

## UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

*Memorandum**Mississippi*

TO : Burke Marshall  
Assistant Attorney General  
Civil Rights Division

DATE: May 4, 1963

FROM *John Doar*  
First Assistant

JD:lvw

SUBJECT: Conversation with Provost Noyes, University of  
Mississippi, re summer housing for James H. Meredith

Provost Noyes told me that Meredith is on the list of applicants for summer assignment to the student family housing. The assignments have not yet been made. There are more people on the list than there are rooms.

He described the situation as very touchy; a very difficult problem. He said there was tremendous feeling about it. He further said we are deeply concerned. He said we are trying to be extraordinarily careful to be sure that the Board complies with the court order and yet we don't want to be lynched. (I am not sure if I caught this word or not) in Mississippi. I asked him if the Chancellor was aware of the situation and the problem and he said he was, very much so.

The Chancellor is at a meeting in New York and can be reached at the University Club.

Noyes also told me that Meredith wrote a letter to the Editor of the Student Paper which he said that in view of all the letters to the Editor about him he had decided to add his own explanation of the controversy which was:

1. He chose to attend the University because he was interested in securing greater educational opportunities for himself and his people. He stated, I am concerned about the lack of adequate opportunities for Negroes.

2. I have little concern for the phenomena of integration or segregation.

3. What I want to know is what is everybody mad about.

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

# Memorandum

TO : Mr. Marshall

DATE: August 28, 1963

RAW:mhs

FROM : Mr. Wasserstrom

SUBJECT: School Integration at Huntsville, Alabama

A Birmingham newspaper reported that the following four *Negro* students will be attending school in Huntsville:

1st Grade - Sonnie Hereford, attending the  
5th Avenue Elementary School

" " David Piggy, attending Tarry Heights  
Elementary School

2nd Grade - John A. Brewton, who will attend  
East Clinton Elementary School

Veronica T. Pearson, attending  
Rison Junior High School.

*Miss. file*

October 19, 1962

Honorable John D. Holland  
Mayor of the City of Vicksburg  
Vicksburg, Mississippi

Dear Mayor Holland:

The Attorney General appreciated having your views about the Meredith case.

The federal government was not involved in the case, except for filing one memorandum at the request of the Court, until after the Supreme Court had ruled that Meredith's admission to the University of Mississippi could no longer be delayed. The rulings of the courts were based on precedents which long preceded the 1954 school cases. The only defense ever offered in the case was that the University did not discriminate on applications on the basis of race.

Once the court had ruled, the duty of every American citizen to see that the court's orders were followed became unquestionable. The Department of Justice entered the case only because Mississippi officials, and the Governor, stated publicly that they would interfere with the court's orders. The United States has a deep interest in seeing that the orders of the federal courts are obeyed and that the integrity of the courts is upheld.

Respect for the law and obedience to the law are the basis of our free society. In some countries there is no law at all. In others, law has become the instrument of despotism. Whenever the law is perverted or destroyed, tyranny takes over and society is demoralized. Yet, in the United States we often take the rule of law for granted and forget what a precious and hard won condition it is.

The law is the line which divides savagery from civilization. It enables men to live together, submitting their private desires, whims and prejudices to a larger conception of social progress and order.

In any legal case there are two points of view. Decisions, therefore, are not acceptable to both sides. But our whole system of law would be undermined if decisions unacceptable to one side should not, in fact, be accepted. If decisions of the highest court are disobeyed because they are unacceptable to one side, no right, no contract, no insurance policy, no pension, no will would be safe. Organized society would become impossible and the people would have to rely on private force to settle their disputes. Furthermore, if one man's legal rights are denied, the rights of all Americans are in danger.

That is what is at issue in the Meredith case. It does not mean that criticism is forbidden or disagreement barred. For these are the lifeblood of our free society. Laws must constantly be revised and court decisions reviewed. But, in the meantime, judicial decisions constitute the law of the land.

Very truly yours,

Burke Marshall  
Assistant Attorney General  
Civil Rights Division

*Miss file*

St. John Barrett

October 9, 1962

Burke Marshall

Sam Lumpkin of Tupelo, Mississippi, a lawyer and former lieutenant governor of the state, has given me the following names of persons from Tupelo who attended the Sunday night riot at Oxford:

Mr. and Mrs. Dale Walton, who operate a grocery store in Tupelo. Mr. Walton is a colonel on Governor Barnett's staff. Mr. Lumpkin is informed that he and his wife both actively participated in the riot and were seen throwing Molotov cocktails.

A Mr. (FNU) Dakus, who runs a patent drug medicine business in Tupelo. He is also a colonel on Barnett's staff. He is also reported to have actively participated.

A Mr. Rubel Bell. Mr. Lumpkin had no information as to whether or not he actively participated in the fighting.

All of these persons are leaders in the local citizens' council.

Will you please see that this information is furnished to the appropriate people.

UNITED STATES GOVERNMENT

# Memorandum

TO : Burke Marshall  
Assistant Attorney General  
Civil Rights Division

DATE: August 29, 1963

FROM : *SJB* St. John Barrett

SJB:arg

SUBJECT: School Integration - Mobile, Alabama

144-100-012  
144-100-012-1

On Wednesday night, August 28, Winston Churchill reported by telephone from Mobile:

(1) The plan submitted to the District Court by the school board and approved by the court has effectively eliminated all 29 Negro transfer applicants from consideration. Ten are eliminated because they live outside the city; ten because they are now attending Negro schools which are outside the city, and nine because they are not applying for the 12th grade. We do not yet have a copy of the plan and the District Court order. USA Jansen has told Churchill that the court clerk is "being difficult."

(2) By agreement with the school board the court granted additional time (three days) for the submission of transfer applications. The three-day period ended yesterday. The following four Negro students submitted applications for the 12th grade during this period:

Henry Hobdy, 505 Savannah St., Mobile  
Dorothy Bridget Davis, 759 South Cedar St., Mobile  
Lawrence Stallsworth (address unknown), dependent  
of Brookley Air Force Base serviceman  
A boy named "Cook," (address unknown)

This information was obtained from John LeFlore, with partial confirmation by Mr. Jansen (who has a source in the school board). LeFlore says that "Cook" may withdraw because of some sort of pressure. We have no details.

