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From Intent to Effect: Richmond, Virginia, and the Protracted Struggle for Voting Rights, 1965–1977

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> *This is the next and the more profound stage of the battle for civil rights… We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result* – President Johnson, "To Fulfill These Rights," June 4, 1965.[1]

Twelve years after the ratification of the Voting Rights Act of 1965 [VRA], Richmond, Virginia elected a historic majority black city council. The 5-4 majority quickly appointed an African American lawyer named Henry Marsh, III to the mayoralty. Marsh, a nationally celebrated civil rights litigator, was not only the city's first black mayor, but the council election of 1977 was also Richmond's first since 1970.[2] In 1972, a federal district court used the VRA's preclearance clause in Section 5 to place a moratorium on council contests.[3] This moratorium lasted until the Supreme Court and the Department of Justice determined whether Richmond's 1970 annexation of portions of Chesterfield County had diluted the black electorate's power by adding nearly 44,000 white suburban residents.[4] While the high Court upheld the capital city's boundary expansion, it demanded in return that Richmonders abandon at-large elections and implement an electoral system that allowed African Americans, who represented more than 50 percent of Richmond's population prior to annexation, to vote within almost exclusively black districts. Districts immediately led to the election of Richmond's majority-black city council. By the mid-1970s, these majority-minority districts demonstrated that national officials (liberals and conservatives alike) planned to defend the "equality of results" standard Johnson articulated at Howard University in 1965.[5]

By illustrating Richmonders' drive for an unimpeded vote and Washington's defense of the VRA, this article outlines how local people influenced national voting rights policy. Much has been made of Southern African Americans' appeals to political empowerment and the ways whites parried these appeals after the VRA's ratification. Scholars contend that 1965 was the beginning of a complex, policy-oriented era in America's struggle for racial equality.[6] Yet, the solutions Washington devised (e.g., racial redistricting) to prevent resistance to the VRA had unintended consequences for local Southern politics.[7] Historians, beginning with Steven Lawson (and, later, Hugh Davis Graham), have spent decades interrogating developments in voting right after 1965.[8] Lawson and Graham not only demonstrated how Washington policy elites actually ratified civil rights legislation, they also showed that policymakers defended the civil rights bills beyond 1965.[9] A number of relatively recent studies by scholars such as Morgan Kousser and Richard Valelly place the electoral reforms of the 1960s within the larger context of American political development—both trace the contention over suffrage expansion from the Reconstruction amendments to the civil rights movement and beyond.[10] These efforts contend that while institutional political stability in Washington (particularly congress and the courts) was critical to the initial preservation of the Second Reconstruction, whites continued to resist blacks' appeals for political parity. Frank Parker's *Black Votes Count,* which highlighted Mississippi's local voting rights struggles after 1965, was one of the first endeavors to specifically underscore how the dialectic between local black suffragists and white detractors influenced the VRA's development.[11] By focusing on the border South, this effort also demonstrates that local Southerners, not merely national policy elites, were central to the creation of district systems.[12]

Realizing the rights embodied in the VRA cannot be explained by separating local minority mobilization on one hand and federal policy directed toward race on the other. Southern

localities became seedbeds for voting rights litigation during the 1960s and this litigation often supplanted direct-action protests and civil disobedience strategies. Everyday people not only helped instigate this litigation, they were responding to a brand of white recalcitrance that rivaled massive resistance to public school integration in the wake of *Brown v. Board of Education* (1954).[13] As it happened, whites were just as skeptical about the rise of blacks in politics as they were about blacks attending segregated schools. And when it came to combatting this backlash, it turned out that history mattered. Richmond's black voters were effectively organized under the Richmond Crusade for Voters (the Crusade or RCV) nearly a decade prior to 1965. In Richmond, where blacks made up nearly 50 percent of the capital city's population during the 1960s, the VRA re-energized an already organized black electorate—it also calcified white resistance. Although blacks made up 42 percent of Richmond's population after annexation, the city elected only one African American councilperson, Henry Marsh, to its nine-member council in 1970.[14]

Washington's suspension of Richmond's city council elections typified a growing problem after the VRA's ratification—Southern anxiety about black governance led to widespread vote dilution. As African Americans began to vote in record numbers after 1965, the process of diminishing minorities' political power—in this case, weakening a group's ability to elect candidates of their choice— gained new momentum.[15] In 1968, federal investigators noticed that African Americans exercised a "tyranny over the mind of the white South, which has found continuous expression in the politics of the region."[16] Richmond's elites, who embraced segregation but rejected maintaining the color line through violence, sustained their longstanding skepticism of open democracy by enacting poll taxes.[17] These powerbrokers not only believed—like their Southern counterparts—that African Americans lacked the intellectual capacity for politics, they used poll taxes to affirm the notion that good government was synonymous with elite whiteness.[18] As Richmond's African Americans began to register in higher numbers than whites and, occasionally, elect African American officials in the 1960s, white councilmembers carried on the politics of elitism— they enacted a series of ostensibly color-blind initiatives that made it increasingly difficult for blacks to elect more than a handful of public officials.[19] While this process of cancelling out black votes happened throughout the South, Richmond's whites publically maintained that these political directives were meant to maintain the integrity of political continuity. In actuality, whites designed these policies, which culminated in annexation, to ensure a white majority on Richmond's city council. Richmond's Mayor Phil Bagley, the architect of Chesterfield annexation, privately contended, "I did what I did in reference to the compromise [annexation] because the niggers are not qualified to run the city of Richmond."[20] These powerbrokers, who were unwilling to let go of the entrenched political privileges segregation engendered, eventually met firm resistance in Richmond and Washington.[21]

Richmonders, led by civic activist Curtis Holt and a core group of white suburbanites (who were trying to preclude public school integration), brought a series of de-annexation suits against Richmond. These suits plugged the former capital of the Confederacy into the circuitry of a litigation-based voting rights revolution. This so-called reapportionment revolution went beyond safeguarding access to the suffrage; it also protected a minority group's right to elect preferred representatives in a manner that was commensurate with their total voting-age population. [22] Although Nixon's administration initially attempted to defang the VRA's Sections 4 and 5 (in large part to win the favor of the South's emergent Republican constituency),

the Burger Court and John Mitchell's Department of Justice became unlikely allies in the process of strengthening the VRA.[23] As anti-dilution cases inundated Washington after 1965, the Court acknowledged that the discriminatory effect of electoral laws mattered just as much as discriminatory intent. The Burger Court, which recognized that resistance to the VRA might be characterized as anti-democratic, eventually parlayed an employment-based affirmative action remedy known as "disparate impact analysis" (established to defend proportional representation in workplaces) to achieve equal representation.[24] Justices held that facially neutral actions could have disproportionate and disparate impacts on minorities. In terms of voting rights, the Court applied this logic to policies that allowed blacks to vote, but diluted the impact of those votes.[25] In Richmond's case, it took local and federal officials nearly five years to chew through three cases that interrogated the nature of Chesterfield County's annexation. [26] The Court held that annexation strengthened whites' voting power by diminishing the number of Richmond's black inhabitants and, as such, African Americans had less opportunity to elect preferred candidates.[27] In lieu of returning Chesterfield County, justices expressed a growing preference for implementing majority-minority districts—these districts, in terms of American political development, finally instigated a durable shift in redistributing Southern political authority along racial lines.[28]

By following black voter mobilization to its logical conclusion, black empowerment and governance, this story complements current endeavors to expand the civil rights movement's chronology. This essay, like a growing body of literature on the movement's timeline, explains civil rights policies that played out far from the movement's direct action tactics.[29] Recently, much has been made of the fight for civil rights prior to the 1950s and the organizing strategies civil rights advocates devised prior to *Brown.*[30] We now know that during the Montgomery to Selma era in civil rights, the so-called "classical phase," African Americans fought against institutionalized racism by tapping the wellspring of previous organizing traditions and activating the machinery of black churches. [31] We also know a great deal more about the significance of whites' reaction to this movement and the subsequent ratification of the civil rights bills.[32] While the VRA gave rise to dramatic changes in Southern politics, it fell short of eliminating, according to Supreme Court Justice Ruth Bader Ginsburg, "all vestiges of discrimination against the exercise of the franchise by minority citizens."[33] While this story illustrates how local people and the federal government pushed the rights revolution well into the 1970s, it is also a cautionary account of the political abuses that often follow American electoral reforms.[34] After 1965, African Americans defended the value of their hard-won right to vote and insisted that their votes mattered by working quietly within the democratic system.[35] In the late 1960s and early 1970s, a deluge of litigation (more than 50 cases) concerning vote dilution inundated state and federal court systems.[36] This litigation (after Congress's renewal of the VRA in 1970) sought to neutralize structural barriers (e.g., annexations) that, on their face, denied no one the right to vote.[37] In time, Washington embraced blacks' appeals— they not only mandated that locals implement majority-minority district systems, federal officials embraced the centrality of racial discourse in American politics. They eventually used districts to protect black folks from the continuation of racist political trends in Southern life.[38] These district systems, by allowing blacks to elect preferred candidates in 'safe' wards, were an attempt to finally 'redress present, institutionalized manifestations of historical injustices against blacks as a group".[39] These solutions changed the complexion of Southern city halls and moved

America toward an unprecedented period of explicitly defined racial politics.[40]

Part I: *Systematically Done In*

On August 6, 1965, Congress signed what President Johnson thought was "the goddamnedest, toughest, voting rights bill" in United States history.[41] The VRA prevented direct disenfranchisement and sanctioned federal intervention into, and enforcement over, Southern voting.[42] Section Two of the VRA suspended discriminatory tests and devices as prerequisites for voting.[43] Section 4 froze voting laws in states and political subdivisions with less than 50 percent of the voting age registered to vote on and/or after November 1, 1964. Section 4 then suspended voting laws and/or election-based changes after the triggering date. This section also authorized the Department of Justice (DOJ) to supervise and register voters in covered areas. Section 5 required preclearance (permission) from federal officials to change election and registration laws. By 1966, Washington had deployed nearly 600 federal examiners throughout nine Southern states including Virginia.[44]

The VRA transformed Southern politics. By 1969, nearly three-fifths of all Southern African American adults were registered to vote.[45] One year after the VRA's ratification, black officeholders and legislators reached approximately 159 and 200 by 1967.[46] Yet, African American voters and candidates met opposition from whites at nearly every phase of the political and electoral process.[47] Shortly after the act's ratification, Southern whites became increasingly anxious about losing control of city councils, police forces, municipal courtrooms, and school boards—the administrative apparatus used to control the color-line. White powerbrokers, who often did the bare minimum to maintain black communities, realized Southern black politicians actually wanted more than symbolic political victories and, with the avalanche of African American registration, had the votes to realize these ends.[48] In the 1965 article *From Protest to Politics*, Bayard Rustin argued that blacks "now sought advances in employment, housing, school integration, police protection, and so forth."[49] Southern jurisdictions met these demands by crafting a variety of structural barriers that made it harder for blacks to elect candidates.[50] White powerbrokers combined white and black districts, relocated polling places to white neighborhoods, threatened economic reprisals against black voters and candidates, switched to at-large election systems, and continued to intimidate voters with violence. In 1968, the U.S. Commission on Civil Rights compiled a 222-page progress report on Southern black voting. More than half of the report explained the methods whites devised to maintain control over local politics.[51] Many of the demands Southern blacks sought to achieve after 1965 had been on the table in Richmond for years.

