Keep on keeping on: The NAACP and the implementation of Brown v. Board of Education in Virginia

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https://doi.org/10.21220/e80s-xd52
Keep on Keeping On: The NAACP and the Implementation of Brown v. Board of Education in Virginia

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A Dissertation presented to the Graduate Faculty of the College of William and Mary in Candidacy for the Degree of Doctor of Philosophy

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The College of William and Mary
May 2010
This Dissertation is submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy

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Protocol number(s): PHSC 2010-02-05-6458-mpelyx

Date(s) of approval: February 8, 2010
On May 17, 1954, the United States Supreme Court handed down one of its most important decisions in the twentieth century. Brown v. Board of Education ordered twenty-one U.S. states, including Virginia, to end racial segregation in their public schools.

The National Association for the Advancement of Colored People (NAACP), a nationally-known African American civil rights organization, had led the legal campaign to bring about the Brown decision. After its victory, the organization focused on how to bring about the implementation of the decision in the South in order to effectuate school desegregation. In the later 1950s, the NAACP filed lawsuits in many southern states, including Virginia, where school boards had been unable, or unwilling, to comply.

As the possibility of school desegregation grew, white southerners bitterly attacked the NAACP and proponents of integration. In Virginia this led to state-sanctioned investigations of the organization, among other things. Utilizing legislation passed by the state legislature, the governor of Virginia also closed public schools in several Virginia communities in the fall of 1958 to avoid desegregation. The following January, state and federal courts overturned the state's school closing laws, and in February 1959 initial school desegregation began in Virginia. Afterward, the state allowed token, or minimal, school desegregation in an attempt to both avoid judicial scrutiny but also maintain as much segregation as possible.

In the 1960s the federal government demonstrated a renewed commitment to school desegregation, and both legislative and executive action pressured the southern states, including Virginia, to increase the amount of school desegregation taking place within their borders. In the late 1960s, the U.S. Supreme Court handed down a series of new school desegregation decisions, starting with Green v. New Kent County (Virginia) in 1968, which sped up the desegregation process in the South.

This dissertation examines the NAACP, Virginia's political leaders, white liberals and moderates, and segregationists during this tumultuous time in Virginia's history. Outside of the desegregation of public education, the manuscript also considers the desegregation of higher education, public transportation and accommodations, the expansion of black voting rights and political activity, racial violence, and related civil rights issues. Blending social, legal, political, and African-American history, this dissertation seeks to shed new light on the Civil Rights Movement and white resistance to civil rights in Virginia and the South.
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DEDICATION

To all the people who never gave up hope.
ACKNOWLEDGEMENTS

This dissertation is the result of many years of hard work involving many people. I don't have the opportunity to list them all but I would like to especially thank my dissertation committee, particularly my advisor Melvin Patrick Ely. I would also like to thank the various archivists and librarians who have helped me out over the years—you know who you are. Lastly and most importantly I would like to thank my parents and my family.
Introduction

The fiftieth anniversary of the Brown v. Board of Education decision in 2004 brought a significant increase in publications and other scholarly activity related to the history of school desegregation in the United States. Conferences, journals, books, and films examined many stories assessed the Brown decision's impact and legacy. Yet an important part of the Brown story remained largely untold—how African Americans and predominantly black civil rights organizations worked to implement the Supreme Court's decision after 1954. This dissertation seeks to address that historiographical gap by examining African American efforts to put the Brown decision into effect in Virginia.1

While considering how government officials, segregationist organizations, and white supporters of desegregation influenced the process of implementation, this work focuses on how the National Association for the Advancement of Colored People (NAACP) and its supporters sought to bring about school desegregation in the state. In doing so, this dissertation aims more broadly to fill a gap in the historiography of Virginia during this era by discussing and analyzing the goals and activities of its African-American population.2

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A handful of historians have examined the NAACP’s legal campaign leading up to the Brown decision, from roughly the 1930s to 1954, but few accounts of its school desegregation campaign after 1954 exist. Furthermore, while histories of the other leading civil rights organizations have appeared, no comprehensive history of the NAACP has been written in recent years. These gaps have contributed to a lack of full understanding of the school desegregation process and the early civil rights era. Equally important, the scanty attention to the period after Brown has contributed to a lack of understanding and appreciation of the NAACP as one of the leading civil rights organizations of this era. The historian Adam Fairclough explains, “The NAACP is, paradoxically, the most important but also the least studied of the civil rights organizations.”

Yet this dissertation attempts to provide a holistic portrayal of the school desegregation struggle in Virginia rather than tell the story from the African-American or the white perspective exclusively. Events of the time unfolded in a complex, and multi-racial, environment, so it is important to tell the story in an appropriately comprehensive manner. The result—to the extent it is successful—blends African American, Virginia, southern, legal, and civil rights history in a way that allows the reader to obtain a broad understanding of the story of how school desegregation came about in Virginia.

Linking the various facets of the school desegregation story in one narrative also highlights contributions and relationships that were previously unrecognized. Most published histories of school desegregation in Virginia, for example, have failed to

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incorporate the African-American perspective, thus implying that African-Americans did not significantly shape or influence the struggle over school desegregation in the state.

One example of this problem concerns the rise of massive resistance in Virginia. As described in Chapter 3, scholars have generally portrayed this legal and political movement, which was partly born in Virginia, as a white southern attack on the federal government countered by that government’s determination to bring about school desegregation in the South. Told largely from the white perspective, these analyses of the rise of massive resistance in Virginia gloss over the state’s black population and its highly successful NAACP units. Scholars have failed to recognize the important relationship between the NAACP’s actions and the development of the massive resistance movement in the mid-1950s; in particular, they have not often shown how worried segregationists were about the association’s activities. Examining the rise of massive resistance in the context of the NAACP’s school desegregation efforts, however, highlights the complex interplay of events which led to and fueled this anti-desegregation effort. It would also be a mistake to fail to recognize how the actions of white Virginians--government officials, segregationists, moderates, or liberals--affected African-Americans in Virginia during this era. Although a growing body of scholarship rightly, and importantly, addresses activities of black Virginians, it is important that this story be placed in the context of broader occurrences and influences. To continue the example from above, it is essential that one recognize not only the impact of the NAACP on the rise of massive resistance, but also how massive resistance affected the NAACP.

One of the unintended byproducts of my research on the implementation of Brown v. Board of Education in Virginia has been a better understanding of the early
years of the civil rights movement in Virginia more broadly. There is no overarching monograph on the civil rights era in Virginia, and much civil rights scholarship focuses on dramatic and sensational events which occurred outside the state. As the historian Robert Pratt, a native Virginian, mused in 1996: “One of the questions that students ask most often is, ‘While civil rights battles were being fought in the streets of Birmingham and Selma, what was going on in Virginia?’ Unfortunately, I can never provide an answer that satisfies either them or me.”

Although this manuscript focuses on the school desegregation story and does not attempt to convey the broader history of the civil rights era in Virginia, there are many places where the two phenomena overlap. Indeed, the struggle to implement Brown v. Board of Education in Virginia fueled, both directly and indirectly, the larger and ultimately better-known struggle that we call the civil rights movement. When I digress from telling the history of school desegregation in Virginia, it is often to shed light on the relationship between the campaign for school desegregation and the broader struggle for racial equality that occurred about the same time.

This dissertation assumes and asserts the importance of the state—in this case, Virginia—as a unit in the school desegregation process. Individual states controlled their respective education policies, and state leaders, sometimes quite eagerly, assumed primary responsibility for responding to Brown. The NAACP, in planning its implementation efforts, assumed that each state would react differently, and that the association should vary its activities depending on the states’ responses. After the association’s 1954 annual conference, Marshall stated, “the state level is the

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implementation level of national policy.” And in 1955 he added, “We’re going to actually adopt what we’re going to do state by state, that’s what I hope. For example, we’re going to treat Georgia one way, we’re going to treat Maryland another way.”

Organizing its implementation campaign in this way allowed the NAACP to respond to the individual policies of the southern states, while also allowing the association to take full advantage of its State Conferences—vital and important links in the association’s hierarchy.

Virginia played a crucial role throughout the entire process. One of the four cases decided under the rubric of Brown--Davis v. Prince Edward County--was filed in Virginia, and that litigation was handled largely by attorneys from the Virginia NAACP, which was the largest state unit of the organization in the South. Subsequently, Virginia was the birthplace of massive resistance, and state officials led southern opposition to school desegregation in a variety of ways. Later, it was a second Virginia school desegregation lawsuit, the historic Green v. New Kent County, that led the United States Supreme Court in 1968 to order the fulfillment of Brown v. Board of Education some fourteen years after the original decision.

Even a casual reading of this dissertation, however, shows that it does not exclusively focus on the state level. If it is important to incorporate a variety of perspectives within the state of Virginia into the story, it is important to consider local, regional, and national influences as well. The NAACP, for instance, was a national organization based in New York City during this period, and its national office

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significantly shaped the association's school desegregation policies. Other national considerations affected school desegregation in Virginia--including the Brown decision itself, the policies of a series of presidential administrations, and school desegregation events outside of the state. On the other hand, local considerations sometimes had the greatest impact. In the end, I believe that neither a top-down approach (focusing on the national perspective) nor a bottom-up approach (focusing on localities) provides the best means of understanding southern school desegregation during this era. Rather, we need analyses which combine and connect these various layers of analyses.

Understanding such a complex story requires a wide variety of sources of primary (i.e. contemporary) information. For the NAACP, the key resource is the Papers of the NAACP collection at the Library of Congress. This manuscript collection includes records from the national NAACP, the Virginia State Conference, and local branches of the NAACP from throughout Virginia. Because of this, the collection provides invaluable insights into the goals and actions of the organization and the African-American community more broadly. The records of related organizations, such as the Virginia Council on Human Relations, or those of other civil rights organizations, help us understand non-NAACP proponents of school desegregation in Virginia.

Newspapers are another essential tool for understanding and telling this story. During the era of segregation, newspapers throughout the region catered to racially-defined audiences, so both white and African-American publications provide useful insights into the thinking and actions of civil rights proponents and opponents. Newspapers also place events in Virginia in the broader context of regional and national events. My own research has also been complemented by a number of interviews that I
was able to conduct with individuals who were active in Virginia’s school desegregation campaign during the 1950s and 1960s. Most notable among the individuals I had the pleasure to speak with at length are the late Judge Robert Merhige, Jr., the late Oliver Hill, head of the Virginia state NAACP’s legal staff during this era, and one of his protégés, now-State Senator Henry Marsh. Their memories served as an invaluable link to the records of the past and allowed me to see both how far we have come and how far we yet have to go to provide a quality education to all children regardless of their race or background.
Chapter 1, 1902-1954

“A Source of Great Consternation”: The NAACP and the Roots of Brown v. Board of Education in Virginia

Racial segregation in Virginia’s public school systems dated from their founding just after the Civil War. Thirty years later, the state’s 1902 constitution reiterated the requirement for segregated education. During the debate over the constitution’s adoption, Paul Barringer, chairman of the faculty at the University of Virginia, argued that educational opportunities for African Americans should be limited to “Sunday-school training,” because the principal function of black Virginians was as a “source of cheap labor for a warm climate.” Barringer’s words reflected the beliefs of many Virginia leaders.¹

The results were devastating for black education. As elsewhere in the South, Virginia did not live up to the “separate but equal” doctrine, established by the U.S. Supreme Court in Plessy v. Ferguson in 1896. That principle required the state to provide equal public facilities, including schools, for blacks and whites. Throughout Virginia, African-American school facilities, teacher salaries, educational equipment, supplies, and course offerings suffered. Historian J. Douglas Smith points out that state

and local governments in Virginia in 1925 spent an average of $40.27 per year on each white public school student, but only $10.47 on each black. In 1940, L. P. Whitten, a black citizen of Abingdon, wrote the national NAACP’s Director of Branches: “If you will see that it is carried in the Pittsburgh Courier, I can secure pictures of all schools here so that the public may know of the deplorable conditions.”

Higher education for African-Americans in Virginia suffered from similar disparities in state funding. As Paul Barringer’s words at the beginning of the twentieth century showed, many of Virginia’s leaders believed that higher education for blacks should remain limited if it were offered at all. Every college and university in Virginia was strictly segregated, and the black institutions received significantly less state support. In 1942, there were thirty-eight institutions of higher learning for whites in Virginia, but only six for blacks. None of the black schools offered courses in law, engineering, or medicine—which meant that few blacks worked in these professions. In 1940 there was one white lawyer for every 636 white persons in Virginia, but only one black lawyer for every 13,780 blacks. Clearly, segregation restricted the educational opportunities of African-Americans throughout the Commonwealth.

In the 1930s, the Virginia NAACP mounted legal attacks against these inequities as part of a school equalization campaign initiated by the national NAACP. The coordinated legal effort pressured the South to provide equal educational opportunities to black and white public school students, relying on the “separate but equal” clause of the Constitution.

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2 Statistic is from Smith, Managing White Supremacy, 135; see also 234-235. For more on separate but unequal education in Virginia, see Hill, The Big Bang, 136; Kluger, 134, 472; Special Release, October 31, 1947 by the Press Service of the NAACP, Part II, Box C211, Virginia State Conference, 1947, Papers of the National Association for the Advancement of Colored People, Manuscripts Division, Library of Congress, Washington, D.C. (hereafter cited as NAACP Papers). Quotation is from Letter from L. P. Whitten to William Pickens, August 14, 1940, Part II, Box C203, NAACP Papers.

Plessy decision. As part of the process, the state NAACP filed lawsuits to force Virginia to appropriate additional money for black elementary and secondary schools and for black teacher salaries. In addition to improving black educational opportunities, the campaign sought to highlight the financial cost of segregation in an attempt to undermine white support for its existence. At the same time, the state NAACP filed lawsuits seeking the admission of qualified black students into white colleges and universities when those students wanted to enroll in programs not offered at black schools in Virginia. This effort led to the creation of a graduate school for blacks at Virginia State University as well as the Educational Equality Act of 1936, which provided state funding to black students who wanted to attend graduate programs outside Virginia. In 1950 the state NAACP also obtained a United States Court of Appeals for the Fourth Circuit decision ordering the admittance of Gregory Swanson, a black citizen from Danville, into the University of Virginia's law school. Throughout the pre-Brown era, NAACP attorneys in Virginia played a leading role in the NAACP's South-wide equalization effort, gaining legal experience and strengthening the state NAACP's relationship with the national office of the NAACP.

Located in New York City, the national office of the NAACP constituted the highest level of this traditionally hierarchical organization. Its staff made the major


5 Smith, Managing White Supremacy, 244-248.

policy decisions for the NAACP, under the oversight of the association’s board of directors. The executive secretary and his staff ran the office; Walter White served in that position from 1931 until 1955, and Roy Wilkins thereafter. The national office also housed the association’s many departments and their staffs, which carried out a variety of tasks. Among the most important for the school desegregation campaign were the Branch and Membership departments, which oversaw local NAACP chapters and members.7

The national office worked closely with the NAACP Legal Defense and Educational Fund (the LDF, also known as the Inc. Fund), a separate but closely-related organization that was created in 1939 to handle much of the NAACP’s legal work. Prior to the creation of the Inc. Fund, the NAACP’s litigation had been handled in-house, initially by a volunteer group of white attorneys, and then, beginning in 1935, by a cadre of black attorneys led by Charles Hamilton Houston. Houston hired a young black attorney from Baltimore named Thurgood Marshall in 1937, and Marshall quickly established himself as a crucial member of the organization. When the NAACP created the Inc. Fund to take advantage of new laws governing tax-exempt status for non-profit organizations in 1939, Marshall was chosen to lead the organization.8


8 The NAACP continued to maintain a legal department separate from the Legal Defense Fund; see Kluger, 165, 221. For more on the Legal Defense Fund, see Warren St. James, NAACP: Triumphs of a Pressure Group, 1900-1980 (New York: Exposition Press, 1980), 206, which notes that the two organizations had overlapping board and staff members. See also August Meier and John H. Bracey, Jr.,
Within the NAACP, the level below the national office (and the Legal Defense Fund) in the association's hierarchy was occupied by the NAACP's state headquarters, known as State Conferences. State Conferences were charged with establishing and overseeing NAACP branches within their jurisdiction, which often meant counseling and encouraging nearly-defunct branches. Most State Conferences also held annual gatherings of all the state's membership, which is where the name “conference” originated. Most important, the State Conferences were expected to publicize and implement national office policies.

Located in Richmond, the Virginia State Conference had been created in 1935—the first in the nation. The Virginia NAACP was also the largest in the United States in 1941, with 39 branches. By the late 1940s, the Virginia State Conference oversaw approximately one hundred local branches throughout the state, and the Virginia State Conference was regularly lauded by the national NAACP as one of its most important state units. Its successful implementation of national office policies and its rapid growth encouraged the national office to create other State Conferences throughout the nation and allowed the Virginia State Conference to develop a particularly strong relationship with the national office of the NAACP.9

9 The phrase “State Conference” can also be used to collectively describe the members of the NAACP in a particular state—e.g., the “Virginia State Conference” was made up of 25,000 members. Generally, however, the term referred to the state office or headquarters in Richmond. On the Virginia State Conference in 1941, see Larissa M. Smith, “A Civil Rights Vanguard: Black Attorneys and the NAACP in Virginia,” in Peter Lau, editor, From the Grassroots to the Supreme Court (Durham: Duke University Press, 2004), 141. See also Finch, 20; Morris, 13; Janken, 73-74, 77; Muse, 50; Buni, 177; Hill, 179; Warren St. James, The National Association for the Advancement of Colored People: A Case Study In Pressure Groups (Smithtown, NY: Exposition Press, 1958), 75. The NAACP hierarchy also included a regional office system that was developed in the late 1940s to provide additional support for branches, but
The NAACP’s State Conferences also handled a significant amount of legal work. Many State Conferences, including Virginia’s, maintained a network of attorneys located throughout the state who cooperated on civil rights litigation and implemented the national office’s legal strategies. Although generally paid for their NAACP work, attorneys on the State Conference legal staff earned their livelihoods by handling non-NAACP litigation in private practices; their commitment to civil rights transcended monetary gain. Oliver White Hill of Richmond led the Virginia State Conference legal staff during the 1940s and 1950s. In this role, Hill recruited and cultivated a cadre of black attorneys from throughout Virginia, allowing the State Conference to carry out an extensive legal campaign in state and federal courts. By expanding the number of cases that could be handled by the State Conference, Hill’s legal staff contributed significantly to the success of the NAACP’s legal efforts.10

In 1940, Virginia State Conference attorneys working with national NAACP attorneys including Thurgood Marshall won a major ruling from the United States Court of Appeals for the Fourth Circuit. In Alston v. City School Board of Norfolk, the court held that racial discrimination in teacher salaries in Virginia violated the equal protection clause of the Fourteenth Amendment. The U.S. Supreme Court refused to hear the case on appeal, allowing a legal precedent to stand that the NAACP went on to use in the 1940s to attack unequal school facilities, transportation, and the like. The Virginia

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NAACP, and particularly Oliver Hill’s legal expertise, had been crucial to obtaining the decision. The state NAACP’s close working relationship with the national office of the NAACP—on equalization and civil rights issues more generally—would continue through the remainder of the decade and beyond.\footnote{11 Kluger 215-217; James H. Hershman Jr., “A Rumbling in the Museum: The Opponents of Virginia’s Massive Resistance,” (Ph.D. diss., University of Virginia, 1978), 18; Hill, The Big Bang, 132-133; Smith, Managing White Supremacy, 271-273; “Oliver Hill: A Journey Down the Civil Rights Road,” Richmond News Leader (hereafter cited at RNL), January 15, 1992; Oliver White Hill, interview with Brian Daugherity, April 18, 2000; Oliver White Hill, interview with Brian Daugherity, December 22, 2002.}

In 1947, the national office allowed the Virginia State Conference to hire a full-time executive secretary to coordinate the organization’s efforts. In June of that year, W. Lester Banks, a former school principal and World War II veteran, became the first full-time, paid State Conference executive secretary in the nation—again reflecting the importance of the Virginia NAACP. His salary was paid by the national office, which increased the amount of money it collected from State Conference memberships to cover the additional expense. By 1954, largely as a result of Banks’s efforts, the Virginia State Conference boasted a membership of twenty-five thousand in more than a hundred branches around the state, making it the largest in the South.\footnote{12 For information on Banks’s hiring and salary, see Letter from The Executive Board of Directors of the Virginia State Conference to Dear Member [a blank form, but the figures are for the Newport News, Virginia, branch], October 5, 1945, “Re remittances to the National Office, New York, from membership dues,” Part 26, series A, reel 23, frame 706, NAACP Papers Microfilm; Hill, The Big Bang, 99, 179. On the Virginia State Conference being the largest in the South, see Buni, 177; Hill, 179, 186.}

Within the NAACP hierarchy, the State Conferences also served as the link between the national office and the lowest level of the hierarchy, the NAACP’s local branches. A branch, sometimes referred to as a chapter, was made up of a minimum of fifty dues-paying members (renewed annually). Each branch represented a particular locality, typically a city or a county. Branches were chartered by the national office, but were overseen by the State Conference in which they resided. By the 1940s, many
southern communities had NAACP branches, though the level of vitality varied greatly from chapter to chapter, and branches whose membership fell below the required number were regularly disbanded by the national office. Before the 1950s, NAACP branches often depended on the support of the more economically independent, or wealthier, members of the local black community. Day-to-day branch work was often carried out by a small, active executive committee, with strong ties to local churches and social and civic organizations. Branch objectives and policies were determined by the national office, typically as part of its national or regional strategy, and the national office also assigned annual membership and fundraising goals to its branches.13

Founded in the 1910s, Virginia’s earliest NAACP branches were among the first in the South. The organization grew slowly until the establishment of the State Conference in 1935, and then expanded significantly during and after the Second World War. During this era, Virginia’s largest branches were in Norfolk and Richmond, in each of which annual memberships reached five thousand in the late 1940s. Branches in other cities were also reliably active; county branches, particularly in rural areas, less so. In virtually every community, black churches supported the organization. The leaders of Virginia’s NAACP branches worked in a variety of vocations; women were notably active, including in the highest leadership roles (this could not be said of the State Conference or the national office). Several branches, most commonly in northern

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13 Morris, in Origins, 33, notes, “Decision-making within the NAACP was highly centralized. Most plans of action had to be cleared through the hierarchy in New York.” Membership cards were issued by the national office, which carefully monitored the membership process. The national office regularly pressured its State Conference and branch presidents to increase the number of memberships, resulting in periodic complaints from staff members and branches who sometimes felt membership drives outweighed actual NAACP programming; see for instance, Letter from Lucille Black to Ruby Hurley, January 27, 1954, and Letter from Lucille Black to Ruby Hurley February 11, 1954, Part 25, series A, reel 4, NAACP Papers microfilm.
Virginia, also contained white members, and a small number of white volunteers were active in state NAACP matters throughout the civil rights era. 14

The NAACP was not a mass-based civil rights organization. Although the Virginia State Conference was the largest black civil rights organization in the state in the 1950s, its membership was limited to only a small percentage of the state’s black population. While the State Conference included twenty-five thousand dues-paying members at mid-century, Virginia’s black population at the same time numbered roughly 750,000. The relatively small number of members was due to the national NAACP’s annual membership fee as well as the national office’s strictly-enforced requirement that branches contain at least fifty dues-paying members. Transportation issues made it more difficult to recruit members in rural areas, particularly during World War II, as did greater white resistance. As a result, the largest NAACP branches in Virginia (and throughout the South) were in urban areas, and the organization’s civil rights efforts were often concentrated in cities as well. 15

Most African Americans in Virginia were concentrated in two large geographic regions—Southside (southern) and Tidewater (eastern) Virginia. Roughly speaking, these two areas lie between Richmond and Lynchburg in the North, Martinsville in the West, North Carolina to the South, and the Chesapeake Bay and Atlantic Ocean to the East. As of the 1920s, approximately seventy-five percent of Virginia’s black population resided

14 On Virginia’s earliest NAACP branches, see Hershman, 17; Smith, Managing White Supremacy, 243.
15 For Virginia’s black population figures, see Buni, 194; Hershman, 10. For Virginia NAACP membership figures, see Letter from Lucille Black to William Abbot, November 5, 1954, Group II, Box C212, NAACP Papers; Muse, Virginia’s Massive Resistance, 47. For national NAACP membership policies, see Letter from Lucille Black to John Henderson, December 8, 1941, Part 26, series A, reel 23, frame 643, NAACP Papers microfilm. Paying the annual membership fee was challenging after the NAACP raised it to $2 in the mid-1940s. For Norfolk-Richmond branch figures, see Letter from Gloster Current to Jerry Gilliam, November 21, 1947, Part II, Box C207, NAACP Papers; Letter from Lucille Black to Lester Banks, May 12, 1949, Part II, Box C211, Virginia State Conference 1949, NAACP Papers.

Throughout the South, white opposition to racial change was greatest in areas with large black populations, and this was true in Virginia as well. Southside and Tidewater were known as the most racially intransigent sections of the state, and here blacks faced a variety of pressures to conform to the racial standards of the day. Blacks who lived in urban areas within the two regions were less directly affected than those in rural areas, but challenges to white supremacy or segregation were taken seriously throughout this area. The NAACP’s principal opponent in the struggle to improve the status of African-Americans in the Commonwealth was also based in Tidewater and (especially) Southside Virginia. This was the state’s Democratic political machine, the Byrd Organization.

As governor in the 1920s, Harry Flood Byrd Sr. had used patronage to create a political oligarchy that ruled Virginia during the mid-twentieth century. In positions of power throughout the state government, members of his organization implemented Byrd’s plans and ideas with great effectiveness. Future Governor J. Lindsay Almond, Jr., explained the Byrd Organization this way: “It’s like a club except it has no bylaws, constitutions, or dues. It’s a loosely knit association, you might say, between men who
share the philosophy of Senator Byrd.” In 1949, in *Southern Politics in State and Nation*, V. O. Key wrote, “Of all the American states, Virginia can lay claim to the most thorough control by an oligarchy.”\(^{17}\)

Byrd ran the organization from Washington D.C., where he represented Virginia as a U.S. Senator from 1933 to 1965. A Southern Democrat known for his fiscal conservatism, Byrd regularly clashed with the national Democratic Party on spending issues and matters related to civil rights. Though not virulently racist, the Byrd Organization’s leadership strongly supported segregation, defining its stance as an effort to defend states’ rights.\(^{18}\)

By the late 1940s, the national Democratic Party’s growing support for civil rights clearly concerned Senator Byrd. The migration of millions of African-Americans to the nation’s northern cities, where they voted with few restrictions, had attracted the attention of northern, and national, political figures in the 1930s and 1940s. Moreover, Franklin D. Roosevelt’s New Deal and his attention to African-American leaders had produced a steady migration of blacks from their traditional Republican home into the national Democratic Party. In part because of these trends, President Harry Truman (1945-1953), who succeeded Roosevelt, became the strongest supporter of civil rights of any president in the twentieth century up to that time. Truman’s remarks to the NAACP’s annual


\(^{18}\) Although Byrd was not from Southside or Tidewater Virginia, the two regions provided his organization its strongest support and most committed members throughout this era. Potential black voters in Virginia faced a number of formidable obstacles; black voter registration hovered between ten and twenty percent of eligible black voters during the Jim Crow era. For more on the Byrd Organization, see Muse, 25-26; J. Harvie Wilkinson III, *Harry Byrd and the Changing Face of Virginia Politics 1945-1966* (Charlottesville: University Press of VA, 1968); Ronald L. Heinemann, *Harry Byrd of Virginia* (Charlottesville: University Press of VA, 1996). Hershman, 129, notes that “the Byrd Organization exercised awesome, near complete, power throughout the state and local governments.”
convention in 1947, his administration’s civil rights report in the same year titled “To Secure These Rights,” and his executive order of 1948 integrating the United States military demonstrated that Truman understood something about the level of black discontent in the United States and the reasons behind it.¹⁹

Truman’s actions and the growing support for civil rights within the Democratic Party, however, raised concerns among southern Democrats, including Senator Byrd. At the 1948 Democratic national convention, a number of southern party leaders walked out and created a separate political party for the upcoming presidential election. Byrd chose not to walk out of the convention, but the senator refused to endorse Truman in the general election. Though the Dixiecrats’ efforts failed to attract widespread support (Virginia’s Electoral College votes went to Truman), their displeasure reflected white southern opposition to Truman’s racial policies and his growing support for civil rights, even as African-Americans celebrated these same changes.²⁰

Adding to the Byrd Organization’s concerns in the 1940s was the growing success of the NAACP’s school equalization campaign. After the United States Court of Appeals for the Fourth Circuit ruled in favor of the NAACP in *Alston v. School Board of the City of Norfolk* in 1940, the NAACP expanded its school equalization campaign in Virginia, filing additional lawsuits statewide, particularly in the later 1940s. State Conference attorneys handled the litigation, in close consultation with Thurgood Marshall and his assistants. Increasingly, the lawsuits targeted unequal school facilities, including school buildings and the facilities within the buildings. By the end of the decade the Virginia NAACP had filed salary or facilities equalization lawsuits against more than a hundred

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school districts throughout the state, a time-consuming legal process that was required because each district was locally administered (a similar process would be required to desegregate southern schools in the 1950s). In the end, the number of equalization lawsuits filed in Virginia was far greater than in any other southern state, reflecting the importance of the Virginia State Conference to the national office of the NAACP as well as the state NAACP’s strength and vitality in the 1940s. During this time, State Conference attorneys, because of their expertise, also helped with equalization lawsuits in other states. As the NAACP won court-ordered improvements throughout Virginia, state officials set aside increasing amounts of money for black education, particularly for the construction of new schools, and in the early 1950s the Washington Post estimated that the NAACP’s lawsuits had forced Virginia to spend over fifty million dollars equalizing teacher salaries and school facilities. The victories, which were reported on and discussed in the state’s black newspapers, also helped the NAACP attract memberships, particularly among African-American educators.\(^{21}\)

World War II occurred in the middle of the NAACP’s equalization efforts, and the conflict had a mixed impact on the struggle for racial equality. On the one hand, a number of civil rights leaders from Virginia entered the military, including Oliver Hill, W. Lester Banks, and S. W. Tucker, as did tens of thousands of other southern blacks. Without a doubt, their absence slowed the push for racial equality—Hill even suspected

that Harry Byrd purposefully had him drafted to hinder the equalization campaign. In their absence, State Conference President J. M. Tinsley, attorney Spottswood Robinson, and countless local leaders struggled to fill the void. At the same time, World War II clearly increased African American aspirations for better treatment, in part because the nation’s stated war aims—including the defense and extension of basic human rights and civil liberties—seemed at odds with the realities of southern society. Throughout the war years, the membership of the national NAACP grew dramatically. Afterwards, black veterans, including Hill and Tucker, returned home more committed to racial change than ever before, and they were encouraged by growing signs of broader black discontent. In Virginia and elsewhere, the postwar era witnessed a growth in activism that revitalized the struggle for civil rights and propelled it to new levels.22

One example of rising black discontent occurred in Middlesex County, Virginia, during the war. In July 1944, Irene Morgan, a twenty-seven year-old mother of two, was arrested for refusing to give up her seat on a Greyhound bus traveling to Baltimore. In the process, Morgan tore up her ticket in front of the arresting officer and kicked him, as Morgan later explained, “where it would hurt a man the most.” Morgan turned to the NAACP for help, and the State Conference appealed her conviction (which had occurred in Virginia courts) to the U.S. Supreme Court, with help from Thurgood Marshall and the Legal Defense Fund. Before the Supreme Court, NAACP attorneys argued that Morgan’s status as an interstate passenger provided her with federal protection, trumping state laws requiring segregation. The court concurred, ruling that segregation on

interstate bus lines was unconstitutional because it interfered with interstate commerce. As might be expected, the decision was widely praised among African-Americans in Virginia, who increasingly viewed the NAACP as their most effective vehicle for racial change.\footnote{Hill, The Big Bang, 142; Kluger, 238; Tushnet, Making Civil Rights Law, 72; “Her Refusal Made History,” Richmond Times-Dispatch (hereafter cited as RTD), August 6, 2000; “Clinton Honors Virginia Rights Figure,” RTD, January 9, 2001.}

One key to the NAACP’s success during the 1940s was the personal relationships among its leading attorneys. Thurgood Marshall and Oliver Hill, for instance, had graduated first and second, respectively, in the Class of 1933 at Howard University’s Law School—while also becoming, as Hill recalled, close friends. Spottswood Robinson also attended Howard Law, graduating a few years after Marshall and Hill. Trained, like Hill and Marshall, by Charles Hamilton Houston, “Spot” earned the highest grade point average ever from Howard Law and later served as its Dean. Throughout the Morgan litigation, the NAACP’s equalization campaign, and more importantly during the litigation leading to Brown v. Board of Education and its implementation, the close relationship between Marshall, Hill, and Robinson helped ensure that the Virginia State Conference of the NAACP would be crucial to the national NAACP’s legal efforts.\footnote{For more on Marshall, Hill, and Robinson, see Kluger, 179-180, 197, 253, 324, 472, 471; Hill, The Big Bang, 62, 79-81; Muse, Virginia’s Massive Resistance, 48. Hill affectionately referred to Marshall as “turkey”; he claimed the special counsel strutted like one. Marshall, in response, dubbed Hill “peanut.”}

In the late 1940s, the Legal Defense Fund focused much of its attention on equalizing higher education opportunities for African-Americans in the South. LDF lawsuits against the University of Oklahoma and the University of Texas both led to significant NAACP victories. In 1948, the Supreme Court ordered the admission of a black graduate student, Ada Sipuel, to the University of Oklahoma because the state did
not offer a comparable educational opportunity to African-Americans. Subsequent cases raised questions about whether the South's newly and hastily created black programs were, or could be, equal to longstanding white institutions. In *Sweatt v. Painter* (1950), for instance, the U.S. Supreme Court ordered the admission of Heman Sweatt to the University of Texas Law School because "intangible factors" such as the reputation of a hastily-created black law school, and its networking connections for black graduates, were inferior to those of the white school. To Thurgood Marshall and his colleagues at the LDF, the Supreme Court by now seemed to be pondering the legality of segregation itself.\(^{25}\)

All along, the NAACP had hoped that its equalization lawsuits would establish legal precedents supporting an NAACP attack on the constitutionality of segregation.\(^{26}\) The association's litigation seeking equal teacher salaries and school facilities at the primary and secondary levels in the 1930s and 1940s failed to do this, as the court decisions merely reaffirmed the "separate but equal" doctrine. Moreover, though the association's salary and facilities equalization lawsuits had noticeably improved the educational opportunities available to African-Americans in the South, the cost to the NAACP, in terms of time and money, had been significant. Forced to file lawsuits against each individual school district, for instance, the Virginia State Conference's legal staff was spread thin as its equalization campaign continued in the late 1940s.

\(^{26}\) In 1935, at the beginning of the NAACP's equalization campaign, lead attorney Charles Hamilton Houston declared, "The ultimate objective of the NAACP's new legal drive was the abolition of all forms of segregation in public education..."; Kluger, 193. See also Tushnet, *Legal Strategy*, 103; Program, 25th Annual Convention of the Virginia State Conference of NAACP, October 7-9, 1960, Richmond, VA, Part 3, Box C159, Virginia State Conference, 1960, NAACP Papers.
The NAACP’s lawsuits against colleges and universities in the South, however, produced direct support for the organization’s long-term goal of attacking the constitutionality of segregation itself. The higher education court rulings, most of which came from the U.S. Supreme Court, dealt more explicitly with the impact of segregation on African Americans than the association’s primary and secondary school equalization lawsuits. In case after case at the higher education level, the NAACP asked the court to narrow the legal justifications for segregation, a process which inevitably forced the justices to consider the institution as a whole.

By mid-century, both the shortcomings of the equalization strategy and the increasingly positive rulings emanating from the U.S. Supreme Court convinced the NAACP that the time was right for a change in strategy. In 1948, the organization’s board of directors approved a policy change allowing the NAACP’s attorneys to directly challenge the constitutionality of southern segregation laws. Thurgood Marshall and his assistants had argued for this change and put it into effect almost immediately. By 1950, all new education cases filed by the NAACP challenged the legitimacy of southern segregation laws.27

The key to the NAACP’s new legal strategy was the belief that segregation was discriminatory and harmful. Rather than existing as an unbiased arrangement that affected blacks and whites equally, as the Supreme Court suggested in 1896, the NAACP viewed segregation as a system that disproportionately, and negatively, affected African-Americans. The fact that southern schools were so disparately funded supported the NAACP’s claim, as did psychological evidence gathered in the late 1940s by Dr.

27 The NAACP often included a request for equalization too, so that if the courts ruled against its attack on segregation, the NAACP could still win a victory. Tushnet, Making Civil Rights Law, 155-156.
Kenneth Clark which suggested that segregated education harmed the morale of black students. In its new lawsuits, the NAACP argued that segregation harmed African-American by denying them the treatment that whites received, and that the arrangement was therefore a violation of the Fourteenth Amendment’s equal protection clause.

The Virginia State Conference welcomed the national office’s decision to challenge the legality of segregation. State Conference attorneys had worked closely with national NAACP attorneys throughout the equalization campaign, and had regularly traveled to New York City to discuss and debate legal strategies. By the late 1940s, Spottswood Robinson had joined the Legal Defense Fund’s paid staff part-time as a southern representative, and Oliver Hill’s close relationship with Thurgood Marshall meant the Virginia State Conference’s legal staff played an integral role in the national NAACP’s legal proceedings within the state. Hill, Robinson, and the remainder of the State Conference’s legal staff quickly began to work toward implementation in Virginia of the association’s new legal strategy.28

How African Americans in Virginia and elsewhere would react to the new strategy, however, was unclear. Spottswood Robinson reported to Thurgood Marshall in 1950 that he knew of no instances in which black organizations had refused to go along with the NAACP’s new policy, but Robinson also believed the association would have a difficult time finding plaintiffs in Virginia who were committed to attacking segregation outright. To do so was to engender the animosity of the local white community and to invite retribution. Talking about the NAACP’s abandonment of equalization and its new frontal attack on the constitutionality of segregation, NAACP Labor Secretary Herbert Hill later recalled: “There was lots of resistance in the branches because real progress

28 Tushnet, Making Civil Rights Law, 155-156.
toward equalization was now beginning to be made in schools and other facilities like parks, libraries, and swimming pools."²⁹

In Virginia, it was another World War II veteran, L. Francis Griffin, who connected the NAACP to its most important lawsuit of this era, *Davis v. Prince Edward County*. Griffin, from Farmville, served in the Army for four years during World War II; he then returned to Prince Edward County and took over as minister of his father’s Baptist church. Recognizing the injustices of the county’s educational system, Griffin and other black leaders pushed county officials to equalize the schools throughout the late 1940s, to no avail. Frustrated with the severely overcrowded and poorly appointed building they were consigned to, students at the local all-black Moton High School took matters into their own hands in the spring of 1951, walking out of school in protest.

Initially the students sought only a new black high school, and they contacted the state NAACP seeking help. State Conference leaders explained that the association no longer filed equalization lawsuits, and that the NAACP would only file a lawsuit that challenged the constitutionality of segregation in the county’s public schools. Meetings with the students and their parents convinced Oliver Hill of their willingness to challenge segregation outright, although several students expressed concern that integration might dismantle the black education system. Afterward, State Conference leaders suggested that the black community in Prince Edward County hold a mass meeting to determine how to proceed. At the community gathering in Farmville, local blacks agreed with the NAACP’s new strategy, although again there were signs of opposition within the local black community--Barbara Johns denounced one opponent as an “Uncle Tom.”

²⁹ Discussing the NAACP’s new policy at mid-century, Hill notes, “It was a big lurch”; see Kluger, 291; Tushnet, *Making Civil Rights Law*, 155-156.
Immediately thereafter, State Conference attorneys submitted a petition to the local school board seeking desegregation, and when this was rejected, the attorneys filed *Davis v. Prince Edward County* in federal district court in May 1951.30

To most white southerners, desegregating schools was an extremely troubling proposition—much scarier than equalizing black schools or even desegregating other areas of southern society. The great fear of some, perhaps many, was that integrated classrooms might lead to integrated relationships, and perhaps to marriage and racial mixing—or “miscegenation.”31 Many southern whites believed, moreover, that proximity to black children might promote immorality or disease among white youths, and that combining black and white school children would lower educational standards and reduce the effectiveness of Virginia’s education system. As legal historian Michael Klarman explains, “Segregation of public grade schools lay near the top of the white supremacist hierarchy of racial preferences.”32

As a result, white leaders in the South, including those in Virginia, vigorously resisted the NAACP’s anti-segregation lawsuits. Prince Edward County received direct and extensive help from the Virginia state government to defend against the NAACP’s legal attack, and state officials were clearly aware of the danger of defeat. Future

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governor J. Lindsay Almond, attorney general of Virginia at the time, played an integral role, coordinating efforts with county officials and some of the most prominent white attorneys in Virginia to defend the state’s segregation statutes. The state government also increased its equalization efforts now, hoping to forestall future attacks on segregation by convincing African Americans in Virginia to accept new, segregated schools. In September 1953, for instance, a new black high school opened in Farmville—the student strikers’ original goal.