(3) Churchill has no information regarding disposition of the transfer requests on behalf of Sgt. Hill's children. He will check through the Base.

- 2 -

(4) A rally is to be held the evening of August 29 at which Arthur Haynes is speaking. The theme of the rally, as proclaimed in a poster, is stated in the form of a question--whether ABLE (which is the Womens group to keep the schools open) represents the citizens of Mobile.

(5) Churchill is staying at the Admiral Semmes Motel, telephone HE 2-4441, room 310.

UNITED STATES GOVERNMENT

# Memorandum

DEPARTMENT OF JUSTICE

*Mississippi file*

TO : Burke Marshall  
Assistant Attorney General  
Civil Rights Division

DATE: April 10, 1963

FROM : Henry Putzel, jr., Chief  
Voting & Elections Section  
Civil Rights Division

HP:WJO'H:bab

SUBJECT: Mississippi Senate Bill No. 1522  
Revision of State Law Regarding The  
Election of Presidential Electors.

72-41-0

This is in response to your inquiry of April 4, 1963, regarding the recent revision of the Mississippi Code relating to the selection of presidential electors.

The new law, according to news accounts, was designed by Governor Barnett and other sponsors to squeeze out Democratic presidential electors pledged to support the national ticket. The new law, which is summarized in Mr. Leventhal's memorandum of March 19 to Mr. Roche, permits a political convention to nominate two slates of presidential electors. One slate would be identified with, and pledged to support the candidates of, the national party with which it was affiliated. The other slate would be unpledged to the national party. The slate receiving the most votes in a September primary election would be the only one placed on the November general election ballot under the party label. By this method, a national political party could be denied a place on the November ballot in Mississippi in a presidential election year. Under certain circumstances, however, its candidates could run as independents, as indicated in Mr. Rabb's letter.

In view of the latitude presumably accorded the states in choosing presidential electors <sup>1/</sup>, I am inclined to share Mr. Leventhal's initial doubts about a constitutional attack, though I gather that he will further review the plan for possible legal deficiencies. The new legislation has no bearing on any of the statutes which we administer. I would also doubt that it appreciably changes the political picture in Mississippi.

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<sup>1/</sup> See Kirby, "Limitations on the Power of State Legislatures Over Presidential Electors," 27 Law & Contemp. Probs. 495, 506-509 (1962). Under Section 3298 of the Mississippi Code, the Legislature reserves to itself the right and power to nominate presidential electors without regard to the manner of appointment fixed by any other statute.



Miss. file

March 5, 1963

Dear Mr. Tubb:

Just a note to tell you that I saw your letter to Burke Marshall. Although we disagree on some of the points, I wanted to tell you how much I appreciate your understanding of our efforts. I know how difficult this situation must be for you and your colleagues and all I can do is express regret that events have forced all of us into these most unfortunate circumstances.

Sincerely,

Robert F. Kennedy

Mr. Thomas J. Tubb  
West Point, Mississippi

jkv/

31 January, 1963

Thomas J. Tubb, Esquire  
Attorney and Counselor at Law  
West Point, Mississippi

Dear Mr. Tubb:

I was very pleased to receive your letter concerning the remarks I made last year at the Yale Law School Association on the Meredith case.

There is no point in prolonging discussion about the merits of the case. You are more familiar with the record on the merits than I am. I do think that it makes sense that any Negro who had the determination that Meredith had to go to the University of Mississippi is bound to be (as Judge Wisdom suggested) an unusual person, and I certainly do not disagree that Meredith -- undoubtedly before as well as since his admission -- must have been aware of the implications of his going to the University of Mississippi, beyond the fact that he would get a better education there than he could at any of the Negro institutions in the State.

I cannot agree at all that a delay in Meredith's arrival at the University would have helped matters. You may have seen the Look article on this subject. As far as I know, that article is accurate on all significant points. If Meredith had not been brought to the campus on Sunday afternoon, as was arranged for by the Governor, there would have been a physical clash of force between federal officials (almost inevitably military personnel) and large numbers of state and local

law enforcement officials. I am convinced that the results would have been disastrous, and I am still grateful that that kind of a clash between the State of Mississippi and its federal government was avoided.

This is, of course, wholly apart from the fact that our information was that large numbers of persons from other parts of Mississippi and other states intended to go to Oxford on Monday, many of them armed. This information was confirmed by what in fact happened during the morning hours of October 1.

The riot that did take place was bad enough. I am afraid that it would have taken place because of the passions which had been inflamed by the Governor no matter where the marshals that were necessary congregated or what building they went to. They were in fact taken to the Lyceum Building by the State Highway Patrol. Once there, the mob started to collect, and steadily increased in size. I cannot myself think what other course of action than staying where they were was possible.

With respect to the contempt charges, the Attorney General acted at the direction of the Court. You can be absolutely assured that we will strive in every way to meet our responsibility to vindicate the dignity of the Court and its orders in a manner which involves no vindictiveness, and to the full extent possible, no martyrdom for the defendants in the action.

I want you to know that everyone here has the highest regard for your personal and professional conduct at all times, as well as that of some of the other members of the Board of Trustees. I hope that the University survives this ordeal. We will on every occasion try to conduct ourselves so that it can. I think Meredith's return to the University this week is going to help rather than hurt that objective.

With my very best wishes,

Burke Marshall

Typed: 3/15/63  
NdeBK:BM:SJB:amd  
144-40-254

11,801

March 15, 1963

Mr. Russell L. Fox  
Chairman  
State of Mississippi  
General Legislative  
Investigating Committee  
New Capitol  
Jackson, Mississippi

Dear Mr. Fox:

Senator Eastland has forwarded to the Department of Justice your request of February 19, 1963, for information with respect to events occurring at the University of Mississippi on and after September 30, 1962. He has asked me to reply to you directly.

