

Jackson, Mississippi — April 11, 1964

# Ole Miss Prof. Hits State Voting Barriers

A recent speech by an Ole Miss professor at a Meeting of the Mississippi Council on Human Relations brings clearly into focus the wide range of techniques used to discriminate Negroes in Mississippi. The talk, by Professor Russell H. Barrett, was entitled, "Voting Qualifications in Mississippi."

It is hardly necessary to inform a group such as this that the present voting laws of Mississippi were intended to be discriminatory. Even so, there is some value in documenting and summarizing the situation. These requirements have their origin in constitutional amendments which were implemented by the legislature in 1955 and 1962, and in both cases public officials carefully avoided making statements which could be used in court actions as proof of intention to discriminate. In 1954 Governor White did say that the amendment would "tend to maintain segregation," but in 1962 Representative Thompson McClellan urged legislators to avoid asking "unnecessary questions" about the legislation in public and there was no debate on the obvious purpose of the legislation in either year. The newspapers and the Citizens' Council were less discreet, and they were relied upon to provide whatever explanation the voters may have needed. In October 1954 Robert B. Patterson is reported to have said at a Citizens' Council meeting, "The amendment is intended solely to limit Negro registration." The Jackson Daily News copied a statement by Patterson as an editorial, and its story on the election results carried the headline, "Constitutional Amendment to Restrict Negro Voting Given 19-1 Lead at Polls." During the campaign on the moral character amendment in 1960 the Jackson State-Times editorialized, "This proposed amendment is not aimed at keeping white people from voting, no matter how morally corrupt they may be. It is an ill-disguised attempt to keep qualified Negroes from voting; and

as such, it should not have the support of the people of Mississippi." When the legislature got around to implementing the new requirement in 1962, a news report stated that the new laws "are intended to make it more difficult for Negroes to register." My collection of quotations is considerably larger than this, but the point should be clear enough.

The registration application or test devised by officials in order to meet the state's discriminatory requirements is worth looking at in some detail. Viewed purely as a literacy test it is not very demanding, and a fifth grader should be sufficiently literate to pass it easily. Even though it is a poorly prepared literacy test, it does include a number of questions which must have been intended as booby traps for the person attempting to complete the form. This is of particular importance because the law specifically prohibits assistance from the registrar or any other person. Even conscientious officials would find it difficult to prepare a form containing 20 questions which would raise no doubts in the mind of the person of average literacy. It is obvious that the original version of the form contained some such questions, because the 1962 version makes some of the questions more specific.

The attempt to make the application appear formidable begins with its title, which cautions that it is a "SWORN Written Application for Registration." The registrant is first asked to date the application, and a strict application of the law would prohibit him from consulting a calendar. He is asked to state his age as well as date of birth, and the implication of asking both is that he might make a mistake in calculating his age. There is next a series of potentially confusing questions which ask about the registrant's occupation, businessness, and employment. The questions are not difficult, but many reasonably intelligent

people might find them confusing. After question number 7 has asked for place of residence, questions asks whether the registrant is an inhabitant of Mississippi, and the voter could not be blamed for wondering how he could be a resident without being an inhabitant. Another question which is either foolish or insulting asks by what name a person wishes to be called if someone else in the same precinct has the same name. Anyone not familiar with what is flattered by being called a "way of life" would be amazed to find such a question in a voter registration form, but no one should be surprised at what they find on a Mississippi form. After the standard question of conviction of crimes for which the constitution removes the right to vote, there is a new question which asks about conviction of other crimes, except "misdemeanors for traffic violations." Apparently these are the only questions on the written form which have any bearing on the requirement of good moral character. Although the registrant is required to demonstrate that he is of "good moral character," there is nothing else in the registration questions or oath which is directly related to moral character. Finally, there are questions 18, 19, and 20, which require copying of a designated section of the Mississippi constitution, interpretation of the section, and the registrant's understanding of "the duties and obligations of citizenship under a constitutional form of government." Although giving what the law calls "a reasonable constitutional interpretation (the meaning)" of any section of the constitution could be difficult, the Registrar is likely to be in difficulty if he demands anything other than a commonsense meaning or putting the section into somewhat different words. The standards for what constitutes the duties of citizenship are equally vague, so the Registrar could hardly demand more than a statement that the citizen should vote, obey the laws, and pay his taxes.

