Macon County

Macon County was unique. With a 1960 population of 26,717 that was 83.5 percent Negro, it was the blackest county in the country. As the home of the Tuskegee Institute and a VA Hospital for Negro Veterans, it had a large, well-educated Negro elite. Unlike the blackbelt counties, Negroes weren't concentrated in the rurals. The well-educated Negroes who worked at TI and the VA hospital largely lived in or around the City of Tuskegee. The combination of a power base and a large, educated leadership meant that Negroes were a much greater threat to whites for political control than in any other county. That in turn led to a large number of civil rights legal cases.

The Tuskegee Normal School for Colored Teachers was created by an act of the Alabama legislature on July 4, 1881 with an annual appropriation of $2,000 for faculty salaries, but nothing for anything else. Booker T. Washington was hired as its principal and remained as its president until his untimely death in 1915. A talented fundraiser and administrator, he built the school into a major institution for the education of Negroes. Although TI continued to get an annual appropriation from the legislature to provide courses that were available in the state colleges for whites but not in those for Negroes, it was built and sustained with the labor of its students and the money of northern, white philanthropists. In 1965 the state appropriation was $564,401 and the president was Luther Foster, Jr., who had held the job since 1953. Despite the state money, TI was a private school. It had its own endowment and its own Board of Directors. Faculty and students could file court cases and be active in the civil rights movement without fear of being fired or expelled, as had happened at Alabama State College in Montgomery. (http://www.encyclopediaofalabama.org/face/Article.jsp?id=h-1583; *BN* 2-22-66, 14)

In 1921, under the leadership of its second president, Robert R. Moton, TI donated three hundred acres just outside Tuskegee to the US government for a hospital for Negro veterans. In a segregated world, a separate institution for Negroes staffed by Negroes would seem to make sense. But in the 1920s, the Klan was riding high in Alabama and it objected to all those good jobs going to Negroes. The first medical director was a white Alabamian who appointed a white staff, including nurses, who were forbidden by a 1915 Alabama law from touching Negro patients. Moton quietly mobilized pressure on President Warren G. Harding from Negro medical societies and the NAACP. Harding anticipated running for re-election and at that time Negroes voted Republican, where they could vote at all. As the press argued over whether a public hospital for Negro patients should be staffed by Negroes or whites, the Klan marched through the hospital grounds on July 3, 1923. Harding died a month later, but the man he appointed to resolve the situation at the hospital remained in charge. He appointed whites to the top three positions and Negroes to all others. Within a year, the whites were gone and the Tuskegee Veterans Hospital had an all-Negro staff. Segregation triumphed, but the Negroes got the jobs – 1,500 mostly professional jobs, paid according to a uniform federal salary schedule. (Daniel, 1970)

Macon Co. Negroes had a very long history of challenging the white power structure, but doing it quietly. After 1941, this was done largely through the Tuskegee Civic Association, founded that year to expand the reach of the Men's Meeting that had been gathering in homes and churches since the 1920s. TCA was open to anyone who paid the $1 annual dues. Its officers largely came from employees of TI and the VA hospital. For almost thirty years its leader was

Dr. Charles G. Gomillion, who taught in TI's Sociology Dept. Born in 1900 in Edgefield, South Carolina, Dr. Gomillion joined the TI faculty in 1928 as a teacher in the high school. He became a college professor in 1934. In 1939 he finally registered to vote. In 1959 he received his Ph.D. in Sociology from Ohio State University. (Guzman, 1984, 9, 12-15; Fritz, 1988; Norrell, 1998, 31-38)

His right hand man for most of his time with TCA was Executive Secretary William P. Mitchell, a physical therapist at the VA hospital. When Mitchell could not register to vote, he became the plaintiff in a 1945 NAACP Inc. Fund class action charging the Macon Co. Board of Registrars with race discrimination in its registration process. Federal district judge Charles Kennamer (a Hoover appointee) threw out the class action, stating that each case had to be argued individually. He then dismissed the case, finding that Mitchell had not exhausted his administrative remedies by first going through the state court system. The 5th Circuit reversed. On remand, the judge was "unable to find from the evidence... any racial prejudice or racial discrimination" by the Board because "[t]here are Negro voters in Macon County." Soon thereafter the Board gave Mitchell his registration certificate. The case had cost TCA $17,000 to register one voter. It would be a long time before there were more lawsuits. (*Mitchell v.Wright*, 1945, 1946, 1947; Hamilton, 1960, 2; Norrell, 1998, 60-69)

Twenty years later Mitchell was the lead plaintiff in another Inc. Fund case challenging the selection of Macon Co. jurors. When filed in 1964, there were over 550 whites in the jury pool but only 250 Negroes, very few of whom actually sat on a jury. Reflecting how much had changed in those twenty years, the DoJ, represented by John Doar, was able to intervene in the case and the judge was Frank M. Johnson, Jr. He ruled that "the jury commissioners of Macon County have failed to perform their duty" and ordered that they reconstitute the jury pool. (*Mitchell v Johnson*, 1966)

Mitchell chaired TCA's voter registration committee, which engaged in a cold war with the Board of Registrars until the VRA was passed. He worked closely with Daniel Beasley, also a VA employee. A friendly guy, he was reputed to know everyone in Macon County. TCA actively promoted the registration of Negroes. The Board actively sought to register whites. It looked for unregistered whites and gave them preference when they came to register. It bent the rules for whites and stiffened them for Negroes. At different times, the Board kept separate hours and places of registration for Negroes than for whites, which it changed arbitrarily but not publicly. It spent most of its time in the rurals, rather than in Tuskegee where there was a high concentration of educated Negroes who wanted to register. It imposed on Negroes both a literacy *and* a property requirement but only one of these (the legal requirement) on whites. To prove that an applicant could read and write, the Board required Negroes to read and write out in longhand an entire Article of its choice from the US Constitution. It required that Negroes have two white sponsors to vouch for them but didn't require whites to have any. Dr. Gomillion found his sponsors by contracting for a house and refusing to close the deal until the builder vouched for him. Other Negroes with money to spend also used economic leverage on the whites they did business with to obtain vouchers. When all else failed to stop Negroes from registering, the Registrars just resigned. Between 1945 and 1961, there were four and half years when there was no Board; no one in all of Macon County could register to vote. Despite these obstacles, TCA persevered. In 1940, only 77 Negroes were registered to vote in Macon County (up from 69 in 1908). By 1956, there were 1,100. (Hamilton, 1960, 4-5; Lewinson, 1932, 216; Guzman, 1984, 4, 40-1; Gomillion, 1957, 282; Norrell, 1998, Chapter 5)

Words were the weapon in the registration wars. Gomillion and Mitchell wrote a lot of letters. They wrote to the President, the Attorney General, the chairmen of the Republican and Democratic National Committees, Members of Congress, Alabama state officials, the NAACP, SCLC, newspapers and anyone else they could think of to tell about the difficulties Macon County Negroes had in trying to register to vote. When the civil rights bill was before the Congress in 1957 TCA submitted a statement and Mitchell participated in a press conference with several US Senators. The new Civil Rights Commission received 46 complaints from Macon, more than any other county. When there was no functioning registration board, TCA petitioned the three state officials who appointed its members. When there was a functioning board, they ran classes to teach Negroes how to pass the complicated registration test, notified them when and where to register each month, reminded them of the need to supply vouchers, and kept very detailed records of all attempts to register. (Guzman, 1984, 43-44, 83-88; Norrell, 1998, 111; USCCR, 1959, 55, 71; Hamilton, 1960, 6-9)

TCA's pushiness irritated numerous county and state officials but the one most anxious to do something about it was State Senator Sam Engelhardt, Jr. Born in the western part of the county in 1912, he owned a 6,500 acre plantation with 75 tenant families doing the work. From 1950 to 1958, he represented Macon County in the Alabama legislature, first in the House and then in the Senate. As a state senator, he largely opposed Gov. Folsom's programs, leading the Governor to threaten that "I'm going to get a new board of registrars in Macon County and register every damn nigger in the county." But the Governor could only appoint one of the three Board members, which wasn't enough to carry out the threat. Engelhardt formed a chapter of the white Citizens' Councils early in December of 1954, and on February 17, 1956 he became head of Alabama's councils, while still representing the blackest county in the country. He repeatedly introduced bills to reinforce segregation. In 1956 the legislature authorized the Macon County School board to fire all teachers who supported integration. In July of 1957 Engelhardt introduced a bill to abolish Macon County and redistribute it among the contiguous counties. He said "in those counties where the Negroes outnumber the whites there will be but two alternatives – face an almost certain integrated courthouse and legislature, or abolish the counties." As early as 1951 he had recommended abolishing counties with majority black populations as a way to keep whites in control. This time he persuaded the legislature to put a referendum on the ballot authorizing the abolition of Macon County. It passed on December 17, 1957 by 3 to 2, with only 25 percent of the registered voters going to the polls. The legislature created a Macon County Abolition Commission to study the problem. The abolition movement ended after public hearings in the Spring of 1958 disclosed that the contiguous counties didn't want those Macon County Negroes. (Grafton and Permaloff, 1985, 164-65, first quote 180; McMillan, 1971, 43, 47, 49, second quote on 222; Crowther, 1990, 217; Norrell, 1998, 96-97; Guzman, 1984, 50-55; *BAA* 7-20-57, 3; 5-3-58, 4; 5-5-58, 6; *Sun* 12-19-57, 5; *CD* 12-28-57, 1; *NYT* 12-19-57, 63)

