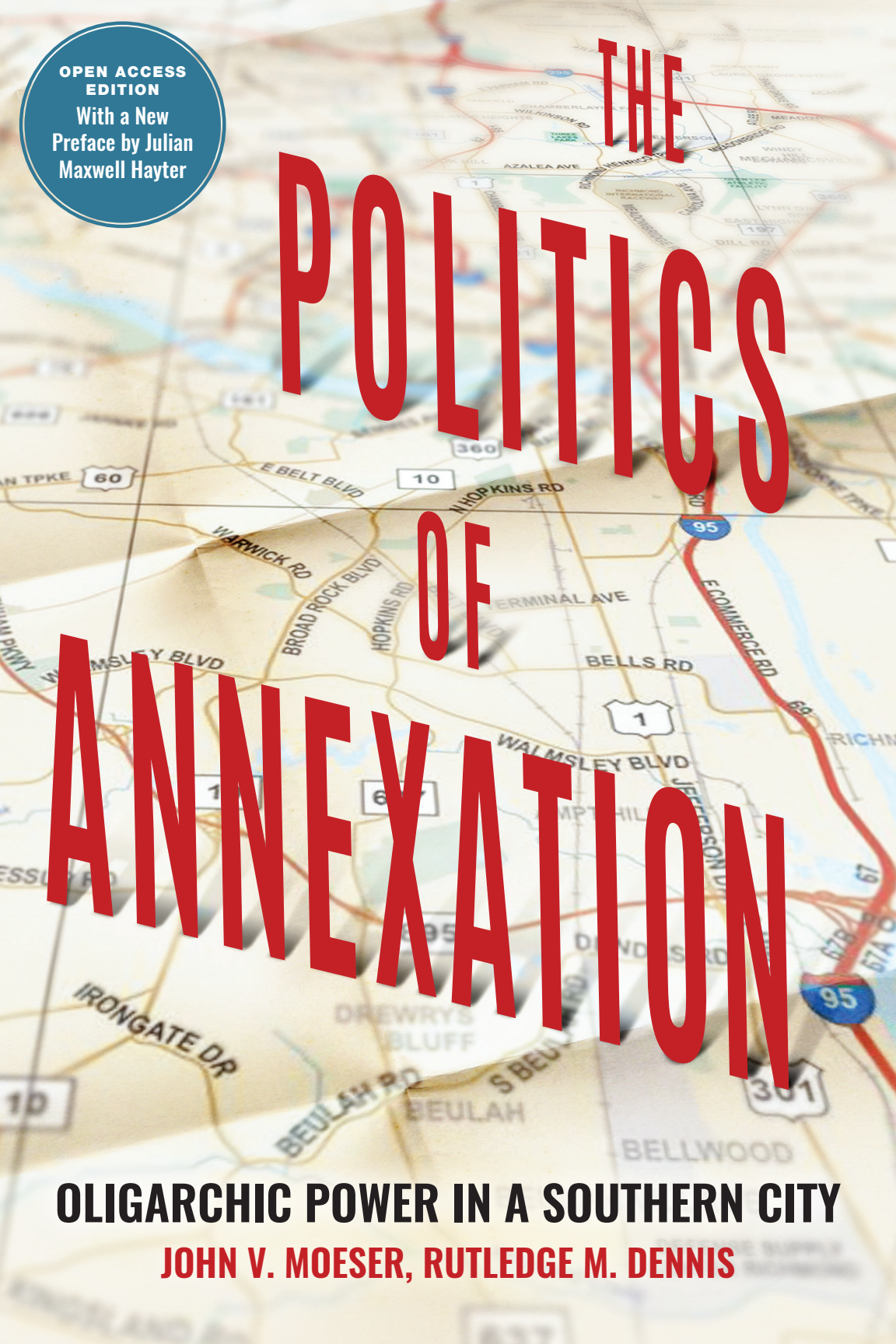
OPEN ACCESS EDITION
With a New Preface by Julian Maxwell Hayter
THE POLITICS OF ANNEXATION
OLIGARCHIC POWER IN A SOUTHERN CITY
JOHN V. MOESER, RUTLEDGE M. DENNIS

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Oligarchic Power in a Southern City

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WITH A NEW INTRODUCTION BY THE AUTHORS

AND A NEW PREFACE BY

Julian Maxwell Hayter

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About the Authors

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PREFACE

Julian Maxwell Hayter

I first read *The Politics of Annexation* in 2005, during my time as a graduate student at the University of Virginia's Corcoran Department of History. By that time, the book was over thirty years old. Since 1982, much had been made of Richmond, Virginia's role in slavery, industrial tobacco production, the American Civil War, and the Confederacy. Until very recently, the history of twentieth-century Richmond was anemic by comparison. Even less had been written about modern Richmond: namely, twentieth-century black Richmonders and their struggle for civil rights. Of the small, yet sound scholarship that existed on modern Richmond, three names dominated the literature: Rutledge Dennis, John Moeser, and Christopher Silver. Few of us knew it in 2005, but a handful of historians were endeavoring toward a new political and urban history. We were not alone. Nor were we the first scholars to foray into the affairs of urban political history. Moeser and Dennis had already methodically excavated mid-century Richmond history. In doing so, they unearthed something in *The Politics of Annexation* that urban and political historians were just beginning to understand in 2005—local politics matters.

The Politics of Annexation was not merely ahead of its time; it has stood the test of time. In 1982, modern urban history was relatively unchartered scholarly territory. Experts still did not quite fully understand how mid-twentieth-century demographic trends and urban redevelopment had *actually* shaped America's cities. During the twilight of the twentieth century, *de jure* segregation still cast a considerable shadow over Richmond (and the South generally). Historians now have a more robust understanding of what these two authors thoroughly described in the early 1980s. By the 1960s, American cities began to suffer from suburbanization, deindustrialization, and weakening economies. The suburbanization of jobs, income, and taxable revenue followed the out-migration of white people. Not only was this movement into America's suburbs one of the greatest migrations of human beings in the history of humanity, it was largely subsidized by the federal government. As

African Americans moved in and whites moved away, cities such as Richmond did not simply struggle financially; local, state, and national officials used the power vested in segregated governing bodies to perpetuate African American second-class citizenship. Schools failed. Freeways purposefully destroyed vulnerable neighborhoods. Bankers jacked up interest rates on middle-income homeowners or denied loans to inner-city residents all together. Restrictive covenants also precluded residential integration. All of this made the compression of impoverished African Americans into poorly funded public housing projects even worse. These designs had grave consequences for cities such as Richmond. After eight years of failed border expansions, the City of Richmond, on January 1, 1970, annexed twenty-three square miles and 47,000 people from Chesterfield County. On its face, Richmond annexed portions of Chesterfield County to meet these urban challenges. Rutledge Dennis and John Moeser were unconvinced. We should be thankful for their doubt. Their skepticism, which culminated in this book, broadened our understanding of not just Richmond's history, but also urban history as well.

It cannot be understated that this book was and is only nominally about the annexation of Chesterfield County. It does not merely depict the small handful of well-heeled whites that dominated Virginia politics before and immediately after the Voting Rights Act of 1965 (VRA). It also explains how African Americans activated the machinery of intensely organized, yet increasingly segregated communities to contend with these oligarchs. In analyzing *how* and *why* the annexation of Chesterfield County occurred, this work not only enriched our understanding of municipal- and state-level politics during the end of the Jim Crow era; it also emphasized the age-old dialectic between vested white interests and the black freedom struggle. These power struggles were a defining feature of the segregated system. If paternalism and poll taxes helped a small handful of white elites disproportionately control Virginia politics for most of the twentieth century, these forces also made it possible for whites to "hold the line against attempts by blacks to force wide-scale political and economic changes" after 1965. But African Americans, the following pages establish, had their own plans.

The Politics of Annexation is one of the first scholarly attempts to explain the uniqueness of civil rights activism in Richmond. In fact, much of what experts initially knew about the Richmond Crusade for Voters, its founders, and the politicized nature of black activism in Richmond originated within these pages. To this day, popular fascination with civil disobedience often

overshadows just how thoroughly organized black communities were before and during the American civil rights movement. In drawing attention to organizations such as the Crusade for Voters, these two authors underscored two things that contemporary activists would be wise to study—the strategies of civil rights activists were more varied than often told. And they varied because local people worked within the context of local circumstances to create the conditions needed to challenge Jim Crow. In Richmond, local people had been effectively organized for decades. Sit-in movements of the early 1960s were made possible by the types of hidden organization that this book so painstakingly emphasizes. Indeed, Richmond's contribution to the freedom struggle had little to do with direct-action strategies or civil disobedience. Thanks to these authors, we now know that legal activism and political organization were Richmond's gift to the movement. That chapter is as important to the freedom struggle as Martin Luther King, Jr.'s moral suasion, Ella Baker's commitment to young people, Whitney Young's dedication to economic uplift, and A. Philip Randolph's labor movement. African Americans in Richmond were the legatees of Charles Hamilton Houston's legal activism at Howard University and the National Association for the Advancement of Colored People's litigation strategy. It is within this book that we begin to understand precisely how Richmonders used this brand of activism to shift the balance of local political power. And, they did it years before the federal government passed voting rights legislation—in fact, segregationists, under the auspices of Harry F. Byrd's reputed "machine," allowed some African Americans to vote well before 1965. If Curtis Holt is this book's hero, he did not change the complexion of Richmond politics alone. Holt, this story explains, stood on the shoulders of organizations such as the Crusade and career-litigants like Oliver W. Hill.

Any historical understanding of the city's district-based election system, which was groundbreaking in the 1970s and still exists to this day, begins here. Majority–minority districts led immediately to the election of the city's first black mayor (Henry Marsh, III) and the black-majority city council in 1977. These districts were a product not only of annexation but also of the rights revolution taking place in Washington. In *The Dream Is Lost: Voting Rights and the Politics of Race in Richmond*, I wrote:

> After 1965, Richmond was part of a much larger revolution in voting rights. Curtis Holt's claim that annexation diluted blacks' votes ran Richmond

> right into a national voting rights revolution. This so-called reapportionment revolution, which local litigants started, Earl Warren's Court accommodated, and Warren Burger's Court strengthened, went beyond safeguarding access to the suffrage. As whites devised structural barriers to dilute the voting power of recently enfranchised African Americans, federal officials began to protect a minority group's right to elect preferred representatives in a manner that was commensurate with their total voting-age population.

If the court recognized that machinations such as annexations diluted blacks' votes, they had local people to thank. In fact, Curtis Holt, whose lawsuit claimed that race motivated annexation, all but ensured that Richmond was a part of this electoral revolution. What is more, recent assaults on key provisions in the VRA make Holt's story in this book all the more important. If opposition to the VRA culminated in *Shelby County* v. *Holder* (which effectively gutted Section 4 of the VRA by prohibiting triggering mechanisms as a basis for subjecting jurisdictions to federal supervision), this resistance dates back to the 1960s. Washington implemented Richmond's majority–minority districts system to give African Americans back the proportional electoral power they lost after annexation. Racial redistricting not only protected a minority group's right to elect candidates but also allowed minority voters to elect preferred candidates free of white interference. In telling the story of Chesterfield annexation, this book was one of the first efforts to hone in on the Machiavellian outburst of anti-VRA sentiment at the local level. It was also one of the first efforts to explain how the Supreme Court resolved the issue of indirect disenfranchisement after 1965.

Whether they knew it at the time or not, Moeser and Dennis were actually highlighting a key facet of American political development. The political abuses of electoral reforms have been a continuous and unfortunate feature of U.S. political history, and politics following the VRA was no exception to this rule. The United States, experts argue, repeatedly sways back and forth between greater political access and more political limitations. If officials implemented majority–minority districts during the 1970s to counteract machinations such as Richmond's annexation of Chesterfield County, they also designed these districts to compensate for the historical wrongs against African Americans generally. In cataloguing the complex series of litigation that culminated in Richmond's district-based system, the authors captured a rare

moment in American political history where the Supreme Court and the Department of Justice actually worked to defend black folks' rights. At least temporarily.

This account then is also a bittersweet, cautionary tale. If Richmond's African Americans triumphed over disenfranchisement, they also watched *de facto* segregation outlive the Jim Crow system itself. Annexation had ominous urban implications. Curtis Holt may have personified African Americans' triumph over the forces of disenfranchisement, but the public housing resident was also emblematic of intensifying economic and social crises. The politics of annexation might have brought an end to white overrepresentation on Richmond's city council, but the city's district system did little to extricate white elites from positions of entrenched power. In fact, by the 1980s, around the same time Moeser and Dennis first published this work, race-based antipathy and obstructionism defined city council. More ominously, residential segregation and economic inequality were facts of life for most of Richmond's African Americans. The forces that gave rise to annexation (an influx of voting age African Americans, growing poverty, white flight, and struggling schools) were the same circumstances that led to deepening marginalization in Richmond's black communities. Which gets me to an important point. There is an implicit argument throughout the last portion of this book: voting intensified, rather than alleviated, whites' fears of democracy in Richmond. This fear eventually grew into skepticism about blacks' ability to govern the city. African Americans, as history would have it, took political control over Richmond just as the city began to suffer from decades of Jim Crow–era neglect. Whites were more than happy to blame them for Richmond's problems.