I am enclosing copies of the following executive and administrative orders:

1. Order No. 282-62, signed by the Attorney General on September 19, 1962, authorizing James J. P. McShane to designate officers and employees of the Department of Justice to perform the functions of United States Deputy Marshals in the Northern District of Mississippi.
2. Order No. 283-62, signed by the Attorney General on September 19, 1962, granting similar authority to John W. Cameron.
3. Order No. 284-62, signed by the Attorney General on October 12, 1962, delegating similar authority to Horbert A. Schlei, Ramsey Clark, James W. Synington and Joseph F. Dolan.

cc: Records  
Chron.  
NdeBK (2)  
✓ Mr. Marshall  
Mr. Barrett  
Total 4112 (2m 11200)

*Sen Eastland*

- 100  
HIS  
LA
4. Order No. 290-62, signed by the Attorney General on November 16, 1962, terminating the authority of officers and employees of the Department to perform the functions of United States Deputy Marshals outside the judicial district of their usual duty station.
  5. Proclamation of the President of September 30, 1962.
  6. Executive Order of the President, No. 11053, of September 30, 1962.

You have also requested the names and addresses of all persons deputized as United States Marshals and all persons taken into custody by Federal authorities during the relevant period.

Pursuant to the authority delegated by the orders of the Attorney General above referred to, a substantial number of regular deputy marshals, border patrolmen, and prison guards were specially deputized for the purpose of preserving order at the University of Mississippi on September 30, 1962, and thereafter. This was done in the performance of this Department's inescapable obligation to enforce the orders of the Federal courts in the Meredith case. At the direction of the Attorney General, these specially deputized marshals--all of whom had had law enforcement training and background--were under my personal supervision on the campus at the time of the riot, and I am responsible for their conduct within the scope of their orders. For this reason I cannot see any legitimate need for the information you have requested, or that giving you the names and addresses of these particular officers would serve any useful or legitimate purpose.

I am also attaching a list of eighty-four persons taken into custody by Federal officers and by military personnel at the University of Mississippi during the period from September 30 through October 10, 1962. This list is not a complete list of all those taken into custody. I have omitted the names of all those taken into custody who were students at "Ole Miss"

and at other universities and colleges within Mississippi or bordering states. As I am sure you know, a large number of students were involved in the riot, and 133 were temporarily detained by federal authorities. I have omitted the names of these students because I assured University authorities at "Ole Miss" and at other colleges that no publicity would be given with respect to the activities of these students. At the time we felt that no useful purpose would be served by pressing charges against them, and that the acts of these young people were more properly a matter for University discipline.

I am also informed that a number of other persons were taken into custody whose names do not appear on the attached list. Since some of these persons may have been students I am presently releasing to you only those who, according to our information, were not at the time of the incident attending any schools or universities.

Because of the above commitment on my part I do not feel able to reveal to your committee the names of students. Should it be important to your investigation, I would, at your request, undertake to be released from the commitment I made. But, frankly, I cannot see the useful purpose in exposing these persons--or, for that matter, others--to further publicity. For this reason I would ask you to keep the attached list confidential. No charges were pressed against most of these persons and I see no good reason to cause any of them embarrassment which might accompany publication of their names without their consent.

Sincerely yours,

Nicholas deB. Katzenbach  
Deputy Attorney General

March 8, 1963

The Honorable Ross R. Barnett  
Governor of Mississippi  
Jackson, Mississippi

Dear Governor Barnett:

The President has asked me to reply to your telegram regarding the use of the National Guard Armory at Oxford, Mississippi, by military personnel.

Some days prior to receipt of your telegram, the Army had already decided upon a plan for a further reduction of the numbers of military personnel which are still required to be stationed in the Oxford vicinity. This plan also involves the withdrawal of military personnel both from the Armory and from the airport property. I understand that the Army has now publicly announced this plan, which will be put into effect in the near future.

BM  
This step accomplishes the request made in your telegram to the President.

I should like also to take this opportunity to repeat that we are also completely ready and willing to withdraw the military personnel in the Oxford vicinity. All that is required is for you and other officials of the State to give adequate assurance by deed and word that you will accept and carry out the

basic responsibility of the State for maintaining law and order at the University. Obviously, under the circumstances, this involves an acceptance of the responsibility for the personal safety of James Meredith as well as for the safety of persons and property of other citizens in Mississippi.

I hope I can hear from you on this. We continue to be entirely willing at any time to discuss with you or your representatives, at any place, any concrete steps you intend to take which would eliminate the necessity for maintaining a federal military force at Oxford.

Very truly yours,

Attorney General



January 28, 1963

Mr. Charles F. Haywood, Provost  
University of Mississippi  
University, Mississippi

Dear Mr. Haywood:

The Attorney General has asked me to reply to your letter on the Robertson matter. I can assure you that he is personally aware of all of the facts concerning it.

There has never been any intended suggestion in any statements made by anyone in the Department that the University administrative officials are by their own choice avoiding effective discipline on the campus. Our efforts are to the contrary, and I regret any misunderstanding on that point.

Nevertheless, I think it is fair and accurate to state that the University as an institution, acting through its officials whatever the reasons, and accepting that the Board of Trustees make the basic policy decisions--has not taken the action in the Robertson case or in other matters which would normally be expected in any other context in the event of demonstrations such as have taken place in Oxford. I am confident that a large majority of the faculty, almost all college officials in the United States, and any impartial observer at the University of Mississippi would agree. Obviously this has made a great difference, and increased immensely the future problems facing not only Meredith and the federal government, but also the University, the state, and its people.

Your own loss to the University, which is a great one for the University, is evidence of this.

- 2 -

We are all fully aware of the depth of the difficulties confronting the Chancellor in taking effective action. But it does no good to pretend that the University's course in the matter of student discipline--as to which the Robertson case is an example--is not governed in large part by political considerations and the racial policies of the present state officials.

Very truly yours,

Burke Marshall  
Assistant Attorney General  
Civil Rights Division

*Miss.  
file*

January 25, 1963

**PERSONAL**

Mr. Fred Stites  
Executive Vice-President  
Downtown Mobile Unlimited  
Suite 206  
Sheraton-Battle House  
Mobile, Alabama

Dear Mr. Stites:

The Attorney General has asked me to reply to your letter of January 21. He very much appreciated receiving it.

