

South Carolina Law Review

Volume 57

Issue 4 *THE PROMISE OF VOTER EQUALITY:
EXAMINING THE VOTING RIGHTS ACT AT
FORTY*

Article 10

Summer 2006

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Recommended Citation

Lawson, Steven F. (2006) "Prelude to the Voting Rights Act: The Suffrage Crusade, 1962-1965," *South Carolina Law Review*: Vol. 57 : Iss. 4 , Article 10.

Available at: <https://scholarcommons.sc.edu/sclr/vol57/iss4/10>

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PRELUDE TO THE VOTING RIGHTS ACT: THE SUFFRAGE CRUSADE, 1962-1965

STEVEN F. LAWSON*

The master civil rights narrative with which most of us are familiar recounts the lone leader, Dr. Martin Luther King, Jr., directing a series of great events that resulted in the Second Great Emancipation. From the mid-1950s to the mid-1960s, newspaper headlines and television broadcasts followed Dr. King and his desegregation campaigns through Montgomery, Birmingham, Albany, St. Augustine, and the March on Washington. The history textbooks read by the current generation of high school and college students, who were born well after the heyday of the civil rights movement, generally follow these major campaigns first headlined more than forty years ago.¹

In similar fashion, the chronicle of the voting rights struggle usually starts with Dr. King's campaign in Selma, Alabama and ends with the passage of the Voting Rights Act of 1965. Unarguably, Dr. King and the Selma protests played a critical role, if not the critical role, in the final acquisition of suffrage for disfranchised black southerners. Selma marked the culmination, yet that event was not the totality of the battle for black ballots. It is important to remember that while highly publicized episodes such as those at Selma were taking place, black and white suffrage workers, led mainly by the Student Nonviolent Coordinating Committee (SNCC), the National Association for the Advancement of Colored People (NAACP), and the Congress of Racial Equality (CORE), engaged in creative efforts to break down barriers that prevented a majority of African Americans in the South from registering to vote and participating in the electoral process. Members of these groups mainly functioned out of the limelight, but like Dr. King, they too learned the necessity of boldly catching attention of the public and pressuring national representatives to take action to restore the right to vote.

This Article focuses on the success of suffragists in obtaining the Voting Rights Act, one of the two most powerful pieces of civil rights legislation ever enacted—the other most powerful civil rights legislation is, of course, the Civil Rights Act of 1964. The results came from a combination of public and private

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1. See, e.g., 2 GEORGE BROWN TINDALL & DAVID EMORY SHI, *AMERICA: A NARRATIVE HISTORY* 1509–13, (5th ed. 1999) (discussing major events in the civil rights movement); 2 PAULINE MAYER ET AL., *INVENTING AMERICA: A HISTORY OF THE UNITED STATES*, 933–34 (2003); MARK C. CARNES & JOHN A. GARRATY, *AMERICAN DESTINY: NARRATIVE OF A NATION* 987–90 (2003) (previously general overview of the civil rights movement).

activity through both national and local efforts. Between 1962 and 1965, voting rights workers launched a concerted suffrage crusade in the South that succeeded both in registering a significant number of new voters and, even more importantly, placing sufficient political pressure on hesitant federal government officials to swing into action behind a potent voting rights statute. The struggle came at considerable costs to participants, but the effort was one which paid rich dividends.

In 1962, after nearly a century of disfranchisement, an estimated 29.4 percent of eligible African Americans in the South managed to register to vote.² The comparable figure for South Carolina was 0.8 percent. Still, 29.4 percent was not an insignificant figure compared to the miniscule 3 percent registered in 1940.³ This more than 20 percent rise in black voting can mainly be explained by the judicial dismantling of the lily-white Democratic Party primary in 1944⁴ and the passage of the Civil Rights Act of 1957, which pertained mainly to voting discrimination,⁵ together with the efforts of black civic groups and civil rights organizations, such as the NAACP, which organized voter registration drives. However, neither federal involvement nor private campaigns had succeeded in enfranchising a majority of African Americans. Faced with discriminatory literacy tests, biased registrars, poll taxes, and intimidation, African Americans had to find a way to convince the federal government to overcome the remaining entrenched resistance to their unfettered right to vote.

In 1962, the Kennedy administration, with John F. Kennedy as President and his brother Robert Kennedy as Attorney General preferred to use the courts to expand the right to vote by increasing the number of voting suits brought under the Civil Rights Act of 1957.⁶ The Kennedy administration, by using the Judiciary, hoped to make its presence in Dixie lightly felt. The administration also emphasized the right to vote to avoid arousing loud confrontations provoked by protests for desegregation, which gave the Soviet Union ample opportunity to portray the United States unfavorably on the world stage during the Cold War.⁷

To push civil rights activists "off the streets," President Kennedy offered financial incentives, backed by Department of Justice litigation, to undertake voter registration drives.⁸ The administration also persuaded several philanthropic

2. STEVEN F. LAWSON, *RUNNING FOR FREEDOM: CIVIL RIGHTS AND BLACK POLITICS IN AMERICA SINCE 1941*, at 81 tbl.1 (2d ed. 1997). South Carolina fell below the average with 22.9 percent of eligible blacks enrolled to cast a ballot. *Id.*

3. *Id.*

4. *Smith v. Allwright*, 321 U.S. 649, 651, 664–66 (1944).

5. Pub. L. No. 85–315, 71 Stat. 634 (1957) (codified as amended in scattered sections of 28 and 42 U.S.C.).

6. LAWSON, *supra* note 2, at 77.

7. MARY L. DUDZIAK, *COLD WAR CIVIL RIGHTS: RACE AND THE IMAGE OF AMERICAN DEMOCRACY* 158 (2000).

8. See LAWSON, *supra* note 2, at 77–78; see also HARRIS WOFFORD, *OF KENNEDYS AND KINGS: MAKING SENSE OF THE SIXTIES* 159 (2d ed. 1992) ("[T]he new Voter Education Project . . . was given prompt tax exemption.").

foundations to finance suffrage campaigns.⁹ In a series of meetings in June and July 1961, the government brokered negotiations between philanthropic organizations, the Taconic Foundation and the Field Fund, and civil rights groups, the NAACP, SNCC, CORE, Southern Christian Leadership Conference (SCLC), National Urban League, National Student Association, and the Southern Regional Council (SRC).¹⁰ By virtue of these negotiations, the SRC agreed to run the Voter Education Project (VEP). The philanthropic organizations provided a million dollars in funding, and civil rights groups furnished the personnel for voter registration drives throughout the South.¹¹ Wiley Branton, an Arkansas lawyer who represented nine black students in 1957 in their attempt to integrate Central High School in Little Rock, Arkansas, was appointed director of the project.¹²

Having spearheaded the creation of the VEP, the federal government left the distinct impression among civil rights groups that the government would furnish protection to suffragists if and when they encountered danger. Although civil rights participants never specifically heard the Department of Justice promise federal protection for registration workers, Assistant Attorney General Burke Marshall “apparently left the impression that the national government would intervene to safeguard the activists’ constitutional rights.”¹³ In all likelihood, Marshall never envisioned the kind of support civil rights activists wanted and needed to achieve their goals, especially in those sections of the South where activists encountered massive resistance. Rather than dispatch FBI agents or federal marshals to protect harassed suffrage workers from police brutality and private terrorists, the Kennedy administration filed suits in federal courts against discriminatory law enforcement officers and voter registrars.¹⁴ The Justice Department contended that the FBI was not a federal police force and that local officials were responsible for public safety.¹⁵ The government may have been technically correct, although this point is arguable, but its reasoning did nothing to safeguard voting rights workers from those very police officials who violated their rights and intimidated them in the first place.

Relying on local law enforcement was not the Kennedy administration’s sole policy flaw. The administration’s determination to secure voting rights through the courts also fell short of the mark. Toward this end, the White House sustained a self-inflicted wound—Kennedy appointed five men to judgeships in the Fifth Circuit in the deep South who frustrated the government’s chances of enforcing the

9. STEVEN F. LAWSON, *BLACK BALLOTS: VOTING RIGHTS IN THE SOUTH, 1944–1969*, at 261 (1999).

10. *Id.* The SRC promoted improved race relations in the South through conferences, research, and publications. Headquartered in Atlanta, the group publicly endorsed desegregation and enfranchisement by the early 1960s. *See id.* at 262; LAWSON, *supra* note 2, at 78.

11. LAWSON, *supra* note 2, at 78; PAT WATTERS & REESE CLEGHORN, *CLIMBING JACOB’S LADDER: THE ARRIVAL OF NEGROES IN SOUTHERN POLITICS* 46 (1967).

12. *See id.* at 48; WOFFORD, *supra* note 8, at 159.

13. LAWSON, *supra* note 9, at 265.

14. *See id.* at 267; LAWSON, *supra* note 2, at 81–82.

15. LAWSON, *supra* note 9, at 280.

right to vote.¹⁶ William H. Cox of Mississippi proved to be the worst.¹⁷ A law school roommate of James Eastland, the chair of the powerful Senate Judiciary Committee, Cox openly referred to blacks as “niggers” and denounced Civil Rights Division attorneys for wasting his time with “lousy cases.”¹⁸ Although federal courts of appeals reversed the discriminatory decisions of these judicial resisters, Assistant Attorney General Marshall admitted that by their actions the judges “did directly and deeply affect [the] pace” of litigation.¹⁹ Unfortunately, for African Americans, justice delayed was justice denied.

Despite these obstacles, between 1962 and 1964 the VEP made considerable progress. In counties where the VEP funded voting drives, the names of 287,000 blacks were added to the suffrage rolls.²⁰ Throughout the South, an additional 680,000 blacks registered to vote, and the percentage of voting-age registered blacks rose from just over 29 percent to about 43 percent.²¹ However, the results were uneven. In Florida, Tennessee, and Texas a majority of African Americans succeeded in registering.²² Next came Arkansas, North Carolina, South Carolina, and Virginia, where 40 percent of blacks enrolled (The figure for South Carolina was around 37 percent).²³ Blacks had the least success in Alabama, Louisiana, and Mississippi, where less than a third had qualified to vote.²⁴ Mississippi compiled the worst record by far—less than 7 percent were registered.²⁵

Black Mississippians endured great difficulties in cracking the solid edifice of Jim Crow and disfranchisement. Civil rights supporters in Mississippi virtually disappeared from public view²⁶ following the reign of terror in the mid-1950s that led to the deaths of Emmett Till and voting rights activist George Lee. The historian of the Mississippi civil rights struggle John Dittmer, quoted one activist as stating: “[I]f you were a member of the NAACP you kept it kind of a secret. If you had any kind of job or anything you couldn’t let it be known.”²⁷ As a result, Mississippi had

16. VICTOR S. NAVASKY, *KENNEDY JUSTICE* 277 (1971).

17. LAWSON, *supra* note 9, at 272; NAVASKY, *supra* note 16, at 277. The other appointees were “E. Gordon West of Louisiana, Robert Elliot of Georgia, and Clarence Allgood and Walter Gewin of Alabama.” *Id.* at 15, at 277.

18. LAWSON, *supra* note 9, at 272.

19. *Id.* at 273.

20. LAWSON, *supra* note 2, at 80.

21. DAVID J. GARROW, *PROTEST AT SELMA: MARTIN LUTHER KING, JR., AND THE VOTING RIGHTS OF 1965*, at 19, tbl.1-3 (1978).

22. *Id.*; LAWSON, *supra* note 2, at 81, tbl.1.