The racial antipathy that led to annexation outlived this story. Richmond's continuing struggle to overcome segregation has made *The Politics of Annexation* more relevant over time. The annexation of Chesterfield County had unintended consequences. Mainly, it ignited a powder keg of anti-urbanism that continues to affect Richmond and Virginia politics. Virginia has been and remains a "Dillon's Rule" state. This rule limits counties' and cities' power by prohibiting them from amending charters without specific approval by the General Assembly. Both cities and counties, as independent political bodies, have no administrative authority to work with one another beyond rules that have been explicitly mandated by the assembly. By the late 1970s and early 1980s, Virginia's General Assembly not only remained largely white; racial redistricting and unremitting suburbanization all but ensured white

overrepresentation in the assembly. These residential patterns (and politicians' abilities to capitalize on them) gave suburbs, exurbs, and rural areas disproportionate power over the commonwealth's politics. Virginia's state legislators, who were increasingly Republican after the 1970s and remain so to this day, responded to the flood of annexation requests in the 1960s by imposing a moratorium on new annexations for cities with populations larger than 125,000 people (i.e., Virginia's cities with sizable minority populations). In 1979, lawmakers passed HB603, which gave counties the right to request immunity from all future annexations. Many of Virginia's counties, including Henrico and Chesterfield, nullified future boundary expansions—a common municipal practice used to meet demographic challenges. Richmond remains landlocked.

The continuity of Richmond's tortured racial history has, quite unfortunately, outlasted this book. It is impossible to separate Richmond's current social problems from the shortsightedness of segregationists illuminated below. The state of contemporary Richmond begs us to question not only the gains of the freedom struggle but also the enduring legacy of segregation. Poverty, residential segregation, and underperforming schools survived the segregated system. Public housing and schools continue to be points of profound discouragement. Between 2006 and 2010, 30 percent of Richmond's African Americans, roughly 25 percent of the city's residents, were on or below the poverty line. In 1969, 24 percent of Richmond's children lived in poverty; that number was an astonishing 39 percent after the Great Recession of 2008–2009. Most of these children reside in public housing. And, they attend obsolescently segregated schools in the immediate vicinity of public housing. African Americans made up roughly 50 percent of Richmond's population in 2010 yet composed 80 percent of the Richmond Public School system. Many of Richmond's school buildings are also in a state of severe dilapidation. It is this disrepair and dispossession that motivates many residents to keep their children out of the system. Jim Crow segregation, in other words, has twenty-first-century implications.

There are, however, developments that this book did not foretell. In recent years, Richmond has undergone a transformation. To be sure, decades of disinvestment in the central city depressed property values and heightened vacancy rates, but these low values and high vacancy rates have given rise to unprecedented reinvestment. Richmond's population in 2010 stood at 210,309—the highest it has been since 1986. As of 2015, this population

growth outpaced growth in the counties. Downtown Richmond, which was a veritable ghost town during the 1980s and 1990s, has witnessed an outburst of retail, restaurant, business, and educational growth. This so-called "Great Inversion"—the movement of affluent young people and retirees back into cities—has profound implications for the capital city's present and future. In fact, recent demographic trends have reversed nearly five decades of population decline. In 2019, African Americans made up roughly 48 percent of the population. They are, for the first time in decades, no longer the majority population. Richmond's white population has not only grown considerably since 1990, but the number of people that describe themselves as more than one race has tripled since 2000. All told, the city has taken part in and witnessed trends that belie nearly fifty years of decline. Some of these developments point toward promise, while others remain intolerable anachronisms.

In telling the story of Richmond's annexation, both Moeser and Dennis demonstrated that cities are a series of human decisions. Urban spaces do not grow organically, nor are these spaces blank slates—people have often brought their biases to bear on the nature of urban planning. Contemporary generations inherit these biases. The annexation of Chesterfield County was a watershed moment in Richmond politics—in large part because of its lasting impression on the shape of the city. Yet, this book does not simply delineate annexation for its own sake. It uses this event to interrogate mid-twentieth-century Richmond's identity. Ultimately, the book has proven indispensable in helping describe how Richmond got to now. It will be even more valuable in pointing the way forward.

FIFTY YEARS LATER: THE RICHMOND-CHESTERFIELD ANNEXATION AND ITS IMPLICATIONS TODAY

John V. Moeser and Rutledge M. Dennis

When we wrote *The Politics of Annexation: Oligarchic Power in a Southern City*, we were relative newcomers to Richmond, having arrived in the early 1970s to teach at Virginia's newest university, Virginia Commonwealth University. One of us is black and the other is white. Our families lived only a few houses from each other in Richmond's only integrated neighborhood. Years later in 2016, the Carillon was declared a national historic district because of its commitment to integrated housing and its campaign against discriminatory practices in the real estate industry, such as block busting and racial steering.

After having lived in Richmond for close to fifty years, if we were just now writing the book, we would place the 1970 annexation in a much larger context.

The single most tragic chapter of Richmond history is one that the city has never fully addressed. Richmond's interstate slave market became the largest in the South. It is estimated that the 350,000 slaves that Virginia supplied to the Lower South in Alabama, Louisiana, Mississippi, and Texas were sold out of Richmond. They moved by train, ship, and wagon, but, most commonly, by foot. Men, women, and children were shackled together and forcibly marched hundreds of, and in some cases over a thousand, miles. Many died before reaching their destinations. By the 1850s, slavery was Richmond's largest business by dollar values. It was larger than the iron industry, tobacco manufacturing, and flour milling even though Richmond had the largest flour mills in the nation.

There are now plans to memorialize Richmond's slave district, which is currently about 10 to 20 feet underground since, after the Civil War, the area became a dumping ground. During the 1950s alone, when the Richmond-Petersburg Turnpike was built, all the excavated dirt and rocks were dumped into that area.

Following the Civil War, Reconstruction was the most promising chapter in American history. It didn't take long, however, for it to be destroyed. Thanks to Rutherford Hayes, who wanted to be president so much that he made a bargain with the South, that "if you cast your electoral votes for me, I'll withdraw federal troops." They did. He won. Troops left. As noted by the title of Douglas Blackmon's book, what emerged was *slavery by another name*. Blacks were jailed if they were caught walking through town without written documentation that they were employed and by whom. Without such evidence, they would be fined for vagrancy. Inasmuch as they didn't have any money or else not enough, they were jailed. Railroads, mining companies, lumber mills and other private businesses paid the fines and then used prison labor to dig tunnels for railroad lines, to work in mines, and to clear timber. The personal and collective violence and terrorism experienced by blacks during the post-Reconstruction era are well documented by W. E. B. DuBois in his monumental study *Black Reconstruction in America, 1860–1880*.

Virginia wrote a new constitution in 1902, which stripped blacks and poor whites of their voting rights by instituting a poll tax of $1.50 to be paid six months before the election and for three successive years before the vote. Literacy tests were required that gave voter registration officials wide discretion to tailor questions based on race and income. Blacks and poor whites were questioned about arcane sections of the constitution while middle-to-upper-income whites were asked simple questions. It's estimated that the literacy test disenfranchised about 90 percent of all blacks who could vote (and did) during Reconstruction. Richmond's Jackson Ward had 3,000 black voters before 1902 and only 33 afterwards. (By the way, Jackson Ward was a new voting district carved out by white leaders in the last quarter of the nineteenth century. They concentrated blacks in that one district, leaving the remaining four districts all white.)

In 1911, the Richmond City Council adopted a residential segregation ordinance, but it was short lived since the U.S. Supreme Court ruled it unconstitutional. Richmond tried again in 1924, but this time, the city based its zoning ordinance on Virginia's newly adopted racial integrity law that prohibited interracial marriage. The ordinance stipulated that a person could not live in a neighborhood whose residents he or she could not marry. Virginia's prohibition against interracial marriage was adopted to protect the "purity of white blood lines," more particularly, the blood lines of well-born, educated, wealthy whites. Mentally ill women and women with disabilities, or women who were

deemed "ignorant, feeble minded or slow," were sterilized, as were female inmates and women of color, including Native Americans. The Nazis in Germany found Virginia's law helpful when it was framing its own racial purity laws and, meanwhile, Virginia borrowed from the Nazis. At the end of World War II during the Nuremberg trials, a defense of Nazi sterilization practices was that the United States itself conducted 60,000 sterilizations. As it was, we were condemned by our own history.

In the late 1930s, Richmond became a case study in the redlining of poor black neighborhoods, which resulted in the decline of these neighborhoods. As they declined, they suddenly became targets for new highways and a host of urban renewal (or, more truthfully, urban removal) projects.

After the Second World War, Richmond experienced another serious threat that was in some respects comparable to what happened at the end of the Civil War when fleeing Confederate soldiers set fire to munitions and warehouses in order to prevent them from falling into the hands of the Union forces. The fire caused enormous explosions that, together with strong prevailing winds, destroyed most of Richmond. Unlike the threat of Union forces, the post–World War II invading force was not armed. The sheer number of "invaders," however, was similarly perceived as threatening the status quo that those in power were not willing to negotiate for the greater good. Blacks were migrating to Richmond from rural Virginia and elsewhere in the South in search of better employment and the availability of public services that were largely absent in small towns and rural counties. That was bad enough for the powerful coterie of wealthy whites who ran the city, but what made it even worse was the larger out-migration of white middle-class city residents to the burgeoning suburbs, whose growth was fueled by new highways, cheap gas, and FHA mortgages.

Changing demographics led to an undeclared war in Richmond. The strategy was to strike the population centers of blacks. The growing black community was constantly targeted for any new highways, urban renewal projects, or other types of redevelopment conjured up by white business and political leaders. The Richmond-Petersburg Turnpike (later folded into U.S. Interstate 95) cut Jackson Ward in half, displacing 10 percent of Richmond's black population. Jackson Ward was one of the largest black communities in the nation. Its sizable mixed-income population ran the gamut from the jobless to unskilled workers, craftsmen, salesclerks, clerical workers, merchants, and teachers. Its business and professional community was one of the largest in the country, with bank owners, heads of large multistate insurance companies,

successful entrepreneurs, doctors, lawyers, professors, and ministers. Maggie Walker was also a resident. She was the first woman in the nation to start a bank. The arts community rivaled that of Harlem. World-renowned jazz and blues singers and instrumentalists lived and performed in Jackson Ward. Both Oliver Hill and Spotswood Robinson lived in Jackson Ward and played a central role in the *Brown* v. *Board of Education* case that led the U.S. Supreme Court in 1954 to declare school segregation unconstitutional.

Then there was Navy Hill, which occupied the northeastern side of Broad Street, Richmond's major commercial corridor. It was destroyed by a combination of projects which included the expansion of the Medical College of Virginia as well as the construction of the Richmond-Petersburg Turnpike, Reynolds Community College, the convention center, a new coliseum, a new city hall, and a new federal office building.

Fulton Bottom, on Richmond's east side, was also obliterated to make room for an industrial park. The travesty was that, after the massive land clearance, the park was never built.

Apostle Town, the northwestern neighborhood of Jackson Ward, was torn down to make way for Gilpin Court, Richmond's first public housing project in the early 1940s. At the outset, however, the first residents of Gilpin Court were white. They were employed in industries vital to World War II. After the war, Gilpin Court opened for low-income blacks except those from Apostle Town. It seems that their income was too low!

As thousands of blacks lost their homes, they were forced to move to wherever they could find affordable housing. By the end of the 1950s, four more public housing communities were constructed, all of them concentrated in East End Richmond, which was largely black. This cluster of public housing, however, led to the growth of high-density poverty, which, in turn, discouraged the location of mainline grocery stores, other types of businesses with well-paying jobs, and, of course, market-rate housing. The fact of the matter was that these food, employment, and opportunity deserts didn't happen by accident. It was all planned.

It wasn't just the growth of the city's black population that panicked the oligarchy. Of equal importance was the increased involvement of blacks in city politics. In the 1950s, a coalition of ministers and church members, public school teachers and university professors, business owners, and members of fraternal organizations created a voter registration and voter turnout

organization known as the "Richmond Crusade for Voters." It recruited a large group of volunteers who helped black residents in every black precinct to maneuver through the purposefully complicated poll tax and voter registration process and then transport the newly registered voters to the polls on Election Day. Every two years, when at-large city council elections were held, black turnout was getting larger. In some cases, the black vote alone meant the difference between victory and defeat among white candidates and provided a strong base for those black candidates who enjoyed enough support from some white precincts to win a seat on city council.

