

Report on Miss

DEC 21 RECD

THE CONGRESSIONAL CHALLENGE

The MFDP decision to challenge the seating of Mississippi's representatives-elect to the Congress came in the wake of the refusal by Herbert Ladner, Mississippi Secretary of State, to have the names of four FDP candidates placed on the state ballot for the November 3 elections. Petitions bearing the 1,000 signatures from registered voters, required by Mississippi law, were ignored by the Secretary of State. The MFDP will also bring evidence to show that the political processes of the State violate the 14th amendment in that Negro citizens comprising some 42 percent of the voting age population are systematically disenfranchised and deprived of their political rights and that the MFDP has been subject to official intimidation and suppression from private and public sources within the state.

In accordance with the process set forth in Title 2, U.S.C. 210 et Seq. a notice of challenge will be served on the members-elect whose seats were obtained by violation of statutes and filed with the Sub-committee on Elections and Privileges of the House Administration Committee. At this time preparation is being made to challenge the Congressman-elect from Mississippi's 2nd, 5th, and 4th Districts. Lawrence Guyot, MFDP chairman, calls the challenge "A challenge to the entire political system of the state, not just to the congressman-elect. 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. We are challenging the right of this system to seat members in the U.S. Congress." Of Mississippi's 456,620 Negro citizens of voting age, only 28,000 are currently registered. Voter registration attempts by Negroes have been met with violent opposition and economic intimidation.

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 old enough 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 elections.

Aaron Henry received 61,044 votes as against 139 for Senate incumbent John Stennis.

2nd District Mrs. Fannie Lou Hamer 33,009 - Rep. Jamie Whitten 59

4th District Mrs. Annie Devine - 6,011 - Rep. Winstead 4

5th District Mrs. Victoria Gray, 10,138

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Approximate Time Table of the Statutory Challenge

The challenges to the contested Congressmen will be filed in accordance with a formal statute of Congress which outlines the exact steps to be followed whenever the right to hold a seat in the House of Representatives is challenged. This statute is Title 2 of the United States Code, Section 201. This is a formal law of Congress and is not a part of the rules or precedents of the House which could be subject to change.

The formal challenges must be filed within 30 days after the certification of the results of the elections. The challenges will be served on the contested representatives personally and by mail. They will be in written form and will set forth in full the reasons why the challenges are made, outlining why the Mississippi elections and political system are in total violation of the federal constitution. (This was done December 1 by (a) registered mail, (b) telegram, and (c) messenger delivered note.)

The challenged members then are requested to answer the charges within thirty days. Their answer will be due on or about January 2. They must send their formal answers to the challengers.

After the challenged men have answered in writing, the law provides that the contestants have a period of forty days within which to use federal subpoena power to take testimony throughout the state of Mississippi to support the charges in the challenges. They will seek to prove that the Mississippi elections violated the constitution and occurred in an atmosphere of terror and coercion. This testimony will be taken in open public hearings throughout the State. If local federal judges refuse to issue these subpoenas, immediate emergency appeals can be taken to the higher Federal Courts. The subpoenas must be obeyed under penalty of contempt of court. This period of time for full public testimony throughout Mississippi would run until approximately February 10.

The challenged representatives then have forty days to take whatever testimony they want. They may or may not use this time. If they do, this takes the period until approximately March 20.

The challengers then have 10 days to take rebuttal testimony. At the conclusion of this period all the evidence is formally mailed to the clerk of the House of Representatives. The challengers and challenged individuals are personally summoned to appear before the Clerk. Decision is then made as to how much of this record will be printed by the public printer. This period of time will probably run until about May 1. The printed briefs are then distributed to the House Committee on Elections and Privileges.

The contestants have 30 days to file their brief and the challenged parties have 30 days to answer. This period runs until about July 1.

At this point the entire challenge is placed before the Subcommittee on Elections and Privileges of the House of Representatives which has jurisdiction over the controversy. This Committee then must make the decision as to whether formal public hearings will be held before the

Committee. The Committee will then vote on its position and present this in a resolution to the House of Representatives. These political decisions by the Sub-Committee and the House would probably come to a head sometime during July, 1965.

Please Contact your Congressman NOW:

It is quite possible that your Congressman will not be willing to do all four of these things. They are listed in the probable order of greatest support for the challenge.

1. To support the challenge of the Mississippi Freedom Party.

2. To co-author a Fairness Resolution reading as follows:

"be it resolved that pending the final decision of the House in the contest and challenges to the seats from Mississippi, no person claiming those seats shall be allowed to take the oath until this contest or challenge is decided by the House."

3. To vote for the resolution in 2 above.

4. To vote to request a roll call vote on all issues concerning the challenge including the Fairness Resolution and the final vote on the challenge.

Suggested letter and telegrams:

The challenge of the congressional delegation from Mississippi raises basic question of political representation. Over four hundred thousand Americans deprived of voting rights in that state. Violence, legal abuses and murder will be lot of Negro Americans there until democracy established.

Urge your support of resolution against swearing in of Mississippi delegation until complete investigation of situation by Congress.

Dear Congressman X:

As you probably know, the MFDP, representing over 439,000 Americans who have no other representation in our political system, is challenging the seating of the Mississippi Congressional delegation in the U. S. Congress. Your constituents, the undersigned, share a deep concern about the illegal and oppressive system operating in that state.

Because you represent our views in Congress, and because of your record of support and concern for democracy and justice, we are urging you to support this challenge.

The Mississippi Freedom Democratic Party have marshalled an overwhelming mass of evidence outlining the systematic subversion of democratic rights in that state. We feel that this evidence casts real and substantive doubts about the qualification of any of the Mississippi delegation to representation in the Congress of the United States. We urge you to vote for a resolution asking that none of the Mississippi delegation be sworn in until Congress has had an opportunity to investigate the legality of the process by which they were elected.