Kleindienst Must Justify Miss. Inaction

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In an unusual legal move, a federal judge here has ordered Attorney General Richard G. Kleindienst to explain why he failed to object to actions by officials in Canton, Miss., despite charges that the rights of black voters were infringed.

District Court Judge John H. Pratt called on Kleindienst to come forward with "a reasoned decision" for not exercising his full powers under the 1965 and 1970 voting rights acts to stop Canton from changing election procedures to the detriment of Negroes there.

Judge Pratt's little-noticed order, issued last week in the face of Justice Department claims that the Attorney General could not be second-guessed by judges, was regarded as so serious that the department is considering an appeal to higher courts.

The order follows a similar directive from District Judge June L. Green in a voting case from South Carolina and other court rulings which have questioned the Nixon adminis-

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tration's handling of problems under the voting law.

The Supreme Court has called for full hearings later this term in cases from Georgia and New York testing the department's voting rights regulations and its power to exempt localities from the act's coverage when black voters are claiming continuing racial discrimination at the polls.

The tough federal law, which has enfranchised thousands of blacks and helped hundreds win elective office, prohibits a wide variety of election law changes in several Southern states unless the changes are cleared in advance by the Justice Department or a special federal court in Washington.

Civil rights lawyers have contended for several years that Canton, a city where blacks had a chance to elect two-fifths of the city council under ward-by-ward elections, should not be permitted to shift to at-large elections, which would wipe out Negro voting strength.

The Lawyers Committee for Civil Rights Under Law has contended also that proposed annexation of white suburbs had the purpose or effect of diluting black political power.

One round of litigation produced a 1969 Supreme Court decision that the changes did require federal approval. The Lawyers Committee urged Kleindienst to deny the clearance, and sued him when he wrote a brief letter telling Canton that he would not object.

Justice Department lawyers argued that the suit was an improper attempt to curb the Attorney General's discretionary powers. The Lawyers Committee said Kleindienst must at least explain, like any other head of a federal agency, why his action would not injure blacks whose rights were protected by the voting law.

Rulings by Judge Pratt in the Canton case and Judge Green in a case involving alleged racial gerrymandering of the South Carolina state senate have indicated that the Attorney General's discretion is limited. Judge Aubrey Robinson has ruled to the contrary in a test of election law changes in Arizona.

Attorneys for the Justice Department argue that blacks should be suing Southern officials in the South, not federal officials in Washington. In such suits, Negroes would bear the burden of proving discrimination, whereas the Southern states and localities must prove non-discrimination when they seek clearance in Washington.

The department was criticied in a recent report by the Washington Research Project a private civil rights organization, for being "unwilling to take the necessary action" to safeguard black voting rights at a time of continued intimidation of Negro voters.