These trends were a constant worry for Richmond business and government leaders. Accordingly, a white member of city council approached a demographer with the city planning department to undertake a population projection to approximate the year when blacks would constitute the majority. The result created panic since their fear could become reality before 1970. An expedited city boundary expansion into an adjoining white suburb was imperative.

Annexation is a common method for cities across the nation to expand their tax base by acquiring vacant land for urban development and acquiring industrial and commercial properties for generating revenue for city services. Virginia's local government structure, however, is unique in the United States. Cities are independent of counties. Consequently, land annexed by a city is land removed from an adjoining county. Elsewhere, cities are part of counties, and annexation, therefore, does not affect county territory. Because annexations in Virginia are zero-sum games, they can be highly contentious, particularly so if the adjoining county is urban and has developed its own identity. An even more contentious requirement is that annexations must be approved by a special three judge court appointed by the Virginia Supreme Court. Voters play no role whatsoever.

Matters were thrown into high gear and very soon an annexation court was appointed. Richmond wanted to expedite the process by initiating highly confidential meetings with Chesterfield County officials. One of the most interesting parts of our research was getting access to the detailed information about the meetings: who met with whom, when, where, what was said, and who said it. The only concern of the city was adding 50,000 white people to Richmond's population. The only concern of Chesterfield County was protecting its assets. The meetings stretched out over a year, and once the two

parties reached an agreement, it was submitted in private to the judges. They, in turn, rubber-stamped the private agreement and made it the court's order. All of this subterfuge was a blatant violation of state law.

The Commonwealth of Virginia was in league with the city in protecting Richmond's white leadership, so it made sure that the annexation decree would be implemented with all deliberate speed. The county had earlier agreed not to appeal, so at the stroke of midnight on January 1, 1970, Richmond acquired twenty-three square miles. Instantaneously, Richmond's 52 percent black population fell to 42 percent. The siege had been defeated.

In addition to the intent of diluting the black vote, another factor that made the annexation so egregious was that it violated every legitimate reason for boundary expansion. The intended purpose of annexation is to increase the tax base of the city by acquiring existing commercial and industrial properties as well as adding more vacant land for the creation of new enterprises such as shopping centers and professional offices. As the economy grows, population increases and expands the demand for utilities such as water and gas and public services such as fire and police. The problem was that most of the annexed twenty-three square miles was residential. Despite the city's claims that it needed vacant land for business and industry, Richmond settled for only three-quarters of a square mile for potential economic development. The county manager was determined to preserve county assets such as industrial properties (chief among them, DuPont Chemicals), commercial developments, water resources, and his own house. That latter was done by the county manager making a small loop on the map that kept his property in Chesterfield. After Richmond acquired the land, city school officials were shocked to learn that the city now had one-third of the county's total school population, with 3,000 more students than city school buildings could accommodate. What was uppermost in the minds of the Richmond oligarchy, however, was white votes. They were determined to meet their objective even if meant that Richmond would have to take on additional and unwanted financial burdens.

The drama surrounding the annexation would not be complete without another remarkable event. Following the annexation itself, Richmond settled into what white leaders thought would be a return to normalcy. The years of angst, the all-consuming effort to counter black population growth by engineering a sudden influx of white "troops"—all of which required a supportive three judge annexation court plus allies in the General Assembly and the governor's office—and those days of struggle were now over and Richmond

could return to normalcy—or so they thought. Little did they know that the annexation would be challenged by a most unlikely adversary.

Curtis Holt became Richmond's David who volunteered to fight Goliath, the white oligarchy. He was an unemployed high school dropout who lived on a social security disability pension after he was injured in 1941 while working at Virginia Union University as a member of a construction crew. He was unconscious for almost a year and hospitalized for two years. He and his family moved into the Creighton Court public housing community and became active residents, so active in fact that Mr. Holt was eventually elected president of the tenant association. He enlisted the tenants at Creighton Court and other public housing communities to participate in a voter registration drive in preparation for the 1966 city council elections. Over 3,000 new voters were registered, and they, in turn, supported a progressive ticket of candidates who were running against "The Establishment."

After the annexation, Holt decided to contest it, but needed an attorney to represent him. He first tried to find a black attorney but was turned down time after time. Even the state branch of the NAACP rebuffed him. Holt then turned to the phone directory and began calling all the lawyers listed alphabetically in the yellow pages. By the time he got to the letter *G*, he had not gotten a single good response, except, to quote Holt, "a couple of them had urged me to contact a young lawyer named Venable." Holt followed through and called Cabell Venable, III, a descendent from an old line Virginia family who had worked in the U.S. Senate campaign of Harry F. Byrd. Venable was just getting started in his law practice and had already developed quite a reputation, having won a case on behalf of some KKK members in Southside Virginia. Venable saw much potential in Holt's challenge and decided to take the case pro bono.

Thus began a battle that stretched over several years and twice went to the U.S. Supreme Court. In fact, the high court ruled a few months before the scheduled 1972 city council election that Richmond was prohibited from holding that election or any others until the court had determined whether the city could retain the annexed territory. As it turned out, the moratorium on local elections in Richmond lasted five years, possibly the longest period without local elections that any American city had experienced.

Ultimately, the court ruled that Richmond could retain the annexed land provided it scrapped its at-large elections of city council members and adopted a district system. Richmond complied and the court set a special election for

1977. Given the growth of the black population, four of the nine wards were majority black, and possibly a fifth given its 40 percent black population. The election results mirrored the new reality. There was an outpouring of black voters who elected five of the nine candidates on city council. They, in turn, proceeded to select on a 5–4 vote one of their own as Richmond's first black mayor. Civil rights attorney Henry Marsh was now the leader of Virginia's capital city.

Though the electoral process in Richmond had changed, the type of government had not. Richmond still retained the council-manager government, which meant that the mayor headed the policy-making body while the city manager controlled the city administration. The new majority black city council deliberated whether it should retain the city manager since he was a holdover from the formerly white-controlled council. Ultimately, the new majority believed that it was important to signal to white business leaders that it was not bent on revenge, but rather on healing old wounds and developing biracial coalitions. Eventually, however, aspiration and reality collided. While the manager enjoyed strong support from the white business community, he was often at odds with the mayor and the new council majority as they began to reorder the city's priorities and give more attention to those parts of the city that had been virtually ignored. Frustration reached the point where council could no longer work with the manager, and in September 1978, on a 5–4 vote with all five blacks voting together, council decided to replace him. That vote only fueled greater tension with the oligarchy.

Over time, the business community began to acknowledge that the standoff was also destructive to its own interests. Meanwhile, blacks found that they could do little to address the social inequities in Richmond without a partnership with that sector of the city that controlled most of the jobs, indeed the economy itself. Eventually, there was a rapprochement that led black and white leaders to form an alliance in 1981 known as "Richmond Renaissance."

Meanwhile, demographic changes in Richmond were having a far more dramatic impact on the city than the rift between business and city government. White flight to the suburbs accelerated due to school busing, but there was even more flight when in 1971 U.S. District Court Judge Robert Merhige ruled to consolidate the Richmond and Henrico School Districts into a single school district. His decision was later overturned by the U.S. Supreme Court, but the ruling broke the dam as tens of thousands of more whites left the city for the suburbs. Thanks to the 1968 passage of the Fair Housing Act,

middle-to-upper-income blacks were also able to purchase houses in the suburbs. Like their white predecessors, they also sought more space, new housing, and safer neighborhoods. That suburban populations were becoming more racially diverse did not mean that individual neighborhoods were becoming more diverse. Far from it. Segregation set in just as it had generations ago in the city.

The out-migration of black families, however, dramatically affected the neighborhoods they left behind. Much of the leadership that sustained black churches, businesses, civic organizations, social and political networks, schools, and even the maintenance of physical infrastructure such as houses and landscapes moved away, leaving once stable and vibrant city neighborhoods struggling and becoming more susceptible to crime. Neighborhood decline triggered more out-migration, thus creating a vicious cycle.

Rising poverty in the city and the loss of retail business to the suburbs put more pressure on the city budget and made budget balancing more challenging. If ever there was a need for expanding the city tax base by annexing prime suburban property, it was during the city's budget challenges of the last quarter of the twentieth century. What happened next was another assault on black leadership.

In 1979, the Virginia legislature passed legislation that gave urban counties with a specified population size and density permanent immunity from annexation. Both Henrico and Chesterfield met the criteria, thus permanently confining Richmond to its small territory of sixty square miles while protecting Chesterfield County's land mass of 423 square miles and Henrico's 245 square miles. Richmond was walled off. What made this reality even more difficult for the capital city was that so much of the city's property was owned by the state, which meant that it was immune from city property taxes. Ironically, the tool of annexation, which was used to dilute the black vote, was by the late 1970s unavailable for use by the blacks who had gained control of City Hall. What made the problem even worse was that the counties during the last quarter of the twentieth century were experiencing enormous growth and prosperity. These were the days of edge cities, places that contained all the elements heretofore associated with cities. Moreover, their economies were on fire—speaking metaphorically. The economic base of the central city was shrinking. Retail businesses were moving in droves to the counties, sucking the air out of downtown Richmond, once the largest shopping destination in the upper South. Adding insult to injury, black leaders were blamed for

conditions not of their making and beyond their control. The truth is that these mega changes in the suburbs were aided and abetted by the white executives of the city's major financial institutions, real estate development firms, law offices, builders, and their many white allies in the legislative chambers and administrative offices of the surrounding counties.

Despite these setbacks, in 2004 Richmond's black leadership and their progressive white allies initiated a major change to the city charter that led to a more accountable government. The charter was changed to eliminate the council-manager government and replace it with a mayor-council government. What was particularly noteworthy is that the method of selecting the mayor was changed. No longer would city council select one of its own to be mayor. Instead, the mayor would be elected by city voters. At-large elected mayors are common, but the mayoral election process in Richmond is unique in the United States. Proposed by John Moeser and Ernest Brown, the process requires that the successful candidate for mayor must win a minimum of five of the nine city council districts. The purpose of the change was to give black neighborhoods a more equitable role. The proposed charter change that included the new mayoral election process was approved by the Virginia General Assembly and the U.S. Justice Department in accordance with Section 5 of the 1965 Voting Rights Act.

The twenty-first century has brought about dramatic changes in cities like Richmond. After several decades of population decline, Richmond's population is now on the upswing and income is also increasing. This is true for many central cities across the United States. What is fueling the population explosion here and elsewhere in the nation is a new generation that prefers urban life over suburban life, choosing to live in historic neighborhoods rather than in new subdivisions. Old city neighborhoods with historic houses are the new hot spots. The houses are in poor shape, but if they still have good "bones," they are quickly purchased at basement-level prices and renovated. One by one, houses are restored, and before long, places that once were ignored are now "the place to be." What is remarkable in Richmond is that older neighborhoods like north Church Hill, which includes the highest density of public housing in the city, is now "hot property." Heretofore, proximity to public housing served as a brake on new development, yet in Richmond, newly renovated, high-priced historic homes are inching closer and closer to "the projects," as they are often called. The consequence is that low-income residents of nearby privately owned apartments can no longer afford the rising rents and

must leave. Finding alternatives is not easy. They are left with the choice of going to other neighborhoods, such as those in South Richmond on the other side of the James River, or moving to the older decaying suburbs just across the city boundary in either Chesterfield or Henrico counties.

It is circumstances like these that prompted the creation of the Maggie L. Walker Community Land Trust (CLT) in 2016, only the second CLT in the Commonwealth of Virginia. The CEO of the Greater Richmond Realtors Association, Laura Lafeyette, was the founder. John Moeser and others worked closely with her. The CLT acquires vacant and abandoned property in gentrifying neighborhoods and builds new homes. The CLT retains ownership of the land but sells the house. The house price is kept affordable since land costs are not included. Later, if the first home buyer decides to sell the house, she can sell it at a higher price than what she initially paid. This assumes that property values continue to rise since the amenities of the neighborhood are still attractive to higher income people. The CLT controls the sale price, however, in order to protect affordability for the next buyer. The purpose of the CLT is to generate equity for homeowners while always keeping houses affordable.

Richmond's population is larger now than any time in history—227,000—but the metropolitan population stands at 1.26 million. Also, and most important given the subject of this book, Richmond is no longer a black-majority city. The 2019 American Community Survey of the U.S. population puts it at 48 percent of the population. Then, when you compare voter turnout today by race, the black vote is much smaller. The Crusade for Voters is but a shadow of what it used to be. The city council is now majority white—by one vote. But city council dynamics can no longer be described as solely racial. Rather, they have more to do with the socioeconomic composition of the council districts. Moreover, the city—as well as the two large suburban counties on the north and south of the city—is drawing populations from around the world, but particularly from Asia, Central and South America, North Africa, and the Middle East. A defining characteristic of most of the migrants moving to the city, together with the remaining black population, is that they are very poor. In fact, poverty is now more severe (defined as the number of low-income people) in the suburbs than in the city. This is a national phenomenon and the first time in U.S. history that American suburbs have a larger percentage of poverty than the central cities.

