WASHINGTON EVENING STAR

MAY 27 1963

Court Refuses to Hear Wallace Suit on Troops

Alabama Gov. George C Wallace was denied a Supreme Court hearing today on his suit challenging the President's authority to use Federal troops in Birmingham.

The court's action was announced in a brief, unsigned order in which it said that "purely preparatory measures" by the President "and their alleged adverse general effects upon the plaintiffs afford no basis for the granting of any relief."

Gov. Wallace filed his suit with the Supreme Court May 14 after President Kennedy dispatched 3,000 soldiers to stand by posts at Army and Air Force installations at Anniston and Montgomery, Ala.

Preparedness Step

The President ordered the troops moved May 12 as a preparedness step after bombings and rioting climaxed over a month of racial demonstrations.

"In essence the papers filed by Gov. Wallace show no more than that the President has made ready to exercise the authority conferred on him by 10 U. S. C. Sec. 33 by alerting and stationing military personnel in the Birmingham area," the court said.

"The motion for leave to file the proposed bill of complaint, as amended, is denied," the order stated. It said that Justice White, the former Deputy Attorney General, had taken no part in the consideration or decision of this case.

Gov. Wallace, who has pledged to personally block enrollment of two Negroes at the University of Alabama, had sought a ruling that the President had acted unconstitutionally in sending troops into the State.

He maintained that neither the Alabama legislature nor the Governor had asked the President or the Federal Government to send troops. Gov. Wallace said such a request was required under the Constitution.

The Federal Government, in its brief asking the court to reject Gov. Wallace's suit, had requested a ruling that the President had power to act under the law cited in today's order.

The section adopted in 1871 provides that the President shall take steps "as he considers necessary" to suppress domestic violence denying constitutional rights that State authorities "are unable, fail or refuse to protect."

Alabama Integration Ruling Near

By The Associated Press

A federal court ruling is due today or Tuesday on Negro efforts to desegregate schools in Birmingham, largest city in Alabama and focal point of racial unrest for weeks.

U. S. District Judge Seybourne H. Lynne said Sunday he will announce his decision by Tuesday. It will be the fifth court ruling within a week on Birmingham issues.

• • •

And it will come just two weeks before two Negroes, backed by orders of another federal judge, plan to present themselves for admission into white units of the University of Alabama system — one at the main university campus at Tuscaloosa, the other at a branch at Huntsville.

Gov. George C. Wallace has vowed a stand-in-the-schoolhouse policy to maintain segregation in Alabama's schools. He has said he will be on hand personally to block admission of a Negro at the university for the term beginning June 10.

• • •

Two suits are involved in the public school litigation before Lynne. The first, filed in 1960, attacks Alabama's pupil placement law, which has been upheld on its face by the U. S. Supreme Court. The law gives local school boards broad authority in assigning pupils to schools.

The second, filed last year, seeks an injunction wiping out the entire segregation system in Birmingham schools.

In developments elsewhere:

An estimated 25,000 persons packed Wrigley Field at Los Angeles for a three-hour rally for civil rights. Dr. Martin Luther King Jr., Southern integration leader, shared the stage with several Hollywood stars. King urged that President Kennedy personally escort the two Negro students to the white university units.

Ku Klux Klan Wizard Robert Shelton of Tuscaloosa, Ala., said at an Atlanta rally of the robed order that the KKK will join Gov. Wallace in standing in the door to prevent integration of the University of Alabama.

Louisiana's Legislature gave final approval to a vote of censure for what it called a federal threat of "government by bayonet" in Alabama.

A parade of about 12,000 persons, most of them Negroes, was staged Sunday along San Francisco's Market Street in a demonstration demanding an end to Birmingham's troubles, and calling for an end to racial bias in the California city.

Atty. Gen. Robert F. Kennedy meets today with theater owners to discuss dropping of racial barriers in Southern movie houses. But Albert Pickus, board chairman of the Theater Owners of America, said in Stratford, Conn., "I can't say if they will accept total integration."

The University of Mississippi's only Negro student, James H. Meredith, said in Washington that he had detected little change in white student's attitudes toward him. And he said this will continue "so long as this issue between the state and federal government is unresolved."

Press Intelligence, Inc.
WASHINGTON 1, D. C.

MADISON, WIS.
CAPITAL TIMES

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Front Page | Edit Page | Other Page

Date: MAY 27 1963

The governor of Alabama vs. the federals

BY JAMES FREE

Governor Wallace of Alabama and Mrs. Wallace

Press Intelligence, Inc.
WASHINGTON 1, D. C.

NEWARK, NEW JERSEY
STAR-LEDGER

m. 221,403
S. 370,529

Front Page | Edit Page | Other Page

Date: MAY

U.S. Court Ruling Expected On Birmingham Integration

By THE UNITED PRESS

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Gov. George C. Wallace has vowed a stand-in-the-door policy to maintain segregation in Alabama's schools. He has said he will be on hand personally to block admission of a Negro at the university for the term beginning June 10.

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The second, filed last year, seeks an injunction wiping out the entire segregation system in Birmingham schools. Both are class actions, which means they seek relief on behalf of all Negroes.

Negro leaders planned a meeting during the day in outwardly calm Birmingham.

In developments elsewhere:

—Ku Klux Klan Wizard Robert Shelton of Tuscaloosa, Ala., said at an Atlanta rally of the robed order that the KKK will join Gov. Wallace in standing in the door to prevent integration of the university.

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—The University of Mississippi's only Negro student, James H. Meredith, said in Washington that he had detected little change in white student's attitudes toward him. He said this will continue "so long as this issue between the state and federal government is unresolved."

—Attorney Paul Zuber, a Negro who has been active in integration moves, said in New York he was withdrawing from such efforts and called for a merger of all Negro action groups, except the Black Muslims.

— A Negro spokesman in Greensboro, N.C., said integration leaders are trying to be "as open minded as we possibly can" in that city's racial troubles. He said a 48-hour demonstrations truce might be extended past its deadline of 4 p.m. today.

—In Albany, Ga., a major integration target last year, 16 persons jailed for demonstrations have pledged a hunger strike.

Racial unrest continued to sweep across the nation. Weekend flareups included rioting by white persons and Negroes in a Boston housing development, and a melee in Manhattan after neo-Nazis clashed with a Jewish World War II veteran.

Press Intelligence, Inc.
WASHINGTON 1, D. C.

DALLAS, TEXAS
TIMES HERALD

C. 195,937
S. 206,275

Front Page | Edit Page | Other Page 1

Date: MAY 27 1963

WASHINGTON EVENING STAR

MAY 2 1963

WILLIAM S. WHITE

Climax Near on Racial Issue

Southern Moderates in Senate Called Decisive Factor in Resolving Problem

Gov. George Wallace of Alabama repeatedly threatens to defy the courts and physically to bar admission to the University of Alabama to two Negro students.

The Kennedy administration responds by preparing to demand of Congress new Federal sanctions of force against the South.

So a long, unspoken truce on this issue between the President and the Southern Senators now draws willy-nilly to its close.

It has been, at best, a truce not easy to maintain. For the President through two years has been under savage pressure from Northern extremist politicians—mostly in his own party but from a Republican fraction as well—to seek legislation in effect proclaiming the South an outlaw land.

And the Southern Senators—except for a handful of ultra-traditionalists among them—have been for a much longer time under the incessant threat of damaging reprisal at home for not resisting even temperate efforts at slowly and rationally accommodating the racial struggle.

But it is all over now. The truce has been broken on the one side by the Wallaces of the South and on the other side by catch-poll Northern politicians. These politicians are armed by extraordinary rulings from the Supreme Court which are enough to break the heart of any man — Northerner or Southerner — who knows that informed consent, not self-righteous and uninformed coercion, lies at the heart of the Constitution of the United States, as it has been known until now.

So if not in the present session then surely in the one to come in the Presidential year 1964, Congress, Administration and country are to be plunged into violent and oversimplified contentions destructive of National unity in a world of outer peril.

The Kennedy administration's civil rights demands will be bad enough from the Southern viewpoint, but there is not a hope that even these will satisfy the large and vociferous urban Democratic left-wing of which, in this matter, he is not in his heart a part.

The either-or people have at last had their way. We enter now an era where men will speak from passion and not from mind, where words like restraint and reason will become sneers and jeers, where the whole art and meaning of free Government, the spirit of rational compromise, will become treason and sell-out.

But more than the qualities of thought and responsibility and civility will fall victim now. Victims, too, will be Senators of irreplaceable National usefulness — not all of them Southerners, by the way — who will be caught up in this maelstrom of either-or.

Some will either succumb to one extremism or another, or will in due course find themselves retired to private life.

Looming distantly but ominously may be the beginning of the end for that enormous and decent power in the United States Senate of the Southern moderate, the best and ablest class of men in American public life.

If the Senate becomes for long the cockpit for this spasm of unreason, it may become the scene as well for the destruction of the decisive influence of this infinitely important Southern-moderate group of balance to which this country—and most poignantly the South—owes in all its affairs incomparably more than it will ever know.

The ultimate tragedy? It is in the gathering twilight of the power of the moderate South in a Senate which ever since the War Between the States has been the last, the best, the one true place for wise defense of a tortured reason, where, for all its faults, personal honor still counts more than personal fortune.

Perhaps it is too melancholy a fancy, but in bleak imagination one can hear the coming roll of the drums of tragedy for another Appomattox — that Appomattox where the true sons of the South surrender the great sword of the Senate to carpetbaggers from abroad and scalawags from home.

WASHINGTON EVENING STAR

MAY 27 1963

DAVID LAWRENCE

Power a Dictator Would Usurp

U. S. Brief on Using Troops in Alabama Would Open Up Vast Area of Coercion

A remarkable brief has just been filed in the Supreme Court of the United States by direction of Attorney General Robert Kennedy. If the argument in it is ever sustained by the high court, the way is opened to a military dictatorship in the United States at any time and for any reason that suits the whim of a President. The provisions of the Constitution which limit a President's power would be swept aside and, for all practical purposes, the Constitution hereafter would be what the President says it is.

The brief was in answer to a petition of Governor Wallace of Alabama asking the Supreme Court to issue an order against the use of Federal troops in Alabama unless requested by the Governor or the Legislature, as required by the Constitution.

The Supreme Court today, however, declined to pass on the merits of the argument in the brief and rejected the complaint on the ground that the President had merely taken "purely preparatory measures." But the brief of the Department of Justice will remain in the records as a statement of the basis for future use of Federal troops inside a sovereign State.

The Department of Justice replies that the provision of the Constitution which explicitly says that Federal troops may be used within a State only with the permission of the Governor or the State Legislature is "irrelevant" and that a motion in the Fourteenth Amendment confers broad new powers on the President to enforce any law on any subject by "troops which, on the basis of his own judgment of the circumstances, he wishes to use them." The brief, moreover, makes this sweeping claim:

"There is no room for judicial review of a presidential determination that the conditions stated in Section 333 have arisen and require him to take 'such measures as he considers necessary.'"

Section 333 is part of a law originally passed in 1871. It specifically relates only to a failure or refusal by State authorities to permit the "execution of the laws of the United States." President Kennedy has himself publicly stated that, in the recent disturbances in Birmingham, Alabama, no Federal law was being violated — nor any court order, either.

The brief brushes aside as secondary the public statements of Alabama officials that they intend to maintain law and order, and adds:

"But the allegations of intent cannot relieve the President of the right and duty to prepare for all contingencies and to make the independent determination required by Section 333."

Yet a President's "intent," on the other hand—whether it be political or capricious—to prepare to deal with local disturbances whenever he pleases is held by the Department of Justice not even to be subject to judicial review. It is further argued in the brief that Section 333 is a blanket authorization to a President to send troops into any State at any time that he himself thinks there may in the future be some intention to violate any law or court order. Section 333, however, doesn't deal with intent at all but only with actual evidence of law violation or a refusal to enforce a law.

The constitutionality of section 333 itself has never been passed upon by the Supreme Court of the United States. Congress cannot assume the right to proclaim by statute what it wishes to be considered constitutional. Nor can Congress enlarge a President's constitutional powers by means of a law.

The most surprising statement in the brief—and one which would seem to pave the way for a military dictatorship by a President of the United States at any time he wishes to set it up—is as follows:

"We cannot know whether the occasion for invoking the statute (Section 333) will actually arise. Nor need we examine the precise circumstances which might justify the contemplated intervention. It is sufficiently clear, however, that the prevailing situation in Birmingham may deteriorate in such a way as to require action under Section 333."

Yet the law itself doesn't say a President may threaten to use Federal troops or even use them until the circumstances stated in the law have actually arisen.

But what difference would it make what the law says if the Department of Justice is right in claiming that there can be no judicial review of a President's acts?

There is no limit to the powers of coercion that could be applied by a President, whether a "liberal" or not, by ordering out troops. If the Supreme Court of the United States accepts the reasoning of the Department of Justice, then, even when no Federal law or court order has been violated, a President can mobilize Federal troops and deploy them as he pleases. He could intimidate local authorities and coerce certain citizens to make concessions in favor of one group of voters rather than another. Also, a President, under his own concept of executive power, could apparently choose to "enforce" that concept by military action irrespective of what is actually specified to the contrary in either the laws of the United States or the Constitution.

WASHINGTON EVENING STAR

MAY 27 1963

Wisdom in Alabama

The self-defeating fanaticism reflected in the attitude of Governor Wallace toward the court orders requiring the admission of Negro students to the University of Alabama is not shared by all Alabamans, and it is well to be reminded of that fact as the university crisis unfolds.

Frank A. Rose, the president of the University of Alabama, provided just such a reminder in a talk the other night to the Washington chapter of the university alumni association. While he avoided a head-on collision with the Governor, Mr. Rose deplored the tragedy of a situation which permits any scholastic institution to be trapped between such "powerful forces as the University of Alabama is now caught."

President Rose predicted that the university "will maintain its dignity, its integrity, and our students will walk as honorable men and women." Then, turning to an unidentified source, he offered this quotation: "Great economic and social forces flow like a tide over half-conscious people. The wise are those who foresee the coming events and seek to shape their institutions and mold the thinking of the people in accordance with the most constructive change."

These are wise and at this moment encouraging words from a man who will be in the middle of a difficult and potentially explosive situation. One can only hope that his prediction as to the conduct of the university will be borne out, and that some of his insight will rub off on those in his State who up to now have shown such a great need for it.

WASHINGTON POST-TIMES HERALD

Global News Restraint On Birmingham Shown

MAY 27 1963

World-wide reaction to the Birmingham riots shows a new level of understanding abroad toward America's racial troubles and wide sympathy with President Kennedy's efforts to deal with them.

This trend, especially in race-sensitive Africa and India, became evident in a survey conducted by correspondents for the Washington Post and Newsweek Magazine.

The racial violence in Birmingham was page-one news around the world and although the tone of criticism was generally moderate, the Alabama situation obviously hurt United States prestige. If U. S. image makers had hoped that the Nation's latest space feat would eclipse the specter of bigotry in Birmingham, they were rudely disappointed.

Pictures of police dogs lunging at Negroes vied with photos of Astronaut Gordon Cooper's space capsule on front pages throughout the world.

African Praise

Nevertheless in Addis Ababa, for example, leaders of 30 African states adopted a declaration Sunday condemning racism but praising the Kennedy Administration for its efforts to "put an end to these intolerable malpractices" in the United States.

This mirrors the increasing tendency in Europe, India, and the Middle East to look at America's racial problems in their full complexity rather than in strictly monolithic terms.

Here is an area-by-area breakdown of reaction to the Birmingham crisis and the Cooper flight.

• **EGYPT AND THE MIDDLE EAST:** Egyptian press reaction to Birmingham was surprisingly moderate, in sharp contrast to the day-in-day-out denunciations of the United States in recent times. Because Egypt's press is nationalized, the newspapers are presumed to reflect government opinion.

The sharpest criticisms in the area were registered in the anti-American Al Baath, organ of the Baath Socialist Party which governs Syria and Iraq. It said Birmingham is reminiscent of policies followed by "some of the Fascist states against the Negroes in Africa."

One explanation for the restraint in Egyptian press commentary is the improvement of relations with the United States, of which Egyptian officials themselves speak. This is attributed to American economic aid, a more sympathetic attitude toward Arab unity and the personal diplomacy of Ambassador John Badeau.

Western diplomats believe the reaction to Alabama reflects a deliberate effort by President Gamal Abdel Nasser to minimize criticism of the United States at this time.

