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The Kennedy administration's civil rights record requires revision. Scholars have developed a negative interpretation of that record by focusing on the most dramatic crises and a handful of poor judicial appointees. The dominant narrative, therefore, concludes that the administration reacted to civil rights crises, hesitated on advancing racial equality to protect the president's domestic agenda from attack by southern legislators, and appointed racist federal judges. Those crises and judges do not fully represent the administration's performance on civil rights. All matters for racial equality from that period and all of President Kennedy's judicial appointees need to be examined to develop a comprehensive assessment of the administration's record.

"A Matter of National Concern" analyzes the Kennedy administration's civil rights record through a case study of Prince Edward County, Virginia. This study synthesizes unpublished and, in some cases, previously unexamined manuscript collections, government documents, newspapers, periodicals, secondary sources, and oral histories. The historical record of the Kennedy administration's performance in Prince Edward County counters the dominant narrative of President Kennedy's civil rights record. In fact, the administration took proactive measures to arrest that county's school crisis, risked its legislative program against southern legislators by standing up for black Prince Edwardians, and appointed moderate-to-progressive judges to the U.S. Fourth Circuit who broke down the county's resistance to school desegregation. "A Matter of

National Concern” calls for Prince Edward County, and other civil rights cases, to be included in the Kennedy administration’s civil rights record.

A MATTER OF NATIONAL CONCERN: THE KENNEDY ADMINISTRATION'S
CAMPAIGN TO RESTORE PUBLIC EDUCATION TO
PRINCE EDWARD COUNTY, VIRGINIA

by

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Committee Chair

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To Evie, AJ, and Lexi –

You inspired me to raise the bar. Now it's your turn to raise it further, to set a new standard, to do it better and faster.

APPROVAL PAGE

This dissertation written by Brian E. Lee has been approved by the following committee of the Faculty of The Graduate School at the University of North Carolina at Greensboro.

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LIST OF ABBREVIATIONS

AFSC	American Friends Service Committee Archives, Philadelphia, Pennsylvania
ALBP	Armistead L. Boothe Papers, UVA
ASHP	Executive Papers of Albertis S. Harrison, Jr., 1962-1964, LVA
ASHP2	Executive Papers of Albertis S. Harrison, Jr., 1964-1966, LVA
AWRP	A. Willis Robertson Papers, WM
BAA	<i>Baltimore Afro-American</i>
BHP	Brooks Hays Papers, JFKL
BMP	Burke Marshall Personal Papers, JFKL
CBKP	C. Brian Kelly Papers, UVA
COREP	Papers of the Congress of Racial Equality, 1941-1967 (microfilm)
CRDTEA	Civil Rights During the Eisenhower Administration (microfilm)
DB	<i>Danville Bee</i>
DHC	Darrell Hodges Private Collection, Farmville, Virginia
DDEL	Dwight D. Eisenhower Presidential Library, Abilene, Kansas
EHPP	Edward H. Peeples, Jr. Papers, VCU
FFA	Ford Foundation Archives, RAC
FFA2	Field Foundation Archives, UTXA
FH	<i>Farmville Herald</i>
GFSP	G. Frederick Switzer Papers, UVA

GWU	Estelle and Melvin Gelman Library, George Washington University, Washington, D.C.
HBP	Helen Baker Papers, VCU
HFBP	Harry F. Byrd Papers, UVA
HFBP2	Harry F. Byrd, Jr. Papers, UVA
HLBP	Hugo LaFayette Black Papers, LOC
HMLP	Heslip M. "Happy" Lee Papers, VCU
HWP	Papers of John F. Kennedy, Presidential Papers, White House Staff Files of Harris Wofford
HWSP	Howard W. Smith Papers, UVA
IU	Indiana University, Ruth Lilly Special Collections & Archives, Indianapolis, Indiana
JHDP	John H. Daniel Papers, UVA
JFKL	John F. Kennedy Presidential Library, Boston, Massachusetts
JFKP	John F. Kennedy Papers, JFKL
JFKOH	John F. Kennedy Oral History Project, JFKL
JLAP	Executive Papers of J. Lindsay Almond, Jr., LVA
JLBBP	J.L. Blair Buck Papers, UVA
JSBP	John S. Battle Papers, UVA
JSBP2	Jesse Spencer Bell Papers, UNCC
JSGP	J. Segar Gravatt Papers, UVA
LFPP	Lewis F. Powell, Jr. Papers, WLU
LN	<i>Lynchburg News</i>

LOC	Library of Congress, Washington, D.C.
LVA	Library of Virginia, Richmond, Virginia
MRBF	Mary Reynolds Babcock Foundation, Winston-Salem, North Carolina
MSF	Mercy Seat Films, Richmond, Virginia
NAACPM	National Association for the Advancement of Colored People Records (microfilm)
NAACPR	National Association for the Advancement of Colored People Records, LOC
NARA-DC	National Archives, Washington, D.C.
NARA-MD	National Archives, College Park, Maryland
NARA-PA	National Archives, Philadelphia, Pennsylvania
NEAA	National Education Association Archives, GWU
NVP	<i>Norfolk Virginian-Pilot</i>
NYFR	New York Foundation Records, NYPL
NYPL	New York Public Library, Stephen A. Schwarzman Building, New York
NYT	<i>New York Times</i>
PC	<i>Pittsburgh Courier</i>
PECC	Prince Edward County Clerk's Office, Farmville, Virginia
PEFSAP	Papers of the Prince Edward Free School Association Papers, VSU
PPI	<i>Petersburg Progress-Index</i>
PPP-1961	<i>Public Papers of the Presidents of the United States: John F. Kennedy, 1961</i> (Washington, DC: Government Printing Office, 1962).

PPP-1962	<i>Public Papers of the Presidents of the United States: John F. Kennedy, 1962</i> (Washington, DC: Government Printing Office, 1963).
PPP-1963	<i>Public Papers of the Presidents of the United States: John F. Kennedy, 1963</i> (Washington, DC: Government Printing Office, 1964).
PWFR	Public Welfare Foundation Records, 1951-2004, IU
PPSC	Phyllis Padow Sederbaum Collection, QC
QC	Queens College, Rosenthal Library, Queens, New York
RAC	Rockefeller Archive Center, Sleepy Hollow, New York
RBFA	Rockefeller Brothers Fund Archives, RAC
RFA	Rockefeller Foundation Archives, RAC
RG 12	Record Group 12, Records of the Office of Education, NARA-MD
RG 60	Record Group 60, Records of the Department of Justice, NARA-MD
RG 267	Record Group 267, Records of the Supreme Court of the United States, NARA-DC
RFKP	Robert F. Kennedy Papers, Attorney General Papers, JFKL
RNL	<i>Richmond News Leader</i>
RT	<i>Roanoke Times</i>
RTD	<i>Richmond Times-Dispatch</i>
RWN	<i>Roanoke World News</i>
SCLCR	Records of the Southern Christian Leadership Conference, 1954-1970 (microfilm)
SESP	Simon Ernest Sobeloff Papers, LOC
SMLP	Sol M. Linowitz Papers, LOC

SPBP	Sarah Patton Boyle Papers, UVA
SRCP	Southern Regional Council Papers, 1944-1968 (microfilm)
SSC	Stan Shaw Collection, QC
SSN	<i>Southern School News</i>
TCSP	Theodore C. Sorensen Personal Papers, JFKL
TBSP	Executive Papers of Thomas B. Stanley, LVA
UNCC	University of North Carolina at Charlotte, J. Murrey Atkins Library, Charlotte, North Carolina
UR	University of Richmond, Boatwright Library, Richmond, Virginia
US4CCA	Records of the U.S. Court of Appeals for the 4 th Circuit, NARA-PA
USDCEDV-A	Records of the U.S. District Court of the Eastern District of Virginia, Alexandria Division, Civil Action Case Files, NARA-PA
USDCEDV-R	Records of the U.S. District Court of the Eastern District of Virginia, Richmond Division, Civil Action Case Files, NARA-PA
USDCEDLA	Records of the U.S. District Court of the Eastern District of Louisiana
UTXA	University of Texas at Austin, Briscoe Center for American History, Austin, Texas
UVA	University of Virginia, Albert and Shirley Small Special Collections Library, Charlottesville, Virginia
UVAL	University of Virginia, Arthur J. Morris Law Library, Charlottesville, Virginia
UVAP	Papers of the University of Virginia President (Colgate Darden), UVA
UW	University of Washington, Allen Library, Seattle, Washington
VCU	Virginia Commonwealth University, James Branch Cabell Library, Richmond, Virginia

VSNP	Victor S. Navasky Personal Papers, JFKL
VSU	Virginia State University, Johnston Memorial Library, Petersburg, Virginia
VTAP	Virginia Teachers' Association Papers, VSU
WAA	<i>Washington Afro-American</i>
WEFP	Walter E. Fauntroy Papers, GWU
WES	<i>Washington Evening Star</i>
WGMP	Warren Grant Magnuson Papers, UW
WHCNF	White House Central Name Files, JFKP, JFKL
WHCSF	White House Central Subject Files, JFKP, JFKL
WLU	Washington & Lee University, Lexington, Virginia
WM	College of William & Mary, Earl Gregg Swem Library, Williamsburg, Virginia
WMAP	Watkins M. Abbitt Papers, UR
WMTP	William Mumford Tuck Papers, WM
WP	<i>Washington Post</i>

CHAPTER I

INTRODUCTION: A NEW FRONTIER

The Kennedy administration's civil rights record requires revision. The prevailing interpretation determines that the administration reacted to civil rights crises, wavered on racial issues to safeguard its domestic agenda against attacks from southern legislators, and appointed racist judges to the federal bench. Scholars have drawn these interpretations by focusing on the most dramatic crises of that time and a handful of poor judicial appointees. Those crises and judges do not fully represent the administration's civil rights record, nor should they obscure hundreds, if not thousands of unchronicled local struggles for racial equality. The untold stories represent the new frontier of Kennedy scholarship. It requires that all civil rights struggles and judicial appointees be examined. Only then can scholars develop a comprehensive assessment of the Kennedy administration's civil rights record. That record must include Prince Edward County, Virginia.¹

¹ Brian E. Lee, "A New Frontier: Reevaluating JFK's Civil Rights Record Through a Case Study of Prince Edward County, Virginia," *Federal History*, No. 7 (2015): 53-66.

John F. Kennedy “literally shook his head with incredulity” when he learned that Prince Edward County abandoned public education.¹ The county school board, a litigant in the landmark *Brown v. Board of Education* case, had been under court order to desegregate its public schools “with all deliberate speed.” After years of legal challenges, a federal appeals court ordered the school board to begin desegregating its schools by September 1959. In defiance of that order, the county board of supervisors refused to levy taxes to operate schools, marking Prince Edward County as the only locale in the nation without free public education. Segregationist leaders improvised a private school system for the fourteen hundred white children. However, the county provided no educational program for the seventeen hundred black children, forcing hundreds to leave home, and many the state, to live with family, friends, or strangers to obtain a “bootleg” education. Hundreds more remained in the county without formal schooling for four years.² The Kennedy administration inherited the Prince Edward County school situation, a crisis that threatened to intellectually and economically cripple a generation and, if replicated, destabilize the American institution of public education.

¹ Theodore C. Sorensen, *Kennedy* (New York: Harper & Row, 1965), 480. Ted Sorensen, special counsel to the president, did not specify when Kennedy learned that Prince Edward County abandoned public education. It is unclear, therefore, if Sorensen witnessed Kennedy’s reaction before or after he became president. In their memoir, Ken O’Donnell and Dave Powers remembered that Kennedy “devoured every newspaper and newsmagazine that he could get his hands on.” Conceivably, Kennedy followed the media’s coverage of the Prince Edward matter. See Kenneth P. O’Donnell and David F. Powers, *“Johnny, We Hardly Knew Ye”*: *Memories of John Fitzgerald Kennedy* (Boston: Little, Brown and Company, 1970), 408.

² *Brown v. Board of Education*, 347 U.S. 483 (1954), 349 U.S. 294 (1955); *Allen v. County Board of Prince Edward County*, 266 F.2d 507 (4th Cir. 1959); “Private Schools Seen Answer to Court’s Integration Order: Educational Corp. Affirms Plans for Private Schools,” *FH*, May 8, 1959, 1; Minutes, Prince Edward County Board of Supervisors, June 1959, PECBOSR; Robert L. Green and Louis Hofmann, “Progress Report,” June 30, 1963, Box 100, RG 12.

Historians have overlooked the Kennedy administration's efforts in Prince Edward County. The school crisis has appeared in scholarship on civil rights and Virginia history. In those works, the administration's role may receive a fleeting passage, if any mention at all. Likewise, the Kennedys have been the subject of countless monographs but biographers have only permitted the school closings a brief mention, if any coverage at all. The absence of violence and spectacle may explain the lack of scholarly interest. The civil rights stories that drive the dominant narrative provide a contrast. White supremacists firebombed a Greyhound bus carrying Freedom Riders outside Anniston, Alabama. In Prince Edward County, the school buses stood idly in a parking lot. President Kennedy sent troops to restore order at the University of Mississippi. No troops were required in Prince Edward County. Birmingham furnished iconic images and television footage. The school closings bequeathed posterity lifeless stills and stock footage of vacant buildings, nothing worthy apparently for inclusion in the iconic civil rights documentary *Eyes on the Prize*. The Prince Edward school litigation offered no racial vitriol from the federal bench, just hearing after hearing without a resolution. The slender amount of published scholarship on Prince Edward County and the even thinner coverage of the Kennedy administration's involvement fail to match the magnitude of the episode's significance.

Robert C. Smith laid the foundation for scholarship on the Prince Edward County school closings. Smith, a journalist for the *Norfolk Virginian-Pilot*, interviewed the major players as events unfolded. Those interviews represent his book's greatest contribution to

the historical record. *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (1965) provided a solid first draft of the school struggle, but not the final word. Smith's work was constrained by the unavailability of sources. In the half-century since its publication, manuscript collections and government records have been opened to scholars, revealing a wealth of evidence that was inaccessible in the 1960s. In the recent decades, doctoral students have built upon Smith's work by exploring those untapped sources, conducting oral history interviews, and writing pioneering dissertations. Kara Miles Turner broadened our understanding of the school closings by examining the long civil rights movement in Prince Edward County from Reconstruction through the twentieth century. Amy Tillerson focused her dissertation on the role of black women activists there from the Great Depression through the school closings. In addition, they both contributed article-length publications that further demonstrated the need to update *They Closed Their Schools*.³

Jill Ogline Titus and Chris Bonastia produced new monographs on the school closings. In *Brown's Battleground: Students, Segregationists, and the Struggle for Justice*

³ Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965); Kara Miles Turner, "It is Not at Present a Very Successful School: Prince Edward County and the Black Educational Struggle, 1865-1995" (Ph.D. diss., Duke University, 2001); Amy J. Tillerson, "Negotiating Intersections of Gender, Social Class, and Race: Black Women in Prince Edward County, Virginia, Activists, and Community Builders, 1930-1965" (Ph.D. diss., Morgan State University, 2006); Kara Miles Turner, "Both Victors and Victims: Prince Edward County, Virginia, the NAACP, and *Brown*," *Virginia Law Review*, 90, No. 6 (October 2004): 1667-1691; Kara Miles Turner, "Liberating Lifescritps: Prince Edward County, Virginia, and the Roots of *Brown v. Board of Education*," in *In From the Grassroots to the Supreme Court: Brown v. Board of Education and American Democracy*, edited by Peter F. Lau (Durham: Duke University Press, 2004), 88-104; Amy Tillerson-Brown, "Grassroots Schools' and Training Centers in the Prospect District of Prince Edward County, Virginia, 1959-1964," in *The Educational Lockout of African Americans in Prince Edward County, Virginia (1959-1964), Personal Accounts and Reflections*, edited by Terence Hicks and Abul Pitre (Lanham, Maryland: University Press of America, 2010), 1-17.

in Prince Edward County, Virginia (2011), a revision of her dissertation, Titus utilized unpublished archival documents, with an emphasis on detailed memoranda of civil rights workers, to reconstruct the period of the school closings. Bonastia, a sociology professor at Lehman College, used an even wider breadth of sources in *Southern Stalemate: Five Years without Public Education in Prince Edward County, Virginia* (2012) to determine why Prince Edward County closed its public schools. *Brown's Battleground* and *Southern Stalemate* both updated *They Closed Their Schools* by incorporating new evidence and extending the story to the present.⁴

Titus and Bonastia both provided chapter-length assessments of the Kennedy administration's response to the school closings. Their interpretations conform neatly with the dominant narrative of the administration's civil rights record. Titus argues that the Department of Justice was so consumed with reacting to other civil rights crises that it could not adequately address Prince Edward County. In fact, Titus contends that Attorney General Robert F. Kennedy did not recognize the "gravity of the situation" until March 1963. Bonastia acknowledges the administration's concern for the locked-out children, but determined that it was "tempered by its reluctance to antagonize powerful Southern

⁴ Jill Oglie Titus, *Brown's Battleground: Students, Segregationists, and the Struggle for Justice in Prince Edward County, Virginia* (Chapel Hill: University of North Carolina Press, 2011); Jill L. Oglie, "A Mission to a Mad County: Black Determination, White Resistance and Educational Crisis in Prince Edward County, Virginia" (Ph.D. diss., University of Massachusetts at Amherst, 2007); Christopher Bonastia, *Southern Stalemate: Five Years without Public Education in Prince Edward County, Virginia* (Chicago: University of Chicago Press, 2012).

politicians.”⁵ This study, the first full-length study of the Kennedy administration’s performance in Prince Edward County, questions those assertions.

“A Matter of National Concern” argues that the Kennedy administration’s response to the school closings counters the dominant narrative. First, the administration took proactive measures to restore universal education to Prince Edward County. Kennedy’s Department of Justice worked to enter the litigation at the earliest possible date, at every level of the federal judiciary. The glacial pace of litigation delayed justice for black Prince Edwardians. As a fifth year of closed schools loomed, the administration spearheaded an extraordinary effort to mitigate the educational deprivation: the establishment of a temporary private school system available to all school-age county residents. Second, the administration confronted powerful southern congressmen by defending the locked-out children. The county’s segregationists represented the core constituency of the dominant political faction in Virginia. That faction, the Byrd Organization, had the influence in Congress to undermine President Kennedy’s legislative agenda – and they did just that in the name of federal interference in Prince Edward County. Finally, Kennedy’s judicial appointees took progressive action in the Prince Edward litigation. In fact, those judges broke down the last vestiges of Virginia’s “massive resistance” to school desegregation and delivered a mortal wound to the Byrd Organization. From the beginning, the Kennedy administration considered the school

⁵ Titus, *Brown’s Battleground*, 133-159; Bonastia, *Southern Stalemate*, 17, 133-160.

closings, as Assistant Attorney General Burke Marshall stated, “a matter of national concern.”⁶

⁶ Burke Marshall to Milton A. Reid, May 5, 1961, Reel 105, RG 60.

CHAPTER II

PROLOGUE – A DARK SPOT IN THE FREE WORLD: ROBERT F. KENNEDY’S VISIT TO PRINCE EDWARD COUNTY, VIRGINIA, MAY 11, 1964

In the six months after the assassination, Arlington National Cemetery experienced a staggering increase in visitors. Three thousand callers per hour thronged the trail to John F. Kennedy’s gravesite, a six hundred square foot plot framed by a short picket fence. Mourners paused to pay their respects. They sang and prayed, left flowers and trinkets, and gazed at the orange flame flickering in the wind atop the mound of evergreens. Meditations on what might have been were etched across their faces. “In the world of their dreams,” presumed James Reston of the *New York Times*, “Presidents would be young and heroic with beautiful wives, and the ugly world would be transformed by their examples.” Kennedy changed the image of the presidency, but more importantly he imbued a spirit of morality, energy, and idealism. He encouraged the American people to embrace equality, inspired a nation to reach for the heavens, and exhorted a dangerous world to pursue peace. Lyndon Johnson inherited the presidency

but not the Kennedy promise. That had been shattered in Dallas. Only Robert F. Kennedy could collect the shards and carry out his brother's legacy, but he too was shattered.¹

Robert Kennedy suffered through a long period of depression. He not only lost his brother but the man to whom he devoted much of his life. Kennedy had managed his brother's political campaigns with single-minded focus and served as attorney general doggedly committed to the president's interests. "His whole life was wrapped up in the President," explained Ethel Kennedy, the attorney general's wife. "Bobby never thought about himself – or his own life. So when the President died – well, it was like part of Bobby died, too." Kennedy's grief ran soul deep. "There was a void in his life, a wound that never healed," remembered a friend. "Anyone who looked into his eyes knew the suffering he endured." The emotional crucible had also taken a physical toll. Kennedy's athletic frame became gaunt, the unruly shock of light-brown hair grayed, and lines of grief framed his piercing blue eyes. The restless energy that distinguished him had subsided, as shock forced him to live on nerve. Kennedy could not escape the sorrow, as each day marked an anniversary or the dedication of a landmark in the late president's honor. The anguish was public, as was the speculation to "what will R.F.K. do next?"²

¹ Robert M. Poole, *On Hallowed Ground: The Story of Arlington National Cemetery* (New York: Walker & Company, 2009), 209-229; Loudon Wainwright, "A Visit to the Grave," *Life*, February 14, 1964, 15; James Reston, "What Was Killed Was Not Only the President But the Promise," NYT, November 15, 1964, SM24; Arthur M. Schlesinger, Jr., *Robert Kennedy and His Times* (Boston: Houghton Mifflin Company, 1978), 612-614.

² James W. Hilty, *Robert Kennedy: Brother Protector* (Philadelphia: Temple University Press, 1997), 486; High Sidey, "Journey Out of Grief: R.F.K.'s Mission to Asia," *Life*, January 31, 1964, 32-33; William vanden Heuvel and Milton Gwirtzman, *On His Own: Robert F. Kennedy, 1964-1968* (New York: Doubleday, 1970), 15-16, 25; "Robert F. Kennedy," *Forbes*, March 15, 1964, 12; Peter Maas, "What Will R.F.K. Do Next?" *Saturday Evening Post*, March 28, 1964, 17-21; Peter Lisagor, "Portrait of a Man Emerging From Shadows," NYT, July 19, 1964, SM15.

The future was uncertain for Robert Kennedy. His purpose, his identity, had forever changed. “Bob Kennedy was no longer Bobby Kennedy, as his family and the nation knew him,” wrote journalist Hugh Sidey. “He was no longer the kid brother, or the President’s closest adviser, or the second most powerful man in the U.S.... Though Bob Kennedy may someday again be one of the two most powerful men in the nation, the harsh fact is that the power has passed.” Running parallel to the grief was his loss of power. For one thousand days Kennedy had unrivaled access to the White House, with such influence that pundits speculated that he made presidential decisions. He had no such sway with Lyndon Johnson. They continued a tormented relationship, one of “mutual contempt,” that consigned Kennedy’s influence to the traditional level of a cabinet officer. Kennedy’s days as attorney general were numbered, but he admitted that “I really don’t know what I’m going to do.” He ruled out a move to the private sector: “I’m not interested in making money or practicing law.” Kennedy wanted to remain in public life, but as biographer Jeff Shesol asked, “Was there an office large enough to contain his capacities, his ambitions, and his brother’s legacy?”³

Robert Kennedy accepted the responsibility of being the custodian to his brother’s legacy. First, he had to ensure that the Kennedy promise was fulfilled. That required preserving the late president’s base of political support. “It’s damn important,” asserted Kennedy, “that the Kennedy wing... continue to be a very important force in the

³ Sidey, “Journey Out of Grief,” 32-33; vanden Heuvel and Gwartzman, *On His Own*, 3; Kenneth P. O’Donnell and David P. Powers, *Johnny, We Hardly Knew Ye’: Memories of John Fitzgerald Kennedy* (Boston: Little, Brown and Co., 1970), 278; Jeff Shesol, *Mutual Contempt: Lyndon Johnson, Robert Kennedy, and the Feud that Defined a Decade* (New York: W.W. Norton & Co., 1997); Lisagor, “Portrait of a Man Emerging From Shadows,” SM15.

[Democratic] party.” He recognized the power and significance associated with being its standard-bearer. “I’d like to harness all the energy and effort and incentive and imagination that was attracted to government by President Kennedy,” the attorney general told *Newsweek*. “I don’t want any of that to die. It’s important that the striving for excellence continue, that there be an end to mediocrity. The torch really has passed to a new generation. People are still looking for all that idealism. It permeated young people all over the globe. And I became sort of a symbol, not just as an individual.” That was not demagoguery, but the recognition of the responsibility suddenly thrust upon him. To many he was the heir apparent, the president of a government in exile. Second, President Kennedy’s memory must continue to burn bright. Kennedy led the campaign to preserve the administration’s records and artifacts in a presidential library. He wanted the John F. Kennedy Memorial Library to be “something extra, something special.” A \$10 million fundraising drive was underway to construct a “living center of teaching, research, and study” for scholars around the world. Robert Kennedy represented the administration’s accomplishments, its unfinished work, hope for the future, the Kennedy legacy – all of which had particular significance on an unforgettable day in Prince Edward County, Virginia.⁴

On May 11, 1964, Robert and Ethel Kennedy visited the Prince Edward Free Schools. The Kennedy administration had facilitated the creation of a temporary private

⁴ Shesol, *Mutual Contempt*, 181; “What’s Bobby Going to Do? – An Informal Talk with RFK,” *Newsweek*, July 6, 1964, 24; Associated Press, “Contributions Are Sought For Kennedy Library: \$6 Million Goal Is Set for Memorial at Harvard,” *NYT*, December 6, 1963, 19.

school, available tuition free to all school-age county residents, both black and white, until the U.S. Supreme Court determined the constitutionality of the school closings. In appreciation, the Free School students had collected 9,964 pennies for the John F. Kennedy Memorial Library Fund. They surpassed their fundraising goal of \$47, a dollar for every year of the late president's life. The attorney general was scheduled to inspect the Free Schools, accept the penny donations, and deliver some remarks.⁵ Kennedy, however, could not yet deliver news from Washington of utmost concern to black Prince Edwardians: passage of the civil rights bill and a court order to reopen the public schools. Definitive action in Congress and the High Court promised to fundamentally alter the county and Virginia as a whole. The Kennedy administration had already initiated reforms that, coinciding with a demographic realignment, would transform Virginia. In the meantime, the Kennedys' helicopter flight cut across Harry Byrd's Virginia.

I

Social and economic forces triggered a political upheaval in the Old Dominion. The 1960 census reported that, for the first time, urbanites outnumbered rural Virginians. The declining economic opportunity in the agricultural and mountainous regions had fueled a migration to the industrial centers. "Slowly but steadily," read a 1962 economic

⁵ Neil V. Sullivan to Vera Allen, et al., "The Kennedy Library," February 7, 1964, Neil V. Sullivan to Willie Mae Watson, et al., "The Kennedy Library Fund," April 7, 1964, both in Box 18, Eugene R. Black to Neil V. Sullivan, April 13, 1964, Neil V. Sullivan to Eugen R. Black, April 28, 1964, both in Box 21, all in PEFSAP; William J. vanden Heuvel to Robert F. Kennedy, "Notes and Comments concerning Prince Edward County," May 8, 1964, Box 64, RFKP.

analysis, “[Virginia] is moving forward in the direction of an urbanized, diversified industrial economy.” The population redistribution highlighted the historical malapportionment that favored Virginia’s rural areas – the core constituency of the state’s dominant political faction. The Byrd Organization had espoused traditional southern values: small government conservatism, tight-fisted fiscal policy, and white supremacy, even as population dynamics evolved, constituency needs grew, and society advanced. The Organization failed to adapt to the changing political environment and, in short time, met its demise. In the interim, the Organization clung jealously to a bygone era and still took its cues from Harry Byrd, who had dominated Virginia politics for four decades.⁶

Harry Byrd had systematically consolidated the state government under his domination. In the 1920s, State Senator Byrd outmaneuvered his political rivals to take command of a flagging faction of the state Democratic Party. He soon restored that political machine to preeminence and lifted his own star by successfully leading the opposition to the Highway Bond Referendum. Virginian voters rejected financing much-needed road construction through bonds in favor of Byrd’s “pay-as-you-go” fiscal philosophy. That campaign thrust Byrd into the governor’s mansion (1926-1930). Governor Byrd implemented a program of fiscal responsibility. He reduced the state bureaucracy, cut taxes, and after inheriting a budget deficit, left office with \$4 million of unappropriated funds in the state treasury. Byrd also pushed through government reforms

⁶ Federal Reserve Bank of Richmond, *Virginia: An Economic Profile* (Richmond, Virginia, 1962), 1-56; J. Harvie Wilkinson III, *Harry Byrd and the Changing Face of Virginia Politics, 1945-1966* (Charlottesville: University Press of Virginia, 1968).

that centralized executive power, most notably by reducing the number of elected state officials from eight to three (governor, lieutenant governor, and attorney general). This reorganization took power from the people and gave it to the governor (Virginia governors could not succeed themselves). In the long run, it increased the influence of Harry Byrd, who as the undisputed leader of the rebranded Byrd Organization, anointed gubernatorial candidates for years to come.⁷

The Byrd Organization controlled the levers of state government. United States Senator Harry Byrd managed the Organization from his perch on Capitol Hill. He and his chief lieutenants guided state policy, mapped political strategy, and endorsed candidates for elective office who reflected inter-Organization polling. The candidates conformed to Organization orthodoxy, thus providing the electorate with little choice at the ballot box. The weak political opposition from Republicans and anti-Organization Democrats made state elections a foregone conclusion and provided little incentive for Virginians to exercise their franchise. Voter suppression further entrenched Organization power. The poll tax kept untold poor whites and African Americans from the polls. Apathy and suppression resulted in low voter turnout. “By contrast,” wrote political scientist V.O. Key, “Mississippi is a hotbed of democracy.” The Organization, therefore, maintained its dominance through a small, predictable electorate.⁸

⁷ Ronald L. Heinemann, *Harry Byrd of Virginia* (Charlottesville: University Press of Virginia, 1996), 32-105.

⁸ Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics*, 9-61; Robbins L. Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation, 1954-1956* (Chapel Hill: University of North Carolina Press, 1962), 13-27; James W. Ely, Jr., *The Crisis of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance* (Knoxville: University of

The Byrd Organization further consolidated its power. The governors (Organization men) appointed a three-man State Compensation Board to determine the salaries of local officials who performed state duties (e.g. commonwealth's attorney and county treasurer). Certainly, the power of the purse discouraged deviation from Organization principles. Second, the Virginia General Assembly, which the Organization controlled, appointed like-minded state circuit court judges for eight-year terms – even in Republican-dominated areas. The judges had patronage power of their own. They appointed county judges and the Electoral, Reassessors, Welfare, and School Trustee Electoral boards. Joel West Flood (Harry Byrd's uncle), for example, presided over the Fifth Circuit from 1940 to 1964. He appointed Prince Edward County's three-man School Trustee Electoral Board, who in turn named the six-man public school board. Paul Tulane Atkinson, a trustee from 1926 to 1963, certainly had a conflict of interest; he also served on the board of the local segregated private schools. Through this patronage system, Byrd's influence clearly permeated down into the county courthouses, and loyalty returned up the ranks, making Byrd's word "law in Virginia."⁹

Still, Virginia was not monolithic. Professor Robbins Gates determined that there were different "Virginias," classifying the counties based on black population figures, because southern politics revolved around the position of African Americans. The black population density correlated with a region's resistance to the calls for racial equality.

Tennessee Press, 1976), 3-29; V.O. Key, Jr., *Southern Politics in State and Nation* (New York: Alfred A. Knopf, 1949), 19-35.

⁹ Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics*, 30-37; Francis Pickens Miller, "Tragic Story of Virginia's Aberration," WP, April 23, 1961, E7.

The “white belt” and “middle ground” counties had a low concentration of African Americans (10 percent or less and 10-40 percent, respectively). The mountains and valleys had relatively little history of slavery and less connection to old plantation Virginia. The growth of industry and the federal bureaucracy shifted the population dynamics of northern Virginia. The Washington suburban population had exploded in the 1940s and 1950s with non-Virginia residents, many of whom had no southern ties or interest in resisting racial integration. Despite the tremendous population growth in those regions, state politics was dominated by the region most closely associated with Virginia’s agrarian past.¹⁰

The “black belt” counties were disproportionately represented in state government. Southside Virginia and the Tidewater, thirty-one contiguous counties stretching from the mountains to the Atlantic and from the James River to North Carolina, had a black population that exceeded 40 percent. The region’s white supremacists depended on the Byrd Organization to preserve the traditional racial hierarchy. The state’s voter suppression laws ensured that whites controlled the elections. The poll tax had effectively eliminated black political power, thus permitting whites to elect Organization men to local, state, and national office. In fact, malapportionment gave the black belt’s white supremacists even greater influence over the conduct of state

¹⁰ Gates, *The Making of Massive Resistance*, 1-12.

affairs. Rural Southside Virginia used its lop-sided representation to impose statewide massive resistance to school desegregation. Prince Edward County led the resistance.¹¹

II

Prince Edward County stands in the “heart of Virginia.” The beautiful countryside imbued a spirit of serenity. The gentle rolling hills of lush pasture and virgin woodlands stretched for 357-square miles from the Appomattox River in the north to the lesser defined county lines in the other cardinal directions. The muddy backroads meandered through dark fired-cured and light flue-cured tobacco, corn, wheat, and alfalfa fields; dairy, poultry, cattle, and hog farms; and apple and peach orchards. The rural landscape presented a reminder of traditional agrarian Virginia. The bucolic imagery, however, belied the poverty and racial tension that underscored the human conditions in Prince Edward County.¹²

The county population reflected a statewide trend of rural outmigration. In 1960, census workers counted 14,121 county residents, the lowest figure since Reconstruction and an 8.3 percent decrease from 1950. All five rural magisterial districts experienced a population decline – Lockett (-6.6 percent), Hampden (-7.7 percent), Prospect (-12.4 percent), Buffalo (-25.7 percent), and Leigh (-28.8 percent). The Farmville District,

¹¹ *Ibid.*, Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics*.

¹² Alfred P. Klausler, “The Shame and the Glory,” *Christian Century*, August 15, 1962, 977-979; James Rorty, “Desegregation: Prince Edward County, Va.: A Local Chronicle,” *Commentary*, Vol. 21 (1956): 431-438; Edward H. Peebles, Jr., “A Perspective of the Prince Edward County Issue,” (Master’s thesis, University of Pennsylvania, 1963).

which housed the county seat, had a nominal 0.5 percent increase. The school closings further fueled the outmigration. The majority of professional African Americans, namely the teachers, left the county when the schools closed. More broadly, many black Prince Edwardians moved to adjacent counties and “up North” (most notably New York and Philadelphia) so their children could receive an education. The outmigration contributed to the graying of the county. The school-age population fell from 3,985 in 1945 to 3,028 in 1961. The black Prince Edwardians that remained were politically powerless against an “ingrown” white population tied to an agrarian past.¹³

The county’s economic system preserved the racial hierarchy. The average black family earned less than half that of white families – \$1,848 to \$4,070. Only a small number of African Americans (6.2 percent) held white-collar jobs, as compared to 45.5 percent of whites. One in five blacks worked on the farm, while about three-quarters held blue-collar jobs, such as craftsmen, operators, laborers, and domestics. “The only jobs Negroes can hold in this town are janitors and maids at the colleges, or as laborers on the railroads and in the warehouses, or as unskilled workers in a couple of factories,” the Reverend L. Francis Griffin, a local black leader, told the *New Republic* in 1955. “A high school graduate must leave the county to get a suitable job.” Black high school graduates,

¹³ U.S. Bureau of the Census, *U.S. Census of Population: 1960, Number of Inhabitants, Virginia* (Washington, D.C.: GPO, 1961); Virginia Electric and Power Company, *Prince Edward County, Virginia: An Economic Study*, December 1967, 18; Robert L. Green, et al., *The Educational Status of Children in a District Without Public Schools* (Lansing, Michigan: Bureau of Educational Research, College of Education, Michigan State University, 1964), 97-98; Ben Bowers, “School Progress Report Goes To Judge This Week,” *FH*, November 14, 1961, 1; Ben Bowers, “Federal Judge Gets School Board View Of Situation,” *FH*, November 17, 1961, 1; David M. Rudenstine, “Or None at All,” (Senior thesis, Yale University, 1963), 5.

however, were a rare commodity in Prince Edward County. In 1960, only about 12 percent of black residents over the age of twenty-five had completed high school. The vast majority (68.1 percent) had only attended elementary school.¹⁴ The economic conditions all but ensured the perpetuity of black poverty.

County residents also experienced a low standard of living. Poverty did not discriminate in Prince Edward County. “Farmville indeed had a school problem,” noted one observer, “but it also had a serious housing problem.” Farmville, the county seat, had white sections with pillared homes, as well as modern, middle-class homes on quiet streets. On the other hand, blacks lived in poor sections, like “catfish row” along the railroad tracks. Out in the country, the poor housing could be described more as “shacks” than houses. Those structures were weather beaten with paint chipping off the exterior walls. Some homes were without indoor plumbing or electricity. The lack of air conditioning offered little respite from the semitropical heat. Poverty limited communication. Antennas picked up signals from television stations in Richmond, Lynchburg, and Roanoke, but that provided little stimulation and information for those without television sets. Listeners could tune into the AM radio stations, like WFLO of Farmville, but no FM service was available. The Richmond and Lynchburg newspapers reported state and national news, but the only local paper, *The Farmville Herald*, was

¹⁴ J. Kenneth Moreland, “The Tragedy of Public Schools: Prince Edward County, Virginia: A Report to the Virginia Advisory Committee to the United States Commission on Civil Rights,” January 16, 1964; Haldore Hanson, “No Surrender in Farmville, Virginia,” *New Republic*, October 10, 1955, 13.

owned by the county's leading segregationist and it presented a skewed depiction of local events. For the poor, Prince Edward County was an isolated world.¹⁵

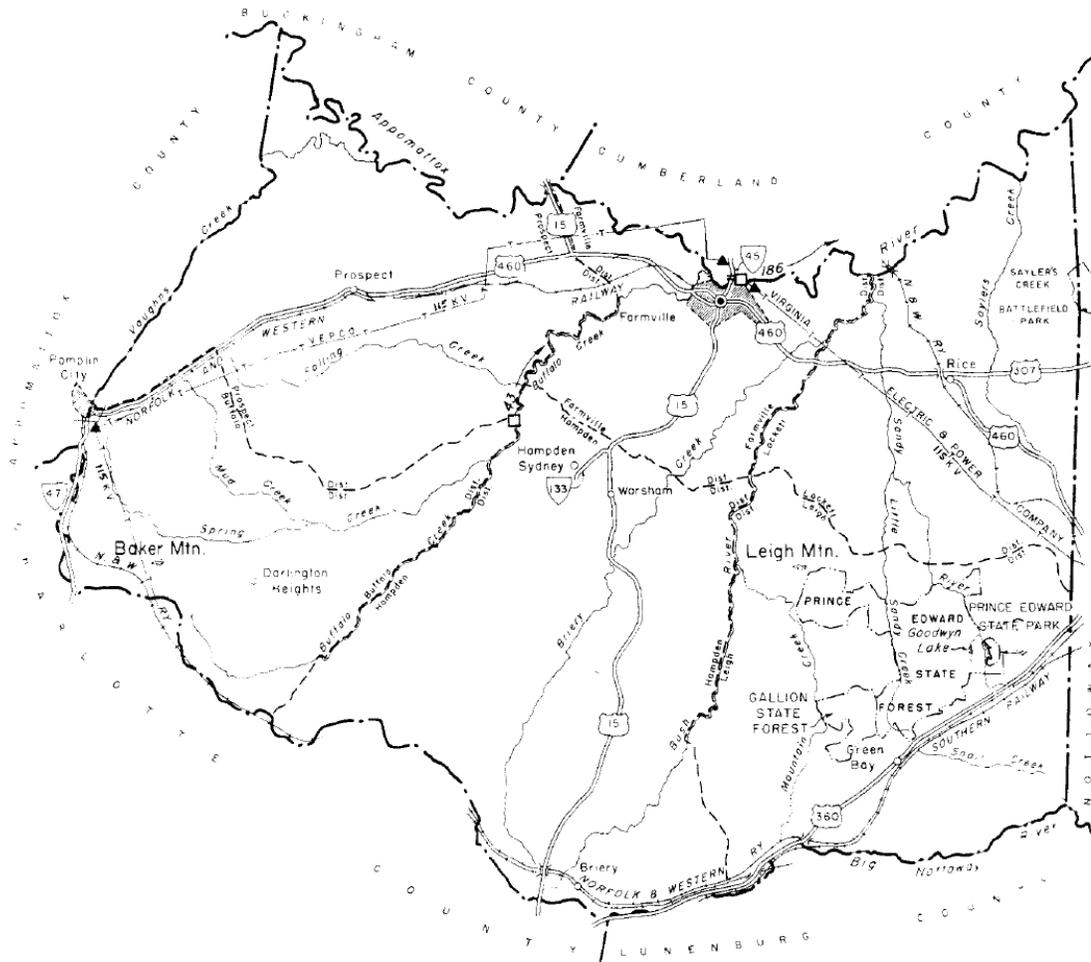


Figure 2.1 Map of Prince Edward County, Virginia. (Source: Area Redevelopment Department of Virginia Electric and Power Company).

¹⁵ Neil V. Sullivan, *Bound for Freedom: An Educator's Adventures in Prince Edward County, Virginia* (Boston: Little, Brown and Company, 1965), 20; Jane Callwood, "Eight Days Makes a Miracle," *McCall's*, January 1964, 138; "First County to Give Up All Its Public Schools," *U.S. News & World Report*, June 22, 1959; Peeples, "A Perspective of the Prince Edward County Issue."

An array of transportation systems broke the rural isolation. Three U.S. highways (15, 360, and 460) connected the county to Lynchburg, Roanoke, and Danville to the west, Petersburg and Richmond to the east, and northern Virginia and Durham, North Carolina. Greyhound had a station in Farmville, which offered once-a-day bus service. The Norfolk and Western Railroad provided passenger service from Norfolk to Cincinnati. Finally, Farmville had a small airport – essentially a pasture with a small building – with no regularly scheduled commercial flights.¹⁶

III

At 9:37 a.m., the Kennedys touched down at Farmville Airport. A contingent of local officials, led by Mayor Herbert Stokes and Commonwealth's Attorney Billy Watkins, cordially received the Kennedys. Kennedy and Watkins had been classmates at the University of Virginia's School of Law. Kennedy commended Watkins on his professional success: "Billy, you've done real well." To their mutual amusement Watkins riposted, "Mr. Attorney General, you've done a lot better." Following the official welcome, Kennedy shook hands and chatted with an affable gathering of local citizens. Despite the warm reception, Kennedy appeared tense and ill at ease, characteristic of his chronic shyness in the presence of strangers, though, there was reason for apprehension. The local segregationists considered the attorney general an anathema, a symbol of

¹⁶ Peebles, "A Perspective of the Prince Edward County Issue"; William J. vanden Heuvel to Robert F. Kennedy, "Notes and Comments concerning Prince Edward County," Box 64, RFKP.

federal intrusion into their affairs. Under his direction, the Department of Justice had challenged the constitutionality of their school program, and he had used his national platform to denounce the county as “a blight on Virginia,” “a disgrace to our educational system and to our country,” and “a dark spot in the free world.”¹⁷

Bobby Kennedy boarded a convertible to tour the “citadel of opposition to his views on integration.” Considering the tragedy in Dallas, the mode of transportation was a risk. The town, though, had a reputation for calm race relations, at least in terms of physical violence. The school closings had resulted in a different form of violence – educational, social, and economic – and further diminished race relations. However, the town’s racial discord reached beyond the schools into all aspects of community life. Whites barred blacks from the country club, movie theater, public library, and lunch counters and observed the tradition of segregation in other settings, such as the drive-in theater, public restrooms, and the hospital.¹⁸ Kennedy’s motorcade, in essence, journeyed through an open air museum to Jim Crow society.

The motorcade passed Southside Community Hospital on its way to town. The private, non-profit facility acted as the center of the Southside Health District, which served nine counties including 40,000 African Americans. Although the district was

¹⁷ Jo Leslie Andrews, “Touches of Humor Noted in Kennedy’s Visit,” RTD, May 12, 1964, 6; William F. Watkins, Jr., interview by Brian E. Lee, April 20, 2011; George M. Kelley, “Resolve P.E. Conflict: R.F.K.,” NVP, May 12, 1964, 1; Ross Weeks, Jr., “Kennedy Emphasizes Pennies, Not Politics,” RNL, May 12, 1964, 4; vanden Heuvel and Gwartzman, *On His Own*, 22; “Kennedy Sees Court Strengthening States,” RWN, May 2, 1962, 1; Department of Justice, Press Release, December 20, 1962, Reel 105, RG 60; “Children, parents give big cheer for Atty. Gen. Kennedy,” RAA, May 16, 1964, 1.

¹⁸ Associated Press, “Kennedy Visit Fails to Shake Resistance in Prince Edward,” LDA, May 12, 1964, 12; Allan Jones, “Kennedy Hopes Court Will Settle School Dilemma,” RTD, May 12, 1964, 1; Peoples, “A Perspective of the Prince Edward County Issue”; Rudenstine, “Or None at All,” 8.

racially balanced, only one-sixth of the beds were reserved for blacks. Dr. A.G. Rawlins, the county's only black physician, could not practice at the hospital because the board, fearing racial amalgamation, prohibited African Americans from treating patients or joining the staff. "When you've got all those white nurses, you've got a problem," reasoned a board member. "It's hard enough to keep nurses at these hospitals as it is." Consequently, many black patients endured the ignominy of a segregated waiting room only to receive care from unfamiliar doctors. Some African Americans, therefore, traveled sixty miles east to Richmond or thirty miles west to Lynchburg to receive treatment.¹⁹

The Longwood Ladies administered the remedy for Kennedy's tension. The motorcade had followed the gentle roll of Oak Street to the intersection of Ely and High streets – the northwest corner of Longwood College, a state teachers' college for women. Hundreds of shrieking Ladies swarmed onto High Street, forcing the motorcade to a halt. Kennedy left the car to greet the crowd, who found him charming and attractive, "much better looking in person than on TV." He flattered his listeners with praise for their college, a handsome campus of greenery and brick buildings capped with a colonnaded rotunda. He encouraged the students to contribute to the betterment of their community and nation. Kennedy's homily on civic engagement was his standard commentary to

¹⁹ Herbert Clarence Bradshaw, *History of Prince Edward County, Virginia: From Its Earliest Settlements through its Establishment in 1754 to its Bicentennial Year* (Richmond: Dietz Press, 1955), 605-608; Josephine Ripley, "School-Closings Tragedy," CSM, April 18, 1962, 12; Harry Boyte to Jean Fairfax, "Prince Edward County Items," April 11, 1962, #38438, AFSC; Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 162.

young people, but his words had special meaning at this campus. Over the last five years, the Ladies only had to gaze across Ely Street into the black neighborhood to find idle children deprived of an education. The student body, in general, had insulated themselves from the community's racial strife, focusing rather on their studies, sorority life, and dating. Many non-county residents believed that they had no place to meddle in local problems. Kennedy chatted with the crowd for only a few minutes, but long enough to rouse laughter and cheer. He returned to his car amid their applause, visibly moved by the unexpected reception.²⁰

The scene on High Street "irritated" the college president. Dr. Frank Lankford explicitly told planners that he did not want the attorney general to visit the campus. Rather, he wanted to distance Longwood from the Free Schools. "The people in the Free School seem to be developing more and more problems for us almost daily," Lankford privately protested. "It makes it even more troublesome when some of our students and faculty are entirely sympathetic with their efforts to promote intermingling of the races on our campus." Lankford had done his part to preserve the community's traditions by practicing discrimination on campus. Black applicants had found employment with the maintenance and kitchens staffs, but not admission to an academic program. Grace Poindexter, a senior at the Free Schools, had aimed to "break the [color] barrier," but the

²⁰ Samuel M. Holton, "Farmville State Teachers College," in *Today and Yesterday in the Heart of Virginia*, J. Barrye Wall, ed. (Farmville: Farmville Herald, 1935), 64-70; "Longwood College," *Virginia and Virginia County*, February 1950, 13; Kelley, "Resolve P.E. Conflict: R.F.K.," 1; Jones, "Kennedy Hopes Court Will Settle School Dilemma," 1; E-mail, Ann Heaven Roe to Brian E. Lee, January 10, 2011; E-mail, Betty Weaver to Brian E. Lee, February 3, 2011; "Kennedy Draws Virginian Cheers: He Visits the Free School in Prince Edward County," NYT, May 12, 1964, 27; Donna Humphlet, "Civil Rights Advocate Visits Prince Edward," *Rotunda*, May 13, 1964, 1.

administration rejected her application. Lankford cited flaws with Poindexter's academic record, a record that earned her class valedictorian.²¹



Figure 2.2 Robert F. Kennedy at Longwood College. (Photo: *Richmond Times-Dispatch*).

The motorcade turned north at the intersection of High and Randolph, the location of the memorial to the “Confederate Heroes.” A century earlier, the *Richmond Daily Enquirer* determined that Prince Edward was “perhaps the most unanimous county for

²¹ Frank G. Lankford, Jr., to Albertis S. Harrison, Jr., May 11, 1964, Box 24, ASHP2; Associated Press, “PE Free School Senior Would Enter Longwood,” PPI, February 20, 1964, 16; Neil V. Sullivan to James B. Cooley, May 5, 1964, Box 30, PEFSAP; “Federal Official Addresses 23 Free School Graduates,” FH, June 19, 1964, 1. On September 15, 2014, the Longwood University Board of Visitors adopted a resolution expressing regret for its actions during the period of the Civil Rights Movement, including its failure to “provide strong moral leadership in the community” during the public school closings. See “Longwood expresses regret over institution’s actions during civil rights era,” September 15, 2014, http://www.longwood.edu/2014releases_58350.htm, accessed July 3, 2015.

immediate secession in the state.” The county mustered eight companies, which saw battle at Rich Mountain, Antietam, Manassas, Gettysburg, Chancellorsville, and Spotsylvania. In 1900, the United Daughters of the Confederacy commemorated those “Defenders of State Sovereignty” with a seven-foot tall bronze soldier atop a twelve-foot granite plinth. For the secessionists and their progeny, civil war memory invoked a bygone era. On the other hand, one black teenager likened Prince Edward County to living in a “twilight zone.”²²

Farmville’s industrial zone came into focus at Third Street. The county had some light industry, but only a handful of businesses that employed twenty or more workers. The Buffalo Shook Company manufactured shipping equipment, primarily pallets and wooden containers designed to transport tobacco. In its background, along North Main Street, large brick tobacco warehouses formed Farmville’s *sky* line. The Dunnington Tobacco Company had been in operation since the antebellum period. It had since grown into the nation’s largest buyer of dark fired Virginia tobacco and engaged in international commerce. The Craddock-Terry Shoe Corporation stood opposite Main Street. The five-story building formerly operated as a tobacco warehouse, but now it hummed with the “steady rhythmic beat of machinery” producing shoes, about 800,000 pairs in 1964. This

²² Timothy S. Sedore, *An Illustrated Guide to Virginia’s Confederate Monuments* (Carbondale: Southern Illinois University Press, 2011), 254; “Prince Edward for Secession with only one Dissenting Voice,” *Richmond Daily Enquirer*, March 22, 1861, 2; Bradshaw, *History of Prince Edward County*, 370-410; John C. Steck, “U.D.C. Organized in 1896, Perpetuates Memories,” FH, April 6, 1965; Gaines Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865-1913* (New York: Oxford University Press, 1987); David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge: Harvard University Press, 2001); Leslie F. Griffin, Jr., interview by Ruth Turner in Ruth Turner to Jean Fairfax, “Activities in PEC with special emphasis on Sunday’s demonstration,” August 2, 1963, #38544, AFSC.

branch of the Lynchburg-based company employed over three hundred workers with a payroll over \$1 million, by far the largest industry in town. Nevertheless, the Craddock-Terry plant, established in 1934, had been the last major manufacturing plant to come to Farmville.²³

Farmville wanted more industry. In the 1950s, business leaders established the Farmville Area Development Corporation (FADC) to attract new industry. The county had the lure of an unorganized labor force, whose limited education and poor standard of living depressed wages. In 1957, a top industrial development executive gave the community good marks for its labor supply, access to transportation, industrial sites, water supply, and educational facilities. He expressed optimism that new businesses would choose Farmville. The Town of Farmville courted new industry by adopting a slogan, "Gateway to Opportunity," painting INDUSTRY INVITED on its new two-million gallon water tank, and posted a sign on U.S. 15, which read:

FARMVILLE, VA.
INDUSTRIAL SITE
WE INVITE INDUSTRY

However, slogans and signs could not obscure the flood of bad press that the community had earned for the school closings. "We very badly need some industries to come in here and furnish employment for the people," explained Dr. A.G. Rawlins. "They won't,

²³ Peeples, "A Perspective of the Prince Edward County Issue," 6-7; Rudenstine, "Or None at All," 4; Bradshaw, *History of Prince Edward County, Virginia*, 370-410; "Buffalo Shook Company," and J. Barry Wall, "Dunnington Tobacco Company," in *Today and Yesterday*, 37-38, 106-107; Ripley, "School-Closing Tragedy," 12; "A Leading Local Industry Since the Days of the Civil War," FH, April 6, 1965; "Farmville's Ten Million Dollar Asset," FH, October 10, 1958, 4C; John Steck, "Shoe Plant Output 800,000 Pairs; Pay \$1,100,000," FH, 1 January 1965, 1.

though, so long as we are in a foment over schools.” The county’s apologists had argued that no correlation existed between the school closings and the lack of new industry.



Figure 2.3 Main Street in Farmville. (Photo: Library of Congress).

Quieter voices of reason knew that the lack of public schools discouraged businesses from choosing Farmville. An FADC director admitted that the town lost a prospective business because the executive could not convince his board to relocate to a community that closed its public schools.²⁴ The community had to face the consequences or make do

²⁴ Rudenstine, “Or None At All,” 3-4; Smith, *They Closed Their Schools*, 244-245; “‘Patient Persistence’ Key to Attracting New Industry,” FH, February 22, 1957, 1; Elsie Carper, “The ‘Gateway’ Isn’t Exactly Open,” WP, March 19, 1961, E2; “A Natural Place for a Sign,” FH, October 18, 1963, 1; Jim Birchfield, “How is Prince Edward County Doing Without Public Schools?” *Star Magazine*, March 4, 1962, 4-6; Joe Elliott, “The Prince Edward County School Dilemma,” *Progressive Farmer*, July 1961, 46.

with its existing industry and settle for the service and retail sectors that existed downtown.

Downtown formed the central shopping corridor and thus the primary setting for racial interaction. Two-to-three story, turn-of-the-century commercial buildings lined a four-block stretch of Main Street. The stores, restaurants and theaters drew consumers from the surrounding counties. The weekends, in particular, increased traffic as rural consumers, both black and white, came into town for their weekly shopping. On the surface, racial interactions tended to be cordial, but the social hierarchy was clearly delineated. Whites treated African Americans as second class citizens. Blacks were expected to address whites as “Mr.,” “Mrs.,” or “Miss,” but whites condescendingly referred to blacks as “boy,” “uncle,” “aunt,” or by their given name. Black children questioned this distinction, but many parents chose not to discuss it. “That was how adults dealt with things back then,” recalled Aldrena Thirkill. “They just didn’t talk about it.” The racial hierarchy translated into the shopping experience.²⁵

The downtown businesses practiced racial discrimination. The department stores prohibited African Americans from trying on clothes. Leggett’s advertised that a “customer in our store is as a guest in our house, and should be treated with courtesy and hospitality.” That customer service did not always extend to black shoppers. A young black girl remembered asking a clerk to try on clothes. The clerk snapped, “*You people*

²⁵ David A. Edwards and John S. Salmon, “Farmville Historic District,” National Registration of Historic Places Registration Form, March 1989; Edward H. Peeples, Jr., “A Perspective of the Prince Edward County Issue,” (Master’s thesis, University of Pennsylvania, 1963); Rudenstine, “Or None at All,” 8; Roger Madison, e-mail to Brian E. Lee, January 9, 2011; Liza Mundy, “Making Up For Lost Time,” WP, November 5, 2006, W20.

ain't allowed to try on clothes here." Similarly, African Americans could purchase food, but were prohibited from sitting at the lunch counter. "For an ice cream cone or a Coca-Cola," described a white moderate, "[African Americans] must sidle up to the end of a lunch counter to make their purchase. Without the slightest pause that may be interpreted as 'rising above their place' they must slink off to enjoy their purchase without taint to a white skin." The movie houses also practiced discrimination. The State Theater refused service to blacks, while the Lee Theater provided seating in the balcony – the "crow's nest," as one black leader derisively characterized the arrangement. Blanton Hanbury, a leading local industrialist, defended the town's discriminatory business practices:

These, remember, are all private facilities. Both races can have what they want. If the Negroes wanted a library or a swimming pool, we'd even help them get it. But they're not interested. They want poolrooms and dance halls. They're more interested in drinking and carousing than in reading or swimming. That's what they've got and they're happy with it. We have a saying around here – be a Negro on Saturday night and you'll never want to be a white man again.²⁶

The discriminatory business practices and paternalism demonstrated the need for a public accommodations law and bi-racial understanding.

The motorcade made a planned stop at the county courthouse. The local dignitaries left the procession, declining to accompany the attorney general to the Free Schools. They had shown courtesy by greeting their guest, even one as despised as Bobby

²⁶ Clinton Beauregard Lee, e-mail to Brian E. Lee, January 12, 2011; Robert Hamlin, e-mail to Brian E. Lee, April 27, 2011; "Leggett's," FH, October 10, 1958, 4C; Betty Cater Sumpter, e-mail to Brian E. Lee, April 27, 2011; C.G. Gordon Moss, July 21, 1963, #38558, AFSC; Rudenstine, "Or None at All," 8; Hanson, "No Surrender in Farmville, Virginia," 13; Irv Goodman, "Public Schools Died Here," *Saturday Evening Post*, April 29, 1961, 87.

Kennedy, but continuing to the schools would have signaled an endorsement of a racially integrated faculty and student body. As the local officials exited, the void was quickly filled by approximately one hundred bystanders, both black and white, who swarmed around Kennedy. The attorney general left his car to shake hands and make some impromptu remarks. The motorcade soon resumed its southward journey out of the downtown business district to the sister elementary schools that straddled Main Street.²⁷

IV

The Kennedys visited the Mary E. Branch Elementary Schools. School No. 2 gave the Kennedys an enthusiastic welcome. The students lined the sidewalk, waving miniature American flags in salutation. Teachers and onlookers fortified the ranks, swelling the reception line to several rows deep. Flashing his distinctive smile, Bobby Kennedy walked down the path, affectionately patting children's heads and shaking the hands of well-wishers. The students opened the program by reciting the pledge of allegiance, an unfamiliar verse for many of them just months earlier. According to a federally sponsored survey, 627 black county residents aged five to twelve had received no formal schooling during the previous four years. That explains the children's unfamiliarity with the pledge. On this day, it "rang out loud and clear." The band

²⁷ Andrews, "Touches of Humor Noted in Kennedy's Visit," 6; Kelley, "Resolve P.E. Conflict: R.F.K.," NVP, 1; Weeks, "Kennedy Emphasizes Pennies, Not Politics," 4; Associated Press, "Kennedy Visit Fails to Shake Resistance in Prince Edward," 12; "Kennedy Draws Virginian Cheers," 27.

followed with “The Skaters Waltz,” “America,” and the “Marine Hymn.” The program concluded with the presentation of a gift for the John F. Kennedy Memorial Library.



Figure 2.4 Robert F. Kennedy at Mary E. Branch Elementary School No. 2. (Photo: *Richmond Times-Dispatch*).

Oreatha Wiley, twelve years old, handed Kennedy a white cloth bag tied with red and blue ribbon, containing about 2,850 pennies. He accepted the donation with pleasure and humor. “I don’t know if this is the biggest gift we have received,” Kennedy quipped, “but it is the heaviest.” Across the street, School No. 1 held a similar program in its

auditorium. The children recited one of the late president's favorite passages from Ecclesiastes: "There is an appointed time for everything, and a time for every affair under the heavens." Susan Saunders, seven years old, presented about 1,800 pennies. Bobby Kennedy accepted the gift "on behalf of President Kennedy's wife and all the other Kennedys" and offered some words of encouragement. After the program, Kennedy traveled five miles south on Main Street to Worsham School.²⁸

Worsham School welcomed the Kennedys with an assembly. Kennedy gave some informal remarks and accepted the penny donation. He assured the children that his brother had been "concerned about your failure to get an education and talked about it frequently." Paul Evans, one of six siblings, made the penny presentation. During the school closings, the three older Evans children attended school in Washington, D.C., but the three younger ones stayed home. "It costs too much to send them all to Washington," his father told a reporter in 1962. "And, anyway, seems like the younger ones are too young to go away from home. Just can't tear up your whole family." On this day, Evans went to school in his hometown dressed in his church clothes to recite a few rehearsed lines. He started well, but once he looked up at Kennedy he forgot the rest of his speech. Kennedy tried to make him feel at ease. As one close aide explained, the attorney general's "shyness also helped account for his remarkable gift of communication with children....He shared their sense of self-consciousness and vulnerability in public and

²⁸ Ben Beagle, "Pupils Shower Kennedy With Pennies and Cheers," RT, May 12, 1964, 13; Kelley, "Resolve P.E. Conflict: R.F.K.," 1; Robert L. Green and Louis Hofmann, "Progress Report," June 30, 1963, Box 100, RG 12; Jean M. White, "Farmville Children Thank RFK," WP, May 12, 1964, B1; Andrews, "Touches of Humor Noted in Kennedy's Visit," 6; Bill Johnson, "Robert Kennedy Haired By P.E. Negro Pupils," LN, May 12, 1964, 8.

tried to make them feel as comfortable as possible.” Kennedy often reassured children by placing his hand on their head or shoulder, or by other non-verbal communication. This time, Kennedy laughed good-naturedly and accepted the gift.²⁹

Bobby Kennedy toured the building. He enjoyed some playful banter with students. In Miss Phyllis Mielke’s classroom, Kennedy asked, “Who’s the smartest?” He pulled a little girl’s pigtails and asked another about her fingernail polish. In another classroom, Kennedy enjoyed the children’s rendition of “Mary Had a Little Lamb” and said that his eight children liked that song. The school officials led Kennedy to a student-produced tribute to the Kennedy brothers, a bulletin board titled “Welcome, Mr. Attorney General Robert F. Kennedy” and “John F. Kennedy.” The staff and students had thronged him throughout his visit, but they now gave him a few moments of relative solitude to enjoy the tribute. While sipping a carton of milk through a straw, the attorney general paused to look at Kennedy family pictures and read student compositions. One student recognized the unique relationship between the late president and attorney general: “[JFK] knew his brother was the one person on whom he could rely.” Gwendolyn Harrison, aged twelve, expressed her appreciation to the late President: “If it had not been for President Kennedy our schools might not have opened today. He was the best friend

²⁹ White, “Farmville Children Thank RFK,” B1; Andrews, “Touches of Humor Noted in Kennedy’s Visit,” 6; Birchfield, “How is Prince Edward County Doing Without Public Schools?” 4-6; vanden Heuvel and Gwartzman, *On His Own*, 22-23.

the Negro has had since President Franklin D. Roosevelt.” The muted compositional tribute contrasted with the raucous reception at the next stop.³⁰

Robert R. Moton High School hosted the largest assemblage. One thousand admirers, virtually all black, had been waiting for hours to welcome Kennedy. The crowd converged on the attorney general, reaching out to touch him and shake his hand. The police escort moved in to clear a path through the overwhelming adoration, but Kennedy assured Chief Otto Overton that that was unnecessary: “I appreciate your help, but I’m okay.” The police fell back and the crowd enveloped Kennedy. He had no pretensions that the adulation was for him. As the custodian of the Kennedy legacy, described an aide, “all the emotions people felt for his brother – the sympathy, the guilt, the hope – were converging on him.” He surrendered himself as an outlet for people to express their emotions. Kennedy found his way to the main entrance and announced to the crowd: “We’re just going into the assembly and we’ll be back to see you.”³¹

The program produced a range of emotions. The packed auditorium buzzed with excitement. Kennedy’s appearance lifted the students’ spirits. Many questioned whether Kennedy would actually come. “I assume we did not think that we were worthy enough to have someone of his magnitude to come and talk to us,” remembered Arlene Winkler. His presence affirmed that they were not alone in this long struggle. Kennedy’s visit was

³⁰ William J. vanden Heuvel to Robert F. Kennedy, “Notes and Comments concerning Prince Edward County,” May 8, 1964, Box 64, RFKP; Beagle, “Pupils Shower Kennedy With Pennies and Cheers,” 13; Andrews, “Touches of Humor Noted in Kennedy’s Visit,” 6; “Kennedy Emphasizes Pennies, Not Politics,” 4; Johnson, “Robert Kennedy Hailed By P.E. Negro Pupils,” 8; Kelley, “Resolve P.E. Conflict: R.F.K.,” 1.

³¹ Kelley, “Resolve P.E. Conflict: R.F.K.,” 1; Johnson, “Robert Kennedy Hailed By P.E. Negro Pupils,” LN, 8; Otto S. Overton, interview by Brian E. Lee, May 18, 2011; vanden Heuvel and Gwartzman, *On His Own*, 5; Beagle, “Pupils Shower Kennedy With Pennies and Cheers,” 13.

a “big deal,” thought Vic Madison, because it “reinforced the feeling that the Kennedys had real concern for black people.” The program opened with the singing of “America.”

My country, 'tis of Thee,
Sweet Land of Liberty
Of thee I sing;
Land where my fathers died,
Land of the pilgrims' pride,
From every mountain side
Let Freedom ring.

The singing touched Kennedy. “For schoolchildren to sing patriotic songs elsewhere would be unremarkable,” he thought, but the school closings made their achievements all the more notable. Kennedy was also visibly moved by the sentimental remarks about his late brother throughout the program. He wiped his moistened eyes and trembled as he made last minute revisions to his prepared remarks. This show of emotion, wrote *The Moton Eagle*, the school newspaper, “generated a feeling of warmth, friendliness and understanding between him and the audience.”³²

Bobby Kennedy took to the podium in his uncomfortable manner. He stammered and trembled, but the sincerity of his words and past deeds shined through. Kennedy characterized the county’s school program as “unnatural and unsatisfactory.” He hoped that the U.S. Supreme Court would order the state and local officials to take

³² Roger Madison, e-mail to Brian E. Lee, January 10, 2011; Betty Ward Berryman, e-mail to Brian E. Lee, January 29, 2011; Arlene Winkler Thompson, e-mail to Brian E. Lee, January 11, 2011; Vic Madison, e-mail to Brian E. Lee, January 22, 2011; Thomas A. Hopkins, ed., *Rights for Americans: The Speeches of Robert F. Kennedy* (Indianapolis: Bobbs-Merrill Company, 1964), 228; Weeks, “Kennedy Emphasizes Pennies, Not Politics,” 4; Betty Carter, “The Attorney General Visits Free Schools,” *Moton Eagle*, June 12, 1964, 1.

responsibility for public education. The attorney general credited his brother for the Free Schools: President Kennedy was “particularly worried about the lack of schools for Negroes in this county,” and he “found the laws were not as swift as they should be, and that we had to do something ourselves.” He asked the students to honor his late brother by maximizing their potential: “If President Kennedy were now here, he would ask you to continue to make the extra effort to live up to the expectations of your teachers, your community, of President Kennedy.” The students found inspiration in his words. “I distinctly remember that he didn’t make promises, but issued a challenge to us,” reflected Roger Madison, a senior. “He noted that it was our responsibility to take advantage of the opportunities that lay ahead for us. All that he and others who cared could do was open the doors of opportunity.” Kennedy’s words encouraged the senior class to “become the very best we could be.”³³

The student body president presented the donation for the John F. Kennedy Memorial Library Fund. Betty Carter had missed one year of school, then enrolled in a neighboring school district, but was soon dismissed when it was discovered that she did not meet the residency requirements. Like hundreds of other black Prince Edwardians, Carter moved away from her parents to attend school. She lived with her aunt in Washington, D.C., only returning home for holidays and summer break. “It was difficult being away from home during those times,” Carter remembered. The Free Schools

³³ Robert E. Thompson and Hortense Myers, *Robert F. Kennedy: The Brother Within* (New York: Dell Publishing Company, 1962), 137; Kelley, “Resolve P.E. Conflict: R.F.K.,” 1; “Kennedy Hopes Court Soon Clarifies Situation In Prince Edward Schools,” RWN, May 12, 1964, 9; Roger Madison, e-mail to Brian E. Lee, January 9, 2011.

allowed the Carter family to restore their family structure, and before Betty stood a man that played a prominent role in making that happen. “It was a bit of a dream to be there,” explained Carter. Kennedy accepted the gift of pennies and presented Carter and other distinguished students with a memento, a replica pin of the PT-109 boat that Lieutenant John F. Kennedy commanded in World War II.³⁴

Bobby Kennedy concluded his Free School tour by cementing an eternal bond with the black Prince Edwardians. The outdoor assemblage had weathered the sweltering noonday sun to hear Kennedy speak. The attorney general stressed the importance of “continuing this education” and remaining united: “If we are separated, if we are halved and mistrust replaces what we have had in the past, then we are going to have nothing but trouble.” The black community had come to expect that powerful men – be it the governor, general assembly, congressional delegation, or the county board of supervisors – would use their influence to perpetuate black second-class citizenship. The Kennedy brothers, on the other hand, had worked to correct that injustice. The attorney general’s visit, determined one black resident, was “perhaps the biggest thing that happened in support of the Black community.”³⁵ This day affirmed that the once lonely battle had been joined by the federal government.

³⁴ Betty Carter Sumpter, e-mails to Brian E. Lee, January 10-14, 2011; Betty Carter, “The Attorney General Visits Free Schools,” *Moton Eagle*, June 12, 1964; “Attorney General Urges Emphasis on Education,” *FH*, May 12, 1964, 1; Roger Madison, e-mail to Brian E. Lee, January 9, 2011.

³⁵ Beagle, “Pupils Shower Kennedy With Pennies and Cheers,” 13; Roger Madison, e-mail to Brian E. Lee, January 9, 2011.

V

The Kennedys helicoptered four miles for a speaking engagement at Hampden-Sydney College (HSC). The private men's college, one of the oldest in the nation (established in 1775), was quietly secluded in the piney woods. The college was "a small, self-contained world doing a great job of preparing us for graduate school and responsible positions in business," described one student. "Social consciousness was not a big part of the process." Like Longwood College, HSC officialdom failed to provide progressive leadership on the public school closings. The board of trustees had debated whether to "publicly take a high moral stand" but ultimately determined to refrain from injecting the college into a local matter. As a private institution, HSC was free from the scrutiny of the state board of education, unlike Longwood College. However, lacking public funds, HSC had to preserve positive relations with alumni, several of whom were among the county's leading segregationists. Further, the paying customers, the student body, were southern-bred whites. It certainly was not a pro-Kennedy campus.³⁶

Kennedy faced a "fairly hostile" reception at Johns Memorial Auditorium. The student body held political views, described as conservative to reactionary, that were in conflict with Kennedy's positions. The students fervently supported conservative firebrand Barry Goldwater (R-AZ) for president. A homemade banner hung above the entrance that read: GOLDWATER TO WHIP MASS. SOCIALISM! – a clever double entendre

³⁶ John Luster Brinkley, *On This Hill: A Narrative History of Hampden-Sydney College, 1771-1994* (Hampden-Sydney College, 1995); Tom Connelly, e-mail to Brian E. Lee, January 13, 2011.

that jabbed big government liberalism and Kennedy's New England upbringing. Kennedy, a much talked about candidate for vice president on the Democratic ticket, quipped, "They told me when I was coming in that this school was all for Goldwater." The packed, intimate hall filled with applause. The response not only demonstrated their enthusiasm for Goldwater, but also their disdain for Kennedy. Some held him in contempt for living off his family name, being a political opportunist, and having been raised in the North. Students in the balcony protested this "Yankee intrusion" by unfurling a confederate flag, much to the satisfaction of the audience. Kennedy responded by disarming the audience with some well-rehearsed self-deprecating humor chronicling his ascent to the cabinet: "I started in the Department [of Justice] as a young lawyer in 1950. The salary was only \$4,000 a year, but I worked hard. I was ambitious. I studied. I applied myself. And then my brother was elected President of the United States!" Kennedy won some laughter and earned the audience's respect for walking into the Tiger's den.³⁷

Kennedy dispensed with his formal remarks to take questions. The audience, expecting a formal speech, was caught off guard. After a moment of hesitation, Geoff Hubbard ('65) stirred the crowd by asking if Kennedy would accept the vice presidential

³⁷ Tom Corkran, e-mail message to Brian E. Lee, January 13, 2011; Harry Boyte to Jean Fairfax, "Interview with Dr. Charles McRae of Hampden-Sydney College," July 7, 1962, #38438, AFSC; Geoff Hubbard, e-mail Brian E. Lee, January 13, 2011; Kelley, "Resolve P.E. Conflict: R.F.K.," 1; Beagle, "Pupils Shower Kennedy With Pennies and Cheers," 13; Bob Boe, e-mail to Brian E. Lee, January 14, 2011; Ed Ayres, e-mail to Brian E. Lee, January 13, 2011; Ed Ayers, phone interview by Brian E. Lee, January 15, 2011; David Leary, e-mail to Brian E. Lee, January 13, 2011. The exact words Kennedy used at Hampden-Sydney College to describe his ascent to the cabinet were not recorded. The memories from the audience members closely resemble the line recorded by Edwin Guthman. See Edwin Guthman, *We Band of Brothers: A Memoir of Robert F. Kennedy* (New York: Harper & Row, 1971), 88.

nomination. A grassroots movement for Kennedy had been growing in strength, as did his popularity among rank-in-file Democrats, who in a recent poll chose Kennedy over Adlai Stevenson and Hubert Humphrey 47-18-10. He offered a qualified “yes,” adding ambiguously that only if he wanted it. The Vietnam War was another topic of interest. College-age men were concerned about being drafted and killed in Southeast Asia. Kennedy admitted that the war “was going badly,” but that he did not support troop escalation. The conversation continued, but nobody raised the greatest domestic issue of the day. After a lull in questions, Kennedy broached the topic of civil rights.³⁸

The attorney general opened a debate on the civil rights bill. Kennedy asked who supported the bill and the audience responded with mild applause, but when he asked who opposed it applause filled the hall. The attorney general responded that “those who oppose it apparently don’t understand it or regard it emotionally.” He invited the students to “ask me questions...let’s discuss it.” Someone questioned the most controversial section of the bill, Title II, which would prohibit discrimination in places of public accommodations, like restaurants, theaters, and hotels. The student was concerned that businesses’ rights would be infringed. He argued that white proprietors would be forced into “involuntary servitude” by serving black customers against their will. Kennedy made the moral argument for equality in public places by marrying the young men’s concern over Vietnam with the bill: African American “wives come to Washington and bury their

³⁸ Louis Briel, e-mail to Brian E. Lee, October 1, 2008; Associated Press, “Kennedy Visit Fails to Shake Resistance in Prince Edward,” 12; Geoff Hubbard, e-mail to Brian E. Lee, January 13, 2011; Shesol, *Mutual Contempt*, 176-210.

husbands in Arlington [National Cemetery] and then go back to Alabama with their children. Where can they stop at restaurants and hotels?” Kennedy explained that his brother introduced the legislation to advance racial equality because it was the right thing to do, and the attorney general looked no farther than the local school crisis to assert that point. “I don’t understand your opposition...Go over to Prince Edward County, as I have just done, and see the children put their hands over their hearts and swear allegiance to the American flag and sing ‘America the Beautiful.’” Kennedy may not have immediately persuaded the audience, but he earned their respect. He left campus to applause.³⁹

A county official told a news reporter that “no minds were changed” by Kennedy’s visit.⁴⁰ Nobody could have expected a Yankee attorney general to topple Jim Crow in four hours or less. Hearts and minds do not change overnight and traditions die hard. Still, southern traditions could not trump minority rights indefinitely. The Kennedy administration believed that the federal government had a responsibility to correct the racial inequality in Prince Edward County. Passing the civil rights bill and affirmative court decisions would, in time, guide the county into a new day. The breaking down of

³⁹ Kelley, “Resolve P.E. Conflict: R.F.K.,” 1; “Children, parents give big cheer for Atty. Gen. Kennedy,” 2; White, “Farmville Children Thank RFK,” B1; “Bob Kennedy Given Gift by Negro Pupils,” LAT, May 12, 1964, 11.

⁴⁰ Associated Press, “Kennedy Visit Fails to Shake Resistance in Prince Edward,” 12.

racial barriers in schools and public accommodations served to demonstrate that the southern way of life was built on false precepts. The Kennedy administration accelerated the pace of that evolution. It is part of the Kennedy legacy.

CHAPTER III

PART I

Black Prince Edwardians challenged the racial doctrine of “separate but equal.” In 1951, the students at the all-black Robert R. Moton High School had launched a strike to protest the inadequate facilities. The strike leaders asked the NAACP for legal assistance. Shortly thereafter, the NAACP filed a lawsuit in federal court to eradicate racially segregated schools in the county. After the court upheld segregation, the NAACP appealed the case. The litigation was combined with similar cases in Delaware, Kansas, South Carolina, and Washington, D.C., and argued before the U.S. Supreme Court as *Brown v. Board of Education*. On May 17, 1954, the High Court ruled that racially segregated schools were unconstitutional. The following year, the Court ruled that its order must be implemented “with all deliberate speed.” *Brown* threatened southern traditions, while at the same time, the ambiguous implementation order invited obstruction and delay.¹

¹ Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Racial Equality* (New York: Alfred A. Knopf, 1975); *Davis v. County School Board of Prince Edward County*, 103 F. Supp. 337 (E.D. Va. 1952); *Brown v. Board of Education*, 347 U.S. 483 (1954); *Brown v. Board of Education*, 349 U.S. 294 (1955).

White segregationists in Prince Edward County feared the social consequences of school desegregation. Racial mixing would expose white children to the shortcomings, either real or perceived, that disproportionately plagued African Americans, namely foul language, criminal activity, and poor hygiene. Still others predicted that integration would lead to racial violence. “It’s the poor white farmers who feel most violently,” explained Robert Taylor, a local segregationist leader. “Ever since the War Between the States those poor whites have had only one satisfaction, and that is cuffing the Negro around. If we get mixed schools, their children will start the fighting.” The concern over elevating the best black man above the lowest white man paled in comparison to the terror of interracial sex. “Mixing of children in school is the beginning of the end for both races,” cautioned Robert Crawford, a local businessman. “It is inevitable that children who play together from the age of five will not stop at 18. There will be intermarriage. And that means mongrelization of the black race and degeneracy for the whites.” Segregation had to be preserved to maintain white supremacy.¹

The county’s geography made preserving school segregation a challenge. The county did not have neighborhood schools, like Richmond for example. In the state capital, housing segregation created homogeneous communities with schools centered in areas with a predominant racial demographic. By contrast, Farmville had black and white sections, but generally housing was intermingled throughout the county. Only creative districting could preserve segregated schools that could satisfy the federal courts. Also,

¹ James J. Kilpatrick, *The Southern Case for School Segregation* (New York: Crowell-Collier, 1962), 43-72; Haldore Hanson, “No Surrender in Farmville, Virginia,” *New Republic*, October 10, 1955, 14-18.

white Richmonders had the advantage of burgeoning suburban counties as a refuge from school integration. The adjacent counties provided white Prince Edwardians no such haven. “We’re a small rural county with little money,” explained Robert Taylor. “Many families have lived here for 300 years and have no place to go.”² The white community had to make their stand at home to preserve its way of life.

The county’s segregationist leaders built a coalition to resist integration. They were instrumental in the establishment of the Defenders of State Sovereignty and Individual Liberties, a statewide organization whose primary objective was to block the implementation of the *Brown* decision. In fact, Robert Crawford, a Farmville resident, led the Defenders, thereby placing Prince Edward County at the center of resistance. In 1955, the Defenders proposed “A Plan for Virginia,” which urged the General Assembly to close any public school that integrated and provide public tuition grants for students to attend segregated private schools. The Defenders’ growing membership, exceeding ten thousand, gave it, Crawford, and Prince Edward County segregationists a louder voice in state politics. The Byrd Organization and county segregationists had a symbiotic relationship. The Organization depended on Southside Virginia to turn out the vote and the county expected the state leaders to preserve the racial hierarchy.³

² Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond, Virginia, 1954-89* (Charlottesville: University of Virginia Press, 1992); Raymond Wolters, *The Burden of Brown: Thirty Years of School Desegregation* (Knoxville: University of Tennessee Press, 1984), 83-84.

³ Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 87-112; Defenders of State Sovereignty and Individual Liberties, “A Plan for Virginia,” Box 1, JSGP; J. Harvie Wilkinson III, *Harry Byrd and the Changing Face of Virginia Politics, 1945-1966* (Charlottesville: University Press of Virginia, 1968).

The Byrd Organization placed the state between the federal courts and Prince Edward County. In 1956, the General Assembly passed “massive resistance” laws, which, in part, authorized the governor to close any public school that integrated. In September 1958, Governor Lindsay Almond closed public schools in Charlottesville, Norfolk, and Warren County for abiding by federal court orders to desegregate. A legal challenge in state and federal courts invalidated the massive resistance laws. The state responded by adopting a plan to mitigate desegregation – a plan that created the Byrd-Almond schism, as Organization leaders shunned the governor for abandoning all-out resistance. “Freedom of choice” all but invited white parents to remove their children from integrated public schools and enroll them in segregated private schools. The state provided public tuition grants to students attending non-sectarian private schools and authorized localities, upon popular support determined by a referendum, to sell public school property, ostensibly to corporations providing private education.⁴ Prince Edward County was positioned to perpetuate segregation even after its legal options to resist integrating the public schools had been exhausted.

Prince Edward County took the most defiant stand against school desegregation. On May 5, 1959, the U.S. Fourth Circuit Court of Appeals ruled that the school board had to begin desegregating its white high school by September and consider applications for the elementary schools “without regard to race... at the earliest practical date.” In

⁴ Robbins Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation, 1954-1956* (Chapel Hill: University of North Carolina Press, 1962), 167-190; *Harrison v. Day*, 106 S.E.2d 636, 200 Va. 439 (1959); *James v. Almond*, 170 F. Supp. 331 (E.D. Va. 1959); Benjamin Muse, *Virginia's Massive Resistance* (Bloomington: Indiana University Press, 1961), 161-162.

defiance, the Prince Edward School Foundation announced that it would begin operating private schools for white children. The segregationists had been conspiring to abandon public education, purchase the public school buildings, and operate its segregated school system with public tuition grants. In the meantime, Foundation leaders converted private buildings and churches into temporary schoolrooms and accepted donations until the tuition grant program was legally defensible. The county board of supervisors followed by forcing a constitutional question: can a federal court force a local legislative body to levy taxes to operate public schools? In June 1959, the board undermined the desegregation order by cutting off operational funds to the public schools, thus becoming the only locality in the nation without public education and leaving the black community without formal schooling.⁵

Chapter IV: “Save Us From Ourselves” analyzes the black community’s response to the school closings and demonstrates that strong federal intervention was needed to correct that injustice.

⁵ *Allen v. County School Board of Prince Edward County*, 266 F.2d 507 (4th Cir., 1959); Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 151-168; J. Barry Wall to Watkins M. Abbitt, January 15, 1957, Box 1, WMAP; Minutes, Prince Edward County Board of Supervisors, June 1959, PECBOSR.

CHAPTER IV

SAVE US FROM OURSELVES

Who the President of the United States is matters. President Eisenhower had earned a place among the first citizens of the world. As Supreme Allied Commander in World War II, General Eisenhower masterminded the D-Day invasion, directed the liberation of Western Europe, and received Germany's surrender. The Democrats and Republicans both courted him to be their standard-bearer. Eisenhower handedly won the presidency in 1952 and re-election in 1956 as a Republican. Had the Constitution permitted, he could have won a third term in 1960. Certainly, President Eisenhower had the political capital to provide moral leadership on school desegregation, but he never endorsed the *Brown* decision. Eisenhower's failure to decisively lead on school desegregation was felt by black Prince Edwardians.¹

The Reverend L. Francis Griffin petitioned President Eisenhower to intervene in the Prince Edward County school crisis. On August 20, 1959, Griffin sent the White House a two-page letter describing the school closings. "These benighted and confused people," Griffin explained, "are attempting to operate private schools to circumvent the law encouched in our constitution. We do not believe that should be permitted." He beseeched the president to "use the full extent of your good office in the alleviation of our

¹ Stephen E. Ambrose, *Eisenhower: Soldier and President* (New York: Simon & Schuster, 1990); James C. Duram, *A Moderate Among Extremists: Dwight D. Eisenhower and the School Desegregation Crisis* (Chicago: Nelson-Hall, 1981).

conditions.” President Eisenhower declined to intervene. The administration narrowly interpreted the *Brown* decision by rejecting the contention that the Constitution required public education. “The Supreme Court decision,” explained the White House, “did not, as some suppose, require the States to have public schools. It merely held that if a state or locality did operate public schools, it could not deny admission to such schools solely on the ground of race or color.” The president, therefore, was “powerless to take any action” because the states were responsible for public education. The letter closed with a stolid assurance that Eisenhower was “fully sympathetic with the reasons that prompted your letter.” In an unsent draft, the White House promised that Eisenhower was “doing everything he can to bring about a moral climate whereby conformance to rulings of the courts of our land will take place in normal order.” No such pledge to use the moral authority of the presidency made the final draft.¹

Undeterred, Reverend Griffin kept pressure on the Eisenhower administration. In September 1959, the *Washington Afro-American* published a lengthy report on the school closings. The article included an appeal by Griffin for citizens to “write and encourage others to write directly to the President, Vice-President and Attorney General of the United States, requesting that they use the full extent of their good offices in the alleviation of our conditions in Prince Edward County.” Ruth Hawes, a white resident of Richmond, for one, asked Eisenhower: “Is not the United States government responsible

¹ L. Francis Griffin to Dwight D. Eisenhower, August 20, 1959, Gerald D. Morgan to L. Francis Griffin, August 29, 1959, Gerald D. Morgan to L. Francis Griffin, August 26, 1959 (unsent), all in Box 917, White House Central Files, DDEL.

for looking into this unfair treatment of her citizens?” A twelve-year-old white child from New Rochelle, New York, cried when she learned that the county closed its schools. “Why,” Ellen Kesend asked, “can’t they be treated as human beings?” The White House replied that the president “deplores” the board of supervisors’ action and “fervently hopes” that the schools reopen.² The president’s second-hand hopes did not end the school crisis.

Black Prince Edwardians needed federal intervention to reopen the public schools. They lacked adequate resources to respond to the school closers or provide a formal education to all their children. The black community welcomed assistance, but the segregationists worked diligently to undermine outsiders’ efforts and silenced white moderates through intimidation. The government provided no relief. In fact, the state and county officials conspired to place private segregated education on a permanent footing. At the federal level, the judiciary failed to issue a definitive ruling, Congress balked at empowering the attorney general with more authority over school desegregation suits, and the executive branch refused to fully explore its existing powers. The locked-out children needed more vigorous executive leadership than the Eisenhower administration provided. The 1960 presidential election, therefore, proved vital for the future of education in Prince Edward County.

² “What Happens When Schools Are Killed,” WAA, September 22, 1959, 1; Ruth B. Hawes to Dwight D. Eisenhower, November 4, 1959, Ellen Kesend to Dwight D. Eisenhower, September 10, 1959, E. Frederic Morrow to Ruth B. Hawes, November 10, 1959, E. Frederic Morrow to Ellen Kesend, September 24, 1959, all in Box 917, White House Central Files, DDEL.

I

The Reverend L. Francis Griffin led black Prince Edwardians into a new phase of the school matter. He had spearheaded the local black freedom struggle since the late 1940s, but recent developments placed an even greater burden on him. The school closings left, as one observer determined, a “tragic vacuum in secondary leadership.” The black teachers had been looked upon as community leaders, but many of them had left the area to find work. Additionally, the black clergy consisted of many untrained, part-time pastors, several of whom lived outside the county. Reverend Griffin worked to maintain solidarity within a black community that was spread across a rural landscape with an outmoded communications system and meager resources to help themselves.³ Outside assistance was desperately needed and welcomed. Griffin formed an organization to coordinate that aid. The collaboration placed students in schools outside the county, registered voters, and provided temporary activity centers for the out-of-school children.

“The Fighting Preacher” offered a new generation of leadership. Leslie Francis Griffin was born on September 15, 1917, in Norfolk, Virginia, but spent his formative years in Farmville. He received his formal education in separate but unequal schools and endured the second-class citizenship determined by his caste. The black youths of Griffin’s time challenged Jim Crow on occasion but not to the point of confrontation.

³ Jean Fairfax to Barbara Moffett, “Visit to Prince Edward County, Virginia,” February 11, 1960, Jean Fairfax to Barbara Moffett, et al., “Crisis in Prince Edward County, Virginia’ – Conference called by National Council of Negro Women, Saturday, January 16, 1960, Washington, D.C.,” January 18, 1960, both in #38119, Paul M. Rilling to Jean Fairfax, September 2, 1959, #38118, all in AFSC.

“The most we’d get,” remembered Griffin, “was abuse for being smart, uppity niggers.” After serving with the 758th Tank Battalion during World War II and studying at Shaw University, Griffin returned home to aid his ailing father’s pastorate at First Baptist Church. The Reverend Charles Henry Dunstan Griffin, a fundamentalist Baptist minister, opposed segregation but did not crusade against it. Upon his death in October 1949, the younger Griffin took command of the church. “It was a comfortable berth,” wrote journalist James Rorty. “At least it might have been if the son had been content like his father to be a ‘good nigra,’ preach the old time religion, and leave politics alone.” Instead, Griffin mobilized the black community against Jim Crow. He organized and led a local NAACP chapter, headed the black PTA’s campaign for better schools, advised the 1951 Moton student strikers, and now commanded the response to the school closings from his headquarters at First Baptist Church. Under his leadership, the church became the center of action.⁴

The black ministers scrambled to organize a unified response to the school closings. Understandably, some black parents called for a halt to the school integration campaign to protect their children’s education. Fred Reid, a worker in a railway freight depot, supported equal educational facilities but opposed integration for the moment. “We have pushed too fast,” Reid told *U.S. News & World Report*. Reverend Griffin

⁴ Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America’s Struggle for Equality* (New York: Alfred A. Knopf, 1975), 583-607; Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 3-74; Francis Mitchell, “The Lonely Hero of Va. School Fight: L. Francis Griffin Maintains a Martyr’s Date With Destiny,” *Jet*, May 18, 1961, 20-25; James Rorty, “The Embattled NAACP,” *Antioch Review*, 19, No. 3 (Fall 1959): 387.

admitted that some blacks had weakened their stance on integration. “There are those who say time is not yet ripe and they would rather go slow. But I think the majority of Negroes are still firm for integration – maybe 70 or 80 per cent of them.” The black clergy urged black Prince Edwardians to remain steadfast. The Reverend C.H Hill, the president of the Ministerial Alliance of Farmville and Vicinity, believed that “we have a great obligation to all of the children of Prince Edward County to make certain that they receive a public education.” On June 8, the Alliance passed a resolution calling for the board of supervisors to rescind its action and for citizens to stand up for public education.⁵

The Ministerial Alliance called an emergency meeting to discuss the school closings. On June 17, 1959, Reverend Griffin presided over a conference of two hundred people at New Hope Baptist Church in rural Abilene. He discouraged talk of backing down on integration. “If the Negro in Prince Edward gives up now,” argued Griffin, “he will retrogress 100 years.” Instead, he proposed boycotting white businesses to demonstrate black opposition to the school closings: “If we don’t shop in Farmville one weekend, we’d show them who we are.” State NAACP leaders urged a more cautious approach. Oliver Hill blamed the school closings on the white county leaders but gave black Prince Edwardians tough love for not effectively exercising the franchise. “You are a party right along with the Board in closing the schools,” explained Hill, “because if you had done what you should, there would be so many of you on the county voting books,

⁵ “First County To Give Up All Its Public Schools,” *U.S. News & World Report*, June 22, 1959, 55-60; “Ministers to view public school crisis,” RAA, June 20, 1959, 20.

they would have not dared close the schools.” He assured the conferees that the NAACP would continue litigating the case but urged county residents to “stop depending on the courts and get out to the polls and vote intelligently.”⁶ The NAACP doused Griffin’s call to action. Griffin needed more flexibility to meet the individual needs of black Prince Edwardians while still maintaining the legal support of the NAACP.

