

SNCC LEGACY PROJECT TESTIMONY ON VOTING AS A CONSTITUTIONAL RIGHT BEFORE THE DEMOCRATIC NATIONAL PLATFORM COMMITTEE

Phoenix, Arizona - June 18, 2016

By Robert "Bob" Moses

In March of 1963, a Field Secretary for The Student Nonviolent Coordinating Committee (SNCC), I testified in the Federal District Court of Judge Claude Clayton in Greenville Mississippi, my lawyer, John Doar from the U. S. Department of Justice.¹

A few months earlier, Jimmy Travis, Randolph Blackwell and myself had been greased gunned on the highway outside of Greenwood. Jimmy, driving, caught a bullet in his neck.

In response to this terrorist act SNCC converged on Greenwood, raised food from Chicago and insisted that families needing food join the right to vote insurgency, march with SNCC to the Courthouse and attempt to register, Greenwood Police arrested and jailed eight SNCC field secretaries. Burke Marshall, the Assistant Attorney General for Civil Rights, filed suit in federal court against the City of Greenwood and sent John Doar to be our lawyer.

From the witness stand I stared at the sharecroppers bussed in from Greenwood while attending to Judge Clayton's constitutional question: Why is SNCC taking illiterates down to register to vote? Because, the nation can't have its cake and eat it too. It can't use politics to deny black people access to literacy and then turn around and say they can't do politics because they're illiterate.

Today, more than fifty years later, a contemporary "SNCC" action might provoke a contemporary constitutional question: Why is "SNCC" taking convicted felons down to register to vote?

¹ U.S. v. City of Greenwood, USDC of Northern Mississippi, filed March 30, 1963.

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In that 1963 Mississippi Federal District Court and in Twenty-First Century America, three sets of constitutional combatants engage each other in a power struggle for the right to vote and the right to a quality public school education: Federal, State, People: Three Powers which have struggled with each other across each of three constitutional eras. Each of these eras has distinctive sets of badges:

We can see this in the fate of young Black men across the three constitutional eras: In the **first constitutional era**, from 1787 to 1862, they were Africans and slaves too valuable to lynch or imprison; in the **second constitutional era**, from 1875 to 1941, they were second class citizens rounded up for "peonage" and forced to work the coal mines; in this **our third constitutional era**, mass incarceration devastates their lives.

The National Democratic Party were authors of all three devastations and, as Baldwin taught us:

"It is not permissible that the authors of devastation should also be innocent. It is the innocence which constitutes the crime."²

We are calling on the National Democratic Party to address with us a fundamental question: Who are the constitutional people? What does it mean to be a constitutional person in the United States of America?

On April 22nd, 1820, at the center of the first Constitutional Era, Thomas Jefferson wrote this to John Holmes about slavery:

"But, as it is, we have the wolf by the ear, and we can neither hold him, nor safely let him go. Justice is in one scale, and self-preservation in the other."³

² James Baldwin, "My Dungeon Shook: Letter to My Nephew on the One Hundredth Anniversary of the Emancipation," in *The Fire Next Time*. 1963.

³ Thomas Jefferson to John Holmes (discussing slavery and the Missouri question), April 22, 1820.

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In the first constitutional era (1787 - 1865), Democratic Presidents decimated Native Americans, confiscated their land, and preserved that office with the wolf of slavery. A People's Movement inspired by Insurgent Runaway Slaves rose to defy the wolf of slavery, forcing Abraham Lincoln to reflect:

"If we could first know where we are and whither we are tending, we could better judge what to do and how to do it."⁴

Alas, Lincoln could not construct a "we," the nation fractured and descended into war.

"All The Way" is not only a contemporary movie about the 1964 Freedom Summer, President Johnson and the Mississippi Freedom Democratic Party (MFDP), it's a movie about the struggle of the National Democratic Party to cleanse itself from the politics of "white-line" democracy. A struggle in which Federal, State and People Power compete within the Party itself.

