

Mr. WILLIS. Well, I would prefer to have it spelled out in the procedure. But we will talk about that.

Mr. WALSH. I would respect that point of view, and it is perfectly all right.

Mr. WILLIS. Now let us turn to the question of submission of certified copies. That is on page 2.

Mr. LIBONATI. May I ask one question here of you, sir?

Mr. WILLIS. Just one question.

Mr. LIBONATI. Is this a hearing officer, or does he just submit a report to the judge?

Mr. WILLIS. Well, he makes a finding which is presumed to be right unless clearly erroneous, and he makes a report to the Federal judge, and the Federal judge is required to review it.

Mr. LIBONATI. But he actually does not hear any evidence; he hears complaints.

Mr. WILLIS. A Federal judge hears the evidence.

Mr. WALSH. It is not a complaint; it is an application to vote.

Mr. LIBONATI. This application to vote is based on the fundamental ground that he was deprived of the vote?

Mr. WALSH. The application to vote is based on two grounds; he is qualified to vote, and the State registrar would not register him, or some similar action.

Mr. LIBONATI. Then, he is not a hearing officer at all. He just accumulates reports and reports to the judge. He does not conduct any hearing.

Mr. WALSH. That is the way I would assume it would work. The judge might want to use the referee in a different fashion, but that is the way it is anticipated it would work where you have a large number of applicants.

Mr. LIBONATI. But he does not make any findings, does he?

Mr. WALSH. Yes; but they are tentative and are then sent to the registrar or whatever State officer was the defendant in the original action, and that officer is given an opportunity to take exception to the findings; and if there is an issue of fact raised by the exceptions, the judge himself can try out that issue of fact or refer it back to the referee.

Mr. LIBONATI. But if he does not call for evidence of opposing parties, then he is just a factfinding person; is that not right?

Mr. WALSH. Yes, a tentative fact-finding person.

Mr. WILLIS. No; a mixed question of law and fact. He has to define qualification, and that really requires a perusal of the law.

Mr. WALSH. That is right.

Mr. POFF. Is that not a judicial determination?

Mr. WALSH. That is a determination that a State registrar makes every day.

We can get into using labels, but I would say it is more of an administrative determination than a judicial determination. It becomes a judicial determination when it is challenged, and then the judge has to decide between two conflicting claims.

Mr. POFF. But, if it is not considered clearly erroneous, it may never be challenged.

Mr. WALSH. That is right.

Mr. LIBONATI. Will you pardon my line of questions?