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Proposed Civil Rights Legislation—The Jury Trial Amendment

REMARKS

OF

HON. PAUL H. DOUGLAS

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Monday, June 10, 1957

Mr. DOUGLAS. Mr. President, the Senate Committee on the Judiciary has adopted an amendment to S. 83, the civil-rights bill, providing for jury trials in all contempt cases which might arise under the provisions of the bill.

DESIGNED TO DESTROY THE BILL

I may say in all kindness, without reflection upon the motives of any Senator, that this particular amendment is designed to weaken and destroy the effectiveness of the civil-rights bill and, in particular, to destroy those sections which would help to guarantee the right of Negroes to vote.

Parts III and IV of the bill provide that the Attorney General of the United States may institute "a civil action or other proper proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order," when any person has engaged or is about to engage in specified conspiracies against civil rights, or in actions to deprive others of equal right to vote in general, special, or primary elections for Federal offices.

In other words, the Attorney General can institute civil action to protect the right to vote and can institute such action before an election or during an election rather than be compelled to wait until after some civil or criminal offense has actually been committed. The inadequacy of criminal penalties or judgments for damages after the injured person has been deprived of his right to vote is obvious. The new injunctive action is designed to be available in time to prevent such a deprivation. And if such injunctions are violated, the courts could hold the violators in contempt of court until they ended their violations and complied with the law. Or it could punish them as in other contempt cases. These are common compliance or enforcement procedures that are authorized in no less than 28 other Federal statutes, as well as being the accepted procedure in all equity matters.

Mr. President, there is no history of jury trials in such injunction contempt cases. The so-called "jury trial" issue in such cases is a new, unique, and radical departure from the precedents of our law. I have already placed in the RECORD a very thorough brief on this point, and I do not intend to repeat the arguments now. It is sufficient to say that the right of a jury trial—with one exception, namely, under the Norris-LaGuardia Act, and that provision was later virtually repealed, which I explained in my brief—is not a normal part of the procedure in the American judicial system in injunctive proceedings, or for the trial of contempt in civil cases and in criminal cases where the Government is a party.

WHAT THE JURY TRIAL AMENDMENT REALLY MEANS

But let us go beyond that fact and show just what the so-called jury trial amendment really means. Let us see what it means in practice and how, in practice, it would hinder rather than extend the right to vote.

I have secured for the information of Members of Congress—and I ask unanimous consent to have it made a part of the RECORD at the conclusion of my remarks—a memorandum prepared by the Research Office of the Southern Regional Council, which I received from the Legislative Reference Service of the Library of Congress, concerning Negro voter registration in 11 Southern States, in most cases classified by county. I shall include in the RECORD the explanation of how the figures were gathered and some comments on their accuracy, all of which I ask unanimous consent to have printed at an appropriate point in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. DOUGLAS. Throughout my remarks I shall use the terms "Negro" and "nonwhite" as synonymous, although I realize that the total of nonwhites in a given State may be very slightly greater than the total number of Negroes.

ALABAMA

For instance, let me cite the State of Alabama. In Blount County there are 429 potential Negro voters, but not a single Negro has voter registration.

In Bullock County, there are 5,425 potential Negro voters, but only 6 Negroes are registered.

In Clay County there are 1,010 potential Negro voters, as of 1950, but not 1 of them is registered.

In De Kalb County there are 443 potential Negro voters, but none is registered.

In Jackson County there are 1,242 potential Negro voters, but none is registered.

In Lowndes County there are 6,512 potential Negro voters, but not a single Negro is registered.

In Marshall County there are 804 potential Negro voters; again, not one single Negro is registered.

In Morgan County there are 4,641 potential Negro voters; again, not a single Negro is registered.

In Tallapoosa County there are 5,083 Negro voters; again, not a single Negro is registered.

In Wilcox County there are 8,218 potential Negro voters; once more, not a single Negro is registered.

According to the figures which have been computed from the 1950 census, there were 516,245 Negro males and females over the age of 21 who were entitled to vote; but the number of Negroes registered was 53,336, or 10.3 percent.

ARKANSAS

I have here a list of all the counties in Arkansas. I invite a close inspection of the figures relating to each of those counties. I select a county at random.

Crawford County contains 414 Negroes over the age of 21. Only 21 of them registered, or 5.1 percent.

Poinsett County—named, perhaps, after the celebrated Joel R. Poinsett—contains 1,754 Negroes over the age of 21, but only 195 are registered, or 11.1 percent.

For the State of Arkansas as a whole, according to the 1950 census, there are 232,191 nonwhites of 21 years and over; but in the whole State only 67,851 Negroes were registered, or 29.2 percent of