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NO. 9

Cavalcade of History

FEDERAL VS. STATE POWER---Part I
HIGHLIGHTS FROM WASHINGTON TO LINCOLN (1794-1861)

By Gus Bernd

The first important clash between Federal and State power under the Constitution of the United States came in 1794 in President George Washington's second term when our first president sent 15,000 militia under General Henry Lee into Western Pennsylvania to suppress the Whiskey Rebellion. For many days armed law-defiers had thwarted attempts at collecting an excise tax on distilled whiskey which had been passed by Congress in 1791.

The insurgents had tarred and feathered many tax collectors; and their leader, David Bradford, fled the country. Washington ordered the troops in after issuing two preliminary proclamations. Federalists hailed the action while Jeffersonians deplored it. Liberals of that day charged that Washington and his Secretary of the Treasury, Alexander Hamilton, were ruthlessly warring on one section of the public and were "using a meat-ax to kill a spider." The President's action served to establish the authority of the National Government during its early years of trial.

The Virginia and Kentucky Resolutions of 1798 set forth the nullification or interposition theory of state protest. These resolutions denounced the Alien and Sedition laws of the administration of John Adams. The election of Thomas Jefferson to the Presidency in 1801 put the Federalists on the skids; and centralization was temporarily halted.

In 1809 President James Madison faced a serious situation when the Pennsylvania state authorities tried interposition. Chief Justice John Marshall ordered a circuit judge to enforce a judgment against a state-appointed stakeholder. The action had originally started a decade before the adoption of the Constitution as a state court action on a privateer's capture of a British vessel during the Revolutionary War.

The federal vs. state show-down came at the home of a former state treasurer named Rittenhouse and is referred to as the "Battle of Rittenhouse Square." Gov. Simon Snyder of Pennsylvania surrounded the residence with the State militia. A U.S. Marshal, one John Smith, arrayed a posse of about 2000 men across the street from the militia. Chief Justice Marshall had already turned aside the Pennsylvania legislature's interposition resolution. The Pennsylvania Governor gave in after an appeal to President Madison brought from the "Father of the Constitution" a reply similar to the answer President Eisenhower recently gave Gov. Orval Faubus of Arkansas.

Said President Madison: "The executive is not only unauthorized to prevent the execution of a decree sanctioned by the Supreme Court of the United States, but is expressly enjoined by statute, to carry into effect any such decree."

Gen. Michael Bright and eight other officers of the State militia were indicted, tried by jury, and convicted of resisting the law of the United States. The fines and prison sentences were pronounced by Judge Bushrod Washington, a nephew of the Father of Our Country.

In 1814, the New England Hartford Convention made a manifestation of nullification in its opposition to the War of 1812 with Great Britain. The close of the war ended this threat to secede.

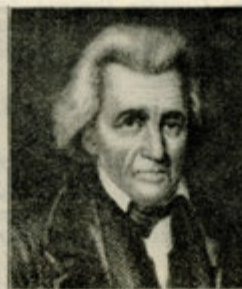
Georgia got into controversy with the National Government over various Indian lands difficulties. Gov. George M. Troup caused President John Quincy Adams to back down by threatening war over the Creek question. Later the Supreme Court was defied by Georgia on the Cherokee question. In connection with the Court's decision in the case of Worcester vs. Georgia, President Jackson said: "John Marshall has made his decision; now let him enforce it." The decision was not enforced; and the Cherokees were ultimately removed from Georgia by U.S. ARMY troops.

In another controversy, that over the tariff, President Jackson took the Union side when South Carolina defied the Federal Government over the high tariff of 1828. Jackson denounced nullification as "treason" and threatened to bring the State to terms with force. This South Carolina-born President made one of the strongest pro-Union statements of record when he said: "I consider, then, the power to annul a law of the United States, assumed by one State, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit,

THESE ALSO RISKED BACKING LAW WITH TROOPS



GEORGE WASHINGTON 1732-1799
1st President 1789-1797



ANDREW JACKSON 1767-1845
7th President 1829-1837



ABRAHAM LINCOLN 1809-1865
16th President 1861-1865

inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed." Prominent Georgians John Forsyth and Wilson Lumpkin supported the President in this controversy; but John McPherson Berrien of Savannah, Attorney General, resigned from the President's cabinet in protest. Calmness was restored when the issue was compromised in 1833 through the leadership of Henry Clay of Kentucky. A new tariff was passed, lowering duties. Solution of the great question of State vs. Federal Power was left to future generations. And a great war was to intervene.
(to be continued in next issue of Journal)

