

## MISSISSIPPI FREEDOM DEMOCRATIC PARTY

1353 U Street, N.W.  
Washington, D.C.

### CONGRESSIONAL CHALLENGE--FACT SHEET

The Mississippi Freedom Democratic Party's decision to challenge the seating of five unconstitutionally selected representatives to the Congress came in the wake of the refusal by Herber Ladner, Mississippi Secretary of State, to have the names of FDP candidates placed on the state ballot for the November 3rd elections. Petitions bearing the 1,000 signatures from registered voters required by Mississippi law were ignored by the Secretary of State.

#### BASIS OF THE CHALLENGE

The MFDP's Notice of Challenge shows that the political process of the State of Mississippi violates the 14th Amendment in that Negro citizens comprising some 42% of the voting age population are systematically disenfranchised and deprived of their political rights; it further shows that the MFDP has been subject to official intimidation and suppression from private and public sources within the state. Again, the Notice of Challenge shows that the State of Mississippi has been in continual violation of a federal statute passed in 1870 which stipulated that Mississippi would be admitted to representation in Congress on the condition that the then existing constitutional qualification to vote would "never be amended so as to deprive any citizen of the right to vote."

The political structure of Mississippi is based, in the words of the Fifth Circuit Court of Appeals, "on a system of steel hard segregation" which deprives over 400,000 voting age Negroes of their basic right to a ballot. Of Mississippi's 456,620 Negro citizens of voting age, only 28,000 are currently registered; and there are counties all through the state such as Clarke County with 2,988 Negroes eligible to vote where only one Negro has actually been registered.

The MFDP is not merely challenging the individuals claiming to represent Mississippi, but it contends that the restricted political and electoral system of Mississippi has effectively disqualified them from the right to represent Mississippi in the U.S. Congress.

#### PROCEDURE OF THE CHALLENGE

The Challenges of the contested Congressmen were filed December 5 in accordance with Title 2 of the United States Code, Section 201, which outlines the exact steps to be followed whenever the right to hold a seat in the House of Representatives is challenged.

The formal challenges must be filed within 30 days after certification of the results of the elections. We served this Notice of Challenge personally and by mail, on the challenged Congressman-elect and to the Clerk of the House of Representatives on Dec. 5.

The challenged persons then have 30 days to file their answers to the charges. The law provided that the contestants have forty days beginning on the day answers are served, to use federal subpoena power to take testimony throughout the state of Mississippi to support the charges in the challenges. This testimony will be taken at open, public hearings. The subpoenas must be obeyed under penalty of contempt of court, and if local federal judges refuse to issue subpoenas, immediate emergency appeals can be taken to the higher federal courts.

The contestees then have forty days to take testimony with the same rights to subpoena. The contestants then have ten days to take rebuttal testimony. At this point all evidence is formally presented to the Clerk of the House and a decision is made as to how much of this record will be printed by the public printer. The printed record is given to the House Subcommittee on Elections and Privileges.

The contestants have 30 days to file their brief, and then the contestees have 30 days to answer. At this point the entire challenge is placed before the Subcommittee on Elections and Privileges, which has jurisdiction over the controversy.

#### THE FAIRESS RESOLUTION

On the opening day of Congress, prior to the swearing in of members elect, any Congressman, on his responsibility as a member-elect, can ask that contested members be excused from taking the oath, and in fairness, no Congressman from Mississippi be seated until such time as the House decides the question of the challenge. The Speaker asks those persons being challenged to step aside while the oath is administered to other persons. The formal Fairness Reslution is then presented and voted upon. (For full details see position paper on Roush-Chambers Election Contest, which is the most recent precedent for such action.)

#### BACKGROUND INFORMATION ON THE MFDP

The MFDP was established April 26, 1964, to give the opportunity for meaningful political expression to 438,000 Negro Mississippians who have been traditionall denied these rights and to Mississippians of all races who were themselves no less denied.

Following the refusal of State officials to place the MFDP candidates on the ballot, the Freedom Democrats decided to run a parallel election in which all citizens who met 14th Amendment criteria and desirous of voting would have an opportunity to vote. The ballot included the Presidential candidates of both major parties as well as the FDP candidates and their opponents. Ballots were cast from polling places in 53 of the state's 82 counties, while "underground ballots" were mailed in from those counties too dangerous for FDP workers to enter openly. In each race the number of freedom votes cast were sufficient to have significantly influenced the election. President Johnson received 63,839 votes in the Freedom Election as opposed to 52,538 votes he received in the "official election". Aaron Henry received 61,044 votes as against 139 for State incumbent John Stennis.

2nd Dist.:	Mrs. Fannie Lou Hamer	--	33,009
	Rep. Jamie Whitten	--	59
4th Dist.:	Mrs. Annie Devine	--	6,001
	Rep. Winstean	--	4
5th Dist.:	Mrs. Victoria Gray	--	10,138

The figures for the candidates "winning" seats in the second and fifth districts and the senate race are not published since the candidates were "unopposed" on the ballot.

The MFDP contends that the only legal candidates qualified to represent Mississippi in the Congress of the United States are the three Congresswomen elected in hhe Freedom Elections since the Freedom Elections were the only elections open to all constitutionally qualified persons held in Mississippi this year.