Sam Engelhardt resigned as executive secretary of the Alabama Association of Citizens' Councils to run for Lt. Governor in 1958. Even though he could "out nigger" both John Patterson and George Wallace, who were running for Governor, Klan favorite Ace Carter took enough votes to keep him from getting into the run-off primary. Albert Boutwell, a low-key segregationist, won the nomination and the office. Gov. Patterson made Engelhardt his highway director, which was the chief patronage position in Alabama. Contracts went to campaign supporters and highways, roads and bridges were built in places where they could do the most political good. Engelhardt was chair of the state Democratic Executive Committee (DEC) those

same years, which made it even easier for patronage to serve politics. In that capacity, he refused to permit ten Negroes to file as candidates for the Jefferson County DEC in 1962. Judge Grooms of the Northern District, who was not sympathetic to integration, issued a TRO enjoining Democratic Party officials from restricting ballot access by race. (*Alabama Official and Statistical Register*, 1959, 570-71; McMillan, 1971, 57; *BAA* 3-31-62, 4)

Partially due to all the complaints from Macon County, the USCCR decided to hold its first public hearing in Montgomery in December of 1958. In preparation, it sent staff to examine the registration records of the counties from which it had received complaints. At the courthouse, those staff were told that Alabama Attorney General John Patterson had told the Board not to allow those records to be viewed by USCCR staff. Additionally, Judge George Wallace impounded the voter registration records of Barbour and Bullock Counties. Fortunately those three counties were in Judge Johnson's Middle District. When the DoJ asked him to order the Board members to produce the requested records he did so, but not until after the hearings were over. At the USCCR hearing in Montgomery, over two dozen Macon County citizens told the Commissioners and assembled press what they had been documenting for almost two decades. Registration board members were subpoenaed, but refused to testify. In its report on the hearings, the USCCR listed some of the ways in which the Macon County Board had thwarted Negro efforts to become voters. These explained why 1,585 Negroes had applied to vote between 1951 and 1958, but only 32 percent succeeded in becoming registered voters. That brought the total to 1,218, which was roughly ten percent of NVAP. At that time, registered whites were almost 98 percent of WVAP. (USCCR, 1959, 70-1, 86, 92; Guzman, 1984, 177-78; Norrell, 1998, 111-117; Landsberg, 2007, 86; *CD* 12-27-58, 3)

Two months after the hearing the DoJ filed an action in the Middle District against the two sitting members of the Macon County Board of Registrars to enjoin them from doing the things which prevented Negroes from registering to vote. The TCA had been asking the DoJ to do *something* since 1948 but, until the 1957 Civil Rights Act was passed, the DoJ didn't think it had the legal authority. The registrars promptly resigned, leaving the lawsuit without a defendant. The DoJ added the State of Alabama. However, Judge Johnson said the 1957 Act didn't create the authority to act against states, only individuals. The 5th Circuit concurred and the DoJ appealed to the Supreme Court. Ten days before the Supreme court released its decision, Congress passed the Civil Rights Act of 1960 which expressly provided that authority and closed a few other loopholes that had been revealed in the 1957 Act. The Supreme Court sent the case back to the District Court. After a 4-day trial, Judge Johnson issued a lengthy order on March 17, 1961. His findings of fact confirmed what TCA had been saying for years about the Board's use of a double standard and evasive tactics to preclude or slow the registration of Negro voters. His court order detailed what the Board had to do to avoid being found in contempt. TCA continued to observe Board operations and send reports to John Doar. He in turn reported to Judge Johnson, who called everyone back into court where he issued a supplemental order on September 13, 1961. He told the Macon County Board that it couldn't use more stringent standards for Negroes than it had used for whites prior to March 17, even if the higher standards were applied equally to both races. In effect, the Board couldn't refuse to register Negroes for making small, technical errors that whites were not penalized for making in the past. As a result, 670 Negroes registered in 1961, more than in any other single year. (*United States v. Alabama*, 1959, 1960, 1961; Guzman, 1984, 143-49, 180; CRD 1964, 4-7 [1185],)

TCA continued to bring Negroes to the Board of Registrars on the days it was open. Now

operating under a court order to register Negroes by the same standards it had used for whites in the 1950s, the Board still rejected a third to a half of all Negro applicants. Nonetheless, by the end of 1964, 4,188 Negroes were registered to vote in Macon County, which was a lot more than the 2,946 white voters. Even after the VRA became law, the Macon County Board was slow. In the first three months, only 208 Negroes were registered and 77 were rejected. (CRD 1964, 4-7 [1185]; Doar letter of 12-4-65 in Belknap, 1991, 15:237)

In 1964, TCA thought the time had come for Negroes to be elected to county office. TCA endorsed four Negro candidates including one for county commission and two for justice of the peace. Gomillion ran for a spot on the Board of Education. It also endorsed three whites, including candidates for probate judge, the county commission and Board of Education. TCA had preached integration and racial co-operation for two decades so it wasn't about to endorse only Negroes now that it was possible to actually elect some. The Democratic Club held candidate forums in the ten beats (precincts) where Negro and white candidates campaigned for votes and helped turn out the vote. It organized workshops for new voters to instruct them on how to mark a ballot. Three Negroes won the Democratic nomination in the first primary on May 5, and the fourth won in the run-off. The white candidates TCA endorsed also won. (Norrell, 1998, 164-5; Guzman, 1984, 64, 73 ; *CD* 5-7-64, 4; *NYT* 5-6-64, 22; 5-24-64, 66)

When the civil rights movement finally came to Macon County, it worked with TCA. Indeed, there was such an overlap among the leadership that it was sometimes hard to tell where one ended and the other began. An NAACP chapter that was started in 1944 shared office space and leadership with the TCA. When Alabama banned the organization in1956 TCA took over its Voter Franchise Committee and made it a priority project. William P. Mitchell chaired the combined committees. In 1963-64 he got three VEP grants totaling $4,500 from the SRC. During the 17 months of the grants, 703 Negroes became voters. Even during the years it was banned, the NAACP connection facilitated the TCA's outreach to national leaders. Since the TCA leadership included federal employees (the VA hospital and some postal workers) who could not legally participate in partisan politics, it needed a separate political arm. It created the Macon County Democratic Club to support Jessie Guzman when she ran for school board in 1954. SCLC had never had much of a presence in Macon County, though its leaders were always welcome. It worked through churches; those in Macon County were already working with TCA. Adults who wanted to be community activists joined the TCA. Student activists worked with SNCC. SNCC regularly came to Tuskegee for retreats, often recruited TI students to spend their vacations working on a SNCC project, and in 1964 helped them form the Tuskegee Institute Advancement League (TIAL). TIAL sent several hundred students to march *in* Montgomery on March 10, 1965, and disrupted the city of Tuskegee in January of 1966. SCLC did not send SCOPErs to Macon County in 1965, but it did send staff in the Spring of 1966 to help attorney Fred Gray in his campaign for the state legislature. He represented SCLC when it needed him, as he did NAACP and the TCA. He did not work *pro bono* but he was always available. Gomillion was the Dean of Students at TI and Guzman was Dean of Women. We slept in the student dorms and counted numerous TI students among the campaign volunteers. (Guzman, 1984, 36, 169-170; Norrell, 1998. 172-4; Forman, 1986, 79)

Tuskegee

Tuskegee was the county seat of Macon County. The county was created from land ceded by the Creeks in 1832 and named for a Senator from North Carolina. The town was founded a year later and named for a Creek leader. The football team at the white Tuskegee High School (THS) was named the Indians. But it was the black Tuskegee Institute (TI) which gave the city its national identity. As the Tuskegee Institute rose in prominence the Creek name became synonymous with Negro education.
(http://www.encyclopediaofalabama.org/face/Article.jsp?id=h-2051

At the time of the 1950 Census, the City of Tuskegee had a population of 6,712, of whom 80 percent were non-white. The 1960 Census recorded only 1,750 persons living within the city limits, of whom only 24 percent were non-white. What moved was not the population but the boundaries of the city. On July 15, 1957 the Alabama legislature passed Special Act 140, without a single "no" vote. Introduced by Sen. Sam Engelhardt, Jr. as part of his efforts to limit Negro political influence, it changed the city boundaries from a square to a 28-sided figure, drawn to eliminate all but ten of the 420 Negro voters and none of the 600+ white voters. Tuskegee went from a city with 5,397 Negroes to 424. The 1,326 whites stayed within the city boundaries. TCA responded with what it called a "Crusade for Citizenship." For the next few years there was massive mobilization around the goals of the crusade, the most important of which was to demonstrate Negro economic power. The main message was to "trade with your friends," which was code for boycotting the white merchants of Tuskegee. TCA hoped that economic pressure would persuade the city fathers to ask the legislature to restore the original boundaries, as well as meet its demand for easier registration of voters. TCA knew it couldn't use the word boycott or any language even close to it because boycotts were illegal in Alabama.[1] The white power structure would show them no mercy if it could hang that noose around their necks. The selective buying campaign prompted Attorney General John Patterson to raid the TCA offices twice, looking for evidence of a boycott. He found little but it was enough to persuade a circuit judge to issue a temporary restraining order in August. A full hearing was held in January of 1958. White merchants testified that they had lost as much as 70 percent of their business when Negroes ceased to shop in their stores. The judge did not render a decision until June, after the May primary in which Patterson was running for Governor and the judge was running for re-election. Although the attack on the TCA no doubt enhanced Patterson's image as a champion of white supremacy, he lost the case when the judge dissolved the injunction, declaring that "every person has a right to trade with whomever he pleases." (McMillen, 1971, 220-1; USCCR, 1959, 77; Hamilton, 1960, 4; Guzman, 1984, 22-25, 81, 127-136, flyer language on 200; Norrell, 1998, 93-99; Gray, 1995, 116)

