

No. 3497

OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

Whereas such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

Whereas I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United

States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 30th day
of September in
the year of our Lord
nineteen hundred and
sixty-two, and of
the Independence of
the United States of
America the one hundred
and eighty-seventh.

By the President:

Secretary of State

No. 11053

EXECUTIVE ORDER

PROVIDING ASSISTANCE FOR THE REMOVAL OF
UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE
STATE OF MISSISSIPPI

WHEREAS on September 30, 1962, I issued Proclamation No. 3497 reading in part as follows:

"WHEREAS the Governor of the State of Mississippi and certain law enforcement officers and other officials of that State, and other persons, individually and in unlawful assemblies, combinations and conspiracies, have been and are willfully opposing and obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit; and

"WHEREAS such unlawful assemblies, combinations and conspiracies oppose and obstruct the execution of the laws of the United States, impede the course of justice under those laws and make it impracticable to enforce those laws in the State of Mississippi by the ordinary course of judicial proceedings; and

"WHEREAS I have expressly called the attention of the Governor of Mississippi to the perilous situation that exists and to his duties in the premises, and have requested but have not received from him adequate assurances that the orders of the courts of the United States will be obeyed and that law and order will be maintained:

"NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States, under and by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10 of the United States Code, particularly sections 332, 333 and 334 thereof, do command all persons engaged in such obstructions of justice to cease and desist therefrom and to disperse and retire peaceably forthwith;" and

WHEREAS the commands contained in that proclamation have not been obeyed and obstruction of enforcement of those court orders still exists and threatens to continue:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including Chapter 15 of Title 10, particularly Sections 332, 333 and 334 thereof, and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Secretary of Defense is authorized and directed to take all appropriate steps to enforce all orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit and to remove all obstructions of justice in the State of Mississippi.

Section 2. In furtherance of the enforcement of the aforementioned orders of the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit, the

Secretary of Defense is authorized to use such of the armed forces of the United States as he may deem necessary.

Section 3. I hereby authorize the Secretary of Defense to call into the active military service of the United States, as he may deem appropriate to carry out the purposes of this order, any or all of the units of the Army National Guard and of the Air National Guard of the State of Mississippi to serve in the active military service of the United States for an indefinite period and until relieved by appropriate orders. In carrying out the provisions of Section 1, the Secretary of Defense is authorized to use the units, and members thereof, ordered into the active military service of the United States pursuant to this section.

Section 4. The Secretary of Defense is authorized to delegate to the Secretary of the Army or the Secretary of the Air Force, or both, any of the authority conferred upon him by this order.

THE WHITE HOUSE

September 30, 1962

/s/ John F. Kennedy

ATLANTA JOURNAL

May 10, 1963

Man From Ole Miss

THE RELIABILITY of an honored group in American life, the United States marshals, has been questioned by a group of Mississippi legislators in a pattern that is now familiar.

It long since has become dogma in Mississippi that the marshals, and not the mob, started the riot last September at the University of Mississippi. It is not surprising, then, that the legislative investigators have drawn that conclusion.

Qualified observers who were there know better. One of those in the midst of the scene, who has been visiting in Atlanta for a chaplains' conference, is the Rev. Wofford Smith, Episcopal chaplain of Ole Miss. The Rev. Mr. Smith, a young Mississippian, has minced no words about charges against the marshals.

The report, he says, is "unequivocally a lie."

"The marshals were the bravest, most courageous men I've ever seen," he says. "They had guns, but they didn't use them. At one point . . . I thought they were all going to be slaughtered."

The legislators made their appraisal from afar, perhaps with a better knowledge of their constituents than of the scene at Ole Miss.

But the Rev. Mr. Smith was there (and still is), working to preserve the university's dignity and integrity. He saw it as it happened, and saw it with the concern of a man devoted to the interests of the students and the university.

When he talks about the marshals at Ole Miss, he deserves to be heard.