In mid-July, Reverend Griffin formed the Prince Edward County Christian Association (PECCA) to “meet an unprecedented crisis.” The organization’s leadership stressed that PECCA had not been established to replace the NAACP. Instead, PECCA formed to coordinate the efforts of existing agencies and to add “a much needed religious emphasis.” “We believe that all problems can be solved within the framework of the Christian Doctrine,” explained President Griffin, “without hatred, malice or ill will being shown against any people, we shall dedicate ourselves to the practice of constructive goodwill.” PECCA’s primary objectives were to restore public education and increase black political participation. To meet the immediate crisis PECCA sought to place upper classmen in accredited schools and set up play groups for the remaining children. The organization had meager resources to meet those objectives; it had office space, but no furniture, typewriter, or mimeograph, and limited funds. PECCA desperately needed

⁶ Ben Bowers, “Prince Edward Negroes Told By NAACP Burden Now Lies With Them: Ballot Box And Economics Seen Best Defense,” FH, June 19, 1959, 1. The Farmville Police Department surveilled the meeting. They identified the owners of the vehicles that were parked outside of New Hope Baptist Church during the meeting. See “List of Cars at Newhope Church,” June 17, 1959, DHC.

outside assistance. Recognizing that “no man is an island unto himself,” the organization welcomed offers for help, but not from all.⁷

Kittrell College helped PECCA place locked-out students. PECCA was most concerned with upperclassmen completing their high school education. “We thought it best for children of this age to be in school to avoid their becoming discouraged and dropping out or slipping into the role of juvenile delinquents,” explained Reverend Griffin. The Reverend A.I. Dunlap, the pastor of Beulah African Methodist Episcopal Church on Main Street in Farmville and a PECCA board member, served on the faculty of Kittrell College. The black junior college was founded by the AME Church near Henderson, North Carolina, about one hundred miles from Farmville. He convinced Bishop Frank Madison Reid to accept black Prince Edwardians into Kittrell’s high school program at half the cost – \$210 per student. PECCA pledged to sponsor the students. In mid-September, a 20-car motorcade took the first wave of students to North Carolina. By the end of the semester, over fifty students received their bootleg education at Kittrell College.⁸

⁷ Rufus Wells, “Prince Edward residents seek solution to school problems,” RAA, August 15, 1959, 20; “Prince Edward County Christian Association,” L. Francis Griffin, “Operation 1700,” May 9, 1960, both in Part III, Series D, Reel 9, NAACPM; Paul M. Rilling to Jean Fairfax, September 2, 1959, #38118, AFSC.

⁸ “My High School Years in Junior College: Moton School and Kittrell Junior College, The AME Connection,” (Farmville, Virginia: Robert Russa Moton Museum, 2008), 8; Griffin, “Operation 1700”; Smith, *They Closed Their Schools*, 170-171; “What Happens When Schools Are Killed,” 1; Everard Munsey, “Farmville Negroes Plan Study Units, Now Send 50 Pupils to North Carolina,” WP, September 21, 1959, A1.



Figure 4.1 Prince Edward County Christian Association. Seated: Reverend A.I. Dunlap, vice president; Reverend L. Francis Griffin, president; and Edwilda Allen, secretary. Standing: Dr. A.G. Rawlins, treasurer; unidentified man; Alberta Simms, assistant secretary; W.A. Carter, assistant chairman of the executive committee; A.M. Spencer, chair of the financial committee; and Reverend J. Samuel Williams, assistant chairman of the program committee (Photo: *Richmond Afro-American*).

The school closings placed a heavy burden on black families. About two hundred high school-age students and an untold number of elementary school students continued their education outside the county – many of them outside the state. “This situation has broken up many families,” lamented Dr. A.G. Rawlins. The Ward family, for one, sent their two eldest children, Ronald and Phyllistine, to Kittrell, and Betty Jean lived with her grandparents in neighboring Nottoway County. Their father, Phillip Ward, was among

those that considered the family disruption worth the sacrifice to achieve integration. “Segregated schools are definitely out,” he told the *Afro-American*. “It’s just a matter of time. It can end only one way. They will find that they cannot keep those private schools going.” Many agreed that the segregationists would be unable to raise money year-after-year to operate the private schools. One mother of five actually welcomed the school closings. “I’m glad they have used their trump card because that’s their last card.” As they waited out the private school’s presumptive demise, an immediate crisis inflicted hundreds of black children who had no access to formal education. An interagency group explored educational programs for out-of-school students.⁹ In the meantime, PECCA joined with the NAACP to expand black political power.

The NAACP organized a voter registration drive in Prince Edward County. “We believe by a show of political strength in this county, some of the people here will have a change of heart, especially on the school issue,” explained Howard Wilkinson, the political action director of the state NAACP. The organizers created a network with a coordinator and team leaders in each magisterial district. They hoped to register “99 percent” of eligible black voters by December, a very ambitious goal considering two factors: only about 500 of a possible 3,400 black Prince Edwardians were registered and the slow registration process. The registrar’s office was only open on Mondays and it

⁹ Griffin, “Operation 1700”; Associated Press, “Prince Edward Study Shows 600 Negroes Are in School,” RTD, April 1, 1960, 7; Jean M. White, “Prince Edward Is Deadly Serious on Keeping Schools Closed,” WP, October 11, 1959, A12; “First County To Give Up All Its Public Schools,” 55-60; “What Happens When Schools Are Killed,” 1; Jean Fairfax to Sub-Committee on Southern Programs of AFSC Community Relations Program Committee, “Progress Report on Explorations Relative to the Proposal for Emergency Educational Services for Displaced Pupils,” January 14, 1960, #38119, AFSC.

took about twenty minutes to qualify an applicant. The application asked questions designed to confuse and disqualify less educated African Americans, like “Are you a pauper?” and “Have you ever been convicted of a petty larceny?” The long lines and time consuming process deterred those who could ill afford to surrender a day’s pay to register. Still, the drive qualified twenty-five applicants a week.¹⁰ At that rate, however, it would take the NAACP over two years to reach its goal of registering 99 percent of potential black voters.

The voter registration campaign had no effect on the county board of supervisors’ elections. The black leaders ran a write-in candidate in every magisterial district, but they lost all six races handedly. Kennell Jackson received 34 votes, the most among black candidates, but John Steck’s 806 votes easily won him re-election to represent the Farmville District. James Carter, a barber and litigant in the school case, received only 4 votes in the Lockett District – the lowest total among black candidates. Still, Carter became the first African American to hold elective office in the county since Reconstruction. The Lockett District had three vacancies for justice of the peace, but only two white candidates were on the ballot. Carter received nine write-in votes for that office – votes that were likely intended for the board of supervisor race – which was good enough to win. “It’s what you call sliding in the back door when the front door is bolted and latched,” remarked Reverend Griffin. “It’s just the kind of unexpected gain that

¹⁰ “NAACP Urging Negro Voters To Qualify,” FH, November 10, 1959, 1; “Voters’ Errors Bring Va. Barber Historic ‘Justice,’” *Jet*, December 3, 1959, 13; Elsie Carper, “Lines of Negroes Grimly Wait Ballot Over Closed Prince Edward Schools,” WP, December 20, 1959, A1; Jean Fairfax to Barbara Moffett, et al., “‘Crisis in Prince Edward County, Virginia’ – Conference called by National Council of Negro Women, Saturday, January 16, 1960, Washington, D.C.,” January 18, 1960, #38119, AFSC.

brings a grin into our wretched lives. One need for voter education has been highlighted – but ever so gently.” Alarmed by this electoral activity, the segregationists organized a registration campaign to neutralize the black gains. At the end of the year, white registered voters outnumbered blacks 4-to-1.¹¹



Figure 4.2 James Carter. (Photo: *Jet*).

The white leaders offered segregated private education for the county’s black children. On December 16, 1959, an executive board, reflecting much of the membership of the Prince Edward School Foundation’s board, announced the establishment of

¹¹ “NAACP Urging Negro Voters To Qualify,” 1; “Voters’ Errors Bring Va. Barber Historic ‘Justice,’” *Jet*, December 3, 1959, 12-14; Allan Jones, “Prince Edward Group Seeks To Increase Voting By Whites,” *RTD*, January 5, 1960, 4.

Southside Schools, Inc., but not without an effort to drive a wedge between the black leadership and the rank-and-file. “The formation of this corporation was delayed because it was our opinion that responsible Negro citizens of the county should provide the leadership,” read a statement. “There has been no action along this line....This board believes that no further time should be lost in setting up and operating schools throughout the county of Prince Edward.” The board hoped to open the schools by February 1960, but first it had to determine enrollment. Roy Hargrove, the corporation’s president, sent application forms to all black parents and set a deadline of January 15, 1960. The board professed “deep concern,” but they had an ulterior motive.¹² The segregationists needed to lure blacks into accepting the schools to make tuition grants legally defensible for the Foundation patrons.

Civil rights leaders discouraged black parents from applying to Southside Schools. Reverend Griffin saw through the ruse: “The white men want us to set a precedent on the state’s tuition grants – which they haven’t dared to use – so they can take advantage of them.” Further, he questioned the board’s ability to hire a professional faculty, find suitable buildings, or run an adequate program. “How can these schools meet our needs when the segregated schools were not offering a satisfactory program?” asked Griffin. On December 23, the NAACP addressed Southside Schools at PECCA’s Christmas party. “We don’t think Negroes ought to enroll,” declared Executive Secretary

¹² “Private Schooling Offered To Prince Edward Negro Children,” FH, December 18, 1959, 1; “Hargrove To Head Southside Schools, Inc.,” FH, December 22, 1959, 1; Roy B. Hargrove to The Parent Addressed, n.d., Box 20, PEFSA.

Roy Wilkins to the assemblage of five hundred African Americans. Further, Wilkins discouraged them from accepting tuition grants. Oliver Hill explained that segregated private schools ran counter to their interests: “Some benighted individuals are trying to entice you away from your rights by promising you a private school.” He urged them to maintain the current course: “All you are losing is one or two years of Jim Crow education, but at the same time in your leisure you can gather more in basic education than you would in five years of Jim Crow schools.” Dr. Martin Luther King, Jr., made a similar appeal at the “Pilgrimage of Prayer for Public Schools” in Richmond on January 1, 1960. “I hope those citizens,” King said of black Prince Edwardians, “won’t sell their birthright of freedom for a mess of segregated pottage.” Southside Schools received only one application.¹³

Southside Schools exposed the widening racial divide in Prince Edward County. The program had failed long before the application deadline. The school closings had evaporated whatever trust remained between the races. Of course, the black community viewed any offer with suspicion, especially one derived without its consultation and swaddled in paternalism. George Morton, a tobacco farmer and guardian of his grandson, for one, spoke contemptuously of white paternalism and Southside Schools: “Why should I follow men that don’t acknowledge Almighty God and the Supreme Court?” Unmindful of introspection, the segregationists turned to conspiracy theories. Roy Hargrove accused

¹³ Lucy Daniels, “Blackout In Prince Edward County,” *Coronet*, August 1960, 110-111; Elsie Carper, “Lines of Negroes Grimly Wait Ballot Over Closed Prince Edward Schools,” *WP*, December 20, 1959, A1; Ben Bowers, “Corporation Organized To Provide Negro Schools,” *SSN*, January 1960, 2; “Negroes Ask State Legislature To Change School Law: Pilgrimage Protest Of Prince Edward County Closures Made,” *FH*, January 5, 1960, 1; “Negro School Opening Delayed Until September,” *FH*, January 19, 1960, 1.

the black leaders of intimidating the rank-and-file against submitting their applications. Reverend Griffin dismissed that allegation. “These gentlemen express the belief that threats of reprisals have hindered colored parents from entering their children,” Griffin reported at a PECCA meeting, which elicited laughter. “They will never concede that the colored race has changed,” Griffin continued. “No longer do we let others decide what we need, or choose our leaders, or direct our thinking, because we can do it ourselves.”¹⁴ In fact, PECCA had facilitated discussions on providing activity centers for the out-of-school children.

The NAACP developed a program for Prince Edward County. An interagency group, consisting of the Southern Regional Council, American Friends Service Committee, and NAACP had been studying a temporary educational program. On December 19, 1959, the group consulted with representatives from other organizations and concerned citizens – about two dozen participants in all. A follow-up meeting with twenty-one organizations was scheduled for mid-January. The state NAACP, sensing its leadership position in the county threatened, held an emergency meeting. “The NAACP,” Lester Banks, the state executive secretary, explained to Roy Wilkins, “needed to retain the initiative in effecting whatever remedial techniques that might be subsequently agreed upon.” At the January 16, 1960, interagency meeting, the NAACP proposed a five-month, \$16,500 program to cover the balance owed to Kittrell College and establish ten

¹⁴ Claude Sitton, “Prince Edward Adamant On Refusing School Integration,” NYT, April 17, 1961, 33; John I. Brooks, “Graduation at Farmville,” *Reporter*, July 7, 1960, 39; “Names of Applicants To Negro Schools Will Not Be Revealed: ‘Pressures’ Cited As A Reason For Lack Of Applicants,” FH, January 12, 1960, 1; “Negro School Opening Delayed Until September: Southside Directors Disappointed With Lack of Applicants,” FH, January 19, 1960, 1; “Private schools proposal fizzles,” RAA, January 23, 1960, 1.

activity centers for the out-of-school children. The conferees pledged to finance “Operation 1700” through contributions to PECCA.¹⁵

The activity centers had a schizophrenic existence. The out-of-school children needed an education. So, PECCA established centers in churches, community centers, a former business, and a private home; and employed professional educators at five of the ten facilities – some of whom had taught in the closed public schools. The centers provided instruction in reading, math, and play-life situations three and a half hours per day, five days a week. However, the centers were not to be mistaken for private schools. Such confusion would harm the school litigation. The NAACP’s legal argument demonstrating the unconstitutionality of the school closings benefited from no formal schooling being available in the county to black Prince Edwardians. Reverend Griffin, the centers’ coordinator, therefore, had to restrain the program. He repeatedly emphasized that the centers were not private schools: “We have inadequate facilities, lack necessary equipment, such as libraries and laboratories, lack qualified teachers and do not follow a set curriculum.” Semantics became vital. The teachers were referred to as “supervisors” and PECCA operated “centers” not schools. Griffin emphasized that the centers served as “morale boosters” and were no substitute for public education.¹⁶ PECCA had to find a

¹⁵ Jean Fairfax, “A Consultation of Emergency Educational Services for Displaced Pupils,” December 19, 1959, #38116, Jean Fairfax to Barbara Moffett, et al., “Crisis in Prince Edward County – Conference called by National Council of Negro Women, Saturday, January 16, 1960,” January 18, 1960, #38119, both in AFSC; W. Lester Banks to Roy Wilkins, January 11, 1960, Group III, Box C159, NAACP; Robert D. Robertson, et al., “A Proposal for Temporary and Remedial Relief for the Out-of-School Negro Youth of Prince Edward County,” n.d., Part 3, Series D, Reel 9, NAACP; Elsie Carper, “Temporary Schooling For Negroes Urged,” WP, January 17, 1960, A15.

¹⁶ Ben Bowers, “Training Center Tour Reveals Children Busy,” FH, April 15, 1960, 1.

balance between keeping the children minimally stimulated and not harming the legal case. Certainly, the activity centers could never fulfill the educational needs of black Prince Edwardians. PECCA's hands were tied in responding to the educational void and retaliating against the school closers.

Black Prince Edwardians sat out the sit-in movement. On February 1, 1960, four black college students sparked the movement when they refused to leave a segregated lunch counter in Greensboro, North Carolina. Within two months, protests for racial equality had spread to forty-four southern cities, including Richmond. Virginia Union University students led sit-ins, pickets, and boycotts of downtown Richmond. The NAACP provided legal counsel, participated in marches, and rallied church congregations. Oliver Hill encouraged the demonstrators. "We are not going to accomplish our human rights by litigation, but by a determination to make the sacrifices necessary," Hill declared. "We intend to assert those rights."¹⁷ The NAACP leaders sounded a much more militant tone than they had at the New Hope Baptist Church rally months earlier. Still, no campaign was implemented in Prince Edward County. Black adults were too dependent on whites for employment and store credit to mount a significant direct action campaign in Farmville.

The black community had limited options in responding to the school closings. It lacked the economic and political power to retaliate against the school closers and their

¹⁷ William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1980), 99-141; Peter Wallenstein, *Blue Laws and Black Codes: Conflicts, Courts, and Change in Twentieth-Century Virginia* (Charlottesville: University of Virginia Press, 2004), 114-141.

sympathizers. Black residents were too dependent on whites to risk economic reprisals. The voter registration drive certainly added more African Americans to the rolls, but not nearly enough to immediately alter the composition of the board of supervisors. In fact, the November elections assured that the school closers would dominate county government for four more years. The black community voted by omission to reject Southside Schools, Inc. Still, in defeat the segregationists won a propaganda coup. They characterized black leaders as more interested in integration than education and promulgated a claim to whites' genuine interest in black education, a myth that has lived on into the present. Even when truly genuine help arrived in the form of training centers, the program had to be restrained to safeguard the grander legal strategy. The most useful help – an organized campaign of white opposition to the school closings – never materialized.

II

Black Prince Edwardians received little comfort from their white neighbors. In several Virginia communities, white moderates formed organizations to preserve public education, but not in Prince Edward County. The traditional educated community leaders, ministers and teachers, sounded a deafening silence on the school crisis. There were white moderates who openly questioned the school closings, and as a result, they suffered reprisals. The powerful school closer faction had all but discouraged any further acts of

white moderation. Assistance, therefore, had to come from outside organizations. The segregationist leaders, however, employed their political power and media monopoly to attack those organizations. Finally, the police closely monitored the black community to keep it in check. The segregationist leaders, in short, employed all means available to discourage and undermine anybody from assisting the locked-out children.

Organizing white moderates to safeguard public education proved difficult in Prince Edward County. The challenge had been met in other areas. In the spring of 1958, the Arlington Committee for Public Schools formed in anticipation of school closings. Similar organizations were established in Charlottesville, Norfolk, and Warren County once Governor Almond closed schools in those communities under the massive resistance laws. Later in the year, committee members met to establish a statewide organization. The Virginia Committee for Public Schools had fifteen chapters with its membership peaking at 25,000 white Virginians, more than that of the Defenders of State Sovereignty and Individual Liberties. In August 1959, Marvin Schlegel, a Longwood College professor, had hosted a meeting to discuss forming a local chapter, but he determined that “the time is not yet ripe for the organization of open opposition.”¹⁸ White moderates, generally, lacked the audacity to challenge the school closers.

Public pressure neutralized the white clergy. The ministers avoided discussions of the school closings, fearing that it would “stir the waters,” divide the congregation, harm

¹⁸ James H. Hershman, Jr., “Massive Resistance Meets Its Match: The Emergence of a Pro-Public School Majority,” in *The Moderates’ Dilemma: Massive Resistance to School Desegregation in Virginia*, edited by Matthew D. Lassiter and Andrew B. Lewis (Charlottesville: University Press of Virginia, 1998), 104-133; William M. Lightsey, “Virginia Committee for Public Schools – Historical Sketch,” n.d., Box 3, Marvin W. Schlegel to J.L. Blair Buck, August 8, 1959, Box 2, both in JLBBP.

church finances, and risk their pastorates. As one scholar explained, “ministers who stand alone can often be silenced or shipped to another church by segregationists.” The Reverend James R. Kennedy, pastor of the Farmville Presbyterian Church, provides an instructive example. In the aftermath of the *Brown* decision, Kennedy made public statements opposing segregation, including an interview with the *New York Herald Tribune*. “As a Christian, I can’t defend segregation,” stated Kennedy. “You can’t take the Gospel with its great message of His love for everyone and defend enforced segregation.” Reverend Kennedy faced criticism and social reprisals for his candor. As a result, he resigned and left the county. Kennedy’s departure left a progressive void among the white clergy and eliminated the hope for white ministerial cooperation on matters of race.¹⁹

The white ministers failed to embrace the opportunity for leadership. The Reverend James Murphy of Farmville Methodist Church, for one, believed that the school closings placed no responsibility on him. None of his congregants broached the subject, which Murphy believed gave him a pass to ignore it. Invariably, the pews dictated to the pulpit. John’s Memorial Episcopalian Church followed the philosophy of its segregationist members over the denominational leadership. The key leaders of the Prince Edward School Foundation – Louis Dahl, Blanton Hanbury, Robert Taylor, Barrye Wall, and Bo Wall – were all members and, at one time or another, served on the vestry.

¹⁹ Harry Boyte to Jean Fairfax, “First Report on White Clergy of Prince Edward County,” April 10, 1962, Harry Boyte to Jean Fairfax, “Interviews with White Clergy of Prince Edward County, Part II,” April 14, 1962, #38348, AFSC; Samuel Southard, “Segregation and Southern Churches,” *Journal of Religion and Health*, 1, No. 3 (April 1962): 197-221; Smith, *They Closed Their Schools*, 126-130.

Dr. Charles Fishburne, the rector, considered the school closings a political matter, not a moral issue that needed to be raised in his church. Similarly, Reverend Otis McClung and Hoge Smith, pastors of Farmville Baptist Church and Farmville Presbyterian Church, respectively, supported segregation and found no moral questions related to the school closings. Reverend L. Francis Griffin criticized the white clergy. “The majority of the ministers and their people fail to recognize that there is any moral issue involved in this tragedy,” lamented Griffin. “I think it’s because the gospel hasn’t penetrated their hearts and they haven’t communicated the gospel to their people....Somewhere, somehow, my white brethren must be given courage to become prophets. And, believe me, it’s hard being a prophet in Farmville and Prince Edward.”²⁰ The white ministers were not alone in the abrogation of their moral responsibility.

White teachers failed to raise a voice against the school closings. The fate of James Bash, the former principal of the all-white Farmville High School, had served as a cautionary tale for white educators considering a challenge to the community’s power group. At the Jarman Hall meeting in June 1955, which announced the formation of the Prince Edward School Foundation, Bash voiced his dissent over the school closing plan. “I am a public school man,” explained Bash. “I would be unable to accept a check from a private corporation of this kind.” In the weeks that followed, Bash felt the sting of social

²⁰ Alfred P. Klausler, “The Shame and the Glory,” *The Christian Century*, August 15, 1962, 977-979; Harry Boyte to Jean Fairfax, “First Report on White Clergy of Prince Edward County,” April 10, 1962, Harry Boyte to Jean Fairfax, “Interviews with White Clergy of Prince Edward County, Part II,” April 14, 1962, both in #38348, AFSC; J. Michael Utzinger, “The Tragedy of Prince Edward: The Religious Turn and the Destabilization of One Parish’s Resistance to Integration, 1963-1965,” *Anglican & Episcopal History*, 82, No. 2 (June 2013): 129-165.

ostracism. He lost the confidence of his teaching staff and resigned. The white teachers fell in line with the private school proposal and offered no public condemnation of the school closings. In fact, at the June 1959 public meeting on the county budget, a teacher voiced her support for the supervisors' proposal to cut off funds for public schools. "I don't see what other step [the board of supervisors] can take," stated Mrs. Leslie Hamilton. The teachers withheld their criticism from the private schools. "There are lots of things about the private schools we don't like," admitted one anonymous teacher. "But we keep quiet. This is a struggle of the black man against the white man. I have to stick with my own people."²¹ Moderate voices, if they existed, had to censor themselves to preserve their livelihoods.

College professors constituted the only significant source of public criticism of the school closings. Still, it was confined to a handful of individuals. Marvin Schlegel, Gordon Moss, and Henry Bittinger, all of Longwood College, were the most active. From October 1959 to March 1960, Schlegel wrote no less than four letters to the editor questioning the county's moral conscience about the void of educational opportunities for black children. He also suggested a solution to the school problem: voluntary public school segregation with private schools acting as a safety valve for white parents. Once black children breached the color line, white parents would have the option to send their child to private schools with tuition grants. Moss and Bittinger spoke in defense of public

²¹ Smith, *They Closed Their Schools*, 121, 123, 129-130; Amy E. Murrell, "The 'Impossible' Prince Edward Case: The Endurance of Resistance in a Southside County, 1959-64," in *The Moderates' Dilemma*, 141-142; "12 Endorse, 4 Question Fund Cut-Off At Budget Hearing," FH, June 26, 1959, 1; Samuel Lubell, "Rural-Urban Split in South," RTD, March 3, 1960, 11.

education at the supervisors' public meeting in June 1959. They also spearheaded an effort to organize a bi-racial committee of local prominent leaders, an equal number of black and white leaders, as well as neutral parties. The two professors proposed a plan: a three-year moratorium on desegregating the public schools, community acceptance of the *Brown* decision, and a bi-racial committee to prepare for desegregation. Barrye Wall, a segregationist leader and owner of the *Farmville Herald*, rejected the Schlegel plan in an editorial and never permitted the Moss-Bittinger plan to get off the ground. He refused to meet with black leaders.²² Moss and Bittinger later participated in an underground movement that was accelerated by the school board controversy.

The school board withstood pressure to sell the school buildings. The Prince Edward School Foundation's leaders had planned all along to make the public school buildings its permanent facilities. On January 11, 1960, the Foundation requested that Farmville High School (FHS) be offered for sale as surplus property. Blanton Hanbury reasoned that the private schools needed a permanent building and FHS was not being used. Further, as a public school building, FHS could only reopen with a racially integrated student body. "You have the basis to sell it," explained Hanbury. "The people of the county don't want integrated schools." In 1959, the General Assembly had authorized local school boards to submit ballot initiatives for the sale of public school

²² Letters to the Editor, Marvin W. Schlegel, "How Does the World Judge Us?" October 30, 1959, 1C, "Christian Conscience And Education," November 20, 1959, 1B, "Suggests Voluntary School Segregation," February 26, 1960, 1B, "Suggest Voluntary School Segregation," March 25, 1960, 4, all in FH; "12 Endorse, 4 Question Fund Cut-Off At Budget Hearing," FH, June 26, 1959, 1; Smith, *They Closed Their Schools*, 153-155; William Bagwell to Jean Fairfax, "Prince Edward County – Interviews, October, 1962," December 10, 1962, #38427, AFSC; Editorial, "Voluntary School Segregation," FH, March 25, 1960, 4.

property. Still, that law had yet to be tested in the courts. The Foundation attorneys, instead, asked that the buildings be sold under a 1919 statute that permitted the school board to sell property with the approval of the circuit court. A week later, the Foundation forces organized a massive show of support, about five hundred people, at the public hearing. Nevertheless, the school board refused to sell the school buildings without a referendum. A referendum was winnable, but it also posed a major pitfall, determined journalist John Brooks: “the carefully cultivated illusion of unanimity among the white people of Prince Edward County.” Hanbury announced that the Foundation had “no further interest” in purchasing the building and planned instead to construct its own facility.²³ The school sale controversy appeared to be over.

The school board endured public scrutiny. In February, George Palmer, a power group insider, made a motion to sell Farmville High School as surplus property. He believed that since there would not be a referendum that the board should decide the matter. Fellow board members T. Cook Hix and Charles Baird joined him. However, chairman Lester Andrews, Calvin Bass, and George Shorter opposed the motion, splitting

²³ J. Barrye Wall to Watkins M. Abbitt, January 15, 1957, Box 1, WMAP; “Foundation Wants To Buy High School Building; Asks School Board To Sell,” FH, January 15, 1960, 1; “School Decision Held People’s: School Board Wanted Referendum,” and “What Does State Code Say About Selling Schools?” “Foundation Will Build New Private School Building,” all in FH, January 22, 1960, 1; Brooks, “Graduation at Farmville,” 39-40. Barrye Wall was upset with the school board’s decision. “We do not wish to be placed in the position of forcing the sale for the obvious legal reasons, and public relations,” Wall wrote Congressman Watkins Abbitt. “Some opponents may take this as a position of weakness but we do not and will show our seriousness of purpose in the forthcoming weeks....Frankly, I don’t understand the action of the school board, but that shall not deter us in our work, as whatever happens there, will always be separate schools in Prince Edward county as long as the order of integration stands. It is necessary that we move promptly, so that what we do will set the pattern for some others. That is the only disappointing thing about the School Board action.” See J. Barrye Wall to Watkins M. Abbitt, January 19, 1960, Box 2, WMAP.

the board 3-to-3. Walter Fitzpatrick, the school board's attorney, declined to cast the tie-breaking vote, thus blocking the sale. White citizens began questioning the devotion of these men to segregated education. In March, Fitzpatrick lobbied the General Assembly for legislation empowering local school boards to have greater control over funds related to the sale of surplus property, to be able in some instances to bypass the board of supervisors. In retaliation for his actions, Circuit Court Judge Joel West Flood asked Fitzpatrick to resign as the board's tie-breaker vote and the board of supervisors refused to pay his attorney fees. Chairman William Vaughan reasoned that the supervisors would not compensate someone who went to Richmond "to fight us." These reprimands demonstrated the segregationists' readiness to eat their own. Fitzpatrick had recently served as the mayor of Farmville, was a Defender, and had joined with the segregationists at the Jarman Hall meeting. Now Fitzpatrick was persona non grata. The school board defended the actions of its attorney, even as it faced continuing pressure to sell the buildings. The board members suffered personal abuse and social ostracism. "We were just sitting there and being heavily criticized for not doing what had been asked," Lester Andrews later explained. The school board responded in dramatic fashion.²⁴

School board members shocked the community. On April 26, Foundation leaders renewed their request and upped the ante by asking that all public school property be put up for sale. The school board, again, denied the request and then Lester Andrews and

²⁴ "School Board Splits 3-3 On High School Sale," FH, February 12, 1960, 1; Allan Jones, "Law Firm Asks to Quit School Case," RTD, April 28, 1960, 1; "Prince Edward Supervisors Reportedly to Raise Taxes," RTD, April 6, 1960, 2; Smith, *They Closed Their Schools*, 99, 118, 121-122, 175-178; Will Hartzler to Jean Fairfax, "Report on Two Visits to Prince Edward County, June 11, 1960," June 21, 1960, #38119, AFSC; Brooks, "Graduation at Farmville," 39.

Calvin Bass led a mass resignation (all the board members except George Palmer). The departing board members left an epic fourteen-page report to the citizens of Prince Edward County. They eloquently defended universal education:

In its decisions the School Board has been guided by the fundamental belief that education must be provided for *all* the school age children of the entire County. Anything short of this we regard as contrary to the best interests of all of us in the long run. We know that educated citizens are absolutely essential to the very existence of democracy in local affairs as well as in state and national ones. If a community leaves uneducated any portion of its citizens, because they cannot afford its cost, or for any other reason, it inevitably creates for itself enormous problems in welfare, delinquency, crime and unemployment. It means numbers of illiterate laborers who are difficult to absorb in the labor force. Today business and industry are demanding a higher level of training of its employees than ever before.

Those men questioned whether private schools could adequately replace public schools. The board believed that the decision to sell school property and thus forever abandon public education should be decided by the people, not a six-man board. Further, the board's attorneys warned that a sale would generate further legal questions. Walter Fitzpatrick resigned as the school board's attorney and the Richmond law firm of Hunton, Williams, Gay, Powell and Gibson withdrew its counsel. The resignations generated the first significant protest to the Foundation forces. This controversy emboldened an underground movement to end the school crisis.²⁵

²⁵ "Foundation Asks Buildings Be Declared Surplus," "Five School Board Members Resign; Palmer Stays On," and "Law Firm Quits As Counsel For School Board," all in FH, April 29, 1960, 1; Allan Jones, "5 of 6 on School Board Quit in Prince Edward," RTD, April 27, 1960, 1; Jones, "Law Firm Asks to Quit School Case," 1; Smith, *They Closed Their Schools*, 175-178; John W. Riely to Albert V. Bryan, "Civil Action No. 1333, Allen v. County School Board of Prince Edward County," May 6, 1960, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R.

A clandestine group of white moderates conspired to reopen the public schools. Sympathetic businessmen and others, approximately 150 in all, had quietly participated in informal discussions since November 1959. They were concerned about the educational, social, and economic harm that the school closings had on the community. Lester Andrews, the former school board chairman, and his business partner at the Farmville Manufacturing Company, Maurice Large, led this group – later known derisively as the “Bush League.” On June 3, 1960, Large hosted a meeting at his cabin in neighboring Cumberland County; the purpose of which was to organize a concerted campaign to persuade the board of supervisors to fund the public schools. The conferees adopted a hybrid version of the Schlegel and Moss-Bittinger plans: blacks would accept a moratorium on integrating the public schools for “X” number of years and the private schools would be available to whites who could afford it. A delegation of Bush Leaguers planned to present this proposal to black leaders. In the meantime, the participants were encouraged to invite friends to join this movement.²⁶

The “private school fanatics” put the brakes on the Bush League. They had learned about the “meeting in the woods” and arrived in time to intimidate the conferees. They shined flashlights in the Bush Leaguers’ faces, recorded their names, and compiled meeting minutes. That information was made available for public consumption in a three-page mimeograph, which opened:

²⁶ Smith, *They Closed Their Schools*, 175-184; Bush League Mimeograph, n.d., DHC.

It has come to the attention of those of us who have worked and sacrificed for the preservation of segregated schools in Prince Edward County and who have most been vitally concerned about the unconstitutional rulings of the Supreme Court of the United States bearing directly upon the welfare of the white children of our County, that an insidious [sic] movement instigated by certain businessmen in our town and County who are willing to sell their honor and the moral up-bringing of our white children for a few dollars which they allegedly lost by a business slump has been felt nationwide and those persons who are the enemies of your children and mone [sic] are using this economic weapon as a tool to force us into an integrated society. It must certainly be true that certain good men who have been duped into this movement have allowed greed to compromise them into an alliance with those socialists, integrationists, “do gooders”, and educationalists who would sacrifice our children in order to further themselves economically, and politically.

The segregationists used the mimeograph to discourage business leaders from opposing the school closings. The participants were characterized as “integrationists” and traitors, and “suffered abuse and reprisals of various kinds.” The Farmville Manufacturing Company was boycotted and its employees were harassed. Lester Andrews and his family were socially ostracized. Andrews succumbed to the pressure and withdrew his activism. “I have had too many sleepless nights,” he explained. The other participants relented as well. The message had been sent to businessmen that dissent would result in economic repercussions. Intimidation had forced the community’s only significant movement of white moderation into oblivion.²⁷ The resistance movement shrank to a handful of individuals.

²⁷ Benjamin Muse, “J. Barrye Wall and B. Calvin Bass: Prince Edward County, March 28-29, 1961,” March 31, 1961, Reel 56, SRCP; Bush League Mimeograph; Smith, *They Closed Their Schools*, 175-184; Harry Boyte to Jean Fairfax, “Interview with Lester Andrews,” July 6, 1962, #38438, AFSC; Elsie Carper, “Prince Edward Warning Sign Is Unheeded,” WP, December 26, 1960, B1.

The segregationists targeted the last element of dissent: college professors. The campaign played on the white community's general disdain for academia. Whites tolerated college professors as far as polite conversation, like weather and sports; otherwise, they were looked upon as outsiders. Propagandists derisively connected any further opposition to the school situation with professors. As Bo Wall explained, dissent was confined to "a few professors up at Longwood," and thus should be dismissed as inconsequential. Still the segregationists worked to silence them. In early 1961, after Gordon Moss and Marvin Schlegel opened another round of public criticism of the school closings, the segregationists circulated a petition to have them fired. When local pressure failed, Congressman Watkins Abbitt petitioned the State Superintendent of Public Instruction to remove them. "It is shocking to me," thought Abbitt, "that a State Department would keep State personnel in a community whose sentiments do not coincide with local sentiment."²⁸ Later, a resident claiming to represent "Prince Edward White Parents" asked the governor to fire Bittinger, Moss, and Schlegel: "These poisonous left-overs from the 1861 abolition days have done more to encourage niggers to bring expensive suits against our state than any other cause. They should be removed from the [Virginia] payrolls, and told to teach their Nigger-poison North, where they learned it. Must we continue to pay them to injure us? Keep the abolitionists on our

²⁸ David M. Rudenstine, "Or None at All," (Senior thesis, Yale University, 1963), 7; William Bagwell to Jean Fairfax, "Prince Edward County – Interviews, September 21-28, 1962," November 12, 1962, #38247, AFSC; Brooks, "Graduation at Farmville," 40; Smith, *They Closed Their Schools*, 214-220; Watkins M. Abbitt to J. Barry Wall, February 1, 1961, Box 5, WMAP.

payrolls? No.”²⁹ Recognizing the uphill slog, Bittinger and Schlegel retreated from the headlines. Gordon Moss, however, continued to openly criticize the school closings.³⁰

Gordon Moss suffered the consequences for being outspoken. Moss’s activism continued to endanger his job, but that failed to dissuade him. He still addressed the issue at public hearings, in letters to the editor, and public addresses. In November 1962, Leonard Muse, the chairman of the State Board of Education, summoned Moss to his office to reprimand him for a rousing speech he gave against the school closings. He faced social ostracism at home. The townspeople called him an “integrationist” and a “nigger lover.” “I have been snubbed on Main Street by virtually lifetime friends,” mourned Moss. “I sit in the pew by myself in church every Sunday.” Moss displayed tremendous courage for standing up for his convictions. Still, the segregationists all but

²⁹ “Prince Edward White Parents” to Albertis S. Harrison, Jr., January 17, 1962, Box 72, ASHP. A similar letter was addressed to Governor Almond in 1959 and signed by E.J. Markson. The two letters have identical handwriting and similar messages. It is safe to assume that Markson authored both of the letters. In his note to Governor Almond, Markson attacked Dean Dudley Woodbridge of the College of William & Mary. “We ask you to consider removing this ‘educator’ from Virginia’s payrolls NOW....Also, a searching investigation ought to be made, now, of how many of such ‘carpetbag teachers’ the South is now nursing in her bosom? And get rid of them: get the OFF our payrolls. Then if Mr. Woodbridge, or Earl Warren, or Eleanor Roosevelt want to dig down in own, private pockets, rather than in ours (needed for our own white children) we, the makers, owners, and largest taxpayers of Prince Edward County, will consider the offer from them. Meanwhile, you, Mr. Governor, bring home to all ‘carpetbag,’ so-called ‘educators,’ now in our Va. schools (especially in History, law, and government classes) that we do not want their false, injurious, slanted ‘teachings’ in this state, or in the South, by taking their names off all Virginia payrolls, and now. Let the niggers and NAACP, then hire them – IF, IF they can. We do not want another Civil War here, caused by these white do-gooders, and ‘reformers’ and troublemakers let alone an evil NAACP.” See E.J. Markson to J. Lindsay Almond, September 17, 1959, Box 36, JLAP.

³⁰ William Bagwell to Jean Fairfax, “Prince Edward County – Interviews, October, 1962,” December 10, 1962, #38427, AFSC.

eliminated his ability to lead dissenters by caricaturizing and isolating him.³¹ Black Prince Edwardians had to look outside the community for assistance.

The segregationists tried to discredit and undermine outside organizations. The General Assembly had already opened an attack on the NAACP's right to exist in Virginia. In 1956, the state legislators passed "anti-NAACP" laws to limit the NAACP's ability to file lawsuits, forcing its attorneys to use time and resources to challenge those statutes rather than concentrating on civil rights cases. In addition, the General Assembly enforced a statute requiring NAACP chapters to surrender its membership rolls. As a result, membership declined sharply. Reverend Griffin had twice been called before a state legislative committee, but he refused to hand over the local membership roster. The county leaders capitalized by trying to drive a wedge between the NAACP and black Prince Edwardians. The segregationists deflected blame for the school closings to the NAACP and used the *Farmville Herald* to sell that assertion. "The NAACP leaders who forced the closing of the schools have done nothing to provide education," wrote Barrye Wall on his editorial page. "We have been used as a pawn in a great game of national, possibly international, politics, and the time is for us to be Prince Edward Citizens again, working for the betterment of our own county, free from those who would use us for ulterior motives, and this done, leave us to solve the problems left behind." The

³¹ Edgar A. Shuler and Robert L. Green, "A Southern Educator and School Integration: An Interview," *Phylon*, 28, No. 1 (1st Quarter 1967): 28-40; Irv Goodman, "Public Schools Died Here," *Saturday Evening Post*, April 29, 1961, 89; Leonard G. Muse to Albertis S. Harrison, Jr., November 20, 1962, Box 97, LFPP.

segregationists tried to convince blacks that they, not the NAACP, were their true friends.³²

Barrye Wall had the American Friends Service Committee investigated. In October 1960, the AFSC opened an office in Farmville under the direction of Helen Baker. Baker, a community organizer, worked to build bi-racial cooperation and support for public education. She facilitated bi-racial interactions, offered training for the activity centers' leaders, organized a support group for parents with children in the placement program, and provided activities for the children. Wall believed that Baker was "upstirring the Negroes." In January 1961, he asked Congressman Abbitt to have the House Un-American Activities Committee (HUAC) open an inquiry. The investigation determined that the AFSC had "never been cited as subversive by this committee or any other Federal authority" and they had no records on Helen Baker.³³ The Foundation forces had the connections at every level of government to thwart outside assistance.

Law enforcement officers harassed a multi-racial volunteer group. In March 1961, the Richmond Committee of Volunteers to Prince Edward organized a weekly baseball club for teenage boys. On opening day, about twenty boys took the field. "Shortly after

³² Brian J. Daugherty, "Keep on Keeping On: The NAACP and the Implementation of *Brown v. Board of Education* in Virginia" (Ph.D. diss., College of William and Mary, 2010); Mitchell, "The Lonely Hero of Va. School Fight," 23; Editorial, "Toward A Solution," FH, December 18, 1959, 1C; Watkins M. Abbitt to J. Barrye Wall, August 5, 1959, Box 2, WMAP.

³³ J. Barrye Wall to Watkins M. Abbitt, January 31, 1961, Watkins M. Abbitt to Francis E. Walter, February 1, 1961, Watkins M. Abbitt to J. Barrye Wall, February 1, 1961, J. Barrye Wall to Watkins M. Abbitt, February 7, 1961, Francis E. Walter to Watkins M. Abbitt, February 10, 1961, Watkins M. Abbitt to J. Barrye Wall, February 14, 1961, all in Box 5, WMAP; "Prince Edward County Emergency Project Report," August 1961, #38164, AFSC; Jill Oglie Titus, *Brown's Battleground: Students, Segregationists, and the Struggle for Justice in Prince Edward County, Virginia* (Chapel Hill: University of North Carolina Press, 2011), 56-60.

we arrived,” remembered Ed Peeples, a program organizer, “two police cars pulled up and parked on the bluff above the playing field. Two policemen emerged and assumed a posture to intimidate: resting the heels of their hands on their service revolvers as they swaggered back and forth, leering at our every move.” After three hours of play, the volunteers headed home with two patrol cars in tow all the way to the county line. On April 29, the volunteers began weekly children’s activities at the recreation center. The program drew police attention when “2 white boys [were] playing ball with colored boys on [the] school ground at [the] colored school.” The police ran the license plates of a 1954 Pontiac and a 1959 Ford to identify the program organizers.³⁴ The police created an unwelcome environment for outsiders.

The police maintained regular surveillance over Reverend Griffin and his associates. Officers paid particular attention to Griffin’s comings and goings, and worked diligently to identify the visitors to his home and church. An officer’s notes from September 21 and October 2, 1959, provide samples of the police’s efforts to track the movements of Reverend Griffin.

On September 21, 1959 at 11:00 am I saw Rev. Griffin in a car 1958 Chevrolet Va. License No 81-003 with another man driving up & down Main St. About a hour later I saw Griffin and this man at the Methodist Church with C.A. Jones. At 12:15 pm this date I saw about 50 negros at this same place some appear to be student going off. Albert Carter of Moran, Va and his wife were there too. This car was at closed school earlier this date taking some pictures with Griffin standing

³⁴ Edward H. Peeples, *Scalawag: A White Southerner’s Journey through Segregation to Human Rights Activism* (Charlottesville: University of Virginia Press, 2014), 86-93; E.E. Overton to DMV, April 29, 1961, DHC.

beside the school. This car belong to Drive Yourself Inc. 1909 Chamberlayne Ave. Richmond, Va.

On October 2, 1959 on patrol I saw a 1959 chevrolet with Va. License number 306-079 parked at C.A. Jones and a colored man going to his home. Tall light skin man. Time 11:20 AM. On October 2, 1959, I was on patrol going up North Street and saw this 1958 brown chevlet parked on North Street near the Ford Place with Va. license no. A48-820 and this car have been reported to me as the car that is at Rev. Griffin Home and at meeting here in Farmville, Va. at difference times. Some where in this file we will see this license no and also 306-079 as these cars are in Farmville most any time.

In addition, officers used informants to collect intelligence on the substance of PECCA meetings and strategy. In April 1960, for example, Ernest Lee, a cab driver, told an officer that Wyatt Tee Walker of the Southern Christian Leadership Conference visited Beulah AME church to help organize a lunch counter sit-in in Farmville. He also reported that Griffin had just attended a meeting in Petersburg. In June, Mervin Branch, the manager of Reid's Café, reported to the police of a recent informal bi-racial meeting at a private home.³⁵ The police took an extraordinary interest in preserving the racial status quo.

The local control group actively disrupted efforts to assist the black community. The segregationists used their political, police, and media superiority to undermine outside assistance and splinter black unity. They intimidated white moderates into silence, harassed the school board to the point of resignation, and shattered the only substantial movement of dissent before it fully materialized. Calvin Bass, a former school board member and a Bush Leaguer, believed that a majority of county residents wanted

³⁵ Farmville Police Records in a private collection. See DHC.

the schools reopened but they feared reprisals. He suggested that if Barrye Wall and a few others vanished that the schools would be reopened without much trouble. The “five funerals” thesis, the belief that the death of five control group men would lead to the reopening of the public schools, proved to be moot as the segregationist leaders lived full lives.³⁶ Black Prince Edwardians could not count on a local solution.

III

Government action and inaction favored the county segregationists. The state and county governments worked in tandem to put the Prince Edward School Foundation on sounder financial footing. Still, both abrogated their constitutional obligation to provide public schools for all children. The federal government took no decisive action. Congress neglected to enact legislation to speed the implementation of the *Brown* decision; the federal courts failed to issue a decree with teeth; and President Eisenhower provided no leadership on the school closings. Government at all levels, in short, stood idly by as the educational erosion continued for black Prince Edwardians.

The county leaders lobbied the General Assembly to amend the tuition grant laws. Foundation parents had not applied for tuition grants for fear that the federal courts would invalidate its use in Prince Edward County, because the black students had no freedom of choice, no schools available to them in the community. The segregationist leaders asked

³⁶ Benjamin Muse, “J. Barrye Wall and B. Calvin Bass, Prince Edward County, March 28-29, 1961,” March 31, 1961, Reel 56, SRCP; Smith, *They Closed Their Schools*, 156-157.

that tuition grants be made available to county residents attending public and private schools outside of Prince Edward County. Obviously, the segregationists wanted to safeguard tuition grants for their children by luring blacks into accepting scholarships for their bootleg educations. State Senator James Hagood and Delegate John Daniel, both representatives of Prince Edward County, introduced such measures in their respective legislative bodies. Still, the county leaders argued that the laws needed revision to protect the Prince Edward School Foundation. “Any private school sustained principally by tuition grants money is going to be held a public school,” testified county attorney Segar Gravatt. “I think the courts would be proper in decreeing this.” State legislators considered a number of measures to put the foundation schools on sound financial and constitutional ground.³⁷

The General Assembly passed measures to aid the segregation academy. In March 1960, the state amended the law to permit tuition grants for students attending public and private schools outside of their zoned school district. In addition, local governing bodies were authorized to provide scholarship funds matching the state allotment. In all, elementary and high school students were eligible for \$250 and \$275 per annum, respectively.³⁸ The General Assembly also approved another measure to bolster

³⁷ Frank Nat Watkins to J. Segar Gravatt, December 16, 1959, Frank Nat Watkins to James D. Hagood, December 4, 1959, both in Box 2, JSGP; J. Barrye Wall to John H. Daniel, January 28, 1960, Box 22, JHDP; “More Tax Funds for Private Schools Bills Offered Assembly,” FH, February 23, 1960, 1; “Assembly Passes School Fund Bill Asked By County,” FH, March 8, 1960, 1.

³⁸ “An Act to encourage the education of the Commonwealth by providing State scholarships and authorizing the governing bodies of counties, cities and towns to provide local scholarships for the education of such children in nonsectarian private schools located in or outside, and in public schools located outside, the locality in which they reside; to provide for the manner in which such scholarships

segregation academies. The state authorized the localities to pass ordinances permitting individuals to make voluntary tax-exempt contributions, up to 25 percent of their personal and real estate taxes, to private non-sectarian schools.³⁹ In other words, a resident of Prince Edward County with a property tax bill of \$100 could pay \$75 to the tax collector and make a \$25 contribution to the Foundation schools. The state had given the segregationists more leverage to make segregated schools permanent in Prince Edward County.

The county board of supervisors remained steadfast against school integration. The 1959 election returned all the school closers to office, with the exception of Chairman Edward Carter, who dropped out of the Hampden District race due to a heart attack. Charles Pickett, a Defender, won the seat on a campaign pledge to “do everything I can do to prevent school integration in Prince Edward County.” William Vaughan of Prospect replaced Carter as chairman. “I am ready to do anything to improve the situation,” proclaimed Vaughan, “as long as it conforms with the basic principles of separation of the races in schools, and local control.” The school board had proposed an \$803,700 budget to operate public schools, which the supervisors rejected. Instead, they invoked the Hagood-Daniel bill by raising the property tax rate from \$1.60 to \$4.00 per

shall be made available; to make unlawful the improper obtaining or expending of funds provided for such scholarships; to provide for the manner in which local scholarships shall be available under certain circumstances, and the minimum amount of such scholarships; and to repeal Chapter 53, Acts of Assembly, Extra Session, 1959, and Chapter 7.2 of Title 22 of the Code, consisting of §22-115.22 through 22-115.28, relating to grants for education of children in private schools,” Va. Code Ch. 448 (1960).

³⁹ “An Act to provide that the governing bodies of counties, cities and towns may provide that contributions made by persons to certain nonprofit, nonsectarian, private schools shall constitute a credit against the liability of any such person for county, city or town real estate or personal property taxes; to provide how such credit may be obtained; and to repeal certain acts and parts of acts,” Va. Code Ch. 191 (1960).

\$100 of assessed value to allot \$270,000 for tuition grants. In addition, the supervisors passed the local ordinance permitting tax-exempt contributions to the Foundation. The county leaders believed that the public funding of the private schools was now on sound constitutional ground.⁴⁰

The federal courts had yet to determine the constitutionality of the school closings or tuition grants. On April 22, 1960, the U.S. District Court issued an order to put the U.S. Fourth Circuit Court of Appeals' May 5, 1959, ruling into effect. Judge Albert Bryan, who temporarily presided over the case upon the retirement of Sterling Hutcheson, enjoined the school board and superintendent from discriminating based on race in the enrollment of students at the high school; and required them to begin making plans for the desegregation of the elementary schools at the "earliest practical date." The court order, however, did not require the county to reopen its public schools. There were no public schools to desegregate. "This has no practical effect since the county has abandoned its public schools," wrote the *Southern School News*. On June 10, 1960, the NAACP filed a motion to add the state superintendent of public instruction, the State Board of Education, and the county board of supervisors as defendants, because their inaction prevented the current defendants (the local superintendent and school board)

⁴⁰ "Pickett Elected Supervisor, County Officers Win New Term," FH, November 6, 1959, 1; "Edward A. Carter Will Not Seek Reelection As County Supervisor," FH, October 6, 1959, 1; Ben Bowers, "Pickett, Hines Seek Hampden Seat On Prince Edward Board Supervisors," FH, October 30, 1959, 1; Minutes, Prince Edward County Board of Supervisors, January 1960, and June 1960, both in PECBOSR; Ben Bowers, "Prince Edward County Chief Knows Score," RNL, January 13, 1960, 4; "Prince Edward Supervisors Reportedly to Raise Taxes," 2.

from carrying out the court orders.⁴¹ Litigation placed a heavy burden on black parents. An act of congress could have lessened the burden.

Congress failed to enact school desegregation legislation. In 1957, Congress passed the first civil rights act since Reconstruction. The law authorized the attorney general to initiate civil suits in federal court to protect voting rights, but a similar provision (Title III) authorizing the attorney general to initiate school desegregation suits failed in the Senate by a 52-38 vote. President Eisenhower showed little leadership on that provision; in fact, he demonstrated ignorance of his own administration's bill. "I was reading part of that bill this morning," the president told the press, "and there were certain phrases I didn't completely understand." Eisenhower refused to take on southern opposition to Title III, preferring instead to save the moderate aspects of the bill: the creation of a federal civil rights commission and the Civil Rights Division in the Department of Justice. Similarly, Congress strengthened voting rights protections in the Civil Rights Act of 1960 but failed to enact a school desegregation provision. The Department of Justice determined that the attorney general could not initiate school desegregation suits without congressional authority.⁴²

⁴¹ Albert V. Bryan, "Order on Mandate," April 22, 1960, Oliver W. Hill, "Motion for Leave to File Supplemental Complaint and to Add Additional Defendants," June 10, 1960, both in Box 123, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; "Court Tells Pulaski High To Admit Negroes," SSN, May 10, 1960, 10.

⁴² Donald W. Jackson and James W. Riddlesperger, Jr., "The Eisenhower Administration and the 1957 Civil Rights Act," in *Reexamining the Eisenhower Presidency*, edited by Shirley Anne Warshaw (Westport, Connecticut: Greenwood Press, 1993), 85-101; Civil Rights Act of 1957, Pub.L. 85-315, 71 Stat. 634; Robert A. Caro, *Master of the Senate: The Years of Lyndon Johnson* (New York: Alfred A. Knopf, 2002), 872-989; "The President's Press Conference of July 3, 1957," July 3, 1957, in *Public Papers of the Presidents: Dwight D. Eisenhower, 1957* (Washington, D.C.: GPO, 1958), 515-527; Civil Rights Act of

The U.S. Department of Justice took no action on the school closings. The Civil Rights Division narrowly interpreted its role in school desegregation. Assistant Attorney General Harold Tyler believed that the Division's hands were tied by Congress's failure to pass legislation. "The Attorney General," he explained, "has no right under existing statutes to participate as a party in school desegregation cases." In the Prince Edward litigation, the presiding judge had not requested the attorney general's involvement. Eisenhower's Department of Justice had advised the court in a handful of school desegregation as *amicus curiae* (literally "friend of the court"), but only upon the invitation of the presiding federal judge. Without legislation or an invitation from the court, Tyler explained to a petitioner, "the Department has no basis for participation in the Prince Edward County school litigation at this time."⁴³ The attorney general failed to put the power and prestige of the Department of Justice behind the locked-out children.

The Secretary of the Department of Health, Education and Welfare (HEW) condemned the school closings "as deplorable and indefensible." "It's a sad day for any community when it decides not to provide adequately for the education of its children," admonished Secretary Arthur Flemming. "It's not only a sad day for that community, but for the Nation." Flemming expressed his concern about the potential threat that the Prince Edward school closings posed to public education more broadly and stated that private schools were no substitute. HEW would not become a party to the dismantling of public

1960, Pub.L. 86-449, 74 Stat. 89; Harold R. Tyler, Jr., to Milton A. Reid, January 4, 1961, Reel 105, RG 60.

⁴³ Harold R. Tyler, Jr., to Milton A. Reid, January 4, 1961; St. John Barrett, "Participation by the United States in School Desegregation Litigation," February 11, 1964, Reel 3, The Civil Rights Movement and the Federal Government, Records of the Department of Justice, 1958-1973 (microfilm).

education. Secretary Flemming rejected the Prince Edward School Foundation's request for federal surplus property. "Any aid to the Prince Edward School Foundation," explained Flemming, "would not only constitute aid to a private school to the detriment, so to speak, of a public school system, but would also discourage efforts to reactivate the public schools in the county." Flemming refused to assist the segregation academies, but without legislation, HEW could do nothing to help the locked-out children except to call "attention to the seriousness of the situation."⁴⁴

President Eisenhower provided no leadership on the school closings. Catherine Scott sent a distress letter to the White House. The thirteen-year-old resident of Prospect had been locked out of school. In May 1960, after losing a year of education, Scott petitioned Eisenhower to help resolve the matter:

We, the children of Prince Edward would like very much our schools opened. We would like to complete our education in order to employ jobs in the future. I think everyone should have their equal rights. I think everyone should have equal opportunities of any race, creed and color. God made all people to be equal. Our race, creed and color should not interfere with our equalities. The pledge to the American Flag says in part: One nation under God with liberty and justice for all. You can imagine how it would be in the future if many children in the United States were without education. I feel that education is important in this Atomic Age. I am writing you because I think you could give some help toward restoring our educational facilities.

⁴⁴ Jean White, "Flemming Denounces School Closing in Prince Edward; Negro Pupils Idled," WP, September 11, 1959, B2; "Schools' End In County Hit By Flemming," WP, June 5, 1959, A20; "Flemming Backs Almond's Stand," WP, June 23, 1959, B1; "Prince Edward Schools Denied U.S. Surplus Property: Flemming Says Gift of Property Would Aid Segregation in County," WP, January 13, 1961, B1; Jean White, "Flemming Denounces School Closing in Prince Edward; Negro Pupils Idled," WP, September 11, 1959, B2.

The White House encouraged Catherine Scott to “express your feeling” to the local officials. She received the letter and thought, “Local officials? The local officials were the ones who closed the schools.”⁴⁵ The White House response affirmed that the administration would not protect black Prince Edwardians from the collusion of state and local leaders.

Reverend Griffin considered the school closings a national issue that required a national solution. “You have carried your own ball well,” Griffin praised PECCA members at a meeting. “It is time the state and the nation, too, became concerned.” He had recommended that PECCA launch a nationwide campaign to awaken the American conscience to the injustice in Prince Edward County. They needed the support of fraternal organizations, women’s clubs, white liberals, and national publications. More importantly, “we need to launch a concerted effort to arouse the Federal Government, President and other agencies,” Griffin explained. “It is becoming increasing evident that the South cannot solve the problem alone and needs strong federal intervention to deter others from such undemocratic practices.”⁴⁶ The presidential election loomed large for black Prince Edwardians.

⁴⁵ Catherine Scott to Dwight D. Eisenhower, May 19, 1960, E. Frederic Morrow to Catherine Scott, May 26, 1960, both in White House Central Files, Box 917, DDEL; Interview, Catherine Scott by Brian Grogan, November 1, 2003, MSFP.

⁴⁶ Griffin, “Operation 1700”; “No schools, but tan citizens snub ‘offer,’” RAA, July 2, 1960, 19.

IV

Reverend Griffin tried to inject the school closings into the presidential campaign. In October 1960, Griffin asked the candidates for their position on Prince Edward County through an open letter: “Will you use the powers of this great office to correct the evil that is negatively affecting the lives of approximately 1,400 white children and 1,700 Negro children, and by tomorrow could affect the lives of untold numbers in the South?” The letter was more than a query on school closing policy, but a distress signal. He informed the candidates of black oppression in Prince Edward County. “This little Virginia community has defied the courts and violated every principle of democracy,” wrote Griffin. “Strong federal intervention is needed to save us from ourselves and guarantee our children a fair chance in an everchanging world.”⁴⁷ At this juncture, only the federal government could force the state and local officials to relent. The next president would determine whether a policy of federal indifference continued or if the resources of the national government would be used to end the school crisis. The election of John F. Kennedy or Richard Nixon, therefore, had a direct bearing on the future of black Prince Edwardians.

Senator John F. Kennedy supported school desegregation. He endorsed the *Brown* decision and voted to expedite its implementation. In October 1957, a Republican Party leader publicly challenged Kennedy to state his position on school desegregation at an

⁴⁷ Associated Press, “Candidates Are Quizzed On Virginian School Stand,” WP, October 22, 1960, C2; “Presidential Candidates Queried On Schools Here,” FH, October 25, 1960, 1.

event in Mississippi. “I have no hesitancy in telling him the same thing I have said in my own city of Boston,” Kennedy boldly told the Mississippi audience, “that I have accepted the Supreme Court’s decision on desegregation as the law of the land.” In fact, Kennedy had voted to retain Title III in the Civil Rights Act of 1957. He considered it “a moderate provision in a moderate bill.” Yet, the Senate voted to eliminate the provision. He thought that the pride over passage of the first civil rights legislation since Reconstruction had been “dimmed” by the omission of Title III. “I am convinced,” stated Kennedy, “that retention of this Title would have been more significant to the advancement of civil rights than all the rest of the bill.”⁴⁸ Despite his position on Title III, Kennedy had not yet won over African Americans.

Black leaders viewed Kennedy’s moderate civil rights record with suspicion. Since 1956, Kennedy had courted white southern delegates to support his presidential run, some of whom had less than enlightened views on racial matters. Certainly, Kennedy’s political alliances with segregationists raised alarms. Further, Kennedy earned criticism for joining with southerners on two controversial questions during the debate on the civil rights bill: a procedural question not to bypass the Judiciary Committee (chaired by ultra-segregationist James Eastland of Mississippi) and the jury trial amendment. The amendment required trials by jury in cases of criminal contempt over voting rights violations. An all-white southern jury certainly would not punish segregationists’ efforts

⁴⁸ Statement, Office of Senator John F. Kennedy, October 18, 1957, John F. Kennedy to Julius Bernstein, September 13, 1957, both in Box 9, TCSP; *Congressional Record*, July 23, 1957, 12467-12468; “‘Failure to enact Title 3 Caused crisis,’ Kennedy,” WAA, November 1, 1958, 16;

to restrict black voting rights. Black leaders scorned Kennedy for those votes. He defended the votes as procedurally proper and necessary to prevent a southern filibuster. Kennedy also reminded his critics that he voted for a strong Fair Employment Practice Committee (FEPC), abolition of the poll tax, anti-lynching legislation, and filibuster reform. “No Senator,” boasted Kennedy, “can claim a more consistent record than I in supporting civil rights measures.” Senator Kennedy, indeed, had a solid civil rights record but he was no activist.⁴⁹

John F. Kennedy was not a civil rights crusader. “As a Senator,” reflected Ted Sorensen, his longtime aide, “[Kennedy] simply did not give much thought to this subject. He had no background of association or activity in race relations. He was against discrimination as he was against colonialism or loyalty oaths – it was an academic judgment rather than a deep-rooted personal compulsion.” Kennedy considered African Americans no different than any other demographic group. “They were not set aside as a Special Problem or singled out as a special group,” explained Sorensen. “He simply sought their votes along with those of anyone else.” As a national candidate, Kennedy became more vocal in his support for racial equality. He expressed support for the sit-in movement, pledged to use the moral authority of the presidency to advance equality, and campaigned on the strongest civil rights plank of any major party in history. The plank included the elimination of the poll tax, the enforcement of existing civil rights laws, and

⁴⁹ Carl Brauer, *John F. Kennedy and the Second Reconstruction* (New York: Columbia University Press, 1977), 1-29; John F. Kennedy to Wayne D. McMurray, July 10, 1957, Box 9, TSCP.

minimally first step compliance with the *Brown* decision by 1963. Kennedy created enough separation with Richard Nixon to win the black vote.⁵⁰

Kennedy won the presidency by the slimmest popular margin in the twentieth century. Political analysts credit the black vote for Kennedy's victory. Pollsters estimated that 7 of 10 African Americans voted for Kennedy, an increase over the Democrats' share in the last presidential election cycle. The black vote swung Illinois's crucial twenty-seven electoral votes to Kennedy. In Chicago, Kennedy carried 7 of 10 black wards for a city-wide 300,000 vote plurality in a state that he won by only 8,858 votes. In all, African Americans provided the margin of victory in eleven states, totaling 169 of the requisite 270 electoral votes. "If any group had reason to expect remembrance for past promises once Kennedy was in the White House," wrote journalist Helen Fuller, "it was the Negroes and their allies in the cause of equal rights." The Kennedy campaign had raised African Americans' expectations. "A vast majority of Negroes in America look to the Kennedy era to become the most helpful, the most encouraging period for racial progress in U.S. history," wrote Simeon Booker for *Ebony*.⁵¹ African Americans expected the Democratic platform to be carried out, but the congressional elections diminished such chances.

Kennedy failed to win a mandate to pass comprehensive civil rights reform. The people returned healthy Democratic majorities to both chambers (64-36 and 262-174),

⁵⁰ Theodore C. Sorensen, *Kennedy* (New York: Harper & Row, 1965), 471-472; Brauer, *John F. Kennedy and the Second Reconstruction*, 30-60.

⁵¹ Theodore H. White, *The Making of the President, 1960* (New York: Atheneum, 1961), 376-398; Helen Fuller, *Year of Trial: Kennedy's Crucial Decisions* (New York: Harcourt, Brace & World, 1962), 113; Simeon Booker, "What Negroes Can Expect From Kennedy," *Ebony*, January 1961, 33-38.

but not a working majority for the president-elect. The Congress shifted further ideologically to the right. The conservative coalition of Republicans and southern Democrats (59 Senators and 285 House members) had the numbers to bottle up any controversial legislation. Senator Joseph Clark (D-PA) studied the president-elect's legislative agenda and advised Kennedy that the prospects for passing a civil rights bill were "bad." A bill simply did not have the votes. If a comprehensive civil rights bill could not pass in the Eighty-Sixth Congress, it certainly would not pass in the Eighty-Seventh Congress. Kennedy refused to diminish the office of the presidency by proposing legislation that was certain to fail and endanger the rest of his domestic program.⁵²

The seniority rule gave southern congressmen the power to derail Kennedy's legislative program. The administration's "five must" bills – distressed area redevelopment, increase in the federal minimum wage, health insurance for the aged, federal aid to education, and housing and urban improvement – had to clear committees chaired by segregationists.⁵³ Of the Senate's sixteen standing committees, nine were chaired by signers of the Southern Manifesto. In the House, eight of the twenty chairmen signed the manifesto, and four others opposed the civil rights acts of 1957 and 1960 (see Table 4.1). If the administration sent a civil rights bill to Capitol Hill, it would have not

⁵² *Complete Returns of the 1960 Elections by Congressional District* (Washington, D.C.: Congressional Quarterly, 1961); James N. Giglio, *The Presidency of John F. Kennedy* (Lawrence: University Press of Kansas, 1991), 37, 97-121; Fuller, *Year of Trial*, 70-118; Joseph C. Clark to John F. Kennedy, December 15, 1960, President's Office Files, JFKP.

⁵³ The Distressed Area Redevelopment and Housing and Urban Improvement bills had to pass through the Banking and Currency Committee chaired by A. Willis Robertson of Virginia; the minimum wage and Federal Aid to Education bills were sent to the Labor and Welfare Committee chaired by Lister Hill of Alabama; and the health insurance for the aged bill had to clear the Finance Committee chaired by Harry F. Byrd of Virginia.

only been dead on arrival but committee chairmen could have exacted revenge on Kennedy's legislative agenda, a program that stood to benefit African Americans. "Anything else that could ultimately provide tangible economic assistance to poor blacks and whites alike," wrote biographer Herbert S. Parmet, "was also vulnerable if [Kennedy] gave the segregationists a club they could hold over his head." Kennedy, therefore, much to the chagrin of civil rights leaders, postponed legislation.⁵⁴ The president had to find another path to advance racial equality.

President-elect Kennedy tasked an expert to make civil rights recommendations. Harris Wofford reasoned that "our jet-age ship of state has been flying on only one of its three engines – the Judiciary – while the Congress and the Executive have been stalling." Still, Wofford agreed that Kennedy should not send a civil rights bill to Capitol Hill, because a vote on that measure would weaken the position of liberal and moderate southern legislators. Instead, he recommended "a minimum of civil rights legislation and maximum executive action" for 1961. Wofford advised Kennedy to enforce existing laws and exercise constitutional powers, both of which the Eisenhower administration failed to fully explore. As far as school desegregation, Wofford concluded that the attorney general could bring suits without congressional approval (Title III legislation). The report cited a number of prominent lawyers who expected the U.S. Supreme Court to uphold that contention. Wofford, therefore, advised Kennedy to test the limits of his executive power by authorizing the attorney general to file "some well-chosen suits and to

⁵⁴ Giglio, *The Presidency of John F. Kennedy*, 97-121; Herbert S. Parmet, *JFK: The Presidency of John F. Kennedy* (New York: Dial Press, 1983), 251.

intervene in many others.” Wofford specifically identified Prince Edward County as an immediate challenge for the incoming administration.⁵⁵

Civil rights leaders pressed President-elect Kennedy to act in Prince Edward County. The Virginia Christian Leadership Conference (VCLC), a newly formed affiliate of the Southern Christian Leadership Conference (SCLC), lobbied the president-elect to resolve the school crisis. In a letter to the incoming administration, President Milton Reid sent a distress signal: “We are trying to get those schools open. WE NEED HELP.” Reid asked that the president-elect send a representative to a prayer pilgrimage in Farmville. On January 2, 1961, over one thousand pilgrims gathered at First Baptist Church. The pilgrimage speakers directed their remarks to Kennedy. Although no representatives from the incoming administration accepted the invitation, the newspapers carried the message to them. “We must let Mr. Kennedy know we want more out of him than we got out of President Eisenhower,” declared the Reverend Ralph Abernathy of SCLC. “We trust under the new administration in Washington,” remarked Milton Reid, “that when the country decides to move ahead, it will move at least 200 miles and pass through Prince Edward County.” He reminded the assemblage of Kennedy’s debt to African American voters and the power of the black vote. “If the Negro can determine the election of one John Fitzgerald Kennedy to the Presidency of the nation,” argued Reid, “the same vote can determine the ‘Byrds’ in Washington, the ‘Almonds’ in Richmond, the ‘Vaughans,’

⁵⁵ Harris Wofford to John F. Kennedy, “On Civil Rights – 1961,” December 30, 1960, Box 1071, Transition File, Task Force Reports 1960, JFKP.

the “Dillons,’ the ‘Picketts,’ the ‘Jenkins,’ the ‘Gates,’ and the ‘Stecks’ of Prince Edward County.”⁵⁶

The Prince Edward County school crisis required a federal solution. President Eisenhower had failed to use federal power to defend the locked-out children. Instead, by omission the administration allowed state and local officials to collude with the Foundation to preserve segregated education. The segregationists used their unchecked power to all but stifle white moderates and undermine outside assistance to the black community. Black Prince Edwardians lacked the political and economic power to stand alone against the school closers. They needed federal intervention. The presidential transition provided an opportunity for Reverend Griffin to renew his appeal for federal assistance to resolve the school crisis.

Black Prince Edwardians lacked the political power to sway elected officials. The board of supervisors felt no obligation to consider black citizens’ concerns. On December 6, 1960, Reverend Griffin presented the supervisors with a petition signed by 272 people requesting that the public schools be reopened. Chairman William Vaughan explained that the supervisors could not immediately appropriate money for public schools, but that

⁵⁶ Milton A. Reid to Harris Wofford, December 9, 1960, Box 5, HWP; James Berry, “Negro Rally and March Are Staged in Farmville,” RTD, January 3, 1961, 4; “Pilgrimage For Public Schools Here Attracts Negroes From Across State,” FH, January 3, 1961, 1; “1,200 rally to the cause to open Prince Edward schools,” RAA, January 7, 1961, 1; SCLC Press Release, “SCLC Unit Plans March to School-less Virginia County,” December 8, 1960, Reel 3, SCLCR; Milton A. Reid, “Statement of Purpose,” January 2, 1961, Reel 20, COREP.

it could be considered in the next budget cycle. “This board will follow such policy as is in accord with the will of the people of the county and as, in our opinion, will serve the welfare of all the people,” assured Vaughan. “Majorities can be wrong,” responded Griffin. “But there is an American way of education, and the right and wrong of a situation should be considered, not just the way the majority voted.”⁵⁷ Without significant black political power the moral argument fell on deaf ears.

Griffin also threatened to boycott white businesses. “If we fail in this appeal, and if you refuse our respective petitions,” Griffin told the supervisors, “we are prepared to use any nonviolent means to achieve our purpose.” He considered an economic boycott “one of the ways” to pressure the white community to reopen the schools. Certainly, however, a boycott had its pitfalls. J. Nat Wilkerson, a member of the local power structure, warned in a letter to the editor that a boycott could work both ways: “Not only in their NOT BUYING but they could be faced with NOT SELLING or even NOT EMPLOYING.”⁵⁸ Dependence on whites for consumer products, employment, and store credit limited black adults’ activism. Under these circumstances, a boycott was an empty threat. The fact that this campaign was not implemented further demonstrated the powerlessness of the black community to retaliate against the school closers. Black Prince Edwardians’ need for federal intervention was never greater.

⁵⁷ Ben Bowers, “School Reopening Bid Prepared,” FH, December 6, 1960, 1; “Negroes Consider Boycott of Prince Edward Stores,” SSN, January 1961, 7.

⁵⁸ *Ibid.*; “Boycott On An ‘If Necessary’ Basis Organized,” FH, December 16, 1960, 1; Letter to the Editor, J. Nat Wilkerson, “Prince Edward Remain Steadfast,” FH, December 13, 1960, 1B.

Table 4.1

**Committees of the 87th Congress, First Session.
(Voting Record on the Civil Rights Acts of 1957 and 1960)**

<u>Senate Committee</u>	<u>Committee Chairman</u>	<u>State</u>	<u>1957</u> ¹	<u>1960</u> ²
Aeronautical and Space Sciences	Robert S. Kerr	Oklahoma	Aye	No Vote
Agriculture and Forestry	Allen J. Ellender	Louisiana	Nay	Nay
Appropriations	Carl Hayden	Arizona	Aye	Aye
Armed Services	Richard B. Russell	Georgia	Nay	Nay
Banking and Currency	A. Willis Robertson	Virginia	Nay	Nay
District of Columbia	Alan Bible	Nevada	Aye	Aye
Finance	Harry F. Byrd	Virginia	Nay	Nay
Foreign Relations	J. William Fulbright	Arkansas	Nay	Nay
Government Operations	John L. McClellan	Arkansas	Nay	Nay
Interior and Insular Affairs	Clinton P. Anderson	New Mexico	Aye	Aye
Interstate and Foreign Commerce	Warren G. Magnuson	Washington	No vote	Aye
Judiciary	James O. Eastland	Mississippi	Nay	Nay
Labor and Public Welfare	Lister Hill	Alabama	Nay	Nay
Post Office and Civil Service	Olin D. Johnston	South Carolina	Nay	Nay
Public Works	Dennis Chavez	New Mexico	Aye	Aye
Rules and Administration	Mike Mansfield	Montana	Aye	Aye
<u>House Committee</u>	<u>Committee Chairman</u>	<u>State</u>	<u>1957</u> ³	<u>1960</u> ⁴
Agriculture	Harold D. Cooley	North Carolina	Nay	Nay
Appropriations	Clarence Cannon	Missouri	Aye	Aye
Armed Services	Carl Vinson	Georgia	Nay	Nay
Banking and Currency	Brent Spence	Kentucky	Nay	Nay
District of Columbia	John L. McMillan	South Carolina	Nay	Nay
Education and Labor	Adam Clayton Powell	New York	Aye	Present
Foreign Affairs	Thomas E. Morgan	Pennsylvania	Aye	Aye
Government Operations	William L. Dawson	Illinois	Aye	Aye
House Administration	Omar Burleson	Texas	Nay	Nay
Interior and Insular Affairs	Wayne P. Aspinall	Colorado	Aye	Aye
Interstate and Foreign Commerce	Oren Harris	Arkansas	Nay	Nay
Judiciary	Emanuel Celler	New York	Aye	Aye
Merchant Marine and Fisheries	Herbert C. Bonner	North Carolina	Nay	Nay
Post Office and Civil Service	Tom Murray	Tennessee	Nay	Nay
Public Works	Charles A. Buckley	New York	Aye	Aye
Rules	Howard W. Smith	Virginia	Nay	Nay
Science and Astronautics	Overton Brooks	Louisiana	Nay	Nay
Un-American Activities	Francis E. Walter	Pennsylvania	Present	Aye
Veterans' Affairs	Olin E. Teague	Texas	Nay	Present
Ways and Means	Wilbur D. Mills	Arkansas	Nay	Nay

* Highlighted area denotes a signer of the Southern Manifesto.

¹ H.R. 6127 Civil Rights Act of 1957 passed by the Senate, August 7, 1957.

² H.R. 8601 Passage of Amended Bill, April 8, 1960.

³ H.R. 6127 passed by House, June 18, 1957.

⁴ H.R. 8601 Approval by the House of the Senate's Amendments, April 21, 1960.

Reverend Griffin described black Prince Edwardians' desperate plight to the U.S. Commission on Civil Rights. In early 1961, he submitted a report that regarded Prince Edward County as "a story of hatred, reprisals, harassments." Griffin characterized black Prince Edwardians as an "oppressed people" who were relegated to second-class citizenship with no lines of communication to the white power structure. The "unreasonable racists" took control because the "responsible and intelligent leadership" failed to act and face realities. The white clergy, for example, did not lead but only acted with "approval from the pew." The churches, Griffin lamented, "have been reduced to Sunday social clubs." Griffin reported that white moderates who did speak out suffered the consequences. He cited the backlash against Lester Andrews's activism and the petition to terminate the employment of Gordon Moss and Marvin Schlegel. "Truly, the proverbial shoe is on the other foot, for, whereas at one time reprisals were against the Negroes of the county, it is now against whites to keep them in line."⁵⁹ Through intimidation and political domination the segregationists had isolated the black community.

Griffin made the argument for federal intervention. The federal government needed to protect individual rights from the states. "Human rights should be above 'State rights,'" Griffin argued. "Law and human dignity are far more important than a people's prejudices, mores, customs, and traditions." Moral leadership was required to end the

⁵⁹ L. Francis Griffin, "Written Statement Submitted by Rev. L. Francis Griffin, President, Prince Edward County Christian Association, Farmville, Va.," in U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights, Third Annual Conference on Problems of Schools in Transition From the Educator's Viewpoint* (Washington, D.C.: GPO, 1961), 103-106.

school crisis. “The tragedy is not in the fact that these children, white and black, are out of school,” reasoned Griffin. “The real tragedy is that this could happen in America and arouse no more action than it has.” Griffin had asked President Eisenhower to provide leadership over the school closings, but he declined. “The silence of President Eisenhower in not invoking the power of his office,” Griffin told the *Baltimore Afro-American*, “was the determining factor in the Negro’s decision to cast their vote for Kennedy.”⁶⁰ Black Prince Edwardians desperately needed John F. Kennedy to use the moral authority of the presidency to end the school crisis. Kennedy proved that who is President of the United States matters.

⁶⁰ *Ibid.*; “Mixed Emotions Follow Kennedy’s School Remarks,” BAA, February 11, 1961, 1.

CHAPTER V

PART 2

President Kennedy had to take command of the deteriorating school desegregation problem. The southern states had actively engaged in campaigns to block and delay the implementation of the *Brown* decision. State legislatures had resisted school desegregation with over two hundred laws, resolutions, and constitutional amendments. As a result, by the time the torch was passed to Kennedy, school desegregation had been held to a minimum. Less than 4 percent of African American students in the former Confederate and border states attended schools with white children. In fact, more black students attended desegregated schools in the District of Columbia than all the Confederate states combined. Four states (Alabama, Georgia, Mississippi, and South Carolina) had yet to desegregate a single classroom.¹ After the presidential election, desegregation began in New Orleans – the first such action in Louisiana – but it elicited the most explosive school situation since Little Rock. The Kennedy administration inherited the unresolved, simmering New Orleans crisis and the Prince Edward County school closings. Presidential leadership was required to prevent more New Orleanses and more Prince Edwards.

¹ Francis M. Wilhoit, *The Politics of Massive Resistance* (New York: George Braziller, 1973), 150-151; “New Summary Notes Changes In Enrollment,” SSN, December 1960, 1.

Louisiana defied the federal court. Federal District Court Judge Skelly Wright, frustrated by the school board's foot-dragging, had taken the unprecedented step of drafting a desegregation plan of his own. He ordered Orleans Parish to desegregate a grade-a-year beginning with first graders in September 1960. In response, the state legislature passed a series of bills to frustrate the court. A cyclical battle ensued between the state legislature and federal court: the legislature passed obstructive bills; Wright struck them down; repeat. Due to the delay caused by the state's tactic of "legislate and litigate," the court gave the school board until November 14 to comply with its order. On "D-Day," four African American girls, escorted by federal marshals, entered two formerly all-white elementary schools. Unsympathetic whites jeered the girls daily with obscenities and threats. Nearly all white parents, many of whom were facing social, economic, and physical intimidation, pulled their children out of the desegregated schools. The White Citizens' Council further aroused segregationists' emotions at a rally, which led to white teenagers terrorizing black bystanders in the business district. The mounted police averted a riot and more bloodshed. Still, President Eisenhower failed to demonstrate executive leadership.¹

Eisenhower's Department of Justice had belatedly joined the New Orleans litigation. In the summer, Judge Wright had asked the Department of Justice to intervene in the case as *amicus curiae* to advise the court and enforce its orders. The administration declined for fear of inflaming the situation and politicizing the issue during the

¹ Liva Baker, *The Second Battle of New Orleans: The Hundred-Year Struggle to Integrate the Schools* (New York: HarperCollins, 1996).

presidential campaign. Justice pledged to intervene after the election. “It was a very important consideration to me because I was helpless,” remembered Wright. “I had no way of enforcing the order. I knew I wasn’t going to get any help out of the police, state or city, so I had to work with Washington...to get this job done because I knew that I was going to be alone, totally and absolutely alone.” Finally, on November 25, 1960, more than a week after violence erupted in New Orleans, a three-judge federal court “requested and authorized” the attorney general to enter the case as *amicus curiae* (“friend of the court”) to advise the court, present arguments, and ensure the due administration of justice. The Eisenhower administration finally entered the New Orleans litigation.²

Executive indifference had emboldened the school closers. The Prince Edward School Foundation worked to strengthen its position by fostering the spread of segregation academies. In 1960, the Foundation’s administrator was invited to the two major cities facing court-ordered desegregation – Atlanta and New Orleans. Roy Pearson’s “whirlwind visit” to Atlanta included a conference with Governor Ernest Vandiver, a television interview, remarks before the state legislature, and the keynote speech at a mass rally organized by the Metropolitan Association to Continue Segregated Education. A short time later, Pearson visited Louisiana to address the White Citizens’ Council of Greater New Orleans. He explained that private schools were the only way to avoid integration and predicted that segregation academies would become widespread

² *Ibid.*, Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court’s Brown Decision Into a Revolution for Equality* (New York: Simon and Schuster, 1981), 133-134; Richard T. Rives, et al., “Order Designating United States Of America as Amicus Curiae,” *Bush v. New Orleans*, Civil Action No. 3630, U.S. District Court of the Eastern District of Louisiana, NARA-SW.

throughout the South. During the presidential transition, Georgia and Louisiana prepared legislation to facilitate the conversion to publicly funded segregated private schools.³ The seeds of Prince Edward-style education were taking root, and its pollination threatened to further undermine *Brown* and destroy public education, thus creating a critical challenge for the new administration.

Part 2 examines the Kennedy administration's performance in Prince Edward County. The Kennedy years witnessed a tremendous shift in federal policy with regard to the school closings. Eisenhower's indifference had bought segregationists time to entrench the segregated private school system. The Kennedy administration, therefore, entered the battle from behind. Still, the administration took an active interest in arresting the educational erosion in Southside Virginia. Chapter VI: "We Will Move" argues that the administration took proactive measures to restore universal education to Prince Edward County. Within its first one hundred days, the attorney general petitioned the court to enter the litigation. Chapter VII: "Armed Truce" demonstrates that the president risked his domestic agenda by intervening in the Prince Edward litigation. The Byrd Organization held key congressional leadership positions with the power to retaliate against the president's program – and it did. The administration's risk came without reward; the federal judge denied the attorney general's motion to enter the case, thus

³ "Pearson Tells Georgians 'The Prince Edward Story' On Flying Trip South," FH, February 5, 1960, 1; William Billiter, "Private School Plan Is Upheld," TP, July 18, 1960, 3; "Two Negroes Admitted to University; End Of Massive Resistance Policy is Indicated," and "Solons Defeat Sales Tax Plan; State-Federal Strife Continues," both in SSN, February 1961, 1, 6.

severely limiting the federal government's ability to facilitate the reopening of the public schools. Chapters VIII: "Who's Responsible?" and IX: "We All Have a Responsibility" track the administration's work to find an opening to enter the litigation but also to take extralegal means to end the educational erosion for black Prince Edwardians. Chapter X: "To See What Can Be Done" chronicles the administration's work in the summer of 1963 to facilitate the creation of a temporary school system available to all school-age county residents.

CHAPTER VI

WE WILL MOVE

The Freedom Rides have overshadowed the Kennedy administration's early effort to restore public education to Prince Edward County. The activists planned a two-week journey by Greyhound bus from Washington to New Orleans to test compliance with laws prohibiting racial discrimination in interstate travel. On the second day of the campaign, May 5, 1961, the Freedom Riders stopped over in Farmville without incident. However, as the campaign headed south, the activists encountered a firestorm of hatred: a bus bombing, Klan violence, and police brutality. The Kennedy administration had been caught off guard, forcing it to respond to events. Kennedy civil rights scholarship habitually opens chronologically with the Freedom Riders, thus perpetuating the misconception that the administration only reacted to civil rights matters. That fallacious starting point obscures the administration's proactive steps on school desegregation that predate the Freedom Rides.¹

John F. Kennedy changed the tone in Washington. President Eisenhower had balked at endorsing *Brown* for the final 2,441 days of his administration. Kennedy, contrarily, issued the first presidential endorsement of *Brown* on his twentieth day in

¹ Brian E. Lee, "A New Frontier: Reevaluating JFK's Civil Rights Record Through a Case Study of Prince Edward County, Virginia," *Federal History*, 7 (January 2015): 53-66; Raymond Arsenault, *Freedom Riders: 1961 and the Struggle for Racial Justice* (New York: Oxford University Press, 2006).

office. He told reporters that “there is no doubt in my view: students should be permitted to attend school in accordance with court decisions.” A journalist pressed Kennedy for his stance on the New Orleans school crisis. “It is my position,” replied Kennedy, “that all students should be given the opportunity to attend public schools regardless of their race, and that is in accordance with the Constitution.” Kennedy pledged to exert “the moral authority or position of influence of the presidency in New Orleans and other places” when it was “most useful and most effective.” The *Baltimore Afro-American*, for one, praised Kennedy for his “history-making” remarks and for placing the “power and prestige” of the presidency behind school desegregation.¹

Black Prince Edwardians welcomed the new tone in Washington. Seventeen months earlier, Reverend Griffin had petitioned President Eisenhower to remedy the Prince Edward school crisis, but the White House rebuffed his entreaty, claiming that the executive was “powerless” to take action. Griffin found Kennedy’s remarks “far more forthright.” He told the press that the president’s intimation to act in New Orleans “brought new hope to all persons of color in Prince Edward.” The president’s words inspired them to petition the White House to use its influence to reopen the schools. Kennedy may have changed the tone in Washington, but the executive branch still remained constrained by its ambiguous authority over school desegregation. Eisenhower’s Department of Justice had narrowly defined its role, thus precluding any

¹ The President’s News Conference of February 8, 1961, in PPP-1961, 69; “All Students Should Be Allowed To Attend Our Public Schools: JFK Pledges to Use His Influence in School Desegregation Crises,” BAA, February 11, 1961, 1.

action in Prince Edward County.² President Kennedy empowered his attorney general to test a broader interpretation of executive authority.



Figure 6.1 John F. Kennedy, February 8, 1961. (Photo: John F. Kennedy Presidential Library).

² "Mixed Emotions Follow Kennedy's School Remarks," BAA, February 11, 1961, 1; L. Francis Griffin to Dwight D. Eisenhower, August 20, 1959, Gerald D. Morgan to L. Francis Griffin, August 29, 1959, both in Box 917, DDEP; Harold R. Tyler, Jr., to Milton A. Reid, January 4, 1961, Reel 105, RG 60.

The Kennedy administration took resolute action in Prince Edward County. President Kennedy appointed assertive and innovative men to lead the Department of Justice's work on civil rights. Those tacticians pioneered a path to federal intervention in the Prince Edward County crisis by actively building case law in parallel school litigation. Once sufficiently fortified, Justice officials pressed for voluntary compliance to reopen the public schools, but the county took no action. The attorney general responded with unprecedented legal action – a move that punctuated one hundred days of furious pursuit to stem the tide of racially motivated school closures in the South. The Kennedy administration had demonstrated active and crucial leadership in the promotion of educational equality before the first Freedom Rider boarded a Greyhound bus.

