

[MAY 1965] x

# A MESSAGE FROM MISSISSIPPI



## HELP US UNSEAT the "Congressmen" we never voted for!

If almost one half of the voters in your state were excluded from the voting rolls you too would challenge the "officers" elected to represent you by the half permitted to vote.

The fact that we could not vote in the last elections is a matter of public record. The Justice Department in its case against Mississippi says that most of the election statutes in Mississippi are intended to keep us from voting and are unconstitutional. The U.S. Civil Rights Commission has published its findings that Negroes in Mississippi are terrorized and intimidated by "public officials and private persons" and that "the State of Mississippi for the purpose of preventing registration by Negroes has enacted over the

past 75 years a series of laws..."

Two separate departments of the Federal Government have found that the electoral system of Mississippi is based on the systematic disenfranchisement of Negroes. We are asking in our challenges to the Mississippi House Congressional Delegation that the Congress unseat them and calls for new elections in which we will be able to vote. How can the Congress tolerate members holding seats who are elected from a system of elections that the federal government itself calls unconstitutional? There can be no further proof needed that Mississippi's election system does not meet the requirements of the constitution.

We know that it is only when the

Congress refuses to seat men elected from a system that discriminates against us, that Mississippi will understand that it must obey federal law. The Civil Rights Commission reports "MISSISSIPPI HAS BY FAR THE LOWEST RATE OF NEGRO REGISTRATION IN THE SOUTH (less than 7%) AND HAS SHOWN VIRTUALLY NO INCREASE IN SUCH REGISTRATION AS A RESULT OF THE ENACTMENT OF FEDERAL REGISTRATION LAWS DESIGNED TO ELIMINATE DISCRIMINATION IN VOTING."

We feel that the only way to get Mississippi to comply with the new voting rights bill is to unseat this delegation.

All the evidence such as that mentioned in this article is now being printed by the House of Representatives. The challenges will be before the committee on Elections by July 15th.

All we need is sixty-seven more votes to unseat the Mississippians and bring free elections to Mississippi. How did your Congressman vote? You can help. Write or call your Congressman today. Help organize a group in your neighborhood to keep in touch with your Congressman and ask him to vote for unseating.

**YOUR FINANCIAL SUPPORT IS URGENTLY NEEDED, TOO.**

*With your help* we can end Mississippi's racist political control.

Send your contributions to the Mississippi Freedom Democratic Party  
926 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003

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# THE NATION

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## Five Seats in Congress

## 'The Mississippi Challenge' . . . . . George Slaff

The voting-rights bill which President Johnson sent to Congress as a result of the nation's anger, and his own, over the callous violence of Alabama state troopers at Selma and the murder of the Rev. James Reeb is a historic step forward—but long overdue and far from enough. (See "The Right To Vote: Small Fruit of a Bold Promise" by William W. Van Alstyne, *The Nation*, April 19.)

That it is long overdue is certainly no reason not to welcome it. That it is far from enough is certainly reason to point out that the Administration has at hand, if only

*George Slaff is a lawyer practicing in Los Angeles and one of those who volunteered for the Mississippi Challenge.*

it will use it, a much more effective way to guarantee the vote to Negroes in the South than this or any other piece of legislation that Congress could pass. That is the "Mississippi Challenge." If it succeeds—and what President Johnson and his Administration do about it may well determine whether or not it will succeed—it will stand as a lesson forever to the Southern states that as long as they prevent Negroes from voting they are in danger of losing their representation in Congress.

The "Mississippi Challenge" is the contest—filed on the first day of Congress this year on behalf of the Mississippi Freedom Democratic Party—to the right of the five Mississippi Congressmen to sit

in the House of Representatives. It is based on the allegation that the Congressmen were nominated and elected in a primary and general election from which Negroes "were regularly and systematically excluded by intimidation, harassment, economic reprisal, property damage, terrorization, violence and illegal and unconstitutional registration procedures."

What are chances of the Challenge's success? Good, if the national indignation aroused by Selma and its aftermath does not cool off or become apathetically satisfied with a nominal voting-rights bill. Good, if the Challenge is determined on the basis of conditions as they exist in Mississippi, as documented by some 15,000 pages of

sworn testimony taken in the space of six weeks in a modern miracle of legal effort. Good, if the Administration and the Republican leadership make the slightest effort when the Challenge comes to a vote in the House to support the 149 Congressmen who voted, on January 4, not even to seat the five Mississippians until the Challenge was decided.

