LITTLE ROCK CRISIS

APPROVED:

[Signatures]

Major Professor

Minor Professor

Director of the Department of History

Dean of the Graduate School
LITTLE ROCK CRISIS

THESIS

Presented to the Graduate Council of the
North Texas State University in Partial
Fulfillment of the Requirements

For the Degree of

MASTER OF ARTS

By

Gretchen M. Jeffery

Denton, Texas

August, 1965
PREFACE

On September 4, 1957, the Arkansas National Guard under orders from Governor Orval E. Faubus blocked the doors of Central High School to nine Negro students. The troops were there, according to Faubus, to protect the peace. Seventeen days later Faubus' military venture ended and shortly thereafter the Chief Executive of the United States had his turn when the 101st Airborne arrived in Little Rock and the state guard was nationalized. The battle was dramatic, but the issues were more complicated than appeared on the surface.

What began as a local and administrative problem grew into a national crisis during which a minority of segregationists and doctrinaire opportunists exploited not only the people but the law of the land. The irresponsibility toward law and order was shared ultimately by both state and federal governments. Initially the Governor had the advantage through default of the federal government, and he used it. Faubus' goal was re-election; his success was due to a lack of national policy and a lack of will to enforce existent policy.

The Eisenhower Administration, evidently hoping to gain some political advantage by association with the image of civil rights exponents, had supported passage of what turned out to be more or less
symbolic legislation. The passage of these laws and the decisions of the Supreme Court were felt to be sufficient—or so the inaction of the Administration implied. What was to cause immeasurable and permanent damage to a state and to the nation itself was the drama of these two levels of government supposedly conducted under obedience to the law. The result was tragic. The failure of law in a society based on law created a Constitutional crisis not yet resolved.
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. PRELUDE TO CRISIS</td>
<td>1</td>
</tr>
<tr>
<td>II. HARDENING OF RESISTANCE</td>
<td>21</td>
</tr>
<tr>
<td>III. THE GOVERNOR TAKES A STAND</td>
<td>38</td>
</tr>
<tr>
<td>IV. THE SHOWDOWN</td>
<td>56</td>
</tr>
<tr>
<td>V. THE FEDERAL GOVERNMENT RETREATS</td>
<td>83</td>
</tr>
<tr>
<td>VI. THE SETTLEMENT</td>
<td>105</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>131</td>
</tr>
</tbody>
</table>
CHAPTER I

PRELUDE TO CRISIS

On May 17, 1954, the Supreme Court delivered its decision on Brown v. Topeka Board of Education, the first case on a docket of four that had been argued and reargued before the Court since 1952. Chief Justice Earl Warren said, "... a common legal question justifies their consideration together in this consolidated opinion." School desegregation was the main issue although the policy of separate but equal, originating with the Plessy v. Ferguson decision of 1896, had been concerned initially with public transportation. Six cases had come before the Court all with reference to the Plessy v. Ferguson decision. In review, the separate but equal doctrine had been applied to public education, and the 1954 decision struck down that precedent.

After two years of argument and investigation the crux of the Court's opinion was simply that "separate educational facilities are inherently unequal." Until 1954 the facts documented demonstrated that educational facilities had not been equal, but the Court did not base

---


2 Ibid., p. 9.
its new decision on the tangible discrepancies alone. The decision was psychologically orientated. According to the evidence of sociologists and psychologists the principle of separation constituted a direct and clear deprivation of right; thus it was contrary to the 14th Amendment and unconstitutional.

The decision came as no surprise to most Southern politicians although many reacted for the benefit of their constituents as though it were a tragedy _deus ex machina_. As long as the problem of enforcement stood between the law and state compliance, the decision was not an immediate threat, but the more rabid segregationists flocked to the call. Hundreds of pamphlets were printed denouncing the "Communist infiltrated" Supreme Court and posters appealed for Chief Justice Earl Warren's impeachment. More conservative groups began or quietly continued studies on delay.

After extended hearings on the problem of enforcing the 1954 decision, the Supreme Court remanded the cases to the lower courts from which they had arisen for consideration of decrees in conformity with the principles of the prior decision. The justices declared that . . . courts will have to consider whether the actions of school authorities constitute good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal. Accordingly, we believe it appropriate to remand the cases to those courts.  

\[3\text{Ibid.}, \ p. \ 12. \]
The Court required further argument on questions of relief.

The Attorney General of the United States and the attorneys general from all the interested states were invited to present their briefs. Florida, North Carolina, Arkansas, Oklahoma, Maryland and Texas filed and participated in the oral arguments. On May 31, 1955, the decision clarifying that of May 17, 1954, was delivered. The Court gave full responsibility of implementing desegregation to the community involved. The local school boards especially felt the weight. "Full implementation of these constitutional principles may require solution of varied local school problems. Schools authorities have the primary responsibility for elucidating, assessing, and solving these problems . . . ." The Court also made provision for delay. The time element was indefinite but subject to certain limitations.

While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with our May 17, 1954, ruling. Once such a start has been made the courts may find that additional time is necessary . . . . The burden rests upon the defendants to establish that such time is necessary . . . .

Delay could be justified and, if necessary, would be granted to a school board displaying actions "consistent with good faith." But the Court made it clear that violence, intimidation and resistance were not considered grounds for delay. Obstacles affording delay were to be

---

4 Ibid.  
5 Ibid.
tangible, essentially related to administration. In its final decision the Supreme Court held that

... the courts may consider problems relating to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis.

Despite the conservatism of the 1955 decision, opponents of desegregation were not satisfied; they wanted reversal. Neither decision was strong enough to justify the severity of the resistance met. Several authorities have pointed out that the decisions were a bitter victory for civil rights and that even if that were to be salvaged the N. A. A. C. P. was faced with an enormous task. Harry S. Ashmore, editor of the Arkansas Gazette and Pulitzer Prize winner for his journalism during the Little Rock fiasco, said:

The National Association for the Advancement of Colored People could claim a famous victory in the decision which set forth the new precedent, but it got substantially less than half a loaf in the guide lines that were laid down for implementation.

The biggest obstacle to enforcement of the decision was to be its lack of adequate coercive machinery.

The conservative position of the Court was extended with another opinion with further clarifications on the 1954-55 decisions:

\[6\] Ibid.

It is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the Federal courts are to take over or regulate the public schools of the states. It has not decided that the states must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation.

It can be assumed that charges of extremism hardly apply to these decisions.

An editorial in the New South in June stated: "The local will to comply will no doubt be heavily influenced by official state attitudes." The congressional "Southern Manifesto," inopportune published prior to the presidential election of 1956, was exactly the type of document that the editorial referred to. It told the nation and, in particular, the southern people that nineteen senators and eighty-two of the South's representatives intended to provide massive resistance against the Supreme Court's decisions. The heart of the Manifesto, its "Declaration of Constitutional Principles," was as follows:

We decry the Supreme Court's encroachment on rights reserved to the states and to the people, contrary to established law, and to the Constitution.

---

8 RRLR, I (February, 1956), 74.

9 Editorial, New South, Southern Regional Council, X (June, 1955), 2.
We commend the motives of those states which have declared the intention to resist forced integration by any lawful means.\textsuperscript{10}

As the \textit{Southern School News} reported, "What some of the signers failed to get in the Manifesto, they expressed later. Sen. Byrd said the document was 'part of the plan of massive resistance we've been working on and I hope and believe it will be an effective action."\textsuperscript{11}

With such official approval it is difficult to imagine the people and local officers of a state dedicated to resistance taking affirmative action. It was obvious that if local compliance was to work it would need the help and protection of the courts. This would draw the Court into the unwelcome position of defining the extent of judicial power. Yet the interference of the state against the local citizens and officials made it impossible for those responsible to comply even though to do so was their duty. It was the responsibility of the community to enforce what the federal government could not enforce. A man familiar with that paradox was Virgil T. Blossom, Superintendent of the Little Rock school system. Blossom was as dedicated and as thorough an administrator as one could hope for when measured against the weight of his opponents.

Some observers felt that because the administrator was the "key man" in a school system his personal "strength of conviction" would be


sufficient insurance of a successful integration policy. Regardless, however, of the administrator's position it was necessary that he have local support and that the problem remain within his sphere and not that of the politician. As one critic pointed out, "The administrator has been pretty well informed by the views of politicians that integration is a bad thing and must be evaded by any means possible."\(^{12}\) The difficulty at Little Rock was not due to the administration but to the fact that political opportunism caught public education in its sight. From the 1954 decision throughout the Little Rock episode Blossom was aware of majority opinion favoring not integration but compliance with the law. His plan was explicitly to accommodate the citizens, but neither he nor the school board could have foreseen the later actions of state officials. The possibility exists that Blossom could have done more to ensure success, but it is only a possibility because the Supreme Court had "charged southern school officials with the responsibility for accomplishing a feat never before achieved in the history of American education—that of making a basic change in education policy when a large number of people affected are strongly opposed."\(^{13}\) It is a reasonable assumption that if the Little Rock school board had had state or federal support


desegregation would have started September 4, 1957. The failure of both state and federal officials was compounded by direct interference or, in the case of the federal government, direct avoidance of the school board and its plans.

Superintendent Blossom, in his book concerning his Little Rock experiences, *It Has Happened Here*, said:

I would like to make my position very clear that the people of Little Rock generally were opposed to the principle of the Supreme Court decision on school integration. They wanted to avoid integration if that were legally possible and, if not, they wanted a legal minimum of integration. 14

This belief was Blossom's guiding rule. The official position of the school board itself was opposition in principle to integration, but at the same time, the board intended to comply with the Supreme Court decision. There was no intent under Blossom's supervision to do anything but comply. The compliance, however, was to be a compromise. To please both the law and the public, desegregation had to be limited and gradual, and gradualism was the essence of the national desegregation decision. Disobedience to the 1954 decision consisted of one act, refusal to grant rights basic to the Constitution and having nothing to do with individual states. Numerous outlets favorable to gradualism or voluntary segregation were implicit in the three opinions of the Court. The clarification of 1957 clearly read: "What it [the Supreme Court..."

has decided, and all that it has decided, is that a state may not deny to any person on account of race the right to attend any school that it maintains . . . "15 Gerrymandering school attendance areas or designing intricate admissions forms and qualifications would be effective and, more than likely, legal deterrents to desegregation of any quantity. Blossom spoke for the school board: "Our purpose was to comply with the law in a manner that would be acceptable locally, not to wreck the school system."16 The board's plan bore out this statement. Avoidance of integration was not legally possible, but various other approaches might be justified.

Immediately after the 1954 decision the school board on May 22 issued a statement. Superintendent Blossom invited three Negro leaders to the meeting in an attempt at what he termed cooperation for future planning. C. H. Jones, editor of the conservative Southern Mediator Journal, L. C. Bates, editor of the allegedly radical paper the State Press and husband of Daisy Bates, who was state president of the N. A. A. C. P., and the Rev. F. C. Guy, minister of an influential Negro church, were the three Negroes invited. Their enthusiasm over the decision was high, particularly since other school districts in Arkansas had announced intentions to integrate. However, the Little

15 RRLR.
16 Blossom, p. 18.
Rock school board minimized any hopes for immediate and full rights under the decision with the statement that

... the Supreme Court deferred judgement on the questions of time and methods for the accomplishments of integration. Until the Supreme Court of the United States makes its decision of May 17, 1954, more specific, Little Rock School District will continue with its present program.

Blossom also stated: "It is our responsibility to comply with Federal Constitutional Requirements and we intend to do so when the Supreme Court... outlines the method to be followed." Jones agreed with the school board; Guy did not like it but agreed to cooperate; and Bates walked out of the meeting. This was the last time the board made any overtures to that segment of the Negro community which was militant.

Although several Negro groups had some contact with the white community, both Bates and his wife were the ones who would take the issue to court. The group they represented, whether a majority or not, were the ones guiding Negro acceptance of any white policies that were submitted to the Negroes.

During the summer of 1954 various research projects were begun by Blossom's staff. The Superintendent later stated: "I talked to many hundreds of parents in all walks of life. I attended no less than 225 meetings of all kinds--civic, business, church, social groups as well as white and Negro Parent-Teachers Association sessions at all levels."  

17 Ibid., pp. 11-12.

The majority favored gradualism. According to Blossom, "They often pointed out that too much haste would almost certainly result in action by the state legislature to abolish public education . . . . the great majority agreed in principle with the School Board's go-slow policy."\(^{19}\)

Two new high school buildings were on the drawing board during the planning activities; one, Horace Mann on the east side, was to be Negro, and the other, Hall High, in Pulaski Heights, was to be white. The old Negro high school would be the new junior high. The construction of these buildings offered a reasonable delay.

Three general systems of desegregation were explored. Desegregation could be on the high school level proceeding gradually into the elementary grades or its reversal proceeding from the elementary to high school. A third alternative was simultaneous integration at all levels. Blossom initially decided to begin with the elementary schools. Theoretically, young children could be integrated more easily while young and before their ideas had developed. It was felt that adolescents reflect the mores of their society to such an extent that integration would be difficult. After talking with parents, however, Blossom decided against that plan and came to the conclusion that "the younger the child, the more violent the parents were in their denunciation of the Court's decision."\(^{20}\)

\(^{19}\)Ibid., p. 19.  
\(^{20}\)Ibid., p. 16.
approve high school integration more readily than either of the other possibilities. The new buildings helped lessen the pressure from Central High School itself because on their completion there would be an alternative for both white and black students concerning attendance.

Blossom's staff proceeded to draw up new school districts and to expand the transfer system to allow flexibility for minimal integration. Under the transfer policy a student could request to be moved from his district into another if that move did not crowd nor hinder in any way the general school program. The three new attendance areas drawn by the school board for the school year 1957 were: 21

<table>
<thead>
<tr>
<th>School</th>
<th>Area</th>
<th>White</th>
<th>Colored</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horace Mann</td>
<td>No. 1</td>
<td>426</td>
<td>533</td>
<td>959</td>
</tr>
<tr>
<td>(to be all Negro)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central High</td>
<td>No. 2</td>
<td>2,135</td>
<td>516</td>
<td>2,651</td>
</tr>
<tr>
<td>(to be integrated)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hall High</td>
<td>No. 3</td>
<td>700</td>
<td>6</td>
<td>706</td>
</tr>
<tr>
<td>(to be all white)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Of the two predominantly white areas Negro students were heaviest in the second. The school board hoped for voluntary transfer in and to this area to balance it out. The board hoped that voluntary segregation or minimum and voluntary integration could be achieved with their plan—all would be legal and within compliance.

---

21 Ibid., p. 17.
During the school year of 1954-55 the plan was completed. On May 24, 1955, the school board officially adopted the Little Rock Progressive Plan for gradual integration, popularly or unpopularly known as the "Blossom Plan." Dr. Dale Alford, a member of the board, voted for the plan. As outspoken a racist as he subsequently proved to be, he found the Blossom Plan conservative enough in 1955. The plan itself called for integration over a period of seven years. According to Superintendent Blossom, "Present indications are that the school year 1957-58 may be the first phase of this program..." The Arkansas Democrat, one of Little Rock's leading newspapers and a supporter of Governor Faubus held a popular election for Man of the Year, 1955, and the man was Virgil Blossom. Evidently the plan was acceptable.

While four big school districts were preparing good faith plans for desegregation, smaller districts integrated. On July 11, 1955, Hoxie, a small town in northeast Arkansas, integrated twenty Negroes on all levels. Superintendent K. E. Vance had announced the plan in June, and no hostility had occurred. The first three weeks were comparatively quiet, but then Hoxie became a central attraction in Arkansas and the nation. Three aspects of the Hoxie incident were to have direct relevancy to Little Rock: the organization of the

---

22 Ibid.
segregationists and their tactics, the actions of the court and the Governor's reaction to the whole situation. Hoxie split its fall term to accommodate its program to the cotton picking season. Although a crowd of silent men had been at the school the first day of integrated classes, there was no demonstration comparable to that when school reconvened. By this time, figures from outside the community entered the lists. Names later prominent in the Little Rock resistance such as Amis Guthridge, lawyer and racist, were prominent at Hoxie. Guthridge spearheaded the so-called legal protest at both Hoxie and Little Rock. On August 2 Guthridge predicted to the Citizens Council Chapter of White America, Inc.: "Pretty soon we're going to tell Faubus he's either for the white folks or for the N. A. A. C. P., and we don't want any smart remarks."\(^{23}\) He was not making idle threats. Boycott, counter-boycott, threats, intimidations, slander and other forms of terrorism were tactics used at Hoxie. The difference between segregationist activity at Hoxie and Little Rock was quantitative.

Two more important aspects of the Hoxie prelude were the actions of the court as contrasted with the inaction of Governor Faubus. In November at the peak of the Hoxie harassment Amis Guthridge in a public statement announced the four-point plan of the C. C. C. to preserve segregation. The fourth point stated: "If all else fails, seek

\(^{23}\)SSN, September, 1955, p. 10.
to abolish the public school system.\textsuperscript{24} The Hoxie school board asked for a temporary injunction against the offenders and it was granted. The defendants, however, appealed on the ground that no Federal rights were involved and that the Federal courts had no jurisdiction. The appeal raised the broad question of whether or not state officials could be protected in the Federal courts from interference with their performance of a duty imposed on them by the Federal Constitution. The injunction was granted, nevertheless. The school board further requested the judge to find: (1) that Arkansas laws requiring segregation were unconstitutional (2) that the Hoxie school board had a duty to disregard such laws (3) that any school board integrating and then reversing its decision was liable to both civil and criminal prosecution under federal civil rights laws.\textsuperscript{25} Federal Judge Thomas C. Trimble ruled in early November that Arkansas had no valid laws requiring segregation in public schools. In December Judge Reeves' final ruling made the injunction permanent and declared the school board liable to prosecution if it did not proceed with integration. The courts were clearly taking a direct approach to the problem. Hoxie was quiet again.

