

## THE MFDP CHALLENGE:

First Stage - January 4, 1965

"...they cannot win 'elections' from a system based on murder and then claim the right to govern free men."--Congressman James Roosevelt, Congressional Record, 1-4-65, p. 50.

On January 4, 1965, Congressman William Ryan, of New York, secured recognition from Speaker McCormack as the latter was about to administer the oath of office to Members-elect of the House of Representatives. Ryan said:

"Mr. Speaker, on my responsibility as a Member-elect of the 89th Congress, I object to the oath being administered to the gentlemen from Mississippi, Mr. Abernethy, Mr. Whitten, Mr. Williams, Mr. Walker and Mr. Colmer. I base this upon facts and statements which I consider to be reliable. I also make this objection on behalf of a significant number of colleagues who are now standing with me."

As Congressman Ryan uttered these last words, some fifty congressmen rose to indicate their support of Ryan's objection.

Then the Speaker said:

"Under the precedents, the Chair will ask the gentlemen who have been challenged not to rise to take the oath with the other Members, for the present at least. The other Members will rise and I will now administer the oath of office to them."

Whereupon all the Members of the House, with the exception of the five Mississippians (and Ottinger of New York, who was also being challenged) arose and took the oath of office.

As soon as the Members had taken their seats, Congressman Ryan rose again, seeking recognition. It was his intention to introduce a resolution officially challenging the rights of the Mississippians to their seats, on the ground that the elections by which they were returned to the House were unconstitutional, in that the State of Mississippi was guilty of the wholesale disfranchisement of Negroes. The resolution also called for the Mississippi seats to remain empty until the House could investigate the allegations upon which the challenge was based, and come to a decision about the validity of the Mississippi elections.

Another Congressman also rose, seeking recognition. He was Carl Albert, of Oklahoma, House Democratic Majority Leader, leading spokesman in the House for the administration of President Lyndon Johnson. The Washington office of the MFDP had had information for several days that the Speaker had arranged to recognize Albert, rather than Ryan, so that Albert could introduce a resolution calling for the seating of the Mississippians. McCormack, of course, knew what Ryan intended to do, and what Albert intended to do. McCormack recognized Albert, who introduced the following resolution:

Resolved, that the Speaker is hereby authorized and directed to administer the oath of office to the gentlemen from Mississippi,



Mr. Thomas G. Abernethy, Mr. Jamie L. Whitten, Mr. John Bell Williams, Mr. William M. Colmer, and Mr. Prentiss Walker."

Then Albert went on to say:

"Mr. Speaker, the Members--lect whose names are referred to in the resolution are here with certificates of election in due form on file with the Clerk of the House of Representatives just as all other Members of the House. Any question involving the validity of the regularity of the election of the Members in question is once which should be dealt with under the laws governing contested elections. I therefore urge the adoption of this resolution."

Albert knew, as did most other Members that, on December 4th, 1964, the MFDP had filed challenges against the five Members from Mississippi, alleging that the elections by which they were returned were illegal and unconstitutional. The MFDP challenge was filed under the provisions of Title 2, USC, 201 et seq, certainly one of the "laws governing contested elections." Therefore it seems justifiable to infer that Albert was recognizing the existence of the MFDP challenge, and implying that the procedures of that challenge should be followed in determining the validity of the Mississippi elections.

Considering the vast amount of information which has been generally available about the disfranchisement of Mississippi Negroes, it is inconceivable that Alber, and his chief, President Johnson, were not aware of the conditions which exist in that State. Indeed, President Johnson's Attorney General had filed an omnibus suit which alleged that the entire structure of Mississippi election and registration law was unconstitutional. Presumably, this suit was pursued with Johnson's knowledge and approval. It is difficult, in view of these facts, to understand why President Johnson, and House Majority Leader Albert, would not have been willing to throw their weight behind the move by Ryan to let the Mississippi seats stand empty until the MFDP challenge could be decided. President Johnson has, any number of times, declared that he is unalterably committed to securing the unhindered franchise for all Americans. Support of the Ryan move would certainly have been an effective step toward that end. Assuming that President Johnson means what he says, his tactics, and those of his leading spokesman in the House, Carl Albert, remain a mystery.

