alpha

8 April 1963

MEMORANDUM TO THE PRESIDENT

Re: Civil Rights Commission Resolution

The following are the specific events in Mississippi referred to by the Commission, together with a report on what action has been taken:

1. "Citizens of the United States have been shot. . . ." This probably refers to a shooting in Leflore County on February 28th of a registration worker named Travis. The FBI commenced an immediate full investigation. So did local authorities. Two men and a 17-year old boy have been arrested and charged under state law. The matter will be presented to a state grand jury in May. If the state does not take effective action, federal charges will be presented, although the only federal crime involved is intimidating a person in connection with the exercise of the franchise, and that is simply a misdemeanor.

There has been in the past six months one other incident in which injuries were sustained. The Bureau has made a full investigation but has not discovered who did that. It is obviously very difficult to find out who fires shots into a house at night. There have also been shots fired without injury to anyone. Again the Bureau on each occasion has been asked to make every effort to determine the persons responsible. There is no suggestion that any local or state official of Mississippi is involved in any of these matters.

3. "...set upon by vicious dogs...." This refers to the use of a police dog in Greenwood last week. The dog bit a minister in the leg. This is one of the incidents upon which we based a lawsuit which was filed two days later against the Greenwood police. As that matter rests, the Greenwood police have ceased interference with registration activity, and in fact, on Friday, transported Negro applicants to and from the Courthouse in city buses.

The use of police dogs is not a prohibited police activity. They are used in the District of Columbia, among other places.

3. "...beaten and otherwise terrorized because they sought to vote...." I do not know what specific incidents are referred to. There were some incidents in southern Mississippi in the summer of 1961, in one of which a Negro registration worker was pistol-whipped by the registrar of Walthall County. We brought a successful case in that instance and attempt to act as promptly as possible on any incident involving voting when we can find out who is responsible.

4. "Since the postponement of the Commission's October hearing, students have been fired upon, ministers have been assaulted and the home of the Vice-Chairman of the State Advisory Committee to this Commission has been bombed." The first two matters are discussed in paragraphs numbered 1 and 2 above. It has not been possible to find out who was responsible for the bombing, which took place last October. The FBI has pursued every possibility. Again, there is no suggestion that state or local officials were involved.

5. "Another member and his wife were jailed on trumped-up charges after his home had been defiled." This matter was thoroughly investigated both by the Commission and by the Department of Justice. The Department agreed to undertake the defense of the man in state court. This proved unnecessary because the charges were dropped by the state authorities after

investigation by the local prosecuting attorney. We are still investigating the possibility of bringing federal charges against those responsible for the false accusation.

6. "Even children, at the brink of starvation, have been deprived of assistance by the callous and discriminatory acts of Mississippi officials administering federal funds." Late last year the officials of Leflore County decided not to undertake surplus food distribution on a large-scale basis this winter, as had been done in the past. The charge was made that this decision was connected with voter registration work. Four lawyers from the Department of Justice were sent to determine whether there was a large-scale need for food, particularly among Negro families. Their investigation, which consisted of a survey including interviews with a large number of families, showed deplorable conditions and inadequate diet. As a result, the Department of Agriculture informed the County that unless the County resumed food distribution itself, the federal government would do so directly. The County resumed the distribution of food week before last. It is now being done at federal expense.

The charge has been made also that the school lunch program is being administered in a fashion which discriminates against Negro school children. The staff of the Commission itself is undertaking an investigation to find out if this is true. The Department of Justice has no facts on this charge at present.

7. Federal funds.

There is another memorandum as to what area of discretion exists on the items listed.

The existing airport in Jackson was desegregated after we informed the city that we would otherwise

bring suit. If Jackson did have segregated facilities in a new airport, we would immediately take the same action. The FAA has informed me that they have no reason to believe that the new airport will have segregated facilities. To the extent they know, their information is to the contrary. None of the grants made by the FAA are for terminal facilities, however.

BH

cc: The Attorney General

Form No. DJ-96a
(Rev. 4-13-61)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO	NAME	BUILDING AND ROOM
1.	The Attorney General	
2.		
3.		
4.		
5.		