MFDP had come from the right place. After the Civil War, Mississippi lurched the nation backwards into "white-line democracy.

George S. Boutwell, a senator from Massachusetts who helped craft the Reconstruction Amendments and the laws to enforce them, stated the case:

"The evidence shows ... that the State of Mississippi is at present under the control of political organizations composed largely of armed men whose common purpose is ... to establish and maintain ... by acts of violence, fraud, and murder ... the supremacy of the white-line

⁴ Abraham Lincoln, [House Divided Speech](#), June 16, 1858.

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democracy."⁵

... White-line democracy existed also in the neighboring States: When Democrats set fire to the courthouse in Colfax, Louisiana and massacred Freedmen, Republicans, as they tried to surrender, the Supreme Court dismissed all the Federal charges with "The Confederate Narrative":

"In 1787, the States surrendered very limited powers to a federation; powers not surrendered to the federation remain exclusively with the States and the States serve the People by carefully guarding their reserved power."⁶

In the second Constitutional Era, Black youth initiated and sustained the Sit-In Movement, took it across Alabama and into Mississippi with Freedom Rides, then settled via SNCC across Mississippi and the black belt to organize an earned insurgency for the right to vote. They acted as Constitutional People, citizens of the nation, in defiance of the Confederate Narrative, and its idea that their human rights depended on something as fragile as state citizenship. A notion as absurd as slavery itself.

In 1963, Judge Wisdom of the Fifth Circuit Court of Appeals, laying the foundation for the enforcement provision of the 1965 Voting Right Act, which ushered in the third Constitutional Era, handed down the decision in *U.S. v. Louisiana* in December 1963 and had this to say about the Democratic Party of the South "**Louisiana was the last of the Southern States to be freed from carpetbag government. In**

⁵Mississippi in 1875: *Report of the Select Committee to Inquire Into the Mississippi Election of 1875, with the Testimony and Documentary Evidence, in Two Volumes, Vol. I, Washington: Government Printing Office, 1876*, page XXVIII (17), retrieved 06/15/2016, 4:19 p.m., <https://babel.hathitrust.org/cgi/pt?id=uc1.c025383545;view=1up;seq=7>

⁶ Davis, Peggy Cooper; Francois, Aderson Bellegarde; and Starger, Colin P., "The Persistence of the Confederate Narrative" (2015). *New York University Public Law and Legal Theory Working Papers*. Paper 540. http://lsr.nellco.org/nyu_plltwp/540 (page 13)

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April 1877 President Hayes, as part of the Hayes-Tilden compromise, removed federal troops from Louisiana. These events foreshadowed the "lily-white" primary, and marked the emergence of the Democratic Party in the south as "the institutionalized incarnation of the will to White Supremacy."⁷

In the first two constitutional eras black youth opened the way to People Power: as insurgent runaway slaves in response to slavery and then as insurgent civil rights field secretaries in response to Jim Crow. If they are to open a way to People Power in this the third constitutional era, marked by mass incarceration, they will have to include the incarcerated as full Constitutional Persons

Our question remains: Who are the constitutional people? What does it mean to be a constitutional person in the United States of America?

While those who fought for the Reconstruction Amendments thought they were guaranteeing the right to vote to all citizens, those rights have been deeply undermined by, among others, this Democratic Party. To reinforce the intent and purpose of those amendments, and to ensure that all of our citizens, including incarcerated persons, have full political rights, The SNCC Legacy Project, and those of us who commit to organizing earned insurgencies of People Power, ask the National Democratic Party to take a revolutionary stance to confirm the right to vote and make it explicit.

⁷ US v. Louisiana, 225 F.Supp. 353, 36 (E.D.LA 1963).

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We ask you to adopt in your platform the following statement:

Voting Rights Resolution

Section 1. The People's right of representation being necessary to our republican form of government, the right of citizens of the United States to vote shall not be infringed.

Section 2. The Federal branches of government shall protect this right.

The National Democratic Party agrees to work for the Voting Rights Resolution.