

Bay Area Friends of The **STUDENT NONVIOLENT** **COORDINATING COMMITTEE**



"THE LAWYERS WHO WENT TO MISSISSIPPI WILL NEVER BE THE SAME"

AN INTERVIEW WITH SAN FRANCISCO LAWYER ED STERN

Ed Stern, a San Francisco lawyer in private practice, member of the Advisory Council of the Human Rights Commission and member of the American Jewish Congress, organized the participation of Bay Area lawyers in the drive to oust the five officially elected Mississippi Congressmen. The following is a taped interview by the Newsletter editor.

Why were the depositions taken? Why was it necessary for the Bay Area lawyers to go to Mississippi?

Title 2, of the U. S. Code under which the Challenge is being carried out, provides that any interested person can challenge a Congressional election. It further provides that the challengers have a 40 day period in which to take depositions - testimony - on their behalf. Those challenged then have 40 days in which to do the same and the challengers then have 10 days for rebuttal. Skilled lawyers were needed to take these depositions.

THE POWER TO SUBPOENA

The Code also grants subpoena power to all Federal judges in challenged Congressional Districts, all State Court judges, justices of the peace, judges of the Mississippi Supreme Court, Mayors, County Recorders, and Notary Publics. The subpoenas required the attendance of the subpoenaed person at a hearing where we, the outside lawyers, could question them.

So subpoenas had to be issued by local people: did you have difficulties with this?

Yes. Obviously we were going to have difficulty getting Mayors to issue subpoenas in their communities. From the beginning we assumed that subpoenas would be issued by notary publics or by no one. There's another difficulty: not only do they have to issue subpoenas, but they have to act as hearing officers. Therefore the notary publics have to sit through all the depositions.

We were also restricted to the use of Negro notaries, and there were not many. Now, some Negroes were afraid to issue

subpoenas, to get involved, which further restricted us. We overcame these problems to a great extent. One of the ways we did this was the following.

POWER STRUCTURE WAS IN A BIND

The attorneys for the Congressmen are really on the horns of a dilemma. They don't particularly want us to get the testimony, but on the other hand they don't want it to appear that the reason we haven't been able to get the testimony is because we can't even get a hearing officer in the state of Mississippi to sit. So they're torn: Do they look worse if we don't get a hearing officer or if we get the testimony we're after?

In Jackson we took depositions from the Secretary of State of Mississippi, the head of the Sovereignty Commission, State Senators, the Attorney General, and the director of the Citizens Council. At the conclusion of these depositions, J. P. Coleman, who represents the four Democratic congressmen, and is the former Governor of the state, got up and said that they would provide us with hearing officers anyplace in the state we couldn't get them. They felt it was more harmful to their case not to have hearing officers than to let the evidence come in. I heard from Jackson the other day that there's some question whether Coleman's offer is going to be effective. Apparently he has lost some control and in some localities people who have been asked by him to serve have refused.

Who's the blame?

*Every Human being is the same,
Matter not his color or his name,
If it's Little John or Big Kings,
He has been born, and who's the blame?*

*Every man should have some aim;
Rich or poor, he shouldn't be ashamed
Because God made all humans the same.
Man has been born and who's the blame?*

— Pastella Taylor, 17
Student of the Mt. Olive Freedom School

THE POWER STRUCTURE CROSSES THE TRACKS

I heard a story about the COFO office, related to all this.

Yes, that's a wonderful story. We had been setting depositions all over the state, no matter whether we had hearing officers or not. The first hearings that I set were for Natchez in Adams County. These were for friendly witnesses, about 20 of our people. I set them for the COFO house. No depositions had been taken anywhere in the state up to this point. On the evening before the hearings I received a phone call at the legal office from Governor Coleman. He told me that he and Patterson and McClendon, the three counsels, plus local counsels, and John Bell Williams, one of the challenged congressmen; had taken a ride out to the COFO house. He told me that they could not possibly appear at the COFO house the next day. In the first place, he said, the neighborhood was terrible. The COFO house was not dignified enough - too beat up - they could not be a party to proceedings of such a serious nature in an environment such as this.