23. GARROW, *supra* note 21, at 19, tbl.1-3; LAWSON, *supra* note 2, at 81, tbl.1, 2, & 3.

24. GARROW, *supra* note 21, at 19, tbl.1-3; LAWSON, *supra* note 2, at 81, tbl.1.

25. GARROW, *supra* note 21, at 19, tbl.1-3; LAWSON, *supra* note 2, at 81, tbl.1.

26. See generally JOHN DITTMER, *LOCAL PEOPLE: THE STRUGGLE FOR CIVIL RIGHTS IN MISSISSIPPI* 53–58 (1994) (detailing the deaths of Emmett Till and George Lee and its effect on the civil rights movement in Mississippi).

27. *Id.* at 101.

the worst record of black voter registration in the South. In 1960, only about 5 percent of the adult black population in the state had managed to enroll.²⁸

Even before the VEP came into existence, black activists from inside and outside the Magnolia State struggled to crack the impenetrable wall of disfranchisement erected to preserve white supremacy. Robert Parris Moses proved the most important of those who ventured into Mississippi.²⁹ Moses grew up in New York City and earned a master's degree in philosophy from Harvard. In February 1960, Moses was teaching mathematics at Horace Mann, a prestigious private high school in the Bronx, when the sit-ins to desegregate public accommodations in the South began. Inspired by these protests, Moses went to work for SCLC in the summer of 1960 in Atlanta.³⁰ There he met Ella Baker, who had held administrative positions in both the NAACP and the SCLC³¹ and was a major influence in the formation of the SNCC.³² Baker's ideas about the need of the civil rights movement to organize local communities and develop indigenous leadership rather than depend upon national leaders and mass demonstrations resonated with Moses.³³

Moses traveled into the Mississippi Delta to recruit local leaders to a conference that the SNCC was planning. In the small town of Cleveland, Mississippi, he met Amzie Moore. Moore was a veteran of the black freedom struggle and had worked with the NAACP and the Regional Council of Negro Leadership. Moore saw students as the necessary force to rejuvenate the battered civil rights movement within the state.³⁴ Moore convinced Moses to return the following summer and concentrate on voter registration. Moore did not see much benefit from protests against segregated public accommodations because most blacks in the area were too poor to take advantage of them. Rather, he emphasized the right to vote, which he believed would provide the political power to achieve genuine equality.³⁵

In 1961, after completing the final year of his teaching contract, Moses returned to Mississippi as Moore suggested. Moore had not come up with the resources to undertake a voter registration drive, but he did send Moses to McComb, Mississippi in Pike County where blacks were ready to start a suffrage campaign. C. C. Bryant, the president of the NAACP in McComb had kept his branch alive during the 1950s.³⁶ In mid-July, Moses began canvassing black neighborhoods with Webb Owens, a retired railroad employee and NAACP leader. Through his contact with

28. GARROW, *supra* note 21, at 19, tbl.1-3; LAWSON, *supra* note 2, at 81, tbl.1.

29. For an in-depth discussion of Robert Parris Moses on the civil rights movement in Mississippi, see ERIC BURNER, *AND HE GENTLY SHALL LEAD THEM: ROBERT PARRIS MOSES AND CIVIL RIGHTS IN MISSISSIPPI* (1994).

30. DITTMER, *supra* note 26, at 102.

31. LAWSON, *supra* note 2, at 67.

32. DITTMER, *supra* note 26, at 102.

33. See BARBARA RANSBY, *ELLA BAKER AND THE BLACK FREEDOM MOVEMENT: A RADICAL DEMOCRATIC VISION* 251 (2003).

34. DITTMER, *supra* note 26, at 102-03.

35. *Id.* at 103.

36. *Id.*

Bryant and Owens, Moses succeeded in gaining support from black business people and ministers.³⁷ The Society Hill Baptist Church supplied the use of its mimeograph machine and the Masonic Temple provided a room to conduct voter education classes in which blacks learned how to fill out the complicated Mississippi voter registration forms.³⁸ By this time, two additional SNCC workers, Reginald Robinson and John Hardy, had joined Moses and they succeeded in registering a handful of people and attracting more than two dozen to their classes.³⁹

Word of their success in Pike County traveled to surrounding counties and brought requests for SNCC to establish classes in those counties as well.⁴⁰ Moses went into neighboring Amite County and made contact with E. W. Steptoe, the founder of the county NAACP chapter. Moses, who along with other SNCC organizers was committed to non-violence, quickly discovered that rural blacks like Steptoe stored guns in their houses to protect themselves against white harassment.⁴¹ On August 15, Moses took three people into Liberty, the ironically named county seat, to register. There, Moses was arrested for the first, but not the last, time. The following week, one of the sheriff's cousins slammed the blunt end of a knife into Moses's head, requiring him to receive eight stitches for his bloody wound.⁴² Although Moses brought criminal charges against his attacker, a bold move for a black man to take against a white man in this repressive county, an all-white jury acquitted his assailant.⁴³ Nevertheless, through his courage and boldness, Moses attracted other SNCC workers to join him in southwest Mississippi and inspired local youths to venture into the movement. Two of them, Hollis Watkins and Curtis Hayes, who lived just outside of McComb, organized a demonstration against segregated facilities and were arrested.⁴⁴

With the upsurge of protest, segregationist violence accelerated. On September 7, John Hardy accompanied two black applicants to register to vote in neighboring Tylertown in Walthall County. The registrar hit Hardy over the head with a gun, warning him: "Stay out of here, you dumb son of a bitch."⁴⁵ Adding insult to injury, the sheriff, John Q. Wood, then arrested Hardy for disorderly conduct.⁴⁶ A few weeks later, on September 25, E. H. Hurst, a state legislator, shot and killed Herbert Lee near Liberty.⁴⁷ Lee belonged to the NAACP and worked with Moses on voter

37. *Id.* at 103–04.

38. *Id.* at 104.

39. *Id.* at 105.

40. DITTMER, *supra* note 26, at 105.

41. *Id.*

42. *Id.* at 106.

43. *Id.*

44. *Id.* at 106–07.

45. *Id.* at 108.

46. DITTMER, *supra* note 26, at 108. The Civil Rights Division filed litigation that prevented the state from bringing Hardy to trial. *Id.*

47. *Id.* at 109.

registration.⁴⁸ Hurst claimed that he got into a dispute with Lee over money and that Lee attacked him first with a tire iron.⁴⁹ When Hurst whipped out his gun to protect himself, he claimed, it accidentally fired and killed Lee. A coroner's jury backed up Hurst's version.⁵⁰

In the face of this terror, the voter registration campaign fizzled.⁵¹ McComb's black high school students continued to protest segregation through sit-ins and marches, which led to arrests and expulsions from school.⁵² Bryant and other community elders had only bargained for voter registration and not mass demonstrations that would expose their children to danger. The man who invited Moses into his community withdrew support for SNCC.⁵³ The final blow came on October 31, when Moses and several SNCC workers were convicted of disturbing the peace and sent to jail for up to six months.⁵⁴ From his cell in the town of Magnolia, an undaunted Moses recorded his thoughts:

This is Mississippi, the middle of the iceberg. Hollis [Watkins] is leading off with his tenor, 'Michael row the boat ashore, Alleluia; Christian brothers don't be slow, Alleluia; Mississippi's next to go, Alleluia.' This is a tremor in the middle of the iceberg, from a stone that the builders rejected.⁵⁵

The following month, Moses and his comrades walked out of jail on bail money provided by the Southern Conference Educational Fund,⁵⁶ the successor to the Southern Conference for Human Welfare.⁵⁷ Having failed to crack the iceberg in McComb, Moses and the activists nevertheless remained in Mississippi, continuing to chip away at the glacier of white supremacy.

The creation of the Voter Education Project helped rejuvenate SNCC's voter registration efforts in the state, most importantly in Greenwood. Located in the Delta county of Leflore, where blacks comprised a majority of the population but only 2 percent of the voters,⁵⁸ Greenwood attracted Sam Block of SNCC in June 1962 to begin organizing around the right to vote.⁵⁹ The murder of Emmett Till in 1955 deeply affected Block, a native Mississippian, as it had many other young

48. *Id.*

49. *Id.*

50. *Id.*

51. DITTMER, *supra* note 26, at 109.

52. *See id.* at 110.

53. *Id.* at 111.

54. *Id.* at 113.

55. *Id.* at 113-14.

56. *Id.* at 114.

57. LAWSON, *supra* note 9, at 145.

58. DITTMER, *supra* note 26, at 128-29.

59. *Id.* at 128.

people his age.⁶⁰ After a stint in the Air Force following high school and college, the twenty-three-year-old returned home and joined SNCC.⁶¹ In August 1962, Block journeyed to Greenwood alone and accompanied several local blacks to the registrar's office. Subsequently, Block received warnings from the segregationist white Citizens' Council, a more respectable version of the Ku Klux Klan, to refrain from taking other blacks to register. On August 13, three white men assaulted and beat him.⁶²

On the night of August 16, Block and two SNCC colleagues looked out of their office window and saw a police car. Soon after the police car drove by, an automobile pulled-up filled, with armed men. Eight men jumped out of the car, entered the building, and climbed the stairs to the SNCC office on the second floor. Barely a step ahead of them, Block and his co-workers climbed out of the bathroom window and leaped from rooftop to rooftop until they evaded the assailants and took refuge in the Greenwood home of a black supporter.⁶³

SNCC forces refused to capitulate, and white supremacists responded with more violence and intimidation. After Block made a statement, which was reported in the local press, charging that opponents of the voter registration drive were behind the terrorism, he was prosecuted and convicted for "public utterances designed to incite breach of peace" and sentenced to six months in jail and a \$500 fine.⁶⁴ On February 28, 1963 white terrorists struck directly at SNCC. While meeting at the SNCC office with Randolph Blackwell, a VEP official from Atlanta, SNCC worker Jimmy Travis spotted an automobile with no license plates parked outside in the street. Smelling danger, the activists decided to leave the building and disperse.⁶⁵ Along with Moses, Blackwell and Travis drove out of town along Highway 82 toward Greenville. Seven miles down the road, the same menacing car pulled alongside the SNCC vehicle and fired shots into the automobile. Travis, the driver, took two bullets, one in the shoulder and one in the neck. Though the wounds were serious, he survived.⁶⁶

Rather than retreat, SNCC dug in even deeper. The group summoned its workers from throughout Mississippi and concentrated them in Greenwood to accelerate the voter registration drive.⁶⁷ The white reign of terror continued. On March 6, snipers fired shots into a car parked in front SNCC headquarters, blowing out some windows and slightly injuring workers inside with spraying glass.⁶⁸ On March 24, arsonists set fire to the SNCC office, inflicting heavy damage to its

60. *Id.* at 57.

61. LAWSON, *supra* note 2, at 84.

62. DITTMER, *supra* note 26, at 132.

63. *Id.* 132-33.

64. *Id.* at 147.

65. *Id.*

66. *Id.*

67. *Id.* at 148.