Richmond's case is significant because the city's African Americans organized a black electorate *prior* to the VRA. Black politics in Richmond had roots in black gradualism and the National Association for the Advancement of Colored People's (NAACP) litigation strategy against segregation. Led by NAACP lawyers like Oliver W. Hill (who was the first African American elected Richmond's city council in 1948) and ministerial gradualists such as Gordon Blaine Hancock, Richmond's black leadership resolved to modulate Jim Crow through interracial cooperation after World War II.[52] The racial polarization that followed the Court's *Brown v. Board of Education* (1954), however, ended moderates' attempts to cautiously improve segregation. Hill left politics and became integral to the NAACP's litigation strategy to integrate public schools. After 1954, Richmond's blacks rejected the black gradualists that had hitched their wagons to white moderates—these white

moderates, it turned out, signed up with the massive resistance campaign in the late 1950s. Created by well-heeled NAACP members, Dr. William Ferguson Reid, Dr. William Thornton, and Johnny Brooks in 1956, the Crusade believed that the racial polarization brought on by the Court's *Brown* decision called for more robust political organization.[53] Virginia's poll tax, enacted during the Constitutional Convention of 1901-02, not threats of mob brutality, dictated who voted in the commonwealth.[54] Once the Crusade realized that winning local elections hinged on a group's ability pay others' poll taxes, African Americans began to register an unprecedented number of voters. By 1960, the Crusade's leadership registered roughly 16,000 African American voters.[55] The organization's initial registration efforts eventually led to Brooks's appointment as the NAACP's national voter registration director.[56] In 1961, the Crusade had registered so many black voters that the political action director for the southeast region of the AFL-CIO, Earl Davis asserted, "The Crusade has the largest group of volunteer workers of any place that I have ever been."[57]

Richmond's African Americans were also able to challenge Jim Crowism through electoral politics because Virginia's white powerbrokers, under the auspices of Senator Harry F. Byrd and his reputed "machine," maintained segregation through paternalistic elitism rather than violent rigidity.[58] By the 1950s, Byrd had assumed almost total control over Virginia politics and his organization's political power derived from an elaborate system of patronage, circuit court appointments, and disenfranchisement.[59] While Byrd and Virginia elites used poll taxes to divest most African American of their constitutional rights and preserve Virginia's place as an elite white man's commonwealth, they also maintained white privilege by practicing a genteel brand of racist paternalism.[60] According to J. Douglas Smith, "interracial cooperation was always governed according to terms dictated by whites whose concern stemmed less from humanitarian obligations toward blacks than from the desire to do the bare minimum to keeps black happy."[61] Richmond's white elites maintained segregation by de-emphasizing violence and handing out piecemeal concessions to black leaders like Hancock.[62] Until the mid-1950s, racially moderate black and white leaders worked to modulate Jim Crow rather than abolish it. When it came to black voting, Byrd Democrats counted on the fact that they could pay lip service to limited black political participation without conceding substantive political power.[63] Yet even Byrd understood that if more blacks paid poll taxes, they might swing the balance of power in local elections because the levies also suppressed large white voter turnout.[64] As Richmond's post-WWII interracialism disintegrated during massive resistance, the Crusade affirmed Byrd's fears— they challenged Virginia's constricted electorate by out-organizing white voters.

Black voting in Richmond continued to grow in size and influence by the early 1960s. The Crusade eventually created a self-sustaining network of precinct-based clubs throughout the city's black neighborhoods.[65] Precinct units, which were comprised of officers and organizers, elected two delegates to a board of directors that served on the citywide Crusade. A research committee selected by the organization's president advised the board of directors. The organization, which was financially independent of white patronage, held block parties to raise funds for poll taxes, advised voters on when to pay the tax, and instructed the electorate on how to fill out ballots. Between 1960 and 1964, the Crusade increased the number of registered black voters from 15,739 to 18, 355.[66] In 1964 Richmond's black voters made up roughly 34.5 percent of Richmond's eligible voters.[67] The Crusade's research committee eventually convinced African Americans to bloc-vote for a slate of nine

candidates at-large in lieu of throwing the electorate's muscle behind one particular candidate (i.e., single-shot voting).[68] The objective was to place the black community's support behind nine of the least disagreeable white candidates. These votes were meant to indebt white politicians to blacks' demands and preclude the election of white candidates that opposed integration.[69] These balance of power strategies eventually led city council to pass a fair employment resolution in 1962.[70] Two years later in 1964, Richmonders elected an African American real estate agent, B.A. "Sonny" Cephas, to city council. Cephas garnered 9,835 black votes and 6,677 white votes—he finished second of twenty-one candidates. [71]

By the mid-1960s, Richmond's black population had not only grown, African Americans had out-registered and out-organized whites. In 1960, Richmond had a total population of 219, 958. By 1968, the Census Bureau estimated that the capital city's population shrank to 216, 451.[72] During that same period, however, the total number of black Richmonders increased from 92, 331 to 108, 053. In 1966, approximately 30,000 blacks and 58,000 whites (approximately half of Richmond's white population) were registered to vote.[73] Between 1964 and 1966, black registrants increased 65 percent; in the same period, white registrants increased 13 percent. [74] While the VRA lifted traditional restrictions to the franchise, the U.S. Supreme Court's decision to abolish poll taxes in state/local elections in *Harper v. Virginia State Board of Elections* (1966) significantly influenced the number of Richmond's black registrants. [75] In 1966, Richmond elected two more African American council members, Henry Marsh, III and Winfred Mundle—and 25,500 African Americans voted in that election.[76] One year later, the Crusade contended that their mailing list consisted of roughly 32,000 black voters.[77]

Underneath the façade of Richmond's six-to-three white majority council, new federal voting rights mandates piqued whites' longstanding fears about black governance. Because Byrd Democrats faced little political opposition, Virginia's whites were decidedly unprepared for actual political competition during the 1960s. Although Richmond's City Charter of 1948 mandated all city elections to be nonpartisan, Byrd's "machine" made politics an endeavor that even few white people participated in (the Byrd Machine's demise, in large part due to Byrd's death in 1966, heightened the already prevalent anxiety about the state of interracial politics in the Old Dominion).[78] Of the six white city councilmembers in 1966, five represented Richmond's elite circles. Robert J. Habenicht (attorney), Eleanor Sheppard (self-described housewife of the affluent Ginter Park neighborhood), Morill M. Crowe (pharmacist), James C. Wheat (VMI graduate, banker, and president of J.C. Wheat and Co.), and Mayor Phil J. Bagley (city councilman since 1952) garnered a sizeable number of their votes from exclusively white enclaves such as Richmond's North Side, the West End, and the Fan District. [79] These five council members also belonged to a predominantly white, nonpartisan political organization called Richmond Forward.[80] Richmond Forward recognized a considerable change in city council voting patterns. African Americans made up 43 percent of the vote in 1966. More ominously, whites made up 68 percent of the vote in the city council election of 1964, but only 56 percent of total voters in the election of 1966.[81] White councilmembers knew that it took five votes (of nine) to pass a city budget and six votes for special appropriations. Court testimony later revealed that whites understood very well how close they were to losing a numerical advantage on city council—especially if the demographic and political trends continued.[82] These fears expedited the push for annexation.

In early 1966, the city council majority introduced their first measure to dilute black votes—a supposedly race-neutral referendum to stagger local council terms. Several months before the Warren Court's abolition of poll taxes in state/local elections in *Harper*, white council members Eleanor Sheppard and James C. Wheat, Jr. recommended a change in the city charter to replace two-year council terms. Anticipating that the abolition of poll taxes would dramatically increase the number of black registrants, the trio planned to manipulate the city's at-large election system by rewarding the highest four vote getters with four-year terms. The five candidates who finished behind the four winners (presumably black candidates) were to serve two-year terms. During the next election, the five council seats up for grabs were to be filled for four-year terms by the top vote getters and the fifth place candidate would serve a two-year term (and, so on). Whites maintained that the plan was a color-blind initiative designed to combine experienced candidates with newcomers. As it stood, blacks had just enough registrants to place candidates in the middle or bottom of the top nine vote-getters. A Richmond Forward campaign memo to candidates read, "When explaining the stagger system give a clear, simple explanation so as to eliminate doubt in the minds of the Negro public that it was designed and approved solely to keep Negro candidates from being elected to city council."[83] The plan not only represented Richmond's first attempt to dilute African American votes, it was an attempt to stack city council with individuals more agreeable to commandeering portions of a predominantly white suburb. Voters rejected the proposal. While 58 percent of whites voted in favor of the referendum, an overwhelming 87 percent of African Americans voted no on the ballot.[84] In the end, African Americans demonstrated that without inordinate white support of an initiative, Richmond's black community had the electoral muscle to vote down key policies.

The failed attempt to stagger elections crystallized the Crusade*'s* resolve to influence substantive policy. The effort to manipulate council terms also convinced blacks that whites would go to great lengths to maintain a council majority. Local leaders realized that blacks needed more than symbolic electoral victories. The Crusade doubled their registration efforts in 1968 and presented a fourteen-point list of demands to city council and the General Assembly of Virginia in 1968. They called for a moratorium on annexations, the city to "fix time and place" for voting registration, state-based minimum wage laws, labor union negotiations for city employees, free textbooks for students, fair busing plans, and more. Many of these demands were in line with the claims Rustin put forward in 1965 and virtually all of them were designed to dismantle the apparatus of white control.[85] In the wake of Dr. Martin Luther King Jr.'s assassination, the Crusade endorsed a slate of candidates they called the "Poor People's Ticket" in remembrance of King's Poor People's Campaign.[86]

In 1968, the Crusade's agenda amplified whites' anxieties about an African American council coup d'état. Richmond's black electorate reelected Marsh and two racially moderate whites, lawyer Attorney Howard Carwile and Reverend Jim Carpenter.[87] Shortly after 1968's election, these councilmen held a series of rallies/special council sessions designed to mitigate pervasive police brutality, procure contracts for black businesses, and resist urban renewal efforts that planned to build an expressway directly through black neighborhoods.[88] Many white political leaders associated these demands with the radicalization of Richmond's black communities. After a local race riot following King's assassination, state Senator Edward E. Willey passed a referendum to protect Confederate statues on Monument

Avenue should blacks attempt to destroy them.[89] Councilman James Wheat openly avowed that if Richmond were not allowed to annex, the city would become a ghetto. [90] Court testimony later showed that Mayor Bagley repeatedly stated, "… niggers won't take over this town."[91]

The "Poor People's Ticket" further motivated local elites into concerted action to commandeer a surrounding suburb. The question of expanding Richmond's boundaries for financial reasons had been on the table throughout the 1960s. Richmond had attempted to annex portions of Henrico County in 1962. Local officials in the early 1960s, however, sought to obtain vacant land and expand the city's tax-base. Although a special annexation court authorized the annexation of 16 square miles of Henrico County, Richmond's city council determined that the cost of the annexation, $55 million, was not in the city's best financial interest.[92] These monetary anxieties were not a concern in the late 1960s. While whites publically maintained that revenue expansion drove the Chesterfield annexation question, Bagley, white members of council, and Richmond Forward resolved to harvest the disproportionately white vote living in Chesterfield County before the election of 1970. Chesterfield County's population stood at nearly 68,000 in the late 1960s.[93] The portion of Chesterfield County that Richmond planned to annex contained roughly 1500 African American residents.[94]