While it was fighting the TRO, the TCA paid attorney Fred Gray $5,000 to ask the federal court to declare the state law unconstitutional and to enjoin officials from enforcing it. In August of 1958, Gray filed a lawsuit on behalf of several Tuskegee citizens who had been removed from the city by the boundary change against a host of city and county officials. Judge

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[1] [1] Alabama Code Title 14 §56. The Fifth Circuit finally found this law to be an unconstitutional violation of the First Amendment in a 2-1 decision. Judge Godbold dissented from the decision rendered by Judges Tuttle and Thornberry. (*Kirkland v. Wallace*, 1968)

Johnson dismissed the case due to what was then called the "political question doctrine." Boundaries were within the powers of the state legislature to decide and the judicial branch could not go there. Although Johnson was sympathetic to Gray's argument that the purpose and result of this law was to disfranchise from city elections a class of voters based on race, in violation of the 14th and 15th Amendments to the US Constitution, he said that he didn't have the authority to overrule the legislature in this type of case. The 5th Circuit affirmed his decision, so the TCA appealed to the Supreme Court. Attorney Arthur Shores of Birmingham and Robert Carter, general counsel of the NAACP Inc. Fund, helped prepare the case for argument before the high court. On November 14, 1960, a unanimous court held that a state's power to set boundaries could not be "used as an instrument for circumventing a federally protected right." With this case, the Court created an opening in the political question doctrine that it would enlarge two years later in the redistricting case *Baker v. Carr*. Although *Baker* didn't involve race, it was race that made the Court take a hard look at legislative decisions that had heretofore been immune from judicial scrutiny. The Court sent the case back to Judge Johnson for a trial. Told that he had the proper authority, on February 17, 1961 Judge Johnson enjoined the defendants from changing Tuskegee's boundaries. The former boundaries were restored but it was too late for the 1960 Census. (Quote in *Gomillion v. Lightfoot*, 1960; Guzman, 1984, 136-143; Norrell, 1998, 123-24; Gary, 1995, 117-22)

It was not too late for the 1964 City Council elections. TCA's efforts had elevated its influence in the Negro community. After getting the Democratic nomination for four Negroes for county office in May, the TCA endorsed two Negroes and three whites running for City Council in August. Although Negroes were only about a third of the city voters, all won. With that election, the damn broke and Negroes were appointed to municipal boards and committees and hired for city jobs above the menial level. More attention was paid to the needs of Negro neighborhoods; streets were paved, garbage was picked up, recreation centers opened. Biracial committees were formed to solve different municipal problems and apply for federal antipoverty funds. The selective buying campaign ceased. For a while, the future looked integrated. (Forman, 1968, 40; Guzman, 1984, 72; Norrell, 1998, 165-7; Keech, 1968, 53, 55, 75, 77, 78; *BN* 6-20-65; 11-26-65, 13; 11-27-65, 4)

School Desegregation in Macon County

In 1962 the NAACP Inc. Fund retained Fred Gray to file cases against Boards of Education in the counties of Bullock, Barbour, Crenshaw, Montgomery and Macon. The most far-reaching of these cases was *Lee v. Macon County*. (Gray, 1995, 205-6) The lead plaintiff was Detroit Lee, a VA employee, and his wife Hattie, as the parents of two boys who wanted to attend Tuskegee High School (THS). He knew that the school board received federal impact funds to compensate it for educating the children of the federal employees working in the VA hospital. Although the employees were virtually all Negro, the school board primarily spent those funds improving the three county schools for the 15 percent of students who were white. Lee wanted his children to reap some of the benefits. TCA agreed to pay Fred Gray a fee of $2,500 to represent Lee and six other families with a total of fifteen children. Gray and his partner Solomon Seay handled the paperwork and the court appearances while the Inc. Fund attorneys did the research in New York. Judge Johnson brought the United States in as a party so that the DoJ would have responsibility to see that any court order was enforced. (Guzman, 1984, 151-2; Norrell, 1998, 137)

On August 13 Judge Johnson ordered the Macon County School Board to admit Negro students to Tuskegee High School. He further required a comprehensive, formal desegregation plan by December 12. TCA, the School Board and other officials prepared their respective constituents for the coming change, with numerous meetings, private and public. School officials gave achievement and personality tests to the four dozen Negro students who wanted to enter THS, from which they identified 13 they felt were suitable to join 250 white students at THS. Only four of the original plaintiffs were among the 13. Fred Gray and local leaders prepared the students to face possible trouble, such as that at Little Rock in 1957. (Guzman, 1984, 153-4; Norrell, 1998, 138-9; *Lee v. Macon Co.* 1963)

On September 2 Governor Wallace ordered the Macon County Board to close THS for one week "to preserve the peace." His troopers surrounded the school and an adjacent elementary school to prevent anyone from entering. A week later Wallace issued three Executive Orders specifically prohibiting integration in the public schools of Tuskegee, Mobile and Birmingham and a fourth activating the National Guard to keep the Negro children out. The DoJ requested a preliminary injunction. It was signed by all five of Alabama's federal district judges as the three school systems were in all three of Alabama's judicial districts. However, the damage was done. When the Negroes finally entered THS they found only 35 white students and these left within three days. They transferred to two other white schools in the county, or to the hastily opened private school called the Macon Academy, which was just across the street from THS. (Ex Orders of 9-2-63, 9-9-63 and TRO of 9-9-63 at 8 RRLR 912-24; *U.S. v. Wallace* 1963; Guzman, 1984, 154; Norrell, 1998, 144-9; *Lee v. Macon Co.* 1964)

The struggle did not end. In January of 1964, at the Governor's request, the Alabama State Board of Education officially closed THS and ordered the Macon County Board to transport its former students to the other white schools. Current THS students – all Negro – were transferred to "schools in the Tuskegee area," which meant the Negro Tuskegee Institute High

School. Judge Johnson responded by issuing a TRO requiring the remaining two white county high schools to admit the Negro students. Six presented themselves to each school, and after some initial fumbling, were admitted. The white students promptly withdrew, leaving the Negro children to attend two formerly white schools instead of THS. The Macon County school system was completely segregated once again. (Norrell, 1998, 159-61; *Lee v. Macon Co.* 1964; *WP* 2-15-64, A6)

Fred Gray filed another complaint challenging the constitutionality of the Pupil Placement Act and other laws. A three judge district court told Wallace to stay out of Macon County and let the local Board do what it needed to do to obey the original district court order. After changes were made in Board personnel and the superintendent of schools, THS opened in the fall of 1964 with 14 Negro students and 59 whites. The number of whites grew over the next two years. In the fall 1965 semester 44 Negroes enrolled along with 250 whites, though some of the Negro children didn't stay the year. However, even more whites went to Macon Academy and quite a few white families sent their children to Auburn, or Montgomery, or someplace where they could still attend a school that was overwhelmingly (if not totally) white. On March 11, 1966, the court entered its final order to desegregate the Macon County schools. It ordered that all grades be desegregated by the Fall 1966 semester and supplied the form each child, or parent, had to fill out to indicate the school chosen. (Guzman, 1984, 155-6; Norrell, 1998, 168-9; *SC* 6-4/5-66, 4; 9-10/11-66, 1; *Lee v. Macon Co.* 1966)

Under this court-approved Freedom of Choice plan, 256 Negro children and 180 white children choose THS in April of 1966. Fewer Negroes entered in September, but over 400 white students went to Macon Academy. Although there were no major incidents, and even the football team had four Negro players, the Fall of 1966 was a tipping point. Whites might *tolerate* some integration, but they did not want their children in a school where they were a minority. Over the next two years fewer and fewer whites chose to go to *any* public school in the county. By the end of the decade only one county school had an integrated student body. That was in Notasulga, a village that was two-thirds white in the northern part of the county where whites were a majority even in the rurals. The home of one of the earliest Rosenwald schools, it managed to create and sustain an integrated high school because Negroes remained in the minority. White parents in the rest of the county sent their children to Macon Academy, or to a school out of the county altogether. (Norrell, 1998, 194-5; *SC* 6-4/5-66, 4; 9-10/11-66, 1; 9-17/18-66, 6; *NYT* 5-13-74, 24)

Campaigning in Macon County

By the time I got to Macon County, the campaign was in the home stretch. Four Macon County Negroes got enough votes in the May 3 primary to go into the May 31 run-off. They were Fred Gray, running for the state house in Place #2 of the three-county 31st District, Lucius Amerson, running for county sheriff, L.A. Locklair, running for tax collector, and Harold Webb running for one spot on the Board of Revenue (County Commission). All but Gray faced incumbents. In the first primary, ten Negroes had run for public office and seven for the county Democratic Executive Committee. Six were elected to the DEC, but none of the candidates for public office got the 50 percent necessary to avoid a run-off.