INDIA: Indian reaction was symbolized by a front page cartoon in the Hindustan Times which depicted the Statue of Liberty with a Klu Klux klansman perched on her shoulder. The klansman was trying to snuff out the torch but it was kept ablaze, safely beyond his reach.

Public opinion in India has identified itself with President Kennedy as the embattled friend of the Negro. One Indian correspondent spoke with praise of the role of moderates in the racial crisis.

As a whole, Birmingham was given restrained news play, in sharp contrast to the angry criticism aroused by American race troubles a decade ago. Privately, however, Indian political leaders expressed a wish for a more militant policy by the White House in confronting the Birmingham crisis.

In both India and Pakistan there has been a remarkable lack of interest and controversy over Birmingham. The Pakistani newspaper, Dawn, reported President Kennedy's dispatching of troops to Alabama on page eight. In headline and tone, the treatment had been dead pan.

AFRICA: The declaration of praise at the Addis Ababa summit conference for President Kennedy's policies in Birmingham was the most recent official reaction to the U. S. racial crisis.

At a news conference in Addis Ababa yesterday, Sekou Toure, premier of Guinea told a news conference:

"We cannot say that the American people are racists. Racism exists everywhere, even in Guinea.

"We know that in the United States a fight is being organized by the government of President Kennedy. We approve without reserve of this policy of President Kennedy."

Toure's remarks take on added significance since Guinea was once described as the first Soviet satellite in Africa.

In sharp contrast was the gleeful account of Alabama's racial troubles in the press of white-ruled South Africa. Man-in-the-street interviews echoed the theme "Why is the United States sticking her nose in South African apartheid (segregation) policy when she can't control her own Negroes?"

Jeeringly, South African newspapers referred to the United States as "the land of the free—except for the Negroes."

EUROPE: In the British press, the Birmingham disorders received fair to heavy play, with the Southern city characterized as "the city of opinion condemned "white extremists" in Alabama but endorsed the efforts of the Kennedy Administration, as one newspaper put it, to "promote the fulfillment of the justified aspirations of the Negro population." Only the Communist Daily Unita criticized President Kennedy for his "faint-hearted" conduct in Alabama.

In Bonn, the Birmingham story received subdued news treatment, taking the back seat to the Cooper space flight. Editorially, the German newspaper reserved their criticisms for Birmingham's segregationist leaders and praised both moderates and the Administration for their role in the crisis. But a 19-year-old secretary had this reaction. "Look who's talking about the way we treated the Jews. The way Americans suppress the Negroes, why we were no worse than they are now."

France, too, took a restrained view of the Birmingham racial conflict—far more so than in the case of Little Rock which precipitated a flood of protest.

hate" and "riot city." Britons, who have their own growing agenda of racial problems, viewed the riots as a local rather than national failing. Editorialized the Daily Telegraph: "We (in England) have not yet reached a consistent national attitude to the color bar."

In Italy, the news from Birmingham was subordinate to domestic politics and the unsolved murder of a Bavarian playgirl in Rome's "dolce vita" area. The bulk of press letters to the American Embassy in Paris. This time France reacted with cool impartiality—no mass protests, anti-American newspaper crusades or heated attacks on radio. Pictures of police dogs mauling Negroes were widely published in France and evoked the strongest reaction to Birmingham's troubles. Generally, however, the French expressed the feeling that the Kennedy Administration was doing its best to cope with a difficult situation.

Alabama Governor Ordered Into Court

BIRMINGHAM, Ala (AP) — A federal judge yesterday ordered defiant Gov. George Wallace into court next month for a legal showdown on the state sovereignty issue raised by the governor in his pledge to keep two Negroes out of a state university.

Asserting federal sovereignty, the Justice Department moved for an injunction against Wallace's interfering with the enrollment of Negro students at the University of Alabama.

A GOVERNOR "has no authority by 'interposition' or otherwise to obstruct or prevent the execution of the lawful orders of a court of the United States," the Justice Department said.

Wallace made no immediate response. Sources close to him said he had called a meeting of lawyers.

A resolution backing Wallace's stand failed to gain Senate approval before weekend adjournment of the legislature. It passed the House. Atty. Gen. Richmond Flowers, who has been at odds with Wallace, offered to patch things up and help the 43-year-old governor in his fight.

U.S. District Judge Seybourn H. Lynne ordered Wallace to appear June 3 in Birmingham to show cause why he should not be barred by injunction from interfering with university integration.

The hearing will come a week before summer session registration.

Under a court order, 20-year-old Vivian J. Malone of Mobile is to become the second Negro ever admitted to the main campus at Tuscaloosa and David M. McGlathery, 27, will attempt to enroll at the center in Huntsville, his hometown.

"This action is brought by the United States in its sovereign capacity to safeguard the due administration of justice in its courts and the integrity of its judicial

(Continued on Page 14, Col. 4)

JUDGE ACTS—U.S. District Judge Seybourn Lynne ordered Gov. Wallace to show cause why injunction should not be issued barring governor from interfering with enrollment of two Negroes in Alabama University.

Press Intelligence, Inc.
WASHINGTON 1, D. C

PHOENIX, ARIZONA REPUBLIC

m. 127,751
S. 189,224

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Date:

(Continued from Page 1)

process" the federal complaint said.

The Justice Department quoted Wallace's pledge of last Tuesday to "bar the entrance of any Negro who attempts to enroll in the University of Alabama."

"I embody the sovereignty of this state," he said.

WALLACE, who has repeatedly denounced federal courts, filed suit last Saturday in U.S. Supreme Court for an injunction against use of federal troops in Alabama racial troubles. President Kennedy has stationed about 3,000 soldiers at two Alabama bases on a standby basis.

The governor, often called "the Wallace" repeatedly declared he

fighting little judge" first defied a federal court in 1956 when he was ordered to turn over voter registration records to the Civil Rights Commission.

THEN A state circuit judge ordered Wallace to comply with an order from U.S. District Judge Frank M. Johnson Jr. at Montgomery.

However, in a hearing before Johnson, Wallace was cleared of a contempt citation because the judge said Wallace had complied with the court order "literally" despite evasive maneuvers.

In his gubernatorial campaign Wallace repeatedly declared he had defied a federal court and got away with it.

The Justice Department requested injunctive orders against the governor, his agents, employes, subordinates and successors, together with all persons in active concert or participation with them from

"PREVENTING or seeking to prevent or interfering in any way with the enrollment and attendance of Vivian J. Malone and David M. McGlathery at the university.

"Obstructing or interfering by any means or in any manner with the implementation of the court's orders of July 1, 1963.

"Others or obstructing or interfering with the due administration of justice in the courts of the United States.

The 1955 order was the original desegregation decision which resulted in the enrollment at the main campus of Autherine Lucy. Rioting followed and she later was expelled for unproved charges against school authorities.

ATTORNEY General Robert F. Kennedy said in Washington that the court action was aimed at testing Wallace's announced position of "legal resistance and legal defiance" of federal courts.

Kennedy said federal officials welcomed Wallace's suit against troop use "because the courts are the proper forum for settling disputes of this sort."

Recalling the governor's comments about raising new legal questions, Kennedy said:

"While these new legal questions would use the long discredited doctrine of interposition, another way to determine this is in the courts, not in the streets or by confrontation of military or police forces in Alabama."

WASHINGTON POST-TIMES HERALD

Inside Report . . . . . .

5/24/63

Kennedy's Dilemma

By Rowland Evans and Robert Novak

THE KENNEDY ADMINISTRATION is searching for a way out of a politically dangerous civil rights dilemma in Congress.

This is the dilemma: If the Administration opposes a key civil rights proposal backed by liberal Republicans, and most of its own liberals too, it risks retaliation at the hands of Negro voters next year. If it supports the proposal, it may kill all chances for a civil rights bill this year, even though the climate, on the heels of Birmingham, is ripe.

"We're in a tight bind," said a knowing Kennedy man, "and it's getting tighter."

The key proposal is known as Title III of the 1957 Civil Rights Bill. Title III was an original Eisenhower proposal that Gen. Eisenhower finally agreed to junk in the process of getting the Senate to pass the 1957 bill. It would permit the Attorney General to bring civil suits to protect a wide variety of constitutional rights for Negroes.

Spiritually, the Northern Democratic liberals are just as strong for Title III as the Javits-Keating Republicans. But their loyalties are torn by the Administration's opposition.

Mr. Kennedy's political and civil rights advisers are convinced that their own, more moderate civil rights bill, while certain to run headlong into a Southern Senate filibuster, could be passed. They envisage the Senate for the first time in history forcibly ending a Southern filibuster by cloture—requiring a two-thirds vote — provided Title III is left out. But if Title III is attached to the bill, the two-thirds vote needed to cut off a filibuster would be out of reach.

in Birmingham. The Senators were "Deeply aware of your problems," they told the President.

The letter then got down to cases. The Federal Government, it said, must have an alternative in Birmingham-type situations between mediation and Federal troops. What this meant was that the signers—who included Assistant Democratic Leader Humphrey and Sen. Thomas Kuchel, the Assistant Republican Leader—wanted an Administration pledge of support for Title III.

And then, promising to help the President "promote harmony among our citizens," the signers proposed a face-to-face meeting with the President, "should you consider it desirable to discuss this matter with us."

This bid for a meeting has been politely rejected. Attorney General Robert Kennedy, instead, will do the talking for the Administration. The meeting will be held in the next few days but unless all the signs are wrong, it will simply heighten the impasse.

WHAT the Republicans will then do is quite predictable. They will accuse the Administration of pussyfooting on the civil rights issue. They will dredge out of their files the fine print of a statement by Mr. Kennedy on Sept. 1, 1960 in which the presidential nominee said: "We pledge action to obtain consideration of a civil rights bill by the Senate early next session (meaning 1961) that will implement the pledges of the Democratic Platform." And they will research that Platform and find an explicit commitment to Title III of the 1957 Civil Rights Bill.

WASHINGTON EVENING STAR

Moderates Take Reins In Birmingham Stress

Negroes Welcome Connor Successors; Business Down, Chamber Warns

BIRMINGHAM, Ala., May 24 (AP).—Progressive leadership in this city's racial troubles has been pledged by a new government which also must grapple with serious economic problems.

Mayor Albert Boutwell and nine councilmen, confirmed yesterday as the legal government by the Alabama Supreme Court, were hailed by a Negro leader as symbols of a new era.

Picture on Page A-6

"The Negro people look to the Boutwell administration for direct progress in the area of race relations," said the Rev. F. L. Shuttlesworth, a key figure in a desegregation drive which landed about 2,400 Negroes in jail for demonstrations.

"Justice and progress have triumphed," he added.

Connor Ousted

Mayor Boutwell and the council took over the government when the court ousted a three-commissioner system dominated by Police Commissioner Eugene Connor, a segregationist who directed policemen in handling demonstrations.

The new Mayor, considered a moderate, said he would appraise the city's racial problem "and work toward its harmonious solution."

Almost simultaneously with the legal victory for the mayor-council, a Chamber of Commerce committee warned that the city's economy had been severely damaged.

"Something must be done," said Caldwell Marks, chairman of an industry-hunting committee. He said prospective industries have refused to consider Birmingham because of the race turmoil.

Mayor Boutwell said he would be sympathetic toward a biracial agreement. But he said he had refused to recognize a May 10 settlement between Negro leaders and white businessmen because "I was not able to act with authority."

His office door is open to any Birmingham citizen, Mr. Boutwell said, but added:

"I will not, however, receive anyone who shows disrespect for local, State or Federal laws."

That referred, he said, to the integration leader, Dr. Martin Luther King, Jr., who helped stage street marches protesting segregation. The Atlanta Constitution reported that Dr. King said his Southern Christian Leadership Conference collected and spent more than $300,000 in the Birmingham integration drive.

Council Chairman M. E. Wiggins, in a statement for the council, said the new government "is firmly determined to fulfill its mandate to uphold the laws of this city, State and Nation . . . we shall maintain order."

WASHINGTON EVENING STAR

2/2 5/63

Break for Birmingham

The Alabama Supreme Court decision upholding the election of Mayor Albert Boutwell is the best news to come out of Birmingham in some time.

This ruling is good news because it means that, with Mayor Boutwell safely installed in office, there is at least a chance that an accommodation can be worked out between the white and Negro communities. This would not have been true if the court had decided the case the other way, thereby continuing in office the Birmingham city government dominated by Police Commissioner Eugene "Bull" Connor.

Mayor Boutwell is a segregationist. But he is also a sensible man. It seems to us, however, that the essential difference is that Mr. Boutwell can read the handwriting on the wall. And the handwriting says that change has got to come to Birmingham, as everywhere else.

WASHINGTON EVENING STAR

DAVID LAWRENCE

Confusion Among the Judiciary

Rulings in Segregation Cases Called Contradictory and Confusing to Public

When there's a confused judiciary, there's bound to be a confused public. And how can anyone tell what "the law of the land" really is today when the judges themselves contradict each other in a matter of a few hours?

Thus, the first editions of two New York newspapers—which reach many subscribers or newsstand buyers in Washington—said in their headlines yesterday morning:

"U. S. Judge Rejects Appeal to Reinstate Birmingham Pupils" — New York Times.

"Court Won't Bar Pupil Ousters"—New York Herald Tribune.

Yet this wasn't the fact very long. A few hours later, these same newspapers were telling their readers in later editions in New York City that a U. S. Circuit Court of Appeals judge had, on the same day, overturned the earlier ruling.

The case in question arose when the Board of Education of the City of Birmingham ordered the suspension of the 1,081 Negro students in the public schools who had been arrested on May 7, during street demonstrations, on the charge of parading without a permit. The city's policy has been to take such action against any student who is arrested for any reason until the charges are disposed of in the courts.

United States District Judge Clarence W. Allgood, who was appointed by President Kennedy, issued a ruling in which he said:

"This court feels that the Board of Education of the City of Birmingham in its disciplinary problems deserves no interference from this court so long as it stays in reasonable bounds."

Judge Allgood said he had been assured that suspended pupils would be given "a speedy, fair and comprehensive hearing" and he added:

"This court was shocked to see hundreds of school children ranging in age from 6 to 16 running loose and wild without direction over the streets of Birmingham and in the business establishments.

"It is due to the patience and good judgment of the people of Birmingham and the police officials particularly that no one was seriously injured on May 7, 1963, when the demonstrators were allowed by the police department and city officials of Birmingham to parade within a certain designated area, and the hundreds of school children in the parade refused to stay within the boundaries of the parade area, broke through the police and for some 45 minutes ran wild over the City of Birmingham."

Judge Allgood stated further that he had been advised by the school authorities "that the suspension or expulsion of no child will be upheld by the school board, after a hearing, due to prejudice, anger or retaliation." He continued:

"The court feels that this is borne out by the fact that the school board, in adopting its policy, at the same time stipulated that all students, whether expelled or suspended, would be allowed to make up in summer school the work that they had lost."

A few hours later on Wednesday evening, Judge Elbert P. Tuttle, of the Fifth U. S. Circuit Court of Appeals, issued a ruling at Atlanta, Ga., ordering the Birmingham school superintendent to tell the suspended pupils they could return to their classes yesterday morning even if the school superintendent had to advise them over the radio. Judge Tuttle said his order does not affect the right of school officials to discipline any students for "acts of actual violence or actual breaches of the peace other than parading without a permit." He declared that the students were "illegally arrested for exercising this constitutional right."

"What harm would it do" asked Judge Tuttle of the superintendent of schools' attorney, Reid Barnes, "to put these children back in school while their appeal is pending?"

"According to the superintendent of schools," replied Mr. Barnes, "it would cause a breakdown of discipline and morale."

So now the Federal judiciary, in effect, takes charge of a city's educational system and decides how children shall be disciplined. Yet, there isn't a word in the Constitution which gives the Federal Government any such power over the educational system in any State.

But the confusion isn't confined to the South. Just across the Potomac from Washington, another Federal judge, Orin R. Lewis, handed down a decision on Wednesday which, for the first time, emphasizes "equal rights for whites." He ordered the commissioners of the District of Columbia to give white prisoners at the Lorton Reformatory a chance to decide whether they want to sleep in an all-white dormitory or in one for both whites and Negroes. The policy for the institution had been that only the Negro prisoners could decide for themselves whether they wanted to live in an all-Negro dormitory or an integrated one. No such right to make a choice had been granted by jail officials to the whites.

Yet "the law of the land" is supposed to be quite clear nowadays so the citizens will always understand and know what the courts tell them. Federal troops be mobilized "to enforce a court order." But what shall parents throughout the country think when they are refused a choice between integrated and segregated schools for their children? Are there to be "equal choices" only in the Federal Government's jails?

