

*Bing*

..... for a great, grave issue  
a clear understanding

DIGEST OF  
THE SIBLEY REPORT

and

SUMMARY OF GEORGIA LAWS  
RELATING TO SCHOOL  
SEGREGATION

From the  
Georgia Congress of  
Parents and Teachers  
114 Baker Street, N. E.  
Atlanta 3, Georgia

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#### WHAT THE SIBLEY REPORT SAYS\*—

The 1960 Georgia General Assembly set up a Committee on Schools, ordered it to hold hearings throughout Georgia, find out how the people felt about the future of their schools, and report by May 1.

The chairman was John Sibley; the Committee and the Report came to be popularly known by his name.

The Committee held hearings in each Congressional district and heard 1,800 witnesses (1,600 white and 200 Negroes) who said they represented 115,000 people. Two out of three of the people who testified favored closing Georgia's public schools rather than complying with orders of the Federal Court to integrate any of them.

The Committee members made their report on April 28. They agreed on two things: (1) they all deplored the Supreme Court decision, believed that it was wrong, and that both races could be better educated in separate schools; (2) they all, however, recognized that the decision is a fact and that Georgia must cope with it in some way.

**THE REPORT HAS TWO PARTS:** A Majority Report and a Minority Report.

**The Majority Report**, signed by 11 members including the chairman, wants the schools kept open and laws passed to control any integration which the courts may decree. The controls they recommend are these:

- (1) by pupil placement
- (2) by local option that would allow the community to decide when or whether to close or re-open its own schools, and
- (3) by providing that any dissatisfied parent could take the tuition grant and send his child to another school.

This freedom of choice, the Majority felt, would insure the parent the greatest freedom in protecting the welfare of his child, and would guarantee that no child would be compelled to go to school with a child of another race.

**The Minority Report**, signed by 8 members including the vice-chairman, favors keeping the present laws, closing all schools rather than allowing any Georgia school to be integrated, and going to a system of tuition grants and private schools if the courts order any integration anywhere.

\*For a copy of the complete Report, write John Greer, Secretary, General Assembly Committee on Schools, c/o Lieutenant Governor's Office, State Capitol, Atlanta, Georgia.

#### HERE ARE MORE DETAILS:

##### (1) THE MAJORITY REPORT SAYS

There are two choices:

**Choice Number 1: The people of Georgia can keep the existing laws.**

These provide that the Governor is to close any Georgia school or school system that is ordered integrated by the Court. Local citizens do not now have any choice in this matter.

This, under the Georgia law, would result in the closing, one by one, of the schools as the Court orders them integrated. However, the Federal Courts in the Norfolk Case held that the state cannot close public schools in one system and continue to operate public schools in other systems; the State must provide public education for all or none.

This continued state policy could result in the closing of all public schools in Georgia and the establishment of private schools with tuition grants for pupils. In such event, the Courts have held that no publicly-owned school buildings, buses, books or any other property, can be used by private schools. A private school must be private in fact as well as in name.

**Choice Number 2: The people of Georgia can operate a system of public school education within the limits of the Supreme Court decision.**

This will keep the maximum segregation possible, allow the local communities to determine the issue for themselves, and insure each parent the greatest possible freedom in protecting the welfare of his own child. This also would avoid the closing of all schools, in case integration is ordered in one school. It would not interfere with the continued operation, on a segregated basis, of those schools not affected by the Court decree. (The alternative is coercive integration—the worst possible sort—by court order, with no safeguards whatever available to the local people and no freedom of action on the part of the parents of the children.)

**To set up such a system of education, these two changes in the Georgia Constitution would be necessary:**

- (1) A fundamental right should be written into the Constitution guaranteeing that no child be required to attend school with a child of another race.
- (2) Local determination to close schools or to reopen them should also be provided.

(Other necessary statutes to set up this system of education should be enacted.)

The Majority Report, therefore, recommends that these issues be **submitted to the people** so that they may choose the one which they consider best for their children.

(2) THE MINORITY REPORT SAYS

—the Committee was instructed to find out what the people of Georgia wanted to do about their schools, that the people spoke overwhelmingly for closing all schools rather than integrating any, and that the Committee, therefore, does not have the right to recommend anything else.

—The Minority recommends keeping the present laws as they are. They favor further legislation to effectuate more fully the grants in aid that would enable Georgia children to go to private schools, when and if any school must be closed by a court's order to integrate.

