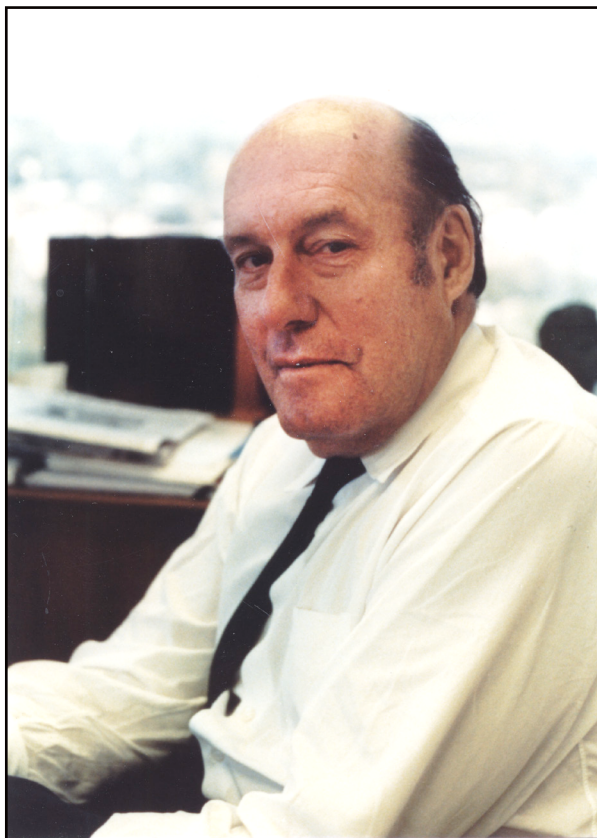


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NICHOLAS DEB. KATZENBACH



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THE PHOTOGRAPH on the front page of the *New York Times* on 12 June 1963 captured Nick Katzenbach in pictorial memory for all time. The caption was “Confrontation: Gov. George C. Wallace, left, of Alabama blocks the entrance to Foster Auditorium at University of Alabama as Nicholas deB. Katzenbach, Deputy Attorney General, attempts to get two Negroes enrolled.” The seemingly diminutive Wallace stands flatfooted behind a wooden lectern; in front and slightly to his left, Katzenbach leans toward Wallace, his greater height, and perhaps his bald pate, giving him the appearance of “towering over” the governor, as the *Times*’s 10 May 2012 obituary described the scene.

Nick Katzenbach was forty-one years old at the time of that photo, and he would go on to succeed Robert F. Kennedy as attorney general and then, at President Lyndon B. Johnson’s urging, shift to the ostensibly lesser but no less crucial post of under secretary of state. Early 1969 marked the end of Katzenbach’s eight years in high government posts, but ever thereafter he would remain widely remembered as a crucial figure. Both Kennedy and Johnson had entrusted to him the most difficult assignments, but he was never seen as anyone’s yes man.

With the memory of that 1963 picture clear in my mind, I knocked on the door of Katzenbach’s Princeton, N.J., home on the morning of 27 October 1979, only to be slightly shocked at the sight of the fifty-seven-year-old, oxford cloth shirt-attired man who warmly greeted me. Nick Katzenbach was no towering giant; indeed, he appeared to be of no more than average height at best. His *Times* obituary gave his height as 6’ 2”, but if any fact-checker had asked, 5’11” would have been fair, and perhaps charitable. Yet historical truth may indeed be relative. Some published sources assert that Governor Wallace stood at least 5’10”. While I never met Wallace in person, if you search online for “George C. Wallace” and “bantam”—in high school the future governor was a successful boxer—well over 150,000 web “hits” appear, including a 1987 *Washington Post* story calling him “bantam-sized.”

But the symbolic perception of the federal giant towering over the diminutive but defiant governor captured a fundamental legal truth, for Wallace’s “stand in the schoolhouse door” was nothing more than empty political theater. Everyone standing on those auditorium steps in Tuscaloosa that June morning fully understood that the two twenty-year-old African Americans waiting in Katzenbach’s government sedan, Vivian Malone and James Hood, would be registered as students by university officials in accord with federal court orders just a few hours after the apparent standoff ended.

The temperature was almost 100 degrees as Katzenbach approached Wallace, and several photos picture him wiping his brow with a white handkerchief as the governor read a long prepared state-

ment extolling state sovereignty and decrying the “illegal usurpation of power by the central government.” Katzenbach refused to respond in kind: “Governor, I am not interested in a show. I don’t know what the purpose of this show is. I am interested in the orders of these courts being enforced.” Wallace demurred, but Katzenbach emphasized the obvious: “From the outset, Governor, all of us have known that the final chapter of this history will be the admission of these students.” They “will remain on this campus. They will register today. They will go to school tomorrow,” and indeed they did.