In the meantime, *Davis v. Prince Edward County* worked its way through the federal court system. Both the federal district court and the United States Court of Appeals for the Fourth Circuit ruled against the NAACP in 1952. As expected, the State Conference then appealed *Davis* to the U.S. Supreme Court, where it joined similar NAACP cases from Kansas, South Carolina, the District of Columbia, and Delaware. Obtaining a decision from the Supreme Court took two years, during which Oliver Hill and Spottswood Robinson regularly traveled to New York to plan legal strategy and work on legal briefs and arguments for the Supreme Court with Thurgood Marshall and the Legal Defense Fund. That May, four of the five cases that had been bundled together by the U.S. Supreme Court became known to the world as *Brown v. Board of Education of Topeka, Kansas*.

On the eve of *Brown v. Board of Education*, however, segregation remained remarkably solid in Virginia. True, the Virginia State Conference’s litigation had dismantled small pieces of the racial edifice over the previous decade, most notably in

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33 The fifth case, from the District of Columbia, was treated separately because the Equal Protection Clause of the 14th Amendment did not apply to the District of Columbia. For more, see U.S. Commission on Civil Rights, *1964 Staff Report, Public Education* (Washington, DC: United States Commission on Civil Rights, 1964). Robinson was also significantly involved in the *Briggs* litigation, the South Carolina case, which was also prepared and argued in the spring of 1951; see Kluger, 485, 645.
interstate transportation and higher education. The Virginia NAACP had also forced the state to expend a large amount of money to equalize the Commonwealth's black and white teacher salaries and public school facilities, and had initiated an important legal challenge to segregation in public education. Still, segregation seemed to have assumed a somewhat immutable character in the southern United States by the 1950s, and racial separation had been repeatedly legitimized by the U. S. Supreme Court. On the eve of Brown v. Board of Education, as historian Robbins Gates has pointed out, "There is no reason to assume that any responsible, white, public official in Virginia envisioned that state's governmental policy as moving 'gradually' toward a time when white and Negro children would attend integrated public schools."

At the same time, white Virginians boasted of amicable race relations in the Commonwealth. The state had not experienced significant turmoil as the NAACP had dismantled some elements of the Jim Crow system. Racial violence directed at African Americans in Virginia was rare, which could not be said of many areas of the South. In the twentieth century, fewer African Americans were lynched in Virginia than in any other southern state, in part because of a state anti-lynching law adopted in 1928. As a result, white Virginians generally felt as if their relationship with their black neighbors and fellow citizens was good. In 1949, political scientist V. O. Key stated that Virginia's "race relations are perhaps the most harmonious in the South," and Governor John S.

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34 Quotation is from Gates, 28-29. This evidence contradicts the idea that southern segregation might have withered away on its own without the Brown decision; see Michael J. Klarman, "How Brown Changed Race Relations: The Backlash Thesis," Journal of American History, June 1994, pages 81-118. For polling statistics on white southern support for segregation, see Klarman, From Jim Crow to Civil Rights, 365-367. For more on Virginia's defense of segregation in the Davis v. Prince Edward County litigation, see Hershman, 28; Kluger, 480-507.
Battle later said, “I think there were no serious problems as far as the races are concerned before 1954.”

Earl Warren, Chief Justice of the U.S. Supreme Court, encountered a less positive side of racial segregation when he traveled to Virginia in the spring of 1954, however. On a short personal trip to visit Civil War monuments, Warren brought along his chauffeur, an African-American man. After touring sites the first day, the chief justice checked into a segregated hotel, leaving his chauffeur to find another, presumably less expensive, place to stay. The following morning, however, Warren realized the man had spent the night in the car. When the chief justice asked why, the man explained that he had been unable to find a hotel that would allow a black man to spend the night. Embarrassed and ashamed, the chief justice abandoned the trip immediately. The discriminatory and harmful effects of segregation were undoubtedly crystal clear to the chief justice that day.

35 On racial violence in Virginia, see Oliver White Hill, The Big Bang, 109; J. Douglas Smith, Managing White Supremacy, 156; Muse, Virginia’s Massive Resistance, 2.

36 Kluger, 699.
Chapter 2, 1954-1955

Brown and the Southern Backlash

On Monday, May 17, 1954, the United States Supreme Court handed down its decision in Brown v. Board of Education. A unanimous ruling, Brown declared segregated schools inherently unequal and therefore unconstitutional, as the NAACP had argued. Chief Justice Earl Warren, author of the decision, wrote, “Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.”

The decision overturned state-mandated school segregation in seventeen southern and border states, and locally-based segregation policies in four others. In the seventeen requiring segregated education, including Virginia, the Brown decision affected more than eleven million black and white school children in 11,173 school districts. Historian Richard Kluger later wrote, “Probably no case ever to come before the nation’s highest tribunal affected more directly the minds, hearts, and daily lives of so many Americans.”

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Reactions to the decision varied significantly. In the northern and western United States, responses were mostly favorable.\textsuperscript{4} States on the edge of the former Confederacy, and Upper South states (states within the South but on the border with the North), generally accepted the decision and pledged compliance. The Governor of Maryland, for instance, called the idea of resistance “fantastic nonsense.”\textsuperscript{5} At least some districts in Delaware, West Virginia, Kentucky, Arkansas, Missouri, Kansas, Oklahoma, Texas, and the District of Columbia began school desegregation that academic year.\textsuperscript{6}

Reactions in the remainder of the South were hostile, with the strongest opposition coming from the Deep South. In Georgia, Governor Herman Talmadge said the decision had reduced the Constitution to “a mere scrap of paper.”\textsuperscript{7} Senator James Eastland of Mississippi condemned the Supreme Court for creating new law, stating that “The South will not abide by or obey this legislative decision.” The Jackson, Mississippi, \textit{Daily News} editorialized: “Human blood may stain southern soil in many places because of this decision, but the dark red stains of that blood will be on the marble of the United States Supreme Court Building.”\textsuperscript{8}

Virginia’s political leaders reacted negatively to the \textit{Brown} decision as well, but not uniformly. Governor Thomas B. Stanley initially said the decision called for “cool heads, calm study, and sound judgment.” He added, “I shall call together as quickly as

\textsuperscript{5} Klarman, \textit{From Jim Crow to Civil Rights}, 315.
\textsuperscript{7} Kluger, 710.
\textsuperscript{8} The Eastland quotation is from “Dixie Maps Fight For Segregation,” \textit{Los Angeles Times}, May 19, 1954; Editorial, Jackson Mississippi \textit{Daily News}, May 18, 1954; both from the Black History Museum and Cultural Center, \textit{Brown v. Board of Education} exhibit, Richmond, Virginia, viewed August 2004. See also Kluger, 710-711.
practicable representatives of both state and local governments to consider the matter and work toward a plan which will be acceptable to our citizens and in keeping with the edict of the court. Views of leaders of both races will be invited in the course of these studies.”

When U.S. Senator Harry F. Byrd, head of the state’s political organization, heard of Stanley’s statement, however, he was furious. Future governor J. Lindsay Almond later said, “I heard … that the top blew off the U.S. Capitol.” Senator Byrd had already denounced Brown, arguing that Virginia faced “a crisis of the first magnitude.”

Now Byrd led Virginia’s political leaders into a policy of resistance. By mid-summer, the political elite had fallen into line. In mid-June, Governor Stanley declared, “I shall use every legal means at my command to continue segregated schools in Virginia.”

Southern opposition to the decision, including Virginia’s, was based on a number of factors. Many southern whites criticized the decision’s reliance on sociological evidence, including the studies and testimony of Dr. Kenneth Clark, an African American

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9 Gates, 28; Kluger, 711; Richmond Times-Dispatch, May 18, 1954.


12 For Governor Stanley’s initial response to Brown, see Richmond Times-Dispatch, May 18, 1954. A number of historians have suggested that Byrd’s opposition to Brown was political, in that maintaining segregation in the Commonwealth’s schools would solidify the Organization’s political preeminence within the state; see Andrew Buni, The Negro in Virginia Politics, 1902-1965 (Charlottesville: University Press of Virginia, 1967), 175-176; Gates, 204; Matthew Lassiter and Andrew Lewis, “Massive Resistance Revisited,” in The Moderates’ Dilemma: Massive Resistance to School Desegregation in Virginia (Charlottesville: University Press of Virginia, 1998), 14-15; Hershman, 45. It is also worth noting that the Court’s ruling surprised many of Virginia’s public officials, which may help account for the moderate nature of some of the initial responses to Brown; see Hershman 32-39. The fact that Byrd was out of the country may also help explain the divergent responses to the decision; see Oliver White Hill, The Big Bang: Brown v. Board of Education and Beyond (Winter Park, FL: Four-G Publishers, Inc., 2000), 168.
Others pointed to Chief Justice Earl Warren's recent appointment to the Court and his role in fashioning the decision; many denounced the "Warren Court." But these were secondary considerations. The underlying fears of many segregationists were that educating blacks and whites together would lower the quality of education for all students, and that black and white children who were educated together might become comfortable with one another enough to have sexual relations, leading to the decline of the "superior" white race. This fear of miscegenation was widely used as a justification for resistance in Virginia.\textsuperscript{14}

Worries about miscegenation haunted whites on the visceral level, but, in public discourse, probably the most widely accepted rhetorical argument used to oppose the \textit{Brown} decision in Virginia was the ideology of states' rights. Segregation had been accepted by the federal government since its codification after the Civil War (and even earlier in the northern states); mandating racial separation therefore was a recognized power of the states, the argument went. To take this right away was a dangerous expansion of federal power. The states' rights argument both reinforced and put a seemingly respectable face on purely racist arguments for preserving segregation in

\textsuperscript{13} The decision cited the doll tests of Dr. Kenneth Clark and other sociologists and social scientists. These tests involved showing black children dolls of different colors (i.e. races), and asking the children which dolls were more like them, and which dolls they preferred. Based on a statistical preference for the white dolls, Clark surmised that segregation was psychologically harming black students. See \textit{Brown v. Board of Education}, 347 U. S. 483 (1954).

\textsuperscript{14} Many southerners felt racial mixing was unnatural. James T. Patterson explains, "One white minister asked, 'Do black birds intermingle with the blue birds? Does the redwing fly with the crows?'"; \textit{Brown v. Board of Education}, 5-6, also xviii, xix; Sarah Patton Boyle, \textit{The Desegregated Heart: A Virginian's Stand in Time of Transition} (New York: William Morrow and Company, 1962), 132, 150, 161, 196. Even the U. S. Supreme Court recognized the potency of the fear of miscegenation. In June 1955 the Virginia Supreme Court ruled in favor of the state's right to prohibit interracial marriages. The U.S. Supreme Court refused to hear the case, on the weakly-supported grounds of lacking a federal question. Historian James Hershman notes, "One Justice was reported to have said: 'One bombshell at a time is enough.'" See Hershman, 105; also Klarman, \textit{From Jim Crow to Civil Rights}, 321.
Virginia. More important, it drew white Virginians who were not necessarily afraid of miscegenation into the camp of the segregationists.

Demography also influenced the responses to *Brown* in Virginia. Resistance was greatest where African Americans made up a large percentage of the population—east of the Appalachian Mountains and south of the Rappahannock River, in Southside and Tidewater Virginia. Historian Mark Tushnet explains: “Southside politicians, an important force in Senator Harry Byrd’s political organization, insisted that the state stand firm against desegregation anywhere. In contrast, white politicians and their constituents in the Virginia suburbs of Washington, D.C., did not welcome desegregation, but neither did they think that maintaining segregation was the state’s highest priority; they could live with desegregation if they had to.”

Once the Byrd line on the *Brown* decision became clear, state officials searched for means to preserve segregated education. On May 27, 1954, Superintendent of Public Instruction Dowell J. Howard announced the continuation of segregation statewide for the 1954-1955 school year. In August, Governor Stanley appointed a thirty-two-man board, officially known as the Commission on Public Education but more commonly called the Gray Commission, to study the *Brown* decision and recommend a course of action. The committee was composed of state legislators, and Virginia’s Black Belt—including Southside and Tidewater Virginia—was disproportionately represented. The

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16 Gates, 34-35, 43; Kluger, 729-730; “Statement on Behalf of the Virginia State Conference, NAACP Branches at Public Hearing Before the Commission to Study Public Education At the Mosque on November 15, 1954,” by Oliver W. Hill, Part II, Box A228, NAACP Papers. As explained in Chapter 1 of this dissertation, Southside and Tidewater Virginia were areas with large concentrations of African Americans; whites in those regions tended to resist racial advances more fervently than other sections of Virginia; the two regions enjoyed disproportionate political influence in Virginia. For more on these two regions, and Virginia’s Black Belt more generally, see Gates, 4, 24-27, 92, 190; Muse, *Virginia’s Massive Resistance*, 2, 6, 164; J. Douglas Smith, *Managing White Supremacy* (Chapel Hill: University of North

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group’s chairman, Garland Gray, was a state senator from the Southside town of Waverly, in the heart of Virginia’s peanut country, and a Byrd Organization stalwart. In October, Gray proclaimed, “I have nothing against the Negro race as such, and I have lived with them all my life, but I don’t intend to have my grandchildren go to school with them.”

Governor Stanley also organized a meeting of southern governors in Richmond to rally resistance to Brown. Nine attended the June 1954 gathering, with three others sending representatives. After a day-long session, nine of the states resolved “not to comply voluntarily with the Supreme Court’s decision against racial segregation in the public schools.” The remaining states—Kentucky, Maryland, and West Virginia—decided their problems of adjustment were surmountable. That these three states bordered Virginia did not prevent the Old Dominion from aligning itself with states further south.

In fact, the meeting of southern governors suggested that Virginia was prepared to help lead the South in opposition to the Supreme Court’s ruling. Perhaps this stance derived in part from the memory of the state’s role in the founding of the nation or its leadership of the Confederacy during the Civil War. As former state legislator Benjamin Muse put it in the Washington Post, “the South ... looked to Virginia more than to any other state for leadership in this crisis. Virginia, with its glorious role in the early history of the republic and again in the struggle for the great Lost Cause—also with its genteel

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17 Quotation is from Gates, 36; see also 34-35. For more on Southside Virginia, see Ben Beagle and Ozzie Osborne, J. Lindsay Almond: Virginia’s Reluctant Rebel (Roanoke: Full Court Press, Inc., 1984), 94-96; Muse, Virginia’s Massive Resistance, 2; Hershman, 48.

and honored political leadership of the day—was surely indicated to carry the banner of the South in this latest conflict."  

In 1956, with massive resistance on the rise throughout the South, Senator Byrd offered another justification for Virginia’s leadership: “If Virginia surrenders, if Virginia’s line is broken, the rest of the South will go down, too.”

At the same time, the NAACP geared up to bring about the implementation of the historic decision. The nation’s leading civil rights organization, the NAACP was largely responsible for Brown v. Board of Education, and the organization’s leadership was committed to playing a key role in bringing about school desegregation thereafter. The association’s implementation program, which was developed and directed by the national office in New York City, involved the coordination of thousands of representatives across the nation.

Realizing that a favorable Supreme Court decision would require the NAACP to launch the most important project in its history, the national office had begun formulating an implementation program in early 1954, and its leaders made plans to sponsor an NAACP meeting in the South following the decision. The weekend following Brown, the national office sponsored the gathering in Atlanta. At the meeting, staff from the national office outlined to the association’s southern State Conference presidents a

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19 Quotation is from Muse, *Virginia’s Massive Resistance*, 159; see also 172. As Sarah Patton Boyle put it, Virginia “was the backbone of the South, which was the backbone of the nation, which was the backbone of the world.” Boyle, *The Desegregated Heart*, 5. Many in the region felt that the first post-Brown battles would be fought in the Upper South, including Virginia, where white resistance was thought to be less formidable than in the Deep South. On Virginia’s leadership role, see also Paul Gaston, Foreword in *The Moderates’ Dilemma*, x; Muse, 159; James H. Hershman, Jr., “A Shrinking Black Belt and Virginia’s Massive Resistance: A Note,” *Virginia Social Science Journal*, 20 (Winter 1985), 93.

20 Richmond *Times-Dispatch*, August 28, 1956; see also Gates, 173; Muse, 29.
program for implementing *Brown* and bringing about school desegregation.21 The southern leaders then adopted resolutions—proposed by the national office—mandating that local efforts to promote implementation of *Brown* be overseen by the national and state NAACP.22 In a letter sent to all southern branches after the meeting, the national office emphasized, “It is imperative that all of our units act in concert as directed to effectively implement this historic decision.”23

The Atlanta Conference delegates also adopted the Atlanta Declaration, which outlined the NAACP’s implementation program for the immediate future. That program was remarkably moderate and conciliatory toward white Southerners. Branch leaders were encouraged to gather the support of black and white community organizations to help bring about desegregation. Rather than initiate widespread litigation to force desegregation, branches were ordered to negotiate and cooperate with their local school boards. Branches were told to collect signatures from black parents who favored desegregation, but the gathering of such petitions was not to be coupled with the threat of litigation.24 As the Atlanta Declaration explained, “We are instructing all of our branches in every affected area to petition their local school boards to abolish segregation without

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24 NAACP Press Release, “Dixie NAACP Leaders Map Plans to Implement Court’s Ruling,” May 23, 1954, Part V, Box 2595, NAACP Papers. Thurgood Marshall noted that each petition would be accompanied by a request for a meeting with the local school board to help develop school desegregation plans; the threat of litigation was played down.
delay and to assist these agencies in working out ways and means of implementing the Court's ruling.”

A month after the Atlanta Conference, the NAACP’s annual convention in Dallas, Texas, endorsed the Atlanta Conference’s implementation program and attempted to spur its branches into action. Daylong workshops explained the national office program and the prospective role of the branches. A key goal was building community support among whites as well as blacks to bring about desegregation. Local branches were encouraged to seek support for desegregation from ministers, labor unions, educational organizations, and social and civic groups. Channing H. Tobias, chairman of NAACP’s board of directors, “called for a ‘spirit of give and take’ in the discussions. ‘Let it not be said of us that we took advantage of a sweeping victory to drive a hard bargain or impose unnecessary hardships upon those responsible for working out the details of adjustment.’” Court suits, potentially effective but abrasive, were to be avoided. Conference delegates resolved that “the enjoyment of many rights and opportunities of

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25 “Atlanta Declaration,” Part 3, series C, reel 13, NAACP Papers microfilm. See also, National NAACP Press Release, “Dixie NAACP Leaders Map Plans to Implement Court’s Ruling,” May 23, 1954, Part V, Box 2595, NAACP Papers. It is also worth noting that the NAACP vowed to protect black teachers who might be affected in any way by school desegregation. Teachers, who had been strong supporters of the NAACP’s earlier school equalization campaign, were in danger of losing their jobs when integration became a reality because white parents generally opposed having African Americans teach their children.

26 Though NAACP annual conventions offered branches and delegates an opportunity to influence National NAACP policy, generally the conventions ratified decisions made by national NAACP staff and the board of directors. For more on the role of the annual convention in the formulation of NAACP policy, see Warren St. James, The National Association for the Advancement of Colored People: A Case Study In Pressure Groups (Smithtown, NY: Exposition Press, 1958), 68, 119; Guide to Supplement to Part One (1951-1955), xii, NAACP Papers microfilm; Article IX of National NAACP Constitution (Blue Book).


28 Given Tobias’ authority within the NAACP, it is not surprising that the NAACP’s initial implementation plan was somewhat conciliatory; see Wilkins, Standing Fast, 215; Untitled letter from Channing Tobias and Walter White to “Dear Branch Officer,” May 25, 1954, Part 3, series C, reel 5, NAACP Papers microfilm.
first class citizenship is not dependent on legal action but rather on the molding of public sentiment and the exertion of public pressure to make democracy work.”

Looking back, it is clear that NAACP leaders initially were overly optimistic about the implementation of Brown. Historian Alfred Kelly, who worked closely with Marshall and other leading NAACP attorneys, later noted, “In a sense, these men were profoundly naïve. They really felt that once the legal barriers fell, the whole black-white situation would change.” Marshall himself predicted that school segregation in the United States would be completely eliminated within five years. Oliver White Hill, head of the Virginia State Conference legal staff, later explained that his optimism was based on the belief that southern whites respected the law. When Brown declared segregation unconstitutional, however, Hill noted that “many Negroes experienced a rude awakening as white folks’ reputed great respect for the law disappeared.”

African-American optimism in 1954 was related to the Brown decision itself. The ruling did not address who would be responsible for the implementation of Brown, how

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30 Quotation is from Kluger, 639. Alfred Kelly is discussed in Tushnet, Making Civil Rights Law, 197-199.


32 Quotation is from Hill, The Big Bang, 73. See also page 147, where Hill notes, “Looking back, I guess that I should have known better and not been surprised.” In his autobiography, Roy Wilkins commented, “How good they felt at the time—and how misguided they were. At first, Thurgood hoped to have desegregation well underway by September 1955. I believe it was Ralph Bunche who said around this time that the country’s prejudice against black people was ‘more veneer than deep grain’; that ‘it could be peeled off with little damage or pain.’ Well, we were all wrong”; Standing Fast, 216.
the process would occur, or when desegregation would take place. Instead, the Court instructed the parties involved in the case to submit additional briefs and prepare for additional arguments, after which the Court would issue a follow-up ruling. This decision, commonly known as *Brown II*, was not handed down until May 1955. In the interim period, it was anyone’s guess how school desegregation would proceed. A number of school districts began desegregation in the fall of 1954. This fact, in addition to the hope that the Supreme Court’s follow-up decision would mandate rapid and complete desegregation, as requested by the NAACP’s attorneys during the re-argument, increased the optimism of African Americans throughout the nation. The interim period between *Brown I* and *Brown II* also would have made it difficult to frame additional NAACP lawsuits; this fact, too, led the association to focus on voluntary compliance rather than litigation for the remainder of 1954 and most of 1955.

The 1954 annual convention of the NAACP and the association’s original school desegregation plans emphasized the importance of the organization’s southern State Conferences in the implementation process. At the annual convention, meetings and workshops made sure the state units of the NAACP understood and followed the national implementation program. Keeping in close contact with its State Conferences, the national NAACP could discern where to direct more, or less, attention—allowing it to respond more effectively to developments in the South as they unfolded. As NAACP special counsel Thurgood Marshall noted after the 1954 annual convention, “the state level is the implementation level of national policy.”

33 The importance of the State Conferences continued throughout the desegregation process and is one reason this dissertation examines the implementation of *Brown v. Board of Education* at the state level. Another is that the southern states responded to the possibility of school desegregation in many different ways, albeit with some commonalities. The Marshall quotation is from “Remarks of Thurgood Marshall at
The Virginia State Conference, like the national office, hailed the *Brown* decision. State leaders described the decision as "a landmark comparable to the Declaration of Independence."\(^{34}\) The weekend after the decision, members of the Virginia State Conference legal staff, as well as State Conference president Dr. J. M. Tinsley and executive secretary W. Lester Banks, attended the Atlanta Conference. In June, Banks, Tinsley, and Oliver Hill also represented the State Conference at the NAACP’s 1954 annual conference in Houston. While the state NAACP’s legal staff worked with national office lawyers on briefs for the Supreme Court’s implementation decision, the Virginia State Conference directed its branches to begin working toward school desegregation.\(^{35}\)

During the four weeks between the NAACP’s Atlanta Conference and its annual convention, the State Conferences were asked to call together representatives of their local branches and “instruct them on procedure to implement the [Atlanta] Declaration.”\(^{36}\) On May 26, 1954, Virginia State Conference executive secretary Lester Banks sent a letter to the officers of the Conference’s eighty-eight branches announcing a “State-wide Emergency Meeting” to discuss carrying out the national office’s implementation program in Virginia.\(^{37}\) The meeting took place in Richmond on June 6,

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34 Quotation is from Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond Virginia 1954-89* (Charlottesville: University Press of Virginia, 1992), 3; see also Hershman, 41.
36 Address by Thurgood Marshall to 1954 Convention, Supplement to Part One (1951-55), reel 10, NAACP Papers microfilm.
37 “Report of the Committee on Offenses Against the Administration of Justice,” Appendix 10, Part 20, reel 12, NAACP Papers microfilm. The Virginia State Conference carefully followed the directives of the national office when working to implement *Brown*; “Follow-Up RE Atlanta Conference,” undated (May or June 1954), Part V, Box 2595, NAACP Papers, lays out a course of action for southern State
1954, and more than three hundred NAACP representatives from around the state attended. The delegates unanimously endorsed the recommendations of the Atlanta Conference. They decided that the State Conference, in consultation with local branches, would develop a statewide program that would allow the Virginia NAACP to operate with both “uniformity and efficiency” while carefully following national office directives. In the meantime, the delegates asked Virginia’s NAACP branches to refrain from desegregation activities. Shortly after the gathering, executive secretary Banks said he hoped that “friendly co-operation between school officials and the Virginia NAACP’ would be possible.”

Also in May, Oliver Hill and a small delegation of other African American leaders were asked to meet with Governor Stanley. During the closed-door session on May 24, the governor urged the black leaders to accept continued segregation in exchange for improvements to black schools throughout Virginia. Hill later recalled that the governor essentially asked them “to let things ride.” Refusing to do so, the black leaders instead suggested the governor position Virginia to lead the South in compliance with the historic ruling.

Hill’s friend, Thurgood Marshall, visited Virginia several times that year to support state and local NAACP efforts. In mid-June, Marshall spoke to the Richmond Conferences, allowing one to see similarities between national policy and State Conference actions in 1954. See also Hershman, 41.


39 Hershman, 41; Richmond News Leader, June 7, 1954.

40 Quotation is from Hershman, 42; see also Gates, 29-30; Hill, The Big Bang, 170. It is worth noting that other southern governors held similar meetings in the months after Brown; for information on such a meeting in Mississippi, see Charles C. Bolton, “The Last Holdout: Mississippi and the Brown Decision” in Daughery and Bolton, With All Deliberate Speed, 127-128.
branch, promising to attack all forms of segregation, including laws governing segregation during public assemblies and on transportation. With regard to the schools, Marshall argued that decision-making should be left to local school boards rather than to state governments; he may well have understood by then that Harry Byrd’s statewide organization would try to prevent the more flexible local governments in the state from accepting desegregation. That October, Marshall addressed the State Conference’s annual meeting in Martinsville. Still optimistic about the progress and potential for southern school desegregation, Marshall argued that the problems of adjustment would be relatively easy for school children, and he “said the NAACP never has been more encouraged nor more certain that the [country] is moving toward eventual desegregation.”

The following month, Oliver Hill and fellow NAACP attorney W. Hale Thompson, along with some other African Americans and several white liberals, attended a public hearing on the Brown decision sponsored by the Gray Commission. The hearing symbolized the challenges facing the supporters of integration in Virginia. Hill implored the Commission, “Gentlemen, face the dawn and not the setting sun. A new day is being born.” Most of those who addressed the Commission, however, including a number of elected officials, called for the continuation of segregation. After Sarah Patton Boyle, a native white Virginian, spoke in favor of integration, an audience member accused her of

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41 Hershman, 42; Richmond News Leader, June 16, 1954.
43 Quotation is from “Statement on Behalf of the Virginia State Conference, NAACP Branches at Public Hearing Before the Commission to Study Public Education At the Mosque on November 15, 1954” by Oliver W. Hill, Part II, Box A228, NAACP Papers. The Gray Commission sponsored hearings such as this as a way to gather information about attitudes toward segregation and Brown in Virginia. For more information, see the Richmond Times-Dispatch, November 17, 1954; Hershman, 53-54, 106; Gates, 40.
supporting the mongrelization of the white race. One leading white newspaper, the Norfolk Virginian-Pilot, called the November 15 event a “field day for [white] extremists.”

By the fall of 1954, segregationists had organized and developed plans for the post-Brown era. The state’s leading segregationist organization, the Defenders of State Sovereignty and Individual Liberties, was established in October 1954 and rapidly became influential in state affairs. The organization eventually boasted 12,000 members and developed close ties to Virginia’s political elite. State Senator Garland Gray, head of the Gray Commission, for instance, was at the group’s organizing meeting, and Byrd Organization regulars such as Congressman Watkins Abbitt and former governor William Tuck often attended meetings. In the tradition of Virginia paternalism, the Defenders of State Sovereignty denounced violence and outright intimidation, focusing instead on political persuasion and social and economic pressure to bring about its goals. Based in Southside, the group rallied white Virginians to oppose Brown on the basis of both white supremacy and states’ rights. Other segregationists in Virginia also generally avoided using physical violence against those who supported integration. Instead, it was considered more civil to use threats or intimidation to silence those—especially fellow whites—who supported integration.

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44 Boyle, 191-196.
45 Quotation is from Hershman, 52.
46 For more on the Defenders of State Sovereignty, see Beagle and Osborne, 96; Hershman, 48-49; Gates, 36-38, 161-162; Lassiter and Lewis, “Massive Resistance Revisited,” in The Moderates’ Dilemma, 10. The most prominent segregationist organization in the South, the Citizens’ Councils, did not enjoy as much influence in Virginia as the Defenders, and the Ku Klux Klan had long been repudiated by the state’s political leaders.
47 Later, during the civil rights era, Virginia would witness physical confrontations (in Danville in 1963, for example), but not a rash of murders like many states further south. In the fall of 1954 a racially-motivated bombing destroyed part of a home in Norfolk, and in the years after Brown, Oliver Hill reported numerous death threats; “Oliver Hill: A Journey Down the Civil Rights Road,” RNL, January 15, 1992;
Though only a small percentage of white Virginians joined the Defenders of State Sovereignty or other segregationist organizations, the vast majority did support the preservation of segregation. White liberals such as Sarah Patton Boyle, who openly supported racial equality, constituted a small minority of the state’s white population. Many of these liberals founded their opposition to segregation on personal relationships with blacks, religious beliefs, or experiences outside the South. In the more racially tolerant regions of the state, including northern Virginia and the largest cities, liberals openly supported the NAACP throughout the mid-twentieth century, although public white support for school desegregation, never widespread, diminished significantly in the tense years following Brown.

As opposition to school desegregation—and to white liberals and other potential “race traitors”—solidified in the years after the decision, fewer liberals were willing to risk stating publicly their support for integration. In Virginia and elsewhere, even some white liberals asked the NAACP to slow its efforts to bring about school desegregation, fearing that pushing too hard, too quickly, would energize the segregationist camp and

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48 Muse, *Virginia’s Massive Resistance*, 8; Hershman, 103; Gates, xix. Patterson, 7, reports that in 1942 only 2% of southern whites believed black and white students should go to the same schools; by 1956 the percentage had risen to 15%.

49 The main white organizations that supported the NAACP were the Virginia Council on Human Relations and the Southern Conference for Human Welfare. The association also enjoyed the support of some white religious leaders. The Catholic Church in Virginia announced the integration of a number of its schools just before the *Brown* decision, and integrated some in the fall of 1954 and some in 1955. They were the only integrated schools in Virginia at the time. Catholics also played important roles in several liberal organizations, including the Virginia Council on Human Relations; see Gates, 43, 52-53. Catholic leaders and laypeople supported more liberal race relations in other southern states as well, see Douglas, 10; Fairclough, 9-14, 171-176.

50 For more on white liberals and the NAACP see Hershman, 25, 49, 65; Gates, 50-52; Muse, 35, 38; pamphlet produced by the Virginia Council on Human Relations, Part 20, reel 13, frame 20, NAACP Papers microfilm.
only make matters worse. Long-time NAACP supporter (and future member of the board of directors) Eleanor Roosevelt, for instance, pointed out that “go slow doesn’t mean, don’t go.” When Democratic Presidential nominee Adlai Stevenson made a similar suggestion in 1956, NAACP executive secretary Roy Wilkins, who by that time had already become frustrated with the slow pace of change, responded with “one of the angriest letters of my life.”

Another segment of Virginia’s population—known as white moderates—preferred segregation, but accepted at least nominal compliance with Brown rather than open defiance of the Supreme Court. Moderates’ disdain for complete and outright resistance—and their opposition to closing public schools in order to preserve segregation, once the latter became the Byrd policy—distinguished them from segregationists. In the late 1950s, these differences led to a period of intense and bitter conflict between moderates and segregationists in Virginia, but prior to that period the two groups were drawn together by a shared desire to maintain segregation in the Commonwealth. During 1954 and 1955, segregationists dominated the debate over school desegregation in Virginia, and they opposed the liberals, NAACP, and the Supreme Court.

51 Klarman, From Jim Crow to Civil Rights, 326; Wilkins, Standing Fast, 218, 230-232. For information on white liberals in Virginia, see Benjamin Muse, “Negro Crusaders Should Relax Awhile,” Virginia Affairs Column (in the Washington Post), June 6, 1954, and Letter from Roy Wilkins to Dr. E. B. Henderson, December 9, 1954, both in Part II, Box A228, NAACP Papers.

52 Hershman, 70; Gates, xix. Moderates angrily opposed the NAACP; see Hershman, 95; Muse, 48. In Managing White Supremacy, J. Douglas Smith discusses Louis Jaffe, the Pulitzer Prize-winning editor of the Norfolk Virginian-Pilot. Jaffe, who “did more than any white opinion-shaper in the Old Dominion to prod whites to recognize their moral responsibility to provide better services, improve health-related conditions, and end the stain of lynching” was nonetheless a supporter of segregation; see 238. See also J. Douglas Smith in The Moderates’ Dilemma, 40, on Armistead Boothe. I use the phrases “white liberals” and “white moderates” with trepidation; the lines separating the two were blurry and subject to change. See Chapter 4 of this dissertation for a discussion of the conflict between segregationists and moderates during Virginia’s school closing crisis in 1958.

53 James Hershman explains, “In the year following the Brown decision, the political and social initiative rested with those on the Virginia scene who adamantly opposed all desegregation”; Hershman, 68.
In 1954, opposition to school desegregation was noticeable throughout the state. Many county boards of supervisors and city councils adopted resolutions calling for the maintenance of segregation. The trend began in the Southside, not surprisingly, and was strongest there. African-Americans opposed such resolutions—in Pittsylvania County an African American man was booed for speaking against a segregation resolution at a board of supervisors’ meeting—but by the spring of 1955 more than half of Virginia’s counties had adopted similar resolutions. To Virginia’s political leaders, the resolutions represented a clear and powerful statement of the white public’s continued support for school segregation.54

Meanwhile, state leaders in the fall of 1954 refined their arguments for the Supreme Court’s upcoming hearings on the implementation of Brown. Virginia’s legal brief called for essentially unlimited time to implement the decision, saying the justices “must permit a now indeterminable period to elapse before requiring integration of the races in Virginia’s public schools.” The following April, in the oral arguments before the Supreme Court, one of Virginia’s attorneys hinted at the supposed inferiority of blacks and the likelihood of southern defiance to reiterate the case for an indefinite delay in implementation of Brown.55

The emergence of widespread, hard-core resistance and its promotion by the Byrd Organization ensured that implementation of the Brown decision in Virginia would be more difficult than previously imagined by the NAACP. At its annual convention in

55 Quotation is from Kluger, 724; see generally 723-736. The brief also cited “so-called” racial statistics related to disease, educational levels, and marriage.
1954, the national NAACP had identified September 1955 as the target date for desegregation to begin in the South, and in April 1955, NAACP attorneys asked the Supreme Court to adopt this date as well. But in Virginia all signs were pointing toward growing white resistance. State NAACP officials--and some in the national office--recognized this. At the State Conference's annual meeting in late 1954, President Tinsley "lashed out at [Attorney] General Almond for ... attempts to retain segregation for Virginia public schools." Tinsley stated: "These men and other officials like them, are our enemies."

The Supreme Court announced its ruling on the implementation of Brown, commonly referred to as Brown II, on May 31, 1955. The seven-paragraph decision gave comfort to those who opposed the desegregation of southern schools. There was no set timetable under which the process was to unfold, delays arising from issues such as school construction or changes in pupil assignment practices were deemed acceptable, and the lower federal courts--presided over by southern white judges--were assigned to oversee the process. The ambiguous decision required that authorities make "a prompt and reasonable start" and that desegregation proceed "with all deliberate speed," but rejected the NAACP's argument that desegregation should begin by the fall of 1955.

Most white southerners celebrated the decision, and Brown II was widely viewed as a setback for the NAACP. Still, some in the NAACP was saw a silver lining in the

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clouds. In a private conversation a few days after Brown II with Carl Murphy, owner of the Baltimore Afro-American newspaper and one-time member of the NAACP board of directors, Thurgood Marshall explained that “some people want most of the hog, other people insist on having the whole hog, and then there are some people who want the hog, the hair, and the rice on the hair. What the hell! The more I think about it, I think it’s a damned good decision!” Outlining the NAACP’s plan for the future, Marshall went on to say, “We’re going to actually adopt what we’re going to do state by state, that’s what I hope. For example, we’re going to treat Georgia one way, we’re going to treat Maryland another way. But now if Maryland doesn’t act right, then we treat Maryland like we treat Georgia…. Virginia we’re going to bust wide open!”

Shortly after Brown II, the national office of the NAACP sponsored another “Emergency” Southwide Conference on Desegregation in Atlanta. The conference focused on the consequences of the latest ruling and on what course of action the association would take. Basically the NAACP used this conference as a forum to downplay assertions that Brown II represented a setback for the NAACP and its cause. NAACP leaders pointed out that the ruling clearly reaffirmed the original decision and ordered that desegregation take place as quickly as possible. Shortly after the conference, the national office reiterated this sentiment to its branches: “make no mistake about it, this decision in no way cuts back on the May 17th [1954] pronouncement.”

In the spring and summer of 1955, the association reiterated its commitment to the national office’s original implementation program established in 1954. In April 1955,

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59 Murphy and Marshall were close friends. The conversation is reported in Kluger, 746-747.
Roy Wilkins published a short essay, "The Role of the NAACP in the Desegregation Process," in the journal *Social Problems*. "Popular opinion to the contrary," Wilkins wrote, "the NAACP would prefer using legal action as a last resort in the many situations which will arise in hundreds of communities."\(^{61}\) In early June, perhaps underestimating the additional hurdles posed by *Brown II*, the national office maintained that "[i]n the overwhelming majority of instances it can be expected that compliance without legal action will be the rule, perhaps grudgingly and reluctantly in some areas, but compliance, nevertheless."\(^{62}\) In late June, southern branches were requested to press local school boards and community organizations to implement desegregation that fall.\(^{63}\)

The Virginia State Conference dramatically increased its desegregation efforts following *Brown II*, carefully following the dictates of the national office. On June 12, 1955, the State Conference sponsored another statewide meeting of NAACP members to explain how to carry out the NAACP program in Virginia. At the gathering, held in Petersburg, NAACP officials told branches in communities where authorities were acting in "good faith"—where school boards were making a "prompt and reasonable" start towards desegregation—to work with school officials and community organizations to bring about desegregation at the earliest practicable date. Branches in communities with recalcitrant school boards were ordered to formally petition their school boards for the admittance of black students into the white schools.\(^{64}\)

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64 "Report of the Committee on Offenses Against the Administration of Justice," Appendix 12, Part 20, reel 12, frame 1019, NAACP Papers microfilm. Again the Virginia State Conference was clearly
By the summer of 1955, the State Conference was beginning to recognize that the national office's implementation program was going to face significant challenges in the Commonwealth. It was clear by then that few school boards in Virginia were willing to consider voluntary school desegregation. As a result, while the State Conference encouraged its branches to press for voluntary compliance, it emphasized the importance of the petitioning process, which was also a necessary step should the association choose to proceed with school desegregation litigation.

In Virginia and throughout the South, legal observers recognized that the NAACP's petitions posed a threat to the white establishment—as in the 1940s during the equalization campaign, the petitions, upon being ignored or rejected by white authorities, could be used in court as evidence of southern intransigence to comply with the law. More broadly, the petitioning process suggested that the NAACP was increasing its efforts to demand compliance with Brown. As a result, as petitions were filed throughout the South, whites responded fiercely. In some areas, petitioners were pressured to withdraw their names; those who refused sometimes lost their jobs or saw their children threatened. In Yazoo City, Mississippi, for example, the Citizens Council published the names of petitioners in the local newspaper; under pressure, 51 of the 53 signers withdrew their names, and the remaining two left the area. Such actions led Roy Wilkins to denounce southern whites' reprisals against blacks who signed NAACP petitions before the Senate Judiciary Committee.65

following the dictates of the national office; see Letter from Roy Wilkins to Lester Banks, June 9, 1955, Part II, Box C212, NAACP Papers; “State NAACP to Sue In Some Areas Soon,” RTD, October 10, 1955.

In the summer of 1955, the Virginia State Conference provided specific instructions for the petitioning process to its local branches. Branches were asked to obtain signatures from individuals “living in mixed neighborhoods, or near formerly white schools” (emphasis added). The idea was that school boards demonstrated discriminatory behavior most blatantly when they assigned individuals to black schools far from their homes. Branches were also advised to seek out petitioners who had an unwavering commitment to school desegregation. If the State Conference decided to initiate litigation, it would need plaintiffs who were willing to “go all the way.” Finally, the State Conference instructed its branches to return the petitions directly to the State Conference. Before filing the petitions with local school boards, the State Conference would meet with the signatories to secure permission to represent them in court if necessary.66

Many NAACP branches in Virginia undertook the petitioning process in the summer of 1955. Despite growing white opposition, association members convinced black parents in many communities to support their desegregation efforts. The State Conference later reported that 55 branches circulated petitions that summer. By the fall, the state NAACP had submitted petitions to school boards in Alexandria, Arlington, Charlottesville, Isle of Wight County, Middlesex County, Newport News, and Norfolk. Others were in preparation. Still, each of these school boards refused to desegregate its schools that fall.67

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66 “Report of the Committee on Offenses Against the Administration of Justice,” appendix 12, Part 20, reel 12, NAACP Papers microfilm.

