

Freedom Information Service
P.O. Box 366
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A LEGALIZED SYSTEM OF BRUTALITY - MISSISSIPPI JUSTICE

The following discussion was held recently in the offices of the Lawyer's Constitutional Defense Committee of the American Civil Liberties Union, on Farish Street in Jackson. Discussants were: Alvin Bronstein, of the Lawyers Constitutional Defense Committee, or LCDC; Mel Wulf, American Civil Liberties Union; Bill Kopit, LCDC; Alan Levine, LCDC; Tom Daiglish, NAACP Legal Defense Fund; and Henry Aronson, NAACP Legal Defense Fund. All of the organizations they represent, together with the National Lawyers Guild, try to fill the void in legal assistance available to local Negroes and to Civil Rights workers.

Q. Why is there a need for the LCDC?

Bronstein: This organization was formed -- LCDC -- by the legal directors of various civil rights and civil liberties organizations to fill what appeared to be a void in legal assistance to local Negroes and civil rights workers. The need became very apparent because of the increased CR activities last summer. We are here now to continue the work of last year in providing legal assistance to all those people who are attempting to achieve their constitutional rights.

Q. Does this void exist? Is this because local lawyers don't take the cases? In the past there has been an absolute void in the willingness of Miss. lawyers to take cases with civil rights overtones. Is this still true?

Levine: The situation is at least nominally changed by the passing of a resolution by the Miss. Bar -- again reaffirmed this past winter -- to the effect that anybody who is subject to criminal prosecution will be represented by lawyers. That is they will respect their obligations as members of the legal profession. However, the continuing pressures on local lawyers are such that throughout the state we have found that there has been a general inability to get local lawyers. The response generally being: "We'd take the case -- but..." citing various pressures on getting involved with the civil rights movement, etc.

Aronson: There are two kinds of problems. One is getting a local lawyer to handle the case. The other is being able to rely on the lawyer to raise all pertinent constitutional defenses, like the exclusion of Negroes on the jury. And add to that the willingness of CR workers and local Negroes to be represented by these lawyers -- they haven't quite established a substantial degree of trust. We have had a number of instances where we have been referred by the Miss. Bar officials to local lawyers who have refused to handle the cases. As I say, there have been exceptions fairly recently where local lawyers have expressed willingness to take cases -- and have raised all the significant questions. But this is still an insignificant portion.

A: To add to that -- I remember this last winter a statement by Mr. Satterfield of Yazoo City, past chairman of the Miss. Bar. He said that giving proper defense to local people engaged in CR activity is one thing, but that outside agitators as he put it was another thing. He didn't believe Miss. lawyers should do that at all.

Q. Are there enough of you to handle the civil rights and civil liberties cases?

Bronstein: No there isn't. Because, you see it is the opinion of many of us that almost every legal situation in Miss. involving a Negro is, if not a civil rights case a civil liberties case. They are not getting the same treatment they would if were white. And this has to do not only with employment, social security, unemployment, taxes, deeds and mortgages. To do the task properly, you'd have to replace the entire Miss. Bar.

A: For example, we represented a man in a small town day before yesterday. It was the first time in anyone's recollection that a white lawyer -- or a Negro lawyer for that matter -- had appeared in that court on behalf of a Negro. This was a charge of just possession of liquor, and 400 people came to watch the trial.

Another example in Liberty, which is the county seat of Amite county, which is fairly notorious

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because of the number of murders related to CR activity, we recently had a trial in which two Negroes charged two whites with assault. The last time there was a trial of this type was in 1961 when Bob Moses one of the early leaders of the CR movement in Miss., attempted to press charges against two white men who had assaulted him there, and when he appeared in court the room was filled with white men with guns the guns sitting right out in the open. The sheriff advised him to leave town before the verdict was reached which he did.

We conducted the same kind of trial 2 weeks ago--pressing the complaint of two Negroes against two white men who had beaten and pistol whipped them. There were Negroes sitting in the courtroom with whites for the first time. And probably for the first time the Negroes had a lawyer appearing for them. There was a full hearing which lasted 4 hours. After the whites were bound over to the grand jury and on these charges, again probably a first.