OFFICE OF THE ATTORNEY GENERAL
RECEIVED
JUN 19 1963

- ☐ SIGNATURE
- ☐ APPROVAL
- ☐ SEE ME
- ☐ RECOMMENDATION
- ☐ COMMENT
- ☐ NECESSARY ACTION
- ☐ NOTE AND RETURN
- ☐ CALL ME
- ☐ PER CONVERSATION
- ☐ AS REQUESTED
- ☐ NOTE AND FILE
- ☐ YOUR INFORMATION
- ☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____
- ☐ PREPARE REPLY FOR THE SIGNATURE OF _____

REMARKS

18 June 1963

Did you read this? See marked passage on page 3.

I think this would be good.

BM

Attachment – Harry Golden letter

FROM NAME	BUILDING, ROOM, EXT.	DATE

Mr. Ndan:

Mr. Golden sent the A.G. a copy of his ltr, which was rec'd today

br

Form No. G-LJ
(Ed. 3-8-61).

From THE ATTORNEY GENERAL

President's file

Deputy Attorney General	
Solicitor General	
Executive Assistant to the Attorney General	
Assistant Attorney General, Antitrust	
Assistant Attorney General, Tax	
Assistant Attorney General, Civil	
Assistant Attorney General, Lands	
Assistant Attorney General, Criminal	
Assistant Attorney General, Legal Counsel	
Assistant Attorney General, Internal Security	
Assistant Attorney General, Civil Rights	✓
Administrative Assistant Attorney General	
Director, FBI	
Director, Bureau of Prisons	
Director, Office of Alien Property	
Commissioner, Immigration and Naturalization	
Pardon Attorney	
Parole Board	
Board of Immigration Appeals	
Special Assistant for Public Information	
Records Administration Office	
For the attention of _____	

June 27, 1963

REMARKS:

So do I -- Who will handle? -- Why don't you speak to President?

RFK

File

Memo - President

20 August 1963

MEMORANDUM FOR THE PRESIDENT

FROM THE ATTORNEY GENERAL

I thought you would be interested in the attached memorandum.

Attachment — copy of confidential memo dtd 8/13/63 to DAG re MLK, Jr. - 100-106670

23 October 1963

MEMORANDUM FOR THE PRESIDENT

FROM THE ATTORNEY GENERAL

The following are the points on which there is an issue between the Administration's proposals and the Subcommittee's bill, together with the desirable resolutions:

Title I -- Voting.

(A) Part of the provisions established rules of conduct for registrars -- prohibiting the rejection of applicants for minor errors on their forms, requiring written literacy tests (if any literacy test at all is required under state law), and establishing a presumption of literacy. The Administration proposal on this score is limited to federal elections. The Subcommittee broadened it to state elections. The matter is of little practical significance. McCulloch wants state elections out. This is acceptable for a bipartisan approach.

(B) The other provisions of the Title provide for judicial machinery whereby the federal court, either itself or through a referee, can pass on the qualifications of individual Negro applicants while suits are pending. This is important because the only effective cure for the voting problem will be through individual suits in every county where there is a problem. This machinery will provide for some immediate relief. The Subcommittee bill provides for the impounding of all

votes made by Negroes who have been found by the federal court to be qualified, pending the final outcome of the suit. This makes the provision ineffective and is unnecessary since there is ample protection against the possibility (it is very remote) that a federal court will find an unqualified Negro to be qualified. The impounding provision should be deleted.

A possible compromise on this point would be to provide for provisional voting by individuals whose qualifications have not been finally adjudicated at the time of an election. The Subcommittee bill provides for the impounding of all votes, even where there is no conceivable question about the qualifications of individuals.

Title II -- Public Accommodations. The Subcommittee bill added to the scope of this section all business establishments which are licensed by the state. This is probably unconstitutional and in any event brings under federal control for some purposes such business establishments as lawyers' offices, doctors' offices, and other licensed establishments. It should be deleted.

The basic problem of discrimination in public accommodations is in the case of hotels and other lodging places, theaters and other places of amusement, all places that serve food, and gasoline stations. A version of Title II so limited is probably acceptable to McCulloch. It should be an acceptable bipartisan measure.