Mayor Bagley and Irvin G. Horner, Chesterfield County executive secretary, secretively began to iron out a boundary agreement in 1968. The proposed Horner-Bagley line was to run across Richmond's southwestern border.[95] Mayor Bagley held boundary agreement sessions privately and city council voted to shut out third parties—despite the fact that 12,000 members of Chesterfield County, 11 civic organizations, and a number of corporations filed petitions to stop annexation.[96] Bagley also barred Carpenter, Carwile, and Marsh from merger talks. In time, city council voted (6-3) to float city bonds to pay for the merger—the city agreed to pay Chesterfield's County's School Board costs, proposed a five-year capital improvement program, absolved Chesterfield's sewage and water facility debt that the county owed the City of Richmond (to the tune of $24,190,000), and paid for a host of other transitional costs.[97] Remaining a majority-white jurisdiction would not only be expansive—it would be expensive as well. Yet, at least the revenue would serve whites under the proposed plan. The annexed area's 11 schools were to enroll 8, 017 whites and a mere 206 African Americans. The median family income in the annexed area was roughly $4700 per year higher than residents in the city (Chesterfield's median family income stood at $12,400, while the median family income in Richmond was $7,692). [98] Richmond garnered $19,648,975 in real estate tax the year before annexation: in the fiscal year of 1970-71, one year following annexation, the city procured $30,424,500.[99]

During the annexation process, the Crusade emerged as boundary expansion's most vocal critics in Richmond proper. The Crusade recognized that white flight during the 1960s had severely weakened Richmond's tax base and it spent the better portion of the late 1960s considering the possibilities for recapturing lost tax assessments without diluting black votes. Preston Yancy, a weekly *Richmond Afro-American* columnist and head of the Crusade's merger study commission argued in favor of a single-member district system that might guarantee some African American representation on city council if Richmond and a portion of Chesterfield merged—particularly since decades of residential segregation had packed African Americans into almost exclusively black enclaves. The switch to a district-based system, the Crusade believed, might improve the possibility of electing black candidates and better approximate blacks' strength in the general electorate. Blacks could maximize votes

in precincts heavily concentrated with African Americans.[100] Yancy contended:

> …any plan to merge or consolidate Richmond… should have equitable apportionment and geographic integrity. This method of district or ward election of local and also state officials should be employed to help assure that areas of any merged complex be fairly represented-- *Richmond Afro-American,* June 17, 1967.[101]

Every candidate on the "Poor People's Ticket" openly renounced boundary expansion without overhauling Richmond's at-large system.

After Richmond and Chesterfield County officials privately ironed out an agreement, a state-level, three-judge court rushed through the annexation decision on July 1, 1969. Virginia's statutes specified that cities could only annex surrounding areas under the authority of specially convened three-judge annexation courts. The annexation took effect at midnight on December 31. On January 1, 1970, Chesterfield ceded 23 square miles and forty-seven thousand new citizens—ninety-seven percent of the annexed area was comprised of white residents.[102] Annexation summarily reduced Richmond's black population from fifty-two percent to forty-two percent. The proportion of voting-age African Americans dropped from forty-five percent to thirty-seven percent.[103] Annexation gutted blacks' ability to elect a council majority— Marsh was the only black candidate to win in 1970 under the at-large election system.

Part II: ***Unscrambling the Egg***

On Monday, June 30, 1969, Virginia Judge Earl L. Abbott rubber-stamped Richmond's annexation of Chesterfield County. The *Richmond Times-Dispatch's* Bill Sauder observed that as Abbott read the opinion, he—for the first time during the annexation trial—seemed noticeably nervous while sipping a glass of water.[104] Abbott's uneasiness symbolized growing concern about the legality of voting related changes. Annexationists failed to acknowledge the Supreme Court's *Allen v. State Board of Elections* decision four months prior to Abbott's verdict.[105] *Allen* expanded the federal government's capacity to intervene in local politics in the case of voting related changes. Had Abbott applied *Allen* to the question before him or listened to the Crusade's appeals for an overhaul to Richmond's at-large system, he surely would have been even more nervous about Richmond's failure to seek preclearance.[106]

The Supreme Court, in *Allen v. State Board of Elections* (1969), obliged African Americans' pleas to neutralize vote dilution.[107] Prior to *Allen*, Section 5's preclearance clause covered registration procedures exclusively and the case represented the first time the high court questioned whether Section 5 should reach beyond equal access statutes. *Allen* consisted of four appeals: three from Mississippi and one from Virginia. In Virginia and Mississippi, whites used various mechanisms to dilute blacks' votes and litigants contended that these changes to election laws were subject to preclearance. In all four cases, African Americans made up less than half of the total voting age population, but could be expected to elect a significant number of black representatives in ward-by-ward voting. Should Section 5, federal justices pondered, include electoral policies that made it more difficult for voters to elect preferred candidates?[108] In *Allen* (7-2), the Court contended that procedures like the qualification of candidates, the switch from elective to appointive offices, and conversion to at-large from single-member district elections fell under Section 5. More broadly, Chief Justice Warren held that Section 5 applied to election laws even if those laws had no

direct connection to voter registration or casting ballots.[109] Following the court's lead in *Allen* the DOJ, now under the Nixon administration, sent out letters to covered states that they intended to enforce the VRA's preclearance clause.[110]

When Chief Justice Warren stepped down in the summer of 1969, President Richard Nixon looked to Warren Burger to reverse the jurisprudential permissiveness that characterized Warren's tenure. Burger's appointment to the chief justiceship in the summer of 1969 (and the subsequent appointments of Harry Blackmun in 1970, Lewis Powell in 1972, and William Rehnquist in 1972) represented an integral phase in the realization of the Nixon-Phillips Southern Strategy.[111] Powell was a prominent Richmond attorney who had played a positive role behind the scenes in desegregating Richmond's schools. His presence on the Court no doubt helped shape the ultimate outcome of the annexation case.[112] Nixon not only intended to gain political capital by attacking the previous Court's latitudinarian approach to civil and social justice, Burger claimed that he had every intention to overrule cases like *Allen*.[113] Burger's appointment was also meant to signify a movement toward "judicial conservatism." Nixon believed that Burger would advance a type of constitutional jurisprudence predicated on restraint, which was exemplified by loyalty to the framers' original understanding of the Constitution.[114] Yet, no counterrevolution to the Warren Court's "reapportionment revolution" transpired during the 1970s. The Burger Court further affirmed the previous Court's penchant for permissiveness—they transformed the franchise from an abstract right to a concrete measure of power that could not be diluted through majoritarian manipulation.[115]

Arguably, no case had a more profound impact on the Burger Court's civil rights legacy and the future possibility of voting rights litigation than *Griggs v. Duke Power Company* (1971). The Burger Court established an equality of results standard and it deployed a disparate impact analysis in *Griggs*.[116] In *Griggs*, 14 African Americans claimed that North Carolina's Duke Power Company relegated blacks to lower paying labor jobs before the effective date of Title VII of the Civil Rights Act of 1964. The company's intradepartmental transfer policy required a high school diploma and a minimum score on two aptitude exams. Plaintiffs claimed that even though the policy did not discriminate explicitly on racial grounds, it did so implicitly, because African Americans had systematically been denied equal access to high school degrees and the quality of the education that they had obtained was demonstrably inferior to that of whites. This, in turn, negatively influenced Duke Power's personnel policies toward African Americans.

In March of 1971, the Court found (8-0) that no relationship existed between the company's criteria for advancement and job performance. These policies, though racially neutral, disparately impacted African Americans and reinforced disproportionate representation in higher paying positions.[117] In fact, the Supreme Court posited that the South's history of inferior segregated public schools made workplace competition inherently unfair. *Griggs* not only employed the compensatory logic the Warren Court used to claim that segregated schools negatively affected black school children, the case also signified the Burger Court's evolution from an equal treatment standard to an equal results standard of case law.[118] Prior to *Griggs*, plaintiffs needed to show discriminatory intent in things like hiring practices; following *Griggs*, plaintiffs needed to demonstrate the inequitable effects in hiring or promotional practices.

The Supreme Court eventually applied the belief in "disparate impacts" to voting rights in *Perkins v. Matthews* (1971).[119] In 1969, a group of appellants from Canton,

Mississippi, represented by Armand Derfner (Derfner represented the Crusade in *The City of Richmond v. United States*), sought to enjoin local elections after city officials changed election rules without preclearance from Washington. Canton moved polling places from black neighborhoods, annexed a predominantly white suburb, and switched from a ward-based system to at-large elections in 1969. A state appeals court dissolved a district court's injunction and held that none of Canton's changes had "a discriminatory purpose or effect."[120] The Supreme Court disagreed. The Court voted 8 to 1 in Perkins's favor and held that Canton should have submitted the changes for preclearance.[121] All of Canton's electoral alterations, the Court argued, diluted blacks' votes under Section 5. More specifically, the high court argued that changing boundary lines, moving polling places, and switching electoral systems disparately affected African Americans' ability to elect candidates of their choice. While African Americans were still relatively free to partake in the electoral process, Canton's political machinations, the Court held, diluted the power derived from the process.

As the Burger Court defended an equality of electoral results standard during the early 1970s, African Americans and Washington elites began to use Section 5 more thoroughly. Between 1969 and 1974, African American voting rights advocates inspired the DOJ to lodge 150 objections to Southern electoral systems. Of these roughly 150 objections, twenty concerned the switch to at-large election systems, eight grappled with term staggering, and six dealt directly with annexation.[122] These developments had profound implications for Richmond politics.

Part III: *Strange Bedfellows*

In 1971, an African American civic activist named Curtis J. Holt, Sr. filed a suit against the city citing the authority of the Voting Rights Act of 1965 and the Fifteenth Amendment.[123] Holt alleged that Richmond's recent annexation of Chesterfield County purposefully diluted black voting strength and cost him a seat on city council during the election of 1970. Holt, who lived in Richmond's Creighton Court housing projects, eventually transformed Richmond's political landscape.[124]

Curtis Holt, Sr. had been integral to Richmond's struggle for political equality for nearly a decade. Holt assisted the Crusade's registration drives during the sixties by organizing fellow public housing tenants and was a member of Richmond's Human Relations Commission. Holt, who failed to crack the top sixteen vote-getters in the 1970 council election, charged in the wake of the annexation gambit that boundary expansion diluted blacks' voting strength and prohibited a Crusade council majority. He eventually called for complete de-annexation— the Crusade failed to support Holt's claim. The RCV refused to support de-annexation because they wanted a ward system that might guarantee a five-to-four black council majority. The Crusade also recognized that de-annexing portions of Chesterfield County might compromise Richmond's dwindling tax base. The organization's merger study committee was also aware of the Court's recent condemnation of annexations and at-large elections. After the Court ruled that at-large elections coupled with annexations diluted minority voting strength in *Perkins*, the Crusade believed that they were closer to getting the district-based system they preferred.