I

President Kennedy centered the administration's civil rights program at the Department of Justice and, therefore, under the direction of Attorney General Robert F. Kennedy. He appointed his brother to the cabinet despite the pundits' cries of nepotism and inexperience. Bobby Kennedy, only thirty-five years old, graduated in the middle of his class at a second tier law school, the University of Virginia ('51), and he had yet to argue a case in court. He had been an investigator and prosecutor in the Criminal Division of the U.S. Department of Justice, then counsel to the Senate Permanent Subcommittee on Investigations, and later chief counsel to the Senate Labor Rackets

Committee. Bobby had gained a reputation as an overzealous prosecutor for his combative questioning of witnesses during nationally televised hearings. He mocked witnesses for invoking their Fifth Amendment right against self-incrimination and famously tangled with Teamsters president Jimmy Hoffa. His political campaign work raised further alarm. Critics tagged him as “ruthless” for his harddriving management of Jack’s campaigns. Thus, the nomination for attorney general smacked of political patronage to an office that was supposed to be above politics. Alexander Bickel of Yale Law School succinctly expressed what many critics believed: “On the record, Robert F. Kennedy is not fit for office.”³

President Kennedy defended his nominee for attorney general. “They tried to make a Federal case out of the fact that Bobby had no courtroom experience,” reasoned Kennedy. “The basic requirement of the job is not that at all. It is the ability to administer a great department.” The president could receive counsel from legal experts, but he needed someone to manage the “largest law office in the world,” a great bureaucracy with thirteen divisions, over thirty thousand employees, and a \$400 million budget. Kennedy considered his brother’s experience managing political campaigns a testament

³ Arthur M. Schlesinger, Jr., *Robert Kennedy and His Times* (Boston: Houghton Mifflin Company, 1978); Robert E. Clark, “Robert Francis Kennedy, Extra Zealous Lawyer,” in *The New Frontiersmen: Profiles of the Men Around Kennedy* (Washington, DC: Public Affairs Press, 1961), 90-105; Alexander M. Bickel, “Robert F. Kennedy: The Case Against Him for Attorney General,” *New Republic*, January 9, 1961, 15-19. *The New York Times* published a particularly stinging objection to Robert Kennedy’s nomination: “The one appointment thus far that we find most disappointing is Mr. Kennedy’s choice of his younger brother Robert as Attorney General....If Robert Kennedy were one of the outstanding lawyers of the country, a pre-eminent legal philosopher, a noted prosecutor or legal officer at Federal or state level, the situation would be different. But his experience as counsel to the McClellan committee, notably successful as he was, is surely insufficient to warrant his present appointment.” See Editorial, “From the Treasury Down,” *NYT*, December 17, 1960, 22.

to his administrative skill: “In planning, getting the right people to work and seeing that the job is done, he is the best man in the United States.” Still, Kennedy was not simply looking for a manager of a large bureaucracy, but a cabinet official who commanded his complete trust.⁴

The Kennedy brothers formed a remarkable political unit. Bobby had devoted himself to his brother, even if that meant staining his own reputation. Bobby’s management of Jack’s first senatorial campaign, for example, did not endear him to Boston pols, but that did not faze the younger brother. “I don’t care if anybody around here likes me,” explained Bobby, “as long as they like Jack.” Bobby served as Jack’s tough-talking alter ego, the enforcer, while the candidate remained above the fray – what an observer in 1960 called a “sweet-and-sour brother act”: the candidate “uses his charm and waves the carrot and then Bobby wades in with the big stick.” The brothers, as journalists Robert E. Thompson and Hortense Myers wrote, had complementary personalities:

Where John Kennedy can view almost any problem of state or humanity with dispassion and aloofness, Robert Kennedy invariably becomes emotionally involved in the job at hand and the people embroiled in it. Where John Kennedy’s mind is a vast, intricate network that must probe and study and ponder before acting, Robert Kennedy’s is a more simple, direct-current connection that moves automatically, decisively and instinctively. Where John Kennedy is a wholly self-possessed individual who abhors displays of emotion, Robert Kennedy is an intense human who can both rage and weep.

⁴ Peter Maas, “Robert Kennedy Speaks Out,” *Look*, March 28, 1961, 23-26; Hugh Sidey, “Brother on the Spot – Robert Kennedy,” in *The Kennedy Circle*, edited by Lester Tanzer (Washington, DC: Luce, 1961), 185-212; Deane Heller and David Heller, *The Kennedy Cabinet: America’s Men of Destiny* (Freeport, NY: Books for Libraries Press, 1961), 7-20; Victor S. Navasky, *Kennedy Justice* (New York: Atheneum, 1971), xii-xx; John Seigenthaler, interview by Ronald J. Grele, February 22, 1966, JFKOH.

Their personalities may have differed, but their political views were aligned and they shared the same interest – advancing Jack’s political career. Bobby’s incontrovertible devotion to Jack ensured the communication of uncolored advice, and Jack valued Bobby’s counsel above all others. Bobby “knew the President so well,” explained White House aides, “that he often realized, better than the President himself, what was the right and best thing for him to do.” They became so in sync that they “communicated instantly, almost telepathically,” observed another aide. Through gestures, a look, or a few words, the brothers reached full accord, and Jack knew that Bobby would carry out his directives.⁵

Civil rights figured prominently in Kennedy’s decision to appoint his brother to the cabinet. He wanted an attorney general who would advance civil rights, “somebody that is going to be strong; who will join me in taking whatever risks,” to provide honest assessments and advice. “I’m going to have to have someone as Attorney General to carry these things out on whom I can rely completely,” Kennedy privately explained. “I can do that with Bobby.” Bobby warned the president-elect that in order to do the job effectively, the attorney general would become unpopular in many quarters. If the attorney general shared the same last name as the president, then that unpopularity would

⁵ James W. Hilty, *Robert Kennedy: Brother Protector* (Philadelphia: Temple University Press, 1997); Thomas J. Whalen, *Kennedy versus Lodge: The 1952 Massachusetts Senate Race* (Boston: Northeastern University Press, 2000); Kenneth P. O’Donnell and David F. Powers, “Johnny, We Hardly Knew Ye”: *Memories of John Fitzgerald Kennedy* (Boston: Little, Brown and Company, 1970), 89; Stewart Alsop, “Kennedy’s Magic Formula,” *The Saturday Evening Post*, August 13, 1960, 58; Robert E. Thompson and Hortense Myers, *Robert F. Kennedy: The Brother Within* (New York: Dell, 1962), 27-28, 57, 179; Theodore C. Sorensen, *Kennedy* (New York: Harper & Row, 1965), 267-269; Edward M. Kennedy in *JFK: A Presidency Revealed*, History Channel, 2003.

“rub off” on him. Kennedy dismissed the caution and commanded his brother to take the post. President Kennedy centered civil rights management at the Department and Justice, and thus, General Kennedy functioned as the “commander in chief for civil rights.”⁶

Bobby Kennedy’s views on race relations had not filled the public record. “I won’t say I stayed awake nights worrying about civil rights before I became Attorney General,” he admitted. Kennedy had not known many African Americans, nor fully understood their desperate plight, but he supported racial equality in the abstract. In 1951, as president of the Student Legal Forum, Kennedy invited Ralph Bunche, an African American Nobel Peace Prize recipient, to deliver a lecture at the University of Virginia. Kennedy advised the president of the university, Colgate Darden, that a racially segregated audience would be “legally indefensible, morally wrong, and fraught with consequences calculated to do great harm to the University.” With the support of three law professors, including Dean F.D.G. Ribble, Kennedy successfully petitioned Darden to desegregate the event (Kennedy, Darden, and Ribble later worked together on another civil rights matter – see Chapter X). At the recent Democratic National Convention, Kennedy supported the strong civil rights plank drafted by liberal stalwart Chester Bowles. At a platform committee meeting Kennedy did not ask for the plank to be softened, but declared: “And now, on the civil rights plank our position is we go *all out*

⁶ John Seigenthaler, interview by Ronald J. Grele; James N. Giglio, *The Presidency of John F. Kennedy* (Lawrence, Kansas: University Press of Kansas, 1991), 162; Helen Fuller, *Year of Trial: Kennedy’s Crucial Decisions* (New York: Harcourt, Brace & World, 1962), 124.

for the Bowles plank.”⁷ Beyond these underpublicized events, Kennedy had not built a record that could predict his future actions on civil rights.

Shortly after taking office, Robert Kennedy expressed his convictions in an interview with *Look* magazine. “It is my fundamental belief that all people are created equal,” rationalized Kennedy. “Logically, it follows that integration should take place today everywhere – in schools, playgrounds and so on.” However, he tempered that statement by adding: “But those of us who believe this must realize that, rightly or wrongly, other people have grown up with totally different backgrounds and mores, which can’t change overnight.” In that vein, Kennedy recognized the Supreme Court’s wisdom in implementing school desegregation “with all deliberate speed.” Still, the attorney general warned that “this doesn’t mean that we are going to stand for mob defiance of court orders.” Instead, Kennedy pledged more vigorous leadership on civil rights.⁸

Bobby Kennedy attributed the federal government’s recent lethargy in civil rights to a lack of leadership. “I have an impression that the people in the Department of Justice wanted to do more,” explained Kennedy, “but were held back by a general hands-off policy of the past Administration.” Holdovers from the Eisenhower administration

⁷ Arthur M. Schlesinger, Jr., *Robert Kennedy and His Times*, 84-87, 286; Edwin Guthman, *We Band of Brothers: A Memoir of Robert F. Kennedy* (New York: Harper & Row, 1971), 156-157; Robert F. Kennedy to Colgate W. Darden, March 7, 1951; F.D.G. Ribble, et al., to Colgate W. Darden, March 8, 1951, Box 22, UVAP; Howard B. Schaffer, *Chester Bowles: New Dealer in the Cold War* (Cambridge: Harvard University Press, 1993), 164-181; Jean Stein and George Plimpton, *American Journey: The Times of Robert Kennedy* (New York: Harcourt Brace Jovanovich, Inc., 1970), 89-91.

⁸ Maas, “Robert Kennedy Speaks Out,” 23-26; *Hearing Before the Committee on the Judiciary, United States Senate, Eighty-Seventh Congress, First Session on Robert F. Kennedy, Attorney General-Designate* (Washington, DC: GPO, 1961), 37.

affirmed that assessment. “President Eisenhower wasn’t very interested in civil rights, and neither was his attorney general,” explained Harold Greene. “As long as [William] Rogers was in charge of the Justice Department, civil rights was not going to become a major priority.” Indolence was also prevalent at the Division level. St. John Barrett characterized Wilson White’s leadership of the Civil Rights Division as “completely passive, even negative.” Morale within the Division was low. John Doar described the Division as being in a state of “inertia,” where the lawyers “never left their desks in Washington” and “did not know what was going on in the field.” Late in the Eisenhower administration, White’s successor, Harold Tyler, breathed life into the Division. Still, progress did not match the times. As John Doar explained, under White the engine was stopped, but Tyler only “put it into first gear.” Robert Kennedy shaped an environment at the Department of Justice that allowed more imaginative thinking.⁹

Robert Kennedy recommended Burke Marshall to head the Civil Rights Division. Marshall, thirty-eight-years-old, had graduated from Yale Law School (’51) and specialized in antitrust law at the prestigious Washington firm of Covington & Burling. The Kennedys did not know Marshall personally, but he had come highly recommended for his brilliant legal mind. “I picked him on his reputation,” explained the attorney general. “I asked a dozen people, and they all said Burke was the best lawyer in

⁹ Maas, “Robert Kennedy Speaks Out,” 23-26; “Legends in the Law: A Conversation with Harold H. Greene,” *D.C. Bar Report*, April/May 1996; Allan Wolk, *The Presidency and Black Civil Rights: Eisenhower to Nixon* (Rutherford, NJ: Fairleigh Dickinson University Press, 1971), 68-70; St. John Barrett, *The Drive for Equality: A Personal History of Civil Rights Enforcement, 1954-1965* (Baltimore: Publish America, 2009), 28; “Legends in the Law”; Nicholas deB. Katzenbach, *Some of It Was Fun” Working with RFK and LBJ* (New York: W.W. Norton, 2008), 27.

Washington.” Still, he had no civil rights experience. Initially, Marshall’s nomination surprised many Division bureaucrats. He did not cut the figure of a dynamic leader; rather, he stood small in stature, a “sort of a mousey little fellow” with a soft, creaky voice, black-rimmed glasses, neatly parted hair, and a humorless, self-effacing demeanor. With his strong civil rights background, many considered Harris Wofford the frontrunner for the job, but Kennedy did not want an activist at this post. “I wanted a tough lawyer who could look at things objectively and give advice – and handle things properly,” explained the attorney general. “And that’s why I settled on Burke Marshall.”¹⁰

Burke Marshall’s nomination for assistant attorney general was subject to Senate confirmation, and that was no foregone conclusion. James Eastland, an ultra-segregationist from Mississippi, chaired the Senate Judiciary Committee. Robert Kennedy introduced Marshall to the chairman as the man that was “going to put the Negroes in your white schools in Mississippi.” They talked briefly, but Marshall was not into chit chat, nor was he intimidated. Eastland assured Kennedy that he would not hold up the nomination, but that he would not vote for Marshall. In fact, Eastland declared that he would “vote against Jesus Christ if he was nominated for that position.” Despite Eastland’s pledge, the confirmation hearings and vote were delayed for several weeks. In

¹⁰ “Burke Marshall” in Charles Moritz, ed., *Current Biography, 1965* (New York: H.W. Wilson Co., 1965), 279-281; Robert Wallace, “Non-Whiz Kid with the Quiet Gun,” *Life*, September 9, 1963, 75-80; Guthman, *We Band of Brothers*, 95-96; *Hearings Before the Committee on the Judiciary, United States Senate, The Nomination of Burke Marshall to Be An Assistant Attorney General, March 2 and 15, 1961* (Washington, D.C.: GPO, 1961), 1-24; John Seigenthaler, “Civil Rights In the Trenches,” in *The Kennedy Presidency: Seventeen Intimate Perspectives of John F. Kennedy*, edited by Kenneth W. Thompson (Lanham, MD: University Press of America, 1985), 107; Howard A. Glickstein, telephone interview by Brian E. Lee, May 29, 2013; Irving Bernstein, *Promises Kept: John F. Kennedy’s New Frontier* (New York: Oxford University Press, 1991), 42-43.

the meantime, Marshall joined the Department of Justice as special assistant to the attorney general and immediately set to work establishing the administration's school desegregation policy.¹¹



Figure 6.2 Burke Marshall. (Photo: John F. Kennedy Presidential Library).

JFK-RFK-Marshall marked an improvement over Eisenhower-Rogers-White/Tyler. President Kennedy endorsed *Brown*; Bobby Kennedy pledged more

¹¹ Schlesinger, *Robert Kennedy and His Times*, 288-289; *The Nomination of Burke Marshall to Be An Assistant Attorney General*, 1-24; Anthony Lewis, "Robert Kennedy Attends Hearing: Action on Rights Aide Sped by Senators in Presence of Attorney General," NYT, March 16, 1961, 16.

vigorous leadership at Justice; and Burke Marshall declared his belief that the Department had a “duty and responsibility” to protect court orders and the due administration of justice. The Kennedy brothers had an unbreakable trust in one another. Marshall was the unknown factor, but he quickly earned the attorney general’s confidence. “There was no one of whose judgment [Kennedy] relied on more during the rest of his life [than Burke Marshall],” recounted White House aide and Kennedy biographer Arthur M. Schlesinger, Jr. Marshall quickly forged that confidence by his handling of the school desegregation crisis in Louisiana.¹²

II

The Department of Justice’s path to federal intervention in Prince Edward County went through Louisiana. Without congressional approval or an invitation from the presiding judge, Burke Marshall had to build an argument for federal action. The ongoing New Orleans school case presented him with an opportunity to test the limits of the attorney general’s power under uniquely favorable conditions. The federal judges who held jurisdiction over New Orleans had progressive records. Skelly Wright, a self-proclaimed activist judge, had set a specific date for desegregation in New Orleans, invited Eisenhower’s attorney general to participate as a friend of the court, and met every challenge by state officials to block his orders. Judges Elbert Tuttle, John Minor

¹² *The Nomination of Burke Marshall to Be An Assistant Attorney General*, 1-24; Schlesinger, *Robert Kennedy and His Times*, 288-289.

Wisdom, John R. Brown, and Richard Taylor Rives made the U.S. Fifth Circuit Court of Appeals – which held appellate jurisdiction over Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas – “an agent for change.” Those four judges, Burke Marshall later concluded, “have had as much of an imprint on American society and American law as any four judges below the Supreme Court have ever done on any court....If it hadn’t been for judges like that of the Fifth Circuit, I think *Brown* would have failed in the end.” Marshall capitalized on these sympathetic jurists to broaden the attorney general’s authority.¹³

The Department of Justice took firm action in New Orleans. Robert Kennedy and Burke Marshall encouraged state and local representatives to comply with court orders. Still, Shelby Jackson, the state superintendent of public education, withheld \$350,000 appropriated for teachers’ salaries at the desegregated elementary schools. Marshall threatened litigation, but Jackson remained obstinate. Robert Kennedy knew the federal government “couldn’t back down”; he therefore authorized Marshall to do “whatever is necessary.” On February 16, 1961, Marshall expanded the previous administration’s contempt suit by filing charges against Shelby Jackson for his “open and flagrant” interference with court orders. Judge Wright welcomed the executive action. “The Kennedy move,” observed the *Southern School News*, “was seen as a means of showing that the federal government means business with regard to its position that state officials

¹³ *The Nomination of Burke Marshall to Be An Assistant Attorney General*, 8; Burke Marshall, “The Enforcement of Civil Rights,” *ADL Bulletin*, March 1962, 9-13; Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court’s Brown Decision Into a Revolution for Equality* (New York: Simon and Schuster, 1981).

shall do nothing which could restrict operation of public schools.” A week and a half later, the attorney general used this leverage to negotiate an agreement with Louisiana officials to pay the teachers.¹⁴ The New Orleans case signaled the death knell of federal indifference.

The Kennedy administration demonstrated leadership in New Orleans. Before the presidential transition, the Eisenhower administration had reluctantly entered the case as a “friend of the court” upon Judge Wright’s invitation. “The difference between the stand the Justice Department is now presenting and that it presented before [the presidential inauguration] is that it now apparently has the full support of the White House,” reported the *Washington Post*. “The great problem in the past was that the leadership in the sensitive area of civil rights did not come from the White House,” explained Robert Kennedy. “Nor was there follow-up from the Justice Department. This has drastically changed. Our move in the New Orleans school desegregation case is proof of the new approach.” President Kennedy unshackled the Department of Justice to move. The Kennedy brothers had an understanding that civil rights was the attorney general’s “area

¹⁴ Carl Brauer, *John F. Kennedy and the Second Reconstruction* (New York: Columbia University Press, 1977), 94-95; Edwin O. Guthman and Jeffrey Shulman, eds., *Robert Kennedy In His Own Words: The Unpublished Recollections of the Kennedy Years* (New York: Bantam Books, 1988), 80-82; UPI, M. Hepburn Many and St. John Barrett, “Supplemental Motion of the United States for an Order Requiring Shelby M. Jackson, Clarence C. Aycock and Thomas Jewell to Show Cause Why They Should Not Be Held in Civil Contempt,” *U.S. v. State of Louisiana*, Civil Action No. 10566 and *Bush v. New Orleans*, Civil Action No. 3630, U.S. District Court of the Eastern District of Louisiana, NARA-SW; “U.S. Sues to Free Funds for New Orleans Schools: Court Move Seeks to Release \$350,000 in Federal Aid That Louisiana Has Withheld During Racial Fight,” *NYT*, February 17, 1961, 1; “Louisiana Legal Action,” *SSN*, March 1961, 10; “Robt. Kennedy, State Group Meeting Today,” *TP*, February 21, 1961, 1; “U.S. Stands Pat on Courts’ Rule in Rights Cases,” *TP*, February 25, 1961, 1; James H. Gillis and Robert Wagner, “Fund for Teacher Salaries Provided: All School Employees Will Be Paid,” *TP*, February 27, 1961, 1.

of responsibility.” Bobby Kennedy did not have to confer with the president over New Orleans, because, as he later reflected, “it seemed so logical what we had to do, what we should do. There wasn’t a question of sitting down and deciding that. I think it was just taken for granted that the United States had to do what needed to be done.” The Civil Rights Division’s response was quick and firm. Burke Marshall, contrary to his predecessor, did not use the lack of legislation as “an excuse for inaction.”¹⁵ Nevertheless, the state challenged the Department of Justice’s move in federal court.

The Fifth Circuit judges clarified the attorney general’s authority in school desegregation cases. On March 3, 1961, Richard Taylor Rives, Skelly Wright, and Herbert Christenberry issued a full-throated affirmation of the Department of Justice’s action in *Bush v. Orleans Parish School Board*. The court rejected the argument that the lack of legislation handcuffed the attorney general: “The absence of specific statutory authority is of itself no obstacle, for it is well settled that there is no such prerequisite to the appearance of the United States before its own courts.” In fact, the court wrote in unmistakable language that the attorney general was welcome in the case. “We deem it important to state unequivocally,” the opinion read, “the right of the United States to appear in these proceedings because it involves a principle vital to the effective

¹⁵ James E. Clayton, “The School Crisis: U.S. Intends to See Court Orders Obeyed,” WP, February 18, 1961, A9; Simeon Booker, “How Atty.-Gen Kennedy Plans to Aid Dixie Negroes,” *Jet*, April 20, 1961, 15; Guthman and Shulman, *Robert Kennedy In His Own Words*, 80-82; Burke Marshall, “The Enforcement of Civil Rights,” 9-13.

administration of justice.”¹⁶ The opinion provided valuable legal doctrine for federal involvement in existing school cases.

In the meantime, Louisiana had continued its defiance. In February, the state legislature had convened yet another extraordinary session to circumvent the federal courts. Governor Jimmie Davis signed measures into law to block school desegregation, including Act No. 2. The law authorized local school boards to hold referenda to suspend operation or close public schools. If the school board closed its schools, it was permitted to sell or lease school property and abolish taxes to support public schools. The governor’s office wanted to test their school closing law in St. Helena Parish, a poor, rural community servicing 1,821 black students and 1,021 white students, and under a federal court order to desegregate “with all deliberate speed.” The results were a foregone conclusion, because although African Americans outnumbered whites, white registered voters outnumbered blacks 1,420 to 14. If successful in St. Helena Parish, Governor Davis planned to call the legislature into another extraordinary session to provide tuition grants to private school students. On March 2, the St. Helena Parish school board became the first to invoke Act No. 2. The parish scheduled a referendum for April 22 to determine whether to desegregate its public schools or convert to a publicly funded private school system.¹⁷ Prince Edward County-style education was pollinating in the Deep South.

¹⁶ *Bush v. Orleans Parish School Board*, 191 F. Supp. 871 (E.D. La. 1961).

¹⁷ Liva Baker, *The Second Battle of New Orleans: The Hundred-Year Struggle to Integrate the Schools* (New York: HarperCollins, 1996), 448-452; Act No. 2, in *Race Relations Law Reporter, Volume Six* (Nashville: Vanderbilt University School of Law, 1962), 310-311; Emile Comar, “Rural Area May Test

The State of Louisiana presented the Kennedy administration with new problems, but also more opportunities to expand federal authority. Like St. Helena, East Baton Rouge Parish and several technical schools had been ordered to desegregate “with all deliberate speed,” but the legislature had obstructed Judge Wright’s edicts. Burke Marshall had kept in regular contact with Judge Wright, which explains the choreographed events of March 17. The Department of Justice filed motions to intervene in each of these cases as *amicus curiae* “to prevent interference with the carrying out of the court’s order.” Judge Wright immediately authorized the attorney general to intervene in the cases. The Department of Justice then filed pleadings to convene a special three-judge court (a necessary move to interpret state law), declare state laws that obstructed the court’s orders unconstitutional, and add several state and local officials as defendants to enjoin them from enforcing the laws in question and interfering with the court orders. As a result, the attorney general’s power as *amicus curiae* had expanded. Bobby Kennedy deemed this action necessary to “enable the United States to act promptly to head off critical situations before they occur and to protect the integrity of the judicial process.” This move established the precedent that the attorney general could initiate federal intervention in existing school cases rather than wait for an invitation from the presiding judge.¹⁸

Private School Setup,” SSN, April 1961, 9; “Parish School Vote Is Called: St. Helena First to Face Closing Issue,” TP, March 4, 1961, 1.

¹⁸ “New Orleans Ordered to Desegregate,” SSN, June 1960, 1; Emile Comar, “Rural Area May Test Private School Setup,” 9; Telephone Logs, Box 9, BMP; M. Hepburn Many and St. John Barrett, “Application of United States for an Order Designating It as *Amicus Curiae* and for Leave to File Petition for an Injunction Against Enforcement of Acts No. 3 and 5 of the Second Extraordinary Session of the

The Civil Rights Division's assertive action in Louisiana tore down artificial obstacles to federal intervention in school cases. The New Orleans, St. Helena Parish, East Baton Rouge Parish, and technical school cases demonstrated the administration's commitment to enforcing court orders, and those cases expanded the attorney general's authority. "This administration intends to see that court orders are obeyed," warned Bobby Kennedy. "We plan to step into such suits when they are filed. This was not done in the past. It shall be clearly understood that the order of the Federal courts carries behind it the full power of the Federal Government."¹⁹ The Department of Justice intended to use that power in Prince Edward County.

III

In its opening weeks, the new administration studied the Prince Edward County school crisis. The Civil Rights Division drafted a twelve-page staff report, dated February 20, 1961, that chronicled the ten-year school battle by focusing on the facts of the case, the educational opportunities for African Americans, and the actions taken to organize the private schools. Five days later, the U.S. Commission on Civil Rights convened a two-day conference in Williamsburg, Virginia, to study problems that communities faced

Louisiana Legislature of 1961," March 17, 1961; J. Skelly Wright, "Order Designating United States of American as Amicus Curiae," March 17, 1961; M. Hepburn Many, "Petition of the United States, *Amicus Curiae* for Injunction to Restrain Enforcement of Acts No. 3 and Act No. 5 of the Second Extraordinary Session of the Louisiana Legislature of 1961," March 17, 1961, all in *Hall v. St. Helena Parish School Board*, Civil Action 1068, USDCEDLA; "U.S. Moves to Kill New Acts Against School Mix," TP, March 18, 1961, 1; "Justice Department Follows New Policy in Louisiana," SSN, April 1961, 1.

¹⁹ Katzenbach, *Some of It Was Fun*, 141; Booker, "How Atty.-Gen Kennedy Plans to Aid Dixie Negroes," 12-13.

by desegregating its public schools. The conferees included government officials, superintendents of school, education experts, and public school supporters. Also among the participants were agents from the Prince Edward County school board, the Prince Edward School Foundation, and the Kennedy administration. The staff report and conference testimony pointed to collusion between the state and county to establish and fund private schools to circumvent court orders, actions that required federal intervention.²⁰

The civil rights conference presented a forum for direct dialogue between representatives of Prince Edward County and the Kennedy administration. From the start, it was apparent that a gulf existed between the administration and the county school board. President Kennedy sent a message of support to open the conference, which included a strong statement on the importance of public schools: “Our public school system must be preserved and improved. Our very survival as a free nation depends on it. This is no time for schools to close for any reason, and certainly no time for schools to close in the name of racial discrimination.” Contrarily, the school board representatives expressed their dissent. The chairman and legal counsel, Edward Smith and Collins Denny, Jr., asserted that public schools were not obligatory and that private schools were a viable alternative. Smith praised the white community for establishing a private school

²⁰ Staff Study, “Public Education in Prince Edward County, Virginia: From Segregated to Closed Schools,” February 20, 1961, Reel 105, RG 60; U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights: Third Annual Conference on Problems of Schools in Transition, From the Educator’s Viewpoint* (Washington, D.C.: GPO, 1961), 3-4. Hereinafter referred to as USCCR, *Problems of Schools in Transition*.

system but scorned the black leadership, principally the NAACP, for failing to establish private schools for their children.²¹

Frank Reeves represented the White House at the conference. Reeves's participation clearly indicated the administration's position on Prince Edward County. He had worked on that litigation as a NAACP attorney before joining the White House staff as special assistant to the president. Conversant on the case, Reeves opened a debate with the Prince Edward delegation: "Do you concede that the Negro residents... may have preference for public against private education; and, if they do, what has the school board, in its public responsibility, done to afford them a public education?" Collins Denny claimed that the school board "has done everything" that it was "permitted by law to do," and would operate public schools had funding been made available by the board of supervisors. "As attorney for the school board, Mr. Denny," Reeves retorted, "have you given consideration to the possibility of the school board, having the public school responsibility, joining in the litigation which is presently pending seeking to have or force the board of supervisors to provide funds for the operation of the public schools?" Hiding behind the veneer of professional ethics, Denny declined to comment about active litigation.²²

²¹ John F. Kennedy to John Hannah, "Message for the Commission on Civil Rights' Third Annual Conference on Schools in Transition," February 24, 1961 in PPP-1961, 124-125; USCCR, *Problems of Schools in Transition*, 71-72, 83-89. Harris Wofford wrote the President's statement and cleared it with Kennedy. See Harris Wofford, *Of Kennedys and Kings: Making Sense of the Sixties* (New York: Farrar, Straus, and Giroux), 135.

²² USCCR, *Problems of Schools in Transition*, 5-6, 89-91; "Frank D. Reeves – Curriculum Vitae," Box 8, HWP.



Figure 6.3 Frank D. Reeves. (John F. Kennedy Presidential Library).

Collins Denny spoke more candidly when addressing the commission as a private citizen. He advised the commission that *Brown* had not altered the South's opinion on race. Denny's views on school desegregation were a matter of public record. He had

actively campaigned to block the implementation of *Brown*. As a prominent Defender, he had contributed to the organization's "Plan for Virginia," which sought to provide public tuition grants to fund segregated private education. "Had I not been led into this fight because of my strong aversion to the Supreme Court's usurpation of legislative power," he once explained, "I, in all probability, would have gotten into it because of my racial views." Clearly, Denny had no intention of advising the school board to resume operating the public schools. Smith privately admitted that the school board "acted only on the advice of its attorney," and Denny told the commission, "We are not going to educate [the children]...in desegregated schools." In fact, in their statements and associations the school board representatives bolstered segregated private education, fueling suspicion of collusion between county officials and the Prince Edward School Foundation to circumvent federal court orders.²³

The Foundation's president denied any misconduct. Blanton Hanbury told the commissioners that the "Foundation was not formed as a means to circumvent any court decision or, as we have been otherwise accused of, to break down public schools." Curiously, in May 1959, Hanbury had announced plans to operate private schools two days after the federal circuit court handed down its desegregation order. Then the county closed the public schools and, soon thereafter, the state provided academy students with tuition grants. Commissioner Theodore Hesburgh challenged Hanbury's claim that the

²³ USCCR, *Problems of Schools in Transition*, 132-133; James H. Hershman, Jr., and the *Dictionary of Virginia Biography*, "Collins Denny (1899-1964)," *Encyclopedia Virginia*, Virginia Foundation for the Humanities, accessed April 29, 2014; Reed Sarratt, *The Ordeal of Desegregation: The First Decade* (New York: Harper & Row, 1966), 188; Harry Boyte to Jean Fairfax, "Prince Edward County Interviews," April 3, 1962, #38438, AFSC.

Foundation was a private institution: “So, equivalently, the money that is given...in tuition through the state actually pays for the operation of these private schools; therefore, in a sense they are private in quotation marks.” Hesburgh was convinced that the publicly funded foundation schools were private in name only. Hanbury provided no viable evidence to refute the claim that the county, state, and private schools were colluding to circumvent court orders.²⁴

The Kennedy administration put its support for the locked-out children on the record. Frank Reeves’s presence alone was symbolic of the administration’s position, but he did not attend the conference to be a wallflower. Reeves concisely articulated the administration’s abhorrence for the county’s school program. “Prince Edward County,” Reeves declared, “is an outstanding example of the impossibility of providing education for all of our children on a private school basis.” Public education, on the other hand, afforded “all people the equal opportunity for education which is basic and fundamental and essential to a surviving democracy.” The Prince Edward delegation had exhibited its recalcitrance and affirmed the locked-out children’s desperate situation. After the conference, Frank Reeves telephoned Burke Marshall, likely to convey his appraisal of the situation.²⁵

Burke Marshall determined that federal action was necessary. On February 28, Marshall recommended that the attorney general intervene in the Prince Edward litigation “as soon as possible,” adding that “if the Department [of Justice] is going into any other

²⁴ USCCR, *Problems of Schools in Transition*, 95-103.

²⁵ *Ibid.*, 133-134; Telephone Logs, February 28, 1961, Box 9, BMP.

school suits, it would be more appropriate to go into this one.” Still, Marshall advised the attorney general to wait until he laid the groundwork to federal intervention through the Louisiana cases.²⁶ The district court judge that presided over the Prince Edward case, Oren Lewis, was much too cautious to permit intervention without statutory authority or precedent. Marshall gambled on the Fifth Circuit judges to provide such a precedent, which they did. Over the next three weeks, the courts expanded the attorney general’s *amicus* power in the New Orleans, St. Helena Parish, East Baton Rouge Parish, and technical school cases. Through Louisiana, Burke Marshall laid the groundwork to break the ring of collusion in Prince Edward County.

IV

Civil rights organizations expected the federal government to resolve the Prince Edward school crisis. However, there was no consensus on the proper course of action. The NAACP believed that the solution would be found by working through institutions: the federal legislative process and the federal courts. In the meantime, the training centers continued to serve as morale boosters to both the children and adults. The NAACP had not altered its strategy despite more militant organizations, like the Southern Christian Leadership Conference (SCLC), that found success through direct action. “SCLC’s strategy of nonviolent direct action by the masses,” wrote sociologist Aldon D. Morris,

²⁶ Burke Marshall to Robert F. Kennedy, February 28, 1961, Box 1, BMP.

“was threatening to the NAACP’s legal approach because of its mass appeal and wider effectiveness.” The NAACP’s strategy was seen as too conservative, too slow, and too ineffective. Several national groups proposed a more aggressive program.²⁷ They planned a direct action campaign to pressure the federal government to immediately reopen the public schools. The campaign threatened the NAACP’s leadership in Prince Edward County and opened a rift between civil rights groups.

The Prince Edward County Christian Association (PECCA) continued to operate the training centers. The program did not meet the educational needs of all the children. Sixteen centers serviced approximately six hundred children, though the quality of instruction and facilities varied from center to center. Only a handful of professional black educators remained in the community to teach at the centers, otherwise, the children were led by untrained, although well-meaning, housewives. Some centers instructed in the core subject areas, while others supervised non-academic activities. A few centers were housed in well-constructed buildings, but many others were poor, dilapidated structures. In one center, two dozen students packed into a ten-by-ten building that had no plumbing and a small wood-burning stove. The *Farmville Herald* reported that the building was “so overcrowded it appears to be a health hazard and a fire trap.” PECCA could not adequately fund the program. Several organizations that had offered financial support failed to make good on their pledges. Months earlier, the Virginia State Conference of the NAACP, even with its own financial struggles, donated \$2,000 to

²⁷ Aldon D. Morris, *Origins of the Civil Rights Movement: Black Communities Organizing for Change* (New York: Free Press, 1984), 120-138.

PECCA – enough to retire its debts and keep the centers running for another month. Even if the training centers were properly funded, staffed, and equipped, PECCA could not operate an effective educational program without further complicating the NAACP’s case in court. At best, the centers could only be a half-measure and, therefore, they served as monuments to the ineffectiveness of the NAACP’s conservative strategy. Hundreds of children were experiencing an inadequate education, while still more received no education at all, as the case moved glacially through the courts with no apparent end in sight. Leaving the community presented the only opportunity to receive a proper education, and that was not a viable option for all. “We’re certain that [the children] are being affected by the lack of organized education,” worried Reverend Griffin. “Their ability to read is not what it ought to be. A good many are losing interest in school and we anticipate a problem in getting them to return once the schools are reopened.”²⁸ The NAACP had directed the civil rights program in Prince Edward County for years, but it was not omnipotent. Another organization could supplant the NAACP by presenting a new strategy that appealed to black Prince Edwardians.

The Virginia Christian Leadership Conference (VCLC) challenged the NAACP’s leadership in Prince Edward County. Milton Reid, the president of VCLC, had been planning a campaign with several organizations, principally SCLC and the Congress on Racial Equality (CORE), to “focus national and international attention” on the school

²⁸ Ben Bowers, “Center Tour Turns Up A ‘School,’” FH, March 24, 1961, 1; Irv Goodman, “Public Schools Died Here,” *Saturday Evening Post*, April 29, 1961, 86; L. Francis Griffin to Robert D. Robertson, December 17, 1960, Group III, Box A107, NAACP; Claude Sitton, “Prince Edward County Adamant on Refusing School Integration,” NYT, April 17, 1961, 33.

closings. Reid proposed busing five hundred black Prince Edwardians, adults and children, to Washington to demand action from the federal government. The campaign sought legislation to prevent school closings and provide immediate relief to the locked-out children, an expedited, affirmative ruling from the courts, and an executive order to reopen the schools. The proposal called for pilgrims to sit-in at the Capitol until President Kennedy granted the protest leaders an audience. A meeting with the president would shine light on the school crisis, but it would also undercut the NAACP's leadership in Prince Edward County and elevate Milton Reid, who many considered a showboating upstart.²⁹

The Washington Pilgrimage opened a rift between Francis Griffin and Milton Reid. From the early planning stages, Griffin had not been present at the meetings, nor did he endorse the campaign. In late January, Griffin left town on business, but he had given Reid permission to speak at First Baptist Church to discuss a gift for the training centers. Griffin, however, had asked Reid not to mention the campaign until they could discuss the matter further. In defiance of their agreement, Reid presented the proposal to PECCA, who responded with "loud acclamation" and a vote of approval. Reid had left Griffin in a tough position: oppose his flock and risk his leadership position, or accept their will and risk a rupture with the NAACP, who vehemently opposed the campaign and paid his salary as special consultant. Griffin negotiated a tightrope. He convinced

²⁹ Wyatt Tee Walker to Participating Agencies, "Prince Edward School Closure," n.d., Box 29, WEPF; Milton A. Reid to Gordon Carey, January 1, 1961, Reel 20, COREP; Milton A. Reid to John F. Kennedy, January 30, 1961, Box 8, HWP.

PECCA to withdraw its support for the Washington Pilgrimage, explaining to Reid that the campaign was not of “primary importance,” but he qualified the statement by adding “at this time.” Griffin did not close the door on direct action. In fact, Griffin later participated in a VCLC meeting concerning the pilgrimage. Reluctantly, Griffin felt that he had “to go along with this.”³⁰

The Virginia State Conference of the NAACP conceded no ground to VCLC. In a terse letter to Milton Reid, the executive secretary intimated that Prince Edward County was the NAACP’s turf and that cooperative efforts had to meet *its* criteria. Lester Banks reminded Reid that the Washington Pilgrimage had never received the NAACP’s support, and that his deceptive actions “have served to crystallize and strengthen” that conviction. He urged Reid to divert resources to the training centers. “If money is or can be made available,” Banks closed, “why not put it into the ‘centers.’” Reid responded, “Where your interest is in maintaining the centers, our primary concern is for the immediate restoration of public schools in Prince Edward,” and he refused to stand down or call off

³⁰ L. Francis Griffin to Milton A. Reid, February 24, 1961, W. Lester Banks to Milton A. Reid, February 24, 1961, both in Group III Box A107, NAACP; PECCA Meeting Minutes, January 24, 1961, Minutes, The Virginia Christian Leadership Conference Board of Directors Meeting with the National Sponsorship Committee, March 10, 1961, both in Reel 20, COREP; Helen Baker to Jean Fairfax and Wilton Hartzler, “Farmville Report,” January 27, 1961, #38164, AFSC; Helen Baker to Jean Fairfax, March 15, 1961, Box 1, HBP. The Virginia State Conference of the NAACP’s president and executive secretary, Robert D. Robertson and W. Lester Banks, may have interpreted these events as Griffin being disloyal. On February 15, 1961, Banks had expressed his opposition of the Washington campaign to Milton Reid. On that same day, Robertson and Banks asked the national NAACP to channel Griffin’s salary as special consultant through the Richmond office to give him “a feeling of responsibility to the State Conference as well as the National Office.” Perhaps the Banks-Reid conference elicited suspicions of Griffin, prompting Banks and Robertson to make their request to the national office. Though speculation, there is insufficient documentary evidence to prove Griffin’s disloyalty or a direct connection between the Washington Pilgrimage and the request to channel his salary. See Robert D. Robertson and W. Lester Banks to John A. Morsell, February 15, 1961, and W. Lester Banks to Milton A. Reid, February 24, 1961, both in Group III, Box A107, NAACP.

the pilgrimage. Banks had come to recognize that the NAACP's Prince Edward strategy was failing – and that assessment was shared by people outside of VCLC. Objective observers found the NAACP to be “too conservative in both its legal and non-legal approach” to Prince Edward County. Banks recommended to Roy Wilkins and key NAACP attorneys that “Nation-wide exposure [of the school closings] must be made without delay.” Citing the Washington Pilgrimage, Banks warned that “if the NAACP does not take the lead other organizations can and surely will.”³¹

Milton Reid continued preparations for the Washington Pilgrimage. VCLC solicited money from national organizations, churches, schools, and civic groups to defray the campaign's cost, estimated at \$4,000. Hundreds of dollars had already been spent. Promotional letters had been distributed throughout the state. Transportation services and a facility for a mass meeting in Washington were reserved. In addition, liaisons were lobbying congressmen to draft legislation to open the schools and volunteers circulated petitions addressed to President Kennedy, which read:

We, the undersigned, citizens of the state of Virginia, representing a cross-section of the clergy, parents, children, educators, lay and professional life, do hereby prayerfully petition that you as Chief Executive of our great nation, do forthwith exert the great moral influence of your office and the powers of executive authority to initiate remedial action through the Judicial and Legislative branches of our government that the public education facilities of Prince Edward County, Virginia be restored. We ask that your action be of such nature that it would be effective in any other school districts, similarly situated, in the face of a Federal Court order to desegregate under the Supreme Court Decision of 1954.

³¹ W. Lester Banks to Milton A. Reid, February 24, 1961, Milton A. Reid to W. Lester Banks, February 27, 1961, W. Lester Banks to Oliver W. Hill, Samuel W. Tucker, Robert L. Carter, and Roy Wilkins, “Prince Edward County School Case and Training Centers,” March 6, 1961, all in Group III, Box A107, NAACP.

On March 6, Walter Fauntroy, a representative of SCLC, presented the campaign to the White House. One of Frank Reeves's duties as special assistant to the president, as he described it, "was providing an ear...for Negro organizations and others who wanted to feel at least that their problems and complaints were receiving consideration." Reeves heard Fauntroy out, but he also explained the proposal's deficiencies. He told Fauntroy that it was "impractical for [the president] to see groups under pressure." Furthermore, the president lacked the authority to issue an executive order to open the schools. Without such authority, and considering the matter was pending in court, a conference with the president offered "no value." Additionally, he explained that without legislation the attorney general had "no legal basis...to initiate action." Reeves, however, assured Fauntroy that the Department of Justice was "studying [the] possibility of intervention in [the] pending litigation or any other possible action."³²

The Louisiana cases may have contributed to the unraveling of the Washington Pilgrimage. On March 21, four days after the Department of Justice intervened in the Louisiana school cases, St. John Barrett, an attorney in the Civil Rights Division, telephoned NAACP attorney Oliver Hill. The substance of that conversation has been lost to history, but one can speculate that it influenced the advice that Hill presented to Francis Griffin. Hill counseled Griffin that the Washington Pilgrimage was "ill-advisable at this time," especially for participation by the plaintiffs in the school case. In addition,

³² National Sponsorship Committee Meeting Report of Coordinating Committee: Congressional Sit-in Project, n.d., COREP; Petition for Free Public Schools Under the Constitution in Prince Edward County, Box 29, WEFP; Frank D. Reeves, Memo to Files, March 6, 1961, Box 8, HWP; Reeves-Fauntroy Meeting Notes, March 6, 1961, Box 29, WEFP; Frank D. Reeves, interview by John F. Stewart, March 29, 1967, JFKOH.

the NAACP legal staff was more confident than ever that justice would be rendered in the courts. Perhaps Barrett had indicated to Hill that the attorney general's actions in Louisiana strengthened his hand to enter the Prince Edward litigation and that such action was under serious consideration. Regardless, Griffin explained to Wyatt Tee Walker, a friend and executive director of SCLC, that Prince Edward's black community was withdrawing its participation from the sit-in campaign. After securing commitments and spending hundreds of dollars, Milton Reid found this change of plans "a most embarrassing situation." He considered continuing the campaign without Griffin's blessing, but as one observer explained, "no one can go into Prince Edward and work unilaterally. Griffin cannot be bypassed." Without the support of black Prince Edwardians the Washington Pilgrimage collapsed.³³

The NAACP's leadership in Prince Edward County had been tested. Francis Griffin had staved off a challenge from VCLC but not without personal cost. "I am already under pressure from leaders of SCLC and many fellow clergymen," explained Griffin, "and it is going to cost me in many ways in the future." Griffin warned Lester Banks that the NAACP "must step up" its program to blunt more challenges to the NAACP's leadership in the county. He implored Banks "to do all you can to get the state and national offices to see the importance of our keeping the ball in our possession and

³³ Telephone Logs, March 21, 1961, Box 9, BMP; L. Francis Griffin to Wyatt Tee Walker, March 22, 1961, Box A107, Group III, NAACP; Milton A. Reid to L. Francis Griffin, April 4, 1961, Reel 15, SCLCR; Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 205. In 2008, the author asked St. John Barrett about his telephone conversation with Oliver Hill, but Mr. Barrett could offer no recollections. See St. John Barrett, interview by Brian E. Lee, June 2008, tape, Silver Spring, Maryland, in author's possession.

that we cannot afford any fumbles at this time.” Despite the warning, the NAACP did not throw downfield but continued to run between the tackles. The State Conference could not provide additional assistance, because it could not meet its own financial obligations. Banks appealed to church leaders for donations to the training centers, but the letter was void of new ideas. The NAACP continued to slowly march the ball down the field with its conservative legal and non-legal approach.³⁴ Federal intervention could push the line to pay dirt while keeping Prince Edward in the NAACP’s possession.

V

Federal action in Prince Edward County became inevitable. The Civil Rights Division had already uncovered a violation of federal law and county officials gave no indication of backing down. As a result, the Division made preparations to intervene. The Appeals and Research Section requested that the U.S. Attorney’s Office in Richmond send copies of the entire case docket to Washington, as well as clarification on specific state and local laws.³⁵ Still, Bobby Kennedy provided the state with the chance to mediate a solution. The state’s inability to resolve the crisis made federal intervention inescapable.

³⁴ L. Francis Griffin to W. Lester Banks, March 22, 1961, Group III, Box A107, W. Lester Banks to Roy Wilkins, March 22, 1961, W. Lester Banks to Minister and Congregation, “1,700 Negro Boys and Girls of Prince Edward Co. Appeal to You,” April 5, 1961, both in Group III, Box C160, all in NAACP.

³⁵ Staff Study, “Public Education in Prince Edward County, Virginia: From Segregated to Closed Schools,” and Cary L. Branch to G.P. Choppin, March 22, 1961, both in Reel 105, RG 60.

The Department of Justice opened talks with Virginia's attorney general. Albertis Harrison was not a political ally of the Kennedys. During the presidential campaign, Harrison had turned down dozens of invitations to speak on behalf of the national Democratic ticket. "I am fearful of Kennedy as a leader," he privately fretted. "I find it awfully hard to 'embrace' a man as my candidate who, in the course of his acceptance speech, said that he embraced the platform of the National Democratic Party with conviction and enthusiasm." Nevertheless, late in the campaign, Harrison reluctantly and unenthusiastically endorsed the Kennedy-Johnson ticket for the purpose of holding the state Democratic Party together.³⁶

On March 23, Robert Kennedy and Burke Marshall hosted Albertis Harrison for an unpublicized conference in Washington to discuss Prince Edward County. Kennedy threatened to intervene in the case if he determined that the defendants were frustrating or obstructing court orders. Harrison denied any such violation and found "no occasion" for federal intervention. Furthermore, Kennedy sought assurances that the schools would be reopened, but Harrison offered no such pledge, explaining that the state had no authority to compel a locality to operate public schools. "Such a pledge," Harrison determined, "was apparently the only assurance which would have deterred [Kennedy] from an otherwise fixed intention to intervene in the suit." The Kennedy-Harrison meeting adjourned without a resolution, but it did open a channel of communication. Harrison

³⁶ Albertis S. Harrison to Harry F. Byrd, August 17, 1960, and Albertis S. Harrison to Harry F. Byrd, October 6, 1960, both in Box 244, HFBP.

promised to share the substance of their conversation with county representatives.³⁷ The threat of federal intervention had a potentially pacifying effect.

On the following day, the newspapers reported a story that provided further evidence of the county's recalcitrance. At the Virginia Congress of Parents and Teachers, the Farmville District P-TA challenged a proposed pro-public school legislative plank, which read: "We urge that educational opportunity be provided for every child in a public school which will enable him to develop to the maximum of his capacity." Delegates contested the language because it failed to recognize private schools, a clear nod to Prince Edward County.³⁸ However, the amended recommendation took no accounting of the locked-out black children. Prince Edward County showed no signs of surrender and, in fact, as demonstrated by this meeting, the private school forces had tremendous influence over the state. At this point, the county had no reason to concede, at least not without an enforceable court order.

On April 11, the federal court proceedings resumed without a shift in the state or county position. Judge Oren Lewis permitted the NAACP to challenge the allocation of public funds to private schools, tax credits for contributions to the Prince Edward School Foundation, and the release of public school property to private corporations, and set a

³⁷ Desk Diaries, March 23, 1961, Box 1, RFKP; Drafts of "Statement of A.S. Harrison, Jr., Former Attorney General of Virginia, Relative to the Intervention of the United States Department of Justice in the Prince Edward School Case," Box 73, ASHP. The conference was also attended by Harrison's assistant, Kenneth C. Patty, and Bill Battle, the president's 1960 Virginia campaign manager and administrator of federal patronage in the Old Dominion. Battle had arranged the meeting. In a 2007 telephone interview with the author, Mr. Battle could not offer any recollections of this meeting. Therefore, Harrison's statement stands as the only known firsthand account of the Kennedy-Harrison conference.

³⁸ "Proposal Opposed by Farmville P-TA," RTD, March 24, 1961, 2; "District P-TA Opposes 'Public School' Plank: Legislative Plan of Congress Otherwise Ok'd," FH, March 28, 1961, 1.

May 8 hearing date for the attorneys to present further arguments. Judge Lewis, however, did *not* invite the attorney general to enter the case as a “friend of the court,” as Judge Wright had done in New Orleans. Burke Marshall was “giving every consideration to the question whether any Federal action is proper and desirable,” but without new legislation or an invitation from the court, the attorney general’s authority to intervene in the Prince Edward litigation remained tenuous. When the Civil Rights Division acted without court orders, reflected Assistant Attorney General Nicholas Katzenbach, “it was often on thin ice, which is one of the reasons Burke [Marshall] so often tried to negotiate and compromise.”³⁹

Burke Marshall continued talks with Albertis Harrison. On April 19, Marshall spoke to Harrison by telephone for the third straight day. Harrison had advised the Prince Edward attorneys of their talks, but “it did not appear that any action on their part was indicated.” After the negotiations yielded no significant progress, Marshall sent Harrison the latest opinion in the St. Helena Parish school case. Speaking for the three-judge court, Judge John Minor Wisdom determined that:

national policy and state policy require us to scrutinize carefully any statute leading to the closing of public schools. When there is now such a manifest correlation between education and national survival, it is a sad and ill-timed hour to shut the doors to public schools. And, now, when one of the principal functions of the state is to maintain an educational system, it seems strange indeed and anti-

³⁹ “Prince Edward Negroes Win Right To Challenge Public School Closing,” WP, April 12, 1961, B5; “NAACP Wins Right to File Complaint in School Case,” RTD, April 12, 1961, 28; Burke Marshall to Colin W. Bell, April 11, 1961, Box 1, BMP; Burke Marshall to Colin W. Bell, April 14, 1961, Reel 105, RG 60; Nicholas Katzenbach, e-mail to Brian E. Lee, August 18, 2008.

civilized to shift the major burden to private persons, many of whom cannot afford or can ill-afford to pay for private schooling.

In addition, the court invited the U.S. attorney general and state attorneys general from across the country to file *amicus* briefs to determine the constitutionality of school closings. With the U.S. Supreme Court providing little guidance to the lower courts, the circuit courts often issued the definitive interpretation of the law, and the Fifth Circuit played a leading role. Judge Wisdom clearly indicated where the court's sympathies lay. An affirmative ruling by the circuit court could set the necessary precedent to find school closings unconstitutional. In his final overture to Albertis Harrison, Burke Marshall attached a note, which read: "If this action of the court in Louisiana, and the obligations under which it places the Federal Government appears to you likely to change the situation in Prince Edward County, I would appreciate it if you would call me at your earliest convenience."⁴⁰ The time for negotiating had run out.

Prince Edward-style education needed to be stopped. On April 22, St. Helena Parish voted by an overwhelming majority of 1,147 to 56 on a referendum to abandon public education (the federal courts had ordered the vote to be non-binding). Also, representatives from several Louisiana parishes, including East Baton Rouge, visited Roy Pearson at Prince Edward Academy to obtain first-hand information on establishing private schools. Pearson received favorable impressions from his visitors and predicted

⁴⁰ Burke Marshall to Albertis Harrison, April 19, 1961, Box 1, Telephone Logs, April 17-19, 1961, Box 9, both in BMP; Albertis Harrison, "Statement of A.S. Harrison, Jr., Former Attorney General of Virginia, Relative to Intervention of the United States Department of Justice in the Prince Edward School Case"; *Hall v. St. Helena Parish School Board*, April 24, 1961, in *Race Relations Law Reporter*, Volume Six, 416-418; Bass, *Unlikely Heroes*, 16.

that several parishes would organize private schools. The interest in the Academy was not limited to Louisianans. “We are averaging about two delegations a week coming here to investigate our operations,” Pearson boasted. In addition, Pearson had recently authored a booklet, *Setting Up Private Schools*, which was part Prince Edward School Foundation history, part procedural framework. He concluded that “any other community with sufficient citizens who wish to preserve and exercise their individual rights also can establish satisfactory private schools.” The Foundation’s president, Blanton Hanbury, told the *Saturday Evening Post* that segregation academies were “the coming thing in the South.” The administration “didn’t want [Prince Edward] to become a model,” explained Nicholas Katzenbach.⁴¹ Therefore, the attorney general had to blunt the segregated private school movement to save public schools, and that meant damming the river at its source.

Robert Kennedy addressed the “deplorable situation” in Prince Edward County, and school desegregation generally, in an interview with WDSU-TV of New Orleans. The attorney general made the moral argument against school closings. When “you deprive children who are going to be the future leaders of this country of an education...it seems to me that this is a tremendous blight on our country,” reasoned Kennedy. “The

⁴¹ Robert Wagner, “St. Helena Vote Favors Closing,” TP, April 23, 1961, 1; Roy R. Pearson to Watkins M. Abbitt, March 27, 1961, Roy R. Pearson to Watkins M. Abbitt, March 29, 1961, both in Box 5, WMAP; Joe Elliott, “The Prince Edward County School Dilemma,” *Progressive Farmer*, July 1961, 47; Roy R. Pearson, *Setting Up Private Schools* (Farmville, VA, 1961); Irv Goodman, “Public Schools Died Here,” 89; Nicholas Katzenbach, e-mail to Brian E. Lee, May 21, 2008. The ballot in St. Helena Parish referendum read: “The proposition to authorize the St. Helena School Board to suspend or close the operation of the public school system in the elementary and secondary grades in said parish.” Voters had the option to select “for” or “against.” See sample ballot photograph in SSN, May 1961, 8.

mere fact that young children, who really are not involved in it directly themselves, that their parents are keeping them away from going to school because of the fear that they might be in a classroom with two or three Negro children seems to me...inexplicable.” The attorney general urged the South to take responsibility by complying with court orders: “It seems that some progress, some attention to this problem has to be given by the citizens of the South so that they can make progress themselves; because if they’re not going to take any action, then of course the federal government comes more and more into it” – and preparations were underway. The Civil Rights Division was making final revisions on a brief for federal intervention.⁴²

On April 26, the Department of Justice acted in Prince Edward County with, as the *New York Times* reported, the “toughest move on the school desegregation problem to date.” Upon the recommendation of Burke Marshall and “strongly backed” by President Kennedy, the attorney general filed a motion in the U.S. District Court of the Eastern District of Virginia to intervene in the case, not as a friend of the court, but as a party plaintiff – an unprecedented act. The attorney general considered the case so important that an advisory role would not suffice; the Department of Justice had to become an active litigant. Kennedy wanted to join with the locked-out children in common cause. However, the attorney general’s motion was void of the moral assertions advanced in his interview with WDSU-TV. He believed that, without legislation, the Department of

⁴² Interview, Robert F. Kennedy by Bill Monroe, WDSU-TV New Orleans, aired April 26, 1961; St. John Barrett to Burke Marshall, April 21, 1961, and St. John Barrett to Burke Marshall, “Prince Edward County, Virginia, Schools,” April 24, 1961, both in Reel 105, RG 60. The *Richmond News Leader* reported that the WDSU-TV interview was taped on April 21. See “Broadened U.S. Role Likely Should South Stall on Mixing,” RNL, April 27, 1961, 13.

Justice was not authorized to bring suits on behalf of individuals, but it was empowered to protect court orders. The defendants had violated this court's April 1960 edict, which ordered the school board to make preparations for desegregation. In a written statement, Kennedy justified his decision: "Court orders are being circumvented and nullified. Therefore, we have brought this action to protect the integrity of the judicial process of the United States."⁴³

The Department of Justice petitioned the court to expand the NAACP's complaint. The attorney general asked to add the Commonwealth of Virginia, the comptroller of Virginia, and the Prince Edward School Foundation as defendants, because, as he argued, the state and county were working with the Foundation to circumvent the court's orders by operating a private school with public funds. The NAACP did not have the power to break this ring of collusion, as private parties could not sue the state without its consent. Next, the attorney general asked the court to enjoin the defendants from obstructing court orders, failing to maintain public schools, making tuition grant payments to Foundation students, and allowing taxpayer credits for contributions to the Foundation. Finally, the attorney general asked the court to enjoin state officials from issuing funds to any school in the commonwealth until public education resumed in Prince Edward County. He argued that schools being operating

⁴³ Anthony Lewis, "Action on Civil Rights: Robert Kennedy's Suit to Open Virginia Schools Makes Clear That He Rejects 'Go Easy' Role," NYT, April 30, 1961, E7; Anthony Lewis, "U.S. Sues to Force a Virginia County to Open Schools," 13; Wofford, *Of Kennedys and Kings*, 135; Burke Marshall to John P. Frank, May 12, 1961, Box 1, BMP; J. Frank Pohlhaus to Robert L. Carter, April 28, 1961, Group III, Box A107, NAACP; Albert V. Bryan, "Order on Mandate," April 22, 1960, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R; Department of Justice Press Release, April 26, 1961, Reel 105, RG 60.

across the state but not in Prince Edward violated the equal protection clause of the Fourteenth Amendment. With his motion, Robert Kennedy put the power, prestige, and resources of the federal government behind the locked-out children.⁴⁴

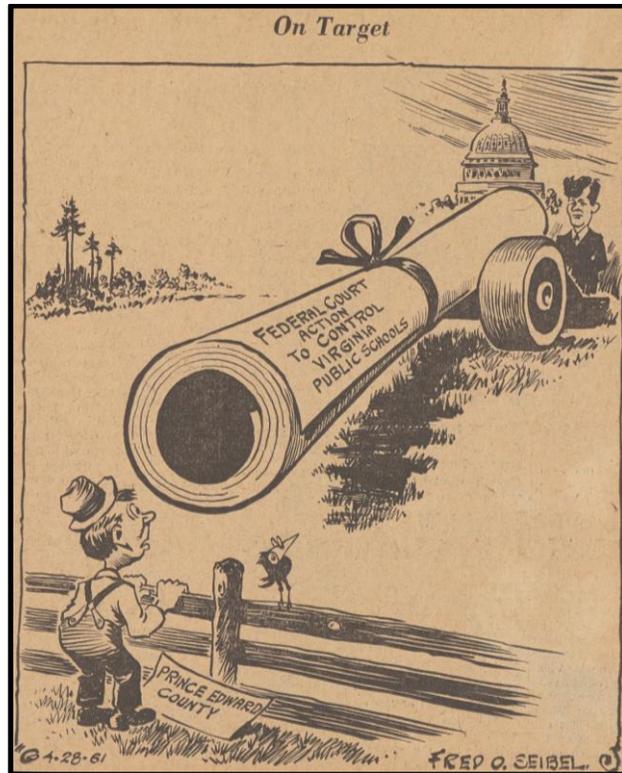


Figure 6.4 “On Target.” (Image: *Richmond Times-Dispatch*).

The NAACP celebrated the attorney general’s action. Roy Wilkins publicly expressed the national NAACP’s pleasure over the announcement. At the state level, Lester Banks conveyed his “delight” and optimism that the action would precipitate the

⁴⁴ Robert F. Kennedy, *et al.*, “Memorandum of Points and Authorities In Support of Motion of the United States of America to Intervene and to Add Parties Defendant,” April 26, 1961, Robert F. Kennedy, *et al.*, “Motion to Intervene as a Plaintiff and to Add Defendants,” April 26, 1961, both in *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R.

resumption of public education by September. Reverend Griffin reported that black Prince Edwardians were “happy” about the announcement: “We believe that this is the right and democratic procedure for the federal government. We are also happy that there are men in the federal government of such caliber.”⁴⁵ The NAACP had banked on Washington to reopen the public schools, as did young people.

Coincidentally, two days later, five locked-out students were in Washington en route to a conference on race relations. A *Washington Post* reporter asked them about the federal government’s role in resolving the school crisis. Thirteen year old Everett Berryman presumed that Washington “should be able to do something about our schools.” Michael Smith, also thirteen, looked over at the White House and predicted that “President Kennedy is going to get our schools opened up. I saw him on television and I can tell from the way he talks, he’ll open them up.” Afterwards, they spent the weekend with the Fairfax County Junior Council on Human Relations and the Methodist Youth Fellowship of Chevy Chase, Maryland. The host groups “became especially concerned” for the schoolless children. They drafted an open letter to the attorney general urging “that all possible legal and moral action be taken to restore public schools in Prince Edward County for all students.”⁴⁶ The youth looked to the federal government for justice and, now with the Kennedy brothers in power, the locked-out children had an advocate in

⁴⁵ NAACP Press Release, April 26, 1961, NAACP Press Release, “NAACP Welcomes Move By Justice Dept. In Virginia School Case,” April 29, 1961, both in Group III, Box A107, NAACPR; Bill Wall, “Reactions Vary To U.S. Intervention In Case,” FH, May 2, 1961, 1.

⁴⁶ “Hopeful Prince Edward Children Visit D.C.,” WP, April 29, 1961, A4; Fairfax County, Virginia, Junior Council on Human Relations and the Methodist Youth Fellowship of the Chevy Chase Methodist Church to Robert F. Kennedy, “An Open Letter to Mr. Robert Kennedy, Attorney General of the United States,” April 30, 1961, Drawer 150, AWRP.

Washington. Robert Kennedy used his platform to connect the school closings' legal and moral issues in a powerful state paper.

Robert Kennedy's first major speech as attorney general focused on civil rights. The University of Georgia's Law Day exercises on May 6, 1961, provided the ideal setting to proclaim his bulldog-like commitment to enforcing court orders. Days before President Kennedy's inauguration, the campus had erupted into violence over the admission of two black students. Another crisis loomed seventy miles away. Atlanta faced federal court orders to desegregate its public schools by September. Recently, the state had signaled its intention to defy the court. Georgia lawmakers had passed a measure authorizing school boards to close its schools and another that provided tuition grants for students to attend segregated private schools.⁴⁷ The administration could not allow the desegregation of Atlanta's public schools, a potential model for other southern school districts, to be marred by violence like New Orleans or defiance like Prince Edward County. The Law Day speech gave Kennedy the platform to declare the administration's determination to enforce school desegregation.

⁴⁷ Thomas A. Hopkins, ed., *Rights for Americans: The Speeches of Robert F. Kennedy* (Indianapolis: Bobbs-Merrill Company, 1964), 13-17; Guthman, *We Band of Brothers*, 158-165; Robert A. Pratt, *We Shall Not Be Moved: The Desegregation of the University of Georgia* (Athens: University of Georgia Press, 2002); Act No. 13-15, in *Race Relations Law Reporter, Volume Six*, 289-293.

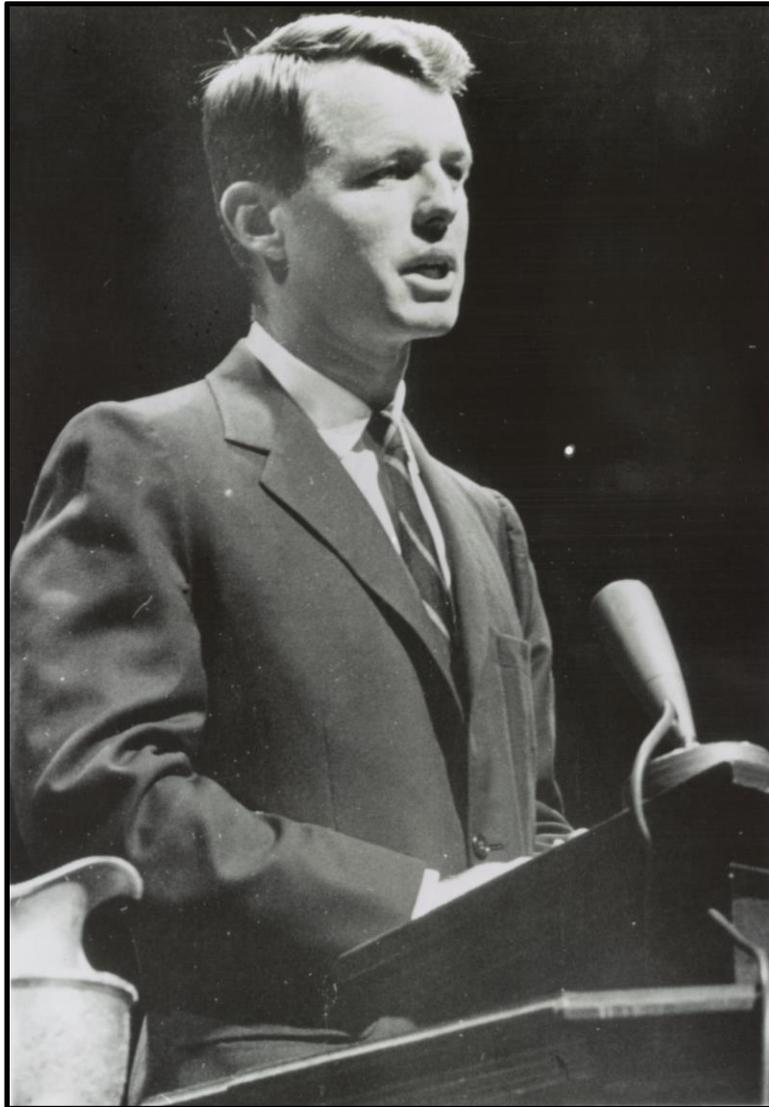


Figure 6.5 Robert F. Kennedy, May 6, 1961. (Photo: Library of Congress).

Reports of a civil rights “bombshell” in Bobby Kennedy’s prepared remarks spawned hostility. On the eve of the event, vandals painted KENNEDY GO HOME and YANKEE GO HOME on the sidewalk. Before the attorney general arrived, the university removed the graffiti and the police arrested a group of protestors – five ministers carrying

placards that read: THE BIBLE TEACHES SEPARATION. Many dignitaries were noticeably absent. The Peach State's top political officials, many of whom had welcomed Roy Pearson the previous year, had encountered scheduling conflicts of epidemic proportions; clearly a naked effort to distance themselves from Kennedy and his position on civil rights, particularly his action in Prince Edward County. The state's political leaders, most notably Governor Ernest Vandiver, Senator Herman Talmadge, and state Attorney General Eugene Cook, had attacked the intervention motion as a federal takeover of public schools. Still, Kennedy did not retreat from his position.⁴⁸

Kennedy presented the administration's "blueprint" for civil rights by centering his remarks on Prince Edward County. He expected that communities would abide by the rule of law, but that was not the situation in Southside Virginia. Kennedy defended his legal action there by tying the county's violation of the law to the moral bankruptcy of the school closings: "I cannot believe that anyone can support a principle which prevents more than a thousand of our children in one county from attending public school – especially when this step was taken to circumvent the orders of the court." Kennedy warned those considering similar defiance that the administration would enforce court orders. "In this case – in all cases – I say to you today that if the orders of the court are circumvented, the Department of Justice will act. We will not stand by or be aloof. We

⁴⁸ James E. Clayton, "U.S. Vows Firm Fight on Rights: Attorney General Makes Pledge In Georgia Talk," WP, May 7, 1961, A1; Anthony Lewis, "Robert Kennedy Vows In Georgia To Act On Rights," NYT, May 7, 1961, 1; Hopkins, *Rights for Americans*, 13-16; Associated Press, "Georgia's Governor Attacks Move by U.S.," RTD, April 28, 1961, 2; Herman Talmadge, "Federal Funds and State Schools," in *Congressional Record*, May 1, 1961, 6944.

will move.” The message had been sent to Atlanta, New Orleans, and all other localities under court orders to desegregate.⁴⁹

The attorney general affirmed his support for *Brown*. “I happen to believe that the 1954 decision was right,” stated Kennedy. “But, my belief does not matter – it is the law. Some of you may believe the decision was wrong. That does not matter. It is the law. And we both have to respect the law.” Kennedy believed that the rule of law had to be followed whether one supported a particular court decision or not.⁵⁰ However, *his* support did matter. As the nation’s top law enforcement official, Kennedy’s endorsement indicated that the edict would be vigorously enforced – quite a contrast to the previous administration. President Eisenhower’s cool response to the *Brown* decision had emboldened massive resisters. Robert Kennedy proclaimed that the federal government’s indifference to school desegregation had come to an end. Still, the influence of *Attorney General* Kennedy could not equate to that of *President* Eisenhower, or perhaps so.

Robert Kennedy’s law day speech carried the weight of the presidency. He was not only the attorney general, but also the president’s brother and most trusted advisor. The Bay of Pigs debacle in mid-April taught President Kennedy that he could not “rely on experts,” and therefore, the president delegated more foreign policy matters to his brother. The attorney general’s expanding portfolio made him, as *Time* magazine judged, the “Assistant President” and the “New Frontier’s No. 2 man.” From that position, Bobby Kennedy spoke with a shade of the president’s authority and the moral force of that

⁴⁹ Hopkins, *Rights for Americans*, 13-26.

⁵⁰ *Ibid.*

office. And this important declaration of the administration's convictions on civil rights had been cleared by the president, which makes every line – the pledge to “vigorously” enforce civil rights statutes and federal court orders, the support of the *Brown* decision, and condemning the moral bankruptcy of closing public schools – all the more powerful.⁵¹

* * * * *

The Kennedy administration took proactive measures to restore public education to Prince Edward County. Within its first one hundred days, the administration studied the situation, pressed for voluntary compliance, built the case for federal intervention, and took unprecedented legal action. This fury of activity resulted from the marriage of new executive leadership with innovative thinking. The Kennedys and Burke Marshall tested the limits of executive power to protect the rights of the locked-out children – actions unfathomable to the previous administration. In doing so, the Kennedy administration declared its intention to enforce the *Brown* decision and arrest the school closing movement. Executive action, if found acceptable to federal judges, would suffice until Kennedy had a working congress to pass civil rights legislation. All of this action had been put in motion before the Freedom Riders departed from Washington.

⁵¹ Robert Dallek, *Camelot's Court: Inside the Kennedy White House* (New York: HarperCollins, 2013), 127-172; “No. 2,” *Time*, May 5, 1961, 14; Fuller, *Year of Trial*, 112; Edwin Guthman to John F. Kennedy, May 4, 1961, Box 80, President's Office Files, Departments and Agencies, JFKP.

The Kennedy brothers exerted executive leadership in Prince Edward County. President Kennedy fostered an atmosphere sympathetic to the locked-out children by providing the moral leadership that had been lacking in the previous administration. The new president endorsed the *Brown* decision and condemned school closings that defied it. As a show of the administration's position, Kennedy sent a former NAACP attorney to confront the school closers at a conference on school desegregation. More important, President Kennedy freed the Department of Justice to test the limits of its executive authority. Attorney General Robert Kennedy, the president's brother and most trusted advisor, acted and spoke on Prince Edward County with the moral authority of the presidency. Kennedy informed Albertis Harrison that the failure to reopen the schools would result in federal action. With that warning unheeded, Kennedy signed off on the most aggressive legal maneuver on school desegregation to date. The attorney general boldly stood by that action in his appearance at the University of Georgia. In the past, politicians had condemned segregation from afar, but never had such a high-ranking federal official done so in the Deep South.⁵² A new generation of leadership had arrived.

Burke Marshall discovered a path to federal intervention in Prince Edward County. He promptly assessed the situation and recommended federal intervention; in fact, Marshall made the recommendation on February 28, 1961 – less than one month on the job and even before the Senate held his confirmation hearing. He conditioned that recommendation on winning an affirmative ruling of the attorney general's authority in

⁵² Hopkins, *Rights for Americans*, 13-14.

the New Orleans school case. With that victory secured, Marshall strengthened his hand even further by expanding the attorney general's *amicus* power in the St. Helena Parish, East Baton Rouge Parish, and technical school cases. The Department of Justice played that hand in Prince Edward County once negotiations with Albertis Harrison failed to bear fruit. The Burke Marshall-led Civil Rights Division recognized the urgency of the matter and refused to surrender to the artificial barriers (the absence of federal legislation and an invitation from the presiding judge) that constrained its predecessor. Burke Marshall exercised creativity and innovation to ensure the full enforcement of the laws.

Federal intervention had implications beyond Southside Virginia. The Prince Edward action set the precedent that school closings would not be tolerated by the Kennedy administration. Louisiana officials took note. The state attorney general expressed "great interest, because the eventual decision on the matter...could well end the legal fight for both a private school system and grants in aid programs." East Baton Rouge's district attorney, and recent guest of Roy Pearson, conceded that the proceedings "may have a great bearing on the way we chart our own course in this parish."⁵³ The attorney general's action in Prince Edward County all but stopped the school closing movement.

Civil rights leaders welcomed the executive action. It lessened the urgency to pass federal school desegregation laws. In the aftermath of the Washington Pilgrimage cancellation, Walter Fauntroy had continued working with congressmen on a bill to

⁵³ James McLean, "Va. Action May End La. Plan," TP, April 27, 1961, 2; Roy R. Pearson to Watkins M. Abbitt, March 29, 1961, Box 5, WMAP.

reopen the schools. He found the legislative approach fraught with difficulties. Fauntroy, therefore, cheered federal intervention as “far more effective and speedy than the cumbersome process of getting a bill through both Houses.” The federal action also soothed the cries for direct action, thus providing cover for the NAACP. Roy Wilkins privately told Bobby Kennedy that “the action of the Department of Justice will be good for us all.”⁵⁴ The action certainly distracted from the NAACP’s conservative and unimaginative approach to Prince Edward County, but it did not provide a lot of “good” for the administration, which had to weather the political consequences.

⁵⁴ Walter E. Fauntroy to Wyatt Tee Walker, May 1, 1961, Part 2, Reel 15, SCLCR; Roy Wilkins to Robert F. Kennedy, May 3, 1961, Group III, Box A107, NAACP.

CHAPTER VII

ARMED TRUCE

The Kennedy administration's action in Prince Edward County counters the prevailing interpretation of the president's relationship with southern congressmen. Kennedy scholarship purports a timid executive who moved cautiously on civil rights to safeguard his domestic agenda from southern conservatives. By virtue of seniority, southerners chaired congressional committees with the power to disrupt the president's entire domestic program. In fact, three of those committees were chaired by Harry Byrd, A. Willis Robertson, and Howard Smith – all members of the Byrd Organization. Thus, by authorizing federal intervention in Prince Edward County, President Kennedy exposed his legislative program to retaliation from the Byrd Organization. In fact, the Organization men attacked the president's education bill in the name of federal overreach in Prince Edward County. President Kennedy, therefore, came to the defense of the locked-out children despite the certain political repercussions.

The Kennedy-Byrd relationship was already strained. They belonged to the same political party, but their political views were at odds. In fact, Byrd did not endorse the Kennedy-Johnson ticket, and in the early months of the new administration, Kennedy and Byrd had already tangled over legislation. Still, they maintained a mutual regard, but were operating, as one journalist suggested, "under the terms of an informal armed

truce.” The Prince Edward intervention only exacerbated the cold war between the Kennedys and the Byrd Organization. Senator Byrd condemned the attorney general’s action as “intemperate” and “ruthless” and urged him not to “destroy the few remaining State’s rights – one being the right to educate our own children with our own money in our own State.”¹ Nevertheless, President Kennedy continued to court Harry Byrd.

A working relationship with Harry Byrd served the president’s political interests. President Kennedy accepted Harry Byrd’s invitation to attend his spring luncheon. On May 7, 1961, the president’s helicopter landed at the senator’s Berryville estate, leading to, as Harry Byrd Jr. described, a “most interesting and dramatic day.” Kennedy’s surprise appearance delighted the host and his one hundred fifty guests – political friends, newsmen, and neighbors. The president spoke casually to each guest, signed autographs, and sampled the fare. In *The Bystander: John F. Kennedy and the Struggle for Black Equality* (2006), a damning assessment of Kennedy’s civil rights record, Nick Bryant determined that the president’s appearance “smacked of political pandering.” Bryant implies that Kennedy attended the luncheon to reconcile with Byrd and that he

¹ Ronald L. Heinemann, *Harry Byrd of Virginia* (Charlottesville: University Press of Virginia, 1996), 383-406; James R. Sweeney, “Whispers in the Golden Silence: Harry F. Byrd, Sr., John F. Kennedy, and Virginia Democrats in the 1960 Presidential Election,” *Virginia Magazine of History and Biography*, 99, No. 1 (January 1991): 3-44; Jack Bell, “Byrd, Kennedy Square Off in Armed Truce,” RTD, April 30, 1961, F3; “Statement by Senator Harry F. Byrd (D. Va.), in re intervention by the Attorney General of the United States in the Prince Edward County school case before the Federal District Court, Richmond, Virginia,” April 28, 1961, Box 413, HFBP.

subsequently restrained the attorney general from seeking a legal solution in Prince Edward County.² The historical record does not support that supposition.



Figure 7.1 "Getting in Bobby's Hair." (Image: *Richmond Times-Dispatch*).

² Associated Press, "Kennedy's Visits Byrd's Home," RTD, May 8, 1961, 1; Guy Friddell, "JFK Drops In on HFB," RNL, May 8, 1961, 1; Harry F. Byrd, Jr., to Waldo G. Miles, May 8, 1961, Box 57, HFBP2; Nick Bryant, *The Bystander: John F. Kennedy and the Struggle for Black Equality* (New York: Basic Books, 2006), 254.

The Kennedy administration executed its Prince Edward strategy despite the political consequences. Kennedy did not signal a retreat at the Byrd luncheon or call off federal involvement in the case. Instead, the Department of Justice vigorously prosecuted the case. In doing so, the administration left its domestic agenda exposed to attack from the Virginia congressional delegation. President Kennedy could have expended federal patronage as a peace offering, but instead, he rewarded the Organization's foes with federal positions. The attorney general's action also renewed the press coverage of the shameful school closings, thus exposing the Organization to ridicule and ensuring that the Prince Edward crisis was an issue in the gubernatorial race. President Kennedy's assertive action in Prince Edward County demonstrated that he would not be cow-tailed by Harry Byrd.

I

The Kennedy administration vigorously prosecuted the case despite the political fallout. The editorial pages across the commonwealth denounced the move as “dictatorial,” “vindictive,” “an invasion,” “arrogant,” “reckless,” “punitive,” “a constitutional upheaval,” and “shocking.”³ The Byrd Organization raised the specter, and played on base fears, that the attorney general's action marked the first step to federal control over schools and the slow march to the elimination of states' rights and individual

³ “Federal Intervention in Prince Edward Case Draws Comments From Virginia Editors,” RTD, May 4, 1961, 18; Editorial, “At Stake in Prince Edward,” RNL, April 27, 1963, 10.

liberties. Virginia citizens grew concerned over the uncertainty that the intervention motion created for the future of the state's public school system. The Department of Justice tried to allay unwarranted fears, but it was not dissuaded from presenting a strong case on the unconstitutionality of the school closings.

The Byrd Organization related the attorney general's action in Prince Edward County to federal incursions into states' rights a century earlier. Virginia's congressional delegation led the chorus of condemnation. Watkins Abbitt attacked the move as "an attempt by totalitarian executive action and judicial usurpation of power to make hollow shells of our state and local governments and assume dictatorial control over a purely local function." Burr Harrison warned that it would lead to "absolute despotism." Bill Tuck found it "the most wicked and vicious abuse of federal authority since the tragic era of Reconstruction." Citizens called for resistance. William M. Perry of Providence Forge (New Kent County) felt that the attorney general had opened "old wounds." He urged Virginians to draw inspiration from their Confederate heroes to "attack the problem with renewed vigor and make sure those who died in Virginia 100 years ago did not die in vain." Similarly, J.V. Lewis of Prospect stated that the "Kennedy crowd" was "sowing the seed...[of] insurrections" and predicted that "people will be so riled one of these days, that they will say we will not take anymore." Four days after the attorney general filed his motion, a crowd of two hundred fifty dissenters gathered in Farmville. The Defenders of State Sovereignty and Individual Liberties held a rally and unanimously moved to censure the Department of Justice's action as "coercion and intimidation of a

type found only in totalitarianism.”⁴ Segregationists attacked federal intervention by ramping up false fears and playing on emotions.

The intervention motion caused anxiety for Virginians. The attorney general threatened to close all public schools in the state as long as Prince Edward County remained closed. Kennedy exposed himself to the charge that he, not the massive resisters, was the school closer. Harry Byrd exploited that role reversal. “I am amazed that the Attorney General of the United States seeks to close every public school in Virginia to 847,000 white and Negro students unless Prince Edward surrenders on its position in regard to integration,” admonished the senator in a statement. “The attempt to punish an entire State because the action of one county displeases the U.S. Attorney General is fantastic and completely unrealistic.” Ironically, Governor Almond, the man who in 1958 closed schools under the massive resistance laws, tried to allay fears. He assured the public that the federal government was “not seeking to close down all schools in Virginia,” that he and the State Board of Education were “calm” over the situation, and that “there is no reason to be excited about it.” The Byrd Organization, apparently, had no interest in taking heat off the attorney general. State Senator Harry Byrd Jr. derided Almond and Kennedy. “I maintain that calmness is no virtue when it means complacency

⁴ Watkins M. Abbitt, Statement, April 26, 1961, Burr Harrison, “Law Day Address of Rep. Burr P. Harrison Before Richmond (Va.) Bar Association,” May 1, 1961, J.V. Lewis to Watkins M. Abbitt, April 28, 1961, all in Box 5, WMAP; Associated Press, “Tuck Hits Intervention In Prince Edward Case,” RTD, April 30, 1961, 10; Letter to the Editor, William M. Perry, “Federal Tyranny Seen In Prince Edward Case,” RTD, April 29, 1961, 10; Ben Bowers, “Defenders Say Threat Is Of Totalitarian Type,” FH, May 2, 1961, 1; James Berry, “School Move Is Denounced By ‘Defenders,’” RTD, May 1, 1961, 2.

in the face of threats to one of our most basic liberties.” He pledged to “resist to the utmost this new invasion from Washington.”⁵

The Department of Justice went into damage control. “No school in Virginia need to be closed,” read a press release. “All that is necessary is for the State of Virginia and Prince Edward County to reopen the County’s public school system.” U.S. Solicitor General Archibald Cox assured the public that the Department’s aim was to “bring about the operation of a public school system.” Another government source divulged that Kennedy threatened to close schools only for “leverage purposes,” to prohibit the transfer of responsibility from local to state officials, as had been done. Bobby Kennedy further clarified his position at the University of Georgia’s Law Day ceremony: “It is now being said that the Department of Justice is attempting to close all public schools in Virginia because of the Prince Edward situation. This is not true.” Nor was the suit a threat to local control of schools. “The Federal Government would not be running the schools in Prince Edward County any more than it is running the University of Georgia or the schools in my State of Massachusetts.” Kennedy clarified but did not soften his position.⁶

Burke Marshall tasked an experienced lawyer to present the United States’ arguments in federal court. St. John Barrett, thirty-seven years old, had joined the

⁵ “Statement by Senator Harry F. Byrd (D. Va.), in re intervention by the Attorney General of the United States in the Prince Edward County school case before the Federal District Court, Richmond, Virginia,” April 28, 1961, Box 413, HFBP; Allan Jones, “Prince Edward Held Main U.S. Target,” RTD, April 29, 1961, 1; William P. Cheshire, “Almond Discounts U.S. Threat to Va. Schools,” RNL April 28, 1961, 1; “Harry Byrd, Jr. Sees Switch by Governor,” RTD, May 5, 1961, 2.

⁶ U.S. Department of Justice, Press Release, April 27, 1961, Reel 105, RG 60; Associated Press, “Cox Explains U.S. Stand in School Case,” WP, May 14, 1961, B3; Jean White, “Almond Sets Meeting on School Suit,” WP, April 28, 1961, 1; Thomas A. Hopkins, ed., *Rights for Americans: The Speeches of Robert F. Kennedy* (Indianapolis: Bobbs-Merrill Company, 1964), 17-26.

Department of Justice in 1954 as a trial attorney in the Criminal Division and later headed its Civil Rights Section. The Civil Rights Act of 1957 created the Civil Rights Division and Barrett was named the second assistant to the Assistant Attorney General for Civil Rights. Barrett had worked on high profile school desegregation cases. He had been sent to Little Rock and New Orleans to untangle state interference with court orders; collaborated with the U.S. attorney in Louisiana on the motions to intervene in the St. Helena Parish, East Baton Rouge Parish, and technical school cases; likely authored the February 20, 1961, staff report on Prince Edward County; attended the U.S. Commission on Civil Rights' conference in Williamsburg; and prepared the Department's intervention motion. Justice lawyers held Barrett in high esteem, considering him a very capable lawyer, technician, and litigator, and a tireless leader who "worked his tail off seven days a week."⁷

St. John Barrett received final instructions from Burke Marshall. Marshall considered it a "matter of extreme importance" that Barrett inform the court that the administration did not seek to close schools elsewhere. "I am of the view," rationalized Marshall, "that you should not suggest that the schools could or should be closed as a

⁷ St. John Barrett, *The Drive for Equality: A Personal History of Civil Rights Enforcement, 1954-1965* (Baltimore: Publish America, 2009); M. Hepburn Many and St. John Barrett, "Application of United States for an Order Designating It as *Amicus Curiae* and for Leave to File Petition for an Injunction Against Enforcement of Acts No. 3 and 5 of the Second Extraordinary Session of the Louisiana Legislature of 1961," March 17, 1961, *Hall v. St. Helena Parish School Board*, Civil Action 1068, USDCEDLA; U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights: Third Annual Conference on Problems of Schools in Transition, From the Educator's Viewpoint* (Washington, DC: GPO, 1961), 3; St. John Barrett to Burke Marshall, April 21, 1961, and St. John Barrett to Burke Marshall, "Prince Edward County, Virginia, Schools," April 24, 1961, both in Reel 105, RG 60; Howard A. Glickstein, interview by Brian E. Lee, May 29, 2013; Nicholas Katzenbach, e-mail to Brian E. Lee, May 21, 2008.

matter of equitable relief anywhere else even as a temporary matter.” The federal government’s complaint alleged that the defendants circumvented and nullified the court orders by closing the schools. “The thrust of the relief that is asked for is that the schools must be reopened and must be operated again in order to terminate this circumvention and nullification of the orders of the court,” explained Marshall. “The particular relief asked against each party is that that party do what is necessary to bring about this result.”⁸ The directive was clear: make the best possible case to reopen the schools.

On May 8-9, 1961, St. John Barrett presented the federal government’s case in U.S. District Court. Tall and slight of build, “Slim” Barrett, as his colleagues affectionately called him, spoke softly and deliberately. He argued that the Department of Justice had a “clear duty” to act when “it appears the integrity of the judicial process is threatened.” The state and county had “nullified and circumvented” federal court orders by closing the public schools and supplanted them with a publicly funded segregation academy. The federal government, therefore, had to intervene to protect the due administration of justice. Barrett cited the Little Rock and New Orleans cases as precedents to intervene in Prince Edward County. He argued that closing public schools to avoid desegregation was as obstructive as Governor Orval Faubus using the National Guard to prevent desegregation at Little Rock Central High School or the Louisiana State

⁸ Burke Marshall to St. John Barrett, “Prince Edward County Argument,” May 4, 1961, Reel 105, RG 60.

Legislature passing laws in defiance of court orders.⁹ Nevertheless, Barrett did not find this court nearly as sympathetic to his arguments as the one in Louisiana.



Figure 7.2 St. John Barrett. (Photo: Associated Press).

Judge Oren Lewis appeared unmoved by St. John Barrett's presentation. Lewis, appointed to the federal bench by President Eisenhower in 1960, disagreed with Barrett over the similarity between Prince Edward County, Little Rock, and New Orleans. He

⁹ Elsie Carper, "New Edward School Battle Opens in Court," WP, May 9, 1961, B1; Elsie Carper, "Edward School Closing Likened to Little Rock," WP, May 10, 1961, A12; Allan Jones, "Prince Edward Case Will Go To State Court for Ruling," RTD, May 9, 1961, 1.

reminded Barrett that county officials “certainly aren’t using force to prevent enforcement of an order.” Barrett told the court that “orders can be frustrated and nullified by more subtle methods than troops and legislatures gone wild.” Barrett and Lewis also sparred over a more fundamental issue: the constitutionality of the school closings. Judge Lewis wanted the Virginia State Supreme Court of Appeals to answer that question, but Barrett considered the school closings a federal matter. Denying children a public education violated the equal protection clause of the Fourteenth Amendment. “The one fact that renders the school closing illegal,” argued Barrett, “is that other schools are open.” Still, he emphasized that the Department of Justice did not ask that other schools be closed, only that Prince Edward County’s public schools be reopened. “I don’t see how I can order the reopening of schools,” replied Lewis, “without also saying how big, what kind of schools, how many teachers and so forth.” Throughout the hearing, Judge Lewis indicated his reluctance to permit federal intervention. His caution served as a boon to county attorneys. “I am rather encouraged,” reported Commonwealth’s Attorney Frank Nat Watkins, “and believe that this is the first time any ‘little sunshine’ has come in this case so far as I am concerned.”¹⁰

The court denied the attorney general’s motions. On June 14, Judge Lewis issued a twenty-four-page memorandum opinion outlining his reasoning that granting intervention would “unduly delay and prejudice” the rights of the litigants. He cited some

¹⁰ “U.S. Schools Plea Cites Precedents,” NYT, May 10, 1961, 29; Overton Jones, “New Judge Started With School Issue,” SSN, August 1961, 5; Allan Jones, “School Case Taken Under Advisement,” RTD, May 10, 1961, 1; “Court Studies U.S. Intervention Move In Prince Edward Lawsuit,” SSN, June 1961, 1; Frank Nat Watkins to Watkins M. Abbitt, May 11, 1961, Box 5, WMAP.

procedural issues. First, the attorney general failed to submit a “timely” application. Kennedy filed his motion “more than a year” after the court’s April 22, 1960, ruling – on April 26, 1961. Ultimately, the court penalized the locked-out children for the previous administration’s indifference. Second, Lewis found federal intervention in this case “contrary to the intent of congress.” He believed that the attorney general had no authority to intervene without federal legislation. This opinion stood in contrast to the three-judge court’s decision in *Bush v. Orleans Parish School Board* just three months earlier that welcomed federal intervention in school desegregation cases, a decision the U.S. Supreme Court affirmed on June 19, 1961. Finally, the federal motion would “materially delay” the adjudication of the plaintiffs’ rights. Adding the Commonwealth of Virginia as a defendant required convening a three-judge court, and the potential appeals ran the risk of postponing a final decision.¹¹

The court also refuted the federal government’s arguments for intervention. First, Judge Lewis dismissed the contention that the Little Rock and New Orleans cases were comparable to Prince Edward County. Unlike the other cases, the problems in Prince Edward County were “being solved in a lawful and proper manner through the courts.” Next, the court had not determined that the defendants had violated or circumvented any orders. Federal intervention would only be granted after the plaintiffs proved that allegation. Finally, the intervention motion made relief “unnecessarily punitive.” Despite

¹¹ Oren R. Lewis, “Memorandum Opinion,” June 14, 1961, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R; *Bush v. Orleans Parish School Board*, 191 F. Supp. 871 (E.D. La. 1961), affirmed, *Denny v. Bush*, 367 U.S. 908, 81 S. Ct. 1917, 6 L.Ed.2d 1249 (1961).