SCLC had sent Stoney Cooks to Tuskegee before the May 3 primary to help Fred Gray's campaign for the legislature. Mark Harrington and a couple people I did not know were there when I got there. Gray's District included Macon, Barbour and Bullock counties; there were other SCLC staff in the latter counties. All of the Barbour county candidates had lost in the first primary; two Bullock County candidates (for sheriff and tax assessor) had made it into the run-off. Of these counties, only Macon had a majority of Negro voters; in Bullock, Negroes were almost half, but in Barbour they were only a quarter of the registered voters.

Right before the first primary, the DoJ had released figures on the number of registered voters in each county by race. Macon County had 4,909 white voters and 5,126 Negro voters. While that was an impressive number of Negro voters, it was an even more impressive number of whites. As of October 31, 1964 the DoJ had counted 2,946 whites and 4,188 Negro voters. By the end of 1965, the *Birmingham News* found there were 3,022 whites and 4,598 Negroes registered to vote in Macon County. In a year and a half, two thousand whites had been added to the voter rolls but only one thousand Negroes. Who were those voters? The 1960 Census had counted only 2,818 whites over 21, but the overall population had not increased in six years. Everyone knew that whites were leaving the county because they didn't want to send their children to integrated schools. That meant that as of the first primary in 1966, 174 percent of the 1960 white voting age population was registered to vote! (CRD, 1964, II-82 [1404]; *BN* 1-23-66, 33; 5-1-66, B2)

In Barbour County, the 1960 WVAP was 7,338 and the number of white registered voters in 1966 was 9,602, which was 131 percent of WVAP. In Bullock, the 1960 WVAP was 2,387 and the number of white registered voters right before the primary was 3,074, or 129 percent of the WVAP. Apparently the statewide voter registration drive that Gov. George Wallace started in January of 1966 had been *very* successful. By way of contrast, the number of Negroes registered to vote in Barbour County was 3,487, or 60 percent of NVAP, and the number in Bullock was 2,980, or 67 percent of NVAP. The 1960 NVAP in Macon County was 11,886, but the DoJ counted 3,393 TI students who did not meet the residency requirements to vote in Macon County. Depending on whether one used 8,493 or 11,886 as the 1960 NVAP, the percent of Negroes who were registered was either 60 or 43 percent.

When I phoned the campaign office before leaving Atlanta, I had asked about campaign buttons – a normal predilection for a button collector. I was told that there were none, though Gray had printed stickers that said "I'm for GRAY." While in New York I had picked up a couple dozen silver grey buttons with nothing printed on them. I brought those with me and gave

them to our key workers. Even if there weren't enough to pass out to voters, I thought it important for campaign workers to wear something to identify themselves, at least to each other. Fred Gray also wore one. That button was my little contribution to his campaign.

While in Tuskegee I shared a room in the TI dorms with Esther Barmore, one of the few white girls that SCLC had not confined to an office. Stoney and Mark shared a room in the boys dorms. A year younger than I, she too had Southern roots and some southern experiences. Born in Florida to "yankee" parents, she learned from them that racism was evil. While living in Ruskin – a rural community 20 miles south of Tampa – her parents were visited by the local KKK, demanding that they promise to never sell their home to a "nigger." After they said NO, their house mysteriously burned down. The authorities did nothing. Her parents soon divorced and her mother took her to northern New Jersey where she finished high school in 1964. It was there that she became friends with Brig Cabe, whose home was only a few miles away. He would become one of SCLC's photographers. Esther joined VISTA after graduating from high school. When that ended, she found herself in New York City working for a publishing company. During a visit from Brig in the spring of 1966, he convinced her to come South to work for SCLC. The staff retreat after the May 3 election was her first movement experience. She was sent to Macon County to help out in the run-off. (Barmore e-mails of Aug. and Sept. 2014)

The candidates ran their campaigns separately. Amerson had his campaign headquarters in his home. Fred Gray used his Tuskegee law office. I don't know where the other two candidates had their headquarters, or even if they had one. We worked out of Gray's office but when we went out canvassing, we promoted all four Negro candidates. That meant we had to find out something about them.

Fred Gray was well known to TCA, SCLC, and probably to Stoney, but not the rest of us. He had been handling legal cases for the NAACP Inc. Fund since the Montgomery Bus Boycott and for SCLC since it was founded in 1957. Born in Montgomery in 1930, his mother wanted him to become a preacher but after graduating from Alabama State College he went to Western Reserve Law School in Cleveland, determined to return and "destroy everything segregated." In those days, the state of Alabama provided grants for Negroes to get higher education at out of state schools if none of the state schools for Negroes offered that program but the white schools did. There were no law schools for Negroes in Alabama. Gray practiced law in Montgomery after graduating in 1954 and set up a satellite practice in Tuskegee. He moved his family there in 1965 so that he could run for the legislature in 1966. He thought he could win in the 3-county District 31, but not in Montgomery. In the first primary he faced two white opponents, both from Barbour County. The unofficial returns from May 3 gave him a majority of the votes, but when the absentee votes were counted he did not have the crucial 50 percent. In the run-off he faced William V. Neville, Jr., a white attorney from Eufaula. (Gray, 1995, quote on 5, 17-19, 237-8, 242; *BN* 5-4-66, 2; 5-5-66, 1)

Lucius Amerson was an unknown to TCA. Born in 1933 in Boligee, Alabama, a tiny village on the western edge of Greene County, he had joined the Army in 1951, while still 17, and served in Korea and Germany. During the Korean War the Army integrated, both because President Truman had ordered it in 1948 and because wartime conditions elevated its value to commanders by giving them more freedom to use their units as needed. By the time Amerson was honorably discharged as a Sergeant First Class, almost nine years later, the Army had taught

him many skills as well as how to work with all types of people. He got his GED and developed confidence in his abilities. He learned how to use firearms and took courses that would prove useful in law enforcement. (Amerson, 2004, 5, 7, 11, 16-17, 43)

Harvey Sadler, the incumbent sheriff, was not a formidable opponent. A small businessman, he had never run for office. He had been appointed by Gov. Wallace to the unfinished term of his predecessor, who was elected county probate judge in 1964. A member of the white Citizens' Councils, he sent his children to Macon Academy. But the Macon County Democratic Club thought he was a pretty good sheriff who had appointed a Negro to be one of his four deputies. The Club would have endorsed him except for the scandal caused by a white deputy sheriff who had mistreated a Negro woman he arrested during the campaign. Instead the MCDC gave Amerson a pat on the back and withdrew even that before the run-off primary. Rev. K. L. Buford, a TCA officer and one of Tuskegee's two Negro councilmembers, came out for Sadler. (Norrell, 1998, 188; *BN* 5-30-66, 4; *SC* 7-16/17-66, 7)

The mild distaste that TCA and its political twin, the MCDC, expressed toward Amerson was a manifestation of the generation gap in Tuskegee. The gap was drawing attention all over the country as the older generation looked on in dismay at the militancy of youth. I had read a lot about it during and after the Berkeley Free Speech Movement. Our actions were often dismissed as just rebellions against our parents. This was not true – in fact we reflected the values of our parents but acted on them in ways that did not always meet their approval – but it became a popular interpretation. The youth of Tuskegee, especially TI students, had frightened their elders when they tried to integrate white churches a year earlier, then marched and sat-in and damaged property the previous January after the murder of Sammy Younge. They had done other things that scared the white folk. While the older generation of Negro activists, as embodied in TCA, wanted full equality as much as the younger one did, they thought progress was best achieved cautiously, one small step at a time. They wanted to show whites that the races could work together for mutual progress; that if Negroes got power they would not abuse that power as whites had done for so long. TCA was trying to practice what came to be known as "prefigurative politics" – act now as though you live in the world you want to achieve.

Amerson was a TI student. After his honorable discharge from the Army in 1959 he had entered TI on the GI bill. However, his academic career was sporadic and checkered. He married, had two sons, held various jobs and was sometimes on academic probation. He often took time off from going to school in order to work. In the Spring of 1966 he was 30 hours short of getting his degree, commuting to Montgomery for his job as a postal clerk and also working in the VA hospital cafeteria. He had not involved himself in the civil rights movement or local politics, but he was sympathetic to the protests of his fellow TI students. Even though he was 32 and thus a decade older than most of those students, TCA saw him as part of the younger generation that was disrupting their carefully drawn map to political integration and racial co-operation. (Amerson, 2004, 43-48, 85)

Sheriff was one of the two power positions in a rural Alabama county. Probate judge was the other one. TCA didn't think the time had come for a Negro to take either position from a white man, at least not a white man who was pretty good. That would scare the white folks whose co-operation TCA wanted in order to successfully integrate the schools and open other doors. TCA didn't tell its supporters *not* to vote for Amerson, but it didn't encourage them to do so either.