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NEW YORK TIMES

MAY 2 1963

New Day in Birmingham

The prospect of genuine racial cooperation in Birmingham has been vastly improved by the Alabama Supreme Court's unanimous validation of the right to office of Mayor-elect Boutwell and his moderate associates in the new City Council. Though the possibility of legal challenge is not yet totally removed, the Boutwell administration can start fostering a community climate favorable to the biracial compact made with the aid of Justice Department officials earlier this month.

The old city government did much to torpedo that accord. Mayor Hanes denounced the white business leaders who negotiated it as "a bunch of quisling, gutless traitors." On the very night of the agreement, the Rev. Dr. Martin Luther King Jr. was convicted and jailed on charges of "parading without a permit." The Board of Education ousted 1,100 Negro students for demonstrating against segregation (a punishment now reversed by order of the Chief Judge of the Fifth Circuit Court of Appeals). Only the forbearance of Dr. King and other Negro leaders kept the lid on in the face of these and other provocations.

The new administration's task will not be easy. Many white citizens remain militantly in favor of racial exclusion. But the vote in favor of Mr. Boutwell and his moderate running mates indicates that a majority of Birmingham's people, white and Negro, want progress toward racial harmony based on mutual respect and equal opportunity. The new Mayor has now declared his own support for the pact disowned by his predecessor. Birmingham seems at last on the move toward better race relations.

NEW YORK TIMES

U.S. ASKS DENIAL OF WALLACE SUIT

Bids Supreme Court Uphold Right to Use Troops

By ANTHONY LEWIS

Special to The New York Times

WASHINGTON, May 23 — The Government asked the Supreme Court today to reject "forthwith" Alabama's suit seeking the removal of Federal troops from the Birmingham area.

A Justice Department brief urged the Court to decide the case on merits, not on any procedural ground. It said the Court should "make it clear" that the President has constitutional power to use troops for protecting constitutional rights.

Last Saturday Gov. George C. Wallace of Alabama filed a motion for leave to bring an original case in the Supreme Court. The listed plaintiffs were Alabama and himself, the defendants the Government and Defense Secretary Robert S. McNamara.

The Justice Department conceded it was within the Supreme Court's power to hear a suit by Alabama against Mr. McNamara as an original matter. The Constitution gives the court jurisdiction in suits between one state and a citizen of another.

Takes Different View

Such a suit could also be filed in a Federal District court. Ordinarily the department would urge that it go there, rather than use the Supreme Court's limited time. But today it took a different view.

"We believe it appropriate," its brief said, "to have questions raised by a state as to the scope of the President's power and duty, under the Constitution and acts of Congress, to use Federal troops in the preservation of order and for the protection of constitutional rights, decided directly by the highest tribunal.

"A prompt decision authoritatively determining the powers of the President may reduce the danger of domestic violence and of unlawful combinations and conspiracies depriving citizens of constitutional rights that a state may be unable or unwilling to protect."

The central legal issue is the constitutionality of Section 333 of Title 10 in the United States Code. This permits the President to use troops, or "any other means," to suppress an insurrection or domestic violence if it works to deprive any group of constitutional rights.

Loss of Rights Charged

In a brief also filed today John P. Kohn, a lawyer of Montgomery, Ala., contended on the state's behalf that this statute, as used by the President, trampled on states' rights. Mr. Kennedy put troops on the alert near Birmingham in case of racial violence.

Mr. Kohn pointed to Article IV, Section 4 of the Constitution, which says the Federal Government shall protect the states against "domestic violence" if a state's legislature or executive requests help. "There has been no such request in the Birmingham situation."

If the President can act without a state request for help, the Alabama brief said, this "would in effect create a military dictatorship and "the long-continued struggle for liberty under law will have come to an end."

But the Justice Department held that this statute, and the President's action, did not come under that section of the Constitution. Rather, it said, both were designed to enforce the 14th Amendment's guarantees of liberty and equality.

"The United States," the department said, "although composed of sovereign states, is one nation. Its people have rights, privileges and immunities under the Constitution and laws of the United States, which the Federal Government has an independent power and duty to protect."

The brief said nobody could tell in advance how constitutional rights might be damaged in Birmingham in the event of violence. But "it is sufficiently clear" it added, "that the prevailing situation in Birmingham is a determination of such a way as to require action under Section 333."

It said the court should deny permission to file the suit "upon the express ground that the complaint is without substantive merit."

BOUTWELL SEATED IN BIRMINGHAM; PEACE HOPES RISE

Mayoral Office Is Given by Court to Connor Foe—Ousted Students Back

By CLAUDE SITTON
Special to The New York Times

BIRMINGHAM, Ala., May 23.—The State Supreme Court unanimously upheld today the claim to office of a new city government pledged to resolve the racial crisis here.

Mayor Albert Boutwell and nine councilmen immediately took over from the three commissioners who had brought the suit in an attempt to serve the remaining two years of their elected terms.

At the same time 11 Negro pupils, ousted for participating in demonstrations, returned to their classrooms as the Board of Education yielded to a Federal Court order.

The four-man state judicial panel which handed down the ruling in Montgomery decided that the Mayor and Council were entitled to take office on last April 15 under a special local law. The court already had upheld the validity of a referendum last November in which voters approved the change in form of government.

The ruling raised hopes here for the success of a token desegregation plan worked out between white business and industrial executives and Negro leaders.

Connor Regime Ends

Although Mr. Boutwell is an avowed segregationist, Negroes say that they do not consider him in the "fire hose and police dog" variety.

Dogs and hoses were employed by the police in blocking anti-segregation demonstrators from the downtown area in the five-week integration campaign and in quelling one of two riots. One of the riots followed the bombings of a Negro integration leader's home and a Negro motel.

The decision's most important result, according to Negro leaders, is the end of the 23-year reign as Public Safety Commissioner of Theophilus Eugene Connor, who is listed as "Bull" in the telephone directory. Negroes have accused the police, under Mr. Connor's command, of brutality. He has denied the accusation.

He also administered the health, education and welfare functions of the city government.

Mr. Connor retains the post of Democratic national committeeman from Alabama to which he was elected in 1960 for four years. He ran for the Democratic gubernatorial nomination last year in the first primary on a white-supremacy platform. He finished fifth in a field of seven candidates.

The action reinstating the pupils was taken under a temporary restraining order issued

Continued on Page 15, Column 3

Continued From Page 1, Col. 4

last night in Atlanta by Chief Judge Elbert P. Tuttle of the United States Court of Appeals for the Fifth Circuit. He overruled District Judge C. W. Allgood's refusal to grant the order here yesterday afternoon against Dr. Theo W. Wright, the city's Superintendent of Education.

In voting to suspend the students, the school board, which was appointed by Mr. Connor, gave as its reason the fact that they had been charged with parading without a permit.

Judge Tuttle said that in light of a recent Supreme Court decision the students were exercising a constitutional right by demonstrating. He pointed out that his action in no way affected the power of educators to discipline students "for acts of actual violence or actual breaches of the peace other than parading without a permit."

News of the State Supreme Court's ruling in favor of Mr. Boutwell reached City Hall shortly after 10 A.M. It evidently came as no surprise to Commissioner Arthur J. Hanes, who held the title of Mayor.

He had already cleaned out his desk and his last act was to strip his office keys from a ring and hand them over to the building superintendent. He paused briefly in the adjacent office that Mr. Boutwell had occupied since the election, wished his successor well and told newsmen he was going home "to catch up with my yard work."

Mr. Connor received word of the decision from a state trooper in Kelly Ingram Park, scene of one of the riots. He later returned to his office and removed his belongings, which included a new, gold "hard hat" inscribed, "Bull Connor, Battle of Ingram Park, May 1963."

He also issued a statement that said in part:

"I don't believe I owe the taxpayers anything. They are going to owe me almost two and one-half years' pay, whether I can ever get it or not.

"I'm going to make application for my pennies, and I'm going to get in the line for the food stamps. I am going on relief."

The implication was that Mr. Connor, Mr. Hanes and J. T. Waggoner, the former Commissioner of Streets and Water Works, might file a civil suit for compensation for the remainder of their terms. They had contended in the Supreme Court action that since they were elected in 1961 to serve for four years they could not be ousted even though the city's form of government had been changed.

The three could also request a hearing of the case decided today, but the court is under no obligation to grant it and it would be unlikely to do so in view of the unanimity of the ruling.

Negroes gathered in the dining room of the A. G. Gaston Motel, headquarters of the integration drive, broke into whoops of joy upon learning of the ruling. One of the first comments came from the Rev. Dr. Martin Luther King Jr., leader of the campaign and president of the Southern Christian Leadership Conference.

"I think we are all very happy that Mr. Connor will no longer have the legal reins in Birmingham, Ala.," he said. "He has been an influence for evil for many years, and I think that this is good riddance for the cause of democracy, not only in Birmingham, but everywhere."

Dr. King said that he thought that Mr. Boutwell was "responsible enough to see the futility of massive resistance to desegregation." The new Mayor, he said, must realize that Birmingham cannot progress without removing many of its racial barriers.

"I believe firmly that there will be less police brutality," Dr. King said. He also expressed the hope that the Mayor would request Gov. George C. Wallace to remove the state troopers dispatched here some two weeks ago.

The integration leaders said that Negroes would now seek to persuade the city to drop all charges against the demonstrators. He also said that desegregation of lunch counters in five department and variety stores should come within 60 days.

The lunch counter move coupled with desegregation of all other facilities in the five stores and two others was one part of the agreement. The other include promotion of Negroes to sales positions and appointment of a biracial committee.

At his first news conference as Birmingham's new Mayor, Mr. Boutwell was asked if his administration would assume and take a sympathetic attitude toward the implementation of the agreement.

"The attitude will be sympathetic to the harmonious solution of all of the problems with which the people of Birmingham are confronted and the portions to which you referred are an important part of our problem," he replied.

Mr. Boutwell, who has described himself as a very conservative man in public affairs, said that he would talk to any Negroes who wanted to see him. He was asked if he would talk to Dr. King.

NEW YORK TIMES

Race Picture Is Distorted Human Rights Aide Says

ALBANY, N. Y., May 23 (AP)—The vice chairman of the State Commission for Human Rights said today that "the world image of race relations in the United States is distorted."

The rights official, Bernard Katzen, charged that the distortions were the result of widespread publicity given to racial conflicts in Birmingham and elsewhere in the South.

Mr. Katzen called for the creation of a Federal agency to present "a true and balanced picture of race relations in this country to foreign visitors and students," so that they could report to their countrymen upon their return home.

He commented at a speech to faculty advisers of foreign students from colleges throughout the state. The advisers opened a two-day conference today.

There has been progress in race relations in this country, Mr. Katzen said, but it is "unknown abroad."

WASHINGTON EVENING STAR

Court Asked To Uphold Troop Move

The Supreme Court was asked yesterday to uphold the legality of President Kennedy's action 12 days ago in moving troops into military bases near Birmingham.

Solicitor General Archibald Cox told the Court that it should refuse permission to Alabama Gov. George C. Wallace to file a complaint protesting the President's action. Wallace's complaint is "without substantial merit," Cox said in a written brief.

Wallace has asked the Court to exercise its rarely used original jurisdiction to hear his contentions that the President acted beyond his authority in moving the troops and that the 14th Amendment to the Constitution is unconstitutional.

Cox said the part of the Government's complaint aimed at the United States Government must be dismissed as an unconsented suit against the Federal Government.

Asks Determination

As to Wallace's request that the Court order Secretary of Defense Robert S. McNamara to withdraw the troops, Cox asked the Court to render "a prompt decision authoritatively determining the powers of the President."

Cox said that decision should be that Wallace's complaint was so lacking in merit it would not be heard.

Wallace had argued that the troop movement was illegal because neither he nor the Alabama Legislature had asked for Federal troops, a step he claimed is necessary under the Constitution.

Cox said the Federal law authorizing the President to move troops into troubled areas was aimed at situations where state authorities were unwilling, as well as unable, to handle an assault on the rights of any group.

Prompt Ruling Sought

The President is charged with the responsibility of taking adequate precautions, Cox argued, and the courts should not limit his choice of action in preparing for some future, unforseen emergency.

The Solicitor General said that a prompt ruling unholding the President's power "may reduce the danger of domestic violence and of unlawful combinations and conspiracies depriving citizens of constitutional rights that a state may be unable or unwilling to protect."

Presumable, the Justices will rule on Wallace's request and Cox's response sometime before their scheduled adjournment for the summer late in June.

Suit Seeks Removal Of Meredith's Guard

OXFORD, Miss., May 23 (UPI)—The State Attorney General's office today filed suit in the U. S. District Court here to remove troops guarding Negro James H. Meredith from the University of Mississippi campus.

Assistant Attorney General Guy Rogers filed the suit, which charges that the presence of the troops at Ole Miss is unconstitutional.

The suit, filed on behalf of the State of Mississippi and the State College Board, is against Col. William H. Lynch, commander of the troop detachment here.

WASHINGTON EVENING STAR

THE WASHINGTON POST
Sunday, May 21, 1961

Birmingham Segregation Baton Changes Hands

United Press International

EUGENE (BULL) CONNOR
. . . ousted from post

By James E. Clayton
Staff Reporter

For years, in Birmingham, Theodosius Eugene Connor has been the symbol of segregation.

To the Negroes in that troubled city, it was Bull Connor who stood in the path anytime they began to talk of desegregation. To the arch segregationists, it was Connor who held out the dream that defiance could maintain a rapidly disappearing way of life.

But the day of Bull Connor's dominance on racial issues in Birmingham has passed, although vestiges of it, such as his appointees on the School Board, still remain.

His day passed legally yesterday when the Alabama Supreme Court ousted him after 22 years as Police Commissioner.

It passed politically last month when he got only 42 per cent of the vote in the race for Mayor.

It passed symbolically two weeks ago when Negro youths whipped off their shirts and waved them in front of "Ol' Bull," daring him to charge. A few years ago, a Negro would never have dared to do that in light of the reputation of Connor and the Birmingham police force for brutality.

New Symbol Today

Strangely enough, the demise of Connor as Birmingham's symbol of segregation has drastically changed the situation in that city.

Reports from Birmingham now show that the symbol is no longer Connor, his police dogs, and his white tank that cruised the streets. Instead, the symbol is Gov. George C. Wallace, the State Highway Patrol and the Patrol's deputized civilians.

The appearance of the Highway Patrol in Birmingham during the riot a week ago last Saturday night explains much of what has happened there since.

Birmingham's Police Chief, Jamie Moore, did all he could to keep the patrol out of the city. He had his men had the riot under control. He feared that the patrol and its leader, Al Lingo, would merely incite the Negroes to greater violence.

According to observers on the scene that night, Moore was right. The Negroes no longer feared Connor, but thought the patrol and Lingo meant a new wave of suppression. One man close to the situation said the Negroes would not have been surprised to see Lingo lead a cavalry charge through the nearest crowd of Negroes.

More to Calm Fears

It was this fear in the Negro community, as much as anything, that led President Kennedy to announce that troops were on their way to Alabama military bases. The announcement was designed to calm the fears by assuring the Negroes help was near if the patrol set out to preserve segregation instead of keeping peace.

Since that night, news reports from Birmingham have rarely mentioned Connor.

For Connor, this appears to be the end of a long road. Like a small handful of Alabama politicians, he had staked his all on his role as a symbol of segregation.

He had marched out of the Democratic national convention in 1948 on that issue. He had run for Governor last year on that platform and lost when Wallace "outsegged" him. He had run for mayor on the same platform and been beaten by Albert Boutwell when the city's businessmen decided they had had enough of demagoguery and its Negroes used their votes effectively.

But the 62-year-old man who got his nickname years ago as a radio announcer of baseball games has come back from defeat before.

After 16 years as Police Commissioner, he stepped aside in the early 1950s. Another racist campaign put him back in Alabama politics in 1957, although his margin of victory was only 150 votes. And he is still the Democratic national committeeman from Alabama.

Challenge as He Saw It

Since that 1957 election, Connor has been the rallying point for the archsegregationists of northern Alabama. He told the whites that Negroes wanted not equality but black supremacy. Three years ago, he put the challenge this way:

"Yes, we are on the 1-yard line. Our backs are to the wall. Do we let them go over for a touchdown or do we raise the Confederate flag as did our forefathers and tell them . . . 'You shall not pass'"

Of the marchers who began the most recent campaign in [illegible] was what they said. 'That's our motto.'"