THE LAW UNDER WHICH THE PRESIDENT ACTED

Below, taken verbatim from the U.S. Code sections pertaining to the Armed Forces and the National Guard --- as revised by the 84th Congress in 1956, are the sections under which President Eisenhower sent troops to Little Rock. We did not write this law, as our readers well know, and we did not have a say-so as to the wisdom or lack of it involved in the troop order. This law speaks for itself; and the President used his own discretion or that of his advisers. The legal grant of authority does not mean that such rightful authority will not be abused. Here is the law: under Title 10, U.S. Code, under the 1956 revision:

- X 331. Federal aid for state governments
"Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection."
- X 332. Use of militia and armed forces to enforce Federal authority
"Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion."
- X 333. Interference with State and Federal law
"The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it---
(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or
(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws."
"In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution."
- X 334. Proclamation to disperse
"Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time."

President Eisenhower acted under Nos. 332, 333, and 334 of the above. Anyone desiring to look these sections up will find them on pages 19-20 of No. 17, U.S. Code, Admin. & Congressional News, with the 1956 versions of the U.S. military laws as revised and re-enacted by the 84th Congress. After reading these sections, which implement the 14th Amendment anew through Congressional action, we know most of our readers are wondering with us what all the 1957 talk in Congress about a so-called "Civil Rights Bill" was all about. The substance of the law under which Eisenhower acted derives from old laws of the '60s & '70s.

SPECIAL NOTICE !!!

Beginning in one of the next two issues of THE GEORGIA JOURNAL, we will present two or more articles dealing with John H. Reagan and Confederate Postage Stamps, Letters, and Postmarks. These articles will appear under the "CAVALCADE OF SOUTHERN HISTORY" caption. We will have extra copies available at 15 ¢ each, or 8 for \$ 1.00.

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"By words we learn thoughts and by thoughts we learn life."
 —Pere Girard

WITH LEGAL AUTHORITY BUT DEVOID OF WISDOM

The action of the President in sending troops to Arkansas is lacking in wisdom, however legal it may be. This act by Eisenhower along with the indiscretions and minor atrocities committed by some of the soldiers in Little Rock are tragedies which have set both race relations and national unity back deplorably. We must pray that a Tragic Era such as the Reconstruction Period of 1865-77 will not be the result. Ike waited too long to exercise any leadership in the Nation's De-segregation Crisis and then acted somewhat impulsively. Haste was not essential.

Of course, the South's own demagogues, now led by Gov. Faubus of Arkansas, must bear their share of the blame for the crisis in which the Nation finds itself. If the type of leadership furnished by governors such as LeRoy Collins of Florida and Luther Hodges of North Carolina had prevailed throughout Dixie, this crisis and its accompanying hatred probably would never have occurred. We are ashamed of the role our own Gov. Marvin Griffin played on his recent visit to Little Rock.

Time yet remains in which the President and the South can bring order out of chaos. And time also remains in which every true Georgian and Southerner can be honest with himself, and realize truth. Only by a new appraisal by the people as a whole of the position of our States in the Union can we save our public school systems and the future of the South in the Union of States. Meanwhile the troops should be rapidly withdrawn from Little Rock and the local law en-



LEAGUE FOR BETTER GOVERNMENT*** These young people of the Macon (Bibb County) Chapter of the Young People's League for Better Government of Georgia met in regular meeting on September 8th and held an inter-league discussion of the Arkansas Crisis as it stood at that date. Left to right front row, seated, are: Miss Laura Newman, Donald Browning, James Hilley; standing: left to right: Robert Barfield, Robert Carver, Warren Scoville, Leonard Grace, Ed Whitehead, and Walter Busbee. Browning is the League's President.



THE WINNER

Here Miss Carolyn Newsom of 1074 Avenue of Pines, Macon is shown congratulating J.R. 'Bob' Young upon his victory over Thomas Doughman in Macon's recent election for Water Commissioner.

forcement authorities given another chance to see that the law is carried out. And, as Senator Russell says, any soldiers guilty of crimes against civilians should be punished. Quoting Adlai Stevenson: "Its time to bind up the Nation's wounds." Wounds that should never have been inflicted.