THE NATION

Pressures at Ole Miss

Each morning last week James H. Meredith, accompanied by Federal marshals, made his way from Baxter Hall to his classes at the University of Mississippi. On the campus, Federal troops were bivouacked to protect the first acknowledged Negro ever to attend Mississippi. In the classroom (the marshals waited outside) a few students greeted Mr. Meredith, but none conversed with him and none sat next to him. Outside the class, some students hurled epithets at him.

The great Federal-state clash over Mr. Meredith's enrollment had been resolved—as every one knew it would—in favor of the Federal Government. But in its wake the conflict had left a number of questions, including these:

(1) How will it affect the prospects for further desegregation in the Deep South?

(2) What is the reaction, in the nation and abroad, to the conflict?

Mr. Meredith's arrival at the campus produced a wild night of rioting last Sunday. Some 2,500 persons, many from the town of Oxford and some from out of state, gathered in front of the university administration building when Mr. Meredith was brought to the campus by Federal marshals. The crowd opened up with a barrage of rifle bullets, iron pipes, rocks, bottles and acid against the marshals, and they tried to defend themselves with tear gas. Two persons, one of them a French newspaperman, were killed in the riot and 375, including 166 marshals were injured.

'Go Back to Africa'

The Mississippi campus and the town of Oxford were comparatively quiet the rest of the week. An effigy of Mr. Meredith was burned from a dormitory window; another was strung on a dorm with the command: "Go back to Africa where you belong!" But there were no overt attempts at violence against Mr. Meredith.

While Mr. Meredith was going through his tense daily routine, the Government and the segregationists were pursuing different basic strategies on the Meredith affair.

The Government's basic strategy was to put back in Mississippi's hands the responsibility for maintaining order, and try to bring the atmosphere in Oxford back to normal.

The Justice Department moved in court to put pressure on Mississippi to keep the peace. It asked the Fifth Circuit Court of Appeals in New Orleans to extend its deadline for Gov. Ross R. Barnett and Lieut. Gov. Paul Johnson to purge themselves of contempt or risk jail and stiff fines. The original deadline was 11 A.M. last Tuesday, and Mr. Barnett's attorneys claimed he had purged himself by permitting Mr. Meredith to register.

But Government attorneys pointed out to the court that it not only had ordered Mr. Meredith admitted to the university. It also had ordered that Governor Barnett and Lieutenant Governor Johnson act to maintain law and order and permit Mr. Meredith to

"remain as a student at the University of Mississippi under the same conditions as applied to all other students." The court acceded to the Government request and granted a delay until this Friday.

The Government also moved to reduce somewhat the military atmosphere surrounding Oxford by releasing 8,000 members of the Federalized Mississippi National Guard. That brought to about 8,000 the number of Federal troops still in the environs of the town and campus.

Most of the 75 or so persons arrested in last Sunday's riot were released during the week. One who was not released was former Maj. Gen. Edwin A. Walker, the Texan who resigned from the Army last spring after being reprimanded for indoctrinating troops under his command in Germany with ultrarightist views. In the riot Sunday he egged on the demonstrators.

He was arrested Monday, charged with insurrection and sent to the U. S. Medical Center for Federal Prisoners at Springfield, Mo. for mental observation.

The segregationists' basic strategy appeared based on the conviction that they had lost only a battle, not the war.

In a television broadcast last week, Governor Barnett called on the people of the state to "avoid violence, maintain law and order and leave this matter to the state authorities."

But he called Mr. Meredith "unqualified morally and mentally" to attend the university and he asked Mississippians to "join me in the determination that we shall, in the end, attain victory."

As part of their strategy, the segregationists were also trying to place the blame on the Government for the violence last Sunday, and to accuse the Government of continuing strong-arm tactics in Oxford. Senator James O. Eastland, Democrat of Mississippi and chairman of the Senate Judiciary Committee, and Senator John Stennis, Democrat of Mississippi and chairman of the Senate Preparedness Subcommittee, sent investigators to Oxford to look into alleged complaints from Mississippians that their civil liberties were being violated by the Federal troops and marshals.