68. DITTMER, *supra* note 26, at 150.

contents.⁶⁹ On March 27, James Forman, SNCC's executive secretary,⁷⁰ led a procession to city hall to protest the violence. Police broke up the peaceful demonstration by unleashing a snarling German shepherd against the marchers. Ten SNCC leaders, including Moses and Forman, were arrested and jailed.⁷¹

At this juncture, the demonstrations and violence attracted the attention of the national media.⁷² Backed by the VEP, SNCC leaders called upon the federal government to intervene and protect the rights of those who tried to register.⁷³ Added pressure and added fear that the situation was spiraling out of control led the Kennedy administration to file litigation against the City of Greenwood, asking for a temporary restraining order against city officials and an order directing the release of incarcerated civil rights activists.⁷⁴ Before the government's case received a hearing, on April 3, 1963 the Department of Justice engineered a compromise.⁷⁵ Criticized by Mississippi's two powerful United States Senators, James Eastland and John Stennis, for filing unnecessary litigation and worried that angry blacks in Greenwood would provoke white segregationists into increased violence, the Department entered into an agreement with local officials.⁷⁶ John Doar, the Department attorney who was most sympathetic to the plight of civil rights advocates, followed Department instructions to drop the lawsuit in exchange for the release of the SNCC prisoners.⁷⁷ Both the VEP and SNCC expressed bitter disappointment with the government's failure to follow through with its pledge of federal protection and denounced the agreement.⁷⁸ As the national government withdrew, so too did reporters for the national media, who flocked to Birmingham to cover rapidly escalating, and thus considered more newsworthy, demonstrations led by Dr. King.⁷⁹

Though SNCC continued its voter registration campaign in Greenwood, its efforts produced few tangible results. By mid-1963, some 1,300 blacks had braved obstacles to make an attempt to pass the literacy test and register to vote without success.⁸⁰ With a great deal of reluctance, on November 12, 1963, the VEP decided that it could no longer afford to fund projects in Mississippi.⁸¹ In reaching this decision, the VEP's executive director, Wiley Branton, singled out the federal

69. *Id.*

70. *Id.* at 149-50.

71. *Id.* at 151.

72. *Id.* at 152.

73. LAWSON, *supra* note 2, at 85.

74. DITTMER, *supra* note 26, at 153.

75. *Id.* at 154-55.

76. *Id.*

77. *Id.* at

78. LAWSON, *supra* note 9, at 277; *see* DITTMER, *supra* note 26, at 155.

79. *See* WATERS & CLEGHORN, *supra* note 11, at 62.

80. LAWSON, *supra* note 2, at 86.

81. *See* Letter from Wilet A. Branton, Director, Voter Education Project, to Aaron Henry and Robert Moses (November 12, 1963), in STEVEN F. LAWSON & CHARLES PAYNE, *DEBATING THE CIVIL RIGHTS MOVEMENT, 1945-1968*, at 83 (1998).

government for its failure “to protect the people who have sought to register and vote or who are working actively in getting others to register.”⁸² Fewer than 5,000 black Mississippians had managed to enroll, which broke down to an expenditure by the VEP of \$12.13 per voter.⁸³ This expenditure was two and a half times as high as the next most costly state, Louisiana, which cost \$4.84 per voter.⁸⁴

Bitterly disappointed, SNCC and its allies still did not give up in the Magnolia state. Indeed, SNCC stepped up its efforts in a two-pronged strategy to publicize the plight of Mississippi blacks: (1) bring the brutal reality of black disfranchisement to national attention, and (2) continue organizing local communities around the right to vote.⁸⁵ Because of fierce resistance, civil rights forces in the state united under the banner of the Council of Federated Organizations (COFO) in 1962. Guided mainly by SNCC and CORE, COFO also gathered the NAACP and SCLC under its umbrella.⁸⁶ The NAACP furnished one of its most tireless representatives in the state as COFO’s president: Aaron Henry, a drug store proprietor.⁸⁷ In 1963, in the aftermath of the Greenwood campaign, COFO decided to conduct a “mock election” to coincide with the regularly scheduled gubernatorial contest in the fall. Toward this end, Henry ran a symbolic campaign for governor. Because the overwhelming majority of blacks still could not vote, the “Freedom Vote” campaign attempted to sign up African Americans and have them cast unofficial ballots.⁸⁸

The idea for the project developed out of discussions between Allard Lowenstein and Bob Moses.⁸⁹ A graduate of the University of North Carolina and Yale Law School, Lowenstein served as a dean at Stanford University. Lowenstein had close connections to the liberal wing of the Democratic Party and had spoken out against apartheid in South Africa.⁹⁰ Lowenstein envisioned that newly enfranchised Mississippi blacks, as well as those throughout the South, would help reshape the Democrats in a more liberal direction by using their clout to topple southern conservatives like Senators Eastland and Stennis.⁹¹ Moses did not have the fortunes of the Democratic Party uppermost in his mind. Rather, he saw the simulated election campaign primarily as a means of organizing blacks and

82. *Id.* at 84.

83. LAWSON, *supra* note 9, at 294, tbl.2.

84. *Id.* In South Carolina the cost was \$1.96, with \$94,489 spent to register 48,099 voters. The average cost was \$2.55 per voter. *Id.*

85. *See* LAWSON, *supra* note 2, at 87.

86. *Id.*

87. DITTMER, *supra* note 26, at 120; LAWSON, *supra* note 9, at 265.

88. LAWSON, *supra* note 2, at 87; *see generally* AARON HENRY & CONSTANCE CURRY, AARON HENRY: THE FIRE EVER BURNING 156–61 (2000) (detailing the role of Aaron Henry in the “Freedom Vote” campaign).

89. DITTMER, *supra* note 26, at 200.

90. *See generally* WILLIAM H. CHAFE, NEVER STOP RUNNING: ALLARD LOWENSTEIN AND THE STRUGGLE TO SAVE AMERICAN LIBERALISM (1993) (detailing the life of Allard Lowenstein).

91. *See* DITTMER, *supra* note 26, at 201.

providing an independent electoral base to obtain their political goals.⁹² Nevertheless, both agreed that Lowenstein should use his influence on northern campuses to recruit white student volunteers to spend the fall in Mississippi and help with the campaign. Although not everyone in SNCC supported the idea of importing white students into the campaign, the students would provide increased personnel and would also highlight for a national audience the undemocratic and brutal conditions blacks faced.⁹³ Moses prevailed in his belief that blacks would have to pry support from the federal government before they could vote.

On October 6, 1963, COFO launched the campaign at its statewide convention at the Masonic Temple in Jackson.⁹⁴ The delegates adopted a platform that endorsed "racial justice, school desegregation, and the right to vote."⁹⁵ With respect to the right to vote, COFO argued that Mississippi should not be entitled to administer a literacy test.⁹⁶ The convention nominated Aaron Henry to run for governor.⁹⁷ Running with him for lieutenant governor was Ed King, a white chaplain at Tougaloo College.⁹⁸

As expected, segregationists harassed the candidates and their campaign workers. Police in Indianola arrested civil rights workers for distributing leaflets without a permit. In Clarksdale, Lowenstein went to jail for violating the town's curfew ordinance.⁹⁹ Student volunteers and veterans alike spent time in jail for allegedly disobeying traffic ordinances.¹⁰⁰ In a few cases, "white hoodlums" shot at campaign workers and chased them out of town.¹⁰¹

The mock election succeeded in proving the importance of the suffrage for black Mississippians. The approximately 80,000 blacks who cast their ballots, nearly four times the number of those actually registered in Mississippi, vividly demonstrated that disfranchised African Americans desperately wanted to vote and participate as first-class citizens in the electoral process. Nearly all of them supported Henry for Governor.¹⁰² A breakdown of the results shows that SNCC and CORE, which operated projects mainly in the rural delta, produced less than one-fifth of the total of groups situated elsewhere.¹⁰³ For example, in Leflore County only 2,000 turned out for the election.¹⁰⁴ The NAACP signed up the largest number of blacks, which were mainly in Jackson—the state capital and the most urban area

92. *See id.* at 200-01.

93. *Id.* at 203.

94. *Id.*

95. *Id.*

96. *Id.*

97. DITTMER, *supra* note 26, at 202.

98. *Id.*

99. *Id.* at 203.

100. *Id.* at 203.

101. *Id.* at 204.

102. LAWSON, *supra* note 2, at 87.

103. DITTMER, *supra* note 26, at 206.

104. *Id.*

in Mississippi.¹⁰⁵ Rather than an indication of apathy on the part of rural black Mississippians, the lean participation in the Delta indicated that well-justified fear continued to keep the disfranchised from voting in the most hardcore segregationist sections of the state.¹⁰⁶

Finally, the Freedom Vote continued the legacy of African American political participation outside of formal electoral politics. Whenever blacks had the chance to make their voices heard, whether in church meetings, fraternal organizations, or labor unions, they enthusiastically did so. Indeed, African Americans had forcefully voiced their political opinions in protest marches, boycotts, and testimony before Congress.¹⁰⁷ In the decades before formally obtaining the right to vote through the Nineteenth Amendment, black women played an active role by vocalizing their views in church and women's club gatherings and in encouraging black men to vote.¹⁰⁸ The large turnout in the Freedom Vote amply demonstrated that the flame of black political involvement had not been extinguished in what the Mississippi historian James W. Silver termed the most "closed society" in the United States.¹⁰⁹

With momentum building, Mississippi became the focus of the civil rights movement's efforts to spotlight black disfranchisement and pressure Washington into providing relief. Shortly after the completion of the mock election in the Mississippi, COFO staff met in Greenville to discuss future plans.¹¹⁰ The group agreed to launch a concerted voter drive the following summer, directed by Bob Moses and Dave Dennis of CORE, which would build upon COFO's recent freedom ballot operation.¹¹¹ In preparing for the 1964 "Freedom Summer campaign," the main source of contention revolved around the issue whether whites should play a role in this campaign similar to the one they had played in the mock election conducted the year before.¹¹² Most of those in attendance believed that whites should not serve in any leadership capacity, should be closely supervised by SNCC and CORE staff, and should work mainly in white communities.¹¹³ The issue of race became more salient in light of black perceptions that Lowenstein's recruits could not help but act paternalistically toward blacks with a markedly different class and social backgrounds from themselves.¹¹⁴ Some of the staff also

105. *Id.* at 204–06.

106. *Id.*; LAWSON, *supra* note 2, at 87.

107. In 1946, black World War II veterans in Mississippi played a leading role in testifying before a congressional committee holding hearings in Jackson regarding charges that Senator Theodore Bilbo behaved improperly by discouraging black Mississippians from voting. DITTMER, *supra* note 26, at 8–9.; LAWSON, *supra* note 9, 107–09; DITTMER, *supra* note 26, at 3–8. In January 1947, the Senate refused to seat him before having a full investigation; however, the issue became moot when Bilbo died of cancer that August. LAWSON, *supra* note 9, at 113–14.

108. See DITTMER, *supra* note 26, at 127.

109. JAMES W. SILVER, MISSISSIPPI: THE CLOSED SOCIETY 6 (1966).

110. DITTMER, *supra* note 26, at 207.

111. *Id.* at 207–10.

112. *Id.* at 207–08.

113. *Id.*

114. *Id.* at 208–09.

believed that placing whites in leadership positions would reinforce the subservience local blacks felt in the presence of whites.¹¹⁵

Moses disagreed for philosophical and tactical reasons. To limit white participation was a racist position, and he argued, "That's what we're fighting [against.]"¹¹⁶ Also, Moses had not given up on the idea that bringing northern whites into Mississippi would convince the federal government to follow.¹¹⁷ He candidly admitted that while the nation did not respond to black deaths in the state, its leaders would heed the violence facing hundreds of white college students, including the possibility of murder.¹¹⁸ Moses, a reader of Albert Camus and other existentialist philosophers, took personal responsibility very seriously and dreaded the lives that would be lost as a result of his actions.¹¹⁹ However, he was not the source of the violence in Mississippi, and he wanted to show those living outside the state the terror that blacks experienced every day.¹²⁰ His arguments prevailed.