Several years ago, Richmond experienced what few other cities, large or small, had known. It miraculously developed a conscience about poverty.

Instead of exiling the poor, Richmond made up its mind to provide opportunity for them. John Moeser had retired from Virginia Commonwealth University after thirty-four years. He was then invited to serve as Senior Fellow in the Bonner Center for Civic Engagement at the University of Richmond, where he, along with some Bonner Scholars and students in the GIS Lab at the university, initiated a series of annual studies beginning in 2011 on race, poverty, and history. The studies came to be known as "Unpacking the Census." With the assistance of Hope in the Cities (a Richmond-based national organization focused on racial reconciliation), the Virginia Center for Inclusive Communities developed a video for the general public that explored the depths of racially defined poverty in metropolitan Richmond, the racial history of Richmond, and a third section about what the city needed to do to mount a crusade against poverty. The two organizations then issued a call for volunteers throughout the region who were interested in showing the video and engaging audiences in conversations about race, poverty, and redemption. Over fifty people showed up one weekend for training at Richmond Hill, an ecumenical retreat center in Church Hill. Shortly thereafter, biracial teams of two fanned out across the region and facilitated sixty presentations and dialogues. The facilitators gathered each year to discuss their experiences. To determine more accurately what had been accomplished, Dr. Bonnie Dowdy, a professional evaluator, submitted a grant application to the Kellogg Foundation to support the development and execution of a rigorous impact analysis. The grant application was successful. Dr. Dowdy reported that 650 people filled out pre- and post-surveys. The hard work and long hours led to measurable differences in people's awareness of the enormous growth of concentrated poverty in the Richmond region as well as the tragic history that led to this hypersegregation. Moreover, the assessment recorded an increased desire of people to press local government officials to act and address the concern. The Kellogg Fellows Leadership Alliance selected "Unpacking the 2010 Census" as a national best practice.

As more people expressed their concerns, pressure began to mount on Mayor Dwight Jones to create an anti-poverty commission. Eventually, he acted and organized a racially diverse group of leaders ranging from public housing residents to business executives, leaders of non-profit organizations, private foundations, the faith community, universities, and still other partners. After more than a year of study, the commission issued a lengthy report

written by University of Richmond Professor Thad Williamson that was delivered to the mayor and city council in 2013. After it was unanimously adopted by the city's elected leaders, Dr. Williamson created implementation teams responsible for developing specific action steps for each recommendation in areas such as public schools, public housing, employment, public transit, and economic development. Shortly thereafter the mayor and chief administrative officer, upon approval by the city council, created the Office of Community Wealth Building in 2014, one of the first local agencies of its kind in the nation. Dr. Williamson became its first director.

Close to three hundred years have passed since Richmond was founded, and to this day, there has never been a concentrated and sustained effort toward contrition and restorative justice. Recent efforts such as the Maggie L. Walker Community Land Trust and the anti-poverty program are a good beginning, but only a beginning that has yet to create wealth in high-poverty neighborhoods by creating black-owned businesses sustained by providing goods and services to major institutions such as hospitals, state and local government, and universities. Surely, we can do better than a single state historical marker designating the location of Navy Hill, to cite only one example. Before the state designation, however, there was only a small marble headstone-like marker that some former residents of Navy Hill placed in downtown Richmond. Only a few weeks later, it disappeared and eventually was found on top of a manhole cover to a sewage line. Many other steps are needed to reorient metropolitan Richmond, but nothing of consequence will happen until Richmond comes to grips with its history. It is a brutal history that demands greater engagement beyond erecting historical markers or renaming major boulevards.

The study of the Richmond-Chesterfield annexation was the first book in the authors' academic careers. In all our work—this book and others plus the many articles and presentations we have made over forty-plus years—we have sought to tell the truth about Richmond. We care about the city because Richmond is our home and we love this place as do thousands of others, blacks and whites alike, including newcomers from around the nation and the world. Citizens are the heart of Richmond, and together we must join efforts to commemorate this place that once contained the South's largest market in the interstate slave trade. What better place than Richmond to start the national conversation about truth and reconciliation.

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JVM
RMD

Introduction

American central cities have long faced problems associated with population losses and deteriorating economies. As middle-class citizens move to the suburbs and as shopping centers and industry join them, the city experiences considerable difficulty raising money to fund the services needed by its growing low-income population. Just as the dwindling middle class produces strains in the city's economy, it also alters and reshapes the contours of the city's politics. This was particularly true of the 1960s since the vast majority of the out-migrants was white and a large proportion of the growing number of low-income city residents was black. Cities that historically were dominated by the white elite were so changed demographically that the political status quo was threatened. Quick, effective remedies were necessary for the white elite to achieve political stability and to reduce the dangers confronting the established order.

A strategy traditionally employed by most cities and still available to some cities is annexation. Such a strategy works equally well for cities faced with an erosion of established power as for cities encumbered with declining bases of public revenue. For those cities surrounded by suburban municipalities, annexation is a useless device. Other cities, however, by expanding their boundaries to include unincorporated suburban areas, can acquire additional land, commercial/industrial enterprises, and people, all of which may generate new revenue to match their increased expenditures. Furthermore, additional population drawn from predominately white suburbs may represent new votes for a city faced with an increasing black population. This strategy has proven to be particularly useful in the South where, generally, the annexation laws are less restrictive than those in other parts of the country, where the cities are less likely to be hemmed in by other municipalities, and where racial politics over the years has been most acute.

After an eight-year effort to expand its boundaries, the City of Richmond, Virginia, on January 1, 1970, annexed twenty-three square miles and 47,000 people from Chesterfield County. At first glance, apart from the length of time

involved in the land acquisition, this 1970 Richmond annexation could be viewed as one of hundreds of municipal annexations since 1945. In fact, however, the boundary expansion was unique. It so captured the attention of public officials and academicians across the nation that it may now constitute the most celebrated municipal annexation in recent American history. Apart from the legal issues raised during the litigation following the annexation (U.S. District Court Judge Robert E. Merhige once classified the case as the most complex since the 1954 *Brown* v. *Board of Education of Topeka*), and the questions which the case poses for urban planners, economists, and political and social thinkers, the annexation primarily reflects an intense power struggle between establishment whites and the city's activist blacks. It is the politics surrounding the Richmond annexation that invokes such interest among scholars and the lay public as well.

This book constitutes a political analysis of the 1970 annexation. Specifically, this study explores the political rationale for annexation, the process by which the intent was converted into public policy, and the political actors involved in the process. Though the study of the annexation includes legal, economic, and urban planning issues, those issues are only peripheral to the central concern—power.

On the surface, Richmond's absorption of territory did appear quite "ordinary," though it should be noted that no two annexation cases are exactly alike. Nevertheless, properties common to most annexations seemingly characterized Richmond's.

First, the city needed revenue because of a declining tax base. Like most older cities in the United States, Richmond was losing large numbers of its middle-class population to the suburbs. Jobs, too, were leaving. Industries interested in Richmond could not locate in the city given its lack of developable vacant land. This also meant that new residential development was hampered. It was argued that the additional land, improvements, and people generated by boundary expansion would produce the revenue to pay for increasing expenditures brought about by the city's growing low-income population heavily dependent on public support.

Second, it was alleged that the public services in the target area were inferior to those in the city. The city contended that the target area, for example, provided virtually no public recreation, relied largely on volunteer fire service and on a small police force, supported schools lacking the diverse curricula of city schools, assumed little responsibility for garbage collection, charged

higher rates for water and sewerage services, and depended on a small unsophisticated planning staff ill-equipped to respond to a growing population and economy. The city claimed that, in addition to reducing the cost of water and sewerage services, it would institute new services and improve existing services.

Third, a strong community of interest prevailed between the city and the target area since many suburban residents were economically and culturally tied to the city. Over half the residents worked in the city; also, city churches, synagogues, museums, theatres, libraries, restaurants, parks, civic auditoriums, and sports arenas served people in both jurisdictions. The problem, however, was that the tax burden for maintaining the roads and services associated with these city facilities fell on city residents.

In still other respects, the Richmond annexation could be considered "ordinary." The Census Bureau reports that annexations are more likely to occur in cities with populations ranging from 20,000 to 250,000 than either smaller or larger cities. Richmond fits the national pattern, given its preannexation population of 202,359. Moreover, for many years annexation activity has been concentrated in the South and West. Again, Richmond conforms to the pattern.[1] Finally, cities of 100,000 or more which increased their land area through annexation by at least 50 percent did so usually through liberal annexation laws. Such laws permit a city to annex without the approval of target area residents.[2] Notwithstanding the changes made in Virginia's annexation law during the 1979 session of the state legislature, special three judge courts still determine annexations in Virginia. Consequently, whether a municipality annexes is a question resolved judicially based on the merit of the case, not on the consent of target area residents.

But it is not the "ordinary" attributes of the Richmond annexation that command attention. Rather, it is the political intrigue involving some of the most influential leaders of Richmond that gives the event such notoriety and compels serious investigation.

The Richmond annexation case is a classic example of the continuing historical struggle in parts of the South and other regions of the country between the powerful white elite and growing numbers of central city blacks. In the Richmond case, however, the struggle was made more dramatic by the tactics employed by the white leadership and its ability to conduct its annexation negotiations in secrecy for a period of five years. The small group of powerful individuals viewed the increasing numbers of black residents in the state

capital with alarm, fearing that an inability to stem the growing black population would result in a black-controlled city government.

The role of this Richmond oligarchy in the annexation process is the subject of this study. How annexation was employed as a political device to dilute black voting power provides insight into the deep-rooted racism that influenced the behavior of a few white city and state leaders. Moreover, the legal challenge to the annexation reveals the effectiveness of countervailing power generated by a poor black Richmonder. The annexation itself, plus the reaction to the annexation, triggered a series of significant events during the 1970s that affected the city and state alike. Specifically, during the seven years from 1970 to 1977, (1) Richmond was enjoined by the U.S. Supreme Court from holding local councilmanic elections; (2) the city shifted from at-large to ward representation; (3) the 1977 election produced the city's first majority black city council and its first black mayor; (4) the city manager was fired in September, 1978; (5) the 1979 state legislature granted immunity from annexation to urban counties; and (6) the relationship between the city and its surrounding counties deteriorated. All six events are directly or indirectly related to the 1970 annexation. In short, the 1970 annexation is far from an ordinary example of municipal boundary expansion. It is instead a story of racial politics, city-state complicity in "protecting" the capital, and legal maneuvering in a revered city of the South.

Racial Politics in Virginia

In order to fully understand the intricacies of the role of race in the Richmond annexation case, it is important to place it within the wider context of the traditional role of race in Virginia politics. Richmond may be viewed as Virginia in microcosm, and V. O. Key, Jr.'s statement that "of all the American states, Virginia can lay claim to the most thorough control by an oligarchy"[3] may also be an apt description of political rule in Richmond. Oligarchic rule represents both upper-class hegemony over lower/middle-class whites and racial hegemony of whites over blacks. The effects of this class-racial hegemony were captured in Key's observation that:

> Political power has been closely held by a small group of leaders who themselves and their predecessors have subverted democratic institutions and deprived most Virginians of a voice in their government. The Commonwealth

> possesses characteristics more akin to those of England at about the time of the Reform Bill of 1832 than to those of any other state of the present-day South. It is a political museum piece.[4]

Though Key's statement is less true now than it was when he initially made it in the 1940s, the differences might be arithmetical rather than exponential, for the chief characteristics of black-white relations, structured inequality, and the dynamics of insider-outsider politics remained just as prevalent in the 1970s as they had been in the nineteenth century. If one of the assertions stated here is correct, that is, that there are both class and racial dimensions to Virginia's oligarchic leadership structure, then it is necessary to examine what contributed to the oligarchy's staying power. One probable answer is the politics of paternalism. On one hand, the oligarchy promised the white population that it would hold the line against attempts by blacks to force wide-scale political and economic changes, thus insuring a continuation of white dominance in these areas. On the other hand, it sought out black leaders and promised them piecemeal gains if they would legitimate white oligarchic control. It promised the black leadership that it would hold the line against attempts by some whites to take away gains already won by blacks, but it would only do so if blacks agreed not to force certain issues that were divisive on racial grounds. Therefore, the oligarchy attempted to assuage both groups and to convince both that it represented their best interests.

No matter what rationale it gave and no matter how much it played its own racial-class cards, the oligarchy supported the ideology of white supremacy. This ideological component of racial politics in Virginia was just as evident in the nineteenth century with the legalization of the Black Codes, slavery itself, and post-Reconstruction Jim Crowism, as it is true of the more recent use of literacy tests, poll taxes, and the white primaries to exclude blacks from the voting booths. In fact, the oligarchy's need to legalize and hence structure racial inequality is indicative of the fact that blacks themselves never accepted their inequality as divinely inspired or as being unchangeable and never ceased, therefore, to challenge the system whenever possible. White leadership wanted the politics of paternalism to govern black-white relations in general and black-white political relations in particular. Black leadership recognized and accepted certain aspects of that paternalism and accommodated itself to that structure as a necessary strategy. Black leaders were afraid of the larger white population and assumed that it had no choice but to gain and

maintain contacts with the white oligarchy. This process permitted the most obvious features of the class and racial status quo to be maintained.