Danger for Meredith

One effect of these moves, it was felt, was to intensify Mississippians' unwillingness to accept defeat, and to prolong the personal danger to Mr. Meredith.

With regard to the questions raised by the conflict, these were the tentative answers:

(1) As for the effect of the conflict on the course of desegregation in the Deep South, the feeling was that the cause had been advanced. After Oxford there could be little doubt anywhere in the South that the Government was determined to use whatever force necessary to see that court desegregation orders were carried out. Consequently, the feeling was that the likelihood of future mob action, or the type of intransigent position initially taken by Governor Barnett, had been reduced.

Moreover, civil rights advocates noted that the forces of moderation in Mississippi were beginning to assert themselves last week. Their voices had been largely stilled prior to the bloody outbreak Sunday. They were now being heard, partly because of shock over the bloodshed; partly out of a recognition now that violent resistance was futile; and partly because the Meredith affair had hurt business in Oxford and to some extent throughout Mississippi.

Steady Resistance

Nevertheless, no one expected the process of desegregation in the Deep South (Alabama and South Carolina still have not begun any desegregation in public schools or colleges) to be anything but slow and difficult. For even if the desegregationists accepted the fact that violent resistance was no longer feasible, there were many other avenues of opposition and delay, both in the courts and outside, open to them.

(2) As for the reaction in the nation and abroad, the consensus in the nation appeared strongly to favor the Government and to condemn Governor Barnett. The feeling seemed to be that President Kennedy had acted with restraint and dignity but with the necessary firmness when that was required. And even in the South there was criticism of Governor Barnett for continuing to inflame passions even after presumably agreeing to Mr. Meredith's enrollment.

Abroad there was considerable confusion about the complexity of the Federal-state relationship in the United States, and there were condemnations of "hypocrisy" in American democracy. But observers who did understand the roles of the various forces in the Meredith affair praised the President for taking the lead in the desegregation fight.



Department of Justice

STATEMENT BY THE DEPARTMENT OF JUSTICE

MAY 8, 1963

Like its predecessor, this report is based on selected testimony from selected witnesses. It is characterized by bias, factual errors and misstatements.

The major criticism seems to be the charge that the Attorney General sent the Marshals to the University of Mississippi as a political move. This does not make much sense. What the report fails to point out and what the members of the committee are aware of is that the arrangement to put Mr. Meredith on the campus was made by Governor Barnett. Not only was the presence of the Marshals at the University of Mississippi arranged for by Governor Barnett, but the number of Marshals also was approved by Governor Barnett.

It was Governor Barnett also who said that he and the State of Mississippi would maintain law and order.

The Marshals went to the University to uphold final Federal court orders for Mr. Meredith's immediate admission to the University. The necessity of Federal intervention to enforce those orders is not questioned by the report.

As for what touched off the riot, the eye-witness accounts of the many newsmen who were present but not called to testify by the committee--provide an objective evaluation. Mr. Sterling Slappey wrote, in United States News and World Report:

"Gradually, as the hours passed, the crowd began to grow meaner. People spat at the Marshals. They flipped lighted cigarettes atop the canvas covers of the big convoy trucks. Somebody tossed a burning newspaper onto one of the trucks, but it was quickly snuffed out. Somebody else grabbed a fire extinguisher and squirted it in the face of a Negro truck driver....

"This was the mood when President Kennedy's voice started coming over the radio--at 8:00 p.m. Oxford time. The President was calling for order and calm. But as he spoke, the campus exploded in violence.

"A length of heavy pipe came hurtling through the air. It struck a Marshal's helmeted head. As though on signal, there erupted a rain of rocks, bricks, bottles--anything that could be thrown. The calm turned to chaos.