St. John Barrett's assurance that the attorney general had no interest in closing schools, Lewis still found the threat real. "This Court can only conclude," Lewis explained, "if the Government be permitted to intervene as a party plaintiff, it would urge this Court to enter an order that would jeopardize the education of several hundred thousand Virginia children." The court denied both federal intervention and the motion to add defendants. The decision, reported the *Washington Post*, represented the "sharpest setback that the civil rights efforts of the Kennedy administration have received in a courtroom."¹² Consequently, it reduced the chances of arresting the educational erosion in Prince Edward County.

The negative court decision compounded the impact of the county's renewed defiance. On June 9, the board of supervisors had convened a public hearing on the proposed school budgets. The school board had presented a plan to operate public schools for all the county's school-age children and another for about eighteen hundred children (a rough estimate of the school-age black population). Seven segregationists urged the board of supervisors to reject both budgets and keep the public schools shutdown. Louis Dahl recommended that "until such time as schools can be run as the majority of white people in the county want them run – stick to your policy." On the other hand, two Longwood College professors (Gordon Moss and Henry Bittenger) and three African American citizens (Reverend L. Francis Griffin, Reverend Robert Ellis, and Dorothy Croner) petitioned the board to reopen the schools. Nevertheless, the board of supervisors

¹² Oren R. Lewis, "Memorandum Opinion," June 14, 1961; James E. Clayton, "Edward School Case Intervention Is Denied," WP, June 15, 1961, A1.

voted to keep the public schools closed for a third year. The supervisors passed the savings along to county residents through a cut in the personal property, real estate, and merchant tax rates. Still, the county had sufficient funds to provide \$285,000 in tuition grants and \$30,000 in transportation grants to private school students.¹³ The county ensured that education for white students continued uninterrupted but did nothing to fill the educational vacuum for black children.

The Department of Justice maintained its interest in Prince Edward County. A spokesman told the press that Justice lawyers had given “considerable study” to the U.S. District Court’s ruling and were contemplating new action. On July 24, Judge Lewis convened a four-day hearing on the NAACP’s allegation that the state and county circumvented federal court orders. St. John Barrett sat conspicuously with the plaintiffs, fueling speculation that federal action was imminent. Barrett told the press that he was present “strictly as an observer.” However, he was no ordinary court watcher. Judge Lewis had stated that the court would consider granting federal intervention if he determined that the defendants had circumvented court orders. The Department of Justice signaled through Barrett’s presence its eagerness to intervene in the case at the earliest possible moment.¹⁴

¹³ James Berry, “No School Funds Appropriated By Prince Edward for 3d Year,” RTD, June 10, 1961, 1; Minutes, Prince Edward County Board of Supervisors, June 1961, PECBOSR.

¹⁴ Associated Press, “Prince Edward Offers Schools To Negroes for This Summer,” NYT, June 16, 1961, 31; Associated Press, “Edward School Action Weighed,” WP, July 8, 1961, C2; Robert P. Hilldrup, “Official’s Immunity Tiff Opens School Hearing,” RNL, July 24, 1961, 1; Associated Press, “Edward School Action Weighed,” WP, July 8, 1961, C2; Oren R. Lewis, “Memorandum Opinion,” June 14, 1961.

The testimony indicated that the court orders had been circumvented. The NAACP tried to prove that the board of supervisors intended to defy the federal courts. Robert Carter pressed William Vaughan, chairman of the board of supervisors, to divulge whether the board had discussed closing the schools to block desegregation. Segar Gravatt shielded the supervisors from this questioning by invoking legislative privilege. Judge Lewis sustained Gravatt's objection but added that he would "be surprised if [Brown] wasn't discussed." T.J. McIlwaine, the superintendent of schools, testified that the school board would operate public schools once the board of supervisors provided funds. Otherwise, the school board had done nothing to comply with the court orders, because it was "advised by counsel that there was nothing for us to do since the schools were already closed." Next, the NAACP alleged that the Prince Edward School Foundation was not a private but a public facility, and therefore, it should be barred from receiving public funds to defy the court and perpetuate segregation. Foundation officials stressed that the schools were "strictly private," that they took no direction from any government agency. Still, the officials admitted that public money, through tuition grants, funded over 90 percent of the school's \$348,072 budget. Nevertheless, the county attorneys vociferously defended the constitutionality of the tuition grant program. They argued that the white children should not be penalized because the black children did not take advantage of the freedom of choice program.¹⁵

¹⁵ Hearing Transcripts, July 1961, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R

Judge Oren Lewis determined that Prince Edward County circumvented court orders. On August 25, 1961, Lewis handed down his ruling. “By closing the public schools, the Board of Supervisors have effectively deprived the citizens of Prince Edward County without a freedom of choice between private and public education,” read the opinion. “County funds have been appropriated (in the guise of tuition grants and tax credits) to aid segregated schooling in Prince Edward County. That, to say the least, is circumventing a constitutionally protected right.” Therefore, the court severed the Foundation from its lifeblood by enjoining county officials from disbursing local grants, from allowing tax credits for donations to the foundation schools, and from the disbursement of state tuition grants to any resident of Prince Edward County “so long as the public schools of Prince Edward County remained closed.” Next, Judge Lewis found that the school board failed to comply with the court’s April 22, 1960, order to make preparations to admit students to the public schools without regard to race. The court directed the school board to prepare such plans “so that they may be readily available when and if the public schools...are reopened.” Judge Lewis, however, did not issue an order to reopen the schools. Rather, he remanded the case to the Virginia State Supreme Court of Appeals to determine whether the state constitution required a locality to operate public schools.¹⁶ Judge Lewis, ultimately, agreed with the Department of Justice that court orders had been circumvented, but by remanding the case to the state courts, he kept the case out of the attorney general’s orbit.

¹⁶ *Allen v. County School Board of Prince Edward County*, 198 F. Supp. 497 (E.D. Va. 1961).

The U.S. District Court in Louisiana acted much more forthright in *Hall v. St. Helena Parish School Board*. A three-judge court had invited the attorney general to file an *amicus* brief to provide his view on the relationship between the equal protection clause and school closing and tuition grant statutes. The U.S. Department of Justice stressed that education was “of fundamental importance” and that the state had the responsibility to provide public schools. In its sixty-seven-page brief, Justice asserted that “Louisiana’s experiment with ignorance must be examined.” The federal government argued that Louisiana’s school closing law, Act No. 2, violated the Fourteenth Amendment and obstructed court orders. Justice alleged that the Louisiana legislators acted with “subterfuge” by passing laws written in innocuous language but clearly defiant in intent. “We submit that this Court need not stand idly by, permit the public schools of St. Helena Parish to be closed, await the organization of the subterfuge schools, and then, when the evasive scheme has fully been consummated, call a halt. Rather, the Court may and should intervene now to enjoin the initial and indispensable prerequisite to the entire scheme: the claimed abandonment of the public school system.”¹⁷

¹⁷ *Hall v. St. Helena Parish School Board*, April 24, 1961, in *Race Relations Law Reporter, Volume Six* (Nashville: Vanderbilt University School of Law, 1962), 416-418; Burke Marshall, et al., “Brief for the United States, Amicus Curiae,” June 5, 1961, *Hall v. St. Helena Parish School Board*, Civil Action No. 1068, USDCEDLA. The attorneys general of Georgia, Mississippi, South Carolina, Arkansas, North Carolina, and Virginia collaborated on a brief that found no violation of the Fourteenth Amendment. “The effect of the *Brown* decision,” read their interpretation, “is that if a state maintains public schools, they must be open to all without regard to race or color. If the state abolishes the schools, the *Brown* rule is not violated, as state action is no longer discriminatory.” See Eugene Cook, et al., “Brief on Behalf of Eugene Cook, Attorney General of Georgia, T.W. Bruton, Attorney General of North Carolina, Joe T. Patterson, Attorney General of Mississippi, Daniel R. McLeod, Attorney General of South Carolina, Frank Holt, Attorney General of Arkansas, and Frederick T. Gray, Attorney General of Virginia, Amicae Curiae,” June 1, 1961, *Hall v. St. Helena Parish School Board*, Civil Action No. 1068, USDCEDLA.

The court's opinion reflected the Department of Justice's argument. On August 30, 1961, the court found Act No. 2 unconstitutional. The judges affirmed that the state was responsible for providing education and that it could not circumvent the Fourteenth Amendment by surrendering school operations to localities. The court determined that "a state cannot close the public schools in one area while, at the same time, it maintains schools elsewhere with public funds." In fact, the court cautioned against school closings with language borrowed from the Department of Justice: "This is not the moment in history for a state to experiment with ignorance." Nor did the court consider a dual private school system funded by public tuition grants a viable alternative. "There can be no question about the actual inequality in educational opportunities that will follow closure of the public schools in St. Helena Parish, or any other community that invokes the Act," read the opinion. "Grants-in-aid, no matter how generous, are not an adequate substitute for public schools." The St. Helena Parish case demonstrates what could have been in Prince Edward County. The Fifth Circuit formed a three-judge panel, invited the attorney general to advise the court, and issued a decisive ruling. The opinion offered no equivocation on its conviction that states were responsible for public education. The defendants appealed to the U.S. Supreme Court, which affirmed the district court's ruling on February 19, 1962. In the meantime, the public schools in St. Helena Parish remained in operation.¹⁸

¹⁸ *Hall v. St. Helena Parish School Board*, 197 F. Supp. 649 (E.D. La. 1961), affirmed 368 U.S. 515, 82 S. Ct. 529, 7 L.Ed.2d 521.

The attorney general showed no letup in Prince Edward County. The Department of Justice was eager to advise the court and enforce its orders, but Judge Lewis denied its request to participate, and by remanding the case to the state court, put the case well beyond Bobby Kennedy's reach. Judge Oren Lewis, in coordination with the Department of Justice, could have ended the Prince Edward County school crisis. Instead, the court's caution put the case back on the slow road to resolution, thus buying the segregationists more time and compounding the damage to the school-less children. The administration had taken a great political gamble and lost. Certainly, a positive resolution to the school crisis would have mitigated the negative political repercussions from the intervention motion. However, the schools remained closed and the intervention motion put a key element of the president's agenda on the chopping block.

II

The federal intervention in Prince Edward County exposed the president's domestic agenda to attack. The attorney general's action struck at the core constituency of the Byrd Organization. Certainly, the Organization did not take the situation lightly. Organization men chaired key congressional committees with the power to weaken or defeat the president's legislative program. These men already held that program in contempt and viewed the Kennedy brothers with suspicion. The federal intervention only exacerbated the strains between the Kennedys and Organization leaders stemming from

the 1960 presidential campaign. The Kennedys' action in Prince Edward County gave their opponents a club with which to hammer the administration's education bill.

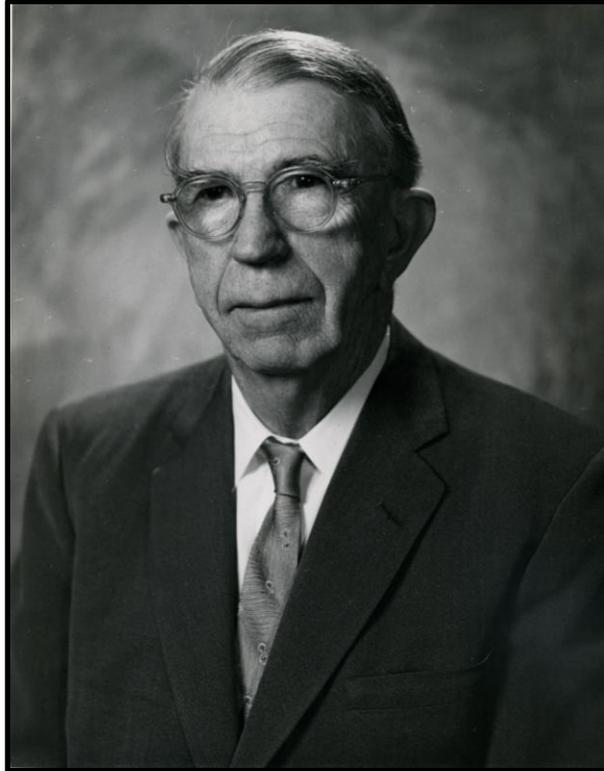


Figure 7.3 Howard W. Smith. (Photo: University of Virginia School of Law).

The Virginia senators had the power to bottle up much of the president's program. A. Willis Robertson and Jack Kennedy had a cordial relationship, but it cooled in 1960 as Robertson distanced himself from Kennedy and the party's civil rights plank (although he did support the Kennedy-Johnson ticket). Robertson chaired the Senate Banking and Currency Committee. The president's Distressed Area Redevelopment and Housing and Urban Improvement bills had to clear Robertson's committee. Like Robertson, Harry

Byrd had personal regard for Jack Kennedy, but not his legislative agenda. As chairman of the Senate Finance Committee, Harry Byrd had tremendous influence over Kennedy's proposals on medical care for the aged, tax policy, and Social Security. Kennedy worked to safeguard his domestic program by currying the senator's favor. Certainly, Kennedy and Byrd never approached full accord. Luckily for Kennedy, Byrd earned a reputation for running the committee with fairness. Although he did, at times, stall hearings, Byrd allowed bills he opposed to be reported out of committee.¹⁹ The chairman of the House Rules Committee was not nearly as scrupulous.

Howard Smith wielded unparalleled power as chairman of the House Rules Committee. The committee determined what bills went to the House floor and the manner in which the members could debate them (i.e. time limit and the number of amendments that could be offered). In short, nearly all matters of Congress had to go through the committee, and thus Howard Smith, who determined the committee's schedule, agenda, and timing of votes. A master parliamentarian, Smith delayed, amended, and employed any conceivable tactic to defeat or weaken a bill that he opposed – and that meant liberal legislation. As the leader of the conservative coalition of Republicans and southern Democrats, Smith used the Rules Committee as a bulwark against challenges to small

¹⁹ John F. Kennedy to A. Willis Robertson, June 27, 1960, A. Willis Robertson to John F. Kennedy, July 19, 1960, John F. Kennedy to A. Willis Robertson, July 27, 1960, "Statement of Senator A. Willis Robertson on Occasion of Kennedy Rally in Alexandria," August 24, 1960, all in Drawer 115, AWRP; Heinemann, *Harry Byrd of Virginia*, 383-406.

government conservatism, white supremacy, “right-to-work” laws, and states’ rights. The Democratic Party platform, therefore, faced a difficult slog.²⁰

A Kennedy-Byrd Organization rift had opened during the August 1960 special session of Congress. The Democrats introduced Senator Kennedy’s five “must” bills, but the conservative coalition sent them all down to defeat – an embarrassment to the Democratic standard-bearer. Howard Smith played a significant role in bottling up the “socialistic” program in the Rules Committee. In a radio interview, the Kennedy-Johnson campaign manager, Robert Kennedy, blamed the session’s failure on Howard Smith: “The fact that one individual can hold all this up, I think, it’s just a – I think it’s just a deplorable situation.” Smith took offense to the indictment. Kennedy sent a letter to Smith to express his “regret” for having “personally offended” the congressman, but he offered no apology. “I think the Members of Congress should at least have a right to vote one way or another,” explained Kennedy. “This is legislation which might well affect the destiny of our country and should be considered by our Representatives. These are my convictions and I have no apologies to make for them.”²¹ Still, Smith used the incident to play the victim as part of a scheme to diminish Senator Kennedy’s vote share in the Old Dominion.

²⁰ Bruce J. Dierenfield, *Keeper of the Rules: Congressman Howard W. Smith of Virginia* (Charlottesville: University Press of Virginia, 1987); Tom Wicker, *JFK and LBJ: The Influence of Personality Upon Politics* (New York: William Morrow & Company, 1968), 36-38.

²¹ Dierenfield, *Keeper of the Rules*, 172; Howard W. Smith to E.J. McMillan, August 1, 1960, Transcript, “The Barry Gray Show,” WMCA, August 24, 1960, Robert F. Kennedy to Howard W. Smith, September 1, 1960, all in Box 204, HWSP.

The Kennedy-Johnson campaign failed to win the support of Smith and Byrd. Smith refused to back the liberal party platform and took personal offense for its calls to restructure the Rules Committee. Party leaders proposed diluting the chairman's influence by packing the committee with members favorable to the national party's agenda. "To ask me to publicly endorse a candidate who promises, if elected, to cut my throat is a little more than I can swallow," explained Smith. He even discouraged third party candidates from running for fear that they would split the conservative vote and hand Virginia to Kennedy. Harry Byrd maintained his "golden silence" – a refusal to publicly support the Democratic ticket, which was tantamount to an endorsement for Nixon-Lodge. "It would be a tragedy if Kennedy is elected," State Senator Garland Gray warned Harry Byrd, "It is important to you and your friends that Virginia not go for Kennedy." Organization leaders determined that a Kennedy victory would alter the political balance in Virginia. Collins Denny warned that Governor Almond, an early Kennedy supporter, would become the "real political power" in the state and that an anti-Organization candidate would win the governor's race in 1961. Denny urged Organization leaders not to endorse the Democratic ticket.²²

Harry Byrd sabotaged the Kennedy-Johnson ticket. At the outset of the general election season, Kennedy's prospects for winning the Old Dominion's electoral votes

²² Sweeney, "Whispers in the Golden Silence," 3-44; Democratic Party Platform, July 11, 1960, *The American Presidency Project*, <http://www.presidency.ucsb.edu/ws/?pid=29602>, accessed March 26, 2015; Howard W. Smith to George L. Hunter, Jr., September 23, 1960, Howard W. Smith to Frederic William Scott, August 30, 1960, both in Box 204, HWSP; Garland Gray to Harry F. Byrd, October 7, 1960, Garland Gray to Harry F. Byrd, October 19, 1960, both in Box 244, Collins Denny, Jr., to Watkins M. Abbitt and William M. Tuck, September 30, 1960, Box 241, all in HFBP.

appeared remote. A Kennedy pollster found Nixon leading in Virginia by fifteen percentage points, but that margin shrunk in the closing weeks of the campaign. Byrd worked behind-the-scenes to offset those gains. He employed a political hatchet man to communicate the candidate's opposition to "right-to-work" laws to Virginia businessmen. The Byrd team then played to racial fears. On *Meet the Press*, Senator Kennedy had suggested appointing African Americans to the federal judiciary. Speaker of the House of Delegates Blackburn Moore, Byrd's neighbor and confidant, penned an open letter urging that Kennedy "publicly pledge himself that no Negro judge will be appointed in any Southern State." Moore predicted that black federal judges "could bring chaos" to the South. The Moore letter caught the campaign off guard and arrested its momentum. Finally, on October 27, 1960, Byrd introduced President Eisenhower at an event in Staunton. The senator's praiseworthy remarks about Eisenhower signaled his support for the Republican ticket. Nixon carried Virginia by a 52.4 to 47.0 margin. Kennedy supporters blamed Harry Byrd for the loss.²³

Democratic leaders called for Byrd and Smith to relinquish power. Senator Joseph Clark (D-PA) proposed penalizing Harry Byrd for his disloyalty to the party. He suggested that Senate Democrats who had refused to endorse the Kennedy-Johnson ticket

²³ Louis Harris, *The Presidential Election in Virginia*, September 22, 1960, Reel 2, The John F. Kennedy 1960 Campaign, Part I: Polls, Issues, and Strategy (microfilm); Harry F. Byrd to J. Clifford Miller, Jr., September 15, 1960, Box 248, HFBP; *Meet the Press*, NBC, October 16, 1960; E. Blackburn Moore to William C. Battle, October 26, 1960, Box 60, HFB2; Sweeney, "Whispers in the Golden Silence," 3-44; *Complete Returns of the 1960 Elections by Congressional District*, March 10, 1961 (Washington, DC: Congressional Quarterly, 1961), 42; J. Lindsay Almond, interview by Larry J. Hackman, February 7, 1968, Washington, D.C., transcript, William C. Battle by Guy Friddell, February 17, 1965, transcript, both in JFKOH.

be expelled from the party's caucus and those who opposed the platform be stripped of their committee chairmanships. Nevertheless, Byrd's colleagues voted to renew his chairmanship for the Eighty-Seventh Congress. The bigger problem rested in the twelve-man House Rules Committee. Howard Smith and William Colmer (D-MS), both outspoken opponents of the party platform, were set to ally with four Republican committee members to bottle up any liberal legislation. Under these circumstances, President Kennedy predicted that "nothing controversial would come to the floor of the Congress. Our whole program would be emasculated." Speaker of the House Sam Rayburn (D-TX), an administration ally, recognized the political hazard of purging Smith from the chairmanship, preferring, rather, to enlarge the committee by three members (two Democrats and one Republican). Unlike the Clark proposal, the president joined this fight. "It's no secret that – I would strongly believe that Members of the House should have an opportunity to vote themselves on the programs which we will present," Kennedy told the press. "Shouldn't the Members of the House themselves and not merely the members of the Rules Committee have a chance to vote on those measures?" The White House handed out political favors and Speaker Rayburn mustered all his prestige to win 217 to 212.²⁴ The narrowness of that victory foretold trouble for the administration's program.

²⁴ Heinemann, *Harry Byrd of Virginia*, 383-384; Theodore C. Sorensen, *Kennedy* (New York: Harper & Row, 1965), 339-341; John A. Blatnik, interview by Joseph E. O'Connor, February 4, 1966, Washington, D.C., transcript, JFKOH; The President's News Conference of January 25, 1961, PPP-1961, 11; Wicker, *JFK and LBJ*; Dierenfield, *Keeper of the Rules*, 176-185.

President Kennedy proposed controversial legislation to address the nation's education crisis. School buildings were decaying; the baby boom overcrowded schools; and teachers' wages failed to keep up with inflation. On February 20, 1961, President Kennedy sent a special message on education to Congress. He proposed a multi-billion dollar program that included federal support to build classrooms, supplement teacher salaries, and subsidize poorer school districts. The proposition of federal aid to education historically faced opposition on several fronts: Americans failed to form a consensus on whether parochial schools should receive federal funds; southerners opposed federal aid that was tied to integration; and many opposed surrendering local control to the federal government. Federal intervention in Prince Edward County married the latter two concerns with the general political opposition to the president's liberal agenda. Senator Robertson declared that the attorney general's action "makes me doubly glad that I have always opposed Federal aid to public schools on the ground that Federal aid would inevitably be accompanied by Federal control." Robertson set to work organizing opposition to the education bill with renewed vigor.²⁵

Harry Byrd used federal action in Prince Edward County to lead a new assault on the president's education bill. On May 3, 1961, Harry Byrd took to the Senate floor to denounce the bill with federal intervention in Prince Edward as exhibit A:

²⁵ Irving Bernstein, *Promises Kept: John F. Kennedy's New Frontier* (New York: Oxford University Press, 1991), 218-245; Special Message to the Congress on Education, February 20, 1961, PPP-1961, 107-111; A. Willis Robertson, Statement, May 2, 1961, and A. Willis Robertson to Strom Thurmond, May 2, 1961, both in Drawer 150, AWRP.

This action is so intemperate it defies belief by parents of our children. But it is true, and it comes at a time when we are being urged to enact Federal subsidies for public school education in the name of “Federal aid to education.” If nonelected Federal officials will go to the extreme they are applying in Virginia now, who can imagine the ruthlessness of Federal bureaucrats with the power of the Federal purse to force their domination over the schools in our States and localities?

Byrd warned that federal dollars meant more federal control over public schools. He cautioned that any surrender of control over public education to the central government was “certain to be permanent,” despite provisions that declared otherwise. “Those relying on these provisions as safeguards against Federal school control will be booby-trapped,” cautioned Byrd. He again pointed to federal intervention in Prince Edward County to make his point. The omission of a provision permitting the attorney general to initiate action in school desegregation cases from federal civil rights legislation did not prevent Bobby Kennedy from intervening in the Prince Edward litigation. Following that logic, the federal government would go beyond the letter of the education bill to wrest even more control of public education from the states and localities. Prince Edward County served as “a fair warning” to the perils of federal involvement in public education.²⁶

Two conservative colleagues joined the choreographed floor “debate.” Senators Russell Long (D-LA) and Strom Thurmond (D-SC) warned that the education bill would lead to integration. Russell Long predicted that his colleagues would fold under pressure and prohibit federal dollars to segregated schools, thus forcing integration through

²⁶ Harry F. Byrd, “Federal Action to Control Public Schools in Virginia,” *Congressional Record*, May 3, 1961, 7097-7099.

financial coercion. Strom Thurmond, the Dixiecrat candidate for president in 1948, expected President Kennedy to use almost any incident as a “pretense for forcing integration.” Like Harry Byrd, Thurmond hitched the federal intervention in Prince Edward County to the education bill. He censured the attorney general for threatening to close all the public schools in Virginia to force integration in Prince Edward County. He called on all “right thinking” Americans of all regions of the nation to condemn “one of the most unreasonable steps that any Cabinet officer has ever taken in the history of the country.” Despite the conservative opposition, the Senate passed the education bill 49 to 34.²⁷

Kennedy’s education bill, however, died in Howard Smith’s Rules Committee. The Education and Labor Committee reported out the bill by a virtual party line vote (only one Democratic committee member opposed the bill). The legislation appeared to be gaining the support of southern legislators. Howard Smith worked to hold the conservative coalition together. He used the federal intervention in Prince Edward County as a key argument to rally southern opposition to the bill. He also circulated a race baiting letter to over one hundred newspapers, which read: “This is not a bill to aid education. It is a bill to aid the NAACP to complete the subjugation of the Southern states and control the direction and conditions under which our youth is to be educated.” Smith’s ability to hold together the conservative coalition and the religious issue led to the bill’s defeat. James Delaney (D-NY), a representative of a heavily Catholic district,

²⁷ *Ibid.*; Bernstein, *Promises Kept*, 218-245.

succumbed to constituency pressure and joined the conservative coalition in opposition. By an 8 to 7 vote the Rules Committee tabled the bill and a parliamentary device to free the bill from committee failed by an overwhelming 170-242 vote. Ted Sorensen considered it the administration's biggest legislative failure of 1961.²⁸

III

President Kennedy did not use federal patronage to soothe hard feelings over federal action in Prince Edward County. Since the president did not call off the Department of Justice's legal move, offering Harry Byrd some political plums would have been politically expedient. Patronage may have softened the conservative coalition's retaliation against the president's domestic program. Instead, in the days surrounding federal action in Prince Edward County, Kennedy named two prominent anti-Organization men to federal posts. Additionally, Kennedy rewarded three principal NAACP attorneys associated with the Prince Edward litigation to federal positions. With these appointments, Kennedy doubled-down on his defense of the locked-out children. President Kennedy used federal patronage, not to placate Harry Byrd, but to reward the Organization's opponents.

²⁸ Bernstein, *Promises Kept*, 218-245; Rickard L. Lyons, "School Bill Picking Up Southern Support," WP, May 7, 1961, A8; Wicker, *JFK and LBJ*, 143; William T. O'Hara, ed., *John F. Kennedy on Education* (New York: Teachers College Press, 1966), 17-22; James N. Giglio, *The Presidency of John F. Kennedy* (Lawrence: University Press of Kansas, 1991), 101-102.

The Byrd Organization's most outspoken critic joined the Kennedy administration. Francis Pickens Miller had vehemently derided the Organization for its unresponsiveness to the needs of Virginians and for facilitating the state's anti-democratic political climate. In 1949, Miller challenged the Organization's gubernatorial candidate for the Democratic nomination. He campaigned on, among other things, dismantling the infrastructure that supported the state's "self-perpetuating oligarchy." Nevertheless, John Battle won with a plurality in a four-man race, but Miller put up a good second place showing with 35.3 percent of the vote. Miller vowed to "continue to organize the forces of the Democratic Party until we have taken control of the party." In 1952, Miller set his sights on a bigger prize: toppling Harry Byrd in the senatorial race; however, Byrd won handedly and held off this last major attack by the state party's liberal wing. Recognizing the political reality, Miller worked to hold together the coalition of liberals, labor, and African Americans in support of the national party. In 1960, he was a leader of the Straight Democratic Ticket Committee, an organization committed to supporting the Kennedy-Johnson ticket – a sharp contrast to Harry Byrd's "golden silence." In May 1961, the most despised anti-Organization man was appointed special assistant in the Bureau of Cultural and Educational Affairs of the U.S. Department of State.²⁹

²⁹ Francis Pickens Miller, *Man from the Valley: Memoirs of a 20th-Century Virginian* (Chapel Hill: University of North Carolina Press, 1971); Peter R. Henriques, "John S. Battle: Last Governor of the Quiet Years," *The Governors of Virginia, 1860-1978*, edited by Edward Younger and James Tice Moore (Charlottesville: University Press of Virginia, 1982), 320-332; Peter R. Henriques, "The Byrd Organization Crushes a Liberal Challenge, 1950-1953," *Virginia Magazine of History and Biography*, 87, No. 1 (January 1979): 3-29; James R. Sweeney, "Revolt in Virginia: Harry Byrd and the 1952 Presidential Election,"

President Kennedy also nominated an anti-Organization man to the U.S. District Court of the Western District of Virginia. Thomas Michie had demonstrated political courage by defying massive resistance. In 1958, Mayor Michie stared down school closers by exhorting the citizens of Charlottesville to accept desegregation in order to preserve public education. Bob Crawford, president of the Defenders of State Sovereignty and Individual Liberties, urged Senator A. Willis Robertson to block the nomination: "I consider him one of the most liberal of liberals....I strongly feel that the appointment of Michie to a Federal judgeship would be extremely unfortunate." Likewise, Fred Switzer, a Democratic Party committeeman, advised Harry Byrd to invoke senatorial courtesy. He characterized Michie as "a radical left winger of the worst sort," "soft on the integration question," "bitterly anti-Organization," and "the worst enemy you have in Virginia other than [Francis] Pickens Miller." Nevertheless, the Senate confirmed Thomas Michie's appointment to the federal bench.³⁰

A war of words between Harry Byrd and the NAACP did not prevent Oliver Hill from joining the administration. On May 12, in adjoining Buckingham County, Harry Byrd distorted reality by blaming the NAACP, and the NAACP "alone," for the Prince Edward County school closings and 1,700 black children being kept out of school. He

Virginia Magazine of History and Biography, 86, No. 2 (April 1978): 180-195; Sweeney, "Whispers in the Golden Silence," 3-44.

³⁰ Associated Press, "Michie Selected For Judge's Post," May 10, 1961, RT, 1; Andrew B. Lewis, "Emergency Mothers: Basement Schools and the Preservation of Public Education in Charlottesville," in *Moderates' Dilemma: Massive Resistance to School Desegregation in Virginia*, edited by Matthew D. Lassiter and Andrew B. Lewis (Charlottesville: University Press of Virginia, 1998), 72-103; Robert B. Crawford to A. Willis Robertson, February 10, 1961, Drawer 149, AWRP; G. Fred Switzer to Harry F. Byrd, February 10, 1961, Box 2, GFSP; Associated Press, "Michie Takes Office As New Federal Judge," RT, July 30, 1961, B6..

derided the NAACP, specifically attorney Oliver Hill, for advising the black community (with unsubstantiated allegations of intimidation) to reject the offer of white leaders to set up a separate private school for blacks. Hill responded to Byrd at a mass rally in Farmville the following week. He put the onus for the school closings on the county leaders and characterized their action as “a crime against humanity.” The attorney defended his advice on rejecting segregated private schools: “How could any sensible person expect anyone with an ounce of common sense to voluntarily accept an arrangement designed solely for the purpose of perpetuating ‘inherently unequal’ school facilities simply because the public officials of this county, in the exercise of overabundance of obstinacy and self-aggrandizement, had closed the public schools?” Despite a vigorous rebuttal that characterized Byrd’s core constituency as “tyrants,” Oliver Hill joined the Federal Housing Administration as assistant to the commissioner.³¹

President Kennedy appointed two additional NAACP attorneys with Prince Edward connections to federal positions. Spottswold Robinson had filed the *Davis* case in U.S. District Court a decade earlier. In April 1961, Kennedy nominated Robinson to the U.S. Commission on Civil Rights. Subsequently, the Robinson nomination, along with that of Erwin Griswold of Harvard Law School, altered the composition of the commission to “a clear majority openly in favor of the liberal civil rights position,” wrote commission historian Foster Rhea Dulles. Months later, President Kennedy gave

³¹ Harry F. Byrd, “In Defense of Prince Edward County of Virginia,” May 12, 1961, in *Congressional Record*, May 17, 1961, 8194-8195; “Speech of Oliver W. Hill on the Seventh Anniversary of the May 17 Decision of the United States Supreme Court,” May 20, 1961, Box 7, CBKP; Oliver W. Hill, *The Big Bang: Brown v. Board of Education and Beyond* (Winter Park, FL: FOUR-G Publishers, 2000).

Thurgood Marshall a recess appointment to the U.S. Second Circuit Court of Appeals.

“Mr. Civil Rights” had argued the *Brown* case before the U.S. Supreme Court.



Figure 7.4 Oliver Hill, Roy Wilkins, and L. Francis Griffin, May 20, 1961. (Photo: *Richmond Times-Dispatch*).

“Everybody connected with the NAACP attack on our school system appears to have profited and moved on to better pastures,” commented Barrye Wall in the *Farmville Herald*.³²

³² Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's*

The timing of these appointments is notable. Miller, Michie, and Hill were all appointed in May 1961. In fact, the administration announced the Michie nomination on the ninth, two days after Kennedy helicoptered to Byrd's estate. Had the president attended the spring luncheon to conciliate Byrd, as Nick Bryant asserted in *The Bystander*, the Michie announcement would have been poorly timed. Further, in the days following Byrd's luncheon, Kennedy had sufficient time to mollify Harry Byrd by withdrawing Spottswood Robinson's nomination and punishing Oliver Hill for his war of words with the senator. Nevertheless, Congress soon confirmed Robinson, and Hill joined the Federal Housing Administration. Certainly then, Kennedy's visit to Byrd's luncheon was more benign than Nick Bryant alleged.

IV

The federal intervention made the Prince Edward County school closings an issue in the Virginia gubernatorial race. Samuel Tucker, a NAACP attorney, had considered Kennedy's April motion "timely," because it forced public debate on the school crisis. "After a history of defiance, evasion, and vacillation in state leadership I don't think Virginia citizens are going to let either candidate remain silent on the issue." In fact, all the Democratic candidates for governor, lieutenant governor, and attorney general – both

Struggle for Equality (New York: Alfred A. Knopf, 1975); Foster Rhea Dulles, *The Civil Rights Commission: 1957-1965* (East Lansing: Michigan State University Press, 1968), 100-104; "Marshall Named To Appeals Court: NAACP Counsel Is Picked by President Kennedy," NYT, September 24, 1961, 54; Editorial, "Home To Roost," FH, December 1, 1961, 1B.

Organization and anti-Organization men – denounced the federal action, but there was a difference.³³ The Organization candidates campaigned on the status quo, while the antis openly opposed the school closings and presented a plan to reopen them. Nevertheless, the Byrd Organization won the Democratic primaries. Ultimately though, the campaign contributed to the demise of the Organization. The Kennedys had forced a public discussion on Prince Edward County, an enduring reminder of the failed massive resistance scheme.

Harry Byrd gave Albertis Harrison the “nod” to run for governor. Harrison was an ideal candidate to reunite the Organization in the aftermath of the Byrd-Almond schism. He had risen to the upper echelons of state government by adhering to Organization orthodoxy. As a state senator (1948-1957), Harrison supported massive resistance even though he privately questioned the law’s constitutionality and recognized that desegregation was “inevitable.” As state attorney general (1958-1961), Harrison defended the massive resistance program. After its fall, he proved instrumental in convincing state leaders to accept “freedom of choice” to keep desegregation to a minimum. Although Governor Almond suffered politically for abandoning massive resistance, Harrison emerged virtually unscathed, subsequently building a wide base of support. As far as massive resistance, Harrison considered the matter a dead political issue and had been delighted that the school controversies were “out of the press.” The

³³ “Atty. Tucker Hails Justice Dept. Prince Edward School Case Aid,” *Charlottesville-Albemarle Tribune*, May 4, 1961, 1; James Latimer, “Prince Edward Issue May Affect Primary,” *RTD*, April 30, 1961, 1; Drafts of “Statement of A.S. Harrison, Jr., Former Attorney General of Virginia, Relative to the Intervention of the United States Department of Justice in the Prince Edward School Case,” Box 73, ASHP.

urbane Southside Virginian privately pledged to refrain from the rhetorical flourishes and race-baiting that defined Almond's previous campaign. "I will stick to my position as being opposed to integration, but I will soft-peddle it," explained Harrison. "I am not going to say anything to arouse racial feeling." The governor's office was Harrison's to lose.³⁴

A.E.S. "Gi" Stephens ensured that Harrison did not have an unobstructed path to the governor's mansion. Lieutenant Governor Stephens, once a staunch Organization man, ran as the anti-Organization candidate. The Southside Virginian had fallen out of favor with Organization leaders for joining with Governor Almond in the retreat from massive resistance. In fact, in the previous fall, State Senator Garland Gray had advised Harry Byrd to select the Organization's gubernatorial nominee at the earliest possible date to block Stephens from running. He warned that a Stephens victory would have "a disastrous effect" on the Organization. Byrd's hesitation provided an opening for Stephens's insurgent run. After failing to win Byrd's endorsement, Stephens preempted the official "nod" by announcing his candidacy. On paper, the gubernatorial candidates had similar resumes: both had Organization backgrounds and later supported "freedom of

³⁴ Virginius Dabney, "Albertis S. Harrison, Jr.: Transition Governor," in *The Governors of Virginia*, 360-371; Benjamin Muse, "Visit to Richmond, June 1, 1960," June 6, 1960, Benjamin Muse, "Virginia: State Senator Haddock, Atty. Gen. Harrison, Editor Wyatt: Thurs and Friday, October 20-21," October 24, 1960, Benjamin Muse, "Conversation with Attorney General Harrison, Richmond, Va., January 24, 1961," March 8, 1961, all in Reel 56, SRCP. Kennedy could not expect any acts of political courage from Albertis Harrison. However, in the off chance that Harrison teamed with Kennedy, the odds would have increased for resolving the school crisis, while at the same time further dividing a Byrd Organization still reeling from the Byrd-Almond rift – a win-win scenario for Kennedy and political suicide for Harrison.

choice.” The candidates’ positions on Prince Edward County, however, demonstrated a contrast. The federal intervention brought that contrast into plain view.³⁵

The federal action in Prince Edward County put the anti-Organization ticket on the defensive. James Latimer, a journalist with the *Richmond Times-Dispatch*, predicted that federal intervention “won’t hurt and should help” the Organization ticket, while “it won’t help and may hurt the Stephens ticket.” Gi Stephens and his running mate, State Senator Armistead Boothe of Alexandria, both opposed the attorney general’s motion. Stephens found it “lamentable.” Stephens believed that state and local officials, not the federal government, had to resolve the issue. Boothe agreed. He called the attorney general’s action “extreme, lamentable, and contrary to the welfare of more than 800,000 public school children.” Still, the anti-Organization ticket could not escape guilt by association, as they both had campaigned for the Kennedy in 1960. The anti-Organization ticket, although in opposition to federal intervention, were more closely associated with the Kennedys and, therefore, suffered the political ramifications.³⁶ The Byrd candidate, however, had Prince Edward County problems of his own.

Albertis Harrison’s negotiations with Justice officials haunted his campaign. In his statement announcing the intervention motion, Bobby Kennedy explained that court

³⁵ J. Harvie Wilkinson III, *Harry Byrd and the Changing Face of Virginia Politics, 1945-1966* (Charlottesville: University Press of Virginia, 1968), 237-240; Frank B. Atkinson, *The Dynamic Dominion: Realignment and the Rise of Virginia’s Republican Party Since 1945* (Fairfax: George Mason University Press, 1992), 115-118; Heinemann, *Harry Byrd of Virginia*, 407-408; Garland Gray to Harry F. Byrd, October 7, 1960, Box 244, HFBP.

³⁶ James Latimer, “Prince Edward Issue May Affect Primary,” RTD, April 30, 1961, 1; “U.S. Move Is Called ‘Ruthless,’” RTD, April 28, 1961, 1; Armistead L. Boothe, “Excerpt from speech delivered at William and Mary College to ODK Society on ‘Leadership,’” April 28, 1961, Box 4, ALBP.

action was taken only after talks with public officials failed to achieve a voluntary solution. He omitted the names of the officials he conferred with, fueling suspicion of who spoke on behalf of Prince Edward County. Governor Almond, the county attorneys, school superintendent, and school board all denied holding any discussions with the Department of Justice. Finally, on May 2, two days after resigning as state attorney general to run for governor, Harrison identified himself as the one that conferred with Justice officials. He divulged that county attorneys were kept abreast of discussions, but not state leaders. Gi Stephens pounced by questioning Harrison's professional conduct. "Certainly Mr. Harrison must realize," stated Stephens, "that as chief legal adviser of the commonwealth of Virginia it was his duty to keep the chief executive, and others holding responsible state offices, informed at all times of major developments affecting vital public matters." Harrison denied any need to contact the governor considering that during their discussions the attorney general had not threatened to close all schools in Virginia. In fact, Harrison spun the criticism by alleging that Stephens was trying to divert attention from the attorney general's statewide school closing threat – a naked effort to derisively connect his opponent with the Kennedys.³⁷

Each ticket tried to define the other in terms of the school closer-integrationist dichotomy. Stephens and Boothe supported "freedom of choice" and opposed the school

³⁷ Department of Justice Press Release, April 26, 1961, Reel 105, RG 60; "U.S. Move Is Called 'Ruthless,'" RTD, April 28, 1961, 1; "Abbitt Predicts School Action Will Be Resisted in Virginia," RTD, April 27, 1961, 1; "Almond Calls Conclave In U.S. Integration Push," RNL, April 27, 1961, 1; Drafts of "Statement of A.S. Harrison, Jr., Former Attorney General of Virginia, Relative to the Intervention of the United States Department of Justice in the Prince Edward School Case," Box 73, ASHP; Albertis S. Harrison, Jr., to J. Lindsay Almond, Jr., April 14, 1961, Box 179, JLAP; Allan Jones, "Candidates Tangle On Schools: Stephens Raps Harrison Stand," RTD, May 4, 1961, 1.

closings. Therefore, the Harrison campaign tied them to the Kennedys and the NAACP, branded them as “integrationists,” and warned of their commitment to “maximum integration.” The Harrison ticket clearly outlined their differences in a campaign ad that ran in the *Farmville Herald*: “We are opposed to the integration of the races in our public schools. Thus we are **not** the ticket which has been endorsed by the NAACP.” On the campaign trail, Harrison recounted his work as state attorney general to preserve Jim Crow. “Our policy has been to resist every case of integration in schools, swimming pools, or drugstores – and I was there to oppose it,” boasted Harrison. “The policy of Virginia is to take all legal, constitutional means to avoid the evils resulting from the Supreme Court’s school decision.” On the other hand, the Stephens campaign labelled its opponents as the massive resistance ticket. Stephens warned that a Harrison administration would “wait on the sidelines for another chance to padlock our classrooms.”³⁸ In reality, Harrison and Stephens’s records were not as divergent as they portrayed them to be.

The race for lieutenant governor provided the voters a clear choice. State Senator Mills Godwin of Nansemond (Southside Virginia) had the purest massive resistance record of any candidate running for statewide office. In fact, Godwin was a “principal architect” of that policy, who, at the time, pledged never to retreat “from our stand of no compromise on our principle of total segregation in Virginia.” When massive resistance

³⁸ Associated Press, “Godwin Scores Boothe’s School Plan,” RTD, June 12, 1961, 1; Laurence Stern, “Harrison, Stephens Hold First Debate In Virginia Contest,” WP, June 7, 1961, A1; Harrison-Godwin-Button Campaign, “Pledged to the PROGRESS of Virginia!” in FH, June 30, 1961, 5B; Laurence Stern, “Harrison Pledges Legal Fight To Keep Schools Segregated,” WP, July 2, 1961, A2; “Virginia Campaign Enters Final Stage,” WP, July 6, 1961, B3.

collapsed Godwin remained steadfast. He signed the minority report in opposition to “freedom of choice.” Armistead Boothe reminded the electorate that Mills Godwin voted for every school closing bill. He, therefore, characterized the lieutenant governor’s race as a “fight between school-closer Godwin and school-opener Boothe.” Boothe, an opposition leader within the Organization, had been an outspoken opponent of massive resistance, a defender of public schools, and a supporter of “freedom of choice.” During the campaign, Boothe proposed a plan to reopen Prince Edward County’s public schools and safeguard “freedom of choice.”³⁹

The “Boothe plan” required the state to take responsibility for public education in Prince Edward County. Under the proposal, the General Assembly would provide the funds to operate public schools. Over the previous two years, the state had saved money from the school closings. The schools could be funded by those unappropriated dollars and an additional \$125,000, an amount Boothe described as “a modest price to pay to erase a dark blot from Virginia’s education escutcheon.” The plan protected “freedom of choice” by permitting black students to attend the public schools so that whites could continue receiving tuition grants to attend segregation academies. Gi Stephens rightfully predicted that the federal courts would find the tuition grants unconstitutional if the

³⁹ James L. Bugg, Jr., “Mills Edwin Godwin, Jr.: A Man for All Seasons,” in *The Governors of Virginia*, 372-391; *Report of the Commission on Education to the Governor of Virginia* (Richmond: Commonwealth of Virginia, 1959); Associated Press, “Boothe Says Godwin Showed ‘Disregard’ for Public Schools,” RTD, May 18, 1961, 2; Associated Press, “Stephens Says Harrison Is Avoiding Issues,” RTD, May 19, 1961, 9; James H. Hershman, Jr., “Armistead Lloyd Boothe,” in *Dictionary of Virginia Biography, Volume 2*, edited by Sara B. Bearss, et al. (Richmond: Library of Virginia, 2001), 92-94; J. Douglas Smith, “When Reason Collides with Prejudice: Armistead Lloyd Boothe and the Politics of Desegregation in Virginia, 1961-1963,” *Virginia Magazine of History and Biography*, 102 (1994): 5-46.

public schools remained closed.⁴⁰ Certainly, the plan had its shortcomings; the funding only accounted for one school year and it set a poor precedent that allowed other localities to shirk its public school responsibility. Boothe, at least, opened a discussion on resolving the matter, but at the same time, his proposal exposed him to political attack.

Organization leaders resolved to concentrate their fire on Armistead Boothe. “I feel that if we can ‘break Boothe’s back’ we will have the campaign won,” Watkins Abbitt advised Harry Byrd. “He is the spearhead of the ticket and the most vulnerable.” The Boothe plan became fodder for attack. Albertis Harrison derided his opponents for injecting the school closings into the campaign. “If the NAACP, the federal government, the Stephenses and the Boothers would leave Prince Edward alone,” declared Harrison, “the responsible people of the county – white and colored – would soon solve their problems.” While Harrison derisively associated the antis with integrationists, Mills Godwin slapped the Boothe plan and sounded the massive resistance dog whistle. Armistead Boothe “well knows that neither Prince Edward County nor the state can open or operate a public school for Negroes only,” attacked Godwin. “Any public school operated in Prince Edward County must be an integrated school.”⁴¹ The Organization ticket offered no alternative plan. Instead, they gambled on the people accepting the status quo in Prince Edward County.

⁴⁰ “Boothe Would Have Virginia Pay Cost of Schools in Prince Edward,” WP, June 11, 1961, A1; Allan Jones, “Stephens Charges Foes Are Panicky,” RTD, June 22, 1961, 1.

⁴¹ Watkins M. Abbitt to Harry F. Byrd, May 25, 1961, Box 264, HFBP; Allan Jones, “Touchy Problem Plaguing Candidates,” RTD, June 19, 1961, 2; Allan Jones, “State Intervention Seen Ill-Advised,” RTD, June 14, 1961, 1.

Pledged to the PROGRESS of Virginia!

HARRISON · GODWIN · BUTTON



Albertis S. HARRISON, Jr.
for Governor

Mills E. GODWIN, Jr.
for Lt. Governor

Robert Y. BUTTON
for Atty General

**Keep Virginia Growing · Keep Virginia Strong
with this PROVEN team of Virginia Leaders**

We propose to bring additional jobs to Virginia by vigorously promoting industrial development.

We are against the weakening of Virginia's Right-To-Work Law.

This law is vital to attracting new industry, thus promoting the economic growth and protecting the liberties of the working man.

We are **not** the ticket which has been endorsed by the CIO labor hierarchy.

We are **not** the ticket which has stated that Virginia must impose additional taxes on it's citizens.

We are apposed to the integration of the races in our public schools.

Thus we are **not** the ticket which has been endorsed by the NAACP.

We are pledged to a healthy, progressive Virginia, and a Virginia financially sound with economic government.

We do **not** favor the creation of new, expensive bureaus in Richmond.

We favor a better Virginia through better education. We are pledged to quality education.

*Albertis S. Harrison, Jr.
Mills E. Godwin, Jr.
Robert Y. Button*

VOTE HARRISON · GODWIN · BUTTON
JULY 11th
Democratic Primary

Figure 7.5 Harrison-Godwin-Button Advertisement

The Stephens-Boothe challenge concerned Harry Byrd. The campaign offered the state Democratic Party its first real choice since the Byrd-Miller senatorial race. The primary served as a referendum on the Organization and its policies. Byrd, therefore, injected himself into the campaign. In response to a barrage of Stephens's attacks against the Organization, Byrd released the lieutenant governor's letter from months earlier requesting his endorsement. The letter's public release signaled Byrd's support for Harrison. Stephens made his sever with Organization complete in his response to Byrd's move: "I am not running against Albertis Harrison but... I am opposing the head of a machine who would be United States Senator and Governor at all times." Further, Harry Byrd mobilized the Organization to turn out the vote. Ironically, Harry Byrd, who relied on voter apathy to maintain the Organization's dominance, feared that low turnout would sink his ticket. "The Negroes will come out and do not need any urging," Byrd privately warned, "What we have to do is get out our conservative votes in order to win." He looked to his base. "It is imperative that the 4th District get out the biggest possible vote," Harry Byrd wrote Barrye Wall. The *Farmville Herald* dutifully complied with an endorsement of the Organization ticket and a vigorous attack on Stephens. "One of Stephens' main projects will be to work *against* this county and other counties in Southside Virginia," editorialized Barrye Wall. "OBVIOUSLY STEPHENS MUST NOT BE ELECTED!"⁴²

⁴² Heinemann, *Harry Byrd of Virginia*, 407-408; Harry F. Byrd to Charles T. Moses, July 7, 1961, Harry F. Byrd to J. Barrye Wall, June 29, 1961, both in Box 268, HFBP; Editorial, J. Barrye Wall, "Your Vote Is The Most Important," FH, July 11, 1961, 4A.

The Organization ticket held off the anti's challenge. Harrison and Godwin won the election by turning out the vote in Southside Virginia, a region they carried by an overwhelming majority. In fact, they won Prince Edward County by a 4-to-1 ratio. The statewide polling (Harrison, 56.7 percent and Godwin, 54.3 percent) was not nearly as impressive and too close for comfort by Organization standards. "The significance of the outcome lay not so much in the fact that the Byrd men had won yet again," wrote Frank Atkinson in *The Dynamic Dominion*, "but in the closeness of the contests." The once invincible Organization appeared vulnerable and in decline.⁴³

The Kennedy administration took executive action in Prince Edward County despite the political consequences. The president's domestic agenda had to pass through key congressional committees chaired by members of the Virginia delegation. Harry Byrd, A. Willis Robertson, and Howard Smith already held the Kennedy brothers with suspicion and opposed the national party's platform. Those congressional leaders did not need another reason to assail the president's domestic program, but the federal intervention in Prince Edward County was like an attack on the Byrd Organization itself. The Organization called off the "armed truce" and retaliated against the president's education bill. Nevertheless, the Kennedy administration did not surrender to Harry Byrd

⁴³ Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics*, 239; "Prince Edward County Vote," FH, July 14, 1961, 7; Atkinson, *The Dynamic Dominion*, 118.

or relent on Prince Edward County. In fact, the attorney general's action hastened the decline of the Byrd Organization.

The Kennedy administration refused to back down on Prince Edward County. The president's use of federal patronage reinforced Kennedy's conviction to stand with the locked-out children over Harry Byrd. In the wake of the intervention motion, President Kennedy appointed three NAACP attorneys who worked on the Prince Edward litigation and two prominent anti-Organization men to federal positions. Second, the Department of Justice actively pursued a resolution to the school crisis even after the federal court denied its intervention motion. The Department of Justice sought a negotiated settlement. In mid-August 1961, Burke Marshall and St. John Barrett invited the county's legal counsel (Segar Gravatt, Collins Denny, Jr., and State Attorney General Frederick Gray) to a private meeting in Richmond, presumably to discuss a plan to end the impasse. Prior to the conference, Segar Gravatt pledged to Harry Byrd that he would "make no compromise" on their position. True to his word, the county attorneys reported that they "reached no conclusions whatsoever" in their meeting with Marshall and Barrett.⁴⁴ Clearly, Harry Byrd refused to permit the crisis to end.

The executive action in Prince Edward County contributed to the downfall of the Byrd Organization. The attorney general earned criticism for threatening to close all Virginia's public schools if Prince Edward County's remained closed. The administration

⁴⁴ Telephone Logs, August 7, 1961, Box 9, John Doar to Frederick T. Gray, August 9, 1961, Box 1, both in BMP; J. Segar Gravatt to Harry F. Byrd, August 5, 1961, Box 5, WMAP; Associated Press, "Edward Case Parley Held In Secrecy," WP, August 17, 1961, A6.

had no desire to close any school but only to inspire Virginia communities to turn against Prince Edward County, and thus, the Byrd Organization. The threat of federal court action against all Virginia's public schools remained real as long as the county maintained its recalcitrance. Virginian parents detested the proposition that their children be penalized for Prince Edward County. As time passed, the county attorneys recognized that they were losing popular support across the commonwealth.⁴⁵ Second, the Kennedy administration drove a wedge into an Organization still reeling from the Byrd-Almond rift. Gubernatorial candidate Albertis Harrison was supposed to heal those fissures. The federal intervention reopened those wounds by making the school closings a campaign issue. The Organization ticket defended the school closings – an enduring indictment on the excesses of massive resistance – while the antis proposed to reopen the schools and preserve “freedom of choice.” The clear distinction over that issue gave the electorate a clear choice. The close election results demonstrated that the Byrd Organization was losing its grip on Virginia politics.

The Department of Justice tried, but failed, to force the state and local officials to take responsibility for public education in Prince Edward County. The federal courts had permitted federal intervention in the Louisiana school desegregation cases. In its 1961 report, the U.S. Commission on Civil Rights concluded that “the most effective executive action in public school desegregation has been the participation of the Attorney General of the United States in some desegregation suits....Only in Prince Edward has the Federal

⁴⁵ Collins Denny, Jr., to J. Segar Gravatt, February 22, 1962, Box 2, JSGP.

court denied the Attorney General the right to intervene to protect the interests of the United States.”⁴⁶ Judge Oren Lewis’s indecision took the state and county off the hook, at least for the moment. The court’s decision set in motion an inordinate delay that bought the segregationists more time and prolonged the injustice being inflicted on the black children. Some entity had to take responsibility for educating all the children in Prince Edward County.

⁴⁶ U.S. Commission on Civil Rights, *1961 United States Commission on Civil Rights Report: Education* (Washington, D.C.: GPO, 1961), 150, 174.

CHAPTER VIII

WHO'S RESPONSIBLE?

The Prince Edward County school closings raised the question of who's responsible for education. "The responsibility for the education of the youth must soon be determined," wrote Barrye Wall on the *Farmville Herald* editorial page in 1955. "Will it become the responsibility of the Federal Government? Is it the responsibility of the State Government? Or, is it the responsibility of the local government? Or is it the responsibility of the parent." Wall had maintained that the obligation rested with the state, which should then yield control to localities. However, that position became untenable once school closings came under assault in federal court. *Hall v. St. Helena Parish School Board* determined that the state was responsible for public education and that it could not deflect that obligation to localities so that they could permit school closings. The Prince Edward County segregationists' opinion on the matter, therefore, shifted with legal strategy. They took the position that public education was the responsibility of the state, but that education was primarily the responsibility of the parent.¹

The county segregationists took responsibility for educating the white children. In September 1961, the Prince Edward School Foundation dedicated a permanent high

¹ Editorial, "Who's Responsible?" FH, April 22, 1955, 7; *Hall v. St. Helena Parish School Board*, 197 F. Supp. 649 (E.D. La. 1961), affirmed 368 U.S. 515, 82 S. Ct. 529, 7 L.Ed.2d 521; Editorial, "Stand Steady Prince Edward," FH, June 19, 1962, 4A.

school complex on a thirteen-acre site in Farmville. The campus-style plant consisted of six brick buildings connected by covered crosswalks. Prince Edward Academy had twenty-seven classrooms, a shop, home economics department, and library. The complex was valued at \$400,000, but donated materials and volunteer labor cut the construction cost to \$230,000. “All of this had been done through the efforts and sacrifice of our people,” boasted board member Robert Taylor. Prince Edward Academy stood as a source of accomplishment for the white community. “For hundreds of people who had contributed to the building of this plant a sense of ownership and pride was felt,” said Barrye Wall. The school symbolized the segregationists’ commitment to educating their children in the manner they desired. “It was... a protest that outsiders could not come in and tell us how to live, where to send our children to school, take away the ‘freedom’ that we had in choosing,” remembered a foundation student.¹ The new school made segregated private education a fixture in Prince Edward County.

The segregationists criticized the black community for not taking responsibility to educate their children. John H. Varner of Farmville predicted that the black children, in time, would fault their parents: “I believe [the child] will blame his parents as he will realize that the basic responsibility of educating a child is that of the parents. He will know that an education could have been his had his parents availed themselves of the

¹ “Third Year Launched By School Foundation With Brand New Plant,” FH, September 8, 1961, 1; “Dedication Sunday, 2:30 P.M.,” FH, September 15, 1961, 1; B. Blanton Hanbury to Contributors and Patrons, n.d., Box 126, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; “Milestone,” FH, September 19, 1961, 4; Leonard Buder, “School Opens for Whites Only In Virginia County for 4th Year,” NYT, September 5, 1962, 24; Anne Calhoun, e-mail to Brian E. Lee, January 30, 2011.

opportunity.” J. Guy Lancaster, also of Farmville, believed that black parents had to take action: “All the Negro parents have to do is organize and really try to do something about it....Do the colored people of the county intend to wait year after year and do nothing practicable toward educating their own children?”² The segregationists invariably reminded the media that the black parents rejected their offer to establish black private schools (Southside Schools, Inc.); of course, they omitted any reference to their ulterior motives, thus perpetuating the myth of white benevolence. The segregationist leaders had convinced the white community that it had a clean conscience, thus clearing the path to blame the victims.

The black community had welcomed an educational program for its children. In July 1961, the Virginia Teachers’ Association (VTA) operated a four-week summer crash program to prepare the locked-out children for the potential resumption of public education. These classes, the first formal education program for black children since the schools closed, were taught by volunteer teachers in private buildings. The segregationists tried to exploit the situation. In a letter dripping with feigned sympathy, the school board had offered the VTA use of the public school buildings free of charge. Chairman Edward Smith claimed that the board was “deeply distressed that a substantial segment of the children of the County have now for two years been without schools,” adding that “the School Board believes that it should do all it can to help.” The offer was

² Letter to the Editor, John H. Varner, “Parents Responsible For Child’s Education,” FH, June 30, 1961, 1C; Letter to the Editor, J. Guy Lancaster, “Education Of Child Parents Responsibility,” FH, April 29, 1960, 1C.

not genuine. County attorney Segar Gravatt described the ruse to Harry Byrd: “If we can ever get the Negro children into the schools of Prince Edward I do not believe that they will ever permit the NAACP to get them out again. If we can discredit the NAACP leadership in the County, as a practical matter, our battle will be won.” Reverend Griffin saw through the deceit and declined the school board’s offer.³ The white leaders’ interest in black education did not extend beyond perpetuating segregated private education, and the black parents lacked the resources to sustain an educational program. The school crisis required a solution from government.

Education in Prince Edward County became a political hot potato. The 1961-62 school year witnessed little progress, even as the crisis compounded. The county’s parents bore the hardship of providing education for their children; the white parents had to pay private school fees without the benefit of tuition grants and black parents had to send their children away from home to attend school. Meanwhile, no branch of government at any level took responsibility for education in Prince Edward County. The

³ Virginia Teachers’ Association, “Plan of Operation: Remedial Instruction Program, Prince Edward County, Virginia, Summer, 1961,” n.d., Box 61, VTAP; “School Plan Eyed For Prince Edward,” RTD, May 14, 1961, 8B; W. Edward Smith to J. Rupert Picott, June 14, 1961, Box 124, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; J. Rupert Picott to W. Edward Smith, June 19, 1961, and L. Francis Griffin to W. Edward Smith, June 23, 1961, both in Group III, Box C160, NAACP; J. Segar Gravatt to Harry F. Byrd, June 16, 1961, Box 5, WMAP. The summer crash program exposed the consequences of educational deprivation. Diagnostic testing and observation revealed an alarming level of educational regression. Herbert Marshall, president of the VTA, rang the alarm bell in testimony before the State Board of Education. He highlighted the plight of a third grader who, after two years without school, had forgotten how to write her name. Marshall urged the board to use its influence to reestablish the county’s public schools. Another witness cautioned that “if we don’t do something for those children we’ll have to build other institutions for them eventually – jails and penitentiaries.” See Ben Bowers, “Negro Class Enrollment Of 401 Tops Expectations: VTA Leaders Are Pleased With Project Progress,” FH, July 18, 1961, 1; James Baker, “Toil to Open Schools, VTA Bids State Board,” RNL, July 21, 1961, 17.

governor, general assembly, and state courts had opportunities to take action, but they all punted. The county, even with the financial woes of the Academy, remained steadfast by not allocating funds for public schools. The county refused to retreat until ordered by a federal court to reopen the public schools. Judge Oren Lewis proved reluctant to force state and local officials to take responsibility. Without a federal court order, the Department of Justice had no statutory authority to act. Justice eagerly awaited an affirmative ruling. The Kennedy administration was the only government entity willing to take decisive action to remove the responsibility from the parents.

I

The situation in Prince Edward County placed an unusual burden on parents. The federal injunction on tuition grants put a crushing weight on Academy parents. With the annual budget fixed, white parents had to pay taxes for tuition grants that they could not use *and* still find money to pay for their children's fees at the private academy. Months earlier, Barrye Wall arrogantly responded to the *Saturday Evening Post's* hypothetical question about a possible injunction: "No problem. We'll go without grants. The parents here will raise the money one way or another. They want these private schools so badly." Now, Wall admitted that the injunction "brings problems for the parents of Prince

Edward County.”⁴ The black parents, again, faced an even more daunting problem. They also paid taxes to support tuition grants, but they had no freedom of choice, no local school available for their children. Black parents had to bear the financial and emotional costs of sending their children away from home to receive an education.

Academy leaders worked to ease their patrons’ concerns. On his editorial page, Barrye Wall reassured the community that “the Prince Edward School Foundation will provide means for educating those enrolled in its schools without undue hardship on the individual parents.” Blanton Hanbury announced the foundation’s intention to provide schools for all white children regardless of their parent’s ability to pay fees. “Parents who can will be expected to pay tuition,” explained Hanbury, “but we will have a scholarship program to provide for those who can’t pay.” The foundation made a statewide appeal to raise \$300,000 for its scholarship fund. Hanbury mailed an “urgent” appeal to those interested in the “defense of State sovereignty and the liberties of individuals” for donations. State Senator William Stone of Martinsville answered the call with a \$100 check and a note for publication in the *Farmville Herald*: “I believe that there are at least 3,000 persons in this country who will give \$100.00 annually, if necessary, to aid you.”⁵ Senator Stone overstated the philanthropic interest of his countrymen.

⁴ Irv Goodman, “Public Schools Died Here,” *Saturday Evening Post*, April 29, 1961, 87; Editorial, “Prince Edward Stand Steady!” FH, August 25, 1961, 1.

⁵ Editorial, “Questions Not Decided,” FH, August 29, 1961, 4A; “\$300,000 Asked For A Continuing Scholarship Fund: Plan Designed To Aid Parents Who Can’t Pay Fees,” FH, August 29, 1961, 1; B. Blanton Hanbury, August 1961, 5471, WMTP; Letter to the Editor, William F. Stone, “Stand Steady Prince Edward,” FH, September 1, 1961, 1C.

The Committee in Support of Prince Edward was formed to meet the financial needs of white families. Congressmen Watkins Abbitt and Bill Tuck, the “most massive of resisters among the state’s major political figures,” spearheaded a statewide campaign to raise \$200,000. The committee centered its campaign on the white children’s victimization by a popular southern straw man: the federal government. The organization’s literature blamed the federal court for destroying public education and their determination “to sacrifice future generations of Southern white children in fulfillment of a fraudulent sociological notion that there is no biological difference between the Negro and white race.” The fund drive sputtered despite the emotional appeal. The philanthropic capacity of the surrounding Southside communities, for one, had its limits. After having raised \$10,000 for the Academy over the previous two years, Delegate John Daniel determined that neighboring Charlotte County had “about scraped the bottom of the barrel.”⁶ The foundation could not expect its neighbors to finance its school program in perpetuity.

The foundation faced a great financial challenge as its support eroded. For years, James Kilpatrick had used the *Richmond News Leader*’s editorial page to cheerlead for the county’s segregated education scheme. He altered his position. “We are charged with defending what appears absolutely indefensible to the rest of the country,” Kilpatrick

⁶ “Scholarship Fund Appeal Headed By Abbitt, Tuck,” FH, November 21, 1961, 1; Committee In Support of Prince Edward, “The Issue Presented in Prince Edward County,” n.d., 5471, WMTP; William Bryan Crawley, Jr., *Bill Tuck: A Political Life in Harry Byrd’s Virginia* (Charlottesville: University Press of Virginia, 1978), 233; Roy R. Pearson to Watkins M. Abbitt, February 22, 1962, Roy R. Pearson to L.C. Harwell, Jr., March 23, 1962, both in Box 6, WMAP; John H. Daniel to Watkins M. Abbitt, December 29, 1961, Box 23, JHDP.

wrote to Senator A. Willis Robertson. “For the past two years, I have done my best to argue the law and keep my eyes closed to the merits.” Now he publicly and privately urged the county to reopen its schools as the only way to preserve freedom of choice. Robertson agreed and also questioned the foundation’s fundraising capacity. He believed that this was the last year that it could raise \$300,000. Barrye Wall remained unmoved. In fact, he found opportunity in the injunction. “This will show the world we can get along without public aid whatever,” declared Wall. Further, if the foundation “can be reasonably financed the federal court can not say we are a public school.”⁷ Despite the financial realities and eroding support, the segregationist leaders were determined to maintain their segregated private schools and keep the public schools closed.

The black parents, again, had to find schools for their children. The Prince Edward County Christian Association (PECCA) worked with other organizations to identify host families. In August 1961, Hans Furth of Catholic University and Burma Whitted formed the Prince Edward Educational Committee. They placed twenty-nine locked-out children in Washington, D.C., schools and raised money to pay for out-of-district tuition and boarding. For a second year, the American Friends Service Committee located host families for black Prince Edwardians. The Placement Program assigned thirty-seven children to homes and schools in eight states. Approximately three hundred black children in all went to school outside of the county, the great majority of whom

⁷ James J. Kilpatrick to A. Willis Robertson, September 7, 1961, A. Willis Robertson to James J. Kilpatrick, September 6, 1961, both in Drawer 150, AWRP; J. Barrye Wall to John H. Daniel, September 7, 1961, Box 24, JHDP.

lived with family or friends outside the community without the benefit of scholarships. Over twelve hundred more did not attend school at all.⁸ The last best option for them remained the activity centers.

The future of the activity centers was in doubt. By the end of 1961, the program had an outstanding balance of \$1,684.90, almost all of which was owed to the centers' supervisors and assistants. Reverend Griffin petitioned the NAACP to pay the bill. "The Prince Edward County Christian Association has been diligent in its efforts to satisfy its financial obligation in regard to the activity centers," reported Griffin, "but all of its efforts have been insufficient to date." The NAACP paid the balance and pledged to sponsor an additional two months of operating costs. The training centers finally resumed operation on February 5, 1962. "We are opening the training centers to help maintain the morale of the children," announced program director Dorothy Croner. "The centers are not in any respect offered as a substitute for schools." PECCA ran five centers (one in Farmville, Meherrin, Prospect, Hampden-Sydney, and Sulphur Springs), down from fifteen the previous year. The enrollment, over two hundred, had fallen by more than half

⁸ "A Report on Prince Edward County, Virginia," January 9, 1962, Box 2, HLPP; "County Pupils Arrive Here For School," WP, September 20, 1961, A5; "Open Closed Doors: Narrative of the American Friends Service Committee's Work in Prince Edward County, Virginia, 1959-1965," <http://webarchive.afsc.org/archives/princeedward/openingcloseddoorspec3.pdf> (accessed April 19, 2007); T.J. McIlwaine, "Superintendent's Summary of School Census Returns," November 13, 1961, Box 124, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R. Four students were placed in Springfield, Massachusetts. Springfield requested that Prince Edward County pay \$405 in tuition for each student. The county refused to pay the charge, citing the federal injunction on tuition grants. Barrye Wall defended the county's decision in an editorial dripping with paternalism. "It seems to us that if Prince Edward people have had the responsibility of contributing to the care and education of the thousand or more Negroes for well over 150 years, that the great city of Springfield would assume some of its responsibility and care for four Negroes, whom they invited to share their schools for a period of one year." See Frank Nat Watkins to City Collector's Office, February 7, 1962, Box 2, JSGP; Editorial, "To What End Propaganda," FH, February 9, 1962, 1B.

since its last session. PECCA attributed the enrollment drop to an increase in the out-of-county placements and the inability of many parents to transport their children to the centers.⁹

An overwhelming number of parents, both black and white, could not afford to educate their children without outside assistance. White families depended on the generosity of others to subsidize their children's education, but at least schools were available close to home. The injunction on tuition grants tested the foundation's ability to raise sufficient funds to educate all the white children for one year, let alone in perpetuity. Black parents, on the other hand, had to find the means to pay for their children's school fees *and* boarding. It was already apparent that the black community could not afford to send all its children away from home to receive an education, even with outside assistance. Certainly, black parents had no long-term interest in a system that forced a choice between familial intimacy and an education. The state had the power to resolve the matter.

II

The state government had a clear obligation to ensure the operation of public schools in Prince Edward County. The Virginia State Constitution required the General

⁹ L. Francis Griffin to Jack Greenburg, January 12, 1962, "Summary Financial Statement of the Prince Edward County Christian Association Activities, November 15, 1960 – December 1, 1961," Roy Wilkins to Robert D. Robertson, January 26, 1962, all in Group III, Box A107, NAACP; Ben Bowers, "Five Training Centers For Negro Pupils Opened Here: PECCA's Monday Resumption Of Activity Program Marks 3rd Year," FH, February 6, 1962, 1.

Assembly to “establish and maintain an efficient system of public free schools throughout the State.”¹⁰ Nevertheless, no branch of state government had taken responsibility to reopen the schools. In 1962, all three branches had new opportunities to take action. A new governor took office, the legislature convened a regular session, and litigants argued the Prince Edward school case in state court. Still, the state government failed to act. Each branch tossed the political football, like a hot potato, amongst themselves without any intention of resolving the crisis. Ultimately, the state punted the school responsibility back to the county.

Governor Almond declined to exert leadership on the school closings. He recognized the issue’s political toxicity. “For me to have taken the lead,” Almond privately shrunk, “would be like waving a red flag in the face of a mad bull.” Colgate Darden, a member of the State Board of Education, recommended to Almond that the state seize the county’s public school buildings and provide an educational program. “Something should be attempted,” advised Darden, “to resolve the impasse which presently exists and which is very costly to everybody concerned, especially the Negro school children.” Nevertheless, the governor claimed that he had no power to issue an executive order to open the schools. Armistead Boothe, fresh off his electoral defeat, renewed his school funding proposal. The tuition grant injunction created the impetus for him to lobby Almond to release the county’s share of the state school appropriations for the 1960-62 school years to the board of supervisors for the operation of public schools.

¹⁰ Virginia Constitution, Article IX, Section 129.

The Boothe plan would restore universal education and preserve segregation, as blacks would attend the public schools and whites the private schools. “Control of the schools would be taken away from the Court and put back in the hands of the County,” argued Boothe. “No further Court action would be necessary to test the constitutionality of the Virginia tuition grants.” Almond claimed not to have the statutory authority to open the schools. Neither would Almond provide moral leadership. He refused to comment on a matter before the courts.¹¹ The hopes for executive leadership hinged on his successor.

The school closings were an issue in the general election campaign. Unlike Lindsay Almond, the Republican gubernatorial candidate believed that the governor had the authority to intervene in Prince Edward County. Clyde Pearson blamed the school closings on the state government for failing to live “up to its Virginia constitutional responsibility to maintain a free public school system throughout the state.” He pledged that his first act as governor would be to open the schools – first by asking the county board of supervisors to voluntarily appropriate funds and, if that failed, to request money from the General Assembly. There was no reason to wait for a court ruling because it would “cause a delay of another semester” and that “it would be better to remove even the necessity of a court ruling for Virginia to obey her Constitution.” Pearson called on his Democratic opponent to match his pledge, but none was forthcoming. Harrison had no need to engage his opponent. Winning the Democratic primary made the general

¹¹ J. Lindsay Almond, Jr., to Colgate W. Darden, Jr., July 7, 1961, Colgate W. Darden, Jr., to J. Lindsay Almond, Jr., June 26, 1961, both in Box 35, Armistead L. Boothe to J. Lindsay Almond, Jr., August 25, 1961, J. Lindsay Almond, Jr., to Susan L. Newman, August 18, 1961, J. Lindsay Almond, Jr., to Armistead L. Boothe, September 6, 1961, all in Box 36, all in JLAP.

election a formality. Harrison defeated Pearson handedly by a two-to-one majority. The Harrison victory promised the continuation of executive inaction. “The Prince Edward situation must await a decision” by the state court, determined Governor-elect Harrison. “It would be most inadvisable to move in any direction until that occurs.”¹²

The NAACP, reluctantly, filed suit in the Virginia State Supreme Court of Appeals. The U.S. District Court had refused to order the schools reopened until the state court determined whether the state constitution permitted localities to abandon public education. Judge Lewis had chastised the NAACP for not finding redress in state court: “Why you don’t file a suit [in state court] and get this basic, narrow question disposed of,” said a frustrated Lewis, “I will never understand.” NAACP attorneys had avoided state litigation because, as Oliver Hill explained, the “judges were Byrd Organization people. We never got to first base in state courts.” Nevertheless, on January 8, 1962, the NAACP asked the court to order the county to reopen its schools. “The county cannot be relieved of its responsibility since schools require both the General Assembly and supplemental county funds,” argued Samuel Tucker. Contrarily, the state and county attorneys found no provisions in the state constitution that required the county to fund

¹² Robert E. Baker, “Harrison Makes Bid For Party Harmony,” WP, October 31, 1961, A13; Associated Press, “Prince Edward Schools Head Pearson’s Agenda,” WP, November 3, 1961, B2; Frank B. Atkinson, *The Dynamic Dominion: Realignment and the Rise of Virginia’s Republican Party Since 1945* (Fairfax: George Mason University Press, 1992), 119-120; Robert C. Smith, *They Closed Their Schools: Prince Edward County, Virginia, 1951-1964* (Chapel Hill: University of North Carolina Press, 1965), 192; Albertis S. Harrison, Jr., to Leon Dure, December 5, 1961, Box 18, ASHP.

public schools. The court's decision in *Griffin v. Board of Supervisors of Prince Edward County* was not expected until March.¹³

The General Assembly declined to pre-empt the court with legislation to reopen the schools. The state legislators were concluding a harmonious session that resulted in overwhelming support for Governor Harrison's legislative program: increased teachers' pay, industrial development, and a revision to daylight savings time. At least one representative found the session unsatisfactory. "We have busied ourselves with a multitude of trifles," criticized Delegate John Webb of Fairfax County. "We spent untold hours debating routine, run-of-the-mill legislation, but never once have we begun to consider what to do about" the school closings. He proposed attaching an amendment to the state appropriations bill requiring the State Board of Education to operate schools in Prince Edward County. "The time to act is now," declared Webb. "Virginia cannot afford a generation of illiterates anywhere in this Commonwealth no matter what their race may be." The proposal went down to defeat soundly by a voice vote. The chairman of the House Appropriations committee, Howard Adams, considered the school closings an

¹³ "New Opens Schools Petition To Bring State Court Test: Supreme Court of Appeals Will Get Request For Mandamus Today," FH, September 8, 1961, 1; Elsie Carper, "Federal Judge Refuses to Order Prince Edward Schools Reopened," WP, July 27, 1961, B1; James W. Ely, Jr., *The Crisis of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance* (Knoxville: University of Tennessee Press, 1976), 187-188; John Steck, "Public School Obligation Argued Before State Court: Ruling Not Expected Before First of March," FH, January 9, 1962, 1; UPI, "School Case Argued in Va. Court," WP, January 9, 1962, A26.

issue for the court, not the state budget.¹⁴ The General Assembly tossed the political hot potato back to the courts.

The state court provided constitutional cover for the school closings. On March 5, 1962, the Virginia State Supreme Court of Appeals unanimously determined that the state constitution did not require Prince Edward County to operate public schools. The court did, however, note that the state constitution required the General Assembly “to establish and maintain free public schools throughout the state.” Nevertheless, the court did not order the state legislature to fulfill its constitutional responsibility to ensure public education in Prince Edward County. “To grant the writ in this proceeding would amount to an invasion by the judicial department of those functions of the legislative department,” read the opinion. “It would mean that this court may substitute its discretion for that vested by law in the local legislative body.” Separation of powers prevented the court from compelling the state to take action.¹⁵ The court made state action optional.

The court put the onus on the executive and legislative branches. “Now that the state Supreme Court has tossed the problem back to the political branches,” opined the *Washington Post*, “Gov. Albert S. Harrison and the General Assembly have a towering obligation to clear this blot from the Virginia record.” Nevertheless, Harrison refused to take responsibility. He believed that reopening the schools was “a decision for the people of Prince Edward to make,” adding disingenuously that “the people of Prince Edward are

¹⁴ “Byrd Keeps Reins Tight In Virginia,” NYT, March 18, 1962, 52; Associated Press, “Appropriation Bill Approved, 89 to 3, By Virginia House,” WP March 1, 1962, B4; Robert E. Baker, “Legislators Reject School Plea by Webb,” WP, March 1, 1962, B7.

¹⁵ *Griffin v. Board of Supervisors of Prince Edward County*, 203 Va. 321 (1962).

as deeply sensitive to their responsibility, both to Negro and white children, as any people anywhere in this State.” Harrison did offer state assistance if requested by the county, but he remained reluctant to lead on an issue that he considered political “dynamite.”¹⁶ The three branches of state government passed the explosive situation back to the county.

III

The county board of supervisors had an opportunity to lift the responsibility of education off the parents. In March, the school board had prepared two budgets for the 1962-63 school year: one to provide public education for all the county’s children and another for those not attending the private schools (segregationist speak for an all-black public school). The supervisors adopting either budget offered potential relief to black and white parents. If the black community accepted, at the minimum, a segregated public school, then education would be available for all their children, and close to home. For white parents, reopened public schools could lead to the federal court lifting the injunction on tuition grants. By the spring of 1962, the school closings and injunction pushed many Prince Edward parents to their breaking point. Still, the board of supervisors decided against appropriating funds to operate the public schools.

¹⁶ Editorial, “Desegregation or Ignorance?” WP, March 7, 1962, A14; “Court Ruling May Help Open Edward Schools,” WP, March 7, 1962, B6; Harry Boyte to Jean Fairfax, “First Specific Steps In New Program Phase in Prince Edward County,” April 23, 1962, #38438, AFSC.

Reverend L. Francis Griffin reached his lowest moment. He anguished over every child's loss of education. "It hasn't been an easy thing for me personally," reflected Griffin years later. "Sometimes I didn't sleep comfortably. I could have made the decision to subject myself to whatever happened. But I debated the moral right of whether I could involve others." The introspection took an emotional and physical toll on Griffin. The stress elicited frequent illnesses, culminating in early 1962 with a thirty-seven-day hospital stay to remove half of his ulcerated stomach. Griffin could have improved his health by accepting offers of employment elsewhere, but his conscience did not permit him to abandon the locked-out children. He was concerned that nobody would carry on the fight in his absence. Reverend Griffin willed himself to lead the black community through the nadir of its despair. The Virginia State Supreme Court had delivered an additional blow. Griffin offered encouragement to black Prince Edwardians by declaring that the ruling "doesn't end our fight. We shall go on."¹⁷

The state court's decision opened the NAACP's Prince Edward strategy to scrutiny. An observer noted "diminishing patience" in the black community. Charlie Hicks of Rice, who the NAACP considered a "good supporter of our cause," interpreted the court's decision as a signal that "there is no law to help these children." He indicated to the NAACP that its strategy had failed, that a school had to be built for black children.

¹⁷ Brian E. Lee and Brian J. Daugherty, "Program of Action: The Rev. L. Francis Griffin and the Struggle for Racial Equality in Farmville, 1963," *Virginia Magazine of History and Biography*, 121, No. 3 (2013): 250-287; Jean M. White, "The Griffins of Farmville and Harvard: A Single Goal," WP, April 21, 1969, A1; "Say Negroes Fail To Aid Heroic School-less Kids," *Jet*, April 26, 1962, 25; L. Francis Griffin to Sarah Patton Boyle, April 8, 1962, Box 2, SPBP; William Bagwell to Jean Fairfax, "Prince Edward County – Interviews, September 21-28, 1962," November 12, 1962, #38427, AFSC; Robert E. Baker, "Prince Edward Need Not Open Schools, Court Rules," WP, March 6, 1962, B1.

Lester Banks, the executive secretary of the Virginia State Conference of the NAACP, tried to reassure Hicks that the court's decision "should not be looked upon as the Negro citizens' last straw, but rather it should serve to solidify their efforts and determination to continue the fight to reopen public schools in the county on a desegregated basis." In addition, Banks discouraged any talk of black private schools: "Don't let yourself become a party of a movement that will rob the Negro children of their constitutional rights." Banks toed the party line, but he knew that he was defending a failed policy. He recognized the pressure increasing to accept segregated private schools and the financial insolvency of the activity centers. "The composite picture," Banks advised Roy Wilkins, "point up the need for immediate action." He warned that another civil rights organization could woo black Prince Edwardians away from the NAACP. Martin Luther King Jr.'s appearance in Farmville made that apparent.¹⁸

The Reverend Martin Luther King Jr. visited Farmville to boost morale. Wyatt Tee Walker, the executive director of the Southern Christian Leadership Conference, had been "particularly distressed that Prince Edward has in a sense been left to fade away." He, therefore, added First Baptist Church to SCLC's "People to People" tour itinerary. On March 28, 1962, King delivered a message of support to the two hundred fifty congregants. He commended black Prince Edwardians for their perseverance: "We all realize that if we are to be free, we cannot sell our birthright of freedom for a mess of

¹⁸ Harry Boyte to Jean Fairfax, "Prince Edward County Program," March 21, 1961, #38438, AFSC; Charlie W. Hicks, March 5, 1962, quoted in W. Lester Banks to Roy Wilkins, March 9, 1962, W. Lester Banks to Charlie W. Hicks, March 9, 1962, both in Group III, Box A107, NAACP, W. Lester Banks to Roy Wilkins, April 3, 1962, Group III, Box C160, all in NAACP.

segregated pottage.” King urged the black community not to relent: “Do not despair; do not give up, but just stand firm for what you believe in, and people all over the United States will say there are the people of Prince Edward County who have injected new meaning into the veins of civilization.” He lifted up the black children. “Dr. King’s visit gave light to a darkness that had settled around the students,” remembered Naja Griffin. “Our spirits were low. His visit let us know that the world did indeed know about our situation and that we were not forgotten! Our hope was renewed by his visit; our spirits uplifted.”¹⁹ King boosted morale that day, but the day-to-day burden of leadership fell to Reverend Griffin.

Reverend Griffin adhered to NAACP orthodoxy. He discouraged direct-action campaigns. Black Prince Edwardians tended to be patient, but some young militants had called for sit-ins to draw attention to the school closings. Clearly, Griffin sympathized with them. “Next time don’t tell me about it,” he told the youngsters. He quietly considered organizing demonstrations in the event that the board of supervisors failed to appropriate funds for public schools. In the meantime, Griffin focused on raising money for the activity centers. “The whites have taken care of their kids, but we have been forgotten,” Griffin told *Jet* magazine. He urged its readers to send school supplies and money to keep the centers running. The centers bought the NAACP time to win in the federal courts. Griffin did not believe that the schools would reopen without a strong

¹⁹ Wyatt Tee Walker to Ruth Jenkins, March 9, 1962, Part II, Reel 15, SCLCR; “‘Do Not Despair,’ Negro Leader Urges At Rally: Group Makes Morale Visit Here Wednesday,” FH, March 30, 1962, 1; Associated Press, “King in Prince Edward Sees Schools Restored,” WP, March 29, 1962, D8; Naja Griffin, e-mail to Brian E. Lee, April 17, 2015.

court order or until the county accepted token integration. The private schools ensured that the public schools, if reopened, would be “99 44/100%” black. “This is a sad prospect,” Griffin privately lamented, “and I am ashamed to live among such bigots.”²⁰ The success of the NAACP’s strategy depended on the failure of the Prince Edward School Foundation.

The Prince Edward School Foundation suffered a serious financial crisis. Roy Pearson reported that contributions had “slowed to a trickle.” In March, foundation leaders calculated that they needed an additional \$50,000 from outside the community to meet the organization’s financial obligations for the year. The treasurer anticipated having to borrow money. Attorney Collins Denny privately shared his sober assessment of the school’s long-term financial viability: “The time is fast approaching when contributions from outside Prince Edward will largely disappear.” The burden of the financial crunch fell on Academy parents. The foundation had increased its tuition on 262 families in the hope of generating an additional \$31,825. Barrye Wall expected “a minimum of local reaction to this request which may be unfavorable.” One county resident, however, observed a “growing unrest and dissatisfaction” among the lower and middle-class Academy families.²¹

²⁰ Josephine Ripley, “How Farmville Gets Along Without Public Schools,” CSM, April 14, 1962, 9; Harry Boyte to Jean Fairfax, “Prince Edward County Program,” March 21, 1962, #38438, AFSC; “Says Negroes Fail To Aid Heroic School-less Kids,” *Jet*, April 26, 1962, 25; L. Francis Griffin to Sarah Patton Boyle, April 8, 1962, Box 2, SPBP.

²¹ Roy R. Pearson to Watkins M. Abbitt, February 22, 1962, Roy R. Pearson to L.C. Harwell, Jr., March 23, 1962, E. Louis Dahl to Watkins M. Abbitt, April 27, 1962, J. Barrye Wall to Watkins M. Abbitt, February 2, 1962, all in Box 6, WMAP; Ripley, “How Farmville Gets Along Without Public Schools,” 9;

A study found that white solidarity was cracking. Harry Boyte of the American Friends Service Committee had spent weeks interviewing scores of white residents. He determined that they were “willing to accept desegregation if this were necessary to reopen the public schools.” Academy parents struggled to pay their children’s tuition and grew agitated upon receiving threatening delinquency letters from the foundation. For some, the educational deprivation of African Americans troubled their conscience. Still others were embarrassed about the negative perception of their community. The racial strife and the lack of public schools were stunting industrial growth and economic development. Boyte reported a “sharp and clearly defined opposition to the rigidity indicated in the public posture of the county board of supervisors’ delay in acting this spring in preparation for reopening the public schools next fall.” He believed that if the issue was put to a ballot that the residents would “without any question” vote to reopen the public schools.²² Boyte’s evaluation was overly optimistic, as dialogue among white moderates remained in its infancy.

In early June, the topic of reopening the public schools was raised for the first time at a white church. Lester Andrews had suffered social and economic repercussions for refusing, as a school board member, to release surplus property to the foundation and for his involvement in the Bush League. He now opened a discussion at Farmville Baptist Church because he sensed a shift in public sentiment. Considering that other white

Collins Denny, Jr., to J. Segar Gravatt, February 22, 1962, Box 2, JSGP; Harry Boyte to Jean Fairfax, “Prince Edward County Program,” March 21, 1962, #38438, AFSC.

²² See a number of Harry Boyte’s memorandums in #38438, AFSC; Associated Press, “Some Want School Open in Edward,” WP, May 10, 1962, B5.

citizens willingly participated in a public discussion on the matter, the community had come a long way since the “meeting in the woods” two years earlier. The discussion was reportedly candid, constructive, calm, and “free from bitterness or segregationist fulminations.” The participants agreed that public education had to be restored in some manner.²³ The meeting could only be characterized as the beginning of a dialogue. Despite this breakthrough, the eleventh-hour meeting, unsurprisingly, did not generate a groundswell effort to topple the foundation forces.

The white moderates had yet to organize a sufficient force to alter public policy. The county board of supervisors presented a budget void of operational funds for the public schools. At the budget’s public hearing on June 15, only three white citizens urged the county to reopen the public schools. “Public education is the foundation of our democracy,” declared Elizabeth Burger, “and Prince Edward County has the tremendous responsibility in upholding our democracy by providing funds for education.” Richard Dupuy, agreed, urging the supervisors to increase the budget to provide schools for black children. Gordon Moss appealed to the supervisors to demonstrate leadership: “You gentlemen have an opportunity for greatness this day.” He urged the board to change its course by allocating funds to operate all the public schools. Instead, the supervisors maintained the status quo. They cut the property tax rate from \$3.50 to \$1.00 per \$100 of assessed value and slashed the merchant capital tax in half, but allocated no operational funds for the public schools. Instead, despite the federal injunction that already held

²³ Benjamin Muse, “Prince Edward County, June 18-20,” June 22, 1962, Reel 56, SRCP; Harry Boyte to Jean Fairfax, “Interview with Lester Andrews,” July 6, 1962, #38438, AFSC.

\$600,000 in escrow, the supervisors allocated an additional \$360,000 in tuition grants. The county would not take responsibility for public education until it received a federal court order and the injunction on tuition grants was lifted.²⁴

IV

The federal government had to provide the solution in Prince Edward County. The U.S. District Court needed to settle the constitutional issue of the school closings, an issue it had balked on and deferred to the state courts in 1961. The attorney general had been denied participation in the federal case and he had no jurisdiction in the state litigation. Still, the administration maintained an active interest in the matter. The executive branch encouraged local leaders to reopen the schools, studied a possible federal school program, provided support to a summer crash program, kept abreast of developments through intelligence reports, closely monitored the federal court proceedings, and conferred with organizations sympathetic to reopening the public schools. The Kennedy administration was eager to enforce an affirmative court order and would not be satisfied until the schools were open and desegregated.²⁵

Bobby Kennedy encouraged the county to take responsibility for public education. On May 1, 1962, Kennedy discussed the school crisis while in Roanoke, a city

²⁴ “Board Reenacts Education Grants, Sets Levy At \$1.00,” FH, June 19, 1962, 1; Prince Edward County Board of Supervisors, Minutes, June 15, 1962, PECBOSR; Harry Boyte to Jean Fairfax, “Report No. 2,” March 26, 1962, #38438, AFSC.

