

MEMORANDUM ON VOTING LEGISLATION

The Mississippi Freedom Democratic Party has issued a memorandum on voting legislation. This memorandum appears to have been endorsed as an accurate reflection of their position by James Farmer of CORE; James Foreman of the Student Non-Violent Coordinating Committee; Dr. Martin Luther King; and Lawrence Guyot of the Mississippi Freedom Democratic Party.

1. The major point made in the memorandum is that new voting legislation should not be restricted in its application to so-called "hard core" areas. The memorandum objects particularly to legislation which would provide federal machinery only in areas where less than a certain percentage of the total Negro adult population is registered to vote. The underlying premise of this objection is that the legislation proposed by the Administration might permit the States to register a token number of Negroes (up to whatever percentage was provided in the legislation) and then continue to follow past discriminatory practices.

The bill being drafted in the Department of Justice would not operate along the lines suggested in the memorandum. States or counties having literacy tests would be covered if less than a specified percentage of the total adult population was registered to vote or had voted in the 1964 elections and if the state or community involved was unable to persuade a federal agency that these low percentages were not the result of racial discrimination. Where the State or county was unable to carry this burden, literacy tests would be suspended and federal registrars would have power to act, if need be, for as long as ten years. This fixed period would apply irrespective of the percentage increase in Negro registration and certainly as long as there was evidence of racial discrimination in voting.

2. While not specifically endorsing them, the memorandum refers with some approval to bills submitted by Representatives Lindsay and Resnick of New York.

The Lindsay bill provides for the appointment of federal registrars whenever a court finds that 50 or more qualified Negroes in a county have been denied the right to vote. In the absence of action by the court, the President would be empowered to make the appointment. These registrars would be selected from a panel of federal employees and would not be residents of the State affected. The registrars would deem any literacy requirements satisfied by completion of the sixth grade. The bill makes provision for federal supervision of elections and the voiding of elections where racial discrimination is practiced.

The Resnick bill provides for the appointment of a Federal Voting, Registration and Election Commission. Once this commission found a pattern or practice of discrimination in any State or county, it could appoint supervisors to oversee the conduct of elections; require the use of simplified registration forms; establish a system of federal registrars; institute voter education information programs; issue cease and desist orders; and declare void any election in which discriminatory practices resulted in a substantial denial of the right to vote on account of race. A sixth grade education would satisfy any State literacy requirement.

The geographical reach of these two bills is probably no greater than the bill presently being drafted in the Department. The Lindsay bill depends more heavily on resort to judicial processes than does the bill being drafted by the Department. In addition, under the Lindsay bill, it would be possible to apply literacy requirements to persons with less than a sixth grade education, while under the Department's bill, all literacy requirements would be suspended.

The Resnick bill raises many constitutional problems, and its provisions for overseeing elections, the employment of armed marshals, and the like, are needlessly repressive. Moreover, this bill contemplates a more or less permanent assumption of federal control over the State and local election machinery, in contrast with the Department's bill which contains inducements for the States to transform their systems by ceasing to discriminate.