Before Freedom Summer began, COFO continued its efforts to register blacks in a number of key areas in Mississippi. COFO declared January 22, 1964, as "Freedom Day" in Hattiesburg.¹²¹ The Justice Department had won an injunction that prevented Theron Lynd from engaging in discriminatory voter registration practices.¹²² As the registrar of Forrest County, where Hattiesburg was the county seat, Lynd had long been involved in preventing African Americans from passing the state literacy test.¹²³ With this boost from the judiciary, COFO mobilized a few hundred people to line up en masse at the Forrest County Courthouse and apply to register.¹²⁴ COFO also organized a picket line at the courthouse to protest discriminatory treatment.¹²⁵ Under the watchful eyes of national reporters summoned by COFO, the local police did not use physical force to break up the demonstration, an unprecedented event in the county.¹²⁶ More than 150 people took the test in a generally peaceful atmosphere.¹²⁷ The drive encouraged COFO and the local residents to continue organizing.¹²⁸ The police waited until the national media departed before making arrests, but they did not stop further attempts to register.¹²⁹

Civil rights activists in the town of Canton in Madison County copied Freedom Day after witnessing the events in Hattiesburg. CORE set up a base in Canton and

115. *Id.* at 209.

116. DITTMER, *supra* note 26, at 209.

117. *Id.* at 209-10.

118. LAWSON, *supra* note 2, at 94.

119. RANSBY, *supra* note 33, at 248.

120. LAWSON, *supra* note 2, at 94.

121. DITTMER, *supra* note 26, at 219.

122. *Id.* at 220; *see* *United States v. Lynd*, 301 F.2d 818, 823 (1962).

123. *Lynd*, 301 F.2d at 821-22.

124. DITTMER, *supra* note 26, at 220.

125. *Id.*

126. *Id.*

127. *Id.* at 221.

128. *Id.*

129. *Id.*

recruited C. O. Chinn, a local businessman to work with the group to rally blacks behind the movement.¹³⁰ Foote Campbell of Madison County, like Theron Lynd, kept a tight grip on the voting books, which contained the names of 97 percent of adult whites, but only 1.2 percent of eligible blacks.¹³¹ SNCC and NAACP staff joined those from CORE and recruited approximately 350 blacks at the courthouse.¹³² Only five people were allowed to take the test, and the Justice Department filed suit against Foote for discrimination the following week.¹³³ The case went to Judge Cox, a judicial obstructionist, who publicly referred to blacks in court as “chimpanzees.”¹³⁴ Nevertheless, Cox, who had previous decisions reversed by higher courts, ordered that Campbell handle at least fifty applications a day.¹³⁵

Buoyed by demonstrations in Hattiesburg and Canton, blacks in Greenwood set their own Freedom Day for March 25.¹³⁶ The situation in Greenwood was less peaceful. The day before the rally, the police arrested SNCC’s Willie Peacock and three others for distributing flyers, and the Ku Klux Klan burned a cross in front of SNCC headquarters.¹³⁷ After gathering at the Elks Hall, some two hundred blacks went to the courthouse to register; another one hundred people, including a few white clergymen, joined a picket line to protest racial bias.¹³⁸ About three dozen blacks were permitted to take the voting test.¹³⁹ The various freedom days stirred blacks in Mississippi to attempt to register, but few managed to do so in the face of solid opposition.¹⁴⁰

Against this background, the organizers of Freedom Summer began their campaign. After setting up a recruiting process and carefully screening applicants, in mid-June COFO convened a two week orientation session at the Western College for Women in Oxford, Ohio, to prepare volunteers for the challenges and dangers that awaited them in Mississippi.¹⁴¹ The volunteers, mainly white children of privilege, listened to somber recitations by civil rights veterans, including project director Bob Moses, about life in Mississippi, which for blacks resembled a third-world economy and a totalitarian state.¹⁴² Through role playing, volunteers received training in how to nonviolently respond to the abuse they would receive from the opposition.¹⁴³ They prepared to face grave difficulties and knew their lives would

130. DITTMER, *supra* note 26, at 221.

131. *Id.*

132. *Id.* at 222–23.

133. *Id.* at 223.

134. *Id.*

135. *Id.*

136. DITTMER, *supra* note 26, at 224.

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.* at 242–44.

142. DITTMER, *supra* note 26, at 242–44.

143. *Id.* at 245–46.

be in jeopardy. Jimmy Travis, who had been shot outside Greenwood the year before, warned, "It's hell in Mississippi. And you're [sic] got to realize that nobody cares. I'm black. You're white. If you're going down there, you're going to be treated worse than black. Because you are supposed to be free. But I say no one is free until everyone is."¹⁴⁴

Travis's lesson hit home quickly, even before most of the volunteers had left for Mississippi. On June 21, 1964, a week after the Oxford orientations began, three COFO staff members in Mississippi disappeared.¹⁴⁵ Michael Schwerner and James Cheney, who worked for CORE, and Andrew Goodman, one of the summer volunteers from Queens, New York, had gone to investigate the torching of the Mount Zion Methodist Church in Longdale, near Meridian in Neshoba County.¹⁴⁶ Shortly after they finished investigating the ruins, Deputy Sheriff Cecil Price arrested them on a traffic charge and placed them in jail in the town of Philadelphia.¹⁴⁷ Later that evening, Price released them and they headed back to Meridian by car. Under cover of darkness, Deputy Sheriff Price again stopped the group on their way to Meridian and turned them over to members of the Ku Klux Klan, who murdered them, burned their car, and buried their bodies under a remote earthen dam.¹⁴⁸ Their remains were not discovered until August 4; by then COFO was sure that they had been murdered.¹⁴⁹

Until this incident the federal government declined to become involved in safeguarding Freedom Summer workers. Although many parents of volunteers, along with civil rights organizations, urged Washington to take steps to protect voting rights crusaders, the President and his advisors had demurred.¹⁵⁰ Lyndon B. Johnson succeeded John F. Kennedy after his assassination the previous November.¹⁵¹ Although more sympathetic to civil rights than Kennedy had been, like his predecessor, Johnson believed that federal force should be deployed sparingly in the internal affairs of states. Law enforcement was a matter for local officials to undertake.¹⁵² Four days before the three civil rights workers disappeared, a White House aide rejected a request from parents of the volunteers for federal protection "before a tragic incident takes place."¹⁵³ Lee White found it "incredible

144. NICOLAUS MILLS, *LIKE A HOLY CRUSADE: MISSISSIPPI 1964—THE TURNING OF THE CIVIL RIGHTS MOVEMENT IN AMERICA* 92 (1992).

145. See DITTMER, *supra* note 26, at 247–48.

146. SETH CAGIN & PHILIP DRAY, *WE ARE NOT AFRAID: THE STORY OF GOODMAN, SCHWERNER, AND CHANEY AND THE CIVIL RIGHTS CAMPAIGN FOR MISSISSIPPI* 1 (1988).

147. *Id.* at 13–14.

148. *Id.* at 40–46; KENNETH O'REILLY, "RACIAL MATTERS": THE FBI'S SECRET FILE ON BLACK AMERICA, 1960–1972, at 164 (1989).

149. CAGIN & DRAY, *supra* note 146, at 27.

150. LAWSON, *supra* note 9, at 301–02.

151. DITTMER, *supra* note 26, at 211.

152. Steven F. Lawson, *Debating the Civil Rights Movement: The View from the Nation*, in *DEBATING THE CIVIL RIGHTS MOVEMENT, 1945–1968*, at 3, 41 (Steven F. Lawson & Charles Payne eds., 1998).

153. LAWSON, *supra* note 9, at 302.

that those people who are voluntarily sticking their head into the lion's mouth would ask for somebody to come down and shoot the lion."¹⁵⁴

The disappearance of Cheney, Schwerner, and Goodman, which generated national and international publicity, forced the federal government to act.¹⁵⁵ Johnson ordered the FBI to investigate the matter, and the Bureau set up an office in Mississippi to do so.¹⁵⁶ Previously, the FBI had compiled a poor record in dealing with civil rights issues. In fact, Hoover had a dim view of the capacity of blacks to handle equality, and he also initiated a clandestine operation to spy on and smear Dr. Martin Luther King, Jr..¹⁵⁷ However, under the President's orders and with the Bureau's professional reputation on the line, Hoover's agents conducted a successful probe that led to the apprehension of the killers, including a deputy sheriff.¹⁵⁸

However, the federal government did not change its position about refusing to provide protection, and throughout the summer, violence continued to flare. In Leake County, the tiny town of Harmony—an ironic name in light of the state's racial inferno—came under assault for its civil rights activities.¹⁵⁹ Like many women in other towns throughout the South, two sisters, Winson and Dovie Hudson, led the movement in this community.¹⁶⁰ They collaborated with CORE workers to set up a "Freedom School" in Harmony. A critical aspect of Freedom Summer, these schools provided an education for black youths and gave them an opportunity to learn the academic skills missing from their limited and impoverished segregated education.¹⁶¹ The schools also instilled a sense of pride in learning about African American heritage and prepared the students to exercise their rights as first-class citizens.¹⁶² However, terrorists aimed to stop this education and began planting bombs in black residents' mailboxes.¹⁶³ When a carload of whites drove up to Dovie Hudson's mailbox, she had her sons on alert and armed with guns. They riddled the approaching vehicle with bullets, fending off the assault.¹⁶⁴ This incident demonstrated that local blacks would use force to defend themselves, despite the movement's tactical support of nonviolence.¹⁶⁵

The freedom campaign in McComb, where three years earlier Bob Moses had started his quest to organize blacks for the right to vote, once again became the

154. *Id.*

155. MILLS, *supra* note 144, at 23.

156. *Id.*

157. DAVID J. GARROW, *THE FBI AND MARTIN LUTHER KING, JR.: FROM "SOLO" TO MEMPHIS* *passim* (1981).

158. O'REILLY, *supra* note 148, at 174–76.

159. DITTMER, *supra* note 26, at 257.

160. *Id.* at 256.

161. *Id.* at 257–58.

162. *Id.* at 258–59.

163. *Id.* at 257.