But Connor, a tough, sticky man, lost his punch the day the Negro youths dared to mock him.

tion Baton Changes Hands

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Of the [illegible] who began the movement campaign in April, he said: "If they want to go to jail, we'll put 'em there. Give 'em what they want. That's our motto."

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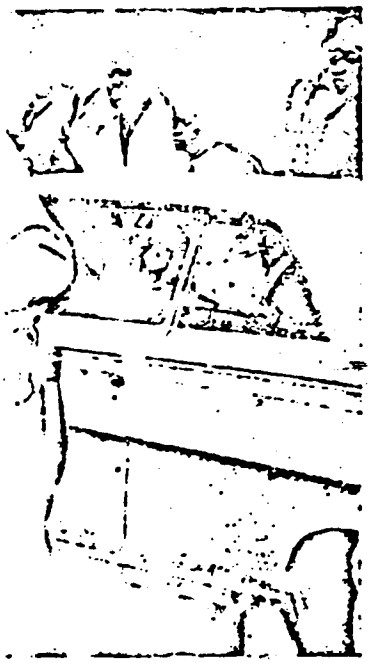

«ДЕМОКРАТИИ»

Communist propaganda. The line the bottom reads: "Such is the shame of American 'democracy'."

Court Asked To Uphold Troop Move

WASHINGTON POST-TIMES HERALD

MAY 24 1963

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Suit Seeks Removal Of Meredith's Guard

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The suit, filed on behalf of the State of Mississippi and the State College Board, is against Col. William H. Lynch, commander of the troop detachment here.

WASHINGTON POST-TIMES HERALD

MAY 21 1963

"A Funny Thing Happened On The Way To Kicking Out 1000 School Kids —"

NEW YORK TIMES

MAY 24 1963

In The Nation

If We Are to Remain a "People of Laws"

By ARTHUR KROCK

WASHINGTON, May 23—So far as their organization of some of the mass protests in the streets against certain forms of racial segregation is concerned, the Negro leaders are rejecting the course which, as President Kennedy again emphasized at his Thursday news conference, is the obligation of a "people of laws" and their Government. In such a people, he said, the proper resort is to the courts for "remedy" of actual denials of equal rights, or what the group of citizens involved conceives to be denials.

Continuing, Mr. Kennedy said, "We hope to see if we can develop a legal remedy" applicable to the "many cases in which they [those actually denied equal rights] do not have a remedy, and therefore take to the streets and we have the kind of incidents we have in Birmingham." But his implied connective between the civil disorders in Birmingham and racial grievances for which no remedial process existed had been disproved by the Supreme Court four days previously. In the decision Monday, holding unconstitutional the denial of certain of their services to Negro customers by privately owned stores, the Court already had provided a "legal remedy" for one of the principal discriminations that were the objectives of the organized mass protests in the streets.

These demonstrations without the permit required by a Birmingham ordinance were illegal to that extent until the Court decided that, some of their objectives being to enjoy a right guaranteed by the Constitution, the local law violation was inoperable as an instrument of arrest and conviction for trespass. But this interpretation of the Constitution did not come into force until the Supreme Court reversed many previous interpretations to the contrary. In a "people of laws" who, as the President said, "have to obey them," the demonstrations were therefore a violation of the principle he stated.

This should not be confused or ignored by officials, high or low, who now are confronted with one of the most dangerous situations that has ever developed in the American society. To do either is to stimulate the seething emotions of both white and Negro citizens. And these emotions are boiling not only in the South: they are spreading to Northern areas, since racial discriminations of various kinds are national in scope.

The School Suspension Timing

Yet even Federal judges are confusing or ignoring the fact, vital to a "people of laws" if they are to continue to be, that the legality of some of the mass street demonstrations, and especially the participation in them of children in defiance of local school authority, was *ex post facto*. Under the prevailing Government system in this country the Constitution is what the Supreme Court says it is, from time to time. Nevertheless, Chief Judge Tuttle, of the United States Court of Appeals, Fifth Circuit, in reinstating the demonstrating Birmingham schoolchildren whom the School Board had disciplined by suspension for absenting themselves from their classes without leave, made this comment from the bench:

> The orders of suspension were based on illegal arrests, known at the time of the order of suspension to be illegal.

But the illegality of the arrests was not established until the Supreme Court on Monday proclaimed them to be in the sit-in decisions. And, according to newspaper sources in Birmingham, the suspension order both was agreed on and made public before the Supreme Court announced its finding. Blundering and stupid as the order was in the tense circumstances, properly obedient as Chief Judge Tuttle was to the Supreme Court's decision in declaring the arrests of the children illegal, it seems incumbent on a high judge among "a people of law" to hold to the timing record of events he is adjudicating. Or, if he considers that the record was falsified, to say so.

Despite such incidents as this, the court as the instrument for steadily narrowing the constitutional area of racial discrimination have justified the President's counsel to the groups affected that they should rely on judicial process. And it is too late to argue that judicial supremacy over the other branches of Government is an assumption without warrant in the Constitution. A majority of the American people seems to have accepted it. If they haven't, the amendments pending in most of the state legislatures will provide them with a constitutional means of disclosing it.

Court Says Boutwell Is Now Mayor

Birmingham Moderate Is Upheld

By Rex Thomas

MONTGOMERY, Ala., May 23 (AP)—A recently elected Mayor pledged to seek racial understanding in troubled Birmingham was recognized by the Alabama Supreme Court today as the legal head of the city government.

The court ruled that Albert Boutwell and a nine-member City Council chosen to serve with him were entitled to take office immediately.

Police Commissioner Eugene Connor, a militant segregationist and two other city commissioners who sought to remain in office until October, 1965, were told in effect to get out.

In Birmingham, meanwhile, more than 1000 Negro pupils suspended for integration activities returned to their classrooms today.

The youngsters were ordered reinstated by Chief Judge Elbert P. Tuttle of the Fifth U. S. Circuit Court of Appeals.

Negroes were jubilant over the ruling which upset a decision by Federal District Judge Clarence W. Allgood of Birmingham. School Board attorney Reid Barnes said he would press for a new hearing on Tuttle's decision.

Negro leaders also expressed satisfaction with the decision by the Alabama Supreme Court. They wished the new mayor and council "the best of success in making Birmingham a city of which the whole world can be proud."

Connor poses as Birmingham's symbol of segregation, but new one arises
Page A8.

"Justice and progress have triumphed . . . Birmingham's image has already improved," said the Rev. F. L. Shuttlesworth, president of the Alabama Christian Movement for Human Rights.

Connor gained widespread attention in recent weeks by leading police in the arrest of Negroes, including students, demonstrating against segregation in Birmingham. He spurned a biracial citizens committee's recommendations for compromise.

Boutwell, a former lieutenant governor of Alabama, promised by contrast to take a sympathetic attitude toward the work of the committee.

He said, too, he will seek a conference with Gov. George Wallace, an outspoken supporter of Connor.

Boutwell defeated Connor in a runoff election for Mayor last April 2. But he was delayed in taking office by a dispute finally settled by the State's highest court.

There was still a chance that Connor and the other commissioners, voted out of office by dissatisfied Birmingham residents, might gain another few weeks.

They have 15 days to ask the Supreme Court to reconsider its unanimous decision and to recall the order establishing Boutwell as the mayor now.

If the Court agreed to the stay, it would allow Connor and the other rejected commissioners—Mayor Arthur J. Hanes and Commissioner J. T. Waggoner—to remain in office pending a final decision.

There was no indication whether the commissioners would seek a hearing.

Hanes said, "I wish Mayor Boutwell and the new Council well." Connor insisted, "I don't believe I owe the taxpayers anything." That was a reference to the possibility that someone might question the pay he has received while the court suit was pending. Waggoner declined to comment.

The victorious Boutwell promised he and the Council "will move immediately with decisive action to begin working out the problems that face the city of Birmingham."

The dispute between the rival city governments, with each claiming the right to take official action, has complicated the problem of dealing with the critical racial situation which in recent weeks has brought mass Negro demonstrations and ugly rioting to the State's largest city.

The racial tension was an issue, too, in the April 2 election. But it was overshadowed in campaign oratory by arguments over Birmingham's economic difficulties and unemployment. Those who advocated the change in the form of government which led ultimately to Boutwell's election contended that the city could not progress as it should without new political blood in City Hall.

Colorful Cloud Was Space Test

WALLOPS ISLAND, Va., May 23 (AP)—A vivid cloud of sodium vapor was ejected into the sky tonight in a Space Agency experiment to study atmospheric conditions.

The reds, oranges and pinks of the cloud—released at an altitude range of 27 to 127 miles—were visible for hundreds of miles from the launch site. Observers described the cloud as in the shape of a 2 over Washington, a 9 over Pottstown, Pa., and a cipher over Frederick, Md.

Weather permitting, similar clouds will be launched at Wallops Island at dawn and dusk during the next few days, the Space Agency said.

WASHINGTON EVENING STAR

THE EVENING STAR
Washington, D. C., Thursday, May 23, 1963

U. S. Asks Court to Detail Presidential Troop Power

By MIRIAM OTTENBERG
Star Staff Writer

The Government today asked the Supreme Court to reject Alabama Gov. George C. Wallace's suit against the sending of Federal troops to Alabama, and at the same time to render "a prompt decision authoritatively determining the powers of the President."

The Government made this appeal in response to a motion filed by Gov. Wallace last Saturday which asked the high court to find that President Kennedy violated the Constitution by sending troops into the State for possible use in Birmingham.

The Government brief asked that the court reject "this bare challenge to the President's constitutional and statutory powers" as being "without legal foundation."

Government's Contentions

The Government made these assertions:

1. That presidential action in this field is beyond judicial review.

2. That in the case there is no occasion for review because the President has done nothing further than to deploy approximately 3,000 soldiers to Alabama bases.

3. That the President has statutory and constitutional power to call the troops into action as he sees fit without a request from the State.

The Government had asked the court for both temporary and permanent injunctive orders against use of the Federal forces.

His petition argued that neither the Alabama Legislature nor the Governor had appealed for Federal troops—a step which the Governor contended was necessary under the Constitution.

Described as Irrelevant

The Government brief rejected that argument as "irrelevant." It argued that the law under which the President made the move requires the President to act upon his own appraisal.

The brief declared it is the President alone who has the responsibility for appraising conditions and determining whether Federal constitutional rights are being impaired by a breakdown of local law enforcement or by failure to apply the law "evenhandedly" in suppressing violence.

The law, originally enacted in 1817, was aimed not only at situations where State authorities were unable to cope with an assault on the rights of any group but also at cases where State officials might refuse to act, the Government contended.

"Congress must have been fully aware," the court was told, "that it would be foolhardy indeed to expect State officials who had refused to accord the protection of the law to a particular class of citizens to invite the Federal Government to intervene to protect them."

Decision on Issues

The brief, signed by Solicitor General Archibald Cox, said that while "the Government's motion should be denied" the court should decide the legal issues presented.

"A prompt decision authoritatively determining the powers of the President may reduce the danger of domestic violence and of unlawful combinations and conspiracies depriving citizens of constitutional rights that a State may be unable or unwilling to protect," the Government said.

The brief argued there is no room for judicial review of a presidential determination that conditions require him to take "such measures as he considers necessary" under the 1871 act. Therefore, the brief contended, a court will not interfere with the "entirely preliminary assignment of segments of the armed forces to points from which they can be conveniently deployed in the unhappy event" that conditions described in the law should prompt the President to act.

The Government swiftly dismissed Gov. Wallace's claim that use of Federal troops would do irreparable harm to the State.

Support Held Lacking

The Government contended this allegation was unsupported by any facts.

"And there would be no justification, particularly in the present posture of affairs, for taking the extraordinary step of issuing an injunction or declaration designed to limit the President's choice of a course of action in some future, emergency the full nature of which cannot now be foreseen," the Government argued.

The brief made the point that if local authorities prove able and willing to preserve order in a way that protects the rights of all citizens, then there will be no occasion for Presidential intervention.

WASHINGTON EVENING STAR 5/23/63

Negro Pupils Go Back To Birmingham Schools

Check Reveals 1,081, Reinstated By Court Order, Are Returning

BIRMINGHAM, Ala., May 23 (AP).—Negro pupils suspended for integration activities flocked back to their classrooms today, armed with a Federal court order for reinstatement.

A spot check of Negro schools showed that the pupils suspended Monday were returning this morning.

School Supt. Theo Wright said the 1,081 pupils were being reinstated immediately in compliance with the decision handed down last night in Atlanta by Chief Judge Elbert P. Tuttle of the 5th United States Circuit Court of Appeals.

School board attorney Reid Betties said he would press for a new hearing on Judge Tuttle's decision.

Decision Overturned

The judge said the children were illegally arrested. He ruled that the city school board could not prevent the pupils from completing this term, which has seven days remaining.

Judge Tuttle overturned a decision by United States District Judge Clarence V. Allgood of Birmingham within eight hours after Judge Allgood refused to reinstate the 1,081 pupils expelled or suspended Monday.

Judge Tuttle said the school board's reason for its action was a policy of suspending or expelling any pupil arrested for any cause. He ruled, however, that the pupils were engaging in legally permissible activities and were "illegally arrested for exercising this constitutional right."

In granting a temporary injunction against ouster of the pupils, Judge Tuttle said in an accompanying opinion "it ap-

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RACIAL

Continued From Page A-1

pears shocking that a board of education . . . should thus in effect destroy the value of one term of schooling for so many children."

News of Judge Tuttle's decision set off wild celebrations at a mass meeting and the Rev. Dr. Martin Luther King, Jr., integration leader, said his position had been vindicated.

The legal developments unfolded as President Kennedy announced in a Washington news conference that his administration is considering new civil rights legislation. He said a search is on for a legal outlet other than demonstrations, in racial problems.

Mr. Kennedy voiced hope that Federal marshals or troops would not be needed when a Negro student attempts to enroll next month at the University of Alabama. About 3,000 soldiers are standing by at two Alabama bases under the President's orders.

Governor Hits Threat

Shortly afterward, Gov. George C. Wallace of Alabama said at a Huntsville news conference, "the President has no right to threaten or send troops."

Gov. Wallace, who pledged Tuesday to bar personally any Negro at the university, told newsmen: "I have a right to do that which I'm going to do." He called it "testing," not defiance of Federal authority.

Attorney General Richmond Flowers, the only State official who has criticized Gov. Wallace, reiterated that the Governor's intention might touch off violence. He said further racial trouble "could wreck the State's economy."

In other developments:

Gov. Orval E. Faubus of Arkansas said Gov. Wallace stands little chance of keeping the State university segregated. "It's not an optimistic situation," said Gov. Faubus, who tried to block desegregation of Little Rock schools in 1957.

Directors of the Alabama Chamber of Commerce asked the State's businessmen to give leadership in solving racial issues.

A legislative committee approved a $250,000 emergency appropriation for the Alabama highway patrol. The State has about 700 officers among nearly 1,300 on call in the Birmingham area.

In his ruling, Judge Tuttle ordered the Birmingham superintendent to notify the ousted pupils "that they are permitted to return to school on Thursday."

Calls Arrests Illegal

His order remains in effect until final determination of the appeal. No date has been set for hearing the case.

Noting the school board policy of ousting every student arrested for any reason, Judge Tuttle said:

"It seems plain that we have here a case of some 1,000 pupils who were engaging in legally permissible activities, illegally arrested for exercising this constitutional right . . . The orders of suspension were based on illegal arrests, known at the time of the order of suspension to be illegal."

The district judge had held earlier that "suspension pending a hearing and opportunity to make up the work in the summer in any event is not unduly harsh under the circumstances . . ."

Judge Allgood said all school children had been cautioned by principals and teachers against cutting classes.

"This court was shocked to see hundreds of school children ranging in age from 6 to 16 running loose and wild without direction over the streets of Birmingham and in the business establishments."

WASHINGTON POST-TIMES HERALD

MAY 23 1963

Alabama Challenge

Law Enforcers' Feud Hits Crisis

Wallace

Flowers

MONTGOMERY, Ala., May 22 (UPI) — A running feud between Gov. George C. Wallace and State Attorney General Richmond Flowers began on inauguration day when the chief executive challenged the Federal Government to desegregate the schools.

Cried Wallace, "Segregation now, segregation tomorrow, segregation forever," and the crowd cheered.

In a quiet ceremony, far from the gay bunting of the Governor's parade platform, Flowers, also a stanch segregationist, took the oath of office with a pledge to preserve law and order at all times.

The split between the two constitutional officers widened to an almost irreconcilable point yesterday when Wallace declared he would physically block Negroes from the University of Alabama.