²⁵ Burke Marshall to Frank Madison Reid, June 14, 1962, Box 369, WHCSF.

about one hundred miles west of Farmville. He condemned the school closings as “a blight on Virginia and on the country in general,” found it incomprehensible that 1,700 black children had “no place to go to school,” and urged state and local officials to open the schools. Two days later, Kennedy addressed the U.S. Commission on Civil Rights’ Fourth Annual Conference on Problems of Segregation and Desegregation of Public Schools. He commended southern communities that had peacefully desegregated its schools and urged Prince Edward County to do the same. “I would hope,” Kennedy remarked, “that the local authorities...would take the initiative and bring some action forward to open the schools to all children on a desegregated basis in Prince Edward County.”²⁶ Nevertheless, the board of supervisors voted to keep the public schools closed.

The Kennedy administration came under pressure to fill the educational vacuum.

Burke Marshall had explored the possibility of federal schools in the county, but

²⁶ James E. Clayton, “Robert Kennedy Lauds ‘Skill’ Of Federal Judges in South,” WP, May 2, 1962, A2; “Kennedy Sees Court Strengthening States,” RWN, May 2, 1962, 1; U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights: Fourth Annual Education Conference on Problems of Segregation and Desegregation of Public Schools* (Washington, D.C.: GPO, 1962), 9-10. Robert Kennedy had visited Roanoke to speak at the Virginia Bar Association’s Law Day exercises. In his prepared remarks, he hailed the U.S. Supreme Court’s historic role as “the conscience of the nation.” In that context, the *Brown* decision “should not be accepted grudgingly” for it offered “opportunity as well as imposing obligations” to expand liberty to all. Notwithstanding, everyone had the responsibility to “respect and execute the law.” Kennedy defended the federal courts for taking action against localities that defied *Brown*. The court action was necessary because “other organs of government had failed to fulfill their own responsibilities.” Kennedy omitted any direct mention of Prince Edward County, but the remarks applied. See Robert F. Kennedy, “Address by Attorney General Robert F. Kennedy at the Law Day Ceremonies of the Virginia State Bar,” May 1, 1962, Speeches, 1961-1964, Box 1, RFKP. President Kennedy sent a statement to open the U.S. Commission on Civil Rights’ conference. “If constitutional rights are to be vindicated and public education strengthened, the efforts of all those concerned – government officials, educators, community leaders and parents must be redoubled,” wrote the president. “I know of no greater challenge facing America today.” See U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights: Fourth Annual Education Conference on Problems of Segregation and Desegregation of Public Schools*, 8.

determined that “there is simply no statutory basis for it.” The U.S. Commissioner of Education, Sterling McMurrin, had also studied the matter. In 1961, McMurrin concluded that the federal government could not offer educational programs without a request from the state or locality. At no point did a responsible state or local official ask for federal assistance. The commissioner’s assessment remained unaltered in 1962. “We in the Office of Education fully share your concern over the tragic situation that has developed in Prince Edward County, Virginia,” McMurrin told a petitioner. “If there were anything we could do to assist in that situation, and if it were within our power to do so, I can assure you that we would....I see no immediate prospect of our being able to do anything useful.”²⁷ Despite the statutory limitations, the administration was prepared to provide help within the confines of its narrow authority.

The U.S. Office of Education trained volunteer teachers for a summer crash program. In May, the Student Christian Federation had requested assistance from the Department of Health, Education and Welfare for “determining the most effective approach” to teaching children who lacked formal schooling. “We are in complete sympathy with your objectives and we wish to be of any possible assistance to your group,” responded Secretary Abraham Ribicoff. He offered the resources of the Office of Education. The agency invited the volunteer teachers to Washington to avail them to those resources and the agency’s expertise. In late June, the agency provided an

²⁷ Burke Marshall to Mrs. Burton Lewis, June 6, 1962, Box 1, BMP; Sterling M. McMurrin to Jean Fairfax, August 10, 1961, #38180, AFSC; Sterling M. McMurrin to Jean Fairfax, June 13, 1962, Box 101, RG 12.

unpublicized two-day session on teaching remedial reading and simple arithmetic and selecting appropriate teaching materials.²⁸ The Office of Education could be more helpful once a resolution to the crisis was at hand.

Burke Marshall kept tabs on developments through intelligence reports. He had encouraged the American Friends Service Committee to solicit white parents to file a lawsuit to reopen the public schools. On May 3, Harry Boyte met with Marshall to provide his analysis on the mood of the white community – an overly optimistic assessment. Marshall received more reliable information from Benjamin Muse of the Southern Regional Council. Muse interviewed state and local leaders throughout the South to gauge sentiment and progress on race relations. He interviewed key individuals directly connected to the county school crisis and volunteered his confidential reports to Burke Marshall. Through those reports, the Civil Rights Division became privy to the private attitudes of Governor Harrison, Barrye Wall, newspapermen, and white moderates.²⁹ Those reports provided valuable insight into the local situation as the Civil Rights Division developed its legal strategy.

²⁸ William M. Bennett to Abraham Ribicoff, May 17, 1962, Abraham Ribicoff to William M. Bennett, June 15, 1962, both in Box 101, Sterling M. McMurrin to William M. Bennett (draft written by Robert M. Rosenzweig), June 1, 1962, Box 100, all in RG 12; Jon O. Newman to Timothy J. Reardon, Jr., “Office of Education Workshop Sessions,” July 5, 1962, Box 374, WHCSF.

²⁹ Jean Fairfax to Burke Marshall, April 30, 1962, #38213, AFSC; Jean Fairfax to Burke Marshall, May 8, 1962, Box 4, Benjamin Muse, “Prince Edward County, June 18-20,” June 22, 1962, Benjamin Muse, “Governor Harrison on the Prince Edward Problem, Also Virginius Dabney, Richmond, June 29, 1962,” July 2, 1962, both in Box 8, all in BMP; Associated Press, “Some Want Schools Open in Edward,” WP, May 10, 1962, B5; Harry Boyte to Jean Fairfax, “Prince Edward County Program,” March 21, 1962, #38438, AFSC; Matthew D. Lassiter, “A ‘Fighting Moderate’: Benjamin Muse’s Search for a Submerged South,” in *The Moderates’ Dilemma: Massive Resistance to School Desegregation*, edited by Matthew D. Lassiter and Andrew B. Lewis (Charlottesville: University Press of Virginia, 1998), 168-201; David L. Chappell, *Inside Agitators: White Southerners in the Civil Rights Movement* (Baltimore: John Hopkins

The Department of Justice continued to monitor the litigation. Howard Glickstein, a young lawyer in the Appeals and Research Section, observed the May 18, 1962, U.S. District Court hearing and presented a summary to Burke Marshall. Weeks later, the Civil Rights Division requested a copy of the entire case file, which now filled two cabinet file drawers. The U.S. Attorney's Office in Richmond was directed to vigilantly patrol that filing cabinet for any addendums. St. John Barrett maintained contact with NAACP attorneys to keep abreast of their strategy and developments in the case. He persistently searched for an opening to permit federal intervention. Barrett found inspiration in a newspaper article. Journalists had reported that the board of supervisors allocated funds for tuition grants despite the federal injunction. Therefore, two years of tuition grants were held in escrow. Barrett drafted a complaint asking the federal court to divert those funds to the school board for the operation of public schools. Judge Lewis had been reluctant to order the county to levy taxes for the public schools. Barrett believed that his proposal would alleviate Judge Lewis's anxiety.³⁰ Nevertheless, the Department of Justice opted to wait for the next move in federal court.

The U.S. District Court settled the issue of responsibility. On July 25, 1962, Judge Oren Lewis determined that the state and local governments had a shared responsibility to operate public schools. The state constitution required that public schools be

University Press, 1994), 192; Benjamin Muse to Leslie Dunbar, September 2, 1961, Burke Marshall to Benjamin Muse, August 29, 1961, both in Reel 56, SRCP.

³⁰ Howard A. Glickstein to Burke Marshall, "Allen v. Prince Edward County Public School Board," May 28, 1962, Granville R. Patrick to Isabelle Blair, "Allen v. School Board of Prince Edward County," June 21, 1962, Granville R. Patrick to Isabelle Blair, "Allen v. School Board of Prince Edward County," July 16, 1962, St. John Barrett to Burke Marshall, "Prince Edward County, Virginia," June 22, 1962, all in Reel 105, RG 60.

maintained throughout the commonwealth. The state, therefore, could not shirk its obligation and permit discrimination by delegating authority to its subdivisions. Conversely, localities could not shirk its obligation by deferring to the state. In fact, the court considered local officials indirect agents of the state. State and local officials, wrote Judge Lewis, “cannot abdicate their responsibilities either by ignoring them or by merely failing to discharge them, whatever the motive may be.” The court held that Prince Edward County’s public schools “may not be closed to avoid the effect of the law of the land as interpreted by the Supreme Court, while the Commonwealth of Virginia permits other public schools to remain open at the expense of taxpayers.” Judge Lewis directed the county school board to develop a plan to operate desegregated public schools and submit it to the court by September 7, 1962.³¹ The court glaringly omitted any reference to how the schools should be funded.

The court order would have been more effective had it been directed to the agency that controlled the county’s purse strings. William Vaughan, the chairman of the board of supervisors, privately expressed his disappointment over the ruling. An affirmative court order to reopen the schools would have provided the supervisors with the political cover to end the crisis and shield them from the criticism of the county’s power structure. Segar Gravatt advised the local leaders that funding the public schools would put them in a better position to lift the injunction on tuition grants. The supervisors and county leaders, recounted Gravatt, “did not receive this information with sympathy.” The county’s

³¹ *Allen v. County School Board of Prince Edward County*, 207 F. Supp. 349 (E.D. Va. 1962).

recalcitrance had potential ramifications across the state. The failure to operate public schools in one county meant a possible legal challenge to block state funds to all of Virginia's public schools. Public opinion was turning against the county. "To the majority of Virginians who have given the dilemma thoughtful attention," wrote the *Roanoke Times*, "it must seem foolish to allow diehard prejudices of a single community to imperil the entire structure of the new way of education." Even the conservative Richmond papers insisted that the schools must reopen. "This newspaper has supported Prince Edward all the way," editorialized the *Richmond News Leader*. "But there comes a time when wars must end." The *Richmond Times-Dispatch* believed that public schools should be available to all children. "The longer these boys and girls are left without public schools, the greater will be the burden on the conscience of every Virginian, and the more unfavorable will be the 'image' of the Old Dominion in the eyes of the nation and the world." Nevertheless, the board of supervisors refused to act in the absence of a court order.³²

Two days later, the Virginia Council on Human Relations hosted a multi-agency meeting on Prince Edward County. The purpose of the meeting was to connect people at the federal, state, and local levels and discuss their roles in reopening the schools. The conference included a handful of sympathetic county residents and representatives from the Southern Regional Council, Potomac Institute, Virginia General Assembly, U.S.

³² Harry Boyte to Jean Fairfax, "Meeting with Senator Haddock," August 7, 1962, #38438, AFSC; J. Segar Gravatt to William M. Tuck, August 6, 1962, Box 2, JSGP; Editorial, "Educating All of the People," RT, October 21, 1962, A6; Editorial, "By September 7," RNL, July 27, 1962, 8; Editorial, "The Prince Edward Decision," RTD, July 27, 1962, 8.

Commission on Civil Rights, and U.S. Department of Justice (Harold Greene of the Appeals and Research Section). The conferees found only a “faint possibility” that schools would be opened in the fall. The pessimism was based on Judge Lewis’s “lamentably inconclusive” decision, the lack of school funds, the feasibility of finding teachers, and expectations that the county would continue its defiance. On the other hand, they believed that the state would comply with the order, and that only state leaders could cajole the county segregationists to relent. The Virginian conferees, therefore, had to convince Governor Harrison and other state leaders to demonstrate leadership on this issue.³³

Governor Harrison provided no leadership. Privately, he said that the state could not take the lead on the matter, but that it would act if the county requested assistance. The county’s 1962-63 fiscal year budget, which allocated no funds to operate public schools, could not be amended without special state legislation. The public schools needed money and only the state could unlock such funds. The General Assembly could have permitted the county to reallocate budgeted money to the public schools, specifically the tuition grant money held under federal court injunction. Of course, that required voluntary action by the county board of supervisors, who were not named in the

³³ Benjamin Muse, “Conference on Prince Edward Situation: Richmond, Va., July 27, 1962,” August 1, 1962, Reel 56, SRCP; William Bagwell to Jean Fairfax, “Prince Edward County – Interviews, November, 1962,” December 17, 1962, William Bagwell to Jean Fairfax, “Prince Edward County – Interviews, September 21-28, 1962, both in #38347, AFSC; Harold H. Greene to Burke Marshall, “Prince Edward County case,” August 9, 1962, Reel 105, RG 60. The Civil Rights Commission representatives offered to use its influence to ask the U.S. Office of Education to provide administrative aid and recruit teachers. Harold Greene gave an assurance that the Department of Justice would do “whatever we could.” Overall, the meeting did not accomplish anything substantive, but it just gave everyone a chance to meet and discuss the matter.

federal court order. The General Assembly also had the option to provide the county school board with state funds. Harrison believed that that option would set a poor precedent. “The people throughout the rest of Virginia would not long tolerate a situation in which property owners in Prince Edward would be relieved of the obligation to pay taxes to support schools and this burden transferred to other areas of the state.” The point became moot. The county attorneys, reportedly, had advised the local leaders not to request or accept any state assistance. Governor Harrison never called the General Assembly into a special session to address Prince Edward County.³⁴

The county leaders continued to deflect responsibility for public education. The school board pledged to comply with the federal court’s order, but its chairman, Edward Smith, asserted that “our hands are tied.” The school board did not have operational funds. Even if money was available, Smith considered it impossible to hire teachers for the start of school in September. Still, the school board submitted a desegregation plan void of comprehensive desegregation. The board assumed that all the white students would continue attending the private schools, while about 1,250 black children would enroll in the public schools. To safeguard against any desegregation, the board included a provision for the state Pupil Placement Board to assign students. Satisfied that the school

³⁴ Harry Boyte to Jean Fairfax, “Meeting with Senator Haddock,” August 7, 1962, Harry Boyte to Jean Fairfax, “Developments and General Observations,” August 20, 1962, both in #38438, AFSC; Albertis S. Harrison, Jr., to Ralph Lucian Payne, October 16, 1962, Box 72, ASHP.

board complied with the court order, Smith declared: “The matter is out of our hands now. It’s for Washington and Richmond to solve.”³⁵

The federal court tied Washington’s hands. Judge Lewis rejected the school board’s desegregation plan, but he took no affirmative action to require compliance with his order. In fact, in October 1962, Lewis stayed his order until it could be reviewed by the U.S. Fourth Circuit Court of Appeals. The court’s hesitancy frustrated the NAACP. Judge Lewis “hasn’t required anybody to do anything that is designed to correct that inequality,” lamented Samuel Tucker. “He recognized the inequality, but doesn’t do anything to correct it.” The court’s indecision spurred more state litigation. In August 1962, the county filed suit in the Richmond State Circuit Court against the black litigants and the State Board of Education to deflect the responsibility of education to the state.³⁶ The dual litigation track promised further delay. Judge Lewis’s vacillation prevented the Kennedy administration from using the power and prestige of the federal government to reopen the public schools.

³⁵ Associated Press, “Prince Edward School Aide Calls Reopening Impossible,” NYT, July 28, 1962, 15; “County’s School Litigation Reopens Today In Richmond,” FH, September 7, 1962, 1; Leonard Buder, “Prince Edward County Is Firm On No School for Negro Pupils,” NYT, September 4, 1962, 27.

³⁶ Oren R. Lewis, “Memorandum Opinion and Order,” October 10, 1962, Box 124, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; “Prince Edward Directed To Reopen Its Schools: But Federal Judge Allows Time To Appeal Order,” WES, October 11, 1962, A1; Walter B. Douglas, “Order Raps Closing Of Edward Schools,” WP, October 12, 1962, D3; “Judge Enters School Orders; NAACP Attorney To Appeal,” FH, October 16, 1962, 1; “Prince Edward Told To Open Its Schools,” NYT, October 12, 1962, 20; Associated Press, “School Case Suit Entered By Edward,” WP, September 2, 1962, A18.

The failure of government officials to take responsibility for educating black Prince Edwardians prolonged the crisis. No branch of government at any level – federal, state, or local – had taken decisive action. In fact, the situation in September 1962 closely resembled September 1961. In both instances, Judge Lewis had issued opinions that raised hopes for progress that were soon diminished by weak court orders. The county attorneys further complicated the federal proceedings by filing suits in state court. These tactics ensured further delay and diminished hopes of progress. “It seems as if we are on some sort of treadmill,” grumbled NAACP attorney Robert Carter.³⁷ The slow pace of litigation coupled with irresponsive politicians left the responsibility for educating the county’s children, both black and white, on the parents.

The white parents had to pay fees for Prince Edward Academy, again, without the benefit of tuition grants. The foundation leaders forecast that over seven hundred students would require partial to full assistance to cover those expenses. Verle Gordon, a local businessman, chaired the scholarship committee dedicated to raising \$130,000. The previous year’s scholarship drive, although a struggle, reached that figure. Foundation leaders expressed optimism that the goal was attainable, citing the slashed county taxes (valued at about \$200,000) as a prime source of philanthropic opportunity. “With a substantial difference in taxes this year,” explained Blanton Hanbury, “it is reasonable to expect the people of the county to contribute liberally to this scholarship fund.” Barrye Wall urged his readers to open their wallets: “Those who have children in Prince Edward

³⁷ “Court to Test Order Opening County Schools,” WP, September 8, 1962, C1.

Foundation schools must carry their fair share of the cost. Those who do not have children in the schools must see it as a duty to assist by contributing to the Foundation scholarship fund....It is as simple as that.”³⁸ The segregationist leaders urged the white community not to forsake the foundation, even as the foundation cast off the most vulnerable white families.

The Prince Edward School Foundation’s financial woes forced it to abandon a longstanding principle that no white child be turned away. In late August, the media reported that about a dozen white children were denied admission because their parents failed to pay the previous school year’s tuition. The foundation’s treasurer, Louis Dahl, tried mitigating the damage. He told the *Farmville Herald* that the foundation had no plans to bar “any child because its parents are unable to pay tuition.” Nevertheless, the *Lynchburg News* pursued the story to discover that half a dozen children had indeed been denied admission. K.H. Latham, a delinquent patron, told his story for a front-page expose. Although the foundation awarded his family a \$480 scholarship for the 1961-62 school year, Latham could not afford to pay the \$240 balance. As a result, explained the agitated Army veteran, “They barred my kids from school!” Subsequently, the foundation worked out a financial agreement and the Latham children returned to school. Still, the ordeal and the county’s education system disturbed Latham. “I want free public schools for all,” declared Latham. “I want my children to get an education.” He was the first

³⁸ Associated Press, “Funds Asked For Schools In Edward,” WP, September 15, 1962, C3; “Tuition Aid Fund Appeal Due,” FH, September 14, 1962, 1; Editorial, “Law Not Emotion,” FH, October 19, 1962, 1C.

Academy parent to publicly dissent. The state NAACP and the Virginia Council on Human Relations capitalized by mailing copies of the article to all the white households in the county.³⁹

The black parents bore a heavier burden. They still had to send their children out of the county to receive a formal education. The Virginia Teachers' Association and American Friends Service Committee sponsored over two hundred placements in the District of Columbia, Iowa, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and Virginia. Clinton and Etta Lee reluctantly sent their two older children to a host family in Washington, D.C. "It is unfair to have to break up a family in order to have your children get an education," agonized Etta Lee. For thousands of others, the educational tragedy continued and reached still more children. "There are 10-year old boys and girls here who have never been inside a school room, who can't read or write," Reverend Griffin told the *New York Times*. The Scott family had four children, but only Lagrant had ever been to school. Mrs. Scott taught her children the basics at home. "I don't want them to be completely ignorant," she explained. The school closings had hurt her children, but she believed that integrated public schools "would be worth it."⁴⁰

³⁹ Associated Press, "Prince Edward Bars 12 White Pupils, Too," WP, August 24, 1962, D2; Letter to the Editor, E. Louis Dahl, "No Needy Child Denied, Says Dahl," FH, August 31, 1962, 1B; Ann Frye, "6 or 8 Non-Paying Pupils Are Barred In Prince Edward," LN, September 21, 1962, B1; John A. Hamilton, "First White Parent Blasts Prince Edward Policy," LN, September 30, 1962, 1; W. Lester Banks to John A. Morsell, October 3, 1962, Group III, Box A107, NAACP; Smith, *They Closed Their Schools*, 250.

⁴⁰ J. Rupert Picott to Members, August 23, 1963, Box 61, VTAP; "Open Closed Doors: Narrative of the American Friends Service Committee's Work in Prince Edward County, Virginia, 1959-1965"; Leonard Buder, "Prince Edward Negroes Worried; With Schools Shut, Some to Move," NYT, September

The county parents, both black and white, reached the zenith of their vulnerability. In published letters to the *Farmville Herald*, Gordon Moss urged the community to reassess its school program. "There is no gun being held at the head of any one, or any official body, at this time in regard to reaching a solution. With no embarrassment to any one, we can admit we have attempted the impossible, and simply resume public education." He questioned the feasibility of perpetually raising money to keep the Academy in operation. "Do the citizens of Prince Edward County want to be pauperized?" Moss asked. "It is inconceivable to me that the proud citizens of Prince Edward desire to be dependent upon private charity for the education of their children." Barrye Wall, contrarily, remained steadfast. He considered education to be the "duty of the parents" and public education a "privilege."⁴¹ The state sanctioned that philosophy through legislation, court rulings, and executive aloofness. Congress and the federal courts permitted its continuation through inaction and indecisiveness. The Kennedy administration was the only branch at any level of government interested in taking decisive action to end the school crisis, but it was handcuffed by statutory limitations. Only the Kennedy administration's direct involvement could assure that education was a right and not an expensive privilege.

6, 1962, 22; Leonard Buder, "Prince Edward County Is Firm On No School for Negro Pupils," NYT, September 4, 1962, 27.

⁴¹ Letter to the Editor, C.G. Gordon Moss, "Face Reality Dr. Moss Urges," FH, August 28, 1962, 4A; Letter to the Editor, C.G. Gordon Moss, "Prince Edward Is On The Road To Pauperization," FH, August 31, 1962, 1B; Editorial, "Imponderables," FH, March 13, 1962, 4A.

CHAPTER IX

WE ALL HAVE A RESPONSIBILITY

President Kennedy employed extraordinary executive authority to ensure that James Meredith matriculated at the University of Mississippi. Meredith had attempted to break the color barrier at Ole Miss, but the registrar rejected his application. The NAACP filed suit in federal court, where the judges determined that Meredith was “turned down solely because he was a Negro” and ordered the university to admit him. State and college officials obstructed the court order and were found to be in contempt. Governor Ross Barnett became the face of defiance. He personally blocked Meredith’s initial attempts to register, negotiated in bad faith with federal officials, and played to the emotions of white supremacists, who descended on Oxford by the thousands. As a precaution, the president had Meredith protected by the U.S. Marshals Service. On September 30, 1962, Kennedy went further by issuing an executive order authorizing the Secretary of Defense to use the U.S. armed forces, including federalizing the Mississippi National Guard, if necessary, to carry out the court orders.¹

¹ Charles W. Eagles, *The Price of Defiance: James Meredith and the Integration of Ole Miss* (Chapel Hill: University of North Carolina Press, 2009); *Meredith v. Fair*, 305 F.2d 343 (5th Cir. 1962); Executive Order 11053 of September 30, 1962, Providing Assistance for the Removal of Unlawful Obstructions of Justice in the State of Mississippi.

That evening, President Kennedy addressed the nation on the situation in Oxford. He dispassionately summarized the court proceedings, omitting any reference to the inherent racial discrimination involved in the matter or an appeal for racial conciliation. Rather, Kennedy urged his countrymen to observe the law and the orders of the court, even those held in disdain: “Americans are free, in short, to disagree with the law but not to disobey it.” Kennedy reminded the people that the president had a responsibility to ensure that the court orders were implemented, thus couching his unpopular decision to federalize the National Guard in his duty to office. At that moment, Kennedy contentedly reported that activating federal forces had not been required. However, as he spoke, students and outside militants attacked the marshals, resulting in the death of two bystanders, hundreds of injuries, and over two hundred arrests. In response, President Kennedy sent in the armed forces to restore order. The following day, James Meredith became the first African American to register for classes at the University of Mississippi.¹

The federal response alarmed segregationists. A Gallup poll showed that 65 percent of southern whites believed that the Kennedy administration was pushing integration “too fast.” Weeks later in a nationally televised interview that aired on all three networks, the president defended his actions in Mississippi:

I don't really know what other role they would expect the President of the United States to play. The court made up of Southern judges determined it was according to the Constitution that Mr. Meredith go to the University of Mississippi. The Governor of Mississippi opposed it, and there was rioting against Mr. Meredith,

¹ “Radio and Television Report to the Nation on the Situation at the University of Mississippi,” September 30, 1962, in PPP-1962, 726-728; Doyle, *An American Insurrection*, 150-294.

which endangered his life. We sent in marshals, and after all, 150 or 160 marshals were wounded in one way or another out of four or five hundred, and at least three-fourths of the marshals were from the South themselves. Then we sent in troops when it appeared that the marshals were going to be overrun. I don't think that anybody who looks at the situation can think we could possibly do anything else. We couldn't possibly do anything else.

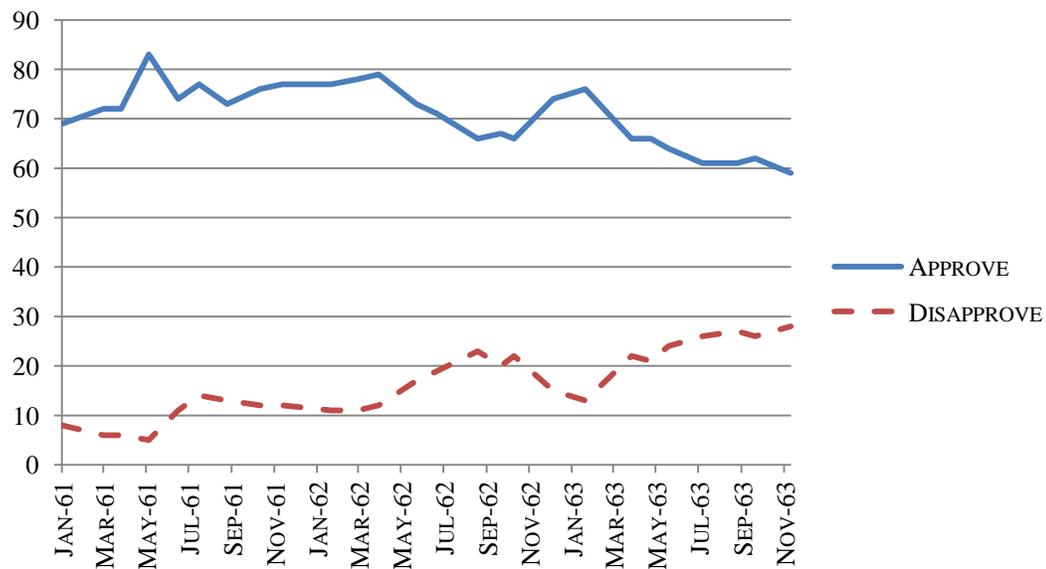
Nevertheless, Kennedy recognized that the integration of Ole Miss “caused a lot of bitterness against me and against the National Government in Mississippi and other parts.” In Prince Edward County, Mayor Billy Watkins forecast the “death knell” of state sovereignty and Barrye Wall lamented that states’ right to freely educate its citizens “has been trampled into the dust through brute federal force.” White citizens were concerned that federal troops might be sent into their community to force open the public schools. In an editorial titled “Mississippi and Prince Edward,” Wall tried to alleviate those concerns: “The unprecedented action in Mississippi has no direct effect upon Prince Edward....We can conceive of nothing which will require federal troops in Prince Edward County.”²

The president’s response to Ole Miss raised African Americans’ expectations for federal action in Prince Edward County. Sandra Stokes, who had missed two years of school before resuming her education in Washington, D.C., then Suffolk, Virginia, believed that if the federal government could help James Meredith, then the president could do something in Prince Edward County. Barbara Ann Botts, who had received her

² George H. Gallup, *The Gallup Poll: Public Opinion, 1935-1971, Volume Three* (New York: Random House, 1972), 1786; “Television and Radio Interview: ‘After Two Years – a Conversation With the President,’” December 17, 1962, in PPP-1962, 889-904; William F. Watkins, Jr., to Albertis S. Harrison, Box 9, ASHP; Editorial, “Rule By Force,” FH, October 2, 1962, 4A; Editorial, “Mississippi and Prince Edward,” FH, October 6, 1962, 1C.

bootleg education in Massachusetts and New Jersey, argued that the president could open the schools with federal troops, if necessary.³ The difference, however, was that the federal government enforced a court order in Oxford. No such order to reopen Prince Edward County’s public school had been decreed. The Department of Justice actively looked for an opening to enter the litigation and advise the court to issue such an order.

Table 9.1
President Kennedy’s Job Approval Rating



Source: George H. Gallup, *The Gallup Poll: Public Opinion, 1935-1971, Volume Three* (New York: Random House, 1972).

John F. Kennedy emerged from his autumn of trial battle-tested and popular. The president not only advanced racial progress in Mississippi but walked the world back from nuclear holocaust with his clearheaded leadership during the Cuban Missile Crisis.

³ Sandra Stokes and Barbara Ann Botts, interviews by Ruth Turner in Ruth Turner to Jean Fairfax, “Activities in PEC with special emphasis on Sunday’s demonstration,” August 2, 1963, #38558, AFSC.

Kennedy's performance arrested the steady decline of his approval numbers. He began the new year with a 76 percent approval rating nationwide and, after having lost ground for his action in Mississippi, his numbers in the South recovered to a remarkable 68 percent. The midterm elections also demonstrated the president's popularity. The Democrats maintained supermajorities in both chambers, suffering a net loss of just four House members but making a net gain of four in the Senate. The president's popularity was only outdone by his growth in office. "By early 1963," concluded historian David G. Coleman, Kennedy "appeared more sure-footed, more confident, more thoughtful, and more at ease with the presidency."⁴ Kennedy harnessed his prestige to lead the nation closer to full equality. He sponsored federal civil rights legislation, framed racial equality as a moral issue, and made educating Prince Edward County's locked-out children a federal responsibility.

I

The Kennedy administration needed a court decree to reopen Prince Edward County's public schools. The U.S. district court had found the school closings unconstitutional, but Judge Oren Lewis stayed his order to reopen the schools until the federal circuit court reviewed the case. "Judge Lewis," lamented Burke Marshall, "keeps

⁴ Gallup, *The Gallup Poll*; Richard Reeves, *President Kennedy: Profile of Power* (New York: Simon & Schuster, 1993), 426-435; David G. Coleman, *The Fourteenth Day: JFK and the Aftermath of the Cuban Missile Crisis* (New York: W.W. Norton, 2012), 11.

on entering decrees which are nothing but declarations without teeth.” The forthcoming appeal to the U.S. Fourth Circuit Court of Appeals removed the case from the treadmill that was Judge Lewis’s courtroom and put it before a potentially more sympathetic panel of jurists. It also provided an opening for the attorney general to participate in the case, an opportunity that Judge Lewis had denied in 1961. Marshall believed that the Department of Justice could “usefully advise” the circuit court to enter an effective order. Without the United States’ involvement, “it is quite possible that the Prince Edward litigation will continue to go on inconclusively for several more years.”⁵ An affirmative ruling, especially one the U.S. Supreme Court allowed to stand by declining to grant certiorari, could force the school doors open by September, and the administration had proven that it would enforce a court order with troops, if necessary. The stars appeared aligned, but such hopeful prospects failed to transpire.

The Civil Rights Division had been looking for an opening to enter the Prince Edward litigation. St. John Barrett, second assistant to Burke Marshall, inquired about the NAACP’s legal strategy, specifically if it planned to appeal to the U.S. Fourth Circuit Court of Appeals. Barrett envisioned filing an *amicus* brief and presenting the court with a precise plan that set a deadline to reopen and fund the public schools. He communicated his intentions to NAACP attorney Samuel Tucker, who was pleased and offered his complete cooperation. Barrett was anxious to resolve the matter and advised a Division

⁵ Burke Marshall to Archibald Cox, “Griffin v. County School Board of Prince Edward County, Virginia, et al., (C.A. 4), reported below sub. nom. Allen v. County School Board, 207 F. Supp. 349 (E.D. Va. 1962),” December 7, 1962, Reel 105, RG 60.

attorney that they “should be prepared to file a brief at the same time Mr. Tucker does.” After filing an appeal in early November, Robert Carter sent the NAACP’s brief to the Civil Rights Division. Burke Marshall assured Carter that his office was reviewing the documents and “considering whether we should not file a brief.” Marshall expected that no matter what the court’s decision that a litigant would appeal the case. Therefore, he carefully prepared an argument that would ultimately prevail in the U.S. Supreme Court. Marshall cleared his strategy with U.S. Solicitor General Archibald Cox, who advised him to present the case “upon such narrow grounds as are adequate to win the case...without pressing the Court too hard to embrace some sweeping position that...would be difficult to defend in the Supreme Court.” Specifically, the Solicitor General’s Office urged Marshall to confine his arguments to supporting the holding of the U.S. district court.⁶

On December 20, 1962, the Department of Justice petitioned the U.S. Fourth Circuit Court of Appeals to enter the Prince Edward case as a friend of the court. “This is a case of great importance to public education in the United States,” the brief opened. “It is of great importance also to the future course of desegregation of the public schools in

⁶ St. John Barrett to Harold H. Greene, September 12, 1962; Harold H. Greene to Alan G. Marer, n.d., St. John Barrett to Harold H. Greene, “Allen v. School Board of Prince Edward County,” October 16, 1962, Burke Marshall to Archibald Cox, “Griffin v. County School Board of Prince Edward County, Virginia, et al., (C.A. 4), reported below sub. nom. Allen v. County School Board, 207 F. Supp. 349 (E.D. Va. 1962).,” December 7, 1962, Bruce J. Terris to Archibald Cox, “Griffin v. County School Board of Prince Edward County, Virginia, et al., (C.A. 4), reported below sub. nom. Allen v. County School Board, 207 F. Supp. 349 (E.D. Va. 1962).,” December 7, 1962, Archibald Cox to Burke Marshall, “Griffin v. County School Board of Prince Edward County,” December 7, 1962, all in Reel 105, RG 60; Associated Press, “Negroes Act to Hit Schools in Virginia,” NYT, November 7, 1962, 36; Robert L. Carter to Burke Marshall, “Cocheyse J. Griffin, etc., et al v. County School Board of Prince Edward County, et al.,” November 5, 1962, Burke Marshall to Robert L. Carter, November 8, 1962, both in Box 5, BMP.

this country and to the implementation of the constitutional principles announced by the Supreme Court in *Brown v. Board of Education*.” The brief argued that the lower court’s decrees and orders should be made effective immediately and that the federal courts had jurisdiction to require the county to levy taxes and operate public schools. Furthermore, the United States had an interest to protect the constitutional rights of its citizens, and this case tested “whether the federal courts have power to protect these rights before they are forever lost.” The county officials had failed to meet their obligation, imposing an “undue and unreasonable burden” on parents. “It is time – in fact, it is high time,” reasoned the United States, “to call a halt to this abdication of responsibility on the part of the county authorities.” The court authorized the Department of Justice to file its brief and present oral arguments.⁷

On January 9, 1963, the federal circuit court held hearings on the constitutionality of the school closings. The NAACP supported Judge Lewis’s finding that the school closings were unconstitutional and asked that the court order the schools reopened by February. “This case should be decided forthwith,” asserted Robert Carter. “There’s an urgency about this.” In addition, the NAACP asked for an injunction on state funding to all Virginia public schools while Prince Edward County’s schools remained closed. “The state is under an obligation to maintain the system [of public schools],” explained Carter, “and is doing so everywhere else but Prince Edward.” The Department of Justice

⁷ “Brief for the United States as *Amicus Curiae*,” *Griffin v. County School Board of Prince Edward County, Virginia*, in U.S. Fourth Circuit Court of Appeals, *Records and Briefs: Cases 8837, 8843*, Volume 1365 (1962); Simon E. Sobeloff, “Cross-Appeals from the United States District Court for the Eastern District of Virginia, at Richmond,” December 28, 1962, *Griffin v. County School Board of Prince Edward County*, No. 8837, Box 727, US4CCA.

intervened in the case, in part to temper the NAACP's call for an injunction on state funds for schools across the commonwealth. The attorney general had generated undue anxiety with a similar motion in 1961. This time the Department of Justice had assured the court that "it is not here to advocate the spread of an educational vacuum." Rather, the administration simply sought to restore public education to Prince Edward County.⁸

Burke Marshall presented the case for the Department of Justice. He explained that the United States had an interest in this matter to enforce compliance with the *Brown* decision and protect the constitutional rights of the black children. Marshall reminded the court that the children were innocent victims. "It should be remembered that the decision to deprive hundreds of children in Prince Edward County of any education was not made by the children even though it is their constitutional rights which are primarily involved in this litigation," reasoned Marshall. "They have also already suffered what is probably irreparable damage in more than a legal sense because it will affect their opportunities for the rest of their lives. For many of them the deprivation has probably been made permanent by this time – not, as I say, by their own choice, but by the choice of others who are reflecting a history of racial intolerance." He asserted that the constitutional rights of the children superseded the rights of local citizens to organize a school system in

⁸ William K. Stevens, "Court Hears Plea to Open P.E. by Feb. 1," NVP, January 10, 1963, 1; Allan Jones, "School Case Taken Under Advisement," RTD, January 10, 1963, 1; Burke Marshall to Archibald Cox, "Griffin v. County School Board of Prince Edward County, Virginia, et al., (C.A. 4), reported below sub. nom. Allen v. County School Board, 207 F. Supp. 349 (E.D. Va. 1962).," December 7, 1962, Reel 105, RG 60; "Brief for the United States as *Amicus Curiae*," *Griffin v. County School Board of Prince Edward County, Virginia*, in U.S. Fourth Circuit Court of Appeals, *Records and Briefs: Cases 8837, 8843*, Volume 1365 (1962).

the manner they wished and made clear that the United States had an obligation to prevent other communities from following the Prince Edward model.⁹

Marshall made two fundamental arguments. First, the school closings violated the equal protection clause of the Fourteenth Amendment, a contention overwhelmingly supported by precedent. In every instance that a school closed or was threatened with closure the federal courts ruled against the school closers – except Prince Edward County. The defendants had maintained that the county differed from the other circumstances, because the schools closed for all, both blacks and whites, and the state gave localities the option to operate schools. Marshall reminded the court that the state was responsible for public schools and argued that the state violated the Fourteenth Amendment by operating schools throughout the state, but not in Prince Edward County. Second, federal courts had the authority to order the county to reopen and fund the public schools. Marshall, again, wrapped his argument in the Fourteenth Amendment: “The Constitution forbids the State to permit the Prince Edward schools to be closed. The County officials are the relevant state officers under the Fourteenth Amendment for this purpose. They accordingly have a positive, not a discretionary, federal duty to levy taxes sufficient to maintain open schools. Put another way, their failure to levy taxes to open the schools is an abuse of discretion as a matter of federal law because it deprives the children of the County of their constitutional rights.” Marshall concluded that the court

⁹ Burke Marshall, “Argument Preparations: Prince Edward County,” n.d, Box 27, BMP.

not only had the authority to open the schools, but it had the power of contempt to ensure that the county complied.¹⁰

The defendants took no responsibility for operating public schools in Prince Edward County. The attorneys argued that the county had no constitutional obligation to provide schools. Collins Denny told the court that the federal constitution “never has...required that public schools be operated.” Nor, the defendants argued, did the Constitution prohibit a locality from educating its children as it desired – be it public schools or private schools funded by tuition grants. The state attorneys, likewise, found that Virginia had no obligation to reopen the schools “because they have no duty, no power and no funds to do so. Virginia has no schools, no buses, no teachers.” The defendants had prepared for the federal case by raising similar questions in state court. Months earlier, the county attorneys had initiated a suit in the State Circuit Court of Richmond to determine whether the state must operate public schools when local officials refused to appropriate funds. Collins Denny argued that the county school board had “the sole right, authority and duty to operate schools,” but the board of supervisors could “block this duty” by refusing to allocate funds, an “intentional” design in the state constitution. Neither the governor, nor the general assembly, nor the state board of education could usurp the local school board’s authority. The school board, therefore, violated neither state laws nor violated the Fourteenth Amendment because public

¹⁰ *Ibid.*

schools were closed to both blacks and whites. The county banked on the state court's ruling to complicate matters in the federal circuit court.¹¹

The State Circuit Court of Richmond countersigned the state and county's arguments. On March 27, 1963, Judge John Wingo Knowles determined that the state board of education had no authority to operate schools in Prince Edward County, that the local school board had fulfilled its responsibility as outlined in the state constitution, and that there was no violation of the Fourteenth Amendment and no reason to block tuition grants. The court's opinion was in direct conflict with Judge Lewis's rulings in U.S. district court and, as Collins Denny planned, complicated the virtually identical issues pending in the U.S. Fourth Circuit Court of Appeals. The *Farmville Herald* celebrated Judge Knowles's opinion with a front-page editorial, claiming that the ruling "definitely makes the localities responsible for education in Virginia, and it rules out federal interference or authority under the Constitution." Lawyers at the Department of Justice, on the other hand, believed that the state ruling had no bearing on the federal case. St. John Barrett advised Burke Marshall that Judge Knowles's ruling did not require further action in the federal circuit court. In fact, he argued that the state ruling should be dismissed as "irrelevant," adding that "to suggest that the state court decision is of any importance, one way or another would invite further delay inasmuch as this is a decision

¹¹ Stevens, "Court Hears Plea to Open P.E. by Feb. 1," 1; Jones, "School Case Taken Under Advisement," 1; James Baker, "Constitutional Issue Argued by Lawyers," RNL, January 9, 1963, 1; Associated Press, "Delay Is Seen Possibility in Edward Case," WP, December 14, 1962, C2; Associated Press, "Local Control Defended in Edward Case," WP, December 15, 1962, B2; "Fundamental Issue Raised In State Court School Suit," FH, December 14, 1962, 1; "School Suit Hearing Fails To Remove Haze: Richmond Circuit Court Takes Case Under Advisement," FH, December 18, 1962, 1.

only of a lower state court and is now on appeal to the State Supreme Court.” Ultimately, Collins Denny’s strategy to delay the federal proceedings by running parallel litigation in the state courts worked and, to boot, it created an opening to lift the injunction on tuition grants.¹²

Governor Harrison had come under pressure from Prince Edward Academy parents to distribute the state tuition grants. Leo Wells, the manager of the Longwood Golf Club, for one, had paid his daughters’ full tuition for the previous two years. Wells considered the state court’s ruling reason enough for Virginia to immediately compensate parents for their tuition expenses. “We feel that we have been discriminated [against] enough in this county,” Wells explained to Harrison, “and these grants should be paid [to] us as soon as possible.” Harrison believed that a favorable ruling in the state supreme court would convince the federal circuit court to lift the injunction on tuition grants. At the governor’s request, the state attorney general petitioned the Virginia State Supreme Court of Appeals to expedite a hearing on the constitutionality of tuition grants. However, Chief Justice John W. Eggleston questioned why the state court must “run a race with the [U.S.] Fourth Circuit Court of Appeals to get this issue decided.” In early June, the state supreme court declined to expedite the case. Both courts had similar constitutional issues to interpret and both waited for the other to make their decision. Federal Judge Clement Haynsworth privately admitted that he found himself “bogged

¹² Allan Jones, “Prince Edward Ban On Schools Held Legal,” RTD, March 28, 1963, 1; Editorial, “Another Step,” FH, March 29, 1963, 1; St. John Barrett to Burke Marshall, April 5, 1963, Reel 105, RG 60; Clement F. Haynsworth, Jr., to Herbert S. Boreman and J. Spencer Bell, July 24, 1963, Box 144, SESP.

down in unresolved questions of state law, the ultimate resolution of which I found myself wholly unable to predict with confidence.” His indecision prompted further delay, which left the school situation in a cloud of uncertainty deep into the summer.¹³

The federal courts’ delay emboldened the county. In June, the county board of supervisors passed a budget that allocated \$375,000 for tuition grants. In addition to the money blocked by a federal injunction, the county held \$100,000s in escrow for tuition grants. If the federal court lifted the injunction, then the county could immediately provide relief to Academy parents. However, the county afforded no relief for the locked-out children. For the fifth consecutive year, the supervisors unanimously approved a budget void of operational funds for public schools. The school board had prepared two budgets: one that provided funds to operate public schools for all children and another to fund only the public education of black children. At the budget hearing, all six speakers, four white and two black, urged the board to allocate the funds for public schools. No speaker defended the status quo. In an editorial, Barrye Wall spun the public hearing by dismissing the value of citizens petitioning their government. “We could have filled the courtroom [the site of the public hearing] with our people and so could they,” explained Wall. “The board knows how they feel.” The budget bought the massive resisters more time. If the federal court ordered the public schools reopened, then a new states’ rights issue would arise: the county would not have sufficient funds to operate public schools

¹³ Leo A. Wells to Albertis S. Harrison, March 28, 1963, Box 72, ASHP; Allan Jones, “Button to Ask Appeals Court For Early Ruling on Schools,” RTD, May 21, 1963, 1; “Va. Court Cool to Rush Plea: Prince Edward Case at Crux,” RNL, June 3, 1963, 1; “Pr. Edward Decision Is Put Off,” RNL, June 13, 1963, 19; Clement F. Haynsworth, Jr., to Herbert S. Boreman and J. Spencer Bell, July 24, 1963, Box 144, SESP.

and by state law it could not amend the budget after June to raise more revenue for that fiscal year. The county could not comply with the federal court order without violating the state law, and that scenario opened the door to further delay to the resumption of public education.¹⁴

II

President Kennedy's thinking on civil rights legislation had shifted. In the first two years of his presidency, Kennedy advanced racial progress through executive action rather than proposing new legislation. A civil rights bill simply did not have the votes in Congress. He considered it unwise to diminish the office of the presidency by pushing legislation that was destined to fail. The midterm elections sustained the Democratic supermajorities but not a working majority for the president. Kennedy determined that

¹⁴ Minutes, Prince Edward County Board of Supervisors, June 1963, PECBOSR; "Board Proposes \$1 Tax Levy, Calls Public Hearing June 7: Tentative 1963-64 Fiscal Outline Has \$375,000 for School Grants," FH, May 24, 1963, 1; "Six Speakers Urge Opening of Prince Edward Schools," RTD, June 8, 1963, 2; Robert P. Hilldrup, "Pr. Edward Unit Denies Budget Change Pleas: Six Speak in Favor of Funds," RNL, June 7, 1963, 1; "Board Delays Budget Action," FH, June 11, 1963, 1; "Schools in Prince Edward Scheduled to Stay Closed," RTD, June 19, 1963, 2; Ben A. Franklin, "Prince Edward County Firm on Segregation: Moves to Keep Its Schools Closed for Fifth Year Despite 6 Appeals," NYT, June 8, 1963, 10. On June 7, 1963, six people spoke at the public hearing, including four whites (M. Henry Bittinger, a professor at Longwood College; Reverend Arthur Field, pastor at Hampden-Sydney College; Mary Dupuy of Worsham; and Annie V. Putney of Farmville) and two blacks (Reverend Calvin Hill of Hampden-Sydney and Alton Morton of Farmville). Bittinger proposed a countywide referendum to consider the sentiment of the people. However, a referendum would never have been acceptable to either party. A referendum would have quantified the opposition to the status quo and further diminished the veneer of white unanimity, a proposition that was unacceptable to the segregationist leaders, and African Americans did not have enough registered voters to win. Reverend Hill called for racial conciliation, to "let bygones be bygones and open the schools." Reverend Field urged the supervisors to build race relations and prevent racial disturbances that had been happening elsewhere. See "Board Delays Budget Action," FH, June 11, 1963, 1.

the new Congress was “slightly against us more” than the previous congress. In addition, there was little public demand for a bill. According to a Gallup poll, only 4 percent of Americans ranked racial matters as the country’s most important problem. The people considered international problems, Fidel Castro and Cuba, and unemployment more pressing concerns. Nevertheless, President Kennedy directed the White House staff to study a legislative message on civil rights. The process moved the administration to take extraordinary action in Prince Edward County.¹⁵

The president’s advisors had reservations about a civil rights bill, particularly a provision on school desegregation. The administration had drafted language that authorized the attorney general to file suits. With hundreds of school districts still segregated, Lee White, assistant special counsel to the president, advised that the attorney general “would be under heavy pressure to enter every school district to seek desegregation.” The Civil Rights Division did not have such resources. “And while it is emphasized that the Attorney General would only be authorized, not directed, to bring suits,” underscored Burke Marshall, “how would he explain a decision not to enforce the law in a particular county?” Marshall was also concerned about passing a bill that the administration could not enforce, like one demanding immediate desegregation. “We have a great problem in maintaining respect for the law,” explained Marshall. “This law would not be obeyed.” In fact, localities could defy the law by closing schools on “a large

¹⁵ Theodore C. Sorensen, *Kennedy* (New York: Harper & Row, 1965), 494; “Television and Radio Interview: ‘After Two Years – a Conversation With the President,’” December 17, 1962, in PPP-1962, 889-904; Gallup, *The Gallup Poll*, 1812; Theodore C. Sorensen to Mike Feldman, et al., February 5, 1963, Box 59, TCSP; Ben A. Franklin, “Kennedys Spur New School Plan for Virginia Negroes as First One Fails,” NYT, July 21, 1963, 42.

scale.” He believed that it was more realistic to pass a bill that provided technical and financial assistance to school districts undergoing desegregation.¹⁶ Kennedy proceeded with a civil rights message that requested moderate expansion of executive authority over school desegregation.

President Kennedy sent his “Special Message to the Congress on Civil Rights” to Capitol Hill on February 28. Kennedy outlined his recommendations for voting rights, the commission on civil rights, employment, public accommodations, the non-discriminatory use of federal funds, and education. The president, again, affirmed his support for the *Brown* decision, which “represented both good law and good judgment – it was both morally and legally right.” He renewed his conviction that “closed schools are not the answer” and highlighted the Prince Edward County school crisis. The Department of Justice had “intervened to seek the opening of public schools in the case of Prince Edward County, Virginia, the only county in the nation where there are no public schools, and where a bitter effort to thwart court decrees requiring desegregation has caused nearly 1,500 out of 1,800 school age Negro children to go without an education for more than three years.” President Kennedy pledged that “the Executive Branch will continue its efforts to fulfill the Constitutional objective of an equal, non-segregated, educational opportunity for all children” and recommended that Congress pass legislation to permit federal technical and financial assistance to school districts that were desegregating “in compliance with the Constitution.” The message, however, failed to

¹⁶ Lee C. White to John F. Kennedy, “Civil Rights Program – Issues,” February 25, 1963, Box 30, TCSP; Burke Marshall to Leslie W. Dunbar, February 26, 1963, Reel 68, SRCP.

excite the public or move the Congress to act. In addition, the president did not expend his stores of political capital on a campaign to pass his recommendations – and presidential leadership was needed to pass a civil rights bill.¹⁷

The White House conferences on civil rights prompted a study of possible federal action in Prince Edward County. The president's proposal to provide technical and financial assistance to desegregating school systems meant nothing to the county unless a federal court ordered the schools reopened. Besides, there was no guarantee that the federal circuit court would rule favorably and that Congress would pass the president's recommendations. Kennedy recognized that if the schools were to reopen in September, an extraordinary effort would be required to compensate for the four lost years, and the federal government had to assume this responsibility. President Kennedy directed the Department of Justice to investigate all manners in which the federal government could assist the county's locked-out children. Burke Marshall spearheaded this task. He asked the Department of Health, Education, and Welfare (HEW) to present proposals that provided educational opportunities for all children in Prince Edward County. HEW then directed the U.S. Office of Education to conduct an investigation.¹⁸

Peter Muirhead, assistant commissioner for program and legislative planning, led the study. He opened informal discussions with a half-dozen people who were knowledgeable about the situation and sympathetic to the locked-out children (see Table

¹⁷ "Special Message to the Congress on Civil Rights," February 28, 1963, in PPP-1963, 221-230; Carl Brauer, *John F. Kennedy and the Second Reconstruction* (New York: Columbia University Press, 1977), 221-224.

¹⁸ Franklin, "Kennedys Spur New School Plan for Virginia Negroes as First One Fails," 42; James M. Quigley to Burke Marshall, March 18, 1963, Box 1, PEFSAP.

9.2). From these conversations, Muirhead noted that the younger children had not seen the inside of a classroom and that the older children were insufficiently trained for the workforce; the county lacked the resources to meet the challenge of educating children who had been locked-out for four years; former black public school teachers had moved away or found employment elsewhere; public school buildings might be made available for an educational program; and the NAACP would not oppose a federal program. On March 11, Muirhead presented his recommendations to Francis Keppel, the U.S. Commissioner of Education. With the likelihood that the federal courts would delay ordering the schools reopened, he proposed that “immediate steps should be taken to provide an organized program of instruction starting in September 1963....This would seem to indicate that the principal effort between now and September should be directed toward assessing the pupil population, obtaining financial support, recruiting staff, and locating and preparing facilities and teaching materials.” Muirhead’s review became the basis for federal action in Prince Edward County.¹⁹

The Office of Education submitted a broad range of recommendations. The federal government’s position was complicated due to insufficient authority to operate a school system. Thus, the administration could play a minor role simply by encouraging the NAACP and the American Friends Service Committee to place more children in schools outside the county. That approach, however, had proven to be ineffective at restoring universal education. Second, the administration could employ existing laws to

¹⁹ Peter Muirhead to Francis Keppel, “Prince Edward County School Situation,” March 11, 1963, Box 100, RG 12.

provide educational opportunities for some of the locked-out children. The National Defense Education and the Manpower Development and Training Acts could provide demonstration projects in educational television for all grade levels, a remedial reading clinic, and vocational training for older children. Third, the administration could solicit philanthropic foundations to provide funding for correspondence courses. Finally, a more ambitious program – the Muirhead proposal – called for a full school program funded by private donations. The schools would be staffed with master teachers on sabbatical from large school systems, Peace Corps volunteers, and graduate students serving as interns.

Table 9.2

Discussants of School Situation with Peter Muirhead, March 1963

Discussant	Connection
Jean Fairfax American Friends Service Committee	The American Friends Service Committee has been active in setting up classes and providing instruction in Prince Edward County for the past three summers.
Dr. Hans Furth Professor of Psychology Catholic University of America	Dr. Furth is active in the group of persons bringing children from Prince Edward County to attend Washington schools.
Rev. L. Francis Griffin Prince Edward County Christian Association	Rev. Griffin is the President of the Prince Edward County Christian Association, the local group which has tried to maintain community interest in education since the schools were closed. (He is an important local Negro power figure.)
Kenneth Morland Professor of Sociology and Anthropology Randolph-Macon Women's College	Dr. Morland has published articles on race relations as related to cultural change and has conducted research concerned with the educational and occupational aspirations of children in a Southern community.
Dean C. G. Gordon Moss Longwood College	Dean Moss is a local person concerned with the situation in his community.
Dr. Deborah Wolfe Education Chief House Committee on Education and Labor	Mrs. Wolfe has worked closely with the several groups interested in helping with the education of Negro children in Prince Edward County.

Source: Peter P. Muirhead to Francis Keppel, "Prince Edward County Situation," March 11, 1963, Box 100, RG 12.

The Office of Education's recommendations were not a comprehensive program but a number of overlapping proposals. In order to determine the community's needs, the administration had to conduct a survey to obtain information on the age distribution and educational level of black students, the number of interested students, transportation needs, and the availability of staff, school facilities, and teaching materials. The Office of Education concluded that once these results were analyzed "a definite course of action can be laid out."²⁰

On March 18, HEW submitted the Office of Education's report to Burke Marshall. Assistant Secretary James Quigley's commentary biased the report toward implementing a full school program. However, he cautioned that HEW did not have the programs to support general education and made clear that the proposal assumed that the school buildings and transportation services would be available. In addition, Quigley warned that, especially without a compulsory attendance law, the student body and parents had to be "strongly motivated." He emphasized that it was imperative to "remove any practical obstacle to attendance." Quigley closed by pledging HEW's support to "remedy this deplorable situation" and imploring that "a program such as has been outlined will require the active support of the Administration to succeed." President Kennedy had already demonstrated his strong interest by charging the Department of Justice with leading this investigation. As long as Robert Kennedy remained attorney general, Justice was the center of action, and Prince Edward was a top concern. Just

²⁰ "The Prince Edward School Situation," March 15, 1963, Box 100, RG 12.

weeks earlier he told the *Norfolk Virginian-Pilot* that “the case I’m most concerned about is Prince Edward,” adding that “it’s one of the really deplorable situations in the nation.”²¹



Figure 9.1 Robert F. Kennedy, March 18, 1963. (Photo: *Louisville Courier-Journal*).

Robert Kennedy intensified his condemnation of Prince Edward County. Recently, he had denounced the school closings in a national context, as “a disgrace to

²¹ James M. Quigley to Burke Marshall, March 18, 1963, Box 1, PEFSAP; Luther J. Carter, “Prince Edward ‘Deplorable,’ Says Atty. Gen.,” *NVP*, February 10, 1963, B3.

our educational system and to our country.” On March 18 at the Emancipation Proclamation Centennial celebration in Louisville, Kentucky, Kennedy shamed the county by placing the school closings in an international context: “We may observe, with as much sadness as irony that outside of Africa, south of the Sahara where education is still a difficult challenge, the only places on earth known not to provide free public education are Communist China, North Vietnam, Sarawak, Singapore, British Honduras – and Prince Edward County, Virginia.” Barrye Wall took to his editorial page to respond, considering it a “slap” at the county because “by association he damns [its] people...by the spurious method of association with people of which we never had any contact.” Annie Putney of Farmville refuted Wall in a letter to the editor, stating that Kennedy’s remarks were not a slap, “but the statement of a fact.” Burton G. Hurdle, Jr., of Hampden-Sydney added that the county “looks senile, foolish, and backward in the frowning eyes of the nation. It has no feeling of obligation or responsibility.” The Kennedy brothers had resolved to make educating the locked-out children a federal responsibility.²²

²² Department of Justice, Press Release, December 20, 1962, Reel 105, RG 60; Thomas A. Hopkins, ed., *Rights For Americans: The Speeches of Robert F. Kennedy* (Bobbs-Merrill Co.: Indianapolis, Indiana, 1964), 139-146; Editorial, “Education Or Freedom,” FH, March 22, 1963, 1B; Annie V. Putney, Letter to the Editor, FH, March 29, 1963, 1C; Burton G. Hurdle, Jr., Letter to the Editor, FH, March 26, 1963, 4A. Robert F. Kennedy’s one-sentence statement on Prince Edward County in his Emancipation Proclamation Centennial speech is often quoted in accounts of the school closings. This statement had its origins in a memorandum, dated March 6, 1963, from Theodore Sorensen to President Kennedy. The memorandum read: “The following piece of information provided me by the Office of Education may be useful at some appropriate time: ‘Outside of Africa south of the Sahara, where education is still a difficult challenge, the only jurisdictions on earth known not to provide free public elementary education at this time are: Communist China, North Vietnam, Sarawak, Singapore, British Honduras, Prince Edward County, Virginia.’” Early drafts of Robert F. Kennedy’s speech in Louisville contained the elements in the Sorensen memo, but in a slightly different form. In fact, in the second draft, the sentence began: “It is a national

III

In October 1962, Reverend L. Francis Griffin was elected president of the Virginia State Conference of the NAACP. Under his leadership, the association dedicated itself to strengthening and accelerating all phases of its program in observance of the centennial of emancipation. He resolved to make 1963 the year that “will challenge the ambitions, talents and energies of every freedom loving citizen in Virginia.” The state Association sought “speedy and lasting resolutions to the ‘unfinished tasks’ of our democracy.” Prince Edward County was one of those unfinished tasks, and Griffin’s ascension placed the school crisis at the top of the agenda. In fact, at the state convention that elected Griffin, the Association held a memorial dinner to honor him and the black citizens of Prince Edward County. The evening’s program included a lyrical tribute:

Praise is due our gallant sons,
Our gallant daughters too!
Those brilliant, brave, inspired ones –
That grand Prince Edward Crew!
...Let’s bind ourselves together
In a new abiding TRUST!
We’ll face all kinds of weather
With a new UNITED MUST!

Reverend Griffin urged black Virginians to “redouble” their efforts for desegregation:

“We must decide as individuals that we will do anything, even give our lives, for

disgrace that outside of Africa...” An editor circled “national disgrace” and wrote in the margin: “Too strong. Let the fact[s] speak for themselves.” In the end, the final draft closely resembled the Sorensen memo. See Theodore C. Sorensen to John F. Kennedy, March 6, 1963, Box 5, BMP; Drafts of Emancipation Proclamation Centennial Celebration, Speeches 1961-1964, Box 2, RFKP.

freedom.” He assured the delegates that black Prince Edwardians “intend to hold out to the end regardless of the cost.”²³

The state NAACP modified its Prince Edward strategy. Reverend Griffin dissolved the Prince Edward County Christian Association (PECCA), because the Prince Edward project had become “too massive in scope” for the organization to “manage effectively.” Also, PECCA had too often been misidentified as an affiliate of SCLC. Management of the school crisis returned unmistakably under the umbrella of the NAACP. PECCA’s dissolution, however, meant the termination of the training centers, thus closing a door to an educational program for the black children that remained in the community – and more parents chose not to send their children away to school. The Virginia Teachers’ Association had more out-of-county placement slots than interested students. Griffin tried to “stimulate interest in this project but with little success.” He offered an assessment for the declining interest: some did not want to accept help, others preferred staying close to their birthplace; a segment was apathetic, “lethargic and complacent”; and still others had become “despondent” and “lost all faith in democratic processes.”²⁴ The NAACP had to find a winning strategy that would not permit surrender.

²³ “NAACP Asks Virginia To Mix Nat’l Guard,” PC, October 27, 1962, 3; Virginia State Conference of the NAACP Press Release, January 18, 1963, L. Francis Griffin to Wilmer Wilson, Jr., January 23, 1963, J. Farley Ragland, “A Timely Tribute to the Rev. L. Francis Griffin and the Prince Edward Patriots,” Virginia State Conference, NAACP Memorial Dinner Programme, October 13, 1962, all in Group III, Box C160, NAACP; Associated Press, “Speakers Focus on Prince Edward At NAACP Meet,” clipping in Box 144, SESP.

²⁴ Virginia State Conference, NAACP to Roy Wilkins, September 10, 1962, Group III, Box C160, L. Francis Griffin to Friend, March 25, 1963, L. Francis Griffin to J. Rupert Picott, January 30, 1963, both in

The NAACP resolved that the federal government had to take responsibility for educating the locked-out children. Over the winter, Griffin had coordinated with the national Association, the American Friends Service Committee, and the Virginia Teachers' Association to develop a plan to pressure the Kennedy administration to provide a remedial education program in the county. They settled on a three-point plan: survey the school-age population, assist in the development of a federal remedial education program, and present a petition to President Kennedy. On April 10, the NAACP unveiled its proposal at a well-publicized press conference. The NAACP urged the federal government to "commit its full resources" to Prince Edward County. "Nothing less than the most comprehensive remedial and preparatory program that can be devised will do," a statement read. "Only government – federal government in this case – can or should bear the burden of providing this aid."²⁵

A week later, the NAACP sponsored a census to assess the educational status and needs of the black children. Seven dozen students from Hampton Institute and Virginia Union University canvassed the county. They counted 1,633 school-age black children, of which 492 attended school outside of the county, and 129 of them went to school

Group III, Box A107, all in NAACP. PECCA had been historically insolvent. The organization closed its doors with a debt of \$1,327.50, a sum owed to center workers and other expenses incurred by the centers' operation. The national NAACP retired the debt. See L. Francis Griffin to John A. Morsell, January 16, 1963; John A. Morsell to W. Lester Banks, January 30, 1963, both in Group III, Box A107, NAACP.

²⁵ Jean Fairfax to L. Francis Griffin, October 29, 1962, #38216, Jean Fairfax to Bill Bagwell, "Prince Edward County Development (or Confusion Reigns)," March 13, 1963, #38544, both in AFSC; John A. Morsell to J. Rupert Picott, March 14, 1963, John A. Morsell to Roy Wilkins, March 25, 1963, "Statement of the NAACP on Federal Responsibility for Meeting the Educational Needs of the Negro Children of Prince Edward County, Virginia," April 10, 1963, all in Group III, Box A107, NAACP; Allan Jones, "NAACP Urges Prince Edward Instruction: Start Remedial System, U.S. Government Is Asked," RTD, April 11, 1963, 1.

outside the state. That left over 1,000 children not attending school at all. The NAACP reported that parents strongly favored a remedial education program and an “overwhelming majority” would call their kids back to the county to attend reopened public schools. In addition, some census workers voluntarily surveyed racial discrimination in places of public accommodations. Several sought service at lunch counters (Owen-Sanford Drug Company, Southside Sundry, and J.J. Newberry’s) and admittance to the State Theater, but all were turned away. The demonstrations foreshadowed a tense summer.²⁶

The NAACP circulated a petition that urged President Kennedy to act in Prince Edward County. The document summarized the tragedy that had been inflicted on the black children:

The abandonment of public schools has been a disaster from which some of our children will probably never fully recover. There are 8, 9, and 10 year old children who have never had any formal education and can neither read nor write. There are adolescent boys and girls, now discouraged and overaged, who could easily become like the school drop-outs: without skills and training for our nation’s needs. There is the large in-between group who lost precious years of education before they even established strong study habits.

The signatories trusted that the president had the “concern and power” to avail the children of a “massive program of Federal assistance” that would ease their transition back to public schools. They made a dramatic plea for the implementation of a remedial

²⁶ Press Release, “NAACP Asks Federal Aid for Prince Edward Co. Children,” April 12, 1963, Press Release, “NAACP Reports on Prince Edward Survey,” May 3, 1963, both in Group III, Box A107, NAACP; Henry McLaughlin, “Negro Students Begin Prince Edward Survey,” RTD, April 18, 1963, 4; “‘Sit-in’ Attempt Follows NAACP Survey Here,” FH, April 19, 1963, 1; Lt. L.E. Thomas to Captain W.W. Blythe, “Investigation – School Canvas,” April 18, 1963, Box 10, ASHP.

education program which “will match in purpose, scope and quality the best social and technical assistance project which our Government has ever done anywhere in the world.” Six hundred ninety-five black Prince Edwardians affixed their signature to the petition, which Roy Wilkins transmitted to the White House in mid-May.²⁷

The NAACP may have provided the impetus to push the administration’s Prince Edward program along. Reverend Griffin had first-hand knowledge that a federal program was being studied. In March, the U.S. Office of Education had interviewed Griffin about the schools crisis and tipped him off about a possible program. Griffin had also obtained a copy of a college professor’s application for a cooperative research grant to study Prince Edward County, which was under review by the Office of Education. Additionally, the NAACP had learned that a White House memorandum on Prince Edward had been circulating through the Department of Health, Education, and Welfare. With this intelligence, the NAACP called on the administration to implement a remedial education program – a program vaguely worded and, admittedly, one that had not fully matured in the minds of NAACP planners.²⁸ That was irrelevant. The NAACP had seized

²⁷ L. Francis Griffin to John A. Morsell, January 16, 1963, Group III, Box A107, NAACP; Roy Wilkins to John F. Kennedy, May 15, 1963, Box 369, WHCSF; Petition to John F. Kennedy, n.d., Reel 105, RG 60. The American Friends Service Committee drafted the petition to President Kennedy in October 1962. See Jean Fairfax to L. Francis Griffin, October 29, 1962, 38216, AFSC. The White House replied to Roy Wilkins’ letter three months later. By that time, the administration had settled on a course of action, which had been clearly documented by the news media. Nevertheless, Lee C. White, assistant special counsel to the president, explained that the petition and letter had been read “with great interest.” He added that “the concern of the good people of Prince Edward County who signed their names to the petitions is, of course, most understandable, and I can assure you of the President’s deep personal concern and sense of urgency.” See Lee C. White to Roy Wilkins, August 12, 1963, WHCSF.

²⁸ “The Prince Edward School Situation,” March 15, 1963, Box 100, RG 12; Jean Fairfax to Bill Bagwell, “Prince Edward County Development (or Confusion Reigns),” March 13, 1963, #38544, AFSC;

the initiative, commanded the headlines, and forced the administration to disclose its plans for Prince Edward County.

The NAACP's April 10 press conference had caught the Kennedy administration off guard. A disconcerted Francis Keppel hurriedly drafted a press release that outlined the Office of Education's concern, recent study, and preliminary plans, and he volunteered to speak to the press. Nevertheless, the administration decided to have the spokesman for the Department of Justice handle public relations. Ed Guthman issued a statement that was widely published on April 12. He explained that weeks earlier President Kennedy directed the Office of Education, working in partnership with the Department of Justice, to make "an intensive study to determine what kind of remedial training program would be possible and appropriate for the children of Prince Edward County." As a preliminary step, a research team was contracted to conduct a survey to determine the educational needs of the county. The study would "serve as a basis for a final determination of what kind of educational programs, including remedial reading programs, can be instituted." Guthman emphasized the administration's concern for the lost years of school and closed by stating, "If the federal government can help, we want to help."²⁹

John A. Morsell to Roy Wilkins, "Plans for Remedial Work in Prince Edward County, Virginia," March 18, 1963, Group III, Box A107, NAACP.

²⁹ Francis Keppel to James Quigley, "Proposed Press Release Regarding Prince Edward County School Situation," April 11, 1963; "Statement received from Mr. Guthman's Office – Dept. of Justice," April 11, 1963, both in Box 273, RG 12; John A. Hamilton, "JFK Enters P.E. Case," LN, April 12, 1963, 1; Associated Press, "President Requests Education Survey in Prince Edward," WES, April 12, 1963, B4.

Governor Albertis Harrison opposed federal assistance to Prince Edward County. “It has always been my hope that we could avoid any move by the Federal Government to set up any type of schools in the county,” grumbled Harrison, “but...there may be no means available to us that would discourage the Federal Government’s apparent intention of setting up the so-called remedial program.” The governor told reporters that he preferred a program carried out by the state and locality. Commentators impugned Harrison for his disingenuous statement. The *Lynchburg News* called on the governor to do “more than ‘prefer’ that a remedial program be instituted by the State and locality rather than the Federal government. Let him take the lead in these matters.” Likewise, during a speaking engagement at Longwood College, State Senator Armistead Boothe urged the state to take responsibility by funding the public schools and, thereby, beat “Jack and Bobby Kennedy to the draw.” The state’s failure to take responsibility had created a vacuum of leadership.³⁰

Robert Kennedy soon declared the school closings a federal responsibility. On April 25, in an address at the University of South Carolina, the attorney general denounced the county’s legal defense for shirking its responsibility. “In Prince Edward County, Virginia, public officials met the legal requirement of equality in public education by closing all public schools in that county,” decried Kennedy. “Equality was achieved in the mathematical sense that zero equals zero – that is, the lack of public

³⁰ Albertis S. Harrison to Thomas T. Upshur, April 19, 1963, Box 72, ASHP; Jones, “NAACP Urges Prince Edward Instruction,” 1; Editorial, “Remedial Programs Needed in Prince Edward,” LN, April 13, 1963, 6; Virginia Summers, “Boothe Urges Assembly Aid for Prince Edward,” RTD, April 17, 1963, 2; “Senator Boothe Says: State Responsible For Education of the Public,” FH, April 19, 1963, 1.

education for Negro children satisfies requirements of equality if there is no public education for white children.” Also, Kennedy laid out the moral consequences of the county’s policy: “The shocking result is that about 1,300 Negro children in Prince Edward County have not attended school for four years. There are children there who are eleven years old who cannot read or write. These are the lost children in an age of transition. They have been caught in a social revolution which, though not of their making, has made itself felt most directly on them.” Finally, Kennedy stated that “we all have a responsibility to find a solution,” adding that the administration “is working actively to find what it can do to erase the mockery of ‘zero equals zero.’”³¹

The administration funded a study of Prince Edward County. Months earlier, Dr. Robert Green, an instructor of educational psychology at Michigan State University, had visited the county to informally interview black leaders and residents. He determined that a study was “possible and mandatory” and, therefore, submitted an application for a cooperative research grant. In April, the U.S. Office of Education awarded Green \$75,372 for a year-long study of the school closings’ effects on the children and community. The first phase of the project began in late May. Thirty college students from Michigan State University, Virginia Union University, and North Carolina College canvassed the county to administer a nine-page questionnaire to parents and guardians of all school-age black children. The census workers recorded the number of children, their age, educational level, recent school attendance, interest in attending school, and

³¹ Robert F. Kennedy, Speech before the American Association of University Professors, University of South Carolina, April 25, 1963, Box 2, Speeches: 1961-1964, RFKP.

transportation availability. Green “hoped to gather valuable information to allow educators to plan a meaningful curriculum in case the schools are reopened someday.” The Office of Education expected a report on Phase I by the end of June. Originally, the administration planned for the data to guide the development of educational programs, but it moved on a project before receiving Green’s report.³²

On June 3, the Institute of Educational Research announced that they were awarded a grant to conduct a teaching experiment in Prince Edward County. The National Institute of Mental Health (NIMH), under the aegis of the Department of Health, Education, and Welfare, agreed to fund a five-year \$2.5 million program to test Dr. Myron Woolman’s reading technique, the “progressive choice method,” on five hundred children who read below a sixth grade-level. Woolman boasted that his project would complement future federal programs and the eventual reopened public schools. An NAACP spokesperson declared that this program “is what we have been asking for,” which just demonstrated the confusion over the project’s purpose. Woolman acknowledged that under his program children would learn, but that his purposes were “purely for scientific research,” not to provide remedial education. The Woolman project

³² Robert L. Green, et al., *The Educational Status of Children in a District Without Public Schools* (Lansing, Michigan: Bureau of Educational Research, College of Education, Michigan State University, 1964), 5-6, 85-88, 259-267; Press Release, Department of Health, Education, and Welfare, May 7, 1963, Box 429, NEAA; Project Description: *The Educational Status of Children in a District Without Public Schools*, n.d., and Michigan State University, “Prince Edward County, Virginia – Phase I Survey,” both in Box 100, RG 12; John Steck, “Educators, Sociologists Start School Closing Effects Study,” FH, May 24, 1963, 1; UPI, “\$75,000 U.S. Study To See What Happens When County Closes Schools,” *Daily Journal*, May 28, 1963.

toed a line between research and an educational program, the latter of which the administration had no authority to provide.³³

The Kennedy administration had not effectively communicated its Prince Edward strategy. The NIMH grant was larger than originally recommended. The internal Quigley memo had proposed a four-month \$50,000 remedial reading project. NIMH awarded Dr. Woolman fifty times more money and extended the term of the project fifty-six more months. The price tag and commitment were high, which gave the false impression of it being a cure-all program. However, the project was only designed to reach five hundred children. Reverend Griffin, for one, welcomed the project but had hoped for a broader federal commitment. The administration had not explained how the remedial reading project fit into its broader strategy, that the NIMH grant represented only a fraction of its Prince Edward program. Within days, Ed Guthman announced that the Office of Education was preparing a vocational training program, but he provided no additional details. The administration's disclosing of its program in "bits and pieces" created confusion.³⁴ The time certainly had come for briefing interested parties on the federal government's plans.

For months, Jean Fairfax of the AFSC had been working in vain to schedule a meeting between federal agencies and private organizations to coordinate planning on Prince Edward County. Fairfax likened her efforts to "taking a brisk walk through

³³ Ross Weeks, Jr., "Reading Plan Set In Prince Edward," RNL, June 3, 1963, 1; Ben A. Franklin, "U.S. Allots 2.5 Million to Tutor Negro Pupils in Virginia County," NYT, June 6, 1963, 21.

³⁴ James M. Quigley to Burke Marshall, March 18, 1963, Box 1, PEFSAP; "Pr. Edward Project Weighed," RNL, June 4, 1963, 1; Associated Press, "U.S. Eyes New School Plan For Prince Edward Negroes," WP, June 5, 1963, B10.

molasses.” In May, Fairfax again wrote Francis Keppel, but she did not receive a response. Keppel worried that a federal school program in Prince Edward County would jeopardize the administration’s education bill. He regrettably “took the position that it would be wiser, on the whole, to have the ball outside the Office of Education,” which accounts for him dodging Jean Fairfax. A short time later, Fairfax met with Burke Marshall to express her frustration over Keppel’s silence. Marshall immediately called Keppel. “I have Miss Fairfax in the office,” said Marshall. “I have the letter that she has sent to you, and I hope you will be able to convene this group.” Keppel acceded. The Office of Education invited representatives from several federal agencies and private organizations to discuss Prince Edward County.³⁵

On June 6, Francis Keppel hosted the “informal discussion” at the Office of Education. The meeting buzzed with excitement over the recent news reports of the NIMH grant. Harold Hildreth of the National Institute of Health cautioned the conferees that the report was premature, because the deal had not been formalized, yet he appeared confident that the project would move forward. Burke Marshall was less optimistic about the federal circuit court ordering the public schools reopened. He announced that the

³⁵ Jean Fairfax to Bill Bagwell, “Prince Edward County Development (or Confusion Reigns),” March 13, 1963, #38544, Jean Fairfax to Francis Keppel, May 7, 1963, both in #38544, AFSC; Francis Keppel, interview by Frank Sieverts, September 18, 1964, JFKOH; Jean Fairfax, interview by Brian Grogan, Farmville, Virginia, April 30, 2006, MSFP; Francis Keppel to Burke Marshall, June 4, 1963, Box 21, BMP. Francis Keppel had drafted a response to Jean Fairfax’s May 7, 1963, letter but did not send it. Keppel wrote: “I certainly agree that an ‘off-the-record’ meeting about Prince Edward County schools with interested parties should be held. It would seem that this meeting could accomplish much more if we would wait until the basic data that Michigan State is collecting is available. This will answer a lot of very basic questions and will make it possible to determine the best possible solutions that all of us should follow. Since this information will be available by the middle of June, I would suggest that we hold the meeting the week of June 17-21.” See Francis Keppel to Jean Fairfax, unsent, Box 101, RG 12.

administration was organizing a school system in Prince Edward County that would open in September. They planned to lease the public school buildings, recruit teachers, and develop the curriculum. The federal government, however, had no authority to pay for the schools. “Mr. Keppel’s statutes are stretched to some degree,” explained Marshall, “but we can’t stretch them into a school system.” The school had to be funded through private sources. Marshall emphasized that the administration did “not want another year to go by without schools in Prince Edward County.”³⁶

That same day, President Kennedy discussed the federal government’s role in education during his commencement address at San Diego State College. He cited two factors that impeded equal educational opportunities for all: economics and racial discrimination. “If our Nation is to meet the goal of giving every American child a fair chance,” Kennedy stressed, “we must move swiftly in both areas.” The president regarded this issue as a national problem, because “these uneducated boys and girls know no State boundaries...and they are your citizens as well as citizens of this country.” Kennedy acknowledged that the state and localities “quite rightly” were responsible for education, but the federal government also had a responsibility. “I believe that education comes at the top of the responsibilities of any government, at whatever level.”³⁷ The president did not directly invoke Prince Edward County, but his words were no more applicable than there. The commencement address aligned with the meeting at the Office

³⁶ Margaret Hughes, “Notes on Informal Discussion Requested by Miss Fairfax of the American Friends Service Committee on Educational Matters in Prince Edward County, Virginia,” June 6, 1963, Box 100, RG 12; Benjamin Muse, “HEW Conference on Prince Edward,” June 8, 1963, Reel 56, SRCP; Jean Fairfax to Barbara Moffett, June 25, 1963, #38545, AFSC.

³⁷ “Commencement Address at San Diego State College,” June 6, 1963, in PPP-1963, 445-448.

of Education, thus crystalizing the administration's commitment to arresting the educational erosion in Prince Edward County.

Table 9.3

**Informal Discussion on Educational Matters in Prince Edward County, Virginia,
June 6, 1963**

American Friends Service Committee Jean Fairfax	U.S. Department of Health Education and Welfare Samuel Botsford Harvey Bush Lisle Carter James Quigley Charles Rogers
International Rescue Committee Bill vanden Heuvel	
National Institute of Health Harold Hildreth	
NAACP W. Lester Banks L. Francis Griffin John Morsell	U.S. Department of Justice Burke Marshall
Potomac Institute Harold Fleming	U.S. Office of Education Lucille Anderson Margaret Hughes Francis Keppel David Seeley Donald Smith
President's Committee on Juvenile Delinquency Sanford Kravitz	Virginia Council on Human Relations Heslip Lee Edward Peebles
Southern Regional Council Benjamin Muse	(none) Gordon Moss
U.S. Commission on Civil Rights Virginia Council on Human Relations	

Source: Margaret Hughes, "Notes on Informal Discussion Requested by Miss Fairfax of the American Friends Service Committee on Educational Matters in Prince Edward County, Virginia," June 6, 1963, Box 100, RG 12.

IV

The Birmingham (Alabama) campaign in the spring of 1963 hastened the call for racial equality. Dr. Martin Luther King, Jr., the Southern Christian Leadership Conference, and local black leaders organized a movement to challenge racial discrimination in the nation's most thoroughly segregated large city. African Americans boycotted downtown businesses, sat-in at lunch counters, and marched in mass to protest employment discrimination and racial segregation in places of public accommodation. The police answered with repressive measures that were widely covered by the national and international press. Newspapers ran front-page stories with images of law enforcement officers using police dogs, high-pressure fire hoses, and billy clubs on African Americans. The police could not control the protestors, the jails were filled, the business district was paralyzed, and the city's reputation was scarred. In response, business leaders made concessions to the protest organizers. They agreed to desegregate public facilities, hire African Americans for non-menial jobs, and form a bi-racial human relations committee. White extremists expressed their disdain for the settlement by bombing the motel where King had been staying, as well as his brother's residence. In retaliation, thousands of African Americans rioted until federal troops restored order.

Birmingham had awakened the nation to the racial injustice that African Americans endured.³⁸

Birmingham inspired a social revolution that evolved faster than local black leaders could manage. The campaign proved that direct action could yield concessions and served as a model to break down Jim Crow in other communities. In the following months, there were nearly one thousand civil rights demonstrations across thirty-eight states and the nation's capital, resulting in twenty thousand arrests. The "Negro revolution" was not monolithic or under centralized command. Rather, it created a crisis of leadership to meet the increasing demands of the black masses. In Virginia, Reverend Griffin faced mounting pressure from those seeking more militant action. "The hardened attitude and techniques in Birmingham," he told the *Richmond Times-Dispatch*, "certainly has served to arouse a great many lethargic and complacent Negroes to action in Virginia and elsewhere." After Birmingham, the NAACP's conservative, legalistic approach appeared antedated and too slow. Griffin grew concerned about African Americans turning to irresponsible leaders and unorganized groups that advocated violence.³⁹

Virginia demonstrators encountered police brutality rivaling, if not exceeding, the Birmingham campaign. In Danville, about ninety miles southwest of Farmville, African Americans who had become frustrated with the local NAACP formed the Danville

³⁸ Adam Fairclough, *To Redeem the Soul of America: The Southern Christian Leadership Conference and Martin Luther King, Jr.* (Athens: University of Georgia Press, 1987), 110-139.

³⁹ *Ibid.*, 140-161; Henry McLaughlin, "Some Negroes Demanding More Militant Action," RTD, June 2, 1963, B3.

Christian Progress Association (DCPA). In late May, the DCPA launched a campaign to challenge racial discrimination. The Danville Corporation Court issued an injunction that essentially outlawed the demonstrations and indicted its leaders for “conspiring to incite the colored population of the State to acts of violence and war against the white population,” a statute that had been enacted in response to John Brown’s antebellum raid of Harpers Ferry in 1859. On June 10, tensions escalated. Early in the day, the police had turned back 150 protestors with high-powered fire hoses, and arrested 38. Mayor Julian Stinson, with patience “just about at end,” appealed for order and threatened to “fill every available stockade” with demonstrators. In defiance, a second wave of protestors marched without incident, but the police arrested the juvenile participants’ parents for violating an injunction barring demonstrations. In response, a third wave marched on the city jail but was dispersed by fire hoses from two directions, “bowling them over like tenpins.” Dozens of police officers and deputized sanitation workers moved in to beat the demonstrators with nightsticks, injuring forty-seven in what became known as “Bloody Monday.”⁴⁰

The previous day in Hawaii, President Kennedy had urged the United States Conference of Mayors to exercise progressive leadership on race relations. He anticipated more demonstrations, expressed sympathy for the protestors, and encouraged the conferees to recognize the inevitability of racial equality. Kennedy called upon local

⁴⁰ Fairclough, *To Redeem the Soul of America*, 111-161; Emma C. Edmunds, “Danville Civil Rights Demonstrations of 1963,” *Encyclopedia Virginia*, Virginia Foundation for the Humanities, April 7, 2011, Web. May 30, 2014; UPI, “Hoses and Clubs Disperse Negroes: 63 Seized in a Series of Protests in Danville, Va,” NYT, June 11, 1963, 22.

officials to meet their responsibilities: “The question is whether you and I will do nothing, thereby inviting pressure and increasing tension, and inviting possible violence, or whether you will anticipate these problems and move to fulfill the rights of your Negro citizens in a peaceful and constructive manner.” Further demonstrations and the potential for racial discord, the president counseled, could be averted by local remedies. Kennedy recommended that mayors meet this challenge by forming bi-racial human relations committees; scrubbing racial segregation from local ordinances; implementing nondiscriminatory hiring practices in municipal government; ensuring equal access to housing, employment, and public accommodations; and decreasing unemployment of the unskilled workforce by reducing school dropouts. The president believed that responsible leadership could facilitate “a peaceful revolution which will not only avoid disaster, but, much more importantly, fulfill our highest obligations.”⁴¹

The Kennedy administration had been preparing to meet its obligation by drafting federal civil rights legislation. Months earlier, Robert Kennedy found “no public demand for it. There was no demand by the newspapers or radio or television....Nobody paid any attention.” Birmingham “aroused people generally in the country and aroused the press.” After Birmingham, a majority of Americans considered racial problems the nation’s most important issue – up from 4 percent in early April. “Recognizing that the American conscience was at last beginning to stir,” reflected Ted Sorensen, President Kennedy “began laying his plans for awakening that conscience to the need for further action.” The

⁴¹ “Address in Honolulu Before the United States Conference of Mayors,” June 9, 1963, in PPP-1963, 454-459.

administration outlined a civil rights bill and began building the groundwork for popular support. On May 22, Kennedy announced that legislation was under consideration: “I would hope that we would be able to develop some formulas so that those who feel themselves, or who are, as a matter of fact, denied equal rights, would have a remedy. As it is today, in many cases they do not have a remedy and therefore take to the streets and we have the kinds of incidents that we have in Birmingham. We hope to see if we can develop a legal remedy.” The president delivered a series of speeches to lead the country toward acceptance of racial equality, beginning at San Diego State College and the conference of mayors and culminating in a nationally televised address on June 11, 1963.⁴²

The “Kennedy Manifesto” was set against the backdrop of political theater in Alabama. Governor George Wallace fulfilled his campaign promise to “stand in the schoolhouse door” to prevent desegregation. A federal judge had ordered the University of Alabama to admit two African American students, Vivian Malone and James Hood. On June 11, Wallace choreographed a confrontation with the federal government by personally blocking the entrance to Foster Auditorium. The stage had been set. Wallace was flanked by a supporting cast of state troopers and miked up for his speaking role, amid the flashbulbs of a large media contingent. When the governor refused to step aside, President Kennedy federalized the Alabama National Guard to ensure the fulfillment of

⁴² Brauer, *John F. Kennedy and the Second Reconstruction*, 230-264; Robert F. Kennedy, interview by John Bartlow Martin, March 1, 1964; Robert F. Kennedy, interview by Anthony Lewis, December 22, 1964, both in JFKOH; Gallup, *Gallup Poll*, 1842; Sorensen, *Kennedy*, 489; “The President’s News Conference on May 22, 1963,” in PPP-1963, 418-424.

the court order. Having satisfied his objective to raise his political star, the governor ended the charade and pledged to “return to Montgomery to continue this constitutional fight.” Malone and Hood successfully registered for classes without further incident.



Figure 9.2 John F. Kennedy, June 11, 1963. (Photo: John F. Kennedy Presidential Library).

President Kennedy capitalized on the peaceful conclusion to address the nation on civil rights.⁴³

⁴³ Sorensen, *Kennedy*, 493-496; E. Culpepper Clark, *The Schoolhouse Door: Segregation's Last Stand at the University of Alabama* (New York: Oxford University Press, 1993).

That evening, President Kennedy delivered the greatest presidential appeal for racial equality to date. The president deemed civil rights a “moral issue” that must be met to fulfill the promise of the nation that could “not be fully free until all of its citizens are free.” African Americans should not have to demonstrate or be backed by military force to exercise their constitutional rights, nor could repressive police action stem the tide of this social revolution. “The events in Birmingham and elsewhere,” Kennedy advised, “have so increased the cries for equality that no city or State or legislative body can prudently choose to ignore them.” He implored government officials, at all levels, to meet their obligation by facilitating a peaceful and constructive resolution. More important, Kennedy appealed to all citizens to reexamine their conscience. In the absence of a completed text Kennedy improvised a heartfelt conclusion. He described the racial discrimination African Americans faced in employment, education, and public places and juxtaposed it against his vision for America where every citizen has the “equality of treatment which we would want for ourselves” and *every* child had an “equal right to develop their talent and their ability and their motivation, to make something of themselves.” Kennedy asked for the support of all Americans to make his vision a reality.⁴⁴

A week later, President Kennedy sent a new civil rights message to Capitol Hill. He asked congress to pass a bill to ban discrimination in places of public accommodation, to accelerate the pace of school desegregation, and to ensure fair and full employment.

⁴⁴ “Special Message to the Congress on Civil Rights and Job Opportunities,” June 19, 1963, in PPP-1963, 483-494.

Kennedy fully committed his administration to passing the civil rights bill. “Just as he had believed in earlier months that the best interests of the nation required him to avoid a losing, bruising legislative battle, so now he believed that the national interests required him to try,” explained Ted Sorensen. “Not content with a bill and a speech, he immediately resumed the hard, practical job of creating the political, legislative and educational climate that would transform the bill into law and the speech into a new era of racial justice.” The White House opened a series of well-publicized conferences to build broad support for the bill. Over the following weeks, the president met with congressmen, civil rights leaders, businessmen, labor leaders, lawyers, clergy, women, educators, mayors, governors, Republicans, Democrats, integrationists, and segregationists, more than sixteen hundred people in what one historian described as “a highly ambitious and unusual exercise of Presidential leadership.”⁴⁵

* * * * *

After the midterm elections, President Kennedy assumed a more prominent role over civil rights. Previously, the president had fostered an atmosphere for racial progress, but he remained detached from the debate. He had delegated civil rights issues to the Department of Justice, thus emphasizing the legal aspects over the moral concerns. That emphasis shifted between the integration of the University of Mississippi and the

⁴⁵ “Radio and Television Report to the American People on Civil Rights,” in PPP-1963, 468-471, 483-494; Sorensen, *Kennedy*, 496; Brauer, *John F. Kennedy and the Second Reconstruction*, 265-310.