The most famous day of Nick Katzenbach’s life was but a prelude to his service as attorney general and then at the State Department, but his pedigree had pointed a path toward the top rung of American life long before he walked into the cameras’ gaze that morning in Tuscaloosa. Nick’s father, a corporate lawyer, served as New Jersey’s attorney general for five years soon after Nick’s birth in 1922, but died when Nick was only twelve. Nick graduated from Phillips Exeter Academy in 1939 and then returned homeward to attend Princeton University, but soon after 7 December 1941 Nick put college aside to join the war effort as a second lieutenant in the Army Air Forces. When the B-25 bomber on which Katzenbach was serving as navigator was shot down in early 1943, Nick was captured and interned as a prisoner of war for more than two years. Upon World War II’s end, Nick persuaded Princeton that the months of reading he had been able to do as a POW qualified him to take multiple course exams immediately. Thus Katzenbach graduated from Princeton in 1945, and he immediately began law school at Yale. He graduated in just two years, served as editor-in-chief of the *Yale Law Journal*, and was named to a Rhodes Scholarship that allowed him to spend 1947–49 at Balliol College Oxford.

After briefly practicing law in New Jersey and serving in the office of the general counsel of the U.S. Air Force, Katzenbach joined the Yale Law School faculty in 1952 and four years later was appointed as a full professor at the University of Chicago’s law school. On leave in Geneva, Switzerland, during the fall of 1960, Katzenbach eagerly sought to join the nascent Kennedy administration after the November election and telephoned Byron R. White, a former football star who had worked for John F. Kennedy’s election and whom Katzenbach had known as a fellow law student. White advised Katzenbach to get himself to Washington as soon as possible. By early 1961 incoming attorney general Robert Kennedy had selected Katzenbach as the attorney general’s own lawyer, as assistant attorney general for the Office of Legal Counsel. When Byron White, the deputy attorney general, was named to the U.S. Supreme Court in early 1962, Katzenbach in turn was promoted to succeed White.

Even before that promotion, Katzenbach had been centrally involved in the administration's response to the May 1961 law enforcement crisis brought about by violent segregationist assaults upon multiple groups of "Freedom Riders" on interstate buses in three successive Alabama cities. Come the fall of 1962, Katzenbach was again at the center of the action, when President Kennedy was forced to send federal troops to Oxford, Mississippi, to ensure the desegregation of the University of Mississippi and to protect James H. Meredith, the first black student at "Ole Miss."

Forty years after he left federal service, Nick Katzenbach revisited those years in a memoir, *Some of It Was Fun: Working with RFK and LBJ* (2008), that the *Washington Post's* distinguished book critic Jonathan Yardley rightly characterized as possessing "an immediacy that I find haunting, bracing and ultimately heartbreaking." Katzenbach's portrayal of "the energy, the excitement, the hope" that was manifest throughout Bobby Kennedy's Justice Department from 1961 until 22 November 1963 captured the spirit of the Kennedy administration's best efforts both winsomely and, indeed, hauntingly. But his book also directly and honestly addressed both that administration's "muddling through" approach to successive civil rights crises and Lyndon Johnson's subsequent uncertain handling of a war in Vietnam that he desperately did not want to fight.

In civil rights, the federal government's problem "was always how to get compliance with the law," and for the Kennedy Justice Department, "our guiding principle was to attempt to persuade local officials to comply with the law" rather than to dispatch U.S. marshals or federal troops to do the job for them. Twice in succession—first with the Freedom Riders, then with the October 1962 "Ole Miss" crisis that left two bystanders dead—the administration's desire to believe and rely upon southern white officials' promises to obey the law and prevent racist violence blew up in the Kennedys' faces. "Neither Bobby nor the rest of us fully appreciated the lengths to which southern political leaders would go to try to preserve what they saw as traditional customs," Katzenbach confessed. But Meredith's successful desegregation of "Ole Miss," bloody as it was, "and the willingness of the president to use significant military force to enforce the court order" that mandated Meredith's admission "was an essential foundation to the successful integration that eventually took place throughout the South."

George Wallace's quick and peaceful capitulation at the University of Alabama eight months later was powerful testimony to the accuracy of Katzenbach's conclusion, as was the almost entirely peaceful and uneventful reception that southern states gave the Civil Rights Act of 1964—and most especially its provision prohibiting racial segregation

in public accommodations—following its enactment and signing in July 1964. Katzenbach watched first-hand as the torch that landmark civil rights bill represented was suddenly passed to Lyndon Johnson in late 1963, and Katzenbach struggled to make sense of the new president's deeply contradictory racial instincts. Especially once Katzenbach succeeded Robert Kennedy as attorney general after Kennedy stepped down in mid-1964 to run for the U.S. Senate from New York, Katzenbach saw a good deal of the new president, and "the stories and jokes he told about blacks . . . made me feel uncomfortable." Katzenbach was nonetheless "tremendously impressed" with Johnson's passion for civil rights progress and what he called "the Great Society," and when Johnson in private spoke about those policy goals, "for a brief time the politician, the wheeler-dealer, the often crude manipulator disappeared."