The Subcommittee also prohibited, under the Fourteenth Amendment, discrimination in any place where discrimination is required as a matter of state law. This is an acceptable use of the Fourteenth Amendment, and would be an acceptable step towards a point raised by the Republicans in the past.

Title III -- Injunction Suits by the Attorney General. This title was added by the Subcommittee. It gives the Attorney General power to bring suit to

enjoin any deprivation of a constitutional right. This includes, for example, the right not to have prayers read in school, other religious rights, various constitutional rights which are accorded business enterprises, and an immense range of other matters. It should be deleted.

A possible acceptable bipartisan way to deal with this would be to move into Title III a provision added by the Subcommittee in Title IV which would give the Attorney General the right to bring suits to enjoin racial discrimination by such state and municipal facilities as parks and libraries. This addition by the Subcommittee is not objectionable.

The civil rights organizations basically support Title III on the theory that the Attorney General could then protect demonstrations. There is no satisfactory way of meeting this demand without federal police power.

Title IV -- Education. The changes made by the Subcommittee in Title IV consist (1) of the elimination of all references to racial imbalance and (2) the addition of the right to bring suit in the case of parks, etc., referred to above. This should be acceptable.

Title V -- Community Relations Service. The Subcommittee put this under the Commerce Department, and limited the number of employees to six, plus a director. The Commerce Department is acceptable. The limitation to six persons is unacceptable. McCulloch appeared receptive to increasing this to 25.

Title VI -- Commission on Civil Rights. The only issue is whether it should be permanent, or limited to four years. The Republicans have pushed for a permanent Commission. This should be accepted.

Title VII - Federally Assisted Programs. The Subcommittee reported our revision of this Title. No specific problem about it has been raised, although a good number of congressmen are very interested.

Title VIII -- Fair Employment. This was added by the Subcommittee. A possible bases for bipartisan agreement upon its inclusion would be to make it enforceable by a trial de novo in the District Court instead of review of the administrative finding in the Court of Appeals. The Subcommittee bill includes the latter, but the Republicans favor the former.

Title IX -- Registration and Voting Statistics. This Title was added by the Subcommittee at the suggestion of the Republicans. The Attorney General testified that it was acceptable but its cost might be very large.

Title X -- Procedure After Removal in Civil Rights Cases. This makes an order refusing to remove a case from a state court to a federal court appealable, if the petition for removal was based on civil rights claims. This was added by the Subcommittee and we have stated we have no objection to it.

Sent correspondence to President with memo.

The Attorney General thought you would want to see this correspondence. I would appreciate it if I could have it back.

October 30, 1963

MEMORANDUM FOR THE PRESIDENT

The Attorney General thought you would want to see this correspondence. I would appreciate it if I could have it back.

Burke Marshall
Assistant Attorney General
Civil Rights Division

State Election Panel Advises Elimination of Literacy Test

Continued from Page 1

question test on the books and it has been administered "differently in almost every county," Underwood said.

"Some (county registrars) make them read a very complicated section of the constitution and explain it, and some others make them tell what the phrase 'we, the people' means," Underwood added.

Ordinary Joe Lane of Clayton County, who seconded the move for the change, said "it will eliminate 99 per cent of the fraud in Georgia elections."

Lane said that is true because "when anyone else touches the ballot, it will be a felony."

Underwood said it will eliminate the principal method of buying votes — by letting election officials mark ballots for the registered voters. "They won't pay if they don't know they are getting their money's worth," he said.

Secretary of State Ben W. Fortson said no other state has such laws and "we would have the most liberal voting laws in America" if the change is adopted.

Observers looking at the practical effects of the proposal came to these conclusions:

1. County boards of registrars no longer would have discretion in registering. Any person reaching 18 years of age with one year of residence in the state, three months in the county and with good moral character, could register. This would eliminate possible federal civil rights suits.

2. Registration would increase considerably. As many as 150,000 persons might be added to the rolls. But some of the illiterates already on the registration lists would be disfranchised in effect because they cannot read and mark the ballot.

(One committee member said, "One of the ten richest men in my county can't read, and if he is not able to get help, then he just can't vote."