The importance of something like that, of course, is not only to the people involved directly, but to the whole Negro community. And the white community. It supports the Negro community and will perhaps act as a deterrent to the whites. Oh, and in terms of Mississippi justice-- when we left the courtroom we were told by a local Negro that a law officer had put sugar cubes in the gas tank of our car. When we checked, sure enough there were sugar cubes in our gas tank.

Q. Do you have any general comments on Mississippi justice?

Wulf: Well I think the other lawyers here have explained it very graphically. There isn't any such thing. Justice for Negroes especially. My experience has been rather limited, actually, because I have been trying rape cases in Miss. and they're perhaps a little more provocative. And certainly in these kinds of cases the death penalty is almost automatic. I'm representing three of these cases now. Two of them are in federal court on writs of Habeas Corpus, and one is in the Miss. Supreme Court.

In one recent ruling, in a case of a Negro charged with attempted rape of a white lady, the Miss. Supreme Court reversed the guilty verdict on the grounds that Negroes have been systematically excluded from the jury. This was their second such ruling in I don't know how many decades, even though such exclusion is the common thing in all of the counties in Miss. This question is central in all the rape cases I am handling.

A: I think a classic example of Miss. justice as applied to Negroes, was what a local prosecutor told me once. He said that if I ever defended a Negro charged with rape of a white woman and tried to prove the most natural defense-- which would be consent on the part of the white woman-- the Negro would probably be lynched. If the woman would not consent then the Negro would get the death sentence. If you try to raise the defense of consent he told me you would guarantee a lynching. This I think typifies Mississippi justice.

Q. Do all your cases come through civil rights organizations?

A. Most of them do, either directly or indirectly. But in some communities where we have worked the local people would call us directly.

Q. Many Mississippi legislators are members of the White Citizens Council. Do you find that many lawyers are also?

A. We haven't really investigated that. I do know that the president of the Mississippi Bar Association is a member because I saw his name listed on the letterhead of a mailing sent to me by the WCC as a director of the Hinds County chapter. Aside from that I have no direct knowledge, (but I think it's safe to say that many are members. The Freedom Democratic Party's congressional challenge hearing interrogation of state officials indicated that many of them are WCC members, and many state officials either were or still are practicing attorneys.)

Q. As "Outside" attorneys do you have any trouble appearing in court?

A. This has been only a substantial problem, strangely enough, in the federal courts. Most of us are allowed to appear before the 2nd District Court--Judge Claude Clayton's Court-- but in the southern district, none of us are allowed to appear or sign papers without the presence of a local lawyer. We have no real problems appearing in state courts.

A. Let me elaborate on that. Among the rules promulgated before Judge Sidney Mize's death was one that stated that all papers must be signed by local attorneys and all lawyers appearing in court must appear with local attorneys. Also, only local attorneys may file papers--the other attorneys cannot even act as messengers and file papers in Federal Court. It's quite unheard of because every lawyer in every part of the country sends a secretary or a messenger or an assistant to file papers, and we're not permitted to do that.

Q. Do you have any trouble in the state courts?

A. We have no real problem appearing in state courts. We're very often asked if we are members of the state Bar, but we've never had a situation where we've not been permitted to appear in a state court.

Q. Why do you suppose that is?

A. It's hard to say. One reason I think is that THE MORE SOPHISTICATED MISSISSIPPI LAWYERS--WHICH IS A CONTRADICTION IN TERMS OF SORTS--REALIZE THAT IF SOME OUTSIDE AGITATOR LAWYER DOESN'T DEFEND THESE PEOPLE, THEY'LL HAVE TO. THEY REALIZE THAT THE RIGHT TO COUNSEL, PARTICULARLY IN THE 5th CIRCUIT WHICH INCLUDES MISSISSIPPI, GOES TO MISDEMEANORS. THAT BEING THE CASE THEN IF WE DIDN'T TAKE THE CASES, THEY'D HAVE TO. It takes a great deal of pressure off them in terms of work loads, but, most important, in terms of political pressure because the right to counsel means the right to effective defense and they would have to raise some of the constitutional issues that are just unpalatable to them. They let us in simply because it makes them a bigger man in their community to go in and prosecute a case against a civil rights lawyer for what would normally be a charge that nobody paid any attention to. In many cases local lawyers feel they simply could not take these cases without losing a substantial part of their business.