Unfortunately, other matters have made it impossible for the Attorney General to visit Mobile this month. He may well have another opportunity later this winter, or in early spring. He is anxious to do so. I can assure you he will make an effort, time permitting, to follow your suggestion concerning Mr. Arendall.

The progress made by Mobile in meeting directly the racial problems which have caused bitterness and even violence elsewhere is a tribute to the citizens of the city, and particularly your group.

Very truly yours,

Burke Marshall  
Assistant Attorney General  
Civil Rights Division

Miss.

31 January, 1963

Thomas J. Tubb, Esquire  
Attorney and Counselor at Law  
West Point, Mississippi

Dear Mr. Tubb:

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There is no point in prolonging discussion about the merits of the case. You are more familiar with the record on the merits than I am. I do think that it makes sense that any Negro who had the determination that Meredith had to go to the University of Mississippi is bound to be (as Judge Wisdom suggested) an unusual person, and I certainly do not disagree that Meredith -- undoubtedly before as well as since his admission -- must have been aware of the implications of his going to the University of Mississippi, beyond the fact that he would get a better education there than he could at any of the Negro institutions in the State.

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law enforcement officials. I am convinced that the results would have been disastrous, and I am still grateful that that kind of a clash between the State of Mississippi and its federal government was avoided.

This is, of course, wholly apart from the fact that our information was that large numbers of persons from other parts of Mississippi and other states intended to go to Oxford on Monday, many of them armed. This information was confirmed by what in fact happened during the morning hours of October 1.

The riot that did take place was bad enough. I am afraid that it would have taken place because of the passions which had been inflamed by the Governor no matter where the marshals that were necessary congregated or what building they went to. They were in fact taken to the Lyceum Building by the State Highway Patrol. Once there, the mob started to collect, and steadily increased in size. I cannot myself think what other course of action than staying where they were was possible.

With respect to the contempt charges, the Attorney General acted at the direction of the Court. You can be absolutely assured that we will strive in every way to meet our responsibility to vindicate the dignity of the Court and its orders in a manner which involves no vindictiveness, and to the full extent possible, no martyrdom for the defendants in the action.

I want you to know that everyone here has the highest regard for your personal and professional conduct at all times, as well as that of some of the other members of the Board of Trustees. I hope that the University survives this ordeal. We will on every occasion try to conduct ourselves so that it can. I think Meredith's return to the University this week is going to help rather than hurt that objective.

With my very best wishes,

Burke Marshall

January 29, 1963

Mr. Leon Jaworski  
Fullbright, Crocker, Freeman,  
Bates and Jaworski  
Bank of the Southwest Bldg.  
Houston 2, Texas

Dear Mr. Jaworski:

At the request of Assistant Attorney General Burke Marshall I am writing to advise that you and Mr. Vaughan can have your appointments as Special Assistants to the Attorney General made effective as of any date you select. I have had some indication that you would like to have your appointments become effective as of the day following the effective date of the new conflict of interest statute. The statute went into effect on January 21, 1963.

Mr. Marshall advises he intends to meet with you later this week at which time you can discuss with him the matter of compensation to be paid to you and Mr. Vaughan and the date you wish to make your appointments effective.

Sincerely,

Wm. A. Crocker  
Assistant Deputy Attorney General

*Miss.  
file*

11 February, 1963

Irving M. Engel, Esquire  
Engel, Judge & Miller  
Attorneys and Counsellors at Law  
52 Vanderbilt Avenue  
New York 17, New York

Dear Mr. Engel:

It was kind of you to write.

We have considered the possibility of using the processes of the Court to maintain order on the campus. I think everyone would agree, however, that such a course should be only after all patience, and all reason for patience, has been exhausted. The University could be more effective, and it is their responsibility.

Since the beginning of the new semester, we have reason for continued patience.

Sincerely,

Burke Marshall  
Assistant Attorney General  
Civil Rights Division

158-107  
605  
100-100000

Department of Justice

Washington

31 January, 1963

Thomas J. Tubb, Esquire  
Attorney and Counselor at Law  
West Point, Mississippi

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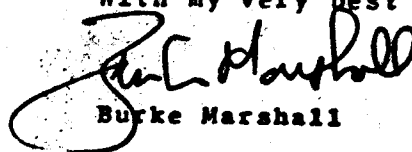
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With my very best wishes,

A handwritten signature in dark ink, appearing to read "Burke Marshall", written in a cursive style.

Burke Marshall



## Department of Justice

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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.

STATEMENT OF JAMES H. MEREDITH - JANUARY 7, 1963:

For some time I have considered my course of action for the future. There are many factors, many issues, many aspects, and equally as many consequences.

I have decided not to register for classes during the second semester at the University of Mississippi unless very definite and positive changes are made to make my situation very conducive to learning. This decision was based on a consideration of all the elements pertinent to the "Mississippi Crisis" at its deepest meaning and of all the aspects of my personal relationship in it, with it, and to it.

It should be noted that I have not made a decision to discontinue my efforts to receive educational training at the University of Mississippi. Rather, my decision is not to attend the University next semester under the present circumstances.

We are engaged in a war, a bitter war for the "equality of opportunity" for our citizens. The enemy is determined, resourceful, and unprincipled. There are no rules of war for which he has respect. Some standard must be set. Some pattern must be established so that those who are fighting for equality of opportunity and those who are fighting for the right to oppress can clash in a struggle without disaster falling upon their group. Presently, there is too much doubt and uncertainty regarding the procedure to be followed in settling our problem. No major issue has been made legally or officially, illegally or unofficially.

When I combine the political and educational reality with my personal possibilities and probabilities, the result leads me to the foregoing decision.

As to what I will do, I am not prepared to say at this time, since I am still studying two or three alternatives. However, I plan to remain in Mississippi.

I think I should also add that I will have nothing further to say about this matter until after the end of this semester at which time I will be free to answer any questions and acknowledge any requests.

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When I combine the political and educational reality with my personal possibilities and probabilities, the result leads me to the foregoing decision.

As to what I will do, I am not prepared to say at this time, since I am still studying two or three alternatives. However, I plan to remain in Mississippi.

