

Doubtless the drafters of the bill proposed on January 27, 1960, by Attorney General Rogers conceived its basic idea from the acts of 1870 and 1871 set out rather fully in *Ex parte Siebold*, 100 U.S. 371, 379-380. Those laws—

relate to elections of members of the House of Representatives, and were an assertion on the part of Congress, of a power to pass laws for regulating and superintending said elections * * *

Those laws were—

a part of the comprehensive "reconstruction legislation" passed after the Civil War. They were repealed by the act of February 8, 1894, 28 Stat. 36, an act which was designed to restore control of election frauds to the States.

Justice Douglas, in *United States v. Saylor*, 322 U.S. at pages 390-391.

After that quotation, Justice Douglas alluded to and quoted from the committee report, House Report No. 18, 53d Congress, 1st session, p. 7, which sponsored the repeal and stated:

Let every trace of the reconstruction measures be wiped from the statute books; let the States of this great Union understand that the elections are in their own hands, and if there be fraud, coercion, or force used they will be the first to feel it. Responding to a universal sentiment throughout the country for greater purity in elections many of our States have enacted laws to protect the voter and to purify the ballot. These, under the guidance of State officers, have worked efficiently, satisfactorily, and beneficently; and if these Federal statutes are repealed that sentiment will receive an impetus which, if the cause still exists, will carry such enactments in every State of the Union.

In the report referred to immediately following the words just quoted are these:

In many of the great cities of the country and in some of the rural districts, under the force of these Federal statutes, personal rights have been taken from the citizens and they have been deprived of their liberty by arrest and imprisonment. To enter into the details in many cases where citizens have been unjustifiably arrested and deprived of their liberty would be useless in this report. We content ourselves in referring to report No. 2365 of the second session of the 52d Congress on the subject, where many such instances are detailed.

Perhaps both of these complete reports could be made a part of my statement as exhibits.

Justice Douglas then said:

This court now writes into the law what Congress struck out 50 years ago. The Court now restores Federal control in a domain where Congress decided the States should have exclusive jurisdiction. I think if such an intrusion on historic States rights is to be made, it should be done by the legislative branch of Government. (325 U.S. 391-392).

Justice Douglas was thus championing historic States rights and complaining so bitterly because the majority of the Court had held that the Federal statute denouncing conspiracy to injure a citizen in the free exercise of any right or privilege secured to him by the Federal Constitution or laws embraced conspiracy by election officers to stuff a ballot box in an election at which a Member of Congress was to be elected.

Now 66 years after Congress decided that this was a domain in which the States should have exclusive jurisdiction, the executive branch of the government, through the Attorney General, is asking the legislative branch not only to make—