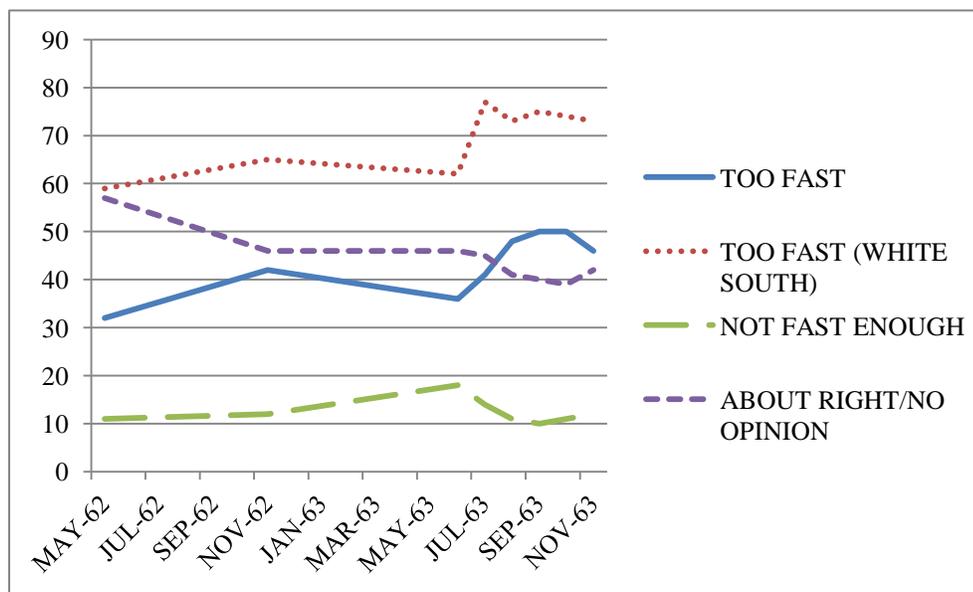
University of Alabama. Kennedy had dispassionately made the legal argument, but not the moral case, for James Meredith to enroll at Ole Miss. By contrast, on June 11, 1963, Kennedy clearly articulated that civil rights required the attention of all Americans, not just as a matter of law but as a matter of conscience. He married law and conscience by sponsoring the most comprehensive civil rights legislation to date. Earlier, Kennedy had been reluctant to use the bully pulpit to push for a bill that was sure to fail. However, Birmingham stirred the national conscience at the moment that Kennedy's confidence and prestige were peaking, and the social revolution sparked by Birmingham required national leadership. At great political risk, President Kennedy placed the moral authority of his office behind the greatest moral issue of the day.

Kennedy's civil rights bill harmed his prospects for winning re-election. Nationwide, the bill enjoyed popular support among whites, but it was very unpopular with white Southerners, a supermajority of who believed that the administration was pushing integration "too fast." In the South, Kennedy's approval rating plummeted to 33 percent, and he trailed Barry Goldwater and George Romney by significant margins in hypothetical presidential election matchups among southern voters. These were ominous figures for a politician facing re-election, especially for a Democrat. No Democrat had ever won the presidency without southern support. With his razor-thin popular margin in 1960, Kennedy could ill afford to write off the South. Kennedy knew that the civil rights bill might cost him a second term, but he proceeded nonetheless. "What the hell," he told his brother. "If we're going to lose, let's lose on principle." "There comes a time,"

Kennedy held, “when a man has to take a stand and history will record that he has to meet these tough situations and ultimately make a decision.” Kennedy hitched his political future to the civil rights bill and thus the ideal of racial equality.⁴⁶

Table 9.4

Public Opinion of the Kennedy Administration’s Speed on Integration



Source: George H. Gallup, *The Gallup Poll: Public Opinion, 1935-1971, Volume Three* (New York: Random House, 1972).

The Kennedy administration had earned near-unanimous praise from rank-and-file African Americans. Eighty-nine percent of blacks believed that Kennedy was doing an “excellent” or “pretty good” job. Roy Wilkins witnessed that popularity at a meeting in North Carolina. “I attacked John Kennedy for ten minutes and everyone sat on their

⁴⁶ William Brink and Louis Harris, *The Negro Revolution in America* (New York: Simon and Shuster, 1963), 142; Gallup, *Gallup Poll, 1829-1830*; Peter Maas, “What Will R.F.K. Do Next?” *Saturday Evening Post*, March 28, 1964, 20.

hands,” recalled Wilkins. “Then I said a few favorable words about the things he had done, and they clapped and clapped.” African Americans recognized that, among recent presidents, Kennedy had done more to advance their rights. They favored Kennedy’s re-election almost to a man; many feared that his defeat would set them back. Barry Goldwater, George Romney, and Nelson Rockefeller barely registered among black voters in hypothetical matchups against Kennedy. African Americans looked to Kennedy to fight for them, more than the courts and Congress, and overwhelmingly more than state and local authorities. Likewise, in Prince Edward County African Americans were “in love with the Kennedys.”⁴⁷

Black Prince Edwardians believed that a resolution to the school crisis would come from the federal government. According to a poll taken in June, African American parents had little confidence in a state or local solution. In fact, more people believed that the schools would be reopened by divine intervention than the state of Virginia. The governor, general assembly, and state board of education all denied any responsibility to operate schools in Prince Edward County, a contention supported in the state circuit court. A small proportion of respondents considered a local solution more likely – be it by whites working unilaterally or through black-white cooperation. However, the board of supervisors failed again to allocate funding for public schools and bi-racial communication was virtually non-existent. The Birmingham campaign inspired African

⁴⁷ Brink and Harris, *The Negro Revolution in America*, 132, 210, 214, 216, 218; Arthur M. Schlesinger, Jr., *A Thousand Days: John F. Kennedy in the White House* (Boston: Houghton Mifflin Company, 1965), 950; Interview, Leslie Francis “Skip” Griffin by Lisa A. Hohl, February 4, 1993, in Lisa A. Hohl, “Open Doors: An Analysis of the Prince Edward County, Virginia, Free School Association,” (Master’s thesis, University of Richmond, 1993), 72.

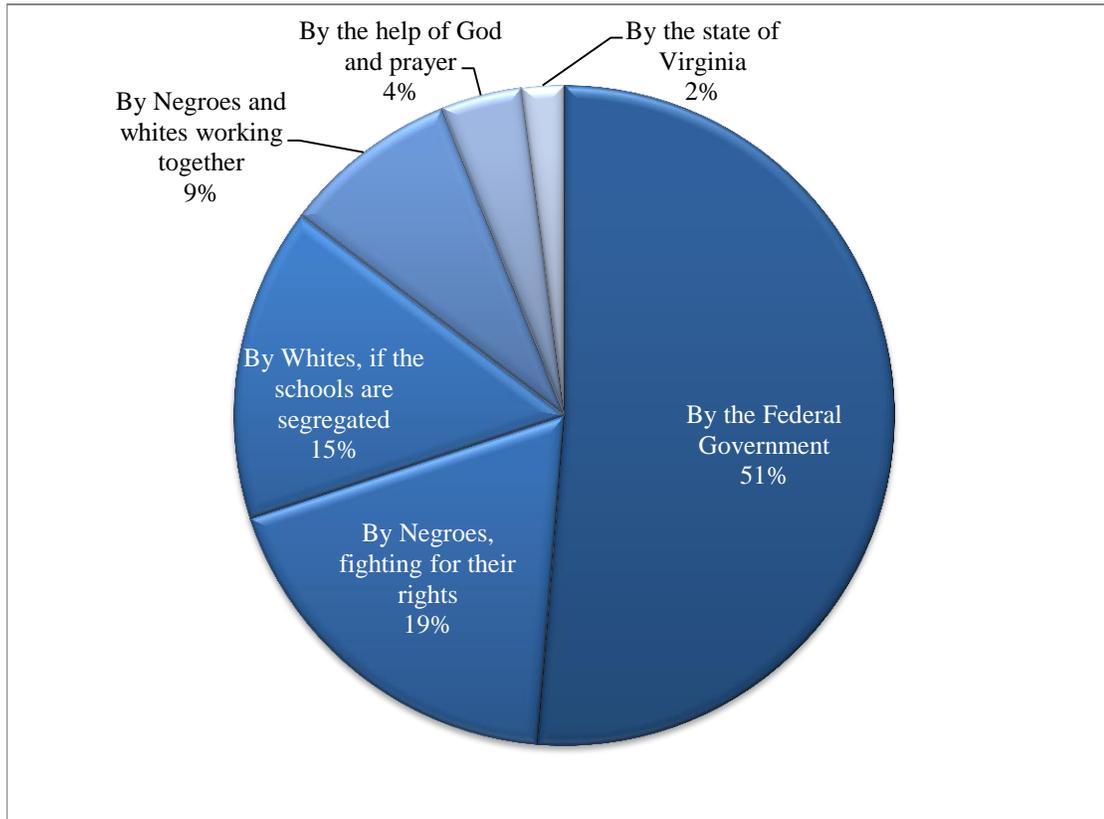
Americans to fight for their rights, but that required abandoning the NAACP or the Association amending its position on direct action. The NAACP preferred remedies from institutions, like the courts, and had recently pressured the federal government to take more responsibility for the school-less children. In fact, the president headed the only branch of government at any level with the determination to open the schools. Like African Americans more broadly, black Prince Edwardians looked to the Kennedy administration to protect their rights – and by an overwhelming margin (see Table 9.5).⁴⁸

President Kennedy made educating Prince Edward’s locked-out children a federal responsibility. The Department of Justice had jumped at the first opportunity to intervene in the litigation. However, when a court order and voluntary action to reopen the schools appeared remote, President Kennedy directed his administration to explore means of arresting the educational erosion and to compensate for the four lost years of education – a directive that pre-dated the Birmingham campaign and the NAACP’s April 10 press conference. The administration adopted a plan to assess the situation, provide a remedial education program, and facilitate the implementation of a temporary school system. The federal government had no authority to provide a school system, but they had the influence and resources to act as a conduit to a program. President Kennedy inspired this strategy and charged the Department of Justice with ensuring its implementation.

⁴⁸ Green, *The Educational Status of Children in a District Without Public Schools*, 120.

Table 9.5

Responses of Negro Parents in Prince Edward County, Virginia, in June 1963, to the Question: "How do you think the schools can be opened again?"



Source: Robert L. Green, et al., *The Educational Status of Children in a District Without Public Schools* (Lansing, Michigan: College of Education, Michigan State University, 1964), 120.

CHAPTER X

TO SEE WHAT CAN BE DONE

The Kennedy administration had expanded its commitment to Prince Edward County. In the first half of 1963, the Department of Justice presented arguments before the federal circuit court, the Office of Education funded a study to determine the effects of the school closings, and the Department of Health, Education, and Welfare secured a sizeable grant for a remedial reading program. The administration had confronted the situation from several angles, but none guaranteed the restoration of universal education. The county leaders had given no indication that they would voluntarily open the schools and no court order to compel such an action appeared on the horizon. Burke Marshall advised the president and attorney general that the case would not reach the Supreme Court until 1964, which meant that the educational erosion would continue into a fifth year, an outcome that President Kennedy was unwilling to permit. Robert Kennedy, therefore, tasked Bill vanden Heuvel to work specifically on resolving the school crisis. In the late spring, the attorney general met with vanden Heuvel to convey President

Kennedy's personal concern for the locked-out children, review the legal case, and ask him "to see what can be done" about Prince Edward County.¹

Bill vanden Heuvel enjoyed a meteoric rise from humble beginnings to a position of influence. He was the son of working-class immigrants; his Belgian mother operated a boardinghouse and his Dutch father earned a modest wage at the R.T. French Company, a spice and mustard factory in Rochester, New York. They would have lost their home to foreclosure during the Great Depression if not for the New Deal. As a result, vanden Heuvel admired Franklin Roosevelt and aspired to a career in public service. At age fifteen, he won a scholarship to the exclusive Deep Springs Junior College and later completed his education at Cornell Law School, where he served as editor-in-chief of *The Cornell Law Quarterly*; won the debating championship; graduated at the top of his class ('52); and attracted the attention of prominent individuals. "I had the good fortune of having great men interested in me," reflected vanden Heuvel. Roger Baldwin, founder of the American Civil Liberties Union (ACLU), mentored him, and "Wild Bill" Donovan, a

¹ William J. vanden Heuvel, interview by Brian Grogan, Hampden-Sydney, Virginia, February 25, 2009, MSF; William J. vanden Heuvel, "Closing Doors, Opening Doors: Fifty Years After the School-Closing in Prince Edward County, Virginia," Keynote Address, Hampden-Sydney College, February 24, 2009. I want to thank Brian Grogan for giving me access to the transcript of his interview with Mr. vanden Heuvel. Brian is the producer of Mercy Seat Films' *They Closed Our Schools*, a documentary film on the history of the public school closings and its aftermath in Prince Edward County. As a graduate student, I interned for Brian and helped him prepare for the interview. Brian certainly did not need my help because he was more than prepared, but he graciously included me in the process anyway. He even invited me to sit in on the interview and I jumped at the opportunity. Brian proved that he is a masterful documentary interviewer, because he knows the questions to ask and when to let the interviewee loose. For over two hours, Mr. vanden Heuvel spoke about his experience in Prince Edward County, recounting people, places, and events with near precision accuracy. In addition, Mr. vanden Heuvel filled in some gaps in the documentary record. It was evident from the expression on the production crews' faces that this interview would be a valuable contribution to the film and, more broadly, to the historical record. I am certainly in Brian Grogan's debt for permitting me to use this remarkable interview.

decorated soldier, intelligence officer, and diplomat, brought vanden Heuvel into his law firm and later hired him as his executive assistant during his ambassadorship to Thailand. As chair of the International Rescue Committee, Donovan had vanden Heuvel elected a director at age twenty-five and, among other things, the two worked together on a humanitarian mission for refugees of the Hungarian Revolution. In fact, vanden Heuvel worked on the ground in Budapest to help freedom fighters escape. He later served as special counsel to New York Governor Averell Harriman and became a partner in the law firm of Senator Jacob Javits (NY-R). He completed his ascent to “Upper Bohemia” when he married Jean Stein, a daughter of Jules Stein, the co-founder of the Music Corporation of America (MCA). Finally, vanden Heuvel was a rising star in the New York Democratic Party. He allied with Herbert Lehman and Eleanor Roosevelt in a reform movement against Tammany Hall. In early 1960, the party nominated him to challenge the popular Republican incumbent, John Lindsay, for his congressional seat as the representative of Manhattan’s “Silk Stocking” district (NY-17). Bill vanden Heuvel was accomplished, connected, wealthy, and a candidate for national office all before his thirtieth birthday.²

² Wayne Phillips, “Stirring Duel for ‘Silk Stockings,’” NYT, October 23, 1960, SM46; William J. vanden Heuvel, “A Special Obligation,” in *The Search for Meaning: Americans Talk About What They Believe and Why*, edited by Philip L. Berman (New York: Ballantine Books, 1990), 269-273; “Foe of Closed Schools: William Jacobus vanden Heuvel,” NYT, August 15, 1963, 15; “Vanden Heuvel: Horatio Alger in Upper Bohemia,” *Village Voice*, October 27, 1960, 13; Vanden Heuvel, interview by Grogan; Anthony Cave Brown, *Wild Bill Donovan: The Last Hero* (New York: Times Books, 1982); “Jean Stein Wed at St. Patrick’s To Lawyer Here: Magazine Aide Bride of William J. vanden Heuvel in Chapel,” NYT, December 6, 1958, 26; and Charles Grutzner, “Democrats Name Javits Partner: W.J. vanden Heuvel, Law Aide of G.O.P. Senator, to Oppose Lindsay,” NYT, March 12, 1960, 11.



Figure 10.1 Bill vanden Heuvel. (Photo: Associated Press).

Bill vanden Heuvel had already won President Kennedy's confidence and earned a reputation as a champion of human rights. Vanden Heuvel had first met Kennedy in 1956 at the wedding of Stephen Smith and Jean Kennedy, the then-senator's sister, but despite their acquaintance, he enthusiastically supported Adlai Stevenson for president in 1960. After Senator Kennedy won the Democratic nomination, he brought vanden Heuvel into his camp as special assistant on housing and urban affairs for the August special session of Congress. During the general election season, Kennedy visited vanden Heuvel's campaign headquarters and they held several rallies together. Nevertheless, John Lindsay defeated vanden Heuvel (81,006 to 53,574). Afterwards, vanden Heuvel became the president of the International Rescue Committee. He took leave from that position to work on Prince Edward County as a special assistant to the attorney general. This assignment was an overwhelming one for any thirty-three-year-old, but as vanden Heuvel later explained, "I'd had an experience base so that the challenge of Prince Edward County didn't scare me."³

Vanden Heuvel immediately immersed himself in a study of the school crisis. He attended the June 6 conference hosted by the U.S. Office of Education, which opened a series of meetings with Francis Keppel and his staff. Burke Marshall provided vanden Heuvel with the legal briefs, an update on the status of the litigation, and a recent

³ William J. vanden Heuvel, "A Bright Light Diminished," PBS, accessed January 8, 2014, <http://www.pbs.org/newshour/multimedia/jfk-essays/>; "Stevenson Backers Spur City Campaign," NYT, June 14, 1960, 26; "Kennedy Schedules Talks in 2 States," NYT, August 19, 1960, 46; "Vanden Heuvel: Horatio Alger in Upper Bohemia," 13; *Complete Returns of the 1960 Elections by Congressional District* (Washington, DC: Congressional Quarterly, 1961), 29; "World Rescue Group Names Head," NYT, October 19, 1961, 5; Vanden Heuvel, interview by Grogan.

sociological study, “A Perspective of the Prince Edward County School Issue,” by a graduate student at the University of Pennsylvania. Edward Peeples produced a community analysis based on traditional sources, personal observations, and interviews with local citizens – certainly valuable briefing material for vanden Heuvel. The concluding chapters demonstrated the urgency of the matter. Peeples estimated the damage in the hundreds of illiterate black children, and he could forecast no timetable for the schools to reopen. Even if the schools “unexpectedly” opened, the community lacked the human and financial resources to operate an effective school system without assistance.⁴ In the following weeks, any chance of a court order or voluntary action to open the schools had all but diminished. A school program for African American students required an extraordinary effort.

The Kennedy administration moved forward with its plan to organize a temporary private school. Bill vanden Heuvel had to build local support, win the endorsement of Governor Harrison, fill a board of trustees, raise significant funds, lease school buildings, hire a faculty, and coordinate with the Office of Education to develop a school program – all against the clock if he wished to ring the opening bell in September. To further confound matters, vanden Heuvel worked in an atmosphere of uncertainty and increasing

⁴ Vanden Heuvel, “Closing Doors, Opening Doors”; Francis Keppel to Burke Marshall, June 7, 1963, Box 21, Linda K. Stores to William J. vanden Heuvel, June 13, 1963, Box 27, both in BMP; Edward H. Peeples, Jr., “A Perspective of the Prince Edward County School Issue,” (Master’s thesis, University of Pennsylvania, 1963). On April 20, 1963, Edward Peeples informed Burke Marshall that his master’s thesis would be available at the University of Pennsylvania’s library by the end of May 1963 and offered to “contribute in any way if you find that my information may help.” On June 7, 1963, Burke Marshall ordered two copies of Peeples’s study, one of which was sent to Bill vanden Heuvel. See Edward H. Peeples, Jr., to Burke Marshall, April 20, 1963, Box 1, EHPP; Burke Marshall to Head Librarian, University of Pennsylvania Library, June 7, 1963, Box 27, University of Pennsylvania Library to Burke Marshall, June 14, 1963, Box 21, both in BMP.

tensions. Some of the stakeholders did not speak to one another and still others would not fully commit to the program until the federal circuit court issued a ruling, which was delayed until deep in the summer. By that time the “Negro revolution” had come to Farmville in the form of street demonstrations and an economic boycott, thus exacerbating an already strained community. Despite the complications, Bill vanden Heuvel ultimately negotiated a settlement that laid the foundation for the Prince Edward Free School Association.

I

Bill vanden Heuvel entered a rapidly deteriorating situation. In his first weeks on the job, several circumstances diminished the prospects for restoring universal education to Prince Edward County. First, the county leaders responded to the “Negro Revolution” not by opening channels of communication but by preparing for a confrontation. Second, Governor Harrison’s hands-off approach to racial crises and his public opposition to federal civil rights legislation drew the ire of the state NAACP, further cooling relations between state officials and established black leaders. Finally, the \$2.5 million remedial reading program collapsed under congressional scrutiny. Its absence left a void that needed to be filled by another program. These setbacks necessitated a solution from Washington.



Figure 10.2 Billy Watkins. (Photo: Town of Farmville).

The county leaders assumed a defensive posture to fend off civil rights demonstrations. The Danville situation had made Mayor Billy Watkins “considerably concerned” that civil unrest would engulf Farmville, yet he initiated no measures to achieve racial conciliation. He made no preparations for a bi-racial committee, admitting

later that he “was never real interested in it,” nor did he review the municipality’s hiring practices or encourage businesses to provide equal access to public accommodations. In short, Watkins disregarded the progressive reforms outlined by President Kennedy at the recent conference of mayors. Watkins, rather, sought to maintain the status quo by mobilizing for a confrontation. The Town of Farmville already had ordinances on the books prohibiting loitering and parading without a permit, and Watkins had planned to reject parade applications submitted by African Americans. If demonstrators violated the ordinance, the protest leaders would be arrested and, if necessary, so would other participants. Unfortunately for the authorities, the detention center had a maximum occupancy of fifteen, meaning that one act of civil disobedience could have filled the jail. If needed, the Farmville Airport would be converted into a detention center for adults, and juveniles would be sent to the state farm in nearby Goochland County. Finally, the media would be required to obtain a permit from the town manager to enter “any troubled area.” Mayor Watkins wanted to avert another Danville, but the execution of this plan was certain to draw negative attention and invite further discord.⁵

The community’s law enforcement agencies were undermanned and ill equipped to ward off a mass direct action campaign. Together, the Prince Edward County sheriff’s department and the Town of Farmville employed less than two dozen full-time law enforcement officers. The county soon hired two additional deputies and deputized

⁵ William F. Watkins, Jr. to Albertis Harrison, June 14, 1963, Box 9, Lt. L.E. Thomas to Capt. W.W. Blythe, June 18, 1963, Box 10, both in ASHP; Jean White, “Graciousness of South Marks Segregation in Prince Edward,” WP, August 3, 1963, C2; Watkins, interview by Lee; Town of Farmville Code, Sections 14-19 and 16-59.

dozens more. The Town of Farmville also authorized Police Chief Otto Overton to hire several special officers. The additional personnel were identified by an armband and assigned guard duty and traffic control, but they received no formal police training. Mayor Watkins obtained assurances from the state police that additional officers were available if necessary. In terms of weaponry, the sheriff's department had "three riot guns and an undetermined supply of ammunition, one gas gun, .37 caliber and a limited supply of gas. . . . [and] three motor vehicles attuned to the State Police frequency." Farmville possessed "1 riot gun with 50 rounds of ammunition, one small pistol-type tear gas gun, one walkie-talkie radio . . . three police cars equipped with 3-way radios on the same frequency and one 9mm German-type machine gun with approximately 50 rounds of ammunition." In addition, Chief Overton ordered flashlights and riot sticks. If demonstrations grew too large or disorderly, dozens of untrained civilians armed with riot sticks would help the police maintain order. Asked years later if the community was prepared for demonstrations, Chief Overton admitted, "Not at that time." Watkins, therefore, sought assurances from Governor Harrison that state assistance was available to maintain law and order and recommended that the governor convene a conference of mayors to discuss racial disturbances.⁶

Governor Harrison was not prepared to lead on civil rights. He pledged to enforce the laws, but he declined Watkins's proposal to hold a meeting. He determined that

⁶ Lt. L.E. Thomas to Capt. W.W. Blythe, June 18, 1963, Box 10, William F. Watkins, Jr., to Albertis S. Harrison, June 14, 1963, Box 9, both in ASHP; Overton, interview by Lee; Henry McLaughlin, "First Protest March Staged By Negroes in Farmville," RTD, July 26, 1963, 2; Minutes, Prince Edward County Board of Supervisors, July 2, 1963, PECBOSR.

drawing attention to racial strife would only exacerbate the situation: “I doubt the wisdom of too much activity on our part when such might provoke demonstrations.” After the Danville violence, Harrison *did* draft a statement intended for a television address. He acknowledged African Americans’ rights of speech and assembly, vowing to protect them “to the fullest extent of the law.” Still, he cautioned that freedom of speech and assembly did not protect the cursing of police officers and mob violence, and that law and order would be maintained. In an effort to promote racial conciliation, Harrison suggested that counties and cities form bi-racial committees. This speech could have been a remarkable step toward alleviating racial tensions, but it was never delivered.⁷ Harrison neither stoked armed reactionaries nor interceded on behalf of black civil rights. The governor attempted to extinguish racial conflicts through executive aloofness, but his public indifference only emboldened white reactionaries and further alienated black leaders.

Governor Harrison’s opposition to federal civil rights legislation further cooled relations with black leaders. After attending a White House conference on the president’s bill, Harrison told the press that “local action and cooperation would be more effective and lasting than new federal legislation in the civil rights field.” The state NAACP took exception to the governor’s statement. Reverend Griffin and Lester Banks issued a blistering public rejoinder that criticized Harrison for failing to utilize the “good offices

⁷ Albertis S. Harrison to William F. Watkins, Jr., June 20, 1963, Albertis S. Harrison, “Draft of a Statement Intended for Use on Television,” n.d., both in Box 9, ASHP; James W. Ely, Jr., “Negro Demonstrations and the Law: Danville as a Test Case,” *Vanderbilt University Law Review*, 27 (October 1974), 927-968.

of the Governor” to mediate racial problems, citing his silence over police brutality in Danville and his misplaced trust in Prince Edward County officials to open the public schools. Harrison’s statement appeared especially disingenuous in light of the Prince Edward County budget that left the public schools unfunded. Griffin and Banks warned that African Americans’ patience was waning: “It is becoming abundantly clear that there is every intention to make 1963...the year of full Emancipation; and this is to be accomplished non-violently if possible, but violently if necessary.” The state NAACP had struck a new and alarming tone. The *Richmond Times-Dispatch* considered the remarks “incredible” and called on other NAACP leaders to denounce Griffin and Banks. Harrison privately determined that the remarks represented “a clear indication of the extremes to which some of these people are willing to go.”⁸ Relations between Harrison and NAACP leaders entered a deep freeze, further diminishing the chances of reaching an agreement to reopen the schools.

Finally, the National Institute of Mental Health (NIMH) reversed its decision on the \$2.5 million grant for a remedial education program in the county. In May, the Mental Health Advisory Council had voted twelve-to-one with one abstention by a mail vote to fund the Woolman project. The premature press release that followed opened the project

⁸ L. Francis Griffin and W. Lester Banks to Albertis S. Harrison, Group III, Box C160, NAACP; Editorial, “Incredible,” RTD, June 21, 1963, 10; Albertis S. Harrison to J.V. Lewis, June 24, 1963, Box 9, ASHP. The Virginia State Conference of the NAACP adopted this language at a special meeting on June 8, 1963. The minutes read: “Lester Banks was authorized to release to the press an announcement that this meeting has occurred, and that one of the consequences was the adoption of a policy of a total assault in the state of Virginia upon all forms of segregation and discrimination by direct mass action utilizing non-violent means if possible.” See James E. Cheeck, “Minutes of the First Meeting of the Virginia State Conference -- NAACP President’s Special Committee on Civil Rights in Virginia,” June 8, 1963, Group III, Box C160, NAACP.

to public and congressional scrutiny. The Senate subcommittee that provided oversight of NIMH requested documents related to the grant. The subcommittee's influential staff director, Herman Downey, considered the Woolman project "a prostitution of medical research." Under pressure, the advisory council reopened the matter at its next regularly scheduled meeting. The members questioned the validity of the relationship between literacy and mental health, the cost and length of the project, and its true purpose. Some considered the grant a teaching program under the guise of a research project. Finally, the members admitted that they had succumbed to "pressure" from the Department of Health, Education, and Welfare to approve and expedite a grant that had not gone through standard procedures. On June 21, the advisory council voted unanimously to disapprove the grant, and without its consent the project could not move forward. President Kennedy was disappointed by the decision. He told Lee White, assistant special counsel to the president, that he was anxious that everything be done to save the Woolman project. White alerted the U.S. Office of Education to the president's "wishes and his extreme interest and concern." Nevertheless, the administration could not convince the advisory council to reverse its verdict once more. The unraveling of the Woolman project became, as one administration official admitted, "a pretty sad fiasco."⁹ The advisory council's reversal embarrassed the administration, but that was insignificant in relation to the

⁹ James M. Quigley to William vanden Heuvel, July 5, 1963, Reel 108, RG 60; William J. vanden Heuvel to Robert F. Kennedy, July 8, 1963, Box 64, RFKP; "Group Drops Prince Edward Tutoring Plan," RTD, July 3, 1963, 2; "Prince Edward Tutor Plan Fails," RNL, July 3, 1963, 23; Ben A. Franklin, "Kennedys Spur New School Plan for Virginia Negroes as First One Fails," NYT, July 21, 1963, 42; MS to Francis Keppel, "Notes of Telephone Call from Mr. Lee White, White House," June 24, 1963, Box 1, PEFSAP. President Kennedy had called Lee White on June 22, 1963, to discuss the NIMH's decision.

educational loss suffered by black Prince Edwardians, the damage of which was soon disclosed.

Robert Green reported the findings on phase one of the Michigan State University study to the U.S. Office of Education. The results quantified what many had suspected. The survey counted 269 of the 1,725 African Americans aged 5 to 22 living away from home as attending school, leaving well over one thousand children uneducated. In fact, only 29 black Prince Edwardians had attended school for the entire duration of the school closings, while 1,058 did not attend school at all. The lack of formal schooling certainly affected the literacy rate. Four hundred of these children (23 percent) were unable to read. Of these illiterate children, 92 percent were age ten or younger, the children who came of school-age after the schools closed. The survey reported that younger children had great interest in attending a reopened public school, but the older children and young adults, most of whom had not attended school in four years, comprised nearly all the respondents who answered that they were unlikely to resume their education.¹⁰ The survey results – in combination with the lack of cooperation between black and white leaders, the board of supervisors' recalcitrance, the courts' delay, and the defunding of the Woolman project – demonstrated the necessity for the federal government to initiate an extraordinary undertaking to arrest the educational erosion.

The administration explored other options short of a full school program. They considered, among other things, beaming educational television from Richmond to living

¹⁰ Robert L. Green and Louis Hofmann, "Progress Report," June 30, 1963, Box 100, RG 12.

rooms in Prince Edward County. However, if that idea had not already lost reception, then the limited access to televisions – only 1,274 children, as indicated in the Michigan State survey – certainly made it impractical. To partially fill the void left by the Woolman project, the Office of Education had considered using Cooperative Research Program funds for more extensive student achievement testing and a resultant demonstration remedial reading project. However, that project would only impact several dozen students, and Francis Keppel conceded that “it is doubtful that a full remedial reading program or project under this program would be feasible.” However, anything less than educating every child would have been a failure, but the federal government could only provide schools under rare circumstances. There was talk of establishing a military base in the county to provide schools on “U.S. soil.” The administration found it more practical to move forward with plans to facilitate the organization of a private school system. Vanden Heuvel immediately opened talks with philanthropic foundations to finance the \$1-1.5 million program, and he visited Farmville to build local support and secure the lease of school buildings – all in an atmosphere of rising tension.¹¹

¹¹ Memo for File, July 23, 1963, Memo for File, “TV station for Prince Edward County,” July 24, 1963, both in Box 5, WMAP; Robert L. Green and Louis Hofmann, “Progress Report,” June 30, 1963, Box 100, RG 12; Francis Keppel to Lee C. White, “Prince Edward County, Virginia,” July 3, 1963, Box 374, WHCSF; “Notes on Meeting of Race Relations,” July 1, 1963, Box 2T143, FFA2; Franklin, “Kennedys Spur New School Plan for Virginia Negroes as First One Fails,” 42.

II

Bill vanden Heuvel visited Farmville to make firsthand observations. He found a community with antiquated race relations, derisively inferring that the “message from Appomattox took a long time coming back to Prince Edward County that the Civil War was over.” Moreover, the black and white leadership did not talk with one another. In fact, Barrye Wall used his newspaper to discourage the formation of a bi-racial human relations committee, editorializing that elected officials “have an obligation to discharge their duties, not to bargain over them with citizens’ committees.” Vanden Heuvel determined that the chances for direct negotiations between black and white leaders were remote; therefore, he acted as the intermediary. Without publicity, he interviewed leaders from both camps separately. Those conversations took place in an increasingly tense atmosphere. The county received an influx of outsiders – civil rights workers, national media, the Michigan State research team, volunteer teachers from New York, and vanden Heuvel himself – that threatened to disturb white supremacy. Without bi-racial communication the county had developed into a powder keg.¹²

Vanden Heuvel met at length with Barrye Wall. The newspaperman could not be expected to endorse the school program, but he could foster acceptance by withholding criticism from his editorial page. Vanden Heuvel characterized Wall as “a completely

¹² Vanden Heuvel, interview by Navasky; Vanden Heuvel, interview by Grogan; Editorial, “Sound Judgment,” FH, June 28, 1963, 1B; Brian E. Lee and Brian J. Daugherty, “Program of Action: The Rev. L. Francis Griffin and the Struggle for Racial Equality in Farmville, 1963,” *Virginia Magazine of History and Biography*, 121, No. 3 (2013): 250-287.

candid white supremacist” and certain of his convictions. “I have nothing against the Negro children or against anyone,” Wall explained, but he was convinced that the races would live better separately and that both sides preferred it that way. Despite their divergent views, vanden Heuvel found Wall “scrupulously polite, easily available for talk and discussion.” Wall’s demeanor belied his deviousness. He asked Congressman Watkins Abbitt to “get some dope” on vanden Heuvel by submitting his name for investigation with the House Un-American Activities Committee (HUAC), because “I just like to know who we are being visited by.” The HUAC investigation turned up no subversive activity. Wall’s action again demonstrated his determination to discredit those that tried to assist the black community.¹³

Vanden Heuvel needed the support of the black community, which began with Reverend Griffin. Griffin worried that the school program would undercut the campaign for integrated public schools, but vanden Heuvel assured him that that would not be the case. In fact, the program would act as a “bridge” to integrated public schools. Instead of losing another year waiting for the Supreme Court’s decision, the children “would be able to move forward from a running start rather than just picking up the pieces of five lost years.” After four years without public schools, Griffin was in no position to oppose the program. Still, he and the NAACP bargained for the best possible deal. They opposed

¹³ Vanden Heuvel, interview by Navasky; Vanden Heuvel, “Closing Doors, Opening Doors”; Vanden Heuvel, interview by Grogan; Barrye Wall to Watkins M. Abbitt, July 24, 1963, Watkins M. Abbitt to Barrye Wall, July 30, 1963, Edwin E. Willis to Watkins M. Abbitt, August 13, 1963, all in Box 5, WMAP. The exact date of vanden Heuvel’s initial meeting with Barrye Wall is unknown. However, in an editorial published on July 5, 1963, Wall referenced a visit by a Justice official. In discussing the collapse of the NIMH grant, Wall wrote, “Whether recent visits of Justice Department attorneys in the county had anything to do with it we do not know.” See Editorial, “Scientific Research,” FH, July 5, 1963, 1B.

vanden Heuvel's suggestion that the students accept state tuition grants, which would have brought in an estimated \$250,000. The NAACP argued that the tuition grants were a relic of massive resistance and vowed not to accept those funds. Nor did they want segregationist leaders to have influence over the program. "I had no reason to believe that the whites would do the right thing by the Negro people," Griffin explained. Also, the black leaders wanted the program operated not just in the formerly black school buildings but also in at least one formerly white school to denote the break with segregation. Finally, they wanted a pledge that the Department of Justice would continue its legal support as the litigation moved to the U.S. Supreme Court.¹⁴ The NAACP wanted a legal solution, but it also adapted to the demands of the Negro revolution.

The NAACP maintained its relevance by embracing direct action. The state Association's membership fell as SCLC's star rose. In order to "catch up with the revolution," state NAACP leaders determined that its "conservative tactics...need to be supplanted." In late June, Griffin convened a special meeting of the state NAACP in Petersburg, and attendees unanimously adopted a new "Program of Action." Local branches were instructed to initiate selective buying campaigns and petition their municipal government to end discrimination. The failure of local officials to address

¹⁴ Vanden Heuvel, interview by Navasky; Vanden Heuvel, "Closing Doors, Opening Doors"; Interview, William J. vanden Heuvel by Lisa A. Hohl, Washington, DC, February 22, 1993, in Lisa A. Hohl, "Open the Doors: An Analysis of the Prince Edward County, Virginia, Free School Association," (Master's thesis, University of Richmond, 1993), 71; "Notes on Conversation with William vanden Heuvel, Special Assistant to the Attorney General of the United States - 8/8/63," August 8, 1963, Heslip Lee to Maxwell Hahn, August 9, 1963, both in Box 2T143, FFA2; William J. vanden Heuvel to Burke Marshall, July 9, 1963, Reel 108, RG 60; Smith, *They Closed Their Schools*, 239; William J. vanden Heuvel to Robert F. Kennedy, "Progress Report on Prince Edward County School Situation," July 19, 1963, Box 21, BMP.

black grievances would result in demonstrations. The “freedom demonstrations” were to be lawful, orderly, and led by an “indoctrinated NAACP representatives,” not affiliates of other organizations. Shortly thereafter, at its national convention, the NAACP adopted a Direct Action Resolution requesting that branches initiate “picketing, sit-ins, mass action protests, selective-buying campaigns, and all appropriate constitutional means of attacking discrimination and segregation in public accommodations, housing, education, employment and political action.” In the meantime, Griffin and Banks had already urged their members “to take immediate steps to effectuate this program in their respective localities.”¹⁵

Mobilizing black Prince Edwardians to implement the Program of Action proved difficult. Blacks could not join the picket line without fear of economic reprisal, a consideration that limited the activism of adults. A new minister in town was struck by the black adults’ complacency. Reverend Goodwin Douglas found that “the grown-up Negroes were complacent even without schools for their children.” Black teenagers, frustrated with the pace of change, blamed their parents for not taking more aggressive action to open the schools. “They are too afraid to stand up for what is ours,” bemoaned sixteen-year-old Barbara Ann Botts. “They are afraid and won’t stick together.” Griffin found a cadre of young people, galvanized by Birmingham, willing to execute the Program of Action. Many locked-out teenagers were eager to participate in the broader

¹⁵ Eugene Williams, L. Francis Griffin, and W. Lester Banks to Officer, June 21, 1963; “Minutes of the First Meeting of the Virginia State Conference – NAACP, President’s Special Committee on Civil Rights in Virginia,” June 8, 1963, “Action Program for the State of Virginia,” June 22, 1963, L. Francis Griffin and W. Lester Banks to Co-Worker, June 25, 1963, and L. Francis Griffin and W. Lester Banks to NAACP Officers, July 18, 1963, all in Box C160, Group III, NAACP.

civil rights revolution and to bring about change in their community. Dozens of teenagers had recently returned home from boarding with families in the North to attend school.



Figure 10.3 L. Francis Griffin. (Photo: Library of Congress).

Many of them had lived in white households, attended integrated schools, and experienced a life far removed from Jim Crow. For some, like Bessie Reed, who recently

graduated from high school in Massachusetts, demonstrations were “the only way to get what we want.”¹⁶

Griffin reconstituted the NAACP Youth Council with two experienced activists as its advisors. The twenty-nine-year-old Reverend J. Samuel Williams had participated in the 1951 Moton student strike, and later, while enrolled at Shaw University, he joined the sit-in campaign in Raleigh, North Carolina. He was a local man whom the black youth knew, trusted, and regarded as a brother figure. Reverend Goodwin Douglas, the pastor of Beulah African Methodist Episcopal Church, was new to the community but not unfamiliar with the local struggle. At Kittrell College, Douglas had classmates who were locked-out high school students from Prince Edward County, and in fact, he roomed with Charlie Taylor of Farmville. And while living in North Carolina, Douglas participated in textile strikes. He was an outsider to Farmville with a more militant philosophy, who at twenty-five provided youthful inspiration. Griffin, Williams, and Douglas held frequent planning sessions with a core group of teenage leaders, including Ernestine Land, Grace Poindexter, Catherine Scott, Carlton Terry, and Leslie Francis “Skip” Griffin, Jr., but Reverend Griffin directed the campaign. He satisfied the young activists’ enthusiasm while sustaining a disciplined program to meet the community’s specific needs.¹⁷

¹⁶ White, “Graciousness of South Marks Segregation in Prince Edward,” C2; Barbara Ann Botts, interview by Ruth Turner, Farmville, August 1963, Bessie Reed, interview by Ruth Turner, Farmville, August 1963, both in #38558, AFSC; J. Samuel Williams, interview by Brian E. Lee, Farmville, April 20, 2011.

¹⁷ Williams, interview by Lee; J. Samuel Williams, interview by the Kansas State Historical Society, Farmville, Virginia, March 25, 1995, Kansas State Historical Society; Smith, *They Closed Their Schools*, 232-235; Goodwin Douglas, interview by Brian E. Lee, Beltsville, Maryland, May 24, 2011; Leslie Francis “Skip” Griffin, interview by Brian E. Lee, telephone, August 9, 2011; Rev. Hilda L. Hudson, “Reverend

Reverend Griffin permitted the Student Nonviolent Coordinating Committee (SNCC) to train the teenagers in nonviolent protest. Ivanhoe Donaldson and Roland Sherrod, veterans of the Danville campaign, simulated potential scenarios to test the trainees' ability to maintain their discipline, including dousing the teenagers with ketchup and mustard. The trainees were taught to "go limp" when arrested and to protect themselves from a beating. Also as part of the training, NAACP attorneys provided legal advice. Samuel Tucker and Henry Marsh advised the teenagers not to participate in the demonstrations, but the attorneys also outlined proper conduct for those who chose to protest. The training lasted for days, which was too long for an impetuous youth like Carlton Terry, who argued that "we've had enough training." Terry pushed for demonstrations to commence immediately "because the summer was going to pass quick."¹⁸ A nationally covered county election provided an opportunity to mollify the anxious teenagers.

Two men challenged incumbent John Steck for the Democratic nomination to represent the Farmville District on the county board of supervisors. Edwin "Sonny" Pairet, the proprietor of an appliance store, ran "to bring the [school] issue out in the open," making him the first serious candidate to challenge the school closers. Pairet was "not an integrationist," but he acknowledged the moral issue of the school closings and

Goodwin Douglas: Dedicated to Lead and Serve God's People," *Joshua's Journal* (Winter/Spring 2010), 2-4; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Lee and Daugherty, "Program of Action," 277-278.

¹⁸ Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Griffin, interview by Lee; Betty Jean Ward Berryman, e-mail to Brian E. Lee, January 30, 2011; Carlton Terry, interview by Brian E. Lee, Washington, DC, August 16, 2011.

the resultant economic consequences: the loss of potential new industry to the community, the fiscal instability of the private schools, and some parents' inability to pay their child's tuition. C.H. Lafoon, a real estate broker, supported the school closings and segregation and declared that his convictions were so strong "that I feel like I am doing the Lord's work." There was concern that Steck and Lafoon would split the segregationists' vote, thus throwing the election to Pairet. Barrye Wall made "every appeal" for Lafoon to withdraw, but he refused. There was no other option but to "do our utmost to elect John Steck...with the largest possible vote."¹⁹

Many considered this contest a referendum on the school issue. On July 9, John Steck won the nomination with a plurality of votes (Steck – 799, Pairet – 438, and Lafoon – 376). The massive resisters interpreted the election as a vote of confidence for the board of supervisors. In fact, they combined the votes for Steck and Lafoon to argue that a supermajority favored the status quo. Pairet's share of the vote, although modest, diminished the veneer of white unanimity on the school issue. He believed that people were heavily invested in the private schools and "they don't want to change until they get a mandate from the courts." Regardless of the results or political spin, Sonny Pairet demonstrated great personal courage by challenging the school closers (many of whom were his friends) and exposing himself to possible social ostracism and economic reprisals. People did talk behind his back and he received hate mail from outside the area,

¹⁹ Henry McLaughlin, "Candidate Urges School Reopenings," RTD, June 20, 1963, 2; Edwin M. Pairet, interview by Brian E. Lee, Farmville, Virginia, April 29, 2011; Jean White, "Prince Edward's Fame Disturbs Rural Calm," WP, August 4, 1963, B7; "County Board Candidate Urges School Reopening," FH, June 21, 1963, 1; "School-Reopening Advocate Is Beaten," RTD, July 10, 1963, 7.

but he did not lose any friends, nor did his business suffer repercussions. “They all know me and that I say what I want,” Pairet reasoned. He may not have won the election, but he opened a door for others to speak their mind.

The NAACP capitalized on the media’s attention to the election. The state and national press, along with AP and UPI reports, carried news of the campaign across the commonwealth and nation. “I had just about every network come in here and interview me,” recalled Sonny Pairet. With the media in town, the NAACP staged a demonstration on Election Day. That evening as the election workers tabulated the results, thirty-five African Americans sought service at the College Shoppe, a restaurant on Main Street, but were denied service. Likewise, two activists were denied admittance to the movie theater. In both instances, the protestors left without incident and melted into the night. The demonstrators did gain direct-action experience and publicized their campaign to potential recruits, but they received scant media coverage. The *Farmville Herald* and *Richmond Times-Dispatch* were less interested in the purpose of the protest than with speculating on the proportion of outsiders who participated, estimated at anywhere from 30 to 100 percent.²⁰

An allegation related to the demonstration could have embarrassed the Kennedy administration. Police Chief Overton had learned from a confidential source that Robert Green, the principal investigator on the Michigan State University research team, had organized the protest. Overton shared that report with the Federal Bureau of Investigation

²⁰ Pairet, interview by Lee; “Two Sit-Ins Attempted in Farmville,” RTD, July 10, 1963, 2; “Short Sit-In Staged Here Tuesday Night,” FH, July 12, 1963, 1.

(FBI). J. Edgar Hoover, the FBI director, advised Robert Kennedy of these findings. This allegation, if found to be true, would have embarrassed the administration, because it was improper for the recipient of a federal grant to instigate a street demonstration. Furthermore, a public revelation would have sunk the research project and thus set back the administration's overall effort in Prince Edward County. Burke Marshall, therefore, asked Bill vanden Heuvel to investigate the matter. Vanden Heuvel received assurances from Green that "he will not be involved in any way with demonstrations or other action." The media did not report Overton's allegation, but the research team remained in the news.²¹

The Michigan State research team had begun phase two of its study. The researchers selected a study sample to determine the effects of the school closings on the educational and social life of the black community. In an editorial titled, "A Study of the Obvious," the Petersburg *Progress-Index* predicted that the results "could hardly be other than a picture of a tragedy." That tragedy quickly became apparent to the researchers when they administered the achievement tests. "Before we could even get to the test," explained Robert Green, "we had to show some of them how to hold a pencil. We had to show seven, eight, and nine year olds how to hold a pencil for the first time." This age group also struggled with following directions, like turning more than one page (or in the wrong direction) in the test booklet. Green recorded that many of the confused children still gave their best effort, while others "resigned themselves to the notion of failure."

²¹ J. Edgar Hoover to Robert F. Kennedy, July 11, 1963, Burke Marshall to William J. vanden Heuvel, July 15, 1963, William J. vanden Heuvel to Burke Marshall, n.d., all in Box 32, BMP.

Weeks later, the *Washington Post* reported the children's test-taking deficiencies with a front page article, "Lesson One for Prince Edward's Unschooled: How to Hold a Pencil." As long as the research team worked in Farmville, they would continue to embarrass the county.²²

After the local election, the arrival of volunteer teachers from New York fueled further tension. A racially integrated group of thirty professional teachers from the American Federation of Teachers and students from Queens College organized a remedial crash program in black churches across the county. The volunteer teachers angered the white community by violating southern mores. The New Yorkers lived with black families and socialized in bi-racial groups. "Most whites are disgusted with white girls associating with Negro men," Barrye Wall privately explained, adding that "some of the whites, more emotional ones – very few, are inclined to start something, but we have them pretty well in hand." The Queens College volunteers soon discovered that the white leadership could not restrain everybody. One evening, one "wild, wild, wild!!!" evening, Jack Shepherd and Bob Lerner of *Look* magazine treated Goodwin Douglas and a handful of volunteer teachers to Tastee-Freez, an ice cream shop beyond town limits. About two dozen troublemakers heckled the group with some "nasty cracks." The bi-racial group fled and spent a good part of the night trying to outrun their pursuers. The New Yorkers were shaken by the incident. "The event," wrote Phyllis Padow, "showed us in a chilling

²² Green, *The Educational Status of Children in a District Without Public Schools*, 85-95; Editorial, "A Study of the Obvious," PPI, July 12, 1963, 4; Jean White, "Lesson One for Prince Edward's Unschooled: How to Hold a Pencil," WP, August 2, 1963, A1.

though un-harmful way how unthinking and off guard we were.” The outsiders had the fear from that evening seared into their memory, but Goodwin Douglas had a physical reminder of the segregationists’ disapproval of him socializing with whites – a permanent scar on his leg from being struck by a hay hook. The county had previously been spared from racial violence, but the influx of outsiders raised tensions.²³

Finally, the school program became the Kennedy administration’s worst kept secret. Published reports indicated that the federal government was planning a school program in Prince Edward County. The talks were in a sensitive stage, which accounts for the administration’s conflicting statements. The White House press secretary, Pierre Salinger, told reporters that the program was “only in the exploratory stage. Nothing definite has come out of it.” Salinger explained that Kennedy was interested, but that the White House had no involvement, that it was “strictly” a matter that the Department of Justice was investigating. Ed Guthman, the Justice spokesman, told reporters that “there have absolutely not been any negotiations with anyone and no school system is planned.” Guthman contradicted Bill vanden Heuvel’s statement that he had spoken with “interested parties to see what can be done to stop this human erosion.” Still, he denied reports that he had contacted philanthropic foundations to fund a school program. Barrye Wall editorialized that “if the Department of Justice and all the other do-gooders would

²³ Michael R. Wenger and Stan F. Shaw, “Northerners in a Jim Crow World: Queens College Summer Experience,” *The Educational Lockout of African Americans in Prince Edward County*, edited by Hicks and Pitre, 55-66; Richard Parrish to John F. Kennedy, July 12, 1963, Box 374, WHCSF; “248 Prince Edward Negroes Enroll in Special Classes,” RTD, July 16, 1963, 5; Henry McLaughlin, “Teachers Call First Farmville Day Fine,” RTD, July 17, 1963, 6; J. Barrye Wall to Watkins M. Abbitt, July 22, 1963, Box 6, WMAP; Stan Shaw, Diary, July 20, 1963, Box 1, SSC; Phyllis Padow to Mike and Sandy, July 20, 1963, Box 1, PPSC; Douglas, interview by Lee.

leave” the community could work out its own problems. However, there was no chance for the community to resolve its own problems in an atmosphere that discouraged bi-racial communication. “Forecasts are heard that violence is inevitable if the impasse continues,” wrote syndicated columnists Rowland Evans and Robert Novak. “The proposed model school may be one way to prevent violence in the only place in the United States that has no public schools.”²⁴

III

In early July, Bill vanden Heuvel presented a formal proposal on a full school program to the attorney general. Kennedy was “greatly taken” by the plan, but he expressed his doubts that it could be implemented. However, as vanden Heuvel explained, “If the goal was right, [Kennedy] was not intimidated by obstacles.” The attorney general authorized him to move forward. “Let’s go ahead and see if we can do it,” encouraged Kennedy. “Step-by-step build it up.” He trusted vanden Heuvel to finish the job: “All I want you to do is keep me posted. Talk to me every day – a minute will be enough – then I will know where you are and what you are up to.” Vanden Heuvel

²⁴ Robert P. Hilldrup and Ross Weeks, Jr., “Justice Official Visits Pr. Edward for Talks,” RNL, July 11, 1963, 1; Robert P. Hilldrup, “Justice Department Still Denies Prince Edward School Parleying,” RNL, July 12, 1963, 13; Editorial, “Around Robin Hood’s Barn,” FH, July 26, 1963, 1C; Rowland Evans and Robert Novak, “Inside Report: The ‘Unchildren’ of Prince Edward County,” WP, 11 July 1963, A19.

immediately set to work on securing the lease of school buildings, staffing a faculty, winning support for the program, and raising one million dollars.²⁵

Bill vanden Heuvel aimed to lease buildings from the board of education. He met with county attorneys Segar Gravatt and Collins Denny at the latter's home in Richmond. The attorneys agreed that the school buildings should be made available to black students, and if it did not compromise their legal position, they would not oppose a "reasonable arrangement" to lease the buildings to a responsible group. The county had much to gain from an agreement; it would begin repairing its reputation and potentially secure the private schools. If black students accepted tuition grants, perhaps the federal court would lift the injunction on Prince Edward Academy. "I hope that ultimately the parents of Negro children in the community will apply for these grants," Gravatt wrote to a friend. "That would further serve to secure the general principle of free choice of parents in the education of their children." Vanden Heuvel would only accept a lease agreement, however, that did not promote segregated schools or undermine the reopening of the public schools. The initial talks looked promising, but vanden Heuvel was prepared to immediately take an inventory of other available buildings if negotiations broke down.²⁶

²⁵ Vanden Heuvel, interview by Hohl, in Hohl, "Open the Doors," 55; Vanden Heuvel, "Closing Doors, Opening Doors."

²⁶ John F. Daffron, "Prince Edward's Days in Court Not Over Yet," RT, August 18, 1963, B1; William J. vanden Heuvel to Robert F. Kennedy, "Progress Report on Prince Edward County School Situation," July 19, 1963, Box 21, BMP; J. Segar Gravatt to Colgate Darden, August 14, 1963, Box 1, PEFSAP; William J. vanden Heuvel to Burke Marshall, July 9, 1963, Reel 108, RG 60. The *Richmond News Leader* reported a meeting between Bill vanden Heuvel, Collins Denny, and local leaders that took place on July

The four-year educational vacuum necessitated a faculty of superior quality. Vanden Heuvel conceded that staffing a faculty would be a “tough job.” The school program needed over one hundred teachers, but many were already under contract with other school districts. In mid-July, vanden Heuvel met with superintendents of twenty-seven major school systems from across the nation. Some tentatively agreed to grant one or two master teachers a one-year sabbatical. The National Education Association (NEA) offered to assist in teacher recruitment. Its early assessment determined that a number of highly qualified retired teachers were available. Vanden Heuvel also pursued some younger candidates – returning Peace Corps volunteers. Finally, Robert Green sent vanden Heuvel information on dozens of educators that lived in the county. Certainly, local teachers would provide the eventual reopened public schools with a degree of continuity. Vanden Heuvel wanted not just a faculty of superior talent and experience but one that was racially integrated, an unprecedented act in Virginia.²⁷

The Kennedy administration also envisioned a bi-racial board of trustees comprised of renowned Virginia educators. “By restricting the trustees to Virginia educators,” vanden Heuvel believed, “a maximum of community acceptance could be achieved and perhaps a path opened that would encourage the reopening of the public

22, 1963. The article was void of the meeting’s substance, just that it lasted four hours and that Denny described it as a “pleasant chat. “Pr. Edward Solution Still Being Pressed,” See RNL, July 23, 1963, 17.

²⁷ William J. vanden Heuvel to Robert F. Kennedy, “Progress Report on Prince Edward County School Situation,” July 19, 1963, Box 21, BMP; Barbara Moffett to Jean Fairfax, “Second Meeting to Coordinate Federal and Private Agency Planning for Prince Edward County, Washington, D.C., July 16, 1963,” July 18, 1963, unprocessed section, EHPP; William J. vanden Heuvel to Burke Marshall, July 9, 1963, Reel 108, RG 60; Maxwell Hahn, “Prince Edward County, Telephone Conversation with William vanden Heuvel, 8/5/63,” August 5, 1963, Box 2T143, FFA2; Lyle W. Ashby to Dr. William G. Carr, July 16, 1963, Box 429, NEAA; Robert L. Green to William J. vanden Heuvel, July 9, 1963, Robert L. Green to William J. vanden Heuvel, July 22, 1963, both in Box 23, PEFSAP.

schools.” He contacted college presidents from Hampton Institute, Randolph-Macon, Virginia State, Virginia Union, and Washington and Lee, and received tentative commitments on the condition that Colgate Darden was named chairman. Darden had a long career of service to his state. He had represented Norfolk in the House of Delegates (1930-1933) and U.S. House of Representatives (1933-1937, 1939-1941); and served as a popular wartime governor (1942-1946), chancellor of the College of William and Mary (1946), president of the University of Virginia (1947-1959), and on the state board of education since 1960. Darden had an impressive resume and broad-based popularity. He had been a member of the Byrd Organization, but he also had a progressive streak that appealed to the anti-Organization faction. As far as school desegregation, Darden had testified in support of “separate but equal” in *Davis v. County School Board of Prince Edward County* (1952), but he publicly broke with the Organization over massive resistance, warning that closing schools “would be an irreparable blow.” For anti-Organization men, Colgate Darden was the one man who could put the issue of public schools plainly before the people. Vanden Heuvel found Darden to be the “only Virginian I have encountered with sufficient independent stature to stand up to Sen. Byrd, etc. and have significant influence at the same time.”²⁸

²⁸ William J. vanden Heuvel to Brooks Hays, July 15, 1963, Box 10, BHP; Barbara Moffett to Jean Fairfax, “Second Meeting to Coordinate Federal and Private Agency Planning for Prince Edward County, Washington, D.C., July 16, 1963,” July 18, 1963, unprocessed section, EHPP; Stuart I. Rochester and Jonathon J. Wolfe, “Colgate W. Darden, Jr.: The Noblest Roman of Them All,” in *The Governors of Virginia, 1860-1978*, edited by Edward Younger and James Tice Moore (Charlottesville, Virginia: University Press of Virginia, 1982), 291-305; Benjamin Muse, *Virginia’s Massive Resistance* (Bloomington, Indiana: Indiana University Press, 1961), 58; Hearing Transcript, February 1952, Box 119, *Davis v. County School Board of Prince Edward County*, Civil Action 1333, USDCEDV-R; Robbins L.

The White House pressed Colgate Darden to accept the chairmanship. President Kennedy dispatched his special assistant, Brooks Hays, a former congressman from Arkansas and past president of the Southern Baptist Convention, to meet with Colgate Darden. Hays and Darden had a cordial relationship. As recent as February, Hays stayed at Darden's home in Norfolk while traveling to speak at the Preaching Mission. At their meeting, Hays told Darden: "The President feels he has to have the schools open in Prince Edward." Darden described the school closings as "indefensible" but considered the matter the state's responsibility. "Only the state can do it with any chance of success because the effort must have public support," reasoned Darden. He would only accept the post upon the request of the governor. Originally, vanden Heuvel planned for the Virginia Council on Human Relations to appoint the board of trustees, but now, winning Governor Harrison's support became imperative.²⁹ Still, vanden Heuvel had more work to do before he presented his plan to the governor.

Bill vanden Heuvel first had to obtain the support of civil rights organizations. On July 16, the U.S. Office of Education hosted a second meeting to coordinate federal and

Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation, 1954-1956* (Chapel Hill, North Carolina: University of North Carolina Press, 1962), 152-153; William J. vanden Heuvel to Robert F. Kennedy, September 17, 1963, Box 64, RFKP.

²⁹ Guy Friddell, *Colgate Darden: Conversations with Guy Friddell* (Charlottesville: University Press of Virginia, 1978), 174; Brooks Hays to Colgate W. Darden, Jr., January 29, 1963, Box 9, BHP; William J. vanden Heuvel to Robert F. Kennedy, "Progress Report on Prince Edward County School Situation," July 19, 1963, Box 21, BMP. On July 15, 1963, Bill vanden Heuvel sent Brooks Hays a memorandum on the Prince Edward situation and they also talked by phone. Later that day, Hays called Colgate Darden, likely to set up a meeting. The phone records indicate that Hays and vanden Heuvel spoke the following day, likely to convey the substance of the phone conversation with Darden. It is likely that the Hays-Darden meeting transpired on July 18. Hays's appointment book has a note of his flight from Washington to Richmond on that date and a return trip early the next morning. Hays and vanden Heuvel spoke by phone again on July 22 and 23. See William J. vanden Heuvel to Brooks Hays, July 15, 1963, Box 10, Phone Logs and Appointment Book, Box 9, all in BHP.

private agency planning for Prince Edward County – a follow-up to the June 6 meeting. Vanden Heuvel proposed three plans. First, the county school board would receive private funds to operate the public schools. The school board would no longer have the excuse that the lack of money prevented them from operating a school system. Reverend Griffin opposed this option, because the school board could not be trusted to adequately run the schools. Vanden Heuvel argued that this option should be considered in the event that the federal courts ordered the schools opened and the school board had no money to operate them. Second, vanden Heuvel presented the model school program, where philanthropic foundations would finance a temporary private school system. He admitted that securing the buildings, hiring a faculty, and raising the funds would be a tremendous undertaking but hinted that preparations were underway. Any misgivings that the conferees had were clarified by the NAACP. Griffin predicted that black students would attend the school; Samuel Tucker gave assurances that the school would not complicate the legal case; and John Morsell gave the project the national Association's blessing. Third, vanden Heuvel proposed organizing a private school funded by tuition grants. Accepting tuition grants was legally but not psychologically defensible. Morsell was adamantly opposed. Clearly, vanden Heuvel had already won the NAACP's support for the model school prior to this meeting. The NAACP's endorsement and his masterful performance at this meeting allowed vanden Heuvel to win the other participating agencies' support for the freshly christened Prince Edward Free School Association.³⁰

³⁰ Barbara Moffett to Jean Fairfax, "Second Meeting to Coordinate Federal and Private Agency

Table 10.1

**Participants of the Second Meeting to Coordinate Federal and
Private Agency Planning for Prince Edward County,
July 16, 1963**

American Friends Service Committee Bill Bagwell Barbara Moffett	U.S. Department of Health, Education, and Welfare Lisle Carter, Jr. James M. Quigley Charles M. Rogers
Michigan State University Robert L. Green	U.S. Department of Justice Bill vanden Heuvel
NAACP W. Lester Banks L. Francis Griffin Henry L. Marsh III Clarence Mitchell John Morsell Mrs. David Rust Samuel Tucker	U.S. Office of Education Francis Keppel David S. Seeley
Potomac Institute Harold Fleming	Virginia Council on Human Relations Heslip Lee
Southern Regional Council Leslie Dunbar	Virginia Teachers' Association J. Rupert Picott
U.S. Commission on Civil Rights Peter Sussman	(None) Gordon Moss

(This is an incomplete list recorded by Barbara Moffett and the U.S. Office of Education.)

Convincing foundations to fund the Free Schools proved to be much more difficult. Vanden Heuvel had spoken with the Adele Levy, Carnegie Corporation, Danforth, Edgar Stern, Field, Ford, James, Rockefeller, Rockefeller Brothers, Sloan, and Taconic foundations, but he had secured no firm commitments. The foundations were reluctant to support a project that had a potentially infinite duration. There was no guarantee that the federal courts would order the schools reopened, and then the

Planning for Prince Edward County, Washington, D.C., July 16, 1963," July 18, 1963, unprocessed section, EHPP.

foundations would be committed year-after-year to funding the Free Schools. The Rockefeller Brothers Foundation, for one, would not support the Free Schools unless vanden Heuvel proved that it would resolve the situation and that the program was limited to one year. At a July 17 meeting with foundation representatives, vanden Heuvel predicted that the court would order the schools opened by September 1964. Nevertheless, the Rockefeller Brothers rebuffed the proposal but kept the door open to a future application. As vanden Heuvel left, he chastened the foundation for not adding the Rockefeller name to this undertaking.³¹

Bill vanden Heuvel pitched the Free Schools at a conference featuring a number of prominent foundations. On July 23, the Danforth Foundation and the Southern Association of Colleges and Secondary Schools held a conference in Atlanta to discuss black education in the South. Although vanden Heuvel made “a very effective presentation,” the Ford, Carnegie, and Rockefeller foundations showed no interest in approving a grant. Several detractors decried letting the county “off the hook.” Vanden Heuvel responded with an impassioned rejoinder. He reminded the audience that Prince Edward County was the only locality in the nation that had no public education. The whole nation was on the hook to blot out this shame. And although the school closings affected only a relatively small number of children, it was an injustice that must be

³¹ William J. vanden Heuvel to Robert F. Kennedy, “Progress Report on Prince Edward County School Situation,” July 19, 1963, Box 21, BMP; Gene W. Setzer to RBF Files, “Prince Edward County, Virginia,” August 1, 1963, RBFA.

remedied. Vanden Heuvel did not ask for contributions but closed by emphasizing that time was of the essence.³²

Two days later, Bill vanden Heuvel apprised Governor Harrison of his plans. Harrison had come under increasing pressure to resolve the school crisis. He privately lamented that if he announced a new industry that would employ a million Virginians that it would be pushed off the front page by Prince Edward County. The governor wanted the situation out of the papers, but he had no solution nor the political courage to lead. Vanden Heuvel considered him a “very cautious man on this issue.” The Free Schools offered Harrison an out without much personal commitment. Vanden Heuvel needed Harrison to use his office to secure the lease of the school buildings, ensure state accreditation, and enlist a board of trustees. Harrison agreed to cooperate as long as county leaders accepted the prospect of a private integrated school system.³³ Vanden Heuvel had worked at a frenetic pace, but he had yet to secure any tangible commitments that would lead to the operation of the Free Schools. The street demonstrations in Farmville provided a new sense of urgency.

³² David F. Freeman to RBF Files, “Prince Edward County, Virginia – addendum to GS memo of August 1,” August 6, 1963; FMR to JGH and KWT, “Prince Edward County, Virginia, Public Schools Project,” July 26, 1963, both in Box 80, RFA.

³³ William J. vanden Heuvel to Robert F. Kennedy, “Progress Report on Prince Edward County School Situation,” July 19, 1963, Box 21, BMP; Albertis Harrison to Colgate Darden, November 12, 1963, Albertis Harrison to J. Barrye Wall, August 23, 1963, both in Box 73, ASHP; “Notes on Conversation with William vanden Heuvel, Special Assistant to the Attorney General of the United States – 8/8/63,” August 8, 1963, Maxwell Hahn, “Prince Edward County, Telephone Conversation with William vanden Heuvel, 8/5/63,” August 5, 1963, both in Box 2T143, FFA2; William J. vanden Heuvel to Burke Marshall, July 9, 1963, Reel 108, RG 60; Daffron, “Prince Edward’s Days in Court Not Over Yet,” B1.

IV

The rumor had spread that once the demonstrators won in Danville, Farmville was the next target. Having observed the unrest in Danville, Police Chief Overton recognized the potential dangers for his community. He determined that demonstrators had to be handled with “kid gloves.” It was imperative that law enforcement cultivate positive relations with the black community, starting with Reverend Griffin, whom Overton considered “one of the finest, a peaceful man,” and a friend. Overton met regularly with Griffin, often for lunch at First Baptist Church, to discuss community problems and share intelligence. Despite these meetings and their cordial relationship, Griffin did not reveal anything about the forthcoming demonstrations. “Of course, I knew it was coming,” remembered Chief Overton. “You’d hear pieces and all. Reverend Griffin and I were pretty close then, but not enough for him to give me information.” Not suspecting anything imminent, Overton took a beach holiday. He would soon be recalled.³⁴

On Thursday, July 25, the freedom demonstrations began in Farmville. The Queens College program held class in the basement of First Baptist Church. Around noon, as Phyllis Padow began teaching the English lesson, the class heard a group outside singing “We Shall Overcome.” The class gazed through the window to see teenagers formed in a circle, holding hands, and swaying in harmony. “They’ve started!” blurted Chuckie Reid, an eleven-year-old student. Many of the younger children knew little about

³⁴ J. Barrye Wall to Watkins M. Abbitt, July 22, 1963, Box 6, WMAP; Ben A. Franklin, “10 Negroes Seized in Farmville, Va.,” NYT, July 28, 1963, 47; Overton, interview by Lee.

what had just started, having no entrée into the planning meetings. Reid knew from his contacts on the NAACP Youth Council that demonstrations were planned to pressure the county to reopen the schools so that nobody had to leave the county or attend summer crash programs to receive an education. Sensing history unfolding, Padow escorted the children outside to “see the beginning of the public activities that will probably affect the rest of their lives.”³⁵

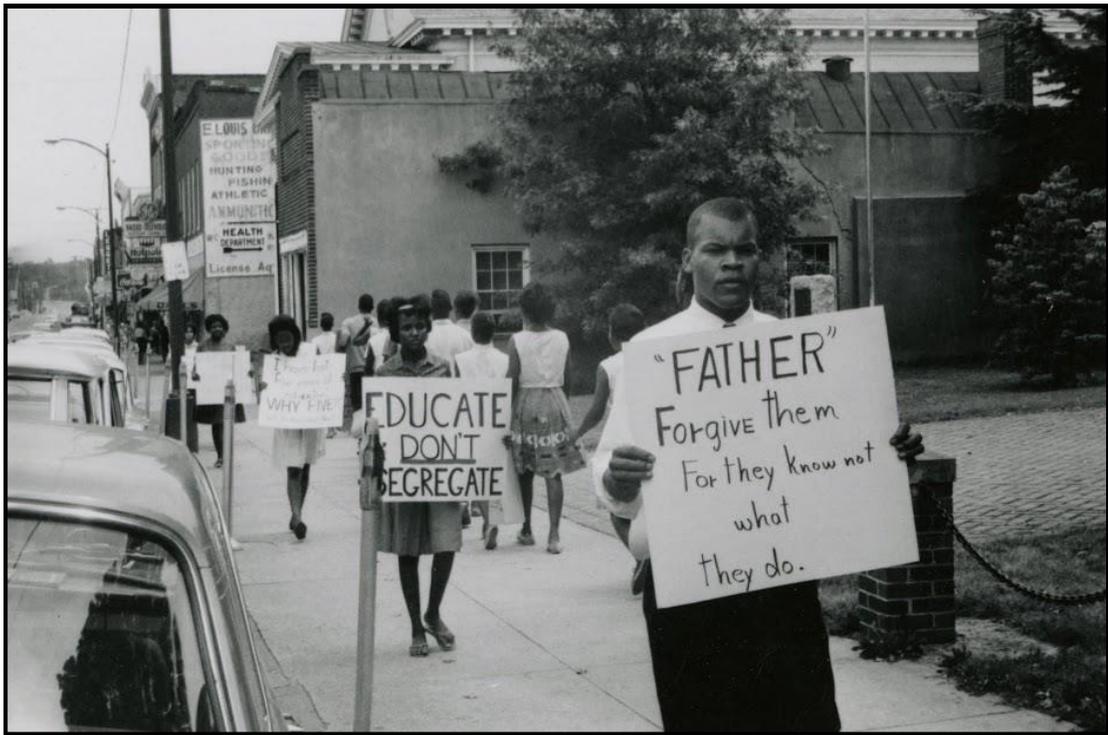


Figure 10.4 Goodwin Douglas. (Photo: VCU Libraries).

³⁵ Phyllis Padow to Mike and Sandy, July 25, 1963, Box 1, PPSC; McLaughlin, “First Protest March Staged By Negroes in Farmville,” 2.

At 12:35 p.m., seventy demonstrators began, as the *Richmond Times-Dispatch* reported, “the first full-scale ‘nonviolent action’ by Negroes in Prince Edward County.” Feeling a mix of excitement, fear, and uncertainty, protestors formed six groups to picket downtown businesses, the courthouse, and the Farmville Shopping Center. The demonstrators marched eight feet apart, providing shoppers with ample space to enter and exit stores. They carried homemade signs protesting segregation and the county’s closed schools. Reverend Douglas carried a sign that drew attention to the federal court’s six months of delay: WHILE THE FOURTH CIRCUIT CONTINUES TO WAIT, EDUCATION FOR NEGRO CHILDREN SUFFOCATES. Another sign called out the chairman of the board of supervisors: ASK MR. VAUGHAN WHY THE SCHOOLS ARE CLOSED — HE WILL “HEM” AND “HAW” AND DECLINE TO DISCLOSE. Still another asked: WE’VE GONE FOUR YEARS— MUST WE GO FIVE? While the picketers marched, other teenagers distributed leaflets urging black patrons to boycott certain stores “until you can work where you spend your money.” With Overton on vacation, acting chief George Crowder assembled twenty officers along Main Street with orders not to interfere unless violence erupted. Curious shopkeepers stepped outside to see what was happening. “We surprised everyone,” delighted Betty Jean Ward. “I don’t believe anyone thought this would happen in Farmville.” A contingent of white teenagers heckled the picketers, but there were no incidents and no arrests. The demonstration ended at 1:55 p.m., when the marchers returned to First Baptist Church, reformed their circle, joined hands in song and prayer, and chanted “Old Jim Crow has got to go.” Griffin told reporters that the demonstrations

will continue “indefinitely” to protest “closed schools, delay in the courts, and segregation in its totality.”³⁶

On Friday afternoon the demonstrations intensified. Fifty teenagers in five groups carried placards in front of the downtown businesses, the courthouse, and the Farmville Shopping Center. At the same time, several teenagers staged try-ins at department stores to “tie up” clerks. Traditionally, African Americans could not try on clothing before making a purchase, which was a sore point among local blacks. In this case, recalled Reverend Douglas, “We would select clothing stores, where we knew that they didn’t want us in. We would go in there and try on clothes and not buy them.” Simultaneously, fifteen protestors in three groups attempted sit-ins at downtown lunch counters. They were refused service at Rhue’s Diner, Southside Sundry, and J.J. Newberry. After the demonstrators left, the manager of J.J. Newberry closed the counter and removed the seats. At the College Shoppe and at Chappell’s Fountain, white patrons were permitted to enter, but the businesses locked the doors to the black teenagers. Later that afternoon, demonstrators targeted the State Theater. The marquee read: YOU WILL ENJOY THIS MOVIE, but a sign on the ticket window stated: IN ANSWER TO ALL QUESTIONS—WE RESERVE THE RIGHT TO REFUSE SALES OF TICKETS TO ANY PERSON. Protestors formed a circle and repeatedly attempted to purchase tickets until the ticket booth closed, and thus closed day two of the campaign. The demonstrators had not yet won any tangible

³⁶ McLaughlin, “First Protest March Staged By Negroes in Farmville,” 2; Lt. L.E. Thomas to Capt. W.W. Blythe, July 25, 1963, Box 10, ASHP; Griffin, interview Lee; Terry, interview by Lee; Associated Press, “Negroes March in Farmville,” LN, July 26, 1963, 1; “NAACP Youth Group Begins March For Schools on Main Street Here,” FH, July 26, 1963, 1; Berryman, e-mail to Lee.

victories, but their presence was having an effect. One observer noted that “the atmosphere in town is getting tenser.”³⁷



Figure 10.5 State Theater. (Photo: VCU Libraries).

On Friday evening, Beulah AME Church hosted an electrifying rally. The NAACP Youth Council implored more teenagers to join the picket line, even if it meant defying their parents. The energy and emotion captured the attention of a member of the Michigan State University research team. Melvin Moore, a nineteen-year-old from Inkster, Michigan, had spent several weeks interviewing Prince Edward’s youth. “The

³⁷ “Negro Groups Try Sit-Ins at 5 Stores in Farmville Area,” RTD, July 27, 1963, 4; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Douglas, interview by Lee; “Negroes Picket Again in Farmville,” LN, July 27, 1963, 5; Phyllis Padow to Mike and Sandy, July 27, 1963, Box 1, PPSC. The text of the signs on the movie theater was found in photographs from Darrell Hodges’s personal collection.

whole impact of what they had been denied and the poverty really didn't hit home until I interviewed them," recalled Moore. "It was . . . very sad. There was a certain amount of anger I had." The rally inspired Moore to cast aside his clipboard and join Saturday's picket line. For the protestors more broadly, the rally raised morale, heightened enthusiasm, and increased their determination.³⁸

The next morning, Mayor Watkins denied Reverend Griffin's application for a parade permit "because of the possibility of some trouble." Saturday was the principal shopping day in Farmville, drawing patrons from the five surrounding counties. "We felt that because of the large crowds, we could not control it as well as we would like to," justified Mayor Watkins. Sensing displeasure, Chief Overton employed shuttle diplomacy between Watkins and Griffin to arrive at a compromise. The police roped off a half-block section of Main Street for picketing in front of First Baptist Church. This arrangement sapped the strength of the pickets because they were too distant from the businesses to have an effect. Undeterred, Griffin elected to continue the demonstrations without a parade permit. More than one hundred picketers paraded up and down Main Street, marching two abreast and singing freedom songs.³⁹

Saturday witnessed the campaign's first arrests. The Reverend Richard Hale, pastor of St. James African Methodist Episcopal Church in the nearby community of Prospect, led nine demonstrators to the College Shoppe. The picketers attempted to enter

³⁸ "Negro Groups Try Sit-Ins at 5 Stores in Farmville Area," 4; Melvin M. Moore, Jr., interview by Brian E. Lee, telephone, May 1, 2011; Douglas, interview Lee.

³⁹ Henry McLaughlin, "10 Demonstrators Arrested in Farmville Business Area," RTD, July 27, 1963, 1; Overton, interview by Lee; "33 Demonstrators Arrested in Week End of Racial Unrest Here," FH, July 30, 1963, 1.

the luncheonette, but the shopkeepers barred the entrance. So, the picketers stood silently along the storefront. Chief Overton soon arrived, alerted the protestors that they were in violation of a town ordinance that prohibited loitering and repeatedly asked them to disperse. When they refused, Overton told Hale, “All right, you’re under arrest.” Hale and the nine others dropped to the sidewalk and went limp. As they sang “We Shall Not Be Moved,” officers carried them to the courthouse. The five juveniles were soon released, as were the three women who posted bond. Reverend Hale and Melvin Moore refused bond and were jailed. Melvin Moore’s arrest provided a potential propaganda coup for the county’s segregationists, because he was both an “outside agitator” and employed under a federal grant. Robert Green had exhorted his research team to concentrate on their work but admitted to the *Richmond News Leader* that he could not control what his team did “on their own time.” Local officials contemplated exploiting the arrest, but Moore’s accusation of police brutality, an alleged blow to the abdomen, may have tempered considerations to further publicize the episode (a county judge later found no evidence to convict the deputy).⁴⁰

⁴⁰ McLaughlin, “10 Demonstrators Arrested in Farmville Business Area,” 1; “33 Demonstrators Arrested in Week End of Racial Unrest Here,” 1; Hearing Transcript, *County of Prince Edward v. Fowlkes et al.*, August 9, 1963, Civil Action 4094, USDCEDV-R; Town of Farmville Police Department, list of arrests, n.d., DHC; “Protests Threaten Prince Edward Study,” RNL, July 29, 1963, 1A; “Deputy Freed of Charges He Kicked Negro,” DB, August 28, 1963, 8B. On May 8, 1962, Farmville Town Council adopted an ordinance that stated the following: “Any person loitering or standing in the Street, Sidewalk, or Curb, shall move on or separate when requested to do so by any member of the Police Department, and shall cease to occupy such position in the Street, Sidewalk, or Curb, under penalty of not less than \$10.00, or more than \$50.00 for each offense; and in addition, in the discretion of the Trial Court, may be confined in jail for a period not exceeding thirty (30) days.” See Town of Farmville, Sec. 16–59, May 8, 1962, “Loitering and Failure to Move On.”



Figure 10.6 College Shoppe. (Photo: VCU Libraries).

The demonstrations signified a new form of communication. The white leaders had never seriously addressed the black community's grievances and dismissed the value of bi-racial committees. The campaign was an overt expression of black Prince Edwardians' dissatisfaction with their station. The white leaders were not yet literate in this language. Following the arrests, Mayor Watkins informed Reverend Griffin that all future demonstrations required a parade permit and that no permits would be issued on the weekends. Further, Watkins expected that future demonstrations would be orderly. However, the three days of protests, highlighted by the arrests, marked a new day for Prince Edward County. The younger generation had refused to accept anything short of full citizenship, revealing the local white leadership's inability to manage white

supremacy. Segregationists no longer dictated how and when the black community exerted its constitutional rights. The demonstrators were now on the offensive and would determine their next action.⁴¹

On Sunday, the movement targeted four white churches. Reverend Griffin lamented that the local churches “have been reduced to Sunday social clubs,” and he resolved to force the white ministers and their congregations to confront segregation forthwith. Seven African Americans attended the service at Johns Memorial Episcopal Church. Gordon Moss saw the group at the door and invited them to worship with him at his pew. Eight blacks entered the Wesleyan Methodist Church, but all but five of the white parishioners walked out of the church, and some went to the police station seeking arrest warrants. The visibly shaken young minister asked the black teenagers to leave and they complied. A separate group arrived at the Farmville Presbyterian Church, but the services had already begun and that attempt was aborted. Those turned away converged on Main Street.⁴²

Reverend J. Samuel Williams led a fourth group to Farmville Baptist Church. The large brick building, which housed the largest congregation in the county, stood on Main

⁴¹ Green, *The Educational Status of Children in a District Without Public Schools*, 123; Henry McLaughlin, “Police Arrest 23 Negroes On Farmville Church Steps,” RTD, July 29, 1963, 1; J. Douglas Smith, *Managing White Supremacy: Race, Politics, and Citizenship in Jim Crow Virginia* (Chapel Hill, 2002).

⁴² L. Francis Griffin to the U.S. Commission on Civil Rights, n.d., in U.S. Commission on Civil Rights, *Conference Before the United States Commission on Civil Rights: Third Annual Conference on Problems of Schools in Transition from the Educator’s Viewpoint* (Washington, D.C.: GPO, 1961), 106; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; McLaughlin, “Police Arrest 23 Negroes On Farmville Church Steps,” 1; “Farmville Picketing Continues: No Incidents, No Arrests Occur,” RTD, July 31, 1963, 2; “33 Demonstrators Arrested in Week End of Racial Unrest Here,” 1; Ben A. Franklin, “Virginia Negroes Seized at Church,” NYT, July 29, 1963, 10.

Street next to the courthouse. Six white columns and two sets of double doors formed an impressive front porch. At the entrance, parishioners received the bulletin, which read: “If you feel the need for prayer, if you are heavy laden and are tired—if you are in need of friendship—and want a friend that will stick closer than a brother—if you want to know the way of life more perfectly, walk through the doors of this house, worship with us and make your wants known.” Ruth Turner, an Ohioan who had taught in the previous summer’s crash program, acted as the group’s spokesperson. She asked the usher, “Has the service already started?” A middle-aged usher with balding red hair and glasses snapped, “You people are not coming in here.” He gestured down the street and said, “You have your own church.” Turner then asked, “Do you mean we are not going to be admitted to this church?” The usher crossed his arms and blocked the entrance. The church leadership had grown alarmed by the recent demonstrations and rumors that their church was targeted for integration. The previous evening, the board of deacons unanimously adopted a policy that barred blacks. Undeterred, Ruth Turner declared, “Then we will wait until the service is over.” The group stood silently on the front porch. The church leadership locked the front entrance and late parishioners were directed to a side door.⁴³

⁴³ The previous summer, Ruth Turner, a teacher from Cleveland, Ohio, had taught in the remedial crash program in Prince Edward County, which was organized by the Virginia Teachers’ Association. In the summer of 1963, she conducted interviews for the American Friends Service Committee study to develop a program for older youth. Hearing Transcript, *Commonwealth of Virginia v. James Samuel Williams*; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; “Opening Closed Doors: Narrative of the American Friends Service Committee’s Work in Prince Edward County, Virginia, 1959–1964,” AFSC; Bill Wall, “Emphasis on Basic Fundamentals In Summer Classes For Negro Students,” FH, July 13, 1962, 1; Franklin, “Virginia Negroes Seized At Church,” NYT, 10; McLaughlin, “Police Arrest 23 Negroes

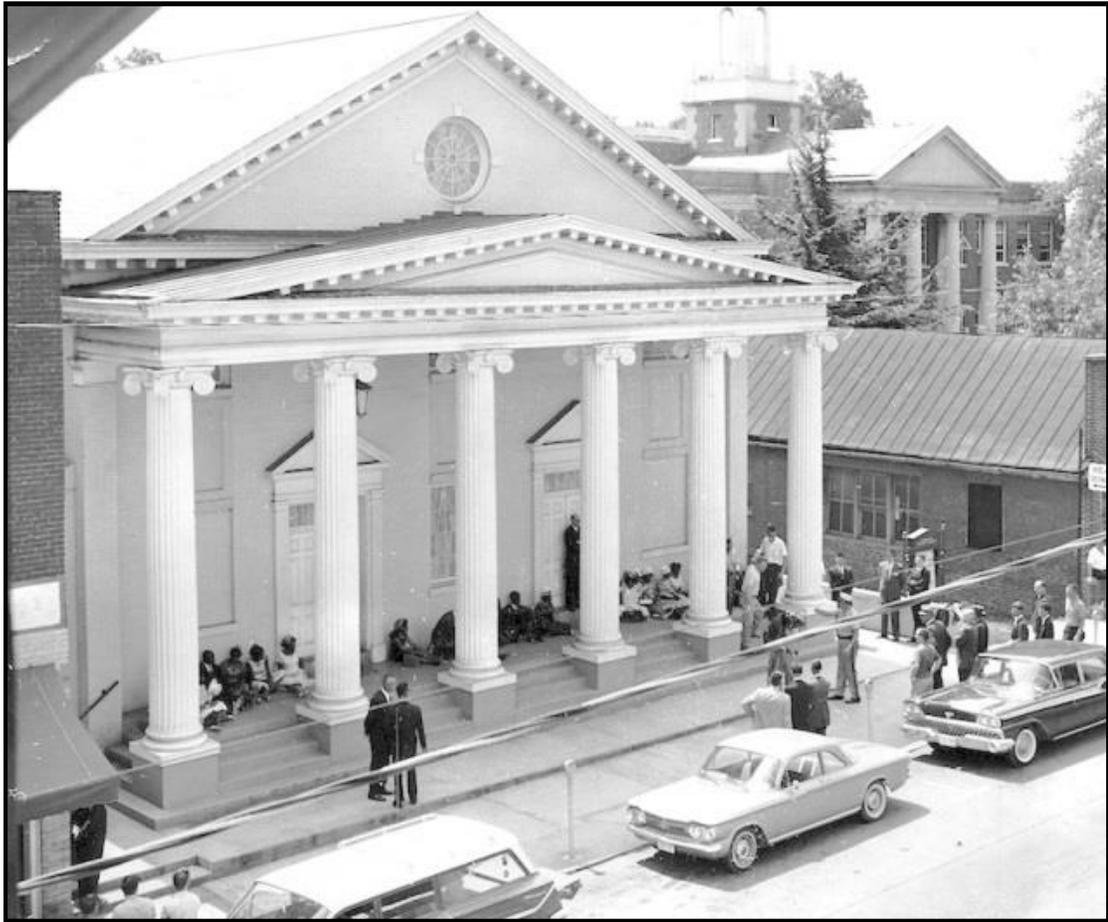


Figure 10.7 Farmville Baptist Church. (Photo: *Richmond Times-Dispatch*).

The kneel-in at Farmville Baptist Church produced the most arrests of the campaign. The Reverend Otis McClung opened the service with the offertory, accompanied by the singing of the anthem. The demonstrators heard the choir from the porch, as did more protestors who had just arrived after being turned away from other churches. The group decided to sing as well. Twenty-three demonstrators belted out “We Shall Overcome” so loud that Reverend McClung could hear himself preach, “but that

On Farmville Church Steps,” 1; “Six Negroes Convicted For ‘Kneel-in’ Attempt,” RTD, August 14, 1963, 6; “Negroes’ Church Intent Doubted,” LN, August 14, 1963, B10.

was about all.” Many parishioners expressed their irritation to church leaders, and the steamy summer heat, intensified by the closed doors and lack of air conditioning, exacerbated the tension. Deacon Robert B. Burger urged Reverend Williams to leave, but he refused. The demonstrators continued clapping and sang “Let Us Break Bread Together,” “Lead Me, Guide Me,” and “This May Be the Last Time.” The volume was so great that the choir, which sat behind the pulpit, had trouble hearing the sermon. The deacons determined that the disturbance had to end. Burger again asked the demonstrators to leave, and again they refused. The deacons then summoned the police. Chief Overton asked Reverend Williams to lead his followers away, but the group remained steadfast. Williams was arrested for disturbing a public worship. The other twenty-two protestors fell limp on the porch. Chief Overton painstakingly read every arrest warrant, as one-by-one each demonstrator was carried, wheeled on a stretcher, or transported by motor vehicle to the county courthouse, singing freedom songs along the way. Overton’s policy of personally executing every arrest prolonged the spectacle for forty-five minutes. The church service ended early, and irritated parishioners filed out the side entrance, staring in disbelief as they witnessed the final arrests. Whites gathered outside the courthouse, as did blacks one block away. Tensions peaked, but a timely downpour doused a potential confrontation.⁴⁴

⁴⁴ Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Hearing Transcript, *Commonwealth of Virginia v. James Samuel Williams*; McLaughlin, “Police Arrest 23 Negroes On Farmville Church Steps,” 1; Franklin, “Virginia Negroes Seized At Church,” 10; “Farmville Church Has 23 Negroes Arrested Sunday,” LN, July 29, 1963, 8.

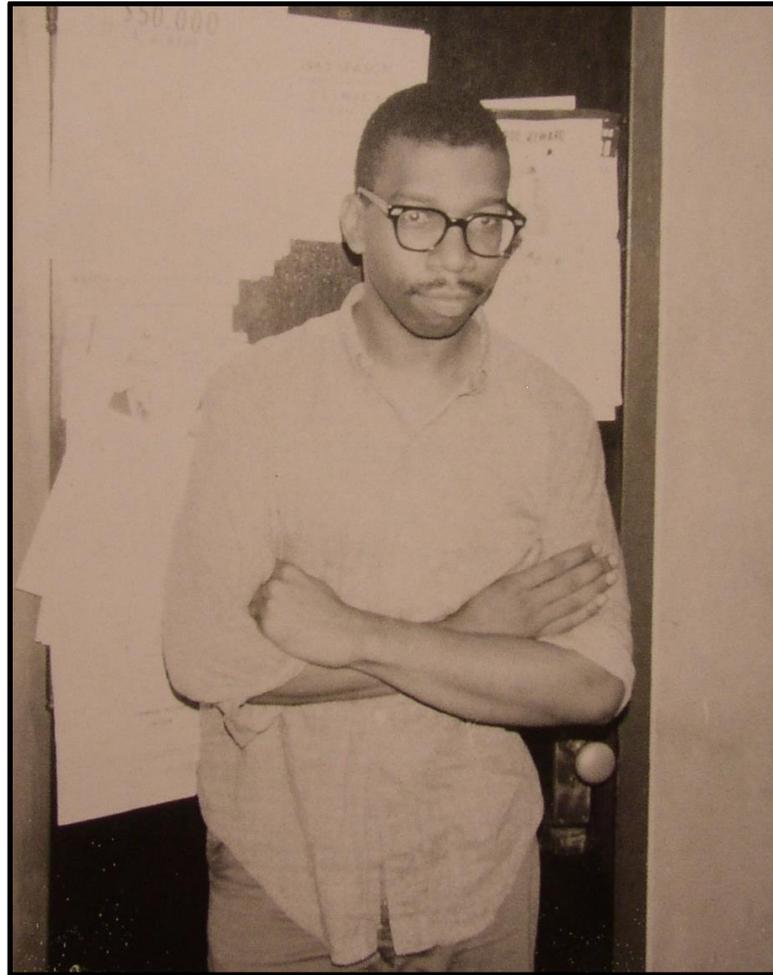


Figure 10.8 Fred Wallace. He was arrested after a physical confrontation with local law enforcement officers at the county courthouse. Wallace had trouble securing a criminal defense attorney. Weeks earlier, President Kennedy had established the Lawyers' Committee for Civil Rights Under the Law, a bi-racial association of lawyers that worked to find legal solutions to racial problems. The committee's co-chairman, Bernard Segal, asked Dean F.D.G. Ribble of the University of Virginia Law School to find an attorney for Wallace. Ribble secured the services of George Allen of Richmond, who, after years of litigation, reached an agreement with the county to drop the felony charges and for Wallace to pay the fines on the misdemeanor counts (Photo: Prince Edward County).

