

1-2006

## Museletter: January 2006

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# Museletter

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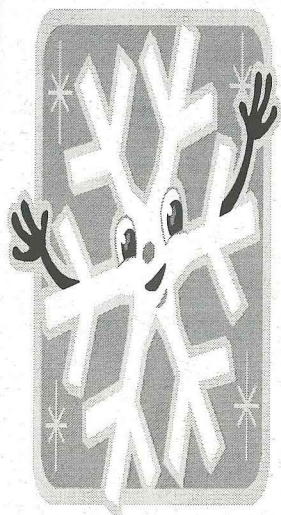
Welcome

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For

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## SIT WHERE YOU PLEASE: CHALLENGES TO VIRGINIA'S SEGREGATED SEATING LAWS

John Barden

This past December the nation marked the fiftieth anniversary of Rosa Parks' refusal to give up her seat on a Montgomery, Alabama, bus to a white person, thereby sparking the Montgomery Bus Boycott and the eventual overthrow of segregated seating laws throughout the nation. Mrs. Parks' action, while justly celebrated, was not solitary. In many southern states, including Virginia, persons of color repeatedly challenged discriminatory laws regarding public transportation.

Whatever the customary practice may have been during the antebellum and Reconstruction era, the first statute in Virginia *requiring* separate seating for whites and African-Americans on railroads was passed on January 30, 1900. On its face, the law was racially neutral, barring any distinction or discrimination in the "quality, convenience or accommodation in the cars or coaches or partitions set apart." 1899-1900 Va. Acts, ch. 226, § 2. Managers and conductors were required to enforce this separation and were authorized to evict any person from the train for refusing to occupy his or her assigned seat. *Id.*, § 5. A 1930 act extended similar provisions to other "passenger motor vehicle carriers," i.e., bus and streetcar lines, operating within the Commonwealth. 1930 Va. Acts, ch. 128.

"On June 14, 1943, Sarah B. Davis, a colored woman, boarded a bus of the Virginia Electric and Power Company at the corner of Brambleton Avenue and Chapel Street, in the City of Norfolk, Virginia, about 8:50 p.m., and sat down on a seat between two white male passengers on a front seat which ran parallel with the bus, this seat having a three passenger seating capacity. There was no other vacant seat in the bus, it being loaded." Mrs. Davis, a schoolteacher, refused the bus operator's direction to go to the back of the bus, was arrested, and fined \$5.00. *Petition for writ of error at 2, Davis v. Commw.*, 182 Va. 760 (1944) (Record No. 2808).

On appeal the Supreme Court of Appeals found itself divided. The majority found that since the only available seat was in the white section, it was the operator's responsibility to rearrange the line between the white and "colored" sections to provide a place in the "colored" section for Mrs. Davis, which he did not attempt to do. Such, the justices deemed, was the statutory requirement of racial neutrality in enforcing the separation of the races. 182 Va. at 765-66. However, two justices objected, not only to placing the bus driver in the position of organizing seating arrangements, but to subjecting a white person, any white person, to the indignity of having to move to accommodate a person of color. *Id.* at 773-74 (Hudgins, J., dissenting).

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Mrs. Davis had won, but the segregation laws still stood. The Supreme Court was even less sympathetic to Mrs. Ethel New, who on June 11, 1944, was evicted from an Atlantic Greyhound bus for failing to give up her seat to ensure that she sat *behind* all the white passengers on the bus. Mrs. New, three months pregnant, claimed that the long, bench-like back seat where the operator wanted to assign her was not adjustable, which would cause her to suffer on the long journey. She claimed that she suffered injuries as a result of her forcible removal and sued the bus company for damages. The Court ruled unanimously that no more force was used in the eviction than was necessary to enforce the segregation laws. *New v. Atlantic Greyhound Corp.*, 186 Va. 726, 745 (1947). Furthermore, the Court brushed away the claim of inadequate seating accommodations: “[M]inor disadvantages in travel do not necessarily indicate discrimination.” *Id.* at 744-45.

Barely a month after Mrs. New’s trip, Mrs. Irene Morgan got on a Richmond Greyhound Lines bus at Hayes Store, Gloucester County, Virginia, for a trip to Baltimore, Maryland. A few miles into the journey, the driver asked her and her companion to move to empty seats in the back of the bus to make room for white passengers who were standing. Mrs. Morgan refused and would not let her companion comply either. The driver called the sheriff. Mrs. Morgan resisted arrest but was removed from the bus and jailed. *Morgan v. Commw.* 184 Va. 24, 27-28 (1945).

