

NYT, Aug. 20, pp. 1, 13

Three slain

Four shot and wounded

52 beaten

250 project-connected arrests

13 Negro churches burned to the ground

17 other churches and bldgs. damaged by fire or bombs

10 autos damaged or destroyed

7 bombings in which there was no damage

FBI assigned in post-Philadelphia period 136 agents to Miss.

Freedom Schools, 47 of them throughout the state, had attracted
2,500 youngsters.

Nov. 19, 1794

The Pres = Gen. Wash. first conferred with the Senate re the "Colony insurrection," recommending changes in Militia laws. Nov 20. - message to House.

~~Senate apparently concurred in a reply~~

10USCA332 Feb 28, 1795, stat. passed, authorize Pres
US to call militia ^{of other states} into fed service
to suppress insurrection ag. state govt.
when req. by State, + use of such
All next fedl forces as Pres considers necessary.
pg.

But by an 1827 USSC case: *Martin v. Mott*, the President is judge of when to call militia., 6 US 19, 12 Wheat. 19.

When the President has proclaimed a state to be in insurrection, etc must hold this condition continues till he decides contrary. US v. 129 Packagers, DC No 1862 Fed Cas # 15,941.

Cause laws be duly executed is duty of forces, remain subord civil authority. 1860 10 Op AG 74 9 Op AG 517

The law included authority for Pres.

Stat 424 "whenever the laws of the U-S— shall be opposed, or the execution thereof obstructed ~~to~~ in any state, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the Pres of the U.S. to call forth the militia of such state or of any other state or states, as shall be necessary to suppress ~~the~~ ^{such} combinations, and to cause the laws to be duly executed."

That portion of statute re-evoked ~~and diff~~ ^{re-evoked} ~~was~~ ^{up to} 1956, when it is now as 10 USC. 332.

The provision was made more explicit in 10 USC 333, author Pres to use ~~any~~ "the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any ~~to~~ ... unlawful combination if it so hinders the execution of the laws of the U.S. that any part of or class of its people is deprived of a right, privilege, immunity or protection vested in the Constitution and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege or immunity or give that ^{material}."

There must be a prod to disperse before a
332 or 333 order (334) but usually ...
see Higgs.

332: Used 3 times in recent history:

① Little Rock - 9-24-57, to carry
out integration EO Ark.

(332 used in 1881 against gangs of outlaws in
Ariz) 41 AG
#67
p. 17

② Mississippi 9-30-62, 27 FR 9693
EO 11053 in Meredith.

③ Ala: June 11, 63, + again on Sept
10, 1963 when it appeared
June 11 order had not been
obeyed.

USSC ruled then prep. measures to
exercise authority no basis
for judicial relief.

Ala ex rel Wallace
v. US 37345 545 (1963)

41 AG #67
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1957: Ag. op: that the President indeed
has auth in states.

p. 17 "When state officers refuse or fail to
discharge their duty in this respect [obedience
to federal law] it becomes the responsibility
of the natl. Govt., through the Chief
Executive, to dispel such forcible
resistance ..."

The Court is Supreme:

"This principle [of supr. law of land] is a part of the const; & if there be any who deny its necessity, none can deny its authority."

CJ Marshall 1821
Cohens v. Va 6 Wheat 264,
381.

Op held

- ① Fedla et may call on Dept Justice to come in as amicus & get inj ag. gov who engaged in obstructing fedl. et order
 - ② mere threat of don viol no allow Tanbar to ignore DC order
 - ③ Pres can do 331-334
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Brewer v. Hixie School Dist, 238 F2d 91
(CA8, 1956) held:

DC can injoin private individuals & groups from conspiring or acting to obstruct school integration

Pls could claim a fedl. right to be free of harassment from racists while trying to operate a deseg. school system.

Performance of certain activities essential to fedl govt, hence may be prot. by fedl. law.

Fedl govt can

- 1974 ① ~~the~~ govt papers reqd be preserved. —
+ get let order to produce them
- ② 1971 voter sent possible - appt.
hox registrars who are residents of
same judicial dist.
- ③ Civ rights com may investigate.
-

1986 = Any person who has knowledge of conspiracy, etc. to deny civil rights ~~as~~ has power to stop + doesn't is liable in damages to party aggrieved.

Judges + Congressmen not liable.

28 USC

1443

Any of the following civil actions or crim. prosec., commenced in a state it may be removed ~~to~~ by the dept to the district of the U.S. for the dist + div embracing the place wherein it is pending.

① ag. any person who is denied or cannot enforce in the cts of such State a right under any law providing for the ~~=~~ civil rights of cts of the U.S.

② For any act under color of auth...

RELATED NOTES

Enacted in time of Whisky Rebellion, during Washington's first or second term, enacted to give power to deal. MM

In 1957, AG published opinion stating statutes could be invoked. Little Rock. See also M NYT. ✓

Invoked in Oxford. RRLR, see.

Beard, History Whisky, 10 U.S.C. 331-333.

No question of applicability. Easily read to know that Albany where cops M violating law, could be invoked. Document on TV-- show need to invoke.

No need to take over whole state, but only action within area covered by findings. City, town, county. M

Power to investigate when need to look toward exercise of these statutes--use power as deterrent.

Civil Rights Commission State

42 U.S.C. 1971

Authority MM also 1974-1975 Authority for AG to get injunctions for voter registration suits. Why not AG say that COFO are helping Negroes register, get them as registrars, enjoin interference with them. Broad protection of injunction--parties. Can you name all the people to be enjoined.

Case involving Casper and case involving Hoxie school district--secondary reach of statutes--2 38 F.2d 91, 245 F.2d 92.

70 HLR 1299; 43 Va. 255; 105 Pa. LR 1088.

Investigating violations of Civil Rights Act.

1971c
a lot
ready
act OKs

41 AG