

posals, which brings this whole thing under the protection of the court at the very outset.

The only time you need an administrative agency, really the only reason they were created was to ease the load on the courts. Actually, I don't know if they have ever done that. Whether they have made more trouble than they have eased has always been questionable. But where the court can do it itself by such a simple device, dealing with such simple issues of fact, I do not see the need for the administrative agency.

Mr. LINDSAY. What you are saying is that in any event you are bringing the Federal Government into State elections.

Mr. WALSH. Yes.

Mr. LINDSAY. And the thing that you say controls the constitutional point is the procedural device by which you do that.

Mr. WALSH. I don't know that I even like to say we are bringing the Federal Government into State elections. We are only bringing it in where the State machinery balks.

Mr. LINDSAY. I understand, and I fully agree.

Mr. WALSH. We hope up to the last instant that the State registrar will go ahead.

Mr. LINDSAY. But what you say is that where the action taken under those circumstances by the Federal Government is device A, it is within the 15th amendment, whereas device B, because of its procedure, is outside the 15th amendment. That is the thing I was wondering about.

Mr. WALSH. I say that when the Federal Government takes over under the 15th amendment, I think that at least a conservative constitutional lawyer would have to assume that it has got to meet the same problems in dealing with the State as you would have in dealing with a private person. But you cannot take over a private person's property without ordinary due process.

It may be that a State is entitled to less protection because it is not a person under the 14th amendment or under the 15th amendment. But I think you have got the same factors, and the court is going to have those same factors in mind and is going to measure the intrusion into the State against the need for it and the procedures by which those steps were taken.

Mr. LINDSAY. That is the point; yes.

Mr. WALSH. I do not think a congressional committee or a commission, the Civil Rights Commission, whose procedures are identical with a congressional committee, is in a position to make the findings which justify the intrusion into the State election machinery. All its findings are only for the purpose of recommending things to Congress, calling attention of Congress to facts which Congress can further explore or act upon. But it does not have the power of action itself. It was not designed to have the power of action itself.

Mr. POFF. Will the gentleman yield?

Mr. LINDSAY. Thank you very much.

The CHAIRMAN. Just a minute. I want to get one matter cleared up, if I may, Judge Walsh.

Let us assume an order is issued, say February 1, appointing a referee, and that names of people who have suffered discrimination are appended to the order issued by the judge appointing the referee.