I told him that I thought the COFO house, while not fancy, was suitable. He said he still felt the way he did and that he had a suggestion: the Natchez Court House. He would make sure it was available for the entire day. He said he felt it was more befitting. I told him I did not feel it was more befitting and I couldn't think of anyplace more befitting than the COFO house. I said that the people I represented had been massacred in the court houses, and in addition the Sheriff's offices were in the court houses, and the State Highway Patrol was in the court houses, and these offices in the past and in the present were not notorious for their kindly friendly nature and cooperation with voting endeavors of Negro Mississippians. A lot of our people were afraid. Let's face it: they had been killed and beaten by the Highway Patrolmen and the Sheriff, and they weren't about to go walking past them into the Court House. He said he would call me back.

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I hung up and spoke to Fanny Lou Hamer, Lawrence Guyot, and other staff members. Their feeling was unanimous: they would not go into the Court House. When Coleman called, I told him the hearing would take place in the COFO house. Coleman said, "we won't be there."

The next morning at 9 the COFO was opened for the hearings and all our people were there: it was jampacked with Negroes and their children. And in came Coleman and Patterson and McClendon and John Bell Williams, and they sat there through all the depositions, the first taken in this Challenge, with a Negro hearing officer, and a Negro audience, in a Negro community, and that's the way it started.

What was contained in the depositions?

TERROR AND THE VOTING PROCESS

Let's take the friendly witnesses first. We would go into a community. The COFO worker there would tell us - there's a local person here, call him Mr. McGee, who has attempted to register on three occasions: the first time he was pistol-whipped by the Registrar of Voters, arrested for breach of the peace, and sentenced to 6 months in jail. When he got out he went down again and got beaten up by local Klan people on the way. The third time he was told the office was closed.

We would go to this person and say, "Tell us about it: what happened, what was your conversation with the Registrar, what did he say, what did they say after you got pistol whipped, what did they say you had done, what kind of court trial did you get, were you represented by counsel?" These are the sort of stories we got. They ranged all over: homes burned or shot into, being arrested for minor traffic violations, thrown in jail and fined, beaten up in jail, as well as economic coercion, losing their jobs, going back to the plantation and being

told - you don't work here any more. Having loans called. Many have notes written for provisions, bought in local stores which they pay later. The notes are called, their homes are taken away from them.

We were not confining ourselves to what happened when a person went down to the Registrar and was turned away. The opposition kept trying to confine us to this issue. Our feeling is that you cannot confine the issue to registering. The very fact that a woman was burned to death on Senator Eastland's plantation 30 years ago has an effect on whether someone goes down to register to vote in Senator Eastland's County today. Everything that has taken place in Mississippi - the lawlessness, the beatings, the coercion - whether on the way down to the Registrar or not - has contributed to the exclusion of Negroes from the voting process.

LAWS ARE WHAT YOU WANT THEM TO BE

This is a shattering experience for a lawyer coming from outside the state. The entire law enforcement process in the state, from the Sheriff to the County Judges, to the Supreme Court of the state, to the Federal District Courts, are all used to insure a lawless society. This is not a society of law: it is a society of men. They use the law for their own purposes.

So the evil is not in the laws themselves, but the way they're used?

The laws in Mississippi are in the most part just like the laws in the state of California. I could administer the laws of Mississippi in a fine, democratic manner and you would have a free society. There's nothing wrong with the traffic laws in Mississippi, but when the Highway Patrol stops you and drags you out of your car because you have been following too closely the car in front of you, and then hauls you off to jail and

you get beaten up on the way to jail, and then get thrown out of jail at 2 A.M. into the arms of the local hoods, well it isn't the law about following cars too closely that's at fault. It's just that they use the law as a way of terrorizing the community.

THE MARTHA-LAMB-IN-WONDERLAND GAME

Of course there are some laws that are ridiculous. Getting back to your question. We did take testimony from adverse witnesses, particularly Registrars of Voters. One was Martha Lamb, Registrar of Voters in Greenwood. Her deposition was completely successful: in fact, it concluded with Martha Lamb breaking down in tears on the stand, totally discredited. We showed without question that she was concerned with excluding Negroes, and that the tests were arbitrarily administered.

