

Howard Ball. *Taking the Fight South: Chronicle of a Jew's Battle for Civil Rights in Mississippi.* Notre Dame: University of Notre Dame Press, 2021. 256 pp. \$32.00, cloth, ISBN 978-0-268-10916-5.

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In 1976, constitutional law professor Howard Ball left his position at Hofstra University and moved his family from Stony Brook, Suffolk County, to Starkville, Oktibbeha County, Mississippi, where he remained until 1982. He went there with the offer of a tenured professorship, a move that provided him with an opportunity to research the enforcement of the Voting Rights Act. This research culminated in *Compromised Compliance: Implementation of the Voting Rights Act* (1982), co-authored with Dale Krane and Thomas P. Lauth, one of over thirty books about constitutional law, civil rights, and civil liberties that Ball published during his long career. In *Taking the Fight South: Chronicle of a Jew's Battle for Civil Rights in Mississippi*, a memoir that Ball published in 2021, he tells the story of those years in the South.

Ball, now professor emeritus at the University of Vermont, mixes some lighthearted stories, like the experience of coaching high school football, with his larger purpose, namely, the matter of voting rights and race in Mississippi. His experience in the South cannot be read independently from his lifelong fight for racial justice, which he understood has to be fought wherever the need may arise, including at the most local level. Although Ball praised President Lyndon B. Johnson for his leadership in signing the Civil Rights Acts and Voting

Rights Act into law, in *Taking the Fight South* he shows that the landmark signing of laws was not necessarily the source of change in the United States. Rather, progress since those pivotal years, Ball writes, has come from the grassroots, not federal or state governments. The widespread abandonment of the Voting Rights Act, the subject of Ball's research at the time, proved this. Over the course of eight chapters, he covers how efforts against discrimination, ranging from interpersonal to institutional, had to be fought in every corner of his life, from the political science department to the floor of Congress.

within history has focused predominantly on the civil rights coalitions and campaigns mobilized to pass the Voting Rights Act. In recent decades, such books as Ari Berman's *Give Us the Ballot: The Modern Struggle for Voting Rights in America* (2015) and Carol Anderson's *One Person, No Vote: How Voter Suppression Is Destroying Our Democracy* (2018) follow other studies of landmark legislation of this period, including Nancy MacLean on the Civil Rights Act of 1964 (2006), David Reimers on the impact of Hart-Celler Immigration Act of 1965 (1985), and Keeanga-Yamahtta Taylor on the Housing and Urban Development Act of 1968 (2019). Personal accounts and early evaluations of enforcement allow us to hear the voices of participants set into

the historical narrative, including Chandler Davidson and Bernard Grofman's edited volume, *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (1994), Mary Frances Berry's *And Justice for All: The United States Commission on Civil Rights and the Continuing Struggle for Freedom in America* (2009), and now, *Taking the Fight South*.

Taking the Fight South begins in the North, just east of the Grand Concourse in the Bronx, where Ball lived for the first three decades of his life. In this predominantly Jewish milieu, Ball thought infrequently about his religion, but upon arrival in Starkville, he took sharp notice of a county with forty-seven churches and no synagogue. The nearest synagogue, Temple B'nai Israel in Columbus, Mississippi, some thirty miles away, counted twenty-five members and functioned with a student-rabbi who flew in once a month from Hebrew Union College in Cincinnati to lead services. As one of a handful of Jews in northeast Mississippi, he began to relate to his Jewishness in a way he had not before in New York. Sometimes this took the form of curiosity expressed by his neighbors and the endearing nickname of "rabbi" given by his players when coaching football. At other times his Jewishness registered when a colleague attempted to convert him, when his student used the word "Jew" to replace the verb "to bargain" in conversation, and when he repeatedly received midnight phone calls at his home from the local Klan. While Ball chose to ignore most of these, he and his wife, Carol, reacted and went to the principal of his daughter's school upon learning that her teacher required her to pray. This practice, in violation of the 1947 Supreme Court decision in *Everson v. Board of Education*, upset them. Yet other congregants at Temple B'nai Israel, which they now attended, cared little and wished that the new arrivals would be less visible.

