Public School Desegregation in Virginia During the Post-Brown Decade,

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I. INTRODUCTION

Professor Davison Douglas recently painted a perceptive portrait of how several southern states, most notably North Carolina, were able to minimize integration of their public primary and secondary schools during the decade after the Supreme Court issued Brown v. Board of Education.¹ Professor Douglas found that these jurisdictions, by practicing token integration and casting their rhetoric in comparatively conciliatory tones, managed to appear moderate on the issue of school desegregation.² This approach enabled the states to limit judicial scrutiny of their public educational systems and to experience somewhat less integration than their southern neighbors, such as Georgia, South Carolina, and Virginia, which opposed integration more adamantly.³ The jurisdictions that seemed restrained also realized greater economic growth by creating perceptions of a climate conducive to business and of a society that enjoyed relatively harmonious racial relations.⁴

Professor Douglas ascertained that, ten years after Brown, North Carolina's public schools were less integrated than those of more defiant southern states,⁵ while North Carolina had

² See Douglas, supra note 1, at 94-97.
³ See id. at 93-97.
⁴ See id. at 96-97.
⁵ See id. at 139; Michael J. Klarman, Brown, Racial Change, and the Civil Rights Movement, 80 VA. L. REV. 7, 9-10 (1994); accord Davison M. Douglas, Read-
maintained a reputation for moderation on racial issues and was reaping the image's advantages in terms of enhanced economic development. Professor Douglas concluded that this "result could not have been surprising" in a region "historically beset with profound ironies when it came to matters of race."

Between 1953 and 1964, I attended public schools in Virginia, a state that Professor Douglas accurately characterizes as more recalcitrant than North Carolina. I, therefore, want to afford some personal recollections of this critical decade in national history and to compare important legal, political, and social developments involving integration in the Old Dominion with Professor Douglas's valuable account.

Public education deserves emphasis for several reasons. Both practically and symbolically, schools proved to be the public institutions whose desegregation was most controversial. Moreover, the efforts to integrate public education trenchantly illustrate the inherent limitations of essentially legal approaches to issues as intractable as racial discrimination. I shall also examine briefly additional public facilities, principally swimming areas, and libraries, and certain private facilities, such as restaurants and bus stations, that were open to the public.

I focus on Petersburg, Virginia, because I attended school there and because it is situated in Southside Virginia, an area of the Commonwealth that lies between the James River and North Carolina and between the City of Chesapeake and the

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6. Douglas, supra note 1, at 139.
7. Id. See generally VALDIMER O. KEY, SOUTHERN POLITICS IN STATE AND NATION (1949) (providing an overview of southern political systems); C. VANN WOODWARD, THE BURDEN OF SOUTHERN HISTORY (rev. ed. 1968) (discussing the relationship between southern history and contemporary events in the South).
Blue Ridge Mountains. Southside constituted the Old Dominion's "black belt"—a contiguous band of counties with the heaviest concentrations of blacks, named for its substantial black population and its "dark, rich soil that once supported the plantation aristocracy and its slaves."10 Indeed, blacks comprised almost half of Petersburg's approximately 40,000 residents at the time of the events that I recount. Southside resembles the deep South, and the region led Virginia's battle against the integration of public education, preventing the desegregation of every school in the Commonwealth for a half-decade.

Petersburg and Southside Virginia, by virtue of their location and history, were also unreconstructed, particularly in contrast to more metropolitan areas, such as Northern Virginia and Hampton Roads, and even in comparison to Richmond, the capital of the Confederate States of America. It is important to remember that white residents of Petersburg, Southside Virginia, and much of the South never have forgotten that Petersburg was the site where the Confederacy made its final stand in the "War of Northern Oppression" and that nearby Appomattox was the infamous place where the Confederate States surrendered.

Issues of race have always been a fixture of daily existence for all Southerners, both white and black. Nonetheless, I remember, as a child in a middle-class white family that resided in a segregated neighborhood, that racial issues affected my day-to-day activities infrequently, particularly in public school. We lived in the suburb of Walnut Hill, which, like almost every one of Petersburg's neighborhoods, was segregated. The deeds to most

of Walnut Hill’s lots included restrictive covenants, analogous to those invalidated by the Supreme Court in Shelley v. Kraemer,11 that precluded property transfers to persons of African descent.12

Housing patterns were racially stratified in the city and in the surrounding counties of Dinwiddie and Prince George. Practically all of the whites who lived in “integrated” neighborhoods resided there because they could not afford to live elsewhere. My parents, like many middle-income whites, hired a black woman to help manage the household by cooking, cleaning, and caring for the children; however, my daily interactions with her rarely raised what I perceived to be issues of race.

In January 1953, I began attending Walnut Hill Elementary School, a brand new, sprawling brick building that was surrounded by grassy playing fields and to which most students could ride their bicycles. The city had constructed the educational facility so that pupils could learn at a modern structure and suburban parents would not have to transport their children to and from D.M. Brown Elementary School. D.M. Brown, the deteriorating, obsolete edifice that most of the parents had attended, was located in a rather seedy, concrete and steel part of downtown Petersburg.

Students at Walnut Hill Elementary were the consummate Baby Boomers. We were principally the children of war brides and their husbands, who had successfully fought World War II and wanted to recapture time that they had lost in waging the conflict. The primary school served the Walnut Hill district—a large neighborhood that, by legal construct, did not include blacks. All of the teachers and students at the school were white. Moreover, Walnut Hill Elementary remained segregated

from 1953 until I graduated from Petersburg High School in 1964.

In my early years, Walnut Hill Elementary was the locus of an incident implicating race that remains indelibly imprinted on my memory.13 On the afternoon of May 17, 1954, the day that the Supreme Court issued Brown, my mother and I were driving past the school on a shopping trip. I was looking at the Petersburg Progress-Index, the afternoon newspaper that served our community. I asked my mother, a Pennsylvania native, what the one-inch high banner headline meant. She explained that the United States Supreme Court had struck down the "separate-but-equal" doctrine, thereby requiring public schools to integrate. I responded that I did not want to attend school with "niggers," and my mother administered the worst tongue lashing that I had experienced during my seven short years. Little did I know then that the Virginia General Assembly, principally by pursuing "Massive Resistance,"14 and the Petersburg School Board, by devising additional ingenious means of evading integration, would enable me to realize my uninformed, childish wish. How the state and local powers managed to preserve essentially segregated public schools for a decade with a degree of success nearly equal to North Carolina's is the story that I wish to relate.

II. PUBLIC SCHOOL INTEGRATION

Initial reactions to the Supreme Court's issuance of Brown varied significantly across the South.15 The political leaders of

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13. I rely substantially in this paragraph on Carl Tobias, Correspondence, 10 CONST. COMMENTARY 283 (1993).
several states promptly and stridently denounced the Court. For instance, Senator James Eastland of Mississippi vilified the Justices for perpetrating a "monstrous crime" in the "false name of law and justice." Governor Herman Talmadge of Georgia implacably proclaimed that the Court had reduced the Constitution to a "mere scrap of paper" and promised that the state would never integrate its schools during his tenure. Indeed, Georgia and South Carolina anticipated Brown by abrogating constitutional requirements that the jurisdictions provide public education.

A. Virginia

More measured, immediate responses emanated from much of the South, including states such as Virginia, which would eventually formulate and spearhead the strategy of Massive Resistance. Thomas Stanley, the Governor of the Old Dominion, pledged to devise a program that the Commonwealth's residents would find acceptable and that would honor the Court's edict. J. Lindsay Almond, Jr., the state's attorney general, similarly asserted that the Old Dominion would take a realistic approach to Brown and would attempt to make "some rational adjustment"; however, Senator Harry Flood Byrd, Sr., intransigently decried the Court for usurping states' rights and predicted that the opinion would precipitate a "crisis of the first magnitude."

22. Id. at 1-2 (quoting Byrd); Douglas, supra note 1, at 99 (quoting Almond). See
The mild initial reaction to Brown in much of the South rapidly gave way to vociferous opposition as political leaders quickly came to appreciate the political popularity among white voters of a strong stance against integration. A mere five weeks after Brown's issuance, Governor Stanley defiantly announced that he would employ all legal means at his disposal to maintain segregated public education, while twenty Southside Virginia legislators convened in Petersburg under state Senator Garland Gray's leadership and declared themselves "unalterably opposed" to school integration.

On August 30, 1954, the Governor appointed a commission comprised of thirty-two white members of the General Assembly to analyze Brown's effects and to make suggestions. While the Gray Commission was undertaking its study and developing recommendations, the Supreme Court issued a second opinion in Brown v. Board of Education (Brown II), which required school desegregation to begin at once and to proceed "with all deliberate speed."

Brown II was controversial in 1955 and has remained so. Some observers have asserted that the second Brown decision

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25. See Adkins v. School Bd., 148 F. Supp. 430, 434 (E.D. Va.), aff'd, 246 F.2d 325 (4th Cir.), cert. denied, 355 U.S. 855 (1957); see also Douglas, supra note 5, at 20 (discussing a similar North Carolina commission that included blacks); Robbins L. Gates, The Making of Massive Resistance 34-36 (1964) (discussing the first Commission meeting at which Senator Gray was elected Chair).


27. Id. at 300-01.

undercut the power and moral authority of the first. 29 Numerous states in the South seized upon Brown II to evade Brown’s mandate or treated Brown II as a signal that the Court would not rigorously enforce Brown. 30 Indeed, during the ensuing decade, the Court effectively departed the school integration field and left Brown’s implementation to southern circuit and district court judges while affording them little guidance. 31 Cooper v. Aaron 32 was the only major opinion involving desegregation that the Court issued between 1955 and 1963, and the controversy surrounding the integration of the Little Rock schools probably necessitated the Court’s decision in that case. 33

In November 1955, Virginia’s Gray Commission issued a report that expressed the view that separate public schools were in the best interest of both races. 34 The Commission also proposed that the General Assembly pass a pupil placement statute vesting total authority in local school boards to assign pupils in ways that would most effectively promote the welfare of the localities and their schools. 35 The Gray Commission recom-

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30. See, e.g., Wilkinson, supra note 9, at 490-92.