Virginia's particular brand of oligarchy and paternalism was unlike the racial politics of states in the lower South where trenchant race-baiting was more prevalent, a feature most scholars attribute to the lower states' basically rural economies and high black population. The ideology of race supremacy in Virginia has never resulted in elite-sanctioned lynching as was the case in the lower South. The oligarchy's "velvet glove" approach to both the lower- and middle-class white population and to the entire black population has always been shaped by a code of "gentlemanly" behavior that was almost "royalist" in tone and appearance. This leadership has cared no more for the vast white population than it has for the collective black population since its perception of its role, in addition to being oligarchical, has been aristocratic.

The ideology of white supremacy was used to insure that oligarchic rule would be free from competition by blacks. It is in the political sphere that the black challenge to this ideology is most pronounced. This is understandable in view of the constitutional guarantees supporting voting and citizenship rights. Blacks, therefore, have sought to use their national constitutional rights to seek redress for the denial of their rights by state and local politicians. They have more readily challenged white political dominance than economic dominance since the law sanctions black political participation and since effective challenges to the economic status quo first require the political mobilization of the black population.

The annexation conflict can be viewed as an extension of the historic role of white leadership. The logic of this leadership reads thusly: under no circumstances should blacks be allowed to acquire power over whites and, if such an event seems inevitable, whites should use whatever powers, legal or illegal, necessary to stem the tide. Thus, some of the tactics used in the annexation dispute parallel similar tactics used during the era of Massive Resistance following the Supreme Court Decision of 1954.[5] The oligarchic-aristocratic leadership, having a stake in the status quo, could not espouse a politics of universalism. Consequently, undergirding its highly parochial political style was the ideology of white elitism.

City-State Ties

Richmond occupies a special place in Virginia politics. This privileged position obviously stems from Richmond's role as the state capital. Of equal significance (or, of greater significance, at least for those tenacious Virginians still clinging to the nineteenth century) is the role Richmond assumed as the capital of the Confederacy. For Virginia, indeed for the whole of the South, Richmond was a major economic and political power during and long after the Civil War, and that memory of Richmond's past still shapes the perception many Virginians hold of Richmond today.

As Virginia's "special place," Richmond and its politics are inextricably entwined with the state. Consequently, a challenge to Richmond's political order constitutes, by definition, a challenge to the state's.

The percentile growth of the city's black population due, in part, to the loss of its white population constituted such a challenge during the 1960s. Compounding the problem of this demographic shift was the increasing black unrest in the nation's largest cities. The 1968 riots in Washington, D.C., just an hour and a half away on Interstate 95, were observed with alarm by state and local leaders alike. They believed that the urban unrest was like a cancer that would eventually afflict Richmond and provide a fertile ground for the emergence of black power. Racially paternalistic, they believed that blacks lacked sufficient knowledge and experience to govern local communities. The riots, therefore, were viewed as shocking examples of the blacks' lack of self-control and moderation. Black-run cities, they assumed, would encounter financial problems due to overspending and poor management. In addition, they charged that black politicians in black-controlled cities would seek vengeance on white populations by destroying the symbols of white supremacy. The legislative record suggests that many state legislators believed that Richmond's monuments to Civil War heroes were particularly vulnerable to angry blacks bent on wholesale destruction. In the final analysis, however, these white leaders were less concerned about war memorials than another, more important matter. Many believed that, should blacks become politically dominant, nothing less than Richmond's and Virginia's "way of life" was in jeopardy.

Annexation was the city's solution to the "problem." The state, too, at least its courts, supported the city's annexation strategy. A special three judge court, the members of whom were selected by the Virginia Supreme Court of Appeals, was responsible for determining whether the city would annex. The

use of this judicial procedure in municipal annexation is distinctive of Virginia. Most states require popular approval of annexation. But in Virginia, at least prior to 1979 (when certain counties were granted immunity from annexation), a city was required to file a suit against the county that included the area sought by the city.[6] The court was to hear testimony from city and county expert witnesses and then base its decision on such factors as the city's need for land, the target area's need for services, the community of interest existing between the city and the target area, and the city's ability to finance the annexation should the court grant land to the city. The annexation court that ruled on the Richmond case, however, was particularly responsive to political cues. The court veered sharply from precedent and gave little attention to the factors that normally shape its decision. Rather, the basis for its decision was an out-of-court agreement made privately by two local politicians. The agreement clearly favored Richmond's white oligarchy which, as our research reveals, was more concerned with satisfying its own immediate political needs than with the problems such gratification would ultimately pose for the city.

Richmond's oligarchy desired to implement the annexation before the next council election and its tenuous position was strengthened considerably by the annexation court's adoption of the private settlement between Richmond and Chesterfield. This obviated the need for the court to make an independent evaluation and also enabled 47,000 people (97 percent of whom were white) to become city residents and participate in the 1970 councilmanic election which was less than a year away. When the election was held, it came as no surprise when the white political organization retained its control of the city council. The critical issue is that the state's judiciary was closely allied with the city in the annexation controversy. More than local interests was at stake. Concern was mounting that, unless direct action was taken, the former capital of the Confederacy might fall for the first time in its history to a majority black city council.

The state legislature also played a key role. Before the annexation court's decision, the General Assembly was concerned that the negotiations between Richmond and Chesterfield officials regarding city boundaries were moving too slowly, or, worse, were leading to a stalemate. Consequently, the General Assembly initiated a move to amend the state constitution so as to empower itself to unilaterally expand the boundaries of the state capital once every ten years following the decennial census.

The problem, however, was that Chesterfield officials remained jealous of their local power and were not anxious for the state to encroach on their prerogatives by mandating, through constitutional amendment, a state solution to Richmond's "problem." Yet, they knew that the state was prepared to act unless the county got serious about seeking a compromise with the city. Some city officials, meanwhile, knew that the county was under pressure to negotiate and wanted to capitalize on the county's vulnerable position. By the same token, these same city officials knew that the process of amending the constitution was lengthy and that even if the constitution were changed, it would be too late for the 1970 councilmanic election. The county, therefore, wanted to take advantage of the time pressure under which the Richmond politicians were operating. Each jurisdiction was vulnerable and, at the same time, could exercise some leverage with its counterpart. The consequence was that a compromise agreement was struck which then was ratified verbatim by the annexation court and upheld by the state supreme court. Annexation removed the immediate need for the state to intervene, but had it not been for the willingness of the state to intercede, the annexation might not have concluded in the fashion that it did.

Countervailing Power: Curtis Holt

Curtis Holt stands at the center of the Richmond annexation dispute. To understand his role in this drama is to understand the dynamics of intraracial as well as interracial politics. On one hand, Holt, who was viewed as the "working-class hero" by many blacks, sought to challenge what he viewed as the conciliatory views of Richmond's middle-class blacks. Of equal importance, his opposition to the racially exclusive practices of the white power structure was of long standing, going back before the oligarchy contemplated annexation. Beginning in the middle fifties, Holt worked closely with the Richmond Crusade for Voters, the major black political organization, and the state/local branches of the NAACP to contest black exclusion from the political process.

Though Holt gained considerable prominence by fighting white-dominated city institutions, he was no less persistent against other black individuals or black institutions whom he charged with being less than faithful to the black cause. In fact, Holt proved to thousands of poor blacks like himself that the

exercise of raw power by whites could be checked and checked effectively without the aid of the black bourgeoisie. In an interview with a local Richmond newspaper, Holt suggested that one reason for his decision to fight for deannexation was the fact that he lost the June 1970 councilmanic election.[7] First of all, Holt rejected the bipartisan stance and what he viewed as the political bargaining of the Crusade which resulted in its endorsement of several white candidates who were supported by Richmond United, an organization based in the newly annexed area. Richmond United, in turn, also endorsed several Crusade Candidates.

Holt finished 17th in a field of twenty-eight councilmanic candidates. He was incensed by his defeat: "I thought my constitutional rights had been violated. I thought that I should have won the election, and so I knew the only thing that could have stopped me . . . had to be the annexation territory."[8] Although it is highly questionable whether he would have been elected if the annexation had not occurred, Holt did file two suits for deannexation. One suit contested the annexation on constitutional grounds and the other challenged the annexation on statutory grounds, namely, the Voting Rights Act of 1965, as interpreted by the Supreme Court, covered such activities as municipal boundary expansion.

Holt also entered the 1972 councilmanic election (though the U.S. Supreme Court later enjoined the city from holding the election), but his campaign was given a severe blow when he was not endorsed by the Crusade. The fact that the Crusade had endorsed two white candidates (also supported by the rival white organization, which, in turn, endorsed two Crusade Candidates) was bitterly denounced by Holt: "The power structure is only using the middle-class blacks to continue to isolate the grassroots blacks [in order] to keep the city running in the hands of the power structure."[9] Unlike the Crusade and the NAACP, which opposed at-large representation and supported a ward system that would guarantee a fixed number of seats for blacks, Holt would be satisfied with nothing less than deannexation. He equated the ward system to a system of "separate castles."

Just as Rosa Parks's role in the Montgomery Bus Boycott is seen in its fullest dimensions when coupled with the leadership and direction of Martin Luther King and the Southern Christian Leadership Conference,[10] Curtis Holt's role in the Richmond annexation dispute cannot be adequately analyzed without knowledge of the alliance that Holt forged with a Richmond white lawyer whose assistance Holt sought after several black lawyers and several black

organizations turned down his request for legal assistance. Both Mrs. Parks and Holt are examples of how single individuals, though powerless against the institutional power of whites, have become, through other agencies and other individuals, heroes to a large segment of the population.[11] These individuals in fact become very important fighting symbols for an entire people—both Mrs. Parks, who was portrayed as a quiet but dignified fighter who refused to budge and thus disobeyed what she thought was an unjust law, and Holt who challenged both white oligarchic power and what he viewed as black middle-class power. Both cases demonstrate that individuals, often in alliance with powerful spokespersons and groups, can make a difference in the outcome of conflicts between the powerful and the powerless. It is safe to say that even those with institutional power are never *always* as powerful as their positions and status might suggest. Conversely, these examples also demonstrate that those lacking institutional power are never quite as powerless as their positions and status might suggest. In the case of Holt, we see an example of what some sociologists call "dual alienation"[12]—alienation from the prominent black civil rights groups and alienation from the white-dominated political system. He was not, however, alienated from what he called "grassroots blacks." It was to this group that Holt looked for confirmation of his *raison d'être*.

Legal Complexity

The legal battles fought over the 1970 Richmond annexation are considered by many observers, including attorneys in the U.S. Justice Department, as the most complex, prolonged, and far-reaching of any legal action triggered by municipal boundary expansion. For the Richmond power structure, the Holt suits quickly became much more than minor irritants. They had the potential to radically change the city's political landscape. What in past years involved fairly simple and straightforward strategies designed to maintain the political status quo now required, given the sophisticated legal challenges that Curtis Holt mounted against the city, equally sophisticated legal responses. The long cycle of action-response-reaction that characterized the sequence of events in the courts was emotionally draining on both the participants and the observers. The information generated by the tedious research undertaken by attorneys for each side of the suits and by consultants versed in urban and regional planning, economics, and public administration, plus the lengthy depositions and courtroom hearings was comparable to that of a small library. The legal

battle was made more complicated by the intricate routes traveled by the litigants and the fact that the routes at different points crossed each other, ran parallel to each other, and diverged at right angles. Journalists covering the cases over the years were hard pressed to summarize the proceedings in an intelligible fashion, as each year one case either became more complicated or else was set aside as another equally complex case was begun.

The litigation began in February 1971 when Curtis Holt initiated his first suit contesting the annexation on constitutional grounds, and concluded over five and a half years later in November 1976 following a second Holt suit and a suit brought by the city. Litigation over annexation led to a U.S. Supreme Court order suspending local elections in Richmond that lasted five years and enabled the 1970 council, which was to serve until 1972, to continue in power for almost seven years. The arguments surrounding the various suits were presented to six different judicial bodies, the U.S. District Court in Richmond, a three judge district court in Richmond, a three judge district court in Washington, D.C., a Special Master in Washington, the Fourth Circuit Court of Appeals, and the U.S. Supreme Court. The city expended close to a million dollars in legal fees to the attorneys representing the city and attorneys opposing the city.

Holt's first suit (Holt I) against the city was successfully argued before the U.S. District Court in Richmond. The city, however, was successful in overturning the decision in the Fourth Circuit Court of Appeals. Holt's response was an appeal to the U.S. Supreme Court, but the high court denied the writ.