But the stark contrasts between Robert Kennedy on the one hand and Lyndon Johnson on the other lay at the very center of Nick Katzenbach's experiences in the top councils of the executive branch from 1961 until the last day of Johnson's presidency in January 1969. "Bobby was direct, candid, and truthful," Katzenbach wrote in *Some of It Was Fun*. "None of those adjectives could be applied to Johnson. He was the consummate politician." One "could admire the skill" with which Johnson pursued his goals, "or you could see it as deceptive and dishonest, as Bobby did." Katzenbach conceded that "it was difficult to see" Johnson "as the idealist I believe he was," but for someone like RFK, who "was to a substantial extent a moralist," Johnson was just "a consummate liar" whom he "simply did not trust." Johnson as president "made an effort, never really reciprocated by Bobby," to build a civil relationship between the two men, but RFK "often spoke disparagingly" of Johnson, and his comments were consistently "negative and often bitter."

The nadir in the Kennedy-Johnson relationship occurred several months after Katzenbach shifted from the Justice Department to State in October 1966. Johnson, wrongly believing RFK was behind a *Newsweek* story reporting that Kennedy had received a "peace feeler" from North Vietnam, asked Katzenbach to bring his friend the senator to the Oval Office. There Johnson, "almost totally out of control," loudly accused Kennedy of prolonging the Vietnam War. "'You have blood on your hands,' he shouted," Katzenbach recounted in his memoir. "I don't have to listen to this, I'm leaving," an infuriated Kennedy replied, and Katzenbach walked out with him. It was the first time Nick had seen Johnson "angry and irrational," and "it worried me for a long time."

Katzenbach believed LBJ was "essentially uninterested in foreign affairs" and saw the world strictly "in domestic political terms." Katzenbach accordingly came to think that Johnson's investment in the

Vietnam War “was motivated as much by fear of domestic political consequences if territory was lost to the Communists as it was by any serious calculations about the consequences of the loss in terms of national security.” Katzenbach believed that his own boss, Secretary of State Dean Rusk, whose tenure dated to the outset of John Kennedy’s presidency, was unwilling to offer his views to Johnson without already knowing Johnson’s attitude and that, as a result, foreign policy leadership, especially on Southeast Asia, instead “fell to more aggressive people outside” the State Department, especially National Security Advisor Walt Rostow, who in Katzenbach’s view “was absolutely dedicated to a military solution in Vietnam.”

Over time, Nick came to believe that “if LBJ ever saw a way out, he would seize on it” and that Johnson “wanted out of Vietnam as ardently as any of his critics.” The insuperable problem, though, was the domestic political one, for “the option of simply leaving Vietnam was not on the table.” LBJ “desperately wanted to get out of Vietnam but was unwilling to just cut and run.”

Katzenbach had been willing to shift to State because “I felt almost burned out” at Justice, where “much of the excitement was gone” after the glory days of the southern civil rights struggle gave way to interne-cine arguments over the meaning of “black power” and many activists left the Deep South. But Nick instead found his two-plus years at State “terribly frustrating” and believed he accomplished “few concrete things.” Bobby Kennedy’s assassination in June 1968 left Katzenbach mourning “a loss the magnitude of which may never be fully appreciated.” Even decades after leaving the State Department with the advent of the Nixon administration in January 1969, Katzenbach still felt “disappointment and sadness from the failure to end the venture in Vietnam.”

Upon leaving government, Nick became general counsel at IBM and found himself spending much of his time for the next thirteen years defending an antitrust suit that the Department of Justice had filed against the giant corporation in the last days of the Johnson administration. The government eventually dropped the case in 1982, and four years later, approaching age sixty-five, Nick left IBM and returned to the private practice of law in New Jersey. His work aiding troubled banks and telecoms sometimes brought him back into the public eye, but as popular history increasingly came to celebrate the civil rights victories of the 1960s, Nick was often turned to as an authoritative witness who could testify to his extensive first-hand recollections of John and Robert Kennedy, Lyndon Johnson, and other memorable sixties figures ranging from Wallace to Martin Luther King Jr., to his one-time ostensible subordinate at Justice, FBI director J. Edgar Hoover.

Nick Katzenbach was eighty-six years old when *Some of It Was Fun* was published in the fall of 2008. Nick stressed that “it is not intended to be a historical work of scholarship,” but as a poignant and powerful personal memoir of someone who experienced first-hand many of the most important events and personalities of a tumultuous, world-changing decade, Nick Katzenbach’s last contribution to the historical record offered a valuable legacy that will live on for generations to come.

Elected 1992

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