35. See Adkins, 148 F. Supp. at 434; see also Douglas, supra note 5, at 29-32 (asserting that the North Carolina commission recommended a similar plan of local control). See generally Note, The Federal Courts and Integration of Southern Schools:
mended as well that no child be required to attend integrated schools and that the state supply tuition grants to parents who objected to integration or who lived in areas without public schools.36

During spring 1956, Senator Byrd coined the term "Massive Resistance," and ninety percent of the congressional delegation from the South signed a "Southern Manifesto," castigating Brown as a "clear abuse of judicial power" and vowing to reverse it.37 During the same time period, the Virginia General Assembly and a majority of the states that comprised the old Confederacy adopted "interposition" resolutions.38 The Virginia resolution announced the Assembly's "firm intention to take all appropriate measures honorably, legally and constitutionally available . . . [in order] to resist [Brown's] illegal encroachment upon [Virginia's] sovereign powers" through judicial legislation.39

In late August 1956, Governor Stanley addressed a special session of the Assembly that convened to consider issues involving education.40 After proclaiming that the Old Dominion faced


36. See Adkins, 148 F. Supp. at 434; see also DOUGLAS, supra note 5, at 32-34 (asserting that the first North Carolina commission rejected, but second commission endorsed, tuition grant and school-closing proposals but noting that North Carolina never actually closed schools or paid grants). See generally GATES, supra note 25, at 62-65 (providing historical background of tuition vouchers in Virginia); MUSE, supra note 19, at 148 (same).

37. See JAMES W. ELY, THE CRISIS OF CONSERVATIVE VIRGINIA 43 (1976) (discussing the Southern Manifesto); GATES, supra note 25, at 118 (noting that the Southern Manifesto "bore the names of nineteen senators and eighty-two representatives"); MUSE, supra note 19, at 147 (discussing Byrd's coining of "Massive Resistance"); PRATT, supra note 10, at 6 (same). See generally BARTLEY, supra note 14, at 116-17 (discussing the origin of the Southern Manifesto and Massive Resistance).

38. Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia adopted resolutions. See Douglas, supra note 1, at 53; see also Epps, supra note 15, at 22-25 (giving a general history of interposition).


the "gravest problems since 1865" and that Brown struck at the "very fundamentals of constitutional government," the governor submitted "recommendations to continue [Virginia's] system of segregated public schools."41

During late September, the Extra Session of the Assembly passed a series of laws addressing desegregation that Professor Robert McKay of the New York University School of Law contemporaneously described as the "most intricate school legislation of all."42 The General Assembly found that the "mixing of white and colored children in any elementary or secondary public school . . . constitute[d] a clear and present danger affecting and endangering the health and welfare of the children and citizens."43

The legislature enacted measures that prohibited racially integrated schools from receiving any state appropriations while prescribing tuition vouchers for students whose public schools closed because they integrated.44 The Assembly then proceeded to pass a pupil placement statute that placed authority in a specially constituted state board, thus rejecting the Gray Commission's recommendation that it vest complete power in local school boards.45 In doing so, the Assembly enumerated several criteria relating to school administration, educational policy, and student health, welfare, and safety, that the board was required to consider in assigning pupils to schools.46 Per-
haps the most important factors were those respecting "efficient" operation of schools, which, by definition, proscribed the assignment of whites and blacks to the same educational facility. 47

The Assembly enacted this legislation after black plaintiffs had instituted litigation in the Federal District Court for the Eastern District of Virginia in an effort to enjoin the continuation of segregated public education in Norfolk and Newport News. 48 Both local jurisdictions defended the statutory scheme by requesting that Judge Walter Hoffman, an Eisenhower appointee, dismiss the plaintiffs' claims for failure to exhaust administrative remedies. 49

In Adkins v. School Board, 50 Judge Hoffman extensively reviewed the legislative developments that had transpired in the Old Dominion since Brown and considered the placement statute together with the remaining measures. 51 The court found the placement legislation to be unconstitutional on its face. 52 The judge concluded that the enactment precluded the assignment entity from authorizing any desegregation, as this action would automatically terminate state appropriations, and ascertained that the legislation's definition of "efficient" mandated consideration of race in making pupil assignments. 53 Finding the pattern of legislation clearly unconstitutional, the court flatly refused to require that the plaintiffs exhaust administrative remedies because those remedies were cumbersome and fruitless. 54

pra note 35, at 1449-59 (giving the history of several pupil placement statutes).

47. Pupil Placement Act, § 3(1), (8); see Adkins, 148 F. Supp. at 441-42. For discussion of anti-NAACP measures that the Assembly included in the legislative package, see PRATT, supra note 10, at 8-9; Walter F. Murphy, The South Counterattacks: The Anti-NAACP Laws, 12 W. Pol. Q. 371 (1959). See also TUSHNET, supra note 12, at 272-300 (analyzing cases challenging the anti-NAACP legislation); F.D.G. Ribble, Constitutional Law, 44 Va. L. Rev. 1350, 1352-57 (1958) (same).

48. See id. at 432-33. See generally Note, supra note 35, at 1459-65 (discussing the doctrine of exhaustion as it related to the pupil placement legislation).

49. See id. at 432-33. See generally Note, supra note 35, at 1459-65 (discussing the doctrine of exhaustion as it related to the pupil placement legislation).


51. See Adkins, 148 F. Supp. at 434-42.

52. See id. at 436.

53. See id. at 438-42.

54. See id. at 442-45. See generally Note, supra note 35, at 1461-63 (explaining
Professor McKay observed contemporaneously that the "most carefully planned of all the state proposals, and the most sophisticated in the nuances of the law, had proved also in a sense the most naive."

Six months later, the United States Court of Appeals for the Fourth Circuit affirmed the district court in a per curiam opinion. The appellate court rejected the exhaustion argument because it believed that the state placement statute afforded plaintiffs no adequate remedy. The panel observed that the district court's decree required neither that children be assigned to particular schools nor that they be assigned to racially integrated public schools. In discussing this decree, the court added that the two Brown decisions "do not compel the mixing of the different races in the public schools." On October 21, 1957, the Supreme Court denied certiorari.

During November 1957, J. Lindsay Almond, Jr., who had been the Old Dominion's attorney general and who had argued Brown II for Virginia, was elected Governor. In Governor Almond's January 1958 Inaugural Address, he proclaimed that desegregation of the public schools would not be allowed in Virginia.

During 1958, the Alexandria, Charlottesville, Norfolk, and

the concept of futility as it related to placement acts).

55. McKay, supra note 28, at 1226.
57. See Atkins, 246 F.2d at 326-27. See generally Note, supra note 35, at 1460-61 (discussing common reasons for not applying the exhaustion doctrine).
58. Atkins, 246 F.2d at 327.
Arlington County school boards promulgated local pupil placement plans. The boards adopted these local measures in part so that they would have formal procedures and criteria, as the state placement act had proved ineffective, and in part as a response to the judicial decision invalidating the state placement legislation.

In May 1958, the plaintiffs pursuing the Norfolk school desegregation litigation, black schoolchildren seeking admission to schools previously attended exclusively by whites, sought additional relief from Judge Hoffman. The court denied their petition because the plaintiffs had not requested transfers from the school board. By July 25th, the board's deadline for receipt of applications, 151 blacks had applied. On August 18, the Board denied every request, articulating four reasons: (1) the assignment of a few blacks among many white students would foster a harmful "sense of isolation," (2) the "peculiar circumstances would involve 'racial conflicts and grave administrative problems,'" (3) numerous applicants were scholastically ineligible to transfer, and (4) some black pupils who were qualified would have to transfer again in 1959, and that would not be "conducive to proper education."

Judge Hoffman invited the school board members to attend court on August 25th. The judge sustained the board's reasoning in rejecting the applications of students in the third and fourth categories, but he explained that potential isolation and racial tensions were legally deficient and asked the board mem-

62. See Meador, supra note 50, at 530. See generally PRATT, supra note 10, at 22-25 (discussing the implementation of pupil placement boards).


64. See School Bd. v. Beckett, 260 F.2d 18 (4th Cir. 1958) (describing events leading to the affirmance of the district court's denial of Virginia's motion to delay integration by one year); James, 170 F. Supp. at 334; see also PRATT, supra note 10, at 10 (describing litigation that led to school closings in other Virginia localities); Ribble, supra note 47, at 1350-52 (analyzing Virginia litigation).


66. Id.


bers to reconsider. 69 On August 29th, the school board reported to the court that it would assign seventeen named plaintiffs who were scholastically eligible to six secondary schools that only whites had previously attended. 70 The board also sought to defer the black students' enrollment for a year. 71 Judge Hoffman denied that request on September 2nd with leave to reconsider in light of *Cooper v. Aaron*, 72 an important school desegregation case that was before the Supreme Court. 73

The Court's issuance of its opinion in *Cooper* on September 12, 1958, led Judge Hoffman to file a memorandum on September 18th rejecting the school board's deferment request. 74 Five days thereafter, the school board sought a stay from the Fourth Circuit, which denied that petition but offered to convene a special session of the court in order to consider the appeal's merits. 75

On September 27th, the Fourth Circuit heard the appeal and affirmed, signing an order that day and subsequently filing an opinion. 76 Immediately after the court ruled, the board assigned the seventeen black students to the six schools in controversy, which previously were comprised solely of white students. 77 The same day, Governor Almond invoked the authority of the school-closing law and issued a proclamation declaring that the six schools were closed. 78

In response to Governor Almond's proclamation, several white schoolchildren who would have been enrolled in those educational facilities and their parents promptly filed suit seeking preliminary and permanent injunctions restraining the enforcement, operation, and execution of most of the measures that the General Assembly had passed during its 1956 Extra Session. 79

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70. *Id.; accord Beckett*, 260 F.2d at 19-20.
72. 358 U.S. 1 (1958); see supra note 33 and accompanying text.
73. *See Beckett*, 260 F.2d at 20.
74. *Id.
75. *Id.
76. *Id.* at 18 (issuing opinion on October 2nd).
78. *See id.* at 334-35 & n.3 (quoting the text of the governor's proclamation).
79. *See id.* at 333; *see also supra* notes 42-49 and accompanying text (describing the measures that the Extra Session had passed). *See generally Ribble, supra* note
ents were concerned that the legislative package would deprive their children of public education. Although these parents probably preferred segregated schools to integrated ones, they favored desegregated facilities to none at all. A three-judge court, consisting of Fourth Circuit Judges Clement Haynsworth and Simon Sobeloff and District Judge Hoffman, convened to hear the suit because the plaintiffs sought injunctive relief against several state officials. On January 19, 1959, the court held that the school-closing statute was unconstitutional.