**ADDITIONAL STATEMENT:** Render Hill, who signed the Minority Report, recommended also that the General Assembly resolve the problem. He advocates legal guarantees that no child would be compelled to attend an integrated school, and laws establishing each school as an autonomous unit.

**THIS MEANS YOU!**

EVERY GEORGIAN should carefully study all parts of the Sibley Report, and consider how each recommendation would affect his own school and the children of his own community. Democracy is a warm and living thing only when citizens are concerned and informed. No greater, graver issue has confronted us. It is desperately urgent that all voters understand clearly the issues and alternatives before us, and have the knowledge and courage to vote wisely. The future of our children and the good of our state depend on this.

The vote of your legislator will help determine whether the people will be given an opportunity to express themselves as proposed in these Constitutional amendments. A 2/3 vote of the General Assembly is required before a proposed Constitutional amendment can be submitted to the people of Georgia. It will be the people of Georgia who ultimately decide this issue.

Do not say, "I am just one." **Everybody** is just one. That's what makes a democracy. It is vital that every "just one" be an informed, concerned **ONE**. The future of our children **could** depend on **ONE**—and that **ONE** could be you!

**SUMMARY OF GEORGIA LAWS  
RELATING TO  
SEGREGATION IN THE PUBLIC SCHOOLS**

**GEORGIA CONSTITUTION, ART. VIII,  
SEC. I, PAR. I (Code Sec. 2-6401)**

"The provision of an adequate education for the citizens shall be a primary obligation of the State of Georgia, the expense of which shall be provided for by taxation. Separate schools shall be provided for the white and colored races."

Note: See **Op. Atty. Gen. 1954-56**, p. 39, holding the above provisions to be inseparable.

**ART. VIII, SEC. XIII (Code Sec. 2-7502)**

"Notwithstanding any other provision of this Constitution, the General Assembly may by law provide for grants of State, county or municipal funds to citizens of the State for educational purposes, in discharge of all obligation of the State to provide adequate education for its citizens." (Adopted November, 1954.)

**CODE SEC. 32-909**

**(Duties of County Boards of Education)**

"... It shall also be the duty of said board of education to make arrangements for the instruction of the children of the white and colored races in separate schools. They shall, as far as practicable, provide the same facilities for both races in respect to attainments and abilities of teachers, but the children of the white and colored races shall not be taught together in any common or public school. . . ."

**CODE SEC. 32-937**

"Admission to all common schools shall be gratuitous to all children between the ages of six and 18 years residing in the districts in which the schools are located. Colored and white children shall not attend the same schools; and no teacher receiving or teaching white and colored pupils in the same schools shall be allowed any compensation out of the common school fund. . . ."

**GENERAL APPROPRIATIONS ACT, GA. LAWS,  
(1956, Vol. I, p. 753, 756)**

Section 7, which sets out the appropriation for education, declares that the appropriations therein made are separately made for the schools in each district, and are appropriated only to the schools therein which maintain segregation. (Section 7(d) further declares:

"(d) In the event of the prosecution to effective judgment of a suit in respect of any public school district resulting in determination by a court of competent jurisdiction that any portion of this Section 7 is unconstitutional, or that the public authorities in charge of the public schools within such district may not provide separate schools for the white and colored races within such school district as is required by Article VIII, Section I, Paragraph I of the Constitution of this State, and in the manner provided by Subsection (a) hereof, the State Board of Education shall have no power to make any apportionment for the benefit of any of the public schools within such school district, and the State Budget Authorities shall have no power to make any part of the appropriation provided in this Section 7 or any other funds available to or for the benefit of such public schools; and if such effective judgment shall occur after apportionment made to such public schools by the State Board of Education and order of the State Budget Authorities approving the same, no further funds from such apportionment to such public schools shall be paid by any officer of this State. The Governor shall by written order determine when any such judgment has become effective."

**GEORGIA LAWS 1955, p. 174;  
Code Secs. 32-801 to 32-804**

This act declares that no state or local funds, whether derived from taxation or otherwise, may be expended for the support or upkeep of any

school system which does not maintain segregation of the races. The act prohibits the State Board of Education and the State Superintendent of Schools from approving any budget submitted which does not provide that the appropriation lapses in the event of integration, and prohibits all state or local officials from expending funds for mixed schools, imposing both criminal (felony) and civil liability for violation thereof.

Note: See *Brewer v. Hoxie*, 238 F 2d 91 (C. A. 8th 1956).

