May 30, 1965

Dear Phil:

I am enclosing three pages which I wrote for Rights, the ECLC magazine. Since I doubt if too many of the people who gets my letters would see it there I thought I might include it in the Newsletter.

Dear Friends:

The following is an article I was asked to x write for Rights, the magazine of the XXXX Emergency Civil Liberties Committee:

(here insert article)

Last week was the first mass meeting I have attended in a very long time. It is alwasy the same old faithful people who will go on attending mass meetings until they die, waiting praying and singing. But this one was a very refreshing change. Sherrod has come back to Albany. fxmxthxxsxmmerx He was in Unionn Tehological Seminary for the year, but will be here for the summer. People were excited to see him back and the whole spirit of the meeting picked up. Then John Lewis spoke - about Africa and the upsurge of Movement on the Negro college campus. There were a dozen students from Albany State College, the local Negro State college. One of them, a student body leader, talked about how the campus had to recognize that it was one with the community and since they were both black they shared common problems and must work with one another. As difficult as it is to activate the Negro college campuses, Albany State is impossible. Back in '62 about 40 students were thrown out - not at the request of the State Regents, but by the Uncle Tom president - for taking part in Albany demonstrations. That was a good lesson and everyone went back to fraternity parties and making plans for their middle - class futures. But ever since Berkeley student activity on the Negro campuses is picking up. In Montgomery the entire student body of Alabama State rioted over the arrests of some SNCC workers on campus (this didnt make the local press). On every campus there are little hard core groups of students, generally putting out underground mimeo newspapers, who are asking why they cant be treated as adults. A few weeks ago we met a guy from Morehouse (Atlanta) who is active in the Student Liberation Front there. You get the feeling that at least some of the people who will now have a small corner of the white middle-class world opened up to them are beginning to ask themselves if they really want this.

Also at the Mass Meeting it was announced that the busses were coming back to Albany. When the Movement first started at the end of '61, one of the immediate goals was desegregated seating on the busses and when the City refused to let the bus company comply, the Negro community put them out of business. With Albany's "new image" tryng to attrack industry, they realize a bus line is indispensible. (It's a pain in the ass for Mr. Charlie to drive all the way across town every morning to pick up his "girl" and besides, taking her home at night is damn dangerous - Things have gotten so bad in CME, one of the toughest neighborhoods in Albany that someone called the cops because there was a big fight in the middle of the street and they refused to come.) So after a long hassle the power structure consented to the Movement demands that half of the drivers be Negro. At first they hired Negro men, but now they're looking for Negro women to drive as people are pushed out of shape at the idea of a Negro male driving into white neighborhoods - I swear to God I'm serious about this.

I have spent all week working on my first piece of Federal litigation since being admitted to Federal practice - a bowling alley desegregation case. There are only two alleys in Albany (aside from the military base). One is right next to the Negro college and desegregated immediately after the passage of the Civil Rights Act. Since alot of the Negro students use it, and they even hold a phys ed bowling class there, they have lost most of their white business and their leagues. The other alley is out in the shopping center and they are adamant about refusing to let Negroes bowl. One guy who is in the service bowled there with his service team in a league - they couldnt afford to loose that business - but they wouldnt serve him at the lunch counter. So now the first alley is threatening to stop letting Negroes in unless the other one does also. Roy went out with a couple of kids from the college a few weeks ago, after having made reservations in his name. They told him they had no lanes open and when he went to the lunch counter told him "we dont serve colored folks". We were all set to go with them as plaintiffs but a few days ago a couple of teachers at Albany State and a couple of Negro businessmen went out to bowl and were also turned down. One of the teachers got so hot that he came to CB so he is also a plaintiff. Only someone who knows Albany State can appreciate how amazing this is. The whole process of preparing this litigation is somewhat like giving birth for me - very exciting. Under the Federal Rules there are several discovery devices which let you inquire into the opposing party's case and ask him various questions before the case goes to trial. I prepared a list of 108 questions which he will have to answer under oath, and plan to give the rest of the Distovery procedures a work out before I am through with this case. What we want to do is make it a model complaint along with discovery so that the students who come in this summer can use it as a guide and go into the counties gathering the necessary data and preparing complaints in areas where no one is complying with the Civil Rights Act. Discovery is not to be used as a harrassment device and God forbid I should do something like that but I must admit I got a certain amount of sadistic pleasure preparing all those questions about who supplies "table salt and other condiments" to his restaurant and will enjoy even more the Motion to Inspect whereby I can go into the bowling alley and look at all his records and photograph whatever I want. These private civil suits are expensive as hell to bring and if there are any new questinns raised it generally means a trip to the Fifth Circuit on appeal, but if the litigation is painful enough all the other free enterprisers who demand their right to deal with whomsoever they choose learn a very good lesson. This is an interesting case because I dont believe it has been decided yet whether the Civil Rights Act covers bowling alleys under the "entertainment" section - tho this place has a lunch counter and is right next to an interstate highway.

