

I would be very glad to furnish the chairman a copy of it and have it incorporated in this record.

The CHAIRMAN. Mr. Lindsay?

Mr. LINDSAY. Mr. Chairman, just on that point, do I understand that this statement which you filed expresses your views as to the extent to which the Federal Government may regulate Federal elections under article I, section 4 of the Constitution?

Mr. BLOCH. You mean the statement that I filed with the Senate committee?

Mr. LINDSAY. Yes.

Mr. BLOCH. Yes.

Mr. LINDSAY. You go into that question?

Mr. BLOCH. We discuss it here. You will find some reference to that also in the record of the hearings a year ago where the chairman and I had, what was to me, a very interesting colloquy back and forth as to the meaning of the phrase, "time, place, and manner of conducting elections."

That memorandum goes very fully into the meaning of those words "time, place, and manner of conducting elections" and especially as to what the phrase "manner of conducting elections" authorizes the Congress to supersede State powers with respect to the qualifications of people who are to vote in elections.

Mr. LINDSAY. In Federal elections?

Mr. BLOCH. Federal elections primarily because the Federal registrar bills were confined to Federal elections. Yes, it goes into that.

Mr. POFF. Mr. Chairman, I would like to pursue a somewhat different line of questioning and I believe one which has not been opened so far.

First of all, in your opinion, may the Attorney General bring a class action under 1971 (a) and (b)?

Mr. BLOCH. You mean bring it under 1971 (c)?

Mr. POFF. Bring the action under (c) based on (a) or (b).

Mr. BLOCH. No, sir; I don't think he can.

Mr. POFF. All right, sir. Now the second question is, assuming that you are wrong and that in such an action the court proceeds to issue a determination that there is a pattern of discrimination, then when would that determination constitute a final judgment to which an appeal would lie?

Mr. BLOCH. Well, under the present state of this bill as drawn or were it enacted into law, I would have to answer the question that I don't know because there is no provision in the bill as I have pointed out. There is no provision of the bill for putting in issue a question of pattern or practice, whether or not there is such a discriminatory pattern or practice.

But ordinarily speaking I would say that if the law provided that before that pattern or practice could be found, that the Attorney General must allege it and prove it by a preponderance of evidence and carry the burden of proving it and the judge so found that the decree would not become res judicata until the time for appeal had expired by the defendants in the main suit.

Mr. POFF. Well now, that is just my point. Are we to assume that when the court issued its first decree finding that a pattern of discrimination existed that decree constitutes a final judgment to which an appeal would lie and if the answer to that question is affirmative,