"The Marshals stood their ground. Somebody ordered us newsmen to get out of the line of fire, and the Marshals opened up with tear gas-- the

first round of a barrage that was to go on repeatedly for hours."

Another reporter, Mr. Tom Lankford, of the Birmingham News, described the scene in these words:

"It was obvious to us that this was no pep rally, no demonstration that would break up soon. The shrieks were getting louder, more intense. Students and persons in the crowd were armed. There were rocks, Molotov cocktails, bottles, bricks, and weapons."



Department of Justice

STATEMENT BY THE DEPARTMENT OF JUSTICE

May 1, 1963

The committee already has made its report and announced its conclusions. It seems most strange that it now asks for testimony. If the committee had been interested in the truth and not merely in issuing a political document, it could have held full and open hearings. It could have called as witnesses to testify under oath not only the marshals, a majority of whom are Southerners, and Department of Justice officials, but members of the Mississippi Highway Patrol, members of the University of Mississippi faculty, the numerous newsmen who observed the events of September 30 and October 1 at Oxford, and the persons who participated in the mob.

The committee has heard its witnesses, made its findings, reached its conclusions, and published its report. The invitation to testify seems to us to come a little late.



Department of Justice

STATEMENT BY DEPARTMENT OF JUSTICE
APRIL 24, 1963

The report of the General Legislative Investigating Committee of Mississippi is so far from the truth that it hardly merits an answer.

It is strange indeed that none of the so-called brutalities were reported by the several hundred newsmen, including many from Southern newspapers, radio and television stations, who witnessed the riot and its aftermath. These newsmen were in the Lyceum Building throughout the riot. They were outside observing the mob. The newsmen were free to go where they wished. And rather than criticize the marshals, the newsmen praised the marshals' courage and calmness under fire.

About 350 deputy U. S. marshals were on duty around the Lyceum Building during the riot. Of these, 180 were injured and of that number, 27 were wounded by gunfire. The discipline and training of the marshals was exemplified by the fact that they did not return this fire.

During the riot, the students and adults who joined the mob drove a bulldozer, a fire engine, and an automobile full speed toward the line of marshals in front of the Lyceum Building. The marshals captured about 30 youths and adults who were attacking them with gunfire, bricks, bottles, rocks, acid, pipes and Molotov cocktails. These prisoners were held under guard in a basement room in the Lyceum Building because there was no place else to put them. The conditions were not the best, but were not nearly so bad as those the marshals had to undergo. Many of the marshals went without food and sleep far longer than any of the prisoners.

Members of the mob attacked the soldiers of the National Guard and the Regular Army as they arrived on the scene and a number were injured, including Captain Murray Falkner of the Mississippi National Guard. Many of these rioters were taken into custody and during the following day, the marshals and soldiers apprehended other persons who were converging on the Oxford area, heavily armed.

In all, about 300 persons were taken into custody ranging in age from 14 to 57. The adults came from as far away as Los Angeles, California and Decatur, Georgia. A large number of shotguns, high-powered rifles, knives, blackjacks, clubs and other weapons were temporarily taken from these persons.

On October 1, the prisoners were removed from the Lyceum Building to the airport. Some were kept in a garage building. By the afternoon of October 2, all but a handful had been released.

Before being released, the prisoners were questioned by agents of the Federal Bureau of Investigation and complaints were filed against 13 men. Four of these subsequently were indicted by a federal grand jury of Mississippians on charges of interfering with U.S. Marshals in the performance of their duties and obstructing orders of the United States courts.

The report of this committee contains no names or facts that could be checked by anyone. The report is an untruthful document.

Worse, it is a grievous slander against a courageous group of deputy marshals, more than two-thirds of whom are Southerners. Far from deserving such distortions and falsifications of fact, they deserve the greatest credit for their courage and dedication to their orders and to the laws of the United States. Their conduct, in a time of great danger, was in the highest tradition of American law enforcement.