3. The felony provision on getting help is likely to be the toughest factor old-line politicos in some counties have ever faced.

4. Although there are high rates of illiteracy in some areas, only those who failed to comply with the state's compulsory school attendance law until age 16 would be disfranchised.

5. The law, if passed, would negate the current proposals before Congress to say that anyone who has a sixth-grade education or higher would be presumed literate for purposes of registration.

6. Fear of the examinations on both the part of white and Negro voters would be removed. There has been some fear of failure to pass the examinations, although the persons involved want to vote for particular candidates.

The law still will include a provision that the blind or other physically handicapped can get voting help only with a certificate from a doctor.

The change will almost certainly be the subject of discussion when the commission holds public hearings around the state, probably in November.

Districting Hearing Set For Macon

A joint legislative committee studying congressional redistricting will hold a public hearing in Macon Thursday.

The hearing, one of a series of statewide meetings scheduled to hear proposals for revamping district lines, will open at 10 a.m. in the Bibb County Courthouse.

Congressional redistricting is considered necessary because of the disparity in population among the districts. For example, the Fifth District has more than 800,000 and the Ninth has less than 300,000.

Legislators moved to draw up a plan in view of the fact that the U.S. Supreme Court next month will hear arguments in a redistricting suit brought by State Sen. James Wesberry Jr. of Atlanta.

The study committee is made up of 20 members — 10 from the House and 10 from the Senate. Sen. Julian Webb of Donalsonville is chairman.

THE ATLANTA CONSTITUTION

For 96 Years The South's Standard Newspaper

RALPH McGILL, Publisher — EUGENE PATTERSON, Editor

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Page 4 — THURSDAY, OCTOBER 17, 1968

Eugene Patterson

A New Kind Of Literacy Test

"This action," said Secretary of State Ben Fortson, "would give Georgia a freedom to vote unmatched by any other state in the union." Mr. Fortson probably was not overstating Wednesday's action by the State Election Laws Study Committee.

This committee has unanimously recommended that the Legislature abolish the literacy test entirely as a qualification for voting.

Even the voting section of President Kennedy's civil rights bill would require evidence of a sixth grade education.

• • •

On its face the recommendation is, as its supporters say, "revolutionary."

But the effect might be rather small.

The key to the new proposal is not simply the scrapping of the literacy test, and the extension of the vote to all Georgia citizens who are 18 years old, of good character and of one year's residence.

The key lies in the side proposal to make it a felony for anybody to help the citizen vote. Without help, an illiterate cannot read or mark the ballot properly—and therefore the ballot itself becomes his literacy test.

Election managers may assist confused or illiterate voters under present rules. Yes, illiterates do often vote in Georgia under the present literacy test practice—provided they vote right.

The "help" which some election managers have supplied for voters who could not read the ballot has been a source of fraud for a long time.

Thus the proposed new law, outlawing any help whatsoever unless the voter is physically disabled, would extend the free vote to any adult citizen of good character who is literate enough to read the ballot and mark it properly.

• • •

So the effect would not be revolutionary at all, in the sense that swarms of illiterates might suddenly start voting. Without assistance, they couldn't get a ballot cast.

With assistance, as at present, they often are being fraudulently voted and misused.

There are other factors. But the control choice of the committee was an excellent one. It would shift the challenge from one of manipulation to one of education. The qualified voter would not be obstructed. The unqualified voter would be no longer misused; neither would he have anyone to blame for his disqualification but himself. And the day he learned to read and mark the ballot, he could vote.

STATE DEMOCRATIC EXECUTIVE COMMITTEE
OF GEORGIA

J. B. FUQUA, Chairman
P. O. Box 1054
AUGUSTA, GEORGIA

October 18, 1963

Hon. Burke Marshall
Assistant Attorney General
Washington 25, D. C.

Dear Burke:

As you can see from the enclosed news story, if we can get our Election Laws Committee proposals through the legislature, which I am positive we can, your boys won't have as much work to do in Georgia.

I am on the Committee, and have been a strong supporter of removing all voter registration restrictions and providing heavy penalties for violation of election laws. Aside from the fact that I sincerely believe it is the right thing to do, I think a good percentage of the new registrants that we might pick up will vote for JFK in '64.