First, the three-judge panel exhaustively reviewed the history of efforts by the state authorities and the local school board in response to Brown. The court then examined the condition of public education in the city of Norfolk since Governor Almond had ordered the six schools closed the preceding September. The panel initially observed that the seventeen black students whom the school board had assigned to facilities previously attended by whites were "not in attendance at any school." The court next considered the educational circumstances of the 10,000 white children who would have enrolled at the closed facilities and ascertained that nearly half of those pupils had received some private tutoring but that more than a quarter had been deprived of any education at all. The court found that plaintiffs' counsel had appropriately characterized the plight of the students and their teachers as "tragic."

The three judges held that the closing of public schools violated the Equal Protection and Due Process Clauses of the Four-

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47, at 1352-57 (describing six acts, relating to NAACP cases, passed by the Extra Session).
80. See Ribble, supra note 47, at 1351.
82. James, 170 F. Supp. at 337.
83. See id. at 333-35. See generally PRATT, supra note 10, at 10 (describing the closing of Virginia schools in 1958 under state massive resistance laws).
84. James, 170 F. Supp. at 335.
85. Id. at 335-36. See generally PRATT, supra note 10, at 10 (describing the closing of Virginia schools under the state massive resistance laws).
86. James, 170 F. Supp. at 336. See generally MUSE, supra note 19, at 111-13 (describing the tensions that ensued when black students were admitted to schools in five southern cities that had previously been all-white).
teenth Amendment. The panel relied substantially on the recently issued opinion of the Supreme Court in Cooper v. Aaron. In Cooper, the Court declared that state support of segregated public education contravened the Equal Protection Clause and proclaimed that students' rights "not to be segregated on racial grounds in schools so maintained [were] so fundamental and pervasive" as to encompass due process.

On the same day that the three-judge panel invalidated the state legislation, the Virginia Supreme Court issued an opinion in Harrison v. Day, holding that certain of those statutory requirements violated several provisions of the Virginia Constitution that essentially prescribed the creation and maintenance of free public schools in the Commonwealth. The state court evaluated the legislation's validity in the context of the Virginia Comptroller's inquiry about the Old Dominion's reimbursement of local school boards that paid tuition grants. The Virginia Supreme Court also refused to consider whether the statutes contravened the Fourteenth Amendment of the Federal Constitution as interpreted by the Supreme Court in Brown and Cooper. The state court gratuitously deplored the "lack of judicial restraint evinced by that court in trespassing on the sovereign

87. James, 170 F. Supp. at 336-37. See generally PRATT, supra note 10, at 11 (discussing the court's ruling in James and the governor's responses to it).

88. 358 U.S. 1 (1958); see also James, 170 F. Supp. at 337 (analyzing and applying Cooper).

89. Cooper, 358 U.S. at 19. See generally FREYER, supra note 33 (describing the city of Little Rock before Cooper, the Court's ruling, and its aftermath); PRATT, supra note 10, at 11 (discussing the Court's ruling in Cooper and the governor's response to it); TRIBE, supra note 12, at 33-36, 40-41 (discussing the Court's decision in Cooper in relation to Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)); Daniel Farber, The Supreme Court and the Rule of Law: Cooper v. Aaron Revisited, 1982 U. ILL. L. REV. 387 (discussing the constitutional history leading up to Cooper and analyzing Cooper under the Supremacy Clause).

90. 106 S.E.2d 636 (Va. 1959).

91. See id. at 645-46; see also PRATT, supra note 10, at 11 (discussing the court's ruling in Harrison); Ribble, supra note 50, at 1410-12 (discussing the opinions in Harrison). The federal court apparently delayed the issuance of its ruling until the Virginia Supreme Court had spoken on the same January 19th date, which was General Robert E. Lee's birthday and a Virginia state holiday. Epps, supra note 15, at 25.

92. Harrison, 106 S.E.2d at 639.

93. Id. at 647.
rights of [the] Commonwealth" and remarked that the legisla­tion represented an "understandable effort to diminish the evils expected from the decision in the Brown case." 94

Notwithstanding the somewhat unusual manner in which Harrison arose, the court's invocation of the Virginia Constitution, and the court's unwarranted observations, this decision and the Fourth Circuit's opinion in James v. Almond effectively under­cut the Old Dominion's defiance. Professor Alexander Bickel astutely commented that the "hard judicial attitude [evidenced in the two cases] achieved what had quite evidently been its aim. It broke the back of massive resistance." 95

When Governor Almond was forced to announce the public schools' opening, he committed an act that many Virginians, particularly in the Commonwealth's political establishment, considered to be an unpardonable sin for which they never forgave him. The Virginia Industrialization Group, an entity comprised of ninety state business leaders, apparently influenced the gov­ernor by persuading him, in December 1958, that Massive Resis­tance was impeding economic development substantially. 96 "Al­mond gave one last never-say-die speech, then made a dramatic about-face. On January 28, 1959, he spoke to the General As­sembly and bowed to the inevitable. Five days thereafter, twenty-one black children entered formerly all-white schools in Arlington and Norfolk. Massive resistance was over." 97

94. Id.

95. Alexander M. Bickel, The Decade of School Desegregation: Progress and Prospects, 64 COLUM. L. REV. 193, 204 (1964); see also Epps, supra note 15, at 25 (de­scribing the rise of the "Massive Resistance" era and the court's formal destruction of it in James).


97. JEFFRIES, supra note 10, at 153; see also PRATT, supra note 10, at 11 (report­ing Almond's final defiant pronouncement). In 1957, Charlotte, Greensboro, and Winston-Salem schools became among the first in the South to integrate by granting 12 black students' requests to transfer to previously all-white schools. DOUGLAS, supra note 5, at 44.
"The Fourth Circuit then assimilated Virginia, which enacted a new pupil placement statute and began to administer it, to North Carolina."98 During the next several years, the appellate court thus refused to require that district courts entertain class action litigation seeking comparatively broad integration as long as school boards under the pupil placement measures admitted selected blacks to schools previously attended by whites.99 The Fourth Circuit only permitted a specific black plaintiff to sue on his or her own behalf—after exhausting administrative remedies prescribed in the legislation—and required the plaintiff to prove that the board had denied the individual's application expressly or necessarily for reasons that implicated race.100 The court's approach resulted in a small number of black students securing transfers, but the Fourth Circuit refused to recognize the effective continuation of segregated education and the federal courts implemented "no comprehensive plan."101

By 1962, however, the Fourth Circuit had modified the manner in which it proceeded. The court acknowledged that class actions were appropriate and rejected the requirement that individual plaintiffs must exhaust administrative remedies, refusing to tolerate any longer such practices as "interim measures only."102 Illustrative of the circuit's change in attitude

98. Bickel, supra note 95, at 204; see also VA. CODE ANN. §§ 22-232.1 to .31 (West Supp. 1962) (including Virginia pupil placement laws); PRATT, supra note 10, at 24-25 (describing the first major challenge in Richmond to the pupil assignment plan). See generally Epps, supra note 15, at 25-26 (discussing the demise of Massive Resistance); Note, supra note 35, at 1451-55 (discussing the rise of pupil placement legislation).


100. These reasons had to be "unmixed with other plausible reasons, such as residential zoning, overcrowding in the white school, or the pupil's lack of aptitude as revealed by various tests," while the courts rather indulgently regarded such plausible reasons. Bickel, supra note 95, at 205.

101. Id. at 205-06.

102. Green v. School Bd., 304 F.2d 118, 124 (4th Cir. 1962); see Bickel, supra note
were 1962 cases involving desegregation of the Roanoke and Charlottesville public school systems in which the court "pierced the veil of tokenism, looked beneath at continued biracial zoning, and demanded more comprehensive action." In the Roanoke litigation, the Fourth Circuit did not require the plaintiffs to exhaust administrative remedies prescribed in pupil placement legislation, ascertained that the city's methods for assigning students were infected with racial discrimination, and ordered Roanoke to develop a plan for complete compliance.

The appellate court evinced even greater stringency in the Charlottesville case. The court first found it "clear that little change ha[d] been made in the administration of the elementary schools from that which prevailed when the schools were completely segregated" and that "little progress in the integration of the schools" would occur if the school board were "permitted to pursue the policy which, after mature consideration, it ha[d] deliberately adopted." The court then scrutinized and invalidated the board's plan for elementary schools because its purpose and effect were to "retard integration and retain the segregation of the races."

