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Interposition: Yesterday and Today

Several points that were made in yesterday's debate on interposition merit comment today, somewhat in the nature of a postscript on an historic entry in the annals of Virginia history.

Let us begin with objections made by Senator Ted Dalton, first, that the issue of interposition has been "magnified out of all proportion," and secondly, that the Virginia Resolution is a "bad example to set before the children of Virginia."

The best response to both objections is to inquire into the fundamental issue with which the Resolution is concerned. It is not, as some of the Northern press pretends, a matter of race or segregation; it is not even a matter of schools. What concerns us here is the preservation of the constitutional structure of our Union. The transcendent issue is the encroachment of the Federal government, through judicial legislation, upon the reserved powers of all the States.

It is difficult to see how this fundamental issue could be "magnified out of all proportion." The fault is not that we have talked of this too much, but that we have written of this too little; not that we awakened so suddenly, but that we slept too long.

The whole concept of this Union, the greatest feature of its architecture, was the concept of dual sovereignty: In certain areas, the Federal government would be supreme; in all other areas, the respective States would be supreme. Joined together, the States would yet remain separate; and remaining separate, they yet would be joined together. This was the great vision of 1787; this was the grand plan on which the whole structure of the Constitution was erected.

In seeking to protect and preserve this structure, is Virginia engaged in anarchy or sedition? Are we, as Senator Dalton suggested, setting a "bad example" of disobedience to law? On the contrary, Virginia is undertaking here to set the highest possible example of fidelity to the compact; it is we who are undertaking to abide by the agreement that others would destroy.

Our hope is that school children will be prompted by the Assembly's action to think upon these things, and to turn their prodigious energies into sober questioning of their teachers. They will find no story more absorbing in our history than the story of the last 25 years of the eighteenth century, when the colonies became "free and independent States," and then joined in ratifying a limited compact, called the Constitution, by which they and their posterity were to be governed.

Some response also may be ventured to Senator Armistead Boothe's objection to the idea that a single State, acting alone, may charge an infraction of the Constitution. He sketched what seemed to him a terrible picture of the chaos that would ensue should Texas insist that the power to fix prices on natural gas at the wellhead is not a power delegated to the Federal government, and Virginia should insist that the power to operate racially separate schools is a power reserved to the States.

But we are not terrified by this prospect. Indeed, this seems to us a far more attractive prospect than to continue under the chaotic conditions of government by an unchecked judicial oligarchy — by a court that has dizzily reversed itself 36 times in 20 years. Delegate Griffith Purcell put his finger on the constitutional answer to Mr. Boothe's objection when he emphasized, during the House debate, that under the Tenth Amendment residual powers are reserved to the States respectively—not to the States jointly, but to each respective State in its separate, individual sovereign capacity.

It is this feature of our Union of States that is so often overlooked, and needs so urgently to be better understood. Senator Harry F. Byrd, Jr., made the point clearly in his quiet rebuke to Dr. Edward E. Haddock yesterday. Richmond's freshman Senator, in his astonishing maiden speech, had pointed to the flag of the United States by the president's desk and gratuitously had read the pledge of allegiance. Senator Byrd noted that another flag—the flag of Virginia—occupies an equal position on the president's rostrum. Under the Constitution every American is a citizen not only of the United States, but also a citizen of the State in which he resides. And if it were "not for that flag and 47 others," said Mr. Byrd, "this country would not have reached its level of greatness."

The resounding votes in both House and Senate yesterday indicated Virginia's deep concern that this constitutional division of powers be restored to its old purity and strength. If by Virginia's protest and challenge, other States can be prompted to ponder the nature of our Union, the hours of work that preceded the debate will have served a most useful purpose.

Now the practical question arises: What precisely was accomplished, in a legal sense, by yesterday's Resolution? Where do we go today? Only time can answer these inquiries. In the strictest, most narrow legal sense, probably very little was accomplished; in a legal sense, our action was persuasive, declaratory, expressive of policy and opinion—nothing more. As for the future, it can be said at the moment only that Virginia has made her appeal; we must wait for our sister States to respond.

And if they never respond? Well, then, at least the appeal will have been made—earnestly and respectfully made—and we simply will have to continue along the course of measures "honorably, legally and constitutionally available to us."

The Southern States now joining in this effort to assert their constitutional powers are voyaging on an unmarked channel. The advocates of massive centralization, the doctrinaire Socialists who have seized positions of great influence, have done everything in their power to block the way. But it is a venture worth taking, wherever it leads us. Hopefully, prayerfully, it may bring us back to the principles of sound constitutional government and dual sovereignty, established by our fathers and abandoned in our own time.

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