

necessarily true, from what you have just said, that Congress could pass H.R. 10035 and provide for the referee procedure in either modifying or executing court decrees?

Mr. BLOCH. Where are you reading from, Mr. Meader?

Mr. MEADER. Well, you have said that referees can be appointed right now by a court, and that Congress could write the existing procedures of courts in appointing referees into statutes. And that so long as it did not deprive anyone of constitutional rights, the statute would be constitutional. That is all H.R. 10035 does.

Mr. BLOCH. I cannot agree to that, sir.

What H.R. 10035 does is this: The Attorney General of the United States, on behalf of the United States, or rather in the name of the United States, on behalf of citizens who think that they are constitutionally harmed, files a petition for an injunction against the board of registrars, we will say. Now, the parties to that case are the United States of America and the registrars, we will say, against whom it is brought. And the only question at issue in that case, under 1971(c)—the only question at issue in that case is, assuming the constitutionality of 1971(c), whether or not those persons for whom the United States has brought the suit have been denied or abridged in their privileges of voting, so that the 15th amendment is violated. The only right that the district court has, under subsection (d), is to grant an injunction, restraining order, or other order prohibiting those practices.

Now, what I say, Mr. Meader, is that assuming the validity of all that, and assuming the breadth of the power of Congress under the judicial clause, and assuming that you have got all sorts of rights to appoint masters or referees, that you have not the right, under the Constitution, that you have not the right to tack on to a proceeding of that sort the privilege of the trial judge finding that a pattern or practice of discrimination exists, and turning the Federal courts into a registration board, and permitting the Federal courts to register Tom, Dick, and Harry, who are not parties to that original suit.

Mr. MEADER. Now, I think we must make one modification in your statement, because section 131(c) of the Civil Rights Act of 1957—and I do not want to read it all—contemplates that the party to the suit will be the United States of America, brought by the Attorney General, who is authorized to bring the suit, and the other parties to the suit are the persons whom he charges have engaged in or are about to engage in an act or practice which would deprive any other person of a right secured by section (a). The person to whom the right to vote is denied, that person is not a party to this litigation. The parties are just two, the United States of America, as plaintiff, and the officials or any individuals against whom the injunction is sought, as defendants. The voter, the Negro voter who is denied, is not a party to that suit.

Mr. BLOCH. No. The United States of America is a party.

Mr. MEADER. And he is not even the beneficial party to the suit contemplated by the statute. It may have been brought in the names of A, B, C, D, and so on. But the action the suit is against is a practice engaged in by an official, whether with reference to named individuals or others.

Isn't that correct?