The tension was renewed inside the courthouse. The detainees were processed in a courtroom because they would have overfilled the jail. They continued to sing, so

loudly recalled Chief Overton that “you couldn’t hear yourself talk.” The seventeen juveniles were released into the custody of their parents, but the six adults refused bond and were locked up. A contingent of NAACP officials, including Reverend Griffin, Lester Banks, and attorney Henry Marsh, visited the jail. After meeting with the detainees, Marsh called on the Commonwealth Attorney’s office to obtain assurances for his clients’ safety. In the meantime, Marsh sent his law clerk back to the jail to deliver a message to his clients. Fred Wallace, a third-year Harvard Law student, had a personal attachment to the locked-out children. He had taught in the previous summer’s crash program and had been interviewed for a nationally televised special on the school closings, where he stated somberly that “a good percentage of the kids...are undoubtedly lost. I think they have been ruined permanently.” When he reentered the courthouse through a side door, an officer asked him what business he had in the building. Wallace perceived this comment as harassment, because he was conducting lawful business. He cursed the officer and a melee ensued. It took several officers to restrain Wallace. During the altercation, he kicked a deputy sheriff, who later testified that “my leg hurt a lot, and he had put a right-sized knot on my leg there. It didn’t bleed, but it took some of the skin, the outer layer of skin off, up on my leg.” Wallace was arrested and charged with several counts, including cursing an officer, resisting arrest, and assaulting an officer “with the intent . . . to maim, disfigure, disable, and kill.” Wallace was released on \$5,000 bond.⁴⁵

⁴⁵ Overton, interview by Lee; McLaughlin, “Police Arrest 23 Negroes On Farmville Church Steps,” 1; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Henry L. Marsh III and J. W. Overton, Jr., statements and the charges, *Commonwealth of Virginia v. Fred Wallace*, PECC; “The Crippled Generation,” NBC, August 1962; George E. Allen, *The Law as a Way of Life: The Memoirs of George E.*

In the evening, the six kneel-in detainees were moved to the neighboring Lunenburg County Jail, presumably to clear space in the event of more arrests. “That was kind of a mistake there,” reflected Chief Overton, “because then the blacks got mad because we were taking their kinfolks to another jail.” While in jail, Ruth Turner too had time to reconsider her role in the kneel-in. She determined that the arrests were “unwise” and “not timely” because they removed twenty-three demonstrators from the picket lines. Reverend Williams also admitted that they made an error in judgment by singing loudly and inviting arrest. Numbers were the movement’s greatest deficiency. Reverend Griffin was upset that his instructions were broken and so many were arrested. At a rally on Sunday night, he appealed for more volunteers, but only a handful stepped forward, not nearly enough to replenish those detained or out on bond.⁴⁶

Reverend Griffin may have lost numbers, but he won the message war. Earlier in the day, the Reverend Edward Meeks Gregory, a white Episcopalian minister and president of the Richmond Area Council on Human Relations, had delivered a guest sermon at First Baptist Church. “The Gospel makes it quite clear,” preached Gregory, “that church, by its very nature, is aggressively integrationist in order to draw men together under God.” In an interview with the *New York Times*, Reverend Griffin used Gregory’s sermon to draw a contrast between First Baptist and the white churches: “I would surrender my pulpit before I would let anyone connected with my church prevent

Allen, 1910–1970 (Richmond, Virginia: G.E. Allen, 1969), 92–97; Henry McLaughlin, “Negroes March Quietly in Farmville,” RTD, July 30, 1963, 2.

⁴⁶ Overton, interview by Lee; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Smith, *They Closed Their Schools*, 232; “NAACP Leaders Says Schools Primary Purpose,” FH, August 6, 1963, 1; Phyllis Padow to Mike and Sandy, July 31, 1963, Box 1, PPSC.

anybody from worshipping in it.” Furthermore, the arrests “showed that the white ministers of this community and their congregations have failed to realize the moral issues connected with the integration movement.” Finally, Griffin noted that the arrests “intensified our determination to demonstrate.”⁴⁷

The weekend’s events placed a strain on local officials. On Tuesday, Commonwealth’s Attorney Frank Nat Watkins requested assistance from Governor Harrison “in the prosecution of a large number of cases growing out of the violation of State Laws dealing with sit-ins, kneel-ins and prayer-ins, etc.” Watkins also expressed concern about the possibility of violence erupting in the county. “As you know,” he explained to the governor, “the tempo of the harassment of the citizens of Prince Edward County and the State of Virginia is increasing day by day. I had hoped that we, in this county, would be spared of the ordeals that are now going on in the City of Danville.” Watkins not only asked for legal assistance but also suggested that Harrison call out the National Guard. “Small towns and counties are not equipped to continue this fight without the aid of the State,” pleaded Watkins. The governor’s office denied both requests. To meet the crisis, the county board of supervisors approved the appointment of ten additional deputy sheriffs.⁴⁸

⁴⁷ Franklin, “Virginia Negroes Seized At Church,” 10; “Protests Threaten Prince Edward Study,” RNL, July 29, 1963, 1; McLaughlin, “Police Arrest 23 Negroes on Farmville Church Steps,” 1.

⁴⁸ Frank Nat Watkins to Albertis S. Harrison, July 30, 1963, Box 5, WMAP; Carter O. Lawrence to Frank Nat Watkins, August 1, 1963, Box 9, ASHP; Minutes, Prince Edward County Board of Supervisors, August 6, 1963, PECBOSR. The ten deputies’ employment was effective July 27, 1963, but was formally approved by the board of supervisors on August 6, 1963.

The state circuit court provided further protection. Judge Joel W. Flood, citing “insufficient space” in the county lockup, issued an order incorporating the jails of eight neighboring counties, three cities, and the state farm into the Prince Edward County jail system. A black spokesman saw this action as “an attempt to intimidate the young people.” The modified system was large enough “to house every citizen of Prince Edward County, Negro and white, including horses, cattle, and dogs.” Judge Flood’s order eliminated filling the jails as a protest tactic, not that that was a viable campaign strategy at the moment. Further arrests would sap the strength of the picket lines, so demonstration leaders obtained parade permits and protestors appropriately spaced themselves apart while picketing. The picketers, however, still applied pressure. Several teenagers performed try-ins at department stores and sought service at the lunch counters, but when asked to leave they did so without a disturbance. Although these actions appeared conservative by the previous weekend’s standard, a new phase of the demonstrations had begun.⁴⁹

⁴⁹ Ben A. Franklin, “More Jails Ready At Farmville, Va.,” NYT, July 30, 1963, 14; McLaughlin, “Negroes March Quietly in Farmville,” 2; “Farmville Picketing Continues: No Incidents, No Arrests Occur,” RTD, July 31, 1963, 2; “50 Negroes Stage March in Farmville,” August 1, 1963, RTD, 6; “Demonstrations Peaceful, Court Hearings Set,” FH, August 2, 1963, 1; Ruth Turner to Jean Fairfax, August 2, 1963, #38558, AFSC; Sgt. G. M. Morris, Jr., to Capt. W. W. Blythe, July 31, 1963, Box 10, ASHP.

Table 10.2**1963 Farmville Demonstrations List of Arrests**

Name	Age	County Resident	Date of Arrest
Joyce Allen	15	Yes	August 3
Lavera Allen	16	Yes	July 28
Bessie Bolding	15	Yes	August 3
Barbara Botts	16	Yes	July 28
James Russell Brown	14	Yes	August 3
Mattie Carey	15	Yes	July 28
Betty Carter	16	Yes	August 3
Elizabeth Crawley	16	Yes	July 28
Ivanhoe Donaldson	21	No	July 28
Goodwin Douglas	25	Yes	August 3
Wilbert Eanes	22	Yes	August 3
Mary Fowlkes	16	Yes	July 27
Clara Gibson	16	Yes	July 27
Leslie F. Griffin	15	Yes	July 27
Richard Hale	26	Yes	July 27
Frances Hayes	19	Yes	July 28
George Hughes	15	Yes	July 28
Emerson Hunt	17	No	August 3
Brenda Jackson	14	Yes	July 28
Otis Jackson	14	Yes	July 28
LaNae Johnson	18	Yes	July 27
Gwendolyn Lancaster	17	Yes	July 28
Ernestine Land	17	Yes	July 28
Melvin Moore	19	No	July 27
Angela Neverson	19	Yes	July 27
Clara Paige	15	Yes	August 3
Ethel Poindexter	17	Yes	July 28
Grace Poindexter	18	Yes	July 27
Shelia Pride	15	Yes	July 27
Charles Pryor	14	Yes	August 3
Bessie Reid	19	Yes	July 28
Nathaniel Robertson	14	Yes	August 3
Laneville Scott	13	Yes	August 3
Phillip Stockman	15	Yes	July 28
Rudolph Stokes	16	Yes	July 28
Sandra Stokes	15	Yes	July 28
Carlton Terry	15	Yes	July 27
Patricia Turner	18	Yes	July 28
Ruth Turner	24	No	July 28
Betty Jean Ward	17	Yes	July 28
Roy Louis Webb	17	Yes	August 3
James White, Jr.	15	Yes	July 28
Raymond Wiley	15	Yes	July 28
Shirley Wiley	15	Yes	July 28
J. Samuel Williams	29	Yes	July 28

In the following weeks, the demonstrators focused on exerting economic pressure on the business community. First, the demonstrators sought to discourage white consumers from patronizing the business district. The presence of demonstrators and the fear of potential trouble did keep some people away. “We usually went to Farmville to shop on Saturdays,” remembered one white youngster. “We didn’t go a couple of times because of the demonstrations.” Second, the marches disrupted business by taking action that fell within the confines of the law. For instance, Main and Third streets was a major intersection. At the cross street, the marchers “would keep on walking without stopping,” recalled Reverend Douglas, “because we knew pedestrians had the right of way.” This action blocked traffic and slowed down trucks from making deliveries. Finally, the NAACP initiated a boycott of Farmville businesses. As Reverend Griffin explained, “Prince Edward Negroes spend proportionately more of their income than any other group in the county through necessity to eat and be housed.” In conjunction with African Americans from the five neighboring counties, “their spending power enables the economy of the business community to survive.” As a bloc, blacks held the economic power to pressure the white leadership to make concessions. “When the merchants find out they’re not getting trade from Negroes,” Douglas told a reporter, “then they’re going to have to yield some sort of way.” For adults that did not picket for fear of economic reprisals, the boycott permitted anonymous participation.⁵⁰

⁵⁰ Douglas, interview by Lee; Jim Fowler, e-mail to Brian E. Lee, January 13, 2011; McLaughlin, “First Protest March Staged By Negroes in Farmville,” 2; Henry McLaughlin, “Negro Demonstrators Denied Parade Permit in Farmville,” RTD, August 3, 1963, 2.

MAKE YOUR \$\$\$ WORK FOR FREEDOM

OUR NEGRO CHILDREN OF PRINCE EDWARD COUNTY HAVE BEEN:

.....SEGREGATED

.....DISCRIMINATED AGAINST

.....LOCKED OUT OF PUBLIC SCHOOLS

.....DENIED THE RIGHT TO WORSHIP GOD

.....AND JAILED

THE ABOVE ACTS HAVE BEEN CONDONED, IF NOT, SUPPORTED DIRECTLY BY THE MERCHANTS OF FARMVILLE.

NEGROES CAN STOP THIS!!

BUY WHERE YOU AND YOUR CHILDREN WILL BE TREATED WITH DIGNITY AND RESPECT!!

MAKE FARMVILLE A GHOST TOWN

FARMVILLE MUST BE AS EMPTY AS A DESERT EVERY DAY UNTIL WE HAVE

PUBLIC SCHOOLS FOR ALL CHILDREN IN PRINCE EDWARD COUNTY.

NEGROES OF AMELIA, NOTTOWAY, CHARLOTTE, APPOMATTOX, BUCKINGHAM,
CUMBERLAND AND LUNENBURG COUNTIES, SUPPORT THE BOYCOTT A G A I N S T
THE PRINCE EDWARD COUNTY MERCHANTS.

DON'T BUY IN FARMVILLE!!

BOYCOTT

FOR

FREEDOM!!

Sponsored by:
PRINCE EDWARD COUNTY BRANCH NAACP

Figure 10.9 Handbill. (Image: University of Richmond).

The NAACP worked diligently to promote the boycott. Dozens of teenagers canvassed black residential areas to build support. Others solicited cooperation in the business district by distributing flyers to black passersby. The flyers listed the businesses that practiced segregation and urged blacks not to spend their money in Farmville. Some overzealous teenagers actually went into stores and advised customers to leave, a tactic that infuriated shopkeepers. “I do not object to their parading and handing out handbills on public streets,” explained Emanuel Weinberg, the proprietor of The Hub, “but when it comes to walking into my store and catching customers by the arm telling them to come out and not deal here, as well as passing out literature of this kind is the next thing to blackmail.” The boycott was not complete. Several blacks crossed the picket line to shop, while others shopped after the marchers went home. Some considered the boycott unfair for merchants that hired African Americans, while others stated that “no young people can tell me where to shop.” Furthermore, many African Americans had credit accounts with white merchants. “They’re good customers and always pay off,” said one businessman. “But where else can they get credit?” The NAACP considered organizing carpools to transport shoppers to Richmond and Lynchburg, but nothing substantive materialized.⁵¹

On Saturday, August 3, Mayor Watkins denied Reverend Douglas’s request for a parade permit. The mayor justified the decision by saying Farmville “is so congested with

⁵¹ McLaughlin, “Negro Demonstrators Denied Parade Permit in Farmville,” 2; Emanuel Weinberg to Watkins M. Abbitt, August 1, 1963, Box 5, WMAP; White, “Prince Edward’s Fame Disturbs Rural Calm,” B7.

pedestrian traffic and auto traffic . . . we feel [demonstrations] might be detrimental to the peace and good order of this town.” Chief Overton again roped off a one-block section of Main Street for protestors, and he warned that demonstrators who crossed the barrier would be arrested. Forty law enforcement officers formed a perimeter around the business district, connected by walkie-talkies, and with two pickup trucks “ready to use if needed.” Reverend Douglas considered this arrangement a violation of his constitutional rights and decided to challenge it. He and ten teenagers snuck around the police barricade and began picketing on Main Street. Chief Overton explained to Douglas that he was parading without a permit and asked the picketers to disperse, but they continued marching peacefully. The police arrested the eleven demonstrators and loaded them onto a pickup truck. A short time later, the police arrested Wilbert Eanes, also for picketing in the business district. Douglas and Eanes were transported to the Mecklenburg County jail. Four juveniles refused bond and were sent to the Campbell County jail. NAACP leaders could not afford to lose any marchers, but they justified the arrests as a test of the constitutionality of the local parade ordinance. They may have also sanctioned the arrests to reenergize the movement. The weekend arrests marked another turning point for the Farmville demonstrations. Afterward, participation dropped to thirty to forty marchers per day, with the exception of the following Saturday, when seventy-five demonstrated within the confines of the roped-off area. There were no more arrests, and the newspapers quickly lost interest in the protests. Subsequent media coverage shortened and was relegated to the back pages. The segregationists had mastered fighting a war of attrition

during the school crisis, and they were prepared to wait out the picketers as well. Many white residents believed that the demonstrations would fizzle out once a “few hot-blooded” teenagers left town for school.⁵²

Several locked-out children wrote impassioned, heart-wrenching pleas to President Kennedy to reopen the schools. Jordan Jackson and Gene Lee described the desperate situation. The schools had been closed for four years. They had been fortunate to go to school in neighboring Cumberland County the previous year, “but a large number of children haven’t attended school at all.” They entreated Kennedy to “do every thing in your power to reopen the schools.” Likewise, Arthur Smith asked Kennedy to do “any thing to Reopen our schools...because we are in need of An education very badly.” Preston Mottley repeatedly beseeched the president for help. “I would like for you to help us to reopen schools in Prince Edward County, Because we feel as if we need education....Thank you for any help you can give us, as there are so many of us in need of help.” He closed his letter with a simple postscript: “Please help.” Morman Farley had heard that help was on the way but wrote to the president that “we [haven’t] see it come yet.”⁵³

⁵² McLaughlin, “Negro Demonstrators Denied Parade Permit in Farmville,” 2; Hearing Transcript, *County of Prince Edward v. Webb et al.*, August 16, 1963, in Civil Action 4094, USDCEDV-R; Henry McLaughlin, “12 Arrested in Farmville For Illegal Picketing,” RTD, August 4, 1963, 2B; “Negroes March Again in Farmville,” RTD, August 7, 1963, 2; Town of Farmville Police Department, Police formation, August 3, 1963, DHC; “12 Arrested Saturday For Illegal Parading,” FH, August 6, 1963, 1; “Farmville Negroes Avoid Showdown,” RTD, August 11, 1963, 2B; “Farmville Pickets Seek Parade Permit,” LN, August 9, 1963, A5; W. W. Blythe to Maj. M. W. Burgess, August 22, 1963 and September 26, 1963, both in, Box 10, ASHP; White, “Prince Edward’s Fame Disturbs Rural Calm,” B7.

⁵³ Jordan Jackson and Gene Lee to John F. Kennedy, July 23, 1963, Arthur Smith to John F. Kennedy, July 22, 1963, Preston Mottley to John F. Kennedy, n.d., and Morman Farley to John F. Kennedy, n.d., all in Box 101, RG 12. David S. Seeley, special assistant to the U.S. commissioner of education, replied to

V

The Kennedy administration continued working on a solution. President Kennedy had been briefed on recent developments in the county and “directed that his personal concern about the situation be communicated to those responsible for setting up a satisfactory program in the county.” A White House aide emphasized the president’s concern in a memorandum to Secretary Anthony Celebrezze. “I know that there is a strong desire on the Department [of Health, Education, and Welfare] to see to it that this problem is resolved properly and satisfactorily,” explained Lee White, “but did want to make clear the President’s deep personal interest.” Kennedy affirmed his commitment to Prince Edward County by privately and without publicity making a \$10,000 contribution to the Free Schools.⁵⁴ Nevertheless, the Free Schools were in danger of miscarriage. Bill vanden Heuvel had yet to obtain donations from philanthropic foundations, commitments for the board of trustees, or a lease for the school buildings. Those circumstances changed in a matter of weeks and all the administration’s groundwork began to bear fruit.

Bill vanden Heuvel made “a major breakthrough” in negotiations with state and local representatives. On July 30, after weeks of talks, he reached a tentative agreement

these children on October 14, 1963. He wrote: “I want you to know that the President and the Attorney General, as well as the Commissioner of Education have been very distressed by the lack of public schooling in your county. I am sure that many people in Virginia are equally distressed. We very much hope that the regular public schools will open again as soon as possible. In the meantime we are very pleased that the Prince Edward Free School Association has made it possible for the youngsters of Prince Edward County to resume their education during the absence of regular public schooling.” See David S. Seeley to Preston Mottley, October 14, 1963, Box 101, RG 12.

⁵⁴ Lee C. White to Anthony J. Celebrezze, July 26, 1963, Box 1, PEFSAP; Vanden Heuvel, “Closing Doors, Opening Doors.”

with Governor Harrison and county attorney Segar Gravatt to proceed with a “a non-profit corporate association [that] will be chartered under the laws of the Commonwealth of Virginia for the purpose of providing an educational program for children in Prince Edward County.” All three initialed a six-page memorandum, because, as vanden Heuvel later explained, “Lawyers, you know, like to put things in writing.” Each had a responsibility to carry out a part of the agreement. First, they arranged a one-year lease for public school buildings. This agreement, however, was subject to formal approval by the county school board, which Gravatt pursued. Second, a six-man bi-racial board of trustees would oversee the operations of the Free Schools. Harrison pledged to use his good offices to enlist men to serve on the board. Finally, vanden Heuvel was responsible for “bringing about the means by which the children of Prince Edward County can be offered educational opportunity while the public schools of the County are unavailable to them.” In short, vanden Heuvel was accountable for everything else, and there was much to be done.⁵⁵

Four days later, the Prince Edward County school board “generally” approved the agreement. The board tentatively made four school buildings available to the Free Schools – Robert R. Moton High School, Mary E. Branch Elementary Schools #1 and #2,

⁵⁵ Maxwell Hahn, “Prince Edward County: Telephone conversation with William Van den Heuvel, 8/5/63,” August 5, 1963, Box 2T143, FFA2; “Memorandum of Tentative Agreement Reached in a Conference on July 30, 1963, Between the Honorable Albertis S. Harrison, Jr., Governor of Virginia, William J. vanden Heuvel, Special Assistant to the Attorney General of the United States, and J. Segar Gravatt, Attorney for the Board of Supervisors of Prince Edward County, With Respect to the Development of a Program for the Education of Children of Prince Edward County, in View of the Fact that the Public Schools Are Not In Operation,” July 30, 1963, Box 1, PEFSAP; Daffron, “Prince Edward’s Days in Court Not Over Yet,” B1.

and Worsham School (a former white school building, thus satisfying an NAACP demand) – a laboratory, shop, transportation facilities, and other equipment. They wanted assurances, however, that donations to the corporation were not “subject to any objectionable conditions,” that buildings were maintained and insured, that the board was compensated for the use of property and equipment, that the Free Schools draft acceptable by-laws, and that the buildings were used for educational purposes only. A final agreement needed board approval and the blessing of the circuit court of Prince Edward County. Segar Gravatt secured the signatures of a nearly unanimous board. Gravatt reported that board member Ray Moore “stated to me that he would sign the [approval] but left on vacation before he could do so.”⁵⁶ A final agreement signed by all board members would have carried more weight, but even this tentative lease agreement marked a major step forward.

The status of the board of trustees also remained tentative. Harrison, Gravatt, and vanden Heuvel had ranked potential trustees by race. The governor had agreed to pursue commitments from the top three possible black candidates and the top three possible white candidates. Thomas H. Henderson, Robert P. Daniel, and Earl H. McClenny, the presidents of Virginia Union University, Virginia State College, and St. Paul’s College, respectively, headed the list of African American educators. Colgate Darden, the aforementioned former governor and president *emeritus* of the University of Virginia; Fred C. Cole, president of Washington and Lee University; and F.D.G. Ribble, dean of

⁵⁶ School Board General Approval, August 3, 1963, Reel 108, RG 60.

the University of Virginia Law School, led the list of white educators. Five of the candidates had already given vanden Heuvel an affirmative commitment on the condition that Darden accept the chairmanship, and Darden conditioned his acceptance on a request by the governor.⁵⁷

Governor Harrison made a personal appeal to Colgate Darden. On August 9, Harrison called for Darden, who was in Richmond on business. Harrison forthrightly said, “I want you to go down to Farmville and get the schools open.” Darden was caught off guard, thinking that they were meeting to discuss a minor favor. “I’ll tell you, this situation is bad,” the governor continued. “I don’t go anywhere to make a speech but what somebody jumps up and down to know when we are going to open the schools.” The school crisis certainly stained Virginia’s image, but Harrison was also concerned that the Farmville demonstrations would descend into violence. “Something has to be done about it.” As a governor, Darden had tasked many people for special assignments, which compelled him to answer Harrison’s call. He would accept the chairmanship but only once certain conditions were met – the children had to stop marching and he needed assurances that the community supported the program.⁵⁸

The following day, Colgate Darden and Segar Gravatt visited Farmville to gauge support for the Free Schools. They conferred with a delegation of prominent segregationists, which included representatives of the Prince Edward School Foundation

⁵⁷ “Memorandum of Tentative Agreement”; William J. vanden Heuvel to Brooks Hays, July 15, 1963, Box 10, BHP.

⁵⁸ Smith, *They Closed Their Schools*, 238; Friddell, *Colgate Darden*, 174-175.

(Rat Glenn, Tony Martin, Roy Pearson, and Robert Redd), Joseph Glenn of the school board, Mayor Watkins, and county judge William Hay. Darden explained that the schools would not interfere with the litigation but serve only to provide an educational program. To do so he needed their “support, friendship, and help.” The delegation pledged their support and cooperation on the lease of the school buildings. Darden left the meeting satisfied that the Free Schools had the backing of the white community. On his own, Gravatt met with twenty-five of the county’s “most hard bitten segregationists,” and despite some reservations, he won their unanimous support. The board of supervisors also expressed reservations, but Gravatt was optimistic about gaining their endorsement.⁵⁹ Darden’s ability to cajole this most recalcitrant community demonstrated how invaluable he was to this endeavor.

Bill vanden Heuvel had yet to secure sufficient funds to operate the Free Schools, and he was growing more anxious. He wanted \$250-300,000 on hand to contract teachers, but by early August only the Public Welfare Foundation pledged a significant sum – \$25,000. Vanden Heuvel continued to press foundations for commitments but with no success. The Field Foundation, for one, had reservations. A board member, Justine Wise Polier, felt “very sympathetic” about the program, but was “troubled about it being done in a haphazard fashion.” Maxwell Hahn, the foundation’s director, agreed, stating: “You just don’t put together a high school or elementary faculty in a few days.” Foundations had now been put in a position of either turning a blind eye to the locked-out

⁵⁹ Friddell, *Colgate Darden*, 175-176; Smith, *They Closed Their Schools*, 239; J. Segar Gravatt to Colgate W. Darden, Jr., August 14, 1963, Box 1, PEFSAP.

children or setting a precedent by providing financial support to communities that abandoned public education. They opposed shifting the responsibility for funding education from the government to private entities. Bill vanden Heuvel had stayed in near daily contact with the foundation to answer their concerns.⁶⁰

The foundations remained reluctant to contribute to the Free Schools prior to a ruling from the U.S. Fourth Circuit Court of Appeals. Board members closely followed the case through their sources. Chief Judge Simon Sobeloff, who did not sit for the case, received memorandum on the deliberations from his colleagues on the bench. Based on this evidence, the circuit court planned to reverse the district court. Sobeloff volunteered that information to friends serving on boards of foundations and to the chief judge of the U.S. Fifth Circuit, Elbert Tuttle, who also shared the intelligence with foundations. Tuttle advised several foundations on the Prince Edward situation. Initially, he was “on the fence,” but Sobeloff’s assessments convinced him that the foundations should support the Free Schools. Finally, on August 12, seven months after the hearing, the circuit court handed down its ruling. In a two-to-one decision, the court found “nothing in the Fourteenth Amendment which requires a state, or any of its political subdivisions...to provide schooling for any of its citizens.” The NAACP planned to appeal the decision, but a final verdict from the U.S. Supreme Court remained many months away. In the meantime, the state and county were under no legal obligation to operate public

⁶⁰ David F. Freeman to RBF Files, “Prince Edward County,” August 7, 1963, Box 860, RBFA; “Notes from phone conversation with William J. vanden Heuvel,” July 29, 1963, Memo to the Directors of Public Welfare Foundation, Inc., July 31, 1963, William J. vanden Heuvel to Claudia M. Marsh, August 9, 1963, all in Box 274, PWFR; “Telephone Conversation with Hon. Justine Wise Polier – July 29, 1963,” July 29, 1963, Maxwell Hahn to Justine Wise Polier, August 1, 1963, Box 2T143, FFA2.

schools.⁶¹ On one hand, the decision was a blow to the locked-out children, but on the other hand, it was a blessing. Many stakeholders had been waiting on the circuit court's decision to make an affirmative commitment to the Free Schools. That barrier had now been lifted and the next step could be taken to provide the county with universal education. However, the court's delay did run valuable time off the clock.

The following day, the principals assembled in Richmond to finalize an agreement on the Free Schools. Colgate Darden wanted the black leaders to satisfy his two conditions. Reverend Griffin and Lester Banks pledged their cooperation on the first condition – that even without a compulsory attendance law the children will register and attend school. Next, Darden wanted the children to stop demonstrating. “I’m willing to undertake this,” Darden explained, “but I can’t do so unless you all can stop the marching. I haven’t any objection to protests on anybody’s part, but I don’t believe you can teach children under those circumstances.” Griffin and Banks did not yield on the demonstrations. They refused to ask the children to forfeit their constitutional right to protest. Anyhow, Griffin could not foresee a “significant number” of student protestors marching, and those that did would not disturb the school program. “You are on sound ground as to their rights,” replied Darden, “but I’m not going to open a school down there under conditions which I deem impossible.” Darden went upstairs to meet with Harrison,

⁶¹ Clement F. Haynsworth, Jr., to Herbert S. Boreman and J. Spencer Bell, July 24, 1963, Herbert S. Boreman to Clement F. Haynsworth, Jr., August 2, 1963, J. Spencer Bell to Simon E. Sobeloff, August 5, 1963, all in Box 144, SESP; “Telephone Conversation with Hon. Justine Wise Polier – July 29, 1963,” July 29, 1963, “Telephone conversation with Morris Abram, re: Prince Edward County Schools, July 30, 1963,” July 30, 1963, both in Box 2T143, FFA2; David F. Freeman to RBF Files, “Prince Edward County, Virginia – addendum to GS memo of August 1,” August 6, 1963, Box 860, RBFA; *Griffin v. Board of Supervisors of Prince Edward County*, F.2d 232 (4th Cir. 1963).

Gravatt, and Denny (even at this late moment the black and white delegations did not engage in direct negotiations) to withdraw his support, “because I can’t get the commitment to quiet.” Harrison replied, “Oh, you can’t do that. We’ve got to get the schools open!” Darden walked to the exit but was overtaken by Bill vanden Heuvel. “I have talked to the [black] leaders,” explained vanden Heuvel. “They are right. They’re not willing to go to their people and tell them they can’t march. They just can’t do that and have the people trust them; but I can say this to you: if you’ll go work on the schools, there won’t be a parade while you are there.” With that assurance, vanden Heuvel had convinced Darden to accept the chairmanship.⁶²

Colgate Darden imparted legitimacy to the Free Schools. His involvement made it easier for Gravatt, Harrison, and vanden Heuvel to fulfill their end of the July 30 agreement. The county’s white leaders respected Darden and had given him their assurance that the school buildings would be available. Second, Darden’s commitment fulfilled the condition set by the other candidates to serve on the board of trustees. Harrison was able to fill the board with the top choices. Third, vanden Heuvel had struggled to raise funds, but now, with an esteemed board headed by Colgate Darden, that

⁶² Smith, *They Closed Their Schools*, 239-240; Friddell, *Colgate Darden*, 176; James Latimer, “Prince Edward Free Education Plan Due Today: Report Says It’s Privately Financed,” RTD, August 14, 1963, 1; “Prince Edward Negro Students Win the Right to Join Picketing: N.A.A.C.P. Gains Major Point as Head of New School System Reverses His Stand and Withdraws Objection,” NYT, August 18, 1963, 50; Carl Shires, “Pupil-Picket Line Snags Planning,” RNL, August 15, 1963, 4C.

task was less daunting. Darden's acceptance, vanden Heuvel determined, "was the final piece of the jigsaw."⁶³



Figure 10.10 Prince Edward Free School Association Announcement, August 14, 1963. Pictured: Governor Albertis Harrison, L. Francis Griffin, Bill vanden Heuvel, and Henry Marsh. (Photo: *Richmond Times-Dispatch*).

On August 14, Governor Harrison held a press conference to present the Prince Edward Free School Association, "a non-profit association incorporated under the laws of Virginia, whose purpose will be to establish, maintain and operate a system of schools for

⁶³ Friddell, *Colgate Darden*, 175-176; "Six Top Educators Form School Board For Prince Edward," RTD, August 15, 1963, 2; Daffron, "Prince Edward's Days in Court Not Over Yet," B1.

the education of the children of Prince Edward County, Virginia, without regard to race, creed, or color.” The schools were to be available for the 1963-1964 school year, “pending the determination of the issues now being litigated.” He reported that a bi-racial board of trustees, led by Colgate Darden, had the “sole responsibility” for hiring the faculty and establishing an educational program; a tentative agreement had been reached with the school board to lease buildings; and the school would be funded by donations from foundations and private citizens. Harrison credited the program’s formation on the “mutual cooperation” of federal, state, and local representatives, as well as black and white county residents, and as a symbol of that cooperation, Segar Gravatt, Reverend Griffin, Bill vanden Heuvel, and Henry Marsh sat at his side.⁶⁴ The governor gave a misleading impression of that mutual cooperation, as this occasion was the first that these men all assembled in the same room. They certainly all had a *mutual* interest in this endeavor, but the *cooperation* was achieved through the medium of Bill vanden Heuvel.

* * * * *

Bill vanden Heuvel’s work forming the Prince Edward Free School Association was a diplomatic tour de force. This “supersalesman” won the endorsement of all the necessary players, some of whom were not on speaking terms with one another and had

⁶⁴ Albertis S. Harrison, “Statement by Governor Harrison,” August 14, 1963, Reel 108, RG 60; James Latimer, “New Prince Edward Classes May Be Opened by October,” RTD, August 15, 1963, 1.

been uncompromising.⁶⁵ The black leaders wanted the state and county to fulfill its responsibility, but neither could they dismiss an opportunity to stop the educational erosion. The county leaders did not want to concede an inch on integration, but their recalcitrance had done harm to the community's reputation. The governor did not want to lead on civil rights, but the school closings had embarrassed the state. Vanden Heuvel had handed the NAACP, the county, and the state a chance to save face, an offer than none could reasonably refuse.

Bill vanden Heuvel received some high praise for his efforts. Charley McDowell of the *Richmond Times-Dispatch* wrote privately that the Department of Justice, "so often and so vaguely criticized in the South for 'tinkering,' has had its tinkering endorsed by the segregationists, the NAACP and the Governor, which is some tinkering." Dean Moss believed that vanden Heuvel was the "only person in the world" who could have brought these men together. He was especially impressed by vanden Heuvel convincing the governor to sign on. "How did...[you] make Governor Harrison commit himself flatly on so controversial a matter?" asked Moss. "That I will always marvel at." Vanden Heuvel had worked from the premise that "if something should be done, then it can be done. And what had to be done in terms of saving America's own character was that those children

⁶⁵ Maxwell Hahn, "Prince Edward County: Interview with the Rev. Heslip Lee, Executive of the Virginia Council on Human Relations," August 15, 1963, Box 2T143, FFA2.

could not be denied an education.”⁶⁶ Although he deserved much of the credit, Bill vanden Heuvel had the political astuteness to effectively deflect praise.

The press conference announcing the Free Schools had the potential for broader impact. Vanden Heuvel wanted Harrison to make the announcement, but the NAACP did not want him to receive undue credit. It preferred that vanden Heuvel lead the press conference. “If I make the announcement,” vanden Heuvel countered, “you’re going to have a hard time getting [white] support later on to keep the schools open.” The announcement had greater long-term benefits coming from the governor than a federal official, but it also provided immediate gains to the NAACP. “Never before have we witnessed the Governor of the state sitting down with NAACP leaders at a press conference,” celebrated Heslip Lee, executive director of the Virginia Council on Human Relations, “and never have we witnessed a picture of these state leaders on the front pages of our newspapers and on our television.” Just years earlier, state lawmakers had passed anti-NAACP laws to curb its influence in Virginia. Now, Reverend Griffin and Henry Marsh joined the governor at the table, thus elevating the NAACP.⁶⁷ Bill vanden Heuvel had simultaneously arrested the educational erosion and facilitated a thaw in race relations.

⁶⁶ Charley McDowell to William J. vanden Heuvel, August 18, 1963, C.G. Gordon Moss to William J. vanden Heuvel, September 6, 1963, both in Box 291, SMLP; Vanden Heuvel, “A Special Obligation,” 269-273.

⁶⁷ H.V. Shivadas, *Happy Warrior: The Legend of Happy Lee* (Baltimore: Publish America, 2005), 68; Heslip Lee to Lee C. White, September 26, 1963, Box 2, HMLP.

CHAPTER XI

PART 3

It could be argued that no segment of the population mourned the loss of President Kennedy more than black Prince Edwardians. Kennedy once said that “education comes at the top of the responsibilities of any government, at whatever level.” But for years, Virginia and Prince Edward County failed to meet their responsibility, nor had the Congress acted, nor had the federal courts issued a definitive ruling. Only the Kennedy administration took decisive action to restore universal education to Prince Edward County. It negotiated a lease of the public school buildings and buses; recruited an integrated faculty; offered recommendations on a school program; and persuaded philanthropic foundations and corporations to donate over \$1 million in cash and equipment for the Free Schools. Still, the Prince Edward Free School Association did more than provide education. It attacked poverty by providing medical and dental care, a free lunch program, and warm clothes; and facilitated bi-racial communication that led to a pro-public school organization. The long-term impact of the Free Schools is immeasurable.¹

¹ “Commencement Address at San Diego State College,” June 6, 1963, in PPP-1963, 445-448; Robert Holland, *The Story of the Prince Edward Free Schools* (Prince Edward Free School Association, 1964).

Similarly, the Civil Rights Act of 1964 had a lasting impact on Prince Edward County. President Kennedy did not live to sign his civil rights bill into law. Lyndon Johnson invoked Kennedy's memory to guide public opinion and lobby Congress for passage of the bill. "No memorial or eulogy could more eloquently honor President Kennedy's memory," Johnson told the nation. After months of congressional debate, Lyndon Johnson signed the bill into law on July 2, 1964. The law, among other provisions, barred discrimination in places of public accommodations. African Americans immediately tested Farmville's compliance and these new patrons were met with courtesy in restaurants and the theater.¹ The law did not change men's hearts, but time gradually reduced the scourge of Jim Crow.

The Kennedy legacy was also felt in the federal courts. The Department of Justice participated in the Prince Edward litigation through the U.S. Supreme Court hearing. However, the litigation continued through the 1960s, beyond the tenure of many Kennedy holdovers at Justice. Kennedy's judicial appointees extended the influence of the administration through the life of the Prince Edward litigation. Chapter XII: "Men of Unquestioned Ability" chronicles the work of Kennedy's judicial appointees on the Prince Edward litigation.

¹ "Address Before a Joint Session of Congress," November 27, 1963, in *Public Papers of the Presidents: Lyndon B. Johnson, 1963-64* (Washington, D.C.: GPO, 1965), 8-10; Civil Rights Act of 1964, Pub.L. 88-352, 78 Stat. 241; "Rights Law Being Tested in Virginia," RTD, July 4, 1964, 1.

CHAPTER XII

MEN OF UNQUESTIONED ABILITY

President Kennedy left a lasting impact on the federal judiciary. During his 1,036 days in office, he made 129 lifetime appointments to the federal bench, more than any of his predecessors had nominated in two full terms, save only Harry Truman and Dwight Eisenhower. Kennedy's judges – two Supreme Court justices, 21 circuit court judges, 104 district court judges, and 2 special court judges – averaged a quarter century of service beyond Dallas. To put that in perspective, the typical Kennedy judge sat on the bench deep into Ronald Reagan's second term. In a feat of longevity, four of them held senior status during Barack Obama's second term. President Kennedy's unprecedented judicial power extended the influence of the New Frontier for generations.¹

Much of Kennedy's appointment power stemmed from the Omnibus Judgeship Act of 1961. The Judicial Conference of the United States, an association of federal judges, had repeatedly recommended that Congress add about fifty judges to alleviate a heavy backlog of cases. The Democratically controlled Congress, however, refused to

¹ Harold W. Chase, *Federal Judges: The Appointing Process* (Minneapolis, MN: University of Minnesota Press, 1972), 48. The total number of judges includes Charles Tenney, W. Homer Thornberry, George Edwards, A. Leon Higginbotham, and Spottswood Robinson, all judges that Kennedy nominated but were confirmed and/or given a recess appointment during the Johnson administration, as well as Oscar Davis of the Court of Claims and J. Lindsay Almond of the Customs and Patent Appeals Court. On average, Kennedy's judges served until December 1988. That figure includes the years that Kennedy's district court judges were promoted to the federal circuit court by one of his successors and also Thurgood Marshall's elevation to the U.S. Supreme Court. Finally, Wilfred Feinberg (New York), Edward McManus (Iowa), William Nealon (Pennsylvania), and George Young (Florida) were senior judges during Obama's second term.

hand over a bonanza of patronage power to a Republican president, despite Eisenhower's assurance to nominate an equal number of Democrats and Republicans. Democrats delayed action, gambling on a Democrat winning the White House in 1960. Weeks after the inauguration, President Kennedy asked for congressional support to add dozens of federal judgeships. This time Congress consented. On May 19, 1961, Kennedy signed the bill that created seventy-three new district and circuit court judgeships – “the greatest expansion of the Federal judiciary,” reported the *New York Times*. Kennedy pledged to “choose men and women of unquestioned ability,” candidates with “respected professional skill, incorruptible character, firm judicial temperament, the rare inner quality to know where to temper justice with mercy, and the intellectual capacity to protect and illuminate the Constitution and our historic values in the context of a society experiencing profound and rapid change.”¹ Many critics have charged that Kennedy's appointees failed to match his vision.

Victor Navasky's interpretation of Kennedy's judicial appointments set the foundation for future scholarship. In *Kennedy Justice* (1971), Navasky decried the Kennedy brothers for appointing obstructionists to the federal bench, with particular emphasis on district court judges Robert Elliott of Georgia, Gordon West of Louisiana,

¹ *Report of the Proceedings of a Special Session of the Judicial Conference of the United States* (Washington, D.C.: GPO, 1960), 2-5; Anthony Lewis, “Judges and Patronage: Additional Appointments to the Federal Bench Can Provide a Strong Lever for Kennedy,” NYT, February 26, 1961, E6; “Letter to the President of the Senate and to the Speaker of the House Proposing Creation of Additional Federal Judgeships,” February 9, 1961, and “Statement by the President Upon Signing Bill Providing for an Increase in the Federal Judiciary,” May 19, 1961, in PPP-1961, 83-84, 389-390; Omnibus Judgeship Act of 1961, Pub. L. No. 87-36 (75 Stat. 80); Anthony Lewis, “Kennedy Pledges Able U.S. Judges: He Signs Measure Creating 73 More Posts on Bench,” NYT, May 20, 1961, 8; Cabell Phillips, “77 Added to U.S. Bench in Record Court Increase: 60 Circuit and District Judges Nominated by Kennedy Have Been Confirmed – 17 Will Get Recess Appointments,” NYT, September 29, 1961, 1.

and Harold Cox of Mississippi. These men will never be accused of advancing racial progress. Elliott stated that he did not “want those pinks, radicals, and black voters to outvote those who are trying to preserve our segregation laws and traditions”; West declared that *Brown* was “one of the truly regrettable decisions of all time”; and Cox called two hundred black voter applicants “a bunch of niggers” and “chimpanzees.” Navasky explained that these men postponed justice, dealt a severe blow to the civil rights movement, and undermined the Department of Justice’s strategy to litigate rather than legislate. “For it was a blatant contradiction,” reasoned Navasky, “for the Kennedys to forego civil rights legislation and executive action in favor of litigation and at the same time to appoint as lifetime litigation-overseers men dedicated to frustrating that litigation.”² Navasky’s critical interpretation has endured.

Kennedy Justice needs to be updated. Navasky focused his analysis on a small sample of judges – and the most obnoxious and racist at that. President Kennedy conceded that “some of the judges may not have ruled as I would have ruled in their cases,” but he also cautioned against classifying all southern judges based on the conduct of a few.³ An evaluation of Kennedy’s appointment record requires the inclusion of Elliott, West, and Cox, but with the understanding that they only represent a small fraction of his nominees. Every one of his judicial selections needs to be analyzed – and that analysis needs to expand geographically. Traditional studies center on judges in the Fifth Circuit, which at the time consisted of Alabama, Florida, Georgia, Louisiana,

² Victor S. Navasky, *Kennedy Justice* (New York: Atheneum, 1971).

³ “The President’s News Conference of March 6, 1963,” in PPP-1963, 239.

Mississippi, and Texas – the Deep South region that was home to Elliott, West, and Cox. Expanding the analysis will not make the segregationists’ courtroom antics any less egregious, but it will paint a more comprehensive portrait of Kennedy’s appointment record.



Figure 12.1 Omnibus Judgeship Act, May 19, 1961. (Photo: John F. Kennedy Presidential Library).

President Kennedy appointed three judges to the Fourth Circuit that directly altered the course of events in Prince Edward County. The Omnibus Judgeship Act created two vacancies on the U.S. Fourth Circuit Court of Appeals, which held appellate

jurisdiction over the district courts in Maryland, North Carolina, South Carolina, Virginia, and West Virginia.⁴ Kennedy filled the vacancies with Albert Bryan and Spencer Bell, who provided the necessary votes to stop and reverse the flow of tuition grants in Prince Edward County. Also, Kennedy appointed John Butzner to the federal district court. Butzner sat on a panel, along with Albert Bryan, that limited and eventually invalidated tuition grant disbursements across Virginia. Bryan, Butzner, and Bell have never been mistaken for Elliott, West, and Cox, nor have their careers been substantially evaluated. A study of Kennedy's Fourth Circuit judges' handling of the Prince Edward County litigation counters the prevailing assessment of the administration's appointment record.

I

The U.S. Fourth Circuit Court of Appeals had tremendous influence over the interpretation of *Brown*. Next to the Fifth Circuit, the Fourth heard the most school desegregation cases. The U.S. Supreme Court had left the district courts with unclear implementation guidelines. The circuit court judges clarified the ambiguities for the district courts. In *Briggs v. Elliott* (1955), John J. Parker, chief judge of the Fourth Circuit, authored what one scholar characterized as the “most authoritative gloss” of *Brown*. He concluded that the Constitution “does not require integration. It merely

⁴ Omnibus Judgeship Act of 1961, Pub. L. No. 87-36 (75 Stat. 80).

forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation.” The “*Briggs dictum*” emboldened local school districts to resist desegregation and provided district court judges with narrower guidelines to interpret the *Brown* decision. The court had been historically conservative, but Parker’s successor, Simon Sobeloff, led the circuit on a more progressive path.⁵ President Kennedy further altered the dynamics of the court by appointing Albert Bryan and Spencer Bell to the bench. The realigned court increased the prospects for an affirmative ruling to reopen Prince Edward County’s public schools.

Simon Sobeloff, a liberal Republican from Maryland, was not a popular figure in the South. As U.S. solicitor general, Sobeloff had presented arguments in the *Brown II* hearings, which segregationists considered a disqualification for a seat on the federal bench. Nevertheless, President Eisenhower nominated Sobeloff to the circuit court in 1955. Ray Moore of Hampden-Sydney urged Senator A. Willis Robertson (D-VA) to block the nomination, because Sobeloff had “interceded for the government of behalf of the NAACP.” Moore speculated with derision that the nomination was “an effort to pack the Court with men of the same caliber as the ones now serving on the Supreme Court.” Robertson took to the Senate floor to oppose Sobeloff’s nomination, stating that it was “an affront to [North Carolina, South Carolina, and Virginia] and that his selection

⁵ Alexander Bickel, “The Decade of School Desegregation: Progress and Prospects,” *Columbia Law Review*, 64, No. 2 (February 1964): 193-223; J.W. Peltason, *Fifty-Eight Lonely Men: Southern Federal Judges and School Desegregation* (New York: Harcourt, Brace & World, 1961), 22-25; *Briggs v. Elliott*, 132 F. Supp. 776 (E.D. S.C. 1955); Sanford Jay Rosen, “Judge Sobeloff’s Public School Race Decision,” *Maryland Law Review*, 34 (1974): 498-531.

represents an effort to woo certain political pressure groups in other parts of the Nation by an action which is offensive to a majority of the people in the region he will serve.” The southern-led Judiciary Committee held up the nomination for over a year, but once reported out of committee, and after segregationists’ last ditch effort to obstruct the process, the Senate voted for confirmation. Sobeloff earned even more ire from segregationists after the death of Judge Parker elevated him to chief judge.⁶

Table 12.1

Judges of the U.S. Fourth Circuit Court of Appeals, 1951-1969

Judge	State	Born-Died	Active	Senior Status	Appointed by
John J. Parker	North Carolina	1885-1958	1925-1958	-	Coolidge
Morris A. Soper	Maryland	1873-1963	1931-1955	1955-1963	Hoover
Armistead Dobie	Virginia	1881-1962	1939-1956	1956-1962	Roosevelt
Simon E. Sobeloff	Maryland	1894-1973	1956-1970	1970-1973	Eisenhower
Clement F. Haynsworth, Jr.	South Carolina	1912-1989	1957-1981	1981-1989	Eisenhower
Herbert S. Boreman	West Virginia	1897-1982	1959-1971	1971-1982	Eisenhower
Albert V. Bryan	Virginia	1899-1984	1961-1972	1972-1984	Kennedy
J. Spencer Bell	North Carolina	1906-1967	1961-1967	-	Kennedy
Harrison Winter	Maryland	1921-1990	1966-1990	1990	Johnson
James Braxton Claven, Jr.	North Carolina	1918-1977	1966-1977	-	Johnson
John D. Butzner, Jr.	Virginia	1917-2006	1967-1982	1982-2006	Johnson

Initially, Chief Judge Sobeloff led the Fourth Circuit with caution. The court consisted of two other active judges and two men that had taken senior status, a semi-retirement that permitted elder jurists to receive full compensation with a reduced caseload. Armistead Dobie had actually retired, but Morris Soper, a champion of racial

⁶ Rosen, “Judge Sobeloff’s Public School Race Decisions,” 498-531; David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon & Schuster, 2007), 86-88; Peltason, *Fifty-Eight Lonely Men*, 23-25; Ray A. Moore to A. Willis Robertson, January 30, 1956, Box 2, WMAP; A. Willis Robertson, “Statement of Hon. A. Willis Robertson, a United States Senator from the State of Virginia,” June 28, 1956, in *Hearings Before the Committee on the Judiciary, United State Senate, Eighty-Fourth Congress, Second Session, On the Nomination of Simon E. Sobeloff, of Maryland, to be United States Circuit Judge, Fourth Circuit* (Washington, D.C.: GPO, 1956), 256-272.

equality, maintained a steady caseload until his death in 1963. President Eisenhower filled the vacancies left by Dobie and Parker with two conservatives. Senator Strom Thurmond (D-SC) had lobbied the administration to appoint Robert Figg, who represented the Clarendon County (South Carolina) school board in *Briggs*, but Attorney General Herbert Brownwell recommended Clement Haynsworth, a moderate South Carolinian Democrat who had not been active “in the effort to continue segregated schools.” Next, Eisenhower promoted district court Judge Herbert Boreman of West Virginia, who was characterized by a colleague as “one of the most conservative judges in a conservative circuit.” Sobeloff, Soper, and Haynsworth formed the panel that heard the bulk of the court’s school desegregation cases from 1958 to 1961. The court upheld tokenism and gradualism, ruling that pupil placement laws were constitutional on their face and that grade-a-year desegregation plans were acceptable.⁷ The pace of school desegregation quickened after President Kennedy diluted the influence of the conservatives with his appointees.

The White House delegated recruiting and screening judicial candidates to the Department of Justice. The deputy attorney general, Byron White, and later Nicholas Katzenbach, played the leading role in judicial selections. The deputy’s assistants, Joseph Dolan and Bill Geoghegan, researched the candidates’ backgrounds, including their views on segregation. The Department of Justice, explained Geoghegan, sought to ensure

⁷ Rosen, “Judge Sobeloff’s Public School Race Decisions,” 498-531; “Remembering the Fourth Circuit Judges: A History from 1941-1998,” *Washington and Lee Law Review*, 55, No. 2 (1998): 471-526; Nichols, *A Matter of Justice*, 86-88.

that the nominee was “willing and able to abide by precedents” and not function as an activist against *Brown*. Political forces, however, complicated the nomination process. With a Democrat in the White House, Senate Democrats could invoke “senatorial courtesy” to block any candidate from their state that they deemed “personally obnoxious.” Also, the Senate Judiciary Committee, chaired by ultra-segregationist James Eastland (D-MS), could test the president’s determination to appoint his nominee by delaying confirmation hearings for months. “We do not expect to find and to be able to obtain confirmation for a militant civil rights advocate in the South,” admitted Katzenbach. “What southern senator could afford *not* to oppose confirmation?” These political realities narrowed the field to the best candidate that could be confirmed.⁸

The Department of Justice relied on “spotters,” trusted and connected individuals, to recommend and evaluate candidates from their state. President Kennedy’s war buddy, Virginia campaign manager, and son of former governor John Battle administered the federal patronage in the Old Dominion. Bill Battle sought candidates who “would serve with the greatest distinction” and, in an effort to build “a reasonable backing” for the president, an emphasis was placed on rewarding Kennedy supporters. Battle solicited advice from state officials, but he bypassed senators Robertson and Byrd. Robertson harbored some resentment that the administration did not consult him but instead relied

⁸ Chase, *Federal Judges*, 17-23, 55-61, 80-81; Dennis J. Hutchinson, *The Man Who Once Was Whizzer White: A Portrait of Byron R. White* (New York: Free Press, 1998), 287-309; Nicholas deB. Katzenbach, *Some of It Was Fun: Working with RFK and LBJ* (New York: W.W. Norton & Company, 2008), 54-64; Sheldon Goldman, *Picking Federal Judges: Lower Court Selection from Roosevelt through Reagan* (New Haven: Yale University Press, 1997), 168; Bill Geoghegan, interview by Brian E. Lee, telephone, October 12, 2009.

on Battle, who he referred to condescendingly as “the so-called Virginia dispenser of patronage.” Byrd, although willing to oppose undesirable candidates, preferred a limited role over judicial selections rather than being indebted to the president for nominating his candidate. When Byrd deferred to the president, wrote a legal scholar, “the quality of appointments [in Virginia] was exceptionally high.”⁹ Indeed, Kennedy appointed exceptional Virginians to the federal bench.

President Kennedy nominated Albert Bryan to the U.S. Fourth Circuit Court of Appeals in August 1961. Bryan had a distinguished resume. He graduated from the University of Virginia School of Law ('21) and served as city attorney of Alexandria (1924-1928) and commonwealth's attorney (1928-1947) before President Truman appointed him to the U.S. District Court of the Eastern District of Virginia in 1947. Bryan's nomination to the circuit court received near-unanimous praise. Several local bar associations endorsed Bryan, including the cities of Richmond and Alexandria, Arlington County, and the American Bar Association awarded him its highest rating, “exceptionally well qualified.” “No Virginia jurist in modern times,” concluded the *Richmond Times-Dispatch*, “has enjoyed the admiration and respect of the bar to a greater degree than Judge Bryan.” The Richmond paper acclaimed his nomination as “nothing less than a ten-strike,” and the *Norfolk Virginian-Pilot* considered him “wisely chosen.” Bryan, once a member of the Byrd Organization, was the choice of state leaders like Congressman

⁹ Chase, *Federal Judges*, 36, 63-66, 205; William C. Battle, interview by Guy Friddell, February 17, 1965, William C. Battle, interview by Dennis O'Brien, March 2, 1970, both in JFKOH; A. Willis Robertson to Cary F. Jacob, June 7, 1961, A. Willis Robertson to Albert V. Bryan, May 5, 1961, both in Drawer 149, AWRP.

Howard Smith, Senator Robertson, and former governor John Battle. In fact, Battle visited the attorney general's office to personally lobby for Bryan. Certainly such high praise from the Byrd Organization threw into question Bryan's conviction in adhering to *Brown*.¹⁰

The evolution of Judge Bryan's school desegregation rulings reflected new interpretations of the law. He strictly followed precedent. In *Davis v. School Board of Prince Edward County* (1952), Bryan upheld racial segregation in public schools, as "separate but equal" remained the law. The U.S. Supreme Court famously overturned decades of precedent in *Brown*, and thus Bryan's ruling. "The removal of the rule and custom of segregation was an abrupt change," wrote Judge Bryan. "It was a social epoch, beginning of a new era." But without precise guidelines from the High Court, Bryan followed the precedent set by the "*Briggs* dictum," thus mimicking Parker's interpretation that *Brown* did "not compel the mixing of different races in the public schools....The order of that Court is simply that no child shall be denied admission to a school on the basis of race or color." However, when Bryan found a violation of that principle, he directed remedies. In 1956, he ordered the Arlington County school board to begin desegregation, but legal challenges delayed its execution for years. Finally, on

¹⁰ James H. Hershman, Jr., "Albert Vickers Bryan," in *Dictionary of Virginia Biography: Volume II, Bland-Cannon*, edited by Sara B. Bearrs, et al., (Richmond: Library of Virginia, 2001), 342-343; "Judge Bryan Is Nominated By President Kennedy For Circuit Court Of Appeals," *Alexandria Gazette*, August 3, 1961; Robert F. Kennedy to John F. Kennedy, July 27, 1961, William M. Blackwell to John F. Kennedy, June 9, 1961, A. Hugo Blankingship, Jr., to John F. Kennedy, June 9, 1961, L. Lee Bean to John F. Kennedy, June 22, 1961, all in Box 347, WHCNF; Editorial, "Judge Bryan – A Ten-Strike," RTD, August 4, 1961, 14; Editorial, "Judge Bryan Is Wisely Chosen," NVP, August 3, 1961, 4; Bruce J. Dierenfield, *Keeper of the Rules: Howard W. Smith of Virginia* (Charlottesville: University Press of Virginia, 1987), 183; A. Willis Robertson to William C. Battle, May 5, 1961, Drawer 149, AWRP; John S. Battle to Robert F. Kennedy, July 18, 1961, Box 6, JSBP.

February 2, 1959, after the federal and state courts invalidated Virginia's massive resistance laws, Arlington (along with Norfolk) became the first Virginia school districts to desegregate. Days later, Bryan ordered the school board of Alexandria to admit several black students to all-white schools. The token desegregation of northern Virginia schools continued under his direction. In September 1960, Bryan rejected the Fairfax County school board's plan to admit only five of the thirty-one black applicants to white schools. He ordered that number increased to nineteen. "I thought I had not done too badly in the school cases from this area," reflected Bryan. "Without any disorder whatsoever and without a single school closing, as occurred and continued for months elsewhere in Virginia, Negro children entered schools under the orders of the court as early as at any place in the State." Still, there was room for criticism. He had scrutinized school boards' student placement procedures, but he did not order that every black applicant be admitted to a white school. Bryan could be charged with slowing down desegregation, but his rulings were consistent with the circuit court. Simon Sobeloff defended Bryan's school desegregation record in a seven-page memorandum that reached Robert Kennedy. Sobeloff assured that Bryan had a "sincere purpose to follow the law" and a record that moved school desegregation forward. The administration went ahead with Bryan's nomination and he was easily confirmed.¹¹

¹¹ Hershman, "Albert Vickers Bryan," 342-343; *Davis v. County School Boards of Prince Edward County*, 103 F. Supp. 337 (E.D. Va. 1952); *Thompson v. County School Board of Arlington County*, 166 F. Supp. 529 (E.D. Va. 1958); *Thompson v. County School Board of Arlington County*, 144 F. Supp. 239 (E.D. Va. 1956); Susanna McBee, "Arlington Desegregation Is Orderly," WP, February 3, 1959, A14; Albert V. Bryan, "Findings of Fact and Conclusions of Law," *Blackwell v. Fairfax County School Board*, Civil Action No. 1967, September 22, 1960, Box 218, USDCEDV-A; Albert V. Bryan to Simon E.

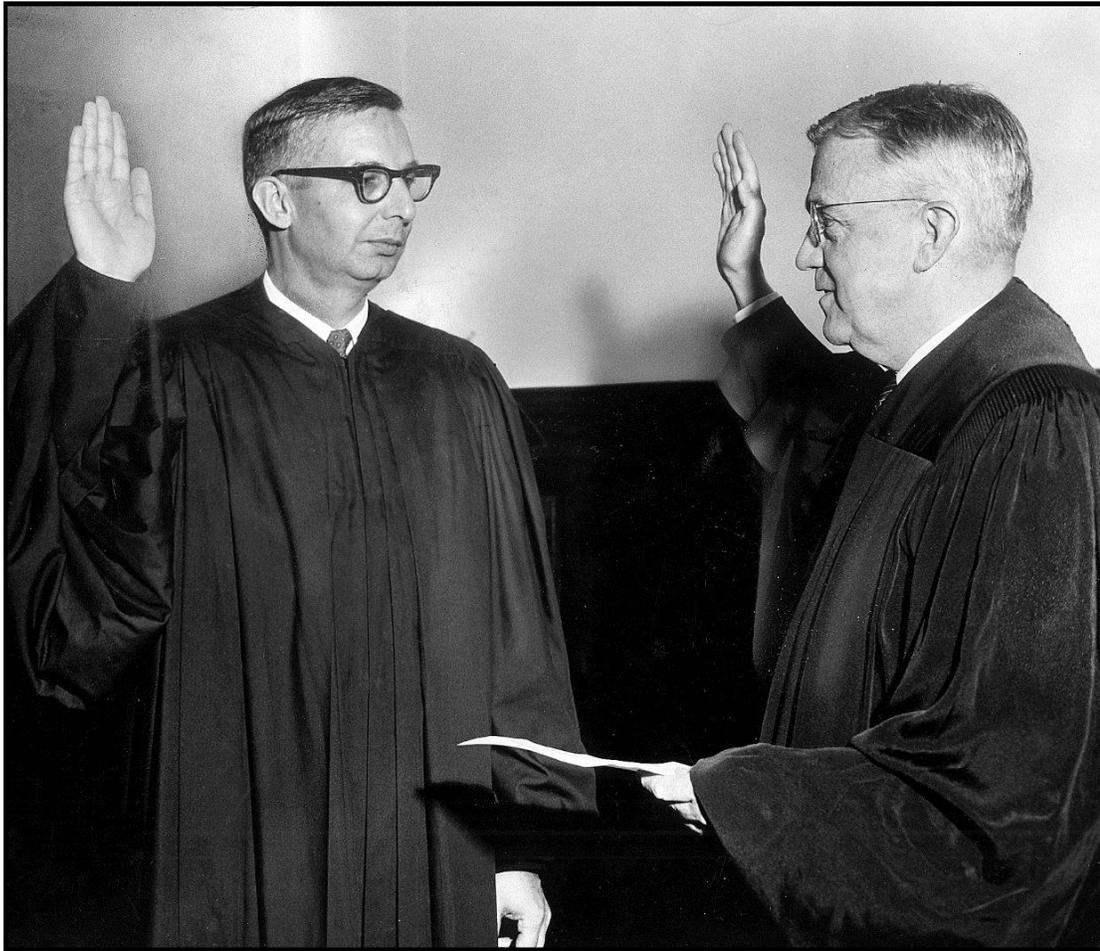


Figure 12.2 Albert Bryan and John Butzner. (Photo: *Richmond Times-Dispatch*).

Albert Bryan's promotion created a vacancy on the U.S. District Court of the Eastern District of Virginia. President Kennedy owed Lindsay Almond a debt for his support in the 1960 campaign, but his candidacy proved problematic. The optics was bad. Almond, as state attorney general, had defended school segregation in federal court and later, as governor, he closed schools under the massive resistance laws. On the other

Sobeloff, "No. 8708 – Gloria Brooks, an infant, etc., et al. v. County School Board of Arlington County, Virginia, et al.," October 17, 1963, Box 67, Simon E. Sobeloff to Bernard G. Segal, July 5, 1961, Box 9, both in SESP; John S. Battle to Simon E. Sobeloff, July 14, 1961, Box 6, JSBP.

hand, Almond led the state away from massive resistance once the courts invalidated those laws. The Northern Virginia Bar Association, an organization of black lawyers, overlooked Almond's segregationist past to endorse his candidacy. However, Harry Byrd remained unforgiving. For months, Bill Battle lobbied Byrd to withdraw his objections, but the senator would not relent. The administration was forced to remove Almond from consideration. Instead, President Kennedy nominated John Butzner, a state circuit court judge from Fredericksburg, to the U.S. District Court in May 1962. Like Albert Bryan, Butzner received the enthusiastic support of Congressman Smith, which raised concern about his sincerity to uphold *Brown*. Any suspicions were laid to rest within the first six months of him receiving his commission. Butzner ordered the town of West Point, Chesterfield County, Powhatan County, and Fredericksburg to desegregate their public schools.¹²

President Kennedy appointed a North Carolinian to the other vacancy on the U.S. Fourth Circuit Court of Appeals. Senators Sam Ervin and Everett Jordan both publicly endorsed state superior court judge Will Pless, but Jordan also recommended someone he considered "one of the outstanding lawyers in the state." Spencer Bell graduated from the

¹² Ben Beagle and Ozzie Osborne, *J. Lindsay Almond: Virginia's Reluctant Rebel* (Roanoke, Va.: Full Court Press, 1984); "Negro Attorneys Indorse Almond For U.S. Court," WES, January 27, 1962; William C. Battle to Harry F. Byrd, January 14, 1962, Box 242, HFBP; Associated Press, "Butzner to Get U.S. Judge Nomination," RTD, May 15, 1962, 1; Howard W. Smith to Robert F. Kennedy, March 3, 1962, Box 146, HWSP; John D. Butzner, "Memorandum of the Court" and "Order," *Anderson v. School Board of the Town of West Point*, Civil Action No. 3365, August 13, 1962, John D. Butzner, "Memorandum of the Court," *McLeod v. County School Board of Chesterfield County*, Civil Action No. 3431, November 15, 1962, Box 29, John D. Butzner, "Memorandum" and "Order," *Bell v. County School Board of Powhatan County*, Civil Action No. 3518, January 2, 1963, and John D. Butzner, "Memorandum of the Court," *Scott v. School Board of the City of Fredericksburg*, Civil Action No. 3438, January 2, 1963, Box 32, all in USDCEVDV-R

University of North Carolina School of Law ('30), had a successful private practice, was a past president of the state bar association, and chaired the association's committee on the reorganization of the state courts – the “Bell Committee.” However, Bell had no judicial experience but instead had held public office as a three-term state senator. In 1960, Bell forged important political connections. He was a Kennedy delegate at the Democratic National Convention and also supported the gubernatorial campaign of Terry Sanford, a political ally of Kennedy. With the pending passage of the judgeship bill, Governor Sanford urged Robert Kennedy to nominate Bell, because doing otherwise would “damage seriously the Kennedy forces in North Carolina. Bell was openly for Kennedy before the [1960 Democratic National Convention] and stood strong and voted there. He is one of my closest friends. He is an excellent lawyer – and on the merits alone, better qualified than Judge Pless. The Senators will give you no trouble, but we have put this on the line in public, and if Bell is not appointed it will be a mortal blow.” In September 1961, President Kennedy appointed Bell and thus recalibrated the court's political ideology. Bell was a liberal voice in the wilderness of southern conservatism. “We can and we must,” he believed, “bring our own southland back into the mainstream of economic and political life of this great democracy.” Almost immediately, Sobeloff and Bell formed a friendship “so natural and congenial,” the chief judge later wrote, “that I felt as if it has always existed.” Bell joined Sobeloff to bolster the liberal wing of the circuit court.¹³

¹³ “Bell Cleared for Judgeship,” *Charlotte Observer*, September 14, 1961, 1; Associated Press, “Two

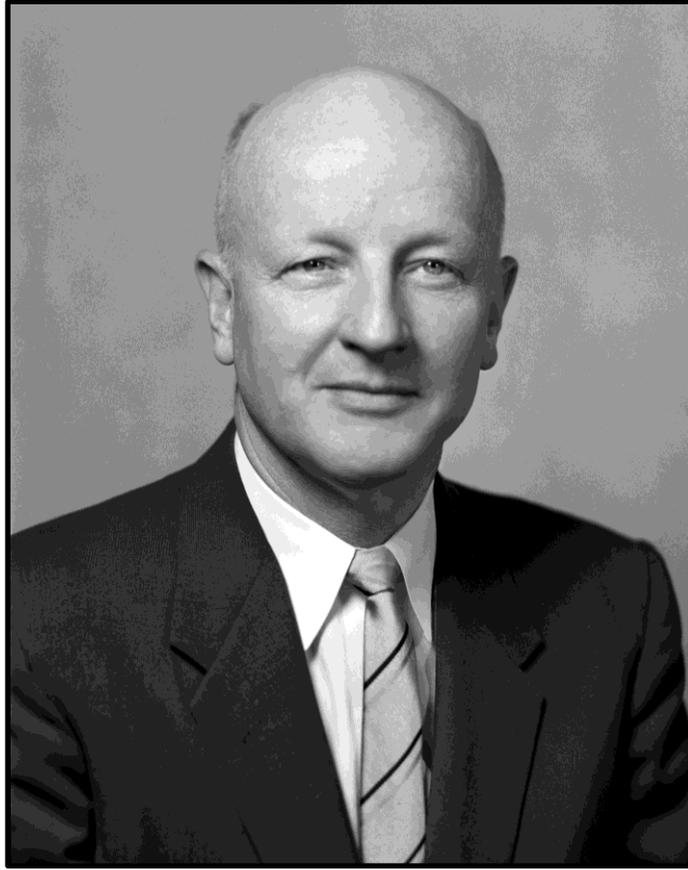


Figure 12.3 J. Spencer Bell. (Courtesy of the State Archives of North Carolina).

Simon Sobeloff was eager to move the circuit beyond the “*Briggs* dictum.” He considered it “one of the worst things that Judge Parker ever launched.” His court, however, was split on *Briggs*. Soper and Bell shared Sobeloff’s disdain, but Haynsworth,

Tar Heels Recommended For Judgeships,” *High Point* (North Carolina) *Enterprise*, May 20, 1961, 6; “Judge Jesse Spencer Bell,” in *Encyclopedia of American Biography*, edited by Edward N. Dodge (West Palm Beach, FL: American Historical Company, 1969), 74-76; William T. Moye, “Jesse Spencer Bell,” in *Dictionary of North Carolina Biography, Volume I: A-C*, edited by William S. Powell (Chapel Hill, NC: University of North Carolina Press, 1979), 130-131; Terry Sanford to Robert F. Kennedy, May 20, 1961, in Goldman, *Picking Federal Judges*, 159-160; J. Spencer Bell to Lyndon B. Johnson, n.d. (November 22, 1963 – December 11, 1963), Box 1, JSBP2; Simon E. Sobeloff to Catherine Bell, March 28, 1967, Box 9, SESP.

Boreman, and Bryan supported Parker's interpretation. "It has been the only effective amelioration of the widespread alarm which the school cases created," defended Clement Haynsworth. "Without it, I am convinced we would not have progressed as far as we have. If we renounce it now, I think we will only succeed in hardening resistance and diminishing the potential for cooperative effort on the part of school boards." Herbert Boreman approved the tempo of school desegregation in the Fourth Circuit. "There has been a general trend, slow-moving, perhaps," gauged Boreman, "toward integration where sought and it is my view that this course should be continued." Haynsworth and Boreman, the conservative wing of the court, were reluctant to move beyond tokenism and gradualism. Invariably, Chief Judge Sobeloff assigned two liberal judges to sit on three-judge panels in school desegregation cases to dilute the influence of the conservative judges. In June 1962, Haynsworth accused Sobeloff of packing the panels. He noted that over the previous year he had not sat for a single school case, while Sobeloff had sat for them all. Haynsworth suggested "that no member of our Court should sit on school cases appreciably more frequently than any other member."¹⁴ Sobeloff's manipulation of the docket, however, permitted the court to make progress.

¹⁴ Simon E. Sobeloff to John Minor Wisdom, January 7, 1967, Box 85, SESP; The jurists discussed their views of *Briggs* during the deliberations over *Dillard v. School Board of the City of Charlottesville*. See Clement F. Haynsworth, Jr., to Simon E. Sobeloff, et al., "No. 8638, Doris Dillard, et al. v. The School Board of the City of Charlottesville, Virginia, et al., etc.," June 22, 1962, Herbert S. Boreman to Simon E. Sobeloff, , "No. 8638, Doris Dillard, et al. v. School Board of the City of Charlottesville, Virginia, et al., etc.," August 21, 1962, Albert V. Bryan to Morris A. Soper, "No. 8638 – Doris Dillard, et al v. The School Board of the City of Charlottesville, Va., et al.," June 21, 1962, Morris A. Soper to Albert V. Bryan, "No. 8638, Dillard, et al v. School Board of City of Charlottesville, Va.," June 22, 1962, and J. Spencer Bell to Morris A. Soper, "No. 8638 – Doris Dillard, et al v. The School Board of the City of Charlottesville, Va., et al.," June 21, 1962, all in Box 58, SESP.

The circuit court soon renounced tokenism and gradualism. In 1962, the court found that several school boards administered pupil placement in a discriminatory manner and directed the district courts to issue orders for the school boards to develop new assignment plans. The following year, the U.S. Supreme Court established new expectations for school desegregation. In *Watson v. City of Memphis* (1963), the High Court denounced the slow rate of progress in unmistakable language:

Given the extended time which has elapsed, it is far from clear that the mandate of the second *Brown* decision requiring that desegregation proceed with “all deliberate speed” would today be fully satisfied by types of plans or programs for desegregation of public educational facilities which eight years ago might have been deemed sufficient. *Brown* never contemplated that the concept of “deliberate speed” would countenance indefinite delay in elimination of racial barriers in schools.

Weeks later, the Supreme Court found that the school transfer requirements in Knoxville, Tennessee, “cannot be deemed to be reasonably designed to meet legitimate local problems, and therefore do not meet the requirements of *Brown*.” The Fourth Circuit Court liberally interpreted the High Court’s mandate and joined with the Third, Fifth, and Sixth circuits to invalidate the “grade-a-year” desegregation plan. On June 29, 1963, the Fourth Circuit Court held that the Lynchburg school board’s stair-step program, “for initial implementation eight years after the first *Brown* decision, cannot now be sustained” and directed the district court to “bring the plan into full conformity with the

law.”¹⁵ The realigned Fourth Circuit Court appeared primed to accelerate the pace of school desegregation.

Black Prince Edwardians did not immediately benefit from the circuit court’s realignment. Judge Sobeloff granted the appellants a hearing and recommended that the court sit *en banc*, a case heard before all the active judges, not just a select three-judge panel. Nonetheless, Albert Bryan asked Sobeloff to relieve him from the case due to his prior connection as a district court judge. Not only had Bryan written the *Davis* (1952) opinion, but in 1960 he ordered the county to desegregate its public schools – an inconsequential ruling in light of the school closings (see Chapter IV). He recognized that new questions were involved in the case but thought it was not inappropriate for him to participate. “However,” as Bryan explained, “this would be difficult for a layman to understand. Even though there may be no legal or ethical ground to disqualify me from now sitting, the contrary could appear on the surface, and I think unfortunate appearances should be avoided, for frequently they are as hurtful as actual improprieties.” Sobeloff’s prior connection to the case – presenting the federal government’s arguments in *Brown II* – could also raise alarms. Therefore, the court announced that if there were any objections both Sobeloff and Bryan would recuse themselves. The defendants issued an objection, and Collins Denny privately revealed that “by a strange set of circumstances we

¹⁵ *Green v. School Board of the City of Roanoke*, 304 F.2d 118 (4th Cir. 1962); *Marsh v. County School Board of Roanoke County*, 305 F.2d 94 (4th Cir. 1962); *Dillard v. School Board of the City of Charlottesville*, 308 F.2d 920 (4th Cir. 1962); *Jeffers v. Whitley*, 309 F.2d 621 (4th Cir. 1962); *Wheeler v. Durham City Board of Education*, 309 F.2d 630 (1962); *Watson v. City of Memphis*, 373 U.S. 526 (1963); *Goss v. Board of Education of Knoxville, Tennessee*, 373 U.S. 683 (1963); *Jackson v. School Board of the City of Lynchburg*, 321 F.2d 230 (4th Cir. 1963).

were able to get rid of Soper and Sobeloff.” On January 9, 1963, the plaintiffs presented arguments not to a sympathetic five-judge court but to an unfavorable three-judge court led by Clement Haynsworth (see Chapter IX).¹⁶

Judge Haynsworth deliberated over the case for months, “much of it wasted” time. He monitored the case’s developments in state court, but the Virginia Supreme Court of Appeals refused to expedite a hearing (see Chapter IX). Haynsworth determined that the case could not be disposed of with “unresolved questions” of state law and drafted an opinion reflecting his reticence. Judge Boreman concurred that the court should withhold judgment until the state supreme court interpreted the state constitution. “We should not undertake to guess and shortly thereafter perhaps find that Court in disagreement with us.” On August 12, 1963, the court remanded the case to the Virginia Supreme Court of Appeals. In the majority opinion, Haynsworth and Boreman justified their caution: “If we should hazard a forecast and it should be wrong, any judgment based upon it will appear both gratuitously premature and empty when the state questions are authoritatively resolved in state courts.” Further, the court vacated the findings of the U.S. District Court, which ordered the public schools reopened, restrained the distribution of state tuition grants, and forbid tax credits for contributions to the Prince Edward

¹⁶ Rosen, “Judge Sobeloff’s Public School Race Decisions,” 514; Albert V. Bryan to Simon E. Sobeloff, December 31, 1962, Box 144, SESP; Albert V. Bryan, “Order on Mandate,” April 22, 1960, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 123, USDCEDV-R; William K. Stevens, “Court Hears Plea to Open P.E. by Feb. 1,” NVP, January 10, 1963, 1; Collins Denny, Jr., to Harry F. Byrd, April 17, 1963, Box 5, WMAP.

School Foundation.¹⁷ Haynsworth and Boreman delivered a terrible blow to the locked-out children.

Judge Spencer Bell penned a blistering dissent. Once he had learned that Boreman joined Haynsworth, he felt “considerable pressure” to quickly write a dissenting opinion so the case could be filed. With a new school session only weeks away, Bell acted “promptly so that the parties may take any possible steps in time to get the schools opened or permanently closed before September.” In his nine-page dissent, Bell declared that the majority’s ruling presented “a truly shocking example of the law’s delay” and an “abnegation of our plain duty.” Bell argued that Virginia’s public school system “is maintained, supported and administered on a statewide basis...therefore, the closure of the schools constitutes discrimination.” The majority, on the other hand, ruled that the plaintiffs must prove that the county had a duty to operate public schools before the federal courts could provide relief. Also, Judge Bell determined that Prince Edward County “closed the schools solely to frustrate the orders of the Federal courts that the schools be desegregated.” He considered either point – the violation of the Fourteenth Amendment or the circumvention of court orders – sufficient to immediately implement the district court’s earlier ruling to reopen the public schools.¹⁸

¹⁷ Clement F. Haynsworth, Jr., to Herbert S. Boreman and J. Spencer Bell, “No. 8837, Griffin, et al. v. Prince Edward County Board of Supervisors, et al.,” July 24, 1963, Herbert S. Boreman to Clement F. Haynsworth, Jr., “No. 8837, Griffin, etc., et al. v. County School Board of Prince Edward County, et al.,” August 2, 1963, both in Box 144, SESP; *Griffin v. Board of Supervisors of Prince Edward County*, 322 F.2D 332 (4th Cir. 1963).

¹⁸ *Griffin v. Board of Supervisors of Prince Edward County*, 322 F.2D 332 (4th Cir. 1963); J. Spencer Bell to Simon E. Sobeloff, August 5, 1963, J. Spencer Bell to Clement F. Haynsworth, Jr., and Herbert S.

The NAACP filed a motion to stay the order vacating the injunction on tuition grants. Robert Carter and Samuel Tucker asked that the injunction remain in effect “pending the filing and disposition of the petition for writ of certiorari by the United States Supreme Court.” The county opposed a stay. Collins Denny argued that lifting the injunction would “not cause harm” to the black children, because they received a free education at the Free Schools. However, blocking tuition grants caused “irreparable harm” to Academy children who had to pay school fees. Haynsworth and Boreman denied the motion. Adopting Denny’s language, they determined that “a stay is unnecessary to further proceedings in the Supreme Court of the United States, and that the plaintiffs will suffer no irreparable harm if the stay is not granted.” Judge Bell, again, dissented by forecasting that “the effect of this order will be to further entrench and perpetuate the irreparable harm inherent in the operation of an illegal tuition grant system while the public schools of Prince Edward County remain closed.”¹⁹ Spencer Bell could not provide relief for the locked-out children as a judge voting in the minority. He did, however, craft his dissents to influence the High Court.

The NAACP petitioned the U.S. Supreme Court to stay the order. Robert Carter and Samuel Tucker argued that the resumption of tuition grants would “entrench and

Boreman, “No. 8837 – Griffin v. Board of Prince Edward County,” August 2, 1963, both in Box 144, SESP.

¹⁹ Robert L. Carter and Samuel W. Tucker, “Motion to Stay Court’s Decree Pending Filing and Disposition of Petition for Writ of Certiorari,” August 20, 1963, Robert L. Carter and Samuel W. Tucker, “Statement as to Reasons for Requested Stay,” September 3, 1963, Collins Denny, Jr., “Opposition to Notice to Stay Courts Decree Pending Filing and Disposition of Petition for Writ of Certiorari,” August 23, 1963, Clement F. Haynsworth, Jr., and Herbert S. Boreman, “Order,” September 12, 1963, J. Spencer Bell, “Dissent to Order,” September 12, 1963, all in *Griffin v. Board of Supervisors of Prince Edward County*, Case No. 8837, Box 727, US4CCA.

perpetuate opposition to what is the only conceivable solution to the problem – the maintenance of a public school system free of racial discrimination.” The Department of Justice filed a memorandum with the court in support of the NAACP’s application. The United States predicted that the petitioners would ultimately prevail on the merits and asked the court to renew the injunction on tuition grants. The public funds were part of an “evasive scheme” to countermand the *Brown* decision with private schools that were “de facto state institutions.” The memorandum concluded by countering Denny’s assertion that the white children suffered from the injunction. The county had the option to open the public schools for all, or white parents could send their children to the Free Schools. The Department of Justice argued that the injunction had to stand because it was the “sole” pressure remaining to open the public schools. Associate Justice William Brennan was convinced. On September 30, Brennan stayed the circuit court’s order and the injunction on tuition grants remained in effect.²⁰

A similar Virginia school case had a decidedly different outcome. African Americans sued in federal district court for the admission of black students to the all-white schools in Powhatan County, a rural community adjacent to Prince Edward County. The county board of supervisors had threatened to close the public schools if forced to desegregate. On January 2, 1963, Judge John Butzner ordered the school board to immediately admit three black applicants to the white school and end its racially

²⁰ Robert L. Carter and Samuel W. Tucker, “Application for a Stay and/or Recall of Decree of the Court of Appeals Pending the Filing and Disposition of Petition of Writ of Certiorari,” September 18, 1963, Archibald Cox, et al, “Memorandum for the United States as Amicus Curiae in Support of Application for Stay,” September 1963, William J. Brennan, Jr., “Order,” September 30, 1963, all in *Griffin v. Board of Supervisors of Prince Edward County*, Box 5356, RG 267.

discriminatory student assignment procedure by the next school year. In addition, Butzner enjoined officials from closing any public school in the county. The ruling alarmed Virginians. Harry Byrd worried that the federal judiciary was encroaching on a local legislative function by mandating that Powhatan County appropriate funds for public schools. “Judge Butzner went much further – further than any court has ever gone,” vexed Senator Byrd. “If the power to spend or not to spend is to be placed in the hands of federal judges appointed for life, then we are taking a reckless plunge down the road to dictatorship.” Clearly, Butzner recognized that Powhatan was flirting with Prince Edward-like defiance and he met it squarely. Further litigation was inevitable but interrupting the children’s education was not. Butzner refused to permit Powhatan to descend into another Prince Edward. “The schools must remain open while you carry on your further litigation,” he lectured the county attorneys. Butzner left his injunction on school closings intact but stayed his order on the immediate transfer of black students until the federal circuit court reviewed the case.²¹

On June 29, 1963, the U.S. Fourth Circuit Court of Appeals upheld and expanded upon Judge Butzner’s ruling. Judge Sobeloff, writing for the court sitting *en banc* (Sobeloff, Haynsworth, Boreman, Bryan, and Bell), found that the Powhatan County school board practiced “an undeviating adherence to the system of segregation, sustained by acts of omission and commission.” The circuit court affirmed Judge Butzner’s order

²¹ John Butzner, “Memorandum of the Court,” January 2, 1963, John D. Butzner, “Order,” January 2, 1963, Hearing Transcript, January 4, 1963, *Bell v. County School Board of Powhatan County*, Civil Action No. 3518, USDCEDV-R; “Judge Butzner’s Ruling Alarms Sen. Byrd,” PPI, January 7, 1963, 1.

restraining the school board from closing any school and administering a racially discriminatory student placement program. The stay was lifted on the transfer of three black students to the white school without further delay. In fact, the circuit court determined that all the black applicants (sixty-five in all) should be admitted to the white public school at the opening of the next school year. Finally, the court found that the plaintiffs were entitled to counsel fees, a determination traditionally made by the district court. “Here we must take into account,” read the opinion, “the long continued pattern of evasion and obstruction which included not only the defendants’ unyielding refusal to take any initiative, thus casting a heavy burden on the children and their parents, but their interposing a variety of administrative obstacles to thwart the valid wishes of the plaintiffs for a desegregated education.” Judges Haynsworth and Boreman concurred with Sobeloff, Bryan, and Bell on the opinion, dissenting only on awarding counsel fees.²²

The circuit court’s ruling in *Griffin* is puzzling once juxtaposed against its Powhatan opinion. “We are unable to explain,” wrote the Department of Justice in its memorandum to the Supreme Court, “why the majority of the three-judge panel which decided this case chose to disregard a very recent ruling by the court *en banc* concurred in as to this point by all members of the court.” In fact, Judge Haynsworth considered the cases’ issues identical. He addressed the similarity in a memorandum to his colleagues before the Powhatan hearing. “One obvious question which will arise upon appeal is the

²² *Bell v. School Board of Powhatan County*, 321 F.2d 494 (4th Cir. 1963).

propriety of that portion of the order which requires continued operation of the schools,” wrote Haynsworth. “The issue here seems to be precisely the same as the issue in Prince Edward.” At that time, he considered conflicting rulings in the Powhatan and Prince Edward cases to be “purposeless.” Yet, Haynsworth and Boreman sided with their colleagues to keep Powhatan’s schools open but provided Prince Edward with constitutional cover to keep its schools closed.²³



Figure 12.4 “Powhatan County Under Federal Dictatorship.” (Photo: Edward H. Peeples, Jr., VCU Libraries).

²³ Archibald Cox, et al, “Memorandum for the United States as Amicus Curiae in Support of Application for Stay,” *Griffin v. Board of Supervisors of Prince Edward County*, September 1963; Clement F. Haynsworth, Jr., to Simon E. Sobeloff, “Powhatan School Case,” April 17, 1963, Box 62, SESP.

President Kennedy altered the composition of the Fourth Circuit Court in a way favorable to resolving the school closings. Unique circumstances negated that effect in the Prince Edward case. The Powhatan case, however, demonstrates that the circuit court sitting *en banc* would have ruled in favor of Prince Edward's locked-out children. Further, such a court would not have tolerated the county's delaying tactics. Spencer Bell's patience for Virginia's segregationist attorneys, some of whom represented both Powhatan and Prince Edward counties, was waning. In discussing the Powhatan ruling with his colleagues, Bell stated that he "could only wish that [the county attorneys] read our judgments as broadly when they set out to comply as when they assert grounds for rehearing, appealing, or other obstructionary tactics." Bell wanted the schools desegregated and to remain open without interruption. Then county attorneys could present their "nitpicking arguments until Hell freezes over."²⁴ However, Bell was virtually powerless on the minority side of the Prince Edward litigation. Had Simon Sobeloff and Albert Bryan not recused themselves, they certainly would have joined Spencer Bell to form a majority to order the reopening of Prince Edward's public schools. It is further possible that the U.S. Supreme Court would have affirmed the circuit court's ruling without a hearing, thus providing the administration with a court order that it could enforce to reopen the public schools in 1963. Instead, more hearings in state and federal court were required.

²⁴ J. Spencer Bell to Simon E. Sobeloff, et al, "No. 8944 – Bell v. School Board of Powhatan County," July 23, 1963, Box 62, SESP.

II

The Prince Edward litigation continued running parallel through the state and federal courts. Questions remained unanswered. Did the county and state violate the state or federal constitution by refusing to operate public schools? If so, did the federal judiciary have the authority to compel the board of supervisors to levy taxes for the operation of a public school system? If so, could the court set a dollar figure? Ultimately, the Virginia Supreme Court of Appeals absolved the board of supervisors, but the U.S. Supreme Court set aside that decision. The High Court found that the school closings violated the Fourteenth Amendment and directed the district court to order the county to reopen the public schools. The ambiguity of that order and the passivity of the district court judge allowed the county board of supervisors to comply with the court under the most minimal standards. The courts forced the schools to reopen but in such a manner that restored a dual school system.