Not enough Negroes had voted for Amerson on May 3 to give him a majority, but two additional white candidates took enough votes away from Sadler to force a run-off. The opposite happened in the race for county tax collector. Two Negroes had run against the incumbent in the first primary. Amazingly, the incumbent only came in second, but he was still in the run-off. L.A. Locklair, owner of a funeral home, came in first. Three Negroes had run for two open slots on the Board of Revenue against incumbents. Harold Webb, a retired teacher, came in a close second for one of those, qualifying him for the run-off. (Norell, 1998, 189; *BN* 5-4-66, 7)

The campaign looked much like the ones I had worked on in California, in that it sought to contact every registered (Negro) voter and persuade them to vote for the right candidates. To do this we made lots of lists. In California we bought lists of registered voters from the Board of Elections. In Alabama the probate judge was the keeper of the voter lists, both of those who were registered and those who were current on their poll tax. Since the US Supreme court had found the poll tax unconstitutional in March, we only needed the registered voter list. Legally, the probate judges weren't required to keep separate lists by race, but they all did, which is why the DoJ and the newspapers could readily get those figures. Alabama law required that the names of all registered voters be published in local newspapers two weeks before the election. Of course, TCA had been keeping lists of registered voters for years, which it used for its own purposes. The campaign created lists of voters with their addresses and phone numbers (if any); lists of those for whom this information was still lacking; lists of voters who had been contacted and lists of people who had not yet been contacted. There were lists of people to phone (if they had a phone) and lists of people to whom to send mailings (if we had an address). All these lists were divided up by beats. Macon County had ten beats. These were geographic divisions. The biggest was Beat #1, which was Tuskegee and its surroundings (including TI and the VA hospital).

The job of the candidates was to go out and meet as many voters as possible. Campaign workers also did direct voter contact. I traveled with Amerson one day when he went out in the rurals to talk to voters. I took my camera and shot a roll, trying to remember all the things Bob Fitch had taught me about how to manipulate the F-stops and the shutter speeds to get good photos. The campaigns didn't do phone banking. In California, the campaigns rented offices and had phones installed so volunteers could call voters to promote a candidate, or just urge the person to vote. This was expensive, requiring the pooled resources of several local campaigns, or one rich statewide campaign or, in November, party resources. I didn't know the cost of installing a phone in Alabama, but assumed it was prohibitive for only temporary use. Instead volunteers went out on the streets of Tuskegee and collared people. We also did a lot of door knocking, especially in the rurals and other Macon County towns.

TCA didn't appear to be doing much, but its endorsement carried great weight. When Negro ran against Negro in the May 3 primary, the one who got the MCDC stamp of approval got a lot more votes than the other, and often more votes than the incumbent white candidate. In the school board race, the club endorsed the white incumbent over a Negro challenger and she won. The MCDC endorsee also won in the race for tax assessor where both candidates were white. (*SC* 5-7/8-66, 5)

Amerson later wrote that he was "more than aware that some Negroes felt the time was not right for a Negro sheriff." (Amerson, 2004, 78) This didn't come just from TCA. I ran into the same resistance from ordinary voters while canvassing, especially in the rurals. Negroes didn't quite say "it wasn't time." They said they didn't think Amerson was qualified, which led

me to go over the skills generated by his years in the Army and his college training. Harvey Sadler didn't have any college and only two years as a practicing sheriff. At some point I realized that lack of qualifications was just a cover; it was the *idea* of a Negro sheriff that made them uncomfortable. I remembered that John Adams had written that the Revolution had happened in the hearts and minds of the people long before the War for Independence. I realized that this campaign was in the middle of such a revolution, as reflected by the ambivalence Macon County Negroes felt about electing a Negro to be sheriff. Southern Negroes were raised to believe that politics was "white folks' business." When the early civil rights workers went into the rural counties to get people to register to vote they ran into this mental barrier. It took years of work to get Negroes to believe that they had a *right* to vote. In my canvassing I realized that even those ready to vote had not completely changed their minds about Negroes holding power. A lot weren't quite ready to believe that a Negro *should* or *could* hold a power position like sheriff.

Bullock County

Bullock County lies between Macon and Barbour Counties, part of the three county district in which Fred Gray, Thomas Reed and Jessie Guzman ran for two seats in the Alabama House. Created after the War out of surrounding counties and named for a confederate colonel, it declined from one of the wealthiest counties in the state to one of the poorest. Its population peaked in 1900 with 31,196 people. In the 1960 Census 71.9 percent of its 13,464 people were identified as non-white. At that time only five Negroes were registered to vote compared to 2,266 whites.

Although Bullock didn't have the large numbers of educated Negroes that resided in Macon County, local leaders such as Aaron Sellers and Wilbon Thomas worked with TCA to increase the registration rate. Sellers had graduated from the county training school and taken some courses at TI, were he met the TCA leaders. C.G. Gomillion became his political mentor. Born in 1914, he owned and farmed 240 acres, giving him a little freedom from white economic pressure. Wilborn Thomas, born in 1921, cobbled together a living from several jobs. He was a bus driver for the county schools, a farmer and ran a store and pumped gas from his house. They organized an NAACP chapter in 1954, with Sellers as president and Thomas as vice-president. TCA introduced the Bullock County activists to the NAACP, the US Commission on Civil Rights, the Dept. of Justice and attorney Fred Gray when they needed plaintiffs, witnesses and people to make public statements. (Guzman, 1984, 177; Gray, 1995, 133)

Sellers testified at the 1958 USCCR hearings that he had tried to register to vote six times without success. The first three attempts were in 1954. On January 18, Sellers and five others were told to come back "tomorrow." They did, and were ordered out of the courthouse. When four Negroes came to register on February 1 they discovered that the registration office had moved but no one would tell them where it had gone. (*CD* 12-27-58, 3; USCCR, 1961, 78)

TCA recognized these as the same tactics used by the Board of Registrars in Macon County and arranged for NAACP Inc. Fund lawyers to represent the aspiring voters in federal court, with Arthur Shores as the local attorney. Sellers was the lead plaintiff; Thomas was not one of the four plaintiffs. The defendants were the three Bullock County registrars. Judge Kennamer of the Middle District was the same judge who had ruled against TCA's William Mitchell in the similar 1947 suit. Perhaps chastened by the Fifth Circuit's reversal and remand of that case, the judge found that the plaintiffs' efforts to register "were handicapped by what appears to be a sort of hide and seek policy on the part of the Board of Registrars." Although the court found for the plaintiffs, by the time the ruling was made on September 10, all Board members had resigned and there was no one against whom to issue an injunction. The judge did order the defendants to pay court costs and retained jurisdiction in case those individuals ever again became county registrars. (*ADW* 5-7-54, 1; 9-14-54, 1; *Sellers v. Wilson*, 1954)

The Bullock County Board of Registrars remained vacant for a year and a half. When it was reconstituted, the new Board members still refused to register Negroes. There were no more Negro voters in 1960 than in 1954. In January 1961 the DoJ sued the new Board *and* the state of Alabama, which it could do under the 1960 Civil Rights Act. After a trial on March 29th and 30th 1961, Judge Johnson enjoined the Board from limiting the number of times someone could vouch for another person desiring to register. Vouching was not required by Alabama law. But

Title 17§53 of the Alabama Code did permit Boards to make their own rules as necessary, and the standard voter registration form had a page for an affidavit by a supporting witness. Vouchers were more likely to be required in those counties where Negroes were a significant majority of the population than in majority white counties. Requiring a voucher and limiting who could sign a voucher was a simple way to keep down the number of registered Negroes. The Bullock Co. Board required all vouchers to be registered voters, and declared that no one could vouch for more than two applicants in any one year. While this requirement did not overtly differentiate by race, it put a ceiling on the number of Negroes who could register in a given year. There were plenty of white registered voters, but none would vouch for a Negro, even one they had known all their lives. Since there were only five Negroes registered to vote, and a "supporting witness" had to come to the courthouse in person on a registration day to sign the affidavit, limiting each to doing this only two times a year limited the number of Negroes who could qualify to vote.

Judge Johnson required the Bullock Co. Board to report monthly on how many Negroes applied, were processed and were registered. These showed that there was a lot of motion but not much progress. An average of 24 applications were processed on each of the two registration days per month while 400 Negroes waited their turn. The DoJ brought the Board back into court for further hearings in September. Judge Johnson found that the Board was using "arbitrarily strict and technical standards in grading applications," among other things. He ordered them to register Negroes by the same lax standards they had used for whites during the 1950s. He issued an injunction with very specific rules on exactly what the Board had to do to avoid being held in contempt. After a third hearing in 1962, the court effectively did away with the voucher requirement. With a contempt motion hanging over their heads, the Bullock County Board started to register Negroes. Their numbers leapt to 886 in 1962 then crept to 1,423 in 1964. The Board still rejected a third to a half of all Negro applicants while rejecting only a handful of whites but it no longer made it virtually impossible for Negroes to register at all. (USCCR, 1959, 79; *United States v. Alabama*, 1961, 1962; voter data in *Sellers v. Trussell*, 1966; CRD, 1964, 13-16 [1193-5])

In 1964 the DoJ brought the Board back into federal court. The State of Alabama had prescribed a more difficult literacy test than had been used in the past, and the Board was using it rather than merely testing an applicant's ability to read and write. It was also rejecting Negroes for making small mistakes in their applications that were overlooked when done by whites. The court issued a new order on April 27, 1965, essentially reiterating what it had said before and ordering the Board not to use the new literacy test but to stick to the one used for whites in the 1950s, pursuant to the previous court order. Judge Johnson didn't find Board members in contempt, but held that possibility over their heads, as he had done before. (*United States v. Alabama*, 1965)