In Virginia, the white response to the NAACP's petitions was also almost uniformly negative. As mentioned previously, each of the school boards petitioned by the NAACP in 1955 refused to desegregate its schools that fall. More important, a growing number of white Virginians came to perceive the NAACP's efforts, as journalist Benjamin Muse later put it, as "something diabolical." Historian Andrew Buni concurs: "Although better informed citizens gave little credence to such charges, thousands of others viewed the N.A.A.C.P. as a rabble-rousing pawn of the federal government, Communist-infiltrated, financed through sinister sources with lawyers seeking high financial reward or political gain." In Virginia and throughout the region, the NAACP's early efforts to bring about the implementation of Brown v. Board of Education clearly stimulated significant white concern and resistance.

Other examples of growing defiance in Virginia troubled the State Conference. In April 1955, the State Department of Education had adopted a policy allowing local school districts to fire teachers on thirty days' notice, a move aimed at intimidating African American educators. Then in late June 1955, following Brown II, the State Board of Education mandated the preservation of segregated schools during the 1955-

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NAACP Papers microfilm; Hershman, 110-111; Anna Holden, The Bus Stops Here: A Study of Desegregation in Three Cities (New York: Agathon Press, 1974), 22; "State NAACP to Sue In Some Areas Soon," RTD, October 10, 1955; Buni, 177. It is worth noting that several Virginia localities asserted that they could not desegregate their schools had they wanted to; state law preempted their actions. When Arlington began discussing desegregation in 1955, the General Assembly responded by eliminating the city's right to have an elected school board; see "'My parents told me to go, and I went,'" RTD, February 16, 1996; J. W. Peltason, Fifty-Eight Lonely Men (New York: Harcourt, Brace & World, Inc., 1961), 31.

Muse, Virginia's Massive Resistance, 49.
Buni, 177.

Historian Michael Klarman writes, "The petition campaign contributed significantly to the rise of massive resistance in the mid-1950s; black efforts to implement Brown stimulated more resistance than did the decision itself"; Klarman, From Jim Crow to Civil Rights, 369. By the summer of 1955, the South's largest segregationist group, the Citizens' Councils, claimed nearly 250,000 members; see Nashville Public Library Civil Rights Reading Room national civil rights timeline, visited May 23, 2007.

1956 school term. As historian James Hershman explains, “during the entire year between the two [Brown] rulings black Virginians could find no sign in the state government’s actions which indicated any alteration in school segregation or racial relations was contemplated. All indications pointed in the other direction.”

In November 1955, the Governor’s Commission on Public Education (the Gray Commission) issued its final report, outlining a number of ways the state could negate or minimize the impact of Brown. The commission made three principal suggestions. The first was to allow the adoption of locally-administered pupil placement plans (meaning pupil assignment policies) which would enable school officials to maintain segregation without explicitly referring to race. Secondly, the commission suggested the legislature amend its compulsory attendance law so that no child in Virginia would ever be forced to attend an integrated school. Finally, the commission urged the state to set up a publicly-funded program that would award tuition “grants”—if requested—to any student assigned to a desegregated school. Technically available to both races, these funds would allow white students assigned to desegregated schools the option to attend private segregated schools at little to no cost instead.

The Gray Commission’s tuition grant scheme required altering the state constitution, because Section 141 of the constitution prohibited state appropriations to schools not owned or operated by the state. On November 30, 1955, a special session of

72 Hershman, 111.
73 Hershman, 103. Virginia’s response differed significantly from that of North Carolina, whose political leaders favored token desegregation over defiance; see Douglas, 28.
the General Assembly, called by Governor Stanley, passed legislation establishing a referendum for Virginians to vote on whether or not to amend the constitution. Scheduled for January 9, 1956, the referendum would determine whether Virginia would call a constitutional convention as part of its anti-desegregation efforts.75

The Virginia State Conference of the NAACP, of course, adamantly opposed the Gray Commission’s proposals, including the Commission’s recommendation to amend Virginia’s constitution. Henry L. Marsh III—then a student at Virginia Union University in Richmond, later a staff attorney for the Virginia State Conference, and eventually Richmond’s first black mayor—attended one General Assembly session in 1955 during which legislators listened to public comments about whether or not to alter the state constitution. At the gathering, Marsh watched in amazement as Oliver Hill spoke vigorously against altering the constitution and other attempts to avoid the implementation of Brown in Virginia. Marsh recalled, “I couldn’t believe that a black man would stand up in front of the joint session of the General Assembly and shake his fist at them. I mean, I was looking around for the door. And when he said, if you do this, we will beat you, and he slammed his fist down, I ducked down. I said I’d better get out of here quick.” It was the first time Marsh met the state NAACP’s lead attorney, and Marsh later recalled it as “one of the great moments of my life.”76

75 Buni, 178; Gates, 64-73. The General Assembly knew the state constitution needed to be altered to allow these tuition grants because of a lawsuit Attorney General Almond filed in the state court system to test the constitutionality of such appropriations. The Supreme Court of Appeals of Virginia handed down its decision in Almond v. Day on November 7, 1955.

76 Interview with Sen. Henry Marsh, conducted by Ron Carrington, Virginia Historical Society, 2003, online at www.library.vcu.edu/jbc/specoll/civilrights/marsh01.html. For more on the NAACP’s opposition to altering the state constitution, see Hill, The Big Bang, 171-174; “NAACP in Virginia Opposes Private School Proposal,” December 1, 1955, Part II, Box A228, NAACP Papers; Part 3, series D, reel 9, frame 19, NAACP Papers microfilm.
Although the Gray Commission called for resistance to school desegregation in Virginia, its suggestions were more moderate than many other proposals of the day. The commission, for instance, by suggesting local option in pupil placement, envisioned a time when small numbers of well-qualified black students might be willingly admitted to formerly-white schools in the more liberal regions of the state. The Defenders of State Sovereignty, on the other hand, suggested abandoning the state’s public schools completely and setting up a system of publicly-funded but private segregated academies instead should that prove the only way to avert desegregation, and a growing number of political figures supported the indefinite maintenance of school segregation statewide. Thus, while most white Virginians favored the maintenance of segregation, they were divided on how to accomplish that end.77

In late 1955, state officials were increasingly influenced by the pen of James Jackson Kilpatrick, editor of the *Richmond News Leader*. Starting in late November, Kilpatrick wrote daily editorials promoting the idea of “interposition” as a means of resisting the implementation of *Brown*. Rooted in antebellum southern political rhetoric, the theory of “interposition” asserted that the state government could “interpose its sovereignty” between the federal government and the state’s localities in order to defend the interests of the latter and of the people. Many state leaders recognized the obvious limitations of such an idea, but Kilpatrick’s editorials nonetheless fueled support for resistance. Kilpatrick wrote, “[I]n May of 1954, that inept fraternity of politicians and professors known as the United States Supreme Court chose to throw away the established law. These nine men repudiated the Constitution, sp[a]t upon the tenth

77 Gates, 31.
amendment, and rewrote the fundamental law of this land to suit their own gauzy concepts of sociology."\textsuperscript{78}

Segregationists in Virginia and elsewhere were also fortified by the lack of support for integration shown by President Eisenhower and by the actions of a strong axis of opposition in the United States Congress. The president publicly said he supported gradual change and compliance with the law, but Eisenhower declined to play a leading role in the school desegregation process. In part, this was due to the president’s desire to increase white southern political support for the Republican Party.\textsuperscript{79} NAACP executive secretary Roy Wilkins later commented: “President Eisenhower was a fine general and a good, decent man, but if he had fought World War II the way he fought for civil rights, we would all be speaking German today.”\textsuperscript{80}

In the midst of rising opposition to integration, the NAACP became increasingly skeptical about the prospects for voluntary compliance with \textit{Brown}. Federal district court rulings in the summer of 1955--involving two of the locations that were part of the original \textit{Brown} decision (Clarendon County, South Carolina and Prince Edward County, \textsuperscript{78} Klarman, \textit{From Jim Crow to Civil Rights}, 367; Hershman, 41.  
Virginia)—fueled the association's concerns. In both cases, the courts failed to require school desegregation that fall, as the NAACP's attorneys had requested. Commenting on the importance of the two cases before they were decided, Thurgood Marshall and NAACP assistant special counsel Robert Carter wrote, "Certainly the hearings in these cases will be of major significance because these courts may be the first to give definite and specific content to 'a prompt and reasonable start' and 'good faith compliance at the earliest practicable date.'"\(^{81}\) In an NAACP press release acknowledging the setback after the rulings, Roy Wilkins hoped the decrees were "not necessarily 'typical of what will happen throughout the South.'"\(^{82}\) Growing racial violence in the South, including the harassment of NAACP members and the murder of Emmett Till, a black adolescent from Chicago who had supposedly acted "fresh" toward a white woman while visiting in Mississippi, also troubled NAACP leaders.\(^{83}\)

By late 1955, a growing number of individuals within the NAACP's national office came to believe that widespread litigation would be required to bring about southern compliance with Brown. Meetings that fall with southern NAACP attorneys encouraged this view, because the latter reported vividly on the growing resistance to school desegregation among southern officials and the general public. After a year and a half of virtual non-compliance with Brown v. Board of Education, particularly in the eleven states of the former Confederacy, the national office of the NAACP moved to


abandon its original implementation program. That October, the NAACP national legal staff argued “that the only solution [to southern noncompliance] is to file law suits in every state.”

Virginia State Conference attorneys likewise recognized that that legal action would be required to bring about compliance with Brown. In October 1955, the State Conference legal staff discussed future plans with national office attorneys at the State Conference’s annual meeting in Charlottesville. Both NAACP executive secretary Roy Wilkins and special counsel Thurgood Marshall attended the meeting. Afterward, Wilkins noted that, as of October 1955, “… no responsible official or body in Virginia has given any indication that it is willing to discuss plans for desegregation—any plan, slow or fast.” Shortly after the meeting, Virginia State Conference attorney Spottswood Robinson approached representatives of the Arlington branch of the NAACP and informed them that the State Conference was ready to prepare to file suit in that community. The NAACP had decided to return to the federal courts to attempt to force the white South to comply with Brown v. Board of Education.

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84 Some NAACP attorneys had predicted the need for litigation earlier; see Marshall and Carter, “Meaning and Significance,” 402. See also “Board of Directors Meeting Minutes”, October 10, 1955, Supplement to Part One (1951-55), reel 1, NAACP Papers microfilm.

85 “Board of Directors Meeting Minutes,” October 10, 1955, Supplement to Part 1 (1956-60), reel 1, NAACP Papers microfilm. 1955 was also the best year financially in the NAACP’s history; see Press Release, January 3, 1956, Supplement to Part One (1956-60), reel 2, NAACP Papers microfilm.

86 Letter from Roy Wilkins to Dr. E. B. Henderson, October 25, 1955, Part II, Box A228, Branch action, Virginia, 1954-55, NAACP Papers. Hershman, 101, explains: “For those blacks and whites strongly committed to the ideal of racial integration, 1955 was a year of frustration and delay with every indication that compliance with Brown would be a slow and difficult process.”

87 It is worth noting that Robinson served as the State Conference legal staff’s liaison to the national legal staff. “Report of the Commission on Law Reform and Racial Activities,” Part 20, reel 12, NAACP Papers microfilm; Memo on Annual State Conference, Part II, Box C212, Virginia State Conference, 1955, NAACP Papers; Gates, 56. The State Conference legal staff had grown in size since May 1954; see Notes of the Business Session, 20th Annual State Convention, October 9, 1955, Part II, Box C212, Virginia State Conference, 1955, NAACP Papers. See also “State NAACP to Sue In Some Areas Soon,” RTD, October 10, 1955, and “NAACP Chief Assails Foes Of Integration,” RTD, October 8, 1955. See also “Virginia Columnist Says NAACP is Powerful Because on Side of Law,” NAACP Press Release,
Some NAACP lawsuits were filed in the fall of 1955, and though they were few in number, these suits fueled increased southern opposition to the NAACP; see Brian J. Daugherity, "'Keep on Keeping On': African Americans and the Implementation of *Brown v. Board of Education* in Virginia," in Daugherity and Bolton, *With All Deliberate Speed*, 49-50.
The national office of the NAACP shifted its strategy for securing implementation of *Brown v. Board of Education* in early 1956. During the previous year and a half, the association had instructed its southern branches to cooperate with local school boards to bring about the implementation of the Supreme Court's desegregation rulings. This approach worked only in moderate areas of the South, however, and even there the policy failed to bring about significant desegregation. In the more intransigent states, including Virginia, the policy had failed to achieve any voluntary desegregation at all. Frustrated, the national office in 1956 adopted the recommendations of its legal staff and began to file school desegregation lawsuits in federal courts in the South. This change in tactics resulted in a sharp rise in white southern resistance to desegregation, and pressure on the NAACP from both southern state governments and from private groups reached new heights. The association weathered the storm, but combating the attacks required a great deal of time, money, and effort.

The national office announced its new implementation policy shortly after the new year began. In a press release, NAACP Special Counsel Thurgood Marshall declared that the national office’s legal staff would henceforth make itself available to all branches requesting legal advice and assistance with desegregation litigation. Marshall noted that the association’s commitment to cooperation with local school boards would continue where progress was being made, but the NAACP’s shift in strategy highlighted
the fact that such cooperation was rarely forthcoming.1 Where the NAACP had earlier
filed lawsuits in federal courts only selectively to bring about desegregation in the South,
Marshall explained that “the legal department is now ready to file suit in every
community where such a suit is requested to secure compliance with the Supreme Court
anti-segregation decisions.”2

The association set up a timetable for its new round of litigation at a conference
on desegregation in Atlanta in February 1956. Representatives from fourteen—mostly
southern—states attended the gathering, as did the national NAACP leadership. Southern
State Conference presidents and others presented reports on the situation in their states,
discussing where desegregation petitions had been filed, how state laws had changed, and
what general patterns of compliance or resistance had emerged. Most highlighted white
resistance.3 It quickly became apparent that eight southern states, including Virginia,
were resisting desegregation absolutely, and the NAACP decided to concentrate its legal action in these states. ⁴

Also in Atlanta, the national legal staff established a schedule for filing lawsuits in the chosen states. Based on Thurgood Marshall’s suggestion, the NAACP chose to proceed state-by-state, starting immediately, with the association’s attorneys essentially filing litigation in one and then moving on to the next. Localities within each state were chosen based on the level of commitment within the black community, the likelihood of white community resistance (which discouraged NAACP lawsuits), the location of NAACP attorneys, and the case histories of southern federal judges, some of whom were more liberal than others. Among these considerations, the level of commitment within the black community and the location of NAACP were probably most important. The association expected white community resistance, and chose to focus on the most intransigent states, but carefully chose where to file its suits within these states--liberal or progressive locations were clearly preferred. The association sought to initiate litigation by June 1 in all of the eight states, including Virginia, which had completely resisted desegregation thus far. ⁵


Perpetually short of funds and resources, NAACP attorneys were concerned about spreading themselves too thin, and the national office encouraged its representatives in states not chosen for litigation to continue negotiating with their local school boards. This was not a hard and fast rule, as some State Conferences, including Virginia’s, had considerable autonomy in their legal programs. Still, the national office clearly sought to direct the process of southern school desegregation. Delegates to the Atlanta Conference adopted a resolution stating that “much can be accomplished through further negotiations” in those states not explicitly chosen for legal action.  

In June delegates to the NAACP’s 1956 annual convention reiterated the point--State Conferences outside the Deep South were asked “to negotiate … to secure desegregation within a reasonable time and to proceed with such negotiations as long as the local board is acting in good faith. In those states legal action in the courts is only to be used as a last resort.”

White Virginia’s resistance was certainly not in doubt. NAACP attorneys Oliver Hill and Spottswood Robinson, along with executive secretary W. Lester Banks and president E. B. Henderson, represented the Virginia State Conference in Atlanta, and Henderson outlined a clear pattern of noncompliance on the part of state officials. NAACP State Conference desegregation petitions—fifteen had been filed with local school boards by the spring of 1956--fell on deaf ears. Frustrated, Henderson stated that

NAACP’s determination to treat the southern states individually, based on the actions of their state governments and the status of desegregation in each state, is one of the reasons for the state-based approach of this dissertation.


7 “Resolutions Adopted,” 1956 Annual Convention, Supplement to Part One (1956-60), reel 4, NAACP Papers microfilm. For some southern State Conferences, this meant less legal support if they initiated litigation on their own.
the Virginia NAACP was “ready to go ahead with as many law suits as would be necessary.”

Increasing calls for defiance from political leaders troubled State Conference leaders. In November 1955, Governor Stanley’s Commission on Public Education had laid out an elaborate plan to minimize the impact of *Brown* for years to come. The governor and state leaders embraced the report, and most white Virginians appeared to support the “Gray Plan.” In late November, acting on the Gray Commission’s recommendations, the General Assembly had passed legislation calling for a referendum on whether to amend the state constitution to permit appropriations to private schools.

African Americans throughout Virginia, including the NAACP, opposed the referendum and called on Virginians to vote “no” on January 9. Within the black community, the NAACP worked with labor unions, church groups, fraternal organizations, and public education organizations to stimulate voter turnout. In Richmond, supporters of the NAACP campaigned on radio stations WRVA and WRNL--stations that were highly popular with predominantly white audiences--against amending the constitution via ten fifteen-minute spots. Most white Virginians, however, supported the constitutional amendment, and the NAACP actively worked with only a handful of white organizations. Leading up to the referendum, these included a small

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9 For more on the Gray Plan, see Chapter 2 of this dissertation.

number of religious organizations, labor unions, the Virginia Society for the Preservation of Public Schools, and the Virginia Council on Human Relations, the most racially liberal organization in the state and Virginia's only prominent bi-racial organization.\textsuperscript{11}

The referendum occurred on January 9, 1956. Of the approximately 80,000 registered black voters in Virginia in 1956, historians estimate that perhaps 50,000 voted in the referendum, and local statistics suggest that the vast majority voted "no."	extsuperscript{12} Those who did not, or who chose not to vote at all, may have been influenced by claims from state political leaders that black teachers and colleges would suffer under desegregation.\textsuperscript{13} White voter turnout was also high, particularly in the Black Belt, and overall more Virginians voted in the 1956 referendum than in the state's 1953 gubernatorial election.\textsuperscript{14} The referendum passed by a margin of two-to-one, and shortly thereafter the General Assembly passed legislation calling for a constitutional convention. In March 1956 this


\textsuperscript{12} For the number of registered black voters in Virginia, see James H. Hershman Jr., "A Rumbling in the Museum: The Opponents of Virginia's Massive Resistance," (Ph.D. diss., University of Virginia, 1978), 142; Gates, 88, 94-95; Buni, 182-183. Gates notes that there were about 875,000 registered voters in Virginia in 1956 and that 9.4\% of these were African American. Gates, 88, also notes that most blacks seem to have voted "no." He writes, "According to figures on file at the State Board of Elections, there were 2,321 white voters and 395 Negro voters registered in Dinwiddie County. The election returns from this county showed 2,321 votes for the convention and 395 votes against!"

\textsuperscript{13} "NAACP Awarded Ten Spots on Two Richmond Radio Stations," Part 3, Box A106, Desegregation, Schools, Va., 1956-1958, undated but just before January 9, 1956, NAACP Papers.

body met and altered the state constitution to legalize tuition grants. Virginia had placed itself clearly in the forefront of growing southern opposition to desegregation.  

Most Virginians assumed the General Assembly would also adopt the remaining recommendations made by the Gray Commission in 1955, particularly provisions allowing local school districts to choose whether to voluntarily begin desegregation. Political leaders, including former governor John Battle and Congressman Watkins Abbitt, had given this impression during the referendum campaign, and members of the Gray Commission itself felt the referendum results endorsed this course of action. Historian James Sweeney explains, “The impression left with the voters was that the local assignment plan and the tuition grant plan were bound together as part of the same comprehensive approach.” Senator Byrd, however, conspicuously refused to endorse the full Gray Plan in December 1955, leaving the door open for even more radical resistance.  

Shortly after the referendum and the NAACP’s announcement of impending lawsuits, the issue of local option came to the forefront of Virginia politics. Assuming that the local option provisions would be put into effect, the Arlington County school board—which had received an NAACP school desegregation petition in 1955--adopted a school desegregation plan for the coming fall. Frightened and angered by the move, however, segregationists in the General Assembly revoked Arlington’s right to have an

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15 Hershman, 169-171; Ben Beagle and Ozzie Osborne, J. Lindsay Almond: Virginia’s Reluctant Rebel (Roanoke: Full Court Press, Inc., 1984), 100; Gates, 122-123. Despite the loss, the national NAACP had kind words for the Virginia State Conference; see NAACP Press Release, January 12, 1956, Part 3, series D, reel 9, frame 13, NAACP Papers microfilm; Roy Wilkins “... congratulated the Virginia NAACP ‘on the vigorous and dignified campaign [it] conducted....” Wilkins continued, “‘We have consulted with our entire legal staff and with many of its volunteer advisers and wish to say to our members in Virginia that we are prepared to meet any move which may be made....’”

16 Sweeney, 78. See also Gates, 76-80.

17 Sweeney, 79; Beagle and Osborne, 98; Gates, 82.
elected school board. Looking back in 1962, historian Robbins Gates noted that Arlington’s plan “drove the interpositionists to even greater effort”; at the time, state senator and future governor Mills E. Godwin asserted that massive resistance was “needed as a deterrent to those localities in Virginia which have, or may indicate, a willingness to integrate.”

Rather than allow localities to integrate their schools if they chose to do so, state political leaders in the spring of 1956 increasingly spoke of maintaining segregation in every corner of the Commonwealth, by passing new laws if necessary. Events outside Virginia, including the start of the Montgomery bus boycott in late 1955 and the admission of Atherine Lucy to the University of Alabama in February 1956, fueled opposition to desegregation in Virginia as well. By February 1956, when Senator Byrd explicitly called for white “massive resistance” to school desegregation throughout the South, he had the support of most Virginia politicians.

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18 The county envisioned allowing a small number of black students into several of its previously all-white schools; Hershman, 158-160; Benjamin Muse, Virginia’s Massive Resistance (Bloomington: Indiana University Press, 1961), 24.


20 Muse, 27; Peltason, 208. Some commentators have argued that Senator Byrd felt the referendum results supported such a stance, others that Byrd took advantage of the Brown decision to rally Virginians behind his leadership, displacing the Gray Plan with the new massive resistance program to solidify the Organization’s political power. Beagle and Osborne, 100-101, notes that the Roanoke Times editorially called Byrd’s moves after the referendum a “betrayal” and a “violent contradiction” of the Gray Commission’s report. See “Diaries Reveal Race Disputes,” RTD, March 29, 2003; Part 3, series D, reel 9, frames 40-43, NAACP Papers microfilm.

21 Muse, Virginia’s Massive Resistance, 23, notes the irony, “Virginia had itself urged the desirability of local option in the Supreme Court hearing of [Brown II in] April 1955. Attorney General Almond said to the Court then: ‘Broad, nondiscriminatory discretion to be exercised without discrimination must be vested in local school boards to cope with varying conditions extant throughout the State.’” See also Hershman, 146, 154-158. Gates, 82-83, suggests that Byrd and other Organization leaders were contemplating more extreme resistance long before the referendum; see also 109.
Rising support for massive resistance can also be attributed to Jack Kilpatrick’s editorials in the Richmond *News Leader*. Having begun in late 1955 to promote the political idea from the antebellum era known as “interposition,” Kilpatrick continued his campaign into the spring of 1956, arguing that the state had a responsibility and a right to interpose its sovereignty between the malicious federal government, particularly the U.S. Supreme Court, and Virginia’s counties and cities. “*God give us men!*” he thundered.

“We resist now, or we resist never. We surrender to the court effective control over our reserved powers, or we make a fight to preserve these powers. We lie down, piteous and pusillanimous, or we make a stand.”22 Senator Byrd noted that he had “a great respect for Jack, who [had], in a very brilliant fashion, aroused the country to the evils of the Supreme Court’s decision.”23

On February 1, 1956, highlighting the growing acceptance of massive resistance within the state’s political ranks, the General Assembly adopted a formal resolution of interposition, pledging to oppose the implementation of *Brown*. The vote was 36 to 2 in

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the Senate and 88 to 5 in the House of Delegates. Virginia’s resolution resembled statements adopted by other southern legislatures that spring, as well as the Southern Manifesto drafted with the help of Senator Byrd and endorsed by most southern members of the U.S. Congress in March. The Virginia resolution stated that the Commonwealth would create legal obstacles to prevent the integration of its public schools. Kilpatrick, its leading supporter, had written to Senator Byrd, “I would toss an old battle-cry back at the NAACP: Hell, we have only begun to fight.”

As Kilpatrick’s quotation suggests, perhaps the most important reason for the rise of southern white massive resistance in 1956 was the actions of the NAACP itself. Historians of the civil rights era, however, have often failed to acknowledge this catalyst in bringing about the rise of massive resistance in the South. A significant amount of civil rights scholarship portrays massive resistance as a southern white reaction to the growth of federal power represented by the Brown decision. In this interpretation, massive resistance represents an assertion of state’s rights, and most resistance is aimed at the federal government and the federal court system. This portrayal, though it conveys part of the truth, reigns because of a lack of understanding of the association’s actions in the years after 1954, and it fails to explain comprehensively how and why massive

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24 Gates, 100-105, 114; Beagle and Osborne, 100; Hershman, 160-165. Muse, Virginia’s Massive Resistance, 21-22, 27, notes that Virginia forwarded the resolution to each member of Congress and the Supreme Court. Smith, “Armistead Boothe,” 42-43, in Moderates’ Dilemma, notes that most attorneys and more than a few politicians recognized that interposition would be quickly rejected by federal courts. See also Mark Tushnet, Making Civil Rights Law (New York: Oxford University Press, 1994), 240-241, which discusses the view of attorney general and future governor J. Lindsey Almond.

25 Only Alabama was quicker than Virginia to pass a resolution, and some say this was because Byrd was waiting until the January 9 referendum before initiating the process. Describing the Southern Manifesto, Senator Byrd said the document was part of “the plan of massive resistance we’ve been working on”; Beagle and Osborne, 93-101. For more on the Southern Manifesto, and Senator Byrd’s role, see Lassister and Lewis, “Massive Resistance Revisited,” in The Moderates’ Dilemma, 7; Gates, 118; Kluger, 752; Peltsman, 41, 138.

26 Quotation is from Joseph Thorndike, “The Sometimes Sordid Level of Race and Segregation,” in The Moderates’ Dilemma, 54.
resistance came about. Clearly the NAACP’s shift toward widespread litigation, and the filing of lawsuits in early 1956, fueled the growing backlash. White Virginia—and the white South as a whole—were responding to the greatest and most immediate threat to its segregated way of life.  

In Virginia, political leaders had expressed concern about the NAACP for decades. Some recalled the organization’s success in equalizing Virginia’s black and white teacher salaries and school facilities via legal action in the 1930s and 1940s; the state had been forced to spend nearly fifty million dollars as a result. Davis v. Prince Edward County, of course, was also one of the five original Brown v. Board of Education cases, meaning the state had been battling the association, unsuccessfully, in federal courts since 1951 in an effort to preserve the constitutionality of segregation. Some of the most vehement opposition to the NAACP in Virginia—not surprisingly—developed in Prince Edward County, the birthplace of this lawsuit. When the Virginia State Conference of the NAACP initiated its school desegregation petitioning campaign in 1955, moreover, white Virginians had viewed the effort as “something diabolical,” and even white liberals suggested that the association not press for the implementation of

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28 Other southern politicians had also long expressed animosity toward the NAACP, partly because of its efforts to combat lynching in the 1920s and its success equalizing black and white teacher salaries and school facilities in the 1930s and 1940s. The Brown decision itself, of course, arose from lawsuits brought by the NAACP.
Brown so quickly.29 The NAACP refused to slow its implementation campaign, however, and its shift in late 1955 toward planning widespread school desegregation suits fueled the resort to massive resistance by Virginia’s political elite that winter. In 1956, following the NAACP’s announcement of school desegregation lawsuits, Virginia’s political leadership began to increase pressure on the association and its members, focusing on the State Conference’s ability to carry out legal action. As Andrew Buni correctly notes in *The Negro in Virginia Politics*, “What provoked action from white Virginian leadership . . . was that Negroes continued to press for school integration through the federal courts.”30

One example was legislation adopted by the state legislature during its regular session in late February 1956 allowing courts to require parties filing suit against school boards to furnish information, including the name of those financing the suit. The goal was to expose supporters of integration, including the NAACP, and the bill probably came in response to the NAACP’s announcement that school desegregation lawsuits were being planned for Virginia, its well-publicized Atlanta Conference of February 18-19,

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29 Quotation is from Buni, 177; see also Hershman, 253; Muse, *Virginia’s Massive Resistance*, 31; Boyle, 245, 264-265. Oliver Hill discusses the white reaction to his civil rights activities in his autobiography; see Oliver White Hill, *The Big Bang: Brown v. Board of Education and Beyond* (Winter Park, FL: Four-G Publishers, Inc., 2000), 287-288, where Hill talks about threatening phone calls and a cross burned in his yard. Mrs. Hill later recalled, “Every time something came out in the paper, we knew that was going to be a hectic night”; see “Oliver Hill: A Journey Down the Civil Rights Road,” *RNL*, January 15, 1992. Mrs. Hill continued, “I sat at the front door with a gun some nights after a particularly threatening call.” For more on how white moderates and liberals responded to the NAACP’s lawsuits in 1956, see Hershman, 215-217.

30 Quotation is from Buni, 177. It is worth noting that this argument is particularly important because of Virginia’s central role in the rise of massive resistance. To understand more clearly the rise of massive resistance in Virginia can help us to comprehend the rise of massive resistance throughout the South. See Muse, *Virginia’s Massive Resistance*, 159, 172; Hill, *The Big Bang*, 247.
and a follow-up announcement that lawsuits were being developed by the Virginia State Conference.\textsuperscript{31} Further anti-NAACP actions would follow.\textsuperscript{32}

Despite the growing opposition, the Virginia State Conference developed and filed its school desegregation lawsuits in Virginia that spring. In April and May 1956, actions were filed in federal district courts against the school boards of Newport News, Norfolk, Charlottesville, and Arlington. In addition, litigation against Prince Edward County was renewed. In each of these class action lawsuits the NAACP sought to force the localities to begin school desegregation by September 1956.\textsuperscript{33} As Oliver Hill and Spottswood Robinson explained to newspaper reporters, “No one seems to want to do anything. We have no alternative but to resort to the courts.”\textsuperscript{34}

In addition to being urban areas, the four localities other than Prince Edward that now faced lawsuits shared important characteristics. One was the relatively moderate beliefs of whites who resided there. The Newport News school board had expressed to


\textsuperscript{32} One of the bill’s authors, John B. Boatwright, was a Byrd Organization stalwart who had introduced the resolution of interposition into the General Assembly and who later would later chair one of the investigative committees created by the General Assembly to investigate organizations promoting school desegregation within the state; see Letter from Lester Banks to Members of the Executive Board and Legal Staff of the Virginia State Conference, February 24, 1956, Part V, Box 2582, Virginia State Conference, 1956-1982, 1993, NAACP Papers; Gates, 124.


the governor its preference for local option, and public officials in both Arlington and Norfolk had indicated in 1956 their desire to comply with Brown and their willingness to begin plans for desegregation. A member of the Arlington NAACP, Edith Burton, later said that the NAACP’s suits had been filed “where the first steps in desegregation would produce a minimum of community dislocation.”

The latter quotation gives the impression the NAACP chose where to file its lawsuits, but NAACP records suggest the State Conference waited for branches to ask for help before deciding whether to provide legal assistance or not. In this sense, the NAACP did not seek out plaintiffs or locations, but rather chose the best ones from those that presented themselves. This policy allowed the association to avoid the label of “outside agitator” and assured that its litigation came from areas where blacks were strongly committed to school desegregation. It also allowed the State Conferences some autonomy within the confines of the national office’s legal directives. The wealth of local opportunities for legal action by the NAACP in Virginia testifies to the desire among African Americans around the state to see school desegregation begin.

The four localities also had large and active NAACP branches, which could more easily recruit plaintiffs for litigation, often from within their own ranks, than weaker


36 For more on the NAACP’s legal protocol for choosing where to file suit, see interview with Oliver Hill, conducted by Brian Daugherty, April 18, 2000, Richmond, Virginia; Hershman, 220-221; Part 20, reel 12, frame 1019, NAACP Papers microfilm; Memorandum entitled “Techniques in the Handling of School Facilities Cases at the Elementary and High School Levels,” by Spottswood Robinson, June 23-25th, 1949, Part V, Box 2836, Schools, Virginia, Correspondence and Memoranda, 1949, 1954-1970, NAACP Papers. It is worth highlighting that such legal protocols were developed by the national office and handed down to its State Conferences and branches.
branches could have. In fact, each of the four branches had submitted a school desegregation petition to its local school board in 1955. Furthermore, three of the four branches included among their members attorneys who were part of the State Conference’s legal staff, which simplified the handling of litigation. Finally, the four branches possessed relatively large amounts of money from membership dues and fundraising to help pay attorney’s fees, although most of the financing came from the national NAACP via the State Conference, and although national NAACP attorneys such as Thurgood Marshall and Robert Carter provided legal help as well.

Other than granting the State Conference permission to proceed, the national office played little role in the initial stages of the litigation. National NAACP attorneys did not prepare or direct the suits, though they did review briefs prepared by State Conference lawyers and the national office’s attorneys sometimes made court appearances. This modest involvement by the national office appears to have been standard operating procedure for the Virginia State Conference, which was viewed as one of the more responsible units of the association.

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40 See Hill, The Big Bang, 186. This was partly because the national office sought to avoid being labeled an “outside agitator” that came into local communities to stir up trouble by filing desegregation lawsuits. See Warren St. James, The National Association for the Advancement of Colored People: A Case
The shift to widespread litigation was not without its drawbacks for the NAACP. In Virginia and elsewhere in the South, segregationist activity increased as NAACP lawsuits were filed.\(^{41}\) Because the litigation cast the NAACP in the role of a more militant agitator, segregationists labeling the association “radical” were able to rally more supporters than previously. Harassment of association members and supporters increased, and even white liberals—fearing that the association’s actions were fueling white opposition to desegregation—urged the NAACP to reconsider its approach.\(^{42}\)

Looking back in 1961, Benjamin Muse wrote, “It is difficult to describe the intensity with which the NAACP was hated by white Virginians.”\(^{43}\)

Black families involved in the NAACP’s desegregation lawsuits in Virginia knew this hatred well. In many locations, plaintiffs and others associated with the litigation faced threatening telephone calls, cross burnings, and other forms of intimidation. Several plaintiffs in the Charlottesville case lost their jobs, and two plaintiffs withdrew from the lawsuit in Arlington County because of the pressure. In 1996 Dorothy Hamm, a

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\(^{42}\) Hershman, 253; Muse, 31; Boyle, 245, 264-265. For more on how white moderates and liberals responded to the NAACP suits, see Hershman, 215-217.

\(^{43}\) Quotation is from Muse, *Virginia’s Massive Resistance*, 48. See also Gates, 59; Pratt, 7.
leader in the movement to integrate the schools in that locality, recalled: “After that suit was filed, all hell broke loose.”

State government-sponsored attacks on the association also multiplied. Southern legislatures passed numerous laws in 1956 aiming to disrupt or shut down NAACP activities. The Louisiana legislature forced the NAACP to hand over the membership lists of several large branches; the state NAACP was “decimated.” Arkansas, Mississippi, and other states created “sovereignty” commissions to investigate and undermine organizations that supported school integration, and the state of Alabama shut down NAACP operations statewide, including an NAACP regional office in Birmingham, by late summer 1956. Such attacks forced the association to divert precious resources, personnel, and funding to combat the new threat. As NAACP executive secretary Roy Wilkins put it, “We have had our hands full.” That fall the association began a southwide membership campaign to replace members, funds, and resources lost in these attacks.

In Virginia, Attorney General Almond recommended that Governor Stanley call a special session of the General Assembly immediately after the NAACP’s school

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47 Quotation is from Brooks, 129. See “Board of Directors Meeting Minutes,” September 10, 1956, Supplement to Part One (1956-60), reel 1, NAACP Papers microfilm. For more on attacks on the NAACP outside of Virginia, see Brian J. Daugherity and Charles C. Bolton, editors, With All Deliberate Speed: Implementing Brown v. Board of Education (Fayetteville: University of Arkansas Press, 2008); Douglas, Reading, Writing, and Race, 32; Fairclough, 196-199, 207-211, 216, 225; 1956 NAACP Annual Report (New York: National Association for the Advancement of Colored People), 34. The association’s lack of political power in the South is covered in Bartley, 213; Brooks, 128.
desegregation lawsuits were filed. The governor did so on June 6. State leaders had introduced and debated various plans for dealing with the NAACP’s litigation throughout the spring, and now the General Assembly convened to implement a comprehensive program that would be markedly more radical than the modes of resistance that the Gray Commission had proposed only six months earlier.48

Historian Andrew Buni writes, “The Confederate flag-waving by spectators in the crowded galleries set the tone of the special session.”49 During the month-long session starting in late August, segregationist legislators easily prevailed over a coalition of moderates and liberals. In the end, the body adopted twenty-three laws addressing school segregation. Together the measures, colloquially known as the Stanley Plan or the massive resistance legislation, mandated and defended school segregation statewide.50

Two court decisions that summer encouraged the General Assembly to act. In July 1956, federal district court judge Albert Bryan of northern Virginia handed down the first ruling on one of the NAACP’s 1956 lawsuits, ordering the Arlington County school board to begin operating its schools on a nondiscriminatory basis no later than January 31, 1957. Then, on August 6, federal district court judge John Paul of the Western District Court of Virginia ordered the Charlottesville school board to begin operating desegregated schools that fall.51 Both decisions were somewhat remarkable, in that few federal judges in the South ordered immediate school desegregation in 1956. Both cases

48 In “Another Suit By NAACP Is Expected,” RTD, May 7, 1956, state leaders including former governor William Tuck and congressman Watkins Abbitt discussed various ways of handling school desegregation lawsuits. See also Gates, 128.

49 Buni, 185.

50 For more on the special session and its legislation, see Gates, 169-190; Beagle and Osborne, 102-103; Hershman, 187-189. Many in Virginia believed that the General Assembly’s actions encouraged massive resistance further South; see Hill, The Big Bang, 247.

51 Judge Paul noted, “... I would close my eyes to obvious fact if I didn’t see that the state has been pursuing a deliberate, well conceived plan of evasion.” See “Judge Rules Charlottesville Must Prepare to Integrate,” RTD, July 13, 1956.
were appealed, suspending the court orders, but the victories served as a wake-up call to
the state legislature.\textsuperscript{52}

The General Assembly’s new legislation was meant to stall legal action by the
NAACP and prevent school integration in the state. One law created a state Pupil
Placement Board (PPB) charged with assigning Virginia’s public school students to
schools. The legislature authorized this board to assign students based on a variety of
factors that purported to be racially neutral, but which in fact allowed the body to avoid
assigning black students to white schools. Though the NAACP challenged the pupil
placement legislation in federal court, it took several years before the judiciary ruled the
policy unacceptable.\textsuperscript{53}

The special session also passed legislation to prevent integration even if its pupil
assignment policies failed. The most important provisions were known as the school
closing laws, a handful of related bills that authorized the governor to close any public
school ordered by the federal courts to integrate. Should federal courts order a school
board to enroll black students in a formerly all-white school, which was considered the
most likely path to integration, the governor would close the affected white school(s),
withhold all state funds from them, and begin providing tuition grants (for enrollment in
private segregated schools) to the displaced white students.

\textsuperscript{52} Gates, 191; Hershman, 221-231. Virginia’s public officials were also concerned about State
Conference efforts to desegregate public parks and recreational facilities, including Seashore State Park in
Virginia Beach; see Tushnet, \textit{Making Civil Rights Law}, 301.

