

1971 (b) or (a), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief.

Section 1971(d) confers jurisdiction on the district courts of the United States of such proceedings.

The Attorney General's bill proposes to add to title 42-1971 a subsection (e), in lieu of present (e) which would become (f), authorizing the court in which a proceeding under subsection (c) might have been instituted, in certain events to appoint one or more persons as voting referees.

It is interesting to see that the court may not appoint such persons as referees in just any proceeding which may have been instituted pursuant to subsection (c). The first condition precedent to such appointment is that the court must find that under color of law or by State action a person or persons have been deprived on account of race or color of a right or privilege secured by (a) or (b).

Tacitly, the Attorney General and the authors of these bills here seem to concede the validity of the constitutional attack which has been made, and successfully maintained in a district court, on 1971(c) coupled with 1971(a). The present proposed limitation to the proposed further action of the court demonstrates that under (c) as it now stands the Attorney General may institute a suit whether or not the acts or practices complained of constituted abridgements or denials by the State. Tacitly, therefore, there is an admission that the opinion of Judge T. Hoyt Davis, based as it was on *United States v. Reese*, et al., 92 U.S. 214, is correct.

Furthermore, the court may not appoint those persons as voting referees unless the court further finds that the alleged deprivation "under color of law or by State action" was or is pursuant to a "pattern or practice." Whose "pattern or practice?" If the "pattern or practice" is that of individuals, there is no abridgement or denial by the State and the legislation is not appropriate under the 15th amendment.

What "persons" may the court appoint as "voting referee?"

The bill doesn't even provide that the "person" must be disinterested. It contains no provision for any qualifications either as to ability, training, or residence. An employee of the United States may be appointed. A person absolutely untrained in the law may be appointed. A resident of New York, Illinois, or the District of Columbia may be appointed in a case pending in Michigan or Georgia. The chairman of this committee on February 9, 1960, called that fact to the attention of Judge Walsh. He replied that it is not made essential, but that the assumption was that any district judge is going to appoint somebody from his district. We in the South have not so soon forgotten that sometimes judges from North Dakota are sent into the South to try these cases. We do not overlook the fact that under this bill, the Attorney General would choose the forum and the judge.

As will be presently seen, it is the object of this proposed legislation that these voting referees supplant registrars appointed under State law. In Georgia registrars under the State law are required to be "upright and intelligent citizens of the county" (code 34-301). They must be bipartisan (34-302). They must take an oath, faithfully to perform their duties (34-303).