This was the situation five SCOPErs faced when they came to Bullock County two months later to bring Negroes to the county registrars. Barbara McEnaney, Margaret Rozga, Nathaniel Harwell and Dan Stefanich all came from colleges in Milwaukee. Margaret went to Alverno; Dan and Barbara to Marquette University They had been involved in Students United for Racial Equality which Dan helped found in 1964. Nate attended the Milwaukee Area Technical College and was involved in the NAACP Youth Council. Choosing Bullock County for their project, they raised about $1,100 in contributions and pledges. The project had originally been organized by Marquette student Tim Mullins as a joint undertaking of the two Milwaukee Catholic colleges with him as the project director. Tim asked Fr. James Groppi,

whom he knew from their joint civil rights activity in Milwaukee, to drive them to Atlanta. However, at orientation Tim was recruited by James Orange to go to Hale Co. AL instead. Dan Boylan, who had come on his own from Occidental College in Los Angeles, was added to the Bullock Co. group. They called him Pasadena Dan to differentiate him from Dan Stefanich. (McEnaney KZSU interview; Rozga oral history, 2008; Mullins e-mail of 1-19-17)

Most SCOPE groups made their headquarters in either the county seat or the largest town (often the same place). This group went to Midway, a village in the eastern part of the county, because that's where Sellers, Thomas and other local activists were concentrated. After the NAACP was banned in Alabama, these activists had continued work as an affiliate of the Alabama State Co-ordinating Association for Registration and Voting, (ASCARV) calling themselves the Bullock County Voters League. In October of 1964, after US Supreme Court rulings allowed the NAACP to resume operation in the state under its own name, the Bullock County NAACP chapter was reconstituted. They asked SCLC to send them some workers. (*CD* 12-18-65, 5)

Hosea didn't appoint a new project director, so Barbara McEnaney took on that job. At 25, she was the oldest and best organized. She was from northern Massachusetts and had just finished her MA in biology at Marquette. Wilbon Thomas provided overall direction. Ed and Annie Hall gave them an office in Midway and lodging for the boys. The girls stayed with the Daniels family just outside of Midway. Initially SCOPE worked the small towns and rural areas, going from house to house to talk about the importance of registering to vote and provide details on when and where to do that. They met in their office each day around 8:00 a.m. to ascertain what local teenagers and cars were available and where to canvass for the day. There were two cars that were often available, but one car wouldn't go into reverse so could only be used for trips where backing up wouldn't be necessary. In late June Margaret's dad bought a used car for the project and sent it South with the two Milwaukee girls who had gone to Atlanta with the others in June but returned to Milwaukee to give notice to their employers. They were joined by two more young women who had been active in the Milwaukee civil rights movement. When they reached Atlanta, Hosea sent them all to Savannah, GA and found someone else to drive the car to Bullock County. With this car SCOPE could effectively work the rurals. They worked in pairs. Some would be dropped off in towns where they walked from house to house. Others used the car for rural canvassing. Most days they canvassed from around 9:00 a.m. to 6:00 p.m. Those who got back early did paperwork and wrote letters in the office. Sometimes they printed out flyers for a mass meeting and gave them to the kids to pass out. (Rozga, 2006; McEnaney KZSU interview; *Milwaukee Sentinel*, 7-22-65, 12)

They ran into the usual hurdles of apathy and fear that every SCOPE project faced, somewhat mitigated by the many years of work done by Sellers and Thomas. Stefanich and Harwell often worked together, traveling the county roads talking Negroes into going to the registrars on the few days the Board was open for business. People were friendly, but not always willing to register. When they didn't have a car, the boys sometimes found it hard to get a ride home at the end of the day. Occasionally they stuck out their thumbs to catch a ride, but not together. Nate was Negro, so he was the one to stand by the side of the road while Dan hid in the bushes. When a car with a Negro driver stopped, Nate would talk to the driver as Dan slowly appeared. Sometimes the driver drove off scared, and sometimes he took the boys where they needed to go. (Stefanich e-mail 8-12-14)

As was true elsewhere, their best workers were the local teenagers, especially Paul Harrington and Gwen Williams. They also got help from "Red" Williams, the owner of a local TV repair store. They canvassed long hours, hoping to register a lot of voters the first week in July, when Gov. Wallace had given Bullock County two extra registration days. However, the Board really didn't want those extra days. It closed early on Monday, saying that it had run out of application forms. A little protesting and that potential contempt of court citation paid off. When SCOPE brought 41 Negroes to the courthouse on Tuesday, the voter application forms miraculously appeared. (Rozga, 2006) On the third Monday, 298 Negroes came to the courthouse to register. (*Milwaukee Sentinel,* 7-22-65, 12) In the three registration days after the VRA was passed 292 Negroes registered to vote. (USCCR 1965, 53)

In July, Rozga and Harwell moved to Union Springs, the county seat. With a 1960 population of 3,704 that was 62.2 percent non-white, it was also the largest town in the county, with the most potential Negro voters. Fannie Lamb, a Midway teenager, came with them. They expected to stay with her aunt, but she was a teacher and became worried about losing her job if she hosted a white girl. Instead they found help from a Negro businessman. Mr. Poe owned the funeral home, a café and a pool hall. He gave them space for an office and found places for them to sleep. Nate joked that he slept in a coffin; the girls stayed with an elderly couple whose social security income couldn't be threatened. They paid a visit to the sheriff and the newspaper editor, just to let them know that they weren't planning any demonstrations. Other than that they generally avoided white people. Occasionally they were the recipients of verbal abuse. Sometimes rocks were thrown at them as they walked down the street. (Rozga, 2006; Rozga KZSU interview)

In August, Fr. James Groppi arrived in Union Springs, having decided to spend his vacation registering voters with the students he had driven South in June. He brought another car to the project and a couple more workers. Persuading the SCOPErs to challenge segregation as he was doing in Milwaukee, he took a group to a white eaterie to see if it was complying with the 1964 Civil Rights Act. As was true elsewhere, only the Negroes in their party were served. Without eating or paying, they all left and went to their favorite Negro restaurant. Law enforcement soon showed and said they were under arrest for ordering food and not paying for it. Fr. Groppi convinced the cop that it was the restaurant which broke the law when the waitress failed to serve all of them. They didn't do that again, but did file a complaint with the FBI. Local whites began to harass Paul Harrington, a local worker they had recruited at Poe's funeral home. When he came home from a meeting in Midway he saw whites with guns and police in front of his house. He snuck in the back, gathered some things, and went back to Midway. From there he went to Milwaukee with Fr. Groppi, turning his house over to SCOPE to use as a Freedom House. (*Milwaukee Journal* 8-23-5, 19)

Bullock County was slowly being pushed and pulled into desegregation, though it stopped short of actual integration. Some of the "Colored" signs in public buildings had been painted over, though one could still see the letters underneath. Most people acted as though the signs were still there. Three students had desegregated the 12th grade of Bullock County High School in 1964, after a law suit filed by Fred Gray in 1963 resulted in a court order on August 5, 1964. Judge Johnson told the school board to submit a detailed desegregation plan by January 15, 1965; it was one of the first two schools to do so. It proposed to desegregate the county high schools beginning with the fall 1965 semester and the elementary schools by January 1, 1967. The court continued to monitor the schools, ordering that some be closed and others combined.

While the students who went to Bullock County High said later that they "often faced racial hostility" there were none of the problems, incidents or white flight that troubled other counties. (*Harris v. Bullock Co. Bd. of Ed.*, 1964; *WP* 1-29-65, C5; *BAA* 9-19-64, 18; *CD* 9-10-64, 30; *NYT*9-10-65, 25;
http://www.unionspringsherald.com/news/article_079f7b7a-fe1c-11e2-a4f7-0019bb30f31a.html?mode=jqm)

The names of nine Negroes appeared on the Bullock County ballot in the May 3 primary. Henry Oscar "Red" Williams ran for sheriff ; Rufus Huffman, a retired teacher who was active in the NAACP and ADC, ran for county tax assessor; four ran for seats on the county DEC and three for the two places in House District 31. No one was on the ballot for County Commission because the legislature had passed a special Act the preceding August extending the terms of the county commissioners only in Bullock County by two years. Done at the request of the county's representatives, it postponed the election of two of the four commissioners until 1968. The general practice was for each county to elect two commissioners to four year terms every two years. On March 7, attorney Fred Gray challenged this special Act as unconstitutional. Aaron Sellers was once again the lead plaintiff, joined by Wilbon Thomas and five others. The NAACP Inc. Fund provided counsel, and the case was consolidated with a similar suit filed by the DoJ. The defendants were a host of local public and party officials. (*Sellers v. Trussell*, 1966; USCCR, 1968, 41-42)

Assigned to Judges Rives, Grooms and Johnson, the court ruled on April 15 that the law had a discriminatory effect, and set it aside. It ordered an election for two commissioners on May 31 because there simply wasn't time to add them to the May 3 ballot, let alone for anyone to campaign for the office. How each judge decided the case provides a good example of the importance of federal judges to the civil rights movement. If the third judge on this case had been Daniel Thomas instead of Frank Johnson, the law would not have been set aside, at least not without appeal to the Supreme Court. All three judges agreed that there was no evidence of racial motivation in passing the law. Rives and Johnson still thought it was unconstitutional; Grooms didn't. The first two recognized that there was a discriminatory *effect* because it "freezes into office for an additional two years persons who were elected when Negroes were being illegally deprived of the right to vote." Rives also thought it violated Section 5 of the Voting Rights Act, which required pre-clearance with the DoJ, which of course had not been done. Johnson agreed with Rives, but thought it unnecessary to apply the VRA because the special Act was so clearly a violation of the Fifteenth Amendment. (*Sellers v. Trussell*, 1966)