If right and justice are on the side of the committee as it claims, then it is shocking to us that facts would be distorted or ignored and incidents manufactured. The fact that the committee did not interview any objective observers who were there, much less the federal officials involved, is an indication of the accuracy and fairness of this report.

The marshals went to Mississippi to uphold the orders of the federal courts. There was interference with the orders of the courts, and if there had not been, the marshals would not have been there. No marshals were sent to Clemson University in South Carolina last February.

It appears to us that this committee might do some self-examination. There is going to be very little possibility for progress and understanding among all of us as a people in this difficult field if responsible local officials put their heads in the sand and manufacture rather than face the facts.



Department of Justice

STATEMENT BY ATTORNEY GENERAL ROBERT F. KENNEDY - JANUARY 7, 1963

Of course, the situation at the University of Mississippi has been very difficult for Mr. Meredith.

Many members of the faculty have made an effort in the highest traditions of their profession to obey the Court's orders and assist Mr. Meredith in getting an education. But it is true that a number of officials charged with the administration of the University have not met their responsibilities. It is incumbent upon them and state law enforcement officials to make it possible for Mr. Meredith to continue his education without interruption. I would hope that they will take appropriate steps now to do so.

Mr. Meredith is as free to leave the school as he was to enter it. I would hope that in making a final decision on this, Mr. Meredith will consider that he chose to go to the University of Mississippi and the energies and hopes of many of his fellow citizens have been involved in his admission and continued attendance.

Should Mr. Meredith feel obliged to leave the University because of extreme racial intolerance which has focused hostility on him, it would be a reflection on the University of Mississippi and the State of Mississippi. That this could occur anywhere in the United States is a reflection on all of us.



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, DECEMBER 21, 1962

The Department of Justice, at the direction of the Court of Appeals for the Fifth Circuit, today instituted criminal contempt proceedings against Governor Ross R. Barnett and Lieutenant Governor Paul B. Johnson in the James Meredith case.

Attorney General Robert F. Kennedy said the action, filed in New Orleans, was drawn in four counts. Each charged wilful disregard and defiance of the Court's order forbidding the Governor and other officials to interfere with Mr. Meredith's admission to the University of Mississippi.

Mr. Kennedy said Governor Barnett was named in all four counts and Lt. Governor Johnson in two.

The Department filed the application in compliance with a Court of Appeals order issued November 15. Orders requiring Mr. Meredith's admission were issued by the Court on July 28 and September 24 and by the United States District Court for the Southern District of Mississippi on September 13.

In addition, on September 25, the Court of Appeals granted a Government request for an order forbidding any interference with or obstruction of those orders.

Governor Barnett was notified of this order on the same day, the Department said in the first count of the application filed today. Nevertheless, later in the day, he prevented Mr. Meredith from entering the office of the Board of Trustees in Jackson, Mississippi, to register as a student in the University.

The second count charged that on September 26, at the direction of Governor Barnett, Lt. Governor Johnson kept Mr. Meredith off the University campus and prevented him from enrolling.

The third count named both the Governor and Lieutenant Governor. It charged that despite their responsibility to maintain law and order in the state and at the University, they failed to do so, causing Mr. Meredith to abandon another attempt to enter the campus and enroll, on September 27.

In fact, the application asserted, the defendants instead directed and encouraged certain members of the state patrol, sheriffs, various police officers and others to obstruct and prevent Mr. Meredith's admission.

The fourth count was directed only against Governor Barnett. It charged that on September 30, Governor Barnett, knowing of the planned entry of Mr. Meredith onto the campus and knowing that violence was likely, wilfully failed to exercise his responsibility to maintain law and order on the University campus.



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, DECEMBER 11, 1962

Enforcement of court orders requiring the admission of James H. Meredith to the University of Mississippi cost the Department of Justice an estimated \$406,508 between September 15 and October 31, Attorney General Robert F. Kennedy said today.