Governor Faubus' position toward Hoxie was such that Blossom could have safely assumed it to be official policy. When the trouble


\textsuperscript{25}\textit{RRLR}, II (April, 1956), 303.
began that August, Faubus said that the state government would not intervene in the dispute at Hoxie or any other school district. "Whatever could be done," he said, "might only aggravate the situation." 26

The 1954 gubernatorial campaign had also seemed propitious for a gradual desegregation program. Race had not been an issue; it had been mentioned but did not influence the election. Incumbent Francis Cherry was defeated largely through an error of propaganda. Furthermore, Orval Faubus was supported by the so-called liberal Sidney McMath machine. Its official position on the race issue was moderate and not in any way comparable to rabid segregationist theory.

The year 1955 found the National Association for the Advancement of Colored People with its problems too. Communication between national, state and local officers was lacking. Concerning the suit filed in Little Rock, one member of the N. A. A. C. P. said,

The handling of the Little Rock case and the developments in several other projected cases in the state were indicative of the serious lack of communications existing between the Little Rock branch of the N. A. A. C. P. and the attorney of the national staff. 27

Further: "The N. A. A. C. P. Field Secretary, whose duties were servicing and advising local branches in the area, and who was responsible to the


national office, offered no assistance whatever. " Some of the confusion centered in dissent over the Blossom Plan—whether to accept or reject it. In a special statement prepared for an inquiry into the Little Rock development, Professor George Iggers, a white historian who was a leader in the Little Rock N. A. A. C. P. activities from 1952 to 1956, wrote: "The original Blossom Plan was well publicized, primarily by the Superintendent himself in talks before many Negro, white and mixed groups throughout the city. Significantly, there was little criticism of his proposals. " Despite the acceptance, the Little Rock chapter of the N. A. A. C. P. prepared a test suit and filed against the school board and the Blossom Plan.

Some believe the suit was to save the Blossom Plan. Professor Iggers stated: "For the N. A. A. C. P. members the suit was viewed as a last resort to salvage the original Blossom Plan. The School Board was unresponsive to the overtures of the N. A. A. C. P. . . . . " It is possible that the suit was hopefully designed to be lost and thus assure the white community's total approval; if it displeased the N. A. A. C. P., then it must be good. However, statements of Daisy Bates, state president of the Arkansas N. A. A. C. P., indicated real displeasure with the plan. Two months after the school board officially adopted the

---

28Ibid., p. 289.  
29Ibid., p. 286.  
30Ibid., p. 288.
Blossom Plan Mrs. Bates had asked for a committee consisting of members from both groups to discuss the plan. She said the N. A. A. C. P. simply wanted a specific statement on the Plan because the school board had said nothing to the N. A. A. C. P. people in Little Rock since the May 31 ruling of the Supreme Court. But then Mrs. Bates added that the "N. A. A. C. P. was 'definitely against Blossom's High School integration idea . . . We have told Mr. Blossom that we are against his plan because it is too vague, and it appears it will take at least five years or more to accomplish." The school board declined to meet with her. 31

Judging from various policy statements of the N. A. A. C. P., gradualism was not favored although the policy statements varied with each statement. The lack of communication between the varying levels of the N. A. A. C. P. contributed to the confusion. In June, 1955, it was announced that any school not integrated or without plans for desegregation within good faith by September, 1955, would be taken to court. Thurgood Marshall, N. A. A. C. P. attorney, stated in an interview "...we intend to continue to push toward desegregation in most areas of the South by not later than September 1956." 32 To add variety, U. Simpson Tate told an N. A. A. C. P. meeting in late October that

31 SSN, August, 1955, p. 15.
32 SSN, September, 1955, p. 3.
"friendly court suits on school integration could be a trap if one led to a decision for gradual integration." According to Tate, "There is no more lawful segregation. You don't have to horse trade with school boards any more because they haven't any horses. If you want the banner of the N.A.A.C.P., you must settle for no less than complete and immediate integration." Apparently Tate did not look upon the Little Rock suit as a friendly one because he defended Mrs. Bates in court. Prior to the filing in February, 1956, Mrs. Bates with one Negro child for each grade level attempted to enroll them in the Little Rock school system on January 24, 1955. Superintendent Blossom explained the situation again and refused to admit them. The suit, John Aaron v. Dr. William Cooper et al, Civil Action 3113, Eastern District of Arkansas, was based on the premise that the children had been denied admission on the basis of race.

All indications of events of 1955 and early 1956 seemed generally favorable for peaceful if gradual integration. The plan had been accepted by the public and upheld by the courts. Governor Faubus' policy as delineated in Hoxie was that the state would not interfere with the policies of school districts. The year 1956, though, reversed the atmosphere of compliance. The resistance organized and took coherent form. Unlike the 1954 gubernatorial campaign, the segregationists had amassed power

enough to inject the issue into the 1956 election. Their influence spread to include powerful groups and individuals in the legislature, whose policies previewed the crisis of Little Rock in 1957.
CHAPTER II

HARDENING OF RESISTANCE

The year 1956 saw resistance against the decision of Supreme Court develop along ominous, cohesive and official lines. With the notable exception of the Federal Government, the base of active participation widened to include Governor Faubus, the Legislature, the Citizens Council and outsiders like Governor Marv Griffin of Georgia. While the Little Rock school board began its plans, southern politicians were injecting the sentiments of the Southern Manifesto into the picture. The gubernatorial campaign, built solely on racist platforms, saw Faubus emerge as an undisputed winner because he, according to the electorate, was a "moderate" segregationist as opposed to former state senator Jim Johnson, who advocated open defiance of the national government. Three segregation proposals, propagandized as expressly designed to circumvent the Court, were passed by the state legislature despite the fact that these bills were in direct defiance of the law. Within only a matter of time the proposals would be found unconstitutional in the courts and therefore were not even sound evasions.
The most important development of the year was the imperceptible and apparently inexplicable shift of Governor Faubus to the support of the segregationist group. It is difficult to trace Faubus' change through anything the Governor said but his actions are easily followed. There are several theories as to why Faubus changed course. The most obvious one also seems the most plausible; Faubus fell heir to a situation and capitalized on it. Whether or not he accidently or deliberately designed this role is an interesting question. The deliberate-ness of his actions, however, makes it clear that both his ambition and intelligence had been underestimated. Significant is the fact that in the gubernatorial election of 1956 Faubus carried all but eight of seventy-five counties and only five of these went to extremist Jim Johnson. This would seem to indicate no reason at all to consider the extremists as a force to be reckoned with immediately. Faubus understood his victory but subsequently defined it as a mandate of a segregationist majority. That the majority was of segregation sentiment is true, but it did not follow that it was the will of the majority to defy the Federal Government.

Inherent within Faubus' realignment was the change in nature of the issues. The issue according to the Supreme Court was one of administrative procedure by the educators to comply with the gradualist design of the 1954 decision, but the problem could not be left to educators;
it was essentially a political problem. Faubus' actions before the crisis implied that he personally and politically felt integration to be a matter left to individual state policy. This attitude forced an old issue of state versus federal authority. Essentially this authority was the primary concern only as aspects changed or grew more complex.

Within Little Rock itself the issue was also concerned with extension of authority, but between the state and a city. On the national level it was the question of limitations and power of enforcement between the executive and judicial branches of the government. Various relationships and definitions of those relationships were bound up in the Little Rock affair, but one real issue transcended the legal complexities: one of disobedience and disrespect for law. This permeated the action and inaction of every party involved, public or private, state or national; the dilemma was within the framework of law and its status.

In Washington the administration observed the developments of 1956, took note and left it at that. It has been argued that what happened at Little Rock was not a surprise, but that the surprise was that it happened in Arkansas and under Governor Faubus. A border state with a moderate governor was the least likely place for defiance to develop. However, a showdown concerning the 1954 decision was inevitable, and it would necessitate advance planning and preparation by the federal government. There was none. The attitude of "maybe it will solve itself"
was reflected in what Drew Pearson termed an "acid inquiry" in which the Senate Judiciary Committee questioned Attorney General Herbert Brownell. The Committee questioned Brownell about civil rights and Brownell's claim of his participation and that of the Administration in working for more astringent civil rights policies. The inquiry confirmed the fact that Brownell had done little except talk. Pearson observed that "an amazing array of documented facts showing how the attorney general had ducked the all-important question of civil rights while simultaneously claiming the administration was championing civil rights" were revealed. Real interest in the inquiry was not with how many of the Committee's questions Brownell would evade but with the attitude of the Administration as reflected throughout the inquiry. The St. Louis Post-Dispatch stated: "This is perhaps the most conspicuous example of a trend more and more evident in the Administration to avoid taking any stand on issues that might be considered in any way controversial." Ironically the Administration's policies contributed their part to the Little Rock crisis. President Eisenhower himself tried to avoid controversy by refusing public and strong support of the Supreme Court decision until it was too late.

---


2Ibid.

3St. Louis Post-Dispatch, June 28, 1956, F on F, 17-170.
Meantime, the issues were being clarified in the courts. The continuation of the Hoxie suit and the N. A. A. C. P. suit into 1956 developed most of the legal questions involved and contributed two important new items into the Arkansas pattern of desegregation. In Hoxie the federal government intervened for the first time, and when the Federal Judge ruled in early January that the Hoxie school board was bound by duty to carry out desegregation he also ruled that in effect the Supreme Court decision had nullified Arkansas segregation laws. The segregationists did not settle for that decision and appealed on the grounds that no violation of federal rights had been involved, and thus that a federal judge had no jurisdiction in the suit. Among the first outsiders to intervene was Georgia's Attorney General Eugene Cook, who filed suit on behalf of the segregationists. The Justice Department in turn filed a brief on behalf of the Hoxie school board and for the first time since the 1954 decision made a legal effort to enforce that decision. The school board was upheld. On October 25 the Eighth Circuit Court of Appeals at St. Louis ruled that the Hoxie administrators had a federal right to be free from "direct and deliberate interference."

At Little Rock, however, the federal government was unwilling to become involved.

---

4 RRLR, I (December, 1956), 1032.
The N. A. A. C. P. suit, *Aaron v. Cooper*, was filed February 8 after Mrs. L. C. Bates' unsuccessful attempt to enroll Negro children in the Little Rock schools. Mrs. Bates contended:

About the Little Rock integration plan, Negro parents felt that the phrase "may start in 1957" was especially vague and left them no alternative except to go into court. The parents appealed to the Arkansas State Conference of the National Association for the Advancement of Colored People to represent them.\(^5\)

She neglected to point out that the statement was vague because it was in direct reference to the completion of the new buildings which had already been found to be a reasonable delay. Blossom's plan was dependent on these buildings. The issue in the case, however, was whether or not the school board plan met the requirements of the Supreme Court. The suit was dismissed in the lower court on the ground that the plan complied with the Court's order for integration "with all deliberate speed." The N. A. A. C. P. attorneys requested a three-judge court but were turned down because the issue did not involve the constitutionality of any Arkansas law. Then they appealed; on August 28 Judge John Miller ruled in favor of the school board and pointed out that the only question raised was the adequacy of the plan. Judge Miller also said the Court should not "substitute its own opinion" for that of the board and that "it would be an abuse of discretion for this court to fail to approve the plan or to

---

interfere with its consummation so long as the defendants moved in good faith, as they have done . . . .”

Although the lower court had been upheld, Mrs. Bates said that the plaintiffs were pleased because the ruling implied far-reaching effects. Primarily, the court, aside from ordering the board to proceed with their plan, also ruled that the District Federal Court would retain jurisdiction on the case. Any necessary orders then would come through that court. Mrs. Bates wrote:

Even though the N. A. A. C. P. attorneys failed in their attempt to get a court decision ordering immediate integration in all grades, the plaintiffs felt confident that the school board, now under court order, would surely have to integrate the schools of Little Rock.

Blossom felt that “it seemed likely that the N. A. A. C. P. legal staff came to the conclusion that the Supreme Court also might uphold our plan--and thus establish a legal pattern of gradual integration everywhere.”

Despite the confusion on policy the end effect of N. A. A. C. P. strategy was implicitly gradualist. Blossom’s plan was on a clear road, but opposition came from another quarter.

Faubus, in the meantime, was clarifying and shifting his position.

The Governor opened the new year with a written statement, his first

---

6 RRLR, I (October, 1956), 860.
7 Bates, p. 53.
8 Blossom, pp. 28-29.
in thirteen months, to New York Times reporter Damon Stetson. In this statement he made available his famous poll stating that 85 per cent of the people in Arkansas were against integration. Faubus' own private pollster made the survey. He questioned 500 people, 18 per cent of whom had no opinion but those 18 per cent were not figured in the Governor's report, as he admitted later. 9 On the basis of these findings the Governor backed a five-man committee, privately financed, to study Virginia's measures to avoid desegregation. The committee included Marvin Byrd, East Arkansas segregationist; the rest of its members were from strongly segregationist counties.

When Faubus released the committee report he stated that he would "be on the side of those attempting to prevent sudden and complete integration." 10 He did not point out that no one was looking for sudden and complete integration. The committee had two suggestions: that interposition and assignment measures of Virginia be patterns for Arkansas. On March 22, when Faubus announced the committee was drawing up two proposals, he declared:

Integration is a local problem and can best be solved on the local level according to the peculiar circumstances and conditions of each school district.

The people of the state are overwhelmingly opposed to any effort to bring about sudden and complete integration. 11

---

9SSN, February, 1956, p. 11.

10SSN, March, 1956, p. 4.

11SSN, April, 1956, p. 8.
Meanwhile Jim Johnson had filed an amendment in petition form with the Arkansas Attorney General to put the interposition doctrine on the November ballot. He also wrote Faubus demanding that a special session be called so that the legislature could get to work on segregationist bills immediately. In view of the progress already made the Governor did not think this necessary, however. Even Amis Guthridge was pleased with Faubus and his committee, commenting that the Governor had "finally, declared himself for the principles which White America stands for."\(^{12}\)

Interposition, briefly, was an ante bellum idea that the state could interpose its authority between the people and the federal government. The assignment proposal allowed student exclusion on any basis except race. Sufficient red tape was inherent in either case to keep any disgruntled parents in litigation lasting several months. During the gubernatorial campaign Faubus made several comments on the two proposals. He asserted, "When the measures are voted into law, no school board will be forced to mix the races while I am governor."\(^{13}\) He also said that his proposals would "... align Arkansas solidly with the Solid South" in opposition to the Supreme Court ruling. "I am convinced," he said, "that the surest way to

\(^{12}\) Ibid.

\(^{13}\) SSN, July, 1956, p. 9.
safeguard our public school system... is to preserve our segregated schools. "\textsuperscript{14} The proposals and Faubus met with white public approval.

The gubernatorial campaign of 1956 was to differ widely from that of 1954. The \textit{Arkansas Gazette} pointed out:

In his successful race two years ago, Orval E. Faubus made a tentative start toward injecting the racial issue into his campaign against Francis Cherry, but the public reaction was discouraging and there was a significant general apathy toward the subject.\textsuperscript{15}

There was no apathy in his second campaign. In July Faubus told a crowd, "Since I have been your governor, no school board has been forced to desegregate its schools against its will. "\textsuperscript{16} The one issue became segregation, and the segregationists were sure of the issue. At a rally near Little Rock Guthridge declared that "We are not going to have trouble with public office holders, now that they know what we want." He believed that the extremists had gained support of the state officials.\textsuperscript{17}

Throughout the spring Faubus had been under fire from the extremists. The fact that some of this criticism was from outside the state has led to the theory that Arkansas was designed as a test case by

\textsuperscript{14}\textsuperscript{Ibid.}
\textsuperscript{15}\textit{Little Rock Arkansas Gazette}, May 21, 1956, \textit{F on F}, F4-42.
\textsuperscript{16}\textit{SSN}, July, 1956, p. 9.
\textsuperscript{17}\textit{SSN}, April, 1956, p. 2.
the Deep South through a plan of several southern governors. There is some evidence, mostly speculative, that some of the governors hoped such a thing would happen but whether or not it was a plan cannot be proved or disproved. Deep South politicians tried to keep border state people in line with their own segregationist policies, but this was more of a traditional pressure than an organized plan. One outside attack especially drew attention to Faubus. Senator James Eastland (D., Miss.) made a speech at Tupelo, Mississippi, and singled out Arkansas as a "border state" drag on segregation success: "In Arkansas, where the governor will not take action against integration the state already has schools integrated." The Arkansas Gazette gave an interesting twist to Eastland's attack, pointing out that Arkansas had only three integrated schools while Texas had many, many more. Why was Arkansas considered a traitor and not Texas? Furthermore, the very day Eastland accused Faubus he put the two segregation proposals on the ballot.

For the three major candidates there was little to discuss except segregation. This was the position announced by Faubus. At Pine Bluff early in July Faubus said segregation was a minor issue because all the candidates agreed on it. "Some of the audience booed, but the booing turned to cheers when Faubus quickly added that there would be no

18 Little Rock Arkansas Gazette, April 28, 1956, F on F, F4-42.
breakdown of the state's traditional segregation pattern. . . . \( ^{19} \)

Despite accusations ranging from "pussyfooting" to "creeping integrationist" Faubus won an easy victory over Johnson. His victory was also considered a "moderate" victory. Yet the three proposals, Faubus' two and Johnson's amendment, were on the coming November ballot. The campaign, full of sound and fury, according to a pertinent editorial before its end, was also a tale told by an idiot:

We wonder if the people of Arkansas could really be the fools the candidates for governor are taking them for. It will take a general election to find out, because, as the cards are set up now, one won't be able to tell by the results of the primaries.

The big test of how informed the people are will come in November when they vote on three initiated measures—a school assignment plan and two interposition plans. All are advocated as a means of preventing integration in the public schools, and all are just as phony as three dollar bills.