By the time the voter rolls closed for the May 3, 1966 primary, 2,980 Negroes were registered to vote in Bullock County compared to 3,074 whites. (*BN* 5-1-66, B2) Bullock County was not certified for federal examiners. It was not even on the list of counties to receive federal examiners that John Doar had sent to the A.G. on July 22, 1965, probably because of the outstanding court orders. That lack of certification meant that the DoJ did not send federal observers to either the primary or the run-off. The poll watchers appointed by the candidates had sole responsibility to make sure that nothing went wrong. In a post primary report, SCLC staffer Jim Gibson said that a lot of those poll watchers did not show up on time and election officials chose alternates, who were all white. He said that poor organization led to poor results. The county did not have a well-functioning get-out-the-vote operation and the campaigns were especially weak in Union Springs, where most of the voters lived. (SCLC IV 145:4) Years later Aaron Sellers told author Robert Caro that white folk kept a list of registered Negroes and denied

them crop loans in the Spring and other things they needed to survive. This kept the vote down. (http://ike-iveryfamily.org/AaronSellers.html)

When the May 3 votes were counted, Williams and Huffman both got roughly 46 percent of the vote in 3-person races for their respective offices. The incumbents came in second, which meant that in the run-off primary both races would be Negro challenger versus white incumbent. Fred Gray won in Bullock County, but still got only 48.5 percent of the total vote in the 3-county district. All three men would be on the Bullock County ballot on May 31. Also on the ballot would be two Negroes who declared their candidacies for the two County Commission seats, Ben McGhee and Alonzo Harris.

The Run-Off

The day after the May 31 run-off election, white Alabama breathed a sigh of relief. Its worst fears had not happened; Negroes were not taking over the government. The very fact that 22 of the 26 Negroes on the various county ballots had lost was big news.

When the *Birmingham News* published the results of the run-off races the next day, almost all of the headlines on the front pages were about Negroes. "Bloc vote is effective in one county," blared the banner headline. "Four Negroes win in races," headed one story. "Negroes fail in bids for Legislature," headed another. "Four Jeffco Negroes lose" was also on the front page, albeit at the bottom. The *News* staff writer called the election "a major victory for civil rights groups which have staged major voter registration drives in Alabama...." but those same civil rights groups were in shock from disappointment. Indeed a writer for the *Chicago Defender* characterized it as an "overwhelming defeat."(*BN* 6-1-66, 1; *CD* 6-4-66, 4)

Hosea was angry. He issued a statement on June 2 which blamed the federal government, and specifically Attorney General Katzenbach, for letting the election be "stolen." Negroes lost because the "Federal Government stood idly by and watched Negroes cheated, harassed, and schemed out of the May 3 Democratic Primary in Alabama." The statement said that many Negroes refused to vote in the May 31 run-off because of retaliation by landlords, employers and welfare agencies to their voting on May 3. [needs cite. Maybe SCLC III, 122:4 at Reel 3.0944]

Fred Gray was also angry. On May 3 he had been just 500 votes short of winning a majority in the 3-man race in the 3-county vote. He had won in Macon and Bullock counties but lost in Barbour. Between the primaries he told a rally in Bullock County that he, Red Williams and Rufus Huffman were the real winners in the May 3 primary, but "the race was stolen from us." He said the white poll officials "assisted" Negro illiterates by voting for the white candidate rather than the Negro candidate named by the voter. The three men petitioned the DoJ to step in and ask the federal court to set aside the election. (Quote in *SC* 5-21/22-66, 1) It didn't.

The Rev. Peter Kirksey, the only Negro to win outside Macon County, backed this up. He said that federal observers had seen many irregularities in the May 3 primary but had done nothing. He too thought he should have won without a run-off, but didn't mention that there had been another Negro, as well as a white man, running for a seat on the Board of Education in Greene County. (*Sun* 6-2-66, 9)

Right after the May 3 primary the DoJ asked the federal court for an injunction to prevent the type of obstruction that had happened in the May 3 primary from recurring in the run-off primary. In Greene, Marengo and Sumter counties federal observers were blocked from watching white officials help illiterates mark their ballots. The defendants were the Probate Judge and the DEC members of those counties, who had been in charge of the election. Without actually observing, the feds could not tell if those voters' wishes had been followed or ignored. On May 27, Judge Thomas, the least sympathetic to Negro aspirations of the federal judges in Alabama, told the local election officials to allow the federal observers to observe on May 31, but only if the illiterate voter made an express request. (*NYT* 5-28-66, 7; *U.S. v. DEC of Greene, Marengo and Sumter Counties, Alabama*, 1966)

For the run-off, the DoJ sent over 350 observers to six counties in which Negroes were running and which had been certified for federal examiners. Greene, Sumter, Marengo, Perry, Hale and Choctaw were all in the western blackbelt. Choctaw was certified for examiners on May 30 so that observers could be sent there on May 31 because one candidate, Rev. Linton Spears, said white election officials harassed Negro voters on May 3. None were sent to the three counties in House District 31 and the four in Senate District 19 where Negroes were running. Of those seven counties, only Wilcox, where Lonnie Brown was in the run-off, was certified for federal examiners. Federal observers were sent to Wilcox on May 3, but not on May 31. (*NYT* 5-31-66, 29; *LAT* 5-31-66, 24; USCCR, 1968, 158)

Gray was even angrier after the run-off than he had been after the first primary when he lost by 600 votes despite getting 1,200 more votes than on May 3. He won two-to-one in Macon Co., but lost in Bullock and was trounced in Barbour. None of the Negro candidates in Barbour County had made it into the run-off, so there wasn't any local get-out-the-vote operation on May 31. But there was in Bullock, with five Negroes on the ballot, and in Macon with three.

No one expected the four men running for House seats in Jefferson County, or the one Negro candidate in Mobile County, to win because Negroes weren't even a majority of the population, let alone the voters. They all had to run county-wide, in separate places, which meant that they would need a lot of white votes to win. It was impressive enough that they had come in second in the May 3 primary, which qualified them for the run-off. The four who ran in Jefferson County got between 36,377 and 38,241 votes on May 31, which was not even two-thirds of the 60,000+ Negroes registered to vote in that county. Clarence Montgomery got 12,048 votes in Mobile County, which had 24,794 registered Negroes. Noone was surprised that Lonnie Brown lost his race for the Senate, but the fact that he got less than a quarter of the total vote was pretty devastating. SCLC's Alabama director, Albert Turner, expected to win at least in his home county of Perry, but lost there by 400 votes. He got 46 percent of the vote in the 3-county District 27 of Sumter, Marengo and Perry where Negroes were 43 percent of the total registered voters. Turner noted that a lot of white voters who had registered in Perry County right before the deadline gave addresses in Bibb County, just to the north of Perry, in which no Negroes were running for anything. (*BN* 5-1-66, B2; 6-1-66, 2, 16; *SC* 6-4/5-66, 2) The final count showed an exceptionally large number of absentee voters in Barbour, Bullock and Perry counties. (*NYT* 5-30-66, 8)

Four candidates were in the run-off for sheriff in Bullock, Hale, Perry and Macon Counties. Three lost, two to incumbents. The big victory was Amerson winning the Democratic nomination for sheriff of Macon County, which meant that he would soon become the first Negro sheriff in the South since Reconstruction. Lost in that celebration was the fact that he only won by six percent of the vote, which was minuscule compared to Gray's overwhelming win *in* Macon County. A thousand more votes had been cast for Gray than for Amerson. (*BN* 6-1-66, 1, 2, 16)

Only three of the 14 Negro candidates for other county offices in the run-off won the Democratic nomination (which was tantamount to election), and two of those were in Macon County. L.A. Locklair won for tax collector and Harold Webb won a seat on the county commission (called the Board of Revenue in Macon). In Green County, Rev. Peter Kirksey won a seat on the Board of Education.

Several white candidates who had received Negro support in the first primary saw it used against them in the run-off. In the three statewide races, the *Birmingham News* observed that "All three winners Tuesday defeated opponents who had won the endorsement of Negro organizations and who had received heavy Negro support on May 3." Agnes Baggett lost the race for State Treasurer on May 3 by 47,000 votes and won it on May 31 by 38,000 votes. She credited her good friend George Wallace for her change in fortunes. The opposite fate befell Mary Grice, the one woman running for Congress. She won on May 3rd with Negro support, which her opponent used to beat her on May 31st. (*BN* 6-1-66, 1, quote on 2; *Sun* 6-2-66, A9; *SC* 6-4/5-66, 2)

While disappointed candidates and civil rights activists aimed their ire at the feds, the white folk of Alabama were the more appropriate target. Throughout the Spring, polls showed that a super-majority considered "race" and "civil rights" to be the most important problem facing the state. Occasionally that dropped to 2nd place. This was fueled by news stories which reported frequent demonstrations throughout the state and new civil rights bills before the Congress. The DoJ was enforcing the 1964 Civil Rights Act and the federal courts were enforcing school desegregation orders. HEW threatened school districts with a cut-off of federal funds if they didn't submit an acceptable desegregation plan. Whites correctly felt that their way of life was under assault from all directions. The delaying tactics that they had employed for over a decade no longer worked. White voters reacted not by giving in, but by stiffening their resistence. Going to the polls and voting against Negroes, and whites who appeared soft on race, was the one thing they could do. If they couldn't keep Negroes out of their schools, at least they could keep them out of public office. (*WP* 5-26-66, F15; *NYT* 5-30-66, 8)

Post-primary Litigation

The two candidates most angry about losing were Thomas Gilmore and Fred Gray. Both thought they should have won; their narrow defeats must mean something fishy had happened. With the help of NAACP Inc. Fund attorneys, both asked the federal court to set aside the election. Gilmore filed in the Northern District, Greene County's home district, and Fred Gray in the Middle District, which contained all three counties of House District 31. However, the same judge heard important parts of both cases, and made important decisions. Thomas Virgil Pittman was nominated by LBJ to a joint appointment in the Middle and Southern Districts, one of 45 additional federal judgeships created by Congress in March of 1966. Thanks to the many school desegregation cases in the courts, the case load in each district had grown too big. Pittman was confirmed by the Senate on June 29 and began work immediately.