The Virginia Supreme Court of Appeals found that the state constitution did not require public schools in Prince Edward County. On December 2, 1963, the court, by a 6-to-1 majority, determined that localities had the option to operate public schools and that the state had no obligation to step in to fill an educational void. In short, schools could close across Virginia without violating the state constitution. Chief Justice John W. Eggleston dissented. Eggleston agreed that the responsibility to operate public schools fell on the localities, but the state constitution required the General Assembly to maintain

an efficient public education system “throughout the State.” “How can there be an efficient system of public free schools without such schools?” asked Justice Eggleston. “How can there be an efficient system of public free schools ‘throughout the State’ so long as there are no such schools in Prince Edward County?” This interpretation required the state to take responsibility in Prince Edward County. However, Eggleston’s appraisal fell on deaf ears, as did his caution that the court’s failure to protect individual rights guaranteed by the U.S. Constitution would invite a response from the federal courts: “I am sure that that invitation will be promptly accepted. We shall see!” The NAACP had already sent that invitation. On January 6, 1964, the U.S. Supreme Court granted a writ of certiorari and set a hearing for March 30.²⁵

The NAACP and Department of Justice presented arguments on behalf of the locked-out children. Robert Carter, general counsel of the NAACP, asked the Supreme Court to uphold the district court’s ruling that enjoined the defendants from refusing to operate public schools and using public funds to operate a segregation academy. Carter argued that the state violated the Fourteenth Amendment by operating schools elsewhere but not in Prince Edward County. U.S. Solicitor General Archibald Cox expounded upon Carter’s remarks that public education was a state function and made the moral argument against the school closings. “Education is too fundamental, too important, and I emphasize that it transcends county lines,” reasoned the solicitor general. “If children

²⁵ *County School Board of Prince Edward County v. Griffin*, 204 Va. 650, 133 S.E.2d 565 (1963); Robert L. Carter and Samuel W. Tucker, “Petition for Writ of Certiorari to the United States for the Fourth Circuit,” October 29, 1963, Part 23: Legal Department Case Files, 1956-1965, Series A, The South, September-December 1963, NAACPM; *Griffin v. County School Board of Prince Edward County*, 375 U.S. 391 (84 S. Ct. 400, 11 L.Ed.2d 409).

lose three years of education, their lives will be affected by that, wherever they go or whatever they do. And if this experiment in ignorance is continued in Prince Edward County, it will affect the whole state and not just conditions in that county.” Cox closed by urging the court to direct the district court to issue an order to reopen the public schools. The discussion between the justices and solicitor general was congenial, a promising sign for black Prince Edwardians.²⁶

The justices eviscerated the defense. Segar Gravatt trumpeted the artifice that Prince Edward County facilitated freedom of choice, a difficult needle to thread considering the absence of public schools – another notion he vociferously defended. “The purpose of what has been done here,” boasted Gravatt, “was to exercise an option and to afford all of the people of Prince Edward County an enlargement of their liberty of choice as to where they would go to school.” In fact, the tuition grant program was color-blind in design, having “no racial connotation whatsoever.” Justices Potter Stewart, Hugo Black, Byron White, Arthur Goldberg, and Earl Warren repeatedly interjected, badgering Gravatt for clarification on those mendacious assertions: “Are you saying in substance that the purpose and object of this plan...was to keep from having any schools where white and blacks go together?...It seems to me that your plan has completely deprived people of the privilege of going to an integrated public school....The action was not to terminate public education, but the action was to terminate the giving of funds to schools that were operated to educate both Negroes and whites together. That’s the action that

²⁶ Hearing Transcript, *Griffin v. County School Board of Prince Edward County*, March 30, 1964, http://www.oyez.org/cases/1960-1969/1963/1963_592, accessed November 30, 2014.

was taken, isn't it?" Former mayor and now Commonwealth's Attorney Billy Watkins watched helplessly from the defense table knowing that "we were getting screwed." The screwing culminated in the concussive dialectic of Chief Justice Earl Warren. "May I ask you this?" baited the chief justice. "These little children – these little colored children who have had no education or no opportunity for education in the last several years that they had freedom. Do they have freedom?" Gravatt answered affirmatively, "Yes, I think they have." With the trap set, Warren dispensed Gravatt with sarcasm, "I mean freedom to go through life without education." From the gallery, one Free School student celebrated, "They've got them cornered now." The court's questioning signaled its leaning. In the internal deliberations, the justices quickly formed a consensus favoring the locked-out children.²⁷

On May 25, 1964, the U.S. Supreme Court found the Prince Edward County school closings unconstitutional. The High Court, by a 7-2 vote, agreed with the district court that public schools operating throughout the state but not in Prince Edward County violated the Fourteenth Amendment, thus reversing the circuit court and negating the ruling of the Virginia Supreme Court of Appeals. In fact, the justices concluded that state and local officials colluded to evade *Brown* by facilitating the establishment of a publicly

²⁷ Hearing Transcript, *Griffin v. County School Board of Prince Edward County*, March 30, 1964, http://www.oyez.org/cases/1960-1969/1963/1963_592; William F. Watkins, Jr., interview by Brian E. Lee, April 20, 2011, Farmville, Virginia; Sullivan, *Bound for Freedom*, 198; Earl Warren to Hugo L. Black, "No. 592 – Griffin v. County School Board of Prince Edward County, May 12, 1964, William O. Douglas to Hugo L. Black, "No. 592- Griffin v. County School Board of Prince Edward County," May 13, 1964, Arthur J. Goldberg to Hugo L. Black, No. 592- Griffin v. County School Board of Prince Edward County," May 14, 1964, Byron R. White to Hugo L. Black, "No. 592 – Griffin v. County School Bd of Prince Edward County," May 14, 1964, all in Box 378, HLBP.

funded private school system. The Court did not issue a sweeping decision on tuition grants, but it upheld the district court's injunction. Further, the court held that the defendants' abuses resulted in undue delay to the implementation of *Brown*. The Court felt obliged to grant "quick and effective" relief. "There has been entirely too much deliberation and not enough speed in enforcing the constitutional rights which we held in *Brown v. Board of Education*," wrote Hugo Black for the majority. "The time for 'deliberate speed' has run out, and that phrase can no longer justify denying these Prince Edward County school children their constitutional rights to an education equal to that afforded by the public schools in other parts of Virginia." Many questioned whether the court had the authority to compel a local legislative body to levy taxes and fund public schools, but the Court had "no doubt" that it held such power. The Supreme Court directed the district court to enter a decree to reopen the schools.²⁸

Virginia segregationists reacted to *Griffin* like the end of days, or at least the end of constitutional government. The *Richmond News Leader* published an editorial with a less than reassuring title, "Let There Be Chaos." The editor conveyed broad concern that the decision portended "a dictatorship imposed by judicial oligarchy." The Supreme Court, many feared, set the precedent to arbitrarily order taxation "for any purpose." This power could even be extended to direct the federal legislature. "We cannot help being disturbed by the attitude of the Supreme Court," editorialized the *Roanoke Times*, "which interprets its powers of compulsion as virtually limitless." The ruling resuscitated the

²⁸ *Griffin v. County School Board of Prince Edward County*, 377 U.S. 218 (1964).

moribund Defenders of State Sovereignty and Individual Liberties, which passed a resolution urging state legislatures to nullify *Griffin*. Interposition had long since been discredited, just as the Defenders had lost its influence over state government. A Defender in national government, Watkins Abbitt, introduced legislation in the House of Representatives to prohibit the federal judiciary from compelling a legislative body to levy taxes.²⁹ Editorials, resolutions, and token bills meant little at that point. The immediate future of public education came down to a federal district court judge and six supervisors.

The board of supervisors moved cautiously. “This decision has far-reaching consequences,” stated Chairman Vaughan, “and as such requires the careful consideration of the people of this county and the board of supervisors.” The school board had presented the supervisors with two budgets: one to educate all the county’s school-age children and another designed for only 1,600 children – all the black students and a handful of whites. Nevertheless, the supervisors advertised a budget with \$375,000 earmarked for tuition grants but no operational funds for the public schools. On June 5, the supervisors held a public hearing on the budget. Eight speakers endorsed the advertised budget, while thirty-two others urged the board to open the public schools. Fred Reid, a black resident, shamed the supervisors by wondering aloud how they could “rest at night knowing you have deprived Negroes of a public education.” J.W. Whitted, a

²⁹ Editorial, “Let There Be Chaos,” RNL, May 26, 1964, 10; Press Release, Defenders of State Sovereignty and Individual Liberties, May 30, 1964, Box 102, ASHP; Allan Jones, “Abbitt Seeks to Bar Court-Ordered Taxes: Bill Offered as Protest in Prince Edward Case,” RTD, May 27, 1964, 1.

white resident, cautioned the board against the societal consequences of further resistance: “Within a few years the expense of the social problems will far surpass the cost of operating the public schools.” Tyler Miller, a professor at Hampden-Sydney College, closed by stating that the situation had gone on long enough. “You have proven that you have the courage to stand up for what you believe,” Miller told the board, but he argued that further resistance did not reflect the will of the majority. Despite the public school supporters’ numerical advantage at the hearing, the board accepted the counsel of attorneys Segar Gravatt and Billy Watkins to take no action until the federal district court issued an order.³⁰

On June 17, 1964, the U.S. District Court convened a hearing on appropriations for the public schools. Judge Lewis opened by asking the attorneys for suggestions on an order. Samuel Tucker recommended that the school budget be set minimally at 1958-59 levels. Segar Gravatt, on the other hand, shrewdly measured Judge Lewis’s zeal to effectuate the Supreme Court’s directive. Lewis had demonstrated his discomfort for exercising judicial power to force a law-making body to tax its citizens. Gravatt, therefore, ratcheted up that uneasiness by asking Judge Lewis to fix a dollar figure. “The Court is not going to be put in a position under any conditions of telling the board of supervisors how much money that they have to appropriate for schools and how much be

³⁰ Robert Holland, “Prince Edward Board Delays Action on Reopening Schools,” RTD, June 3, 1964, 9; Vernon C. Womack, “Budget for County Public Schools and Alternative Budget for Educational Purposes,” FH May 22, 1964, 8A; Minutes, Prince Edward County Board of Supervisors, June 5, 1964, PECBOSR; “40 Express School Views At Public Hearing Friday,” FH, June 9, 1964, 1; Allan Jones, “Prince Edward Support Seen as Stronger,” RTD, June 6, 1964, 1; Nancy Adams to Barbara Moffett and Jean Fairfax, “Prince Edward County,” July 6, 1964, #38578, AFSC; “Prince Edward Defers School Move Until Judge Acts,” RTD, June 13, 1964, 2.

spent,” said Lewis. “That is their function.” Tucker urged the court to specify an amount, because he questioned the county leaders’ sincerity. Lewis asked Tucker to trust the county leaders to perform their duty. Tucker was not nearly as naive: “I do not think we can credit them with the presumption that they are going to act in good faith.” In fact, moments earlier, Gravatt had asked Lewis to set a penalty in the event that the board of supervisors could not comply with the court’s order. Judge Lewis refused to make a prejudgment. Instead, he ordered the board of supervisors to “appropriate such funds as are reasonably necessary for the opening and maintaining of the public schools...on a non-discriminatory basis” and to do so by June 25. The county could either comply with the court order or face an unspecified penalty to continue its recalcitrance. The *Richmond Times-Dispatch* encouraged the county to open the schools and reasoned that “no conceivable benefit can be achieved by further resistance.”³¹

Six days after the hearing, the county board of supervisors met to vote on the budget. Hugh Jenkins, the representative of Leigh District, made an eleventh hour plea for continued defiance. He read a ten-page statement into the record that defended the four-year fund cut-off with disingenuous revisionism. Jenkins claimed that the purpose of the case was “to see how much freedom and liberty I had left” as an elected representative “to cast my vote *for* or *against*” any matter before the board. Apparently, the constitutional test of his authority justified the (un)intended byproduct of more than

³¹ Hearing Transcript, June 17, 1964; Oren R. Lewis, “Order on Mandate,” June 17, 1964, both in Box 125, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; Editorial, “Now Let’s Open Them,” RTD, June 19, 1964, 12.

one thousand children losing important years of their education. He sympathized with the locked-out children, or at least feigned sympathy, but deflected any culpability, blaming the school closings on “a lack of cooperation on the part of their parents and whomever was at fault.” Even in that small meeting place, apparently, he could not find any party, neither to his immediate left nor to his immediate right, who could share the fault. Yet, in this same disjointed statement, he asserted that he could not “find in the Fourteenth Amendment where it is said that public schools *must* be operated” nor a pressing need to fund the public schools until Judge Lewis specified a penalty for further delay. Jenkins, now on the verge of tears, urged his colleagues to oppose a school budget with the most convoluted reasoning, likening defunding the public schools to soldiers dying with valor on the battlefield. Jenkins recalled that during World War II he had seen his compatriots “blown to bits” in defense of their country and way of life. “I could not sleep with my conscience tonight,” Jenkins asserted, “if I thought that I had let these boys down.” At the crescendo of his demagoguery, Jenkins urged the board to delay a vote until after another public hearing, but the motion was voted down five-to-one.³²

The county board of supervisors, rather, complied with the federal court order under the narrowest possible terms. The board voted to fund the operation of public schools for the first time since 1958. By a four-to-two vote, with Hugh Jenkins and Charles Gates dissenting, the board levied taxes to raise \$189,000 for the public schools.

³² Hugh M. Jenkins, Statement, in Minutes, Prince Edward County Board of Supervisors, June 23, 1964, PECBOSR; Allan Jones, “Prince Edward Levies Tax To Reopen Schools,” RTD, June 24, 1964, 1; Nancy Adams to Barbara Moffett and Jean Fairfax, “Prince Edward County,” July 6, 1964, #38578, AFSC.

The figure represented a mere fraction of the school board's low-end request of \$339,300 in local funds to educate sixteen hundred children. Billy Watkins defended the board's action, claiming that the board arrived at that figure "in a fair manner." The supervisors allotted \$116 per pupil, certainly short of the \$125 figure from the 1958-59 school year, but on par with the outlays in the neighboring counties. He admitted that the county could not operate public schools on equal terms with the Free Schools. "We just don't have that kind of money," Watkins explained. The county had sufficient funds, however, to allocate nearly double that figure in local tuition grants. In a separate resolution that carried unanimously, the board approved \$375,000 in tuition grants for private school students. The public-private funding disparity provided little incentive for white students to return to the public schools, thus re-establishing a government-sponsored dual school system. Judge Lewis had invited minimal compliance by setting the bar for expectations so low that the supervisors could have tripped over it. In fact, at the June 17 hearing, he did not require the county to accept the school board's budget request. "The county board does not have to meet the full budget," stated Lewis. "The board of supervisors can reduce the overall budget, can they not? They are not bound to accept their budget?" Judge Lewis's sole concern was for the schools to reopen, but that was achieved by the county meeting the lowest possible standard of compliance.³³

³³ Minutes, Prince Edward County Board of Supervisors, June 23, 1964, PECBOSR; Allan Jones, "Prince Edward Levies Tax To Reopen Schools," RTD, June 24, 1964, 1; Allan Jones, "More Money For Schools To Be Sought," RTD, June 25, 1964, 1; Hearing Transcript, Civil Action No. 1333, June 17, 1964, Box 125, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R.



Figure 12.5 Frank Reeves, Henry Marsh, and Samuel Tucker. (Photo: *Richmond Times-Dispatch*).

Black Prince Edwardians challenged the school budget. Reverend Griffin considered the allocation “hopelessly inadequate.” The local authorities were not “confronting the problem realistically.” The educational lag required public schools to be “not anything less” in quality than the Free Schools. The local NAACP Youth Council circulated a petition urging the board of supervisors to provide more funds. They hoped that “Operation Doorknob,” a door-to-door solicitation campaign, would gather fifteen hundred to two thousand signatures. The NAACP also announced its intentions to ask the

federal district court for an order to increase the school budget. The *Richmond Times-Dispatch* discouraged the NAACP from taking any further court action. “There has been a decade of such litigation, and this would seem to be enough,” editorialized the newspaper. Nevertheless, the NAACP filed a motion in federal court for an order to increase the public school budget to the school board’s full request. The NAACP sought a school budget that would educate “all of the children of school age” in the county. Otherwise, school desegregation could never occur.³⁴

On July 9, 1964, the U.S. District Court heard the NAACP’s motion to force the county to increase public school funding. Judge Lewis, noticeably exasperated, tired of any action that he perceived as interference with reopening the schools. He did not want to hear anything about insufficient funds. “I am not going to be the superintendent of schools of Prince Edward County,” explained Judge Lewis. “I am neither competent nor do I have the time, and if I did, it is not part of my function.” Samuel Tucker argued that insufficient funding would perpetuate segregated education. “When His Honor leaves to a recalcitrant board...the definition of what is reasonable,” advised Tucker, “they come up with any figure they consider reasonable without rhyme or reason, and the inevitable result is going to be that, as a practical proposition, there will be no school opened for white pupils in the county, except the Foundation School.” Judge Lewis refused to

³⁴ Allan Jones, “More Money For Schools To Be Sought,” RTD, June 25, 1964, 1; Robert Holland “Prince Edward Registration For Public Schools Starts,” RTD, July 21, 1964, 1; Nancy Adams to Barbara Moffett and Jean Fairfax, “Prince Edward County,” July 6, 1964, #38578, AFSC; “Prince Edward Negroes Signing School Petition,” RTD, June 30, 1964, 6; Editorial, “Schools for Prince Edward,” RTD, June 27, 1964, 10; Samuel W. Tucker, “Motion for Further Relief,” July 7, 1964, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 126, USDCEDV-R.

“prejudge” the county budget, preferring to insulate himself from common sense projections of the budget’s consequences with naïve hopes of the supervisors’ good faith. The court denied the NAACP’s motion.³⁵

The Concerned Citizens for Public Education took the matter directly to the school board. The organization had formed in the early spring as an outgrowth of informal bi-racial meetings. In anticipation of an affirmative Supreme Court decision, the Concerned Citizens made preparations to ensure that the county operated quality public schools. Twenty-five black women were delegated to study the situation and prepare recommendations for the school board. On June 19, the chairperson, Josephine Thompson, sent a two-page letter to the school board. “We feel it mandatory,” wrote Thompson, “that we have an exceptional system of education for the children of Prince Edward County, in view of the fact that they have been denied the advantage of free public education provided by the County for five years.” The letter urged the school board to request more funds and to implement a number of proposed reforms. On July 22, forty-two Concerned Citizens, seventeen of whom were white, met with the T.J. McIlwaine, the superintendent of schools, to discuss their requests. Weeks earlier, McIlwaine had told the press that the local allocation for public schools was inadequate “unless we can find some more money somewhere else.” At this meeting, he reversed himself and fell in lockstep with county leaders by defending the funding levels and per capita spending, while also dismissing the need for more funds from either the state or

³⁵ Hearing Transcript, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 126, USDCEDV-R.

county. However, he had insufficient funds to satisfy the Citizens' most urgent requests: hire a nurse and more than one guidance counselor and special education teacher for the whole school system; provide a free lunch program, a health facility, and late buses; and open other school buildings to alleviate overcrowding. McIlwaine did not satisfy any of the Concerned Citizens' primary requests but he only assured the group that the best possible education would be provided with the available money.³⁶

The Concerned Citizens took its case to the county board of supervisors. On August 4, Warren Scott presented a petition with 1,004 names, which read:

Because the schools of Prince Edward County were closed for four years, the children of Prince Edward County must have excellent educational opportunities offered to them. We believe that 189,000 dollars of local funds appropriated by the Board of Supervisors on June the 23, is an insufficient amount to finance the type of school system needed. Therefore, we, adult citizens of Prince Edward County, do petition the Board of Supervisors of Prince Edward County to allocate additional funds to be used for the purposes of education.

Billy Watkins, speaking for the supervisors, assured Scott that state contributions would put the total public school expenditures around \$500,000. Scott replied that the local levy was still too low due to "the tremendous amount of damage done by the schools being closed for four years." Watkins retorted with a dismissive rhetorical: "Don't you think that it would be desirable to give the county a chance to operate the schools instead of making a prejudgment, and then if things don't turn out satisfactorily come to the school

³⁶ Nancy Adams to Jean Fairfax, "Notes on Prince Edward County – Report No. 2," March 24, 1964, #38578, Nancy Adams to Jean Fairfax, "Notes on Prince Edward County," April 5, 1964, #38578, Josephine C. Thompson to George W. Palmer, June 19, 1964, #38573, Nancy Adams to Barbara Moffett and Jean Fairfax, "Prince Edward County," August 6, 1964, #38578, all in AFSC; Robert Holland, "More Funds For Schools Suggested," RTD, June 24, 1964, 1.

board or the board of supervisors?” Scott answered, “No, because from all indications we have now, it will not be sufficient.” Nevertheless, Watkins declared that he would not recommend that the supervisors provide any further disbursements without a formal request from the school board.³⁷ Local officials closed the door to additional state or county funding.

The Prince Edward Free School Association made significant contributions to bridge the financial gap. In late July and August the board of trustees met with T.J. McIlwaine to discuss the transition to public education. The trustees agreed to transfer all its property, purchased and donated, to the school board. The bequest included audiovisual materials, books, surplus food, and cafeteria equipment – no small value. This donation benefited the public schools for years to come. In addition, the trustees offered to finance the school board’s most pressing needs with its residual funds. McIlwaine’s wish list mirrored the requests of the Concerned Citizens. The trustees granted \$23,200 to hire remedial reading and special education teachers, a school nurse, and an audiovisual instructor, and to subsidize the free lunch program. McIlwaine hailed the grant for making “possible programs which we could not have provided from the regular school budget.”³⁸ Unlike the in-kind donations, the grant only aided the schools for one year. The trustees’ benevolence was finite. The Association would soon dissolve

³⁷ Minutes, Prince Edward County Board of Supervisors, August 4, 1964, PECBOSR; Robert Holland, “Negroes Ask More School Funds,” RTD, August 5, 1964, 6.

³⁸ “Educators Confer In Prince Edward,” RTD, July 31, 1964, 6; “Public School May Get Surplus Funds; Registration Continues,” FH, August 14, 1964, 1; William H. Baldwin, Jr., to Colgate W. Darden, Jr., September 14, 1964, T.J. McIlwaine to Colgate W. Darden, Jr., August 19, 1964, T.J. McIlwaine to Colgate W. Darden, Jr., September 3, 1964, all in Box 3, PEFSAP; “Prince Edward Altering Courses,” RTD, August 25, 1964, 2.

and the treasury would be penniless. In the future, the county had to take greater responsibility for the public schools.

On September 8, 1964, public education returned to Prince Edward County. In some ways, the public schools resembled the Free Schools. They used the same four school buildings, had an integrated faculty, and enrolled a handful of white students. In the most fundamental way, the schools were worlds apart. The Free Schools were governed and funded by people sympathetic to desegregated schools, while the school board and board of supervisors were unabashed white supremacists. The federal courts had forced the public schools to reopen, but they handed the reigns over to officials with a unique record of indifference to black children. These local leaders' sympathies remained with Prince Edward Academy. They were more concerned with the solvency of the private school system than providing enough funding for quality public schools. The issue of public funds for Virginia's private schools would be settled by Kennedy's judges.

III

The constitutionality of Virginia's freedom of choice program remained undetermined. In *Griffin*, the U.S. Supreme Court upheld the district court's injunction on tuition grants as long as the public schools stayed closed but passed on issuing a decisive ruling on the state laws. "If the court wanted to say they were illegal," asserted Governor

Harrison, “it had a wonderful opportunity to do so.” The Prince Edward County board of supervisors found opportunity in the High Court’s omission. The supervisors funded the public schools to negate the cause for the federal injunction. Funding public education for black children, even at woefully inadequate levels, would conceivably release tuition grants to patrons of the Prince Edward School Foundation. After *Griffin*, the NAACP ramped up its legal strategy from attacking tuition payments for segregation academies to an all-out assault on Virginia’s freedom of choice program.³⁹ President Kennedy’s Fourth Circuit judges permanently enjoined the disbursement of public funds to county residents attending the Foundation schools and, in time, invalidated Virginia’s tuition grant laws altogether.

The local white leaders took steps to procure retroactive tuition grants. On June 30, the board of supervisors adopted a resolution for payment of the 1963-64 school year’s tuition grants – up to \$375,000, conditioned on the state making its contribution. Academy parents had completed applications during a recent mass meeting. “We don’t know that we will be eligible,” explained Dr. James H. Helms, president of the PTA, “but if the injunction is lifted, we want to be ready.” Due to the injunction, the parents had missed both filing deadlines, November 1963 and March 1964. Billy Watkins and Mayor Herbert Stokes appealed to the State Board of Education to waive the deadlines and pay the retroactive grants. The state board gave the county a hearing on July 1, but members

³⁹ Allan Jones, “Gov. Harrison Keeps Hands Off Prince Edward,” RTD, May 28, 1964, 5; Minutes, Prince Edward County Board of Supervisors, June 30, 1964, PECBOSR; Allan Jones, “Negroes’ Plan Against Grants Changes Subtly,” RTD, July 12, 1964, 1.

requested corroborating evidence that the injunction had indeed been lifted. Bob Button, the state attorney general, advised the board that “the public schools no longer remain closed and are now open as much as the public schools of the other counties of the State of Virginia are open for the 1964-65 session and that therefore the injunction by its terms is no longer applicable to the State Board of Education and the Superintendent of Public Instruction.” Button’s opinion was construed without consulting the court. Nevertheless, the state board waived the deadlines and agreed to accept applications from Prince Edward residents through July 10. Academy parents had won an apparent victory, but Mayor Stokes expressed cautious optimism: “It looks like it won’t be settled until checks have actually been received here.”⁴⁰

The NAACP contested the state board’s resolution. Henry Marsh, who had attended the hearing, considered the board’s action a “clear violation” of the injunction. “If the board wants to act in apparent defiance,” Marsh told the conferees, “we think the board should have petitioned the court to see if it would permit the payment of grants.” The next day, Samuel Tucker travelled to Alexandria to present Judge Lewis with a motion to enjoin the payment of the retroactive grants. Lewis denied the request but said that he would hear the motion in court on July 9. That was too late. The county board of supervisors was scheduled to issue payments at its meeting the following day. As a result,

⁴⁰ Minutes, Prince Edward County Board of Supervisors, June 30, 1964, PECBOSR; Robert Holland, “Pupil Grant Forms Filled Out By Prince Edward Parents,” RTD, June 23, 1964, 2; Allan Jones, “Prince Edward Grants May Be Retroactive,” RTD, July 1, 1964, 1; Minutes, Commonwealth of Virginia State Board of Education, July 1, 1964, Robert Y. Button to Woodrow W. Wilkerson, July 1, 1964, both in Box 97, LFPP; Allan Jones, “Tuition Funds Voted For Prince Edward,” RTD, July 2, 1964, 1; Robert Holland, “Retroactive Tuition Grants Would Aid 750 Families,” RTD, July 2, 1964, 6.

Tucker sought relief from the circuit court. He visited Albert Bryan at his office, also in Alexandria. Bryan, however, declined to intervene because he had recused himself from the case. Tucker then hopped a flight to Charlotte, North Carolina, to cajole Spencer Bell, who was convinced that the payment of tuition grants would result in “irreparable harm” to the plaintiffs. Judge Bell issued an injunction on the disbursement of tuition grants until Judge Lewis heard the motion and all resulting appeals had been adjudicated. A U.S. marshal served the documents on the chairman of the board of supervisors, county treasurer, county clerk, officers at the local banks, and Billy Watkins before the county could distribute the money.⁴¹ The NAACP turned the tables, as the clock was now running out on the county.

Academy parents’ hopes for receiving retroactive grants were diminishing by the minute. Under state law, all business for the previous fiscal year had to be completed by July 10. Therefore, the State Board of Education could not issue retroactive grants beyond that date. Judge Bell’s injunction could be lifted after Judge Lewis ruled on the NAACP’s motion at the July 9 hearing, but that required events to unfold quickly. In a desperate move, Billy Watkins asked the governor to place the county’s tuition money in escrow, but Harrison did not have the authority. “I am disappointed in the turn of events,” sympathized Harrison, “and particularly in Judge Bell’s action.” There was little the

⁴¹ Allan Jones, “Tuition Funds Voted For Prince Edward,” RTD, July 2, 1964, 1; Samuel W. Tucker, “Motion for Temporary Restraining Order,” July 1, 1964, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, J. Spencer Bell, “Order,” *Griffin v. Board of Supervisors of Prince Edward County*, Case 9450, July 2, 1964, both in Box 125, Civil Action No. 1333, USDCEDV-R; Allan Jones and Robert Holland, “Judge May Halt Payment Of Prince Edward Grants,” July 3, 1964, 1; “Judge Blocks Grants In Prince Edward,” RTD, July 4, 1964, 1.

governor could do, but he gave his assurance to “do everything in my power to see that the General Assembly approves payments of grants for the 1963-1964 session.” In federal court on July 9, during the same hearing that Judge Lewis refused to increase the public school budget, the door closed on retroactive grants. Samuel Tucker argued that “to allow the retroactive payment for the period when schools were actually closed is, really, to nullify the effect of the court’s order which enjoined those payments for those years of school.” With time about to expire anyway, the county did not offer a defense. Judge Lewis made the injunction on retroactive tuition grants permanent.⁴²

The future of tuition grants remained in flux. Judge Lewis refused to entertain any injunctive action on 1964-65 tuition grants over concern that the issue would interfere with reopening the public schools. The NAACP considered the disbursement of such scholarships, in combination with inadequate funding for public education, a disrupting agent in operating quality, non-discriminatory public schools. On July 17, therefore, the NAACP filed an appeal with the Fourth Circuit Court to block tuition grants for all Prince Edward County residents. Eleven days later, Samuel Tucker asked the court to accelerate the appeal and hear the case in a special session:

Unless prompt action will be taken by this Court, thirteen years of litigation in which the plaintiffs have sought desegregation of public schools and five years of closed public schools will have been but a prelude to the establishment of two separate systems of schools maintained at public expense, the favored of which will be for white children only and the other one of which will be an inadequately

⁴² Allan Jones, “Factors Said Blocking Back Tuition Grants,” RTD, July 8, 1964, 1; William F. Watkins, Jr. to Albertis Harrison, July 7, 1964, Albertis S. Harrison to William F. Watkins, Jr., both in Box 102, ASHP; Hearing Transcript, *Allen v. County School Board of Prince Edward County*, July 9, 1964, Box 126, USDCEDV-R.

financed system attended only by Negroes and by such few, if any, white children who and whose parents may withstand the dissuading community pressure and publicly financed inducements to conform to the pattern of racially segregated public education to which the County Board of Supervisors continues to be committed.

News of the motion reached the defense attorneys by a chance encounter in downtown Richmond when Frederick Gray, attorney for the State Board of Education, happened upon Morris Dean, the clerk of the Fourth Circuit Court. In a follow-up phone conversation, Dean, speaking for Judge Haynsworth, asked Gray if state and local authorities would agree to withhold tuition payments until the final determination of the case. On Monday, August 3, Gray conferred with state Attorney General Bob Button and telephoned Billy Watkins. The following day, Watkins reported that the board of supervisors found such a stipulation unworkable. Gray soon discovered that Dean had misunderstood Haynsworth, who only wanted an assurance that grants would not be paid ahead of schedule. Before Gray could update Watkins, the county had already taken action.⁴³

County leaders formulated a plan to protect tuition grants from a possible federal injunction. “The courts still have us over a barrel,” remarked Barrye Wall. “If the courts take tuition grants away from these parents, there will be hell to pay.” On Tuesday evening, more than a dozen prominent local segregationists, including four county

⁴³ Hearing Transcript, *Allen v. County School Board of Prince Edward County*, July 9, 1964, Box 126, Civil Action No. 1333; Samuel W. Tucker and Otto L. Tucker, “Notice of Appeal,” *Allen v. County School Board of Prince Edward County*, July 17, 1964, Box 125, Civil Action No. 1333, Samuel W. Tucker and Otto L. Tucker, “Motion to Accelerate Appeal,” *Griffin v. County Board of Prince Edward County*, July 28, 1964, Box 125, Frederick T. Gray, Statement, April 1965, Box 126, Civil Action No. 1333, all in USDCEVDV-R.

supervisors (Gates, Jenkins, Pickett, and Steck) met at Taylor Manufacturing to plot strategy. They discussed distributing the tuition grants immediately. “Well, the way I feel,” explained Hugh Jenkins, “this injunction could come down and if we are going to pay these tuition grants, we are going to have to start work on them tonight.” John Steck agreed that “speed was of the essence.” Samuel Tucker’s flight to Charlotte weeks earlier proved that the NAACP would act quickly to secure an injunction against the payment of tuition grants. The supervisors called the board chairman, William Vaughan, to convince him to hold an emergency meeting at his home that night. Billy Watkins assured the board that the payments were legal because the federal injunction only applied to retroactive grants. The supervisors called attorney Segar Gravatt for a second opinion, but he advised them not to proceed. Nevertheless, the board disregarded its counsel’s advice. “We had always lost our tuition grants,” justified Hugh Jenkins, “and I felt that this was an opportunity for the people in the county to get back some of the money that they had paid out in taxes.” The board moved forward to immediately effectuate its scheme.⁴⁴

The “midnight raid on the treasury” had begun. The supervisors called the county clerk into work to prepare the checks. Vernon Womack arrived around midnight to find the “largest staff I have ever had,” more than two dozen volunteers. They worked into the morning preparing over twelve hundred checks, using a list of names supplied, not by the county, but by the Prince Edward School Foundation. Meanwhile, Academy parents were awoken by phone calls and messengers with directions to assemble downtown to

⁴⁴ J. Barrye Wall to Watkins M. Abbitt, August 4, 1964, Box 5, WMAP; Transcript of Evidence, April 23, 1965, Box 126, Civil Action No. 1333, USDCEDV-R.

complete their applications. The police, local officials, and foundation employees, in a show of collusion, organized the crowd. “That’s the first time,” said one volunteer, “I’ve seen 500 people on Farmville streets at 3:00 am.” Robert Taylor recalled so much excitement that “you would have thought an atomic bomb went off.” The board of supervisors made this action official early Wednesday morning. They amended an ordinance to increase local tuition grants from \$100 to \$310 and \$290 respectively for each secondary and elementary school student and approved the immediate payment of half the allotment. The Academy parents poured into the bank, forming a line down the sidewalk and around the block. An observer noted the crowds’ “complete jubilation.” They sang “Dixie” and reveled in the speed and efficiency of the conspiracy. The segregationists had caught the NAACP off guard. Samuel Tucker did not even learn of the unfolding incident until late in the morning. “You’ve got to get up early in the morning to get around some folks,” demurred Tucker, “but I can’t stay up all night – every night!” In the end, \$181,005 had been distributed and cashed.⁴⁵ The NAACP had been outfoxed, but this action would not go unchallenged. Nor tuition grants in toto. The wheels were already in motion.

⁴⁵ David Hudson, “NAACP Plans to Challenge Prince Edward’s Grants,” RTD, August 7, 1964, 4; Transcript of Evidence, April 23, 1965, Box 126, Civil Action No. 1333, USDCEDV-R; Robert Holland, “Grants Disbursed In Prince Edward,” RTD, August 6, 1964, 1; Donald P. Baker, “Shame of a Nation,” WP, March 4, 2001, W8; Minutes, Prince Edward County Board of Supervisors, August 5, 1964, PECBOSR; Nancy Adams to Barbara Moffett and Jean Fairfax, “Prince Edward County,” August 6, 1964, #38578, AFSC; “‘Midnight Ride’ Keeps Prince Edward Schools Segregated,” *Jet*, August 27, 1964, 48-49.

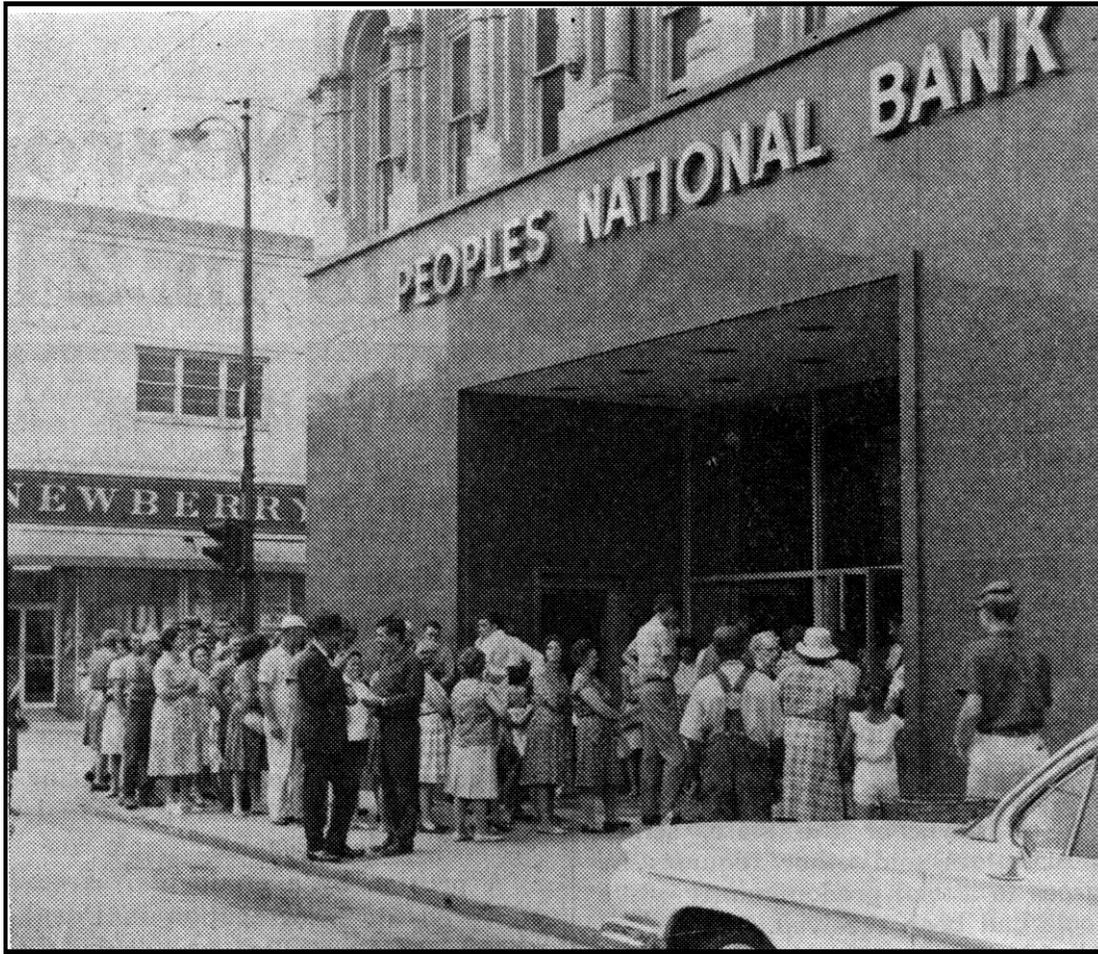


Figure 12.6 Midnight Raid on the Treasury. (Photo: *Southern School News*).

The NAACP had challenged Surry County, Virginia's freedom of choice scheme. The State Pupil Placement Board had assigned seven black students to the white public school for the 1963-64 session. In response, local leaders organized a private school for white students, for which nearly all of the district's white students registered. Due to insufficient enrollment, the school board closed the white public school and released teachers from their contracts so they could accept employment at the Surry County

School Foundation. Unlike Prince Edward County, public education continued uninterrupted for African Americans. A dual school system had been preserved, whereas blacks attended the public schools while whites went to a private school funded by public tuition grants. The NAACP filed suit in federal court to force the school board to operate non-discriminatory public schools and restrain officials from issuing tuition grants to any Surry County resident. The NAACP attacked the application of the state's freedom of choice program, not the constitutionality of tuition grants as a whole – at least not yet.⁴⁶

Judge John Butzner invalidated Surry County's school program. In *Griffin*, the U.S. Supreme Court had upheld the injunction on tuition grants in a community that closed all its public schools, but it provided no guidance for a situation in which a community imposed a partial shutdown. Nevertheless, Butzner found that the distinction between Prince Edward and Surry counties "is not of controlling significance" in deciding the constitutional question. "Both situations are variations upon the same theme," determined Butzner. "State and County funds are used to perpetuate racial segregation in the schools located in Surry County. These funds subsidize the Foundation's segregated school as a substitute for the County's public school." On June 18, 1964, Judge Butzner issued an injunction on the payment of tuition grants to students attending schools in Surry County that discriminated based on race and enjoined the school board from refusing to operate the white public school "or any other school under its jurisdiction and control while any other public school in Virginia is operated."

⁴⁶ *Pettaway v. County School Board of Surry County*, 230 F. Supp. 480 (E.D. Va. 1964).

Pettaway v. County School Board had potentially far-reaching implications. “It is my considered judgment,” stated Governor Harrison, “that the decision is potentially the most disruptive of public education and racial relations of any rendered in the past decade.” Every community that established segregation academies was now vulnerable to attack.⁴⁷

Pettaway presented the NAACP with an opening to challenge Virginia’s tuition grant laws. Butzner had responded much more vigorously than Judge Lewis had in Prince Edward County. Lewis never ordered *all* the county’s public school buildings opened, and he suggested that once public education resumed that he would lift the injunction on tuition grants. Butzner, on the other hand, withheld tuition grants even when all the school buildings resumed operation. He would not permit tuition grants to be used as a device to circumvent school desegregation. Butzner prohibited Surry County from using public money to operate public schools for blacks and private schools for whites as Lewis had done in Prince Edward County. The discrepancies in the two district court cases required a resolution from a higher court. The NAACP, emboldened by *Pettaway*, filed suit in federal district court to abolish Virginia’s tuition grant statutes. In this matter, as chief judge of the Fourth Circuit, Simon Sobeloff was required to designate a three-judge federal court to interpret the state constitution. He selected Butzner for the panel, but not Lewis, a not-so-subtle indication of his sympathies. The court placed *Griffin v. State*

⁴⁷ *Pettaway v. County School Board of Surry County*, 230 F. Supp. 480 (E.D. Va. 1964); John D. Butzner, “Order,” June 18, 1964, *Pettaway v. County School Board of Surry County*, Civil Action No. 3766, USDCEDV-R; “End May Be Near for Tuition Grants,” WP, June 26, 1964, A12; James Latimer and James Ezzell, “Governor Says Order ‘Disruptive,’” Allen Jones, “Surry Grants in Surry Halted,” both in RTD, June 20, 1964, 1.

Board of Education on the docket for December 1964. In the meantime, the defendants appealed *Pettaway* to the Fourth Circuit Court.⁴⁸

The U.S. Fourth Circuit Court of Appeals consolidated the Prince Edward and Surry county cases to consider the similar issues. The court scheduled an *en banc* hearing for November. Albert Bryan, again, had reservations about sitting for the case, but he joined the court nevertheless and ardently supported Judge Sobeloff's opinion. "I worked desperately to find a flaw in your handiwork but I was repulsed upon every attack," Bryan wrote Sobeloff. "You have carried the day, and I commend your skill and generalship." On December 2, the circuit court issued a unanimous ruling, finding that public funding for the counties' private schools made them public facilities and, thereby, the foundations could not discriminate based on race. The court feigned at desegregating the private schools as the "most appropriate remedy," but instead, directed the district court judges to enter orders enjoining the processing and payment of tuition grants for those enrolled at the private academies in Prince Edward and Surry counties "as long as those schools remain segregated."⁴⁹ The Prince Edward School Foundation had to completely rework its business model to receive tuition grants.

⁴⁸ Allan Jones, "Surry Grants in Surry Halted," RTD, June 20, 1964, 1; Allan Jones, "New Litigation Planned By NAACP on Grants," RTD, June 23, 1961, 1; Allan Jones, "Negroes' Plan Against Grants Changes Subtly," RTD, July 12, 1964, 1; Samuel W. Tucker, "Complaint," August 17, 1964, Albert V. Bryan, et al., "Order Denying Preliminary Injunction," October 1, 1964, Box 1885, *Griffin v. State Board of Education*, Civil Action No. 4075, USDCEDV-R; Simon E. Sobeloff, "Designation of Three-Judge Court," *Griffin v. State Board of Education*, September 8, 1964, Box 115, SESP; Henry L. Marsh III, "Notice of Appeal," July 16, 1964, Robert Y. Button, "Notice of Appeal," September 1, 1964, both in *Pettaway v. County School Board of Surry County*, Civil Action No. 3766, USDCEDV-R.

⁴⁹ *Griffin v. Board of Supervisors of Prince Edward County*, 339 F.2d 486 (4th Cir. 1964); Albert V. Bryan to Simon E. Sobeloff, "No. 9597 – Griffin, et al. v. Board of Supervisors of Prince Edward County," October 30, 1964, Albert V. Bryan to Simon E. Sobeloff, "No. 9597 – Griffin, et al. v. Board of

Elizabeth Beck of Green Bay (Prince Edward County), claiming to represent “all the people,” pleaded with Governor Harrison to facilitate the release of tuition grants to Academy parents. She found the court’s decision the “most unfair and the most discriminatory action” in her memory, leaving the white children with no freedom of choice. The court, on the other hand, had dismissed such terms as euphemisms designed “to enforce involuntary segregation of the races in public facilities.” Clearly, Beck spoke in coded language. Months earlier at a supervisors meeting, she joined a chorus of speakers asserting that this was “not a fight against the Negro but a fight for individual liberties.” In her letter to Harrison, Beck made it clear that the fight was not for vaguely defined liberties as much as against African Americans. “The Negro race has contributed so little to the culture and building of this great nation,” declared Beck. “In fact the Negroes have been a burden to the South for a hundred years.” She believed that the government was siding with blacks over whites, concluding rhetorically: “How can people respect a Government which would literally destroy the race which has made it great in order to build up another race.” Governor Harrison had already recommended, and the General Assembly approved, an eight-bill package to remove any taint of racial

Supervisors of Prince Edward County, et al., No. 9646, etc. – Pettaway, et al. v. County School Board of Surry County, Virginia, et al.,” November 25, 1964, both in Box 75, SESP. On January 14, 1965, Judge Oren Lewis issued an order extending the restraining order on the disbursements of tuition grants to Prince Edward residents. See Oren R. Lewis, “Temporary Restraining Order,” January 14, 1965, Box 126, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R.

discrimination from its freedom of choice program – although, like Beck, his public actions were designed to cover racially discriminatory intent.⁵⁰

The *Griffin* opinion punctuated Simon Sobeloff’s six-year term as chief judge. The *Richmond News Leader* censured Sobeloff for his “compulsive need to deliver one last integrationist oration.” The editorial characterized the circuit court judges as “zealots” for expanding the Fourteenth Amendment in the name of racial integration. “Whatever serves compulsory race-mixing is right! And in this field whatever serves individual freedom is wrong!” The *Richmond Times-Dispatch* opined that the court “stretched the original intent” of the *Brown* decision, which beckoned the call for legislation to curb the influence of the federal judiciary. Sobeloff shared the news clippings with Spencer Bell, who replied in jest, “Like Cal[vin] Coolidge I never read the opposition.” Sobeloff and Bell had solidified the liberal wing of the circuit court. “Since you joined the court three years ago,” Sobeloff extolled Bell, “we have worked together, and not without a measure of success. Even in defeat I have found that there is a vast difference between being alone and having a valiant companion at one’s side.” In fact, Sobeloff and Bell stood side-by-side in their rulings. They were in accord on 100 percent of the school cases in which they sat together (see Table 12.2).

⁵⁰ Elizabeth Beck to Albertis S. Harrison, December 7, 1964, Box 104, ASHP; *Griffin v. Board of Supervisors of Prince Edward County*, 339 F.2d 486 (4th Cir. 1964); Robert Holland, “Prince Edward Board Delays Action on Reopening Schools,” RTD, June 3, 1963, 9; “8 Bills Seek to Remove Taint From Grants,” RNL, December 2, 1964, 8; Allan Jones, “Assembly Session Prolonged; Tuition Grants Bills Passed: Retirement, Option Bids Are Defeated,” RTD, December 4, 1964, 1.

Table 12.2

U.S. Fourth Circuit Court of Appeals' School Desegregation Opinions, 1961-1966

Year	Case	Soper	Sobeloff	Bell	Bryan	Haynsworth	Boreman
1961	<i>Dodson v. School Board of the City of Charlottesville</i>	Majority	Majority	Majority	Majority	Majority	Majority
1962	<i>Greene v. School Board of the City of Roanoke</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Marsh v. County School Board of Roanoke County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Dillard v. School Board of the City of Charlottesville</i>	Majority	Majority	Majority	Concurred/Dissented	Majority	Majority
	<i>Jackson v. School Board of the City of Lynchburg</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Wheeler v. Durham City Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Jeffers v. Whitley</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Brunson v. Board of Trustees</i>	Majority	Majority	Majority	Majority	Majority	Majority
1963	<i>Bradley v. School Board of City of Richmond</i>	Majority	Majority	Majority	Concurred/Dissented	Majority	Majority
	<i>Jackson v. School Board of the City of Lynchburg</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Bell v. School Board of Powhatan County</i>	Majority	Majority	Majority	Majority	Concurred/Dissented	Majority
	<i>Griffin v. Board of Supervisors of Prince Edward County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Brooks v. County School Board of Arlington County</i>	Majority	Majority	Majority	Majority	Majority	Majority
1964	<i>Brown v. School District No. 20</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Brown v. County School Board of Frederick County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Wheeler v. Durham City Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Gilliam v. School Board of the City of Hopewell</i>	Majority	Majority	Majority	Concurred/Dissented	Majority	Majority
	<i>Pettaway v. County School Board of Surry County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Buckner v. County School Board of Greene County</i>	Majority	Majority	Majority	Concurred/Dissented	Majority	Majority
	<i>Blakeney v. Fairfax County Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Griffin v. Board of Supervisors of Prince Edward County</i>	Majority	Majority	Majority	Majority	Majority	Majority
1965	<i>Gilliam v. School Board of the City of Hopewell</i>	Majority	Concurred/Dissented	Majority	Concurred/Dissented	Majority	Majority
	<i>Nesbit v. Statesville City Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Bowditch v. Buncombe County Board of Education</i>	Majority	Concurred/Dissented	Majority	Majority	Majority	Majority
	<i>Brown v. County School Board of Frederick County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Wheeler v. Durham City Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Felder v. Harnett County Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Brewer v. School Board of the City of Norfolk</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Bradley v. School Board of the City of Richmond</i>	Majority	Majority	Majority	Majority	Majority	Majority
1966	<i>Wanner v. County School Board of Arlington County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Griffin v. County School Board of Prince Edward County</i>	Majority	Majority	Majority	Majority	Majority	Majority
	<i>Wheeler v. Durham City of Board of Education</i>	Majority	Majority	Majority	Majority	Majority	Majority

Majority
Concurred

Concurred/Dissented
Dissented

Although united, the liberal wing lost strength by handing over the chief judge responsibilities, and thus the power to assign panels, to Clement Haynsworth, who along with Herbert Boreman formed an equally formidable conservative wing. Sobeloff looked forward to the “fun [he and Bell] shall continue to have together” on the bench but hoped “occasionally to lure one or more of the others out of that moderation in pursuit of justice which we have been told is a virtue.”⁵¹ With Morris Soper dead, that left Albert Bryan.

In many cases, Albert Bryan was the swing vote on the Fourth Circuit Court. Instinctively, Bryan’s initial thoughts tended to be conservative, but he was not a rigid ideologue. He kept an open mind and encouraged his colleagues to persuade him with reasoned arguments. In *Simkins v. Moses H. Cone Memorial Hospital* (1963), for example, the liberal and conservative wings actively wooed Bryan. His first inclination was to join the conservatives, but Sobeloff made such a convincing argument that, as Bryan reported, “it has shaken my original view considerably.” Bryan instead joined with the liberal wing in a historic decision that, for the first time, applied the Fourteenth Amendment to strike down racial discrimination at a private facility. The hospital, located in Greensboro, North Carolina, had received federal funds under the Hill-Burton Act, which the court determined made health services a state action, and thus the facility was prohibited from practicing racial discrimination. In *Simkins*, Judge Bryan provided

⁵¹ Editorial, “Zealots on the Bench,” RNL, December 3, 1964, 12; Editorial, “The Tuition Grant Ruling,” RTD, December 4, 1964, 10; Simon E. Sobeloff to J. Spencer Bell, December 7, 1964, J. Spencer Bell to Simon E. Sobeloff, n.d., both in Box 75, SESP; Simon E. Sobeloff to J. Spencer Bell, December 5, 1964, Box 1, JSBP2.

the deciding vote.⁵² On matters of equality, Bryan became more identified with the liberal wing. That proved instrumental in striking down Virginia's tuition grant statutes.

Tuition grants provided a safety valve against desegregation. Under the Stanley Plan, white leaders had planted the seeds for segregation academies in Charlottesville, Norfolk, and Warren County. Manured by tuition grants, those relics of massive resistance flowered year after year. Since 1959, residents of Warren County, for one, had received over \$1.3 million in public funds to attend John S. Mosby Academy, which supported an average enrollment of over one thousand students per year – and the numbers steadily climbed. The interest in segregation academies increased in relation to the federal courts prohibiting racial discrimination in student transfers. The pupil placement board's assignment of black students to the public schools in Powhatan, Surry, and King and Queen counties resulted in second wave segregation academies. In the aftermath of massive resistance, Huguenot Academy opened with nominal attendance in its first four years (ranging from 25 to 104 students). After John Butzner ordered Powhatan County public schools desegregated, enrollment at Huguenot spiked to over

⁵² Albert V. Bryan to Simon E. Sobeloff, "No. 8908 – Simkins, et al. v. The Moses H. Cone Memorial Hospital, etc.," Box 64, SESP; *Simkins v. Moses H. Cone Memorial Hospital*, 232 F.2d 959 (4th Cir. 1963); "Constitutional Law: Discrimination by Private Hospitals Participating in Hill-Burton Program Held to Be Violation of Fifth and Fourteenth Amendments," *Duke Law Journal*, 1964, No. 4 (Autumn 1964): 908-914. Simon Sobeloff was not always successful in his courtship of Albert Bryan. In May 1964, Sobeloff tried to convince Bryan not to dissent in *Gilliam v. School Board of the City of Hopewell*, but Bryan's dissenting opinion was submitted nonetheless. "I am indeed sorry you disapprove of my dissent," Bryan wrote Sobeloff. "I highly value your judgment and always I dislike to disagree with you, and this for many reasons. However, though crushed by your devastating stricture upon my view as one not 'to be tolerated, even in dissent,' I leave it as written." See Simon E. Sobeloff to Albert V. Bryan, "No. 9258 - Renee Patrice Gilliam, et al. v. School Board of the City of Hopewell, Virginia, et al.," May 7, 1964, Albert V. Bryan to Simon E. Sobeloff, "No. 9258 - Renee Patrice Gilliam, et al. v. School Board of the City of Hopewell, Virginia, et al.," May 11, 1964, both in Box 152, SESP.

500. In the 1963-64 school year, Huguenot students received \$133,477.23 in tuition grants. In that same year, York Academy opened its doors to stem the tide of desegregation in King and Queen County. The enrollment increased, and thus the number of tuition grants, from 143 to 242 the following year. Amelia and Brunswick counties, likewise, opened segregated private schools in September 1964.⁵³ The NAACP challenged the disbursement of tuition grants to patrons of these segregation academies.

Albert Bryan struck a severe blow to segregation academies. Bryan led the three-judge court (with district court judges John Butzner and Walter Hoffman) in determining the constitutionality of Virginia's tuition grant laws. The NAACP asked the court to invalidate the laws and restrain the State Board of Education and local officials from disbursing tuition grant payments to students attending segregation academies. The NAACP named as defendants the State Board of Education and seven counties (Amelia, Brunswick, King and Queen, Powhatan, Prince Edward, Surry, and Warren) and two cities (Charlottesville and Norfolk) that contributed tuition grants to segregation academies. On March 9, 1965, Albert Bryan, writing for the court in *Griffin v. State Board of Education*, found that the tuition grant laws were "not unconstitutional on their face," because they did not overtly discriminate based on race. Not all private schools had been formed to avoid integration. However, the court recognized that the program could become "misdirected." Once the state contributed a preponderance of a private school's funding, then operating schools became a state action. The court found "incontestably"

⁵³ Samuel W. Tucker, "Complaint," August 17, 1964, *Griffin v. State Board of Education*, Civil Action No. 4075, USDCEDV-R.

that tuition grants were the main support for the private schools associated with this case. “This contribution is of such magnitude that they plainly are State supported institutions,” read the opinion. “Thus the State is nurturing segregated schools.” The court enjoined the defendants from disbursing tuition grants to these schools so long as they practiced racial segregation. “As a matter of practical politics,” determined Samuel Tucker, “this kills the tuition grant program.”⁵⁴ *Griffin* did not kill tuition grants, but it did severely restrict public support for segregation academies. The future of tuition grants in Prince Edward County was in jeopardy, as was its past.

The U.S. Fourth Circuit Court of Appeals had remanded contempt proceedings on the midnight raid to the district court. Judge Lewis absolved the board of supervisors of contempt charges. He found no evidence that the supervisors acted illegally, because, at the time, there was no injunction on tuition grants for the 1964-65 school year. The supervisors simply distributed the tuition payments “in order to beat the gun,” to preempt a possible injunction. Since the action did not violate his injunction on retroactive payments, the court dismissed the contempt charges. Again, Judge Lewis expressed his exasperation with the case. “The people of Prince Edward,” he lectured, “have more to do

⁵⁴ *Griffin v. State Board of Education*, 239 F. Supp. 560 (E.D. Va. 1965); Walter B. Douglas, “Court Halts Va. Tuition Aid Grants: Forbids Funds Use For Segregation By Private Schools,” WP, March 11, 1965, A1. The *Harvard Law Review* published an influential critique of *Griffin v. State Board of Education*. The law journal argued that the court did not go far enough at striking tuition grants. Any amount of state support perpetuated segregation and these funds gave discrimination the sanction of law. The journal noted that the threshold for state action was much lower than a preponderance of funding in the *Simkins* case. In the long run, tuition grants “would endanger integrated public schools.” A three-judge court used this article to support its decision to move beyond the *Griffin* decision. See “Civil Rights. School Segregation. State Tuition Payments to Students Attending Segregated Schools Are Unconstitutional Only if the Payments Are the Predominant Support of the School. *Griffin v. State Bd. Of Educ.* 239 F. Supp. 560 (E.D. Va. 1965),” *Harvard Law Review*, 79, No. 4 (February 1966): 841-844; *Poindexter v. Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E.D. La. 1967).

than litigate.” Nevertheless, the NAACP appealed the ruling to the Fourth Circuit Court, which set a hearing for February 7, 1966. Albert Bryan, again, questioned the propriety of his sitting for the case. Clement Haynsworth, now chief judge, found “absolutely no reason why [Bryan] should not sit in this case,” adding, “Judge Sobeloff, too.”⁵⁵ The participation of Sobeloff and Bryan changed the outcome in *Griffin v. County School Board of Prince Edward County* (1966). Albert Bryan not only sat but took command of the case.

Albert Bryan delivered a crushing defeat to Prince Edward Academy patrons. Bryan, Sobeloff, and Bell determined that the board of supervisors should be held in contempt. Bryan had tried to build a consensus on the court, not by finding a true middle ground, but by cajoling the conservatives to join the liberals. Haynsworth and Boreman considered the supervisors’ conduct “unconscionable,” but they agreed with Judge Lewis that there was no violation of the court because, at the time, there was no restraining order or injunction against the payment of tuition grants. “I would hate to think,” Bryan countered in a memorandum to Haynsworth, “that this or any other Federal court may be willfully thwarted or completely blocked by a party before it, as the Board of Supervisors has attempted to do, with complete immunity.” Nevertheless, Haynsworth and Boreman remained unmoved. Bryan submitted a majority opinion that gave no quarter. He found,

⁵⁵ Oren R. Lewis, “Order on Findings,” May 17, 1965, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 75, SESP; “Federal Actions Legal, Federal Judge Finds,” FH, April 27, 1965, 1; *Griffin v. County School Board of Prince Edward County*, 363 F.2d 206 (4th Cir. 1966); Albert V. Bryan to Clement F. Haynsworth, Jr., “No. 10,191 – Cocheyse J. Griffin, et al., etc. v. County School Board of Prince Edward County, Virginia, et al.,” February 1, 1966, Clement F. Haynsworth, Jr., to Albert V. Bryan, “No. 10,191 – Griffin, et al., etc. v. County School Board of Prince Edward County, Virginia, et al.,” February 3, 1966, both in Box 166, SESP.

“beyond cavil,” the board of supervisors in contempt of court for the midnight raid. “The Board undertook to put the money then available for tuition grants...beyond its control as well as that of the court,” wrote Bryan. “Obviously, the aim was to thwart the impact of any adverse decree which might ultimately be forthcoming on the appeal.” The court ordered that all disbursements made during the midnight raid be repaid to the county treasury. In fact, the court made each supervisor “personally and in their own right” responsible for the restoration of one-sixth of the money. Charles Gates, a county supervisor, told a reporter that “they’re going to have to board me for a while if they think that they’re going to get \$30,000 out of me.”⁵⁶ The court was not done.

The circuit court also considered compensating the plaintiffs for counsel fees. The NAACP had requested that the district court order the defendants to pay the plaintiffs \$21,600 for counsel fees dating back to 1960. However, Judge Lewis only awarded \$7,500, because the NAACP had not heeded his advice years earlier to resolve some unanswered questions in the state courts, thus contributing to the case’s unnecessary delay. Judge Sobeloff raised the topic of full compensation with his colleagues. He argued that the U.S. Supreme Court’s *Griffin* decision, which set aside state court rulings, “made perfectly clear that the course pursued by the plaintiffs was the correct one.” Sobeloff considered paying the attorney fees a moral issue:

⁵⁶ *Griffin v. County School Board of Prince Edward County*, 363 F.2d 206 (4th Cir. 1966); Albert V. Bryan to Clement F. Haynsworth, Jr., “No. 10,191 – Cocheyse J. Griffin, et al., etc. v. County School Board of Prince Edward County, Virginia, et al.,” April 27, 1964, Box 166, SESP; Simon E. Sobeloff, et al., Order, June 20, 1966, Box 839, *Griffin v. County School Board of Prince Edward County*, No. 10,191, US4CCA; George M. Kelley, “6 Held in Contempt On Tuition Grants,” WP, June 21, 1966, B1.

Prince Edward County, to hinder, delay and nullify the plaintiffs' rights, enacted one of the most notorious chapters in American history by closing its public schools entirely. If this case involved no more than a difference of opinion over what is reasonable compensation, I would not consider it worthwhile to register my disagreement. But the issue is deeper and more far-reaching. The lost years cannot be retrieved. The plaintiffs had to shoulder a heavy burden in an effort to obtain public education for their children in the future. Those – plaintiffs and attorneys – who bore the burden are entitled to full reparation. The defendants are not entitled, in conscience, to a bargain rate.

Judge Bell joined Sobeloff for “decency’s sake,” adding that a financial penalty may deter further resistance to *Brown*: “A slight touch on that most sensitive of all nerves will telegraph the message that the identical issue does not have to be litigated ad nauseam in every district in every state.” Sobeloff and Bell persuaded Bryan to amend the opinion to direct Judge Lewis to ascertain counsel fees without penalty for the NAACP’s failure to litigate a federal question in the state courts. Ultimately, the district court taxed the defendants for \$20,595.05 in counsel fees.⁵⁷

The *Richmond News Leader*, or as Spencer Bell called it, “that vulgar afternoon paper,” published a scathing assessment of the court. “Judges Albert V. Bryan and Simon Sobeloff, as two of the chief umpires in this game, have blundered with one bad call after another.” The newspaper argued the call on the field, conceding that the board of

⁵⁷ *Griffin v. County School Board of Prince Edward County*, 363 F.2d 206 (4th Cir. 1966); Henry L. Marsh III, “Amended Motion for an Award of Counsel Fees,” April 19, 1965, William F. Watkins, Jr., to Samuel W. Tucker, August 8, 1968, both in Box 126, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, USDCEDV-R; Oren R. Lewis, “Order on Findings,” May 17, 1965, *Allen v. County School Board of Prince Edward County*, Civil Action No. 1333, Box 75, SESP; Simon E. Sobeloff to Clement F. Haynsworth, Jr. et al., “No. 10,191, Cocheyse J. Griffin, et al. v. County School Board of Prince Edward Co.,” April 18, 1966, J. Spencer Bell to Clement F. Haynsworth, et al., “No. 10,191, Cocheyse J. Griffin, et al. v. County School Board of Prince Edward Co.,” April 19, 1966, Albert V. Bryan to Simon E. Sobeloff, “No. 10,191, Cocheyse J. Griffin, et al. v. County School Board of Prince Edward County, Virginia, et al.,” all in Box 166, SESP; Albert V. Bryan, Order, July 29, 1966, Box 839, *Griffin v. County School Board of Prince Edward County*, No. 10,191, US4CCA.

supervisors acted inappropriately but not in violation of the law or a court order. “They took slick advantage of a momentary hiatus in the stream of court orders. “In effect,” allegorized the editor, “they stole home while the pitcher was looking the other way. Time hadn’t been called. The ball was still in play.” The editor concluded that the court’s call was “absurd,” which “is what we have to expect from the Fourth Circuit judges in suits having racial overtones.” Nevertheless, the editorial page was not the official scorer of the American justice system. The Fourth Circuit Court had stayed its order until reviewed by the U.S. Supreme Court. On November 21, 1966, the High Court denied the defendant’s petition for a writ of certiorari, thus allowing the circuit court decision to stand. Subsequently, the court restored its original order requiring the board of supervisors to return the disbursements to the county treasury within ninety days.⁵⁸

The county board of supervisors struggled to recover the money. The board directed its agents to request that all grant recipients return the funds to the treasury. Some citizens promptly volunteered their share, but the community’s general destitution suggested that this campaign would be a long slog. The county attorneys, therefore, petitioned the court to extend the deadline an additional ninety days. Albert Bryan thought the board was “quite sincere” in its efforts and, if his colleagues agreed, he was

⁵⁸ Editorial, “Talking About Contempt,” RNL, June 21, 1966, 10; J. Spencer Bell to Simon E. Sobeloff, n.d., Box 166, SESP; Petition for Writ of Certiorari, November 21, 1966, *Board of Supervisors of Prince Edward County v. Griffin*, No. 562, Albert V. Bryan, “Order on Mandate,” December 9, 1966, *Griffin v. County School Board of Prince Edward County*, both in Box 839, No. 10,191, US4CCA. The editorial also connected Judges Bryan and Sobeloff with Judge Spencer Bell, “who knows better.” Bell used the editorial to rib his colleagues. “I regret that the editor of that vulgar afternoon paper has chosen to expose to the world what we all have privately known – i.e. my superior intelligence to that of Messrs. Sobeloff and Bryan.” See J. Spencer Bell to Simon E. Sobeloff, n.d., Box 166, SESP. Only Hugo Black and Potter Stewart voted to grant certiorari.

willing to grant the request. “I am not sure I share your opinion that the Board is sincere in its efforts,” responded a skeptical Spencer Bell, “but I would give them the benefit of the doubt.” The extension provided time to organize a broader appeal. The Prince Edward Emergency Committee, an organization formed to meet this challenge, solicited funds from outside the community. “We’ve got friends all over the country who’ve helped us in the past,” assured co-chair Robert Taylor. The county segregationists had a history of taking principled stands by tugging others’ purse strings. This effort was no different. “We have fought your fight and stand steady as we are, no quarter given,” read a newspaper appeal. “Don’t let us be crushed financially when our cause is so near a conclusion.” The campaign and repayments restored a significant sum to the treasury, but they were still well short. On behalf of the board, Billy Watkins, the legal counsel that assured the legality of the midnight raid, filed suit against 240 people who had failed to make full repayment. Finally in June 1967, after one more extension, the board restored the full amount to the treasury. Albert Bryan had weakened the county segregationists. His handling of the case impressed a recent appointee to the court. “Of all the members of the Court,” Harrison Winter told Albert Bryan, “you are the most skillful and creative executioner. I have never performed a decapitation with such finesse.”⁵⁹ Nevertheless, the county attorneys still clucked for tuition grants.

⁵⁹ Minutes, Prince Edward County Board of Supervisors, January 9, 1967, PECBOSR; William F. Watkins, Jr., and J. Segar Gravatt, “Report of the Board of Supervisors of Prince Edward County, Virginia,” January 14, 1967, Albert V. Bryan to Simon E. Sobeloff, January 18, 1967, Albert V. Bryan, “Ordering Extending Time for Report and Compliance,” January 31, 1967, Albert V. Bryan, “Order Extending Time for Repayment,” June 15, 1967, William F. Watkins, Jr., and J. Segar Gravatt, “Report of the Board of Supervisors of Prince Edward County, Virginia,” June 19, 1967, Albert V. Bryan, “Final

Segar Gravatt wasted little time petitioning the district court to lift the injunction on tuition grants to Prince Edward County. In January 1965, Judge Lewis had extended the injunction. However, Gravatt argued that the county was subject to the more recent ruling in *Griffin v. State Board of Education*, which invalidated the use of tuition grants to support a preponderance of a private school's budget. Certainly, the Prince Edward School Foundation could manipulate its budget to ensure that the value of private donations outweighed tuition grant revenue. Since *Griffin*, dozens of new private academies had opened in Virginia and received \$10,000s in tuition grants. On December 4, 1967, Judge Oren Lewis denied the county's motion based on *Griffin* (1964) and *Griffin* (1965). Those cases "clearly indicate" that the Academy was ineligible for tuition grants "so long as those schools refuse to accept pupils on account of their race or color." *Griffin v. State Board of Education* remained sufficient to block tuition grants to Prince Edward County, but the hearing exposed the ease with which segregationists exploited its deficiencies in other localities.⁶⁰

Albert Bryan reevaluated Virginia's tuition grant laws in light of new court decisions. In 1967, a three-judge court led by John Minor Wisdom applied the "*Griffin*

Order," July 11, 1967, all in Box 839, *Griffin v. County School Board of Prince Edward County*, No. 10,191, US4CCA; J. Spencer Bell to Albert V. Bryan, January 19, 1967, Harrison L. Winter to Albert V. Bryan, "No. 10,191 – Cocheyse J. Griffin, et al. v. County School Board of Prince Edward County, Virginia, et al.," June 12, 1967, both in Box 166, SESP; Associated Press, "Virginia News In Brief," *Danville Register*, January 27, 1967, 11; Prince Edward Emergency Committee, "Open Letter From Prince Edward County," PPI, February 10, 1967, 10; Associated Press, "Prince Edward Supervisors File Suit Against Some 240 In Tuition Grant Case," *Danville Register*, April 20, 1967, 9A.

⁶⁰ J. Segar Gravatt, "Motion to Dissolve Injunction," August 16, 1967, Oren R. Lewis, "Temporary Restraining Order," January 14, 1965, Oren R. Lewis, "Order," December 4, 1967, all in Box 126, *Allen v. County School Board o Prince Edward County*, Civil Action No. 1333, USDCEDV-R; Samuel W. Tucker, "Supplemental Complaint," Box 1885, *Griffin v. State Board of Education*, Civil Action No. 4075, USDCEDV-R.

test” – the assessment of whether public funds contributed a preponderance of a private school’s support – to determine the constitutionality of Louisiana’s tuition grant law.

**OPEN LETTER
FROM PRINCE EDWARD COUNTY**

TO FELLOW VIRGINIANS . . .

The Prince Edward County Board of Supervisors, has been cited for civil contempt by the Fourth Circuit Court in a 3 to 2 decision.

The contempt order stems from the payment on August 5, 1964, of \$181,005 in tuition aid to the parents of Prince Edward County, from county funds, levied and appropriated for the purpose. At the time of this payment the Board of Supervisors, for the first time in fifteen years had before it no "lawful write, process, order, rule, decree, or command" from any federal court. In a dissenting opinion, Chief Justice Haynesworth stated . . . "none in fact existed to be disobeyed or resisted."

Nevertheless, the six-member Board of Supervisors was cited for contempt and ordered to repay to the treasury of the County the said sum, "by recovery or otherwise."

If two judges, including the Chief Justice, of a five man Federal superior court and the District Court Trial Judge, could find nothing illegal in the action of our Board after the act, how could the five farmers and one small businessman of the Board know that they were acting illegally before the act?

We cannot let these men suffer for an action, innocently conceived, taken for the good of the children of our County. Prince Edward parents cannot raise this vast sum, while paying all state and county taxes in addition to educating their children entirely by private tuition. Prince Edward is the ONLY county in the State which has been so deprived of tuition aid and its people have sacrificed greatly for their children.

During the past six years \$2½ million, budgeted by the State for education in Prince Edward County, have reverted to the State treasury.

Prince Edward White Parents CANNOT, at this time, raise \$181,005.

We desperately need your aid, VIRGINIAN. We have fought your fight and stand steady as we are, no quarter given. Do not let us be crushed financially when our cause is so near a conclusion.

Send ANY contribution to Prince Edward Emergency Committee, P. O. Box 62, Farmville, Virginia, and our children will thank you.

PRINCE EDWARD EMERGENCY COMMITTEE
A GROUP OF CITIZENS IN SUPPORT OF THE BOARD OF SUPERVISORS
P. O. BOX 62, FARMVILLE, VA, 23901

T. W. BROOKS, JR. Secretary	ROBERT E. TAYLOR — J. B. WALL, JR. Co-Chairmen	C. W. GLENN Treasurer
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Figure 12.7 Open Letter from Prince Edward County.
(Image: Petersburg Progress-Index).

Like Griffin (1965), the court found in *Poindexter v. Louisiana Financial Assistance Commission* that Louisiana’s segregation academies were state supported. *Poindexter*,

however, went beyond *Griffin* by declaring that a state contribution “in any amount” made the operation of a private school a state function. “Unless this system is destroyed,” concluded the court, “it will shatter to bits the public school system of Louisiana and kill the hope that now exists for equal educational opportunities for all our citizens, white and black.” Therefore, the court invalidated the Louisiana law and enjoined all tuition payments under its provisions. The U.S. Supreme Court affirmed *Poindexter* in early 1968. Months later, a similar case tested the constitutionality of South Carolina’s tuition grant law. In *Brown v. South Carolina State Board of Education*, a three-judge court led by Albert Bryan found the state law unconstitutional and enjoined officers from enforcing it. Likewise, the U.S. Supreme Court affirmed *Brown* on December 9, 1968.⁶¹ Considering the similarities between the Louisiana, South Carolina, and Virginia laws, a court challenge foretold the demise of the Old Dominion’s tuition grant statutes.

The NAACP petitioned the federal district court to re-examine *Griffin v. State Board of Education*. *Poindexter* affirmed the NAACP’s assertion that any amount of public funds that supported private schools was invalid. The public dollars made the private schools an extension of the public school system and thus prohibited them from practicing racial discrimination. The Commonwealth of Virginia supported this discriminatory system by issuing over \$3 million annually in tuition grants to fourteen thousand students, many of whom attended one of the dozens of segregation academies.

⁶¹ *Poindexter v. Louisiana Financial Assistance Commission*, 275 F. Supp. 833 (E.D. La. 1967); 389 U.S. 571, 88 S. Ct. 693, 19 L.Ed.2d 780 (1968); *Brown v. South Carolina State Board of Education*, 296 F. Supp. 199 (D. S.C. 1968); U.S. 222, 89 S. Ct. 449, 21 L.Ed.2d 391 (1968).

In fact, the State Board of Education had even issued tuition grants to students attending the segregation academies in the communities named as defendants in this case. Even the Prince Edward School Foundation benefited from tuition grants. Although county residents were restrained from receiving grants, non-residents received public scholarships to attend the academy. The NAACP asked the court to invalidate the state's tuition grants laws and, as in *Griffin* (1966), issue an order that all tuition grant disbursements since 1965 be restored to the public treasury. "Come hell or high water," an NAACP attorney told a reporter, "we're going to fight this one through to the end." *Poindexter* put the end in sight.⁶²

On February 11, 1969, Bryan, Butzner, and Hoffman struck down Virginia's tuition grant laws. In doing so, they negated key provisions in their previous ruling in *Griffin v. State Board of Education*. Albert Bryan applied the *Poindexter* criterion to conclude that "any assist whatever by the State towards provision of a racially segregated education, exceeds the pale of tolerance demarked by the Constitution," thus necessitating that the "*Griffin* test" be set aside. Next, the court maintained its earlier position that not all grants were used to foster segregation, but it now recognized the near impossible task of policing potential abuses of the law. "A law may, of course, survive despite its unacceptable consequences, if the valid portions may be independently enforced," wrote Bryan. "Here, as we see, there can be no such separation and the entire

⁶² Samuel W. Tucker, "Supplemental Complaint," Box 1885, *Griffin v. State Board of Education*, Civil Action No. 4075, USDCEDV-R; Helen Dewar, "Tuition Grants Are Outlawed," WP, February 12, 1969, A1; "Tuition Fight Spurred By Louisiana Decision," WP, September 7, 1967, B1.

law must go.” The court did not, however, force the defendants to restore tuition disbursements since 1965. Sensibly, the court, not wishing to disrupt the students’ education, protected tuition payments for the remainder of the 1968-69 school year, but fixed June 30, 1969, as the death of freedom of choice. In the life of that program, the state had contributed \$20 million in tuition grants to subsidize segregated education.⁶³ Kennedy’s judges eradicated this last vestige of Virginia’s massive resistance.

Kennedy’s judges played a significant, yet only a partial role in desegregating Virginia’s public schools. The plaintiffs shouldered the heavy burden. The federal courts issued six major school desegregation rulings with a case citation that began with “*Griffin*.” The Griffin family and all the co-plaintiffs, like their predecessors in *Davis* and *Allen*, possessed the resolve to fight these interminable court battles for educational equality. The NAACP attorneys provided yeoman service, against the tides of white supremacy and state recalcitrance, in their relentless pursuit of equal justice. Oliver Hill, Spottswood Robinson, Samuel Tucker, and Henry Marsh kept relentless pressure on communities across the state to conform to the Constitution. Without the plaintiffs and the NAACP, there would have been no litigation, no progress. The federal courts only acted upon complaints raised before them. Kennedy’s judges issued rulings that respected black Prince Edwardians cries for justice.

⁶³ *Griffin v. State Board of Education*, 296 F. Supp. 1178 (E.D. Va. 1969); Helen Dewar, “Tuition Grants Are Outlawed,” WP, February 12, 1969, A1.

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President Kennedy's appointees to the Fourth Circuit were not an obstacle but a conduit to school desegregation in Virginia. These judges do not reflect the negative interpretation of the administration's appointment record. Evaluating federal judges is pregnant with qualitative variables. Lower court judges are constrained by precedent and often have to moderate their interpretation of the law to arrive at a consensus with their colleagues on the bench. Therefore, a judge's record is not always clear cut. What is clear? Bryan, Bell, and Butzner were *not* Elliott, West, and Cox. The latter obstructed the implementation of *Brown*, while the Fourth Circuit judges protected African Americans' rights to a free public education and invalidated the most odious remnants of Virginia's massive resistance. Kennedy's Fourth Circuit judges extended the life of the Kennedy administration beyond its one thousand days and left an indelible impact on Prince Edward County.

Albert Bryan wrote monumental decrees striking down aspects of Virginia's massive resistance, but he was not a progressive. He was not Skelly Wright, John Minor Wisdom, or Simon Sobeloff. Bryan did not provide leadership in areas left void by the U.S. Supreme Court. Rather, he was a strict adherent to precedent. As a federal district court judge, Bryan had upheld "separate but equal" education in Prince Edward County until the Warren Court reversed him – and then he followed the *Briggs* dictum. After the public schools closed, Bryan ordered the school board to admit African Americans to the

public schools, but he found no precedent to order the schools reopened, thus mooting his desegregation order. As a circuit court judge, Bryan voted to restrain Powhatan County from closing its public schools, but that decision had followed *Hall v. St. Helena Parish School Board* (1961). Later, *Griffin* (1964) cleared the path for Bryan to join the circuit court in restraining officials from disbursing tuition grants to residents of Surry and Prince Edward counties. *Griffin v. State Board of Education* demonstrated Bryan's caution in the absence of overwhelming precedent but also his readiness to modify the course when the standard changed. Albert Bryan's progressive judgments were not fueled by fervent social activism, but by a cerebral observance of the law.

Spencer Bell stood less concerned by precedent than by social consciousness. He proved to be a reliable ally to Prince Edward County's locked-out children. Judge Bell wrote a blistering dissent to the conservative wing's remand of *Griffin*, extended the injunction on retroactive tuition grants, joined with his colleagues to block tuition payments to students attending the Academy, and allied with Albert Bryan and Simon Sobeloff to find the county board of supervisors in contempt for the midnight raid on the treasury. Judge Bell was not only a dependable vote on Prince Edward County, but also a liberal voice in a historically conservative circuit. That voice was forever silenced on March 19, 1967, after Spencer Bell succumbed to a stroke just days shy of his sixty-first birthday. Bell's sudden death struck a "shattering blow" to Simon Sobeloff, a friend, mentor, and liberal ally on the court. "We fought many a battle together," eulogized

Sobeloff. “Sometimes we were up, sometimes down; but always we were together.”⁶⁴

Spencer Bell and Simon Sobeloff had worked valiantly together to hasten the pace of school desegregation. President Lyndon Johnson filled the vacancy left by Bell’s death with John Butzner.

John Butzner restrained segregationists from obstructing and delaying school desegregation. Oren Lewis’s caution and misplaced trust in the county board of supervisors had contributed to an interminable school crisis in Prince Edward County. Judge Butzner, mindful of Lewis’s indecision, permitted defendants in Powhatan and Surry counties no such latitude. Butzner restrained both counties from closing any public school building within its jurisdiction. Those decrees alarmed segregationists, but not as much as his attack on tuition grants. The higher courts had provided little guidance on tuition grants but that did not inhibit Butzner from issuing a precedent-setting injunction on the payment of public scholarships to any student residing in Surry County. *Pettaway* led directly to the permanent injunction on tuition grant payments to students attending the Prince Edward School Foundation and set in motion the ultimate demise of Virginia’s tuition grant statutes – the lifeblood of segregation academies. At critical moments, John Butzner issued decisive orders that contributed to the preservation and reformation of Virginia’s public education system.

The conduct of Albert Bryan, Spencer Bell, and John Butzner in the Prince Edward litigation demonstrates the folly of characterizing all Kennedy appointees as

⁶⁴ Simon E. Sobeloff to Catherine Bell, March 28, 1967, Box 9, SESP.

racists. These men exhibited no lurid courtroom behavior, nor condemned the *Brown* decision, nor obstructed justice. Nevertheless, Elliott, West, and Cox remain the face of Kennedy judges, a misleading construction that needs revisiting.

CHAPTER XIII

CONCLUSION

The Kennedy administration's response to Prince Edward County demonstrates the need to reexamine Kennedy's civil rights record. The administration's work in the county counters the prevailing interpretation that Kennedy reacted to civil rights matters, placated southern congressmen, and appointed racist federal judges. The administration took proactive measures to arrest the educational erosion in Prince Edward County within its first one hundred days and continually sought a solution. No other branch of government at any level had exhibited such an interest in the locked-out children. In fact, the administration took extraordinary measures to restore universal education by facilitating the organization of the Prince Edward Free School Association. The administration's concern for black Prince Edwardians exposed its domestic agenda to assault from southern congressmen, especially the Virginia congressional delegation. Harry Byrd and Howard Smith already had the influence to bottle up much of Kennedy's liberal program without being antagonized by federal action in Prince Edward County. Finally, Kennedy's judicial appointments to the Fourth Circuit invalidated Virginia's massive resistance to school desegregation. Still, the Kennedy administration had a further impact on Prince Edward County and Virginia, which will be explored in post-doc chapters.

“Mirabile Dictum” will provide further analysis of the Prince Edward Free School Association. The chapter picks up after “To See What Can Be Done” and chronicles the remarkable effort to open the Free Schools by September 16, 1963 – just one month after Governor Harrison formally announced the creation of the Association. The preparation of the school property, the formulation of a curriculum, and hiring teachers was the result of extraordinary interagency cooperation – the Office of Education and the departments of Justice, Labor, and Agriculture. Bill vanden Heuvel coordinated that work, while also spearheading the drive to raise \$1 million in financial contributions and gifts-in-kind. The Free Schools stopped the educational erosion in the county, but they were more than schools. The Free Schools addressed the poverty problem by providing free hot lunches, warm clothes, and medical and dental care; and facilitated the first open, significant bi-racial dialogue in the community. The Free Schools served as a model of an integrated faculty working with a desegregated student body while also addressing the broader needs of impoverished children.

President Kennedy’s judicial appointments expanded democracy in the Old Dominion. A post-doc chapter, “A New Dominion,” will explore how Albert Bryan and John Butzner contributed to Virginia’s expanding electorate. The Byrd Organization had attempted to block the Twenty-Fourth Amendment, which banned the poll tax, by passing a repressive certificate of residence law. In *Forssenius* (1964), Bryan and Butzner struck down the law and a provision in the state constitution that was designed to disenfranchise African Americans. The Twenty-Fourth Amendment and *Forssenius* stimulated

unprecedented black voter registration. In Prince Edward County, the pace of registration quickened as the October 3, 1964, deadline approached. The registrar likened his office's activity in late September to "a woods afire," adding, "I have all I can handle for the past three weeks." S.L. Graham had registered as many voters in September as he had the three previous months combined. The State Board of Elections estimated that the number of registered black Prince Edwardians increased from 725 to 1,112 between April and October. There were significant increases in black registered voters across the state, most notably a fifty percent increase in Norfolk that raised its total to 15,801. Overall, there were an estimated 175,000-200,000 black Virginians registered to vote in the November 1964 elections. That election produced the largest voter turnout in state history.¹ It was not the small, predictable electorate that the Byrd Organization relied upon to maintain its handle over state politics.

Albert Bryan improved representative democracy. The Byrd Organization had endured due in large measure to malapportioned legislative districts that favored rural areas. After the 1960 decennial census, the General Assembly redrew district lines with little consideration for the growth of urban centers. Subsequently, a lawsuit was filed by northern Virginians. In *Mann v. Davis* (1962), Albert Bryan wrote the majority opinion

¹ Peter Wallenstein, *Blue Laws and Black Codes: Conflict, Courts, and Change in Twentieth-Century Virginia* (Charlottesville: University of Virginia Press, 2004), 186-187; *Forsenius v. Harman*, 235 F. Supp. 66 (E.D. Va. 1964); Andrew Buni, *The Negro in Virginia Politics, 1902-1965* (Charlottesville: University Press of Virginia, 1967), 221, 269-270; "Voter Registrations Soar As Oct. 3 Deadline Nears: Federal Voting Change Reason For Activity," FH, September 25, 1964, 1; J. Harvie Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics* (Charlottesville: University Press of Virginia, 1968), 258-259; Ralph Eisenberg, "The 1964 Presidential Election in Virginia: A Political Omen?" *Virginia News Letter*, April 15, 1965, 29-32; *Complete Returns of the 1964 Elections by Congressional District* (Washington, D.C.: Congressional Quarterly, 1965); James R. Sweeney, "A New Day in the Old Dominion: The 1964 Presidential Election," *Virginia Magazine of History and Biography*, 102, No. 3 (July 1994): 307-348.

that invalidated Virginia's redistricting plan, which was later affirmed by the U.S. Supreme Court. The federal court rulings mandated that legislative districts be reasonably balanced based on population. This signaled the death knell for Byrd Organization dominance of the General Assembly.² The "one man, one vote" principle also affected local government. The magisterial districts in Prince Edward County were similarly malapportioned in favor of the rural districts. In time, the district lines were redrawn in the county and, with the expansion of the black political power, African Americans were, in time, elected to the county board of supervisors.

"A New Dominion" will also chronicle John Butzner's ruling to protect black Prince Edwardians' First Amendment rights. After the "midnight raid on the treasury," Reverend Griffin had threatened to renew street demonstrations and the economic boycott. In response, the white segregationist leaders invited black leaders to a bi-racial conference – the first such meeting in the county. At the meeting, Griffin had confirmed reports of the impending direct action campaign that would, again, involve juveniles on the picket lines. Billy Watkins, who participated in the meeting, conveyed this development to Judge William Hay of the Prince Edward County Juvenile and Domestic Relations Court. Hay predicted that juvenile picketers would engage in lawless behavior. As evidence, he cited the thirty-three arrests from the previous summer's street

² Ralph Eisenberg, "Reapportionment: Journey Through a Judicial Thicket," in *Cases in American National Government and Politics*, edited by Rocco John Tresolini and Richard Theodore Frost (Englewood Cliffs, New Jersey: Prentice-Hall, 1966), 182-194; Ralph Eisenberg, "Legislative Reapportionment and Congressional Redistricting in Virginia," *Washington and Lee Law Review*, 23, No. 2 (September 1966): 295-323; *Mann v. Davis*, 213 F. Supp. 577 (E.D. Va. 1962); *Davis v. Mann*, 377 U.S. 678 (1964); J. Douglas Smith, *On Democracy's Doorstep: The Inside Story of How the Supreme Court Brought "One Person, One Vote" to the United States* (New York: Hill and Wang, 2014).

demonstrations. Therefore, Judge Hay ordered that Francis Griffin and Goodwin Douglas “cease and desist from any further effort on your part to aid, encourage, or solicit in any manner, any juvenile in the County of Prince Edward to engage in any form of ‘demonstrations,’ in violation of any laws of the Commonwealth of Virginia, or any ordinances of the Town of Farmville, or any other activities that may tend to encourage such juveniles to become delinquent.” In *Griffin v. Hay* (1965), Butzner found Hay’s order unconstitutional.³ The court restored the power of direct-action to black Prince Edwardians.

Another post-doc chapter will explore the impact of liberal legislation on race relations and poverty in Prince Edward County. “The Law Must Lead” will study the influence of the Civil Rights Act of 1964 on commerce and equal employment opportunity. The law prohibited racial discrimination in public accommodations. The businesses, in general, conformed to that provision. Similarly, businesses and the local government started hiring African Americans to professional positions, such as clerks and police officers – a revolutionary action by the standards of Southside Virginia. The chapter will also study the War on Poverty programs, like job training and remedial education, but it will also consider the bi-racial cooperation that the law prescribed. Third, the chapter will analyze the Johnson administration’s education laws that infused

³ Robert Holland, “Biracial Meeting Held in Farmville,” RTD, August 14, 1964, 6; “Biracial Group Airs General County Problem,” FH, August 18, 1964, 1; Nancy Adams to Barbara Moffett and Jean Fairfax, “Prince Edward County,” July 6, 1964, #38578, AFSC; William H. Baldwin, Jr., to William J. vanden Heuvel, August 18, 1964, Box 23, PEFSAP; William P. Hay, Jr., to L. Francis Griffin and Goodwin Douglas, Order, August 14, 1964, John D. Butzner, “Order,” *Griffin v. Hay*, February 9, 1965, both in Civil Action No. 4094, USDCEDV-R.

federal dollars into the county. Accepting federal dollars required the county to abide by federal standards, which meant no racial discrimination. Finally, the Voting Rights Act of 1965 protected minority voters. The expansion of black political power resulted in the election of African Americans to local office. It also contributed to the election of the first African American governor of Virginia, Douglas Wilder, and the first African American president. In fact, Barack Obama carried Prince Edward County in 2008. The Kennedy-Johnson program did not change hearts and minds overnight, but in time the legislation contributed to improved race relations and a political shift in the community.

The Kennedy administration quickened the pace of racial progress in Prince Edward County. Court decrees and federal legislation increased black political power and protected constitutional rights. Those actions, along with the rise of black militancy, generated greater demands for equality. In April 1969, black students walked out of class demanding better investment in the public schools and black representation on the school board. Shortly thereafter, the School Trustee Electoral Board appointed the first African Americans to the school board. Also, the federal injunction on tuition grants for county residents (and later the invalidation of public scholarships to segregation academies altogether), the rising fees of Prince Edward Academy, and the federal investment in the public schools persuaded some white families to enroll their children in the public schools. Over the next several decades, the white enrollment increased from a negligible number in the mid-1960s to a racially balanced student body decades later. Prince Edward County is still not a bastion of racial harmony. Some elements of the community

long for another time, a time before the Kennedys intervened in the county's affairs. Some traditions die hard. "Those fucking Kennedys fucked up this county," bluntly stated the son of a school closing-era county board of supervisor to the author. Still more celebrate the racial progress that the county has made over the last five decades. That progress resulted from the black community pushing for equality and the federal government answering their call.

"A Matter of National Concern" exposes the insufficient study of local civil rights struggles. The scholarship on the school desegregation cases in Powhatan and Surry counties and St. Helena Parish, for example, remains thin to non-existent. Those school stories, and many others, need to be examined and added to the administration's civil rights record. In doing so, scholars will uncover the work of federal officials who worked behind-the-scenes, like Burke Marshall, St. John Barrett, and Bill vanden Heuvel; or under examined jurists, like Albert Bryan, Spencer Bell, and John Butzner. Further, scholars may discover local civil rights leaders, like the Reverend L. Francis Griffin, and reconstruct black communities to develop a more complete understanding of the black freedom struggle. Perhaps scholars will even discover white moderates, like Gordon Moss, who took unpopular stands against friends, neighbors, and southern traditions. This is the new frontier in Kennedy scholarship.

"A Matter of National Concern" is not the final word. It is not the last study of the Prince Edward County school closings; it is but another layer added to the foundation laid by *They Closed Their Schools*. In the future, scholars will synthesize and expand upon the

Prince Edward County scholarship to write the definitive work. Similarly, “A Matter of National Concern” does not replace Kennedy scholarship (or dismiss the negative interpretations), but it instead challenges scholars to study more instances of presidential intervention in the 1960s. Once collected, these histories promise to provide posterity with a comprehensive assessment of the Kennedy administration’s response to the great domestic issue of its generation.

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