\textsuperscript{53} For more on pupil placement laws, see Peltason, 78-82; “Students to Be Assigned By Local
School Boards,” \textit{RTD}, December 29, 1956; Michael Klarman, \textit{From Jim Crow to Civil Rights} (Oxford,
UK: Oxford University Press, 2004), 358-359; Hershman, 228. For more on Virginia’s 1956 massive
resistance legislation in general, see Gates, 128-130, 173; Tushnet, \textit{Making Civil Rights Law}, 248, 358;
in Three Cities} (New York: Agathon Press, 1974), 23; Buni, 185; Reed Sarratt, “A Statistical Summary,
State by State, of Segregation-Desegregation Activity Affecting Southern Schools from 1954 to Present,
Together With Pertinent Data” (Nashville: Southern Education Reporting Service, November, 1962), 49-
53, in VCU Special Collections, Box 7, M 68, Edward H. Peeples, Jr. Papers.
Most of Virginia’s white leadership believed, or assumed their constituents believed, that the state NAACP, by continuing to press its litigation, was threatening Virginia’s way of life and traditions, as well as those of the white South as a whole. At an annual picnic at Senator Byrd’s farm near Winchester, Virginia, in late August, with the special session of the General Assembly just days away, Byrd had explained: “It’s no secret that the NAACP intends first to press Virginia.... If Virginia surrenders, if Virginia’s line is broken, the rest of the South will go down, too.” The massive resistance laws were Virginia’s attempt to lead the South in resistance to Brown, the NAACP, and the federal government.54

Byrd’s keen attention to the actions of the NAACP explains why the General Assembly also adopted legislation aimed at the association and the supporters of school integration in Virginia. Seven so-called “anti-NAACP” laws were passed during the special session. This legislation sought to undermine the NAACP’s legal campaign for school desegregation by prohibiting the solicitation of litigation, redefining commonly accepted legal practices related to the solicitation of clients, and providing state legal aid to local school boards to defend against NAACP suits. The General Assembly also required the registration and public disclosure of NAACP members’ names and created two legislative committees to investigate advocates of racial integration and their

efforts. Referring to the NAACP, Delegate James Thomson of Alexandria declared, “With this set of bills ... we can bust that organization ... wide open.” Roy Wilkins, executive secretary of the NAACP, added: “The intent of this legislation was clear: to destroy the NAACP in Virginia.” Firing back at its school desegregation litigation, the state of Virginia had declared war on the NAACP.

The NAACP actively opposed these attempts to forestall school desegregation in Virginia. A State Conference press release dated July 23, 1956, blasted Governor Stanley’s support for massive resistance legislation, calling it “simply another demonstration of his total incapacity to provide intelligent leadership to the people of Virginia during these significant times.” A number of NAACP supporters addressed the General Assembly during its special session, and the national office also publicly criticized state officials. But the NAACP had few defenders in the legislature, and those who supported compliance with the federal courts or the protection of the NAACP’s right to operate were soundly defeated during the legislative session. Most of

55 Hershman, 208-209; Part 20, reel 12, frames 807-815, 827, NAACP Papers microfilm; Gates, 143-145; Buni, 185-186; Reed Sarratt, “A Statistical Summary, State by State, of Segregation-Desegregation Activity Affecting Southern Schools from 1954 to Present, Together With Pertinent Data” (Nashville: Southern Education Reporting Service, November, 1962), 49-53, in VCU Special Collections, Box 7, M 68, Edward H. Peeples, Jr. Papers. Paul M. Gaston, in the Foreword to The Moderates’ Dilemma, ix, writes: “Schools would be closed rather than integrated, and the principle partisan of the integration cause—the NAACP—would be, so far as possible, hounded into silence and impotence.”

56 Quotation is from Hershman, 208. Thomson was a brother-in-law of Harry Byrd. For more on the state’s anti-NAACP laws, see Hershman, 209; Gates, 184; “Acts of Special Session of General Assembly of Virginia (Passed September 29, 1956), anti-NAACP legislation,” Part 20, reel 12, NAACP Papers microfilm. Fairclough, 225, notes that Louisiana adopted similar anti-NAACP measures; most other southern states did the same; see Fairclough, 207-216.


the massive resistance bills—and all the anti-NAACP legislation—passed easily. Only
three members of the state legislature opposed all seven anti-NAACP bills.\textsuperscript{60}

That fall, the new laws diverted the NAACP State Conference’s attention from
handling and expanding its desegregation lawsuits to defending its right to exist. In
response to the General Assembly’s actions, the State Conference initiated litigation
testing the constitutionality of the new massive resistance laws, but the action quickly
became mired in the state’s judicial system, where it remained for years. That winter, in
a variety of federal and state courts throughout Virginia, the NAACP also repeatedly
 sparred with the two legislative committees set up to investigate the supporters of
integration in Virginia.\textsuperscript{61} Attorneys for the state, recognizing that the anti-NAACP
litigation would probably eventually be overturned by federal courts, still labored
effectively to delay that outcome.\textsuperscript{62} As the NAACP won legal victories against the anti-
NAACP, and massive resistance, laws in the courts, the General Assembly also made
subtle alterations to its legislation, prolonging the legal battle. In subsequent years, the
State Conference would have to file multiple suits to challenge the same set of anti-
NAACP laws, and its legal campaign against the legislative attempts to destroy it was not
complete until 1963.\textsuperscript{63}

\textsuperscript{60} Muse, \textit{Virginia’s Massive Resistance}, 33.

\textsuperscript{61} In early 1957 the two committees, commonly referred as the Thomson Committee and the
Boatwright Committee, went to work. See “Report of the Committee on Law Reform and Racial
Activities” and “Report of the Committee on Offenses Against the Administration of Justice,” both in Part
20, reel 12, NAACP Papers microfilm; Hill, \textit{The Big Bang}, 179-180; Hershman, 210-214.

\textsuperscript{62} For an account of the legal wrangling, see “Letter from Lester Banks to Roy Wilkins, December
31, 1959, Subject: Report of the Committee on Offenses Against the Administration of Justice (The
Boatwright Committee),” Part III, Box C159, Virginia State Conference, July-December 1959, NAACP
Papers. For more on the views of leading Virginians on the state’s anti-NAACP laws, see “Diaries Reveal
Race Disputes,” RTD, March 29, 2003; Sweeney, 278; Beagle and Osborne, 76.

\textsuperscript{63} “The Candle,” volume 1, number 3, Virginia State Conference newsletter, May, 1957, Part III,
Box C158, Virginia State Conference, 1957, NAACP Papers; Reed Sarratt, “A Statistical Summary, State
by State, of Segregation-Desegregation Activity Affecting Southern Schools from 1954 to Present,
In the meantime, the State Conference sought to assure its members and supporters that their anonymity would be preserved. Despite their efforts, segregationists succeeded in their effort to intimidate supporters of the NAACP. It became an "elementary fact," white liberal Sarah Patton Boyle noted, "that threats and insults are breakfast cereal for the integrator."64 Over the next several years the association would lose hundreds of branches in the South, and the damage to the NAACP in Virginia was already evident by the end of 1956--national office records show the collapse of a disproportionate number of Virginia branches that year.65 Publicly, the association argued that the anti-NAACP legislation had united the black community behind the NAACP, but, when pressed, NAACP officials conceded that the attack had cost the association members, money, and valuable resources.66

Massive Resistance also hampered the effectiveness of the Virginia NAACP's school desegregation campaign. Hostility directed toward plaintiffs in the NAACP's school desegregation cases made it more difficult to recruit additional plaintiffs and led a white liberal plaintiff in the Arlington County suit to withdraw from the case. More

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64 Quotation is in Hershman, 250.
66 On the public stance, see Buni, 187. For more on the negative effects of the anti-NAACP laws, see Muse, Virginia's Massive Resistance, 49, 52-53; Hershman, 214, 253. Black teachers were also pressured to disassociate themselves from the NAACP; see "NAACP Keynotes Gives Plan To Make Integration Reality," RTD, October 6, 1956; also Letter from Clarissa Wimbush Carey to Roy Wilkins, February 5, 1963, Part III, Box C155, NAACP Papers.
importantly, the NAACP litigation against the state's anti-NAACP laws took time away from State Conference attorneys' school desegregation efforts.67

Massive Resistance, however, did not shut down the NAACP in Virginia or force it to abandon its desegregation campaign. This was partly because physical violence aimed at the supporters of integration was less common in Virginia than elsewhere in the South. To counteract the loss of members and funding, the State Conference asked its branches to step up membership drives and fundraising. One letter in early 1957 entreated, "Never before has our NAACP needed the support of every Negro citizen as it has today."68 To protect its finances, the State Conference transferred its "principal monies" to New York.69 And perhaps most important, the association tried to maintain morale with a stream of pronouncements and memorandums. One, written by executive secretary Lester Banks in early 1957, urged members to "keep on keeping on" until the NAACP's objectives had been achieved.70 Under the circumstances, it is doubtful Banks could have asked for more.

In the meantime, the State Conference's legal staff continued to push its school desegregation lawsuits through the federal court system. Given the complete recalcitrance of Virginia's political leadership, Oliver Hill and his assistants now knew they had to rely solely on the federal courts to achieve school desegregation. In his autobiography, Hill later noted: "Reporters and others constantly questioned us regarding

67 Hershman, 253; Peltason, 61-79.
68 Letter from E. B. Henderson to Dear _____, February 28, 1957, Part 20, reel 12, NAACP Papers microfilm.
69 Letter from Lester Banks to Roy Wilkins, March 14, 1957, Part 20, reel 12, NAACP Papers microfilm.
70 Confidential letter from Lester Banks to "Dear Co-Worker," misdated February 14, 1956 (actual date is 1957), Part 20, reel 12, NAACP Papers microfilm. Oliver Hill later recalled, "The people ... stayed strong in the face of the Thomson and Boatwright Committees"; Hershman, 214.
when we thought schools would be desegregated. I consistently replied that desegregated
schools would exist when we got judges who would order that Negro children attend
white schools.\textsuperscript{71} In November 1956 the State Conference legal staff celebrated another
victory when the United States Court of Appeals for the Fourth Circuit sustained the
federal district court rulings of the summer of 1956 requiring desegregation in the
Arlington and Charlottesville cases. As expected, however, both localities immediately
appealed to the U.S. Supreme Court, suspending the desegregation orders.\textsuperscript{72}

Moreover, the Fourth Circuit ruling came after the General Assembly’s special
session and its adoption of additional roadblocks to school desegregation. By
concentrating the pupil assignment process in the hands of the Pupil Placement Board, for
example, the General Assembly ensured that the local school boards the NAACP had
been suing became all but irrelevant in the struggle over school desegregation; racially
separate schools would be maintained by authorities in Richmond. In response, the
NAACP opened a new front in the legal war over school segregation: even as it fought
Virginia’s appeals to the U.S. Supreme Court, the association also challenged the
constitutionality of the new pupil placement law and the remainder of the newly-
established massive resistance program.\textsuperscript{73}

The plethora of lawsuits the NAACP had to file to implement school
desegregation and strike down anti-NAACP legislation would occupy the Virginia State

\textsuperscript{71} Hill, \textit{The Big Bang}, 176.

\textsuperscript{72} For more on the Fourth Circuit’s ruling, see NAACP Press Release, November 29, 1956, Part 3,
series D, reel 9, frame 68, NAACP Papers microfilm; Francis Wilhoit, \textit{The Politics of Massive Resistance}
(New York: Braziller, 1973), 168-169. See also Wilkinson, \textit{From Brown to Bakke}, 80; Peltason, xii, 211-
212; Gates, 126. These federal judges faced public criticism and even threats for their rulings; see for
example Klarman, \textit{From Jim Crow to Civil Rights}, 357.

\textsuperscript{73} This was done with extensive help from the NAACP’s Legal Defense and Educational Fund;
see Report of the Legal Staff, “The Candle,” volume 1, number 5, Virginia State Conference newsletter,
December 1957, Part III, Box C158, Virginia State Conference, 1956-57, NAACP Papers; Hershman, 227-
231; Peltason, 81.
Conference well into the early 1960s. As of the end of 1956, the road ahead of the association appeared fraught with difficulty and peril. Though *Brown v. Board of Education* had declared segregation in southern education unconstitutional, the implementation of that ruling in Virginia seemed distant at best. NAACP executive secretary Roy Wilkins later wrote, "Eventually we were able to cut through all these legal entanglements, but the fight took time, money, and energy that might otherwise have gone into more fruitful enterprises. In one sense, however, the harassment was rather flattering: it showed how pervasive our influence was—and how desperate the South was to stamp us out."74

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Chapter 4, 1957-1959
The Height of Massive Resistance

In Virginia, the years between 1957 and 1959 brought grave hardships to the supporters of school desegregation. The size and power of segregationist organizations such as the Defenders of State Sovereignty and Individual Liberties peaked in the late 1950s, as did state government efforts to prevent integration in Virginia’s schools. The Virginia NAACP, the preeminent supporter of integration in the Commonwealth, struggled to survive—even as it continued its efforts to bring about desegregation in Virginia’s public schools.

Ultimately, however, in early 1959, state and federal judges overturned key elements of the Virginia General Assembly’s massive resistance program. The rulings forced state leaders to choose between continuing outright resistance by crafting new massive resistance laws, or capitulating to the courts and allowing school desegregation to begin in the Commonwealth. Governor Almond and a majority in the state legislature chose the latter. On February 2, 1959, nearly five years after *Brown v. Board of Education*, school desegregation began in the Commonwealth when twenty-one African-American students entered formerly-white schools in Arlington and Norfolk. The process was peaceful, although the black students faced a variety of challenges in their new schools. After this historic event, the NAACP sought--primarily through litigation--to increase the number of black students admitted to white schools and of Virginia localities implementing desegregation. State leaders, shifting from outright defiance to
token compliance, handed control of school desegregation to local officials and continued to aid them in preserving as much segregation as possible.

In early 1957 the General Assembly organized two new bodies sanctioned by its massive resistance legislation of 1956. The House of Delegates created the Committee on Offenses Against the Administration of Justice (known as the Boatwright Committee), while the state Senate established the Committee on Law Reform and Racial Activities (known as the Thomson Committee). Both panels were set up to impede and counteract the efforts of Virginians who wanted integration, primarily the NAACP, by questioning national and state NAACP leaders, intimidating plaintiffs and witnesses in the NAACP’s cases, attempting to obtain the organization’s membership lists and financial records, and challenging the credentials of association attorneys. Over the next several years, the committees also investigated potential violations of state tax laws by organizations that supported integration, examined the solicitation of business by attorneys associated with the NAACP, monitored all of Virginia’s legal aid societies for the General Assembly, and asked the Virginia State Bar to investigate whether civil rights attorneys in Virginia were violating its standards.1

Unbowed, the national office of the NAACP developed a flexible but coordinated strategy for handling attacks on the association mounted by Virginia and other southern states. Typical of the NAACP, most of the final decisions were made by the staff in New

York City. In January 1957, following the Thomson and Boatwright committees’ initial requests for information, Virginia State Conference officials met with the national office staff. The Virginia NAACP had already filed a suit, *NAACP v. Almond*, against the state’s anti-NAACP laws in 1956, and now its leadership discussed what actions to take while the courts considered their requests. The following month, the national board of directors of the NAACP chose to provide general information to Virginia’s legislative committees but to withhold the names and addresses of members and contributors in Virginia, a move that was meant to preserve their anonymity and limit reprisals from white segregationists. That it was executive secretary Roy Wilkins who communicated the decision directly to the legislative committees highlights the importance of the national office of the NAACP in the 1950s. Between 1957 and 1959, the national office—in consultation with its State Conferences—responded to countless requests for information from government officials in Virginia and throughout the South.²

The Virginia NAACP’s litigation, *NAACP v. Almond*, which had been filed in federal district court in Virginia in late 1956, sought to abolish the Thomson and Boatwright committees and overturn the state laws that created them. State Conference lawyers, working with the national legal staff and attorneys from the Legal Defense and Education Fund, also hoped to protect the association’s membership information and right to litigate. This litigation continued until the U.S. Supreme Court ruled for the NAACP in 1963. Between 1957 and 1959, the State Conference legal staff handled the state’s appeal of *NAACP v. Almond*, filed as *Harrison v. NAACP*, as well *Scull v. Virginia*.

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(1959), which resulted in a U.S. Supreme Court decision that overturned the contempt of
court conviction of a white NAACP member from Virginia. By the fall of 1959, Oliver
Hill noted that Virginia NAACP lawyers were handling at least six cases dealing with the
disclosure of membership information.³

The process involved countless hours of legal preparation and hearings. The
NAACP's national board of directors established a separate fund to pay for the effort to
overturn the anti-NAACP laws in Virginia, and both the national legal staff and Legal
Defense and Education Fund helped prepare and manage the litigation. NAACP records
also show that attorneys' fees paid by the State Conference skyrocketed in 1957.⁴ In a
report issued in 1960, the Boatwright Committee stated that "solely because of the
NAACP and its affiliated person and organizations ... the Committee has been required
to obtain the assistance of various courts of the Commonwealth not less than fourteen
times during a period of ten months."⁵

While these cases were argued, the Thomson and Boatwright committees
continued to pressure the Virginia NAACP and its supporters. In late 1957, the

³ Letter from Lester Banks to Roy Wilkins, December 31, 1959, Subject: Report of the Committee
on Offenses Against the Admin of Justice, Part III, Box C159, Virginia State Conference, July-December
1959, NAACP Papers; Part 20, reel 12, frames 773 and 870, NAACP Papers microfilm; Part 20, reel 13,
frame 72, NAACP Papers microfilm.

169, says the NAACP filed more lawsuits in Virginia by 1957 than in any other southern state. See also
Minutes of the Inc. Fund annual meeting, February 6, 1957, Part 20, reel 12, frame 902, NAACP Papers
microfilm; Minutes of the Meeting of the Board of Directors, December 10, 1956, Part 20, reel 12, frames
853, 893, NAACP Papers microfilm; Letter from Lester Banks to Lucille Black (NAACP Membership
Secretary), August 29, 1957, Part III, Box C158, Geographical File, Virginia State Conference, 1957,
NAACP Papers. Three NAACP documents from December 1959 titled Exhibit A, Exhibit B, and Exhibit
C, in the author's possession, show legal expenses paid by the Virginia State Conference to its legal staff.

⁵ Letter from Lester Banks to Roy Wilkins, December 31, 1959, Subject: Report of the Committee
on Offenses Against the Administration of Justice, Part III, Box C159, Virginia State Conference, July-
December 1959, NAACP Papers; Part 20, reel 12, frames 914-1012, NAACP Papers microfilm; Reed
Sarratt, "A Statistical Summary, State by State, of Segregation-Desegregation Activity Affecting Southern
Schools from 1954 to Present, Together With Pertinent Data" (Nashville: Southern Education Reporting
Service, November, 1962), 49-53, in VCU Special Collections, Box 7, M 68, Edward H. Peeples, Jr.
Papers.
committees, in formal reports to the General Assembly, accused the NAACP of engaging in the unauthorized practice of law. The following year the legislature directed the Boatwright Committee to take legal action against individuals or organizations violating Virginia’s legal standards. In response the committee launched legal proceedings to obtain an injunction against the legal operations of the Virginia State Conference of the NAACP, the national NAACP, and the NAACP Legal Defense and Educational Fund in Virginia.6

Important though the national office of the NAACP was, the legislative committees’ focus on the national headquarters reflected a fundamental misunderstanding of the association. Committee members, like most white Virginians, believed the Virginia NAACP’s leaders were merely doing the bidding of the association’s national office in New York. Rather than recognize black Virginians’ desire for change, Virginia’s white leaders assumed that black Virginians were being pressured by the national office. This point of view magnified the threat posed by the national organization and, combined with the effectiveness of NAACP litigation, convinced state governments throughout the South to take aim at the association in the later 1950s.7

Nearly every southern legislature passed legislation similar to Virginia’s massive resistance laws of 1956, designed to hinder the NAACP’s ability to operate and to forestall school integration. A number of states—including Virginia—succeeded in

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6 Letter from Lester Banks to Roy Wilkins, December 31, 1959, Subject: Report of the Committee on Offenses Against the Administration of Justice, Part III, Box C159, Virginia State Conference, July-December 1959, NAACP Papers.
7 In reality, Virginia’s NAACP members and their leaders were as committed to the destruction of segregation as the organization’s top officials, if not more so. Southern blacks suffered the indignities of segregation more than their northern counterparts, fueling a strong commitment to equal rights. Though claims of “outside agitators” stirring up trouble resonated with white southerners throughout the post-Brown era, the reality was that most black Virginians—and particularly NAACP members—were eager for the destruction of Jim Crow.
reducing the effectiveness of the NAACP, and several nearly or entirely shut down the organization’s operations. In October 1958, Bruce Bennett, the Attorney General of Arkansas, outlined a plan to eliminate the NAACP throughout the South. Bennett said he had “long contended that the NAACP organizations are at the root of our racial problems, and the only way I can see to restore our people to peace and tranquility is to neutralize those organizations.”

In Washington, D.C., Virginia’s senior U.S. Senator, Harry Byrd, also attacked the NAACP. In 1956, Byrd used his influence to convince the Internal Revenue Service (IRS) to investigate the association’s tax-exempt status. Believing the Legal Defense and Educational Fund had violated its tax-exempt status by sharing a chain of command with the national office of the NAACP, the IRS forced the two organizations to separate in May 1957.

Under the new arrangement, the NAACP developed two separate but overlapping legal staffs. Thurgood Marshall became the director of the Legal Defense and Educational Fund and Robert Carter became the NAACP’s general counsel. Virginia’s NAACP attorneys continued to work with both organizations. Carter and the national office were particularly important in defending the Virginia State Conference from state government attacks by challenging the constitutionality of the General Assembly’s anti-NAACP laws

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in court. In the campaign for school desegregation, State Conference attorneys worked with both the national office and the Legal Defense Fund, though again the national office seems to have played the more important role.10

Political scientist Gilbert Ware has examined the separation of the two groups. Discussing the reasons for the dismemberment, he writes: “Backlashers [segregationists] hated the NAACP-Inc. Fund alliance for what it had done and feared it for what it might yet do” to promote school desegregation. Discussing the impact of the forced separation of the Inc. Fund, Ware concludes the move had the effect of “impairing Blacks’ ability to insist that Brown be implemented” in the South.11 The division of the association’s legal staff and the establishment of a separate organization for much of the NAACP’s legal activities was indeed harmful. Although the NAACP and the Inc. Fund continued to cooperate, the physical separation between the two organizations complicated this effort. Considering the NAACP’s importance, this meant the entire process of school desegregation was affected.12

As the likelihood that some desegregation would occur grew in the late 1950s, opposition among white southerners increased. Polls showed that roughly 16 percent of white southerners agreed with the Brown decision in 1956, but that the number had dropped to 8 percent by 1959. The decline reflected the expansion of initial school


11 Quotations are from Gilbert Ware, “The NAACP-Inc. Fund Alliance: Its Strategy, Power, and Destruction,” Journal of Negro Education, volume 63, issue 3 (summer 1994), 323-335. Tomiko Brown-Nagin adds that “… the separation of the national NAACP from the LDF in 1956 undermined the efficacy of civil rights lawyers in ways that have not yet been fully explored”; see “The Impact of Lawyer-Client Disengagement on the NAACP’s Campaign to Implement Brown v. Board of Education in Atlanta,” in Lau, From the Grassroots to the Supreme Court, 229.

12 Michael Klarman, From Jim Crow to Civil Rights (Oxford, UK: Oxford University Press, 2004), 351-352, highlights the importance of the NAACP in bringing about school desegregation in the South.
desegregation into new parts of the region and segregationists' successful campaign to unite white southerners in opposition to Brown. At the same time, the percentage of white southerners who believed that school desegregation was inevitable fell from 55 percent in 1956 to 43 percent in August 1957, suggesting that the viability of massive resistance was winning support for the policy. The Little Rock, Arkansas, desegregation crisis, which occurred in the fall of 1957, increased white southern opposition to school desegregation. In that incident, President Eisenhower reluctantly used federal troops to implement a court order to admit nine black students into Central High School, which the governor of the state had defied. A poll conducted shortly after the incident revealed that two out of three whites in Virginia preferred closing schools rather than integrating them.13

In most of the South, Citizens' Councils were the leading segregationist organization. The first council was organized in Indianola, Mississippi, in 1954, and the movement spread rapidly, particularly in the Deep South. Over time, state and national entities were created. NAACP executive secretary Roy Wilkins later recalled the Councils had “spread like a plague,” and the organization claimed 250,000 members by 1956.14 In Virginia, several units were active by 1956, and they grew in size and influence in the later 1950s. As elsewhere, they sought to generate support for massive resistance and to intimidate the supporters of integration. Sarah Patton Boyle, a white liberal from Charlottesville, recalled that the local Council burned crosses in the lawns of

13 Klarman, From Jim Crow to Civil Rights, 366-367; 417-424.
14 Quotation is from Roy Wilkins with Tom Mathews, Standing Fast: The Autobiography of Roy Wilkins (New York: Viking, 1982), 216. See also Rod Bush, We Are Not What We Seem: Black Nationalism and Class Struggle in the American Century (New York: New York University Press, 1999), 159; Peter Lau, “From the Periphery to the Center,” in Lau, From the Grassroots to Supreme Court, 118. The group’s executive secretary and administrator claimed 55,000 members in June 1955; see “Six Southern States Seen Holding Firm In Resolve to Circumvent School Order,” RTD, June 12, 1955, in Part II, Box A228, Branch Action, Virginia, 1954-1955, NAACP Papers.
white liberals and churches that supported them.\textsuperscript{15} Not surprisingly, the Councils—in Virginia and elsewhere—expressed a particular hatred for the NAACP; one Council flyer in 1956 claimed: "The Nigra, white-race-hating organization, NAACP, is a red-led organization."\textsuperscript{16} In September 1958, Council representatives from Arlington, Brunswick, Lunenburg, Mecklenburg, Fairfax and the Peninsula created the statewide Association of Citizens’ Councils of Virginia.\textsuperscript{17}

In Virginia, however, the Defenders of State Sovereignty and Individual Liberties remained the leading segregationist organization, eclipsing the Citizens’ Councils in size and stature.\textsuperscript{18} By 1956 the Defenders claimed chapters throughout the state and a membership of 12,000. The group also had access to the highest echelons of Virginia’s government, winning the allegiance of a number of legislators from Southside Virginia who supported massive resistance. In early 1956, a delegation of southern segregationists headed by Robert Crawford, president of the Defenders, met with Governor Stanley. By

\begin{itemize}
\item \textsuperscript{16} The quotation is from John Kasper, executive secretary of the Seaboard Citizens’ Councils and a virulent and well-known segregationist. Its extreme language reflected the fear and frustration evident among southern segregationists in the mid-1950s. See “Charlottesville Attack, Charlottesville Fight” brochure, including a \textit{Washington Post and Times Herald} article, an “Open Letter to the White Citizens of Charlottesville Virginia” dated August 7, 1956, and a membership application for the Seaboard White Citizens’ Councils, in Part III, Box C158, Virginia State Conference, 1956, NAACP Papers. See also J. W. Peltason, \textit{Fifty-Eight Lonely Men} (New York: Harcourt, Brace & World, Inc., 1961), 151; Payne, \textit{Light of Freedom}, 35. It is worth noting that this statement reflected the Cold War mentality of many segregationists, who claimed that the proponents of racial change were linked to communism and Soviet attempts to initiate a communist revolution in America; see Klarman, \textit{From Jim Crow to Civil Rights}, 382.
\item \textsuperscript{17} The \textit{Citizens' Council}, volume 3, number 12, September 1958, University of Mississippi Archives and Manuscripts, Special Collections, J.D. Williams Library, Citizens' Council Collection, control number 95-20, Box 3, folder 2, location C-9. For more on Virginia’s Citizens’ Councils in 1958, see also “Summary of Local Developments, Charlottesville, Virginia, September-October, 1958” by June Shagaloff, Part V, Box 2836, Schools, Virginia, Correspondence and Memoranda, 1949, 1954-1970, NAACP Papers; “Rally Urges State Return Two Schools,” \textit{RTD}, October 3, 1958.
\item \textsuperscript{18} Benjamin Muse wrote, “With an instinctive feeling of Virginia superiority, the White Citizens Councils, which were springing up elsewhere in the South, were … eschewed.” See Muse, \textit{Virginia’s Massive Resistance}, 9.
\end{itemize}
that time or shortly thereafter, the historian Robbins Gates writes, “the Defenders and the [Byrd] organization seemed nearly as one.”

Like the Citizens’ Councils, the Defenders of State Sovereignty attacked the NAACP. In October 1954, the Mecklenburg County unit warned: “The question is whether we shall pass on to our children and grandchildren the proud heritage of the white race or whether we shall quietly submit to the dictates of NAACP, Communistic Jews, and Political expediency....” In 1958, James Jackson Kilpatrick added, “If the Old Dominion can be humiliated, whipped to her knees, made to surrender, the NAACP believes the rest of the South will soon cave in.” The young *Richmond News Leader* editor concluded, “we would say to our confident enemies: Virginia has no thought of surrendering.” Between 1957 and 1959, the Defenders organized political rallies to pressure state leaders, harassed the proponents of integration with threatening phone calls and letters, and established tax-exempt foundations to create private segregated academies should the public schools be closed--or worse, integrated.

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20 Letter from V. C. Daniels, Mecklenburg County Unit, Defenders of State Sovereignty and Individual Liberties, October 22, 1954 To Members, their Wives, Ministers and Lawyers, Part II, Box C212, Virginia State Conference, 1954, NAACP Papers.

21 Kilpatrick also wrote, “Plainly, the NAACP is concentrating deliberately on Virginia this Fall;” the article was titled “Target: Virginia.” *The Citizens’ Council*, volume 3, number 12, September 1958, University of Mississippi Archives and Manuscripts, Special Collections, J D Williams Library, Citizens’ Council Collection, control number 95-20, Box 3, folder 2, location C-9.

Virginia’s white newspapers also generally denounced school integration and the NAACP in the late 1950s. Benjamin Muse, who traveled the South working for the Southern Regional Council in the late 1950s, wrote: “Once state policy pointed toward resistance, nearly all of the press had fallen into line with it. There were fewer voices of moderation in the Virginia press than that of any other state outside of South Carolina and the Gulf states of Alabama, Mississippi and Louisiana.” The one notable exception was Lenoir Chambers, editor of the *Norfolk Virginian-Pilot*, who advocated compliance with *Brown* and later won the Pulitzer Prize for his editorials on massive resistance.

As opposition to school desegregation swelled, the NAACP struggled. Southern attempts to secure NAACP membership lists led to a sharp decline in memberships in the South because blacks feared retribution. Historian Harvard Sitkoff noted, “By 1958 the NAACP had lost 246 branches in the South, and the South’s percentage of the NAACP’s total membership had dropped from nearly 50 percent to just about 25 percent.”

Discussing the national NAACP, Thurgood Marshall and Roy Wilkins reported in January 1958 that memberships had dropped fourteen percent, or 48,000 members, in the previous year—the first decrease since the late 1940s.
The Virginia State Conference's membership figures suffered as well. In the two years after *Brown v. Board of Education*, the organization had experienced significant growth, as its membership expanded from 16,032 in 1954 to 30,354 in 1955.\(^\text{26}\) Then the state government's massive resistance policies began to take their toll, and the number of State Conference members fell to 22,846 at the end of 1956. Afterward, Virginia State Conference memberships flattened out for the remainder of the decade—the association's membership totals for 1958 and 1959 were 21,168 and 21,777, respectively—before rising again in the early 1960s.\(^\text{27}\)

As membership declined, so did the NAACP's income. Unlike other civil rights organizations, the majority of the NAACP's revenue came from individual, annually-renewed memberships; in 1958, memberships supplied approximately eighty-five percent of the association's annual operating budget.\(^\text{28}\) As massive resistance led to a decline in memberships and fewer donations to the NAACP, the association's income stagnated; the association's budget showed a deficit for 1957. After rising from approximately $13,000 in 1954 to nearly $40,000 in 1955 and almost $50,000 in 1956, the amount of


\(^{27}\) By the way, these numbers indicate that only a small percentage of the state's black population had joined the NAACP. "Virginia State Conference, 1962 Membership Campaign (showing comparative data)," Part III, Box C160, Virginia State Conference 1962, NAACP Papers. See also Hershman, 10; Buni, 195. Some scholars have attempted to gauge the strength of the NAACP by counting its local chapters, but an examination of Virginia State Conference reports indicates that oftentimes branches were considered active or inactive depending on the author or timing of the report, as opposed to the number of active members. Benjamin Muse claimed the Virginia State Conference had a membership of 27,000 in 1958, a figure which appears to be incorrect; see *Virginia's Massive Resistance*, 47. For the national NAACP's figures, see Memberships of Virginia Branches, by Branch, Part III, Box C159, Virginia State Conference, January-June 1959, NAACP Papers.

membership income sent from the national office to the State Conference remained near that level until the end of the decade, when it again began to climb.  

Attacks on the NAACP also impaired the functioning of the Virginia State Conference. In March 1957, fearing action by the state government, executive secretary Lester Banks transferred the State Conference’s “principal monies” to a bank in New York as a precaution. As its income dropped, the state NAACP also appealed to the national office for financial relief. In June, Banks wrote to NAACP executive secretary Roy Wilkins, “We are still under the hammer....”  

Massive resistance also led to reduced branch activity in Virginia. In its 1957 annual report, the Covington branch explained that much of its civil rights work had stopped. A hand-written addendum to national Director of Branches Gloster B. Current explained: “This is a very limited yearly report because our field of action has been narrowed considerably the last couple of years by the effects and pressure of the anti-N.A.A.C.P. laws and attempts by the state government of Virginia to secure branch membership lists.” It concluded, “Rest assured that our branch is carrying on and doing its best under very difficult circumstances.”  

The State Conference, however, maintained its core programs and continued to press for school desegregation in Virginia throughout the late 1950s. The new dangers...

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30 Letter from Lester Banks to Roy Wilkins, March 14, 1957, Part 20, reel 12, frame 933, NAACP Papers microfilm; Letter from Lester Banks to Roy Wilkins, June 18, 1957, Part 20, reel 12, frame 956, NAACP Papers microfilm.  

and hurdles failed to divert or intimidate the organization’s leadership. One NAACP supporter wrote of State Conference Executive Secretary Lester Banks, “When the timid begin discussions about going slow or stopping certain important projects, Les acts like a deaf man who has lost his hearing aid….” In 1959, in addition to continuing its legal challenges against the massive resistance laws, State Conference officials distributed more than 150,000 pieces of literature to “alert, inform and lend a feeling of security to our members and supporters.” One brochure was titled “NAACP Membership and Contribution Lists Still Secure,” which noted that the State Conference’s legal actions had prevented the state from obtaining the association’s membership lists or financial records.

As the anti-NAACP laws and segregationist attacks took their toll, NAACP leaders also struggled to maintain the association’s position as the nation’s leading civil rights organization. Though leaders of the organization regularly cooperate with other civil rights groups and generally shared the same goals, they also jealously guarded the association’s status and influence and feared new organizations that might challenge the NAACP’s leadership. In the late 1950s and 1960s, the very time when southern segregationists and state governments targeted the NAACP and its members, blacks created or turned to other civil rights organizations in larger numbers, a development that threatened the NAACP’s long-term preeminence in the region.

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34 See for example, Klarman, From Jim Crow to Civil Rights, 384.
Concern among NAACP leaders increased after the Montgomery, Alabama, bus boycott of 1955-1956, which was organized by the locally-based Montgomery Improvement Association (MIA) and then led by that organization’s young president, the Reverend Dr. Martin Luther King, Jr. While the MIA and the Montgomery branch of the NAACP shared members, including King himself, and the national office of the NAACP (and the Legal Defense Fund) handled the MIA’s legal work, friction existed between the two organizations from the beginning. During and after the boycott, NAACP executive secretary Roy Wilkins downplayed the effectiveness of economic boycotts as a tactic for bringing about change, emphasizing instead the importance of the NAACP’s legal efforts and the U.S. Supreme Court decision that ended the boycott. Ignoring the fact that the NAACP had organized similar economic boycotts in the past, Wilkins evinced deep concern about the growth and acceptance of competing strategies for racial change.  

Wilkins also pointed out—correctly—that the boycott had fueled the attack mounted by state of Alabama on the NAACP. In June 1956 Alabama’s attorney general launched one of the fiercest assaults on the NAACP in the region. Legislative action and judicial decrees shut down the Alabama State Conference as well as the organization’s regional headquarters for the Southeast, forcing the NAACP to expend great effort for the next six years to reopen and rebuild. As Taylor Branch explains, “Wilkins would hardly forget that it was King’s boycott that had put the NAACP out of business in the  

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35 See Minutes of the Board of Directors Meeting, February 14, 1956, and Minutes of the Board of Directors Meeting, April 8, 1956, both in Supplement to Part One (1956-1960), reel 1, NAACP Papers microfilm; Taylor Branch, Parting the Waters: America in the King Years, 1954-63 (New York: Simon & Schuster, 1988), 186-188.  
36 Wilkins, Standing Fast, 238-239; Branch, Parting the Waters, 186-188.
entire state, at a critical time in the school desegregation cases, and this handicap would
grow more serious as other Southern states tried to follow Alabama’s example.”

The birth of a new civil rights organization—the Southern Christian Leadership
Conference (SCLC), led by Dr. King—in early 1957 intensified the NAACP’s fears of
lost memberships and influence in the region. With the association struggling simply to
exist in the southern states, partly because white resentment of the bus boycott, the
creation of SCLC grated on Roy Wilkins and other national NAACP leaders. Though
King attempted to maintain cordial relations between the two organizations and
deliberately avoided confronting the NAACP’s leadership, Wilkins and others within the
NAACP clearly viewed SCLC as a threat. As legal historian Michael Klarman
explains, “The NAACP saw itself as the civil rights organization, and it was not
favorably disposed toward an upstart group that might compete for funding, membership,
and headlines.”

Wilkins’s concern stemmed partly from the fact that the SCLC offered an
alternative to blacks who had not previously joined the NAACP. Wilkins knew that the
vast majority of southern blacks were not NAACP members, in part perhaps because of
the organization’s annual membership dues or its requirement that branches have at least
fifty members; also, the NAACP’s policy of developing policies and programs largely in
the national office may have begun to lose appeal in an era where local, grassroots action

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37 Branch, Parting the Waters, 186-188. On the rise of SCLC in the vacuum created by the
South’s attacks on the NAACP, see Fairclough, Race and Democracy, xvi, 207-216. Klarman, From Jim
Crow to Civil Rights, 382, notes: “As the NAACP struggled to survive in the South, blacks turned
elsewhere for leadership. Black ministers, many of whom held prominent positions in NAACP branches,
formed new organizations....” For an example of this in Virginia, see “NAACP Keynoter Gives Plan To
Make Integration Reality,” RTD, October 6, 1956.

38 Branch, Parting the Waters, 221-222, 229-231, 234-235.
39 Quotation is from Klarman, From Jim Crow to Civil Rights, 377; see also 378-380. Branch,
Parting the Waters, 231, discusses how a close friend of Dr. King’s, aware of the SCLC leader’s
difficulties working with the Roy Wilkins, commented that 1957 had been a virtual “year of disagreement.”
was on the rise. Other blacks shied away from the group because of its emphasis on legal
action—a gradual mode of bringing about change. As King’s organization developed, it
attracted growing numbers of southern blacks who wanted to move well beyond the
NAACP’s program.

Competition among civil rights organizations, quite simply, reflected the
heterogeneity of southern blacks. Many black organizations, including fraternal
associations, civic clubs, church-based groups, parent-teacher organizations, and voters’
leagues saw integration as a means of obtaining better educational and economic
opportunities for blacks, and throughout the mid-twentieth century, these groups and their
members generally supported the NAACP and viewed it as the leading civil rights
organization. Even so, differences of class, religion, age, and the like fueled debates over
strategy, tactics, timing, and goals—and as alternatives to the NAACP emerged in the
later 1950s, divisions within the black community grew. As historian James Hershman
notes, black Virginians in the 1950s were “far from a monolithic group.”

As the decade of the 1950s neared its end, the Virginia NAACP’s school
desegregation litigation progressed more smoothly than its challenges to the state’s anti-
NAACP laws. Two of the organization’s five school desegregation lawsuits--filed in the
spring of 1956 in Arlington and Charlottesville--had quickly won favorable rulings in
federal district court, and the United States Court of Appeals for the Fourth Circuit

40 Hershman, 195. Legal scholar Davison Douglas also notes that “the NAACP’s integrationist
agenda was not shared by all members of the black community.” Davison M. Douglas, Reading, Writing,
and Race: The Desegregation of the Charlotte Schools, (Chapel Hill: University of North Carolina Press,
1995), 30-31. For information on black separatists and the Nation of Islam in Virginia, see W. T. Grigg,
RTD, December 14, 1959. In June 1957--years after the NAACP had moved beyond the goal of school
equalization and replaced it with that of desegregation--blacks in Surry County, Virginia, boycotted their
school not for the sake of integration, but rather to seek better but separate school facilities; see August
Meier and Elliott Rudwick, Along the Color Line: Explorations in the Black Experience (Urbana:
University of Illinois Press, 1976), 376.
unanimously upheld both decisions in December 1956. In 1957, while the Fourth Circuit decision was appealed to the United States Supreme Court, Judge Walter Hoffman of the federal district court of Eastern Virginia handed down a decision overturning the state’s pupil placement law, which had created a three-person Pupil Placement Board to prevent school desegregation. The judge also ordered that school desegregation in Norfolk and Newport News begin that fall. Hoffman declared that “by reason of the obvious lack of attempt to promulgate any plan looking forward to desegregation gradually or otherwise, there remains nothing for this court to do other than to restrain and enjoin the school board … from refusing solely on account of race or color to admit or enroll or educate … any child otherwise qualified for admission…” Upheld by the United States Court of Appeals for the Fourth Circuit in the summer of 1957, Hoffman’s rulings were also appealed to the United States Supreme Court. In the meantime, segregated schools in Virginia would continue for the 1957-1958 school year.