The worst thing about it is that the people who are advocating them and who managed to get them on the ballot know that they are phony, but believe them to be politically smart. \( ^{20} \)

The three proposals, obviously designed to maintain segregation in public schools, were approved by heavy margins in the general election on November 6. According to the Southern School News the vote count on the three anti-integration proposals was: (1) Amendment 47 to nullify the Supreme Court's desegregation decisions—185,374 for and 146,064 against. (2) Initiated Act #2 to assign pupils to schools on

\( ^{19} \)SSN, August, 1956, p. 3.

\( ^{20} \)Mt. Home, Baxter Bulletin, July 20, 1956, F on F, F4-44.
factors other than race—214,712 for and 121,129 against. (3) Resolution of interposition placing Arkansas on record against desegregation—199,511 for and 127,360 against. 21

Guthridge challenged the Little Rock school board by demanding that they comply with the November ballot, but attorneys for the board replied that the three new proposals had no effect on the board or its plans. The school assignment plan would be applicable, and "as long as it is applied in such a way as not to discriminate on the basis of color, it will be upheld." 22 They pointed out that the amendment merely directed the legislature to enact laws and the resolution meant that the public endorsed the idea. Blossom answered the claims of Guthridge with no comment.

January, however, saw four segregation bills that pleased Guthridge introduced in the Arkansas legislature. The intent of these bills was obvious. House bill #322 created a State Sovereignty Commission with unlimited investigative powers. House bill #323 removed mandatory attendance requirements at any school that was integrated. House bill #324 required the registration of certain individuals and organizations; this bill was aimed directly at the N. A. A. C. P. Bill #325 authorized school boards to use school funds to fight

integration suits. Lucien C. Rogers of Crittendon introduced the bills and called them "mandatory legislation required by the people when they approved the 'nullification' amendment." 23

The bills caused much dissent and criticism of the Legislature. An editorial from a central Arkansas newspaper commented,

The only proposal which called for outright defiance of the Supreme Court carried by fewer than 40,000 votes out of a total of more than 330,000 cast. What we want to know is, who is speaking for the 146,000 people who voted against defiance of the federal government last November? Not the Governor . . . and no more than a handful of courageous legislators. 24

The attempt to push this legislation through without a public hearing made matters worse, but this move was forestalled by one senator who insisted on a public hearing.

Faubus continued to defend the bills. "Faubus said the bills would not prevent any school district from desegregating if it wanted to but would make it possible for districts to maintain segregation if they so desired." 25 The Governor felt the bills, unlike the Virginia scheme, would be successful as delaying tactics because they were not as extreme. He warned the legislature against trying to make the laws stronger, particularly the school assignment plan. Indeed, during

24 Little Rock Arkansas Gazette, February 21, 1957, F on F, F4-47.
this session Faubus had more interest in his tax program for school aid and state services than he seemed to have in the segregation laws.

In his inaugural address January 15, 1957, he said: "If ALL our people are given good service in the fields in which state government can properly function, there is less likelihood of discord and disorder in dealing with this or any other problem." He continued by stating that he would need $22 million in new taxes and that $143,000 of that would go to the schools. As Southern School News observed, "There were several indications that the legislature might approve much of the Faubus tax program," and it is not likely that Faubus went along with the segregation laws in order to get his tax program.26

The bill that most angered opponents was the Sovereignty Commission; it had all the earmarks of a private police agency and was designed to "perform any and all acts and things deemed necessary and proper to protect the sovereignty of the state of Arkansas, and her sister states...."27 Governor Faubus remained calm about it all. The Gazette reported: "At his press conference yesterday the governor said that he hoped the bill setting up a sovereignty commission was a fair one. 'But,' he added, 'I am not a lawyer.'"28

26SSN, February, 1957, p. 3.
27RRLR, II (April, 1957), 493.
The Arkansas Gazette was particularly strong in its attacks against this bill and its evaluation of Faubus' role in the whole affair. It called the bills #322 and #324 a "package of anti-civil rights legislation." In analyzing Faubus' campaign platform in relation to the sovereignty bill, the Gazette added:

Nothing was said then about a "sovereignty commission" to look into the affairs of anyone who might disagree with what one of Governor Faubus' floor managers repeatedly called Eastern Arkansas' "philosophy of life" during Tuesday's brief debate. Yet the segregation bills were sold to the Senate this week on the basis that they represented the "mandate of the people" . . . .

In defense of the bill one senator said that parts of it were from a federal bill, but he did not say that that federal bill had not passed or that he himself had attacked it as being unconstitutional.

Faubus sponsored the bills and helped to push them through. Those who did not like the bills were afraid to take the risk of opposing them "--and many of them blamed Governor Faubus for permitting the issue to be drawn." On February 26 Faubus signed the four bills into law. He felt the tax and industrial programs were the principal accomplishments of the session and did not seem concerned with the impact of the four new laws except to make what is perhaps his classic statement:

29 Little Rock Arkansas Gazette, February 21, 1957, F on F, F4-47.


31 Ibid.
Arkansas has a favored position in the South because of its attitude on the segregation-integration question . . . . The attitude of the state is known to be that it will not accept the dictates of outsiders on local affairs. We have the good will of the South but because the state is moderate and progressive and has had no incidents to cause a storm of criticism we have not lost the good will nor the respect of those who have opposing views. 32

The Gazette's summation of the new Orval Faubus was more to the point. It said that Jim Johnson, "having lost the election, now appears to have won the issue." 33

32 SSN, April, 1957, p. 15.

33 Little Rock Arkansas Gazette, February 21, 1957, F on F, F4-47.
CHAPTER III

THE GOVERNOR TAKES A STAND

In March, 1957, the segregationists suffered their first defeat when Little Rock had its school board election. Two segregation candidates, Robert E. Brown, president of the Little Rock Capitol Citizens Council, and Dr. George P. Branscum, ran against moderates Wayne Upton and H. V. Rath, both of whom endorsed a gradualist integration plan. Although the campaign was bitterly fought, the moderates won by a majority of two to one. Blossom interpreted this victory as clear support in Little Rock for his plan. However, after the school board election the segregationists began in earnest to destroy Blossom's work. As he put it, they were out for the "kill." The two people under heaviest fire were Superintendent Blossom and Governor Faubus. The Gazette editor described the situation:

The battlecry is not "On to victory" but "Not in this generation." This rearguard action has been aptly described by Ralph McGill of the Atlanta Constitution as guerilla fighting among the ruins of the old segregated society; it can be brutal, and it can delay the orderly process of transition, but it cannot

---

1Blossom, p. 32.

2Ibid., p. 35.
turn back the forces that are reshaping the Southern region in the nation's image.\(^3\)

The extremists at Little Rock were not asking for delay, despite Faubus' claim that delay alone would satisfy them, they wanted no desegregation whatever.  *Southern School News* reported:

Their avowed policy platform included, if necessary, the destruction of the public school system, a threat echoed in Amis Guthridge's speech in Tulsa, Oklahoma. He said there would be hell on the border if the schools were integrated but that there will never be integration in Little Rock public schools.\(^4\)

Their goal was to preserve segregation; yet their tactics were supposedly wholly legal. With an end itself that was illegal and unconstitutional, the tactics were necessarily terroristic, and as strategists of intimidation, the extremists were expert. Although comparatively little violence occurred prior to the troops being stationed at Little Rock, the intimidations were effective and "an obviously well-organized conspiracy ... can become deadly."\(^5\)

Virgil Blossom felt the effectiveness of this conspiracy campaign. Blossom was a well chosen victim because he could not defend himself. Aside from the absurdity of the charges, the vulnerability of the school board was obvious. The Court had ordered it to proceed. The segregationists could afford to ignore the court, but Blossom and the

\(^3\)Ashmore, p. 22.


board were subject to contempt charges if they moved in any direction except forward. The most absurd charge was that Blossom was an integrationist. One attack read:

The people of Little Rock discovered to their dismay that the superintendent of schools was an imported integrationist and that the six members of the School Board were either integrationists or so controlled by Blossom that they were ineffective.

It was Blossom, and not the federal government, the United States Supreme Court, nor the federal district court in which Little Rock is located, who instigated integration. . . . It was Blossom and not the Negroes who actually instigated the idea of placing Negroes in that school. 6

Even a cursory glance at Blossom's plan or his several public statements would make it clear that he was by personal preference a segregationist. His plan was less than a compromise. Of 200 eligible Negroes in the Central High attendance area 80 applied and from these applicants Blossom screened down the eligibles to 20 and only 9 actually entered the school. The total population of Little Rock was over 100,000 people, 25 per cent of whom were black. However, these and other facts were easily disregarded by extremists.

More effective than personal attacks were the public maneuvers against Blossom. The extremists, particularly Amis Guthridge and Rev. Wesley Pruden, a Little Rock Baptist minister and self-styled sociologist, attended school board meetings which were open to the public. They offered oratory and argumentation at each session and

---

6Blossom, p. 45.
created a disturbance in the business schedule. Finally the board requested that the two men put their complaints in writing and submit letters to the board rather than their presence. Pruden then endorsed a piece of propaganda that Blossom considered to be one of the most damaging strokes against his plan. The Rev. Pruden sent Blossom a letter and simultaneously published it in several advertisements before Blossom had even read it. The letter represented the type of opposition the school board faced:

VIRGIL BLOSSOM AND LITTLE ROCK SCHOOL BOARD

SPEAK UP SO WE CAN HEAR YOU!!!

A prominent Little Rock minister has asked you publicly the following questions about your racemixing plans. Come out in the open and let us know in plain words what you are planning to do with our children!

WHEN YOU START RACE-MIXING--WHERE ARE YOU GOING TO STOP?

The minister's most pertinent questions were as follows:

(1) If you integrate Little Rock Central High School in September will the negro boys and girls be permitted to attend school sponsored dances? Would the negro boys be permitted to solicit the white girls for dances? Or would discrimination be permitted here? (2) Will the white girls be forced to take their showers with negro girls, using the same facilities. . . . Or will discrimination be permitted here? (3) Because of the high venereal disease rate among negroes, the Public is wondering if the white children will be forced to use the same rest rooms and toilet facilities with the negroes? Or will discrimination be permitted here? (4) Integration will throw white and negro children together in the dramatic classes. When the script calls for the enactment of tender love scenes, will these parts be assigned to negro boys and white girls without respect to race or color? Or will discrimination be permitted here? Since the
integrationists so stoutly maintain there is no basic difference in the races, it is only natural that the Public is wondering about these things. (5) If the court should rule that negroes can force their way into the social lives of our children, would the School Board and Superintendent aid and abet the negroes in this matter, or would they stand behind the white people? LAWYERS TO WHOM WE HAVE SUBMITTED THESE QUESTIONS AGREE THAT ONCE NEGROES ARE ADMITTED AS STUDENTS ANY DISCRIMINATION LISTED ABOVE WILL BE ILLEGAL [sic] JOIN HANDS WITH US, YOUR NEIGHBORS IN THE CITIZENS COUNCIL, AND HELP STOP IT!7

Blossom's comment was: "This advertisement, using the name of a minister, was highly damaging to the cause of peaceful integration."8 It is doubtful that if Blossom's answers had been published with the letter it would have made any difference. There was no rebuttal to such an attack. Because old ghosts from race mythology were resurrected, the letter did not have to be rational. It was effective. The last major opposition to Blossom's plan before the crisis developed came with the organization of the Mother's League. According to Blossom, "The Mother's League was a highly effective attempt to convince the people that segregationist activities were of a non-violent character--the League was a symbol of peaceful assembly--. . . ."9 Yet their peaceful assemblies often had overtones of other things. "At one meeting . . . W. R. Hughes of Dallas, chairman of the executive

7Ibid., pp. 42-43.
8Ibid., p. 43.
9Ibid., p. 47.
committee of the Association of Citizens' Councils of Texas, told the women that Communism was 'behind every effort of the NAACP' and that 'a nigger in your school is a potential Communist in your school . . . .'

The question was changing with the issues. The school board became increasingly concerned with the undefined position of the Governor.

The extremist campaign against Faubus was different from the campaign against Blossom, not in form but in the end achieved. The school board offered a limited end; the only hope outside of controlling the board was to harass the moderate members. The school board had to obey the Court, and the extremists made that obligation as difficult as possible. With Faubus, however, it was possible to exert pressure that would force the Governor to listen and ultimately to act.

The threats against Faubus, largely verbal, had more effect than the extremists had even predicted. Blossom felt that Faubus had been pushed into a spot and was the victim of the tremendous publicity campaign of the well-organized segregationists, and he subsequently defended the Governor on several counts in his book. It was Blossom's contention that Faubus was forced into a position in which he had no choice: "He was . . . aware that various state and federal officials were running away from the unpopular duty of enforcing the Supreme Court.*

---

10Ibid., p. 48.
Court orders.  

That Faubus felt alone may be true but previous actions of the Governor did not bear out Blossom's statement. Both local and federal officials had carried out their duties at Hoxie without interference from the Governor. Faubus undoubtedly chose his later course. Threats of political reprisal had been aimed at Faubus long before the concerted efforts in the spring of 1957. His responses to growing hostility were a study in contradiction. The only logical conclusion follows that the gubernatorial election and a third term in office was what Faubus wanted. Only one man had held three terms in office and Faubus wanted to be the second man.

The premise of the majority of attacks by the extremists was that Faubus himself could prevent desegregation. Although the Governor had backed legislation, most of which was impotent, to prevent integration the extremists held out one more final bid. A letter to Faubus, also made public simultaneously, from Robert E. Brown, head of the Capitol Citizens Council, contended that Faubus could use his police powers to intervene for the state against the federal government. The letter was used as the basis of hundreds of circulars and full-page newspaper advertisements. Brown wrote:

Under the sovereignty of the State of Arkansas, you can, under our police powers, in order to preserve domestic

\[\text{\textsuperscript{11}}\text{Ibid., p. 47.}\]
transquility, order the two races to attend their own schools. As the sovereign head of a state, you are immune to federal court orders. 12

Brown cited as an example the Mansfield, Texas, incident as proof of a governor's powers. Governor Allan Shivers had called out the National Guard when rioting seemed imminent. Thirteen Negroes were sent back to their own schools ending this integration attempt.

This contention of Brown's was, in reality, not supported by precedent. The one specific precedent was a Texas case in which the ruling was explicit and seemed designed to fit the crisis the extremists wanted. In Sterling v. Constantin, 1932, Governor Sterling invoked martial law in order to override a Federal Court decision. A Federal Court in Texas reviewed his action and enjoined the Governor against further use of troops. Sterling appealed but the Supreme Court upheld the lower court and laid down these rulings: (1) a Federal court can review the facts on which a Governor bases the use of troops; (2) if there exists a threat of violence over a Federal decree the Governor's duty is to uphold the decree, not obstruct it. The opinion, strongly worded, was delivered by Chief Justice Charles Evans Hughes. He pointed out that if a Governor's actions could not be reviewed by the Court "it is manifest that the fiat of a state government, and not the Constitution of the United States, would be the supreme law of

12SSN, June, 1957, p. 8; Little Rock Arkansas Gazette, May 1, 1957, in on E, J11-1314.
the land. 

Faubus made a late and lame comment that everyone knew a state could not usurp federal authority.

Outsiders making forays into Arkansas' problems were not all as insignificant as that of the Rev. J. A. Lovell, a "radio-minister" from Dallas, who told crowds that "... God was the original segregationist." The remarks of several out-of-state officials culminating in Georgia Governor Marvin Griffin's speech in Little Rock led to theorizing on how planned, if planned at all, was the interference. The New York Times observed that a month after the original 1954 decision a group of Southern governors had met in Richmond, Virginia.

At the Richmond meeting, the Governors made it clear there would be no uniform position on the issue. This meant the border states would wait to see what it would take to comply with the law and yet maintain vital political balances for state office-seekers.

This made firm the Deep South tactic that no officeholder should be permitted to breach the line on segregation. However, the attempt to resolidify the South on this issue... was far from successful as Tennessee, Arkansas and North Carolina came up this year 1957 with permissive attitudes.

The most publicized and far-reaching evidence of outside interference was the alleged coincidental visit of Georgia's Governor Griffin.

---

15 SSN, August, 1957, p. 7; Blossom, p. 34; Little Rock Arkansas Gazette, July 17, 1957, F on F, J11-1314.
Faubus claimed he knew nothing about Griffin's visit except that he was to speak at a fund-raising dinner for the Citizens Council and that Faubus would not be at the dinner. Representative Brooks Hays asked Faubus to call Griffin and ask him not to cause any trouble. Faubus supposedly made the call and Griffin agreed.\textsuperscript{17} At the same time, however, Faubus invited the Governor and his companion, former Georgia Senator and head of the Georgia Citizens Councils Roy V. Harris, to stay at the Mansion. Harris later remarked, "We had to accept Faubus' invitation to stay at the Mansion, but we had to apologize to the Citizens Council folks for staying there . . . ."\textsuperscript{18}

In Little Rock Griffin spoke to a crowd of over 300 calling them "this courageous group of Arkansas patriots who are fighting a dedicated battle to preserve the rights of states."\textsuperscript{19} Griffin's main theme, however, was that Georgia would not integrate, and its "legal" means of avoidance would be to make funds available to private citizens for private education if the schools were to be closed over integration attempts. Griffin and Faubus ate breakfast together the next morning and spent several hours talking about "hunting." This congeniality, according to Harris, was just a necessity. He explained that after

\textsuperscript{17}Brooks Hays, \textit{A Southern Moderate Speaks} (Chapel Hill, North Carolina, 1959), pp. 131-132.

\textsuperscript{18}\textit{Ibid.}, p. 132.

\textsuperscript{19}\textit{SSN}, September, 1957, p. 6.
apologizing to the extremists for his and Griffin's stay at the Mansion, "... I told 'em, 'Why, having us two there at the Mansion's the worse thing could happen to Faubus. It'll ruin him with the integrationists and liberals.' And they said, 'We never thought of it that way. That's fine,'

Griffin's visit was a success for the segregationists. The effect on Faubus and on public sentiment was considerable. Blossom later wrote:

The School Board immediately found that it was more difficult to deal with the Governor, and on one occasion he told me that Griffin's speech had done more than "anything else that has happened to solidify the public sentiment against school integration."