I think I should also add that I will have nothing further to say about this matter until after the end of this semester at which time I will be free to answer any questions and acknowledge any requests.

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

# Memorandum

TO : Chief, Records Administration Office  
Armando di Girolamo

me 5  
107  
344  
DATE: September 19,  
1962

FROM : Burke Marshall  
Assistant Attorney General  
Civil Rights Division

SUBJECT: Telegrams to be sent in connection with Meredith v. Fair

Will you please see that the attached telegram is sent  
to each of the following persons, and will you determine  
by a confirmation if each person received his copy:

ME ARTHUR BEVERLY LEWIS /REPT DLY/  
Dean, College of Liberal Arts  
University of Mississippi  
Oxford, Mississippi

NO MALCOLM METTE ROBERTS, ESQ. /REPT DLY/  
Citizens Bank Building  
Hattiesburg, Mississippi

ME ROBERT BYRON ELLIS /REPT DLY/  
Registrar  
University of Mississippi  
Oxford, Mississippi  
or  
228 Sivilcy Street  
Oxford, Mississippi (residence)

NO WILLIAM ORLANDO STONE /REPT DLY/  
4423 Northover Drive  
Jackson, Mississippi (residence)

ME JOHN DAVIS WILLIAMS /REPT DLY/  
Chancellor,  
University of Mississippi,  
Oxford, Mississippi

OK BH S. R. EVANS /REPT DLY/  
412 West Jefferson Street  
Greenwood, Mississippi (residence)

NO LEON LOWREY /REPT DLY/  
Leon Lowrey Store  
Oxford, Mississippi

OK NO DR. VERNER SMITH HOLMES /REPT DLY/  
210 North Front Street  
McComb, Mississippi (residence)

NO EDGAR RAY IZARD /REPT DLY/  
16 Jackson Street  
Hazelhurst, Mississippi (residence)

OK BH JAMES NAPOLEON LIPSCOMB /REPT DLY/  
Star Route E  
Macon, Mississippi

ME IRA LANAR MORGAN /REPT DLY/  
South 8th Street  
Oxford, Mississippi (residence)

OK NO TALLY D. RIDDBELL, ESQ. /REPT DLY/  
111 E. Church Street  
Quitman, Mississippi

NO HARRY GORDON CARPENTER /REPT DLY/  
Gelling Fork,  
Mississippi

1 MX WCY 13 /PAGE 1 OF 3/

US# MX 16 ME NO BH

01 ME ROBERT BRUCE SMITH, II, ESQ. /REPT 24/  
Ripley, Mississippi

012 BH THOMAS JEFFERSON TUBB, ESQ. /REPT DLY/  
220 Court Street  
West Point, Mississippi

0K BH CHARLES DICKSON FAIR, ESQ. /REPT DLY/  
President of the Board  
of Trustees of State Institutions of  
Higher Learning of the State of  
Mississippi  
South Columbus Avenue  
Louisville, Mississippi

As stated above, the attached telegram  
is to be sent to each of the foregoing persons, with  
a confirmation as to the receipt of each copy.

BURKE MARSHALL  
Assistant Attorney General  
Civil Rights Division

STANDARD FORM 14  
REVISED MAY 1962  
PRESCRIBED BY GENERAL  
SERVICES ADMINISTRATION  
REG 2-14-20-00

# TELEGRAPHIC MESSAGE

OFFICIAL BUSINESS—U. S. GOVERNMENT

STRAIGHT WIRE  
CONFIRMATION REQUESTED

FROM

BUREAU CIVIL RIGHTS DIVISION  
DEPARTMENT OF JUSTICE

CHG. APPROPRIATION

WASHINGTON 25, D. C.  
September 19, 1962

RUSH NO WAY 11 J-D 450/RERUN/PAGE 1 OF 3

WAY 13 9-19-62 1763R

WASHINGTON DC

URGENT DEUCE SMITH JESU REPT DLY HEIDE BERG HOTEL JACKSON, MISS  
I HAVE TODAY SENT THE FOLLOWING TELEGRAM TO EUCLID

RAY JOBE, EXECUTIVE SECRETARY OF THE BOARD OF TRUSTEES OF STATE  
INSTITUTIONS OF HIGHER LEARNING:

"THE PURPOSE OF THIS TELEGRAM IS TO INFORM YOU AND THE  
BOARD OF TRUSTEES OF THE UNIVERSITY OF MISSISSIPPI OF THE  
GOVERNMENT'S VIEWS ON THE LEGAL POSITION IN THE MEREDITH CASE.  
THE OFFICIALS OF THE UNIVERSITY, INCLUDING THE REGISTRAR, HAVE  
BEEN ORDERED BY BOTH THE DISTRICT COURT FOR THE SOUTHERN DIS-  
TRICT OF MISSISSIPPI AND THE COURT OF APPEALS FOR THE FIFTH  
CIRCUIT TO ACCEPT AND RETAIN MEREDITH AS A STUDENT THIS  
SEMESTER AT THE UNIVERSITY. ALL MEMBERS OF THE BOARD OF  
TRUSTEES ARE COVERED BY THESE ORDERS. THE BOARD OF TRUSTEES  
IS PREVENTED BY THESE ORDERS AND BY AN ADDITIONAL ORDER OF  
JUSTICE BLACK OF THE SUPREME COURT OF THE UNITED STATES, WHICH  
TAKES THE CONCURRENCE OF EACH JUSTICE OF THE SUPREME COURT, FROM  
TAKING ANY STEPS TO HINDER COMPLIANCE WITH THE ORDERS.

