

Mr. BLOCH. At that time we had white primaries. All States in the South had white primaries. The Supreme Court of the United States had held, in *Grovey v. Townsend*, that white primaries were perfectly legitimate, and perfectly in accord with the Constitution of the United States.

After the *Classic* case was decided, to which the chairman called attention, then the question was rebrought, and the Supreme Court, in *Smith v. Allwright*, in 321 U.S., did not apply the doctrine of stare decisis. They reviewed and overruled *Grovey v. Townsend* on the basis of the *Classic* case, and said to the States of the South, "You cannot hold white Democratic or any kind of white primaries any more."

Mr. HOLTZMAN. In the *King* case, the Court held, did it not, that your primary election law that involved the Democratic Party constituted State action, though, did it not?

Mr. BLOCH. Have you got the 154 F. (2d) there before you?

Mr. HOLTZMAN. Yes, I have.

Mr. BLOCH. Look over toward the last of it, where Judge Sibley holds what it is that constitutes the denial or abridgment by the State, or if you want to call it State action, all right.

Mr. HOLTZMAN. Well, is it your impression that it was considered State action?

Mr. BLOCH. What was considered State action, if you want to call it that—what was considered State action there, was that the State of Georgia, through a legislative act, the Neal Primary Act, enacted in 1917, required a party, if it held a primary—required the political party to apply the county unit system in the counting of votes in that primary.

The circuit court of appeals held that that constituted State action, or denial or abridgment by the State. Application for certiorari was filed, and it was denied by the Supreme Court of the United States on the 1st day of April, is my recollection.

Mr. HOLTZMAN. Your recollection is very good.

Mr. BLOCH. But there you see you have the absolute denial or abridgment by the State, or what the Court construed to be denial or abridgment by the State, in the action of the State legislature.

Mr. FORRESTER. Mr. Chairman, I would just like to make an observation here. We are both Georgians. In 1946, a colored Democrat was something unheard of. They were all Republicans, were they not?

Mr. BLOCH. Well, as I say, that is where this Democratic executive committee admitted themselves out of court before I got in the case. In the petition, in the complaint of that case, Primus King alleged himself to be a believer in the tenets of the Democratic Party. Well, that was so unheard of in Georgia at that time that I said, when I got into the case, that all we have got to do in this case is deny that and have an issue of fact made for trial by a judge or jury, and Chapman and others said, you cannot deny it, because we have admitted it, for the purpose of a test case. But it was so unheard of that I think the case could have been won on that decision of fact.

But the application, Mr. Chairman and gentlemen—the application of this case is this. The real bite, the real sting in this proposed legislation—we might as well meet it head on—the real bite and sting