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"War" In Mississippi

By PETER MARCUSE

Mr. Marcuse, the author of the following article, is a Waterbury lawyer and former Waterbury alderman who is spending two weeks in Jackson, Miss., as a member of the civil rights project sponsored by the Council of Federated Organizations (COFO). Mr. Marcuse is giving legal aid in civil rights cases. The COFO legal assistance program in Mississippi has been organized by the staffs of the American Civil Liberties Union, the National Council of Churches, CORE, and the NAACP. This is the third article in a series on Mississippi.

COLUMBUS, MISS. — Mississippi communities can perhaps be divided into three groups, those which have reconciled themselves to the coming of integration and seek only to make the transition as long as one as possible; secondly, those communities that are opposed to integration of any nature, but have some degree of respect for law and order and frown on violence; and a third category includes those communities, mainly with a population under 20,000, which basically feel that any means are justified in opposing integration; where law enforcement officials have been a law unto themselves for many years, do not intend to relinquish their prerogative because of any new theories; where outsiders were unwelcome even prior to the civil rights project. These communities are often known as red-neck communities, after the hard red clay of which the soil is composed in the area where they are strongest.

Columbus, Miss., falls somewhere between the second and third of these categories (I don't know its population, but the figure might be interesting).

On Tuesday, July 7, when two attorneys from the Lawyers Constitutional Defense Committee went there, there were pending before the Police City Court of Columbus criminal charges against only one individual, a young white civil rights worker who had been arrested on one occasion for speeding and on another occasion for driving without a Mississippi driver's license, driving a car without Mississippi registration, driving a car without Mississippi inspection tags, and passing on the right.

He had been unable to obtain any local counsel to represent him, and when an out of town counsel from New York appeared on the speeding charge, the city prosecutor and one other attorney objected to his practice before the Police City Court under a little-used Mississippi statute governing the admis-

sion of out of state lawyers. In the building in the heart of the poor Negro neighborhood of Columbus, we found great excitement, for three volunteers, two white and one Negro had just been arrested and were at the time on their way to jail. No one knew the charges except that a telephone call to the police station had indicated it was because they were distributing leaflets (voter registration forms and information prepared by COFO and SNCC).

Since Don and I had intended in any event to visit the prosecuting attorney and the mayor for informal conference and a little bit of public relations we decided to combine that expedition with an attempt to ascertain the facts, which the police department would not give to the local people.

Mayor Pleasant

We visited the mayor and found him to be a pleasant politician, who received us openly and spoke to us frankly. He indicated that he had no sympathy whatsoever with integration or civil rights, but that he wanted to see the law observed and would not tolerate any violence. We told him we appreciated his position and were anxious to cooperate in seeing that the law was observed, but that we were also anxious to see that the law was not abused so as to harass COFO and what it stood for. He said it would not be, but that neither would any criminal offense of which any COFO worker was guilty be overlooked because of his connection with COFO. We told him that we had just heard of the arrest of these three, and asked him if he could find out about it. He called in the chief of police, who simply told us that they were arrested for leafleting, and that the bond was \$400. Knowing perfectly well that the volunteers could not raise this kind of money immediately, and that the only purpose of it was to harass and intimidate them, we protested to the chief on the amount of the bail; he shrugged his shoulders.

We next went to see the prosecuting attorney. He was a young, thin lawyer who acted somewhat surprised when he saw us, but took us into his office. A picture of Sen. Goldwater hung on his wall, and segregationists and confederate material and mementos were all about the room. We explained to him, as we had to the mayor, that the purpose of our visit was not to agitate or aggravate tensions, but rather to try to moderate them. Before we could finish he said to us: "Gentlemen, we need not play games. You have handled negligence matters, and so have I. One normally sits down with the other side to discuss settlement of the case he

alson to practice of out-of-state lawyers.

Harassment

Although there was substantial evidence of an underlying desire to harass the young defendant through these charges, his disposition was to admit the passing on the right charge, and ask for dismissal of the other three, none of which under Mississippi law appeared to apply to him because of the brief period of time he had been in the state, as well as the fact that he did not own the car which he was driving.

In sounding out the possibilities of a disposition of the case in this manner with the one attorney to whom an informal friendly introduction could be obtained, it soon appeared that the handling of criminal cases for civil rights in Columbus did not fall into normal patterns of the practice of law. The prosecuting attorney was a young man, quite an ardent segregationist, whose father had been an active leader of the community before him. The judge of the court, although having a reputation for fairness, could not be expected to show any unusual consideration for a civil rights defendant. The mayor, in some ways a moderate, had first been elected to office 31 years ago, and intended to remain in that position for the foreseeable future. The only way in which such a case could be handled, it was suggested by a not unsympathetic attorney, would be if the defendant would agree to leave town; then perhaps one or two of the charges could be dropped, and a fine of only \$200 or so imposed.