Pittman was 50 when he became a federal judge in Southern Alabama, with a legal career common to judicial appointees. After practicing law for five years, he became the state circuit court judge in the northern Alabama city of Gadsden. In 1963 he convened a grand jury to investigate the murder of William L. Moore, a white postal worker from Baltimore who was shot in Alabama as he was staging a lone walk for civil rights. A member of CORE, he was walking from Tennessee to Mississippi to hand deliver a letter to Governor Ross Barnett in support of integration. He wore a sandwich board that said "Equal rights for all & Mississippi or Bust" on one side and "END SEGREGATION IN AMERICA Black or White Eat at Joe's" on the other. On April 23, his body was found by the side of an Alabama road with two bullets in his head. A local grocer, whom Moore had spoken with earlier in the day, was accused of the shooting because he owned the gun from which the bullets came. Although the Etowah County grand jury had a Negro member, it refused to indict. (*Sun* 4-24-63, 46; 4-30-63, 44; 9-14-63, 28; *CD* 4-25-63, 1, 3; 5-1-63, 2; *NYT* 4-25-63, 20; 9-14-63, 11; *WP* 9-11-63, 7)

Gilmore filed first. He had lost in the May 3 primary by 297 votes to long-time incumbent sheriff, Bill Lee. Since 66 percent of the registered voters in Greene County were Negro, Gilmore figured that he should have received more than 46 percent of the vote. His loss just couldn't be legitimate. On May 27 four Negro candidates and four functionally illiterate voters filed against the Greene County DEC and the Probate Judge, as they were the people responsible for running the primary election. The suit claimed that the Probate Judge had told the poll officials not to allow illiterate Negroes to bring marked sample ballots with them into the booths, but to let illiterate whites and literate voters of both races do so. This would compel illiterate Negroes to request the assistance of voting officials. These were all white, and Greene was one of the three counties in which federal observers were not allowed to observe officials helping voters. The complaint alleged that the white officials did not follow the instructions of the Negroes, but marked their ballots for white candidates. It also claimed that there were 289 more ballots cast by white voters than there were whites listed as registered to vote in Green County. Paul and Pat Bokulich, the SCLC field workers assigned to Greene County, collected reports of many cars parked at the polling places with out-of-county license plates, and former residents seen voting whose names were not on the published voting lists. (USCCR, 1968, 71; *SC* 5-7/8-66, 1; 5-14/15-66, 1; *Gilmore v. Greene Co. DEC*)

While awaiting a hearing, the case was complicated by the fact that on May 3, the Green County Freedom Organization had nominated the four candidate plaintiffs to the same offices for

which they were seeking the Democratic nomination. The GCFO was a SNCC creation, like its namesake in Lowndes County. Just in case anyone didn't know the connection, the paper filed with the Probate Judge nominating the GFCO candidates had a drawing of a black panther on the other side, along with the words "ONE MAN – ONE VOTE." Unlike Lowndes, only six people convened in the legally required mass meeting to make the nominations, and five of those were members of the same family. SCLC had stayed out of Lowndes County but in Greene County it actively discouraged local Negroes from participating in the GCFO. Gilmore was in accord with this until a few months after he lost the primary. On September 9, Gilmore and Percy McShan, who had run for tax assessor, filed papers with the Probate Judge with the intent of accepting the GCFO nomination. They then petitioned the federal court to order the Probate Judge to put them on the ballot in the November general election as the candidates of the GCFO. The other two candidate plaintiffs dropped out of the case because they had both made the May 31 run-off, and one of them had won the Democratic Party nomination. (*SC* 10-22/23-66, 2; *Gilmore v. Greene Co. DEC; Herndon v. Lee*)

Judge Grooms, who was given this case, was busy, so Judge Pittman presided over the October 4 hearing and wrote the decision denying Gilmore and McShan's request. He reasoned that six people was not a mass meeting, and since both candidates had signed an oath that they would accept the results of the Democratic primary, Alabama law prohibited them from running against that nominee under another party's label. An immediate appeal was made to the 5th Circuit, which reversed. On November 3 it said Gilmore and McShan needed to decide if they wanted to be the candidates of the Democratic Party or the GCFO before a proper hearing could be held. The Probate Judge was ordered to delay the election. (*NYT* 11-6-66, 60; *SC* 11-12/13-66, 5; *Gilmore v. Greene Co. DEC*)

Sheriff Bill Lee, the incumbent, then went into state court and secured a TRO prohibiting the Probate Judge from putting Gilmore and McShan's names on the ballot. The ruling came after the November election. No names were on that ballot as candidates for sheriff and tax assessor; no one was elected to those offices. Gilmore appealed to the Supreme Court of Alabama, which upheld the Circuit Court. In the meantime, Judge Grooms allowed Gilmore's attorneys a year to find the evidence for their case of improper voting. Among other things, they were allowed to examine the absentee ballots to see if anyone had voted both in person and absentee. They could not find enough evidence to persuade Judge Grooms that their claims were valid. The judge found that there was no racial discrimination because all illiterates were denied the use of a sample ballot or list from which to cast their vote, and not just Negro illiterates. Only literate voters were allowed to bring marked papers with them into the voting booth. On appeal the 5th Circuit reversed the district court's legal conclusions, but not its findings of fact that there had been no *racial* discrimination. The court found that there was nothing in Alabama law to deny illiterates the use of a written list, and there was no rational basis for the Probate Judge to have denied illiterates a guide to voting which was permitted to literates. Furthermore, given the racial realities, the Probate Judge's rule had a discriminatory impact on Negro voters. (*SC* 12-3/4-66, 2; 5-20/21-67, 5; *Herndon v. Lee*; *Gilmore v. Lee*; *Gilmore v. Greene Co. DEC*)

During the almost four years that this dispute was argued in the courts, much happened in Alabama. There was no officially elected sheriff or tax assessor in Greene County but the prior incumbents continued to do the job. By the time the 5th Circuit pronounced its final decision, the 1970 general election had passed. Gilmore finally beat Sheriff Bill Lee at the polls, though not by much – winning 2,394 votes to Lee's 2,307. He did it in the general election where he ran as

the candidate of the National Democratic Party of Alabama (NDPA), an officially registered third party whose symbol was the bald eagle. The party had been formed in 1968 to support the national party's ticket of Humphrey and Muskie. The Democratic Party of Alabama had put electors pledged to George Wallace on the ballot on the Democratic Party line, even though he was the official nominee of a third party and not the national Democratic Party. In Alabama voters still chose electors, not candidates for President, but they usually did it by putting their X under the party symbol and voting a straight party ticket. The 1968 Wallace electors won in every Alabama County except Macon, Greene and Sumter. (*NYT* 11-5-70, 28)

Fred Gray filed on June 29, asking that the May 31 election be set aside in Macon, Bullock and Barbour Counties and a new one held. The plaintiffs included all of the Bullock County Negro candidates defeated in the run-off, along with seven voters or poll watchers. The defendants were Fred Main, the Probate Judge of Bullock County, as well as the Boards of Registrars and DECs of all three counties. The statewide DEC was also a defendant. While some of the complaints were similar to the Greene County case (that enough whites voted illegally to affect the outcome), these plaintiffs said illiterate voters received inadequate assistance from poll officials rather than too much assistance.

Judge Johnson brought in the DoJ as an amicus curiae on July 5 and denied several motions to dismiss made by defendants on September 7. Then he turned the case over to Judge Pittman for trial. The case dragged on and on as the plaintiffs looked for concrete evidence, mostly in Bullock County, to bolster their claims. There were 13 days of testimony in May, July and August of 1967 but the case did not close until November 30, 1967 and the judge did not issue his ruling until March 28, 1968. Essentially he found that there was insufficient evidence to support the claims, certainly not enough to justify setting aside an election. He found that while there were some irregularities, these were not "racially discriminatory acts" and did not affect the outcome. He did not order a new election, but he did order changes in procedure in future elections to prevent the frictions and conflicts that had occurred on May 31, 1966. (*Gray v. Main*)

Unlike Gilmore, these disappointed candidates did not appeal to the 5th Circuit. Like Gilmore, they ran again. Fred Gray was finally elected to the Alabama House in 1970 from District 31. Tom Reed, who had lost on May 3rd was also elected in 1970 to the other seat from the same district. In 1974, redistricting forced them to run against each other in a new District 28. Reed won. Gray never ran for office again. H.O. "Red" Williams was elected Sheriff of Bullock County in 1970 and served 24 years. Rufus Huffman was elected Probate Judge of Bullock County in 1976 and served 18 years.