Only hours before, a Federal judge had ordered the admittance of two Negro students to the now all-white school. The University complied.

Flowers held a press conference and declared such action would only precipitate race violence.

"At this point, I don't see how he (Wallace) could stand there as an individual or as the Governor without being in defiance of the court," Flowers asserted.

Between the inauguration and yesterday's open challenge, the two waged a legislative battle over who should be empowered to appoint lawyers to do special legal work for the State.

Normally the appointment of additional attorneys rests with the Attorney General. Wallace had a bill introduced in a recent special legislative session that would give his office the special appointment duties. Flowers promptly dubbed the measure a "power grab."

The bill died in the special session in a filibuster over school taxes. It has been reintroduced in the regular session, trimmed to include special attorneys only for highway and school work. The amended version has passed the House and was on the Senate calendar for a vote.

WASHINGTON POST-TIMES HERALD

MAY 23 1963

The Washington Merry-Go-Round

Grumman, Democrats and Money

By Drew Pearson

The four Republican Congressmen who are demanding a probe of Democratic contributions by Grumman Aircraft may have struck more political dirt than they realize.

Pearson

The four Congressmen are irate over letters written by Grumman Vice President J. B. Rettaliata urging Grumman subcontractors to buy advertising in the Nassau County Democrats' Journal to be distributed at a big $100-a-plate Democratic dinner.

This, while against the political rules, was peanuts compared with the reported Grumman contribution to the big $1000-a-plate dinner given by the Democrats for President Kennedy last winter. The dinner was staged largely by Texas oil men under the benign and energetic guidance of Bedford Wynne, a Murchison executive. Later, Wynne got his reward, a special interview with the President. What other rewards will be forthcoming in a soft approach, when it comes to plugging the oil tax loopholes, remain to be seen.

But the biggest purchasers of $1000 tickets, in addition to the Texas oil crowd, were officials of Grumman Aircraft. Significantly, this was at the very same time General Dynamics and Grumman were angling for the 6-billion-dollar TFX contract.

Repeated inquiries at the Democratic National Committee have failed to elicit the names of the big $1000 ticket buyers. This falls apparently in the realm of "managed news."

Under the law, all political contributions must be filed for public inspection. However, the Democratic National Committee stated that the names would be filed in due time, but not as dinner ticket buyers—merely as contributors.

If the four GOP Congressmen dig deeper, they may find some pay dirt.

'Wastebasket Helm'

This column owes an apology to Speaker Stuart Helm of the Pennsylvania Legislature, who is also president of the "General Assembly of the States." This is an organization which has managed to sneak three constitutional amendments through various state legislatures, pulling the power of the U. S. Supreme Court, prohibiting any Federal Court from ruling on reapportionment and permitting state legislatures to amend the Constitution over the heads of Congress.

The earlier column reported that Speaker Helm had been employed by the Sun Oil Co., dominated by the Pew family of Pennsylvania, who are among the biggest national contributors to the GOP.

I now find that Speaker Helm is still employed by Sun Oil. Furthermore I find that I underestimated Speaker Helm's influence with the State of Pennsylvania.

A statement filed with the clerk of the Pennsylvania House of Representatives has recently turned up showing that Speaker Helm was able to persuade the State to pay $43.20 for one waste paper basket for his office.

In addition, he spent $702 for a desk with special English antique brass; $480.60 for three executive side arm chairs; $655.26 for a sofa "upholstered in gold brocade fabric on white background fabric especially Scotchguarded."

Nor is this all. Speaker Helm spent $566.06 for two wing-back chairs; $684.24 for two special tub chairs; $324 for a console unit; and $297.82 for two mahogany lamp tables. Total to equip the Speaker's office at the expense of the taxpayers was $4354.18.

My apologies to "wastebasket Helm" for understating his power and position.

However, my previous estimate of his efforts and that of his organization to get state legislatures ahead of the Federal Government remains unchanged. He and his Florida colleagues have enlisted new support from C. Stanley Mechem, Republican majority leader of the Ohio Senate, the man who makes the boys bounce at Columbus.

Though the Ohio Senate had killed the constitutional ban against reapportionment by committee, Sen. Mechem has now got into the act and persuaded the committee to reverse its 5-to-3 negative vote to a 6-to-3 favorable.

It will be interesting to see what Gov. "Dusty" Rhodes does about these amendments which would transform the U. S. A. from a union to a confederacy.

Behind the Headlines

The recent racial strife may cause a serious recession in Birmingham. Even before the outbreak, the Big Steel companies had curtailed their mining operations in the Birmingham area. The city fathers sought new industries from the North to take up the economic slack. But these have now been scared off by the racial violence . . . Attorney General Robert Kennedy has been trying to gauge who really speaks for the majority of Negroes in this country. Throughout the Birmingham turmoil, he was on the phone to Negro leaders of all persuasions. He found Lee C. [illegible], who seemed to command most respect, was Dr. Martin Luther King.

WASHINGTON EVENING STAR

5/23/63

Kennedy to Use Troops In Alabama if Needed

By GARNETT D. HORNER
Star Staff Writer

President Kennedy has warned that he is ready to use Federal troops and marshals if they are needed to enforce court-ordered integration at the University of Alabama.

He stressed his hope, however, that Alabama Gov. George Wallace would not go through with his announced intention to personally prevent the entrance of Negro students to the university.

Drive Against Rights Agency Starts Today. Page A-8
Formal Text of Kennedy Press Conference Page A-8

Mr. Kennedy also told his news conference yesterday that he is considering whether to propose to a civil rights legislation designed to provide Negroes with a legal remedy that would make demonstrations against some discriminatory practices unnecessary.

A Justice Department source said the department is "taking a broad look at what might be needed in the field of civil rights legislation and it has narrowed down to education and public accommodations. But there have been no final decisions."

Not Court Move

Noting that Gov. Wallace has taken to the Supreme Court his case against stationing of special riot-control troops at Federal bases in Alabama on the alert for possible action in Birmingham, the President said in court "is where these disputes should be settled."

He added that he hopes "the fact that the Governor has chosen to carry out our dispute in the courts indicates that in the final analysis he will accept the judgment of the court in the cases coming up in June" concerning integration at the university.

While he would be "very reluctant" to see this situation reach the point of Federal marshals or troops being required to enforce the integration orders, Mr. Kennedy emphasized

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that court orders must be carried out—laws that are not liked as well as those that are liked.

"This is not a matter of choice," he said. "If it were a matter of choice, it would not be law."

Mr. Kennedy said the final decision about proposing any new civil rights legislation to Congress this session should be made in the few days.

Would Allow Suits

His discussion indicated that he was thinking along the lines of bills co-sponsored by Senators Cooper, Republican of Kentucky, and Dodd, Democrat of Connecticut.

The Cooper-Dodd bills would allow persons discriminated against in public accommodation facilities to sue for damages, and would empower the Attorney General to seek injunctions against racial discrimination in public schools or privately owned establishments licensed to offer service to the general public.

Mr. Kennedy did not mention these proposals specifically. But he said he thinks there may be some things "that we could do which would provide a legal outlet" other than demonstrations conflicting with local laws for citizens who feel they are denied equal rights.

"As it is today," he said, "in many cases they do not have a remedy and therefore they take to the streets and we have the kind of incidents that we have in Birmingham. We have to see if we can develop a remedy."

Court Upholds Birmingham's New Mayor

WASHINGTON EVENING STAR 5/23/63

Rules Boutwell, Council Entitled To Seats at Once

MONTGOMERY, Ala., May 23 (AP).—The State Supreme Court ruled today that newly-elected Mayor Albert Boutwell and a new City Council are entitled to take office immediately in racially-troubled Birmingham.

Upholding a lower court decision, the tribunal said the change of government under a recent special city election was controlled by a local legislative act applying only to Birmingham rather than by a general law affecting the State as a whole.

Mr. Boutwell, a former lieutenant governor, defeated outgoing Police Commissioner Eugene (Bull) Connor in a runoff election April 2 growing out of the decision of Birmingham voters to change their form of government.

Voted for Shift

Residents of the State's largest city voted last November 6 to switch from a three-man city commission to a mayor and nine-member city council.

After the April 2 runoff election, Mr. Connor and his two colleagues on the commission—Mayor Arthur J. Hanes and Commissioner J. T. Waggoner—refused to give up their offices.

They contended that a 1959 legislative act allows city officials throughout the State to serve the remainder of the terms for which they were elected if the voters decide to change the form of government.

The three commissioners were elected in October, 1961, for four-year terms.

Cited 1955 Act

Mr. Boutwell argued, on the other hand, that the election was called under a local legislative act, passed in 1955, providing for an immediate change.

He insisted that the Statewide law did not apply to Birmingham because of the local act dealing specifically with that county.

Circuit Judge J. Edgar Bowron in Birmingham agreed with

See MAYOR, Page A-4

MAYOR

Continued From Page A-1

the newly elected mayor and council. Mr. Connor and the other outgoing commissioners appealed to the Supreme Court.

Racial problems in the industrial city played a part in the election, but most of the emphasis was focused on the contention that Birmingham needed new political blood in City Hall to prosper economically as it should.

Different Types

Both Mr. Boutwell and Mr. Connor are segregationists. The veteran police commissioner has become nationally known for his militant stand. He personally directed police on several occasions when they arrested Negro anti-segregation demonstrators in recent weeks.

Mr. Boutwell is more the quiet type. As a State Senator, he was instrumental in passage of Alabama's pupil placement law which gives local school boards almost unlimited authority to say where students are assigned to class.

The law has been upheld on its face by the Supreme Court.

The former Senator also is the author of a "freedom of choice" amendment written into the State Constitution to allow parents to say whether they want their children to attend segregated or integrated schools.

NEW YORK TIMES

MAY 23 1963

A Job for the President

"I am obligated to carry out the court order." In those unequivocal words President Kennedy set forth yesterday his determination to enforce the admission of two Negroes to the University of Alabama, even if Governor Wallace persists in his threat to stand in the classroom door to bar their entrance.

All believers in legal process will share the President's hope that Mr. Wallace will think better of his defiance and thus avoid the tragic potentialities of another Oxford or another Birmingham. The Governor, for all his bluster, already has wisely substituted recourse to law for open conflict in his dispute with the White House over the propriety of assigning Federal troops to Alabama in connection with the segregationist bombings in Birmingham.

There seems to be no legal device through which Mr. Wallace can longer indulge his desire to keep Alabama the only state in the Union that bars Negroes from its university. It is as much his duty as it is the President's to see that the mandate of the courts is obeyed. The university's administration, trustees, faculty and alumni council long ago made clear their readiness to comply. Prior to Mr. Wallace's election last November, they had set in motion a program intended to guarantee that there would be no repetition of the mob action that marked the brief desegregation of the Alabama campus in 1956, when Miss Autherine Lucy was a student there for three days. It is the arrant racism of the Governor that causes the prospect of trouble now.

If he does not fulfill his legal obligation when the two Negroes present themselves for admission June 10, there seems to us one course of Federal action that will preclude the mass disorders the President so rightly fears. That is for Mr. Kennedy himself, as the man charged with supreme responsibility for the enforcement of Federal law, to accompany the Negro students to the campus and to see that they are enrolled. The force of his presence would be more than that of a division of Federal troops—and more calculated to speed the victory of civilized procedure throughout the South.

Observer

BIRMINGHAM, Ala., May 22—Nothing makes much sense in Birmingham. The industry is Yankee steel, the politics is Balkan, the red-earthed ridges are Castilian and the social structure is South African apartheid.

The official slogan, coined by the Chamber of Commerce, is "Nice to Have You in Birmingham." "Visitors hear it on every street corner, in every store, at every convention," says the chamber's brochure ("Birmingham: City With a Heart in the Heart of Dixie"). "It's one reason why you'll love Birmingham."

Bombings would not be unlikely. Workmen are still patching the bomb damage at the A. G. Gaston Motel, where a roving dynamite gang, still at large, tried to get Martin Luther King weekend before last.

In Woodrow Wilson Park at the center of town, the heavy perfume of magnolia sweetens the May air; and wherever you pass, the velvety-brown-eyed Alabama girls who wait on tables, sell geegaws and sit at cash registers implore you to "Hurry back."

Uncle Sam and Birmingham

It is a place of macabre non sequiturs. On the city's southeastern edge, for example, 5.4 miles of fine dual-lane expressway is under construction. The cost is $2,140,000. Uncle Sam is officially regarded as a hostile alien on race questions, but the highway signs proclaim him a welcome partner picking up half the bill for the Birmingham approach road.

The contradictions accumulate. There is a fine historic irony in the chance that has made Birmingham the great symbol of the South's resistance to the militant Yankee morality. Among Southern cities, it is peculiarly lacking in ante-bellum tradition.

Indeed, it had no visible existence until after the Civil War, but was raised from nothing during Reconstruction.

Accord Between Races

It is characteristic of Birmingham today that it has two Mayors. The last election's results are still in the courts. Meanwhile, both claimants occupy desks at City Hall. The proper form when calling is to ask the receptionist, "Is either or both of the Mayors in?"

NEW YORK TIMES

MAY 23 1963

Arthur J. Hanes, the stalwart segregationist "old Mayor," happened to be in the other morning. He is a swarthy gentleman with dapper matinee-idol features. The President had been in Alabama a few days before, and Mr. Hanes said that the people of Birmingham hoped that Gov. Robert C. Wallace "wouldn't be taken in" by Mr. Kennedy's "personal charm."

He found the President's civil rights position deplorably cynical. "If Nigras couldn't vote," he said, "I daresay the Kennedy family wouldn't be particularly interested at all in these so-called civil rights—a political stunt, political showmanship."

Dr. King's field representatives at the Gaston Motel were in agreement with Mr. Hanes. The Rev. Bernard Lee said that Mr. Kennedy was merely playing the "politician" by trying to "hold onto the Southern vote." But he added, "He's already lost it."

Segregated Drinking Water

It is a short walk from the bombed motel in the ghetto to City Hall. Within a few blocks, all the scars of battle are visible. A charred ruin where Negro rioters had started to fire the community on May 12. A pair of blasted house trailers that took the dynamite. Trees skinned clean of the bark where they had been hit by the high-pressure hoses used against Negroes. At City Hall, drinking fountains were in working order. The "colored" water looked just like the "white."

What would happen to anyone caught drinking from the wrong fountain? It is quite clear: Such people are not urged to "hurry back."

RUSSELL BAKER.

NEW YORK TIMES MAY 23 1963

U.S. Judge Rejects Appeal to Reinstate Birmingham Pupils

By CLAUDE SITTON

BIRMINGHAM, Ala., May 22 Federal District Judge C. W. Allgood declined today to order the reinstatement of [illegible] Negro pupils suspended for antisegregation demonstrations.

Lawyers for the pupils [illegible] immediately [illegible] Atlanta to [illegible] Chief Judge Elbert P. Tuttle of the Court of Appeals for the Fifth Circuit [illegible] Judge Allgood [illegible]

[illegible]

Continued on Page 19, Column 2

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U.S. JUDGE BALKS STUDENTS' APPEAL

Continued From Page 1, Col. 7

demonstrations," he said in an interview.

The president of the Southern Christian Leadership Conference has been under increasing pressure in the last two days from his younger, more militant followers.

The roster of the students [illegible] announced Monday by Dr. Theo. R. Wright, the city's school superintendent. The action was taken at a special meeting by three Board of Education members, all of whom were appointed by T. Eugene Connor, an advocate of white supremacy who is the city Commissioner of Public Safety, Health, Education and Welfare.

"The policy of the Board of Education has been immediate suspension or expulsion of students who have been arrested for any offense until proper hearings can be conducted for such pupils," Dr. Wright said in a letter to school principals.

Three Negro lawyers appeared before Judge Allgood yesterday with a complaint that the students' constitutional rights of due process and equal protection of the law had been violated. They were Mr. Constance Baker Motley of New York, associate chief counsel of the NAACP Legal Defense and Educational Fund, and Arthur D. Shores and Orzell Billingsley Jr. of Birmingham.

BENCH PETITION: Federal District Judge Clarence W. Allgood on the way to his chambers after hearing arguments on reinstatement of Negro students in Birmingham demonstration.

Lawyers' Contentions

They contended that the [illegible] had been expelled or suspended with [illegible] warning, [illegible] of charges, opportunity to [illegible] at a hearing, opportunity to offer defense testimony or to cross-examine their accusers.