Holt, who lacked resources to support a suit, found improbable allies. Holt's first attempt at legal involvement in Richmond's annexation case came in the form of a telegram to Supreme Court Justice William O. Douglas. It was later revealed during oral arguments in *City of Richmond v. United States* (1975)

that Holt asked Douglas to "intercede and prevent the annexation from taking place on the first of January" 1970.[125] Two years later, Holt filed a class action suit in Richmond's U.S. District Court on February 24, 1971. As it happened, a young white lawyer named W.H.C. "Cabell" Venable, who had a sense for viable (and, visible) cases, agreed to take Holt's case pro bono.[126] Initially, Venable argued that annexation diluted black votes and subsequently violated Section I of the Fifteenth Amendment. The two also contended that annexation violated Holt's due process rights under Section I of the Fourteenth Amendment. The suit sought to declare annexation void, nullify the election of 1970, and declare the present council unconstitutionally convened.

The idea of repatriating Chesterfield County made for strange bedfellows.[127] A contingent of white residents, led by the Chesterfield Civic Association from the annexed area, joined Holt in an improbable de-annexation alliance. Chesterfield residents and their civic organization had lodged a series of petitions against annexation during the late 1960s but Mayor Bagley and Irvin Horner ignored their appeals. As it happened, they aligned with Holt after a district court ordered Richmond to speed up public school integration.[128] Chesterfield residents believed that repatriating Chesterfield would prevent their kids from being bused to Richmond's predominantly black schools.[129] These suburbanites eventually helped fund Holt's litigation and put Richmond on a complicated litigation trajectory that brought the city face-to-face with the the Supreme Court and the DOJ.

By the early 1970s, the Justice Department emerged as a vocal critic of Richmond's annexation of Chesterfield County.[130] Section 10 of the VRA gave the U.S. attorney general the authority to bring suits against states and political subdivisions that violated the VRA. After Congress stopped Nixon's attempt to repeal Section 5 during the act's renewal in 1970 (Nixon wanted to make litigation minorities' sole recourse for voting related changes), Mitchell and Nixon believed that attacking Section 5 might win the Republican Party favor with Southerners.[131] Mitchell intended to reorganize the DOJ's Civil Rights Division so that the division no longer exclusively covered the South. This restructuring had the unintended consequence, however, of not only creating a Voting Rights Section, but concentrating in that newly created section liberal holdovers from Johnson's administration that were committed to enforcing Section 5.[132] By 1975, the Justice Department instigated 45 suits under Section 5 and took part in a host of private suits like Holt's.[133] These CRD lawyers and the Supreme Court were instrumental in shaping the future of Richmond politics.

In 1971, local officials clung nervously to the hope that *Perkins* had no jurisprudential application to Richmond's annexation. City Attorney Conrad B. Mattox, Jr. contended, "…the ruling leads me to believe that it would not deal retroactively with the city's annexation of…Chesterfield County. I do not believe that the award will be overturned."[134] Yet, Mattox wrote Attorney General John Mitchell concerning the legality of annexation in light of the *Perkins* decision. Chief of the CRD and assistant attorney general, David Norman's response left little doubt about the DOJ's position:

> …the Supreme Court recently held…that [c]hanging boundary lines by annexations …constitutes the change of a 'standard, practice, or procedure with the respect to voting' within the meaning of Section five…The Attorney General is obliged under Section five to be concerned with the voting changes produced by an annexation…In the circumstances of Richmond, where representatives are elected at large, substantially increasing the number of eligible white votes inevitably tends to dilute the voting strength of blacks voters. Accordingly, the Attorney General must

> interpose an objection to the voting change, which results from the annexation. You may, of course, wish to consider means of accomplishing annexation, which would avoid producing an impermissible adverse racial impact on voting, including such techniques as single-member districts.[135]

Beyond turning the tables on the use of "interposition" in a states' rights context, Norman's response to Mattox underlined deliberations through the 1970s. First, the assistant attorney general held fast to the Court's recent rulings on vote dilution. As far as the Justice Department was concerned, boundary expansion along with at-large elections diluted black votes. Next, he suggested that reversing annexation was not the Justice Department's major objective as long as Richmond fashioned single-member districts, a position that paralleled exactly the Richmond Crusade's stance on the matter. Norman's response confirmed much of black Richmond's longstanding contention (Holt notwithstanding) that keeping Chesterfield County was a viable option as long as policymakers implemented a voting system that guaranteed black city council seats. Norman also reflected the Court's emerging preference for single-member districts—the Court established in *Connor v. Johnson* (1971) that single-member districts were preferable to at-large districts in court-fashioned reapportionment plans.[136]

Holt, however, was driven by a different set of concerns. Just as city officials were piecing together an acceptable compromise, Holt's de-annexation coalition filed its first suit against the City of Richmond. In September of 1971, U.S. District Court Judge Robert Merhige concluded that racism and minority disenfranchisement motivated Richmond's annexation of Chesterfield County.[137] Merhige, who had been influenced by Mayor Bagley's comments about a black takeover, ruled that Richmond hold a special council election in September of 1972 based on a seven-two plan; the plan involved an at-large election of seven candidates from the city and a district-based election of two candidates from Chesterfield County.[138] City Attorney Mattox traveled to Washington after Merhige's decision in September, but found little sanctuary. In a letter addressed to Mattox, David Norman wrote:

> …in our view, the annexation of a large, almost exclusively white area does have a discriminatory racial effect on voting in the context of an emerging black majority electorate... it is therefore objectionable under Section 5…[139]

The Attorney General's office not only refused to deviate from its previous objection, it also rejected a proposal the city drafted for five white districts and four black districts.

In late 1971, Holt changed litigation strategies and this led to the suspension of council elections. Venable initially argued that the addition of large numbers of whites violated Section I of the Fifteenth Amendment and the Fourteenth Amendment's due process. Venable's second suit tapped into the CRD's recent interpretations of statutory law. He maintained that Richmond had not acquired the proper authorization from the Department of Justice for annexation, thus violating the terms of Section 5. When combined with at-large elections, Richmond's new boundaries made it impossible for Holt to win a council seat.[140] On April 27, 1972, seven of the nine Supreme Court justices voted to indefinitely postpone Richmond's May 2 city council election for Section 5 violations. The Court, along with the Department of Justice, also agreed that the use of at-large also made it harder for blacks to elect preferred candidates.[141] Given the momentum encouraged by Holt's second case and the DOJ's refusal to authorize annexation, Richmond officials had little choice but to file a suit in annexation's defense.

In the meantime, the Supreme Court reaffirmed their growing preference for mandating single-member districts in a Petersburg, Virginia case. The city of Petersburg had also annexed a surrounding territory.[142] Petersburg sought a declaratory judgment from Washington that annexation did not deny or abbreviate black electoral strength. The Court found that the annexation of a majority white area combined with at-large elections purposefully diminished the possibility of black representation on city council.[143] A lower court then ruled that they would approve Petersburg's annexation if the city devised districts that returned the electoral clout that blacks had prior to the annexation. Following Petersburg's implementation of the suggested ward-based system, the Department of Justice approved the annexation.

By the spring of 1973, the Crusade and white councilmembers were so exhausted by the annexation dilemma that both groups agreed to amicably resolve the crisis. By the mid-1970s, three members of Richmond's city council had resigned and the council appointed new members without holding elections. An interracial contingent of councilmen and local officials began also working on a district plan that the DOJ might approve. Local officials eventually drafted this plan in light of the Supreme Court's decision in *White v. Regester* (1973).[144] Although the Court struggled to find a standard for vote dilution, in *White* they found that a "presence of factors" often made it less likely for minority groups in a jurisdiction to elect preferred candidates. According to Richard Valelly, "…the Court held that an accumulation of indirect evidence… sufficed to show discriminatory intent. This became known as the Court's 'totality of circumstances' test."[145] Richmond fit the 'totality of circumstances test'-- it used at-large elections, had a history of disenfranchisement, and had annexed portions of Chesterfield County without preclearance. By 1973, Richmonders had not only grown increasingly disgruntled over the suspension in municipal elections, local officials realized that adopting majority-minority districts was the only means to solve the annexation predicament. On August 25, 1973, the Justice Department approved a nine-ward plan that consisted of four districts with a majority black voting age population (majority-minority districts), four districts with a majority white voting age population, and one district comprised of equally of whites and blacks.[146] The Court denied the DOJ's endorsement because it had not made a decision in Holt's de-annexation suit. By late 1974, the city moved to offset *Holt II* by filing a case defending the annexation of Chesterfield County.

On April 23, 1975, the Court heard twenty-minute arguments from Holt's attorney Cabell Venable, the Crusade's representative, Armand Derfner, the Department of Justice, and attorney Charles S. Rhyne representing Richmond. Venable argued for full de-annexation, while Derfner and the Crusade proposed that a ward-based system could offset annexation's dilutive aspects. Richmond's attorney, Charles Rhyne, agreed with the Crusade. He argued, "An election under the nine ward plan which we feel is the only fair election where the black citizen of Richmond will have full representation and participation in the political process because they are there guaranteed four seats."[147] Burger, Stewart, Blackmun, White, and Rehnquist held "that an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory violation as long as the post-annexation electoral system fairly recognizes the minority's political potential."[148] During testimony in *Holt I* and *II*, Richmond Forward representatives, including councilman and future vice-mayor Henry Valentine, acknowledged that Richmond annexed Chesterfield County to prevent the election of a black-majority council.[149] All nine

members of the Court believed that racism motivated annexation. While the Court upheld Richmond's annexation of portions of Chesterfield County, it did so only if the city implemented the preferred district system. A district court eventually allowed Richmond to implement four presumably white and black districts each and a swing district that might favor either whites or blacks. Given the Court's decision in *Richmond v. United States*, Holt recognized that de-annexation was impractical after the Court allowed Richmond to keep Chesterfield under the four-four-swing ward plan. To the chagrin of Chesterfield residents, Holt abruptly ended his suit.