The only really discouraging aspect of this case was that it took a hell of a long time to get all the plaintiffs together. Everyone is very hot to litigate and enforce their rights, but they can never seem to get together with the attorney at the same time to discuss the facts. CB and I came back to the office about 4 different times after dinner and each time only one or two of the people showed up. This is very frequent occurrence when you are doing "free work". I guess people have the idea that because he isnt charging them anything to bring the action it isnt necessary for them to show up. He gets furious about this and I would too except that I"d put up with most anything to file this particular case. I started to reflect the other day on the tremendous amount of "free work" that CB does - the great amount of time which he spends that

is not compensated in any way. Like the other day when the guy who was beat up by the cop in Omega came in we sat around discussing what had happened and then sitting by while the FBI took the statements which involved at least four hours, probably longer. Or yesterday when we talked to students at the Negro highschool all afternoon about harrassment that they had gotten from the Negro teachers because they were transferring to the white school. There has been quite a bit of this lately, and the principal gave out forms the other day for those students who want to take back their transfer request. What has happned is that that the Supt. of Schools has come up with the rule that anyone who transfers to the white school will be ineligible to participate in athletic or band competition for a year. Because of this alot of top Negro athletes who planned to transfer to teh white school have decided not to go. The regulaton is normally used to keep a school system from luring a good ahtlete away from another school system - I remember a friend from Ohio telling me that some of the big industrial towns there would get in high paying jobs for the father of a promising high school football player to bring him in off the farm. But here the regulation is clearly out of place and is being used to discourage Negroes from taking advantage of the opportunity to attend the better school. Which means we will have to go back into Federal court to try to put a stop to this crap.

School transfers are going on in Americus, Sumter County at this time and they have 87 kids who will be going to white schools next year. This is a phenominal number for this little cracker town. But the harrassment has really gotten bad up there. First they put John Barnum away for four months - I think I wrote about this a while ago. Now they picked up two teenagers, the girl is one of four students at the white high school this year and a straight A student. She and her boy friend were parked off the highway and a State Trooper charged them with fornication - in rural bible-belt Georgia you still see a considerable number of fornication prosecutions. They took a lie detector test which established that they were telling the truth when they stated that they had not done anything. But the girl's father hired a white lawyer in Americus to defend her - this was on a revocation of probation hearing stemming from old Movement arrests. Of course he didnt raise any constitutional questions - the first arrest from which she was put on probation was completely unconstitutional, but nothing was said about this and she is supposed to be sent to reform school. It is god damn disgusting in that what is happening is part of a damn frame-up but also that even if it were true she shouldnt be sentenced on a probation revocation becaus the initial charge is no good. But her daddy is an old minister and he "believes in the white folks" and some of these people will just never learn. There is nothing we can do as we cant just walk into the case without CB facing disbarment.

The affirmatige litigation is starting now. We will be filing a case in a couple of days - a civil rights damage action suit against Chief Pritchett and his boys. CB finally convinced the Legal Defense Fund to take this one as Albany really needs to have its cops curbed. In August, 1964 a Negro man was shot by the police - one of the many killings of unarmed Negroes that goes on over the years. Out of this killing stemmed the demonstration in which Harris and Rev Wells were arrested for insurrection and also the riots in Harlem. Anyhow, one of the witnesses to the killing was a man named Terrell, a disabled vet who lives in the housing projects. He had given a statement to the FBI about the killing and the police came by to find out what he had told the FBI. He refused to tell them so they took him down to the police station, without a warrant, and held him for 19 hours, alternately questioning him until he finally told them what he told the FBI. Then they let him go home. That's how the police conduct "investigations"here.

Tho we dont have a prayer of winning this suit in front xof a jury it still hax axixalot of theraputic value as it makes the xx cops think through their actions the next time they are about to do something like this. Its very expensive for the City and also very xmpx embarrasing fr the individual cops involved. Pritchett got the word that CB was in the City Hall looking at the City liability insurance bonds which it has on all its cops and he was very apprehensive, wanting to know what CB was planning to do and what did he want that information for.