**GEORGIA LAWS 1956, VOL. I, p. 6; Code Secs. 32-805 to 32-808**

**(The 1956 School Closing Statute)**

This Act requires that the Governor by executive proclamation close the schools of any county or other local system when he determines that such schools "are not entitled under the laws of this state to state funds for their maintenance and operation, or whenever the Governor shall ascertain that the public schools of any county, city or independent school district cannot be operated in such manner as shall entitle such schools under the laws of this state to State funds for their maintenance and operation — — —." Upon closing of such schools, the act provides for the making of grants to pupils to attend private schools, and prescribes the procedure connected therewith as to calculation of the grant from both state and local funds. The act prohibits use of the grants to attend sectarian schools.

Note: See *James v. Almond*, 170 F. Supp. 331 (D. C. Va. 1959), and *Aaron v. McKinley*, 173 F. Supp. 944 (D. C. Ark. 1959), affirmed, 4 L. Ed. 2d 237.

**GEORGIA LAWS 1956 VOL. I, p. 10, CODE SECS. 32-809 to 32-810**

**LEASING OF SCHOOL FACILITIES**

This act authorizes school systems to lease their school-houses or other school property to bona fide private schools for periods not to exceed 5 years.

Note: See *Aaron v. Cooper*, 261 F 2d 97 (C. A. 8th 1958) and *Derrington v. Plummer*, 240 F 2d 922 (C. A. 5th 1956), cert. den., 1 L. Ed. 2d 719.

**GEORGIA LAWS 1956 VOL. I, p. 11; Code Sec. 32-1404a.**

**LEASE OF FACILITIES FINANCED BY SCHOOL BUILDING AUTHORITY**

This act authorizes local school boards to lease authority-financed buildings and facilities to private schools.

Note: See *Op. Atty. Gen.* 1954-56, p. 224

**GEORGIA LAWS 1956 VOL. I, p. 13; Code Sec. 32-2901.**

**TEACHERS IN PRIVATE SCHOOLS COVERED BY TEACHERS'**

**RETIREMENT SYSTEM**

This act amends the Teachers' Retirement System so as to permit participation in the retirement system by teachers employed by private, non-sectarian schools.

Note: See *Aaron v. Cooper*, 261 F2d 97 (C. A. 8th 1958).

**GEORGIA LAWS 1956 VOL. I, p. 15; Code Sec. 32-811**

**CERTIFICATES OF FIRE SAFETY TO PRIVATE SCHOOLS**

This act requires that all private schools obtain a certificate of fire safety from the State Fire Marshall to the effect that the school buildings have been inspected and do not constitute a fire hazard; misdemeanor punishment is prescribed for violations (Sec. 32-9918).

**CODE, CHAPTER 32-21**

**COMPULSORY SCHOOL ATTENDANCE LAWS, AS AMENDED BY GA.**

**LAWS 1957, VOL. I, p. 168, and GA. LAWS 1958, VOL. I, p. 231**

The 1957 and 1958 laws amend the compulsory school attendance laws so as to (1) authorize the Governor to suspend them in case of riot, etc., and (2) to automatically suspend the compulsory school attendance laws in any school system where the public schools are closed.

**GEORGIA LAWS 1957 VOL. I, p. 44; CODE SECS. 40-211 to 40-217.**

**GOVERNOR'S DUTY TO QUELL VIOLENCE**

This act vests the Governor with broad and extensive powers to act in quelling violence and preserving peace and good order, among which are powers to declare emergencies; to order persons and corporations to do or refrain from doing designated acts; to issue rules and regulations relating to use of parks, public buildings and other public facilities, and public utilities; to utilize military forces; to issue orders to sheriffs, the Department of Public Safety, and county and city officials.

Note: The above act is probably broad enough to cover public schools, although they are not specifically mentioned therein. As to a Governor's powers in such situation, see *Cooper v. Aaron*, 358 U. S. 1 (1958), and *Faubus v. U. S.*, 254 F 2d 797 (C. A. 8th 1958), cert. den. 3 L. Ed. 2d 68.