After Albert had introduced his resolution and made the remarks quoted above, the Speaker said, "The question is on the resolution," meaning that the business then before the House was whether or not Albert's resolution should be passed. At this point Congressman James Roosevelt rose for a parliamentary inquiry. Being recognized by the Speaker, Roosevelt asked if the first vote would be on the resolution or on the previous question (a technical term for a motion to cut off debate on the matter before the House). The Speaker replied that if Albert moved to cut off debate, the first vote would be on whether or not to do so.

Roosevelt then asked:

"If the motion for the previous question is voted down, would it then be order to offer a substitute or an amendment providing that the five Representatives-elect from Mississippi not be



sworn at this time and that the question of their rights to be seated be referred to the Committee on House Administration."

The Speaker stated that if the debate was not cut off by a majority vote for the motion on the previous question, "it would be in order to offer a proper amendment."

Congresswoman Edith Green, of Oregon, then rose for a parliamentary enquiry. She asked the Speaker how many votes would be required to force a roll call vote. The Speaker replied, that, under the Constitution, one-fifth of the Members present would have to rise to demand a roll call vote. Thus 86 Members had to rise, when the Speaker put the question whether or not there should be a roll call vote, if the votes were to be recorded.

At this point Albert said, "Mr. Speaker, I move the previous question on the resolution." Thus, he was asking that the House vote on whether or not to cut off debate on the resolution he had introduced. According to the House rules of procedure, the House then had to vote on Albert's motion for the previous question, before it could vote on his resolution to seat the Mississippians.

After Albert had moved the previous question, Mrs. Green said, "Mr. Speaker, on that I demand the yeas and nays." (This is a technical term for roll call vote.) The Speaker then asked those who favored a roll call vote on Albert's motion for the previous question to rise. A large number of Members rose, both Democrats and Republicans. The Speaker began to count them and then gave up, saying that, apparently, a sufficient number were standing to require the roll call vote.

Then the House voted. Technically, they were voting on whether or not to close debate on Albert's resolution to seat the Mississippians. Actually, the vote was a test to see what kind of support those allied with Ryan, Green and Roosevelt, would have. A number of the Congressmen, including Roosevelt, had prepared speeches against the Albert resolution. They wanted an opportunity to face each member of the House with the full import of what he would be doing by voting in favor of seating the Mississippians. Such a debate would have opened up the issue of the disfranchisement of Southern Negroes, in a national forum, as it has not been opened for the past one hundred years. In the speech Roosevelt had prepared he said:

"The occasions are rare that a Member of this House must take upon himself the high and heavy duty of rising to say that he must speak upon his honor as a Member. We have seen such an occasion today....

"This House must speak upon its honor to the people of the United States. We are beyond politics in the ordinary sense; we are beyond the contentions of party and program that ordinarily concern us. We must speak upon politics in the very highest sense; we must speak upon the way a free people governs itself, we must speak upon the meaning of the words and the spirit of the Constitution, we must speak upon what to an American is the most terrible of political facts--that some Americans are not free men....

"This House is honorable because it flows from the wellsprings of democracy and the open society--



from the people's vote. If those wellsprings are poisoned, this House is poisoned. We dare not let men pretend to a seat in this honorable House who have been chosen by a closed vote in a closed society. If we do, we betray this House and the people of the United States and the Constitution they wrote for us.

"Such men are standing before us today, pretending to seats among us. They say their constituents will have no representation if we do not seat them. But their constituents will have no representation if we do seat them.

"We must say to them that they...win 'elections' from a system based on murder and then claim the right to govern free men....

"We will welcome to our midst Congressmen who have really been chosen by the people of Mississippi; but we must say to the people of all the States that until such men arrive here from Mississippi, we will not besmirch ourselves or the Constitution or the American people by seating persons who merely pretend to have been freely elected to our midst.