Prior to the termination of the first suit, Holt brought a second suit (Holt II) against the city. Holt II was stayed by the federal court, though not before the Supreme Court had enjoined further city council elections. What prevented Holt II from moving forward was a suit which the city filed.

The city's suit was itself complex, notwithstanding the confusion which was generated by the combination of the city's suit, Holt I, and Holt II. The city's suit was brought before a special three judge District Court in Washington which referred it to a Special Master for hearings and recommendations. Upon receiving the recommendations of the Master, the Washington court ruled against the city. The city appealed to the Supreme Court where, by unanimous vote, the justices held that there was racial motive for the annexation. The Court also ruled, however, that, given single-member council districts (Richmond had developed such a plan) and justifiable reasons such as economic or administrative benefits reaped by the city from the annexed

area, the city could retain the annexed area. But, the city had to prove that such justifiable reasons existed and, moreover, had to revert to ward representation.

The Supreme Court returned the case to the Washington District Court to determine whether verifiable reasons did exist. The Washington Court, once again, referred the case to the Special Master. The Master found that the city could prove that it received economic and administrative benefits from the annexed area and recommended, therefore, that the city retain the area. The Washington Court agreed with the recommendation of the Master and affirmed the annexation.

After conferring with members of the city's black community and deciding that appeals and other legal action were only delaying the reinstatement of councilmanic elections, Holt did not appeal the decision to the Supreme Court. With single-member districts, the black population could be assured of at least four predominately black districts within the nine district plan and possibly a fifth given its 40 percent black population. Hence, with ward elections, blacks could capture four and possibly five seats on city council. It was conceivable that blacks, for the first time since Richmond's founding, could acquire a council majority and thus elect their own mayor.

With the city's suit resolved, the injunctions against elections were lifted and local elections were called for March 1, 1977. Furthermore, Holt II, which was stayed pending the outcome of the city's suit, was withdrawn by the Richmond District Court upon request of both the city and Curtis Holt. The legal battle ended on March 8 when a majority black council took office. During the first session of the newly elected council, Richmond's first black mayor was elected.

Other Contested Annexations in the United States

That the 1970 Richmond-Chesterfield annexation was contested on racial grounds is not uncommon in the post–Voting Rights Act era. As noted earlier, the events leading up to the annexation, the ripple effects of the annexation, and the intricate, protracted litigation triggered by the annexation do cast the Richmond case in a special light. Nevertheless the fact remains that since the passage of the 1965 Voting Rights Act, Richmond's annexation of twenty-three square miles from Chesterfield County was only one of 244 municipal annexations challenged under Section 5, which requires designated localities or all localities in designated states to clear annexations with the

U.S. Justice Department. To put this figure in proper perspective, however, it should be pointed out that the 244 contested annexations represented only 3 percent of the total number of annexations (7,249 as of this writing) that had to be submitted to the attorney general for review.[13] In other words, 97 percent of the submitted annexations were approved.[14] As Table 1 indicates, fifteen of the thirty-three communities recorded multiple annexations. Rome, Georgia, for example, had a package of sixty annexations that was challenged in 1975, a "banner year" in that over the eight-year period (1971–1978) for which the most recent data are available, eight of the twenty-five localities (36 percent) had annexations contested in that year alone.

Two Cities in Texas

San Antonio and Houston will be cited as examples of contested annexations in other localities. Our rationale for selecting these two cases out of the more than thirty in Table 1 is as follows. They are the only cities on the list that can be called "national cities." According to the 1980 census, Houston is the fifth largest, San Antonio the tenth largest. Both cities also present unique examples of a new configuration in ethnic politics—the introduction of the Mexican-American electorate. A look at Houston and San Antonio may provide insight into the growing cultural pluralism associated with the expansion of the Hispanic population and its concentration in the urban areas of the South, Southwest, and, indeed, the nation as a whole. In addition, Houston and San Antonio may be viewed as representatives of Sunbelt cities. As such they are in a position to give us some idea of the future direction of Sunbelt politics, and the relationship between the physical expansion of Sunbelt cities and the distribution of power within the cities. Lastly, in land mass and population, Richmond is closer to both cities than any of the others in the table. (Richmond is the third largest city on the list following Houston, first, and San Antonio, second.)

San Antonio

San Antonio was founded by the Spanish in 1718, and is generally not considered Southern when its cultural, economic, racial, and political traditions are compared to those of other cities in the South. Its population (nearly 800,000) is 55 percent Mexican-American, 36 percent Anglo, and 9 percent black.[15] San Antonio's 400,000-plus Mexican-American population has two major distinctions. It constitutes the largest concentration of persons of Mexican heritage

Table 1. Annexations Contested Under Section 5

Location	No. of Contested Annexations Pursuant to Section 5 of 1965 Voting Rights Act	Year Annexation Contested
Alabama		
Bessemer	7	1975
Alabaster	6	1975
*Alabaster	1	1977
*Fairfield	1	1975
Pleasant Grove	1	1980
Georgia		
Rome	60	1975
Hinesville	1	1971
*Monroe	2	1976
*Savannah	1	1978
Statesboro	2	1979–1980
College Park	17	1977
Louisiana		
Lake Providence	1	1972
Newellton	1	1973
*Shreveport	51	1976
Mississippi		
*Jackson	1	1976
Sidon	1	1977
*McComb	1	1973
*Grenada	1	1975
*Grenada	7	1975
*Vicksburg	1	1976
Mendenhall	1	1981
North Carolina		
Lumberton	3	1975
*Rocky Mount	36	1977
New Berne	2	1980
South Carolina		
*McClellanville	2	1974
Charleston	1	1974
Texas		
*San Antonio	13	1976
Houston	14	1977
Port Arthur	1	1980
Victoria	4	1980
Virginia		
*Richmond	1	1971
Petersburg	1	1972
Lynchburg	1	1975
	Total: 244	

*Objection later withdrawn by the attorney general

Source: Calculated from U.S. Department of Justice, Civil Rights Division, *Complete Listing of Objections Pursuant to Section 5 of the Voting Rights Act of 1965* (January 1, 1981).

outside of Mexico City and Los Angeles. San Antonio is also the only major American city in which Mexican-Americans are the majority.[16] Prior to 1944, the City of San Antonio annexed territory at irregular intervals. However, annexations have occurred almost yearly from 1944 to the present. The first major annexation was initiated in 1952 when eighty square miles were added to the city, thereby increasing its size from seventy-five to 155 square miles. The size of this annexation prompted small cities and counties to demand remedies that would safeguard them against such annexations in the future.[17] The Municipal Annexation Act of Texas, passed in 1963, circumscribed the annexation powers of the major urban areas by two major provisions. First, it stipulated that cities in any one year could annex up to "10% of its current area provided the area to be annexed lies within those cities' extraterritorial jurisdiction." Secondly, it allowed cities to carry over any unused allocations of the allowable amount for future years provided that "not more than 30% is annexed in any one year."[18]

Between 1952 and 1971 San Antonio annexed a total of forty-three square miles in relatively small parcels. In 1972, however, the city annexed sixty-three square miles. This was the second largest annexation in San Antonio's history. (The annexation of sixty-three square miles exceeded the 10 percent allowable under the Municipal Annexation Act of 1963, but it was possible to do so since the act indicated that if a city had not annexed up to 10 percent of its land area in previous years, it could simply carry over the unused allocations for those years. San Antonio added its unused portion to cover its 1972 annexation.) Blacks and Mexican-Americans, citing provisions of the 1965 Voting Rights Act, viewed the 1972 annexation as an attempt to dilute their votes since the city's population was expanded by 51,417 people, 71.4 percent of whom were white; 24.4 percent and 4 percent were Mexican-Americans and black, respectively. The total number of the groups annexed was 36,749; 12,583; and 2,085 respectively. It was threatened legal action by one of the major land developers, however, that prompted the city council to rescind the annexation. The developer, who feared that the annexation would result in increased taxes for his land, cited irregularities in the measurement of some of the territories annexed. After the city rescinded the May 25, 1972, annexation with its sixty-three square miles, it proceeded to pass separate annexation ordinances beginning on September 11, 1972, which took in each of the rescinded areas separately. This strategy was used by the city because it hoped to avoid challenges to a collective annexation. If any one of the separate ordinances were

contested, the city could respond to that complaint without having each of the separate areas contested. San Antonio was able to annex fifty-four square miles of land by annexing separately. This contrasts to the sixty-three square miles the city had annexed earlier.*

Immediately after rescinding the May 25, 1972, annexation, the city manager appointed a task force to reexamine the annexation question. The task force prepared a report for council which included a four point rationale of the city's annexation policies.[19] According to the task force annexation was necessary for the following reasons:

(1) To promote orderly growth. Annexation was deemed important for securing developable land subject to the city's land use policies and zoning controls.
(2) To provide services. According to the task force, a central city remains viable only when it is able to provide services and higher levels of services than that provided by a smaller community. Small unincorporated areas of the county must depend on voluntary staff and the county has a limited budget for police, fire protection, and road maintenance.
(3) To maintain a sound fiscal position. As a city becomes a major metropolis and a cultural center for the region, the many services it offers begin to go beyond those serving its citizens. The city is, therefore, placed in the position of providing services to its suburban neighbors who utilize city facilities without contributing to the upkeep and expansion of these facilities. Annexation has been a procedure to protect the central city's monetary base.
(4) To promote unified government. Fifty-eight governmental units in Bexar County are surrounded by or contiguous to San Antonio. The report refers to several jurisdictional problems relating to such physical and health issues as congested thoroughfares, traffic bottlenecks, inadequate sewerage and water facilities.

These four reasons for annexation, as cited by the San Antonio task force, were similar to the reasons presented by the proannexation advocates during hearings in the U.S. District Court of the District of Columbia.

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*This information was conveyed by officials in the San Antonio Planning Department and the city attorney's office to the authors in telephone interviews, August 7–8, 1981.

Perhaps the only difference between the Richmond and San Antonio annexations is the cultural composition of the competing bloc votes. The fear of the white elite that precipitated Richmond's annexation is mirrored in the statement by one of the San Antonio area judges when he stated that "we've got to put a stop to this thing of minority groups getting together and electing a man."[20] In 1971 with the combined Mexican-American/black vote emerging as a new majority voice in San Antonio, it was little wonder that San Antonio's relatively recent stated goal of "using annexation as a rational tool of urban development" would raise the ire and fear of both Mexican-Americans and blacks who viewed massive annexations as attempts to dilute the growing power of a growing minority voice. These fears were not unfounded since Texas, like other Southern states, had engaged in policies that excluded blacks and other minorities from the political process through such practices as the all-white primary, literacy tests, the poll tax, and the annual voter registration statute.[21] Thus, the political concerns of Mexican-Americans and blacks focused on the diminishing minority vote which would be inevitable under future annexations and the concomitant decrease in the ability of any minority to gain power at the local level under the at-large electoral system. The issue in the 1970s, therefore, ceased to be the right to vote, as it was under the previous exclusionary policies in the South. Rather, it was the issue of representation.

Beginning in 1914, the nine members of the San Antonio city council were elected at-large. Minority candidates labored under several disadvantages in this electoral system since winning at-large elections depended upon access to an ample supply of campaign funds and on the willingness of a white majority to cast its vote for minority candidates.[22] One of the groups that exercised inordinate power in the at-large process was the Good Government League (GGL) which consisted of professional and business men.[23] This group's role in San Antonio paralleled the role of Richmond Forward or the Team of Progress (TOP) in Richmond. It was almost impossible for minority candidates to win elections without the support of GGL. There were three basic reasons for GGL's power: (1) It possessed vast financial resources. From 1971 to 1975 it spent an average of $109,000 per election; (2) It represented itself as a nonpartisan, public-minded "team." From 1965 to 1973, all the black council members were affiliated with GGL; from 1959 to 1973 of the twenty-three Mexican-Americans who won election, seventeen were affiliated with GGL; (3) Since election to city council required filing for a specific seat and receiving an electoral majority, the successful candidate either had to outspend GGL

or become a part of its slate.[24] Thus, the at-large election was seen by blacks and Mexican-Americans as an obstacle to equal representation.

Simultaneous with the establishment of the task force to reexamine the annexation issue, the opposition to annexation prompted San Antonio in 1973 to reexamine its city charter. Challenges to the at-large elections were initiated in a redistricting suit which culminated in a U.S. Supreme Court decision, *White* v. *Regester*, 1971. The high court held that multimember districts in Dallas and Bexar counties (San Antonio is in the latter) were unconstitutional in that they diluted the black and Mexican-American votes. But the decision referred specifically to the electoral processes of the counties and the urban center was yet untouched by the court's decision. As a result of the *White* decision, there were pressures to make the ruling apply to cities as well as counties. San Antonio's Charter Revision Commission proposed a charter change that would expand the city council from nine members to eleven, seven of whom would be elected from districts with the mayor and the remaining three members elected at-large. At that time the mayor was chosen from among the nine elected council members.[25] These recommendations were presented to voters in the November, 1974, election. Voters rejected the single-member district plan, but approved the election of the mayor by at-large vote. Opposition to the single-member plan ran along racial and cultural lines with black and Mexican-American communities voting for the plan and Anglo communities voting against it.