The strength of the extremists was increasingly dependent on one person, Faubus. Guthridge, Griffin, Pruden and other segregationists could publish racist pamphlets indefinitely without making much headway unless Faubus lent his support. His policy gave them several openings but his passivity made those openings a reality. The initial victory for the segregationists because of the actions of the Governor was to come in court.

During the spring and summer the courts were a labyrinth of suits as the segregationists in last ditch attempts tried the legal approach.

20 Hays, pp. 131-132;

21 Blossom, p. 56.
In April the Eighth Circuit Court handed down a decision upholding the lower court decision on the N. A. A. C. P. -School Board suit. In July the N. A. A. C. P. announced it would not appeal. Wiley Branton, N. A. A. C. P. attorney, said he was pleased with some aspects of the decision. He said he felt it would force the school board to stick by its announced decision to integrate, no matter how long it takes. Continued Branton, "The courts have given us a cloak of protection against some die-hard, anti-integration groups who might still try to delay integration." 22

However, August was a month of legal skirmishing involving several groups. On August 16 ten Negro ministers contested the validity and constitutionality of the four "segregation" bills passed that spring by the Arkansas legislature. They filed suit in a federal district court, and simultaneously, a Little Rock insurance agent filed a similar suit in Pulaski Chancery Court. On August 20 a mother of a student attending Central High School sought a mandamus action from Pulaski Chancery Court that would, in effect, force the Little Rock School Board to transfer students from Central to a segregated school. On August 27 Mrs. Clyde Thomasson, secretary of the Mother's League, filed suit in Pulaski Chancery Court seeking a temporary injunction against the integration plan. Chancellor Murray O. Reed granted the temporary injunction on grounds of the testimony of Governor Faubus.

Faubus appeared at the hearing in Mrs. Thomasson's behalf and declared that violence was inevitable if integration proceeded as was planned.

"He said he had personal knowledge revolvers recently had been taken from students both white and Negro. He was not asked to elaborate."\(^23\)

As the next day about Faubus' testimony, Little Rock Chief of Police Marvin Potts said, "Let's say I haven't heard what Governor Faubus says he has heard."\(^24\) Nor had anyone else. Faubus was to insist later that he had proof of his prophecies which were available to both the F. B. I. and President Eisenhower; however, he did not produce such evidence at any time. The police who had been working with the school board in preparation for the opening of schools said they knew nothing of such threats. The 400 page F. B. I. report drawn up later allegedly also showed there were no grounds whatsoever for Faubus' claims and that according to hardware store managers the sale of guns and knives was actually slower than usual. Faubus' testimony prevailed, however, despite the fact that the next day Federal Judge Ronald Davies, who was to be Faubus' unflinching opponent in the early stages of the September crisis, nullified the Chancery Court decision and enjoined all persons to refrain from interference with the plan. The extremists still had achieved a victory. Faubus had stepped in on their behalf, and this had weight on public opinion.

\(^{23}\) SSN, September, 1957, p. 6.

\(^{24}\) Ibid.
The school board attempted to persuade Faubus to issue a formal statement that would in effect assure the public that no trouble would ensue or be tolerated over the desegregation procedure. Governor Luther Hodges of North Carolina had made such a statement and Blossom thought it would help. But Faubus wanted to delay, and he felt that a state court suit would offer such delay. When the Governor suggested this to the school board, their attorney replied

that the Board wanted to co-operate in any legitimate way, but he added: "Under no circumstances will the Board enter into collusion with a state agency to counteract the federal court order. And if a court suit is brought we will have to fight it and you must understand that it will not be a token fight."

According to Blossom, "Faubus' jaw tightened. 'Well,' he exclaimed, getting up to leave the room, 'I will get a court suit. A suit will be filed and the judge will order you to delay.'"25

The next day Mrs. Clyde Thomasson filed the suit which was to have the Governor as its star witness. It is clear that Faubus was either unfamiliar with the court structure or that he simply went ahead to play what would appear to be a gallant role and claim it was solely motivated by his hatred of violence.

Early in the spring of 1957 Blossom, expecting a certain amount of trouble, had worked out a plan with Chief Potts on how to keep public violence to a minimum. One of Potts' decisions was that no Negro

25Blossom, p. 59.
adults or parents of the students should be at the school, and the entire
procedure would then hopefully appear to be normal rather than forced.
Both men had asked Judge Miller to issue a statement that he would
tolerate no violence and that the courts would be swift to act against any
interference. The Judge had declined. When they first approached
Faubus he told them he would have to await developments before making
any statements. During one of what was a series of conversations
between Blossom and Faubus, Blossom recorded:

After one long talk with Faubus, I finally asked: "Governor,
just what are you going to do in regard to the Little Rock
integration plan?"
He thought about the question for a minute before he replied.
"When you tell me what the federals are going to do," he
finally answered, "then I will tell you what I am going to do."
I got no more from him in our talks except that I felt he
wanted the federal government to act and thus relieve him of
responsibility for enforcing integration. I also came away with
the impression he feared the political results of aiding integration
even to the extent of preserving law and order. Later, I reported
to the School Board: "We know where we stand with the city police
and Judge Miller. But the Governor is unpredictable. I don't
know what he will do."

Blossom suggested that Faubus ask the Justice Department what
they would do, and he contacted a former Arkansas resident Arthur B.
Caldwell, assistant to the Assistant Attorney General. Faubus wanted
the whole meeting to be secret so that no political implications could be
drawn. However, the day after Judge Davies, in reply to relief sought
by the school board, ordered the plan to proceed local newspapers

26Ibid., p. 53.
carried articles that Faubus had conferred with the Justice Department.

Faubus told local reporters,

I wanted to know what, if anything, could be expected from the federal government in the way of assistance if disorders occur. This man [Caldwell] talked about court procedures and ended by saying there was virtually nothing they could do to help except issue court decrees.

The Governor added that the government was out to "make an object lesson" out of Arkansas. He also stated that the federals "use us to breach the South on integration." 27

Shortly before the opening of the schools the school board asked Faubus again for a statement. He declined and added, "If I make such a statement it would make me look like an integrationist." The board then suggested that he issue a statement making it clear that all legal means possible through state segregation laws would be used. Blossom observed that: 'Faubus was angry . . . . 'I don't know what I'll do, . . . but when I decide I'll tell Virgil." 28 At the time of that meeting Faubus had already alerted the National Guard.

The Saturday before school was to open Faubus called Blossom late that night and asked him to come to the Mansion. Blossom drove out and the two men talked for three hours. Blossom said not much happened but that at the end of the conversation "Faubus shook his head.

27 Ibid., p. 63.
28 Ibid., p. 62.
'I'll call,' he said, 'when I decide . . . . But I don't think I'm going to let you do it'—presumably meaning integrate."29

The following Sunday Winthrop Rockefeller conferred with the Governor to see if he could dissuade Faubus from any rash action. The school board evidently had strong suspicions that Faubus intended to call the Guard, and both Ashmore and Hays later declared that the board asked Rockefeller to go. Rockefeller, being the head of the state's Industrial Commission, tried to convince Faubus of the severe economic repercussions from any incidents. Rockefeller later made a television appearance with an economic report assessing the damage done by Faubus. At the time, however, Hays stated that Rockefeller "pleaded with Governor Faubus on Sunday not to take any action that would set back industrial progress for years."30

Faubus at one point claimed Blossom needed the Guard. He had reference to an anonymous phone call received by Blossom's secretary that Monday morning. A man told her that "they" were coming to get Blossom. In fact, Blossom had already received several threatening calls at his home, one in which a man had told his eldest daughter that she and her sister would be killed. When the anonymous call was received Blossom had the police investigate, and he called Faubus on

29Ibid., p. 66.
30Hays, p. 134.
behalf of himself and of Chief Potts in order to find out what the possibilities were in regard to getting the State Police and the National Guard if they were needed. In his testimony for the F. B. L Blossom stated that the conversation went as follows:

"Do you need protection?" the Governor said.
"I don't know whether I do or not," I said. "Lieutenant Jackson is sitting here beside me."
"Do you need protection?" he repeated.
"Do you think I need protection?" I asked him.
"I wish you would write me a letter asking for it," he said.
"You know I won't do that," I replied and hung up the telephone.

Turning to Jackson, I said: "I think Governor Faubus himself is behind this program of intimidation." Then I realized that the Governor had not answered any of the questions I had asked him. 31

The segregationists had been successful and the increasing bitterness was the real measure of their success. As the Rev. J. A. Lovell had told a meeting in Little Rock that summer, "If the integration of the races continues while the Supreme Court and other public officials keep their weak-kneed attitude, there are people left yet in the South who love God and their nation enough to shed blood if necessary to stop this work of Satan." 32

On September 2 Faubus called out the Guard because of alleged imminent violence and because litigation on state anti-integration laws had not been completed.

31 Blossom, p. 70; Little Rock Arkansas Gazette, June 18, 1958, F on F, J11-1189, Blossom to F. B. L, September 7, 1957 (not released until June 17, 1958).
CHAPTER IV

THE SHOWDOWN

When Governor Faubus ordered 270 National Guardsmen and 50 State Police to Central High School, he informed no one except a few close aides of his action. He called the troops without being requested to do so by local authorities. Such a request was not required by the Arkansas constitution although this qualification was in most of the Southern states' constitutions. It was obvious that Faubus' move had not been an impulsive one. In a conversation with Superintendent Blossom, General Sherman T. Clinger, commander of the Guard in Little Rock, asked:

"When did you find out about the Guard being called?"

"Last night," Blossom replied. "About six o'clock."

He laughed. "I got orders last Friday," he said, "that the Guard was being mobilized."

The apparent suddenness of Faubus' action helped to further increase tension in the city. It did not reassure citizens to see soldiers

---

2 Blossom, p. 76.
around a school building, but Little Rock authorities and the public had to wait for Faubus' television speech to find out what had happened.

On television the Governor announced that the Guardsmen "will not act as segregationists or integrationists, but as soldiers called to active duty to carry out their assigned tasks." He did not clarify what these tasks were to be, but he assured the public that peace and order were his only objectives. He gave obvious indications, however, that the only way to achieve these ends was by obstructing the court's order. He closed his speech with: "The inevitable conclusion, therefore, must be that the schools in Pulaski County, for the time being, must be operated on the same basis as they have been operated in the past." 3

No one knew what orders Faubus had given the troops. He was, to use his favorite word, circumspect, saying only that whatever was necessary for peace and order would be done. On September 3, in a press conference, Faubus was asked if the Guard would bar Negroes from Central. He replied, "No.... What the National Guard and State Police does [sic] will depend upon the situation as to maintaining law and order." Asked a few minutes later by another reporter if Negroes would be permitted to enter the school, Faubus said, "I seriously doubt it." 4 The Governor added that the troops had no orders

to protect the Negro students. In the Governor's remarks about
preserving peace he referred to the actions of Governor Allan Shivers,
Texas, and Governor Frank G. Clement, Tennessee, but he did not
clarify his reference by including the fact that both of these governors
called out troops only after violence had occurred.

Pertinent to the fact that Faubus had mobilized the Guard while
telling people he had not made up his mind was the fact that orders
were in General Clinger's pocket when Faubus disclaimed any knowledge
of orders for the troops. The orders were from Faubus and read:

You are directed to place off limits to white students the
school for colored students and to place off limits to colored
students those schools heretofore operated and recently set up
for white students. This order will remain in effect until the
demobilization of the Guard or until further orders.  

If there was any confusion in Faubus' mind about the orders there
was no problem to one Guardsman. An officer asked him if he knew his
orders.

"Yes, Sir," he said... "keep niggers out."  

Faubus' calling of the Guard had fundamental effects on new civil
rights legislation, the southern moderates, both national political parties
and other issues originating prior to September 2. The civil rights
compromise bill passed and signed into law in August, 1957, had been


6. Little Rock Arkansas Gazette, September 8, 1957, P. 1, 
Jr. 2-1962.
definitely a white southern victory. Those provisions in the act which
would have allowed effective enforcement had been struck, especially
part three which would have allowed the Attorney General to take
immediate action in such a situation as developed in Little Rock.
Senator Richard Russell of Georgia pointed out the advantages of the
bill:

This situation [referring to Little Rock] clearly illustrates the
importance of the victory we gained in striking part three
from the civil rights bills. The attorney general probably would
have already brought some troops into this situation by now

The other part of the bill eliminated, especially applicable to Little
Rock, was the provision authorizing the use of federal troops to enforce
a United States judicial decree. It was the opinion of the Gazette that
Faubus and Senator Strom Thurmond, who had filibustered against the
bill contrary to the wishes of the other southern senators, had hurt
the South. The two "[had] undone completely the recent success of
moderate Southerners to win a legislative formula that the South could
live with." It was now rumored that the first legislative job in 1958
would be to put part three into the bill.

7Atlanta Constitution, September 6, 1957, p. on p., 18-318.

8Little Rock Arkansas Gazette (date not given), p. on p.,
If there had been a plan by southern politicians to halt integration at the border states, it seemed likely to backfire with the actions of Governor Faubus. His moves sabotaged not only the moderates but those governors publicly extreme and politically moderate. An unidentified southern senator told Blossom that when Faubus called out the troops he "slammed the door on moderation and on any compromise solution." Before he called the troops "Southern politicians could hide behind the Court's orders . . .," but since Faubus moved those governors previously inclined to taking "any less adamant than" were forced into the pattern Faubus set.  

Faubus also alienated himself from the Democratic party. The Democrats had been attempting to eliminate the race issue when Faubus almost nullified the efforts of Lyndon Johnson and Sam Rayburn. The Gazette said: "The Arkansas Governor is scuttling the let's-take-it-easy pattern so carefully designed by Southern Senate Leaders" whose principal concern was to avoid a tough civil rights law. One Democrat remarked that "the only hopeful sign to us is that so far President Eisenhower hasn't taken any decisive action. This could hardly be pleasing to Negro leaders." Faubus soon was to hurt the party even further.

---

9Blossom, p. 77.


11Little Rock Arkansas Gazette (date not given), F on F, J12-1989.
more, although his actions were not destined to aid Republican attempts to build in the South as was their immediate hope. At first, one Republican political architect said, "We missed it in Wisconsin. But Little Rock has given us what we need." He was referring to the Republican attempt and failure at wooing Negro votes in Wisconsin.

Faubus had induced a situation that ultimately crystalized previous issues into their final form. From school administration and local authority the issues had become state and political. Now, as an editorial in the Gazette stated, the issues were national:

... it remains for Mr. Faubus to decide whether he intends to pose what could be the most serious constitutional question to face the national government since the Civil War. The effect of his action so far is to interpose his state office between the local School District and the United States Court.... Thus the issue is no longer segregation v. integration. The question has now become the supremacy of the government of the United States in all matters of law....

Faubus indicated what his decision would be during a press conference on September 3. A reporter asked: "Governor ... I understand you to say that you felt a duty to defy ... the Supreme Court, the federal court rulings were wrong. In view of the situation do you think that was---or that would touch anything off?"
Faubus smiled. "I think it's quite likely that it would."14

Governor Faubus, once defending his position on what he termed gradualism, quoted President Eisenhower, who had said, "You can't change people's hearts merely by laws."15 In this one sentence is a summary of the national administration's lack of preparations prior to Little Rock. After the original 1954 decision the administration's lack of policy would indicate the President's belief that the desegregation problem would be worked out by someone else. Presumably, it was to be the courts and local authorities. Doubt as to the role of the executive branch and its relation to the judiciary seemed to exist. Yet there was no doubt that segregation would be ended "only if the government of the United States recognizes that it is its function and its responsibility to require compliance with the Constitution."16

The courts, not being police agents nor endowed with police authority, would be impotent without executive support. Charles Abrams wrote:

I think Mr. Eisenhower, however, has only vaguely sensed the general principle and has been extremely uncertain about the manner of its application (referring to executive authority). . . .


any implied disagreement with a court's decision by the Executive can never help win popular support. 17

In what the New York Times called one of Eisenhower's "most direct" policy statements concerning the Supreme Court and the 1954 decision, the President commented, "I think probably their reasoning was correct, at least I have no quarrel with it. But there are very strong emotions on the other side . . . ." Eisenhower also expressed hope that the people would obey the law "in the long run" by "being true to themselves and not merely by law." 18

Governor Faubus observed Eisenhower's hesitancy and that of the federal government in general and pointedly referred to his belief in "the inability or the unwillingness of the federal government to move with any dispatch." 19 Faubus evidently felt that Eisenhower would grant him a delay. One contemporary observer commented that "he honestly believed that he could make a deal with President Eisenhower and simply put off the dread day until after his gubernatorial campaign." 20

Making the federal position even more complex were legalities and the limitations of time allowed for action. The primary legal


20 Ashmor, p. 41.
difficulties centered in the original suit, Aaron v. Cooper, et al. It was a private suit and federal authorities could not intervene since they had not been party to the case. The school board was simply under court order. The federal government could file an amicus curiae brief although this was usually done when a suit was before an appellant court. Even then the government's status would be advisory, and it could interfere only if someone were cited for contempt. First it would be necessary to bring an injunction against the guilty party; this move depended on Judge Davies.

The Justice Department feared the use of a contempt citation against Faubus because of possible political repercussions in the South. If Judge Davies and the original parties of the suit moved against Faubus and he defied them then the government had several steps which it could take, but one journal commented that "they are all of such an extreme nature that their use is difficult to imagine."21 Faubus could be prosecuted for federal crime under Section 242 of Title 18 in the United States Code stating that it is a crime for any state official to "willfully" assist in "the deprivation of any rights, privileges or immunities secured or protected by the Constitution . . . ."22 Funds could be cut off to the National Guard, but the federal government did

22 Ibid.
not pay the Guard for its duty at Little Rock while it was under Faubus' orders. Another possibility was that Eisenhower could use troops; there were several precedents for such action.