"When we say this, and not until then, we shall have spoken and acted upon our honor as the House of Representatives."

Had debate been opened up on the Albert resolution to seat the Mississippians, every man of honor and decency in the House would have felt constrained to rise and speak in similar vein. After such a debate, there could be little doubt that the Albert resolution would fail, and that the Mississippi seats would have remained empty until the final decision of the House on the MFDP challenge.

Thus the vote on the technical "motion for the previous question" was in a very real sense, a vote on the merits of seating or not seating the Mississippians. Those who voted against the motion for the previous question were demanding the opportunity to vindicate the right of the U.S. House of Representatives to call itself an institution representing free men.

One hundred forty-nine of the Members voted against Albert's motion to cut off debate. Their names and other information about them are listed in the table below.

One hundred twenty-eight of them were Democrats--44% of the House Democrats who could vote. Twenty-one of them were Republicans--15% of the Republicans who could vote.

Thirty-nine of them were freshman Democrats--58% of the Democrat freshman in the House. One of them was a freshman Republican--8% of the Republican freshmen in the House who could vote.

Seventy-six of them were lawyers--32% of the House lawyers who could vote. Sixty-nine of the lawyers in the House are from the states of the old Confederacy. Thus, there were actually only 163 lawyers who could have been expected to vote against the Albert motion. Forty-six percent of those did vote against it.

The table has one column which shows the seniority of each congressman who voted against the Albert motion. These seniority numbers are an important indication of the kind of opposition Albert had in the House, because



because much of a congressman's power and prestige is based on the length of time he has been in office. The highest seniority numbers indicate the shortest lengths of service. In other words, the freshman Democrats who were elected in 1964 have a seniority number of 78. Freshmen Republicans have a seniority of 36. The oldest congressman, in point of service, in each party, has a seniority number of one.

The lowest seniority number of any Democrat who opposed Albert and supported the MFDP was 14. Three of the supporters had this number, Dawson of Illinois, Holifield of Illinois, and Madden of Indiana. These three began their terms of service on January 3, 1943. The lowest seniority number among the Republican supporters of MFDP was 15, held by Ayres of Ohio, who has been in the House since January 3, 1951.

There are 20 Democrat members of the House who have seniority numbers lower than 14. Of this 20, only 5 come from non-Southern districts--Celler (10th Dist., N.Y.), McCormack (9th Dist., Mass.), Keogh (11th Dist., N.Y.), Kirwan (19th Dist., Ohio), and King (17th Dist., Calif.). Of this 5, three come from districts which have 10% or more Negroes--Celler 30.9%; Keogh, 24.0%; and Kirwan, 10%. Celler is the oldest member of the House in point of service and he occupies the very powerful post of chairman of the House Judiciary Committee. His support during the coming months would be very significant, if it could be arranged. Both Keogh and Kirwan occupy positions of similar power.

Of the 149 congressmen who voted in support of MFDP and against the Albert motion on January 4, 108 came from districts with less than 10% Negro population. This is an indication of the widespread support which exists among whites outside the South. These votes were not dictated by the political considerations attendant upon a black constituency. Presumably, at least some of these congressmen voted with us because they thought it was the right thing to do. Others, no doubt, voted with us because they knew from experience, or were told during the December lobbying period, that their Constituencies supported us.

On the other hand, there are 12 non-southern districts which do have 10% or more Negro population whose congressmen did not vote with us. Three of these are mentioned above. The others are:

Californai, Dist. 31	Wilson (D)	16.4%
Massachusetts, Dist. 9	McCormack (D)	12.8
New York, Dist. 7	Addabbo(D)	20.8
Dist.12	Kelly (D)	15.9
Dist.14	Rooney (D)	12.9



Ohio, Dist. 2 Clancy (R) 11.9  
 Dist. 12 Devine (R) 11.7  
 Dist. 22 Bolton (R) 13.6  
 Pennsylvania, Dist. 14 Moorhead (D) 23.1

There were only nine of the non-Southern states from which came not a single vote against the Albert motion. They were: Idaho, Kansas, Nebraska, Nevada, New Mexico, North Dakota, Rhode Island, South Dakota and Washington.