164. *Id.*

165. DITTMER, *supra* note 26, at 256–57; WINSON HUDSON & CONSTANCE CURRY, *MISSISSIPPI HARMONY: MEMOIRS OF A FREEDOM FIGHTER* 35–46 (2002).

target of Klan violence and segregationist harassment.¹⁶⁶ A bomb rocked C.C. Bryant's house along with two others the day after the killing outside of Philadelphia.¹⁶⁷ COFO operated a freedom house owned by Mrs. Willie Mae Cotton on Wall Street.¹⁶⁸ Bombers blasted the house, knocking down one of the walls and injuring the project director, Curtis Hayes, and a white volunteer.¹⁶⁹ The reign of terror continued through June and July as the Klan torched three churches in adjacent Pike and Amite Counties.¹⁷⁰ In early August, black business leaders gathered at Aylene Quinn's café, which served as a haven for beleaguered COFO staff.¹⁷¹ They agreed to support the local movement and began holding meetings at St. Paul's Methodist Church.¹⁷² The effort to register blacks continued, despite further intimidations and bombings—six over two months.¹⁷³

In addition to voter registration campaigns and freedom schools, the summer project assisted in establishing the Mississippi Freedom Democratic Party (MFDP).¹⁷⁴ Freedom workers established the MFDP to protest the exclusion of blacks from the regular state Democratic Party and its procedure for choosing delegates to attend the Democratic National Convention.¹⁷⁵ The MFDP erected a parallel structure open to blacks as well as white Mississippians.¹⁷⁶ Like the regular party, the group held precinct, county, and state conventions to select representatives to attend the 1964 Democratic Convention in Atlantic City, New Jersey.¹⁷⁷

To prove its case, the MFDP had to show that blacks were systematically barred from the official deliberations of the state Democratic Party.¹⁷⁸ To demonstrate such discrimination, black Mississippians tried to participate in the nearly 1,900 precinct meetings the regular Democrats held throughout the state.¹⁷⁹ Very few blacks gained entry either at the precinct or county levels.¹⁸⁰ No blacks attended the state convention, and the delegation chosen as a result of this process was lily-white.¹⁸¹ In addition, most of the white delegates did not support Lyndon Johnson

166. *Id.* at 265.

167. *Id.* at 267.

168. *Id.*

169. *Id.*

170. *Id.* at 268.

171. DITTMER, *supra* note 26, at 269.

172. *Id.*

173. *Id.* at 270; see DAVID HARRIS, DREAMS DIE HARD 66 (1982) (discussing the violence and threats blacks experienced during the campaign in McComb).

174. LAWSON, *supra* note 2, at 95.

175. *Id.* at 95–96.

176. *Id.* at 96.

177. *Id.* at 95–98; DITTMER, *supra* note 26, at 273.

178. DITTMER, *supra* note 26, at 273.

179. *Id.*

180. *Id.*

181. *Id.*

or the views of the national Democratic Party—reportedly they intended to vote for the conservative Republican candidate, Barry Goldwater.¹⁸²

In late July, the MFDP began to convene its precinct meetings, and on August 6, some 2,500 delegates gathered at the state party convention at the Masonic Temple in Jackson.¹⁸³ Baker, the godmother of SNCC, believed in community organizing and had faith in the power of local people to choose their own leaders.¹⁸⁴ At the Masonic Temple she urged blacks to educate themselves about their citizenship rights and to be vigilant about electing people who “feel their sense of importance and will represent themselves before they represent you.”¹⁸⁵ This reference revealed that Baker was already thinking beyond obtaining the franchise and looking to the need to choose representatives who would advance the liberationist goals of the black freedom struggle. She especially had in mind the economic objective of equal opportunity and a decent standard of living.

The sixty-eight member MFDP delegation, which included four whites, journeyed to the convention feeling positive about its chances of replacing the regulars.¹⁸⁶ The group stayed at the Gem Motel, about a mile from the convention center.¹⁸⁷ Its members did not know that President Johnson was monitoring their conversations. The FBI had undertaken extensive surveillance, including wiretaps and the use of informers, to keep track of the MFDP’s moves.¹⁸⁸ The President did not want the MFDP to provoke an all-out credentials fight that would threaten his white southern support.¹⁸⁹

The MFDP’s lawyer, Joseph Rauh, a veteran liberal attorney and counsel to the United Auto Workers, outlined a strategy that gave the Freedom Democrats two chances of gaining recognition.¹⁹⁰ First, they would present their case to the Credentials Committee, where they had to convince only eleven of the 108 representatives to send their challenge to the floor of the convention.¹⁹¹ Once there, the MFDP needed the support of just eight state delegations to force a roll call vote on the question of their seating.¹⁹² Second, if they managed to get this far, the challengers believed that with the media televising the proceedings throughout the nation, they could line up enough delegations on their side and win their case. Indeed, the MFDP already counted California, Michigan, and New York in its column.¹⁹³

182. *Id.* at 273–74.

183. *Id.* at 281; RANSBY, *supra* note 33, at 335.

184. DITTMER, *supra* note 26, *passim*.

185. *Id.* at 282.

186. *Id.* at 285.

187. *Id.*

188. *Id.* at 292.

189. *Id.* at 295–97.

190. DITTMER, *supra* note 26, at 287.

191. *Id.* at 287.

192. *Id.*

193. *Id.* at 289.

On August 22, the Credentials Committee heard testimony from both sides in the dispute.¹⁹⁴ The regulars argued that they had duly chosen convention delegates according to longstanding Democratic Party rules.¹⁹⁵ The challengers asserted that the regular Democrats had barred blacks from participating in their selection process.¹⁹⁶ The most riveting evidence came from a leading member of the MFDP delegation, Fannie Lou Hamer, who was from Sunflower County, the home of Senator Eastland. In 1962, after attempting to register to vote, Hamer lost her job as timekeeper and her home on a plantation because she had attempted to register to vote.¹⁹⁷ She became a staff member of SNCC and an inspiration to the young women and men who took part in COFO organizing. With television cameras recording her testimony, Hamer painted a graphic and painful picture of how Mississippi treated blacks who sought first class citizenship.¹⁹⁸ Hamer recounted an arrest, humiliating interrogation, and beating that she and five others experienced in the Winona, Mississippi jail.¹⁹⁹ Given the indignities that blacks suffered merely trying to register to vote, Hamer looked at the committee members and the television audience that attentively watched the proceedings and asserted, "If the Freedom Democratic Party is not seated now, I question America . . ." ²⁰⁰ "[I]s this America," she asked, "the land of the free and the home of the brave where we have to sleep with our telephones off the hooks because our lives be threatened daily because we want to live as decent human beings, in America?" ²⁰¹

Hamer's emotional account appeared to hit the mark, galvanizing President Johnson into action.²⁰² Johnson feared that the battle over Mississippi would tear the convention apart and, if the MFDP won its challenge, provoke a walkout by white southern delegations reminiscent of the scene at the 1948 Democratic National Convention. To reassert control over the deliberations, Johnson called an impromptu press conference while Hamer was speaking to preempt live coverage before the national television audience.²⁰³ The President achieved only temporary success because television cameras continued to record her testimony while Johnson held his conference, and the networks replayed Hamer's testimony on their evening news broadcasts.²⁰⁴

The President did not intend to be outmaneuvered. Seeking to confine the fight to the Credentials Committee and keep the matter from reaching the convention

194. *Id.* at 287.

195. *Id.*

196. DITTMER, *supra* note 26, at 287–88.

197. *Id.* at 288; CHANA KAI LEE, FOR FREEDOM'S SAKE: THE LIFE OF FANNIE LOU HAMER 89 (1999); KAY MILLS, THIS LITTLE LIGHT OF MINE: THE LIFE OF FANNIE LOU HAMER 119–20 (1993).

198. MILLS, *supra* note 197, at 119–21.

199. *Id.*

200. *Id.* at 121.

201. *Id.*

202. DITTMER, *supra* note 26, at 228.

203. *Id.*

204. *Id.*

floor, he orchestrated a compromise. Johnson informed the liberals on the committee that if they wanted him to select Hubert Humphrey as his running mate, they had to find a way to broker a deal.²⁰⁵ Humphrey supporters Walter Mondale of Minnesota and Walter Reuther, the head of the United Automobile Workers, operated behind the scenes to convince the delegates to seat the Mississippi regulars in exchange for swearing their allegiance to the national Democratic Party and extending two at-large seats to the MFDP, leaving nearly all the freedom delegates excluded from participation.²⁰⁶ With Johnson's approval, the agreement named Aaron Henry and Ed King as the two delegates; the President deliberately wanted to keep the spellbinding Mrs. Hamer from gaining formal recognition.²⁰⁷ This solution pleased neither side. Most of the Mississippi regulars walked out, refusing to take the loyalty oath.²⁰⁸ At the same time, after a series of caucuses at the Union Temple Baptist Church, the MFDP members rejected the "back of the bus bargain."²⁰⁹ In her powerful voice, Hamer declared, "We didn't come all this way for no two seats."²¹⁰ Yet, the MFDP did not go away empty handed. The convention voted to establish a committee to draw up guidelines to eliminate racial discrimination in delegate selection for all succeeding national conventions.²¹¹ Indeed, Hamer would take a seat at the 1968 convention in a delegation of thirty-six blacks and thirty-two whites.²¹² Nor did the MFDP give up. As an outgrowth of the summer project, the party nominated candidates to run for Congress. Besides Hamer, Annie Devine and Victoria Gray competed for seats in the House of Representatives.²¹³ The three underscored the importance of local women to the movement.²¹⁴ Devine, a mother of four, a pillar of her church, and a schoolteacher, emerged as a leader after organizing drives in Canton.²¹⁵ A resident of Hattiesburg, Gray was also a wife and mother, though she came from a business background prior to working with COFO.²¹⁶ Unlike the situation at the Democratic National Convention, the three candidates had weak legal positions and little political support to win seats in Congress.²¹⁷ At best, they may have hoped to block the seating of the regularly elected white congressmen, which had occurred with Theodore Bilbo

205. *See id.* at 290–91.

206. *Id.* at 296.

207. *Id.*

208. DITTMER, *supra* note 26, at 298.

209. *Id.* at 298.

210. *Id.* at 302.

211. STEVEN F. LAWSON, IN PURSUIT OF POWER: SOUTHERN BLACKS AND ELECTORAL POLITICS, 1965–1982, at 111–14 (1985).

212. Although the Democratic Party began to live up to its name over the next four decades, it gradually lost its dominance and much of its appeal among whites to the resurrected Republican Party in the region.

213. LAWSON, *supra* note 9, at 322.

214. *See* DITTMER, *supra* note 26, at 127.

215. *Id.* at 189–90.

216. *Id.* at 181–82.

217. LAWSON, *supra* note 9, at 323.

in 1947.²¹⁸ However, when the new Session of the Eighty-Ninth Congress opened in January 1965, the House overwhelmingly rejected their attempt.²¹⁹

Despite tangible progress resulting from the suffrage crusade, most southern blacks in 1964 still could not vote. In the South, approximately 57 percent of eligible African Americans remained unregistered.²²⁰ The situation remained the worst in Alabama and Mississippi, where respectively 23 percent and 6.7 percent of blacks could vote.²²¹ With Mississippi already inundated with suffrage campaigns, in January 1965, Martin Luther King, Jr. and the SCLC moved into Selma, Alabama, to highlight the obstacles blacks faced in seeking to register.²²² King's efforts depended on generating national publicity to prompt federal action. King's presence attracted the customary national press coverage, which had been missing from earlier drives conducted by SNCC in Selma.²²³

King entered territory that SNCC had already explored. In 1963, SNCC experienced mixed success when it sent field workers to Selma to organize local blacks.²²⁴ On October 7, 1963, the group held a Freedom Day, which mobilized some three-hundred blacks seeking to register to line up at the courthouse.²²⁵ They were instead greeted by Sheriff Jim Clark's police force, which arrested demonstrators and treated them roughly while nearby Department of Justice employees characteristically watched the harassment without intervening.²²⁶ The SNCC's efforts did not produce many black voters, but they did facilitate the creation of the Dallas County Voters League, which continued the struggle.²²⁷ The Reverend Frederick Reese, a high school teacher and Baptist clergyman, headed the association.²²⁸ Assisting him was Amelia P. Boynton, an independent businesswoman who, along with her husband Samuel, operated an employment and insurance agency.²²⁹ They permitted SNCC to use their office on Franklin Street and opened up their home to civil rights organizers as a place to stay.²³⁰ Also, the First Baptist Church in Selma provided space for the Voters League and the SNCC to conduct meetings and voter registration classes.²³¹ Although the Voters League sparred with local officials to enroll blacks, by 1965 fewer than four-hundred

218. *See supra* note 23 and accompanying text.