Federal law gives the contestants in such a challenge the right to take testimony to support their claim. The taking of that testimony has now been completed and has gone forward to the Subcommittee on Elections of the House Committee on Administration. From there it will be reported out to the House itself. The Mississippi Challenge has scarcely been mentioned in the nation's press, but Drew Pearson said recently, "The challenge to Mississippi's Congressmen is causing such worry that Gov. Paul Johnson has called off a special session of the state legislature originally planned to denounce the new civil rights act."

Under the Federal Code, the lawyers for the Mississippi Freedom Democratic Party had only forty days from January 4 in which to gather the evidence to support the Challenge and put it into deposition form. This deadline presented a challenge of its own, for there were hundreds of witnesses, friendly and hostile, to be interviewed, summoned and examined, mountains of voting records to be gone over and an infinitude of details to be covered properly. Any ordinary lawyer might be expected to call the undertaking impossible, but the lawyers for the Mississippi Freedom Democratic Party, headed by William Kunstler and Arthur Kinoy of New York, Mortimer Stavis of Newark, N.J., and Ben Smith and Bruce Waltzer of New Orleans, are not ordinary lawyers. To them, the impossible is simply routine in civil rights matters.

By personal appeal, phone, wire, letter—every form of communication except the jungle drum and the smoke signal—word went out to the lawyers of the country that there was work to be done—and fast—in Mississippi. Between the middle of January, and appropriately enough, Lincoln's Birthday, ninety-six of them had flown into the state at their own expense, had ex-

amined between 500 and 600 witnesses in thirty counties, and had taken approximately 15,000 pages of testimony, recorded by court reporters from outside the state who had also volunteered their services.

In Mississippi, only approximately 6 per cent of the eligible Negro citizens are registered to vote. In Panola County, up in the northwestern part of the state, where Mike Lewton of San Francisco, Roy Jackson of Danbury, and I held hearings during the week ending January 12, only two Negroes had been permitted to register from 1890 to 1962!

The year 1890 has special significance in Mississippi history. It was then that the white oligarchy of the state, seeking some "legal" means of disenfranchising the half million registered Negroes, adopted a new Constitution which required that to be a voter a person had to be able to "read any section of the Constitution of this state . . . or give a reasonable interpretation thereof." By strict application of this requirement, with unlimited discretion in the Registrar of Voters as to what constitutes a "reasonable interpretation thereof," more than 90 per cent of the Negro citizenry of Mississippi is today barred from the polls. Approximately 28,500 Negroes are registered in Mississippi as against 525,000 white registrants (who, as a practical matter, are not subjected to the test of constitutional erudition), although the Negro population of the state is approximately two-thirds that of the white.

The testimony in the Challenge varied in detail from county to county, but the basic pattern was the same. Panola County is a good example of the situation throughout the state.

The hearings were held in "Freedom House," the COFO headquarters in Batesville, the county seat. Close to 200 Negro residents of Panola County were in the hearing room which could comfortably hold about 150. The corridor outside was packed ten and twelve deep with Negroes who had come from all over the county to listen. Outside, at each of the eight windows, opened a trifle at the bottom, Negroes stood on tiptoe, three and four deep.

Robert J. Miles, one of the leaders in Negro voter registration in the county and a founder of the

Negro Voters League and the Freedom Democratic Party, was the first witness. Miles is a quiet, determined, fearless man, 50 years old, whose house was bombed twice last summer and shot at many times. He speaks softly but firmly.

He unhesitatingly told of conditions in Panola County over the years—the fear, the threats, the harassment, the intimidation, the evictions, the economic reprisals that had always effectively stopped Negro voter registration. He spoke of the "Darby days"—the dark periods when Sheriff Darby had ruled the county from 1951 to 1955 and again from 1959 to 1963—and of the beatings and killings of Negroes that marked Darby's reign. The hiatus between Darby's terms of office and the fact that he is not now sheriff are due to a Mississippi law that prevents various officials from succeeding themselves.

Miles stated that the Negroes in Panola County, as well as in the rest of the state, bore vividly in mind the death of the Reverend Lee in Belzoni and the killing of a Mr. Smith on the courthouse steps down in the southeastern part of the state. Both had expressed the determination to vote. He told of the cancellation of all his insurance after his first attempt to register and of the threat to kill him made to his neighbor, Mrs. Caldwell.

That pressure from outside and putting Mississippi in the spotlight of national attention have some value became evident when we went to see Sheriff Hubbard at the end of the day to tell him that we expected no harm to come to our witnesses. He assured us that he would have deputies patrolling in the neighborhoods where the witnesses lived and that he had already arranged a meeting that evening with some of the plantation owners and others to tell them that there were to be no reprisals. This solicitude reflected the word that had come down from former Governor Coleman, representing the Congressmen, that there were to be no incidents during the Challenge because of the reaction outside Mississippi.