"WE HAVE COOPERATED AND WILL CONTINUE TO COOPERATE WITH  
GOVERNOR BARNETT AND OTHER STATE OFFICIALS IN MAKING EVERY

(Continued)

11X WAY 13 PAGE 2 OF 3  
RECEIVED 9-20-62

RUSH NO WAY 13 9-20-62/PAGE 2 OF 3

EFFICIENT BUSINESS—U.S. GOVERNMENT

TELEGRAPHIC MESSAGE

STANDARD FORM 14  
REVISED MAY 1962  
PRESCRIBED BY GENERAL  
SERVICES ADMINISTRATION  
REG. 2-1X-28.0

# TELEGRAPHIC MESSAGE

OFFICIAL BUSINESS—U.S. GOVERNMENT

FROM \_\_\_\_\_  
BUREAU \_\_\_\_\_  
CHG. APPROPRIATION \_\_\_\_\_

GPO 1962 O-1374

PAGE TWO

EFFORT TO AVOID LAW ENFORCEMENT PROBLEMS. IT IS OUR PURPOSE TO SEE THAT THE ORDERS OF THE COURT ARE COMPLIED WITH PEACEFULLY. HOWEVER, I AM INFORMED THAT MEREDITH HAS BEEN UNABLE TO OBTAIN ANY COMMITMENT FROM YOU OR THE BOARD THAT HE WILL BE REGISTERED IN JACKSON WITHOUT EVASION OR DELAY IF HE GOES THERE IN RESPONSE TO YOUR TELEGRAM. I HAVE BEEN UNSUCCESSFUL IN OBTAINING ANY SUCH COMMITMENT AS WELL.

UNDER THE CIRCUMSTANCES, IT IS MEREDITH'S INTENTION TO PROCEED TOMORROW TO OXFORD, MISSISSIPPI, TO REGISTER, ALONE WITH OTHER NEW AND TRANSFER STUDENTS. IT IS THE RESPONSIBILITY OF THE DEPARTMENT OF JUSTICE TO TAKE ALL APPROPRIATE ACTION TO MAKE THE ORDERS OF THESE COURTS EFFECTIVE. IT IS OUR VIEW THAT A REFUSAL BY THE OFFICIALS OF THE UNIVERSITY IN OXFORD TO REGISTER MEREDITH IN OXFORD TOMORROW WOULD BE IN VIOLATION OF THE

ORDERS OF THE DISTRICT COURT AND OF THE COURT OF APPEALS. IT IS ALSO OUR VIEW THAT ANY ORDERS OR OTHER STEPS BY THE BOARD OF TRUSTEES INTENDED TO PREVENT THE OFFICIALS OF THE UNIVERSITY AT OXFORD FROM REGISTERING MEREDITH IN THE REGULAR COURSE WOULD BE IN VIOLATION OF THE ORDERS OF THE DISTRICT COURT, THE COURT OF APPEALS AND THE SUPREME COURT OF THE UNITED STATES.

13 MAY 1962 3 08 PM

NO 20 MAY 21 1962

1-20-62/1962 2 of 3  
NO 20 MAY 19 1962



OFFICIAL BUSINESS—U.S. GOVERNMENT  
TELEGRAPHIC MESSAGE  
RECEIVED JUL 18 1964  
U.S. DEPT. OF JUSTICE  
WASHINGTON, D.C. 20530

STANDARD FORM 14-  
REVISED MAY 1962  
PRESCRIBED BY GENERAL  
SERVICES ADMINISTRATION  
REG. 2-1X-20.0

# TELEGRAPHIC MESSAGE

OFFICIAL BUSINESS—U.S. GOVERNMENT

FROM	.....
BUREAU	.....
CHG. APPROPRIATION	.....

PAGE THREE

EUCLID RAY JOSE (CONTINUED)

I RESPECT THE STATE OF MISSISSIPPI WHOSE CITIZENS HAVE MADE MANY CONTRIBUTIONS TO THE COUNTRY, AND THE GREAT UNIVERSITY WHICH YOU ARE PRIVILEGED TO SERVE. HISTORICALLY, AMERICAN CITIZENS HAVE FREELY AND FREQUENTLY DISAGREED WITH OR DISAPPROVED OF LAWS AND COURT DECISIONS BUT HAVE OBEYED THEM NEVERTHELESS. THE FEDERAL COURTS HAVE SPOKEN UNEQUIVOCALLY ON THIS MATTER. ALL OF US AS CITIZENS OF THE UNITED STATES HAVE A RESPONSIBILITY TO OBEY THE LAW AND I AS ATTORNEY GENERAL HAVE THE RESPONSIBILITY TO ENFORCE THE LAW. I AM CONFIDENT THAT YOU WILL ACT IN SUCH A WAY NOT ONLY AS TO PRESERVE ORDER BUT AS TO ASSIST IN MEETING OUR RESPONSIBILITIES.

SINCERELY,

ROBERT F. KENNEDY  
ATTORNEY GENERAL

1

Miss  
file

Wm. A. Geoghegan

MEMORANDUM OF TELEPHONE CALL

I received a call this morning (9/19) from former Marshal Newcomb who is now a member of Attorney General Patterson's staff in Mississippi. Newcomb was calling from Patterson's office and after making a few friendly remarks Newcomb introduced Patterson and put him on the line.

Patterson said he would like to know who would be in charge of the Deputy escorting Meredith onto the campus at Ole Miss. He said he wanted to have this man get in touch with Colonel T. P. Birdsong who is in charge of the State Police. Patterson said that he wanted to sit in on the call when Birdsong was contacted by our man. I told Patterson that Jim Mathews would be in charge of any Deputy Marshal assigned to escort Meredith onto the campus at the University. I told him I did not know where Mathews was at the moment but that I would locate him and call back this afternoon. I told him that I would want to be in on the conversation and that perhaps other members of the Department might join with me.

Patterson said that he was confident that an effective procedure could be worked out by Mathews and Birdsong to make sure that Meredith entered the University grounds, proceeded to the Registrar's office, "concluded his business there" and left the campus without harm. He told me that the trustees of the University had contacted the administration officials of the University requesting them to send all of Meredith's papers to the trustees at Jackson. He suggested that the trustees had sent a telegram to Meredith requesting him to register at Jackson. Patterson indicated

- 2 -

that the administrative officials of the University were under instructions not to permit Meredith to register at Oxford. I asked him if the trustees intended to permit him to register if he appeared at Jackson and he replied no decision would be made on this until the trustees met tomorrow.

Patterson requested that we let him know in advance when I am going to call back this afternoon with McShane so that he would have an opportunity to have Colonel Birdsong come to his office. He said this would take approximately twenty minutes. The telephone numbers are Jackson, Miss. 355-1861 or Fleetwood 5-9361 X 281.