That fall Virginia and the rest of the South took a back seat to news from Little Rock, Arkansas. Like the Virginia State Conference, the Arkansas State Conference of the NAACP won a federal district court ruling ordering school desegregation in Little Rock in 1957. Rather than comply with the court order, however, Arkansas Governor Orval Faubus ordered the Arkansas National Guard to prevent the admission of the nine African-American students scheduled to attend Little Rock’s Central High School in

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order to—as he put it—maintain order and prevent violence. As national news outlets covered the growing conflict, President Dwight Eisenhower met privately with Governor Faubus to defuse the situation, but without success. Eventually President Eisenhower took control of the Arkansas National Guard and sent U.S. Army troops to enforce the court order; soldiers escorted the nine black students into the school and remained there for the entire year.

The crisis in Little Rock reverberated throughout the South. In Virginia’s gubernatorial campaign in the fall of 1957, Attorney General J. Lindsay Almond won a contest that focused on massive resistance and school desegregation. A stalwart segregationist, Almond pandered to white fears about black voters and branded his opponent, Republican Ted Dalton, an integrationist because of his ties to President Eisenhower and his moderate views on desegregation. The Little Rock crisis, which broke less than two months before the election, significantly sharpened white Virginians’ concerns about integration and doomed Dalton’s campaign to become Virginia’s first Republican governor. Dalton later concluded, “Little Rock knocked me down to nothing. It wasn’t a little rock, it was a big rock.”

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44 For a good general discussion of post-Brown southern politics, see Klarman, From Jim Crow to Civil Rights, 390-392, 398-399, 421.

45 Quotation is from Klarman, From Jim Crow to Civil Rights, 398. Even in defeat, Dalton won 45 percent of the vote in the 1953 gubernatorial election, making it the closest in years in Virginia, but his support for token school desegregation after Brown hurt his standing among white Virginians even before the crisis at Little Rock. See Michael Klarman, “How Brown Changed Race Relations,” Journal of American History, June 1994, 101; Numan V. Bartley, The Rise of Massive Resistance: Race and Politics in the South During the 1950s (Baton Rouge: Louisiana State University Press, 1969); Earl Black, Southern Governors and Civil Rights (Cambridge, MA: Harvard University Press, 1976). Muse, Virginia’s Massive Resistance, 172, argues that Virginia’s earlier defiance had encouraged others further south, and thus contributed to the Little Rock controversy. He writes, “...there are many in...Arkansas who believe that the events leading to the tragic convulsions of Little Rock would not have occurred had it not been for the example of apparent defiance of federal authority set by the conservative and respected leaders of the Old
In the spring of 1958, the Virginia General Assembly revised and expanded its massive resistance legislation. With support from now-Governor J. Lindsay Almond, the legislature adopted several so-called “Little Rock bills,” which required the closing of any school policed by federal troops and ordered that the federalization of the state militia be controlled by the governor. The assembly also amended legislation related to its two investigative committees. Delegate James Thomson sought to extend the life of his committee and expand its agenda to examine the racial beliefs of Virginia’s school teachers, but Governor Almond opposed the effort, fearing its effect on teacher recruitment. The General Assembly defeated Thomson’s bill and the Thomson Committee’s mandate expired. The Boatwright Committee, however, and its investigation aimed at intimidating the NAACP, were continued. That spring, the assembly also passed legislation requiring non-profit organizations engaged in legal work to register with the State Corporation Commission and ordered the Virginia State Bar to prosecute supposed violators of the state’s legal ethics rules. Responding to recent federal court rulings, the lawmakers also modified the powers of the state Pupil Placement Board to allow that body to consider additional criteria for student placement. The goal was to allow the Board to continue to require school segregation without Dominion.” Also in the fall of 1957, the U.S. Congress passed civil rights legislation for the first time since Reconstruction. The Civil Rights Act of 1957 was supposedly meant to increase black voter registration in the South, and the act created the Civil Rights Division within the Department of Justice and the United States Commission on Civil Rights. Though many civil rights leaders rightly criticized its provisions as weak, the bill’s passage reflected changes in Congress that were slowly undermining the advantages that seniority and the Senate filibuster had traditionally afforded southern representatives. The vast majority of southern political leaders, including the Virginia State Democratic Party, denounced the legislation, and Strom Thurmond launched the longest filibuster in history in an attempt to prevent it from becoming law. Buni, 188; Nashville Public Library, Civil Rights Reading Room lunch counter timeline, visited May 23, 2007. The U.S. Commission on Civil Rights was a bipartisan, 6-member body with a 2-year lifespan which issued subpoenas, called witnesses, consulted with local officials, and set up state advisory committees related to voting and other civil rights issues.
making recommendations explicitly based on race. As of the spring of 1958, massive resistance was alive and well in Virginia.46

In the fall of that year, litigation from the Little Rock crisis led to the first significant U.S. Supreme Court decision related to school desegregation since Brown II in 1955. Ruling on an appeal from the Little Rock school board for more time to implement its school desegregation plan, the high court in Cooper v. Aaron unanimously reiterated its commitment to Brown v. Board of Education and ruled that the threat of violence--and community resistance generally--did not excuse noncompliance. Some of the justices might also have been frustrated with the slow pace of southern school desegregation; by the fall of 1957, only four of the eleven states of the former Confederacy had allowed any public school desegregation, and the number of black students admitted to formerly white schools was minuscule.47 Still, although Cooper v. Aaron was “more forceful and condemnatory than Brown,” the decision did not significantly speed up southern school desegregation. During the five years after Cooper, the Supreme Court continued to accept token desegregation and refused to hear appeals of lower court decisions requiring only minimal compliance with Brown, legitimizing the slow pace of school desegregation in the South.48


47 The four states were North Carolina, Arkansas, Tennessee, and Texas. Cooper v. Aaron, 358 U.S. 1 (1958); Tushnet, Making Civil Rights Law, 263 (briefs and arguments are on preceding pages); Klarman, From Jim Crow to Civil Rights, 328-329. On the impact of Cooper in Virginia, see Muse, Virginia’s Massive Resistance, 105-106. Roy Wilkins noted that President Eisenhower was pleased with the Court’s decision; Wilkins, Standing Fast, 258. See also John D. Morris, “Almond Is Ready to Close Schools,” Special to the NYT, September 3, 1958.

48 Klarman, From Jim Crow to Civil Rights, 324-329, examines the United States Supreme Court and its position on school desegregation in the late 1950s and early 1960s in detail; the author notes that
Roy Wilkins later said, “I am still surprised when white politicians, memories foreshortened by the passing of time, tell me that things began to go our way once President Eisenhower acted at Little Rock.”

President Eisenhower himself remained noncommittal on school desegregation even after Little Rock. In the summer of 1958, rumors swirled through Washington that the president had opposed Brown from the beginning and privately wished the Supreme Court had given Little Rock more time to comply. The president refused to confirm or deny the rumors. At a news conference in late August, he admitted, “I might have said something about ‘slower.’”

In the meantime, the NAACP continued to make slow progress in Virginia’s courtrooms. In early 1958 the United States Supreme Court chose not to hear appeals of Judge Hoffman’s decisions overturning the state’s pupil placement law and ordering school desegregation in several Tidewater Virginia localities, thereby upholding Hoffman. That spring and summer Judges Hoffman and John Paul renewed orders requiring school desegregation in Norfolk and Charlottesville, respectively, that September. An additional NAACP lawsuit—filed in Warren County, just north of

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NAACP attorneys found the Court’s lack of involvement maddeningly frustrating. In December 1958, only a few months after Cooper, the Supreme Court affirmed a lower court ruling rejecting a challenge to Alabama’s pupil placement law (Shuttlesworth v. Birmingham Board of Education [1958]); see United States Commission on Civil Rights, 1961 U.S. Commission on Civil Rights Report, Book 2: Education (Washington, DC, 1961), 8-9.

49 Quotation is from Wilkins, Standing Fast, 258. Wilkins was probably alluding in part to Eisenhower’s lack of commitment to implementing Brown in general; see Peltason, 47-53.

50 Peltason, 47-48.

51 Charlottesville was to begin in the fall of 1956, and Arlington in January 1957; Gates, 191; Hershman, 227-231. On the role of Virginia’s federal judges in forcing the state to comply with Brown, see Hill, The Big Bang, 176. For more on the litigation surrounding pupil placement, see Hershman, 227-231, 299; Ruth Pendleton James v. J. Lindsay Almond, Jr., civil action number 2843, Part V, Box 2836, NAACP Papers.
Shenandoah National Park, in August—resulted in a decision ordering school
desegregation there in September as well.\footnote{Hershman, 227-231, 302-304; Peltason, 129; Lewis, "Mothers: Charlottesville," in Matthew Lassiter and Andrew Lewis, editors, \textit{The Moderates' Dilemma: Massive Resistance to School Desegregation in Virginia} (Charlottesville: University Press of Virginia, 1998), 77. Not all federal district judges in Virginia felt compelled to order the beginning of school desegregation at this time. Between 1956 and 1958, Judge Sterling Hutcheson, who oversaw the Prince Edward County litigation, refused to set a date for desegregation to begin, despite repeated clashes with the Fourth Circuit Court of Appeals. After being reversed the second time by the appeals court, in 1959, Hutcheson resigned from the bench. See Muse, \textit{Virginia’s Massive Resistance}, 59-62; Tushnet, \textit{Making Civil Rights Law}, 251; Peltason, 212-220.}

At the end of August 1958, Senator Byrd held his annual picnic at the family
apple orchards in Berryville, Virginia. Before a record-breaking crowd at a traditionally
well-attended event, on a bright, sunshiny Saturday, the senator called for continued
massive resistance and denounced the proponents of school integration in Virginia. Byrd
warned that the NAACP wanted “to bring Virginia to its knees first and then, after
conquering Virginia … they intend to march through the South singing hallelujah.”
Denouncing the organization and its efforts, Byrd proclaimed it was Virginia’s duty to
hold the line.\footnote{Muse, \textit{Virginia’s Massive Resistance}, 59-62; Tushnet, \textit{Making Civil Rights Law}, 251; Peltason, 212-220.}

The following month, when federal court orders desegregating Virginia’s schools
were supposed to go into effect, Governor Almond closed nine affected public schools in
Charlottesville, Norfolk, and Warren County. The remaining schools in each locale, and
Virginia’s public schools in other localities, remained open. Still, Almond’s decision
displaced approximately 15,000 school children.\footnote{Ten thousand were displaced in Norfolk alone; J. Harvie Wilkinson III, \textit{From Brown to Bakke: The Supreme Court and School Integration: 1954-1978} (Oxford: Oxford University Press, 1979), 83.} As the national media descended on
Virginia many of the affected white students enrolled in private schools that were hastily
created with help from segregationist organizations.
Reporters from around the globe spent the winter of 1958-1959 in Virginia. The day after the school closings were announced, Governor Almond appeared at the largest press conference he had ever held—twenty-two reporters and seven television cameras took part. The governor, whose face was increasingly paired with that of Arkansas Governor Orval Faubus, avoided an attitude of abrasive defiance, but clearly Virginia had cast its lot with Deep South segregationists. Throughout the winter, the standoff between Virginia’s leaders and the federal court system generated headlines in the nation’s leading newspapers and commentary on television news networks.55

Underlying the attention was the fact that what happened in Virginia would strongly influence the battle over school desegregation elsewhere in the South, particularly in states, like Virginia, that had not yet experienced desegregation. Quite simply, segregationists across the region hoped the state would hold the line. As Relman Morin put it in the Richmond *Times-Dispatch*, “In effect, other Southern states are telling Virginians, ‘If you go down, there is little hope for the South.’”56 In James Jackson Kilpatrick’s view, the state’s importance as the first American colony and the capital of the Confederacy had convinced the NAACP to focus its attack there, and the organization simply had to be defeated. In the fall of 1958, Kilpatrick wrote: “The next few weeks will be bitter weeks for Virginia. We have sacrifice ahead, and some exhausting labor, and a terrible harvest of worsening race relations. But we also have an opportunity to

defend, before the whole country, constitutional principles held precious in Virginia for
more than a century and a half.”

In the fall of 1958, the Virginia NAACP filed litigation challenging the school
closings in Virginia and the legislation that authorized them. In Norfolk, a predominantly
white, moderate organization known as the Norfolk Committee for Public Schools also
filed a lawsuit, *James v. Almond*, challenging the state’s school closing and tuition grant
laws. In October, Judge Hoffman convinced the state NAACP to withdraw its suit in
favor of the committee’s case, which represented all the pupils whose schools had been
closed rather than only the black plaintiffs who had been assigned to desegregated
schools.

The rise of the Norfolk Committee for Public Schools was part of a broader save-
the-schools movement that reflected an important shift among Virginia’s white
population. Facing the prospect of closed public schools throughout the state, a growing
number of white Virginians began calling for the state to maintain and protect its public
schools, even if doing so required token, or minimal, school desegregation. Though they
supported efforts to limit desegregation as much as possible, these white “moderates”
believed that maintaining segregated schools was not worth abandoning public
education. Carl Sanders, elected governor of Georgia in 1962, explained: “moderate
means I am a segregationist but not a damned fool.”

In December 1958 the growing

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57 *The Citizens’ Council*, volume 3, number 12, September 1958, University of Mississippi
Archives and Manuscripts, Special Collections, JD Williams Library, Citizens’ Council Collection, control
number 95-20, Box 3, folder 2, location C-9.
58 In the meantime, the schools remained closed; Muse, *Virginia’s Massive Resistance*, 93-94.
59 Hershman, 70; Klarman, *From Jim Crow to Civil Rights*, 399-400; Lassiter, “Muse,” in
Lassister and Lewis, *The Moderates’ Dilemma*, 169. Some moderates also pointed to the negative
economic repercussions of school closures, and specifically to the challenge of attracting employers to
locations without public schools.
60 Klarman, *From Jim Crow to Civil Rights*, 405; see also 417-419.
acceptance of this perspective in Virginia led moderates from around the state to create the Virginia Committee on Public Schools, a statewide organization committed to reopening closed public schools and preventing future school closures in the commonwealth.61

As white public opinion in Virginia shifted toward acceptance of token desegregation, newspaper coverage of school desegregation changed as well. During the fall of 1958, most of the major white dailies turned against massive resistance.62 Even James Jackson Kilpatrick reversed course. In November the Richmond News Leader editor endorsed the concept of local option and acknowledged that some school desegregation was probably unavoidable, although he encouraged Virginia’s leaders also to develop “new weapons and new tactics” to preserve as much segregation as possible.63

The stalwart supporters of segregation, however, pressed state officials to continue massive resistance even as the school closings created an atmosphere of crisis. Sensing growing opposition to school closures among white Virginians, the Defenders of State Sovereignty and other segregationists created private segregated school systems in the affected localities and began to make similar plans elsewhere in Virginia. In December, the board of directors of the Defenders resolved: “Since Virginia … is the battleground upon which the eternal fight for the liberties of America must be waged, let us not falter, let us not yield.”64

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61 Hershman, 114-115. Back in the spring, the ever-prescient Oliver Hill had noted that if school closures were needed “to bring Virginia to its senses, then the sooner we reach that crisis the better”; Pratt, 10. See also Pratt, 9; Hershman, 304; Gates, 210; Boyle, xvii.


64 Quotation is from Muse, *Virginia’s Massive Resistance*, 98, and see also 92-93; Lewis, “Mothers: Charlottesville,” in Lassister and Lewis, *The Moderates’ Dilemma*, 80-85; The Citizens’
With the pressure mounting, Governor Almond considered his options. Senator Byrd and the Democratic political machine supported the continuation of massive resistance, but Almond knew that a growing number of white Virginians felt that statewide school segregation should be abandoned if public school closings were the inevitable result of that policy. Governor Almond, who owed his office to the Byrd Organization, would not defy the machine lightly, but a crucial question now arose: whether a new political coalition, including the state’s white moderates and liberals, was viable. That fall the governor commented that “I fully realize I am in the jaws of a vise....”

As an attorney, Almond also understood the likelihood that Virginia’s massive resistance laws would eventually be overturned by federal courts. That fall, Governor Almond asked Attorney General Albertis Harrison to initiate a test case in the state courts to assess the constitutionality of the school closing laws and tuition grants system Virginia had created in 1956, and modified the previous spring. Apparently the governor also sought to transfer some responsibility for school desegregation in Virginia to the court system. Hearings were held that fall on Harrison v. Day, which would be decided in early 1959 along with the Norfolk Committee for Public Schools’ federal district court suit.

As tensions reached the boiling point, the NAACP helped to stage Virginia’s largest civil rights demonstration of the 1950s. In Richmond on Emancipation Day--

65 Peltason, 216.
66 In the meantime, the tuition grants program was not implemented. See Muse, Virginia's Massive Resistance, 104; “Virginia Testing Own School Law,” Special to the NYT, November 25, 1958. Cooper v. Aaron, handed down by the U.S. Supreme Court in October 1958, also limited Almond's options.
January 1, 1959--more than a thousand people marched in the Pilgrimage of Prayer for Public Schools, organized by the state NAACP, Congress of Racial Equality (CORE), and Martin Luther King's Southern Christian Leadership Conference (SCLC). The goal was to bring about national pressure on Virginia's leadership over the school closures, and a resolution delivered to the State Capitol called for "a change of heart and a change of policy." Martin Luther King, Jr., explained: "As Virginia goes, so goes the South, perhaps America, and the world."67

The protest highlighted the rapidly changing civil rights milieu in Virginia. Desperate to make inroads in Virginia, CORE—a northern-based civil rights organization that specialized in nonviolent direct action—sent field workers to the state to organize branches in late 1957 and again in early 1958. In late 1958, during the school closing crisis, CORE's efforts led to the creation of branches in Norfolk, Portsmouth, Suffolk, and Petersburg. Though these CORE branches sought the same goals as the NAACP, namely desegregation of education and other areas of life, they represented a challenge to the longstanding hegemony of the NAACP in Virginia.

In Petersburg, Wyatt Tee Walker, president of the local NAACP branch, suggested that CORE representatives organize what became the Emancipation Day march of January 1, 1959. Soon Walker became the state director of CORE in Virginia. By early 1960, he was serving also as head of the Petersburg Improvement Association, an

organization that was related to the Montgomery Improvement Association and Dr. King’s SCLC. He also continued to work with the Petersburg NAACP, attended the national NAACP’s 1960 annual convention, and was a member of the NAACP’s powerful Resolution Committee. Late in the summer of 1960, however, Walker joined SCLC full-time as its executive director; he would continue to work for the organization until 1964 and increasingly challenged the NAACP’s southern operations and agenda.68

Despite such challenges to its preeminence, the Virginia NAACP retained its position as the state’s leading civil rights organization throughout the late 1950s. Its well-established and active branches, public relations networks, and impressive list of accomplishments—legal and otherwise—were known among the state’s African American population. Both CORE and SCLC attempted to use the January 1, 1959 march as a way of increasing their membership and stature, but to their chagrin the NAACP got most of the publicity.69 Moreover, though CORE and SCLC both established branches in Virginia in the late 1950s, neither group garnered enough members or branches to


challenge the NAACP’s preeminence, which State Conference leaders jealously guarded.\textsuperscript{70}

Shortly after the Prayer Pilgrimage, the NAACP’s pending school desegregation litigation in Virginia came to a successful conclusion. On January 19, 1959, a special three-judge federal court, ruling on the Norfolk Committee for Public Schools’ lawsuit, declared the state’s school closing law unconstitutional. That same day, in \textit{Harrison v. Day}, the Virginia Supreme Court ruled on Attorney General Harrison’s test case, holding that Virginia’s constitution prevented it from closing some schools (to avoid desegregation) while operating others. Federal judges quickly reordered the integration of schools in several localities around the state.\textsuperscript{71}

Virginia’s state government now needed to choose a different path, and the decision fell largely on Governor Almond’s shoulders. Though extreme segregationists and the Byrd Organization encouraged Governor Almond to continue massive resistance, the governor refused. Before a special session of the Virginia legislature the following week, Almond called for the abandonment of massive resistance and the development of new policies related to segregation in public education. The governor had decided to steer Virginia in the direction of token, or minimal, compliance with \textit{Brown v. Board of Education}. At his urging, a newly-created coalition of moderates and liberals in the General Assembly prevented the passage of new massive resistance legislation and secured the repeal of the state’s school-closing law in late January. Upon Governor

\textsuperscript{70} Hershman, 337-339. Historians August Meier and Elliott Rudwick note “as late as 1958-59 efforts to establish viable CORE groups in Virginia fizzled…”; Meier and Rudwick, \textit{Along the Color Line}, 370. In South Carolina in 1960, an NAACP field secretary warned youths that membership in both CORE and the NAACP was forbidden; Meier and Rudwick, \textit{CORE}, 117.

Almond’s recommendation, the legislature also made tuition grants available for students who wanted to transfer into nonsectarian private schools. Shortly thereafter, authorities reopened the closed schools in the affected localities and on February 2, 1959, nearly five years after the original Brown decision, twenty-one black students first entered formerly all-white public schools in Virginia. Desegregation took place first in Arlington, followed by Norfolk that same afternoon, and Alexandria the following week.

As might be expected, Virginians who continued to support massive resistance expressed outrage over Governor Almond’s actions. Harry Byrd’s brother-in-law, Delegate James Thomson, said, “There’s a sickness in my heart,” and Delegate Sam Pope called February 2 “one of the blackest days Virginia has faced since reconstruction.” Later that month, in a letter to one of the founders of the Virginia Committee for Public Schools, Dr. J. L. Blair Buck, Governor Almond wrote, “I have been held up as a traitor, a Benedict Arnold, and subject to epithets too vile to mention to a gentleman.”

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75 Quotation is from Hershman, 348; see also Muse, Virginia’s Massive Resistance, 160.
April 10, the Governor asserted that he had survived an assassination attempt on the Capitol grounds; no assailant was ever caught.\footnote{76}

According to Benjamin Muse, "All the king’s horses and all the king’s men could never put massive resistance back together again"; but the conservatives tried. That spring, with Senator Byrd’s blessing, massive resisters in the General Assembly attempted to revive the school closing legislation. The effort revealed a schism within the Virginia Democratic Party and definitively alienated Almond and his supporters from the Byrd Organization and Virginia’s segregationists. That spring Senator Byrd refused to return Governor Almond’s phone calls, and political battles between the two would occur repeatedly during the coming years. The hardliners’ efforts to revive massive resistance in the spring of 1959 failed, but some of the votes were extraordinarily close—a law granting localities control over school desegregation passed the State Senate 20-19.\footnote{77}

The new policy of Virginia’s elected officials was token compliance; they sought to minimize the amount of school desegregation that would take place in the coming years.\footnote{78}

\footnote{76 For more on the assassination attempt, see Beagle and Osborne, 10, 139; Hershman, “Massive Resistance Meets Its Match,” in Lassister and Lewis, \textit{The Moderates’ Dilemma}, 131.}

\footnote{77 Rural and more conservative areas were disproportionately represented in the General Assembly; in other words, the close votes that spring did not reflect the increasingly moderate views of many Virginians; Muse, \textit{Virginia’s Massive Resistance}, 136-139, 164; Hershman, “Massive Resistance Meets Its Match,” in Lassister and Lewis, \textit{The Moderates’ Dilemma}, 131, 223. Muse commented wryly, “Against all these schemes, the Governor stood like a stone wall”; Muse, \textit{Virginia’s Massive Resistance}, 136, 139. See also Hershman, 348; Gates, 211, Pratt, 11; Oliver White Hill, interview with Brian Daugherity, December 3, 1999. A few years later, when President John Kennedy nominated Almond to a federal judgeship, the appointment was held up in the Senate—likely at the hands of Virginia’s senior senator. Beagle and Osborne, 10, 115-116, 129, 143, 162-167; Muse, \textit{Virginia’s Massive Resistance}, 138-139, 162-167; Bunis, 210; Smith, \textit{Managing White Supremacy}, 9; Lassiter and Lewis, Introduction to \textit{The Moderates’ Dilemma}, 4-6; Hershman, “Massive Resistance Meets Its Match,” in Lassister and Lewis, \textit{The Moderates’ Dilemma}, 104; Klarman, \textit{From Jim Crow to Civil Rights}, 400, 405, 418.}

\footnote{78 Gates, 210-211; Hershman, 364-365; Reed Sarratt, “A Statistical Summary, State by State, of Segregation-Desegregation Activity Affecting Southern Schools from 1954 to Present, Together With Pertinent Data” (Nashville: Southern Education Reporting Service, November, 1962), 49-53, in VCU Special Collections, Box 7, M 68, Edward H. Peeples, Jr. Papers.}
A new pupil placement law passed in the spring of 1959 allowed localities to begin making their own pupil assignments starting March 1, 1960, if they so desired. If not, the new pupil assignment law allowed the state Pupil Placement Board to continue its discriminatory assignment policies by removing all references to race, a ploy used commonly throughout the South. The legislature also allowed school districts to adopt "freedom of choice of association" plans, which combined pupil placement policies, private school tuition grants, and locally-enforced compulsory education policies to preserve segregation.

The state's new tuition grant system also avoided any mention of race, in an effort to survive judicial scrutiny. The program allowed the state to distribute money, now called scholarships, to families with children who were enrolled in private, non-sectarian schools or in public school outside of the district in which they lived. No mention of segregation or desegregation was made, meaning that much of the disbursed money went to families whose children attended private schools for reasons other than avoiding desegregation. No school desegregation had occurred in Fairfax County by the fall of 1959, for instance, but 263 private school pupils were receiving this type of state aid. Modified over the years, the state's tuition grants program continued to exist until 1969.

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79 For more on pupil assignment policies in Virginia and elsewhere, see Smith, "When Reason Collides with Prejudice," in Lassister and Lewis, The Moderates' Dilemma, 46-47; Gates, 211; Tushnet, Making Civil Rights Law, 254-255; Peltason, 78-81, 92.

80 Later, in the early 1960s, "freedom of choice" would refer to desegregation plans which allowed parents, both black and white, to choose which school their children would attend within the district in which they lived. "Freedom of choice of association," adopted in 1959, was a different set of policies meant to preserve as much segregation as possible. See "3 School Areas to Test 'Freedom of Choice' Plan," RTD, August 28, 1959; Lewis, "Mothers: Charlottesville," in Lassister and Lewis, The Moderates' Dilemma, 78-80; Hershman, "Massive Resistance Meets Its Match," in The Moderates' Dilemma, 127-128; James H. Hershman, phone interview with Brian Daugherity, November 18, 2009.

Explaining the results of all of the state’s new legislation of 1959, historians Andrew Lewis and Matthew Lassiter write, “the policies which supplanted massive resistance--private school tuition grants, discriminatory pupil placement laws, freedom of choice plans, and incessant legal delays--thwarted substantial progress toward meaningful school integration throughout the 1960s.”

Prince Edward County, Virginia, refused to accept even token desegregation. One of the five localities involved in the original Brown decision, Prince Edward had been fighting to preserve school segregation since 1951. Facing a federal court order to desegregate its schools in the fall of 1959, the board of supervisors in Prince Edward County discontinued funding for the public schools, thus closing them for the indefinite future. New legislation adopted by the General Assembly that spring, including a law allowing districts to use public school buses to transport children to private schools, tacitly supported that decision. A private school foundation, organized largely by the Defenders of State Sovereignty and Individual Liberties--which had been founded in Prince Edward--created a private academy for the county’s white students. Many African-American students left the district to be educated or went without schooling. The county’s schools remained closed until 1964, when the United States Supreme Court ordered them reopened.

Southern Regional Council, February 8, 1961, Part 3, series D, reel 13, frame 882, NAACP Papers microfilm.

82 Quotation is from Lassiter and Lewis, Introduction to The Moderates' Dilemma, 4; see also 8, 18-19; Lassiter, “Muse,” in Lassister and Lewis, The Moderates' Dilemma, 187. As the editor of The News, in Lynchburg, explained on April 19, 1963, “We are opposed to integration in the public schools. We strongly support law and order. We will go along with only such integration as we feel is necessary to comply with the law as interpreted by the Federal courts.”

After initial desegregation, the NAACP, as might be expected, continued to press for more extensive school desegregation throughout Virginia. State Conference attorneys filed litigation contesting Prince Edward County’s school closings, launching the legal battle that culminated in the Supreme Court’s *Griffin v. Prince Edward County* decision in 1964. Additional school desegregation lawsuits were filed in Richmond in 1958, and in Galax, West Point, and Hanover County, in 1959. Many more would follow in the coming years.84 Local NAACP attorneys, such as S. W. Tucker’s brother Otto, in Arlington, did much of the work by preparing legal briefs, making court appearances, and working with plaintiffs. Oliver Hill, head of the Virginia State Conference’s legal team, oversaw the process.85 Over time, he did so with less input from the National Office, as the NAACP’s struggle for desegregation shifted to the Deep South, where white resistance remained most acute.86

Unfortunately for the NAACP, federal judges continued to accept even the most modest desegregation plans in the late 1950s and early 1960s, in Virginia and elsewhere. In late 1958 the U.S. Supreme Court had rejected a challenge to Alabama’s pupil placement law, effectively legitimizing placement policies that were used to limit school desegregation. The following year the high court refused to review Nashville’s desegregation plan, which had ordered desegregation within a “grade-a-year” time frame, something Thurgood Marshall had denounced as “legally and morally wrong,” and included a transfer option which allowed white students to withdraw from desegregated


85 Three undated documents dated December 1959 and titled Exhibit A, Exhibit B, and Exhibit C, in the author’s possession, all related to expenses paid by the Virginia State Conference to its legal staff; Exhibit C lists the location of NAACP school desegregation lawsuits in Virginia and the local attorney helping with the litigation.

86 Ibid.
schools. Speaking of the Supreme Court, Michael Klarman writes, “In the late 1950s, the Court did nothing to condemn this tokenism and was widely perceived to have endorsed it.”

Lower federal courts and judges, of course, followed the high court’s lead, accepting school plans that barely began the desegregation process. Despite the NAACP’s best efforts, the result was that token desegregation remained the norm in Virginia and much of the South throughout the 1950s and well into the 1960s. In Virginia, only four of Virginia’s 128 school districts with both black and white students had desegregated by May 1959, and only two additional districts desegregated during the 1959-1960 school year. The number of black children in desegregated schools in the state climbed at an equally slow pace, from thirty in the spring of 1959 to eighty-six in September 1959, out of a total black student population of over two hundred thousand.

As 1959 drew to a close, the Virginia State Conference of the NAACP celebrated the accomplishment of a significant victory—the initial desegregation of Virginia’s public school system. Its attorneys had broken through the legislative bulwark of massive resistance and forced Virginia’s leaders to accept the mandate of Brown v. Board of Education for the first time. Still, a vast amount of work remained. The association now sought to convince the federal courts of the legitimacy of its position—that school desegregation should be eliminated as rapidly and completely as possible. At the same time...
time, as a new decade dawned, the NAACP came to believe that more was needed to fulfill the promise of *Brown v. Board of Education* than action in the nation’s courts.
Chapter 5, 1960 – 1963

‘Temples of Freedom’: Direct Action Protest and the Campaign for School Desegregation

The early 1960s ushered in a new era of the civil rights movement. Frustrated by the slow pace of change in the late 1950s, a new generation of civil rights activists, aided at times by their elders, took to the streets between 1960 and 1963, launching nonviolent direct action protests against segregation throughout the nation, but especially in the South. During this period the Greensboro sit-ins, the Freedom Rides, the Birmingham campaign, and the March on Washington occurred. Nonviolent protests, their influence magnified by media coverage, put increased pressure on the federal government to take a stand; as a result, the Kennedy administration became more directly involved in civil rights issues than previous administrations.¹

Segregation in public education, however, largely continued throughout this period. Though initial desegregation had occurred in Virginia in 1959 and in every southern state except Mississippi by 1963, the number of black students attending integrated schools remained minuscule. While direct action protests overcame segregation in restaurants and other areas of southern life, the battle for school integration took place in courtrooms. And though federal court orders in the South increased the extent of desegregation taking place in public schools, the gains were small, and in this realm as in others, frustration with the slow pace of change grew in the black community.

¹ Adam Fairclough, Race and Democracy: The Civil Rights Struggle in Louisiana, 1915-1972 (Athens: University of GA Press, 1995), 264, notes that federal judge Skelly Wright argued that the “failure of the courts to implement Brown ultimately pushed the civil rights struggle to a higher level.”
Nonviolent direct action was the most popular protest technique in the early 1960s, but it was not a new approach. Mohandas Gandhi had popularized nonviolent protest in the 1930s as he struggled in India against British colonial rule. In the United States in 1937, workers at General Motors utilized “sit-down” strikes to wrest better pay and working conditions from the world’s largest corporation. A new civil rights organization created in 1942, the Congress of Racial Equality (CORE), used sit-ins and nonviolent direct action protests against segregation in northern cities during the 1940s and 1950s.²

Pressured by the widespread unemployment of the Great Depression, blacks in Virginia had launched similar protests. In the mid-1930s, “Don’t Buy Where You Can’t Work” boycotts and picket lines were organized in Richmond and Newport News, part of a broader national effort to improve black economic opportunities.³ In Alexandria in 1939, a small group of African-American youths, organized and led by future NAACP attorney S. W. Tucker, sat-in and demanded borrowing privileges at the local library. Tucker, who had returned from the Civilian Conservation Corps in 1938, chafed at the fact that he could not use the public library two blocks from his home.⁴ For him and many others, nonviolent direct action signaled both growing frustration and a new kind of militancy.

The resilience of segregation and discrimination after Brown v. Board of Education had fueled some direct action protests in the late 1950s as well. The most notable was the bus boycott organized in Montgomery, Alabama, in 1955-1956, following Rosa Parks’s

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arrest for refusing to give up her seat on a city bus to accommodate a white rider. In August 1958 in Oklahoma City, members of the NAACP youth council demanded service at downtown lunch counters and refused to leave when denied. Inspired by the Montgomery bus boycott, the youths desegregated thirty-nine businesses that year. Members of an NAACP youth council in Wichita, Kansas, carried out similar protests, and blacks in Mississippi bravely conducted a wade-in at a Gulf Coast beach in 1959.5

The most important instance of nonviolent direct action of this era, however, was the sit-ins in Greensboro, North Carolina, in 1960. On February 1, four black students from the Agricultural and Technical College of North Carolina entered a local Woolworth’s variety store, bought several items, sat at the lunch counter, and asked to be served. When they were denied service, the four refused to leave and sat until the store closed. The following day they returned with supporters. In the coming days, similar protests occurred in cities and towns throughout North Carolina before spreading to neighboring states. By April, sit-ins had taken place in 78 cities throughout the South, including Virginia.6


6 August Meier and Elliott Rudwick, CORE: A Study in the Civil Rights Movement (Urbana, IL: University of Illinois Press, 1973), 101; Fairclough, Race and Democracy, 264-267; Wilkins, Standing Fast, 267; Greensboro Historical Museum main exhibit, Greensboro, North Carolina, visited June 7, 2007. International events encouraged the drive for racial equality in the early 1960s. The independence movements that swept Africa in the late 1950s and 1960s were particularly important. The ability of black Africans to free themselves from colonial rule inspired African-American protestors. The African independence movements also strengthened ties between Africa and African-Americans—in 1957 Martin Luther King visited Ghana at the invitation of its leader, Kwame Nkrumah, and in 1963 Thurgood Marshall
The rapid spread of the sit-ins that spring posed challenges for the NAACP. Never a mass-based organization, the association only occasionally utilized organized protest, and when it did, it generally avoided situations that led to arrest. Picketing and boycotts were acceptable techniques, but trespassing, disorderly conduct, and related activities were generally discouraged. Although at least two of the original four participants in the Greensboro sit-ins were members of the Youth Council of the Greensboro NAACP, when the four youths contacted the head of the local NAACP--seeking advice and support on the night of the first sit-in--the NAACP head contacted CORE on their behalf.

Initially, the national NAACP criticized the sit-ins, but the association quickly changed its position. Thurgood Marshall reportedly “stormed around the room proclaiming … [that] he was not going to represent a bunch of crazy colored students who violated the sacred property rights of white folks....” Within a month, however, as the protests quickly spread, the national office urged its branches to give their full support.

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7 Smith, Managing White Supremacy, 257, mentions an NAACP demonstration against the firing of a black teacher in the 1930s, during the equalization campaign. In the 1940s and 1950s, NAACP branches in Virginia organized economic boycotts to improve black employment opportunities; see for example, Letter from Barbara Hollis to Ruby Hurley, March 23, 1944, Part II, Box C207, NAACP Papers. Arrests at NAACP protests were not unheard of--long before he became executive secretary Roy Wilkins was arrested at an NAACP protest in Washington, D.C.; see Wilkins, Standing Fast, 132-135.


to the sit-in movement.\textsuperscript{10} As local branches organized and took part in demonstrations, NAACP attorneys throughout the region began defending arrested protesters. Following a conference with southern NAACP attorneys in March 1960, Thurgood Marshall promised to vindicate the legal rights of student participants, by taking cases to the U.S. Supreme Court if necessary. By then the Legal Defense Fund and cooperating attorneys were representing more than 1,200 students.\textsuperscript{11}

On the local level, many NAACP officials and civil rights protestors cooperated from the very early days of the sit-in movement, believing that litigation could be effectively supplemented with direct action and other techniques to achieve the goal all shared--overcoming segregation. Even before the national office switched its position on the sit-ins, NAACP members in Virginia supported and took part in protests. After the national office gave its blessing, this involvement mushroomed.

Throughout Virginia, NAACP members and branches participated in sit-ins and similar protests between 1960 and 1963. As in North Carolina, however, the initial protests were organized independently by high school and college students. On February 10, 1960, students at Hampton University launched the first sit-in in Virginia--reportedly the first outside of North Carolina--at a local Woolworth’s. From there, the protests spread rapidly across the state. Famed civil rights leader Bob Moses later noted that his introduction to the southern protest movement occurred during a visit to an uncle in


Virginia, where he joined a demonstration in Newport News in 1960. That October, at the Virginia State Conference’s annual meeting, Virginia college students led a workshop on sit-ins, featuring Frank Pinkston, a leader in the Richmond sit-in movement.12

In Virginia, the amount of NAACP involvement in protests varied from place to place. In Norfolk, NAACP members helped plan demonstrations. In Richmond, Oliver Hill and his wife picketed, and State Conference attorneys represented arrested Virginia Union University students in court. In March, also in Richmond, the arrest of former State Conference President J. M. Tinsley’s wife made national news when photographers captured an image of her being arrested for allegedly taking part in a sit-in: the image depicted Mrs. Tinsley being dragged by two policemen, one with a police dog at his side.13 That fall, Lester Banks and State Conference president Robert Robertson wrote:

“Since February 1960, some desegregation has been accomplished in Roanoke, Lynchburg, Charlottesville, Danville, Petersburg, Richmond, Norfolk, Portsmouth, Newport News, Hampton, Williamsburg, Prince William County, Fredericksburg, Alexandria, Fairfax and Arlington Counties.”14

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14 Quotation is in Letter from Lester Banks and Robert Robertson to Roy Wilkins, September 29, 1960, Part III, Box C159, Virginia State Conference, 1960, NAACP Papers. The information was requested by the national office, which wanted to learn about the sit-in movement. See also Letter from Gloster Current to Lester Banks, March 3, 1960, Part III, Box C159, Virginia State Conference, 1960, NAACP Papers; Wilkins, *Standing Fast*, 270-271; “Students Sit Down, Counter Shut Down,” *RTD*,
In the spring of 1960, the sit-ins also led to the creation of a new civil rights organization, the Student Nonviolent Coordinating Committee (SNCC). Organized by student leaders and sit-in participants in April in North Carolina, SNCC represented a youthful, protest-oriented wing of the civil rights movement. During the early 1960s the organization played a major role in nonviolent protests and voter registration campaigns, particularly in the Deep South.

Of SNCC, Roy Wilkins later wrote: “The resistance of local white merchants, the emasculation of civil rights legislation in Congress, the tortuous pace of the courts, the unfriendliness of the White House had all pushed a new generation to fall back on its own resources and to step up the moral, political, and economic pressure for change.”

Despite Wilkins’s profession of understanding, SNCC’s relationship with the national NAACP was volatile and difficult. After it endorsed the sit-ins, the NAACP—as did other civil rights groups—attempted to align itself with the student leaders and, in effect, oversee their efforts. At a February 1960 conference attended mainly by student leaders, NAACP leaders jockeying for influence among the students raised the ire of competing civil rights groups, most notably CORE. Though most of SNCC’s founders respected the NAACP and its achievements, they also found shortcomings in its operations. At SNCC’s founding conference, James Lawson criticized “middle-class conventional, half-way efforts” used to challenge segregation, a thinly-veiled critique of the NAACP.


15 Wilkins, Standing Fast, 267.
16 Meier and Rudwick, CORE, 101-110; Wilkins, Standing Fast, 269-271; Klarman, From Jim Crow to Civil Rights, 378-380.
17 For more on Lawson, see Carson, In Struggle, 23. In his introduction to Roy Wilkins’s autobiography, Julian Bond writes: “For me and many of my movement-mates, our first introduction to civil rights had come from a parent who was an NAACP activist or a community leader in the organization.
Wilkins was reportedly “shocked” by the criticism, which he blamed on Martin Luther King and SCLC, who had called the conference. Over time, the relationship between the national NAACP and SNCC worsened. Stokely Carmichael later complained: “there was no give-and-take with Bro Wilkins. He clearly had no respect for the experience or contributions of any of us, not just the SNCC. In his mind, whatever the movement had accomplished— the legislation—was entirely because of the insider contacts and skillful influence of the NAACP.”