However, it is entirely likely that the moment the spotlight is turned off, the terror that has been commonplace in Mississippi for generations will be unleashed again. Less than a week after we finished

taking testimony, the COFO headquarters in Laurel, Miss., was buried to the ground. A few days later, the headline in the *Los Angeles Times* over a story of the hearings held by the U.S. Civil Rights Commission read: "MISSISSIPPI 'SAVAGERY' SHOCKS RIGHTS PROBER: Commission Hears Sworn Testimony of Floggings and Slayings of Negroes." Early in March, *The New York Times* carried the following story from Batesville about what



happened there when Negroes gathered outside the court where a group of local Negroes and two COFO workers were being tried on charges of "parading without a permit, blocking the sidewalk and disturbing the peace":

*A crowd of several hundred Negroes gathered to learn the decision in Mayor's court.*

*This brought several hundred whites to the scene. Toughs spotted Christopher Williams, of Amherst, Mass., 18-year-old son of Schafer Williams, history professor of the University of Massachusetts. They beat the youth to the ground and stomped on him. He still has a red, three-inch wound from a hick in the face.*

*Six Negroes also were beaten, one requiring five stitches to close a wound over his eye. One Negro, Robert Miles, fought back.*

*This started a brawl. The police, who had been watching, broke it up. Mr. Miles and two of the whites were arrested and released on bond.*

*Then on Sunday night a shotgun was fired through the window of the front door of the Miles home. Pellets just missed Mr. Williams and another white worker, 21-year-old Penny Patch of Englewood, N.J. The two are living at the Miles home.*

Robert Miles surely knew as he testified that day in February that his future would not be free of vio-

lence, yet he continued to tell calmly of the efforts made by himself, his brother-in-law, William Kuykendall, C. J. Williams, the Reverend Middleton, Lamarr Thomas and others to organize a voters' league among the Negroes of Panola County in 1959. A few of them had begun to study the Constitution of Mississippi in detail and had gone in groups of three to register; all had been failed in their applications. Mr. Miles said that Kuykendall had been shot at and that crosses were burned at his home; he said that Town Marshall Ira Seals had beaten 12-year-old Linda Kuykendall so badly that she had been hospitalized, telling her it was "on account of your father being a smart NAACP nigger." He told of the telephone threats and the shots at Kuykendall's home which finally forced him to take his family from Batesville to the safety of Detroit.

Although, by comparison, violence against Negroes has been less in Panola than in some of the other counties in Mississippi, Panola Negroes have been beaten, shot and killed by sheriffs, by highway patrolmen and by white civilians—and none of the offenders has been punished by the law. Robert Miles pointed out that the Negroes of Panola always bore this fact of life—and death—in mind and that it had discouraged registration.

All that day and for half of the next, witness followed witness with personal testimony as to why only two Negroes had been permitted to register in Panola County in the seventy-two years from 1890 to 1962. C. J. Williams looked straight at the lawyers for the Congressmen as he told of the fear that gripped the Negro community when voting was discussed; of nocturnal roadblocks as late as last September, manned by the sheriff, his deputies and the district attorney in person, to get the names of everyone who attended a voter-registration meeting. Rev. W.G. Middleton, 10 years old when the 1890 Constitution took the franchise away from Negroes, and who was to say after the hearings were over, "I saw the doors close and now I have seen them open again," sat erectly in the witness chair and looked out at the crowded hearing room as he might upon his congregation. He gave in measured tones a detailed recital of the ab-

solute deprivation of the rights of American citizenship that had been the Negroes' lot in Panola County. His voice was firm with hope and confidence for the future—the Reverend Middletons, the Mileses, the Williamses of Panola County do not frighten easily or despair readily.

Mrs. Caldwell took the stand to state that the sheriff's son-in-law had threatened to kill Miles if he didn't get those COFO workers out of his house. Sharecroppers from plantations near Batesville and from Crenshaw, 30 miles away, told of coming to register and of being turned away because the registrar was not in his office, or of standing in line all day and having the office closed before they had a chance to get in—and this even after the registrar was subject to a federal court injunction.

Charles Gardner, who had been a tenant farmer on the McMillen plantation for eight years, testified that he was ordered to leave shortly after his wife had registered to vote last August. Clara Perry, who had been a tenant for two years on the R. L. Milam plantation, was told to get out by Milam himself three or four days after she registered. And so it went with witness after witness, including two of the unsinkable COFO workers, Penny Patch and Claire O'Conner, and concluding just before noon on Wednesday with Rev. Charles E. Lester, ordained a minister in 1922, now more than 80 years old, who was ordered out of the place he had occupied for ten years on the Crenshaw plantation a week or so after he attempted to register last summer.