FOR ORDERS OF BOOKS OR STAMPS FOR STAMP COLLECTORS FOR GIFTS FOR SPECIAL OCCASIONS, REMEMBER THE GEORGIA JOURNAL.

Gov. Collins Talks

With Horse Sense (The Atlanta Constitution)

Gov. Leroy Collins, of Florida, spoke Monday to his fellow Southern governors in convention at Sea Island, Ga., giving them what was and is an eloquent testament of faith. It is an address which almost certainly will become a classic of textbooks in the field of political science and sociology.

It was one of several in which emphasis was placed on the progress and the constructive accomplishments of the South. We need more governors like Gov. Collins of Florida and Hodges of North Carolina, two of the speakers who dwelt on the positive, and not on the negative, defiant side of our life and deeds.

It may be significant that the same football crowd which cheered Gov. Faubus

Saturday night in Atlanta, also cheered the names of Collins and Hodges. All three have been on the side of a South of law and participation in our national life.

Gov. Collins took as his text, so to speak, the thesis that a Southerner can be elected president, political belief to the contrary notwithstanding. Such a man must have behind him a South which has responded to the great challenges of change. It cannot be a South which has "wrapped itself in a Confederate blanket and consumed itself in racial furor." The times call for new and vigorous leadership, vision and faith, not negative defeatism or political suicide, he said.

His peroration was magnificent, equaling anything out of the great oratorical past of Henry Grady, Ben Hill, Alex Stephens and Bob Toombs.

* * *

"Yes," he said, "a Southerner can be elected president now, but he must be an uncommon man with a common touch—a real "stand up" man who recognizes his responsibility to all the people, all the time; whose solemn commitment to the national interest and welfare he places above self, above friendship, above section, above state, yes, above all, save his God.

"He must know good not because he can sense it, but because he has done it.

"He must know progress not because he has seen the low ground left behind, but because he has been a part of the struggle for the high ground ahead.

"He must know injustice not because he can place the blame for wrong, but because he has righted it.

"He must know the truth not because he has heard it, but because he has spoken it.

"In 1960 this nation of ours will sorely need such a candidate.

"And whether he comes from the North, the East, the West or the South, he can be elected." To this we say, "Amen."

Therefore, sincere differences in belief—even about the nature and will of God—are acceptable.

But this does not mean that God is as variable as our belief. He is unchangeable, and absolute. It is only because we do not know Him perfectly that we must confess the probability that our best belief is wrong—that is, it is less than His greatness."

---author unknown to us.

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Editorial Comments

Below are statements and excerpts from various newspapers, individual writers, and politicians concerning the issues involved in the Little Rock Crisis. The Journal is happy to present a good cross-section from many points of view on this matter which is the most serious domestic crisis since the eighteen sixties:

The Arkansas Gazette
IN ONE sense we rolled back our history to the Reconstruction Era when federal troops moved into position at Central High school to uphold the law and preserve the peace.

"Among the teen-agers who joined the mob, there were no student body officers, no members of honor societies, no campus leaders of any kind. There were some who had not bothered to complete the high school advantages that had been offered to them, but who at the prospect of violence had suddenly become morally concerned with the state of education in Little Rock Central High..."

"Unfortunately, the mobs in front of Central High School have at no time been in any sense representative of the people of Arkansas."

The Arkansas Democrat

"The President's action was the inevitable consequence. The law must prevail, the courts must be respected, or all of our rights, our peace, freedom and everything we cherish is put in deadly peril..."

The New York Times

NO ONE with the good of our country at heart—and least of all the President—wants to see federal troops in action in this crisis. The scars resulting from such a development would add to those already suffered as a result of the shrieking hatreds of the extremists, the incredible folly of Gov. Faubus, and the disappointing slowness of the President himself to assume the strong attitude of leadership that he has finally shown in the nick of time.

The Chattanooga Times

PRESIDENT Eisenhower, in moving troops into Little Rock, must have the support of every other Southerner and every other American who values the foundations of the country in law. With every means at our command we express the hope that Little Rock itself can right the situation some of its politicians have caused it to endure.