The Justice Department was unwilling to use any of these steps. It was hoped that the courts could handle the situation. Eisenhower, when asked what he would do, spoke for the Administration: "The next decision will have to be by the lawyers and jurists."\textsuperscript{23} Litigation takes considerable time, and time was the essence in the board's dilemma, for even if an injunction were brought against Faubus, he could appeal and further delay action. There was no immediate solution.

On September 3 Judge Davies nullified Chancellor Reed's temporary restraining order. Davies ordered the school board to proceed with its plan and declared that "the Pulaski Chancery Court is without jurisdiction to interfere with the operations of the plan of integration . . . as approved by this Court."\textsuperscript{24} Davies enjoined the petitioners to stop interference. After Reed had ruled for Mrs. Jackson the school board filed with Davies, who issued a "show cause" order. Davies found none and stated that Faubus had said the troops were there to preserve the peace and that he would take the Governor's word at its "face value."\textsuperscript{25}

\textsuperscript{24}RRLR, II (October, 1957), 936.
When the board received the proceed order Blossom called in the parents of the Negro students for a conference. He had asked them to stay away from school pending Davies' decision. He requested that the children attempt to enter Central without escorts. Mrs. Bates was not asked to the conference but she stated that "during the conference Superintendent Blossom had given us little assurance that the children would be adequately protected." The parents, upset by Blossom's request, had gone to Mrs. Bates under the conviction that his word alone was not sufficient. Mrs. Bates' fears were heightened by a visit from a reporter, a friend of hers and therefore anonymous, the night of September 3. He told her, "I know the children must go alone to Central in the morning. But let me tell you, this is murder!... You must know you can't expect much protection—if any—from the city police. Besides, the city police are barred from the school grounds." The Guard and State Police were to keep all unauthorized persons from the school, and this included the police force. Mayor Mann, attempting to find out from Bruce Bennett who had priority concerning the school grounds, was told to take it to Court.  
 
Mrs. Bates' plan was to have the children enter as a group. Elizabeth Eckford, one of the girls, was not told of the plans, however,

26 Bates, p. 63.  
27 Ibid., p. 64.  
and it was this student's fate that was to appear in international headlines. The Guards refused to let her pass and turned her back to the crowd of whites, who closed in swearing, shoving and spitting. The mob followed Elizabeth to a bus bench where she sat down. Suggestions to "lynch the nigger" were thrown from the mob. Mrs. Grace Lorch, former member of the Communist Party of America, stepped from the crowd and sat beside Elizabeth. Mrs. Lorch asked that someone call a cab; she was greeted with curses. When she tried to enter a nearby store to telephone for a taxi the door was locked. Finally a bus came and Mrs. Lorch boarded with Elizabeth. Mrs. Lorch was later to be subpoenaed for her act of compassion while lawyers sought adverse testimony against her and her husband, Lee Lorch, from the House of Un-American Activities.

The Guard broke rank to admit only white students, in accordance with Faubus' orders. Neither did they attempt to protect the Negroes by controlling the mob, and no Negroes entered Central that day. Blossom asked General Clinger how the Guard would identify who the registered white students were. This illicited the following dialogue according to the Superintendent:

"Will people entering the school need some kind of special identification?" I asked.

"Well," Clinger replied, "no Negroes will be permitted to enter."

"Does that include janitors and cooks and other staff personnel?"
"Yes," he said. "Those are orders from my chief and I intend to carry them out."  

On September 5 the school board filed in federal district court for a temporary suspension of its integration plans. On the same day Faubus sent a telegram to President Eisenhower informing him that federal agents in Little Rock were considering taking the Governor into custody, that his telephone was tapped by these same agents and that Judge Davies was irresponsible and directly related to the "explosive" situation in Little Rock. Because of all these pressures Faubus asserted: "I can no longer be responsible for the results . . . . the blood that may be shed will be on the hands of the federal government and its agents . . . ." The Governor continued his analysis of the situation in Little Rock:

The question at issue at Little Rock this moment is not integration v. segregation . . . .
The question now is whether or not the head of a sovereign state can exercise his constitutional powers and discretion in maintaining peace and good order within his jurisdiction, being accountable to his own conscience and to his own people . . . .

Eisenhower's reply to Faubus categorically denied all of his charges concerning the federal agents and said, "The only assurance I can give you is that the federal court will be upheld by me by every
legal means at my command. "31 All of the public correspondence between the state and federal chief executives was to be similar to this first exchange.

Judge Davies meantime was continuing to uphold the position of the courts. After requesting Attorney General Herbert Brownell to investigate the situation, on September 7 Davies dismissed the school board's request to delay and again ordered them to proceed. Davies called the petition "bald and unsupported statements" and said that the testimony was "anemic."32

On September 8 Faubus went on television to inform the people and the federal government that peace in Little Rock could be acquired only in retreat from demands of integration. The Governor had been incommunicado the past forty-eight hours, but before his television remarks he let in a reporter from the Arkansas Democrat. The reporter asked him, "Do you think you can win?"

"On the record or off?" Faubus asked.

Then he said: "On the record, no comment."33

Faubus' television appearance was filled primarily with evasive answers or no comments. He refused to say why the National Guard

---

32 RRLR, II (October, 1957), 940.
33 Nashville Tennessean, September 8, 1957, F on F, J11-1214.
was guarding his mansion or why he had refused to be interviewed by the press. He declined to show his alleged proof of violence. Faubus volunteered the information that his own son attended an integrated school, and he pointed out that other school districts in Arkansas had desegregated with little trouble. He also attempted to show William Hines, Telenews reporter, that Little Rock was the exception. Hines asked Faubus, "Why didn't it take place here in Little Rock?" To this question the Governor replied, "Mr. Hines, those are questions which may be answered in all their clarity only by history itself .... I only know beyond any reasonable doubt that it exists."35

By September 9 the White House still had made no move. Press Secretary James Hagerty said Eisenhower would not consider the use of troops although Brownell had recommended this in his outline. Judge Davies forced action, however, when he directed Brownell and United States Attorney for Eastern District of Arkansas Osro Cobb to enter as friends of the court and to bring proceedings for injunction against Faubus and two officers of the Guard. On September 10 the petition was filed seeking to have the Governor and other persons made party to the original suit and to enjoin them from interfering with the school plan.

34 New York Times, September 10, 1957, p. 24 (Dr. J. W. Hull, President ..., said that the most Negroes ever to register in the school at a single semester were three out of an enrollment of 1,000 students.")

Davies entered the order making Faubus, et al., parties defendant in the suit, and he set the petition for injunction hearing on September 20. With his action Judge Davies gave both state and federal authorities a respite. If Davies had desired he could have issued, without a hearing, a temporary restraining order. The ten days offered before the injunction hearing were to be for mediation to head off a collision between state and federal authorities.

Although President Eisenhower was on vacation throughout the opening month of the Little Rock crisis, he interrupted it one day to meet with Governor Faubus at Newport, Rhode Island. Rep. Hays was the subject of the meeting. Hays felt the court decisions "were forcing a showdown that neither side wanted," and he attempted to mediate. On September 9 he called Presidential Assistant Sherman Adams.

"Although nothing came out of the conversation," wrote Hays, "it served as the beginning of the negotiations leading to the Newport, Rhode Island, meeting." Hays believed, at the time of his mediation attempts, that "the Governor seemed anxious for a truce, such as integration beginning by mid-term after the situation had settled down. He had a strong desire for conciliation but sought time . . . ."
Both Eisenhower and Faubus, however, were bound by court orders. The White House felt "cautious optimism" about the meeting, but other than Faubus changing his position there was nothing that could be done in the way of a truce. Faubus' strong desire did not seem apparent when in a private conversation Hays asked him if he would go to Newport. Faubus replied: "I don't think I could afford to decline, do you?" Hays then asked, "But, Governor, can I say, 'Yes, you would go?'" And he said, "Yes."

The burden of arranging the whole meeting was Hays'. On September 13 when the meeting was announced, Press Secretary Hagerty disclaimed any knowledge of it until that day. The press had prior knowledge, however, and it was reported that a White House aide said opinion there was that Faubus was "throwing in the sponge." Hagerty denied the charge: "We have deliberately refrained from any such remarks and any such reports are completely untrue." Charles Von Fremd, a C. B. S. commentator, who originally released the information on Faubus' capitulation, reaffirmed the report and stated that regardless of what Hagerty said, an aide had made the remark.

40 Hays, p. 138.
42 Ibid.
43 Ibid.
44 Ibid.
On September 14 Eisenhower and Faubus met. They talked together alone for over two hours. What they said was not released except for Eisenhower's patient reprimand: "I do not criticize you for calling out the Guard—our only difference is that I would have given them different instructions." 45

When Faubus returned to Little Rock, he reported the meeting "worthwhile" but would not comment on any questions pertinent to Little Rock. On the question of whether or not the Guard would be removed or given new orders he stated, "We will have to wait for eventualities." 46 When asked if Negro students would be allowed in Central Faubus snapped, "Well, you're asking a question along with a lot of others a lot of us would like to know the answers to." 47

In neither Eisenhower's nor Faubus' official public statement was there mention of the National Guard status or the admission of the Negroes. Blossom, after reading both releases, said, "I don't understand what it all means." 48 A source close to Faubus, however, told a reporter from the Arkansas Democrat after Newport: "I think the governor is prepared to meet the federal government head on in

45Hays, p. 149.
litigation in all phases which might also resolve the differences of a dual sovereignty system, state and federal. 49

The most pertinent observation of the Newport fiasco was Harry Ashmore's remark:

The stirring martial events of September were, it is true, somewhat confusing--particularly when President Eisenhower and Governor Faubus held their historic peace conference at Newport and there remained some doubt as to who emerged with whose sword. 50

The day before the injunction hearing the three defendants filed protest suits. General Clinger and Lt. Col. Marion Johnson of the National Guard tried to quash the service of the subpoena. They claimed immunity from the court under Section 11-1002 of the Arkansas Statutes, 1947, which stated that no military personnel could be "served with any civil process" while going to or from active duty or on active duty. 51 Faubus filed an affidavit containing seven charges against Judge Davies. The brief concluded that Faubus "believes that the Honorable Ronald E. Davies has a personal bias favorable to the plaintiffs, John Aaron, et al., and the United States of America, amicus curae, and a personal prejudice against this respondent." Therefore, Davies would "be unable to conduct a fair and impartial trial and render a

49 Ibid.
51 RRLR, II (October, 1957), 952.
decision either of law or fact that would be free from prejudice."52

Judge Davies dismissed both suits as "not legally sufficient."53

The hearing of September 20 was unusual. Both Clinger and
Johnson, subpoenaed over protest, were in court; Faubus, not subpoenaed,
was represented by his attorneys. The first action was to file another
motion to dismiss and a brief containing more reasons why the suit should
be dismissed. The claims of the brief were that the court had no
authority to issue the original order and that the petition was illegal
because it was related to matters of a different nature from the subjects
originally involved. Furthermore, the brief claimed that the federal
government was without authority to file against Faubus because "the
petition is in truth and in fact an attack actually against the sovereign
state of Arkansas" and that the court "is wholly without jurisdiction to
question the judgment of discretion of . . . the Governor of Arkansas
. . . ."54 The attorneys asked for a three-judge court claiming that
Constitutional questions were involved. Davies dismissed this suit also.
Because of the precedents previously cited, particularly the Sterling v.
Constantin opinion, it was clear that Faubus' last attempt to stop the
hearings was more than just a jumble of legal sophistry. Because the

52 Ibid., p. 953.

53 Ibid., p. 956.

54 Ibid., p. 944.
essence of the brief was the placing of federal versus state authority it is evident that the Governor was simply using his past tactic of bringing all issues again and again to one simple argument, states rights.

After Davies denied the motion and the hearing began, Faubus' attorneys closed their portfolios and walked out of court. This unusual behavior surprised many observers, but Davies proceeded. Of the 105 federal witnesses only a few were called to testify. The hearing was brief and Davies issued the injunction:

It is very clear to this court from the evidence and the testimony adduced upon the hearing today that the plan for integration . . . has been thwarted by the governor of Arkansas by the use of National Guard troops. It is equally demonstrable . . . that there would have been no violence in carrying out the plan . . . and that there has been no violence. 55

Faubus, having no other choice than contempt proceedings, withdrew the Guard that day. But his public statement reflected his attitude toward the decision. He complained that his authority had been "curtailed by this unwarranted action of Judge Davies" and that he could not be held responsible for the repercussions against "peace and good order." The Governor said he could "only offer a fervent prayer that the same thing will not happen here that has happened in other states in recent years . . . ." 56 The next day, however, Faubus flew to the Governors' Conference in Sea Island, Georgia, and left Central to the mob.

55 Ibid., p. 958.

56 SSN, October, 1957, p. 3.
Eisenhower hailed the removal of the Guard by issuing two statements from Newport.

On September 23 the Negro students again attempted to enter Central High School. A mob of approximately 1,000 people was at the school. One hundred and twenty-four city police were on duty. According to the Gazette, "the scene ... was one of almost unrestrained hysteria ... the police held." Lt. Governor Nathan Gordon said he would not call the Guard unless requested by a state or city official. The request had to be in writing because when a reporter asked Gordon whether or not Mayor Mann wanted the Guard, Gordon remarked he would not take "Mann's word for anything."

While the mob waited for the Negro students to appear, three Negro newspapermen and one Negro photographer approached the school building from the front in full view of observers. It was thought to be a maneuver on the part of the Negro organizers, particularly Mrs. Bates, to draw the mob from the children. As the crowd turned on the four men the students were hustled into a side door. Despite their protests that they were only newsmen the four were beaten.

---

57 Little Rock Arkansas Gazette, September 24, 1957, F on F, J11-1220

58 Ibid.

59 Ibid.

Meantime someone in the crowd saw the students enter and screamed, "My God, the niggers are in." One of the Negro newsmen said that "later we heard that while this was going on [his beating] the kids slipped into the school safely."\(^{61}\) The mob stayed in front of the school throughout the morning. Meanwhile white students were walking out in protest; bystanders were passing out racist pamphlets and many ate sandwiches and drank coffee from thermos jugs. It was an apparently well-organized mob.

School authorities feared the crowd would get out of control especially during the lunch hour or after classes were dismissed. The Negro students were withdrawn within a few hours.

Several critics have attacked the Little Rock police force as being largely responsible for the outbursts of the mob. The police were not familiar with anti-riot techniques nor did they exert severe action against the obvious leaders. It is reasonable to assume that since the rest of the nation was surprised by the results of Faubus' interference at Little Rock so were the local authorities, and riot preparedness was not a normal occurrence in Arkansas. The police also were having to take action against people they lived with; the personal relationships hindered considerations of force. However, there were other reasons affecting the police adversely. A Gazette editorial pointed out:

\(^{61}\)Ibid.
We are faced with the incredible spectacle of a City Council majority which goes out of its way to invite the indefinite retention of National Guard cordons, not only for reasons of politics and alleged policy, but because they say the city simply can't afford to pay its police for such extra duty.\(^\text{62}\)

The situation was further complicated by the fact that the Council members like the Mayor were considered to be lame-ducks.

After the rioting on September 23, Eisenhower issued a proclamation requiring "all persons engaged [in violence] . . . to cease and desist . . . and to disperse forthwith . . . ." The President said that "the federal law and orders of a United States District Court . . . cannot be flouted with impunity . . . ." He warned he would "use the full power of the United States, and whatever force may be necessary to prevent any obstruction of law and to carry out the orders of the federal court."\(^\text{63}\)

On September 24 soldiers were at Central High School; the 101st Airborne Division, 1,100 officers and men, were ordered to Little Rock by Eisenhower.\(^\text{64}\) He also federalized the National Guard. Commander of the troops was General Edwin A. Walker.

Aside from differing views as to the wisdom of Eisenhower's decision, the main argument against the use of troops was that no legal precedent existed. This had little validity, however, since several


precedents and statutes on the books gave Eisenhower the authority, one dating back to the Whiskey Rebellion of 1794. The President used as a basis for his action a statute from the Civil War, United States Code 50, Section 202, which stated that in any "unlawful obstruction" or "rebellion against the authority of the Government of the United States" that cannot be practically enforced through normal channels, "it shall be lawful for the President to call forth militia of any and all states . . . to enforce the faithful execution of the law . . . ." In his speech concerning the troops Eisenhower cited Title 10, Chapter 15 of the United States Code Section 332 authorizing use of troops to enforce federal authority, Section 333 for interference with state and federal law and Section 334 on proclamation to disperse. Section 332 of the United States Statutes at Large also gave authority to the Chief Executive to use federal troops. The reaction, primarily southern, to the use of troops was one of horror. When photographs of bayonet-wielding soldiers hit the front page people conveniently forgot the prelude to the photographs: 1,000 people against nine children.