Then it became the turn of the registrar of voters, Ike Shankle, to take the stand and to account, under oath, for his actions. For years Shankle and his predecessors had been requiring Negroes in Panola County to interpret such portions of the Mississippi Constitution as Sec. 212 which deals with the interest rate of the Chickasaw School fund and other trust funds for educational purposes for which the state is responsible, etc., etc.

It may thus come as a surprise that the man who determines whether a Negro's written interpretation of esoteric sections of the Mississippi Constitution entitles him to vote



confessed, in reply to the first question I put to him, that he had not the slightest idea of what a bill of attainder was, although the prohibition against bills of attainder is contained in the Bills of Rights of at least thirty-four of the fifty states. He admitted that if that were a part of the Mississippi Constitution he would not be able to interpret it—and that when he had first registered he had not been asked to interpret any section of the Constitution, but had merely "gone down to the courthouse and signed the book."

For a day and a half Shankle sweated on the stand, trying to explain why he did not consider "No one should be convicted for the same things twice" to be a reasonable interpretation of the "double jeopardy" section of the Mississippi Constitution; why he had closed down one of the two voter-registration offices in the county and forced a large part of its Negro residents to trek an additional 25 or 30 miles to register; why he refused to appoint any deputy registrars to handle applications, with the result that Negroes were prevented from registering during the two months when he was acting as clerk of the circuit court, while he was on vacation, or during the many other times when he was away from his office; why he had denied a Negro applicant the right to register because, although she had answered perfectly the twenty-one questions on the application, including the constitutional interpretation and the final question requiring her to write her understanding "of the duties and obligations of citizenship under a constitutional form of government," she had signed the application in only one of the two required places; why, indeed, he had refused to certify the names of registered voters on a petition to place Mrs. Fanny Lou Hamer on the ballot to contest the Congressional seat in the last election, and to place the name of Aaron Henry, president of the Mississippi NAACP, on the ballot for the United States Senate.

Sheriff Hubbard, following Mr. Shankle to the stand, spun a fanciful tale of trying to intercept moonshiners as the reason for a four-road block last September by which he and his deputies and the district attorney secured the names

of all who attended a voter-registration meeting. The district attorney's presence, he explained, was not an attempt to intimidate potential voters; he had "happened" to meet the D.A. that evening and Mr. Finch was just "taking a ride with me like he often done."

Finch, a filibusterer to put Senator Claghorn to shame, swore to the same thing, although he could not recall where or when he "happened" to meet the Sheriff that evening. He admitted writing down the names of occupants of cars coming from the meeting, but denied that this had anything to do with the fact that they were organizing to vote.

Plantation owners, called to the stand, piously denied intimidation, threat, harassment, as they reluctantly agreed that voting and registering to vote were duties and obligations of citizenship which they recognized and which should not be denied to Negro citizens.

At 11:15 A.M. on Friday, February 12, the hearing ended and as it did, 200 people stood in the hearing room, joined hands and burst out with *We Shall Overcome*. It was an unforgettable moment for those of us who had come from far away to help the Negro people of Mississippi.

The lawyers for the Congressmen gathered their papers and left the room followed by the dozen or so white witnesses and spectators. C. J. Williams mounted a table and exhorted everyone in the audience who had not yet registered to "Go down to the courthouse and register *now*—not tomorrow or the day after but *now*! You heard them say it's all right for you to register. Go ahead and do it. Now! Now! Now!"

But while such emotional fulfillment is all very well, the important matter is the effect, and the effectiveness, of the Challenge. So far the results have been valuable in two respects. First, the evidence at the hearings is more than enough to provide a solid basis for Congressional action to oust the Mississippi Congressmen. Second, the hearings have provided a tremendous boost to the morale of the Negroes over the entire state, both leaders and rank and file.

There remains to be accomplished the third and final result—the actual ousting of the five pretenders. It would be naive to as-

sume that this decisive step will be taken strictly from an impartial weighing of the evidence by individual Congressmen. The Southern bloc of approximately 100 votes will be cast almost solidly against the Challenge. Political considerations of every sort will, in varying degrees, enter into the determination of the rest of Congress.

Some Congressmen will satisfy their consciences by voting for the voting-rights bill and then against the Challenge, on the theory that "enough is enough" and why rock the boat of Congressional privilege. The Administration, too, may decide that there is more to be lost than gained by creating further antagonism among the white population of the South. The soft pedal may very well replace the blazing anger that President Johnson displayed in his voting-rights address.