The Atlanta Constitution

ONE THING is clear. The South is paying a heavy price for its mobs and its demagogues who have fanned the fire they wanted to extinguish.

While many may believe the President in error, or criticize him for having moved too fast or too slowly, none can attack his insistence that we maintain law and put down mobs. The great mass of Southern people, while angrily opposed to the court decision, have not participated in violence.

The Miami Herald

THE MOB situation and rioting in Arkansas over school integration is as disgraceful as it is deplorable. It demands extreme measures such as the President has initiated.

The Des Moines Register

WE BELIEVE the majority of people in the South will recognize that the President had to move in as he did. There can be no compromise with mob violence and disobeyal of the laws of the United States.

The Indianapolis Star

THE FEDERAL administration has gone far beyond the Constitution, far beyond the law, far beyond even the Supreme Court in what is obviously, in part at least, a deliberate effort to placate the Negro vote pending next year's elections.

The Portland Oregonian

THE FEDERAL government can and will use its full power, not short of force, to see that the law is obeyed. Let all the South take notice.

Adlai E. Stevenson:

"At this point the President had no choice. The combination of lawless violence and the governor's irresponsible behavior have created a crisis which Arkansas is powerless to meet."

Stevenson added the idea that the President should also "mobilize the Nation's Conscience."

Gov. Orval Faubus, Ark.

"I want to wait and see. I don't know enough about the situation yet."

(from Sea Island, Ga. before returning to Little Rock to continue his fight.)

The Jackson (Miss.) Daily News

To the President: "Nuts!"

Bibb County Rep. Ed Wilson expressed the belief that: steps taken by both Ike and Faubus "served to intensify bad feelings rather than to relieve the situation."

Wilson said: "Certainly we all are opposed to violence. Mobs will not settle these difficult problems. However, I think President Eisenhower made a serious mistake by sending in federal troops."

The Chicago Tribune

PRESIDENT Eisenhower has done what his oath requires him to do. The nation, North and South, white and Negro, will pray that the lawless minority will not persist in their program of disobedience, for lawlessness is contagious.

The Minneapolis Tribune

WHERE Faubus had encouraged the spirit of lawlessness, where he had given aid and comfort to hoodlumism in its most virulent forms, the President has acted to restore order and uphold the law. For that, we think Americans will commend him warmly.

The Kansas City Star

A FUNDAMENTAL principle is involved, of course. But beyond the principle this is a vast political battle. For the governor of Arkansas this has been the big bid for a third term. For the national Democratic Party, Little Rock has posed the danger of a party split and Democrats have made every effort to load responsibility on the President. The Republicans have been using the race issue to promote the Democratic split although the President, personally, has made strenuous efforts for moderation and a nonpolitical situation.

The Detroit Free Press

ORDERING the federalization of the Arkansas National Guard was poetic justice. The same troops which were used by Gov. Faubus to bar Negro pupils from the Little Rock Central High School can now be used to provide them safe passage to their classes.

The Dallas News

EVERY peaceful plan for complying with mandates of the Supreme Court in any Southern state is imperiled and every element of good will and friendliness between white man and black man is in danger of frustration and defeat.

The Houston Post

VIOLENCE that was done to our political traditions when federal troops landed in Little Rock Tuesday night was double tragedy; tragic that it happened, more tragic that only alternative was breakdown of law and order.

The New York Herald Tribune

PRESIDENT Eisenhower did exactly what was necessary. For if the federal government fails to enforce its laws and yields to the mob, the result can only be anarchy. Here there is no option.

Gov. LeRoy Collins, Fla:

"I hate to accept the fact that federalization of the National Guard is essential."

Sen. Herman Talmadge:

"We still mourn the destruction of the sovereignty of Hungary by the Russian tanks and troops in the streets of Budapest. We are now threatened with the spectacle of the President of the U. S. using tanks and troops in the streets of Little Rock to destroy the sovereignty of the state of Arkansas."

Democratic Senate Leader Lyndon B. Johnson (Texas)

"... there should be no troops from either side patrolling our school campuses."

Bibb County Representatives Andrew W. McKenna and Douglas Carlisle also strongly criticized the President's action. Carlisle expressed the view that the 14th Amendment to the U.S. Constitution was not legally adopted. He wired the President to read an editorial of that view which was published in a recent edition of U.S. News & World Report.

Gov. Marvin Griffin, Ga.