Soon thereafter, the pace of public school integration began to quicken in response to the actions of all three branches of the federal government. Congress passed the Civil Rights Act of 1964, authorizing the Department of Health, Education and

95, at 206-07 (discussing the Fourth Circuit's ruling in Green).
103. Bickel, supra note 95, at 206; see Dillard v. School Bd., 308 F.2d 920 (4th Cir.), cert. denied, 374 U.S. 827 (1963) (challenging the Charlottesville school system); Green, 304 F.2d 118 (challenging the Roanoke school system). See generally Rosen, supra note 33, at 508-10 (discussing the unequal administration of pupil placement programs).
104. See Green, 304 F.2d at 124; see also Marsh v. County Sch. Bd., 305 F.2d 94 (4th Cir. 1962) (holding unconstitutional Roanoke's administration of pupil placement). See generally Note, supra note 35, at 1460-61 (discussing the inadequacies of administrative remedies in the school segregation context).
105. See Dillard, 308 F.2d 920; see also Rosen, supra note 33, at 507 n.53 (stating the Fourth Circuit's holding in Dillard); The Dillard Case, Desegregation, and the Doctrine of Non-Integration: A Review, 49 VA. L. REV. 367 (1963) (analyzing Dillard).
106. Dillard, 308 F.2d at 922.
107. Id. at 923; see also Jackson v. School Bd., 321 F.2d 230 (4th Cir. 1963) (affording an additional example of the Fourth Circuit's increasingly rigorous approach); Bradley v. School Bd., 317 F.2d 429 (4th Cir. 1963) (same).
Welfare to terminate the federal funding of school districts that resisted integration, and numerous districts desegregated out of concern that they might lose those resources.\textsuperscript{109} The Supreme Court's resolve to enforce \textit{Brown} with greater rigor apparently stiffened during the mid-1960s. This phenomenon was evidenced in opinions that required the Virginia localities of Prince Edward and New Kent counties to undertake much more vigorous desegregation efforts.\textsuperscript{110} Judge John Minor Wisdom also wrote several important Fifth Circuit decisions that imposed affirmative requirements on school districts to integrate and authorized increased judicial supervision of public education.\textsuperscript{111} For exam-
ple, Judge Wisdom observed that the "only adequate redress for a previously overt system-wide policy of segregation directed against Negroes as a collective entity is a system-wide policy of integration."112

B. Petersburg

Public officials in Petersburg monitored these activities in the rest of Virginia and the South.113 The developments seemed to leave the Petersburg public school system, which remained completely segregated, essentially untouched.114 Before 1958, Petersburg simply took no steps to integrate its schools and apparently deferred to state authorities, such as the General Assembly and the state pupil placement board.115 The Petersburg School Board did not adopt a local pupil placement plan, and it acted as if the desegregation litigation that involved other locales in the Commonwealth were irrelevant to public education in the city.116

Until 1958, the General Assembly's efforts in fashioning, implementing, and defending Massive Resistance and the Petersburg School Board's inaction enabled my white classmates and me to complete our primary school education at fully segregated Walnut Hill Elementary. There were no black students and no black teachers at Walnut Hill. We had no interaction with our counterparts who were enrolled in historically black primary schools, and the only contact that most of us had with blacks involved the domestic employees who labored in our households.

During 1958, however, Reverend Wyatt Tee Walker—a civil rights advocate and a Southern Christian Leadership Conference official who had become the minister at Petersburg's Gillfield

113. See DOUGLAS, supra note 5, at 25-26; PRATT, supra note 10, at 4.
114. See PRATT, supra note 10, at 4-10.
115. See id.
116. See id. at 4-11. The Richmond School Board acted similarly. See id. at 19-20.
Baptist Church and who knew of the Adkins case—sued on behalf of his school-aged children seeking the desegregation of Petersburg's public schools. Reverend Walker filed the case in the Richmond Division of the United States District Court for the Eastern District of Virginia, where the district judge allowed the litigation to languish for several years, apparently because the plaintiffs had failed to exhaust their administrative remedies by seeking transfers.

After 1958, the Petersburg School Board, like numerous others, developed and applied several stratagems for maintaining segregated public education and, failing that, for delaying any integration that was more than token. Geographically centered assignment was one such technique. Placing pupils in terms of their proximity to educational facilities maintained the segregated status quo at Walnut Hill Elementary School because no blacks lived in the relevant neighborhood.

Assignment premised on geography had less efficacy in some areas of the city. For example, more black schoolchildren probably lived near A.P. Hill Elementary School (named for a famous Confederate general), than did white schoolchildren. The relatively centralized locations of the city-wide junior high and high schools that whites had always attended concomitantly complicated efforts to employ geography as a means of perpetuating segregation. Another measure that the Petersburg School Board and a number of additional districts devised and employed was "freedom of choice," whereby students could ostensibly select the schools that they wished to attend.

117. See Tobias, supra note 9, at 856-57; see also TAYLOR BRANCH, PARTING THE WATERS 245, 284-86 (1988) (detailing Reverend Walker's activities in Virginia and his appreciation of the Norfolk school closing).

118. See supra notes 100-04 and accompanying text (discussing Fourth Circuit treatment of exhaustion).

119. See DOUGLAS, supra note 5, at 32-36 (discussing delay tactics in North Carolina).

120. See JEFFRIES, supra note 10, at 141; PRATT, supra note 10, at 27.

121. For discussion of freedom of choice, see KULL, supra note 109, at 176; PRATT, supra note 10, at 40-55; McKay, supra note 10, at 1053-55; Wilkinson, supra note 9, at 537-40. "Freedom of choice" had a deceptively egalitarian ring. The "problem with freedom of choice was the variance between theory and practice." Id. at 539; see also Walter Gellhorn, A Decade of Desegregation—Retrospect and Prospect, 9 UTAH L. REV. 3, 5-8 (1964) (discussing delay of desegregation).
The deployment of these mechanisms probably enabled the school board to buy considerable time. In the late 1950s and early 1960s, some black parents and schoolchildren may have been unaware that the students could apply to transfer schools. Many of those blacks who were cognizant of this option may have been reluctant to pursue it for numerous reasons. For example, most black parents and students would have confronted a bewildering array of obstacles in attempting to transfer or in exercising their freedom to choose. A number of black parents and pupils probably found the application process daunting. Some may have been unwilling to expend innumerable hours completing lengthy written forms, collecting and furnishing significant quantities of written documentation, and answering irrelevant or insulting questions in personal interviews. Other adults and children may have been especially reluctant to devote substantial time and effort to a frustrating process in which they probably would encounter intransient racist resistance, and ultimately, rejection.

Many black parents also worked for whites who could impose economic pressures on their employees. Numerous black students who considered applying knew that, in the extremely unlikely event that the school board granted their transfer requests, white pupils would scrutinize their every act, ridiculing and demeaning them. This hostile learning environment that awaited the black students may well have discouraged them. Some blacks might have been uninterested in attending

122. See Wilkinson, supra note 9, at 539-40 (listing obstacles facing parents and students); see also DOUGLAS, supra note 5, at 47-48 (discussing the barriers that black parents faced when challenging segregation in the courts).
123. See DOUGLAS, supra note 5, at 47-48; PRATT, supra note 10, at 42-43; Hodding Carter, Desegregation Does Not Mean Integration, N.Y. TIMES, Feb. 11, 1962, § 6 (Magazine), at 21, 72.
124. See DOUGLAS, supra note 5, at 72 (describing the admission of Dorothy Counts to Harding High School in Charlotte); MUSE, supra note 19, at 114-15 (recounting the story of Dorothy Counts, who “was pursued by a rowdy crowd of juveniles . . . jeering, spitting, and throwing pebbles, sticks and paper balls”); U.S. COMM’N ON CIVIL RIGHTS, SOUTHERN SCHOOL DESSEGREGATION, 1966-67, at 88 (1967); see also WILLIAM H. CHAFE, CIVILITIES AND CIVIL RIGHTS: GREENSBORO, NORTH CAROLINA, AND THE BLACK STRUGGLE FOR FREEDOM 100-02 (1980) (discussing hardships that the first black high school students in Greensboro experienced); PRATT, supra note 10, at 32-33 (discussing the experiences in Richmond).
schools formerly designated for whites or may have wanted to maintain exclusively black schools, particularly if they had equal resources. Not surprisingly, few blacks sought transfers or exercised their freedom to choose in the late 1950s and early 1960s.

When some black students, despite insurmountable hurdles, eventually did apply, the Petersburg School Board relied on various delaying techniques and questionable tactics to avoid integrating the schools. One approach was the board's attempt to freeze students in those schools in which they had originally matriculated. This meant that whites who began their primary education at Walnut Hill Elementary would remain there for five years and that blacks who commenced their primary schooling at racially segregated elementary facilities with fewer resources could not leave.

When students obviated this difficulty by finishing their schooling at specific elementary or junior high facilities and then seeking to transfer, the school board had various responses. It could consider applications to be untimely, treat requests as incomplete and demand voluminous supplemental material that was costly and inconvenient to supply, or require personal interviews in which members asked burdensome, meaningless, or humiliating questions. The board also could find the applicants themselves scholastically deficient by employing unfair, irrelevant, or onerous testing mechanisms.

Those blacks who had the enormous fortitude and stamina to complete the arduous administrative process, but whose transfer requests the Board rejected, may have lacked the wherewithal to continue the fight by appealing adverse determinations. Many of these individuals probably had limited time, money, and energy to complete their applications, much less to pursue courtroom

125. See JEFFRIES, supra note 10, at 141; PRATT, supra note 10, at 13-14, 31, 36, 42; Wilkinson, supra note 9, at 539-40. See generally Rosen, supra note 33, at 508-10 (discussing the assignment system in Roanoke).

126. See JEFFRIES, supra note 10, at 141 (discussing this practice in Richmond).

127. "Sometimes birth and health certificates, personal appearances and notarized forms were required." Wilkinson, supra note 9, at 539. See generally DOUGLAS, supra note 5, at 63 (discussing the effect of attempted transfers).

128. See Wilkinson, supra note 9, at 540 (discussing academically unprepared black students).
Even those blacks who might have entertained the thought of filing cases could have been dissuaded by the discouraging prospect of suing in the Richmond court of the federal judge who had delayed resolution of the *Walker* desegregation litigation since 1958.  