The court was asked to [illegible] a temporary restraining order against Dr. Wright and [illegible] education officials without a hearing on the ground that the students were suffering irreparable injury. The [illegible] term ends May 31. A [illegible]

Judge Allgood is a Kennedy appointee and a man considered a segregationist by Birmingham Negroes. [illegible] yesterday [illegible] to return this hearing for a [illegible] hearing.

He heard arguments from attorneys for both sides during an hour [illegible] in his chambers at the Post Office [illegible] of the Negroes would be granted a hearing but, instead, would be permitted to enter an [illegible] eight week summer session to make up lost time. [illegible] York City school pupils and [illegible] high school students, [illegible] the Negroes [illegible] have.

"This court has been advised that the suspension or expulsion of a pupil will be upheld by the school board, after a hearing [illegible] to prepare [illegible] The court feels that the [illegible] lame [illegible] the fact that the school board, in adopting its policy, at the same time stipulated that all students, whether expelled or suspended, would be allowed to make up the work that they had lost in summer school."

The board's letter to principals, carried in the judge's [illegible]

A [illegible] Motley [illegible] student who still had charges pending against him would be permitted to attend the summer session. Most of the expelled or suspended students are [illegible] on bonds pending appeal of their

ree months. He issued a written denial this afternoon.

Legal observers said the effect of his action was to foreclose the opportunity of the students' attorneys to have a full hearing on the merits of the case in open court.

Indicates Displeasure

In his opinion, Judge Allgood indicated that he was displeased at even having to hear the matter.

"This motion for temporary restraining order and/or preliminary injunction has been presented to the court and considered by the court on the pleadings and brief oral argument due to the fact that the court has had to interrupt a heavy docket which has been set for some months in order to give consideration to this matter," he said.

The judge, in his opinion, made no reference to the fact that the board had said that the students were expelled or suspended because they had been arrested for parading without a permit. Instead, he dealt at length on their absenting themselves from school without permission.

Judge Allgood said that students had been cautioned not to remain out of school. He conceded that some failed to attend of their own free will and that others might have stayed away because of threats of violence.

"And many others may have simply been persuaded by people who are experts in the field to stay away from school in defiance of the school's rules and regulations and to serve the purpose who wished to exploit them," he found

Court Voices 'Shock'

"This court was shocked to see hundreds of school children ranging in age from 6 to 16 running loose and wild without direction over the streets of Birmingham and in the business establishments," the opinion continued.

"It is due to the patience and good judgment of the people of Birmingham and the police officials particularly that no one was seriously injured on May 7, 1963, when the demonstrators were allowed by the Police Department and city officials of Birmingham to parade within a certain designated area, and the hundreds of school children in the parade refused to stay within the boundaries of the parade area, broke through the police and for some 45 minutes ran wild over the city of Birmingham," he said.

Judge Allgood, who made no reference to the use of high-pressure fire hoses on the children, cited the day on which the police confiscated placards carried by the demonstrators and barred them from marching in orderly rows of two's into the downtown area. The disorderly demonstration of which he spoke followed.

He praised the Board of Education as "dedicated, courageous, honorable men." He said that white students had been suspended or expelled recently for similar or lesser offenses.

"This court feels that the Board of Education of the city of Birmingham in its disciplinary problems deserves no interference from this court so long as it stays in reasonable bounds," he asserted.

Board Policy Reversed

Judge Allgood said he had been assured by the board that education officials were giving expelled or suspended students "a speedy, fair and comprehensive hearing."

cases, a process expected to take some months.

However, the spokesman said this morning that these students would also be permitted to enroll in the summer classes.

Another school official said an error had been made in using the term "expelled" in the letter and that the board had meant "suspended."

KENNEDY STUDIES NEW LEGAL STEPS FOR INTEGRATION

Proposals Due Next Week—Dr. King Asks U.S. to Send Troops to U. of Alabama

[illegible] The New York Times

WASHINGTON, May 22

The Kennedy Administration [illegible] legislation to deal with segregation at lunch counters and in schools.

At his news conference today the President said the Administration was seeking ways to "provide a legal outlet" for the Negro demonstrations that have [illegible] in demonstrations in Birmingham, Ala.

[illegible] that two broad [illegible] segregation problems were under consideration at the Justice Department. One would cut the Federal Government into the process of desegregating private [illegible]. The other would [illegible]

Special Message Studied

[illegible] proposals in a special message to Congress [illegible] Attorney General Robert F. Kennedy [illegible]

[illegible] legal effort [illegible] segregation have [illegible] The [illegible] has entered [illegible] integration [illegible] have been forcibly [illegible] with violence [illegible] the [illegible] of Mississippi last [illegible]

Would Help Form Plans

[illegible] that [illegible] Government [illegible] work out [illegible] for [illegible] the [illegible]

KENNEDY STUDIES NEW RIGHTS STEPS

NEW YORK TIMES MAY 23 1963

Continued From Page 1, Col. 6

prosecute Negroes who sought service at privately owned stores.

President Kennedy said these decisions and other "recent developments," presumably the Alabama crisis had led the Administration to think about new legislative proposals.

"I would hope," he said, "that we would be able to develop some formulas so that those who feel themselves or who are, as a matter of fact denied equal rights would have a remedy." [Question 21, Page 18]

Flat Ban Considered

"As it is today, in many cases they do not have a remedy, and therefore they take to the streets and we have the kind of incidents that we have in Birmingham," he went on. "We hope to see if we can develop a legal remedy."

The Justice Department has not yet formulated its proposal to remedy the lunch counter situation.

One possibility would be a Federal statute flatly prohibiting discrimination by private businesses that operate under state licenses and are generally open to the public.

A similar law was held unconstitutional by the Supreme Court in 1883, but doctrines have changed substantially since then. Senators John Sherman Cooper, Republican of Kentucky and Thomas J. Dodd, Democrat of Connecticut, proposed such a bill today.

Another possible innovation would be to put the Federal Government into the process of desegregating commercial establishments for example, by legal participation.

Voices Hope on Alabama

The President also discussed at his news conference the threat by Gov. George C. Wallace to block desegregation of the University of Alabama. Desegregation is scheduled to take place under a Federal court order when the summer term begins June 10.

Asked whether he would use marshals or troops, as in Mississippi, Mr. Kennedy said he hoped "that would prove unnecessary."

"The courts have made a final judgment on the matter," he said, "and I would hope that the law-abiding people of Alabama would follow the judgment of the court and admit the [Negro] students."

The President said he would be "very reluctant" to use troops or marshals. But he went on:

"I am obligated to carry out the court order—that is part of our constitutional system. There is no choice in the matter."

Dr. King Urges Troops

Special to The New York Times

BIRMINGHAM, Ala., May 22

The Rev. Dr. Martin Luther King Jr. said today that President Kennedy had a responsibility to dispatch Federal troops to the University of Alabama before its scheduled desegregation.

The Negro integration leader said the step would be necessary to prevent a repetition of the fatal riots that followed the desegregation of the University of Mississippi last fall.

He also deplored the defiant position taken by Governor Wallace. He contended that the Governor should be impeached if he sought to thwart a Federal court's desegregation order.

Dr. King was interviewed here at the Gaston motel, headquarters for the Birmingham integration drive led by the Southern Christian Leadership Conference, of which he is president, and the Alabama Christian Movement for Human Rights.

Remarks Precede Kennedy's

His remarks were made before the Presidential news conference in which Mr. Kennedy indicated determination to take steps to enforce the court order.

Federal District Judge H. H. Grooms told the university here yesterday that it must admit a Negro to its main campus at Tuscaloosa and a second to its Huntsville branch at the beginning of the summer term June 10.

The judge's action drew an immediate reiteration by Governor Wallace of his oft-repeated vow to "stand in the schoolhouse door" to prevent a renewal of desegregation. He first made that [illegible] Democratic primary campaign last May.

Autherine Lucy, a Negro, attended the university at Tuscaloosa for three days in 1956 but was expelled after [illegible] the school's administrators of complicity in the riots that followed her admission. Alabama is now the only state with complete segregation throughout its public education system.

Dr. King joined many whites in predicting that the Governor's defiance would lead to violence despite Mr. Wallace's assertions that state law enforcement units would preserve the peace.

Position Called 'Absurd'

"It's a very irresponsible and absurd position to take and can only lead the state of Alabama to violence and terror that could be avoided if we had responsible statesmanship in this difficult period," the minister said.

"I think his statements will only say to the violent and lunatic fringe that 'You have the go-ahead to do anything you want to do.'"

Dr. King said he and many other Southerners were opposed to the use of Federal troops if it could be avoided.

"It is most unfortunate that the Governor of Alabama, through his irresponsible action and vitriolic words, will leave the President of the United States with no other alternative," he said.

"President Kennedy will have a responsibility to send troops in before the university is to be integrated rather than waiting as he did in the Oxford situation," he said. "Oxford must not be repeated in Alabama.

"Without forthright action from the President we will have a repeat of Oxford, which this nation can ill afford at this hour."

Oxford, Miss., is the site of the University of Mississippi.

Face-Saving Move Seen

Dr. King was asked what he thought was responsible for the defiance of the Governor, who has indicated by his public and private remarks that he believes he cannot prevent desegregation.

"Wallace realizes that he is taking a ridiculous step," replied the Atlanta minister. "But he feels that he made this promise in his campaign and he feels that in order to be true to a campaign pledge and save his face he must go down this dead-end road that can't lead him anywhere."

Dr. King said that the Governor should be willing to accept the penalty for adhering to his belief in segregation even as Negroes must accept the penalty for the [illegible] of laws they consider unjust laws.

"I feel that since we in the civil rights movement go to jail for what we believe in, then brother Wallace should go to jail," he said. "Yes, I think he ought to go to jail and stay there. I really think they ought to put him in."

May Send Patrolmen

The Kennedy Administration has indicated a desire to avoid embarrassing the Governor and thus giving him possible political martyrdom.

Mr. Wallace has declined to say how he hopes to force the Administration's hand. However, there have been recurring reports here and in Montgomery, the state capital, that the Governor will station [illegible]

conciliation—this is among the proposals now under discussion.

Segregation at lunch counters and other places of public accommodation has been the subject of sit-in demonstrations across the South. Prosecutions of the demonstrators have led to legal tests.

Th. Monday, in a series of sit-in cases, the Supreme Court held that no city with an official policy of segregation could

Continued on Page 18, Column 6

state highway patrolmen on the campuses to turn back Federal deputy marshals who might accompany the two enrolling Negroes. This could then force Mr. Kennedy to send in the Army, as he did to quell the rioting at the University of Mississippi and in adjacent Oxford.

A number of white Alabamians, including some law-enforcement officers, have expressed alarm over the possibility of violence growing out of a confrontation of state and Federal forces.

The Birmingham News reported today a sampling of student and faculty opinion on the campus at Tuscaloosa. The sampling indicated that, although many did not like the prospect of desegregation, they were willing to accept it peacefully.

WASHINGTON POST-TIMES HERALD

MAY 23 1963

Kennedy Weighs New Civil Rights Legislation

Vivian J. Malone, 20, above, of Mobile, is seeking admission to the main campus of the University of Alabama at Tuscaloosa for the summer term beginning June 10. A Federal judge has refused to order her admission postponed

By Carroll Kilpatrick
Staff Reporter

President Kennedy told his news conference yesterday that the Administration is considering new civil rights legislation to channel disputes over discrimination into the courts and off the streets.

At the same time, he affirmed his intention to support a Federal court order, which Alabama's Gov. George C. Wallace said he will defy, requiring the University of Alabama to admit two Negroes.

In both comments the President emphasized his desire to rely on the courts to settle civil rights arguments, and in both comments he deplored the use of violence.

Asked whether he was considering asking Congress for new civil rights legislation as a result of recent developments in the South, the President said he was, and that a decision would be made in the next few days.

Attorney General Robert F. Kennedy and other officials have made it clear they want to find some way to end the threats of violence involved in street demonstrations and that the way to do this is through orderly court procedures.

Administration officials last night said several plans were being considered to meet complaints of discrimination in public places, including stores and in schools.

One possibility would be to empower the Attorney General to bring suit in Federal courts in cases where discrimination is alleged. This idea was contained in the so-called Title 3 of earlier civil rights legislation, and was killed as a result of vigorous Southern opposition.

It was emphasized that the Administration also had other ideas of how to approach the problem.

The President said his objective was to "provide a legal outlet for a desire for a remedy other than having to engage in demonstrations which bring the demonstrators into conflict with the forces of law and order in the community."

"I would hope that we would be able to develop some formulas so that those who feel themselves barred, as a matter of fact denied equal rights, would have a remedy."

When asked about the possible use of Federal forces at the University of Alabama next month, the President said he hoped that would not be necessary.

"I would hope that the law-abiding people of Alabama would follow the judgment of the court and admit the students," the President said. He noted that all other states have integrated their state universities and said that Alabama should follow their example.

He was emphatic in saying that he intended to support the court order requiring the University of Alabama to admit qualified Negroes.

"I am obligated to carry out the court order," he said. "That is part of our constitutional system. There is no choice in the matter."

Mr. Kennedy said he could not believe that the Alabama Governor "wants us to send

WASHINGTON POST-TIMES HERALD

MAY 23 1963

Social Sabotage

Whether malevolence or sheer stupidity prompted the ousting of 1100 Negro students from the Birmingham public schools, the action stirred immeasurable mischief. It is of a piece with yesterday's declaration by the Governor of Alabama that he will personally defy a Federal Court order to let Negro applicants be enrolled at the University of Alabama. Both are incitements to violence—as reckless and dangerous in their context as lighting a cigaret in a room filled with combustible gases.

The expulsion or suspension of the Birmingham school children is a piece of social sabotage. This was recognized by Judge Albert Tuttle's order that the children be re-instated immediately. Effect of the suspension, if not its aim, was to unsettle the tentative settlement of racial strife in the city achieved by white business leaders working in collaboration with Negro leaders and in direct opposition to municipal authorities. That it did not immediately touch off a fresh spate of violence is a tribute to the restraint of the Negro leadership in Alabama and to the discipline which has thus far characterized their followers. But that discipline may not be proof against a flagrant attempt to penalize children for an essentially innocent breach of school regulations.

These children are not truants and they are not criminals. They were absent from school, and they were put in jail for violation of a local ordinance, because they engaged in a peaceful protest against racial discrimination. This was the whole of their offense—that they sought to be Americans; and it was for this that they were put in jail.

It was a part of the understanding reached by white and Negro leaders that there would be a kind of general amnesty in regard to non-violent infractions of local law arising directly out of protest. Whatever the legal justification for suspending the school children, a flagrant breach of the understanding was involved. The action was taken by a School Board and a School Superintendent under the direct jurisdiction of Commissioner "Bull" Connor, Birmingham's arch segregationist.

If "Bull" Connor and Governor Wallace and other diehards are unwilling to submit to the arbitrament of courts and conciliators, there is nothing for it but to subject them to the arbitrament of higher authority. The United States has plenty of resources available for that purpose. Governor Wallace says that the Federal courts would not hesitate to jail and otherwise punish lesser officials but would hesitate to take such action against the Governor of Alabama. Perhaps the time has now come to show him that he is entirely mistaken.

Federal [illegible]

The Governor has chal-
lenged in the [illegible] the Presi-
dent's [illegible] into Alabama. [illegible]
[illegible] He said [illegible]
the [illegible] because [illegible] that
kind should be [illegible] in the
courts.

Declaring that he would
abide by the judgment of the
court in the case the Governor
filed, the President said he
hoped that "in the final analy-
sis" the Governor also would
accept the judgment of the
court.

MAY 23 1963

WASHINGTON POST-TIMES HERALD

Earlier Birmingham Ruling Upset

U.S. Court Reinstates Negro Pupils

By Al Kuettner

ATLANTA, May 22 (UPI)—A Federal Appeals Court judge tonight overruled a lower court and ordered Birmingham, Ala., school officials to immediately reinstate hundreds of Negro children who were suspended or expelled for taking part in racial demonstrations.

Judge [illegible] Tuttle, Chief Judge of the [illegible] U.S. Circuit Court of Appeals, threw out a decision by District Judge Clarence W. Allgood with [illegible] remarks [illegible] Birmingham [illegible]

After a one-hour hearing Judge Tuttle ordered Birmingham School Supt. Theo Wright and other school officials to make known [illegible] available [illegible] school children [illegible]

[illegible]

breaches of the peace other than parading without a permit after a hearing is afforded to any student who is charged with such conduct."

Tuttle enjoined [illegible] officials from continuing to enforce a Board of Education order which resulted in the dismissal of the Negro pupils.