---

The lack of leadership and policy made the ultimate solution to the enforcement of law necessarily a military one. It was merely the logical result of the unwillingness of the federal government to take early and firm steps toward a reasonable solution. One critic stated that "a whole arsenal of devices exist upon which the President may draw to assert his vast prestige, influence and power. Military force is the first resort of generals and the last of statesmen." However, the arsenal was not used, paradoxically, until there was no time to use it, and the normal channels of judicial procedure were closed. Quite probably the Administration disliked having to send in the troops more than those who disliked their presence. If there had been any belief in the Administration that the South would be content with compromise civil rights legislation, Little Rock dispelled it. An irony similar to that of the unwanted position the federal government found itself in was that of the segregationists who had been the most unrelenting and unwise in their campaign. These extremists were responsible not only for the troops but the possibility that because of their actions integration was likely to be speeded up considerably. Not content to use the delay offered them by time-consuming litigation, a gradualist court decree and a federal government whose unofficial policy seemed to consist of indifference to the whole matter, they pushed even harder until they

68 Charles Alan Wright, p. 11.
hit center. Howard K. Smith analyzed the real fault in the use of troops:

... what the President did, he did late; he did it with a reluctance that was obvious, and it was the minimum he could do in the face of a totally unacceptable challenge to law and order, and to the good name of the United States. 69

The use of troops was an *ex post facto* move. The federal government had been defeated; the Little Rock crisis at best offered only a compromising situation. As Faubus himself archly observed,

"The national administration is not in a position now to pull the troops out of Little Rock without being hurt, and yet they can't stay here without being hurt either." 70


70 *SSN*, December, 1957, p. 2.
CHAPTER V

THE FEDERAL GOVERNMENT RETREATS

The situation in Little Rock, after the initial flare of drama, deteriorated into an impasse by December. No signs of solving the problem appeared until the school board filed petition for a delay on February 20. During those four months there had been little if any communication between state and federal officials. The last attempt at mediation was the meeting of five southern governors, supposedly representing Governor Faubus, with President Eisenhower. They met with the President October 1. During the meeting the governors kept in contact with Faubus by telephone. Eisenhower later said that he thought "the governor of Arkansas had authorized them to state he was prepared to assume full responsibility for maintaining law and order in Little Rock and in connection herewith will not obstruct the orders of the federal court."\(^1\) Eisenhower said he would withdraw the federal troops when Faubus issued a statement to that effect. The President qualified his statement on the removal of troops by adding that peace would first have to be established.

\(^1\) New York Times, October 2, 1957, p. 16. (The five governors were Theodore McKeldin, Maryland, Luther Hodges, North Carolina, Frank G. Clement, Tennessee, Le Roy Collins, Florida and Marvin Griffin, Georgia. Griffin, however, refused to attend.)
Within two hours Faubus issued a statement but the essence of it was that it never had been his intent to obstruct the court and that he never did. The Governor concluded:

I now declare, that upon withdrawal of federal troops, I will again assume full responsibility, in co-operation with the local authorities, for the maintenance of law and order, and that the orders of the federal court will not be obstructed by me.  

Faubus then reversed the order in which the troops would be withdrawn and added "by me." to his statement. The governors claimed that these two words were not on their approved wording of the statement, but Faubus insisted that he had made no mistake. The White House refused to accept Faubus' statement. The "by me" addition was not the requested assurance of peace that Eisenhower needed; furthermore, the peace was to precede the withdrawal of troops.

When Hagerty issued Eisenhower's official refusal, reporters asked him what specifically had been unacceptable. Hagerty suggested they read it and interpret it for themselves. The governors remained adamant in their contention that "Faubus had changed the wording of his statement after both sides had agreed to the wording verbatim." 

---

2 St. Louis Post-Dispatch, October 2, 1957, F on F, 18-1208.

3 Ibid.

Two days later at a press conference, the President was asked if he thought Faubus "really wants to put an end to the trouble in Little Rock." Eisenhower replied, "What his motives are I am not sure. I just believe he is mistaken . . . and is doing a disservice . . . to his state." The President outlined to the press what he felt the implications of Faubus' statement to be. Eisenhower felt that the repetition of the phrase "as I have intended from the beginning," meant that Faubus "merely took the situation back to where it was before federal troops arrived." The President stated that "under that situation, there was no revocation of the orders to the Guard already issued that . . . the Guard would prevent the entry of those Negro children . . . ."

Since Faubus' statement did not assure Eisenhower that any of his qualifications for withdrawal would be met, Eisenhower outlined at the press conference two conditions under which he would withdraw: "unequivocable assurance" that the court's orders would be carried out and peace restored to Little Rock to the extent that the city police could resume normal enforcement authority.

Other than insisting that he was right, Faubus made several comments on the conference between the governors and the President. He stated that his "by me" was the same as "unequivocable assurance."

---

5 Little Rock Arkansas Gazette, October 4, 1957, F on F, 18-1213.

6 Ibid.

7 Ibid.
He later remarked that as long as the Negroes were in Central there would have to be federal troops outside.\(^8\) Faubus also said that he would say nothing to ease the tension at Central because "as long as the federal government is in control let them say the words."\(^9\) A reporter asked the Governor if he felt previous negotiations with Eisenhower had been conducted on a basis of "mutual trust and self respect." Faubus replied, "No. What President Eisenhower wants is complete and unconditional surrender as he did when we were at war with Germany."\(^10\)

The attempted mediation of the governors was significant if not successful. It illustrated to the Administration that Faubus was unreliable, that negotiations with him dependent on his word would be abortive and that the troops in the city would remain until meliorative action was initiated by the Administration. It was not likely that Faubus would offer any aid.

In October, Herbert Brownell, considered to be the figure behind Eisenhower's decision to use troops, resigned. William P. Rogers was appointed the Attorney General. Rogers had been in the Justice Department throughout the initial crisis; he was a close friend of Vice-

\(^8\)SSN, November, 1957, p. 6.

\(^9\)Little Rock Arkansas Gazette, October 4, 1957, F on F, J11-1243.

\(^10\)Ibid.
President Richard Nixon and acceptable to several influential southerners.
His appointment, hailed by southerners in Congress, was initially
greeted by the public as meaning there would be little if any change in
policy. Rogers' official statements indicated, however, that there was
to be change or at least recognition of former policies. The Attorney
General said that the Little Rock situation needed to "rest awhile." He denied Senator Fulbright's request to see the 400-page report
drawn up by the F. B. I. concerning the origins and instigators behind
the scenes at Little Rock. This action was further confirmation of
the unofficial but obvious position of the Justice Department toward
prosecuting any of the offenders. The massive report, considered to
be the government's main weapon, was neither used nor opened to
concerned authorities.

Rogers also announced that there would be no push for new civil
rights bills. This decision did not please integrationists in Congress
but was considered to be a political maneuver designed to 'make easier
Rogers' dealings with Southern Democrats who hold the most influential
positions in any Democratic controlled Congress.' Rogers justified
his "cooling off" policy on civil rights as necessary pending further

12 Ibid.
litigation clarifying the limitations of the 1957 civil rights bill. Yet early in the fall the Justice Department had used as a defense for its inaction the argument that it had no authority to move and needed a bill giving it such authority as soon as possible.

It seems possible, as Harry S. Ashmore contended, that a deal had been made. Ashmore pointed out that when Rogers went before the Senate Judiciary Committee to be confirmed, he was "received with cordial greetings, and was recommended for confirmation without a single question being addressed to him regarding his past or future course in the Little Rock case . . . ." This was unusual because the chairman of the committee was Senator James O. Eastland of Mississippi. He was seated next to Senator Olin Johnston, D., South Carolina, whose comment after the questioning was, "I think that everyone agrees that Little Rock is dead." The incident did not receive more than "passing mention," however, and Ashmore wrote that it "must have been one of the most singular political deals in recent years." Rogers' future actions were to give further grounds for such an analysis.

---

14Ibid.


The question of why Faubus, considered the "most unlikely"
governor, took an extremist stand September 2, 1957, has,
fundamentally, one answer. He wanted to keep his office, and he wanted
it for a third term. Faubus was considered to be an extremely cautious
politician before the Little Rock controversy. The Little Rock crisis
according to former governor and former friend of Faubus', Sid McMath,
"was a virtual declaration of his candidacy."\(^{19}\)

McMath, later drawn into Faubus' gubernatorial campaign by a
personal attack from Faubus, retaliated by saying that Faubus was not
a "desperate man" as critics seemed to think. Using Eisenhower's
words, McMath said Faubus did not commit any "misguided acts"; he
was an intelligent, ruthless opportunist whose every action was "part
of a calculated and cynical plot to divert the attention of the people of
Arkansas from the real issues . . . ." McMath also charged that
Faubus was a segregationist only for gain but not by conviction. "He
never saw a Negro until he was 21 years old. He has no traditional
feeling about this issue." Former governor Francis Cherry agreed
with McMath.\(^{20}\)


\(^{19}\)Little Rock Arkansas Gazette, October 19, 1957, F on F, J11-1507.

\(^{20}\)Little Rock Arkansas Gazette, July 15, 1958, F on F, J12-1913.
On March 6, 1958, Faubus announced his intentions to run for the third term. The only surprising aspect of the announcement was that he stated "with a fair degree of candor" his two reasons for entering the race. He wanted the office and he thought he could get it.  

To understand the Governor's need for a cause celebre in order to get re-elected consideration must be given to the political tradition in Arkansas limiting a governor to two terms. One man prior to Faubus had captured a third term; Jefferson Davis, who during an emotional campaign fifty-four years before, had been re-elected. The two-term tradition was accepted as irrevocable by most politicians, and there was more involved than mere precedent against a third term. The Arkansas State Highway Commission, a department with considerable patronage powers, had been taken from the control of the governor six years previous to Faubus' bid by a constitutional amendment. The amendment included ten-year terms, each staggered, for each of the five commissioners. This, in conjunction with the two-term tradition, removed the possibility of any governor's dominating the Commission. However, Faubus had appointed two members to the committee already and, if re-elected, he would be eligible to appoint a third person, thus having a working majority. "What makes this particularly alarming to supporters of the independant Highway Commission," stated the Gazette.

21Little Rock Arkansas Gazette, March 6, 1958, F on F, F4-107.
"is that Mr. Faubus in the past has been highly critical of the Department's anti-patronage policies, and was himself a commissioner, and briefly director of the Department, during the period of highway scandals in the McMath administration."\textsuperscript{22} It was feared that with control of the Highway Commission Faubus would be able to build a political machine "that will take over virtually every function of the state government."\textsuperscript{23} Combined with the Highway Commission ties, Faubus also had an "open alliance with the Arkansas-Louisiana Gas Company, whose rates are determined by a Public Utilities Commission appointed by the governor."\textsuperscript{24} Also, immediately after Faubus called the Guard one of the state's most powerful political groups, the County Judges Association adopted a resolution without dissent commending Faubus for his stand at Little Rock. \textsuperscript{25}

Using Little Rock as an opening to the third term, Faubus had his platform and opponents clearly designated. There was one issue, segregation; a common opponent, anyone who disagreed with Faubus.

After the federal troops came to Central High School the segregationist campaign was stepped up. The federal government,

\begin{footnotes}
\item[22]Ibid.
\item[23]Ibid., and see Little Rock \textit{Arkansas Gazette}, October 26, 1957, \textit{F on F}, F4-72.
\end{footnotes}
except for the presence of troops, made no further moves, and the school board was left with the problems. The school year was full of harassments and intimidations against the broad and the Negro students. The Negroes were escorted to class by guards at the beginning of the year, but soon the guard was dropped and the soldiers patrolled the halls. Reported incidents of kicking, swearing, spitting and other forms of harassment of the Negro students were commonplace. A campaign was being conducted inside Central to get rid of the Negroes while outside white adults offered suggestions on the improvement of Central, all of which sought the resignation of the board. Rev. Pruden, speaking for the C. C. C., said that the school board would soon keep its place. He remarked, "Don't ask me how; that's my business." 26

Chancellor James Pilkinton of Hope offered a five-step plan for solving the problem. The first was the resignation of the board. Faubus thought this was "a grand idea" because the board had been "confusing the issue." 27 Faubus also heard a suggestion from Herbert Thomas, a Little Rock insurance executive, who conferred with the Governor and gained permission to present his idea before the State Board of Education, which had kept out of the desegregation controversy until drawn in by

26 Little Rock Arkansas Gazette, January 21, 1958, F on F, J12-1890.

the Thomas plan. This plan was to let Negroes at Central finish their term and then return to a Negro school. The government should withdraw its troops and leave the matter of order and discipline to Faubus. An interracial committee would be created with no power except one of an advisory status. 28

Neither the N. A. A. C. P. nor the segregationists liked the Thomas plan. It was obviously unacceptable to the N. A. A. C. P., and the segregationists said that it was too much of a compromise and "therefore . . . it is unacceptable to us in its entirety. "29 The plan died when neither Faubus nor the board took any action on it.

As the impasse at Central wore on, the troops were gradually reduced, but the school felt the full force of the opposition in January, 1958. While seven other integrated school districts "went along placidly with their work,"30 Superintendent Blossom received bomb threats. Dynamite without caps was found in a locker. 31 An extra guard patrolled the school grounds on the week-end. Harassment of the Negroes, particularly Minnijean Brown, resulted in her expulsion from school finally on February 17, allegedly for calling a white antagonist "white trash. "32 After Minnijean was expelled the board suspended three white

28 SSN, May, 1958, p. 6. 29 Ibid.
30 SSN, February, 1958, p. 12. 31 Ibid.
32 SSN, March, 1958, p. 2.
students for wearing placards that read "One Down Eight To Go." ^33

Such disciplinary action against the white students in turn brought a lawsuit against the board with Amis Guthridge representing the students suspended for the placard incident. He demanded that they be reinstated immediately or he would file criminal charges against Blossom for malfeasance and nonfeasance in office. However, County Attorney J. Frank Holt refused to issue a warrant on the ground of insufficient evidence. ^34 Guthridge's clients were reinstated after they had convinced the board their political activities would be curbed.

Because of harassment culminating in the bomb scares in January, the school board on February 20 filed in federal district court for a delay in the approved plan of integration. Their request was based on the need for the concept of "with all deliberate speed" to be defined, and until then, the need for legal procedures to protect any school district attempting to desegregate. In the board's petition the attorneys stated that aside from the physical presence of federal troops the government "apparently is powerless" to enforce court orders or to stop interference. The petition pointed out that Congress had not tried "to strengthen old or provide new judicial procedures which will guarantee enforcement of the civil rights of the Negro minority." It concluded: "The school district in its responsibility for the law of the land is left standing alone,

^33 Ibid. ^34 Ibid.
the victim of extraordinary opposition on the part of the state government
and apathy on the part of the federal government. "35

Prior to the school board's suit, three other suits from Little
Rock were ruled on in the Appellate Court. All three had originally
been ruled on by Judge Davies. The first suit was that of Mrs. Thomason's
attempt to get an injunction against the integration procedure through a
Chancery Court. Davies had ruled against the Chancery decision on
the ground that it had no authority to amend federal court orders. The
second case was filed October 2 by Mrs. Margaret Jackson, president
of the Mother's League. She wanted the federal troops removed and
certain federal laws to be declared unconstitutional. She alleged that
the Tenth Amendment of the Constitution concerning rights of the states
was violated by the use of federal troops. Sections 332, 33, and 334 of
Title Ten under the United States Code (those sections justifying
Eisenhower's action) Mrs. Jackson wanted to be declared unconstitutional.
Davies had dismissed her suit "on the grounds of lack of jurisdiction
because the same issues had been decided previously by the Supreme
Court and that no substantial federal constitutional issue was involved."36

Mrs. Jackson's attorney appealed and vowed he would ask for the
impeachment of Judge Davies. The third suit was Faubus' injunction appeal.

35SSN, March, 1958, p. 2.
All the appeals were based primarily on two contentions: that the federal government was not party to the suit and that Davie's alleged prejudice against Faubus disqualified him from jurisdiction. The Appeals Court upheld all of Davie's decisions. The Justice Department argued that all were actually interferences with court decrees, that all courts have authority to prevent obstruction of their orders and that the role of the government as "friend of the court" was not limited to just giving advice. 37

Initially, confusion existed as to who would rule on the school board's suit because it was part of the original Little Rock suit, Aaron v. Cooper, et al. One judge had just retired; the Justice Department had chosen to replace him with J. Smith Henley, from Arkansas, but no one seemed to know whether Henley could be installed in time to rule on the petition. Judge Davie, being on temporary assignment, asked to retain jurisdiction, but his request depended on Chief Justice of the Eighth Circuit Court of Appeals, Archibald K. Gardiner. Davie's assignment duty in Little Rock was to end on March 5. Gardiner announced in April that Davie would not be returned to Little Rock. Gardiner said there was "no particular reason" for Davie's withdrawal except that an Arkansas-born judge was "preferable" since "they know the traditions, habits and so forth of the people there." 38

37SSN, April, 1958, p. 12.
38Little Rock Arkansas Gazette, April 16, 1958, F on F, J11-1362.
It seems more than coincidental that Judge Gardiner removed Davies because an Arkansas judge would be more "preferable" and that Gardiner, instead of giving jurisdiction to Judge John E. Miller, the original judge in the Little Rock case, gave it to Judge Harry J. Lemley from Hope, Arkansas. Judge Miller had specifically requested that Davies take over for him when he left the bench temporarily. Both the school board and the segregationists were pleased with Lemley's appointment. Lemley had remarked once to a friend that the South "is almost a religion with me." However, prior to the 1954 decision Lemley had ruled on two cases in Arkansas involving Negroes and equal facilities. Both times he had ruled in favor of the Negroes and against the school districts. When the doctrine of separate but equal was touched on in one case, however, Lemley had warned counsel to leave integration out of the picture because it was "not . . . for the best interests of children of either race."

Lemley told the school board that their request for delay was too vague. The school board then changed their request for a delay until January, 1961. The board offered no explanation for this date at the time, but later they revealed that they had hoped Faubus would be out of office then.

---

40 Little Rock Arkansas Gazette, April 22, 1958, F on F, J12-1895.
41 SSN, June, 1958, p. 10.
The arguments began the first week of June. The N. A. A. C. P. attorneys' questions were centered on the school board's failure to take action similar to that which the Hoxie school board had taken. Wiley Branton asked why there had been no injunctions against the leaders of the mob at Central. Board member Wayne Upton replied that "it would've been better to prosecute." Branton said he was speaking of civil, not criminal, procedure. Upton snapped, "If those people had been prosecuted criminally we would have had a much healthier situation than we have now. That was our opinion and still is our opinion."  

Thurgood Marshall asked Blossom a similar question. Blossom replied, "We would have had more trouble if we had." The difference between Hoxie and Little Rock was that the Governor had not interfered at Hoxie, and thus the board and the court moved freely. It is doubtful that any action taken by the Little Rock board would have accomplished anything except to create more trouble. The school board said it would have preferred to join with the Attorney General in prosecutions but that the Justice Department had had "no suggestions." Because of this indifference, the board realized their hopeless position.

