

is that a Federal judge is given the opportunity, is given the privilege, is given the right to appoint Federal referees to supplant the State registrars upon certain conditions. The last in the chain of those conditions is that he must have found that a pattern or practice exists.

The CHAIRMAN. Now, what is unusual about that? We have that in our statutes already—pattern or practice. We have it in the anti-trust laws.

Mr. BLOCH. Well, I saw where Judge Walsh said that is where they got it from. He alluded to that. But that does not make it right, because it is in some other law.

The CHAIRMAN. Well, it has been in the law for a great many years, and nobody has seen to attack it.

Mr. BLOCH. Well, Negroes were forbidden to vote in white primaries in Georgia, in the Southern States, for a great many years, but that did not make it legal, according to the decision of Supreme Court. It will be attacked if it is ever put into the law—it will be attacked.

The CHAIRMAN. When you have words of that character, they become words of art. They become imbedded in the statute, and the courts are rather loath to change those words or change the practice that has developed as a result of those words. The burden is on you to show that they are so unusual that they should be changed.

Mr. WILLIS. Will the gentleman yield at that point?

The CHAIRMAN. I will yield.

Mr. WILLIS. It is not my recollection at all that the antitrust law uses the word "pattern" at all. If we are trying to put a meaning of a word of art on the word "pattern," what the antitrust law provides is a scheme somewhat like this—and I have not read it in quite a number of years. I see counsel is here.

The CHAIRMAN. Course of conduct.

Mr. WILLIS. That if there is a prosecution for violation—alleging combination or conspiracy to violate the antitrust law, and the corporations or companies involved are held to have conspired or combined, then the very people involved and who have been hurt are given the benefit of that holding in question in connection with a damage suit that flows from it. But there is no reference to the word "pattern" in that statute.

The CHAIRMAN. The word "pattern" is not used, but the Supreme Court, in interpreting the antitrust laws, indicated where a course of conduct prevailed and has endured for a considerable length of time, that may be deemed a combination in violation of the Clayton and/or Sherman Act.

Mr. BLOCH. I noticed, Mr. Chairman and Mr. Willis, and I wondered where that phrase "pattern or practice" came from. Judge Walsh testified before this committee on February 9. I did not see his testimony until about February 11. I noticed in reading it that he said that the phrase "pattern or practice" was used in the antitrust laws.

Mr. WILLIS. No, I do not think he used that phrase.

Mr. BLOCH. Well, he said something which gave me the idea that he had gotten it from the antitrust laws.

Mr. WILLIS. I think he was trying to find a precedent for this procedure, but I do not think he used the words.