Best regards.

Sincerely,

J. B. Fuqua

JBF/ww
Enclosure

(2) To AG for his information.

(1) Dear J.B.
Many thanks for your note. I saw the news report of your proposals. I hope they pass. It is a great asset to this country to have a Governor Sanders in Georgia.
Best regards,

28 October 1963

J. B. Fuqua, Chairman
State Democratic Executive
Committee of Georgia
Post Office Box 1404
Augusta, Georgia

Dear J. B.:

Many thanks for your note.
I saw the news report of your proposals.
I hope they pass.

It is a great asset to this
country, as well as Georgia, to have
you and Governor Sanders in Georgia.

Best regards.

Burke Marshall
Assistant Attorney General
Civil Rights Division

3.

ASSISTANT ATTORNEY GENERAL

THE WHITE HOUSE

OCT 31 9 43 AM '63

RECEIVED

October 30, 1963

MEMORANDUM FOR THE PRESIDENT

The Attorney General thought you would want to see this correspondence. I would appreciate it if I could have it back.

Burke Marshall
Assistant Attorney General
Civil Rights Division

File

November 12, 1963

MEMORANDUM FOR

The President

From: The Attorney General

Dr. Hannah is coming in to see you at 4:30 PM tomorrow afternoon. We would be better off if he did not continue as Chairman.

Do you want to talk to Burke Marshall and/or me before the meeting to discuss how to handle this?

BMJ SN

A BILL

To render aid and assistance in the desegregation of public schools as required by the Constitution of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Equal Educational Opportunity Act of 1963."

TITLE I--DEFINITIONS

SEC. 101. As used in this Act--

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of all students to public schools and within such schools without regard to their race, color, religion or national origin. No assignment system in which race, color, religion or national origin is a factor at any stage in the assignment of students to or within particular public schools shall be deemed to have

achieved desegregation even though placement or other tests or transfers or other options may be available to change such assignment.

(c) "Public school" means any elementary or secondary educational institution operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

(e) "First-step compliance" means the achievement of desegregation with respect to a substantial number of the students within the jurisdiction of a school board.

TITLE II--ASSISTANCE TO FACILITATE DESEGREGATION

SEC. 201. The Commissioner shall conduct investigations and make a report to the President and the Congress, within one year of the enactment of this Act, upon the extent to which equal educational opportunities are denied to individuals by reason of race, color, religion or national origin in public educational institutions at all levels in the United States, its territories and possessions and the District of Columbia.

SEC. 202. (a) Every school board administering a system of one or more public schools which on or since May 17, 1954 has maintained a system of assigning students to or within such schools on the basis of race, color, religion or national origin, shall file with the Commissioner a report containing information reflecting the stage of desegregation, if any, achieved since that date, including but not limited to information concerning the racial composition of the student body of each school within the jurisdiction of such board. The Commissioner shall by regulation prescribe the form and contents of such report, and such report shall be filed within ninety days after the issuance of such regulation, but the Commissioner may by regulation or in individual cases extend the time for filing. The report shall be executed and filed on behalf of the board by such of its officers or members as the Commissioner shall by regulation prescribe.

(b) Any person required to file a report by the provisions of subsection (a) of this section and regulations issued thereunder who willfully fails or refuses

to do so shall be fined not more than $5,000 or imprisoned for not more than six months, or both.

SEC. 203. (a) The Commissioner is authorized, upon the application of any school board, State, municipality, school district or other governmental unit, to render assistance in the preparation, adoption and implementation of desegregation plans required by this Act or other plans designed to deal with problems arising from racial imbalance in public school systems. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

(b) The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation or other measures to adjust racial imbalance in public school systems. Individuals who attend such an institute may be paid stipends for

the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for dependants and including allowances for travel to attend such institute.

SEC. 204. (a) Every plan submitted to the Commissioner pursuant to section 301 of this Act shall be reviewed by him to determine whether it satisfies the requirements of this Act. Whenever the Commissioner determines that a desegregation plan submitted to him meets the requirements of this Act, he shall be authorized, for the purpose of facilitating the carrying out of any such desegregation plan and upon receipt of application therefor, to make grants or loans, as hereinafter provided, to a school board, State, municipality, school district, or other governmental unit to assist in meeting the costs which he determines to be reasonably necessary for the implementation of such desegregation plan.

