

MEMORANDUM

RE: ESTABLISHMENT OF A SPECIAL LEGAL DEFENSE FUND

A Legal Defense Fund could be established for cases to establish precedents for the benefit of Negroes in general. These precedents will also benefit others and will go far to broaden the meaning of due process of law. Such a fund should be limited to cases where investigations reveal that:

- (a) the individual is innocent
- (b) there is injustice because of race or color
- (c) there is the possibility of establishing a precedent for the benefit of Negroes in general.

The selection of cases should be in the hands of a small committee of lawyers and laymen.

There are several cases in our files which clearly come within all three of the above rules. Many more will come into the office from week to week.

The denial of due process of law to Negroes in certain sections of the South is a direct challenge to our form of government. The exclusion of Negroes from jury service is in direct opposition to several precedents from the U.S. Supreme Court. The only way to guarantee the enforcement of this principle is to raise the question wherever possible.

There are numerous other types of cases where Negroes are being denied due process of law. In the South the usual procedure when a crime has been committed is to make wholesale arrest of Negroes and to hold them without bail. By excessive questioning and torture "confessions" are made which are used to convict one or more Negroes.

There is now pending at Hugo, Oklahoma, a case which involves this question. In February, 1940, a white man confessed to a murder in Hugo but implicated several state officials. A special investigator from the Governor's office was sent to Hugo and arrested W. D. Lyons, a Negro. Later Lyons is alleged to have confessed. There

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are several witnesses ready to testify that Verne Chentwood bragged: "I beat him for six solid hours every inch of his body -- from his feet to his neck with a black jack. But I got it out of him and we are going to send him to the electric chair! He'll fry for this." (A copy of this letter is attached hereto.)

On last week we filed a petition for a writ of certiorari in the U.S. Supreme Court in the case of Smith v. Henderson. Smith was convicted in Atlanta, Georgia, of murder on a confession extorted by force and violence. The main witness for the prosecution was a man who was alleged to be an accomplice. This man was executed two days later for another crime so that he could not be further questioned by the defendant.

Attached hereto is a letter from a lawyer in McCormick, South Carolina, concerning a case which is still pending on appeal. This type of prosecution of Negroes is prevalent throughout the South. Incidentally, since this letter, Mr. Murray's home and office have been burned down.

A recent case in the "enlightened" North serves as an example of another type of case which is of great importance because of the large Negro occupational group affected and for which, unfortunately, it is difficult to raise funds for defense among the Negroes in the area because their idea of personal freedom and security renders them unresponsive to the plight of others.

Such a case is the much publicized Spell Case, now being tried by NAACP attorneys in Bridgeport, Connecticut. The importance of this case lies in the fact that the press campaign to "convict" this Negro before trial--even before the facts were known--threatened the job security of that large group of Negroes employed as domestics. With this in mind the National Office conducted an investigation. (Details of the facts and results of this investigation are in attached memorandum) on the basis of which our attorneys were convinced of Spell's innocence and entered the case upon request of Mrs. Spell.