Judge Lemley ruled in favor of a two and a half year delay. He agreed with Attorney General Rogers' policy that a cooling off period

---

42 Little Rock Arkansas Gazette, June 5, 1958, F on F, J12-1898.
43 Ibid.
44 Ibid.
was needed. The effects of Lemley's decision were far-reaching.

According to the *New York Times*: "It involves no less than the course of school integration throughout the entire South." The decision had several repercussions: it created a showdown ultimately drawing in the Administration and the Supreme Court; it strengthened the segregationists; it was considered to be a flagrant decision against law; and it was initially ignored by the Administration.

Columnist Walter Lippmann predicted that the decision would force action from the government. "We shall not be able to drift all summer, only to find in September that we are unprepared." Still the White House declined to comment on the decision. Hagerty stated, "It is entirely a matter for the department of justice. I have no comment." And one month later when Central High School graduated its first Negro after eight months and six days of federal security, Hagerty commented on what the next school year would bring: "I think it is quite clear where the responsibility lies. We will just have to wait and see."
In Arkansas it was the opinion of many leaders that Lemley's decision had "strengthened the hand of forces opposed to the school board's plan for integration." The decision was hailed by extremists, especially Pruden, Guthridge and Faubus. Pruden suggested that a peaceful coalition of segregationists and moderates be formed in accordance to "the law of the land as interpreted by Judge Harry J. Lemley." He further declared that the decision "vindicated" from slander the Citizens Council and the Mother's League. Guthridge was as pleased as Pruden but not as optimistic. He stated that the N. A. A. C. P. had "unusual influence" with the President and the Supreme Court. The decision of the Appellate Court on the three suits previously mentioned prompted Guthridge to say, "I am certainly pessimistic about the ultimate outcome of the case of the appeal in the United States Supreme Court." Faubus told reporters that from the beginning, I pleaded for time to consider this difficult problem. Had the time been granted, either in Little Rock, Arkansas, or in Newport, Rhode Island, nine months of turmoil and tension would have been avoided, as well as the saving of more than $5,000,000 of public funds.

---


50 Little Rock Arkansas Gazette, June 22, 1958, F on F, J12-1870.

51 Ibid.

52 Nashville Tennessean, June 22, 1958, F on F, J12-1868. (The amount of money is Faubus' own estimation. The Army reported an expense of $3,693,000 and the Air Force, $450,712. See SSN, April, 1958, p. 12.)
It seems clear that if delay was justified it needed to be a constructive delay. There was never an indication from the Governor, however, that time would be used constructively. Faubus waited until the schoolboard had completed litigation on its plan, and then he entered his plea for delay, giving no reason for his interest other than a personal conviction of potential violence. When that failed he attempted to interpose his office between the school district and the federal court. According to one theorist, Faubus' action was strictly "a political gambit through the operation of which it is hoped that the social changes required by desegregation can at least be postponed, if not blocked entirely."\(^5\) Interposition, dating back to the colonial theory of the compact nature of the Constitution, made the federal government an agent of the state with no independent or separate existence from the state. However, interposition historically had no legal basis,\(^6\) and even its most ardent advocates had little cause for considering it to be legally effective.\(^7\) Faubus' move did contribute to his forecast of violence because when he failed Faubus used the most primitive and perhaps the most efficient weapon for delay, violence. Violence, "despite


\(^7\)Miller, p. 6.
orders of the federal courts" was "a powerful ally in the delaying
legalism."56

In an excellent article for the New South Lewis Killian stated the
two levels of delay and their flaws:

One is that, since the South is "not ready" for desegregation, any positive steps towards bringing it about will lead to "grave consequences," "tragic results," and the like. The second compromise is that if the status quo is left undisturbed, time and natural course of events will bring a situation in which the South is "ready" and desegregation can be accomplished easily. If there is any validity to the first premise, it is because it has the nature of a self-fulfilling prophecy. The second premise is logically untenable.57

The Governor did not want delay; he demanded retreat. Delay which meant defiance was not, as Faubus assumed it to be, synonymous
with gradualism.

When asked if Lemley's decision would affect the gubernatorial
campaign, Faubus said he did not know. A reporter also asked him if the decision would affect those school districts already integrated. Faubus answered, "I don't know--I don't think so." He refused to say whether or not he would use the National Guard again. When asked to comment on the school board's statement in court concerning their hope for Faubus to be out of office, the Governor said, "I think a number of people have

56 Charles Alan Wright, p. 8.
found during the time that I have been governor that it is not safe to
assume they can make my decisions for me."\textsuperscript{58}

Although there was little immediate action from Congress, Emanuel
Celler (D. New York), Paul Douglas (D. Illinois), and Senator Mike
Mansfield (D. Montana) made strong comments. Celler, chairman of
the House Judiciary Committee, called Lemley's action "outrageous."
He said that his committee, soon to investigate civil rights, would give
"careful scrutiny" to "the conditions out of which this decision arises.\textsuperscript{59}
Douglas agreed with Celler.\textsuperscript{60} Senator Mansfield pointed out that "the
responsibility of Congress ended when it achieved passage of the civil
rights legislation. Now the responsibility is in the hands of the
executive.\textsuperscript{61} Immediately after Lemley's decision the N. A. A. C. P.
filed an appeal and a notice of supersedeas which required that the decision
be suspended until appeal procedure was completed. They asked for a
stay which Lemley denied on the ground that a stay would in effect
nullify his decision by taking "months to carry the case through the
Court of Appeals and the United States Supreme Court.\textsuperscript{62} This denial

\textsuperscript{58}\textit{Little Rock Arkansas Gazette}, June 22, 1958, F on F, J12-
1870.


\textsuperscript{60}\textit{Little Rock Arkansas Gazette}, June 22, 1958, F on F, J12-
1869.

\textsuperscript{61}\textit{ibid.}

was significant in that N. A. A. C. P. attorney Branton had asked for the stay because the Court of Appeals was about to recess and would not reconvene until the second week of September. This meant that the Negro students would be out of school because "unless extraordinary measures were taken no decision could be expected before October." 63

It was hoped that if the Circuit Court did not grant the stay it would take up the appeal of the case on its merits. Instead the N. A. A. C. P. asked the Supreme Court to bypass the Appellate Court and hear its appeal immediately. The Supreme Court could bypass the Appellate Court under extraordinary circumstances on a writ of certiorari if "the case is of such imperative public importance as to justify . . . and require immediate settlement . . . ." 64 The N. A. A. C. P. appeal had important implications as the New York Times commented: "Bringing the matter to the Supreme Court will increase the pressures on the Government to intervene." 65 The appeal also brought the Supreme Court into the issue for the first time since their 1954 decision. The Times further forecast that the appeal "will force grave and difficult decisions." 66 More than procedural problems were involved; the enforcement of law was the basic issue. The question was whether or not terrorism could nullify a court order.

63Ibid.
65Ibid.
66Ibid.
CHAPTER VI

THE SETTLEMENT

In his bid for a third term, Faubus was the undisputed winner in all of Arkansas' seventy-five counties. The Governor had more votes cast for him than any previous candidate in the history of the Arkansas primary. 1 Faubus' two main opponents, Judge Lee Ward and Charles Finkbeiner, a Little Rock businessman, polled, respectively, 58,350 and 61,037 against Faubus' 264,219. 2 The tone of the campaign was demonstrated clearly when all three men were at a rally in Pine Bluff. The crowd listened to Faubus but booed and harassed Ward and Finkbeiner into silence. Finally, Ward asked the crowd if they wanted state troops to fire on representatives of the federal government. "Yes," the crowd roared back, "let's shoot. They used bayonets against us." 3 The resentment of the people made inevitable the victory for Faubus, who declared:

The voting today was a condemnation by the people of the illegal Federal intervention in the affairs of the state and the horrifying use of Federal bayonets in the streets of an American city and the halls of a public school . . . . 4

1 SSN, September, 1958, p. 2.
2 SSN, August, 1958, p. 8.
3 Ibid.
The New York Times also interpreted Faubus' victory as the Administration's defeat: "His overwhelming majority . . . was indicative of the resentment felt by Arkansas over President Eisenhower's use of Federal troops to enforce desegregation here at Central High last year . . . ."\(^5\)

Faubus' third term was to have many complications. The monolith upon which he had built his power structure had gained momentum of its own. The Governor was to find himself obliged to continue as a segregationist despite the futility involved. The first problem was to be the primary one, the reversal of Judge Lemley's decision.

The Supreme Court refused to rule on the N. A. A. C. P. appeal for a certiorari consideration, basing its decision on the ground that there was sufficient time for the Appellate Court to hear the case. Ten days later Judge Gardiner appointed three judges to the hearing and still later decided to use all seven. With one dissenting opinion (Judge Cardiner's) the Eighth Circuit Court of Appeals revoked Lemley's decision on August 18, but they delayed enforcement of their decision in order to allow further action by the Supreme Court. The decision was plainly worded, stating that "the vindication of rights guaranteed by the Constitution could not be conditioned upon the absence of practical difficulties." The conclusion of the opinion pointed out implications of

\(^5\) Ibid.
the issues involved: "We say the time has not yet come in the United States when an order of a federal court must be whittled away, watered down, or shamefully withdrawn in the face of violence and unlawful acts of individual citizens in opposition thereto."6

The decision, which made another showdown probable, brought reactions indicative of the impasse that had existed between the state and federal government since the September 1957 crisis. When questioned as to what he would do if trouble occurred again in Little Rock, Eisenhower said, "There can be no equivocation as to the responsibility of the federal government in such an event. My feelings are exactly the same as they were a year ago."7 The previous year the President had declared that "the very basis of our individual rights and freedoms rests upon the certainty that the President and the executive branch of government will support and insure the carrying out of the decisions of Federal courts."8 It could be assumed then from the previous year's actions that if necessary the government would station troops in Little Rock again since little planning had taken place since that last action. Faubus replied to Eisenhower:

If it is the purpose of Mr. Eisenhower's statement to reaffirm his position of last fall, that it is my duty as Governor to use the

military to enforce integration in any school district in this state, then I must say that my position of last fall is unchanged. I do not interpret my constitutional duties to cover any such theory as that advanced by the President.  

The school board requested a stay until the Supreme Court ruled in order to exhaust all legal possibilities for postponement but added in a public statement: "We would like to remind all people that the board of education is not a law enforcement agency and has no police powers." 

This appraisal was confirmed by the Supreme Court, which asserted:

The legislative, executive, and judicial departments of the state government opposed the desegregation of Little Rock schools by enacting laws, calling out troops, making statements villifying federal law and federal courts, and failing to utilize state law enforcement agencies and judicial processes to maintain public peace.

On September 12 the Supreme Court upheld the Appellate Court's decision. In its full opinion delivered on September 29, the Court outlined not only the course of the original suit but the precedents for the Court to be the arbiter of the "law of the land." It cited Article VI of the Constitution and a decision of 1803 that stated that "it is emphatically the province and duty of the justice department to say what the law is." The Court's conclusion was that the civil rights . . . declared by this Court in the Brown case can neither be nullified openly or directly by state legislators

---

10 SSN, September, 1958, p. 3.
11 RRLR, III (October, 1958), 860.
or state executives or judicial officials, nor nullified indirectly by them through evasive schemes for segregation whether attempted ingeniously or ingenuously.\textsuperscript{12}

On September 12, a few hours after the Court's decision, Faubus made his position clear by signing into law bills which enabled him to close the schools. He then formally ordered the schools closed. Meanwhile, the actions of the federal government seemed to imply that the executive branch would fulfill its obligation to the law. Information, scarce at the time but later confirmed, was that the Justice Department sent four attorneys to assist District Attorney Osro Cobb and an estimated 137 deputy marshals. Months later the Department disclosed that it had recruited 110 special deputy marshals and had brought 52 regular deputy marshals into Little Rock for duty at the cost of $390,000.\textsuperscript{13}

It was not disclosed, however, why these deputies were pulled out of Little Rock after Faubus closed the schools, nor why the attorneys closed their suitcases and left as did all people representing the federal government. Attorney General Rogers three days before the Court's decision did send a letter to the school board president and the city manager assuring them of "full cooperation" if the school board brought an injunction against interference.\textsuperscript{14}

\textsuperscript{12}Ibid., p. 861.
\textsuperscript{13}SSN, October, 1958, p. 5, and SSN, April, 1959, p. 2.
\textsuperscript{14}SSN, October, 1958, p. 5.
Before the Supreme Court's final decision, the Governor, in anticipation of what the decision would be, made moves to counteract temporarily any change in the status of the Little Rock schools. On August 26 Faubus called an emergency special session of the Legislature. Six bills in particular were approved. All six were designed to circumvent desegregated education and the expected decision pending from the Supreme Court. The six bills included these provisions:

(1) A school faced with integration could be closed. Within thirty days of closure an election would be held to determine whether the school would remain closed or open on a desegregated basis. According to this law the ballot would simply offer the choice of being either for or against integration. This was good strategy for the segregationists because such a choice left out those who wanted the schools open but who were not interested in the race issue.

(2) State money would be withheld from any and all integrated schools and would be given to private or public segregated schools.

(3) Students would be permitted to transfer to schools of their own racial group.

(4) Classes in an integrated building could themselves be segregated.

(5) Provision was made to delay opening the Little Rock school until September 15. This was obviously to allow the school board and
interested parties to have time to adjust their policy to the pending
decision from the Supreme Court.

(6) $100,000 was to be appropriated for the Governor's use to
meet expenses connected with the new bills. $6,250 was for a special
assistant and $75,000 for the cost of the special elections. 15

Other bills passed in the special session were reflections of Bennett's
so-called Southern Plan for Peace, a movement designed to eliminate
the N. A. A. C. P. in Arkansas. Particularly of obvious intent were these
four bills:

(1) Loyalty oaths were to be required of all teachers along with
a list of all the organizations with which they were affiliated. This was
the notorious Act 10, subsequently ruled unconstitutional by the Supreme
Court.

(2) Recall elections would be held for school board members if
15 per cent of the registered voters so requested.

(3) Organizations would not have the power of attorney to act on
an individual's behalf.

(4) No unauthorized person could be on school property. This
was designed to deal with any attempts at peaceful coercion such as
sit-ins and pickets. 16

15 RRLR, III (October, 1958), 1043, 1044, 1045, 1048, 1051.
16 Ibid., pp. 1046, 1049, 1052, 1057.
Faubus did not immediately sign those bills directly concerned with the school controversy, because as soon as they were signed action was to be taken within five days according to a clause in the new laws. However, within a few hours of the Supreme Court's announcement of its decision on September 12, Faubus signed all the bills.

The Governor waited to see what the federal government would do, but nothing happened. Although, as Southern School News observed, "such a school closing was unprecedented in Arkansas . . . it was followed by almost complete silence for a few days . . . ."¹⁷ As in the past, it was apparent that the federal government did not intend to do anything.

The special election was set for September 27. The Governor returned to television to assure the public that his plans were "sound and workable. It is all legal. To this the advocates of the so-called 'law of the land' can have no objection."¹⁸ Little Rock voters were against integration, according to the ballot, by almost three to one. The schools were kept closed by 19,470 to 7,561 votes.¹⁹

Despite Faubus' public claims for the legality of his special session maneuvers, several suits were filed. It is doubtful that the

¹⁷SSN, October, 1958, p. 7.
¹⁸Ibid.
¹⁹Ibid., p. 5.
Governor believed that the new evasions would be any more successful than the old ones, but it was politically astute to continue the struggle.

Two suits in particular pointed up Faubus' real interest in the new legislation. One was filed against Act 4, the school closing law, asking for an injunction against closing and a declaratory judgment. It would not be a temporary injunction and litigation involved could go through the normal channels. The other was filed against Act 5, which provided for support of private schools with state funds. The federal courts decided to let the state courts rule before hearing any suits at all, and both acts were upheld by the state courts. It was reported that "Governor Faubus denied having any advance knowledge of this suit but legal observers noted the injunction requested created one possible way for the schools to be opened again quickly if that were needed."\textsuperscript{20}

On September 23 a charter was granted by the Pulaski County Circuit Court to the Little Rock Private School Corporation allowing them to lease the four buildings closed down by the Governor and to use the tax money available under the recent legislation to create a new school system. The Little Rock school board asked for instructions from the federal district court because of the conflict between federal law and Arkansas' new acts. The board proceeded to lease the buildings with cautious negotiations, fearing contempt of court charges if sufficient

\textsuperscript{20}Ibid.
escape clauses were not in the contract with the Little Rock Private School Corporation. On September 24 the N. A. A. C. P. asked for an injunction against the leasing of the public buildings for private use. Attorney General Rogers filed a brief as friend of the court. Miller refused a hearing on both petitions and they were taken to the Appeals Court. Shortly thereafter the Eighth Circuit Court granted a temporary restraining order nullifying the leasing of the buildings or any other change in their status. Copies of the order were served on "about 190 individuals and organizations." Governor Faubus received a copy despite his bodyguards preventing a federal marshal from serving it personally. Several state officials were put under the order, including the attorney general, the education commissioner and other officials of the Education Department, the treasurer, auditor, teachers and principals of the four high schools, members of the school board, their attorneys, members of the Little Rock Private School Corporation, their attorneys, the two banks that acted as trustees for the school district tax money and the three surety companies that held the public official fidelity bonds on those state officers under the order.  

Faubus announced that he had no intention of reopening the schools nor did he have the authority. The schools would remain closed, the


22Ibid.
Governor said, as long as "the federal courts continue to prevent the use of our own school buildings and school funds for the purpose of education."\(^{23}\)

Attorney General Bruce Bennett contended that the tax money could be used according to Act 5 without violating the restraining order. However, Education Commissioner Arch W. Ford pointed out that the private school corporation "was not eligible to receive any money because it was not accredited. Normally a new school cannot be accredited until the end of one year of operation."\(^{24}\) The schools had to operate on private funds and donations if they were to survive.