The NAACP’s relationship with other civil rights organizations also became increasingly strained in the early 1960s. In the spring of 1960, CORE reported that “everywhere under the surface there were conflicts between the NAACP and other race relations organizations.” In 1961 Roy Wilkins called CORE’s major campaign—the Freedom Rides—“a big mistake” and discouraged NAACP branches from helping the riders, who were using nonviolent direct action to push for desegregation of

Roy Wilkins helped to build. My father’s Life Membership plaque held an honored position on our living room wall.” But Bond continues, “As a young self-described militant in the Student Nonviolent Coordinating Committee in the early ‘60s, I agreed with and cheered on those who thought Wilkins and the NAACP passé. We wanted action today!” See Wilkins, Standing Fast, ix-x. Many young blacks questioned the NAACP’s legalistic approach; see Fairclough, Race and Democracy, 264, 274-276. Others felt excluded by its middle-class values; Richard Kluger, Simple Justice: The History of Brown v. Board of Education and Black America’s Struggle for Equality (New York: Random House, 1975), 512-515; Fairclough, Race and Democracy, 72; Janken, 24, 67, 150. Thurgood Marshall once explained, “I remember when I was a kid … we used to say that NAACP stood for the National Association for the Advancement of certain People….”; Kluger, 184.

18 Forman, The Making of Black Revolutionaries, 216. On Wilkins’ response, see Wilkins, Standing Fast, 269.

19 Quotation is from Calvin Craig Miller, Roy Wilkins: Leader of the NAACP (Greensboro, NC: Morgan Reynolds Publishing, 2005), 159-160. James Forman, in The Making of Black Revolutionaries, discusses the relationship between SNCC and the NAACP, see 361-365. The SNCC executive secretary criticizes Wilkins’ “organizational paranoia” and describes the “band of competitors and circle of distrust” at meetings of civil rights leaders; see 363-366, 106, 132. Taylor Branch, Parting the Waters: America in the King Years, 1954-63 (New York: Simon & Schuster, 1988), 557, notes that Time magazine quoted Wilkins as saying of SNCC, “They don’t take orders from anybody; they don’t consult anybody. They operate in a kind of vacuum: parade, protest, sit-in … When the headlines are gone, the issues still have to be settled in court.”

20 Meier and Rudwick, CORE, 101-105.
transportation in the South. In the spring of 1962 Wilkins organized a meeting of the leaders of the major civil rights organizations and used the opportunity to criticize challenges to the NAACP’s operations. That same year Wilkins complained that “SCLC, CORE, and SNCC were all in full-fledged competition with the NAACP.”

In Virginia, other civil rights organizations were increasingly active in the early 1960s. The outbreak of the sit-ins helped their cause; so did the state government’s attacks on the NAACP, as Virginia’s anti-NAACP laws discouraged people from associating with the organization. In February 1960, CORE—which had only 4 chapters in Virginia in 1959—led workshops in Portsmouth related to the sit-ins. The following year the Freedom Rides passed through Virginia, stopping in Fredericksburg, Richmond, Petersburg, Farmville, Lynchburg, and Danville. CORE’s national director, James Farmer, had spent time in many of these locations in 1960—while working for the national office of the NAACP. Yet despite the fact that the rides grew out of a lawsuit handled by the Virginia NAACP (Boynton v. Virginia, which voided segregation in bus and train stations), the organization did little to help the riders.

21 Klarman, From Jim Crow to Civil Rights, 379; Julian Bond in Wilkins, Standing Fast, ix; Forman, The Making of Black Revolutionaries, 363-364. Wilkins was impressed enough by the end of the Freedom Rides to invite Farmer to address the NAACP’s 1961 annual convention, where Farmer paid tribute to the NAACP but highlighted the importance of direct action; see Meier and Rudwick, CORE, 144.

22 Wilkins, Standing Fast, 285-286. For more, see Forman, The Making of Black Revolutionaries, 363-364. Forman was disturbed by Wilkins’s “extreme defensiveness and arrogant style.”

23 For more on how southern anti-NAACP laws aided the rise of new civil rights organizations, see Chapter 4 of this dissertation; Klarman, From Jim Crow to Civil Rights, 382-384; Fairclough, Race and Democracy, 207-211.

24 Clayborne Carson writes, “... until the outbreak of the student sit-ins in 1960, CORE had attracted little support among southern blacks for its Gandhian approach”; In Struggle, 33. Meier and Rudwick, CORE, 103; RTD, January 2, 1959, 1.

25 This was undoubtedly related to the national office’s disdain for the Rides. For more, see Meier and Rudwick, CORE, 36, 86, 131-137, 172, 261; Klarman, From Jim Crow to Civil Rights, 379; Branch, Parting the Waters, 413; Letter from Gloster Current to Lester Banks, September 11, 1959, Part III, Box C159, Virginia State Conference, July 1959-December 1959, NAACP Papers; Letter from James Farmer to Lester Banks, September 22, 1959, Part III, Box C159, Virginia State Conference, July 1959-December 1959, NAACP Papers. For information on Boynton v. Virginia, see Tushnet, Making Civil Rights Law,
SNCC also sought to gain a foothold in Virginia. The organization remained small and decentralized throughout its first year, however, and did not hire its first full-time field secretary until mid-1961. By 1962 the group had about 20 staff members, but the vast majority—and later staffers as well—worked in Arkansas, Mississippi, Alabama, and Georgia. In Virginia, the organization was mainly supported by black college students. In 1961 students arrested during sit-ins in Lynchburg held “jail ins,” in which the arrested students chose to stay in jail rather than accept bail, similar to those being organized by SNCC in Rock Hill, South Carolina. The “Student Non-Violent Movement” of Lynchburg also carried out protests in 1963 against a variety of segregated businesses.

The same year in Farmville, SNCC workers helped organize marches and demonstrations targeting segregated businesses and churches. Several years later, as part of SNCC’s Black Belt Project, volunteers from that group registered black voters in Southside Virginia.


26 The hire was, ironically, Charles Sherrod, a leader of the Richmond, Virginia, sit-ins. Sherrod went on to lead sit-ins in South Carolina and Georgia in the coming years; Carson, In Struggle, 14, 40. Charles’ brother Roland also worked for SNCC and noted that there was not much SNCC activity in Virginia; Library of Virginia book talk, January 9, 2008. See also Carson, In Struggle, 67, 231. The Charlotte Observer reported on February 7, 1961, that SNCC overall was a 27-person group.


In the early 1960s, Martin Luther King’s SCLC was the most active new civil rights organization in Virginia. “Improvement associations,” modeled on the Montgomery (Alabama) Improvement Association that had run the 1955-1956 bus boycott in that city, sprang up in several locations around Virginia in the late 1950s, and these were often converted into SCLC chapters. A statewide organization—the Virginia Unit of the SCLC—was created in Petersburg in 1960. Although the Virginia SCLC initially concentrated on voter education and registration, over time the organization broadened its scope both tactically and geographically. King traveled to Virginia repeatedly, and between 1960 and 1963 SCLC and its surrogates launched direct action protests in Hopewell, Petersburg, Danville, and Lynchburg, among other places. In late 1962, Virgil Wood, chairman of the board of the Virginia SCLC, wrote to King: “Although we do not seek to make gain from the ineptness of other State Civil Rights organizations, yet we do have a unique and unparalleled opportunity and responsibility in Virginia at this time.”

In Virginia, however, the NAACP remained the largest and most active civil rights organization throughout the early 1960s. As new civil rights groups developed, the
State Conference cooperated with them when their interests were aligned, but the Virginia NAACP also worked to prevent other organizations in the state from supplanting the association. After the sit-ins began, for instance, the State Conference allowed its youth members to organize protests with other organizations so long as the protests were “planned and guided” with help from the NAACP.32

To counteract the rise of new civil rights organizations and the growing acceptance of direct action, the Virginia NAACP also became more militant over time. In NAACP branches around Virginia, younger and more aggressive members took leadership positions in the early 1960s. In New Kent County, for example, Calvin Green reorganized the local branch and became its president in 1960, in part because he was inspired by the sit-ins. Green went on to file a lawsuit demanding school desegregation in New Kent that led to a notable U.S. Supreme Court decision in 1968.33

The national office and the State Conference also supported a more demanding approach. State Conference executive secretary W. Lester Banks was arrested for violating a segregation ordinance in Lynchburg in late 1961.34 In Lynchburg in 1961-1962 and Danville in 1963, the NAACP openly jockeyed with representatives of other


33 For more on Green v. New Kent County, see Chapter 7 of this dissertation.

civil rights organizations for influence and publicity. In 1963, L. Francis Griffin—then president of the Virginia State Conference—helped lead direct action protests in Farmville; that summer, members of the local NAACP Youth Council, together with SNCC activists, launched a series of sit-ins, marches, and other demonstrations aimed at overcoming segregation and discriminatory employment practices in Prince Edward County. Protests such as this allowed the NAACP to maintain its position of leadership by helping to bring about the dismemberment of segregation in public facilities throughout the commonwealth. They also ensured that the NAACP was not easily eclipsed by younger organizations in Virginia.


37 James H. Hershman Jr., “A Rumbling in the Museum: The Opponents of Virginia’s Massive Resistance,” (Ph.D. diss., University of Virginia, 1978), 337-339, draws similar conclusions. Writing about Charlottesville in 1974, Anna Holden, The Bus Stops Here: A Study of Desegregation in Three Cities (New York: Agathon Press, 1974), 14, adds: “Even with the addition of newer organizations, the NAACP was still the major civil rights organization when this study was done. More militant groups such as...SNCC...and...CORE...never got a foothold in Charlottesville in the 1960s.” This was also true in many other southern locales; the Ralph Mark Gilbert Civil Rights Museum in Savannah, Georgia, highlights the preeminence of the NAACP in the civil rights movement there. For more on longstanding NAACP efforts to maintain its status as the nation’s leading civil rights organization, see Larissa Smith, “Vanguard,” in Peter Lau, editor, From the Grassroots to the Supreme Court (Durham: Duke University Press, 2004), 143; Janken, 47-49, 253-258. Janken, 49, discusses Walter White, the NAACP’s executive secretary until his death in 1955: “More important to White than tangible local civil rights victories, however, was the eclipsing of independent local leaders and the securing of hegemony of the NAACP.”
Focusing on its strengths, the Virginia NAACP also accelerated its efforts to bring about public school desegregation in the early 1960s. After the first instances of desegregation in February 1959, the organization stepped up its efforts to bring about additional school desegregation, even as its attorneys challenged the state's anti-NAACP laws in state and federal courts. The result was extremely slow, but steady, growth in the number of African-American students attending formerly all-white schools in Virginia in the early 1960s—a situation which frustrated both the NAACP and Virginia's segregationists.38

State government officials continued to impede the NAACP's school desegregation efforts throughout the early 1960s. Having accepted token desegregation on a minimal scale when ordered to do so by federal courts, the state now sought to maintain as much segregation as possible in the public schools without resorting to complete defiance. The new, "moderate" policies—adopted in the spring of 1959 and adjusted in subsequent years—allowed small, or token, numbers of African-American students to gain admission into formerly-white schools in Virginia after a rigorous application process.39

The new law allowing local school districts to make pupil assignments themselves (rather than giving that power to the State Pupil Placement Board) went into effect in March 1960, but few localities chose to take control of the process. Those that did were generally more accepting of school desegregation than most Virginia communities. Most applications for transfer, however, continued to be forwarded to the State Pupil

38 Smith, Managing White Supremacy, 297.
Placement Board with the locality’s recommendation and, as before, the state board rejected most black applicants, citing aptitude test scores, geography, and academic qualifications.\footnote{Robbins L. Gates, \textit{The Making of Massive Resistance: Virginia’s Politics of Public School Desegregation, 1954-1956} (Chapel Hill: University of North Carolina Press, 1962), 211; Cynthia D. Green \textit{v. School Board of the City of Roanoke}, 4th Circuit Court of Appeals ruling (in the author’s possession), May 22, 1962, Part V, Box 2400, Legal Department Files, Case Files, NAACP Papers; U.S. Commission on Civil Rights, \textit{1961 Report, Book 2: Education} (Washington, DC: United States Commission on Civil Rights, 1961), 62; Part III, series D, reel 13, frame 917-919, NAACP Papers microfilm.} Approved by federal courts in the early 1960s, this process assured that only small numbers of black students—the most academically qualified and supposedly the least disruptive—were admitted to white schools.\footnote{Michael Klarman explains, “Thus, while it is true that lower court rulings in ... Virginia in 1959 broke the back of massive resistance ... only trivial amounts of desegregation ensued, as defiance of \textit{Brown} was replaced, not with compliance, but with evasion.” Klarman, “How \textit{Brown} Changed Race Relations,” \textit{Journal of American History}, June 1994, 84. For a description of how token desegregation played out in Charlottesville, Virginia, see Lewis, “Mothers: Charlottesville,” in Lassiter and Lewis, editors, \textit{The Moderates’ Dilemma}, 100. For other locations around Virginia, see U.S. Commission on Civil Rights, \textit{1964 Staff Report, Public Education} (Washington, DC: United States Commission on Civil Rights, 1964).}

Separate legislation passed by the General Assembly strengthened state support for non-sectarian private schools. Although the state government did not explicitly support the private school movement that had arisen to provide segregated education for white children, public officials took important steps that aided its development. In 1960, donations to private schools became tax-deductible, and the legislature allowed localities to provide free transportation to private school students. Other legislation permitted the sale of surplus school property to private school foundations.\footnote{Reed Sarratt, “A Statistical Summary, State by State, of Segregation-Desegregation Activity Affecting Southern Schools from 1954 to Present, Together With Pertinent Data” (Nashville: Southern Education Reporting Service, November, 1962), 49-53, in VCU Special Collections, Box 7, M 68, Edward H. Peeples, Jr. Papers; Muse, \textit{Virginia’s Massive Resistance}, 153.}

At the same time, the General Assembly updated its tuition grants system to continue to allow white students who were assigned to integrated schools the opportunity
to attend private segregated schools at no cost instead. In the early 1960s, legislators removed any reference to desegregation from the state's tuition grant laws to make them appear non-discriminatory to the courts. By the early 1960s tax-supported "scholarships," as they were now called, were available to any student who wished to attend a non-sectarian private school, whether attendance was related to desegregation or not. As a result, tuition grants cost the state and localities (who shared part of the financial burden) over one million dollars a year by 1960. Paid directly to parents in an effort to shield the fact that they were the "financial life blood" of segregationist academies, the tuition grants were of questionable legality, and by then, NAACP legal efforts were underway to have them declared unconstitutional.

Continued attacks on the NAACP also challenged the association's school desegregation efforts. In February 1960, as the sit-ins began, so did disbarment proceedings against NAACP attorney S. W. Tucker. Accused by a Fourth District Committee of the Virginia State Bar of violating Virginia's code of legal ethics for the improper solicitation of clients, Tucker faced the revocation of his law license before a three-judge court in Emporia, Virginia. The national NAACP came to his defense, sending Chicago-based attorney Bill Ming to represent Tucker in court. After two years of legal wrangling, in early 1962 the Greensville County circuit court reprimanded Tucker but dismissed the charges against him. Lester Banks commented, "The mountain

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45 State officials, including the Boatwright Committee, had pressed the State Bar to do something about the NAACP's attorneys. Tucker had previously warned Henry Marsh, his new law partner: "Look, I'm a target. If you want to disassociate yourself from me, it will be okay." S. J. Ackerman, "The Trials of S. W. Tucker," *Washington Post*, June 2000, online at http://www.arlingtoncemetery.net/swtucker.htm.
labored and brought forth a mouse.” Still, defending Tucker had cost the NAACP both
time and money at a time when both were in short supply—undoubtedly one of the
reasons behind the segregationists’ attack.46

At the same time, State Conference attorneys continued to challenge the
constitutionality of Virginia’s anti-NAACP laws in court. Though federal judges had
overturned several of the statutes in the late 1950s, a divided U. S. Supreme Court
decided in 1959 that Virginia’s state courts should have been allowed to rule on the
ordinances first. The continuation of this litigation—initiated in 1956 against Virginia
Attorney General J. Lindsay Almond as NAACP v. Almond—forced the NAACP’s
attorneys to return time and time again to state and federal courts in Virginia in the early
1960s. After the state courts refused to overturn the remaining anti-NAACP laws, the
NAACP again appealed to the U.S. Supreme Court, which held hearings in 1961 and
1962.47 Commenting of the length of the struggle, Oliver Hill later noted, “by the time
the litigation ended … the case had carried the names of [Virginia] Attorneys General
in January 1963, in NAACP v. Button, the U. S. Supreme Court held the last of Virginia’s
anti-NAACP laws unconstitutional. The ruling, which the Boston Globe called a “major

46 Quotation is from Virginia State Conference Press Release, January 29, 1962, Part III, Box
C160, Virginia State Conference, 1962, NAACP Papers. Roy Wilkins attended Tucker’s initial hearing in
February 1960. In 1987, when he received a civil rights award from the Virginia State Bar, Tucker pointed
out the irony. For more information, see Hamilton Crockford, “Emporia Attorney Given Reprimand,”
at http://www.arlingtoncemetery.net/swtucker/htm.
47 For more information, see NAACP v. Patty, 159 F. Supp. 503 (E.D. Va. 1958); Harrison v.
NAACP, 360 U.S. 167 (1959); Tushnet, Making Civil Rights Law, 275-281; Francis Wilhoit, The Politics of
Massive Resistance (New York: Braziller, 1973), 169; The Citizens’ Council, volume 3, number 12,
September 1958, University of Mississippi Archives and Manuscripts, Special Collections, JD Williams
Library, Citizens’ Council Collection, control number 95-20, Box 3, folder 2, location C-9; Reed Sarratt,
“A Statistical Summary, State by State, of Segregation-Desegregation Activity Affecting Southern Schools
from 1954 to Present, Together With Pertinent Data” (Nashville: Southern Education Reporting Service,
48 Quotation is from Hill, The Big Bang, 179-180.
victory,” was also instrumental in ratcheting up the association’s campaign for school desegregation in Virginia.\textsuperscript{49}

As its campaign against Virginia’s anti-NAACP laws wore on, the state NAACP experienced turnover on its legal staff. In 1960 Spottswood Robinson left the State Conference to become Dean of the Law School at Howard University and then a member of the United States Commission on Civil Rights. In 1964 he became the first African-American appointed to the U.S. District Court for the District of Columbia, and in 1966 the first black appointed to the U.S. Court of Appeals for the District. In the meantime, in 1961, Oliver Hill took a job as Assistant to the Commissioner of the Federal Housing Administration for Intergroup Relations in the Kennedy administration; he would not return to Richmond full-time until 1966. After a brief period during which Martin A. Martin chaired the State Conference legal staff, S. W. Tucker took over in late 1962. A native Virginian who had been active in the state NAACP since his youth, Tucker was well qualified—and supremely motivated—to press for equal rights for African-Americans in Virginia.\textsuperscript{50}


President John F. Kennedy’s election in 1960 had raised hope among African-Americans, including Oliver Hill, but over time many blacks became disillusioned with Kennedy’s civil rights policies. Roy Wilkins noted that “When John F. Kennedy became President … everyone expected him to come in and tear up the pea patch for civil rights.” Dependent on the votes of southern Democrats in Congress for passing federal legislation and on the votes of southern white citizens should he run for re-election, however, Kennedy was hesitant to press for racial equality. Oliver Hill lambasted the president for taking two years to sign an executive order banning segregation in federally-funded housing.51 Roy Wilkins, who worked closely with the president, concluded: “Through all the years I knew and watched Kennedy, I did not for a moment doubt his moral fervor, and his sympathy for black Americans was real enough as well, but getting him to turn those emotions into tangible political action was a matter of an entirely different order.”52

The pace of school desegregation remained slow during Kennedy’s presidency, though the administration did take some important steps. In February 1961 President Kennedy denounced the use of school closures to avoid school desegregation, and that spring Attorney General Robert Kennedy attempted to join the NAACP’s school desegregation litigation affecting Prince Edward County, Virginia, as a co-plaintiff, the first time the government had done such a thing. Unfortunately for the NAACP, which

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52 Wilkins concluded, “Until the last six months of his life he moved forward very, very cautiously on civil rights.” Quotations are from Wilkins, Standing Fast, 272; see also 279, 285. Wilkins was not the only civil rights leader frustrated with Kennedy’s lack of commitment to civil rights; see “King Says JFK Has Failed To Take ‘A Vigorous Stand,’” Southern School News, volume 9, number 2, August 1962; Klarman, From Jim Crow to Civil Rights, 435-436. Kennedy was also distracted by the Cold War, especially in 1961-1962, when the Bay of Pigs invasion and then the Cuban Missile Crisis took place.
welcomed the move, federal district court Judge Oren Lewis denied the request. That fall the president appointed Thurgood Marshall to the federal bench, a bold move which angered southern congressmen. The following year the Justice Department filed a school desegregation lawsuit against Prince George County, Virginia, for operating segregated schools that affected U.S. military personnel, part of a flurry of similar suits filed mainly in the Deep South. Despite these steps, however, in the early 1960s the percentage of black students in the South enrolled in formerly all-white schools was growing only about one point a year, and Roy Wilkins later commented: “At that deliberate speed, it would take until the year 2063 ... to accomplish desegregation.”

Southern federal judges, however, continued to play the most important official role in the school desegregation process in the early 1960s. Although a slowly growing number of school districts integrated voluntarily, desegregation in the former Confederacy occurred primarily because of court decisions. This situation highlighted the importance of the NAACP in the school desegregation process, as the association represented the principal litigants; on the other hand, the NAACP could do little without favorable court rulings. Oliver Hill later commented, “Reporters and others constantly questioned us regarding when we thought schools would be desegregated. I constantly

53 Lewis’ denial of the Department of Justice’s request helped lead to a provision in the Civil Rights Act of 1964 that granted the Department the right to intervene in such lawsuits. Peltason, 253; Harris Wofford, Of Kennedys and Kings: Making Sense of the Sixties (Pittsburgh: University of Pittsburgh Press, 1992), 135; Brian Lee, “We Will Move: The Kennedy Administration and Prince Edward County, Virginia, 1961,” unpublished independent study paper in the author’s possession, produced fall 2008.

54 Fairclough, Race and Democracy, 455; Wilkins, Standing Fast, 281-284. Congress held up Marshall’s appointment for a year. Some of Kennedy’s other judicial appointments angered blacks, particularly his appointment of James Eastland’s college roommate to a federal court in Mississippi.


56 Quotation is from Wilkins, Standing Fast, 285. In early 1963, when Kennedy declared the Brown decision “both legally and morally right,” he also noted the slow pace of school desegregation in the South; see Klaiman, From Jim Crow to Civil Rights, 340. For more on Kennedy and civil rights, see Fairclough, Race and Democracy, 267; Harvard Sitkoff, The Struggle for Black Equality, 1934-1992 (New York: Hill & Wang, 1993), 61-85, 115-137; Buni, 214-216.
replied that desegregated schools would exist when we got judges who would order that Negro children attend white schools.  

One challenge was that the lower federal courts continued to operate with little guidance from the U. S. Supreme Court until 1963. During the early 1960s, the Supreme Court refused to hear appeals of most lower court rulings related to school desegregation, including cases that could have provided guidance to the lower federal courts more generally. Many legal historians argue that the Supreme Court did so deliberately because of the controversial nature of school desegregation. The lack of guidance, however, allowed for varied interpretations of “with all deliberate speed” throughout the region. While some southern federal judges expanded the amount of school desegregation required in the early 1960s, other courts allowed the continuation of complete segregation—as in the Deep South.

Even without guidance from the U. S. Supreme Court, federal courts outside of the Deep South generally demanded more effective desegregation measures over time. Frustrated with continued southern intransigence, a growing number of federal judges overturned state and local pupil placement decisions and allowed blacks to skip time-consuming administrative procedures established by the states to slow desegregation. Black plaintiffs were also allowed to file more class action suits, which allowed federal judges to apply their rulings more broadly. By 1962, minority transfer provisions, which allowed whites to transfer out of integrated schools, and which had been accepted by most federal courts in the late 1950s, were often viewed unfavorably as well. The U.S. Commission on Civil Rights reported at the time, “It is increasingly the demand of

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57 Quotation is from Hill, *The Big Bang*, 176. See also Peltason, 57-58.
Federal courts that an accelerated time schedule be adopted in new desegregation plans.”59

During most of this time, as legal scholar Michael Klarman explains, the U.S. Supreme Court “withdrew almost entirely from the school desegregation arena.”60 The early 1960s, however, witnessed the end of the high court’s silence. In 1963, the same year it overturned the last of Virginia’s anti-NAACP laws, the high court publicly expressed disappointment with the pace of school desegregation. In May of that year, in Watson v. Memphis, Michael Klarman notes, the justices “warned that desegregation plans that ‘eight years ago might have been deemed sufficient’ were no longer so.” A week later, in Goss v. Board of Education of Knoxville, the court invalidated a transfer provision it had declined to review in 1959. Also in 1963, the court waived the requirement that litigants exhaust all administrative remedies before suing in federal court. The Supreme Court now encouraged southern federal judges to demand more effective school desegregation plans to implement Brown v. Board of Education.61

The shifting judicial winds resulted in a noticeable increase in school desegregation in various parts of the South. The number of southern school districts integrating schools

59 Judicial rulings balanced the requirements of Brown with widespread opposition to desegregation on the part of southern whites—and sometimes on the part of the judges issuing the rulings, who themselves were part of that public. Quotation is from U.S. Commission on Civil Rights, 1963 Staff Report, Public Education (Washington, DC: United States Commission on Civil Rights, 1963). See also Peltason, 244-245; Klarman, From Jim Crow to Civil Rights, 340, 362; Kluger, 755; U.S. Commission on Civil Rights, 1964 Staff Report, Public Education (Washington, DC: U.S. Commission on Civil Rights, 1964); “Statement by G. W. Foster, Jr. in Support of the Nomination of Judge Clement F. Haynsworth, Jr. to the Supreme Court of the United States,” Senate Judiciary Committee Hearings on Haynsworth Nomination, 91st Congress, 1st Session, September 16-26, 1969, in the author’s possession; “City School Problems to Test Skill of New Superintendent,” The Daily Progress, April 6, 1963.

60 Klarman, From Jim Crow to Civil Rights, 343; see also 358.

for the first time grew from 14 in the fall of 1960, to 31 in 1961, 46 in 1962, and 166 in 1963.\textsuperscript{62} The latter year is notable because the number of desegregating districts was more than three times the number in the previous fall. South Carolina and Alabama also joined the list of newly desegregated states in 1963. Only Mississippi—the “last holdout” in the words of historian Charles Bolton—had yet to integrate a single school.\textsuperscript{63}

For its part, the Virginia State Conference of the NAACP continued to press for more, and more rapid, school desegregation. In 1960 the organization sought to create Education Committees in each of its local branches, in part to “encourage, stimulate, prepare and guide the applications of more students [to formerly all-white schools] throughout the state.” A statewide Education Committee composed of State Conference leaders oversaw the effort, in conjunction with national office staff including James Farmer, later the national director of CORE.\textsuperscript{64} At its 25\textsuperscript{th} annual meeting in the fall of 1960, the State Conference resolved that “a strong and consistent program to increase applications [by parents of black pupils] to non-integrated schools and those already integrated is the number one problem of the Conference and the Virginia community.” The goal was to increase both the number of desegregated localities and the amount of desegregation in areas where the process had begun.\textsuperscript{65}

\textsuperscript{62} These figures are estimates, and tend to vary slightly from source to source. The South is defined as the 17 states that required segregated education prior to Brown. Within these states, there were approximately 3000 school districts containing both black and white students. U.S. Commission on Civil Rights, 1963 Staff Report, Public Education (Washington, DC: U.S. Commission on Civil Rights, 1963), 7; Muse, Virginia’s Massive Resistance, 174; Kluger, 755.

\textsuperscript{63} Mississippi was the last state in the South to begin desegregating its schools, in 1964; see Charles C. Bolton, “The Last Holdout,” in Daugherty and Bolton, editors, With All Deliberate Speed, 123-138. For more information, see Klaman, From Jim Crow to Civil Rights, 408; U.S. Commission on Civil Rights, 1964 Staff Report, Public Education (Washington, DC: U.S. Commission on Civil Rights, 1964), 2.


When African-American students applied for such transfers and were rejected, the State Conference often filed a school desegregation lawsuit. As a result, the State Conference’s legal program picked up considerably in the early and mid-1960s, particularly after NAACP attorney S.W. Tucker was cleared of charges related to the improper solicitation of clients in 1962. That year alone, school desegregation lawsuits were filed against York, Powhatan, King George, Frederick, Chesterfield, and Shenandoah Counties and against the cities of Hopewell and Fredericksburg.66

During this period, the NAACP’s lawsuits sought the admittance of African-American students into formerly-white schools and also the elimination of schemes designed to minimize school desegregation. The latter included local school board policies governing assignment of pupils as well as the General Assembly’s support for private schools and pupil placement policies overseen by the State Pupil Placement Board. Broadly speaking, the NAACP sought the right for black students to enroll in white schools should they desire to do so. Thus, while a growing number of white Virginians hesitantly supported grade-a-year desegregation plans, which started integration with one grade and integrated one additional, succeeding grade per year, the association called for plans that allowed students of all ages to choose the school of their choice. When blacks in Lynchburg demanded such a “freedom of choice” plan in early 1962, one leader noted that “the Negroes in Lynchburg would have accepted the grade-a-

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year plan in 1954 but now ‘cannot conceive anything but ... complete and immediate integration.’”

The national office of the NAACP continued to aid the Virginia State Conference in its effort to speed up the rate of school desegregation. National representatives attended the Virginia State Conference’s annual gathering each year, and the state NAACP’s legal staff had easy access to the national office legal staff and attorneys for the Legal Defense Fund. In early 1960, after attending the national NAACP’s annual meeting in New York, Lester Banks reported that “activities in all phases of the Association’s program placed Virginia far ahead of her sister southern states and significantly, Virginia’s production and program placed high among the rest of the Association’s units.”

National school desegregation specialists also regularly visited Virginia; Special Education Assistant June Shagaloff, a social worker on the staff of the Legal Defense Fund, took part in planning sessions in Virginia in 1962 and 1963. Determined to bring about the implementation of Brown v. Board of Education throughout the South, the national NAACP resolved in 1962: “With a sense of immediate urgency, the Association pledges itself to rededicate every effort toward meaningful desegregation by vigorously challenging the ‘token’ and less than token admission of a few Negro pupils to formerly all-white schools, grade-a-

67 The county adopted a grade-a-year desegregation plan instead; see “Grade-A-Year Plan Approved By Board,” The News, Lynchburg, Virginia, February 14, 1962. The same pattern unfolded in Charlottesville, where tokenism and evasion led the NAACP to regularly petition the federal courts for more desegregation in the early 1960s; see Lewis, “Mothers,” in Lassister and Lewis, editors, The Moderates’ Dilemma. By the mid-1960s, the NAACP itself would reject “freedom of choice” plans in favor of more substantial desegregation.


year and pupil assignment plans, and all other delaying plans so clearly intended to evade the May 17th decision."

Over time the NAACP's efforts paid off. In the early 1960s, the State Pupil Placement Board, a longtime opponent of desegregation, approved growing numbers of black student transfer requests. The U.S. Civil Rights Commission reported that the agency approved 137 applications for the fall of 1961 (even as it rejected 266). By 1962 the board--which previously had avoided desegregation in most localities--had begun forcing school districts in Virginia to admit African-American students into their formerly-white schools. In the summer of 1963, during school desegregation proceedings before the United States Court of Appeals for the Fourth Circuit, the head of the PPB announced that the board would no longer consider academic qualifications in making school assignments. Though the number of black student transfers remained small, it grew over time, as did the number of school districts ordered to desegregate by the agency.

The federal courts in Virginia also gradually demanded more school desegregation; though the pace of change remained maddeningly slow in the eyes of the NAACP. In 1961, the United States Court of Appeals for the Fourth Circuit denied additional black

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students the right to transfer into Charlottesville’s formerly-white schools but warned that the city’s desegregation plan violated the rights of blacks and that the situation “cannot indefinitely continue.”

When four black students applied to white schools in Lynchburg in 1961, the PPB rejected their applications because the students lived closer to black schools. As federal district judge Thomas Michie pointed out, however, numerous whites in Lynchburg lived closer to black schools, but did not attend them. Two of the black students were admitted, and the following year Michie approved a grade-a-year desegregation plan for the city. Following the U.S. Supreme Court’s 1963 school desegregation decisions, moreover, S. W. Tucker pressed the lower federal courts to take heed of the high court’s rulings, declaring that “the time of shadow boxing, technicalities and the labyrinth of administrative procedures has passed.” Judges complied, overturning grade-a-year plans and minority transfer provisions in Charlottesville and Lynchburg.

As a result of the NAACP’s litigation, federal court decisions, and the state PPB’s actions, school desegregation increased in Virginia during the early 1960s. Initial school

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74 “Atty. Tucker Hails Justice Dept. PE School Case Aid,” Albemarle Tribune, May 4, 1961. The court was right, as U.S. Supreme Court decisions in 1963 and later proved.
desegregation in February 1959 had involved 21 students in two localities. By the fall of 1960, 208 black students attended school with whites in 11 districts around the state, including Richmond. The number of desegregated districts increased to 20 in the fall of 1961, and 29 in the fall of 1962, when approximately 1,100 of Virginia's 225,000 black school children attended school with whites. By the fall of 1963, 55 of Virginia's 130 school districts had admitted African-American students to at least one formerly all-white school. Still, only approximately 3,700 black pupils or 1.6 percent of the state's black schoolchildren attended school with whites. Though the pace of change exasperated the state NAACP and its supporters, given the South's long history of discrimination and segregation the expansion of school desegregation in Virginia represented a major accomplishment.\textsuperscript{77}

Virginia's demographics strongly influenced the school desegregation process. Clearly the process was neither easy nor uniformly smooth, and most whites in the state opposed school integration. Yet in northern Virginia, white community acceptance of black students came less grudgingly, and political opposition to desegregation was less widespread. There, perhaps because of the small number of African-American students

or its proximity to Washington, D.C., whites were more likely to comply with *Brown* than to resist. As desegregation increased there, earlier than elsewhere in the state, overall numbers of children attending public schools in the northern counties and cities remained essentially the same; no movement for segregated private schools developed.\(^78\) The same was generally true of Southwest Virginia, which—like northern Virginia—contained few African-American students. In Floyd County, the first locality in Southwest Virginia to desegregate its schools (under court order in 1960), the process was carried out “with extraordinary ease.” The county school board and superintendent carefully planned for the adjustment, even training and preparing the county’s white pupils for desegregation, and the process was “quiet” and “orderly.” Speaking of the white population of Southwest Virginia more broadly, the *Roanoke World-News* concluded that white people there would accept desegregation “with the same calm and good sense shown by the Floyd County people yesterday.”\(^79\)

Desegregating schools in Southside and Tidewater Virginia was a more challenging endeavor. Because blacks represented a larger proportion of the population in these two regions (a majority in a handful of counties), opposition to desegregation among whites was more common and vehement. The decision of the Prince Edward County board of supervisors, in Southside, to close the county’s public schools rather than integrate under court order in 1959 serves as one example of the depth of feeling (albeit not one replicated anywhere else); Prince Edward’s schools would remain closed for five years,


\(^79\) Quotation is from Muse, *Virginia’s Massive Resistance*, 155-156; see also “Six Districts to Desegregate For First Time,” *Southern School News*, volume 8, number 2, August 1961. As in Floyd County, however, the NAACP generally had to resort to the federal courts to bring about school desegregation in Southwest Virginia in the early 1960s; see *Cynthia D. Green v. School Board of the City of Roanoke*, 4\(^{th}\) Circuit Court of Appeals ruling, May 22, 1962, Part V, Box 2400, Legal Department Files, Case Files, NAACP Papers.
and other localities in Southside considered similar action in the early 1960s. Partly as a result, the NAACP filed fewer school desegregation lawsuits in Southside than in other areas of the state. The NAACP also hesitated to focus too much attention on Southside because it had been regularly disappointed by court rulings handed down by the federal district judge overseeing the Prince Edward County litigation, and because of the challenges involved in recruiting black plaintiffs in that part of the state. Those few NAACP actions initiated in Southside Virginia fared poorly in the courts, and the same held true for the rural areas of Tidewater. In the end, Southside Virginia--like the Deep South--avoided school integration in the early 1960s. Initial desegregation in this area--which Lester Banks described as "Virginia’s most reactionary section"--would not come until the middle of the decade.

Central Virginia, fittingly, occupied the middle ground between the grudging acceptance of school desegregation in northern and western Virginia and the near-total opposition in Southside and the Black Belt. Most whites in central Virginia opposed desegregation and resisted it, but at the same time they recognized the limits of resistance. By the early 1960s it was obvious that desegregation would eventually be ordered by the federal courts, and the debate focused on the extent of desegregation required and the long-term viability of private academies. Most whites in central Virginia preferred token desegregation over having to send their children to private schools.

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80 Between 1956 and 1958, Judge Sterling Hutcheson, who oversaw the Prince Edward County litigation, refused to set a date for initial desegregation, despite repeated clashes with the Fourth Circuit Court of Appeals. After being reversed a second time by the appeals court, in 1959, Hutcheson resigned from the bench. See Muse, *Virginia’s Massive Resistance*, 59-62; Tushnet, *Making Civil Rights Law*, 251; Peltason, 212-220.

81 Quotation is from Letter from Lester Banks to Gloster B. Current, September 11, 1959, NAACP Papers, Part III, Box C159, Virginia State Conference, July 1959-December 1959. Both the State PPB and Virginia’s federal courts seemed to accept the idea that Southside Virginia would need more time to prepare for desegregation than would localities elsewhere in the state.
schools, and in the early 1960s, desegregation occurred in many localities in this region, including Lynchburg, Fredericksburg and King George County.82

Regardless of the location, school desegregation in the early 1960s affected those black students who changed schools more than it did white students in Virginia. After all, white students were not transferred to black schools during the early years of school desegregation in Virginia. It was not until 1963 that the Virginia Pupil Placement Board—under judicial pressure—assigned white children to formerly-black schools for the first time; even then the white students refused to go.83 As a result, the first black integrators—black students admitted to formerly-white schools—attended school without access to most of their friends, to numerous sympathetic teachers, or to symbols of pride important to the black community.84 Many of these black students regularly faced harassment, sometimes by teachers and administrators.85 School desegregation entailed other costs for black students in Virginia. In 1962, when the first black students attended Stafford County High School, they were asked to voluntarily forgo participating in sports or social


84 Attempts to prevent the forced transfer of white students to formerly all-black schools were common. In Lynchburg in January 1962, the local newspaper ran an article titled “No White Child Here Seen Forced Into Negro School,” in which the school superintendent hoped the situation would remain that way forever; The News, Lynchburg, Virginia, January 26, 1962.

activities. The black students refused, so the school board held the junior-senior prom off-campus and suspended the senior class trip to New York.\footnote{Fredericksburg Lance-Star, August 6, 1962; Fredericksburg Lance-Star, August 18, 1962; Fredericksburg Lance-Star, September 13, 1962; Fredericksburg Lance-Star, September 17, 1962; Fredericksburg Lance-Star, October 9, 1962. In 1961, when Cynthia Montague became the first black to attend Stafford County Elementary School, she rode in a segregated bus for black students, separate from her white classmates; Fredericksburg Lance-Star, May 16, 2004. West Point, Virginia, suspended all social functions at its high school in 1961; see “Official Says HEW Requires Publicity For Localities Approval School Plans,” RTD, August 6, 1965.}

In the meantime, as the campaign for school desegregation progressed, the broader civil rights movement picked up momentum. In 1963 black frustration with the pace of change spilled into the streets of the South as never before. The largest protests the nation had yet seen erupted in Birmingham, Alabama, and then in cities throughout the region before culminating in the March on Washington in August.

In early 1963, SCLC-organized protests and mass arrests in Birmingham attracted national media attention. Images and film footage of nonviolent protestors being attacked by police with dogs and by firefighters with high-powered water hoses forced President Kennedy to respond. The president sent Attorney General Robert Kennedy to help negotiate an end to the protests, and then spoke on television in support of federal civil rights legislation in June 1963.\footnote{Michael Klarman writes, “Television and newspaper coverage featured images of police dogs attacking unresisting demonstrators, including one that President Kennedy reported made him ‘sick’”; \textit{From Jim Crow to Civil Rights}, 434-436, 374. Kennedy appealed to governors, including Virginia’s Albertis Harrison, to support the legislation--Harrison responded by telling the president, “local action and cooperation would be more effective and lasting than new federal legislation in the civil rights field.” See NAACP Press Release, June 19, 1963, Part III, Box C160, Virginia State Conference, 1963, NAACP Papers. Kennedy had originally proposed federal legislation in February; Wilkins, \textit{Standing Fast}, 286-287; for more on the June speech, see 289.} Even Roy Wilkins, never a great admirer of Martin Luther King, was among those who lauded the success of Birmingham, later writing, “Of all Reverend King’s demonstrations and exercises in moral witness, Birmingham
probably worked best on Kennedy. What the country saw in Birmingham was a moral outrage that could not be condoned.”