219. LAWSON, *supra* note 9, at 324–26.

220. LAWSON, *supra* note 2, at 80.

221. *Id.* at 81.

222. GARROW, *supra* note 21, at 39.

223. *Id.* at 39–40.

224. LAWSON, *supra* note 9, at 278.

225. *Id.*

226. *Id.*

227. LAWSON, *supra* note 2, at 104.

228. *Id.*

229. *Id.* at 104–05.

230. TOWNSEND DAVIS, WEARY FEET, RESTED SOULS: A GUIDED HISTORY OF THE CIVIL RIGHTS MOVEMENT 115 (1998).

231. *Id.* at 106.

African Americans had signed up to vote in Dallas County, where Selma was located.²³²

Faced with the unwavering hostility of local authorities and the unwillingness of the federal government to offer protection, the Voters League invited King to launch a registration campaign in Selma.²³³ Fresh from winning the Nobel Peace Prize, King agreed. On January 2, 1965, the SCLC chief addressed a mass meeting at Brown's Chapel African Methodist Episcopal Church, which became the center of the Selma Movement.²³⁴ Doubtful that he would receive any better treatment from local officials than his predecessors, the Nobel Laureate expressed his real objective in staging protests in Selma: "[W]e will seek to arouse the federal government by marching by the thousands [to] the places of registration."²³⁵

Across from Brown's Chapel, residents of the George Washington Carver Homes, a two-story apartment project built for black Selmans in 1951, assisted the movement. They put up civil rights volunteers from outside the city and joined in protests and meetings at the nearby church.²³⁶ The SCLC used the surrounding area between the church and Carver buildings "as a training ground for nonviolent protests."²³⁷

King's presence attracted national press coverage, which had been missing from earlier drives. Selma had a public safety director, Wilson Baker, who believed that the best way to defuse the publicity King generated was to have law enforcement act with restraint.²³⁸ When King and the SCLC launched their campaign on January 18, Baker maintained a peaceful police presence.²³⁹ This was not the case with the deputy sheriffs under the command of Jim Clark. On January 19, Sheriff Clark's men halted a march to the Dallas County Courthouse, and Clark accosted Mrs. Boynton, treated her roughly, and arrested her.²⁴⁰ Boynton's arrest spurred other blacks to protest—most dramatically the town's teachers who, except for Reese, had previously refrained from bold action.²⁴¹ Each attempt to register, however, proved fruitless.²⁴²

Despite passage of the 1964 Civil Rights Act outlawing segregation in public accommodations, hotels in Selma remained segregated.²⁴³ The Torch Motel,

232. GARROW, *supra* note 21, at 34; LAWSON, *supra* note 2, at 105.

233. GARROW, *supra* note 21, at 39.

234. *Id.*; JUAN WILLIAMS, EYES ON THE PRIZE: AMERICA'S CIVIL RIGHTS YEARS, 1954–1965, 255 (1987).

235. WILLIAMS, *supra* note 234, at 258.

236. DAVIS, *supra* note 230, at 105.

237. *Id.*

238. GARROW, *supra* note 21, at 40.

239. *Id.* at 42.

240. *Id.* at 43.

241. *Id.* at 44.

242. See WILLIAMS, *supra* note 234, at 259–61.

243. The 1964 Act also contains a provision relating to voter registration. LAWSON, *supra* note 2, at 95. It stipulates that, for the purpose of judging literacy as a voting qualification, proof of a sixth grade education should be considered sufficient. *Id.* The statute still left implementation in the hands

located at 1802 Vine Street, was one of two facilities that served blacks, and King and his SCLC lieutenants took shelter in its five dollar per day rooms.²⁴⁴ Annie Cooper, a fifty-three year old nurse who had been fired from her previous job at the Dunn Rest Home for engaging in voter registration activities, managed the facility.²⁴⁵ During attempts to register voters in January, Mrs. Cooper and Sheriff Clark got into a fist fight at the county courthouse, when the sheriff pushed her while she stood in line.²⁴⁶ Despite the strictures of nonviolent protest, Cooper punched him in the face several times.²⁴⁷ As deputies grabbed her, she brazenly yelled at Clark, "I wish you would hit me, you scum."²⁴⁸ Clark then whacked Cooper over the head with his club, an image that photographers captured for the national media.²⁴⁹

With the demonstrators' efforts stalemated, on February 1, King stepped up the campaign. After rallying demonstrators at Brown's Chapel, he led a march to the courthouse.²⁵⁰ Baker, not Clark, arrested King before he arrived at the courthouse.²⁵¹ However, the result was the same, and King went to jail.²⁵² From his cell, he penned a "Letter from a Selma Jail," in which he sarcastically wrote: "This is Selma, Alabama, where there are more Negroes in jail with me than there are on the voting rolls."²⁵³ His incarceration prompted further marches and arrests, including the march of nearly five-hundred schoolchildren.²⁵⁴ With the jails overflowing and the national press recording the arrests, the demonstrations attracted national attention.²⁵⁵ A delegation of fifteen congressmen traveled to Selma to see the situation firsthand, and on February 4, black nationalist Malcolm X spoke at Brown's Chapel and warned that "white people should thank Dr. King for holding people in check, for there are other [black leaders] who do not believe in these [nonviolent] measures."²⁵⁶ While local whites did not appreciate the implications of Malcolm X's remarks, President Johnson did. The same day, the

of the judiciary, which had proven to be a cumbersome and time-consuming method in the past. *Id.* Furthermore, the law basically retained the use of literacy tests as an objective standard for registering, thereby perpetuating the disenfranchisement of a large number of blacks who had been deprived of adequate education. *Id.* At the same time, a large number of whites who could not read and did not possess a sixth-grade education remained on the rolls because registrars had given them preferential treatment. *Id.*

244. Davis, *supra* note 230, at 113-14.

245. *Id.*

246. DAVID J. GARROW, BEARING THE CROSS: MARTIN LUTHER KING, JR., AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE 381 (1986).

247. *Id.*

248. *Id.*

249. *Id.*

250. *See id.* at 382.

251. *Id.*

252. GARROW, *supra* note 246, at 382.

253. WILLIAMS, *supra* note 234, at 262-64.

254. *Id.* at 261.

255. *Id.* at 261-64.

256. *Id.* at 261-62.

President informed the nation that he intended to assure that the right to vote was secured for black Alabamians.²⁵⁷ Johnson meant to keep his word.

Following additional confrontations with Sheriff Clark's troops, on February 18, SCLC leaders led by the Reverend C.T. Vivian, conducted a night march in the town of Marion in neighboring Perry County, where blacks were similarly without the franchise.²⁵⁸ The protest resulted in state troopers killing Jimmie Lee Jackson and indiscriminately beating protesters and news reporters.²⁵⁹ With national sympathy building, the SCLC came up with a dramatic way of highlighting the plight of Alabama blacks. The group proposed a march from Selma to the state capitol in Montgomery, a distance of fifty miles, to memorialize Jackson's death and voice black grievances at the doorstep of Governor George C. Wallace, the segregationist firebrand.²⁶⁰ On Sunday, March 7, 1964, demonstrators gathered at Brown's Chapel before undertaking the dangerous journey along Route 80. Wallace had already denounced the demonstration and threatened to block it as a public safety hazard.²⁶¹ Led by the SCLC's Hosea Williams and SNCC's John Lewis (King was out of town tending his church duties in Atlanta), six-hundred people marched two abreast to the Edmund Pettus Bridge, which crossed the Alabama River and led out of town.²⁶² As the marchers reached the crest of the bridge, they encountered Wallace's state troopers and Clark's deputies, who ordered the marchers to turn back.²⁶³ Before they had a chance to comply, the combined police forces—some on horseback—charged into their ranks, fired tear gas, routed the protesters, and sent them sprawling to get back to Selma and the confines of Brown's church.²⁶⁴

The brutality on the bridge whet Clark's and his deputies' appetite for more. About 150 policemen chased the fleeing demonstrators, many of whom were wounded and choking from tear gas, back to the church sanctuary.²⁶⁵ Enraged residents of the Carver homes abandoned the nonviolent philosophy and hurled bricks and bottles at the troopers.²⁶⁶ An injured John Lewis, who was severely beaten at the bridge and carried back to Brown's, recalled the havoc caused by the police outside the church, "I was inside the church, which was awash with sounds of groaning and weeping. And singing and crying. Mothers shouting out for their children. Children screaming for their mothers and brothers and sisters. So much

257. *Id.* at 262.

258. LAWSON, *supra* note 2, at 104; WILLIAMS, *supra* note 234, at 265.

259. LAWSON, *supra* note 2, at 104.

260. *Id.*; WILLIAMS, *supra* note 234, at 267.

261. WILLIAMS, *supra* note 234, at 267–68.

262. LAWSON, *supra* note 2, at 107–08; WILLIAMS, *supra* note 234, at 269.

263. LAWSON, *supra* note 2, at 107–08; WILLIAMS, *supra* note 234, at 269.

264. LAWSON, *supra* note 2, at 107–08; WILLIAMS, *supra* note 234, at 269.

265. JOHN LEWIS & MICHAEL D'ORSO, *WALKING WITH THE WIND: A MEMOIR OF THE MOVEMENT* 329 (1998).

266. *Id.*

confusion and fear and anger all erupting at the same time.”²⁶⁷ Volunteer nurses and doctors treated the wounded in Brown’s Parsonage next door, which according to Lewis “looked like a MASH [Mobile Army Surgical Hospital] unit.”²⁶⁸ They treated victims for cuts, bruises, and tear gas burns.²⁶⁹ Ambulances dispatched from black funeral homes transported some of the more seriously wounded to Good Samaritan Hospital.²⁷⁰ Established by white Catholics and staffed mainly by black medical personnel, this facility was the largest serving African Americans.²⁷¹ With more than ninety people needing treatment and examining rooms overflowing, some patients were taken to the smaller Birwell Infirmary.²⁷²

Network news cameras recorded the events of “Bloody Sunday,” and the American Broadcasting Company interrupted its evening broadcast of “Judgment at Nuremberg” with coverage of the events in Selma, providing a vivid juxtaposition of racial crimes in Nazi Germany and white supremacist Alabama.²⁷³ King and the SCLC immediately planned to resume a second march from Selma to Montgomery on March 9.²⁷⁴ However, Judge Frank M. Johnson issued a temporary injunction that halted the march pending an appeal.²⁷⁵ King chose to proceed anyway, and on Tuesday, along with 2,000 marchers, he headed across the Edmund Pettus Bridge.²⁷⁶ Once again, the group encountered state troopers, but this time they avoided violence when King decided to turn around.²⁷⁷ Behind the scenes, the federal government had brokered a compromise with King that allowed marchers time to kneel in prayer and to keep the state police from attacking.²⁷⁸ Nevertheless, on the evening of “Turnaround Tuesday,” two white Unitarian ministers who had journeyed to Selma to participate in the march were attacked by white thugs on the streets of Selma.²⁷⁹ One of them, the Reverend James Reeb, died from the beating.²⁸⁰ The list of martyrs now numbered two.