On November 10 the Appellate Court reversed Judge Miller's dismissal of the N. A. A. C. P. petition and declared that the buildings could not be used for any purpose other than public and equal education. The case was sent back to Miller with explicit instructions: enjoin the school board from transferring any of its property or operations to a segregated school, enjoin the board from engaging in any activity which is capable of "serving to impede, thwart or frustrate the execution of the integration plan mandated against them," and the board was to take "affirmative steps" toward desegregation.\(^{25}\)

\(^{23}\)Ibid., p. 9.

\(^{24}\)RRLR, III (December, 1958), 1251-1253.

\(^{25}\)Ibid., p. 1143.
Meanwhile the private schools were struggling to survive on insufficient funds. The real failure of the proponents of the private school system was in the lack of support. Those primarily affected by the failure of the segregationist schools were the students, particularly the Negroes. There were 3,698 students, white and black, displaced when the four high schools were closed. According to estimates of the Little Rock School District, 2,873 students transferred to other schools out of town and out of state, but between 472 and 825 were not in any school. \(^26\) Southern School News\(^1\) estimate on those students getting an education despite the closure revealed which group felt the greatest loss. Over 700 students at Hall High School transferred into another school.

Two hundred and sixty-two at Horace Mann, the new Negro school, transferred. Yet overall attendance at both schools had been approximately the same. \(^27\) According to the Little Rock School District's figures, 1,029 students, white and black, were in private schools. Four hundred and five were getting part-time education by correspondence courses. One thousand one hundred were in other parts of Arkansas and 339 had left the state. \(^28\)


The schools remained incapacitated while the politicians decided what to do. In January the 62nd General Assembly of Arkansas met for its biennial sixty-day session. Despite the outward attitude of this session the impotent laws passed were indicative that the necessity of compliance with the law was recognized even if not obeyed. The problem now was how the Faubus machine could both appease its followers and still comply with the federal courts at some time in the near future. Of almost fifty measures introduced in the session desegregation was the basis for the majority. It was reported that "near unanimity existed on most of the bills especially those proposed by Governor Faubus. Other bills, . . . dealing not with schools but other facets of the racial problem, have run into trouble." Faubus introduced his new plans to the Legislature claiming that the proposals were beyond the reach of the federal government. He proposed a constitutional amendment designed to relieve the state of its duty of public education. It would be left to the discretion of each school district. If a district did not want public education it had the authority to abolish it and give the money allotted for students to the students themselves and they in turn could get their own education. However, Southern School News observed that "nothing was said about what the students may do with the money."  

---

Such an amendment could not be voted on until the general election of November 1960 so Faubus made a second proposal. He presented the same plan in statute form enabling it to be available if needed before 1960. The single aspect of the plan which Faubus evidently believed was its protection, the local option feature, would afford a degree of legality. By taking the state out of the picture and leaving the responsibility to the districts several legal complications developed. However, on January 19 a three-judge court in Virginia struck down a similar Virginia attempt. Faubus introduced another measure aimed at a private school system in HB124. This proposal allowed voters within a district where the government had forced closure of the schools to petition the Governor for a special election. The election would decide who had authority to control the school districts, the Governor or the school board. If the school board was chosen they would have the authority to reopen closed schools. The underlying theme of these and other proposals seemed to imply that there would be desegregated schools sooner or later. Now that Faubus had his third term he seemed more willing to admit the necessity of desegregation.

Court actions were to prove the bulk of the bills useless, as had been the case with the 1956 segregationist legislation. On April 6 Faubus suggested during a press conference that "limited desegregation" would be possible in 1960. The public reaction was largely negative,
particularly that of the Citizens Council and the Little Rock school board. 31

Faubus also vetoed one bill which provided that a school closed by the Governor could be reopened the following year. The Governor originally had no objection, but he later gave three reasons for his veto, the most important being that the bill prevented his reopening of a school if he wanted to before a year had passed.

The resignations of the school board members in November made an election for a new board necessary. Thirteen candidates all claiming to be segregationists were on two slates, the so-called businessman's slate and that of the Citizens Council, a moderate and extremist division. The Council used Faubus' name to push their candidates, and Faubus although not openly endorsing the Council 'would not disavow the use of his name.'32 However, he did attack the businessman's slate because they were not in favor of his policies. The six-man board was split with three members from each slate being elected. Everett Tucker, Jr., Ted Lamb and Russell Matson, Jr., represented the businessman's slate, the moderates. The Council elected Edward McKinley, Jr., board president, Ben Rowland, Sr., and Robert Laster. Terence Powell, ex-principal of Hall High School, was the new Superintendent. The revamped school board had new attorneys also, Mehaffey, Smith and

31SSN, May, 1959, p. 6. 32Ibid.
Williams of Little Rock. "One partner," observed the Southern School News, "William J. Smith, is Governor Faubus' personal attorney and political advisor. " It was obvious from the conflicting commitments that divided the new board that trouble was ahead despite the promised and so-called "affirmative steps."

On January 6, Judge Miller held a hearing with the board, at which the N. A. A. C. P. and the Justice Department were represented, on what the affirmative new steps of the school board would be. The title of the original Little Rock suit was changed to Aaron v. McKinley, the new president. Miller's order said nothing except that if a school was public it must be integrated; he then directed the board to "move forward within their official powers." However, the phrasing of his order was taken as recognition of the existence of Act 4. Eleven days later the school board suggested that the schools be reopened immediately on a segregated basis pending a new plan of desegregation which the board would announce August 15, 1959. McKinley stated that "he had already discussed it with Faubus and that he believed the governor would give the board permission to operate the schools if the court approved."  

---

34RRLR, IV (Spring, 1959), 18.  
Both the N. A. A. C. P. and the Justice Department protested the board's suggestion. Miller rejected it and held another hearing for February 3 which left the situation still unchanged. Allegedly, Judge Miller came to the hearing with his opinion already written. Miller, who had vacated the bench just prior to the Little Rock controversy, had also been the one who requested Judge Davies to sit in during those hectic first months of litigation. However, in a speech to the Sebastian County Bar Association Miller made it clear that he felt the responsibility of the bar was for the "customs and traditions of our people." He contended that

Judges must speak for the will of the people ... Our greatest problem is the inclination of some of the appellate courts of the land to arrogate unto themselves the power to decide for us certain standards contrary to the mores and conditions which have existed for centuries in this country. Miller did not directly comment on desegregation but his speech was obviously aimed at that problem.

The pro-segregation half of the school board had definite plans concerning some of their policies, particularly teachers' contracts. Faubus made it clear to the Legislature that he wanted at least four school administrators fired: J. W. Matthews, principal of Central High, and two vice-principals, J. O. Powell and Mrs. Elizabeth Huckaby.

---

36 Ibid.

37 SSN, March, 1959, p. 2.
L. M. Christopher, principal of Horace Mann, was the fourth, although it was rumored that there was "some talk about all 177 persons on the four high school staffs being dismissed." 38

The four were personally named by Faubus and by Representative T. Tyler on the floor of the House because "they mistreated the white children during 1957-58." 39 Tyler, with Faubus' endorsement, introduced HB546, a bill that would in effect allow Faubus to break the deadlock on the school board. Tyler himself acknowledged the bill as "dictatorial" but necessary. An emergency clause was attached which would also allow interested parties to fire teachers without regard to the June deadline. The other ten representatives from Little Rock refused to support the bill, but it passed in the House. Opposition was met in the Senate, however. Senator Ellis Fagan, a wealthy contractor from Little Rock and senator for twenty-six years, made HB546 a personal matter. He said in effect that it would be tabled or he would resign.

The bill was tabled and although it was reported that "Faubus put on extra pressure to revive the bill" he could not do it. 40 One representative from Little Rock with a sense of humor introduced a proposed amendment that would abolish the Legislature and give all power to Faubus. 41

38 Ibid.
39 SSN, April, 1959, p. 10.
40 Ibid.
41 Ibid.
The most important aspect of HB546 was that Faubus failed, his first failure since his adoption of segregation in 1956. The defeat of the bill despite Faubus' attempts was the first indication of further setbacks for the extremist policies.

On February 8 the Arkansas Gazette reported that a teacher purge was being planned. The article asserted that payment of the state funds originally allocated to the Little Rock school districts, but withheld, would now be given to those districts in return for the firing of the four previously mentioned administrators and certain other teachers.

Superintendent Powell, "acting as messenger," allegedly approached Tucker, Lamb and Matson, the moderates, with this offer. Lamb confirmed the rumor as true, but Tucker and Matson declined to comment. Faubus denied the purge but added that he would like for it to happen. When the school board met to renew teacher contracts McKinley ruled that the board was not officially bound by old school board policies because they had not voted on adoption of those policies.

The first business was the renewal of Powell's contract. The vote split, as it was to do throughout the meeting, 3 to 3 with McKinley representing Faubus against Tucker representing the non-Faubus group. Powell was rehired temporarily as Hall High's principal. The next thing on the agenda was to approve collectively all 808 teachers' contracts.

\[42\] Ibid.
McKinley's two men were against; Tucker's, for. The meeting continued in this fashion until Tucker, Lamb and Matson withdrew, believing that they were stopping all business by leaving no quorum. McKinley, however, ruled that the meeting had started with a quorum and therefore would continue under that assumption. McKinley, Rowland and Laster continued their business. They hired T. H. Alford, Dr. Alford's father, as Superintendent and approved 764 teaching contracts. They did not approve 44 others and did not act on one. Included in the 44 were those 6 teachers who had refused to sign Act 10. Twenty-nine were faculty members at Central High; 39 whites and 5 Negroes were represented. 43

The reaction to the school board's decisions was the first widespread, organized and severe reaction to any of the several segregationist policies heretofore successful under Faubus' office. The same method, recall, originally designed by the segregationists to use against moderate board members was demanded for the three Faubus board members by the moderates.

The P. T. A. began a protest against the purge with a three-page statement that concluded:

We feel that board members who attempt such high-handed tactics are not qualified to hold offices of such great responsibility. It is our feeling that Little Rock voters should

43 SSN, March, 1959, p. 2.
carefully consider all legal means allowed by Arkansas law to achieve recall of officials who use their position to jeopardize our public school system. 44

Three days after the P. T. A. took a stand, 179 downtown business and civic leaders organized a Committee to Stop This Outrageous Purge (Stop). All 179 members signed a statement similar to the P. T. A.'s. Both groups were explicit in stating that they were concerned only with the injustices done to the teachers and demanded a recall election with desegregation not involved nor implied.

The segregationists in turn organized and began a recall petition against the three moderate board members. On May 12 the opponents filed their petitions. STOP had 9,603 signatures, and the Council had 7,150. 45 A Committee to Retain Our Segregated Schools (Cross) was formed by a coalition of the Council, the Mother's League and the States Right Committee. A vigorous campaign ensued. CROSS injected the race issue and declared that it was the only issue involved. The STOP group, in turn, maintained that the real issue was the firing of teachers without notice or hearing.

McKinley made several speeches during the campaign. He claimed that the teachers could have their jobs back if they would voluntarily come to him and declare "to abide by the public policy of segregation. 46

44SSN, June, 1959, p. 3.
46Ibid.
McKinley gave as his reason for the firing direct quotes that the forty-four teachers allegedly had made during the 1957 crisis. He said that an investigation had been conducted at the request of the Legislative Council and with Faubus' approval. The proof of the direct quotes was based solely on these interviews; no public report was made. McKinley declined to say why he had access to the reports or how he had gained it. The State Police Director, the Governor and Representative Paul Van Dalsen, chairman of the Legislative Council, all denied giving the reports to McKinley. Council members and staff and the attorney general and staff had access to the records; it was implied that one of those people had been responsible. 47 An advertisement in the Arkansas Democrat stated some of the reasons. It was signed by Rev. M. L. Moser, Jr., chairman of CROSS, and was alleged to be McKinley's own words. The reasons listed were teaching alien doctrines, incompetency, breaking and entering, trespassing on private property, invasion of privacy, improper punishment, intimidation of students, and immorality.

Within 48 hours after the advertisement was published the 39 white teachers of the fired 44 filed a $3,900,000 libel suit against Moser and McKinley. 48

An investigation by the Classroom Teachers Association and the Arkansas Education Association stated that the real reasons included

47 Ibid., p. 3. 48 Ibid.
"such things as trying to maintain classroom discipline, letting a Negro student take a regular turn at Bible reading in class and failing to give good grades as demanded by members of the purge faction."\(^{49}\)

Three days before the election Faubus went on television to express his concern for the situation in Little Rock. He also stated that the real issue was segregation and that the STOP group were integrationists.

The following night W. S. Mitchell, chairman of STOP, went on television to say that Faubus was misinformed and asked him "to leave us alone at Little Rock and let us return to rule of reason."\(^{50}\) The election itself represented the first significant defeat of the extremists; the three members that created the purge were voted off the board by a narrow margin. An unofficial tally of the votes according to Southern School News showed how narrow the margin was:\(^{51}\)

<table>
<thead>
<tr>
<th>Members</th>
<th>For Removal</th>
<th>Against Removal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Edward McKinley, Jr.</td>
<td>13,340</td>
<td>11,860</td>
</tr>
<tr>
<td>Ben Rowland, Sr.</td>
<td>13,692</td>
<td>11,527</td>
</tr>
<tr>
<td>Robert Laster</td>
<td>13,996</td>
<td>11,235</td>
</tr>
<tr>
<td>Everett Tucker, Jr.</td>
<td>12,093</td>
<td>13,317</td>
</tr>
<tr>
<td>Ted Lamb</td>
<td>12,513</td>
<td>12,944</td>
</tr>
<tr>
<td>Russell Matson, Jr.</td>
<td>12,320</td>
<td>12,971</td>
</tr>
</tbody>
</table>

The News also pointed out that "the total vote of 25,457, out of about 42,000 eligible, was nearly twice the number cast in the regular school

\(^{49}\)SSN, June, 1959, p. 2.  
\(^{50}\)Ibid., p. 3.  
\(^{51}\)Ibid.
election in December and only 2,000 short of the total in the school closing referendum of September 1958.  

The ousting of the pro-Faubus school board members along with the defeat of the Governor's attempt to gain legal control of the school board were indications that the tide was beginning to turn, and opposition against Faubus began to solidify and unify. The public which the Governor had so often claimed as his majority began to demand majority representation in policy concerning public education.

The essential problem throughout the Little Rock affair was the nature and enforcement of the law. Both federal and state officials displayed an unwillingness if not refusal to employ the necessary coercive machinery in order to protect the integrity of the law and the Constitution.

Federal courts carried the burden of desegregation without aid from the other branches of the government. Aside from delineating the law the court was expected to enforce it. As one observer pointed out:

"It is virtually unprecedented to leave enforcement of the law of the land exclusively to private lawsuits, brought and financed by private persons, as we are now doing with that provision of the 14th Amendment prohibiting school segregation."  

The Justice Department allowed the whole course of compliance with the desegregation decision to be determined by private suits, and the Department filed as friend of the court only on request and when there

---

52 Ibid., p. 2.  
53 Charles Alan Wright, p. 9.
was no way to decline entering the suit. The Justice Department claimed that it needed more authority before it could effectively work with the courts. However, the Administration's civil rights bill, passed in the summer of 1957, had no provisions that would delegate more power to the Justice Department.

The attitude of the Chief Executive was the same as that of the Justice Department. President Eisenhower demonstrated the unwillingness of his administration to get involved in the enforcement of Constitutional and federal law. Eisenhower did not support the court or its decision until too late despite the fact that prior to the 1954 decision the Supreme Court had sought administrative opinion concerning the decision. Walter Lippmann stated:

"... the President has never accepted the idea that when the Supreme Court handed down its big and revolutionary decision, it became the duty of the national Government to see that plans were worked out to carry out the decision. As a result, a social revolution... has been encouraged from Washington but it has never been guided."

The federal government's lack of policy and refusal to take action necessary to uphold the law created the opportunity that Governor Faubus seized. Faubus' interference in the process of compliance was a move for personal political gain. Governor Faubus' tactics in Little Rock inspired the editors of The Economist, an English publication, to observe:

Like the Roman General whose name so closely resembles his own, (Fabius) Mr. Faubus may one day be commemorated by a reference...: Fabian tactics, or the technique of fighting a losing battle in such a way as to cause the greatest loss to all concerned.  

Without the neutrality of the federal government Faubus would not have been able to make a significant protest. Charles Wright pointed out that "the government of the United States acts as if it is a matter of complete indifference to it whether segregation continues, in defiance of the Constitution, or whether it is ended."  

The indifference of both the federal and state officers made force the inevitable polity.

55 Little Rock Arkansas Gazette (as quoted from The Economist), October 16, 1957, F on F, F4-70.

56 Charles Alan Wright, p. 9.
BIBLIOGRAPHY

Books


Articles


Editorial, The Nation, CLXXXV (October 5, 1957), 205.


Editorial, New South, X (June, 1955), 1.

Editorial, New South, XII (October, 1957), 3.


Life, XLIII (September 23, 1957), 28-34.


Look, XXI (November 12, 1957), 31-37.


McKay, Robert, "Little Rock: Power Showdown," The Nation, CLXXXV (September 29, 1957), 188.


Murphy, Walter F., "Lower Court Checks on Supreme Court Power," The American Political Science Review, LIII (December, 1959), 1017-1031.


Wakefield, Dan, "Siege At Little Rock: The Brave Ones," The Nation, CLXXXVII (October 11, 1958), 204.


Wright, Marion A., "How To Implement the Supreme Court Decision," New South, X (March, 1955), 3-7.

Newspapers and Legal Journals


Microfilm

The following newspapers were used from Facts on Film, Nashville, Tennessee. Prepared by the Southern Education Reporting Service, Rolls 4, 5, 7, 8, 9, 11, 12, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 34, 35, 36, 37, 40.


St. Louis Post-Dispatch, September-October, 1957.