The most visible result of Birmingham was the outbreak of major nonviolent direct-action campaigns throughout the South in the spring and summer of 1963. African-American protestors took to the streets in their largest numbers yet, demanding the desegregation of all public businesses and public spaces, fair hiring practices, equal access to healthcare, and legal equality in general. Michael Klarman notes that, “In the months after Birmingham, spin-off demonstrations occurred in hundreds of southern cities and towns; more than 100,000 people participated, and nearly 15,000 were arrested.” By the 100th anniversary of the Emancipation Proclamation, the goal among activists was expressed in a common protest phrase--“Freedom Now.”

In Virginia, protests broke out in many communities in 1963. Historian Paul Gaston described the beating he suffered during demonstrations in Charlottesville, and protests also took place in Richmond, Farmville, Lynchburg, and other locations across the state. The largest campaign in Virginia took place in Danville. In early June, in a scene eerily reminiscent of Birmingham, police and newly-inducted deputies attacked demonstrators with water hoses and billy clubs. As national representatives from SCLC, SNCC, CORE, and the NAACP converged on the city, Martin Luther King said, “I have seen some brutal things on the part of policemen all across the South in our

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88 Wilkins, Standing Fast, 287.
89 Klarman, From Jim Crow to Civil Rights, 374.
struggle, but very seldom, if ever, have I heard of a police force being as brutal and vicious as the police force here in Danville, Virginia.”

The NAACP embraced the expanded goals and techniques of the 1963 campaigns. At its 1963 annual convention, held in Chicago, the organization adopted a Direct Action Resolution ordering branches to initiate “picketing, sit-ins, mass action protests, selective-buying campaigns, and all appropriate constitutional means of attacking discrimination and segregation in public accommodations, housing, education, employment and political action.” To encourage its less militant branches, the resolution stated: “In cases where such direct action in support of our resolutions are resisted, or hindered by any NAACP unit, immediate corrective action shall be requested of the Committee on Branches of the National Board of Directors.” Executive secretary Roy Wilkins was arrested for picketing with Medgar Evers, head of the Mississippi NAACP, in Jackson in May, and at the annual convention Wilkins encouraged the NAACP to “accelerate, accelerate, accelerate” its attack. In late June the Virginia State Conference of the NAACP adopted a new Direct Action Program and then organized a statewide “program of application.” In early August, executive secretary Lester Banks was again


arrested, this time for attempting to eat at a white restaurant near Halifax, Virginia. NAACP members participated in protests in Danville, Farmville, and other locations around the state.\textsuperscript{94}

The largest demonstration of the era took place on August 28, 1963, in Washington, DC. Two hundred fifty thousand people took part, seeking equal job opportunities and federal legislation protecting civil rights. All the major civil rights organizations participated, including the NAACP. On the surface they cooperated, but beneath the façade were growing rivalries and disagreements--Roy Wilkins agreed to participate only after the others promised to avoid arrests, and John Lewis of SNCC was prevailed upon to temper his remarks to please other participants in the March. In the end, other speakers at the March were overshadowed by Martin Luther King, who delivered his famous “I Have a Dream” speech.\textsuperscript{95} The event marked one of the last times the leading civil rights organizations would cooperate.\textsuperscript{96}

Ironically, white public opinion was growing more supportive of equal rights even as the civil rights organizations drew apart. After Birmingham, national polls showed a clear shift in favor of civil rights legislation. President Kennedy, a latecomer to the civil rights crusade, broached the idea of federal legislation in a nationally televised address in


June. Before the nation could learn whether the changes of 1963 would lead to congressional action, however, President Kennedy was shot and killed in Dallas, Texas, on November 22.97

That same month, Martin Luther King Jr. returned to Danville, Virginia. That summer’s large anti-segregation demonstrations had subsided and a tense calm had returned. Much of the city remained segregated, including the business district downtown, a sign of the limitations of nonviolent direct action. Tucked away quietly in the city’s predominantly white schools, however, were eleven African-American students, who had been admitted that fall by the State Pupil Placement Board after requesting a transfer into the white schools. Their enrollment in the city’s first desegregated schools in the midst of an extremely tense and otherwise largely segregated city highlighted both the accomplishments of, and the challenges facing, the state NAACP. Luckily for the association, its campaign to implement Brown v. Board of Education in Virginia was about to get significantly easier.98

97 Klarman, From Jim Crow to Civil Rights, 432-436; Roy Wilkins, Standing Fast, 284-285.
Chapter 6, 1964-1967

A New ‘Holy Prerogative’: Freedom of Choice and School Desegregation in Virginia in the Mid-1960s

The implementation of *Brown v. Board of Education* in the South picked up noticeably during the mid-1960s. Continued litigation pursued by the NAACP and growing pressure from the federal government accelerated school desegregation, as did direct action protests and demonstrations. In 1964 Mississippi became the last southern state to begin desegregation of its schools, and by the fall of 1966, 16.9 percent of southern black students attended desegregated schools, up from one percent in 1964. On the other hand, even as late as 1967 desegregation had yet to begin in many southern school districts, particularly in the Deep South, and the amount of desegregation within localities where it had begun remained small.¹

As noted previously, the executive branch of the federal government played an increasingly important role in civil rights issues in the 1960s, but Lyndon Baines Johnson’s background did not suggest a powerful commitment to civil rights. Born and raised in the South, Johnson began representing Texas in Congress in the 1930s. After moving from the House of Representatives to the Senate in 1949, Johnson eyed the presidency. In the 1950s, he marshaled the votes to pass the Civil Rights Act of 1957, which, however, applied only minimal pressure on the white South. When John F. Kennedy defeated Johnson for the Democratic presidential nomination in 1960 and asked

the well-connected Texan to join the ticket as the vice presidential nominee, Roy Wilkins of the NAACP noted “nearly everyone’s dismay.”

As president, however, Johnson defied those expectations. Building on President Kennedy’s ideas and growing white support for civil rights nationwide, Johnson pressed Congress to enact major civil rights legislation, including the historic Civil Rights Act of 1964 and the Voting Rights Act of 1965. The former, passed after a nearly two-month filibuster by southern congressmen, banned discrimination in public accommodations and employment. It had an immediate impact throughout the nation. The following year the Voting Rights Act established federal oversight of elections in much of the South and prohibited the use of procedures that had the effect of disqualifying voters based on race or color. President Johnson’s judicial appointments—including Spottswood Robinson and Thurgood Marshall of the NAACP—also demonstrated a commitment to diversity and long-term change greater than that of any previous president. In the end, Roy Wilkins concluded, “Johnson became the greatest civil rights president in our lifetime.”

The Civil Rights Act of 1964 also targeted school segregation. Title IV authorized the U. S. attorney general to file lawsuits seeking desegregation, and Title IX authorized him to intervene in lawsuits brought by private parties if he felt that doing so was in the public interest. By the spring of 1967 the Justice Department was involved in

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2 Wilkins was referring to African-Americans’ sentiments, including his own; see Roy Wilkins with Tom Mathews, *Standing Fast: The Autobiography of Roy Wilkins* (New York: Viking, 1982), 276, 296-297. Wilkins noted that Johnson had voted against every civil rights measure in Congress before the 1957 Civil Rights Act and that, in the 1950s, “You didn’t find him praising school desegregation.”


over one hundred such cases. More important, Title VI prohibited discrimination by entities receiving federal funding, including school districts—systems that continued to discriminate could lose that money. Moreover, in April 1965 Congress passed the Elementary and Secondary Education Act, which increased the amount of federal support available to southern schools. In some cases federal aid at that point made up more than thirty percent of local school funding, and the U.S. Commission on Civil Rights reported, “Federal financial assistance under such programs now is so significant a portion of school budgets that it cannot be disregarded.”

To enforce Title VI of the Civil Rights Act, the U.S. Department of Health, Education, and Welfare (HEW) issued compliance guidelines that explained what southern school districts needed to do to avoid loss of federal funding. The first version of the guidelines was released in April 1965 by HEW’s Office of Education. In conjunction with the guidelines, HEW required all U.S. school districts to submit compliance documents by July. For districts that had already begun to desegregate, HEW simply required the submission of a compliance assurance form. For those that had not, HEW required a locally-developed desegregation plan meeting certain criteria, or documentation that the district was in compliance with federal court orders.

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5 Prior to this the Justice Department had filed lawsuits against districts which included U.S. military personnel, in furtherance of its policy of maintaining a desegregated fighting force. U.S. Commission on Civil Rights, Southern School Desegregation, 1966-1967 (Washington, DC: U.S. Civil Rights Commission, 1967), 42; Southern Education Report (Published by SERS, starting in July 1965), volume 1, number 1, July-August 1965, 31-32.


7 HEW focused its attention on the southern U.S. until the late 1960s. Within HEW, the Office of Education oversaw this process. The 1965 guidelines were titled “General Statement of Policies Under
For districts submitting their own desegregation plan as a means of compliance, HEW's guidelines laid out the minimal requirements. To ensure the assignment of children on a non-discriminatory basis, HEW encouraged districts to choose one of three pupil assignment systems: geographically-based attendance areas, a choice of school "freely exercised by the pupil and his parents or guardians," or some combination of the two. Non-discriminatory admission was required for at least four grades by the fall of 1965, and for all grades by the fall of 1967. HEW also directed localities to begin assigning teachers and administrators without regard to race, and to take steps to eliminate existing teacher segregation.8

For white authorities in the South, freedom of choice plans provided the easiest and most desirable means to comply with HEW, and these plans were adopted by many school districts. Essentially, freedom of choice allowed districts to assign students to segregated schools unless black parents chose to enroll their children in white schools. This perpetuated segregation because many black families, faced with intimidation or hesitant to subject their children to potentially hostile conditions in white schools, simply left their children in segregated schools. Thus, of the methods considered acceptable by

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HEW in the mid-1960s, white southerners accepted freedom of choice as the lesser of two evils. By the beginning of the 1965-1966 school year, 92 percent of school districts from the southern and border states had submitted compliance paperwork to HEW, and most had adopted some form of freedom of choice plan.⁹

Despite HEW’s relatively modest requirements, some southern districts refused to comply. The vast majority of noncompliant districts were small and rural, with large percentages of African Americans. As of August 1965, about four hundred districts--almost all in the Deep South--had failed to submit paperwork or had indicated they would not comply with HEW’s guidelines. That fall the department began proceedings against 54 noncompliant southern school districts. By August 1967 HEW had issued citations to more than three hundred school boards, and more than fifty districts in the South had been deemed ineligible for federal aid because of segregation-related policies.¹⁰

Still, HEW’s efforts to accelerate southern school desegregation proved more successful than the rulings of federal courts during the mid-1960s. Although federal judges in the South overturned discriminatory placement plans more regularly than before, bringing about change through legal action could still be a slow process. HEW, on the other hand, revised its desegregation guidelines in 1966 and now strongly encouraged school districts to implement plans that demonstrably eliminated dual school systems. The agency also suggested numerical target figures for compliance for the first

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time, suggesting that districts meet specific desegregation goals based on the amount of school desegregation they experienced in the 1965-1966 school year. Though freedom of choice plans were still accepted as a means of compliance in 1966, HEW stated that “the single most substantial indication as to whether a free-choice plan is actually working to eliminate the dual school structure is the extent to which Negro or other minority groups have in fact transferred from segregated schools.” When that was not the case, and school authorities were considered to have impeded desegregation, the department could begin the process of withholding federal funds. Thus, for most of the mid-1960s, HEW effectively oversaw the southern school desegregation process, as federal judges deferred to its efforts to implement Brown v. Board of Education. As the Richmond News Leader noted, “Federal courts, for 10 years the battleground over the desegregation question, slowly are stepping aside and letting the U.S. Office of Education set the pace.” Largely as a result of HEW’s implementation requirements, when the 1965-1966 school year began, 7.5 percent of southern black students attended school with


whites—the largest year-over-year percentage increase since Brown v. Board of Education.\textsuperscript{14}

By the late 1960s, concern over the effectiveness and constitutionality of freedom of choice would grow substantially, among federal judges and within HEW itself. In 1967, for instance, Judge John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit wrote that “boards and officials administering public schools have the affirmative duty under the Fourteenth Amendment to bring about an integrated, unitary school system in which there are no Negro schools and no white schools—just schools.”\textsuperscript{15}

The Supreme Court itself was also increasingly forceful in its calls for school desegregation in the mid-1960s. In Griffin \textit{v.} County School Board of Prince Edward County (1964) the Court declared, “There has been entirely too much deliberation and not enough speed in enforcing the constitutional rights which we held in \textit{Brown v. Board of Education}….\textsuperscript{16}” In the late 1960s, frustrated with the pace of change and concerned about the legality of freedom of choice, the federal judiciary would re-take the lead in determining federal school desegregation policy from HEW.


\textsuperscript{16} Griffin \textit{et al} \textit{v. County School Board of Prince Edward County, Virginia}, 317 U.S. 218 (1964). See also Delores P. Aldridge, “Litigation and Education of Blacks: A Look at the U.S. Supreme Court,” \textit{The Journal of Negro Education}, volume 47, number 1, 105-106; U.S. Commission on Civil Rights, \textit{Racial Isolation in the Public Schools}, Clearinghouse Publication No. 7 (Washington, DC: U.S. Civil Rights Commission, 1967). Undoubtedly federal judges were shaken, as were many Americans, by the outbreak of race riots in the United States in 1964. Over the next half-decade, urban unrest challenged the idea of racial progress and laid bare the second-class status of minorities in all parts of the United States. The U.S. Supreme Court was also increasingly liberal because of new appointments, including that of Thurgood Marshall in 1967; see Kluger, 760.
In the meantime, school districts throughout Virginia, fearful of losing federal funding, notified HEW of their plans to comply with the agency’s desegregation guidelines in 1965. Because federal funds were paid initially to the states, and then distributed to localities, Virginia public education officials now also encouraged compliance. Motivated to secure over sixty million dollars in federal aid for Virginia’s education system for the 1966 fiscal year, the Virginia Department of Education publicized HEW’s guidelines, facilitated meetings between local and federal officials, and submitted paperwork from localities to HEW. By April 1965, only five of the 130 school districts in Virginia that had students of both races had failed to submit assurance forms, court documentation showing that they were already complying with an existing order, desegregation plans, or some combination thereof to HEW.\footnote{\textit{Mixed Schools Are Required by Fall, 1967}, April 30, 1965, \textit{Middlesex Plan Is Sent to HEW}, June 4, 1965, both in \textit{RTD}. For more information on this process, see \textit{Sussex Says Deadline No Factor}, June 16, 1965; \textit{78 Pledges On Schools Are Received}, March 4, 1965; \textit{Signed Form Not to Assure School Funds}, April 22, 1965, all in \textit{RTD}.}

The state Pupil Placement Board also adjusted its policies to meet federal desegregation requirements in the mid-1960s. Under pressure from both HEW and federal courts, the state PPB began to approve most student transfer requests, increasing the number of black students in formerly white schools throughout Virginia and in some cases, such as when local desegregation plans were based on geographic attendance zones, ordering white students to attend formerly black schools. In late 1964, the United States Commission on Civil Rights reported, “The [Virginia] State PPB … now virtually is a funnel for the admission of Negroes.”\footnote{U.S. Commission on Civil Rights, \textit{1964 Staff Report, Public Education} (Washington, DC: United States Commission on Civil Rights, 1964), 275; also 238. For more on the State PPB, see \textit{Williamsburg Area to Obey Rights Law}, \textit{RTD}, May 15, 1965.} Some school districts now attempted to maintain segregation by withdrawing from the PPB’s oversight and establishing their
own assignment policies, which the General Assembly had approved in 1959, but most localities knew that would not prevent desegregation for long. As a result, most school districts in Virginia remained under the jurisdiction of the State PPB and grudgingly complied with HEW’s new school desegregation requirements.

As in much of the rest of the South, freedom-of-choice plans had their heyday in Virginia in the mid-1960s. In May of 1965, the Williamsburg-James City County school board adopted a freedom of choice plan and promised “the elimination of race” in the selection and assignment of teachers and staff and the “termination of segregated buses.” Later that month, Nottoway County became the first in Southside Virginia to implement a freedom of choice plan. Freedom of choice also came to Henrico and Hanover, near Richmond, before the beginning of the fall 1965 term, and to many other localities throughout the state. Although local officials resented HEW’s requirements and the intrusion of the federal government, the relatively modest impact of freedom of choice on local school attendance patterns provided some consolation to them.

As a result both of HEW’s guidelines and of continued NAACP litigation, the pace of school desegregation increased in Virginia in the mid-1960s. In the fall of 1964, fewer than four thousand of the approximately 230,000 black students in Virginia, or about 1.6%, went to desegregated schools in the Commonwealth. By the fall of 1965,

21 Statistic is from U.S. Commission on Civil Rights, 1964 Staff Report, Public Education (Washington, DC: United States Commission on Civil Rights, 1964), Appendix, Table 2. See also “Grant Decision Opposed,” RTD, March 15, 1965; Francis Wilhoit, The Politics of Massive Resistance (New York: Braziller, 1973), 289. Southwide in 1964, only 2% of southern black students went to school with white students; Wilkinson, From Brown to Bakke, 46. For information on non-southern school segregation,
more than twenty-six thousand black students attended schools with whites in Virginia. This amounted to over 14 percent of the state’s black students, far more than the southern average of 7.5 percent. By the fall of 1966, the percentage of black students attending desegregated schools in Virginia had risen to nearly 25 percent, again higher than the regional average of 17 percent. In the summer of 1967, the U.S. Commission on Civil Rights reported, “The Southern States with the largest percentage of Negro pupils going to school with whites are Texas, Tennessee, and Virginia.”

That is not at all to suggest that school desegregation came easily to Virginia. As mentioned above, most districts only complied with HEW’s requirements under duress. Several localities, in fact, initially resisted HEW’s mandates. Amelia County, between Prince Edward County and Richmond, was the last to submit compliance paperwork in 1965. County officials had initially insisted segregated schools were more important than federal assistance. However, after black residents of the county filed a school desegregation lawsuit that spring with help from the NAACP, local leaders realized that ignoring HEW would not preserve segregation in the schools. In June 1965, the county announced the adoption of a freedom of choice plan and submitted compliance paperwork to HEW.

Other Virginia locales also resisted the demands of HEW. Counties in Southside Virginia were generally the last in the state to desegregate in 1965, and freedom of choice

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23 Had the county refused to comply with HEW’s requirements, it would have forfeited about $240,000 of a school budget of $575,000. “Public School Desegregation in Amelia Seen,” *RTD*, May 11, 1965; “Amelia Airs Free-Choice Plan,” *RTD*, June 1, 1965.
plans there led to only minimal desegregation into the late 1960s. Mecklenburg County adopted a freedom of choice plan in 1965, but local black children who transferred into white schools reported regular harassment and intimidation on the school buses. Then, in early 1967, a local black man reported that someone had fired a gun at his home after his two grandchildren transferred to a white school. In the spring of 1967, HEW cited a number of Southside school districts, including Mecklenburg, for “poor performance”--only 1.14 percent of Mecklenburg County’s black students attended desegregated schools at the time. At the end of that school year, twelve Virginia school districts had yet to comply fully with HEW’s directives, and in 1966-1967 HEW began enforcement proceedings against ten Virginia school boards for violations of Title VI of the Civil Rights Act.24

The Virginia State Conference of the NAACP also loudly criticized the rate of school desegregation in the Commonwealth. In May 1965, State Conference executive secretary W. Lester Banks announced an acceleration of the NAACP’s efforts “to bring about complete desegregation of public schools” in Virginia. While State Conference attorneys undertook legal action, Banks urged NAACP members and supporters throughout Virginia to press for school desegregation, asking branch officers to “step up your efforts” and urging parents to “overcome indifference, fear and complacency....” In areas where school officials had adopted freedom of choice plans, Banks encouraged parents to enroll their children in white schools at all grade levels--even if authorities had established limits on what grades were eligible (HEW initially only required that freedom

of choice be applied to four grades). In areas where authorities were using geographic zoning plans, Banks urged parents to enroll their children in the schools nearest their homes. Pleading for action, Banks concluded, “Let us rescue as many of our Negro children as we can while we await the Court’s determination that ‘Freedom of Choice’ is not enough and that the school board must totally desegregate the school system.”

Judging by the growing number of African-American students who applied for admittance into formerly-white schools in Virginia in the mid-1960s, the State Conference executive secretary’s entreaties were successful.25

While Banks encouraged black parents to press for school desegregation, the State Conference increased its legal efforts. With Oliver Hill and Spottswood Robinson both working in Washington, D.C. (Hill for the Kennedy administration and Robinson as a federal judge), the legal effort fell largely on the shoulders of S.W. Tucker and his young protégé, Henry L. Marsh III. Marsh, a native of Isle of Wight County, alumnus of Virginia Union University, and recent graduate of Howard Law School, had joined Tucker and Hill’s law firm in the spring of 1961. He would spend much of the next two decades handling civil rights cases throughout the state, even as he entered into Virginia politics. In the mid-1960s, with help from NAACP attorneys throughout Virginia, Tucker and Marsh worked tirelessly to eliminate the remaining vestiges of massive resistance and to expand school desegregation in the Commonwealth.26


The state NAACP won a key victory against Prince Edward County, Virginia, in 1964. County officials, ordered by federal courts to begin school desegregation in 1959, had closed the county’s public schools rather than desegregate. Shortly thereafter, local whites created a private white segregated academy, and white students enrolled in droves—paying tuition, at times, with taxpayer money provided by the state. In response, state NAACP lawyers sued to reopen the public schools and to prevent the use of public monies for the operation of private, segregated schools. The litigation dragged on for years, alternating between state and federal courts, before the U.S. Supreme Court conclusively ruled against county officials in May 1964. In *Griffin v. County School Board of Prince Edward County*, the justices held that the board of supervisors had violated the Fourteenth Amendment by denying funding to, and thus closing, the schools. County officials were forced to reopen the public schools in the fall of 1964, but integration proved elusive—most local white children continued to attend the Prince Edward Academy, at their own expense.\(^\text{27}\)

The NAACP had opposed the use of taxpayer money to help preserve segregated education in Virginia since the tuition grant program had been created in 1959. Virginia’s program allowed the state to provide financial support to parents with children enrolled in private schools that were created, in many cases, to educate white students who had left the public school system because of desegregation; the NAACP contended

that public support for private schools for white children was unconstitutional. The system also required that localities supplement the state funding when the grant amount was less than the per pupil cost of operations in the locality. In the early 1960s, moreover, state legislators amended the tuition grants program to allow localities to spend funds for the private schooling of children. In order words, the state’s tuition grants program involved not only the state government, but also localities around Virginia. In 1964, State Conference attorneys launched a broad attack on the practice by filing a lawsuit against the Virginia Board of Education (which administered the program), the Superintendent of Public Instruction, and a number of local school boards that were engaging in the practice. The “omnibus tuition grants case,” as the suit was known, marked the beginning of another long legal battle. In 1965 a federal district court panel approved the tuition grants, so long as they did not make up the main source of income of a segregated school, and the state continued to distribute money to families with children enrolled in private schools. NAACP attorneys, led by S.W. Tucker, continued with suits against individual school districts—to prevent them from utilizing tuition grants to avoid desegregation—and pursued an appeal on tuition grants in general.

28 The grants were also available to African-American students who chose to attend non-sectarian private schools. Southern School News reported that 222 black children received tuition grants during the 1961-62 school year; “8,518 Tuition Grants Were Paid Last Year,” Southern School News, volume 9, number 2, August 1962.

State Conference attorneys also focused on faculty and staff desegregation in the mid-1960s. HEW supported this effort, requiring that southern school boards eliminate racial considerations in their assignment of teachers and staff. As a result, some districts, such as Williamsburg-James City County in Virginia in 1965, adopted freedom of choice plans that included school workers. In many other localities, however, concerns about black staff members overseeing white students prevailed, and the NAACP was forced to turn to the courts. In their lawsuits and in court hearings in the mid-1960s, NAACP lawyers asked that teachers and administrative staff be desegregated along with the student bodies. As a result of the NAACP’s efforts, the U.S. Supreme Court ruled in favor of faculty and staff desegregation in Bradley v. Richmond School Board in 1965.

As J. Harvie Wilkinson explains, “District courts, the Court held, must not approve desegregation plans without addressing claims of racial bias in faculty assignments.”

In many cases the issue of faculty and staff desegregation was linked to the consolidation of schools. Facing mandatory desegregation in the mid-1960s, a number of southern school districts began to consolidate their dual school systems into unitary bi-racial systems. Especially in localities with small numbers of black students, this was generally accomplished by closing the formerly black schools and transferring the black students into previously white schools. Faced with the loss of community landmarks, African Americans often protested such closures, but generally without success. In fact, the policy was supported by HEW, and the closure of historically black schools was a

trial that numerous black communities in the South were forced to deal with during desegregation.31

The closure of black schools, and southern school desegregation in general, also displaced African American teachers. Rather than retain (or hire) black teachers to instruct white students, southern white school boards preferred to employ white teachers. When Giles County, in Southwest Virginia, consolidated its schools in 1964, the change resulted in the dismissal of seven black school teachers. When the schools were integrated in Wise County, also in Southwest Virginia, about ten black teachers were assigned to white schools, but as teachers' aides. In both cases the NAACP, with the help of the Virginia Teachers Association (the African-American counterpart to the all-white Virginia Education Association), sought their rehiring.32

Not surprisingly, the widespread adoption of freedom of choice plans in the mid-1960s was of concern to the NAACP. Though deemed an acceptable means of school desegregation by HEW and most federal courts, the NAACP maintained, as S.W. Tucker put it, that “freedom of choice is still massive resistance, no matter what you call it....”33 Tucker felt this way because freedom of choice continued to place the burden of school desegregation on the parents or guardians of black school children. This mechanism was therefore not only ineffective, the NAACP believed, but also unconstitutional. In response, the NAACP initiated a broad legal attack on freedom of choice in the mid-


33 Tucker quotation is from S. J. Ackerman, “The Trials of S. W. Tucker,” Washington Post (article in the author’s possession), online June 14, 2000, at www.arlingtoncemetery.net/swtucker.htm.
1960s. By May 1965, the Virginia State Conference legal staff had filed nine virtually identical lawsuits in federal court against different cities or counties challenging the slow pace of school desegregation and the constitutionality of freedom of choice. In the suits, the association contended that intimidation, faculty and staff segregation, and other considerations minimized the rate of desegregation under freedom of choice. NAACP attorneys also argued that choice plans violated *Brown II* by placing the burden of desegregation on the shoulders of African Americans; the high court had given that responsibility to the local school boards. According to the NAACP, freedom of choice was neither fair nor effective, but rather "a continuation of Virginia’s 11-year effort to stave off school integration."

In place of freedom of choice plans, NAACP attorneys argued that the simplest means of compliance would be geographic zoning plans. Under these plans, which were also accepted by HEW as a means of compliance with the Civil Rights Act, children generally attended the schools nearest their homes. School boards were supposed to determine the boundaries of the school zones based on non-racial criteria, and students living in a certain zone would attend schools in that area, regardless of race. The issue of housing segregation, which blunted the effectiveness of such arrangements in achieving desegregation, was left off the table by the NAACP’s legal staff at this point. Later, busing would be used to compel districts throughout the nation to establish uniformly integrated schools, but in the mid-1960s geographic zoning plans were accepted by the

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NAACP—as long as the mandate to arrange and implement such plans was imposed on the school board, and as long as they were implemented fairly.\textsuperscript{35}

The association’s willingness to accept geographic zoning plans in the mid-1960s was indicative of the evolving nature of school desegregation. As shown in previous chapters, the NAACP’s goals changed over time, as did those of Virginia’s government and localities. Initially the NAACP sought simply the abandonment of policies enforcing segregation, as Thurgood Marshall had argued before the U.S. Supreme Court in the proceedings leading to \textit{Brown}. The South fought this in the 1950s, but by the mid-1960s southern whites had essentially embraced this concept in the form of freedom of choice plans. Then, as the NAACP sought, and the federal courts required, more deliberate integration measures in the late 1960s and 1970s, the South again found itself on the defensive.

In localities throughout Virginia, blacks associated with the NAACP fought against the adoption of freedom of choice plans in 1965. When Albemarle County, in west-central Virginia, adopted a freedom of choice plan in the summer of 1965, a leader in the Charlottesville branch of the NAACP castigated the school board for its decision. Eugene Williams pointed out that faculty and staff segregation would continue under the board’s plan, as would the existence of many all-black schools. Instead, Williams urged, the county should consider a plan similar to the one adopted by the city of Charlottesville.

“where districts have been revised without regard to race, and all children in a given district are assigned to one school in that area.”

With help from the NAACP Legal Defense Fund, State Conference attorneys reached a court-approved settlement with the city of Norfolk on its school desegregation plan. The agreement, announced in March 1966, ended ten years of litigation. The city agreed to abandon its previous desegregation plan, based on freedom of choice, and set up non-racial school attendance zones for pupils. All faculty and staff working in the city’s schools would also be desegregated, starting with the 1966-1967 school year. Jack Greenberg of the LDF called the agreement “an encouraging example of what can be accomplished if the parties to a school desegregation suit realistically face up to the issue and meet to settle their differences,” and he hoped the suit might serve as an example for the “other 180 communities in which the Legal Defense Fund has school desegregation suits pending.”

The most important new case filed by the Virginia NAACP arose in New Kent County, just east of Richmond. Rural and conservative, New Kent had experienced no school desegregation at all into the mid-1960s. The local NAACP branch, under the leadership of Calvin Coolidge Green, pressed county officials to begin desegregation in the early 1960s, to no avail. Shortly after the passage of the Civil Rights Act of 1964, however, Green attended an NAACP meeting in Richmond. At that gathering, State Conference attorneys explained their desire to file a new round of school desegregation

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38 My research on this lawsuit and Supreme Court decision—Green v. New Kent County, Virginia—is part of a larger work in progress about the story behind the lawsuit, the high court’s decision, and its implications for school desegregation throughout the nation.
lawsuits throughout Virginia. Green, a Korean War veteran and Richmond school teacher with three young sons, volunteered to press such a suit in his home county.

In 1964, Green launched a petition drive to request formally that local officials desegregate the schools. Such petitions were regularly used by NAACP officials to build their cases, and could be used as evidence in court. In New Kent, Green had little problem securing the support of local blacks, and the request was submitted to the school board. County and school officials, not surprisingly, refused to comply. Afterwards, Green and other local leaders met with state NAACP attorneys, and in March 1965 the State Conference filed a lawsuit to force the school board to desegregate the county’s public schools—Charles C. Green v. County School Board of New Kent County, named after Calvin Green’s youngest son.

As expected, the filing of the Green lawsuit angered New Kent County’s white population. Local leaders, and even conservative New Kent blacks, pressured Green to withdraw the suit. When he refused, the county chose not to renew his wife’s contract as a county teacher, placing the family in financial jeopardy. Threats and intimidation against other New Kent black leaders also increased, and several, including Dr. Green, made it clear that they would defend themselves in the event of physical attacks. Green explains, “I knew from history and other kinds of things that people who filed suits were in great danger and we soon … we found ourselves in it.”

Faced with the NAACP lawsuit and pressure from HEW, county officials grudgingly adopted a freedom of choice plan in the summer of 1965. The plan allowed

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39 Calvin C. Green, interview with Jody Allen and Brian Daugherity, November 2, 2001; Cynthia Gaines, interview with Jody Allen and Brian Daugherity, November 13, 2001.

40 Calvin C. Green, interview with Brian Daugherity and Jody Allen and Sarah Trembanis, October 9, 2001. Mrs. Green had been teaching in New Kent County for ten years.
students to choose between the county’s theretofore all-black K-12 school, the George W. Watkins School, and the county’s all-white K-12 school, the New Kent School. In August 1965, thirty-five black students enrolled in the latter for the first time. Over the course of the next several years, however, most blacks in New Kent County chose to continue enrolling their children at the all-black Watkins School. African American enrollment in the formerly all-white school rose to 111 in 1966 and 115 in 1967. By that time, about 15 percent of the county’s black student population was enrolled in the historically white school under freedom of choice, and no white student transferred to the black school. In New Kent County, as elsewhere around the South, freedom of choice did not lead to substantial school desegregation.

The reasons for the failure of freedom of choice in New Kent County are complex. First, the desegregation process was hard on black students, and by extension, on their parents. Some white students threw spitballs at the black students in New Kent; others pushed them in the hallways. Many white students simply ignored their new classmates. One of the first black students to attend the New Kent School, Cynthia Gaines, recalls: “I tried out for the girls’ basketball team, and I was the first black girl to ever play basketball for New Kent. But at that time the varsity team, the cheerleaders, and the girls’ team all rode on the same bus because we didn't have JV [Junior Varsity] girls way back then. But no one would sit by me on the bus the entire basketball season; I don't care if we went to Mathews, Middlesex, Yorktown, for miles no one would sit by me on the bus. And they would sometimes sit three in a seat to keep from sitting by me on the

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41 Wilkinson, From Brown to Bakke, 115; Charles C. Green v. County School Board of New Kent County, Virginia, 391 U.S. 430 (1968); “Schools Are Desegregated in Appomattox and Bedford,” RTD, August 17, 1965.
bus, so after a while you just had to make things funny so you wouldn't be hurt. So I would cross my legs, stretch out on the seat, put my suitcase up, and prop my feet up and just ride.”43

Adding to the difficulties, white teachers and administrators often showed little inclination to help, or even to teach, the African American students. By contrast, in the black schools most students knew the teachers and staff well, and recollections of segregated black education during this era often include fond reminiscences of teachers who cared for and mentored their students. Many black students also preferred attending school with their friends, with whom they could study and enjoy school functions. In the white schools, a feeling of hostility and resentment often prevailed, and those blacks who were the first in their communities to desegregate formerly all-white schools remember the experience as a trying one. As Dr. Francis Foster, whose daughter Carmen attended Thomas Jefferson High School in Richmond in 1965, put it, “I guess I would describe myself as the father of a sacrificial lamb.”44

Lawyers for the Virginia State Conference developed and handled the Green case almost alone. S.W. Tucker and Henry Marsh did most of the work, but they were joined by Oliver Hill when he moved back to Richmond and rejoined the State Conference legal staff in 1966.45 In the original suit, the NAACP attorneys pointed out that the county’s schools remained one hundred percent segregated eleven years after Brown; subsequent iterations of the suit pointed out that the county had adopted its freedom of choice plan in

44 “Pioneers Recall Pain of Being Sacrificial Lambs,” RTD, April 12, 1993.
45 Hill also joined a law firm with Tucker and Marsh that year. The three handled a variety of cases throughout the state, including school desegregation cases for which they were reimbursed by the NAACP.
the fall of 1965 only under duress. More to the point, the plan was not producing appreciable school desegregation, even as late as 1967.

The NAACP hoped that questions about the effectiveness and constitutionality of freedom of choice would sway the federal courts, which were divided on the acceptability of such plans in the mid-1960s. Though most federal judges continued to endorse freedom of choice plans, a growing number were critical of this form of pupil assignment. Judge Thomas J. Michie of the federal district court of western Virginia fell into the former category. When NAACP attorneys asked in 1965 that he order the school board of Frederick County, Virginia, to take the initiative in desegregating the county’s schools, meaning that the court require the board to develop and implement a proactive desegregation plan, Michie responded, “However the issue may be worded, it is clear that the plaintiffs in this case are simply asking this court to force the school authorities to force Negro students into totally integrated county schools which they have voluntarily chosen not to attend.” Michie denied the NAACP’s request.46

The following year, however, Judge Minor Wisdom of the United States Court of Appeals for the Fifth Circuit wrote a stinging criticism of freedom of choice plans in a ruling that ordered the New Orleans school board to abandon such policies, which had failed to desegregate the local schools. Though the federal courts had largely deferred to HEW in the mid-1960s, allowing the agency to set and implement school desegregation goals throughout the nation, a number of federal judges by 1967 were concerned about the department’s acceptance of freedom of choice. In Bradley v. School Board of the City of Richmond, on appeal before the United States Court of Appeals for the Fourth

46 Michie quotation is from “Federal Court Upholds Frederick School Plan,” RTD, September 16, 1965; see also Wilkinson, From Brown to Bakke, 108.
Circuit, Judges Simon Sobeloff and J. Spencer Bell stated: “the initiative in achieving desegregation of the public schools must come from the school authorities.... Affirmative action means more than telling those who have long been deprived of freedom of educational opportunity, ‘You now have a choice.’”

Still, federal district court and appeals court judges hesitated to overturn freedom of choice without precedent, and so the federal judiciary continued to endorse such plans in the mid-1960s. In the New Kent County case, the federal district court ruled against the NAACP in 1966, as did the United States Court of Appeals for the Fourth Circuit the following year. Both courts ruled, not incorrectly, that the county’s desegregation plan fulfilled currently-accepted judicial (and HEW) standards.

The courts may also have hesitated to overturn freedom of choice plans because such methods were clearly an improvement over previous methods of school desegregation. Questions of legality aside, freedom of choice plans led to more school desegregation in the South in the mid-1960s than any earlier assignment policies. In the spring of 1964 approximately one percent of black students in the eleven states of the former Confederacy attended school with whites. By 1967, largely because of the...

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adoption of freedom of choice plans, the figure had risen to nearly 17 percent, and in Virginia it approached 25 percent.49

Despite the amount of school desegregation achieved under freedom of choice, the lower court rulings in *Green v. New Kent County* were disappointing to the NAACP. After the United States Court of Appeals for the Fourth Circuit’s decision in 1967, the association’s attorneys debated whether to take the *Green* case to the U.S. Supreme Court. By then, State Conference attorneys had about 150 civil rights cases before state and federal courts, and it was important to choose carefully which cases to appeal. As a test case to show that current desegregation programs—including “freedom of choice”—were not working, *Green* had a lot to offer. County demographics showed that, up until 1965, school segregation had been a deliberate policy, because children of both races were bused long distances to attend racially-designated schools. Moreover, the county’s freedom of choice plan had not substantially altered the racial makeup of the schools, so the case against the effectiveness of freedom of choice was strong. “We had all these school cases, and we wanted to get a case to be the pilot case so the Supreme Court could really break the logjam,” former State Conference attorney Henry L. Marsh III explained. “New Kent was the logical choice.” The NAACP petitioned the Supreme Court for a writ of certiorari in October 1967, and the Supreme Court agreed to consider the *Green* case in December 1967.50

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49 U.S. Commission on Civil Rights, *Southern School Desegregation, 1966-1967* (Washington, DC: U.S. Civil Rights Commission, 1967), 5, 103-104; Klarman, *From Jim Crow to Civil Rights*, 363. The courts may also have been hesitant to overturn freedom of choice plans because the phrase seemed very American and, on its face, just.

50 In most cases, there is no automatic appeal to the U.S. Supreme Court and litigants must file a petition (for a writ of certiorari) asking the Supreme Court to consider their case. Quotation is from Henry L. Marsh III, interview with Jody Allen and Brian Daugherity, November 25, 2002. Marsh went on to explain the decision-making process whereby *Green* was chosen over other, similar cases. See “Grant Decision Opposed,” *RTD*, March 15, 1965, for a list of similar cases. See also Excerpts from Legal Brief
Chapter 7, 1968-1973

From Brown to Green: The NAACP and School Integration in Virginia, 1968-1973

By the late 1960s, the Virginia State Conference of the NAACP had helped to bring about a dramatic rise in the amount of school desegregation in the commonwealth. By 1967, desegregation had begun in every school district in the state, and Virginia’s progress compared favorably with that of its southern neighbors. In 1968, the U.S. Department of Health, Education and Welfare (HEW) ranked Virginia second of the eleven states of the former Confederacy, behind only Texas, in the percentage of black students attending desegregated schools.¹

Still, like the national NAACP, the members and leaders of the Virginia NAACP continued to seek greater racial mixing. By the late 1960s, their goal had advanced beyond the elimination of segregation from education; now the NAACP sought judicial decrees requiring districts to proactively develop and implement plans to completely desegregate their schools. In the language of today, the desired end had shifted from desegregation to integration, meaning school systems which could not be distinguished by race, in which black and white students commingled and interacted as equals.

In 1968 the Virginia State Conference legal staff, with help from national NAACP attorneys, won yet another major U.S. Supreme Court victory. With Green v. New Kent County, the high court reentered the desegregation fray and demanded that school boards throughout the South initiate plans that would lead to quick and complete desegregation. Afterward, the Virginia State Conference of the NAACP used the Green

decision to convince federal court judges to require more effective and comprehensive integration plans throughout the commonwealth.

One means of achieving school integration, however, greatly angered many white Virginians during this era. By the early 1970s, busing, which had been used to maintain segregated schools for generations, was sometimes required by federal judges to integrate school districts—particularly in urban areas where residential segregation continued to result in mostly-white and mostly-black schools. For many whites, however, busing meant long-distance rides and enrollment in predominantly black schools. Busing imposed parallel hardships on blacks, but the likelihood of gaining access to better educational opportunities in formerly white schools reduced African-American concerns. In Virginia and elsewhere, a large and vocal movement against busing developed, supported by white segregationists, moderates, and even white liberals. Over time, opposition to busing fueled a backlash against school integration that challenged the accomplishments of the Virginia NAACP and the Civil Rights Movement more broadly.