The nation’s response to Reeb’s murder evoked bittersweet feelings among civil rights activists. Once again, political leaders appeared to respond more vigorously to the death of a white than the deaths of blacks.²⁸¹ Following Jimmie Lee Jackson’s death earlier in the campaign, despite television and newspaper coverage, neither the President nor Congress stirred into action. However, Reeb’s

267. *Id.*

268. *Id.* at 330.

269. *Id.*

270. *Id.*

271. LEWIS & D’ORSO, *supra* note 265, at 330.

272. *Id.*

273. *Id.* at 331.

274. *See id.* at 332–34.

275. WILLIAMS, *supra* note 234, at 273.

276. LEWIS & D’ORSO, *supra* note 265, at 334.

277. *Id.* at 334.

278. *Id.* at 334–35.

279. *Id.* at 336.

280. *Id.* at 338.

281. WILLIAMS, *supra* note 234, at 275.

murder prompted President Johnson to place a personal telephone call of sympathy to the slain minister's wife and father.²⁸² In addition, nearly a score of congressmen spoke out on the House and Senate floors demanding swift consideration of voting rights legislation.²⁸³ Among civil rights workers, the belief that the nation viewed white lives as more valuable than black lives mitigated the satisfaction of seeing the federal government respond favorably.²⁸⁴

In the meantime, protests in Alabama reached a climax. After holding hearings, Judge Johnson lifted the ban on the Selma to Montgomery march.²⁸⁵ When Wallace declined to furnish state protection, President Johnson federalized the Alabama National Guard and dispatched Army troops, FBI agents, and federal marshals to provide security.²⁸⁶ On Sunday, March 21, 4,000 blacks and whites from all over the country, the largest crowd to date, assembled at Brown's Chapel to begin the pilgrimage to Montgomery.²⁸⁷ With King and other civil rights notables up front, the marchers tramped along the Jefferson Davis Highway, Route 80, with their way clear.²⁸⁸ For four nights, marchers camped along the route.²⁸⁹ The final evening before heading into Montgomery, a huge throng gathered at the unincorporated City of St. Jude, a Catholic complex that had provided housing, medical facilities, and education for black residents of western Montgomery since 1938.²⁹⁰ In what Townsend Davis called the "Movement's Woodstock," thousands crowded into a muddy field for an evening concert to hear Sammy Davis, Jr., Harry Belafonte, Joan Baez, and James Baldwin.²⁹¹

The next day, approximately 25,000 people joined in the protest as it reached the state capitol, which had the Confederate flag waving in the breeze and Governor Wallace inside the building.²⁹² Television cameras recorded the triumphant procession, and the audience heard King deliver a typically stirring address.²⁹³ Acknowledging that the black pilgrimage to freedom was not yet over, the minister pledged: "We are still in for a season of suffering. However difficult the moment, however frustrating the hour, it will not be long, because truth crushed to earth will rise again."²⁹⁴ King's words proved prophetic. The day of the march's culmination, a carload of Klansmen near Lowndesboro shot into a car driven by Viola Liuzzo, a white volunteer from Detroit, as she was riding with Leroy Moton, a black SCLC

282. GARROW, *supra* note 21, at 97.

283. *Id.* at 95–97.

284. WILLIAMS, *supra* note 234, at 275.

285. LEWIS & D'ORSO, *supra* note 265, at 341.

286. *Id.* at 342; WILLIAMS, *supra* note 234, at 279.

287. WILLIAMS, *supra* note 234, at 279.

288. LEWIS & D'ORSO, *supra* note 265, at 342–43; WILLIAMS, *supra* note 234, at 281.

289. LEWIS & D'ORSO, *supra* note 265, at 343–45.

290. DAVIS, *supra* note 230, at 50–51.

291. *Id.*

292. LEWIS & D'ORSO, *supra* note 265, at 345.

293. *Id.* at 345–46.

294. WILLIAMS, *supra* note 234, at 283.

volunteer, to Montgomery after shuttling marchers back to Selma.²⁹⁵ As the automobile carrying the civil rights workers careened off the road, Mrs. Liuzzo lay dead. Moton survived the attack and the crash, but he feigned death until the killers roared off in their automobile.²⁹⁶ The number of martyrs had grown to three.

Events in Selma accelerated the timetable for voting rights legislation. Following his election in 1964, the President made some preparations for introducing a suffrage plan to combat the remaining obstacles to voting.²⁹⁷ The bloody conflict in Selma did not cause the President to initiate legislation, but did shape the outline of the proposal and guaranteed the Johnson White House and its congressional allies would fight for it vigorously.²⁹⁸ About the same time as King took charge of the Selma demonstrations, Johnson promised in his state of the union address to “eliminate every remaining obstacle to the right and opportunity to vote.”²⁹⁹

Originally, Johnson preferred not to press for new legislation in 1965 in order to allow the federal government to implement the provisions of the 1964 Civil Rights Act.³⁰⁰ Nevertheless, Johnson, a crafty legislative wizard, had the Department of Justice design several legislative options.³⁰¹ Attorney General Nicholas Katzenbach, who had replaced Robert Kennedy, produced three such options: a constitutional amendment providing for universal suffrage; a bill creating a national commission to supervise registration in federal elections; and a proposal to authorize a federal agency to conduct registration in state and federal elections in areas where the proportion of registered blacks was low.³⁰² At this early stage, Katzenbach preferred either the first or second suggestion.³⁰³

295. MARY STANTON, FROM SELMA TO SORROW: THE LIFE AND DEATH OF VIOLA LIUZZO *passim* (1998).

296. *Id.*; DAVIS, *supra* note 230, at 119–20. Before the end of the year, the Selma campaign incurred one more death. Following the march to Montgomery, a white Unitarian minister, Jon Daniels, headed to neighboring Lowndes County to organize black voter registrants. DAVIS, *supra* note 230, at 126. He worked closely with SNCC’s Stokely Carmichael. *Id.* Daniels was murdered and his companion was seriously wounded in broad daylight in front of Varner’s Cash Store in Haynesville; an all-white jury acquitted Daniel’s killer. *Id.* The following year, local blacks led by John Hulet formed the Lowndes County Freedom Organization and created an independent party under the insignia of the Black Panther. *Id.* at 126–29; CHARLES W. EAGLES, OUTSIDE AGITATOR: JON DANIELS AND THE CIVIL RIGHTS MOVEMENT IN ALABAMA 255–56 (1993). Badly disillusioned by his experiences in the South, Carmichael later became chairman of SNCC and led it along the path of Black Power. Eagles, *supra* at 256. Anti-racist black militants in California later organized themselves into the Black Panther Party, appropriating the name from the Lowndes civil rights activists. *Id.* at 255.

297. LAWSON, *supra* note 2, at 102.

298. See Lawson, *Debating the Civil Rights Movement*, *supra* note 152, at 31–33.

299. *Id.* at 103.

300. LAWSON, *supra* note 9, at 307.

301. *Id.*

302. *Id.*; GARROW, *supra* note 21, at 36–39.

303. LAWSON, *supra* note 9, at 307; GARROW, *supra* note 21, at 36–41. An innovative approach to the voting rights problem came from an unlikely place and helped shape the thinking of both the Johnson administration and Congress. Federal District Court Judge Frank M. Johnson of Alabama was

The Selma demonstrations narrowed the options and forced Johnson's hand.³⁰⁴ Throughout January and February, the President closely monitored events in Alabama and held meetings at the White House with King, who explained that the problems were serious enough to warrant more immediate and extensive legislation than a constitutional amendment.³⁰⁵ Johnson agreed, and the Justice Department began drafting a bill that suspended literacy tests in state and federal elections where the percentage of registered blacks fell below a prescribed level.³⁰⁶ After Bloody Sunday and Governor Wallace's continued intransigence against safeguarding peaceful black demonstrators, Johnson proposed legislation to crush suffrage discrimination.³⁰⁷ In a momentous televised address to a joint session of Congress on March 15, the President announced that keeping blacks from voting was "wrong—deadly wrong," and voicing the battle cry of the civil rights movement, he pledged: "We shall overcome."³⁰⁸

He meant what he said. His administration introduced the measure it had been crafting for several months. Departing from reliance on cumbersome court procedures, Johnson's voting rights bill shifted enforcement to the Justice Department.³⁰⁹ It also targeted the states where blacks encountered the most resistance when attempting to register. The bill triggered coverage in states and counties that used a literacy test and where less than fifty percent of the population had registered or gone to the polls in the 1964 presidential election.³¹⁰ Under this formula, the bill applied to Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and parts of North Carolina.³¹¹ Under the bill, literacy tests

experienced in trying to get local registration boards to comply with the Civil Rights Acts of 1957 and 1960. Often frustrated by delays and subterfuges, in 1962, Judge Johnson decided to tackle the continuing discriminatory application of literacy tests head on. *See* LAWSON, *supra* note 2, at 103. Because so many whites had not been required to satisfy the literacy exams, Johnson "froze" the requirements to vote that were then in effect, thereby allowing blacks to register. LAWSON, *supra* note 9, at 268. Thus, blacks only had to meet the same criteria as whites—not prove literacy—to enroll to vote. *Id.* This principle of freezing recognized the realities of the differential treatment of the races in the South and provided a rationale to justify suspending the administration of literacy tests. *Id.* In March 1965, in a case from Louisiana, the Supreme Court upheld freezing of voting standards as a constitutional method of correcting past bias against blacks, thereby suspending the application of literacy tests. *Louisiana v. United States*, 380 U.S. 145, 153 (1965). Justice Hugo Black stated what southern blacks had long known about literacy exams: "This is not a test but a trap, sufficient to stop even the most brilliant man on his way to the voting booth." *Id.* The Court affirmed the lower court decision issued by Judge John Minor Wisdom, one of a handful of progressive federal district judges in the South, along with Frank Johnson and J. Skelly Wright, who ruled against discriminatory suffrage procedures. *Id.*; JACK BASS, *UNLIKELY HEROES* 52 (1981).

304. *See* LAWSON, *supra* note 9, at 308.

305. *Id.* at 308–09.

306. LAWSON, *supra* note 2, at 110.

307. LAWSON, *supra* note 9, at 311–12.

308. *Id.* at 312 (quoting President Lyndon B. Johnson, Special Message to the Congress: The American Promise (March 15, 1965), 1 PUB. PAPERS 281, 283, 284 (1965)).