Very few white parents or pupils manifested much interest in those schools that blacks previously had attended. Whites simply had little reason to enroll in educational facilities that had never received as many resources, to attend schools in which the whites knew no students and would constitute a tiny minority, and to undertake an act for which they would be ostracized. In short, whites, who technically possessed considerable freedom to choose, had minimal incentive to select schools previously attended solely by black schoolchildren. In contrast, blacks had little actual freedom to choose, and even the small number who exercised this option were unlikely to be successful.

These machinations of the state and local school authorities easily enabled my white classmates and me to conclude three years at Anna P. Bolling Junior High School and most of our four years at Petersburg High School with little awareness that our city-wide schools might be desegregated. We did not know of the efforts that ostensibly had been undertaken on our behalf. For example, the school board automatically enrolled at Bolling Junior High all white students who completed their education at Walnut Hill Elementary or any other primary facility previously attended by whites while enrolling no pupils who finished their schooling at any of the black elementary schools, even though a number of blacks lived closer to that junior high school.

Many students from Walnut Hill actually were more conscious

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130. See supra notes 117-18 and accompanying text; see also PRATT, supra note 10, at 40-55 (providing additional helpful analysis of freedom of choice); Wilkinson, supra note 9, at 539-49 (same).

131. See PRATT, supra note 10, at 32, 42; Wilkinson, supra note 9, at 539.

132. See PRATT, supra note 10, at 32, 42.

133. See Wilkinson, supra note 9, at 539-40.
of class than of race. These Walnut Hill students, the families of
whom owned expensive homes, drove fancy cars, and wore nice
clothes, believed themselves superior to the blue collar pupils.
Numerous whites from Walnut Hill had no greater contact with
working-class whites than with blacks and accorded them little
more respect. A number of the blue collar students justifiably
resented the arrogant whites and vented this frustration by
beating them up during recess and lunch. I escaped the terroriz­
ing by playing basketball on the playground with working-class
pupils who did not participate in the fights.134

For many white students, the years in high school passed
with few concerns about integration. Desegregation loomed
somewhat larger only during my senior year, and what actually
occurred at that time was mere tokenism. Even in high school,
most white students remained oblivious to the measures that
the city had instituted to limit integration. Petersburg High
School had no black students or teachers throughout my fresh­
man, sophomore, and junior years, and I had virtually no con­
tact with my black contemporaries.

To be sure, our faculty taught, and white pupils believed, that
aggressive Yankees started the Civil War and bludgeoned into
submission a valiant, severely disadvantaged South for reasons
that were imperceptibly related to race. One history teacher
delighted in proclaiming that John Wilkes Booth’s birthday
should be celebrated as a national holiday. Whites made depre­
cating comments about blacks and delivered racial epithets in
educational and social settings. Much of my exposure to this
type of activity came when playing basketball for the Petersburg
Crimson Wave against schools with teams named for venerable
Virginia lawyers, such as the John Marshall Justices. The most
egregious incidents involved the apparently insatiable sexual
drives of adolescent white boys from Walnut Hill. Ironically, the
most virulent racists would boast in colloquial phrasing too

134. Integration was closely linked to class. For example, in Little Rock, integration
occurred first at Central High School, attended primarily by working-class whites,
rather than at the school in Pulaski Heights, which was principally attended by
upper-class whites. See Freyer, supra note 33, at 16-17. In junior high school, I
remember having as few interactions with blacks and as few discussions of race as I
had in elementary school.
crude to print how they had proven their manhood in Petersburg's black neighborhoods.\textsuperscript{135}

When a local attorney learned that I was considering attendance at law school after college, he told me a similarly outrageous story. The attorney offered as part of the job description what a lawyer might do for his imaginary white male client who had impregnated a black woman. The attorney explained that the lawyer would offer the woman sufficient money to leave town and keep quiet, thereby protecting his client's interests. To this day, I have wondered why the attorney thought that this example would encourage me to attend law school.

In my senior year, the Petersburg School Board, like many others, seized on the dilatory tactic of token desegregation by permitting a tiny number of blacks to attend Petersburg High School. I remember the first day of school in September 1963 as though it were yesterday. I was standing on the front steps of Petersburg High School preparing to begin my senior year. We were cocky and preoccupied with the trivialities that absorb teenagers—clothes, music, and sports. The preppies among us were sporting brand new madras shirts, Villager blouses, and Weejuns.

I recall comparing my summer tan with that of one of the cheerleaders. We were as dark as many blacks whom the school board would not admit to our high school; however, the irony was completely lost on us. I had finished what I considered to be a successful summer, finely honing my basketball skills and waiting to be a high school hero. When the bell rang forcing us all indoors, several black students entered the building and became members of the class of 1964. In this utterly uneventful, anticlimactic manner, Petersburg formally integrated its public schools.

The opening of a new Petersburg High School in 1970 represented the consummate irony of the city's desegregation battle. The school board originally had authorized the building's construction in a location that was most distant from neighborhoods in which blacks resided, apparently to rely on patterns of residential segregation when placing students in schools. The Su-

\textsuperscript{135} See \textit{John Dollard, Caste and Class in a Southern Town} 139 (1937).
Supreme Court criticized pupil assignments that were premised on geography immediately after construction commenced but before the new structure opened.136 This meant that considerable integration soon followed in Petersburg and that blacks became the principal beneficiaries of the state-of-the-art high school.

During the late 1960s, the pace of public education's integration began to accelerate. For several years, many parents of white schoolchildren continued to support the public school system. As integration of the Petersburg public schools increased, however, whites reduced their economic, moral, and other support of public education. By the early 1970s, most of the white parents whose children attended public schools were individuals who lacked sufficient resources to pursue other options.

From the time that the Supreme Court issued Brown, numerous white parents and pupils began exploring various alternatives to public education. Some parents sent their children to preparatory schools, such as Episcopal High School in Alexandria or St. Christopher's School in Richmond. A few students attended military schools, like those advertised in the New York Times Sunday magazine, or Saint Joseph's, the local parochial school.

A number of white parents also created Bollingbrook Day School, which had such limited resources that it probably afforded a considerably poorer education than did the public schools. I remember neighbors who purchased shares in the venture as a hedge for their children against threats that the public schools would close or would be fully integrated. I also recall a prominent local physician who sent his two children to Bollingbrook and accepted state tuition vouchers when doing so. My mother severely criticized the doctor for abandoning public education and for taking the vouchers. The students who remained in public schools promptly ostracized the physician's children.

No one in Petersburg established a Christian Academy like those that sprung up across much of Southside Virginia and the

136. See Goss v. Board of Educ., 373 U.S. 683 (1963); PRATT, supra note 10, at 28; Wilkinson, supra note 9, at 522-23. See generally JEFFRIES, supra note 10, at 154-56 (discussing school construction in Richmond); TRIBE, supra note 12, at 1490 (discussing the Court's decision in Goss).
rest of the South after Brown. As public school integration increased, however, a growing number of parents sent their children to Tidewater Academy, which was located twenty miles away. That activity exposed the hypocrisy of certain observers who criticized busing to achieve integration. 137

III. INTEGRATION OF OTHER PUBLIC FACILITIES IN PETERSBURG

This account of public school desegregation epitomizes similar developments involving the integration of other public facilities. For instance, during 1958, the Petersburg City Council voted to close Wilcox Lake, a substantial body of water owned by the city that was popular with white residents who had long used it for swimming, fishing, and picnicking. 138 The Council apparently decided to terminate public use of the facility because it feared that Reverend Walker and other black leaders would seek to integrate the lake 139 and because a 1958 Supreme Court decision seemed to mandate integration. 140

I remember Wilcox Lake as one of the few oases available to local residents who sought relief from the unbearable heat and humidity that plague Southside Virginia during the summer. The recreation area also served as a social gathering spot for several generations of white Petersburg residents. My clearest recollections are of high school football players who served as lifeguards, high school cheerleaders who worked in the bathhouse or the snack bar, and 1950 red Fords—the vehicle of choice for teenage males.

In 1963, the city council reopened Wilcox Lake for fishing, but the lake has remained closed for swimming to this day. 141 The

137. Professor Douglas identifies the closely related irony that “busing was used extensively until the mid-1960s to maintain racially defined public schools” in North Carolina. DOUGLAS, supra note 5, at 44; accord PRATT, supra note 10, at 58.
138. See Tobias, supra note 9, at 857.
139. See id.
140. See New Orleans City Park Improvement Ass'n v. Detiege, 358 U.S. 54 (1958) (per curiam); see also Holley v. City of Portsmouth, 150 F. Supp. 6, 7 (E.D. Va. 1957) (involving segregation of golf courses). See generally DOUGLAS, supra note 5, at 58 (discussing "behind-the-scenes" desegregation); McKay, supra note 9, at 709-13, 717-20 (discussing the legal challenges to the segregation of parks and public swimming pools).
141. See Tobias, supra note 9, at 857; see also MUSE, supra note 19, at 171 (report-
council members apparently thought that a partial reopening was more likely to withstand legal challenge and to preserve what they probably viewed as the most important form of segregation. The Council seemed very concerned about whites and blacks swimming in the same water body, interracial socializing, and all of the problems that the Council seemingly believed could result from those activities.

Lee Park Golf Course, a municipal golf course that Petersburg named for General Robert E. Lee, may have presented an easier case on the law and the facts. During 1955, the Supreme Court had issued a per curiam opinion that clearly required integration. Moreover, this facility's integration might have seemed comparatively unthreatening. Relatively few blacks may have wanted, or could have afforded, to play golf, and the tiny number who did would only be sharing the course, the restroom, and the water fountains. When blacks requested that they be allowed to use the facility, the city simply acquiesced. In the final analysis, Lee Park's desegregation probably had greater symbolic than actual importance because golf was one of the most significant trappings of white privilege. Indeed, many blacks probably were more concerned about earning a decent wage than playing golf.