As explained previously, the expansion of school desegregation in Virginia during the mid-1960s came because of growing pressure on the South from the federal government, especially the U.S. Office of Education within the Department of Health, Education and Welfare (HEW), with its newly acquired power to deny federal funding to recalcitrant districts. In Virginia, freedom of choice plans were adopted by the vast majority of school districts by 1967—by some estimates upwards of 90 percent.²

In the spring of 1968, however, HEW reported that only 14 percent of the black pupils in the eleven former states of the Confederacy attended desegregated schools, confirming the relative ineffectiveness of freedom of choice plans in promoting desegregation. Critics of freedom of choice also argued that it was unfair—and illegal—to place the burden of school desegregation on the shoulders of African-Americans, as freedom of choice plans did by requiring black students and their parents to request desegregation. They pointed out that in Brown II the U.S. Supreme Court had placed responsibility for school desegregation on southern school boards.

Such questions about the legality and the effectiveness of freedom of choice plans led the federal government to demand new methods of school desegregation in the late 1960s. HEW announced in March 1968 that, starting with the 1969-1970 school year, it would no longer accept freedom of choice plans as a means of complying with the Civil Rights Act of 1964. Instead, it was suggested that districts adopt geographic attendance zones, not based on race. In a four-part document titled National School Policies, the agency added that southern school districts that had not ended segregated schooling by that point would face a cut-off of federal funds for education.

Just two months later, the U.S. Supreme Court offered additional support for abandoning freedom of choice plans, handing down the first of three school desegregation decisions that dramatically altered education policies throughout the United States. By addressing school desegregation issues after a long period of relative non-involvement, the high court reclaimed control of the desegregation process for the

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4 This HEW policy change may have influenced the U.S. Supreme Court as well; its ruling in Green v. New Kent County, Virginia, came just a few months later and echoed HEW's abandonment of freedom of choice and acceptance of geographic zoning plans. "Freedom-of-Choice--Going," The Virginian-Pilot, September 3, 1968.
federal judiciary and provided guidance to lower-level federal judges. HEW, which had led the campaign to increase southern school desegregation since 1965, now began to play more of a supportive role while federal judges largely determined school desegregation policy in the late 1960s and 1970s.⁵

The first Supreme Court decision of the late 1960s affecting school desegregation was *Charles C. Green v. New Kent County, Virginia*. Filed in federal district court in Virginia in the spring of 1965, *Green* asked federal judges to force New Kent County to initiate and implement a plan that would lead to greater school desegregation than had been accomplished under the county's freedom of choice system. Sponsored by the president of the New Kent County NAACP branch, Calvin Coolidge Green, the case had been handled primarily by State Conference attorneys S.W. Tucker and Henry Marsh, with the help of lawyers from the national NAACP. After losses at the federal district court and circuit court of appeals levels, the NAACP took *Green* to the U.S. Supreme Court in 1967. After accepting the case in late 1967, the Supreme Court heard oral arguments in *Green* the day before Martin Luther King Jr.'s assassination, and handed down its decision on May 27, 1968.

The ruling was a significant victory for the NAACP. In *Green*, the Supreme Court found that New Kent County had deliberately violated *Brown* and *Brown II* for more than a decade by operating two school systems, one black and one white, down to "every facet of school operations--faculty, staff, transportation, extracurricular activities and facilities." Furthermore, and more important, the court found that the county's

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⁵ "Where during this time, one might ask, was the United States Supreme Court? And the answer, not much exaggerated, is that from 1955 to 1968, the Court abandoned the field of public school desegregation." J. Harvie Wilkinson III, *From Brown to Bakke: The Supreme Court and School Integration: 1954-1978* (Oxford: Oxford University Press, 1979), 61.
freedom of choice plan—adopted under pressure from HEW in 1965—had failed to produce significant desegregation, and that "rather than further the dismantling of the dual system, the plan has operated simply to burden children and their parents with a responsibility which Brown II placed squarely on the School Board."\(^6\)

In the unanimous ruling, the justices also expressed frustration with continued attempts by southern whites to prevent or minimize school desegregation. Discussing New Kent County's freedom of choice plan, for instance, Chief Justice William Brennan wrote, "it is relevant that this first step did not come until ... 10 years after Brown II directed the making of a 'prompt and reasonable start.'" The justices unambiguously ordered the county school board to develop a plan that "promises realistically to work, and promises realistically to work now."\(^7\)

In Green, the justices did not rule that freedom of choice plans were in and of themselves unconstitutional, but they did say that, where other methods of desegregation promised to be more effective, they were preferable. In most southern school districts, this meant that more effective techniques, such as geographic zoning, unitary school systems, or busing, would be required. Justice Brennan explained that, "if there are reasonably available other ways ... promising speedier and more effective conversion to a unitary, nonracial school system, 'freedom of choice' must be held unacceptable." In addition, the court made it clear that it was the school board's responsibility to develop

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\(^7\) Italics added by author; Charles C. Green v. County School Board of New Kent County, Virginia, 391 U.S. 430 (1968); Martin, Ruiz, Salvatore, Sullivan, and Sitkoff, Racial Desegregation in Public Education in the U.S. Theme Study, 91. The high court also ordered the U.S. District Court to maintain oversight of the case.
and implement such plans, as opposed to placing the burden on the shoulders of African-American parents or their children, as freedom of choice had done.\(^8\)

In *Green* and in subsequent rulings, the Supreme Court also emphasized the importance of results. In other words, starting in 1968 the legality of school desegregation plans would depend largely on their effectiveness in ending segregation in the local schools—a profound change in the law of the land. In *Green*, the court listed six factors that could be used to measure success: the composition of the student body, faculty, and staff; and the accomplishment of integration in school transportation, extracurricular activities, and facilities. The overarching goal, wrote Justice William Brennan, became “a system without a ‘white’ school and a ‘Negro’ school, but just schools.” For southern districts, this meant eliminating all racially-identifiable schools.\(^9\)

Importantly, the *Green* decision also altered how school desegregation was defined and what the process entailed. As defined in *Brown v. Board of Education*, desegregation simply meant removing or eliminating mandatory segregation. As Thurgood Marshall had argued before the Supreme Court in 1952, “The only thing that we ask for is that the state-imposed racial segregation be taken off, and to leave the county school board, the county people, the district people, to work out their own solution of the problem to assign children on any reasonable basis they want to assign them on.”\(^{10}\) To comply with *Brown*, then, school districts had only to remove racial distinctions and discrimination from their pupil assignment policies. *Green*, however, transformed *Brown*’s prohibition of segregation into a positive requirement that school

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\(^8\) Charles C. Green v. County School Board of New Kent County, Virginia, 391 U.S. 430 (1968).

\(^9\) Charles C. Green v. County School Board of New Kent County, Virginia, 391 U.S. 430 (1968).

Parts of the decision echoed recent rulings by Circuit Court judges.

\(^{10}\) Quotation is in Kluger, 572; see also Mark Tushnet, *Making Civil Rights Law* (New York: Oxford University Press, 1994), 572.
boards throughout the region develop and implement ways of bringing about racial integration in their schools. The change was based on the high court's continued frustration over southern resistance to school desegregation, and was undoubtedly influenced by the appointment of new justices (such as Thurgood Marshall) to the Supreme Court. Regardless, the new interpretation of Brown was quite different from the original, and widely accepted, interpretation, and the change later prompted Supreme Court Justice William H. Rehnquist to refer to Green as a "drastic extension of Brown."

By altering what school desegregation entailed and highlighting the role of the federal judiciary, Green v. New Kent County transformed the school desegregation milieu of the late 1960s. Afterward, the number of southern black students attending integrated schools skyrocketed. A National Park Service study of school desegregation in the United States explains: "The results were startling. In 1968-69, 32 per cent of black students in the South attended integrated schools; in 1970-71, the number was 79 per cent." Acknowledging the decision's impact, the historian and legal scholar Davison Douglas calls Green "the Court's most important school desegregation opinion since Brown."

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12 Martin, Ruiz, Salvatore, Sullivan, and Sitkoff, Racial Desegregation in Public Education, 91. The study refers to Green as the "most important [Supreme Court] decision regarding school desegregation since Brown," 91.

Many whites in the South, of course, denounced the Green decision. Although they had been hesitant to accept freedom of choice desegregation plans in the mid-1960s, white southerners had grown to support freedom of choice over time. Most likely this was because the approach did not lead to significant school desegregation, yet it preserved the flow of federal funds into southern schools. By June 1968, the *Norfolk Journal and Guide* reported, ninety percent of all southern schools were using freedom of choice plans.\textsuperscript{14} Not surprisingly, when the Supreme Court demanded that southern officials develop more effective desegregation plans, white southerners rallied around freedom of choice as never before. The historian J. Harvie Wilkinson noted the irony: “What was unthinkable five or six years ago suddenly assumed, in light of more threatening alternatives, the status of holy prerogative.”\textsuperscript{15} James Jackson Kilpatrick, editor of the Richmond *News Leader*, predicted, “the court, in its own omnipotent fashion, might as well undertake to reverse the orbit of the earth around the sun.”\textsuperscript{16}

Predictably, many whites in New Kent County were also distressed by the opinion. Almost immediately, a number of local teachers and students threatened to leave the county’s public schools for nearby private, segregated academies. Shortly thereafter, when blacks held a celebration dinner at the all-black Watkins School, a cross was burned on the front lawn.\textsuperscript{17} School superintendent H. Kenneth Brown struggled to preserve the county’s public school system by complying with the Supreme Court’s decision, though at a pace more palatable to the local white population. In June 1968,


\textsuperscript{17} Dr. Calvin C. Green, interview with Jody Allen and Brian Daugherity, December 17, 2002.
county officials announced a new school desegregation plan that would integrate the county’s teachers and school workers that fall, but would not integrate the students until the fall of 1969. Federal district court judge Robert R. Merhige initially rejected the timetable, but the judge then decided to visit the county to investigate. After touring New Kent County’s schools and holding discussions with school personnel in August, Judge Merhige approved the county’s desegregation plan and its fall 1969 time frame for the integration of the student population.18

The plan adopted by county officials created a unitary school system, a technique many rural southern districts would emulate in the coming years. Like many rural areas, New Kent County had previously bused its black and white students, who lived throughout the county, to racially identifiable schools. In this instance, one black school and one white school had served all the country children during the era of segregation. After the adoption of the county’s freedom of choice plan in 1965, this arrangement continued—except that some black students now chose to attend the formerly all-white school. After Green, county officials simply merged the county’s two schools and their student populations to comply with the high court’s new mandate. Starting in 1969, the county’s formerly white school served as the middle and high school, and the formerly black school served as the county elementary school. All students, regardless of race, now attended one school or the other, depending on their age. As a result, the new system eliminated the formerly-racial identities of the county’s schools and created what federal courts referred to as a unitary system. In rural areas throughout Virginia, and

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18 The visit convinced Judge Merhige that local whites were sincere in their efforts to comply, and he later noted that some local black leaders also accepted the delay. Judge Robert R. Merhige, Jr., interview with Jody Allen and Brian Daugherty, November 6, 2003; “NK Proposes School Mixing Plan,” RTD, June 13, 1968; “For Orderly Desegregation,” RTD, August 21, 1968. Merhige made a point of visiting other localities when hearing their desegregation cases as well.
elsewhere in the South, compliance with the Supreme Court’s mandate in *Green* was accomplished similarly.

As it had since the beginning, however, school integration came at a cost to African American communities, in Virginia and around the nation. This was particularly true in the late 1960s, when complete desegregation began to occur. The process was usually overseen by white public officials, and decision-making was not always even-handed. In New Kent, without input from county citizens, officials stripped the black school of its name in 1969; presumably they did not want white children attending a school named for George W. Watkins, a well-respected black leader and longtime principal. At about the same time, Prince Edward County officials renamed the formerly all-black R.R. Moton School, which till then had borne the name of Booker T. Washington’s successor as head of Tuskegee Institute, who was a native of the county. Elsewhere in Virginia black schools were closed or converted into lower-level schools as a result of school integration. In Lynchburg, local blacks protested when Dunbar High School, which had been central to the black community for decades, was converted to a middle school. Furthermore, African American teachers and administrators were often fired or demoted when formerly-black schools were converted or closed. One federal study found that the number of black secondary school principals in Virginia declined from 107 to 17 between 1965 and 1971.

It is worth pointing out, however, that these name changes might have been adopted, in part, to eliminate the racial identities for these formerly all-black schools—a requirement of the federal courts after *Green*.

Despite these costs, the Virginia NAACP pressed immediately for statewide implementation of the Green ruling. State Conference attorneys expressed deep satisfaction with the new mandate, particularly the fact that it shifted the burden of implementation to local school boards and emphasized results. S.W. Tucker, chairman of the Virginia State Conference legal staff, said, “Now that the Supreme Court … has made clear the duty of school boards to eliminate racial segregation in the school systems, we hope that the school boards will implement the law all over the state of Virginia with the beginning of the next school session.”

The day after Green v. New Kent County was handed down, Tucker paid a visit to federal district court Judge Robert R. Merhige in Richmond. The NAACP attorney brought with him an armful of desegregation cases he wanted reopened in the wake of Green. In August, however, Tucker was disappointed when Judge Merhige allowed New Kent County to delay full integration until the fall of 1969. Afterward, Tucker initiated litigation in federal court seeking complete school integration in nine Virginia counties, all of which operated under freedom of choice, as quickly as possible—by the fall of 1969 at the latest.

Tucker’s effort to bring about complete school integration in Virginia at the earliest practicable date mirrored the efforts of national NAACP attorneys. In New York, Jack Greenberg, director of the NAACP’s Legal Defense Fund, said the Green case

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would be used to reopen most of the organization's two hundred school desegregation suits.23

As the NAACP's new, and renewed, school desegregation litigation wound its way through the federal courts, the impact of the Green decision spread beyond the borders of New Kent County. Across Virginia, school boards adjusted their policies to achieve the Supreme Court's new mandate in the late 1960s. Virginia NAACP attorney Henry Marsh later recalled: "That's when we had real meaningful desegregation--all over in 1968. Before we had the [Green] decision, desegregation was stymied because you only had desegregation where you had black applicants willing to run the gauntlet in white schools. After Green v. New Kent, as long as 'freedom of choice' was not working, it was unlawful. So ... that was a crucial case."24 Using geographically-based school zones (in which the entire county constituted a single zone, as in New Kent County), a number of school boards integrated their schools in 1968, including the city of Fredericksburg, Spotsylvania County, and King George County, all to the north of Richmond. Other localities waited to integrate until ordered by the courts, which generally delayed the process until the fall of 1969. After losing a court battle to maintain its freedom of choice plan, for example, Powhatan County, a short distance southwest of Richmond, merged its black and white schools in the autumn of 1969. That fall, HEW reported: "Sharp increases in faculty integration, the use of attendance zones and the closing of all-Negro schools are prominent in desegregation plans this year.

[throughout the South].” The result was a substantial rise in school desegregation in Virginia at the end of the decade.25

In the meantime, separate NAACP litigation ended Virginia’s tuition grant program, which since 1959 had provided taxpayer-funded financial support to parents with children enrolled in private schools. Perhaps the most famous such institution was Prince Edward Academy, created in 1959 when the county closed its public schools rather than desegregate under court order, but dozens of other “segregation academies” had been created in Virginia since the 1950s. Predictably, the NAACP challenged the right of the state to indirectly fund such segregated institutions, particularly since part of the tax money involved came from the state’s black citizens. In 1964, NAACP attorneys launched a broad-based legal attack on the tuition grant program by filing a lawsuit against the Virginia Board of Education, the Superintendent of Public Instruction, and a number of local school boards that were engaging in the practice. Subsequent court rulings on the “omnibus tuition grants case,” as the lawsuit was known, had restricted the use of tuition grants to schools that obtained the majority of their funding from other sources, but failed to end the program. As a result, tuition grants continued in Virginia into the late 1960s, even as federal courts in other states invalidated similar programs. In response, NAACP attorney S.W. Tucker used legal action against school districts to prevent them from utilizing tuition grants to avoid substantial desegregation while also challenging the legality of the tuition grants program in federal courts. Finally, in February 1969, a panel of three federal judges in Virginia found the state’s tuition grants program unconstitutional. The court explained, “any assistance whatever by the State

towards provision of a racially-segregated education exceeds the pale of tolerance demarked by the Constitution.” After ten years and twenty million dollars in grants, Governor Mills Godwin ordered the program ended, and Virginia’s whites were left without one longstanding means of avoiding the impact of Brown v. Board of Education.26

The NAACP’s campaign to bring about school integration in the South benefitted from support from HEW and the Department of Justice after Green v. New Kent County, even though that decision signaled the federal courts once again to assume the leading role in desegregation. Shortly after the decision was rendered, the Department of Justice asked federal courts to require 160 southern school districts to abandon their freedom of choice plans in favor of more effective measures. The following year, the department filed an unprecedented lawsuit seeking to bring about integration throughout the entire state of Georgia, leading the Los Angeles Times to conclude: “Plainly, the government means business.”27 HEW, too, ratcheted up its pressure on southern school boards after Green. When districts refused to adopt unitary school systems, HEW withheld federal funding; by June 1968 funds had been cut off to fifty-two districts in the South and

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another 107 districts had been cited for noncompliance—meaning that the process of cutting off federal funds had been initiated.28

Over time, however, political considerations negatively affected the campaign for southern school desegregation. In the presidential election campaign of 1968, Republican candidate Richard M. Nixon had employed a “southern strategy,” expressing support for freedom of choice desegregation plans despite the U.S. Supreme Court’s decision in Green, in an effort to win the support of southern white voters. Similarly, Nixon expressed support for a “middle course on integration” as opposed to “immediate integration” or “segregation forever.” The approach worked, and a number of southern states, including Virginia, handed their Electoral College votes to the Republican candidate—part of a broader realignment of southern white politics following the passage of the 1965 Voting Rights Act. Like many other African Americans, however, Roy Wilkins of the NAACP expressed chagrin: “It was beyond me how he could talk about ‘instant integration’ when we were fifteen years beyond the Brown decision....”29

Despite Wilkins’s displeasure, and that of African Americans nationwide, Nixon’s administration withdrew the federal government’s longstanding support for complete school desegregation in the South. During the president’s first term, HEW and the Justice Department moderated their school desegregation activities to be more acceptable to white southerners, leading to some grumbling and staff turnover within both departments. A federal report on school desegregation between 1966 and 1975

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concluded: “Starting in 1965, HEW started to play a decisive role in initiating enforcement in hundreds of highly segregated districts. This enforcement continued until 1970, when the administration withdrew substantial support from the desegregation effort.”

Political scientist Gary Orfield, a historian of school desegregation, reported that by 1971 HEW had also abandoned its policy of withholding federal funds from school districts not in compliance with judicial mandates. Much to the dismay of the NAACP, the Department of Justice followed a similar path. Once an ally of integrationists, the department now “gave low priority to school cases and sometimes led the opposition to legal theories advanced by civil rights lawyers.” In the early 1970s it was common for Justice Department lawyers, who had sided with the NAACP on school desegregation cases since the 1950s, to support the opponents of integration in school desegregation cases before federal courts.

With the executive branch less inclined to promote school integration during the Nixon presidency, the federal courts assumed a more active role. Ironically, it was HEW’s actions, in part, that promoted greater involvement by the judiciary. In the summer of 1969, HEW asked the United States Court of Appeals for the Fifth Circuit to allow several dozen school districts in Mississippi to delay implementation of their desegregation plans until December—the first time HEW had supported a desegregation delay before the federal courts. With support from the Justice Department, the Fifth Circuit Court of Appeals granted the delay, but in October 1969 the Supreme Court prevented the postponement and reiterated its position on school desegregation in the

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second of its major school desegregation decisions of the late 1960s, *Alexander v. Holmes County, Mississippi.*

In *Alexander,* the Supreme Court unanimously held that the *Green* decision had to be implemented immediately. The court’s decision directed the lower federal courts to order southern school districts “to terminate dual school systems at once and to operate now and hereafter only unitary schools.” Subsequently, federal judges throughout the region ordered school boards to bring about complete school desegregation at the earliest possible date. In many cases, their rulings required major changes in the middle of the 1969-1970 school year. Virginia, which had experienced a notable increase in integration following the *Green* decision in 1968-1969, now underwent another wave of change as localities across the state responded to the new mandate. In December 1969, ruling on the desegregation plans of Halifax and Amherst counties, the United States Court of Appeals for the Fourth Circuit declared: “Further delays will not be tolerated in this circuit. No school districts may continue to operate a dual system based on race.”

Discussing Louisiana, the historian Adam Fairclough writes: “February 1970 witnessed the biggest educational upheaval of the twentieth century, with integration becoming a social reality for the first time since the *Brown* decision sixteen years earlier.”

In urban areas throughout the South, however, achieving unitary school systems posed greater challenges than in rural communities. Whereas rural school districts could

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generally integrate their schools by adopting non-racial geographic school zones (as in New Kent County), cities contained numerous segregated neighborhoods and the racially-identifiable schools that served them. Geographic attendance zones in urban areas would therefore mirror rather than counteract widespread residential segregation. As a result, integration in urban areas often required more proactive measures, such as busing. Transporting black students to predominantly white schools and vice versa allowed a district to determine the racial makeup of individual schools, offering a direct and effective way of bringing about school integration in southern cities. Recognizing this fact, federal judges in the South began to order desegregation plans that included busing provisions around the turn of the decade.\textsuperscript{35}

In Virginia in the early 1970s, busing became a central issue in the NAACP’s campaign for school integration. In early 1970, for instance, State Conference attorneys asked federal district court Judge Robert R. Merhige, in \textit{Bradley v. School Board of the City of Richmond}, to require the Richmond school board to develop and implement a proactive and effective desegregation plan in light of the \textit{Green} and \textit{Alexander} decisions. Sixteen years after \textit{Brown}, the city still had a handful of all-white schools, more than thirty predominantly white schools, and twenty-six all-black schools. After discussions with the school board that summer, Judge Merhige approved an interim plan which included busing, pending the onset of a more substantial plan to be developed after the school year began. As a result of this decision, Richmond began to bus thirteen thousand

\textsuperscript{35} Busing to accomplish integration was used in at least one southern school district in the fall of 1969; see “Third of Negro Pupils in South To Be in Mixed Classes in Fall,” \textit{RTD}, August 20, 1969.
black and white students in the fall of 1970, out of a total school population of roughly fifty thousand.\textsuperscript{36}

In Richmond as elsewhere, the decision to use busing to overcome segregation was angrily contested by many whites. In addition to subjecting school children to long bus rides, busing often meant enrollment of whites in predominantly black schools with largely black administrations and staffs (Richmond’s school population was only 35 percent white in 1970). Instead, many white parents supported the idea of neighborhood schools. Richard Kluger explains: “... bussing to maintain segregation had been happily countenanced by white parents, but the prospect of bussing their own youngsters for the purpose of integration produced bared teeth.”\textsuperscript{37} In Richmond, some whites avoided busing by renting apartments in other sections of the city or by moving to the surrounding counties, which were not part of the busing plan. Anger toward the NAACP and Judge Merhige also boiled over. Merhige sought protection from federal marshals for nearly two years; still, his guest house was burned to the ground and his dog shot. “I would say there was a time when he [S.W. Tucker] and I were two of the most hated men in the entire commonwealth,” Merhige later recalled--noting that Tucker was not afforded federal protection.\textsuperscript{38}

Busing in Richmond also affected state and local politics. In the fall of 1970, Governor Linwood Holton, the first Republican governor in Virginia since Reconstruction, stepped into the fray. Holton, a moderate from Southwest Virginia who


\textsuperscript{37} Kluger, 765; see also Wilkins, \textit{Standing Fast}, 339.

had opposed elements of massive resistance in the 1950s, enrolled his children in the schools to which they would have been assigned under Richmond’s desegregation plan, even though the Holton’s residency on state property exempted them from the ruling. The decision was an affront to the opponents of busing, and the anti-busing crusaders vowed to make the governor pay. Indeed, in subsequent statewide elections several of the candidates Holton supported were defeated. In the end, Holton and a number of political observers concluded that the governor’s political future—including a possible seat in the U.S. Senate—had been irrevocably damaged. Writing in the Richmond *Times-Dispatch*, William Rubbery surmised: “A bright star once considered destined for lofty political heights, Holton was brought down by the very events that secured his place in history.”

Despite the uproar against busing among whites, the Virginia NAACP continued to press for full school desegregation statewide, including busing when appropriate. With compliance in the state’s rural areas growing, the organization focused its legal strength on Virginia’s cities. During the summer of 1970, State Conference attorneys juggled desegregation lawsuits against Richmond, Norfolk, Roanoke, Lynchburg, and Newport News. Largely because of *Green* and *Alexander*, the NAACP’s work was noticeably easier than before. With the onus now on local school boards to produce and implement desegregation plans resulting in unitary schools, the NAACP attorneys focused on pointing out deficiencies in the plans produced by Virginia’s urban centers.

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NAACP attorney Henry Marsh pointed out, for instance, that Norfolk’s desegregation plan, which had been approved by federal district court judge Walter Hoffman in 1969, failed to address faculty segregation or eliminate all segregation of students. In the summer of 1970, the United States Court of Appeals for the Fourth Circuit agreed in Brewer v. School Board of the City of Norfolk, noting that “white schools remain predominantly white; black schools remain black.” Highlighting their frustration with the local school board, Justices Sobeloff and Winter added that the suit had been “frustratingly interminable … because of the unpardonable recalcitrance of the defendants…” In the end, the court ruled that, if the school board could not integrate the city schools because of residential segregation, then “the school board must take further steps…” The result that fall was busing.41

In Lynchburg, one difficulty in the path of desegregation was that the school board owned no school buses or bus facilities. This situation had limited desegregation under the city’s freedom of choice plan (as it had in Richmond), but in 1970 it proved an even greater obstacle to integration, in that it prevented busing. In the 1970s, federal judges would order localities to purchase buses to increase desegregation, but that step was not considered acceptable prior to then. Farther west in Roanoke, the NAACP pointed out in Cynthia D. Green v. School Board of the City of Roanoke that Roanoke had also failed to develop an effective plan to shift to a unitary school system. In the summer of 1970 the United States Court of Appeals for the Fourth Circuit assigned a fall

deadline for the school board to do so; the ruling led to the adoption of busing in Roanoke in the fall of 1970 as well.\textsuperscript{42}

Meanwhile, a federal district court judge in North Carolina grappled with the same challenges facing the proponents of school desegregation in Virginia’s cities in a case that would have substantial ramifications for school desegregation throughout the region. Like many cities in Virginia, Charlotte, North Carolina, had operated under a geographic assignment desegregation plan until shortly after \textit{Green v. New Kent County}, when federal district court judge James McMillan—in his first major ruling from the bench—recognized that the “rules of the game have changed” and that the city’s desegregation plan failed to meet the new constitutional requirements. After rejecting several revised plans offered by the school board in 1969, Judge McMillan adopted a remedy proposed by one of the expert witnesses in the case—busing. The United States Court of Appeals for the Fourth Circuit rejected McMillan’s decision, ruling that the judge had gone too far, and the defendants appealed to the U.S. Supreme Court.\textsuperscript{43}

The U.S. Supreme Court affirmed Judge McMillan’s decision in \textit{Swann v. Charlotte-Mecklenburg} on April 21, 1971. Writing for the unanimous court, Chief Justice Warren Burger agreed that implementing \textit{Green} often required new school desegregation guidelines. The high court shied away from requiring a specific remedy, such as busing; it reiterated its long-held policy that local circumstances should determine the nature of desegregation plans, leaving the question of remedy to lower-court judges.


\textsuperscript{43} Wilkinson, \textit{From Brown to Bakke}, 139-149.
In some locations, geographic zoning or even freedom of choice might lead to the goal of “the greatest possible degree of actual desegregation,” said the court. In other cases, however, particularly in cities, busing might represent a legitimate and necessary remedy.  

In *Swann*, the justices refused to offer guidance on how school districts would know they had achieved integration. The court did not require, for instance, each school within a district to match the racial composition of the district as a whole, but the justices did note that racial ratios might be considered a “starting point” in shaping remedies, including busing. As a result, lower-level federal judges would struggle with the question of appropriate remedy in coming years. Nonetheless, the high court’s acceptance of busing expanded its use in the South in the early 1970s, resulting in a dramatic rise in school desegregation throughout the region.  

As expected, President Nixon strongly opposed the *Swann* decision. The president publicly denounced busing as “forced integration” and asked officials in the Department of Justice to draw up a constitutional amendment to nullify the Supreme Court’s decision. He also reiterated his support for neighborhood schools and argued that the primary goal of any public school was to educate, not to integrate. Much later, Richard Kluger described the president’s actions with regard to school integration in the early 1970s as “downright obstructionist,” and argued “it was not just neglect that Nixon offered the Negro; it was downright opposition….“ Most white southerners, however,

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were pleased, and for this and other reasons they rewarded Nixon with a record number of votes in the 1972 presidential election.46

More important, Nixon’s appointments to the U.S. Supreme Court began to dramatically affect the struggle over school desegregation, and the controversy over busing in particular. Between 1969 and 1971, Nixon appointed four justices to the high court: Chief Justice Warren Burger and Justices Harry Blackmun, Lewis Powell, and William Rehnquist. In subsequent years these four justices voted together more often than any bloc of justices since the 1950s, and their conservative views shifted the Supreme Court’s perspective on school integration, leaving more liberal justices, including Thurgood Marshall, isolated.47

In the meantime, Marshall’s former colleagues at the NAACP used the Swann decision to expand their campaign for school desegregation. In New York, the NAACP’s Legal Defense Fund “moved swiftly to follow up the Swann breakthrough by pushing similar cases elsewhere.” In Virginia, Swann legitimized Judge Merhige’s decision to require busing in Richmond, as well as similar court orders applying to other Virginia cities, by declaring the technique an acceptable remedy.48

In the late 1960s, federal courts also began to require school boards in the northern United States to eliminate dual school systems. Judges now recognized that school segregation in the North had also been perpetuated by deliberately discriminatory

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47 Wilkins, Standing Fast, 334; Kluger, 764; “Court Puts A Stone Wall Before the School Bus,” NYT, July 28, 1974. Nixon’s first appointments replaced Earl Warren, Hugo Black, Abe Fortas, and John Marshall Harlan. During his first term, Nixon also had two Supreme Court nominees rejected by Congress—southerners G. Harrold Carswell and Clement Haynsworth. As might be expected, these attempts angered blacks but endeared Nixon to many southern whites.

48 Quotation is in Kluger, 768.
policies such as creating racially identifiable school attendance zones and building schools near racially-identifiable neighborhoods to reduce the likelihood of racial mixing in the schools. Widespread segregation in northern schools, then, which was easily discernible in attendance statistics, was at least partly the result of deliberate choices made by school and city officials. In many northern urban areas, this realization in the late 1960s brought about court decisions in the early 1970s requiring the adoption of desegregation plans which included busing.49

Still, busing faced a growing challenge in Richmond and throughout the nation through the phenomenon known as “white flight”--the exodus of whites from inner cities to surrounding suburbs in the mid-to-late twentieth century. White flight had its roots in the massive suburbanization which occurred in the U.S. in the post-World War II era, promoted by improvements in transportation, housing construction, and the desire to achieve the “American Dream.” Racial discrimination, financial constraints, and even government policy ensured that the exodus would be mostly white, leaving the inner core of many American cities inhabited by a growing black population.

Although white flight had been taking place for decades before the advent of busing, the trend picked up dramatically in the 1970s as growing numbers of whites sought to avoid having their children bused to accomplish integration. In Richmond, one source reported that the percentage of white students in the city schools fell from 45 percent to 21 percent between 1960 and 1975. And while it would be simplistic to suggest that the transition occurred entirely because of school desegregation or busing,

the historian Robert Pratt points out that “it seems equally obvious that opposition to busing prompted a good many whites to abandon Richmond in favor of the overwhelmingly white suburbs.” The ease with which white parents could commute into the city for work or other reasons also fueled white flight in Richmond—in larger southern cities such as Charlotte and Tampa, a longer commute made moving to surrounding counties logistically more difficult. In Richmond one black student recalled the change in her own neighborhood: “When my family first moved into that neighborhood, one of the blocks had ten houses on one side of the street, and there were six white families living in them. Within a year or so, there was only one white family left on that block.”

The changing racial demographics in America’s cities boded poorly for busing plans and for integration more broadly. Put simply, an integrated school system was impossible without a bi-racial population. In Richmond, a dramatic escalation of white flight, which was partly the result of busing, reduced the likelihood of success for the city’s court-ordered busing plan within just a few years. As a result, in the early 1970s the state NAACP pressed Judge Merhige, in *Bradley v. School Board of the City of Richmond*, to include the counties surrounding Richmond—nearly all-white Chesterfield and Henrico—in the city’s busing plan. State Conference attorneys argued the state had an obligation to provide a unitary system that was not racially identifiable for Richmond’s black students, and that a merger was the simplest and most effective way to do so.51

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50 Pratt, *The Color of Their Skin*, 61-63; “The Civil Rights Movement in Virginia,” Virginia Historical Society exhibit, visited March 2004. See also Wilkinson, *From Brown to Bakke*, 152, which notes that Richmond’s school population was 35% white in 1970, but less than 20% white by 1976, with that fraction continuing to decline.

51 Pratt, *The Color of Their Skin*, 64-66.
In January 1972, Judge Merhige agreed. In a 325-page opinion, Merhige noted that state education officials in previous years had made countless decisions that led to, and perpetuated, the dual school systems evident in Richmond and the surrounding counties. Because of those choices, Merhige ruled, the state was responsible for creating a unitary school system for the children in all three localities. Interdistrict busing, according to the judge, was the most logical solution.52

The Virginia State Board of Education and Henrico and Chesterfield counties quickly appealed Judge Merhige’s decision. In hearings before the United States Court of Appeals for the Fourth Circuit that spring, their attorneys argued that Merhige’s ruling was without precedent and did not represent a valid interpretation of the Supreme Court’s desegregation guidelines. That June, in a five-to-one decision, the United States Court of Appeals for the Fourth Circuit agreed, holding that a federal district court judge could not “compel one of the States of the Union to restructure its internal government for the purpose of achieving a racial balance in the assignment of pupils to the public schools.”53

The following year the United States Supreme Court heard the case on appeal. Justice Lewis Powell, recently appointed by President Nixon, recused himself from the case because he had served as chairman of the Richmond school board in the 1950s and 1960s. In a decision handed down in May 1973, the remaining eight justices split evenly on the constitutionality of interdistrict busing. That outcome allowed the decision of the

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United States Court of Appeals for the Fourth Circuit—overturning Judge Merhige’s interdistrict busing ruling—to stand. 54

The following year, the Supreme Court heard a similar case dealing with interdistrict busing in Detroit. This time, the court ruled 5-4, with Justices Burger, Stewart, Blackmun, Powell and Rehnquist pitted against Justices Marshall, Douglas, Brennan, and White, to overturn an interdistrict busing plan in a decision that upset many advocates of desegregation. That case, *Milliken v. Bradley*, represented a major setback for the NAACP and its effort to achieve school integration in urban areas throughout the nation, including Virginia. By prohibiting the use of interdistrict busing to achieve integration, the court reduced the options available to combat segregation in urban areas. White opposition to busing had already led to increasing rates of white flight from America’s cities, and now the court had placed their primary destination—suburban enclaves ringing those urban centers—out of the reach of city busing plans. Thurgood Marshall’s dissenting opinion in *Milliken* noted, “After 20 years of small, often difficult steps toward that great end [of equal justice under law], the Court today takes a giant step backwards.” The result, as Marshall predicted, was increasingly black urban centers, surrounded by predominantly white counties with separate school systems. As a result, busing within America’s urban areas in the 1970s increasingly meant transferring small numbers of white students into overwhelmingly black city schools. 55

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For the Virginia NAACP, then, achieving school integration throughout the Commonwealth in the early 1970s was a pyrrhic victory. On the one hand, it had been the association's principal goal for the previous twenty-five years, and its accomplishment represented a major success. Virginia and the South as a region had, ironically, become the most integrated region of the nation, primarily because of the NAACP's efforts to secure implementation. By 1971, according to HEW estimates, 44 percent of black students attended majority white schools in the South, as opposed to 28 percent who did so in the North and West. The integration of Virginia's public schools opened up additional avenues for scholastic and economic success for African-American students throughout the Commonwealth, and reduced lingering negative stereotypes held by both races—improving race relations and promoting better racial understanding in Virginia.

On the other hand, integration of public education in Virginia's urban areas would not withstand the test of time. Integration in the state's counties was generally accomplished more easily and with less turmoil than in its urban areas, but court-ordered busing faced significant opposition, including judicial headwinds, from the outset, and these challenges grew over time. Within a generation, the same busing plans that had led to significant integration would be ruled abandoned by federal courts in Virginia and throughout the nation as school districts successfully eliminated the racial identifiability of their schools. As a result, the peak of integration in the 1970s would be followed by re-segregation, particularly in the urban centers of Virginia and elsewhere, as the nation reverted to neighborhood schools and "color-blind," or race neutral, pupil assignment

56 Wilkinson, From Brown to Bakke, 121, also notes, "The South, seventeen years after Brown ... became America's most integrated region."
policies--a trend strongly opposed by the NAACP in Virginia and on the national level.

As a result, the struggle to preserve the achievements of the campaign to integrate public education in Virginia continues.
Questions related to school integration in Virginia, of course, were not resolved in the early 1970s. Differences of opinion as to the desirability of integration, and questions about how to best accomplish integration (assuming it is desirable) continue to the present day in both the black and the white communities. The history of school desegregation since the mid-1950s may provide some guidance.

In the early 1970s, school desegregation took effect in localities all across Virginia. Guided by the U.S. Supreme Court's recent school desegregation decisions including Green v. New Kent County, Virginia, federal courts agreed to the requests of NAACP attorneys from Virginia and ordered school districts throughout the state to develop and implement plans immediately to eliminate signs of school segregation. A dramatic rise in the amount of integration in the state's public schools and in the rest of the South ensued, and by the early 1970s the South had become the most integrated region of the nation.2

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2 J. Harvie Wilkinson III, From Brown to Bakke: The Supreme Court and School Integration: 1954-1978 (Oxford: Oxford University Press, 1979), 121, notes, "By 1971, according to HEW estimates, 44 percent of Negro pupils attended majority white schools in the South as opposed to 28 percent who did so in the North and West. The South, seventeen years after Brown ... became America's most integrated region."
This accomplishment depended on the efforts of the federal government, specifically the federal courts. Executive branch agencies—specifically the Department of Health, Education, and Welfare and the Department of Justice—had played the most important role in bringing about school desegregation in the region in the mid-1960s, but in the late 1960s and early 1970s, the federal courts again assumed oversight of the integration process.

By the early 1970s, however, national politics increasingly affected the process of pursuing school integration and extent to which it could be achieved, in Virginia and elsewhere. In 1968 a Republican was elected to the White House for the first time since 1956, and Richard Nixon publicly opposed several of the policies—including busing—that sought to bring about school integration in urban areas in both the North and South. Nixon’s administration also brought about a rapid about-face within key executive agencies linked to school integration, including HEW and the Justice Department, who had previously demonstrated a commitment to bringing about school integration throughout the nation. More broadly, Nixon’s election represented the beginning of an ideological shift toward more conservative politics in the United States. As a result, African-Americans, who were long-time supporters of the Democratic Party, found themselves with fewer friends in positions of national power. As Benjamin L. Hooks, executive director of the NAACP from 1977-1993, explained: “When I took over this organization, I had plans for expanding the mission of the NAACP. I had no idea I would be fighting to retain what I thought we had already won.”

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President Nixon’s appointments to the federal judiciary, and those of his successors, also had a profound effect on school integration. Starting in the 1970s and continuing for several decades, the federal courts exhibited less support for school integration, and previously-accepted school integration tactics, than before. By the mid-1970s the high court had limited the amount and extent of busing that was considered acceptable, most notably in *Milliken v. Bradley* in 1974, which restricted desegregation plans in urban centers by disallowing plans that involved the surrounding counties. Also, busing plans that had led to significant integration in the 1970s were abandoned by federal courts in the 1980s and 1990s as school districts eliminated the racial identities of their public schools—creating unitary systems.\(^4\)

As a result of these changes, the peak of integration in the 1970s has been followed by re-segregation, particularly in the urban centers of Virginia and other states. Instead of continuing to promote school integration and diversity in the classroom, the nation’s school districts have largely reverted to neighborhood schools and “color-blind” pupil assignment policies. In the last decade, this trend has been encouraged by some federal judges who oppose the use of busing, or other racially-based attendance plans, to promote racial mixing. Not surprisingly, this trend is strongly opposed by the NAACP and many proponents of diversity.

Rural southern school districts remain a bright spot in the school desegregation story. In many of these locales, particularly where residential segregation is minimal and where private academies have failed to attract a large percentage of the white student population, the schools remain largely integrated.

As the twenty-first century unfolds, questions of race and education, and issues such as equality of opportunity and the correlation between various standards of living and race, remain controversial and unresolved. Even so, by some important measures racial progress has been made in Virginia, and it can undoubtedly be attributed, at least in part, to the NAACP and its efforts to bring about school desegregation in the state between 1954 and 1973.
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*Davis v. County School Board, Prince Edward County, VA*, 142 F. Supp 616 (1956).