On March 5, 1977, the *Richmond Afro-American's* front-page headline read "Power to the People."[150] Four days earlier three African Americans joined six incumbents (two of which were black) on city council. In a district system that Henry Marsh helped design, Richmond elected Mrs. Willie J. Dell, H.W. "Chuck" Richardson, Walter T. Kenney, Henry L. Marsh, and Claudette McDaniel.[151] African American candidates ran in every district except one. Conspicuously absent from the list of victors, however, was Curtis Holt. Holt, who ran in Marsh's district finished last with 687 votes. The Crusade failed to endorse his candidacy.[152]

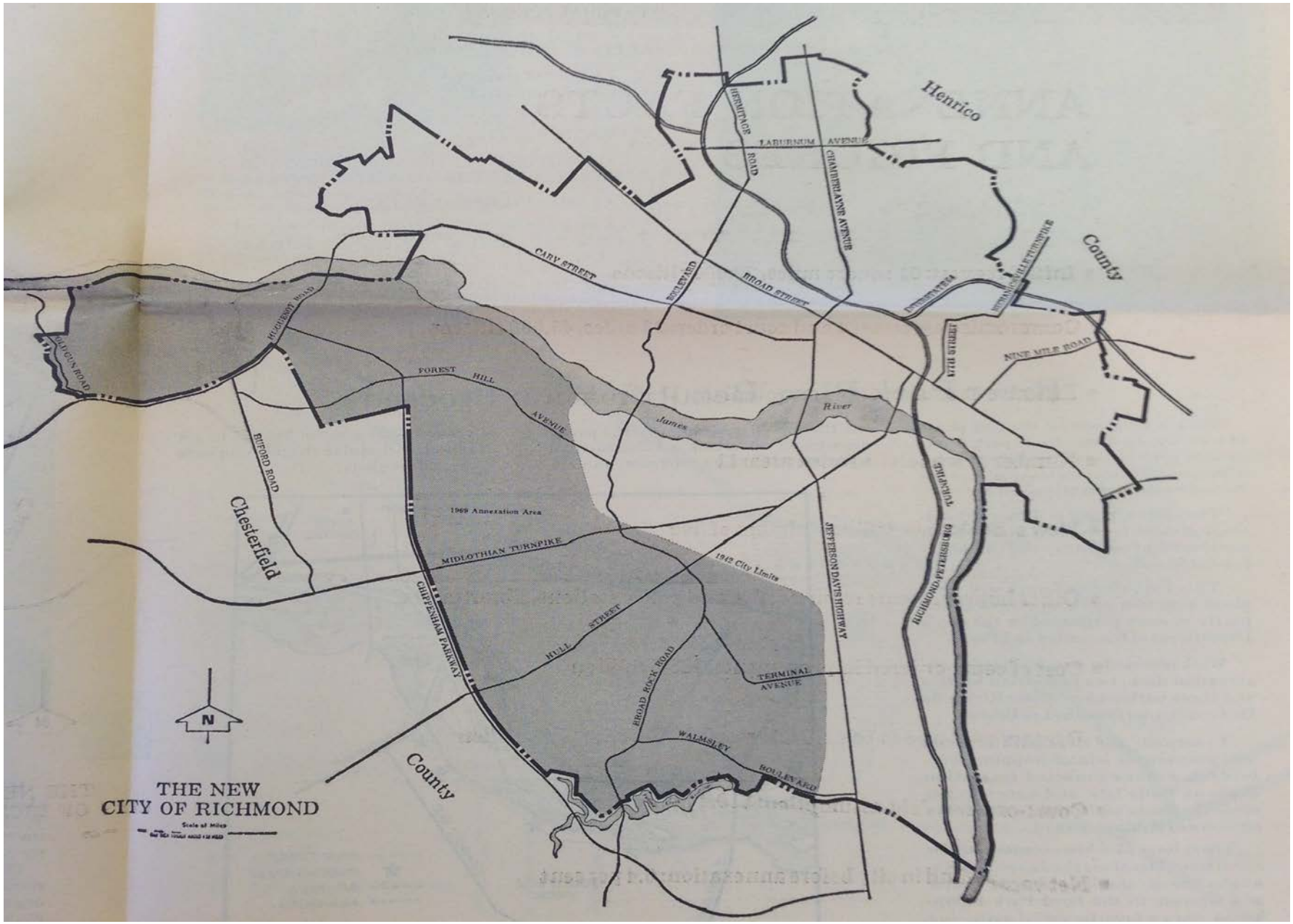
Richmond's black majority council embodied the movement from protest to electoral politics and the culmination of majority-minority districts. New black council members included a civil rights lawyer (Marsh), a postal workers union official (Kenney), two social workers (McDaniel and Dell), and a 28-year-old Vietnam veteran (Richardson) completing a bachelor's degree (Richardson's sister was also married to the mayor of Atlanta, Maynard Jackson).[153] Among those whites departing city council after 1977 were the president of a Main Street brokerage firm, a retired oil company executive, the president of a prominent real estate firm, the owner of a successful automobile dealership, a building materials company executive, and the president of a major funeral home. Although it took nearly seven years to find a solution to Richmond's annexation, the election was a testament to local people and national officials' commitment to racial equality.

Conclusion:

Despite the historic election that delivered Richmond's first majority black city council, this account is not simply one of triumph. It is also a cautionary tale about African Americans' protracted struggle for political parity. During the five years following the VRA's ratification, white campaigns to dilute blacks' votes grew in size and scope. It took local and federal officials nearly seven years to devise a solution to Richmond's annexation. White resistance to suffrage expansion not only led to strange bedfellows, post-1965 disenfranchisement once again fueled an effective black response. Vote dilution mechanisms like annexations not only helped instigate a voting rights revolution that changed the meaning of representative democracy in America, district-based representation changed the racial equation in Southern electoral politics. By early 1980s, Richmond witnessed a political complexion revolution—the capital city laid claim to a black mayor, city manager, school superintendent, fire chief, treasurer, and a five-to-four black city council majority.[154] The commonwealth's capital, during the mid-1980s, was one of thirteen United States cities with populations over 100,000 to be controlled by a solid black council majority.[155]

Leading voting rights scholars agree that the Second Reconstruction *initially* succeeded in large part because of jurisprudential and congressional backing.[156] Bayard Rustin contended, "But in arriving at a political decision, numbers and organizations are crucial, especially for the economically

disenfranchised. Neither that movement nor…black people can win political power alone. We need allies."[157] In Richmond, majority-minority districts led to the election of even more black officeholders in subsequent decades.[158] African American voters continue to elect local officials (including Lawrence Douglas Wilder, who served as mayor between 2005-2009) in proportion to their voting-age numbers.[159] On one hand, Richmond's story is a testament to how local people and federal officials used disparate impact theories to overcome generations of political exclusion and institutional discrimination. By the mid-1990s the federal government made hundreds of Southern cities and state-level jurisdictions switch to single-member district systems.[160] On the other hand, Richmond's story reminds us of the unintended consequences and political abuses that often accompany American electoral reforms.[161] Recently, we have seen efforts to roll back not merely racial redistricting, but also the VRA.[162] Given the Court's recent decision in *Shelby v. Holder* that Section 4 "can no longer be used as a basis for subjecting jurisdictions to preclearance" and the current proliferation of electoral impediments like voter identification laws, it is imperative that we remember America's long history of cloaking disenfranchisement in the garb of "good government."[163]


Henrico
County
LABURNUM AVENUE
HERMITAGE ROAD
CHAMBERLAYNE AVENUE
CARY STREET
BOULEVARD
BROAD STREET
HUGUENOT ROAD
BELVIDERE STREET
NINE MILE ROAD
FOREST HILL AVENUE
James River
BELGIAN ROAD
BUFORD ROAD
Chesterfield
1969 Annexation Area
MIDLOTHIAN TURNPIKE
1942 City Limits
JEFFERSON DAVIS HIGHWAY
RICHMOND-PETERSBURG TURNPIKE
CHIPPENHAM PARKWAY
HULL STREET
BROAD ROCK ROAD
TERMINAL AVENUE
WALMSLEY BOULEVARD
N
County
THE NEW
CITY OF RICHMOND

[1] Lyndon B. Johnson, *To Fulfill These Rights,* June 4, 1965.
[2] On Henry Marsh, III see Julian Maxwell Hayter, *We've Been Overcome: Black Voter Mobilization and White Resistance in Richmond, Virginia, 1954-1985,* Ph.D. diss., University of Virginia, 2010.
[3] Section 5 of the VRA, the preclearance clause, maintains that jurisdictions must pre-clear voting related changes in election systems with the Justice Department. More specifically, the act requires "jurisdictions covered by Section 5 to submit any new proposed changes in election provisions at every level of government to the Department of Justice for preclearance." *Voting Rights Act of 1965,* 42 USC § 1973c.
[4] In at-large election systems, voters fill all contested seats on governing bodies. If nine seats are up for grabs (as was the case in Richmond) out of twenty total candidates, for instance, voters cast nine votes for their preferred candidates. These candidates must run throughout an entire jurisdiction (be it city and/or state). In single-member district systems, cities are divided into geographical districts. Voters in each district cast votes for candidates in their district. On voting systems, see Chandler Davidson (ed.), *Minority Vote Dilution* (Washington, D.C.: Howard University Press, 1989); Morgan Kousser, *Colorblind Injustice: Minority Voting Rights and the Undoing of the Second Reconstruction* (Chapel Hill: University of North Carolina Press, 1999); and Ruth P. Morgan, *Governance By Decree: The Impact of Voting Rights in Dallas* (Lawrence: University Press of Kansas, 2004).
[5] Majority-Minority districts are congressional/local districts comprised primarily of racial and/or ethnic minorities.
[6] On racial politics in the post-1965 South see Timothy J. Minchin and John A. Salmond, *After the Dream: Black and White Southerners since 1965* (Lexington: The University of Kentucky Press, 2011).
[7] Not all racial redistricting took place at the municipal level. In fact, congressional redistricting at the state and federal level had profound implications for racial representation in Washington and states congresses (especially in the late twentieth century). Districts, especially in areas with legacies of residential segregation, are often times racially homogeneous. This, according to Earl and Merle Black, has had grave implications for party politics in the South. African Americans, they contend, have been concentrated into smaller, heavily Democratic districts while whites vote in 'safe' suburban and rural white districts (districts that, over the course of the late 20th century, voted increasingly Republican). On congressional redistricting and Southern Republicans see Earl and Merle Black, *The Rise of Southern Republicanism* (Cambridge: The Belknap Press of Harvard University Press, 2002), 331-337.
[8] The first seminal voting rights texts (particularly Lawson's *Black Ballots*) applauded the VRA's ratification as a watershed in American political history. Lawson, for instance, focused almost exclusively on how federal actors removed the remaining legal barriers to the franchise. During the 1980s and 1990s, voting rights scholarship not only drew attention to the increased attacks on the VRA (particularly during the act's various renewals and vote dilution), but the anti-dilution litigation that characterized contestations over Southern voting post-1965. While these studies generally focused on federal actors in Washington, they occasionally used local cases to illustrate how the courts, Congress, and policymakers continued to focus on electoral results standards and the spirit of equal opportunity (Graham and Abigail Thernstrom were, for different reasons, much more critical of bureaucrats' involvement in the strengthening of the civil rights bills). On the initial voting rights/civil rights, policy-oriented studies see Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960-1972* (New York: Oxford University Press, 1990); Steven Lawson, *Black Ballots: Voting Rights in the South, 1944-1969* (New York: Columbia University Press, 1976); Steven F. Lawson, *In Pursuit of Power: Southern Blacks and Electoral Politics, 1965-1982* (New York, Columbia University Press, 1985); and, Abigail Thernstrom, *Whose Votes Count: Affirmative Action and Minority Voting Rights* (Cambridge: Harvard University Press, 1987)
[9] See Graham, *The Civil Rights Era,* Chapter 9.
[10] By following the evolution of voting rights into the 1990s, these studies also emphasize conservatives' attempts to repeal Sections 4 and 5 of the VRA and roll back racial redistricting. These studies are also less optimistic about the preservation of the VRA and voting rights litigation. On broad and

comparative voting rights scholarship see Jack Bass and Walter De Vries, *The Transformation of Southern Politics: Social Change and Political Consequence Since 1945* (Athens: University of Georgia Press, 1995); Chandler Davidson and Bernard Grofman (eds.), *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990* (Princeton: Princeton University Press, 1994); Kousser, *Colorblind Injustice;* and, Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: The University of Chicago Press, 2004).