Nevertheless, a single-member district system eventually replaced the at-large system in San Antonio, but only after pressure was exerted on the city from the U.S. Department of Justice. Citing provisions of Section 5 of the Voting Rights Act, the Justice Department said that some of the annexations which occurred from 1942 to 1972 had, in fact, diluted the black and Mexican-American vote.[26] The Justice Department recommended that San Antonio adopt single-member councilmanic districts to insure that Mexican-Americans and blacks have the opportunity to attain political representation commensurate to their proportion of the total population. A single-member district plan would render San Antonio's 1972 annexation unobjectionable and thereby reduce the power of the Anglo voting bloc. As it did in the Richmond case, the Justice Department reasoned that annexation was impermissible if it increased the power of the white voting bloc while simultaneously excluding other racial and cultural groups from city council membership. San Antonio's city council accepted the Justice Department's recommendation and placed

the charter revision plan before the voters in a special election in January, 1977. This new plan called for an eleven-member council, ten of whom were to be elected from single-member districts with the mayor to run at-large.[27] This charter revision was approved by voters, 31,530 to 29,857. As in the previous charter revision election, voting went along racial and cultural lines with Mexican-Americans and blacks endorsing the plan and the more affluent Anglos opposing it. Single-member district representation, however, did not insure equal representation in San Antonio. As Ronnie Dugger stated: "Despite 'one man, one vote' court rulings, the two poorest districts, which have only two councilmen, have a total population of 161,000 compared to the 189,000 people in the three best-off districts, which have three councilmen."[28]

Ronnie Dugger's statement notwithstanding, the first city elections in San Antonio following the adoption of single-member districts saw the emergence of a "minority-majority" council in which the heretofore minority group now composed the majority with five Mexican-Americans and one black. Four Anglos were on the council.[29] This new "minority-majority" came from areas of San Antonio that had been largely unrepresented historically; thus, it represented groups with new and different voices, interests, and needs. There were some noticeable effects of the single-member district election:

(1) Whereas six candidates in 1973 and 1975 filed for each of the at-large positions on the council, sixty-nine candidates and thirty-two candidates filed for the newly created ten single-member districts in 1977 and 1979, respectively;
(2) Whereas 26.5 percent of all candidates during the years 1973–75 were Mexican-Americans, 40.6 percent of all candidates during the years 1977–79 were Mexican-American;
(3) Whereas from 1955 to 1975, five of the six Mexican-American candidates who ran for city council resided in predominately Anglo areas, after the 1977 charter change, up to 85 percent of the Mexican-Americans resided in one of the six predominately Mexican-American areas.
(4) Whereas in at-large elections candidates had to campaign in an area with a population of 700,000, candidates in single-member districts generally had to appeal to populations of 75,000.
(5) Whereas, the at-large elections were expensive and thus helped to exclude minority racial and cultural groups, campaign expenses declined in the single-member districts.[30]

Houston

Houston has recently emerged as the nation's fifth largest city.[31] Like San Antonio's, Houston's present corporate boundaries have resulted from massive and aggressive annexations begun at the turn of the century but greatly accelerated after World War II.[32] Houston's current 549 square miles resulted primarily from three annexation waves, one in 1949, one in 1956, and the last from 1957 to 1963 which increased the city area from seventy-four square miles in 1945 to 359 square miles in 1956. By early 1972 rapid annexations had increased the city's size to 501 square miles. Finally, annexations in late 1972, 1973, 1974, 1975, 1976, and 1977 pushed the total area to 549 square miles.[33]

The suit filed against the city in 1973 was addressed largely to Houston's at-large electoral system and the manner in which it diluted the black and Mexican-American vote. But this challenge, similar to the one directed earlier at the at-large system in San Antonio, was two-pronged in that, first, it questioned Houston's massive annexations, especially those beginning in 1972. Secondly, the challenge targeted Houston's city charter. A brief review of the vast population increases that accompanied Houston's geographical increases will serve to highlight the concerns of blacks and Mexican-Americans.

The 1973 suit by blacks and Mexican-Americans argued that the net effect of all the annexations throughout the 1970s was the dilution of the minority vote. The city added 180,137 people to its population during the 1970s: 24,809 blacks (13.8 percent), 14,148 Mexican-Americans (7.8 percent), and 141,180 whites (78.4 percent). Had Houston not annexed those areas throughout the 1970s the population ratio would have been different: blacks, 26.1 percent, Mexican-Americans, 14.2 percent, and whites, 59.7 percent.[34] The annexations of the 1970s, however, reduced the black percentage from 26.1 to 24.8, and the Mexican-American percentage from 14.2 to 13.5. In contrast, the white percentage increased from 59.7 to 61.7. The black and Mexican-American populations had been reduced by 1.3 and 0.7 percentage points, respectively. Together these figures represented a total minority population reduction of 2.0 percentage points. These reductions in the minority voting strength through annexations coupled with an at-large voting system, black and Mexican-American plaintiffs contended, had deprived minorities of present or future chances of ever having minority representation in city government in proportion to minority voting power. Though the annexations of the 1970s had included areas in which blacks and Mexican-Americans lived, the ratio of minority inclusion

was never close to the percentage of whites who lived in the areas annexed. Blacks and Mexican-Americans feared that if Houston continued to annex at the then present rate, it would soon run out of black and Mexican-American areas to annex. Thus, the result was the specter of white percentage increases with minority percentage decreases, further strengthening the voting power of the white population.[35]

In 1955, Houston, by popular vote, amended its city charter to place the city's administrative functions in the hands of the mayor, thereby instituting a strong-mayor system. The voters also approved an amendment to change from the single-member system to an at-large system. Under this system the nine-member Houston city council consists of a mayor, who is also a council member, five councilpersons elected from districts in which they reside, and three persons who hold numbered positions. A majority vote is required to win a citywide election. One of the ironies of the vote to amend the city charter is that blacks endorsed it, perhaps believing that the at-large system could possibly enhance black voting strength.[36] But whatever advantages blacks may have envisioned with the at-large system were quickly negated by the huge inflow of whites due to a succession of annexations.

The Houston charter was still a source of debate shortly after it was amended. The city council appointed a charter revision commission in 1956; the commission recommended that the newly amended charter provision of 1955 be rescinded and that the city return to a form of single-member districts. More recently, in a 1975 "straw vote," Houston citizens approved (by a margin of 53 percent to 47 percent) a plan to return to single-member districts. Despite these two pro-single-member district recommendations, the Houston city council steadfastly refused to reconsider the charter issue.[37]

In their class action suit, blacks and Mexican-Americans sought to enjoin future Houston city council elections under the multidistrict system. They made two central claims against the city:

1. Houston's requirement of election by majority vote. This requirement worked against minority candidates since they had to receive over 50 percent of the vote in the first election or face a run-off which would then pit them against a single white candidate. The majority system prevented two blacks from being elected to the Houston city council. Both led in the first election but were overwhelmed by opposition white candidates in the run-off. Both candidates would have been elected under a plurality system. In the *Graves* v. *Barnes* decision, a case involving at-large county elections, the United States

District Court decreed that "the majority system tends to strengthen the majority's ability to submerge a political or racial minority in a multi-member district."[38] This suppression of minority voting power may be even more evident whenever there has been a history of racial stratification and discrimination in a locality. To support this latter assertion, the plaintiffs cited cases in which candidates in Houston election campaigns appealed to racial prejudice. For example, they pointed to a case in which a campaign flyer was passed out only in the white community; it included the pictures of the two candidates—one white, the other black.[39] The black candidate had led in the first election, but was later badly beaten in the run-off. Under a single-member district plan, the plaintiffs reasoned, appeals to racial prejudice would have less impact on election results.

2. The unresponsiveness of the city to blacks and Mexican-Americans. The plaintiffs contended that at-large elections weakened and almost nullified the minority vote. Elected officials did not, therefore, feel an obligation to respond to minority needs since they could generally win without the minority vote. Ergo, the greater the majority voting–percentage became through the annexation of predominately white areas, the greater the potential unresponsiveness to minority concerns. Plaintiffs discussed the city's unresponsiveness in these areas: (1) employment in city agencies; (2) appointments to boards and commissions; (3) support for low-income housing; (4) lack of adequate recreational facilities in minority areas; (5) the persistence of police brutality toward minorities; and (6) lack of expenditures for the development of minority neighborhoods.[40] These and other problems existed, plaintiffs argued, because multidistrict apportionment had deprived the city of minority participation; hence, there were no minority spokespersons who could address the specific concerns of particular minority districts. Though under the present United States electoral process there is no legislative seat reserved exclusively for blacks or Mexican-Americans, the courts have reviewed the single-member district system as a possible remedy to the underrepresentation of minority citizens.[41]

The United States District Court did not support the claim by plaintiffs that at-large elections were constitutional violations.[42] In *Greater Houston Civic Council* v. *Mann,* Judge Frank Mann ruled that plaintiffs did not prove that (1) minorities were denied access to the process of slating candidates; (2) Houston's multidistrict system was racially motivated; (3) Houston had been unresponsive to the needs of the minority community; (4) past discrimination

limited minority participation in the voting process; and (5) the at-large electoral system diluted or negated minority voting strength.[43] Unlike Richmond, however, Houston was never confronted by plaintiffs seeking to deannex those areas whose incorporation into the city led to the dilution of minority voting strength. Rather, the Houston challengers wanted a change to single-member districts. On September 21, 1979, the Justice Department dropped its objection against Houston's annexation when the city agreed to an electoral system in which nine councilpersons would be elected from single-member districts and five councilpersons would be elected at-large.[44]

One of the added highlights of the Houston annexation dispute was the spirited debate among Houston-based scholars over the issue of racial polarization and the method by which an "index of polarization" could be computed. Polarization is, in general, a situation in which "the electorate votes along racial lines."[45] This dispute was not, however, trivial. Those who claimed little or no polarization between blacks and whites supported the annexation and the at-large electoral system. Those who argued that polarization between blacks and whites was high supported the single-member district plan. The polarization issue loomed large in both the San Antonio and Houston cases because polarization was seen by many as a major barrier to electoral success of minority candidates. Given Texas's historic institutional racism which was similar to the institutional racism found in the surrounding Southern states, it was no wonder that blacks and Mexican-Americans interpreted the massive and aggressive annexations of the 1960s and 1970s as racially motivated. In San Antonio the white population feared that it would be swamped by the Mexican-American vote and hence lose control of city government. The recent April 1981 mayoral election in San Antonio must have confirmed the worst fears of Anglos in that city, for San Antonio became the first major city to elect a Mexican-American mayor.[46] The polarization between Anglos and Mexican-Americans became a major issue in the election, but the recent population distribution which saw the rise of a Mexican-American majority in the city was a factor that could not be rescinded on the appeals to cultural chauvinism and discrimination. Accounts of a long history of discrimination against blacks and Mexican-Americans in both San Antonio and Houston gave credence to the claims of plaintiffs in both cases that race, indeed, was central in the annexation policies of the two cities. In both cases, as a result of litigation, the cities altered their electoral systems. Each city settled the dispute without unreasonable delay by adopting the single-member district

plan rather than going the way of Richmond which fought its case to the U.S. Supreme Court only to see its municipal elections suspended for a total of seven years. Both cities offer interesting case studies in the politics and sociology of ethnic voting and the politics of ethnic coalitions. The ethnic makeup of both cities makes them different from most municipalities in other states of the "Old Confederacy" in that the traditional polarization characteristic of the latter localities was applicable only to blacks and whites. The emergence of the Mexican-American adds a new component, a new variegated cultural dimension and its accompanying images of "brown power," an idea that parallels the "black power" concept of the late '60s and '70s. The emergence of the Mexican-American majority in San Antonio with the election of its first Mexican-American mayor (the first ever in a major city) provides us with an opportunity to analyze the dynamics of Hispanic cultural styles on American urban politics. In the cases of Houston and San Antonio, we are witnessing the diversification of politics and the degree to which the black and Mexican-American populations are able to forge a workable coalition that would offset the predominate political and economic power of the cities' white population. Now that future annexations seem less likely in the case of both San Antonio and Houston, the very power whites sought to negate—the black and Mexican-American vote—is a reality that must be sought and, in many cases, courted if the large urban centers are to remain as workable political and economic entities. Also, the emergence of "Sunbelt power" and the pivotal roles of Houston and San Antonio in Sunbelt politics add yet another dimension to the future of both cities as regional and national urban centers.

Data Sources

The basic research for this study of the Richmond-Chesterfield annexation covers the years 1961 to 1978. Data were collected through (1) interviews, (2) court records, (3) election returns, (4) census reports, (5) newspaper accounts, (6) government documents, and (7) secondary materials. The authors conducted structured interviews with most of the principal actors in the annexation dispute: former city council members, leaders of major black organizations, officials of Chesterfield County and other state and local political figures. Court records were scrutinized in order to assess the rationale for the positions taken by key disputants in the cases.