(b) A grant may be made under this section for--

(1) the cost of giving to teachers and other school personnel in-service training in dealing with problems incident to desegregation.

(2) the cost of employing specialists in problems incident to desegregation and of providing other assistance to develop understanding of desegregation by parents, schoolchildren, and the general public, in order to facilitate such desegregation; and

(3) incidental costs directly related to the process of eliminating segregation in public schools.

(c) Each application made for a grant under this section shall provide such detailed information as the Commissioner may by regulation require. Each grant under this section shall be made in such amounts and on such terms and conditions as the Commissioner shall prescribe, which may include a condition that the applicant expend certain of its own funds in specified amounts for the purpose for which the grant is made. In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

(d) A loan may be made under this section to any school board or to any local government within the jurisdiction of which any school board operates if the Commissioner finds that--

(1) part or all of the funds which would otherwise be available to any such school board, either directly or through the local government

within whose jurisdiction it operates, have been withheld or withdrawn by State or local governmental action because of the actual or prospective desegregation, in whole or in part, of one or more schools under the jurisdiction of such school board;

(2) such school board has authority to receive and expend, or such local government has authority to receive and make available for the use of such board, the proceeds of such loan; and

(3) the proceeds of such loan will be used for the same purposes for which the funds withheld or withdrawn would otherwise have been used.

(e) Any loan under this section shall be made upon such terms and conditions as the Commissioner shall prescribe. Any such loan shall be repaid within such time as the Commissioner prescribes after the funds withheld or withdrawn are restored to the school board or local government concerned, or after funds become available to such school board or local government by borrowing from private sources.

SEC. 205. Payments pursuant to a grant or contract under this Act may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, and on such conditions, as the Commissioner may determine.

TITLE III--DESEGREGATION OF PUBLIC SCHOOLS

SEC. 301. (a) Every school board which, on the date of the enactment of this Act, has failed to achieve desegregation in all public schools within its jurisdiction shall adopt a desegregation plan as provided in section 302 and shall file said plan with the Commissioner within one hundred and eighty days of the date of enactment of this Act, but the Commissioner may for good cause shown extend for not more than one year the period within which such plan may be filed.

(b) Every such school board which, on the date of enactment of this Act, is or thereafter becomes subject to a court order providing for or approving a desegregation plan, shall file such plan with the Commissioner within thirty days of the date of enactment of this Act or within thirty days of the date when such order takes effect, whichever is later. Such filing shall constitute compliance with subsection (a) if such plan complies with the standards of section 302.

SEC. 302. Every desegregation plan required under section 301 shall--

(a) provide for achieving desegregation in all public schools within the jurisdiction of the school board with all deliberate speed, pursuant to a schedule setting forth the time when and the manner in which desegregation is to be achieved for each class, grade, school, and district within the jurisdiction of the school board involved, and

(b) provide for at least first-step compliance not later than the commencement of the 1965-1966 school year.

SEC. 303. Every school board required to adopt a desegregation plan pursuant to section 301 shall implement the same in good faith.

SEC. 304. Whenever any school board subject to the provisions of section 301 loses or relinquishes any of its authority over public schools formerly within its jurisdiction or its authority to assign students to schools within its jurisdiction, the duties and obligations prescribed in this Act shall devolve upon the person or persons to whom such authority has been transferred or relinquished or upon whom such authority has devolved by operation of law.

SEC. 305. Whenever, because of overlapping or complementary jurisdiction, more than one school board is subject to the requirements of this title with respect to the same school or students, the boards concerned shall exercise their obligations hereunder jointly.

