriate parties have had an opportunity to be heard in opposition to the findings and the recommendation of the voting referee, the judge is required to ratify his findings unless they are clearly erroneous and to issue a supplementary decree which will order that the named persons be permitted to vote and that all State action incidental to the exercise of this right be taken by the appropriate State officers.