[11] Parker found that Washington augmented race-based entitlements in VRA to specifically counter anti-VRA whites and the proliferation of vote dilution following 1965. His emphasis on white backlash to black voting rights was specifically directed toward Abigail Thernstrom. Thernstrom, in 1987's *Whose Votes Count,* argued racial redistricting turned the VRA into a vehicle for electoral affirmative action. Thernstrom's criticism of federal voting rights protections, according to Parker, represented efforts to roll back the advances in civil rights legislation rather than focus on white opposition to the civil rights bills. See Frank R. Parker, *Black Votes Count: Political Empowerment in Mississippi After 1965* (Chapel Hill: The University of North Carolina Press, 1990),1-3 and 11-12, and Abigail Thernstrom, *Whose Votes Count.* Also,

[12] Recently, voting rights scholarship focuses more intently on the role local people played augmenting the VRA. These endeavors, as was/is commensurate with civil rights historiography in the 1990s and beyond, emphasize the role local people played in shaping federal voting rights mandates. These texts, however, have almost exclusively concentrated on the Deep South. Arguably, much of this focus has been dictated by primary sources— after the VRA's ratification, the Department of Justice's federal observers and attorney's spent a significant portion of their time fighting white resistance in the Deep South. For voting rights studies that emphasize local people's contributions to VRA and the litigation that followed the act's ratification see Chris Danielson, *After Freedom Summer: How Race Realigned Mississippi Politics, 1965-1986* (Gainesville: University of Florida Press, 2011); Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia* (Cambridge: Cambridge University Press, 2003)*;* and, J. Mills Thornton, *Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma* (Tuscaloosa: University of Alabama Press, 2002)*.* On the deployment of federal observers and attorneys throughout the South see United States Commission of Civil Rights, *Political Participation,*1968, 168-171.

[13] On maelstrom that followed the court's *Brown* decision see Michael Klarmann, "How Brown Changed Race Relations: The Backlash Thesis," *The Journal of American History, Vol. 81, No. 1*(June, 1994), 81-118.

[14] John V. Moeser and Rutledge M. Denis, *Politics of Annexation: Oligarchic Power in a Southern City* (Cambridge: Schenkman Publishing Company, 1982), 124.

[15] On the various types of vote dilution see Davidson, *Minority Vote Dilution,* 2-15.

[16] *Political Participation: A Report of the Commission on Civil Rights,* May 1968, 19.

[17] Virginia's poll tax (which was $1.50 annually and needed to be paid up to three years six months prior to a general election) was enacted during the Constitutional Convention of 1901-02. In actuality, the levy eliminated voters (both black and white) who were likely to vote against political machines. African Americans and white voters briefly aligned in the late nineteenth century under the banner of Virginia's Readjuster Party. Poll taxes, as it happened, were a panic reaction to the interracial politics in Virginia following the American Civil War. They were, in effect, designed to create a small Democratic electorate. This electorate eventually controlled Virginia politics (particularly under Harry F. Byrd), until the mid-twentieth century. Political organizations were often instrumental in controlling local politics because they paid poorer Virginians poll taxes. On the poll tax and machine politics see Ronald L. Heinemann, *Harry Byrd of Virginia* (Charlottesville: University Press of Virginia, 1996), 12 and 230. On Reconstruction era politics in Virginia and late-nineteenth century political interracialism see Peter J. Rachleff, *Black Labor in the South: Richmond, Virginia, 1865-1890* (Urbana: University of Illinois Press, 1989).

[18] On Virginia's late-nineteenth century and twentieth century legacy of political paternalism, disenfranchisement, and the ways elites maintained political authority see J. Douglas Smith, *Managing White Supremacy: Race, Politics, and Citizenship in Jim Crow Virginia* (Chapel Hill, *The University of North Carolina Press*), 2-10.

[19] On resistance to the VRA at the local/state level see Chris Danielson, *After Freedom Summer*; Steven F. Lawson, *In Pursuit of Power;* and, Frank Parker, *Black Votes Count.*

[20] Although Bagley repeatedly denied using the word "nigger", numerous locals, including Chesterfield County Board of Supervisors member, Fritz Dietsch, recalled the mayor using the term in relationship to annexation and the possibility of a majority black city council. Councilman James Carpenter also recalled Bagley's use of term. Curtis Holt's lawyer, Cabell Venable, referenced Bagley's usage of the word several times during oral arguments in front of the U.S. Supreme Court. See Cabell Venable, "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201. On later oral interviews with Fritz Deitsch regarding Bagley's comments, see Moeser and Dennis, *The Politics of Annexation,* 93. On Bagley's refutation of these claims, see *The Voting Rights Act: Ten Years After,* A Report of the United States Commission on Civil Rights, January 1975, 454.

[21] For Second Reconstruction's initial successes and Reconstructions failures see Richard M. Valelly, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: The University Press of Chicago, 2004), 199-224.

[22] On the reapportionment revolution see *Baker v. Carr,* 369 U.S. 186 (1962); Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960-1972* (New York: Oxford University Press, 1990), 377-392; and Richard Hasen, *The Supreme Court and Election Law: Judging Equality from Baker v. Carr to Bush v. Gore* (New York: NYU Press, 2006).

[23] Southerners, then as now, detested the fact that Section 4 of the VRA specifically covered the South. They consistently objected to the fact that the VRA subjected covered states to federal supervision, and preclearance. Nixon attempted to win the favor of emergent Southern Republicans by publicly criticizing the VRA. He often associated Section 4 and 5 with federal overreach and contended that states should be left to govern their own political affairs. On Nixon's initial strategy against the VRA see, Lawson, *In Pursuit of Power,* 162-163.

[24] On congressional districts and the Republican Party in the South see footnote 9. In *Griggs*, the Court broadly interpreted Title VII, the fair employment provision in the Civil Rights Act of 1964, to apply to rules that disparately effected minorities. *Griggs v. Duke Power Company,* 401 U.S. 424 and Hugh Davis Graham, *The Civil Rights Era,* 383-390.

[25] On the Warren Court's compensatory logic established in *Brown v. Board of Education* 347 U.S. 483 (1954) see Graham, *The Civil Rights Era,* 192-93.

[26] *Holt v. City of Richmond,* 334 F.Supp 228; *Holt v. City of Richmond,* 459 F.2d 1093 (1972); and *City of Richmond v. United States,* 422 U.S. 358 (1975).

[27] *City of Richmond v. United States,* 422 U.S. 358 (1975).

[28] On American political development, Karen Orren and Stephen Skowronek contend, "Political development is a durable shift in governing authority. By 'governing authority' we mean the exercise of control over persons or things that is designated and enforceable by the state. By 'shift' we have in mind a change in the locus or direction of control, resulting in a new distribution of authority among persons or organizations within the polity at large or between them and the counterparts outside…the term durable acknowledges that the distribution of authority is not fixed, and that its stability or change in any given historical instance must be regarded as contingent." On American political development see, Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge: Cambridge University Press, 2004), 123. Lowndes, Novkov, and Warren (eds.), *Race and American Political Development,* 8.

[29] On backlash to public school integration see Michael Klarman, "How Brown Changed Race Relations: The Backlash Thesis," *The Journal of American History* 81, no. 1 (1994), 81-118; Richard Kluger, *The History of Brown v. Board and Black America's Struggle for Equality* (New York: Vintage, 2004).
[30] Bayard Rustin, "From Protest to Politics: The Future of the Civil Rights Movement", *Commentary, Vol. 39, No. 2,* February 1965. For origins of the American civil rights movement see Beth Tompkins, *Pullman Porters and the Rise of Protest Politics in Black America, 1925-1945* (Chapel Hill: The University of North Carolina Press, 2000); Glenda Elizabeth Gilmore, *Defying Dixie: The Radical Roots of Civil Rights, 1919-1950* (New York: W.W. Norton and Company, 2009); Risa L. Goluboff, *The Lost Promise of Civil Rights* (Cambridge: Harvard University Press, 2010); Robert Rodgers Korstad, *Civil Rights Unionism: Tobacco Workers and the Struggle for Democracy in the Mid-Twentieth Century South* (Chapel Hill: The University of North Carolina Press, 2003); Charles Payne, *I've Got the Light of Freedom: The Organizing Tradition and the Mississippi Freedom Struggle* (Berkeley: University of California Press, 1995); and Patricia Sullivan, *Days of Hope: Race and Democracy in the New Deal Era* (Chapel Hill: The University of North Carolina Press, 1996).
[31]On interrogating the Montgomery-Selma narrative and Rustin's 'classical phase' see Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *Journal of American History* 91, no. 4 (2005), 1234. On organizing traditions see Charles Payne, *I've Got the Light of Freedom.* On the classical phase of the civil rights movement see Bayard Rustin, "From Protest to Politics," 64.
[32] On massive resistance strategies, Southern conservatism, and the persistence of Southern racism see Earl and Merle Black, *The Rise of Southern Republicanism;* Klarmann, "How Brown Changed Race Relations"; Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2007), Chapter 11; and, Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2005).
[33] Ruth Bader Ginsburg, *Shelby County v. Holder,* 570 U.S. (2013), 5.
[34] Tova Andrea Wang, *The Politics of Voter Suppression: Defending and Expanding Americans' Right to Vote* (Ithaca: Cornell University Press, 2012), xiv.
[35] Black Power scholars emphasize that these exclusively political strategies eventually supplanted extra-institutional uplift movements. Scholars Devin Fergus and Cedric Johnson contend the Great Society created a framework that allowed blacks to contest institutional discrimination and racism formally. Extra-institutional forms of uplift like Black Power, etc. were often purposefully absorbed (or, co-opted) by liberal political coalitions as a way to temper radicalism. African Americans, according to these scholars, used these formal political means to address their communities almost exclusively. On black Americans and brokerage politics see Devin Fergus, *Liberalism, Black Power, and the Making of American Politics*, 1965-1980 (Athens: The University of Georgia Press, 2009), 1-13; and Cedric Johnson, *Revolutionaries to Race Leaders: Black Power and the Making of African American Politics* (Minneapolis: University of Minnesota Press, 2007), xxiii
[36] Between 1969 and 1974, Southern suffragists brought roughly 150 objections, under the VRA's Section 5, to voting relation changes in the South. The Justice Department initiated 45 suits under the VRA by 1975 and participated in a host of private suits like the litigation brought up by Richmonders. *The Voting Rights Act Ten Years After,* 5 and Appendix 5.
[37] According to voting rights scholars, the second Reconstruction was initially successful because congressional and court-based divisions over civil rights policies were "less pronounced" in the late 1960s and early 1970s. This institutional stability led to continual renewals of the VRA and, subsequently, the perseverance of minority voting rights (e.g. racial redistricting) well into the 1970s and early 1980s. During the 1990s, the erosion of congressional stability and the rise of conservative attacks on civil rights bills threatened, J. Morgan Kousser argues, to "reverse the course of minority political success." On the maintenance of the Second Reconstruction and conservatives' attacks on minority voting rights see Kousser, *Colorblind Injustice,* 2 and 56-58; Parker, *Black Votes Count,* 11-12; and, Valelly, *The Two Reconstructions,* 213-218.