The bulk of the expense, \$292,769, was for overtime pay and travel expenses for deputy United States Marshals, Mr. Kennedy said. Overtime pay totaled \$190,715 and travel totaled \$102,054.

A total of 541 deputy marshals and specially deputized Border Patrolmen and Bureau of Prisons personnel were sent to the University of Mississippi to prevent interference with the court orders.

Other expense included \$67,723 for supplies and equipment, \$23,469 for communications; and \$22,547 for miscellaneous -- including \$11,668 for repairs to vehicles damaged during rioting on the University campus on the night of September 30.



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 15, 1962

Attorney General Robert F. Kennedy announced today that the Department of Justice has asked that Governor Ross R. Barnett be fined \$100,000 -- \$10,000 a day for the period between October 2 and 12 -- for failing to purge himself of contempt of the Court of Appeals for the Fifth Circuit, and an additional \$10,000 a day until he does so.

In a brief filed today with the Court of Appeals in New Orleans, the Department said Governor Barnett partially purged himself by personally arranging for James H. Meredith and federal officers to enter the University of Mississippi without any interference from state officials.

Nevertheless, the brief said, Governor Barnett has failed to instruct state officials to preserve law and order in connection with Mr. Meredith's admission, as required by the Court of Appeals.

Governor Barnett's attorneys, at a hearing October 12, also retracted the Governor's earlier agreement to comply with court orders and indicated he would comply only with such orders as he believes to be consistent with the policies and laws of the State of Mississippi, Mr. Kennedy said.

The fines therefore should be levied until Governor Barnett issues appropriate instructions to state officials and until he submits to the court a signed statement specifying his past and intended compliance with the court's orders, the Department said.

The brief repeated the position taken by the Department earlier that, because Governor Barnett has carried out part of the court's orders, imprisonment would not now serve a useful, remedial purpose, Mr. Kennedy said.

"What is required now," the brief said, "is for the Governor to take affirmative steps in his capacity as Governor to maintain law and order in the vicinity of Oxford and to see that the orders of the Court are not interfered with by the citizens of Mississippi or anyone else.

"The use of fines for this purpose is fully in keeping with the (precedents) upon which this Court based its order of September 28."

The Court of Appeals found Governor Barnett in contempt on September 28, asserting that his physically blocking Mr. Meredith's admission was for the deliberate and announced purpose of preventing compliance with the court's order.

The court then ordered him to pay fines of \$10,000 a day and be subject to imprisonment unless he both immediately ended resistance to court orders requiring Mr. Meredith's admission, and unless he maintained order and

cooperated with federal officials executing the orders.

Mr. Kennedy said the Department told the court that Governor Barnett has complied with the first requirement to end resistance to Mr. Meredith's admission.

"The significance of this much compliance ... should not be underestimated," the brief said. "By reason of the Governor's arrangement to have Meredith enter the University on September 30, a conflict between state and federal law enforcement officials which had previously seemed inevitable was avoided."

However, Governor Barnett has not complied with the second requirement, to see that order is maintained, the brief asserted and has not shown what instructions, if any, were given to state law enforcement officers to maintain order and to cooperate with federal officers in the execution of the court orders regarding Mr. Meredith.

"There has been no showing that state law enforcement officers in fact made efforts to maintain law and order at the University or to cooperate with Federal officers," the brief said. "During the height of the riot at Oxford on the night of September 30, no state police were present."

When the court made its contempt finding on September 28, it gave Governor Barnett until October 2 to demonstrate that he was in full compliance with these requirements, and then until October 12 to make further showing.

Mr. Kennedy said the brief asserted that Governor Barnett did not make a satisfactory showing and on October 12, retracted his earlier position that he intended to comply fully with orders of the court.

He should, therefore, be fined \$10,000 a day for the period from October 2 to October 12, and from the entry of an order by the court until he complies, the Government said.