142. See Holmes v. City of Atlanta, 350 U.S. 879, 879 (1955) (per curiam); see also Holley, 150 F. Supp. at 7 (abolishing the separate-but-equal doctrine in the context of golf courses). See generally DOUGLAS, supra note 5, at 60-61 (describing an integration dispute at a municipal golf course in Charlotte, North Carolina); McKay, supra note 9, at 713-17 (describing similar golf course cases that arose in Florida and Texas).

143. Petersburg treated the public basketball and tennis courts similarly, perhaps for numerous analogous reasons, such as the Supreme Court rulings in Detiege, 358 U.S. 54, and Holmes, 350 U.S. 879, and the Eastern District's ruling in Holley, 150 F. Supp. 6, which required desegregation of municipal facilities. See also Wright v. Georgia, 373 U.S. 284, 292 (1963) (invalidating the prosecution of blacks for peacefully playing basketball on a public playground). See generally Entin, supra note 110, at 773-81 (describing Hermitage Methodist Homes of Virginia, Inc. v. Dominion Trust Co., 387 S.E.2d 740, 741 (Va.), cert. denied, 498 U.S. 907 (1990), a case involving a conveyance of land that was contingent upon the exclusion of blacks from
The Petersburg City Council voted to close the public library in May 1960, after hundreds of black residents staged several sit-ins seeking the library's integration. The building that housed the library was a private residence that Clara McKenney had donated to the city in 1924. The bequest provided that the main and second floors were to be maintained as a library for whites and that the basement, which was served by a separate entrance, was to be a library for blacks. The gift probably was considered progressive at the time of the donation because it made some provision for blacks.

When blacks peacefully entered the library to protest its segregation, Petersburg convicted in municipal court a number of the demonstration's participants, including Reverend Walker, for trespassing; however, the charges were dismissed on appeal to Petersburg Hustings Court. Petersburg's black citizens also filed suit in the Richmond federal district court seeking to integrate the library. The library remained closed until November, when the city council reversed its decision and opened the facility to all residents.

Local politics in Petersburg reflected similar attitudes. Thorough exposition of the machinations that attended the city council's desegregation must await subsequent treatment, but Petersburg politics deserve brief examination here. Whites...
comprised only a bare majority of the city's population, but state and local authorities formulated and applied numerous measures to dilute black voting strength. For example, Virginia imposed various restrictions on suffrage, such as literacy tests and poll taxes, which meant that a relatively small number of blacks actually registered and voted.\textsuperscript{151}

The city concomitantly devised and employed other techniques to limit black electoral power. For instance, when comparatively few blacks voted, city-wide or at-large balloting enabled whites to maintain control. Once more, when blacks secured the franchise and approached a majority of Petersburg's electorate, the city resorted to annexing the overwhelmingly white suburbs in the surrounding counties.\textsuperscript{152}

During the early 1960s, whites who held moderate political views on racial issues commanded a Council majority, a phenomenon that the library's reopening probably evidenced. In 1964, a white candidate who favored segregation chose to run, and a black candidate who supported integration decided to seek office. Both won election, which splintered the Council, effectively destroying the moderate coalition that had existed. Electoral politics thereafter became increasingly bitter and divided along racial lines. During 1968, blacks threatened to capture a majority of the city council's seats. This development apparently terrified many whites and led to an "unusually large turnout of white voters in the white wards, as a result of which [the black incumbent] was defeated and the second black candidate also lost."\textsuperscript{153}

\begin{itemize}
\item \textsuperscript{151} See Harper v. Virginia Bd. of Elections, 383 U.S. 663, 664 n.1 (1966) (describing a provision in Virginia's Constitution that required imposition of a poll tax); Lassiter v. Northampton Election Bd., 360 U.S. 45, 47 (1959) (describing a provision in North Carolina's Constitution requiring imposition of a literacy test); see also City of Petersburg, 354 F. Supp. at 1025 (describing the restrictions on the ability of blacks to vote). See generally STEVEN F. LAWSON, BLACK BALLOTS: VOTING RIGHTS IN THE SOUTH, 1944-1969 (1976) (describing the process by which blacks gained the right to vote); TRIBE, supra note 12, at 1092-94 (explaining that conditioning the right to vote on poll taxes and literacy tests is unconstitutional); TUSHNET, supra note 12, at 99-115 (describing white attempts to exclude black voters and black attempts to obtain the vote).
\item \textsuperscript{152} See City of Petersburg, 354 F. Supp. at 1022; see also PRATT, supra note 10, at 47-48 (describing a similar annexation effort in Richmond).
\item \textsuperscript{153} City of Petersburg, 354 F. Supp. at 1026 (citation omitted).
\end{itemize}
Public sector employment in Petersburg manifested analogous considerations. The city integrated this area of great symbolic and practical significance with no more "deliberate speed" than it had public education. I remember that no blacks served in the Petersburg fire or police departments when I was attending public schools. 154 Indeed, as recently as 1972, only one of seventy fire fighters was black. 155

IV. INTEGRATION OF PRIVATE FACILITIES IN PETERSBURG

Private facilities, such as restaurants and motels, that were open to the public pursued various courses of action in response to sit-in demonstrations at lunch counters and other businesses across the South. 156 A few proprietors simply ceased operations. For example, Rucker-Rosenstock's, a large downtown department store, shut the doors of its Tea Room, where the upper-middle-class ladies of Petersburg had often lunched.

Some owners were openly defiant. One downtown restauranteur, whose establishment my family frequented for Sunday breakfast and for occasional suppers, posted prominently in the front window a large "Whites Only" sign. I did not understand why he needed to proclaim publicly his long-standing practice of refusing service to blacks.

Sit-in demonstrations by black residents and the public accommodations provisions that Congress included in the Civil Rights Act of 1964 forced most businesses to desegregate. 157

154. Petersburg certainly was not alone in its discrimination against blacks in these departments. See, e.g., Local No. 93, Int'l Ass'n of Firefighters v. City of Cleveland, 478 U.S. 501, 504-05 (1986) (involving race discrimination in the hiring and promoting of fire fighters); Firefighters Local Union No. 1784 v. Stotts, 467 U.S. 561, 565 (1984) (involving the underrepresentation of blacks in a fire department); Williams v. City of New Orleans, 729 F.2d 1554, 1555 (5th Cir. 1984) (involving race discrimination in the selection, training, and promotion of police officers).


157. See, e.g., Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964); Tobias, supra note 9, at 857; see also 42 U.S.C. § 2000a (1988) (prohibiting discrimination in places of public accommodation). See generally DOUGLAS, supra note 5, at 85-87, 96-
For instance, the Trailways Bus Station, which was located next door to my father's office, eventually merged the waiting areas, restrooms, and drinking fountains that previously had been separate. 158

Numerous commercial entities initially avoided the issue altogether. Some, by virtue of their geographic locations, were inaccessible to many blacks, particularly individuals who lacked private transportation. A few sold goods or provided services in which most blacks had little interest or that they could not afford. A number of businesses merely relied on long-standing customs and patterns of commercial dealing. Few blacks may have wanted to enter stores in which members of their race had never shopped or to purchase goods from merchants who clearly discouraged black patrons. Indeed, old habits apparently die hard. For example, in a recent visit to a particular Petersburg restaurant, a premiere purveyor of southern barbecue and a longtime favorite of white diners, I noticed practically no blacks working or eating in the establishment, although numerous blacks purchased barbecue at the carry-out area, which has a separate entrance. 159

The local transportation company was called the Petersburg Bus Lines; however, the corporation was a quasi-private entity. The buses afforded a compelling illustration of the power of custom in matters of race. Custom dictated that whites sit in the front and blacks sit in the rear of buses in Petersburg, as in nearly all southern cities. I remember no blacks challenging this longstanding tradition. 160

State and local authorities


159. This practice was, and apparently remains, typical. See, e.g., Katzenbach v. McClung, 379 U.S. 294, 296 (1964) (providing a similar description of Ollie's Barbecue).

throughout the South would pursue disorderly conduct charges against individuals who had the temerity to violate that understanding—though few statutes or ordinances clearly mandated the arrangement, and the Supreme Court had invalidated segregated seating on buses engaged in interstate travel in 1946.

Ironically, an overwhelming majority of people who owned small businesses in the city indicated their willingness to serve all comers, regardless of race. In a poll conducted by the Petersburg Improvement Society, a biracial commission constituted at the city council’s instigation to foster interracial dialogue, eighty percent of those surveyed responded affirmatively, although the results were not publicized.

It is certainly easy to understate—and this account may unintentionally oversimplify—the subtle and complex nature of the issues that were at stake in integrating all of these facilities during the decade after Brown. To caricature all whites as racists and all blacks as heroes is too facile and simply incorrect. The reality was considerably more complicated for citizens of both races.

Some whites attempted to pursue comparatively moderate,

58 (discussing Charlotte).
161. See, e.g., GRAY, supra note 160, at 50; MURRAY, supra note 158, at 138-45 (recounting her arrest for disorderly conduct). See generally CATHERINE A. BARNES, JOURNEY FROM JIM CROW: THE DESSEGREGATION OF SOUTHERN TRANSIT (1983) (examining the struggle to end segregation in southern transportation).


163. Interview with individuals familiar with the Petersburg Improvement Society poll who requested anonymity; see also DOUGLAS, supra note 5, at 58-61, 86 (describing a similar commission and a similar poll in Charlotte).

efficacious approaches, and a few even openly opposed Massive Resistance. Some blacks similarly tried to find relatively conciliatory, effective courses of action. Although a number of blacks pressed for desegregation, numerous blacks were indifferent to or uncomfortable with integration, fearing that whites would retaliate against all blacks for efforts to end segregation. Some blacks apparently preferred to retain traditionally black schools, especially if they were fully funded.