309. LAWSON, *supra* note 2, at 110.

310. *Id.*

311. *Id.*

would be suspended in each of these states, the President could send federal examiners to sign up voters in any of the counties therein, and none of these states could change their suffrage regulations for five years without the permission of the Department of Justice or a federal court in Washington, D.C.³¹²

Unlike the Civil Rights Act of 1964, which had met with such fierce opposition from southerners in Congress that deliberations dragged on for nearly a year before the bill passed, the new voting rights legislation encountered mild resistance.³¹³ The vivid media coverage of black suffering in Selma had galvanized national support of black enfranchisement.³¹⁴ A Gallup Poll taken during the Selma to Montgomery march indicated that three-quarters of the American public favored voting rights legislation, and nearly fifty percent of southerners also favored it.³¹⁵ Furthermore, President Johnson's electoral landslide in 1964 had swept into the Eighty-Ninth Congress an increased and decidedly liberal Democratic majority. Given the situation, southern lawmakers could scarcely defend restricting the right to vote and concentrated instead on weakening coverage of the bill.³¹⁶ They argued for removing the statistical formula that ensnared seven southern states almost exclusively.³¹⁷ Yet they waged only a half-hearted fight because suffrage legislation had generated widespread support.³¹⁸ Richard Russell, the dean of southern senators, whose physical strength was diminished because of illness, recognized that his legislative clout on this issue was also weak. "If there is any thing I could do," Russell lamented, "I would do it, but I assume the die is cast."³¹⁹

With passage assured, the legislative debate concentrated on details. Led by Democratic Senator Edward Kennedy of Massachusetts, liberals complained that the administration had not addressed the issue of removing the poll tax requirement in state elections, unlike ratification of the Twenty-Fourth Amendment, which eliminated the tax in federal elections.³²⁰ At this time, only Alabama, Mississippi, Texas, and Virginia imposed a poll tax.³²¹ However, under the bipartisan cooperation of Majority Leader Mike Mansfield of Montana and Minority Leader Everett Dirksen of Illinois, the Senate refused to add a poll tax repealer to the measure.³²² These leaders did not oppose the abolition of the poll tax, but they questioned whether Congress could constitutionally do so without amending the

312. LAWSON, *supra* note 9, at 312-13.

313. *Id.* at 320-21.

314. LAWSON, *supra* note 2, at 111.

315. *Id.*

316. *See* LAWSON, *supra* note 9, at 317.

317. *Id.* The trigger also caught the state of Alaska, which had a literacy test and less than 50 percent voter turnout in 1964. *Id.* at 423 n.117. The low turnout was likely due to geography and the climate rather than to racial discrimination. *Id.*

318. *Id.* at 314.

319. *Id.* at 314.

320. DONALD G. NIEMAN, PROMISES TO KEEP: AFRICAN AMERICANS AND THE CONSTITUTIONAL ORDER, 1776 TO THE PRESENT 173 (1991).

321. *Id.*

322. LAWSON, *supra* note 9, at 316-17.

Constitution.³²³ The administration backed up Mansfield and Dirksen, and the poll tax ban remained outside the Senate version.³²⁴ On May 25, after a mere twenty-four hours of debate on the contents of the bill, the Senate voted to impose cloture, thereby ending a filibuster that had hardly begun.³²⁵

The House version of the administration's bill moved more slowly.³²⁶ Republican leaders in the lower chamber, William McCulloch of Ohio and Gerald Ford of Michigan, offered a substitute plan.³²⁷ Rather than using a formula to trigger application of voting rights enforcement, they suggested that the attorney general appoint federal registrars to any county where he received twenty-five verified complaints of voting discrimination.³²⁸ The McCulloch-Ford plan did not suspend literacy tests in these areas; instead it applied the sixth-grade education standard adopted in the Civil Rights Act of 1964.³²⁹ In another important variation, their measure allowed covered locations to free themselves from Justice Department supervision of electoral procedures by merely complying with the rulings of the federal registrar.³³⁰ McCulloch's efforts were genuine; he had been an important figure in obtaining passage of the Civil Rights Act. He argued that the administration's triggering formula was too mechanical and too broad, and he wanted to tailor it to remedy ills only in those counties in which blacks filed written complaints of mistreatment.³³¹ Regardless of McCulloch's intentions, southern lawmakers jumped behind his version as a means of weakening voting rights enforcement.³³² Nevertheless, their efforts failed, and the House adopted the administration's version in early July.³³³

One final detail remained to be negotiated in the House version of the bill. The House bill contained a provision repealing the poll tax in state elections, but the Senate version did not.³³⁴ President Johnson favored the Senate version, and he sent Attorney General Katzenbach to persuade the legislative conference committee, which was trying to reconcile the competing bills, to accept the Senate's version.³³⁵ He struck a compromise with lawmakers—the conferees removed the outright poll tax ban and adopted language instructing the Department of Justice to file suit against any state's use of poll tax qualifications for voting.³³⁶ Congressmen broadened the bill beyond race to include linguistic minorities by extending the

323. *Id.*

324. *Id.*

325. *Id.* at 318.

326. *Id.*

327. *Id.* at 319.

328. LAWSON, *supra* note 9, at 319.

329. *Id.*

330. *Id.*

331. *Id.*

332. *Id.*

333. *Id.* at 320.

334. LAWSON, *supra* note 9, at 321.

335. *Id.*

336. *Id.* at 317, 321.

sixth grade literacy standard to non-English speaking residents.³³⁷ Ultimately, the House and Senate passed the revised bill with provisions for the triggering formula, federal examiners, and Department of Justice oversight firmly in place.³³⁸

Finally, Johnson needed only to affix his signature to the law. Johnson wanted to do so amidst great fanfare. He chose to sign the measure in the same room in the Capitol Rotunda that Abraham Lincoln used to stamp his approval on a law granting freedom to slaves owned by members of the Confederacy.³³⁹ On August 6, the President gathered behind him a delegation of civil rights leaders, congressional supporters, and administration officials to witness this landmark occasion.³⁴⁰ Johnson proclaimed, "Today what is perhaps the last of the legal barriers is tumbling."³⁴¹

As Johnson understood, passage alone did not resolve the problem. Enfranchisement depended on enforcement of the Act. The administration tried to demonstrate its fortitude by dispatching federal examiners from the Justice Department into nine counties less than three days after signing the bill into law.³⁴² Among these counties were two that had commanded the civil rights movement's greatest attention and sacrifice: Dallas County, Alabama, where Selma was located, and Leflore County, Mississippi, where SNCC and COFO had valiantly toiled.³⁴³ In Dallas County the percent of African Americans signed up to vote rose from 2.1 percent in 1965 to 70.4 percent in 1968.³⁴⁴ Black voters in Leflore County saw their percent skyrocket from 2.1 percent to 72.2 percent.³⁴⁵

While enforcement of the 1965 Act proceeded, South Carolina challenged its constitutionality in the Supreme Court.³⁴⁶ South Carolina, joined by five other southern states, contended that Congress had exceeded its power in implementing the Fifteenth Amendment.³⁴⁷ The states argued that by enacting both the triggering formula and a Department of Justice veto of changes in election laws in the covered jurisdictions, Congress encroached upon the reserved powers of the states, treated states unequally, and adjudicated guilt without due process of law.³⁴⁸ Speaking for the Court, Chief Justice Earl Warren rejected these claims.³⁴⁹ He stated that Congress had legitimately decided that the case-by-case approach of litigation did not work, and because of the history of systematic resistance to the Fifteenth

337. *Id.* at 423 n.124.

338. *Id.* at 321.

339. *Id.* at 321; WILLIAMS, *supra* note 234, at 285.

340. LAWSON, *supra* note 9, at 321; WILLIAMS, *supra* note 234, at 285.

341. LAWSON, *supra* note 9, at 322.

342. *Id.* at 329.

343. *Id.*

344. U.S. COMM. ON CIVIL RIGHTS, POLITICAL PARTICIPATION 224-25 (1968).

345. *Id.* at 244-245. In a third notable trouble spot, "Terrible Terrell" County, Georgia, the proportion of black voters on the suffrage rolls soared from 2.4 to 53.9. *Id.* at 236-37.

346. *South Carolina v. Katzenbach*, 383 U.S. 301, 307 (1966).

347. *Id.* at 307 n.2.

348. *Id.* at 323.

349. *Id.* at 327.

Amendment over the previous century, Congress could constitutionally place the burden of equal protection on “the perpetrators of the evil.”³⁵⁰

Over the next four years, the results were striking throughout the South. Although the federal government did not dispatch examiners to all the counties that warranted them—58 of 185 counties where less than 50 percent of blacks were enrolled received them—the mere suspension of literacy tests provided a potent boost for black registration.³⁵¹ Encouraged by the 1965 Act, the Southern Regional Council initiated a second Voter Education Project in 1966.³⁵² Thus, by 1969, the proportion of registered blacks in the South swelled to an average of around 60.7 percent, up from 24.4 percent in 1965.³⁵³ In 1966, the Supreme Court ruled in the case of *Harper v. Virginia Board of Elections*³⁵⁴ that the poll tax violated the Equal Protection Clause of the Fourteenth Amendment by discriminating against the poor in voting.³⁵⁵ Thus, the final remaining obstacle installed by post-Reconstruction governments to limit black suffrage had finally fallen.

Typically, these achievements did not come without more sorrow. For example, Vernon Dahmer had been a leader of the movement in Hattiesburg.³⁵⁶ A cotton farmer, grocery store owner, sawmill operator and NAACP member, Dahmer had opened his home to freedom riders and voter registration workers.³⁵⁷ After passage of the Voting Rights Act, Dahmer’s grocery store became a place where blacks could pay their poll taxes; Dahmer even offered to pay the tax for those who could not afford it.³⁵⁸ In the early morning hours of January 26, 1966, Klansmen targeted Dahmer’s house and adjacent store.³⁵⁹ They set fire to his store and tossed Molotov cocktails through his house windows.³⁶⁰ Dahmer bravely evacuated his family members while firing his rifle at the assailants.³⁶¹ The flames and smoke inhalation from the blaze left him severely wounded, and Dahmer died later that day from his injuries.³⁶² The rest of his family survived.³⁶³ Four of sixteen Klansman were convicted for Dahmer’s murder.³⁶⁴ Not until 1998, when

350. *Id.* at 328.

351. LAWSON, *supra* note 9, at 332–34.

352. *Id.* at 337.

353. LAWSON, *supra* note 9, at 334.

354. 383 U.S. 663 (1966).

355. *Id.* at 666.

356. DAVIS, *supra* note 230, at 303–04.

357. *Id.* at 304.

358. *Id.*

359. *Id.*

360. *Id.*

361. *Id.*

362. DAVIS, *supra* note 230, at 304.

363. *Id.*

364. *Id.* at 304–05.

Mississippi authorities reopened the case, was Sam Bowers, the Ku Klux Klan's leader, found guilty of murdering Dahmer.³⁶⁵

The quest of African Americans for the right to vote demonstrates that acquisition of the franchise came not from a benevolent willingness of public officials to honor their commitment to enforce the Fifteenth Amendment. It did not result from either the majesty of a single individual, no matter how impressive Dr. King was, or from one great event like Selma. Rather, it came at great personal risk to courageous and dedicated civil rights crusaders, including Sam Block, Fannie Lou Hamer, Bob Moses, James Cheney, Michael Schwerner, Andrew Goodman, and Jimmie Lee Jackson, and resulted from their determined strategy of grassroots organizing and sustained pressure on the federal government. Even with passage of the 1965 Voting Rights Act, debates over enforcement did not end, and suffragists had to come up with innovative strategies to guarantee the right to vote and to make the casting of the ballot an effective tool for racial equality.

In August 2007, several of the most significant provisions of the Voting Rights Act will come up for renewal.³⁶⁶ The history of the Voting Rights Act clearly indicates that the right to vote is not an abstract ideal around which Americans unite, but a primary badge of citizenship that has been fiercely contested along racial lines. If we tear down the safeguard of federal protection and oversight, recent history gives us reason to believe that the franchise will once again become a source of racial contention and conflict. The struggle has not yet ended.

365. Rick Bragg, *Jurors Convict Former Wizard in Klan Murder*, N.Y. TIMES, Aug. 22, 1998, at A1.

366. U.S. Dep't of Justice, Civil Rights Div., Voting Section, Voting Rights Act Clarification, <http://www.usdoj.gov/crt/voting/misc/clarify3.htm> (last visited Apr. 2, 2006).

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