He specifically [illegible] Wright and his fellow officials to inform all school principals involved that the Board's ac-

Prevent [illegible] civil rights leaders to [illegible] Page A2

tion has been vacated and set aside and all students affected thereby are to be permitted to return to their respective classes as regular students immediately.

[illegible]

formed the basis of the action noted that school is almost out for the year in Birmingham and that under the suspension and expulsion order the youngsters would have to go to summer school at their own expense to make up the work.

"What harm would it do to put these children back in school while their appeal is pending?" Tuttle asked Reid Barnes, attorney for Birmingham School Superintendent Theo Wright.

"According to the Superintendent, it would cause a breakdown of discipline and morale," Barnes answered.

In his ruling refusing to interfere with city officials, Judge Allgood said "this court cannot conceive of a Federal court saying to the Board of Education [illegible] it should take no action under the circumstances."

Judge Tuttle said it was [illegible] improper for the Birmingham judge to give his opinion from the bench that the punishment meted out to the youngsters was just.

As for the School Board's action in suspending the Negro children, Tuttle said "It is shocking to me that this School Board has taken action that was the equivalent of [illegible] student [illegible] stud[illegible]

He said that was his personal belief in the matter but he would not let it influence his decision.

"But I do disagree on his (Allgood's) estimate of the fairness of this case," Tuttle said.

Judge Allgood said in his ruling supporting the Board of Education action that he was "shocked to see hundreds of school children ranging in age from 6 to 16 running loose and wild and without direction over the streets of Birmingham" during the recent demonstrations.

"It is due to the patience and good judgment of the people of Birmingham that no one was seriously injured on May 7, 1963 when the demonstrators broke through the police and for 45 minutes ran wild over the City of Birmingham," Allgood said.

The judge noted that white students in recent weeks have been suspended or expelled for similar or lesser offenses. And he said he had been assured by the Board of Education that officials are in the process of giving each of the students a hearing.

Allgood said he felt the Board of Education "deserves no interference from this Court so long as it stays within reasonable bounds."

THE BIRMINGHAM NEWS

May 23, 1963

Clip for Mr. Gutterman

Hawkins says he'll fight 'witch hunt'

MONTGOMERY, May 23 — An Etowah state senator has pledged an all-out fight to kill the "witch hunt" authority given a legislative investigating committee in a Senate bill.

Sen. George Hawkins, president pro-tem of the Senate, said he would do everything in his power to kill Senate Bill 99 which would give subpoena and contempt powers to the committee.

Hawkins termed the bill ". . . a most dangerous piece of legislation." He said it violates every concept of the system of justice on which our law is based.

"UNDER OUR SYSTEM," said Hawkins, "it is traditional that inquisitions and investigations be conducted by grand juries. Our law carefully protects individuals against damage to their rights and reputation by requiring the strictest secrecy in grand jury proceedings.

"I know of no precedent in Alabama for a legislative committee to conduct a so-called investigation against every act which it deems to be against the peace and dignity of the state in open hearings with subpoena and contempt powers."

Hawkins pointed out that "the Joe McCarthy witch hunt committee in the early 1950's showed the dangers of unrestrained committee power."

Hawkins statement came after identical bills, giving the investigative committee subpoena and contempt powers, cleared committees in both houses of the Legislature.

Hawkins said he fought the proposal in the Senate Judiciary Committee and intended to fight it fully on the floor.

FOUR MEMBERS of the Judiciary Committee voted against the proposed Senate measure which comes up for its second reading

Turn to Page 6, Column 1

Hawkins says

Continued from Page 1

Friday and goes on the Senate calendar Tuesday.

Joining Hawkins were Sens. Robert Wilson of Walker, William McCain of Tuscaloosa and Neil Metcalf of Geneva.

Hawkins further said:

"SENATE BILL 99, as reported out of committee, in my judgement, is a most dangerous piece of legislation. It violates every concept of the system of justice on which our law is founded.

"Under our system, it is traditional that inquisitions and investigations be conducted by grand juries. Our law carefully protects individuals against damage to their rights and reputations by requiring the strictest secrecy in grand jury proceedings.

"I know of no precedent in Alabama for a legislative committee to conduct a so-called investigation against every act which it deems to be against the peace and dignity of the state in open hearings with subpoena and contempt powers, with no requirement as to adhering to the rules of evidence, and no provision that an accused shall have the right to face his accuser and cross-examine him.

"THE ONLY legitimate purpose for a legislative committee is to gather information for proposed legislation.

"Under this measure, every act that the committee disagrees with could be investigated. Any citizen of the state could be subjected to embarrassment and damage to his reputation.

"Alabama has never tolerated such disregard of traditional rights and laws, and in my judgement, the Legislature should not create a committee with these powers.

Clarence D. [illegible], Jr., Publisher

Victor F. Hanson, II.
Vice President, General Manager

Vincent Townsend,
Vice President, Assistant to Publisher

T. L. Holland, Jr.,
Editorial Page Editor

John W. Bloomer,
Managing Editor

Victor H. Hanson, I[illegible]

Wednesday, [illegible]

STATE PRESS

Wallace [illegible] Recognizes U.S. Supreme Court

(The Montgomery Advertiser)

[illegible]

BY LAYING [illegible] Supreme Court, [illegible] acknowledged its sovereignty. Never [illegible] that he has ever gone so far as to concede that the [illegible] of Warren, Douglas, Black and [illegible] are able with them. If Wallace did not concede that, he would be acknowledging that his [illegible] is futile.

This seems to leave the Rev. Dr. King as the only one claiming to be above the law.

[illegible] the President and the [illegible]

The Date: June 10 in Alabama

Wallace Stand Sets New Racial 'D-Day'

By JACK STEELE
Baltimore Bureau Staff Writer

June 10 is now set as the next racial "D-Day" in bleeding Alabama.

That is the day Gov. George C. Wallace says he will "stand in the school house door" and physically bar two Negroes - one a Government space scientist - from registering for the University of Alabama's summer session.

Gov. Wallace's "legal defiance" will force President Kennedy to use Federal troops or marshals in Alabama to enforce the orders of Federal courts and possibly to arrest the Governor.

And it may "trigger" new racial violence in the state as Gov. Wallace's own state attorney general, Richmond M. Flowers, publicly warned last night in Montgomery.

But Gov. Wallace is determined to walk the same path taken by Mississippi's Gov. Ross Barnett at Ole Miss in Oxford last September.

And the result probably will be the same, despite Gov. Wallace's professed hope he can preserve law and order by "sealing off" the University of Alabama's campus.

Gov. Wallace apparently believes his stand is good politics in Alabama.

WILL HURT IMAGE

But his threatened move to block a Negro space scientist from taking courses at the University of Alabama's Extension Center at Huntsville is not likely to enhance the Governor's image in the nation or the world.

The scientist, Dave M. McGlathery, 29, works for the National Aeronautics and Space Agency (NASA) at its Marshall Space Flight Center in Huntsville. He is designing radiation shielding for the space capsules of future astronauts.

Mr. McGlathery was graduated magna cum laude in 1961 from Alabama A & M College in Huntsville, the state's supposedly "separate but equal" Negro university. His overall average was 3.76 out of a possible 4 points.

But University of Alabama officials required Mr. McGlathery to take a special three and one-half hour entrance exam not given to white applicants before accepting him as qualified for admission.

They did so on the ground that the university had "no previous experience" with applicants graduated from the Negro college.

The other Negro, Vivian Malone, 20, of Mobile, has been accepted to attend the University of Alabama's main campus at Tuscaloosa. She is now an undergraduate at Alabama A. & M. College.

ONLY OTHER

The only other Negro ever accepted by the university, Autherine Lucy, was expelled in 1956 after her admission touched off three days of student riots. The court upheld her expulsion.

The legal path for the June 10 showdown on their admissions to the university was cleared yesterday by Federal District Judge Hobart H. Grooms of Birmingham.

He refused to delay an order for their admissions after University of Alabama officials reported Mr. McGlathery and Miss Malone had qualified to enter.

Judge Grooms bluntly rejected an appeal of the university's Board of Trustees for a stay until "the present state of unrest in racial relations in the state of Alabama has materially improved."

Gov. Wallace then called a hurried press conference to reiterate his pledge:

"As Governor, I am the highest constitutional officer of the state of Alabama," he said. "I embody the sovereignty of the state and I will be present to bar the entrance of any Negro who attempts to enroll at the University of Alabama.

"This is legal resistance and legal defiance."

Gov. Wallace declined to explain how he planned to stand at the portals of the University's campuses at Tuscaloosa and Huntsville on the same day.

Atty. Gen. Flowers, who last week refused to prepare the suit later filed by Gov. Wallace to oust 3000 Federal troops from Alabama, made it plain he would not back or aid for the Governor.

"The Governor's stand could lead to violence," Mr. Flowers said.

Alabama Students Resigned

TUSCALOOSA, Ala., May 22 (UPI) - "I don't like it, but I'm not going to fight it. There's nothing I can do."

This statement, from University of Alabama junior Jim Smyth, seemed to sum up the majority of thoughts of a group sampled concerning the possible integration of the school.

The majority of the students declined to give their names to a reporter, but most noted the step toward integration was "regrettable, inevitable and they would take it without a fight."

An exception was Melvin Meyer, editor of the school newspaper Crimson White, who told newsmen, "I'm pledged to see the University of Alabama take in Negro students. I think the time has come for the Negro to be given an opportunity to fulfill his potentiality."

Mr. Meyer, a native of Starkville, Miss., won a prize from the U. S. Student Press Association this year for editorials in the weekly paper he wrote last September that said Negro James Meredith should be admitted to the University of Mississippi.

SCHOOL CASE

Birmingham Negroes in Court Today

BIRMINGHAM, Ala., May 22 (UPI) - A Federal judge today hears a petition seeking to prohibit the city school board from expelling 1081 Negroes who skipped school to demonstrate against segregation.

U. S. District Court Judge Clarence W. Allgood set the (1 p. m.) hearing shortly after the suit was filed here yesterday by attorneys for Negro leaders who promoted mass demonstrations involving thousands of youths.

Negro attorney Orzell Billingsley filed the suit following a school board order Monday suspending Negro students 16 and under and expelling those over 16 who took part in demonstrations and were arrested.

The complaint in the class action suit said the expulsions took place "without warning, notice of charges, or opportunity to appear in a hearing before the defendant (School Supt. Theo Wright) or any other school official."

The complaint was filed in the name of Linda Gail Woods, a fifth grade student at Washington elementary school. She is the daughter of Rev. Calvin Woods, and was arrested during a Saturday demonstration, the suit said.

The complaint asked for an order to "enjoin the defendants from expelling or suspending" the Woods child and would stop Mr. Wright from "continuing to enforce and carry into effect" the order.

Mr. Wright's order specified that suspended students may attend summer school to make up lost time, or could reenter school in September to make up the entire grade.

The complaint said the Woods child "participated in a peaceful demonstration against racial segregation" and described the demonstration as "at all times an orderly exercise of the right of free speech" guaranteed by the Constitution.

ALABAMA U. TOLD TO ADMIT NEGROES

Governor Vows Defiance as a Federal Court Orders That Two Be Enrolled

By CLAUDE SITTON

Special to The New York Times

BIRMINGHAM, Ala., May 21 — Federal District Judge H. H. Grooms told the University of Alabama today that it must admit two Negroes June 10.

Gov. George C. Wallace asserted immediately that he would defy the court's order. Thus, the stage was set for the long-threatened showdown between the segregationist Governor and the Kennedy Administration.

"I will be present to bar the entrance of any Negro who attempts to enter" at the University of Alabama," Mr. Wallace told a news conference in Montgomery. "This is legal resistance and legal defiance."

Another Federal judge was asked to order the Birmingham school district to reinstate 1,100 Negro pupils expelled or suspended as a result of anti-segregation demonstrations.

Works at Space Center

One of the two students ordered by the order to the university was Vivian Malone, 20 years old, of Mobile. She is to enroll on the main campus in Tuscaloosa.

The other is Dave M. Mathews, 28, a mathematician at the George C. Marshall Space Flight Center at Huntsville, Ala. He has worked for eight years at the university branch there.

On the basis of 1960 census figures, 29.6 per cent of the Negro population of Tuscaloosa is employable and 15.9 per cent of the 72,365 population of Huntsville is employable.

A female Negro, a Negro, of Texas, Texas, now the wife of the Rev. H. L. Foster attended the University at Tuscaloosa for three days in 1956. She was expelled for accusing university officials of complicity in the mob that marred her stay. This state is now the only one

Continued on Page 22, Column 3

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NEW YORK TIMES

Alabama U. Told by U.S. Court To Admit 2 Negroes on June 10

Continued From Page 1, Col. 2

in the Union with no desegregation in its public education system.

Judge Grooms removed virtually all doubt over what his decision today would be when he agreed last week to allow lawyers for Miss Malone, Mr. Glathery and three other Negro applicants to consolidate their cases with the Lucy case. This placed the burden of proof on the university to show that, by denying admission to the applicants, it had not violated an injunction issued in the Lucy case and still in effect.

Then, in a surprise move late yesterday, lawyers for the university board of trustees filed a motion with the court indicating the board's willingness to admit Miss Malone and Mr. McGlathery.

Postponement Is Requested

However, the university's lawyers asked that their admission be postponed beyond the summer term because of racial unrest here and elsewhere in the state.

They contended it would be "extremely unwise" for the university to desegregate until "the present state of unrest in the State of Alabama has materially improved." They contended that there was a possibility of "bodily harm to each of them and to other students."

The lawyers also pointed out that most of the state's law-enforcement units, including its highway patrolmen, were stationed in Birmingham because of the steel center's racial crisis. These units might not be available for duty in sufficient numbers at Tuscaloosa and Huntsville should trouble occur, they said.

"I think everybody is [illegible] because as to what would happen if a Negro student attends the University of Alabama," said one of the attorneys, Andrew J. Thomas of Birmingham.

Little Rock Case Cited

Lawyers for the Negroes cited Federal Court decision in the school desegregation dispute at Little Rock, Ark., and other cases in denying that the threat of violence constituted proper constitutional ground for delay.

Judge Grooms said he was aware of the situation at the university. But he noted that he had once granted a stay in the Lucy case that had been "slapped down" subsequently on an appeal to the Supreme Court.

"I don't see that I have any alternative about it," the judge said.

"I think the granting of this application (for delay) would be tantamount to saying that law and order has broken down in this state," he continued. "This court, as you realize, is not a free agent in these matters of integration and segregation."

Associated Press

Judge H. H. Grooms

Judge Grooms then denied a request by Mr. Thomas that the postponement be delayed on appeal from his ruling.

Other Cases Pending

No action was taken by the court on the applications of the other three Negroes. They include Sandy English, 21, Birmingham, and James A. Hood, 20, East Gadsden, both of whom seek to attend the university at Tuscaloosa.

Marvin P. Carroll, a 27-year-old electronics engineer for the Army Missile Command at Huntsville, the fifth student involved, seeks to enroll in a night class at the Huntsville branch.

Hubert E. Mate, the University's dean of admissions, testified at the hearing that Mr. Hood's application [illegible] June 10 had not been acted upon because the student had yet to take a required examination. The dean contended the examination was required of all students from institutions with which the university had had no prior experience.

Mr. Hood is now enrolled at Clark College, a predominantly Negro institution in Atlanta.

Test Required of Whites

Dean Mate said, in reply to a question, that white students were required to take the test under the same circumstances.

The university is also holding up approval of Mr. Carroll's application pending the results of a test that he has taken. He is expected to be admitted.

Miss English did not apply for the summer term but for the fall semester, and no action has been taken on her application.

MAY 22 1963

NEW YORK TIMES

PUPILS TAKE CASE TO FEDERAL COURT

Reinstatement Order Asked in Birmingham Expulsion

Special to The New York Times

BIRMINGHAM, Ala., May 21 — A Federal Court was urged today to order the reinstatement of 1,100 Negro school students expelled or suspended as a result of anti-segregation demonstrations.

The action came as the Rev. Dr. Martin Luther King Jr. staved off, at least temporarily a revolt by a young Negro faction that is dissatisfied over the expulsions and other developments here.

The president of the Southern Christian Leadership Conference flew here late yesterday from Atlanta and canceled a sympathy boycott by the city's 21,477 other Negro students. The walkout had been called by lesser officials of the Conference and the Alabama Christian Movement for Human Rights, the two groups that spearheaded the integration campaign in this city.

Mrs. Constance Baker Motley, associate counsel of the NAACP Legal Defense and Education Fund, appeared before Federal Judge Clarence W. Allgood to seek the reinstatement order. He set a hearing for tomorrow morning.