Illustrative of rather moderate, constructive approaches were the endeavors of the Petersburg Improvement Society in searching for common ground and seeking to limit polarization on racial issues. The efforts of the blacks and whites who were involved in this work were laudable and unusual. It is difficult to overestimate the enormous pressures that people and groups that participated in these activities experienced. The slightest deviation from rigid opposition to integration could promptly end the careers of white public officials, teachers, and politicians. Small business owners or attorneys who did not support separate facilities might lose patrons or clients and become social outcasts in the white community.

The sheer number and strength of segregation's proponents overwhelmed these persons and entities. Less moderate individuals and organizations frustrated their efforts. For example, numerous white politicians capitalized on the fears and prejudices of whites who had few resources or who were members of the lower or middle classes. Those whites, together with the remaining middle- and upper-class whites, comprised an electoral majority that usually could defeat the small, but growing, numbers of recently enfranchised blacks. In the end, it was probably unrealistic to expect that whites and blacks would immediately, or even "with all deliberate speed," overcome generations and centuries of ingrained racism, distrust, resentment, fear, and hatred and become fully committed participants in a common endeavor whose ultimate outcome promised to be uncertain.

165. See, e.g., BARTLEY, supra note 14, at 192-93; Douglas, supra note 1, at 128; Wilkinson, supra note 9, at 500-01.
166. See infra notes 182-83 and accompanying text (describing the ostracization of lower federal court judges in the South).
V. IMPLICATIONS

To identify clearly and precisely all of the ramifications of the ten-year hiatus that ensued between the Supreme Court’s issuance of *Brown* and the integration of Virginia’s public schools is virtually impossible. The Massive Resistance, delay, tokenism, and evasion practiced by the Virginia General Assembly and by the various city and county school boards enabled many local school districts to avoid any desegregation throughout the entire decade.

On *Brown’s* tenth anniversary, the percentage of black students who were attending integrated public schools in Virginia was minuscule and differed minimally from North Carolina. Desegregation in the two states was nearly indistinguishable when one allows for significant variability between the Old Dominion’s school districts in metropolitan areas, such as Hampton Roads and Northern Virginia, a number of which were comparatively responsive, and less urban locales, such as Southside Virginia, most of which were resistant. For instance, Norfolk integrated its schools in 1959, while Petersburg did not desegregate until 1963 and then only in a token manner. 167

All of the implications of the decade-long delay are difficult to delineate exactly; however, the profound actual and symbolic nature of the consequences warrants an attempt to identify them. The passage of ten years without integration had subtle, complex, palpable, and intangible ramifications for individuals, groups, Virginia, and society that affected these people and institutions economically, politically, morally, and socially.

The successful efforts to prevent integration by the General Assembly and the Petersburg School Board left my white classmates and me essentially untouched by *Brown*. The decade-long hiatus allowed many of us to remain ignorant of racial issues, particularly in school, and of black people as individuals. We could only dimly perceive that *Brown*’s implementation had been delayed, and we had no sense of the education that our black contemporaries were receiving, much less of their personal lives.

167. See *supra* notes 49-89 and accompanying text; *supra* part II.B. I recognize that Norfolk desegregated its schools only after lengthy and sharply contested litigation.
I can recall only a tiny number of serious conversations about racial questions during the whole period of my public education, and even fewer in homes, social contexts, or religious institutions. Most persons and entities in Petersburg treated matters of race as taboo subjects for discussion, polite or otherwise, and effectively relegated them to irrelevance. I remember few whites who were troubled that blacks attended schools with limited resources or that state and local authorities were evading Brown's promise, while most whites had minimal contact with blacks. Whites who did voice these concerns or who had contact with blacks instantaneously were stigmatized and branded with the epithet "nigger lover."168

The ten years that elapsed between the time of Brown's issuance and integration meant that the 175 white students in my graduating class received public school educations that were nearly identical to those of their predecessors. The seventy-five pupils who successfully completed the college preparatory courses of study easily gained college admission, and the students who wished to escape the insufferable insularity of a small southern town capitalized on that opportunity. Not a single one of my close high school friends now lives in Petersburg.

I am uncertain what the decade-long delay meant for the black pupils who attended segregated schools, which, despite the mandate of Brown, remained separate and unequal during that period.169 The stalling tactics of the General Assembly and of local school boards limited the promise of economic and social equality, fair treatment, and improved public education that Brown represented.170 So long as Petersburg could maintain segregated schools, the city would spend significantly more on the facilities that whites attended.171 To the extent that resources constitute a measure of educational quality, black pupils apparently had decreased opportunities to acquire the schooling and skills that they would need to compete in an increasingly

169. See PRATT, supra note 10, at 38; Wilkinson, supra note 9, at 485-87.
170. Cf. PRATT, supra note 10, at 4-10, 19-30, 54 (discussing stalling tactics).
171. Id. at 15 (discussing the lack of funds and concern necessary to equalize black schools with white schools in Richmond).
Black students simply may have confronted greater obstacles to achieving what ostensibly remains one of America's most cherished dreams: the ability of individuals to realize their fullest potential as citizens.

I believe that all pupils forfeited the benefits that would have resulted from basic, daily educational, political, social, and personal interactions among students of different races. This interplay might have begun the slow, arduous, painful, but critically important, process of breaking down the intractable, centuries-old barriers that implicate race. That erosion had to await comparatively unsystematic interactions in other somewhat less congenial contexts, such as workplaces, the military, commercial dealings, and politics.

Petersburg has not thrived in the period since the integration of the public schools. The decade-long delay and the years of overheated rhetoric may have contributed to, even if they did not precipitate, Petersburg's downward economic spiral. In fairness, the city's financial outlook has not improved since the 1950s, and it is impossible to identify conclusively a direct cause-effect relationship between the fiscal circumstances and what happened during the decade after *Brown*.

Most of the major industrial employers terminated their Petersburg operations or relocated. For example, the Brown and Williamson Tobacco Company, which provided 7000 jobs—some for the 100 white graduates in the Petersburg High School class of 1964 who did not attend college—built a new plant in Macon, Georgia, and invited all employees of the Petersburg facility to relocate to Macon. The corporation wanted to install state-of-the-art equipment and apparently wished to hire a less expensive, more compliant work force. Many of the whites in Petersburg, whose children now comprise less than five percent of the pupils attending public schools, cannot afford to send them elsewhere, while most of the remaining whites provide minimal support for public education.

172. *Id.* (describing the inferior quality of resources in Richmond's black schools).

173. *Cf.* DOUGLAS, *supra* note 5, at 216 (describing the phenomenon of "white flight" in Charlotte); PRATT, *supra* note 10, at 48-53 (describing the phenomenon of "white flight" in Richmond).
The symbolic effects of the ten-year hiatus may have been nearly as deleterious as the very detrimental, pragmatic im­

174 Several harmful effects resulted from the Supreme Court's apparent willingness, out of a perceived need to assuage southern white sensitivities, to undercut Brown's moral force.175 The Court eroded Brown by enunciating the "all delib­


177. See Carter, supra note 28, at 243-44; cf. Burt, supra note 28, at 1483 (noting conventional accounts of the Court's acquiescence but arguing that other reasons may have motivated the Court's approach).

178. See BICKEL, supra note 28, at 254; Carter, supra note 28, at 245-46; Wilkinson, supra note 9, at 486, 541.

VI. EXPLANATIONS

To ascertain how the Commonwealth of Virginia and the City of Petersburg were able to avoid integration of the public schools during the decade after Brown is a complex and subtle task. The coalescence of numerous factors, some of which are related, enabled the Old Dominion, Petersburg, and much of the remain­

179. See ROSENBERG, supra note 28, at 72-93; Carter, supra note 28, at 246.

180. See ROSENBERG, supra note 28, at 132-33.
tially left integration to southern circuit and district court judges for the ten years following its announcement of the "all deliberate speed" articulation in Brown II. If the Court failed to exhibit the clear, strong resolve, to exercise moral leadership and to afford the instructive guidance that might have led to Brown's rigorous effectuation, it is unclear why lower federal court judges would have insisted upon integration's vigorous implementation. After all, those circuit and district judges came out of, and lived and worked in, the same society that had perpetuated segregation for centuries.

Indeed, it is remarkable that so many federal judges, such as Judge Walter Hoffman of Virginia, Judge Frank Johnson of Alabama, and Judges John Minor Wisdom and Skelly Wright of Louisiana had the courage to ensure that Brown and the Constitution received rigorous enforcement. Their actions assume even greater significance in light of the enormous pressures that state and local legislative bodies, politicians, lawyers, the media, and society imposed on these judges. Most of the judges received death threats, and a number of their fellow citizens treated them as pariahs.

Another important explanation for Virginia's ability to limit integration during the post-Brown decade was a distinct southern mentality. Many white residents of the Old Dominion had never forgotten the South's defeat in the Civil War or the

181. See Wilkinson, supra note 9, at 505-06; see also id. at 541 (asserting that "[i]t is a measure of the Supreme Court's inconspicuousness that the most influential school opinions from Brown II to Green v. County School Board in 1968 were written by two lower federal judges") (citation omitted); supra note 33 and accompanying text (noting that the Supreme Court decided only one major case involving desegregation between 1955 and 1963). See generally Peltason, supra note 31 (discussing the role of southern federal judges in school desegregation).

182. See, e.g., Jack Bass, Taming the Storm: The Life and Times of Judge Frank M. Johnson, Jr., and the South's Fight over Civil Rights (1993); Bass, supra note 111 (discussing Fifth Circuit judges); Peltason, supra note 31 (discussing all southern federal judges); Abner J. Mikva, Remembering Shelly Wright, 98 YALE L.J. 211 (1988); supra notes 49-89 and accompanying text (discussing Judge Hoffman); supra notes 111-12 and accompanying text (discussing Judge Wisdom).