More than his personal experience with religious otherness, the heart of the memoir involves

Ball's reflections upon incidents of racial discrimination and the attempts that he and others made to remedy it. Months after his arrival in Mississippi, the state chapter of the American Civil Liberties Union (ACLU) invited Ball to serve on the board, and he accepted before he knew the compromising position he was about to be put in. The Mississippi affiliate of the ACLU counted three hundred members. In 1977, half of the members, all of the Black members, left after the executive director agreed to represent the Mississippi chapter of the Ku Klux Klan (KKK). The KKK had planned to hold a rally on the field of a local school's field in Saucier, Mississippi, which only recently had implemented a plan to integrate its facility twenty-four years after *Brown v. Board of Education*. In response, the ACLU chapter held an emergency meeting. For four hours, Black members shared stories of violent crimes that the KKK committed in Mississippi, most having experienced them firsthand. Afterward, ACLU national president Norman Dorsen opened the floor for motions and Ball raised the first.

Ball proposed that the ACLU should withdraw its defense of the KKK because, drawing on previous Supreme Court decisions, schools can and should be treated differently than any such public property because the school board can argue for its constitutional right to defend children from the Klan. Black members at the meeting immediately rejected this argument, calling this method a loophole as it opened the door for the Klan to move its rally elsewhere. After an hour of debating this proposal, a speaker introduced a new proposal that the ACLU not defend any illegal and reprehensible behavior. Unlike the similar case carried by the Illinois ACLU chapter defending the National Socialist Party of America, the Nazi party, in Skokie, Illinois, the Mississippi membership voted to pass the motion to drop the case.

Hearing firsthand testimonials to the brutality of the Klan in Mississippi shaped Ball's understanding about the urgency of voter suppression

in the region. Congress passed the 1965 Voting Rights Act without a strategy for implementation and enforcement, predictably and by design. Section 4 determined the states that would be held to Section 5: Section 5 required local jurisdictions to submit preclearances for any voting procedures to the Department of Justice (DOJ) in order to determine whether the proposed changes would dilute the Black vote. By 1976, when Ball arrived in Mississippi, Section 5 applied to twenty-two states and seven thousand local jurisdictions. In the years since 1965, Black ministers took upon themselves the dangerous work of reporting violations to the DOJ. Those messages rarely went any further. Should localities nationwide submit claims to the DOJ, they would have been accepted by a staff of only fourteen attorneys in the submission unit. In 1980, the DOJ claimed that 90 percent of covered jurisdictions submitted changes in voting procedures and that 98 percent of those were cleared. In reality, the landscape Ball witnessed, corroborated by the data collected from the Joint Center for Political Studies and the Voter Education Project, and the DOJ's own watchdog agency, told a different story. Localities never submitted thousands of changes, and allowed violations to pass through their department.

Ball's research culminated in his testimony to the House Judiciary Committee in 1981. He reiterated this argument on the House floor on the occasion of the third expiration of the Voting Rights Act. Congress extended the 1965 Voting Rights Act in 1970 for five years and in 1975 for seven years. Between 1981 and 1982, Congress listened to arguments about the extension of the 1965 Voting Rights Act. Ball argued that the small staff led to the 98 percent preclearance rate and that hundreds of jurisdictions never submitted preclearances, noting the Justice Department rarely enforced the maximum possible five-thousand-dollar fine and five-year jail term for violations of voting rights. While President Ronald Reagan campaigned against the extension of the Act, he ultimately signed an amended version on June 30,

1982, though as Ball himself observes, "[the] efforts to dilute Black and other minority voting strength in local, county, and state elections are still a major problem for the DOJ's voting section attorneys" (p. 119).

In 2013, the Supreme Court overturned the entirety of Sections 4(b) and 5 of the Voting Rights Act. The majority opinion of the court in *Shelby County v. Holder* stated that the formula to determine jurisdictions requiring preclearances was outdated. Similar events of consequence have also taken place recently. Just in the past couple of years, Congress brought Senate Bill 2747 and House Bill 4 to the floor, also known as the "Freedom to Vote" Act and "John R. Lewis Voting Rights Advancement" Act, respectively. As the political situation evolves, *Taking the Fight South* will be of interest to legal scholars and practitioners interested in how battles for protecting enfranchisement still taking place today were waged decades earlier.

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