I was going to wait until I had more details before I wrote about the following but the thing is so damn disgusting that I'll set out what I know about it and if ixxgxkx we get more information I'll write abou t it some more. A guy came into the office today from a rural county south of here. He xaix told CB that his cousin and her boyfriend were driving home from xxpxixx visiting friends and were stopped by the Sheriff. He made them walk into the woods and told them that unless they made love in front of him he would charge them with driving under the influence of alcohol. Some of thsse crackdrs are so fucken sick its unbelievable.

Dennis

Phil: I am enclosing a little xxx thing that came in an envelope postmarked Moultrie, Ga addressed to "C.B.King & Assistant". It came right after we were finished with defending Ricks and Herman in Moultrie. We got two of these xxxxxx but no note or anything. If you want to use it for Dxx <u>Despite</u> o.k. but when youre done please send it back.

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The State of Georgia has made the act of "Attempting to Incite Insurrectinn" a felony punishable by ~~the~~ death. The Statute, Ga. Code Ann. 26-902 dates back to the early 1800's when it was enacted to discourage slaves from rising up against their masters and demanding their freedom. The conduct which characterizes this offense is defined in Ga. Code Ann. 26-901 thusly: "Insurrection shall consist in any combined resistance to the lawful authority of the State, with intent to the denial thereof, when the same is manifested or intended to be manifested by acts of violence."

There apparantly were no prosecutions under the statute until the 1930's when it was used against Angelo Herndon, (Herndon v. Lowry, 301 U.S. 242) an alleged organizer for the Communist Party. At that time the United States Supreme Court reversed the conviction and ruled that the statute was unconstitutional. One would think that this archaic piece of legislation would die a natural death on the statute books after a determination that it was unconstitutional by the highest court in the land.

However, law enforcement officers have seen fit to dust it off and put it to use in situations which, to them, must present the same threat to a disruption of a more modern form of slavery. On August 9, 1963, Donald Harris, Ralph Allen, and John Perdew, three field secretaries of the Student Non-violent Coordinating Committee were arrested in Americus, Georgia and subsequently charged with attempting to incite insurrection, along with several other offenses. On August 17, Zev Aelony, a CORE worker was similarly charged. The overzealous State Solicitor was free in his admissions to the press that the reason for

bringing these capitol felony charges was that it would enable the defendants to be held in jail without permitting them to be released on bond pending trial. Clearly, this would have the effect of breaking up the local civil rights protest movement. In one statement given to a representative of the U.P.I. he stated that he had serious doubts as to whether he would call the insurrection cases for trial. He continued, "The basic reason for bringing these charges was to deny the defendants or to ask the court to deny them bond." After the civil rights workers were kept in jail without bond for over eleven weeks, a three judge Federal panel was convened. It reaffirmed that the statute was unconstitutional based on the U.S.S.C. decision in the Herndon case and enjoined the police officers and officials of the City of Americus and Sumter County, Georgia, from attempting to prosecute under this statute.

But Don Harris had not heard the last of the infamous Georgia insurrection statute. One year later, in Albany, Georgia, a warrant was issued against him for "Circulating Insurrectionary Papers", a companion statute to "Attempting to Incite Insurrection". At the same time Rev. Samuel Wells, a very strong voice in the Albany Negro community, was arrested under both the "Circulating Insurrectionary Papers" and "Attempting to Incite Insurrection" statutes. Rev. Wells was held in jail for 13 days on a charge which had been held unconstitutional by the U.S.S.C. During this time police officers in a city 38 miles away were under a Federal Court injunction to keep them from attempting to enforce the same statute. The noteriety of the Americus cases was such

that anyone who read the papers or watched televion would know that the insurrection statute was unconstitutional, yet law enforcement officers of the City of Albany procured a warrant from a local Justice of the Peace and incarcerated a man for 13 days under that charge.

The United States Supreme Court has ruled that the "Attempting to Incite Insurrection" statute is unconstitutional and a three judge Federal Court has struck down a prosecution in one of Georgia's counties and enjoined those officials from further prosecution under this statute. However, civil rights workers in any of the remaining 158 counties of Georgia cannot rest secure in their knowledge that they will not be picked up on this unconstitutional charge, held for weeks without bail, and put to the tremendous expense of again convening a Federal forum where the unconstitutionality of the statute can be reiterated and they be set free. Such is the nature of our judicial system.