In fact, a great deal could be gained by ousting the five Congressmen, and there is every reason for the Administration to give its full force to the effort. All possible steps must be taken by every interested person and organization to see that their own Congressmen and as many others as can be reached, as well as the Administration itself,



support the Challenge wholeheartedly when it reaches the floor of Congress. A successful answer to the Mississippi Challenge will go further toward shaping the course of democracy in the South than the voting-rights bill and a half dozen Supreme Court decisions, important as those are. Once the principle is established that Congress itself—without the need for Court intervention—will not tolerate Negro disenfranchisement, Negro disenfranchisement will really begin to disappear from America.

"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 . . . We must say to them that they cannot run a society like Soviet Russia and then claim seats in the American Congress; that they cannot win "elections" from a system based on murder and then claim the right to govern free-men."

Hon. JAMES ROOSEVELT, CALIFORNIA

OPENING DAY OF CONGRESS, JANUARY 4, 1965

*The following is a partial list of resolutions and statements in support of the Mississippi Freedom Democratic Party Congressional Challenge; as of June 12, 1965*

**THE AMERICAN CIVIL LIBERTIES UNION**

"We believe the Congress should exercise its authority and unseat the delegation, and we shall join in the effort when the next round of the battle is waged in July. More than that we shall continue to back the campaign to eliminate completely discriminatory voting requirements in Mississippi so that free and democratic elections will be held."

JOHN de J. PEMBERTON, JR. APRIL 17, 1965  
Executive Director, ACLU

**THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE**

"I wholeheartedly support as I have from the beginning, this Challenge . . . The unseating of the Mississippi Congressmen will be the test of the moral integrity of the Congress of the United States. I, therefore, again pledge myself and the SCLC to the fullest support of the Challenge of the MFDP and call upon all Americans to join with me in this commitment."

DR. MARTIN LUTHER KING, JR. MAY 17, 1965  
President, SCLC

**THE STUDENT NONVIOLENT COORDINATING COMMITTEE**

"It is only when Congress unseats the Mississippians and conducts free and open elections will the forces opposed to Negroes voting understand that this Nation is serious about guaranteeing the rights of Negroes not only to register, but to participate in the political processes and to use their vote freely."

JOHN LEWIS MAY 17, 1965  
National Chairman, SNCC

**THE CONGRESS OF RACIAL EQUALITY**

"I ask of this Congress fast remedial action and the rejection of the regular Mississippi congressional pretenders who have been elected on a platform of blood and disenfranchisement."

JAMES FARMER MAY 17, 1965  
National Chairman, CORE

**THE MICHIGAN STATE DEMOCRATIC PARTY**

"Be it RESOLVED that the Democratic Party of the State of Michigan urges the Democratic Members of Congress from Michigan to continue to vote for the unseating of the Mississippi delegation until such a delegation is elected in free elections, open to all people and conducted in accordance with the Constitution."

**OTHER ORGANIZATIONS THAT SUPPORT THE CALL FOR UNSEATING OF THE MISSISSIPPIANS AND FOR FREE ELECTIONS IN MISSISSIPPI:**

NATIONAL COUNCIL OF CHURCHES (COMMISSION ON RELIGION AND RACE)  
AMERICANS FOR DEMOCRATIC ACTION  
4TH GENERAL ASSEMBLY OF THE UNITARIAN UNIVERSALISTS ASSO.  
NATIONAL CATHOLIC CONFERENCE FOR INTERRACIAL JUSTICE  
NEW YORK CITY COUNCIL  
THE COORDINATING COUNCIL OF COMMUNITY ORGANIZATIONS (CHICAGO)  
CALIFORNIA DEMOCRATIC COUNCIL  
LOUISIANA COMMITTEE OF CONCERNED CITIZENS  
COLORADO STATE COMMITTEE OF THE DEMOCRATIC PARTY  
SAN JOSE CITY COUNCIL (CALIF)  
NEW YORK COMMITTEE FOR DEMOCRATIC VOTERS  
UAW LOCAL 136X, AFL-CIO  
SOUTHERN STUDENT ORGANIZING COMMITTEE  
NORTHERN STUDENT MOVEMENT  
THE STUDENTS FOR A DEMOCRATIC SOCIETY  
THE SOUTHERN CONFERENCE EDUCATIONAL FUND

(list incomplete due to constant expansion)

**MISSISSIPPI FREEDOM DEMOCRATIC PARTY**

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