

*New York*, which I think is in 193 U.S. and the case that went up from Illinois several years ago, which was treated in Mr. Frankfurter's special concurring opinion there. I think that there is a denial or abridgment on the part of the State—when there has been an action by one of the State officers pursuant to a State law, or pursuant to a State law which directed this particular action, or when a State officer acts beyond a State law, and the courts of the State have ratified that action. Now, that is the position that I have taken and taken always, and that is what the Supreme Court of the United States, in my opinion, said in the *Barney* case, and in this other case in the 321 U.S., page 1.

Mr. ROGERS. Then if an election official has a duty and a responsibility, and he doesn't perform it, then he is acting as a State official?

Mr. BLOCH. Mr. Rogers, that is one of the questions precisely that is pending in that *Raines* case.

Now, in this case, I can answer your question by showing you, if I may, what was alleged there.

It was alleged in that case—and I guess it is all right for me to discuss a case that is pending before the Supreme Court of the United States—it was alleged in the petition in that case that the acts and practices complained of were designed by the registrars and intended by them to do certain things. I took the position then, and I take the position now, that when registrars design acts of their own, which are contrary to State law, and don't follow the State law, that those acts cannot be considered a denial or abridgment on the part of the State.

Mr. HOLTZMAN. May we try to sum it up, then? Is it your position, Mr. Bloch, that unless there is a State law that abridges or denies the right to vote—

Mr. BLOCH. No.

Mr. HOLTZMAN. It is not your position. Then can you tell us any other instance where there would be such a denial or deprivation in the absence of a State law that would deprive or abridge the right to vote?

Mr. BLOCH. Yes, sir. I think if registrars act in defiance of a State law, or act contrary to a State law, and refuses to register a person on account of his race, color, or previous condition of servitude, even though the State law says that they should, that they ignore that, and that case is carried to and through the courts of the State, and the superior court, and the appellate court says that that action of the registrars was right, then I think you have got an abridgment or denial on the part of the State. But until the remedy allowed by the State law has been pursued, then there isn't any denial or abridgment on the part of the State.

Notice, I refrain from using the phrase "State action or color of law," because I honestly don't think that phrase "color of law" adds a blessed thing to it.

The CHAIRMAN. With reference to the term "under the color of law," in the *Classic* case, with which you are familiar, we have the following. It discussed the meaning of the phrase, "Under color of State law." And the Court states as follows:

Misuse of power possessed by virtue of State law, and made possible only because the wrongdoer is clothed with authority of State law, is action taken under cover of State law.