There were indications that this did not satisfy Mrs. Motley, who contended that the students were suffering irreparable injury by being barred from the schools. It was considered likely that she might take the case at once to the United States Court of Appeals for the Fifth Circuit without waiting for the hearing.

Appointed by Connor

The action against the students was denounced yesterday by Dr. Theo. E. Wright, city school superintendent, at a special meeting of the Board of Education. The three board members who voted for the step were appointed by T. Eugene Connor, an ardent segregationist who is Commissioner of Public Safety, Health, Education and Welfare.

The affected students were arrested during mass protests against segregation in the racial crisis, which has been marked by two riots and the bombings of a Negro home and a motel.

A spokesman in Dr. Wright's office said none of the students zell Billingsley Jr. and Arthur D. Shores, contended that the expulsions violated the due process and equal protection clauses of the 14 Amendment.

Lawyers' Arguments

They argued that the school board had altered its usual policy of giving students a hearing after immediate expulsion. The complaint then said:

"The expulsion of the plaintiff and other members of the class came without warning, notice of charges, opportunity to appear in a hearing, opportunity to offer testimony in defense, cross-examination of accusers, appeal or other opportunity to defend the rights not to be arbitrarily expelled from public school.

"Further, plaintiffs are barred from any hearing even after the expulsions, under the alteration of the usual policy of the Board of Education although such expulsions will be permanently included on their records."

The complaint then asks for an injunction against Dr. Wright, his employes and those acting with him to prohibit the following actions:

•Continuing to enforcing the order directing the expulsion or suspension of the students.

•Refusing to reinstate the students.

•Refusing to erase any notation on the students' records of the expulsions and suspensions.

•Penalizing or taking any disciplinary actions against the students.

Students Backed Dr. King

The students formed the major block of support for the integration campaign, which ended with the announcement by Dr. King of a token desegregation agreement with white business and industrial leaders in the city, according to the Census of 1960, the population here is 60.3 per cent white and 39.7 per cent nonwhite.

The settlement called for desegregation of all facilities in seven department and variety stores, including five lunch counters; promotion of Negroes to sales positions, and appointment of a biracial committee.

No mention was made in the agreement of Negro demands that all charges be dropped against the students or that school officials refrain from any disciplinary steps against them. Dr. King had said before the pact that there would be no compromise on these points.

MAY 22 1963

WASHINGTON POST-TIMES HERALD

Court Rejects Alabama U. Entry Delay

BIRMINGHAM, Ala., May 21 (UPI)—A Federal judge refused today to delay the admission of two Negroes to the all-white University of Alabama and Gov. George C. Wallace set the stage for another "Ole Miss" crisis by vowing to block the enrollments with physical force, if necessary.

The Governor announced his stand at a news conference in Montgomery shortly after the ruling was handed down here by Judge H. Hobart Grooms.

Brushing aside reminders of the State's tense racial situation, Grooms rejected a motion that he postpone the admission of Vivian J. Malone, 20, of Mobile, and Dave M. McGlathery, 20, of Huntsville.

Miss Malone, the daughter of a retired Air Force employe, plans to attend the Main University at Tuscaloosa, and McGlathery, a mathematician in the Nation's space program, seeks entrance to the University's Extension Center at Huntsville. Both have applied for the summer term, starting June 10.

"As Governor, I am the highest constitutional officer of the State . . . I embody the sovereignty of this State and I will be present to bar the entrance of any Negro who attempts to enroll at the University of Alabama," the Governor declared in a prepared statement.

He referred to his stand as "legal resistance and legal defiance."

Reporters reminded Wallace of the situation that developed when Gov. Ross Barnett tried to turn James Meredith away from the University of Mississippi. Wallace was asked if he thought a similar situation would develop in Alabama.

"If you mean by defiance on the part of the Governor, yes," Wallace replied.

Wallace campaigned on the pledge to "stand in the schoolhouse door" to prevent integration, and he was questioned whether his latest move was a fulfillment of that pledge.

"I will stand there and refuse to admit anyone who is not in the best interest of the health, welfare, safety and well-being of the State," Wallace replied.

Barnett's Actions

Gov. Barnett personally blocked the enrollment of Meredith on several occasions and when the young Negro finally was escorted onto the campus by U. S. marshals, a wild night of rioting erupted. Two persons were killed and hundreds injured.

Grooms ruled last week that orders handed down by the Federal bench in 1955 ordering Negro coed Autherine Lucy admitted to the University of Alabama were still binding on the school in its dealings with other Negro applicants, including Miss Malone and McGlathery.

Autherine Lucy became the first Negro in history ever to attend the University, but she was present on the campus only a few days. Her enrollment was accompanied by three days of rioting and she finally was expelled when she charged—but was unable to prove—that University officials conspired in the violence.

Today's Court hearing was for the purpose of having the school show cause why the Dean of Admissions should not be held in contempt for not admitting Miss Malone and McGlathery. The University had originally taken the stand that since the present dean was not named in the 1955 desegregation order, the order was not binding upon him.

University Agrees

Before this facet of the case was pursued further, however, the University announced it had agreed to admit Miss Malone and McGlathery. It asked the Court to delay the admissions until "in the Court's opinion the present state of unrest in racial relations in the State of Alabama has materially improved."

University officials noted that 1200 State law enforcement officers currently are stationed in Birmingham as the result of the recent racial disorders in that city. In addition, the Federal Government has moved into position 3000 troops to deal with any new trouble.

But Grooms refused to take "judicial notice" of this, explaining:

"The Governor has said he will maintain order in this State. I think that granting the motion would be tantamount to saying law and order had broken down."

Wallace said at his news conference that he would appeal Grooms' decision of today, but refused to discuss details of the appeal.

WASHINGTON POST-TIMES HERALD

MAY 21 1963

The Washington Merry-Go-Round

White House Birth Is Ruled Out

By Jack Anderson

The new Kennedy offspring is not going to be born in the White House, even though his father was born in a private home. This has been decreed by the White House doctors, who say the new baby will probably be a Caesarean and they want the most up-to-date facilities on hand for the delivery.

Anderson

The fact that President Kennedy was not born in a hospital came out during a recent talk between the President and a 90-year-old doctor, E. E. Novak of New Prague, Minn., whom Sen. Hubert H. Humphrey (D-Minn.) took to the White House for a chat.

Humphrey explained to the President that Dr. Novak has practiced medicine for 68 years and has delivered more than 5000 babies.

"You know, I delivered most of them at home," added the aged but alert doctor.

"I was born at home, not in a hospital," remarked the President. Then he turned to Humphrey and asked: "How about you, Hubert?"

"Me, too," said the Senator. "I was born over a drugstore."

Orbit Phone Calls

A jubilant Gene Zuckert, Secretary of the Air Force, put through half a dozen phone calls within an hour after astronaut Gordon Cooper's splash-down, burying old hatchets and pouring on the praise.

Zuckert reached Cooper on the aircraft carrier Kearsarge a few minutes after President Kennedy's call.

"All the men and women of the Air Force are proud of you," shouted the Secretary into the trans-Pacific radio phone.

Cooper shouted back his thanks, and Zuckert wished him "all the best."

"I don't want to keep you too long," said Zuckert, signing off. "I know you are tired."

The Air Force Secretary also put aside old rivalries and phoned his congratulations to NASA and the Navy which have feuded with the Air Force in the past over space missions.

"My heartiest congratulations on a great space achievement!" Zuckert boomed over the phone to Space Chief James Webb.

And to Admiral George Anderson, the Navy chief, Zuckert praised the Navy for "a very professional job."

He also phoned the astronaut's wife in Houston, and mother in Tecumseh, Okla.

"We have all shared in your honor," he told them.

Race Riot Laws

Attorney General Robert Kennedy, prodded by a bipartisan group of senators, is studying whether he needs new laws to prevent future race riots.

He reported to the Senators in closed session in the Birmingham riots and listened to their suggestions for keeping the peace between Negroes and whites.

Kennedy claimed that the Birmingham police chief actually had done a good job of curbing the riots with a minimum of bloodshed. He blamed Safety Commissioner Eugene (Bull) Connor for what harsh methods were used.

The Attorney General pointed out that no Federal laws were violated in Birmingham, that the only authority the Justice Department had for intervening was an 1871 statute authorizing the Federal Government to suppress violence when it threatened citizens.

This led Sen. Phil Hart, Detroit Democrat, to express "grave concern" over the "legislative gap" in the civil rights laws. He suggested there was a need for "clearer statutory authority."

Under the present laws, all the Federal Government can do is use its good offices to head off a race dispute or wait until the riot erupts to suppress it.

Sen. Hart suggested that the Attorney General should have authority to go to the courts and get an immediate order against threatened mob action.

This would bring the influence of the court to bear upon the mob leaders in advance and permit the Federal Government to move in with marshals or troops to enforce the court order immediately.

The idea was supported by most of the Senators at the conference, including Mansfield of Montana, Humphrey of Minnesota, Douglas of Illinois (Democrats), Javits of New York, Keating of New York, and Kuchel of California (Republicans).

Indeed, Javits earlier had wanted to offer this idea in the form of a civil rights amendment to the feed grain bill which passed the Senate last week.

But Humphrey talked him out of it, warning that a public debate at this time would stir emotions and cause more trouble than it would cure.

Humphrey repeated the warning in closed meeting, suggesting that it would be better to discuss civil rights remedies quietly until southern tempers cooled. Sen. George Smathers (D-Fla.) echoed this warning, and the group agreed to keep their discussions behind closed doors.

Attorney General Kennedy agreed to ask his lawyers to study Hart's proposal. Later, the bipartisan group held another private session without the Attorney General and agreed to press him for a finding.

5/21/63 THE WASHINGTON DAILY NEWS

Birmingham Schools Oust 1098 Colored Children

Court Suit Will Fight Expulsion

BIRMINGHAM, Ala., May 21 (UPI) — Negro leaders were expected to go into Federal Court today in an effort to win reinstatement for 1098 Negro students expelled for cutting classes to participate in racial demonstrations.

Integration leader Martin Luther King Jr. told a meeting of 1000 Negroes last night that a racial truce in the troubled city "still stands" despite provocations.

"We will not call for a mass walkout or boycott or a mass demonstration at this point, Rev. King said after a meeting with the Central Committee of the Alabama Christian Movement (ACM). He flew here last night after a weekend at his Atlanta home.

It had been feared that the action of school officials yesterday in expelling the youthful Negro demonstrators might jeopardize the truce agreement between Negro leaders and white businessmen to desegregate downtown stores. But Rev. King said "we will not correct an unwise act by moving hastily into another unwise act."

PLEDGES ACTION

Rev. King later told a meeting of 600 of the expelled students that legal action would be taken to gain their reinstatement. He told newsmen the students were expelled without their right to a hearing which a Federal Court stipulated for such incidents in a 1961 case involving demonstrations at Montgomery Alabama State College students.

"We are making every effort to file that suit tomorrow (Tuesday) in Federal court in Birmingham," Rev. King said. "It is just a matter of filing the papers."

Mrs. Constance Baker Motley of New York, a top counsel for the National Association for the Advancement of Colored People, said "the suit will be filed as soon as we can get it on paper."

Rev. King said the expulsions by school administrators were outside "the domain" of a biracial committee which worked out the desegregation agreement almost two weeks ago. The committee of merchants said earlier it could not be held responsible for actions by city officials.

"Segregation in Birmingham is as dead as a door nail," Rev. King said. "The only thing I am concerned about now is how costly some will make the funeral."

UPI Telephoto

Kenneth Adams, 12, a former Klan leader, was charged in Anniston, Ala., with blasting two Negro homes and a church with a shotgun. Adams was involved in an attack upon Negro singer Nat (King) Cole in 1956.

800 MARCH

Other developments:

- About 800 Negroes marched into downtown Greensboro, N. C., last night and picketed two cafeterias and movie theaters. Police arrested some 100.

A crowd of about [illegible] Negroes gathered outside the Durham, N. C., City Hall during the first meeting of a new city council. New Mayor Wense Grabarack had asked Negroes for two weeks time to attempt a solution to Durham's racial problems. The Negroes refused and scattered over the downtown area, staging sit-in attempts at restaurants. Around 60 were arrested. About 80 Negroes marched thru Charlotte, N. C., yesterday singing for an "end to segregation."

MAY 21 1963

NEW YORK TIMES

Negro Students Ousted For Birmingham Protest

By CLAUDE SITTON

Special to The New York Times

BIRMINGHAM, Ala., May 20—Education officials here expelled or suspended today approximately 1,100 Negro students who had been arrested in anti-segregation demonstrations. Integration leaders immediately distributed 4,000 leaflets urging the city's other Negro students—nearly 32,000—to withdraw in a sympathy boycott and to enroll in a "first class on freedom."

Some Negroes said the expulsions might bring a renewal of the mass demonstrations that wracked this Southern steel center for five weeks. The decision was expected to be made at a strategy meeting of the Rev. Dr. Martin Luther King Jr. and his aides.

There was no indication that the move would cause Negroes to renounce their agreement on a token desegregation plan with white business and industrial leaders. One aide of Dr. King said that if mass protests were called they would be directed against education officials and not merchants.

Many Oppose Accord

However, observers pointed out that the expulsions affected the persons who form the backbone of the integration campaign. Many of these youths as well as some adults, have expressed dissatisfaction with the accord, which calls for desegregation of all facilities in seven department and variety stores, promotion of Negroes to sales positions and the appointment of a biracial committee.

Sharp differences over the scope and timing of the agreed-on changes in racial custom had already emerged between whites and Negroes. And the new development was seen as an additional threat to the permanency of the settlement and the truce it brought.

A sharply reduced force of state law enforcement officers remained in the city under the command of Col. Albert J. Lingo, Alabama's Commissioner of Public Safety. They include highway patrolmen, game wardens, deputized National Guardsmen and sheriff's deputies.

They were rushed here under orders from Gov. George C. Wallace to prevent violence, which has included the bombings of a Negro leader's home and a motel and two riots. The mob action involved Negroes enraged by the bombings and the use of fire hoses and police dogs to control the demonstrators, but only a handful of whites participated.

School Board Meets

The announcement of the expulsions and suspensions came this morning at a special meeting of the city Board of Education with educators headed by Dr. Theo B. Wright, the superintendent.

Dr. Wright released copies of a letter to principals. It was accompanied by a list of students, broken down by schools, who were arrested in the demonstrations for parading without a permit.

"As you know, the policy of the Board of Education has been immediate suspension or expulsion of students who have been arrested for any offense until proper hearings can be conducted for such pupils," the letter said.

The superintendent noted that since the school term was ending May 31 there was not enough time remaining for the student trials.

As a result, the letter said, the board voted to expel all arrested students 16 years old or older for the remainder of the term and to suspend those under 16.

Can Study in Summer

"The Board of Education then voted to permit students to make applications for summer school beginning Monday, June 3, so that they could make up the time lost and receive credit for this year's work," the letter to the principals said.

"Those who do not enter summer school will be permitted to re-enter school in the fall but will have to complete the full grade or semester form which they were suspended or expelled. All diplomas of certificates in your possession for any student on this list should be immediately returned to this office," the letter went on.

The city system has 25,491 Negro elementary and 7,346 high school students. A breakdown by grades of those expelled or suspended could not be obtained immediately.

A spokesman in the superintendent's office said none of those arrested could re-enter until final disposition of the cases against them. Most of the students have been released on bond pending appeals, which could take months.

The spokesman said that another reason for the expulsions and suspensions was the fact that many of the students had walked away from their schools without permission to participate in the demonstrations.

Those who attend the eight-week summer session are charged fees ranging from $20 for elementary pupils to $30 for high school students. Negroes contended that some could not afford these amounts and a few accused the school system of attempting to profit from the situation.

The school board's announcement touched off a flurry of activity among officials of the Southern Christian Leadership Conference, of which Dr. King is president, and the Alabama Christian Movement for Human Rights, headed by the Rev. Fred L. Shuttlesworth. These organizations have led the integration campaign.

Staff workers ran off 4,000 copies of the leaflet for immediate distribution at Negro high schools this afternoon.

"Our motto must remain the same," the flyer asserted. "All stay out until all can get in . . . All students who were expelled or suspended and all students who know these students were right please answer the roll call at the 16th Street Baptist Church at 9 o'clock A.M. Tuesday. . . . First class on freedom—Dr. Martin Luther King Jr., Rev. James Bevel and Rev. C. Billups."

Continued on Page 18, Column 3