This was a trickier case for the Supreme Court, because Mrs. Morgan’s destination in Baltimore brought interstate commerce into play. The Court tried to cover its bases, finding first that “the State may exact legislation under the authority of the police power, even though such legislation may incidentally affect interstate commerce.” *Id.* at 31. Furthermore, the Court stated, segregation was not discriminatory and, citing *Plessy v. Ferguson*, 163 U.S. 537, the statute requiring separate seating “does no violence to the fourteenth amendment to the U.S. Constitution.” *Id.* at 38. (Interestingly, the Court noted that Congress had tried and failed three times to pass anti-segregation statutes for interstate transportation, which it interpreted as a signal that the current regime was still officially sanctioned. *Id.* at 35-36.)

The U.S. Supreme Court disagreed. The Virginia statute placed an unnecessary burden on interstate commerce, and the state could not conveniently hide behind the police power when it chose. *Morgan v. Virginia*, 328 U.S. 373, 380 (1946). Segregated seating, at least on interstate transportation routes, could not be enforced.

The Virginia Supreme Court, however, would not accede on intrastate transportation. When Everett Raney was forced to stand in a bus aisle on April 11, 1950, although an empty seat—contiguous to one occupied by a white man—was at his side, the Court refused to see this as a denial of equal protection. *Commw. ex rel. Raney v. Carolina Coach Co. of Va.*, 192 Va. 745 (1951). However, the tide was changing, and this case brought a vigorous dissent from Justice Spratley, who noted the ridiculousness of the situation: “If [Raney] had been a white man, he would have been permitted to take the unoccupied seat. If his mother had accompanied him on the bus, holding a ticket for transportation to North Carolina, a few miles [further], she could have occupied the seat. . . . To require a passenger to stand in the aisle while there is an unoccupied seat is akin to pinning a badge of undesirability on him.” *Id.* at 759.

Such “badges of undesirability” were soon to be eroded as federal court decisions such as *Brown v. Board of Education*, as well as federal civil rights and voting rights legislation in the 1960s, undermined state segregation laws. However, Virginia was late to bring her laws in line with changing opinion. Separate seating laws on intrastate railroads and buses were not repealed until 1970. 1970 Va. Acts, ch. 729, 731.

## Fall Exams – Law Library Open 24-Hours

Timothy Coggins

The first offering of 24-hour access to the Law Library, during the Fall exam period, was a success. The chart below shows that there was use, although not very extensive, of the Law Library during the exam period after midnight. Reports from the University Police Department, which provided security officers from 11:45 p.m. each night until 7:15 a.m. the next morning, indicate that there were no major issues associated with the 24-hour access. The Law Library staff and the SBA Student Library Committee thank Dean Rodney Smolla for providing the extra funding necessary to keep the library open for 24-hour access during the exam period.

If funding is available and if the University Police Department has sufficient security officers available, the Law Library hopefully will be able to provide 24-hour access to the Law Library during the Spring 2006 examination period.

Day/Date	Midnight ("Closing" Time)	2:00 a.m.	4:00 a.m.	6:00 a.m.	7:30 a.m.
Sun. 12/4 – Mon. 12/5	20	8	7	5	3
Mon. 12/5 – Tues. 12/6*	Closed	Closed	Closed	Closed	n/a
Tues. 12/5 – Wed. 12/7	11	9	6	0	0
Wed. 12/7 – Thurs. 12/8	25	8	3	1	1
Thurs. 12/8 – Fri. 12/9	25	10	4	5	4
Sun. 12/11 – Mon. 12/12	18	4	3	4	18
Mon. 12/12 – Tues. 12/13	28	4	1	1	3
Tues. 12/13 – Wed. 12/14	26	6	2	1	3
Wed. 12/14 – Thurs. 12/15	20	8	1	1	6
Thurs. 12/15 – Fri. 12/16	22	20	11	24	54
<b>Totals</b>	<b>195</b>	<b>77</b>	<b>38</b>	<b>42</b>	<b>92</b>

\* Library closed early due to inclement weather.

Law students who have comments about 24-hour access to the Law Library should convey those comments to Timothy Coggins, Associate Dean for Library and Information Services & Professor of Law, at [tcoggins@richmond.edu](mailto:tcoggins@richmond.edu).

**University of Richmond Law School Library  
Hours—Spring 2006**

**Regular Hours  
Sunday, Jan 15—Thursday, April 27**

Sunday	10:00 a.m.—Midnight
Monday—Thursday	7:30 a.m.—1:00 a.m.
Friday	7:30 a.m.—Midnight
Saturday	9:00 a.m.—Midnight

**General Notice:** All copiers will shut down 15 minutes prior to library closing. Reserve items must be returned, books re-shelved, and materials checked out 15 minutes before closing.

**Reference Assistance Available:** Monday to Thursday, 9:00 a.m. to 9:00 p.m.; Friday, 9:00 a.m. to 5:00 p.m.; Saturday and Sunday, 1:00 to 5:00 p.m.

**New Copiers Arrive in January**

**Look for new photocopiers with new features located in the  
reference alcove near the U.S. Code  
to arrive in January.**

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