When we took the deposition of Heber Ladner, the Secretary of State, one of the things we asked him was the same question, interpreting the Constitution given to Negroes. We said to him, "What does this section mean?" And Heber Ladner had no more idea what that section meant than anyone else in the room, including the lawyers. J. P. Coleman jumped up and shouted - Don't answer that question! Don't answer it! But he needn't have. Ladner couldn't answer it.

What was the attitude of unfriendly witnesses like Martha Lamb?

They are very defensive. They do not come out and say, "Yes, we exclude Negroes from voting." Their attitude is, "Sure they can vote. All they have to do is pass the test. We don't stop them. If they're qualified to vote, we are happy to have them vote. But somehow none of them ever qualify." They have a rotten case and they know it. We were playing an Alice in Wonderland game, proving what everyone on both sides knew.

What were your personal reactions to Mississippi?

A SHATTERING EXPERIENCE

It was a shattering experience in many ways. One I have already mentioned, the use of law as a tool of oppression. Another was the feeling I got that there is no dissent in Mississippi. It doesn't matter what level of white society: whether you're dealing with a Federal District Judge named Cox or a Mississippi Supreme Court Justice, Tom Brady, or a banker, a utility company executive, a waitress, a cab driver, streetcleaner, shopkeeper, it doesn't make any difference: if they're white there is no dissent.

For example, take the statement of Governor Johnson in the Jackson Clarion-Ledger, and I quote: "Law and order must prevail in the state of Mississippi, particularly for the next six months". Now this is a statement by the Governor.

HOW NORTHERN CALIFORNIA CONGRESSMEN VOTED ON MISSISSIPPI

On January 4, 149 Congressmen voted against seating the Congressmen from Mississippi. For the Mississippi challenge to win, 70 more votes are needed when the issue comes up again on the floor of the House. Friends of SNCC have a job to do, supporting those who voted against and pressuring those who voted for. The line up of Northern California representatives was:

For Seating		Against Seating	
1 CD	Don H. Clausen (R)	4 CD	Robert L. Legett (D)
2	Harold T. Johnson (D)	5	Phillip Burton (D)
3	John E. Moss (D)	6	William S. Mailliard (R)
10	Charles S. Gubser (R)	7	Jeffery Cohelan (D)
11	J. Arthur Younger (R)	8	George P. Miller (D)
12	Burt L. Talcott (R)	9	Don Edwards (D)
13	Charles M. Teague (R)	14	John F. Baldwin, Jr. (R)
15	John J. McFall (D)		
16	B. F. Sisk (D)		

And at that it was optimistic. The last lawyers left Mississippi yesterday and today we learned that the COFO office in Laurel was burned to the ground. (ed note: no important documents were destroyed. S. F. CHRONICLE to the contrary).

VIOLENCE BY REMOTE CONTROL

It has been claimed that violence in Mississippi is directed from the top down.

I think violence in Mississippi is turned off and on like a faucet. And the person who turns that faucet is the fellow at the top. It's Governor Johnson and J. P. Coleman, and it's Simmons, the head of the Citizen's Council, and it's all the people in the state legislature who belong to the Citizens Council. Any time they want it turned off it's turned off, and any time they want it turned on it's turned on. This is my feeling. The lawyers down there didn't have much trouble: obviously the word was out - This is not going to do us any good, leave them alone. I'm sure if any one of them had said - Give them a hard time - we would have been arrested on all kinds of petty violations, thrown in jail, harrassed.

They are very concerned about the outcome of the Challenge, this was clear to me. Mississippi doesn't want a formal quarantine. They don't want to lose their representation in Congress. They say in all their statements - We are part of the United States.

WHO'S THE BLAME?

I had an interesting conversation with the attorney for Congressmen Prentiss Walker, a man named B. B. McClendon, who was quite defensive about everything that took place in Mississippi. After one of the depositions, he was particularly disturbed: the question had been raised about the relation between the White Citizens Council and the violence. McClendon came to me at recess and said, "It really isn't fair of you." He was really hurt. "It really isn't fair of you to blame me for the killing of the three civil rights workers in Philadelphia." And I said to him, "Look, McClendon, let's assume I don't blame you for the killing. I know that you won't take a gun to them and shoot them dead, or beat them up, you personally. But what I do blame you for is the fact that you have not yet stood up as a lawyer and a member of the Bar, and said 'Why have there been no indictments for the killing of those three kids?' You know as well as I do who killed them. Now the fact that you don't stand up and be counted on that issue is what I blame you for. And when they kill the next 3 kids because there has been no justice for the killings last summer, then I blame you for the killing of those next three." And he had no answer.

