

Mr. MEADER (continuing) :

Including an application for a permanent or temporary injunction or other restraining order.

Mr. BLOCH. How would you get the injunctive order preventing such practices unless the persons were named? Could you just get a general antidiscrimination order under that?

Mr. MEADER. Well, as far as the statute is concerned, I believe that is what is contemplated. It doesn't say that you have to get an injunction restraining you from discriminating against Susie Jones.

It doesn't say that you have to name the person, but at any rate I think we should go on to another point, whether these people are parties or not.

I would like your comments on this question. If this legislation authorized the district court to issue a writ of mandamus to a State registrar compelling him or ordering him to register a certain person, would you have objection to that on constitutional grounds?

Mr. BLOCH. If the statute left the registration process to the State registrars and then issued a writ of mandamus commanding the State registrars to register a certain person—

Mr. MEADER. Without any reference to this referee?

Mr. BLOCH. I have objection to that.

Mr. MEADER. What would it be?

Mr. BLOCH. It would contravene the 10th amendment.

My objection secondly would be until the action of those registrars had been reviewed by the State courts, that there hasn't been any abridgment or denial on the part of the State and that the district courts of the United States, as said in this recent case, that the district courts of the United States ought not to interfere with the State processes until the State courts have had an opportunity to rectify any errors which have been committed; but if a person claims to have been unconstitutionally deprived of his right to vote on account of his race or color, that the district courts of the United States ought not to be granted the power to compel a State body by writ of mandamus to register that person without that person having first exhausted his State judicial remedies, but until he does that, that that isn't any abridgment or denial on the part of the State.

Of course, that is the question upon which Mr. McCulloch stated the opposite view awhile ago so it gets down to the basic question.

Mr. MEADER. There is nothing in the 15th amendment that says the United States has to wait until the States have completely failed in their judicial processes for remedies for these people who are guaranteed the right to vote.

If I agree with Mr. McCulloch that the United States can act right now without waiting until the States have failed in their duty, then your argument wouldn't apply.

Mr. BLOCH. But Mr. Meader, how can Congress ever determine—this is more or less a rhetorical question—how can the Congress ever determine that the States have failed in their judicial process when the States have not been given an opportunity to apply their State laws so far as the record shows and where there is a case in Georgia where a Negro voter claiming that he has been denied the right to vote, or that his constitutional rights have been abridged, has ever appealed to the State courts.