(To Be Continued Next Week)

Jackson, Mississippi — Saturday, April 18, 1964

# Ole Miss Prof. Hits State Voting Barriers

*This week, the FREE PRESS continues reprinting parts of a speech, entitled, "Voting Qualification in Mississippi," by a professor at Ole Miss, Dr. Russell H. Barrett.*

Before moving to an examination of some of the features of the registration form, there are three general points I would like to make regarding Mississippi's voting laws.

First, the whole pattern of voting requirements and of the registration form is calculated to make the process appear to the voter to be a hopelessly formidable one. The pattern is supposed to bristle with complexities which culminate in the publication of the world-be voter's name in the local newspaper for two weeks. A major purpose of all this is to so overwhelm the voter that he will not have the audacity even to attempt registration. Behind this approach is supposed to be—and all too often is—a collection of fears that someone will challenge the voter's moral character, that he may be prosecuted for perjury, or that he may be subjected to economic or other pressures if he attempts to register. Those who have for years controlled state politics assume that this fear will be a powerful weapon against voter registration, yet the plain fact is that it is by far the most vulnerable of their defenses. As I will explain in detail later, the answer to this weapon is for potentially qualified voters to learn the facts about registration and then to pay a visit to their Circuit Clerk. The answer lies in willingness, numbers, and information.

A second important point is that the law provides no clear or meaningful standards for its highly general requirements. These now familiar generali-

ties require the voter to be able to explain any section of the constitution, to describe the obligations of citizenship, and to demonstrate to the Circuit Clerk that he is of good moral character. It is clear that these requirements were stated vaguely for one simple reason, to permit the Registrar to apply different standards to different people. Yet in one way the very vagueness of the requirements makes it easier to challenge them. Once the Registrars are put on notice that the only way to determine standards is by comparison of many registration forms, they will begin to see that they cannot engage in obvious discrimination and that they must apply similar standards to all people. Furthermore they cannot apply extremely severe standards, or they will fail whites as well as Negroes. This means that there is a sort of logic in the situation which tends to make these vague and allegedly strict standards fail in their main purpose, discriminatory registration of voters. Again as with the first point though, those against whom the discrimination is directed must be willing to make that trip to the Circuit Clerk's office, and they must also be willing to go to court in cases of obvious discrimination. Since the individual citizen lacks resources, there must also be legal assistance for him in the form of civil rights organizations and the legal staff of the Department of Justice. As these voting requirements are subjected to more and more challenges, we will see that standards which were supposed to be both strict and discriminatory will increasingly fail to be either.

My third generalization is that both of the previous points are reinforced by the fact that the enforcement of voting require-

ments is left to one official—the Circuit Clerk. Much as any individual official might be in favor of discrimination, he will tend to grow weary of defending Mississippi's way of life day after day. He is the one who must talk to a complaining citizen, perhaps even an "uppity" one. He is the one who must go to court and decide whether he will risk a contempt citation, a jail sentence, or even the ultimate degradation of having his duties taken over by a federal registrar appointed by a United States court. As more Negroes appear to register, as more FBI men photograph the records, and as more cases go to court, these officials may decide that it would be much easier to apply fair and minimum standards. After all, most of these officials know that there is really no demanding set of standards which can be fairly applied on such matters as constitutional understanding, duties of citizenship and moral character. They may even wonder why it is that Bill Simmons never has to go to court. In this connection it is worth quoting what was said in 1955 by the man who was then President of the Mississippi Circuit Clerks' Association, Rubel Phillips. In complaining about the burden placed by the new law on circuit clerks, he said, "Many clerks feel the law is discriminatory and that a burden is placed on them to disfranchise many persons who have been voting for years. . . . Lawyers with less than 10 years of experience probably wouldn't be able to answer the questions properly." Although Rubel Phillips did not say it in so many words, he understood what the plain fact was — that the state simply could not devise a system that would forever keep Negroes from voting.