Calendar on the Mississippi Challenge

- Feb. 13 - depositions supporting the challenge were completed
- Mar. 24 - testimony of challenged Congressmen to be completed
- Apr. 4 - 10 days for challengers' rebuttal
 - all evidence collected mailed to Clerk of the House of Representatives
 - challengers and challenged summoned to appear before the Clerk
- May 1 - printing of testimony (approximate date)
 - 30 days for challengers to file briefs with the House Committee on Elections and Privileges
- July 1 - 30 days for challenged to file answering briefs (approximate date)
 - Elections Subcommittee vote on holding of formal public hearings
- During July - Subcommittee's decision presented as a resolution to House of Representatives

None of the Subcommittee members voted against the seating of the Mississippi Congressmen when Congress opened on January 4. Four of them are Southerners. MFD's strategy is to exercise pressure on the whole Committee, seven of whose members did support the non-seating resolution, to influence the Subcommittee. California has two representatives on the Committee: Lipscomb and Hawkins. Lipscomb voted for seating and Hawkins against.

Do you and the lawyers who went down plan to do anything as a group in this area?

There's been a lot of talk about this and nothing formal has come out of it. I'll say this: lawyers who went down to Mississippi will never be the same. In this respect we have already accomplished a great deal for San Francisco. Many of these men had never been identified with the civil rights movement: we had Goldwater Republicans down there, we had lawyers from PG&E, we had some from big Montgomery Street firms. These men will just not be the same, and it's bound to have an impact on the Bay Area. All the lawyers who were down there want to go back.

How did you get such a variety of lawyers to go?

THINGS WERE HAPPENING IN SAN FRANCISCO

There were roughly 110 lawyers who participated in the first 40 days, from all over the United States, and we had close to 50 of them. There were 12 court reporters and we had 10 of them. People down there kept asking me - Why San Francisco?

Now I'm not sure. But I think all the civil rights activity in San Francisco, the sit-in cases, and I think the Berkeley situation had an effect. There are people here, who didn't get involved in the sit-ins or Berkeley, but who felt there should be some involvement in this fight somewhere along the line. And, by God, if you have any feelings at all about what's going on in this country, Mississippi is something you can't turn your back on, because there's no question of right and wrong in Mississippi.

And there are a lot of people out there in the world, who just have to be asked.

And I asked them. No one had ever asked them before. There was an immediate response from people who had never defended a sit-in, but who felt strongly about a rule of law and an ordered society, and they said sure, when do we leave? We have to stop talking to ourselves: there are a lot of people just waiting for someone to ask them to get involved.

WE MUST NEVER LET UP

When the Challenge is over, what other attacks on the legal structure of segregation would you advocate?

It is important that we keep unremitting pressure on the state of Mississippi. Mississippians keep saying - Let us alone, please, we'll solve these problems ourselves. There is a reason for this: they want to be left alone, but we can't leave them alone, because they won't solve their problems. We have to have people in there from outside the state: we can't depend on people inside the state of Mississippi.

The Justice Department has to keep on with voter registration cases in Mississippi. I think they've done a magnificent job here. I was never any fervent supporter of the Justice Department under Bobby Kennedy, but many of my prejudices have been lifted. I think Marshall, Katzanback and Doar have done a tremendous job on the voter registration cases.

Legally, I don't know what we can do about the breakdown of law and order. I think we are not going to solve the problem by pouring Federal troops into Mississippi. We might push something with the 14th Amendment, cutting down their Congressional representation. There should be a continued Federal presence there. It's true the FBI tells you they can't help; they don't have jurisdiction.

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THE STORY OF COFO (PART TWO)

PLANS FOR THE SUMMER PROJECT

The November, 1963 Freedom Vote had proved that Northern, white college students could work effectively in Mississippi, and plans were laid for the Mississippi Summer Project, which involved 900 students, doctors, lawyers and teachers, working in community centers, Freedom Schools, and voter registration programs.

