

Also, we take notice of the fact that it is very difficult to prove the motive for the action of a State officer. So, where the judge has just found a pattern of discrimination against Negroes in voting, and where a Negro then goes to a State registrar and tries to register, and where he is turned down and then comes over to this referee and the referee by his examination finds (1) that he has been to the registrar and turned down and (2) that he is a perfectly well-qualified voter, then we are suggesting that Congress establish the rule that where those two things are found, it is not necessary for him to prove that that was because of a pattern of discrimination; that it is enough, where a pattern has already been found and a qualified voter is turned down, to jump the next hurdle and say that he was turned down because he was a Negro.

Mr. WILLIS. Will the gentleman yield?

Mr. MEADER. I do not know whether I have the floor or not. I wish I had it. I hope I have it. I will yield to the gentleman from Louisiana.

Mr. WILLIS. I will not question now. We are now dealing with the part of the bill which gives me the most concern. I tried last night to understand the procedure. I would like to ask questions as to whether I properly understand the procedure, after you have concluded. May I at this time ask that?

Mr. MEADER. I would like to ask some other questions of Judge Walsh.

I want to call attention to line 10 on page 1 of the McCulloch bill, H.R. 10035. I notice the phrase "under color of law or by State action."

I do not know that there has been any interpretation of the phrase. What was in the minds of the drafters of this phraseology, "State action"?

Mr. WALSH. Just to go back one step, and then I will come right to the question: the whole purpose of the McCulloch bill is to come within the 15th amendment. The 15th amendment is concerned with action taken by a State to deprive a citizen of the United States—

Mr. WILLIS. Both State and Federal Government.

The CHAIRMAN. That is the 15th amendment you are talking about?

Mr. WALSH. Yes, it is concerned with both; you are absolutely right.

The CHAIRMAN. The 15th amendment of the Federal Constitution. And the specification of State action was to omit the question of private individual action. The 15th amendment is not directed to individuals; it is directed to State or Federal Government.

Mr. MEADER. The State action referred to might be a law passed by a State legislature; might it?

Mr. WALSH. Yes, such as that all Negroes cannot vote.

Mr. MEADER. Would it also include interpretations of State law by State officials?

Mr. WALSH. By State registrars, yes.

Mr. MEADER. Would it also include a failure on the part of State officials to observe the State law?

Mr. WALSH. Yes, sir.

Mr. MEADER. In other words, State action might include inaction.

Mr. WALSH. In other words, if the State registrar just closed his door and locked it every time he saw a Negro coming down the street,