[38] Joseph Lowndes, Julie Novkov, and Dorian Warren (eds.), *Race and American Political Development* (New York: Routledge, 2008), 258-259. 8.
[39] Hall, "The Long Civil Rights Movement and the Political Uses of the Past", 1238.
[40] Desmond King and Rogers Smith define 'racial orders' as: Racial institutional orders are characterized by political actors that have adopted racial concepts or objectives in order to bind together coalitions and structure governing institutions that express the interests of their architects. Members support these coalitions out of shared interests. Desmond S. King and Rogers M. Smith, "Racial orders in American politics," *Race and American Political Development,* Joseph Lowndes, Julie Novkov, and Dorian Warren (eds.), (New York: Routledge, 2008), 81.
[41] Thernstrom, *Whose Votes Count,* 15.
[42] *Political Participation*, 11.
[43] Ibid.
[44] Ibid., 12.
[45] Lawson, *Running for Freedom,* 118.
[46] *Richmond Afro-American,* 30 March 1966, 1.
[47] Ibid., 19.
[48] Smith, *Managing White Supremacy,* 68.
[49] Bayard Rustin, "From Protest to Politics".
[50] Kousser, *Colorblind Injustice,* 55.
[51] *Political Participation,* 1-132.
[52] On Richmond's legacy of gradualist leadership see Raymond Gavins, *The Perils and Prospects of Southern Black Leadership: Gordon Blaine Hancock, 1884-1970* (Durham: Duke University Press). On post-*Brown v. Board* racial polarization in the South see Michael Klarmann, "How Brown Changed Race Relations: The Backlash Thesis," 81-118. On Oliver W. Hill see Margaret Edds, "The Letters of Oliver and Bernie Hill: The Making of a Legendary Civil Rights Lawyer", *Virginia Magazine of History and Biography, Jun. 01; Vole 121, No. 3,* 210-249.
[53] Virginia passed a series of initiatives during the mid-to-late 1950s designed to keep schools segregated. For instance, the so-called *Gray Plan* eventually called for a referendum to establish a Pupil Placement Board intended to review African American applicants to white schools. The plan also recommended that public funds be set-aside for students that preferred to attend private (often times Catholic) segregated schools in lieu of integrated public institutions. The Commonwealth's General Assembly also ratified legislation that virtually criminalized the operation of litigation-based organizations like the NAACP. On segregationist public school initiatives and the anti-NAACP laws see Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond, Virginia, 1954-89* (Charlottesville: University Press of Virginia, 1992).
[54] Until 1966, Virginia's poll tax disenfranchised both poor black and white voters. Voters had to pay poll taxes in person at local courthouses (which often discouraged those with outstanding fines, etc.). On how Virginia's political organization's used poll taxes to maintain their authority see Heinemann, *Harry Byrd of Virginia,* 230.
[55] *Richmond Afro-American,* 11 June 1960, 1.
[56] Brooks was the NAACP's registration director until 1975. In fact, all three of the Crusade's founders were, in effect, legatees of the NAACP's previous litigation strategy against segregated schools– particularly Richmond natives Oliver W. Hill and Spotswood Robinson. In fact, Hill had been the first African American elected to city council since Reconstruction. On African Americans in Richmond politics prior to the 1950s see Hayter, *We've Been*

Overcome, Chapter 1. On the relationship between the Crusade, the NAACP, and their efforts to register voters see John M. Brooks, "NAACP Files" (M296). James Branch Cabell Library, Cabell Black Collection. (Richmond: Virginia Commonwealth University).

[57] *Richmond Afro-American,* 4 February 1961, 1.

[58] W. Fitzhugh Brundage, *Lynching in the New South: Georgia & Virginia, 1880-1930,* (Urbana: University of Illinois Press, 1993), 141. On Harry F. Byrd see Ronald L. Heinemann, *Harry Byrd of Virginia.*

[59] Heinemann, *Harry Byrd of Virginia,* 12.

[60] On the "Virginia Way" and genteel paternalism see Smith, *Managing White Supremacy,* 4-9.

[61] Smith, *Managing White Supremacy,* 68.

[62] Leaders believed lynch mobs were bad for the commonwealth's business culture. Unlike states beneath the border South that tolerated and encouraged indiscriminate lynching practices, Senator Byrd promoted the idea of supplanting mob violence with legal injustice. As the Commonwealth's governor, Byrd passed anti-lynching laws through Virginia's legislature in 1928 as a means to control disorderly conduct and property damage. Elites also patronized black institutions in Richmond such as churches and Virginia Union University. On Byrd and anti-lynching see Heinemann, *Harry Byrd of Virginia,* 80 and Fitzhugh W. Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Urbana: University of Illinois Press, 1993).

[63] Robbins Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation, 1954-1956* (Chapel Hill: The University of North Carolina Press, 1964), 22.

[64] Heinemann, *Harry Byrd of Virginia,* 63.

[65] Robert A. Rankin, "The Richmond Crusade for Voters: The Quest for Black Power," *The University of Virginia Newsletter* 51, no. 1, (1974), 1-7.

[66] Rankin, "The Richmond Crusade for Voters," 2.

[67] Ibid.

[68] Hayter, *We've Been Overcome,* Chapter One.

[69] Crusade founder, William Thornton argued, "If 9,000 colored voters all vote for the same 9 men, these 9,000 votes will put these 9 candidates ahead of the 13 others on the ticket. The same 'balance of power' which will assure election of the nine men who get support of 9,000 colored voters can at the same time unseat several councilmen who are definitely against the rights of colored citizens…" *Richmond Afro-American,* 11 June 1960, 1 and 6.

[70] The resolution argued in favor of compulsory school attendance, a separation of local school boards from the state's Pupil Placement Board, a $1.15 minimum wage, and equitable promotion practices in city employment. The Crusade's Research Committee found, for instance, that only 26 percent of city employees were African American and of those 26 percent, 80 percent performed menial labor (e.g., maids, janitors, custodians, kitchen helpers, cooks, truck drivers, animal collectors, etc); African American employees disproportionately made up the lowest pay scale bracket. *Richmond Afro-American,* 28 April 1962, 1 and 3.

[71] *City of Richmond v. United States* 422 U.S. 358 (1975), 64.

[72] This decline in Richmond's population was due largely to court-ordered busing and the proliferation of low-income housing. During the late 1950s and 1960s, whites moved into Richmond's growing suburbs in record numbers. On suburbanization in Richmond and the Sunbelt South see Lassiter, *The Silent Majority,* Chapter 11.

[73] John V. Moeser and Dennis, *The Politics of Annexation*, 60.

[74] Moeser and Dennis, *The Politics of Annexation,* 60.

[75] For the Supreme Court's abolition of poll taxes see *Harper v. Virginia Board of Elections,* 383 U.S. 663 (1966).

[76] City of Richmond v. United States, 78.
[77] *Richmond News-Leader,* May 27, 1967, 14.
[78] On the Byrd Machine's decline and its slow disintegration prior to Byrd's death see Heinemann, *Harry Byrd of Virginia,* 317-318.
[79] On how Richmond Forward's white candidates swept Richmond's whitest and most affluent neighborhoods see *City of Richmond v. United States*, 90.
[80] Eleanor P. Sheppard Papers, M277, Box 9. James Branch Cabell Library, Cabell Black Collection. (Richmond: Virginia Commonwealth University)
[81] *City of Richmond v. United States* 422 U.S. 358 (1975), 110.
[82] Cabell Venable, "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201.
[83] T. Milton Carter, *To R.F. Candidates,* Eleanor P. Sheppard Papers, M277, Box 9. James Branch Cabell Library, Cabell Black Collection. (Richmond: Virginia Commonwealth University.)
[84] City of Richmond v. United States, 83.
[85] Ibid., 139-141.
[86] Thomas F. Jackson, *From Civil Rights to Human Rights: Martin Luther King, Jr. and the Struggle for Economic Justice* (Philadelphia: University of Pennsylvania Press, 2006).
[87] Carpenter was the reverend of a predominantly black Presbyterian church on Richmond's South Side.
[88] Hayter, *We've Been Overcome,* Chapter One.
[89] Moeser and Dennis, *The Politics of Annexation,* 77 and 82.
[90] Ibid, 82.
[91] Cabell Venable, "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201.
[92] Lassiter, *The Silent Majority,* 281.
[93] Moeser and Dennis, *The Politics of Annexation,* 115.
[94] Ibid., 124.
[95]Moeser and Dennis, 123.
[96] *City of Richmond, v. United States*, 42.
[97] *Richmond Times-Dispatch,* July 1, 1969, 1.
[98] "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201.
[99] City of Richmond, Virginia, *Budget—Fiscal Year, 1970-71: General Fund Budget Summary,* S-2.
[100] Preston Yancy argued, Steven F. Lawson, *Running for Freedom: Civil Rights and Black Politics Since 1941* (Malden: Wiley-Blackwell, 2009), 154-55.
[101]*Richmond Afro-American,* June 17, 1967, 2.
[102] Lassiter, *The Silent Majority,* 283.
[103] Moeser and Dennis, *The Politics of Annexation,* 124.
[104] Bill Sauder, *Richmond Times-Dispatch,* July 1, 1969, 1.

[105] *Allen v. State Board of Elections,* 393 U.S. 544, 565 (1969). The Warren Court actually dove into issues of minority voting rights in a 1960 case called *Gomillion v. Lightfoot.* The Alabama legislature actually redrew Tuskegee's boundaries after African Americans registered enough voters to challenge white control. The legislature drew up a 28-sided figure that effectively gerrymandered made it impossible for blacks to elect a candidate in Tuskegee. The Court ruled that the Tuskegee's electoral district boundaries violated the Fifthteenth Amendment, which prevents the United States and/or an individual state from denying citizens the right to vote on account of race. Unlike later cases, Justice Frankfurter argued that states, however, are protected from judicial review when they exercised power within "the domain of the state. There was no "countervailing municipal function" that justified such boundaries, so the Court ruled that these boundaries were designed to dilute blacks votes. This was one of the first voting rights cases that dealt exclusively with issues of discriminatory intent and effect. See *Gomillion v. Lightfoot,* 364 U.S. 339 (1960) and Kousser, *Colorblind Injustice,* 54.

[106] The Court's decision in *Allen* was not only motivated by white backlash to the VRA, but a jurisprudential precedent that the Court established in the early 1960s (see the previous footnote). The Warren Court initiated the purported "reapportionment revolution" prior to the VRA's ratification. Earl Warren's Court spent the 1950s and 1960s crusading to expand individual rights, altering criminal law, and regulating state and local voting systems. In terms of voting rights, the Supreme Court began to manage reapportionment guidelines in 1962 and 1964. In *Baker v. Carr* (1962) the Court ruled 6-3 that, under the Equal Protection Clause, issues of reapportionment were justiciable. They went further in *Reynolds v. Sims* (1964); the Court, in an 8 to 1 decision, contended the Equal Protection Clause required "no less than substantially equal state legislative" representation for all citizens. Reynolds required that states establish equally populated districts to protect against dilution under the principle of "one person, one vote." They extended the one person, one vote principle to local governments in *Avery v. Midland County Texas*. Two years after Avery, the Court dove further into the business of political cartography—they eventually applied reapportionment logic directly to the Voting Rights Act. See Graham, *The Civil Rights Era,* 378; Richard Hasen, *The Supreme Court and Election Law; Baker v. Carr* 369 U.S. 186 (1962); *Reynolds v. Sims* 377 U.S. 533 (1964); and, *Avery v. Midland County Texas,* 390 U.S. 474, 487 (1967).