Since the matter at issue in the vote on Albert's motion was so clearly fundamental to the political and philosophical morality of the United States, it is interesting to note the religious affiliations of those who voted against it, and to compare these with the religious configurations of the House as a whole. Such a comparison follows:

Denomination	No. voting	No. against	% against
Protestant	24	8	33
(Roman Catholic)	92	58	62
Unitarian	8	6	75
Episcopal	54	13	24
Presbyterian	57	12	21
Methodist	64	12	19
Jewish	13	10	77
Morron	7	3	43
Baptist	37	5	14
Disc. of Christ	5	2	40
Lutheran	14	5	36
Christian Science	2	1	50
Congregational	14	5	35
United Church of Christ	2	1	50
Church of Christ	6	1	17
Central of Sch.	1	1	100
no specified denom.	13	6	46

After the vote was in on the Albert motion to cut off debate, the Speaker announced that the motion had passed and, that, therefore, the House would now vote on passage of the resolution seating the Mississippians. There was no call for a roll call vote, so the Speaker merely asked that those members favoring passage of the resolution signify by saying "Aye" and those opposed signify by saying "Nay". The Speaker decided that the Ayes had it and that the resolution had passed. He then proceeded to administer the oath to the Mississippians and they took their seats.

Whether or not they keep them will depend upon the outcome of the MFDP challenge, which, under the provisions of Title 2, USC, 201 et seq, will be before the House sometime in the late summer of 1965.



CONGRESSMEN WHO VOTED AGAINST THE ALBERT RESOLUTION

Dist.	Name	Religion	Sen-iority	Party	%
<b>ALASKA</b>					
AL	Rivers+	Protestant	55	Dem	3.0
<b>ARIZONA</b>					
2	Udall+	Mormon	61	Dem	3.4
<b>CALIFORNIA</b>					
4	Leggett+	Roman Catholic	69	Dem	4.7
5	Burton+	Unitarian	72	Dem	17.6
6	Maillard	Episcopal	16	Rep	4.9
7	Cohelan	Episcopal	55	Dem	24.8
8	Miller	Roman Catholic	18	Dem	7.2
9	Edwards+	Unitarian	69	Dem	1.2
14	Baldwin+	Presbyterian	18	Rep	6.2
19	Holifield	Disc. of Christ	14	Dem	0.2
21	Hawkins	Methodist	69	Dem	62.9
22	Corman	Methodist	60	Dem	1.2
26	Roosevelt	Episcopal	44	Dem	6.3
28	Bell	Presbyterian	27	Dem	1.1
29	Brown	Methodist	69	Dem	0.5
30	Roybal	Roman Catholic	69	Dem	15.6
33	Dyal	Mormon	78	Dem	3.4
37	Van Deerlin	Episcopal	69	Dem	7.9
<b>COLORADO</b>					
1	Rogers+	Baptist	32	Dem	6.1
3	Evans+	Presbyterian	78	Dem	1.9
<b>CONNECTICUT</b>					
1	Daddario+	Roman Catholic	55	Dem	4.6
2	St. Onge+	Roman Catholic	69	Dem	1.7
3	Giaimo+	Roman Catholic	55	Dem	5.5
4	Irwin+	Roman Catholic	77	Dem	5.1
6	Grabowski+	Roman Catholic	69	Dem	NA
<b>DELAWARE</b>					
AL	McDowell	Presbyterian	54	Dem	13.6
<b>HAWAII</b>					
AL	Hink+	Protestant	78	Dem	0.8
<b>ILLINOIS</b>					
1	Dawson+	Christian Science	14	Dem	87.1
2	O'Hara	Roman Catholic	36	Dem	22.3
3	Murphy+	Roman Catholic	55	Dem	20.2
5	Kluczynski	Roman Catholic	32	Dem	4.9
6	Ronan	Roman Catholic	78	Dem	46.0
7	Annunzio	Roman Catholic	78	Dem	32.2
8	Rostenkowski	Roman Catholic	55	Dem	0.2
9	Yates+	Jewish	75	Dem	5.9
11	Pucinski	Roman Catholic	55	Dem	0.3
19	Schisler	--	78	Dem	2.0
23	Shipley	Baptist	55	Dem	0.6
24	Price	Roman Catholic	18	Dem	12.3
<b>INDIANA</b>					
1	Madden+	Roman Catholic	14	Dem	17.0
3	Brademas	Methodist	55	Dem	4.5
8	Denton+	Methodist	43	Dem	3.6
11	Jacobs+	Roman Catholic	78	Dem	14.3