*Miss. file*

October 19, 1962

Honorable John D. Holland  
Mayor of the City of Vicksburg  
Vicksburg, Mississippi

Dear Mayor Holland:

The Attorney General appreciated having your views about the Meredith case.

The federal government was not involved in the case, except for filing one memorandum at the request of the Court, until after the Supreme Court had ruled that Meredith's admission to the University of Mississippi could no longer be delayed. The rulings of the courts were based on precedents which long preceded the 1954 school cases. The only defense ever offered in the case was that the University did not discriminate on applications on the basis of race.

Once the court had ruled, the duty of every American citizen to see that the court's orders were followed became unquestionable. The Department of Justice entered the case only because Mississippi officials, and the Governor, stated publicly that they would interfere with the court's orders. The United States has a deep interest in seeing that the orders of the federal courts are obeyed and that the integrity of the courts is upheld.

Respect for the law and obedience to the law are the basis of our free society. In some countries there is no law at all. In others, law has become the instrument of despotism. Whenever the law is perverted or destroyed, tyranny takes over and society is centralized. Yet, in the United States we often take the rule of law for granted and forget what a precious and hard won condition it is.

The law is the line which divides savagery from civilization. It enables men to live together, submitting their private desires, whims and prejudices to a larger conception of social progress and order.

In any legal case there are two points of view. Decisions, therefore, are not acceptable to both sides. But our whole system of law would be undermined if decisions unacceptable to one side should not, in fact, be accepted. If decisions of the highest court are disobeyed because they are unacceptable to one side, no right, no contract, no insurance policy, no pension, no will would be safe. Organized society would become impossible and the people would have to rely on private force to settle their disputes. Furthermore, if one man's legal rights are denied, the rights of all Americans are in danger.

That is what is at issue in the Meredith case. It does not mean that criticism is forbidden or disagreement barred. For these are the lifeblood of our free society. Laws must constantly be revised and court decisions reviewed. But, in the meantime, judicial decisions constitute the law of the land.

Very truly yours,

Burke Marshall  
Assistant Attorney General  
Civil Rights Division

*miss.*

October 19, 1962

MEMORANDUM TO THE ATTORNEY GENERAL

I have discussed the attached with Lee White. He was at first quite enthusiastic about the suggestion, but backed off. I think a conference might sometime be of some use, but not now.

Burke Marshall

Attachment mentioned is memorandum to the AG from Louis Martin dtd. 9/24/62 regarding National Conference on Civil Rights.

*Miss  
file*

October 19, 1962

Dear Mr. Bracken:

I appreciate very much your kind letter of October 9th as well as the letter copy attached. It means a good deal to me to be made aware of support in the Bar on this question, and I am most grateful for your thoughtfulness.

Sincerely,

Robert F. Kennedy

Mr. John P. Bracken  
2107 Fidelity-Philadelphia  
Trust Building  
Philadelphia 9, Pennsylvania

BC: w/copy of incoming letter and enclosure  
Mr. Burke Marshall  
Civil Rights Division

JWS/chp *[Signature]*

*Miss.*

**Mr. Henry Golsen, Chairman  
Vanderbilt Divinity School  
Student Council  
Vanderbilt University  
Nashville 5, Tennessee**

**Dear Mr. Golsen:**

**The expressions of support from you and the members of the Student Council were very much appreciated.**

**The federal government was not involved in the case, except for filing one memorandum at the request of the Court, until after the Supreme Court had ruled that Meredith's admission to the University of Mississippi could no longer be delayed. The rulings of the courts were based on precedents which long preceded the 1954 school cases. The only defense ever offered in the case was that the University did not discriminate on applications on the basis of race.**

**Once the court had ruled, the duty of every American citizen to see that the court's orders were followed became unquestionable. The Department of Justice entered the case only because Mississippi officials, and the Governor, stated publicly that they would interfere with the court's orders. The United States has a deep interest in seeing that the orders of the federal courts are obeyed and that the integrity of the courts is upheld.**



Respect for the law and obedience to the law are the basis of our free society. In some countries there is no law at all. In others, law has become the instrument of despotism. Wherever the law is perverted or destroyed, tyranny takes over and society is demoralized. Yet, in the United States we often take the rule of law for granted and forget what a precious and hard won condition it is.

The law is the line which divides savagery from civilization. It enables men to live together, submitting their private desires, whims and prejudices to a larger conception of social progress and order.

In any legal case there are two points of view. Decisions, therefore, are not acceptable to both sides. But our whole system of law would be undermined if decisions unacceptable to one side should not, in fact, be accepted. If decisions of the highest court are disobeyed because they are unacceptable to one side, no right, no contract, no insurance policy, no pension, no will would be safe. Organized society would become impossible and the people would have to rely on private force to settle their disputes. Furthermore, if one man's legal rights are denied, the rights of all Americans are in danger.

That is what is at issue in the Meredith case. It does not mean that criticism is forbidden or disagreement barred. For these are the lifeblood of our free society. Laws must constantly be revised and court decisions reviewed. But, in the meantime, judicial decisions constitute the law of the land, and therefore, as in the case of the University of Mississippi, must be enforced.

The expressions of Southerners who support the action of the federal government are indeed welcome. To receive, in particular, such words of encouragement from your School mean much. Thank you again for your thoughtful letter.

Sincerely,

The Attorney General

*Miss.*

November 9, 1962

Lawrence W. Rabb, Esq.  
Attorney at Law  
411 Davis Towers  
Meridian, Mississippi

Dear Mr. Rabb:

Thank you for sending me the clipping of Dr. Silver's letter to the Commercial Appeal. I had not seen it. Actually eight marchers had been injured before any tear gas was used. During the night 166 were wounded, 29 by gunshot wounds. It is too bad that so many shut their eyes to what they do not want to see.

We greatly appreciate your continuing interest.