A. I think others among this very limited group of sophisticated lawyers are concerned with trying to impress lawyers that come down that all is not as the image of Mississippi is painted to be in the North. they treat us with courtesy. This is not to say that we are not harassed, but I think they feel that if they go through the motions in court, we'll go back up North and spread the word that Mississippi is better than people say it is.

Q. Is this to imply that there is observance of constitutional rights in state courts, even if just for the reasons shown?

A. Not at all. Many judges have told us quite explicitly that such rights as the right to counsel do not apply in their courts. The constitutional rights to phone calls, to counsel and to being informed of the charges against you are almost uniformly denied people here, until pressure is put on local authorities.

We had a situation here in Jackson in the Hinds County jail, where an Episcopal minister was put in solitary confinement because he asked to make his phone call too many times.

In other cases, clients of mine civil rights workers-- were arrested and scheduled for trial an hour later. We would call the prosecutor and the judge and ask for an adjournment so that we could be there-- we would mention the accused right to counsel-- and they would deny our request. In one case illustrative of Mississippi justice we were denied a request for an adjournment but were told that if the defended asked for an adjournment to have time to secure counsel, his request would be granted. Later that afternoon we learned that the accused had asked for an adjournment, been refused, tried, found guilty and sentenced all in 15 minutes.

A: That points up another problem down here-- the legal system is so terribly laborious, especially for lawyers who come down here from states where constitutional rights are recognized. You know the charges against your clients are totally unfounded, totally unconstitutional. You know your client had a right to be doing what he was doing, has a right to counsel, that they have procedural as well as substantive rights. You go through all the laborious procedure of trying the case and appealing the conviction and everyone knows, that the Federal courts will reverse the conviction. But it's very enervating and very expensive, and from their point of view, a very successful way of postponing what are really the inevitable changes in Mississippi.

Q. Is it true that local law officials often have an economic interest in obtaining convictions?

A: Well take the case of Justices of the Peace, its true with them. A JP gets \$5.00 per case if the man is found guilty, but nothing if the man is found innocent. Also, in many cases sheriffs get \$5.00 for each case they bring in, I think there is often a great deal of cahoots between JP's and sheriffs, each with a cash stake in bringing in people and convicting them.

Q. Many lawyers complain that JP's are often incompetent and don't even understand the laws that they are supposed to enforce. Would you comment on that?

A: There's no question about that. Certainly they don't understand any of the constitutional claims you might make. Probably, you're just wasting your breath making them.

A: Most JP's in this state are not lawyers-- as a matter of fact I don't know of one who is... And there is no educational requirements for the job.

A: Before you go on, just one more point on the whole question of rights and justice in Mississippi. You have to understand, it's my feeling, that with respect to Negroes and civil rights workers, you are practically operating in a totalitarian state. And that the most basic rights that you take for granted or assume you will get in other areas just don't exist here. Openly and notoriously so. We were involved in a trial last fall where the sheriff, in a Federal Court, after prompting and questioning by his own lawyer, stated on the witness stand that when these Civil Rights workers were arrested he did not believe that he or any of his subordinates had to advise them of their rights, their rights to a lawyer, their rights to a phone call, because all these Civil Rights workers were college people who knew what their rights were, and therefore he had no obligation to advise them of their rights.

Going one step further than this, the testimony was also elicited that even when they asked for their rights, the typical answer was that you're in Miss. now and you ain't got no rights.

Q. Wasn't it in that same trial that one of the witnesses one of our witnesses after pointing out the person, I think it was a Highway Patrolman, who had done some beatings, was then threatened in the hall after he had testified?

A: That's correct. This same Highway Patrolman we understand used a baseball bat as interrogation of Negroes when he arrests them. He doesn't use his hands anymore.

A: And when you're explaining to a Negro in Mississippi his rights when arrested you've got to be very careful, because you've got to classify and recognize what quote his rights are under the constitution and what in effect will happen to him if he demands these rights. In some cases he may be better off saying nothing- not saying

that under the constitution I should be accorded this and so- because all he gets is not that, and a beating in addition.