IOWA					
1	Schmidhauser	Unitarian	78	Dem	1.0
6	Greigg	Lutheran	78	Dem	0.3
7	Hansen	Presbyterain	78	Dem	0.2
KENTUCKY					
3	Farnsley+	Episcopal	78	Dem	12.8
MAINE					
1	Tupper	Episcopal	78	Dem	0.4
2	Hathaway+	Methodist	27	Rep	0.2
MARYLAND					
2	Long+	Presbyterian	69	Dem	4.3
6	Mathias+	Episcopal	27	Rep	3.4
AL	Sickles+	Roman Catholic	69	Dem	16.7
MASSACHUSETTS					
1	Conte+	Roman Catholic	22	Rep	0.7
2	Boland	Roman Catholic	37	Dem	3.7
3	Philbin+	Roman Catholic	14	Dem	0.7
4	Donohue+	Roman Catholic	21	Dem	0.6
5	Morse+	Congregational	27	Rep	0.4
7	MacDonald	Roman Catholic	44	Dem	0.8
8	O'Neill	Roman Catholic	37	Dem	1.9
11	Burke	Roman Catholic	55	Dem	0.5
MICHIGAN					
1	Conyers+	Protestant	78	Dem	41.3
2	Vivian	Unitarian	78	Dem	4.4
3	Todd	--	78	Dem	3.7
7	Mackie	Unitarian	78	Dem	1.4
8	Harvey+	Presbyterian	27	Rep	5.0
11	Clevenger+	Unitarian	78	Dem	0.2
12	O'Hara+	Roman Catholic	55	Dem	0.6
13	Diggs	Baptist	44	Dem	49.7
14	Nedzi+	Roman Catholic	63	Dem	3.7
15	Ford+	United Church of Christ	78	Dem	46.3
16	Dingell+	Roman Catholic	46	Dem	6.9
17	Griffiths+	Protestant	44	Dem	0.4
18	Broomfield	Methodist	19	Rep	3.3
19	Farnum	Congregational	78	Dem	NA
MINNESOTA					
4	Karth	Presbyterian	55	Dem	1.8
5	Fraser+	--	69	Dem	2.4
6	Olson	Lutheran	69	Dem	**
8	Blatnik	Roman Catholic	21	Dem	0.2
MISSOURI					
1	Karsten+	Episcopal	21	Dem	28.3
3	Sullivan	Roman Catholic	37	Dem	16.7
5	Bolling	Episcopal	29	Dem	17.7
MONTANA					
1	Olsen+	Methodist	60	Dem	0.1
NEW HAMPSHIRE					
1	Huot	Roman Catholic	78	Dem	0.5
2	Cleveland+	Protestant	29	Rep	0.1



## NEW JERSEY

RACIT

1	Cahill+	Roman Catholic	22	Rep	9.6
2	McGrath+		78	Dem	14.3
3	Howard	Roman Catholic	78	Dem	7.7
4	Thompson+	Roman Catholic	44	Dem	9.8
6	Dwyer	Proestant	19	Rep	7.5
8	Joelson+	Jewish	60	Dem	6.7
9	Helstoski	Roman Catholic	78	Dem	2.3
10	Rodino+	Roman Catholic	29	Dem	8.3
11	Minish	Roman Catholic	69	Dem	30.3
12	Krebs	--	78	Dem	17.2
13	Gallagher+	Roman Catholic	55	Dem	13.5
14	Daniels+	Roman Catholic	55	Dem	2.5
15	Patten+	Roman Catholic	69	Dem	3.8