"What has made him use the mailed fist of dictatorship and the military might of the United States against the free citizens of a sovereign state?"

"The people of Georgia will not give in to this kind of thing and we shall not surrender our liberty and our freedom."

"These are indeed times that try men's souls, but the people of Georgia have been tried in the crucible of tyranny before and we have not failed."

Sen. Wayne Morse (D-Ore.)

"We cannot permit riff-raff mobsters to take the law into their own hands anywhere in America in violation of the constitutional rights of citizens or in contempt of court orders."

Sen. Richard Russell:

He labeled the President's intervention as an unconstitutional use of "storm troopers to intimidate and coerce the people of the South." Russell charged the President is "flirting with dictatorship."

The President said in a telegram to Russell:

"I must say that I completely fail to comprehend your comparison of our troops to Hitler's storm troopers. In one case military power was used to further the ambitions and purposes of a ruthless dictator; in the other to preserve the institutions of free government."

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Dulles—As Others See Him

With publication of the newest apologia for the U. S. Secretary of State, the biography *John Foster Dulles* by John Robinson Beal, "double think" arrived fully upon the American scene . . . "double think" is the trick of saying the opposite of reality and persuading people that it's the truth.

A breath-taking example is Mr. Beal's presentation of enormous Dulles blunders in the Middle East as unparalleled diplomatic triumphs.

—Greensboro Daily News

From the Time Magazine staff has sprung another Boswell for Secretary of State Dulles—and another in the list of "brinks of war." John Robinson Beal is the third Time man in recent months to undertake the job of interpreting Mr. Dulles and Mr. Dulles' special brand of diplomacy . . . Mr. Dulles had better hurry to explain away Mr. Beal's book—if he can.

—Atlanta Journal

If John Foster Dulles did not exist it would be necessary for the Luce magazines to create him, which in a sense we suppose, they have . . . the use of Timespeak to convince us that black is white is a problem of growing seriousness in this country . . . Mr. Beal's documentation of Mr. Dulles' handling of the Suez situation ought to be enough to force the Secretary's resignation.

—Arkansas Gazette

Mr. Beal's book has the quality of special pleading appropriate to a politician's speech in mid-campaign, but preposterous when presented as a serious account of American operations in foreign affairs during the last four years.

—Baltimore Sun

The vitally important thing about the Beal book . . . is that it once more proves that the destinies of the American people, internationally, are in the hands of a self-satisfied, self-righteous, boastful and reckless diplomatic schemer—a would-be Machiavelli who gambles against war, with nations and people as his dice. This irresponsibility

and dangerous man must be retired from his post of power. Otherwise his next calculated risk or purposeful march to the brink of war may end in disaster.

—Milwaukee Journal

The last time Dulles did any of his garrulous bragging in the company of one of Henry Luce's reporters (the brink of war story in Life) there was an uproar and a lot of backing down. Luce himself issued the humiliating admission that he was publishing something less than the truth. He had to do it because his publications are house organs for the GOP rather than independent news conveyors.

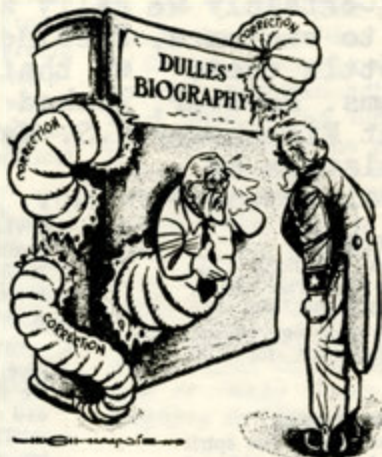
—Capital Times (Madison, Wis.)

There is probably no statesman in the western world who so persistently misread the meaning of events in the Middle East since 1953 or who surpasses Mr. Dulles in the measure of personal responsibility for the Suez crisis.

—Manchester (England) Guardian

. . . Dulles has the duty to explain or defend the Beal disclosures. When a man holds, as Dulles does, what is probably the most important and powerful appointive public office in the world, he cannot have it both ways and get away with it. He cannot have both the glory of boasting about his gambitry and brinksmanship and also the irresponsibility of not acknowledging them.

—New York Post



The Greensboro Daily News
"Surely, You Don't Think I'm Trying To Worm Out Of This"

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