**GEORGIA LAWS 1959 VOL. I, p. 15; CODE SECS. 32-813 to 32-819.**

**"SINGLE SCHOOL" CLOSING ACT**

This act authorizes the Governor to close schools to prevent violence. If such violence arises because of assignment of a pupil from one school to another school, the Governor is authorized to close not only the school to which the pupil is assigned, but also the school from which he came. The act authorizes the Governor to close such schools without closing all the schools in the local system. Upon closing of any school or schools, the pupils attending them are assigned to other schools, and if facilities are unavailable for any pupils, they may receive pupil grants under the 1956 Act. The 1959 Act differs from the 1956 closing Act in that (1) the powers it confers are based on the presence or danger of violence rather than the mere fact of integration, as under the 1956 Act; (2) under the 1956 Act, the entire local system is closed, and (3) under the 1956 Act, all funds are cut off by the Governor, whereas, no funds are cut off under the 1959 Act, but the funds previously used in the closed school or schools are used elsewhere in the system. The act declares it a misdemeanor for anyone to operate or attempt to operate, any school closed under the act.

Section 7 of the Act declares that "The powers conferred upon the Governor by this act shall be cumulative of those conferred upon him by the aforesaid act of February 6, 1956" (referring to Ga. Laws 1956, p. 6). Construed literally, this section would seem to require the holding that the 1956 act has not been superseded, so that upon the advent of integration, the Governor would, notwithstanding the 1959 act, still be required to act under the 1956 act by closing the entire system rather than under the 1959 act by closing only the two schools involved in the student transfer. Then, assuming that the Governor was enjoined from closing the entire system.

he might thereafter act under the 1959 act in the event of violence.

Note: See *James v. Almond*, 170 F. Supp. 331 (D. C. Va. 1959); *Aaron v. McKinley*, 173 F. Supp. 944 (D. C. Ark. 1959), aff'd. sub nom. *Faubus v. State Board of Education*, 4 L. Ed. 2d 237 (1959).

**GEORGIA LAWS 1959, p. 350; Code Sec. 32-1305  
STATE TO GUARANTEE TEACHERS' SALARIES**

This act provides:

"In the event that any school teacher teaching in the public schools of the State of Georgia is prevented from completing the 12 month contract for teaching in any public school within the State, because of the closing of such public schools by Executive Order of the Governor of the State of Georgia, the State of Georgia will pay to such teacher in the usual monthly payments, the balance of the amount due under such contract by the State of Georgia. The Governor of Georgia within his discretion may enter into an additional 12 months contract with any such teacher enumerated herein for an additional 12 months period."

Note: School teachers receiving compensation from the state may not teach in private schools where such teachers were previously teaching in public schools which were closed by the state because of federal court decrees ordering integration. See *Allen v. Charlottesville School Board*, 3 Race Rel. L. R. 937 (D. C. Va. 1958).

**GEORGIA LAWS 1959, VOL. I, p. 7; CODE SEC. 92-3111(a).  
TAX CREDITS FOR CONTRIBUTIONS TO PRIVATE SCHOOLS**

This act authorizes as a deduction from income tax (and not just a deduction from income), an amount equal to any contribution made to a private school certified by the State Revenue Commissioner.

Note: See *Patrick Henry Schools, Inc., v. Oxford, Revenue Commissioner*, 215 Ga. 399, involving this act.

**GEORGIA LAWS 1959, VOL. I, p. 157, as amended.  
GEORGIA LAWS 1960, VOL. I, p. 147; CODE SECS. 92-4109, 92-4110  
LIMITATION ON POWERS OF TAXATION BY MUNICIPALITIES**

This act supersedes all prior general or special laws authorizing municipalities to levy taxes to maintain independent school systems, and authorizes such taxation only on condition that such schools be maintained segregated as to race. As originally enacted in 1959, the act declared that the power of taxation ceased upon rendition of a decree invalidating the school segregation laws, but the 1960 amendment changed this so as to destroy the power of taxation only when integration actually occurred in fact. A suit to enjoin collection of the 1959 Atlanta educational tax, based on the original 1959 Act, is now pending in Fulton Superior Court. See *Hilltop Apartments, Inc., v. City of Atlanta, et al*, No. A79416, filed April 12, 1960. This suit is based on the federal court decree rendered in *Calhoun et al v. Latimer*, 4 Race Rel., L. R. 576 (D. C. Ga. 1959).

Note: See *James v. Almond*, 170 F. Supp. 331 (D. C. Va. 1959); *Aaron v. McKinley*, 173 F. Supp. 944 (D. C. Ark. 1959), aff'd. 4 L. Ed. 2d 237 (1959), and Ga. Constitution, Sec. 2-7001.