[107] *Allen v. State Board of Elections* 393 U.S. 544 (1969).

[108] Hugh Davis Graham, *Civil Rights and the Presidency: Race and Gender in American Politics, 1960-1972* (New York: Oxford University Press, 1992), 174-76.

[109] Kousser, *Colorblind Injustice,* 56.

[110] Valelly, *The Two Reconstructions,* 214.

[111] Maltz, *The Chief Justiceship of Warren Burger* (Columbia: University of South Carolina Press, 2000), 7-8.

[112] Powell eventually befriended a number of prominent African Americans from the Richmond area including Oliver W. Hill. On Justice Powell see John Jeffries, *Justice Lewis F. Powell: A Biography* (New York: Fordham University Press, 2001)

[113] Bernard Schwartz (ed.), *The Burger Court: Counter-Revolution or Confirmation* (New York: Oxford University Press, 1998), 263.

[114] Maltz, *The Chief Justiceship of Warren Burger,* 7 and 31-57.

[115] Justices from the previous Court such as Abe Fortas, John Harlan, and Hugo Black were brief members of Burger's Court. William Douglas, Thurgood Marshall, Douglas Brennan, Potter Stewart, and Byron White served longer terms. Maltz, *The Chief Justiceship of Warren Burger,* 4-30.

[116] *Griggs v. Duke Power Company* 401 U.S. 424 (1971).

[117] Ibid.

[118] Burger contended that Title VII forbade overt discrimination and practices that were "fair in form, but discriminatory in operation." Ibid., 432. On compensatory Supreme Court logic see Graham, *The Civil Rights Era,* 377-390.

[119] *Perkins v. Matthews,* 400 U.S. 379 (1971), 387.
[120] Ibid.
[121] Hugo Black dissented.
[122] *The Voting Rights Act: Ten Years After,* Appendix 5.
[123] Ron Harris, "Richmond: Former Confederate Capital Finally Falls To Blacks," *Ebony,* June 1980, 45.
[124] Ibid.
[125] Cabell Venable, "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201.
[126] Moeser and Dennis, *The Politics of Annexation,* 144.
[127] Lassiter, *The Silent Majority,* 289-294.
[128] On April 5, 1971, district court judge Robert Merhige ordered Richmond to adopt a new desegregation plan that ensured that the ratio of black to white students in each school reflected the proportion of blacks in the entire school system. *Bradley v. School Board of Richmond,* 416 U.S. 696 (1974) and Robert Pratt, *The Color of Their Skin: Education and Race in Richmond, Virginia, 1954-89* (Charlottesville: University Press of Virginia, 1993), 54.
[129] Lassiter, *The Silent Majority,* 280-294
[130] Lawson, *In Pursuit of Power,* 212-215.
[131] To win Southern votes, Nixon resolved to remove the VRA's preclearance and triggering formula off of the South, but was eventually outflanked by bipartisan coalition in the Senate. See Graham, *The Civil Rights Era,* 360-361. On litigation and voting related changes see Kousser, *Colorblind Injustice,* 56 and Lawson, *In Pursuit of Power,* 162-163.
[132] Lawson*, In Pursuit of Power,* 162.
[133] *The Voting Rights Act: Ten Years After*, Appendix 5.
[134] *Richmond Times-Dispatch,* January 15, 1971, 1.
[135] *City of Richmond v. United States*, 422 U.S. 358, (1975), 16.
[136] In 1971, the Court made it clear that plaintiffs could make cases against at-large systems if they diminished the power derived from voting. The Court, in *Connor v. Johnson* (1971), devised a solution to vote dilution. In *Connor*, African Americans in Hinds County, Mississippi challenged disproportionately inequitable variations in multi-member (at-large) districts. Justices established that single-member districts were preferable to at-large elections and could be used as remedies for local apportionment plans. DOJ point man Norman and the Supreme Court fell directly in line with the Crusade and their supporters' desire for single-member districts. The Justice Department's suggestion that Richmond introduce a ward-based plan that implemented majority-minority districts for council elections emboldened the RCV. Not long after Norman's response, Crusade leadership, in the summer of 1971, advocated that Richmond replace its at-large city council election system with nine single-member districts. *Richmond Afro-American,* May 29, 1971, 1 and *Connor v. Johnson,* 402 U.S. 690 (1971, 402. Also, According to Earl and Merle Black, the compression of black voters into exclusively urban enclaves expedited the rise of the Republican South. Overtime, congressional reapportionment and redistricting led to almost exclusively Republican districts in the South's suburb and rural areas. While African Americans often held district majorities in the South's urban enclaves, congressional districts in rural and suburban areas, in effect, became "safe" Republican districts. Scholars argue that this type of political cartography has had profound implications for the Republican Party, state legislatures in the South, and Southern congressional representation in Washington. See Earl and Merle Black, *The Rise of Southern Republicanism*, 331-337.

[137] *Ibid.,* October 2, 1971, 1-2.
[138] Moeser and Dennis, *The Politics of Annexation,* 158.
[139] *City of Richmond v. United States*, 422 U.S. 358, (1975), 168.
[140] Ibid.,159.
[141] Ibid.
[142] Ibid., 163.
[143] Ibid., 163-64. *City of Petersburg v. United States,* 93 S.Ct. 1441 (1973).
[144] *White v. Regester* 412 U.S. 755 (1973).
[145] In September of 1973, the Fifth Circuit Court of Appeals, in *Zimmer v. McKeithen* 'eased its probative requirements' and recorded four primary and four enhancing factors that showed electoral changes were driven by racial intent or diluted minorities' votes—regardless of intent. The four primary factors included demonstrating a lack of access to the slating process, unresponsive legislators to the needs of minorities, state policies that maintained at-large systems, and a historical legacy of discrimination that precluded minority participation in the political process. The enhancing factors were large election districts, majority vote requirements, a lack of residency districts, and anti-single-shot voting provisions. See Gary A. Keith, *Rotten Boroughs, Political Thickets, and Legislative Donnybrooks: Redistricting in Texas* (Austin: University of Texas Press, 2013), 80. Also see *White v. Regester*, 412 U.S. 755 (1973); *Zimmer v. McKeithen* 485 F. 2d 1297; Kousser, Colorblind Injustice, 336; Morgan, Governance by Decree, 41-56; and, Valelly, *The Two Reconstructions*, 215.
[146] Moeser and Dennis, *The Politics of Annexation,* 165.
[147] Charles S. Rhyne, "CITY OF RICHMOND v. UNITED STATES," The Oyez Project at IIT Chicago-Kent College of Law, accessed June 25, 2013, http://www.oyez.org/cases/1970-1979/1974/1974_74_201.
[148] *City of Richmond v. United States,* 422 U.S. 358 (1975).
[149] Ibid.
[150] Ibid., March 5, 1977, 1.
[151] *Richmond Times-Dispatch,* March 2, 1977, 1.
[152] Ibid.
[153] Margaret Edds, *The Path of Black Political Power,* http://aliciapatterson.org/APF0803/Edds/Edds.html.
[154] In the summer of 1980, *Ebony* magazine published reporter Ron Harris' article that outlined Richmond's monumental political transformation following 1977. Harris not only historicized the centraility of race to Richmond politics, but also many of the figures that helped change the complexion of local politics. See Ron Harris, "Richmond: Former Confederate Capital Finally Falls To Blacks," *Ebony,* June 1980, 45-46.
[155] Aloph Reed, *Stirrings In The Jug: Black Politics in the Post-Segregation Era* (Minneapolis: University of Minnesota Press, 1999), 79.
[156] Valelly, *The Two Reconstructions,* 201.
[157] Bayard Rustin, "From Protest to Politics,"
[158] The very forces that made district systems possible – specifically Southern residential segregation, white flight from increasingly minority-populated cities, and patterns of urban decline during the 1970s and 1980s—have also had a profound influence on congressional redistricting. Scholars have shown that many Southern districts, for instance, are almost nearly racially homogeneous. These structural forces have had a tremendous influence on the evolution of party politics. Blacks make up a small number of Democratic urban districts, while white voters, who tend to vote Republican, comprise

much of the South's rural and suburban areas. Congressional redistricting in the early 1990s, which had to be adjusted to equalize their populations, intensified this polarization. See Earle and Merle Black, *The Rise of Southern Republicans,* 331-332.

[159] Lawrence Douglas Wilder, a Richmond native, has been a fixture in Richmond and Virginia electoral politics since 1970. He was elected to the Virginia State Senate in 1970 and this election made Douglas Virginia's first black senator since Reconstruction. Wilder was also elected lieutenant governor in 1985. In 1989, Wilder was the first African American to be elected governor. Supreme Court Justice Lewis Powell swore him in. On L. Douglas Wilder see J.L. Jeffries, *Virginia's Native Son: The Election and Administration of Governor L. Douglas Wilder* (West Lafayette: *Purdue University Press,* 2000).

[160] *Shelby County v. Holder,* No. 11-5256, United States Court of Appeals for the District of Columbia Circuit, May 18, 2012, 41.

[161]Wang, *The Politics of Voter Suppression,* xiv.

[162] On legal efforts to stem the tide of racial redistricting see *Mobile v. Bolden* 446 U.S. 55 (1980) and *Shaw v. Reno* 509 U.S. 630 (1993). Congressional amendments to the VRA in the early 1980s, particularly Section 2, also influenced the future possibility of racial redistricting during the 1990s and beyond. See Kousser, *Colorblind Injustice,* 341-342.

[163] Leading voting rights scholar J. Morgan Kousser contended in 1999 that recent efforts by the Court and conservative thinkers "have threatened to reverse the course of minority political success during the Second Reconstruction." While completing this essay the Supreme Court considered and decided *Shelby County v. Holder*. In *Shelby*, the Court struck down Section 4 of the VRA (5-4). Section 4(b)'s triggering formula covers state/local districts with a history of political discrimination. These covered areas were bound by Section 4 to observe Section 5's preclearance clause. Presently, the districts previously covered by Section 4 are no longer obligated, as per the Court, to submit voting related changes to the Department of Justice. A majority of the Court held that Section 4 of the VRA "can no longer be used as a basis for subjecting jurisdictions to preclearance" because outdated coverage formulas place burdens on covered jurisdictions that are ostensibly no longer applicable to Southern racial politics.[163] While the Court issued no holding on Section 5, they held Congress responsible for devising a new triggering formula. The Court's decision (which cited high numbers of black voter turnout and elected officials as indicators for racial progress) renews a long history of Southern and Republican efforts to undermine federal supervision over voting related changes. Kousser, *Colorblind Injustice,* 2 and *Shelby County v. Holder*, 570 U.S. (2013).