Q. Then in a sense the legal system does not work?

A: Let's be more specific--- there is no legal system. I mean it's a legalized system of brutality. We're representing a young guy, 16 years old, no education to speak of-- we could talk about the educational system for days, it is so sick-- arrested, no phone call, no counsel. Arrested, picked up on a charge of burglary. Absolutely no evidence whatsoever - no stolen goods, no witnesses, other than the cop told the kid he did it. They brought the kid down, and they brought out a polygraph machine. The investigator said, "Look, you can't beat this machine, kid. You can try if you want, but you are going to loose- so I suggest you sign this statement, and you'll get off a lot easier. He signed the statement, which was a confession. Fortunately, legal help came later and I think some help will be gotten. But there just isn't a legal system as such which is in any position to afford help to a Negro.

Q. What do you think is going to happen in the immediate future? What changes do you see coming in "Mississippi Justice?"

A: Well organizations like the LCDC, the Legal Defense Fund, other defense funds like the ACLU-- these are certainly making our presence felt but it's like the proverbial drop in the bucket. I do think that Miss. is going to get a lot worse before it gets better. Because once Negroes get the vote, which is the key to the whole matter the vote is going to have a far-reaching effect, because JPs are elected, sheriffs are elected. Imagine, in a place like Yazoo City having a Negro sheriff or a Negro judge! But before we get to this point my guess is that we're going to have a tremendous period of intimidation.

And until you correct the flagrantly unconstitutional system of jury discrimination in Mississippi you're just not going to get convictions. That's why I think that aspect of the voting bill is so important-- the aspect that puts a severe penalty, I think it's 10 years and \$5,000 on anyone who intimidates anyone trying to register.

Yet until you correct the flagrantly unconstitutional system of jury discrimination in Miss. you're just

not going to get convictions, or any other federal law in the Federal Courts in Mississippi. And you know, noone suggests they be tried elsewhere. Maybe nonlawyers do, but most lawyers don't. You can't bring a sheriff Rainey, for example, and bring him up to New York to try him there for the crimes he's accused of committing here. So you have to correct the jury system or else the criminal provisions of the federal law don't mean anything.

Q. How do you correct the jury system?

A: Well everything is so terribly interrelated. I agree that voting is the key. Whenthis voting bill passes hopefully it will pass in such a way that going to register will be a simple act of going to the federal registrar and signing your name and that's it. Then, when the next municipal elections come up you'll elect a new Board of Supervisors they're the people who select the jury list. In a couple of years with the enforcement of the right to vote the whole social structure will be revolutionized. Though, seriously that presents a very optimistic view.

A: Well the Removal the practise of removing cases to Federal Court which kind of caught on about a year ago has in a sense been one of the most dramatic tactics because it practically stymied the persecution of little offenses that and regularly been resulting in Civil Rights people going to jail. In that sense it was pretty revolutionary. But what happens in the long run in Removal is still to be resolved. Because they may all eventually come back to the state courts which means the persecution will just have been delayed. Hopefully that won't be what happens. Hopefully as the law develops perhaps the Supreme Court will hold in a variagated number of situations that the Federal Courts can take jurisdiction over cases that are otherwise untryable in the state courts.

A: And I think that continuing pressure of lawyers fighting for their clients rights has some effect. For one thing, it educates many Miss. lawyers who just never heard of constitutional rights before-- though now they've heard of them, whether they'll do something about them is another question.

A: I think the fact of representation is a tremendously significant fact. To quote a local prosecutor I heard a couple of weeks ago, "You mean that nigger got a lawyer?" Just the fact that a lawyer appears on behalf of a Negro

A: This conversation recalls another factor which will, in my opinion, have great consequence in Miss. That's Title 6 of the Federal Civil Rights Act, which requires non-discriminatory practises in state programs of which federal money is a part. There is something of a dilemma there, because what happens is if there is discriminatory use of grants, the federal money will be withdrawn. And this is going to have a serious effect on the economy of Mississippi, which is already at the bottom of the ladder.

To close this discussion, I'd guess that there may be a break through now and then, but I think it's the general accumulation of enforcement of the law as it is. If it were enforced as it is, there wouldn't be any problem; there wouldn't be any Mississippi if it were enforced as it is. The central and necessarily consequential attrition of the misapplication of the law.

So it's not - you can't really think of new vistas in the law that are going to dramatically alter conditions, because that just doesn't happen. Not drama, just slow, steady, hard, persistent work.

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A tape of this discussion can be obtained from the Freedom Information Service, Box 366, Edwards, Miss.

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