

of suffrage may be exercised, *Pope v. Williams* (193 U.S. 621, 633, 24 S. Ct. 573, 576, 48 L. Ed. 817); *Mason v. State of Missouri* (179 U.S. 328, 335, 21 S. Ct. 125, 128, 45 L. Ed. 214), absent of course the discrimination which the Constitution condemns. Article I, section 2 of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators, provide that officials will be chosen 'by the people.' Each provision goes on to state that 'the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State legislature.' So while the right of suffrage is established by the Constitution (*Ex parte Yarbrough* (110 U.S. 651, 663, 665; *Smith v. Allwright* (321 U.S. 649, 661-2), it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress acting pursuant to its constitutional powers, has imposed. See *United States v. Classic* (313 U.S. 299, 315). * * * While section 2 of the 14th amendment, which provides for apportionment of Representatives among the States according to their respective numbers counting the whole number of persons in each State (except Indians not taxed), speaks of 'the right to vote' the right protected 'refers to the right to vote as established by the laws and constitution of the State.' (*McPherson v. Blacker* (146 U.S. 1, 399))."

The Justice had pointed out previously in his opinion (op. cit., p. 50) that the issue of discrimination in the actual operation of the ballot laws of North Carolina had not been framed in the issue presented for the State court litigation. It was mentioned in passing so that it might be clear that nothing said or done by the Court would prejudice a tendering of that issue at the proper time (Cf. *Williams v. Mississippi* (170 U.S. 213)).

In the statement of purpose prefacing S. 2535, it is said that "American citizens otherwise qualified to vote continue to be denied that right because of their race or color, and that qualified voters are thus arbitrarily and discriminatorily being denied the right to cast a vote for the selection and election of their representatives in the Senate and the House of Representatives."

If that statement is true, why have not those American citizens instituted actions in the courts of the land—Federal or State—seeking to redress the alleged arbitrary discrimination? If their claims are just, the courts afford them a remedy. The powers of the States reserved to them under the Constitution, never delegated by them to the Federal Government, should not be ravished to satisfy the lust of those who claim their constitutional rights have been invaded.

"When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected (Justice Bradley in *Civil Rights* cases (109 U.S. at p. 25, (1883)).

Mr. BLOCH. (b) The Federal registrars bills in the House and in the Senate resulted from recommendations of the Civil Rights Commission. Deputy Attorney General, Judge Lawrence E. Walsh, testified before this committee on February 9, 1960. He testified that his proposal was "completely different from the recommendation of the Civil Rights Commission," page 5.

Then Representative Forrester asked him:

In other words, you are repudiating the recommendation of the Civil Rights Commission.

He answered "Yes" and said that he did not think that the Federal registrar proposal was a "proper vehicle;"

(c) The Attorney General had testified similarly before the subcommittee of the Senate Rules Committee on February 5, 1960.

H.R. 10035 is apparently an exact copy of that proposed by the Attorney General on or about January 27, 1960.

The examination, which I have thus far been able to make, of H.R. 10034 and H.R. 10018 reveals no substantial difference between either of them and H.R. 10035.