## NEW YORK

1	Pike+	Church of Christ	60	Dem	4.8
3	Wolff	Jewish	78	Dem	4.3
4	Wydler+	Episcopal	29	Rep	3.0
5	Tenzer+	Jewish	78	Dem	12.2
6	Halpern	Jewish	22	Rep	5.0
8	Rosenthal+	Jewish	67	Dem	6.0
17	Lindsay+	Bresbyterian	22	Rep	1.6
18	Powell	Baptist	18	Dem	66.9
19	Farbstein+	Jewish	50	Dem	7.1
20	Ryan+	Roman Catholic	60	Dem	16.2
21	Scheur+	Jewish	78	Dem	12.3
22	Gilbert+	Jewish	57	Dem	25.2
23	Bingham+	Congregational	60	Dem	4.4
24	Fino+	Roman Catholic	16	Rep	4.0
26	Reid	Presbyterian	29	Rep	9.7
27	Dow	Episcopal	78	Dem	5.3
28	Resnick	Jewish	78	Dem	4.2
29	O'Brien	Roman Catholic	34	Dem	3.3
34	Hanley	Roman Catholic	78	Dem	2.8
35	Stratton	Presbyterian	55	Dem	0.9
36	Horton+	Presbyterian	29	Rep	3.3
37	Conable+	Methodist	36	Rep	3.9
39	McCarthy	Roman Catholic	78	Dem	0.4
41	Dulski	Roman Catholic	55	Dem	16.7

## OHIO

1	Gilligan	Roman Catholic	78	Dem	12.4
8	Love+	Protestant	78	Dem	9.9
9	Ashley	Episcopal	44	Dem	9.4
13	Mosher	Congregational	27	Rep	4.6
14	Ayres	Methodist	15	Rep	7.2
21	Vanik+	Roman Catholic	44	Dem	46.2
AL	Sweeney+	Roman Catholic	78	Dem	8.1

## OREGON

3	Green	Disc. of Christ	44	Dem	3.1
4	Duncan+	Methodist	69	Dem	0.1

## PENNSYLVANIA

1	Barrett	Roman Catholic	28	Dem	23.0
2	Nix+	Baptist	53	Dem	58.4
3	Byrne	Roman Catholic	37	Dem	40.5
5	Green	Roman Catholic	73	Dem	3.5
6	Rhodes	Lutheran	29	Dem	0.9
13	Schwieker	Central Sch.	27	Rep	3.6
15	Rooney	Roman Catholic	70	Dem	1.0
16	Kunkel+	Episcopal	28	Rep	6.1
19	Craley	Protestant	78	Dem	1.8
21	Dent	Roman Catholic	51	Dem	2.0
26	Morgan	Methodist	18	Dem	4.1



TEXAS

20 Gonzales Roman Catholic 62 Dem 6.6

UTAH 2 King+ Mormon 78 Dem 0.4

VERMONT AL Stafford+ Congregational 27 Rep 0.1

WISCONSIN 1 Stalbaum Lutheran 78 Dem 2.0

2 Kastenmeier+ -- 55 Dem 0.4

5 Reuss+ Episcopal 44 Dem 11.7

6 Race Lutheran 78 Dem \*\*

WYOMING AL Roncalio+ -- 78 Dem 0.7

+ -- lawyers

\*\* -- under 0.1%

NA -- not available

OHIO

1 Gilliam 1
2 Love 2
3 Ashby 3
10 Fisher 10
14 Ryan 14
21 Van 21
22 Sweeney 22

OREGON

3 Green 3
4 ... 4

1 ... 1
2 ... 2
3 ... 3
4 ... 4
5 ... 5
6 ... 6
7 ... 7
8 ... 8
9 ... 9
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