184. See Pratt, supra note 10, at 19-20; Wilkinson, supra note 9, at 495-505, 512-15.
conflict's aftermath.\textsuperscript{185} They remembered the ostensible reason for fighting the war—to maintain that "peculiar institution" of slavery—the perceived humiliation that the North had visited on the South during Reconstruction, the concomitant economic decline that most of the region had long suffered, and the apparent disdain with which much of the remainder of the nation viewed the South.\textsuperscript{186} For numerous white Virginians, \textit{Brown}'s issuance and its imminent implementation may well have resembled a second Reconstruction imposed by sanctimonious Yankees who maintained schools that were as segregated as many in the Old Confederacy but who claimed to know what was best for backward Southerners.\textsuperscript{187}

\textit{Brown} and its effectuation promised to strike at the very essence of the southern way of life for many whites, especially those with limited resources or who were lower or middle class. Particularly feared was the possibility of black "domination in all its forms: political, economic, social, and sexual."\textsuperscript{188} For instance, if blacks registered and voted, they might have elected local office holders, imposed high assessments and taxes on whites, filled the schools and police departments with blacks, and called whites to task before the law.\textsuperscript{189}

Desegregated schools raised even more pointedly than voting the prospect of black control.\textsuperscript{190} Educated blacks could have been demanding; they would have sought, and might have secured, everything imaginable, including jobs that previously had been the exclusive domain of whites.\textsuperscript{191} Too much schooling

\begin{enumerate}
\item \textsuperscript{185} See Woodward, supra note 7, at 170-71.
\item \textsuperscript{186} See id. at 167-91.
\item \textsuperscript{187} See, e.g., Carl M. Brauer, John F. Kennedy and the Second Reconstruction (1977); Jeffries, supra note 10, at 131-39; Pratt, supra note 10, at 1-2. See generally McMillen, supra note 164 (examining the history of the Citizens' Council and its resistance to desegregation).
\item \textsuperscript{188} Wilkinson, supra note 9, at 497; see also Pratt, supra note 10, at 29 ("At stake here was a way of life.").
\item \textsuperscript{189} See Alexander Heard, A Two-Party South (1952); see also supra notes 150-55 and accompanying text (discussing politics in Petersburg). See generally Paul Lewinson, Race, Class & Party 79-97 (1963) (discussing the disfranchisement of black voters).
\item \textsuperscript{190} See Wilkinson, supra note 9, at 497.
\item \textsuperscript{191} See id.; see also Henry L. Gates, Jr., A Dangerous Literacy: The Legacy of Frederick Douglass, N.Y. Times, May 28, 1995, § 7 (Book Review), at 3 (noting the
would yield employees who were dissatisfied with performing menial labor as domestics or farm workers and who complained about their economic circumstances.\textsuperscript{192}

The largest fear—even eclipsing concerns that blacks would dominate politics, education, or employment—was social.\textsuperscript{193} The image that struck terror in the hearts of many white Southerners was social interaction between the races. The mere possibility that both white and black students would attend school dances after football games or the junior prom was unthinkable. A contemporaneous account that appeared in the popular magazine \textit{Look} accurately captured these ideas:

\begin{quote}
[Southerners] will tell you that sooner or later, some Negro boy will be walking his daughter home from school, staying for supper, taking her to the movies . . . and then your Southern friend asks you the inevitable, the clinching question: “Would you want your daughter to marry a Nigra . . . ?” Sexual neurosis makes many white[s] impervious to logic. They are obsessed by the notion that Negroes, given a chance, will take over their women as well as their golf clubs and legislatures.\textsuperscript{194}
\end{quote}

The white inhabitants of Southside Virginia, in the center of which stood Petersburg, held these attitudes most broadly and fervently.\textsuperscript{195} Southside comprised the Commonwealth’s black belt.\textsuperscript{196} Southside whites fully appreciated that compliance with \textit{Brown} would be most problematic in areas that had the largest black populations\textsuperscript{197} and that integration in locales with few blacks eventually could isolate the black belt.\textsuperscript{198} Poli-
ticians from this region, therefore, developed and effectuated a
strategy of rigid and absolute statewide opposition to integra-
tion.\footnote{See id. at 498-99.} In 1956, Mills Godwin, a Southside state senator
who later served two terms as governor, summarized these
views: "Integration, however slight, anywhere in Virginia
would be a cancer eating at the very life blood of our public
school system."\footnote{27 Backers of Stanley Plan Speak Out at Public Hearing, RICHMOND TIMES-
DISPATCH, Sept. 5, 1956, at 1, 8; see also James Latimer, State Democrats Back
Firm Segregation Policy: No Specific Plan Endorsed To Prevent Mixed Schools, RICH-
MOND TIMES-DISPATCH, July 28, 1956, at 1 (reproducing a similar statement of
Southside Representative William Tuck); supra notes 23-24 and accompanying text
(noting political opposition to desegregation).}

The resistance to integrating public education in Virginia re-
lected certain economic, social, and geographic realities. It
could also be ascribed to some important political
practicalities. For instance, Massive Resistance was a central
tenet of the Byrd machine, the powerful political organization
centered in Virginia's courthouses, that Senator Harry Flood
Byrd, Sr., established and perpetuated.\footnote{See WILKINSON, supra note 22, at 113-14; see also supra notes 23-24 and ac-
companying text (discussing the "vociferous opposition" to desegregation).} Efforts to minimize
school integration and to limit black political strength were
thus intertwined.

Phenomena relating to class as well could explain the opposi-
tion to public school integration. For example, integrated public
education did not seriously threaten upper-class whites.\footnote{See PRATT, supra note 10, at 29-30.} Those individuals rarely used public facilities, could afford to
send their children to private schools, and had virtually no con-
tact with blacks, so that desegregated education would not
jeopardize their prerogatives economically, politically, socially,
or in workplaces.\footnote{See id.} In sharp contrast, numerous whites who
possessed limited resources or who were members of the lower
or middle class, perceived public school integration as a pal-
pable threat to their financial, political, employment, and social
circumstances.\footnote{See id.}
Many ideas analyzed above illustrate the inherent limitations that constrain essentially legal approaches to complex societal issues. The Supreme Court's pronouncements, purporting to declare the law of the land and to interpret the Constitution, no matter how forcefully, elegantly, or morally phrased, were, in the final analysis, merely legal statements. Intrinsic restrictions limit what courts can accomplish by only proclaiming changes in the law without careful attention to efficacious implementation and corresponding modifications in political and social attitudes.

The law and legal institutions may not be particularly effective agents of social change, especially implicating issues as complicated and controversial as race and integration. Some of these inherent limitations, pragmatic realities involving the effectuation of Brown and of integration, and some political and social practicalities coalesced to undermine the promise of Brown's legal holding during the decade following its enunciation.

Indeed, a few of the attorneys who pursued much of the high-profile school and other desegregation litigation and certain individuals who participated in those suits and in activities, such as sit-in demonstrations that were intended to promote integration, recognized the limitations of the law and cases relatively soon after the Court's issuance of Brown. For example, Thurgood Marshall appreciated that legal solutions and litigation victories might not foster long-term improvements in society, and this realization and frustration that litigation had become less central to advancing civil rights may even have led him to resign as Director-Counsel of the NAACP Legal Defense

205. Other commentators have examined the ideas above, particularly in the context of race and desegregation. See, e.g., Derrick Bell, and We Are Not Saved: The Elusive Quest for Racial Justice 51-74 (1987); Bickel, supra note 28, at 68-72, 250-54; Rosenberg, supra note 28, at 72-93; C. Vann Woodward, The Strange Career of Jim Crow 152-53 (3d rev. ed. 1974).

206. See Bickel, supra note 28, at 68-72, 250-54; Woodward, supra note 205, at 152-53.

207. See Bell, supra note 205, at 51-74.

208. See Rosenberg, supra note 28, at 72-93.

The contemporaneous statements of blacks who actively participated in endeavors aimed at desegregation are concomitantly replete with allusions to the limited efficacy of law, legal remedies, and litigation. 211

VII. CONCLUSION

I have told one story of how the Supreme Court’s failure to ensure that Brown’s mandate received rigorous implementation, in conjunction with Virginia state and local governmental authorities’ efforts to prevent public school integration, delayed desegregation for a decade after Brown. This Essay has also examined the important consequences of not realizing Brown’s promise and the way in which this failure happened. The analysis reveals that the Old Dominion’s public schools experienced little more integration than did those of North Carolina, even though the Commonwealth couched its rhetoric in more defiant terms and judges scrutinized Virginia’s educational system more closely. The Old Dominion did enjoy significantly less economic prosperity than did North Carolina, and the Commonwealth arguably paid for its recalcitrance in terms of foregone financial development. This piece affords a snapshot of the ten-year period subsequent to Brown in Virginia and Petersburg. Considerably more research analogous to the valuable work that Professor Douglas has performed remains to be undertaken on issues involving race and public schools in other states and localities during that time and the three decades since 1965. 212

210. See id.
211. Contemporaneous newspaper accounts of the desegregation fight over the Petersburg Public Library included speeches by numerous blacks warning about these inherent limitations. See, e.g., Tobias, supra note 9, at 865-66.
212. Of course, some writers already have undertaken this work, and I have relied on it in this Essay. See, e.g., DOUGLAS, supra note 5. Numerous other writers treat these issues broadly or examine specific states or localities briefly. See, e.g., Drew S. Days, III, The Other Desegregation Story: Eradicating the Dual School System in Hillsborough County, Florida, 61 FORDHAM L. REV. 33 (1992); Klarman, supra note 5. It would be valuable to have additional analyses that concentrate on specific states and localities. Related developments in the North are beyond the scope of this piece; however, they too deserve analysis. See, e.g., RONALD P. FORMISANO, BOSTON AGAINST BUSING: RACE, CLASS, AND ETHNICITY IN THE 1960s AND 1970s (1991); GEORGE R. METCALF, FROM LITTLE ROCK TO BOSTON: THE HISTORY OF SCHOOL DESEGREGATION (1983).