Details were ironed out at large staff meetings. COFO workers believed then, as now, that decisions about projects and techniques in Mississippi are best made by those who live and work there, and not by those unfamiliar with the state.

THE MISSISSIPPI FREEDOM PROJECT

What happened in the Summer Project is history: It changed forever both Mississippi and the Movement. When it ended in August, 1964, the Mississippi Freedom Project began immediately. Over 200 volunteers remained in the state to continue voter registration work and keep some of the 32 community centers and 41 Freedom Schools open. Fifty of these volunteers were put on the SNCC staff; the remainder form the Freedom Force, for whom SNCC is attempting to get subsistence pay of \$10 a week.

MONEY

From the beginning, financial support and staff for COFO have come primarily from SNCC and CORE. COFO itself employs no staff, but borrows workers for its programs from cooperating civil rights organizations (At present, 125 of SNCC's staff of 225 are working in Mississippi on COFO projects). In October, 1963 the Voter Education Project (VEP) withdrew its funds from COFO because the state-wide organization engaged in "political programs" not allowable under VEP grants. In the fall of 1963 Bob Moses met with Roy Wilkins, Martin Luther King, and James Farmer to solicit their

support. SNCC and CORE agreed to contribute money to take up the slack. CORE supports the work in Mississippi's 4th Congressional District, and SNCC the work in the 1st, 2nd, 3rd, and 5th Districts, supplying staff, cars, and funds.

SCLC has cooperated with COFO's programs through their Citizenship Teacher Program of training local people to become teachers.

ROLE OF THE NAACP

The State conference of NAACP branches has supported COFO through its member units. The national NAACP never considered itself a part of COFO, though Dr. Aaron Henry (head of the state conference of NAACP branches) is COFO president. At a national board meeting in January, 1965, the state conference announced it would withdraw its support of COFO: the reason given was non-involvement in decision making. But Aaron Henry reports that he sent notices to each branch chapter every time COFO meetings took place and encouraged them to attend. (COFO meetings are open to all people in Mississippi working on the various aspects of its program.)

The Commission on Religion and Race of the National Council of Churches trained most of the Summer Project volunteers and has directed a steady flow of ministers - acting as counselors - into and out of Mississippi since the project began.

The NAACP Legal Defense and Educational Fund, Inc., the National Lawyers Guild and other legal groups have supplied lawyers and legal advice.

"The most important thing about COFO is not its name or its history," a volunteer worker has said, "but that it has been able to involve so many people and groups, both black and white, from Mississippi and elsewhere, in a total program aimed at completely eliminating discrimination and segregation from every corner of the state."

Interview with SF Lawyer Ed Stern

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Did the FBI and the Justice Department help you?

The FBI - no, not at all. The Justice Department was cooperative.

THE ADMINISTRATION MUST STOP THWARTING US

The last thing is - these Congressional seats should be vacated. Let's face it. We've made our case. In any fair tribunal these seats would be vacated. The Administration should stop trying to seat these Mississippians, which is what they've been doing. The Administration must lend its weight to vacating these seats and holding free elections in Mississippi.

BUSINESSMAN CANCELS MISS. PRODUCTS

TO ALL BUYERS:
FROM: J. Megdell, President

This will notify you that our Company will no longer carry products that are manufactured in or originated from the state of Mississippi. When buying from either salesmen or from buying offices, make certain that the items you are purchasing are not made in Mississippi. Also, review all purchase orders for merchandise not yet received by us, and cancel all orders for merchandise coming from Mississippi.

When the day comes when the terrorism that is so prevalent in Mississippi no longer exists, and when justice will be dispensed equally to all of its citizens, and when the hoodlums no longer control the actions of that State, we will again be in the market for merchandise that originates from Mississippi.

I personally believe that the majority of Mississippians are decent, fair-minded Americans; but, as in Nazi Germany, this majority is dominated by the brutal minority.

(Memo to buyers for Yankee Stores, Inc., reprinted from *Modern Retailer*, Jan. '65)

5th Anniversary Loot:

Income	4,977.88*
Expenses	- 802.84
Total income less expenses	4,175.04
Local Operating Fund:	675.04
Money sent South	3,500.00*

As of February 8 -- ticket money still outstanding will go South when turned in.

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