SEC. 306. (a) If a school board subject to the provisions of section 301 fails to file with the Commissioner, within the time required by that section, a desegregation plan complying with the requirements of section 302, or if a school board after filing such a plan fails or refuses to comply with its provisions, the Commissioner, after such study and consultation with the

school board and other interested persons in the area affected as he may deem appropriate, shall formulate a suitable plan, which shall comply with the minimum standards established by section 302, to apply to the schools within the jurisdiction of that school board. The Attorney General shall thereupon be authorized--

(1) when such school board is not subject to a court order providing for or approving a desegregation plan, to institute for or in the name of the United States, in the United States district court for the district wherein such school board has its office or meets, a civil action to compel the desegregation of the schools under the jurisdiction of such school board; and

(2) when such school board is subject to a court order providing for or approving a desegregation plan, to intervene for or in the name of the United States in the action in which such order was issued with all the rights of a party thereto. If such action is pending in a State court, the Attorney General shall remove such action to the United States district court for the district in which such school board has its office or meets.

The Attorney General shall, at the time of instituting, intervening in, or removing such action, file with the

district court the plan for desegregation formulated by the Commissioner. The court shall determine in each such action or other proceeding instituted by the Attorney General whether the school board or its successor has complied with the requirements of sections 301 and 303. If the court finds that the school board has not complied, it shall issue an order requiring the school board to desegregate the schools under its jurisdiction pursuant to the plan filed by the Attorney General or pursuant to such plan as modified by the court. The court shall hear and determine actions and other proceedings instituted under this section as expeditiously as possible.

(b) If, within six months after the institution of an action or other proceeding by the Attorney General under this section, the court has not issued a final order granting or denying relief, it shall be deemed to have determined that the school board is not in violation of section 301 or section 303 and shall be deemed to have denied all relief under this section. An appeal shall thereupon lie to the Court of Appeals. In an appeal under this subsection the provisions of Rule 52(a) of the Federal Rules of Civil Procedure as to the effect to be given to the findings of fact of the district court shall apply only with respect to findings actually made by that court.

SEC. 307. (a) Every school board required to adopt and implement a desegregation plan pursuant to

sections 301 and 303 shall maintain as rapid a rate of desegregation in the schools under its jurisdiction as the circumstances will at any time reasonably permit. To this end each such school board shall reconsider from time to time and, if necessary, modify its desegregation plan under the procedures of subsections (b) and (c) so that such plan is at all times in compliance with the standards of section 302.

(b) A plan of desegregation adopted pursuant to section 301 may be modified by agreement of the school board concerned and the Commissioner. If any disagreement should arise between such school board and the Commissioner as to the need for or provisions of a modified plan, the Attorney General is authorized to institute an action as provided in section 306 and to submit to the court either the original plan or a modified plan formulated by the Commissioner, as the latter deems appropriate. Such action shall proceed in the same manner as actions instituted for failure of the school board to file a plan in compliance with section 301.

(c) A plan of desegregation put into effect under an order of a court issued pursuant to section 306 or otherwise may be modified by a further order of the court upon the application of the school board concerned, or upon the application or intervention, if necessary, of the Attorney General, and the Attorney General shall have

the authority to remove an action pending in a State court, as provided in section 306, for purposes of the modification of a plan approved by such court. A modified plan formulated by the Commissioner may be submitted to the court by the Attorney General in connection with the proceedings authorized by this subsection.

SEC. 308 (a) The Commissioner, for the purposes of examining plans filed pursuant to section 301, determining the need for modifications in such plans, formulating new or modified plans pursuant to sections 306 and 307, and carrying out the investigations directed by section 201, may hold such hearings and act at such times and places as he may deem advisable.

(b) Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued, in accordance with the rules of the Commissioner, by any person designated by him.

(c) The Commissioner shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found, resides or transacts business.

(d) In cases of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry

is carried on or within the jurisdiction of which said person charged with contumacy or refusal to obey is found, resides or transacts business, upon application by the Attorney General of the United States, shall have and shall exercise jurisdiction to issue an order requiring such person to appear before the Commissioner, to produce evidence if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such an order of the court may be punished by said court as a contempt.

TITLE IV--MISCELLANEOUS

SEC. 401. Nothing in this Act shall affect adversely the right of any person to sue for or obtain relief in the federal courts against discrimination in public education.

SEC. 402. The Commissioner shall prescribe rules and regulations to carry out the provisions of this Act.

SEC. 403. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 404. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances shall not be affected thereby.