Very truly yours,

BURKE MARSHALL  
Assistant Attorney General  
Civil Rights Division

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

# Memorandum

TO : Burke Marshall, Assistant  
Attorney General, Civil Rights Division

DATE: January 30, 1963

KMW:jvm

FROM : Kathryn M. Werdegarr, Attorney

144-100-40-1  
#9782

SUBJECT: Petition for Certiorari in Mississippi v. Meredith, No. 661

Petitioners in the above-entitled case purport to be seeking review of essentially every order entered by the Court of Appeals for the Fifth Circuit, commencing with the order designating the United States as amicus curiae, entered September 18, 1962, through the order granting the preliminary injunction against Mississippi Governor Barnett, et al., entered upon motion of the United States on October 19, 1962. However, the most substantial challenges are directed to the following orders issued by the court of appeals:

1. Order Admitting United States as Amicus Curiae - September 18, 1962.
2. Temporary Restraining Order against State of Mississippi, Governor Barnett, Lt. Governor Johnson, et al. - September 25, 1962.
3. Judgment and Orders of Civil Contempt against Governor Barnett (September 28, 1962) and Lt. Governor Johnson (September 29, 1962).
4. Preliminary Injunction against State of Mississippi, Governor Barnett, and Lt. Governor Johnson - October 19, 1962.

In essence, petitioners allege that the Court of Appeals usurped the jurisdiction of the district court, and the United States improperly assumed control of private litigation. Petitioners' major contentions may be outlined as follows:

1. The United States improperly intervened in private litigation at the appellate level.

2. The Court of Appeals had no jurisdiction to issue a temporary restraining order after its mandate issued to the district court.
3. The Court of Appeals was without authority to issue its injunction against petitioners for the following reasons:
  - a. The Eleventh Amendment prohibits a suit against the State.
  - b. Governor Barnett, Lt. Governor Johnson, et al., were not parties in the original suit of Meredith v. Fair and could not be enjoined without a separate suit first determining the validity of their executive acts.
  - c. The discretionary acts of an executive officer of a sovereign state may not be enjoined.
4. The civil contempt judgments improperly imposed both a fine and imprisonment for civil contempt. Moreover, the civil contempt proceedings are now moot, as nothing remains for petitioners to do.

While the NAACP has waived the right to oppose the petition for a writ of certiorari, the United States on January 4, 1963, filed a motion to be added as a respondent before the Supreme Court. Petitioners have opposed this motion, and the Court has yet to rule.

UNITED STATES GOVERNMENT

# Memorandum

TO : The File

DATE: January 25, 1963

FROM : Burke Marshall  
Assistant Attorney General

51-40-17  
12,232

SUBJECT: United States v. Barnett and Johnson

The following matters were discussed in the meeting on January 16, 1963, with Leon Jaworski and Mr. Vaughn:

1. Mr. Jaworski and his associates will present all matters to the Court, including the position of the government on whatever pre-trial matters are taken up at the hearing on February 8.
2. I undertook to arrange a meeting with counsel for Governor Barnett in New Orleans during the week beginning January 21.
3. With respect to the possibility of a commissioner to take evidence, it was agreed that the disadvantages of having a hearing before eight judges were so great that we should take the unavoidable risk of telling the Court that, in our view, the Court had the power to follow that course. It is recognized that, if counsel for Barnett do not agree to this procedure, there is a substantial risk of reversal by the Supreme Court. Another course which should be suggested to the Court, in the event of no agreement with counsel for Barnett, would be for the case to be heard by a panel of three judges, with their decision reviewable by the entire bench of the Fifth Circuit.

If evidence is taken before a single person, it was agreed that the person should preferably be a judge, but that the government should not suggest a name to the Court of Appeals if that were avoidable. If a name had to be suggested, the judges mentioned were Brewster, Prettyman, Bootle, Bolt, Swigart, or a member of the Court of Appeals.

If a commissioner is appointed, he should have subpoena power, should just take evidence, without making findings,

should pass on the admissibility of evidence, and otherwise have the power to control the hearings, and should be enabled to perform such additional functions as the Court might from time to time assign to him.

4. It was the view of Mr. Jaworski that the Court should sit in New Orleans because of the possible damage to the dignity of the Court if it had to take evidence in Jackson. On the other hand, it was agreed that if the place of sitting were a controlling factor in obtaining agreement from counsel for Barnett to the appointment of a commissioner, we should at least agree that the parties could apply to the Court to have the commissioner sit in Mississippi for the purpose of taking evidence from Barnett or Johnson, or possibly other witnesses. We should avoid requiring the Governor to absent himself from the state for any substantial period.

5. It was agreed that the government should advise the Court that it is not required to give Barnett a trial by jury. This is not constitutionally necessary; the governing statutes all relate only to contempt trials in district courts; and the order violated was, in any event, sought by the United States. This point is to be briefed by Mr. Jaworski.

6. It was agreed that the basic issue was simply whether there was willful defiance of orders of the Court by Barnett and Johnson. We should accept a full burden of proof on this. I agreed to obtain assistance from the Criminal Division in the precedents to support the position that willfulness can be inferred from circumstantial evidence, and that evidence of statements and actions by the Governor prior to the actual contempts charged were relevant to show state of mind. This point should be briefed for the Court.

In addition, we will probably have to rebrief the questions of jurisdiction and mootness.

7. I undertook to have the Governor and Lt. Governor served again by a deputy from the Eastern District of Louisiana.

8. Mr. Jaworski will have prepared a separate brief on the contempts by Johnson, dealing with the fact that he was not personally named in the September 25 order of the Court of Appeals.

9. I undertook to talk to the Attorney General about his testifying, and about how to deal with the President's conversations with the Governor.

10. If possible, Mr. Jaworski will attempt to embarrass the defendants in open Court into producing recordings of the telephone conversations.

11. I should supply Mr. Jaworski with copies of all Court orders back to the order in June enjoining the prosecution of Meredith for falsely stating that he resided in Hinds County.

12. We should obtain certified copies of all proclamations issued by the Governor during the month of September.

13. We should obtain copies of all speeches given by the Governor, and all public statements by the Governor, regarding the Meredith case, and his position concerning desegregation.

14. Sometime after the February 8 hearing, I should arrange with Mr. Vaughn to have him see all the photographs we have collected.

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