\$400 Bonds

After Don Elliot (another LCDC attorney, from New York) and I saw this one friendly attorney, we went to the COFO office to interview our client and see how the local COFO people felt about handling the case. We

er side to discuss settlement of the case; before it comes up in court. In our situation, there is no settlement. This is war." We thanked him and left.

Federal Law

We realized immediately that if these defendants were to receive any type of fair trial, we would have to do what we could to remove them from the jurisdiction of the police court of Columbus. A civil rights statute passed shortly after the Civil War provides for the removal of cases from state courts to the Federal District Courts in instances where "a person . . . is denied or cannot enforce in the courts of such state a right under any law providing for the equal civil rights of citizens of the United States." (28 United States Code Section 1443). This is the section of the law that civil rights attorneys have learned is one of their few possibilities in preventing abuses of justice in the courts of states such as Mississippi.

The problem has recently been that Federal judges in the District Court in Mississippi are as hostile to the civil rights movement as the state judges are, and have refused to act on such petitions, although the U. S. Court of Appeals for the Fifth Circuit, which includes Mississippi, is quite liberal and has been concerned affirmatively with the protection of civil rights within its jurisdiction. One of the major amendments included in the new Civil Rights Act which just passed Congress was one that provided that decision adverse to removal could be appealed; previously courts have held that if a district judge refused to remove (or remanded), that action was not reviewable. In any event, we determined that the immediate filing of a removal petition for the three arrested youths was in order.

felt that, if this was an isolated incident, we would be much better off trying to arrange for a small fine and getting rid of the case, rather than expending great efforts in showing that it was part of an anti-civil rights conspiracy and taking away time that could have been better used on other matters. The bond had been set at \$400 for the speeding charge and \$400 on each of the other charges together, and we hoped to get some of this money back.

When we got to the COFO office, in a small

Republicanism

erspective

FREEDMAN

rupting the purposes of the Republican Party. The society is not strong enough to do this dirty deed, and the party is not weak enough to sell its soul in this base fashion.

This whole attempt by the Scranton camp has merely made it all the harder to reach the minds of the Goldwater majority by rational argument and reasoned analysis of public policy. These Goldwater people may be wrong; they may be impulsive; they may be bitter. But they know, in their overwhelming numbers, that they oppose the methods and aims of the John Birch Society, and they resent being denounced in a comprehensive sneer as extremists and bigots. When they are falsely branded as enemies to the Republican faith, they close their minds to all further argument and harden their conviction that Sen. Goldwater is the victim of a sinister plot.

Gov. Scranton was interested in saving his faltering cause, and so he took a long gamble. But the rest of us must be concerned with the presidential campaign now facing us. That campaign will be hard and ugly and divisive. It can only be saved from demoralizing the democratic process if we stop treating Sen. Goldwater as the dupe or the tool of the John Birch Society and treat him instead as a serious contender for the Presidency entitled to fair treatment and compelled to bear full personal responsibility for all his views. He deserves no more but he should receive no less.

The next job was to rent a typewriter and get the necessary office supplies; the COFO office at Columbus is a very crude one, having few facilities and no lawyers' offices were, of course, available to us. The town had no public stenographers, and if it had, they would not have worked for us. We went to the downtown stationery store, and purchased our paper. We asked about the rental of a typewriter, and were told that, since we were obviously (from our accent) out of town, our credit would have to be checked by the manager who would be back shortly. Rather than wait, we decided to try the only other office supply store in Columbus.

When we got there, we were told there were no machines for rent, although there appeared to be several in a section marked rental machines. We returned to the first store, and after a further delay of about half an hour, the owner came in. He took us up to his office, and started asking us a number of questions about who we were and what we were doing and we told him frankly. He took a deep breath, thought hard for several minutes saying absolutely nothing, and then said in a soft voice, "Well all right, I'll take the chance." He then got us a machine, and started to fill out the form. When he asked us where we were staying, we paused. We had tried to make reservations at the Holiday Inn, but were told it was full. They had said they would make reservations for us at another motel; we called that motel to confirm and were told that the room was already taken. The store manager now began to have second thoughts, and finally said he would prefer to back out of the deal. I got a little upset and started to launch into a speech on fairness and decency, when he interrupted and said that if we could satisfy him that we had a room to stay at so that he would know where the machine was, he would rent it to us. Don thereupon got up and drove out to the motel and finally came back with reservations for a less desirable room. We got our typewriter. During the course of waiting, the store owner told us that he sold mimeograph paper to the COFO office, but he was careful not to sell them any bond paper, since this was water marked and anyone interested could tell where the paper came from by examining the water mark!

(Second Installment Tomorrow)