The use of election returns was essential in demonstrating the voting

strength of blacks and whites and enabled the authors to analyze the city's voting trends, a crucial issue to each side of the racial conflict. Census data revealed population trends in the city and the surrounding counties and provided the empirical support for the proannexation arguments. News coverage by local black and white newspapers was analyzed in order to locate key personalities in the dispute as well as to assess the tone and logic of the arguments presented for and against annexation. Government documents were examined because they provided the legal framework and justifications for the antiannexation suits. Finally, the social history of Richmond and Virginia was researched by consulting books, articles, and monographs.

Summary of Subsequent Chapters

Chapter Two provides an overview of demographic and political change in Richmond during the years following the Second World War. Attention is also given to the political climate of Virginia during the same period with particular emphasis placed on Massive Resistance and the emergence of the Crusade for Voters. In addition, the chapter explores the 1961 attempt by Richmond and Henrico officials to merge the two jurisdictions. The racial implications of the merger campaign are studied together with the move by the city to annex a portion of Henrico and Chesterfield counties after the merger effort failed.

Chapter Three is divided into two major sections with each section focusing on the Richmond-Chesterfield annexation. In the first section, the Henrico annexation case is explored, including the reasons underlying the city's rejection of the annexation court award. Attention is then drawn to the Chesterfield case and the initial slow pace of the suit as Richmond and Chesterfield officials sought to settle the dispute out of court. As the black population continued to grow and as the Crusade for Voters became more effective in registering blacks for elections, the city's attempts to annex accelerated. The interconnection between state and local oligarchs is analyzed as is the common cause made by local and state officials to perpetuate a capital city controlled by the white elite. Section two of the chapter begins with the year 1969, when the Virginia General Assembly passed a proposal to amend the state constitution that would empower the state to enlarge the capital city's boundaries once every ten years, the negotiations between the mayor and the Chesterfield County board chairman (which led to the drawing of the so-called "Horner-Bagley Line"), the decision of the Chesterfield annexation court, and the

appeal of the annexation decision to the Virginia Supreme Court of Appeals. Finally, section two examines the formation of a new political alliance, the Team of Progress, and concludes with an analysis of the 1970 council election.

Chapter Four charts the growing opposition to the Richmond annexation in the federal courts. Charging that the annexation was primarily racially motivated and designed ultimately to dilute the black vote, grass-roots organizer Curtis Holt, Sr., challenged the annexation on the basis of the Fifteenth Amendment and the 1965 Voting Rights Act. This chapter also examines the city's efforts to acquire approval of the annexation from the U.S. Department of Justice and its later move to seek a declaratory judgment from the U.S. District Court in Washington, D.C. Considerable attention is given to the role of key individuals and organizations in the litigation surrounding the annexation and the legal strategies fashioned by the city and its opponents. Chapter Four concludes with an analysis of the ripple effects generated by the annexation, including the shift from at-large to single-member district representation, the 1977 councilmanic election resulting in the election of the first majority black council and Richmond's first black mayor, and the changes in state annexation law which stemmed in large part from the 1970 annexation and the omnipresent acrimony between Richmond and her neighboring jurisdictions. Attention is also focused on the racial conflict which continues to characterize Richmond politics and the factionalism which is most pronounced on the Richmond City council.

Post–World War II Richmond

Race, Politics, and City Expansionism

Richmond's desire to annex portions of the surrounding counties is better understood when juxtaposed against population figures for blacks and whites within the city and aggregate population figures for the two surrounding counties (see Tables 2 and 3). According to Table 2, Richmond's white population can be characterized as a population in decline, whereas the city's black population growth has been steadily increasing. The "suspended" population percentages for both blacks and whites for 1940 and 1950 and for 1960 and 1970 can be explained by the annexation by Richmond of portions of Henrico County in 1942 and of portions of Chesterfield County in 1970. Specifically, the 1950 figures include the increases from the 1942 Henrico County annexation; the 1970 figures include the increases from the 1970 Chesterfield County annexation. Without the 1970 annexation figures, blacks would have composed 52 percent of the city's population. The dramatic shift in the city's racial composition is clearly seen in the 10 percent decline of the white population between 1950 and 1960. The black population, conversely, increased during the same period.

Population gains for the surrounding counties were even more dramatic than those gains experienced by blacks within the city. The sharp increases in the counties' population were mainly at the expense of Richmond and represented "white flight" to the suburbs.[1] The suburbanization of Richmond was taking place simultaneously with that in areas surrounding major Northeast and Middle West cities. Flight to Richmond's counties was consistent, therefore, with the national city-to-suburb migration trek among whites.[2] The black population, with minor exceptions, was still moving from the predominately rural South to the urban centers of the Northeast and Midwest.[3] But as Richmond, Atlanta, Charleston, and other Southern cities demonstrated,

Table 2. Population of Richmond, Virginia, 1930–1975

Year of census	Total	White	White Percentage	Nonwhite	Nonwhite Percentage
1930	182,929	129,871	71	53,058	29
1940	193,042	131,706	68	61,336	32
1950	230,310	157,228	68	73,082	32
1960	219,958	127,627	58	92,331	42
1965 (estimate)	219,065	118,952	54	100,113	46
1968 (estimate)	216,451	108,398	50	108,053	50
1970	249,621	143,857	58	105,764	42
1980	219,214	104,743	48	114,471	52

Source: U.S. Bureau of the Census.

Table 3. Population of Henrico and Chesterfield Counties, 1950–1970

	Henrico	Chesterfield
1950	51,650	31,970
1960	111,269	61,762
1970	143,812	68,012
1980	177,000	140,000

Source: U. S. Bureau of the Census.

there was still a steady, and often heavy, flow of blacks from the rural South to Southern urban centers; it might be argued, as some have, that white flight can also be explained partially as one of the results of planned governmental action, (1) the national highway system, and (2) the low-interest housing market (FHA and VA mortgage options were extra incentives). Even if the policies of the national government made suburban housing easier to purchase in the surrounding counties, and even if they paved the road (highway) which led from Richmond to Chesterfield and Henrico counties, Richmond could boast, during the postwar years, that it maintained one of the strongest urban economies among large and medium-sized American cities.[4] Thus, the out-migrations were not examples of citizens fleeing a fiscally crippled city. In fact, the city's balance of production and service industries enabled its citizens, especially its white citizens, to avoid the ravages of high unemployment.

Black Richmonders did not fare as well—the rate of unemployment was usually double that of whites, and when employed, blacks were usually relegated to low-prestige and low-paying jobs.[5] According to the latest data, a higher percentage of whites were employed in the professional, managerial, and administrative areas. Conversely, blacks were concentrated in categories such as service workers, operatives, and clerical and private household workers.[6] Richmond's economic strength derived from several sources. It was (and is) a major center for tobacco and its products, metals, pharmaceuticals, paints, food products, fertilizer, and wood products. It was also a regional center for banking and insurance; many large companies had their regional, national, or international headquarters in the city.[7] The city, therefore, maintained a fairly healthy economy prior to and during the white exodus of the postwar period, and it is important to understand these economic and demographic trends as major political events of the 1950s are explored.

Massive Resistance Movement

The Massive Resistance movement, a response by Southern white leaders to the 1954 *Brown* case, was intended to accomplish several goals: (1) hold the South to an undeviating adherence to the caste system; (2) reestablish a pre–Civil War concept of states' rights; and (3) insulate the South from the intrusion of new ideas and social practices.[8] The opening shots for Massive Resistance were sounded by none other than Senator Harry Flood Byrd on February 24, 1956, when he said: "If we can organize the Southern States for massive resistance to this order [of the Supreme Court in the school segregation cases] I think that in time the rest of the country will realize that racial integration is not going to be accepted in the South."[9] Virginia's position within the Massive Resistance movement took many Virginians and non-Virginians by surprise since many viewed the state as harboring few of the excesses of the Deep South or of the North. Moreover, many believed that Virginia would never associate with a movement, and especially not lead one, that had the support of "rabble-rousing and Negro-baiting" states such as Mississippi, Georgia, or South Carolina. But, Massive Resistance demonstrated that Virginia had a greater affinity to these states than had formerly been assumed; though she was geographically not as Southern as the Deep Southern states, she was—ideologically and culturally—more Southern with respect to adhering to the "spirit of the Old South."[10]

Massive Resistance may be said to have deepened or sharpened antiblack feelings among whites. The cornerstone of the resistance was the belief in the myth of white supremacy. The ultimate failure of Massive Resistance had nothing to do with any problack sentiment, nor anything to do with any sudden awakening among whites of feelings of brotherhood, justice, and liberty. Rather, it had everything to do with other factors that were important to whites who found themselves in the eye of a social hurricane. These factors included (1) the increasing awareness by Governor J. Lindsey Almond that Massive Resistance was legally doomed; (2) citizens' concern over the closing of public schools; (3) the disapproval by the Virginia press of any prolonged radical resistance; and (4) the opposition of businessmen who informed Governor Almond that Massive Resistance was hurting the state's reputation and undermining its development.[11] The death knell for Massive Resistance was sounded in Virginia in 1959 when the Virginia Supreme Court of Appeals declared that both the school-closing and public school fund cutoffs were illegal.[12]

Besides trying to circumvent school segregation, blacks were also engaged in the debate concerning their "place" in the Richmond order; though the black population may have been, as one black businessman commented, "tranquilized," it was not dead.[13] The population gains were more than numerical increases. Inner dynamics may have accompanied these increases, dynamics that related to the psychosociological dimensions of collective behavior. For example, an oppressed people might gain greater confidence when they composed a sizable proportion of a community in contrast to composing a small proportion. The population gains of blacks in Richmond resulted in the emergence of a variety of black organizations in the 1940s, chief among these being the Richmond Civic Council, a loose confederation of civic, fraternal, and religious organizations.[14] Prior to the 1948 city council election the council led a parade through predominately black Jackson Ward and held a series of "freedom rallies." These activities were designed to register new black voters who, because of the disenfranchisement practices operating in Richmond, only numbered 6,587.[15] They were also intended to gain support for attorney Oliver Hill whose subsequent election to city council in 1948 made him the first black to be elected to that body since 1895.[16] His defeat in the 1950 council election made the council an all-white institution until the election of B. A. Cephas in 1964. (After the 1966 council election Cephas was joined by two other black electees—Winfred Mundle and Henry L. Marsh, III.) Ironically,

Hill's election to the council in 1948 resulted from Richmond's reform movement, which saw the enactment of a change in the city charter that called for the abolition of the ward system and partisan elections in favor of at-large elections and nonpartisan elections.[17] The Richmond Citizens Association (RCA), a forerunner to Richmond Forward and Team of Progress, spearheaded this charter change. The logic for the change paralleled the logic of city officials in Houston who similarly changed from the single-member district system to the at-large system in 1955. The ward system had become inefficient and, according to the RCA, contributed to a council torn by personal, party, regional, class, and interest conflict.[18]

The old charter had a bicameral city council with a directly elected mayor. The Common Council consisted of twenty members and a twelve member Board of Aldermen. Under the new charter the mayor's post became largely ceremonial with administrative powers invested solely in a city manager who was to be appointed by the new nine-member council. The charter change was supported by the then major black sociopolitical group, the Richmond Civic Council. It is important to know that under the pre-1948 election system, the wards were so gerrymandered by white officials as to prevent blacks from consolidating their voting strength in any one ward.[19] Before Hill's election no black had yet joined the thirty-two member council. The white leadership endorsement of Hill can be viewed perhaps as "payback" to blacks for their support for the charter change. In any case, since blacks had not been able to field any successful candidates under the gerrymandered ward system, members of the Civic Council, no doubt, felt that there was really nothing to lose and possibly something to gain from cooperation with the local white leadership.[20] According to A. J. Dickinson, black and white leaders supported interracial cooperation for different reasons. Blacks viewed cooperation with the white power structure as a means of breaking down the "physical and psychological barrier" between the two groups—with the added incentive that if a black were eventually elected to the council it "would be a symbol of renewed aspirations and a focal point around which to arouse and rally a segregated and politically apathetic community."[21] Many whites may have reasoned that Richmond's business climate would be enhanced by "a reputation for good race relations." They also feared that the "stifling and archaic tradition such as segregation" could prompt many blacks to view any change as progress and thus "sanction change for the sake of change."[22]

The Crusade for Voters emerged out of this racially charged environment.

It grew out of the Committee to Save Public Schools, an ad hoc group formed in 1956 to challenge Massive Resistance by campaigning against a special referendum on January 9, 1956.[23] The referendum was intended to circumvent the 1954 *Brown* decision by permitting localities to close schools rather than integrate them. The referendum passed. Its passage sent a message to a newly emerging segment of the black community—the professional class. By 1956, this new class of blacks had begun to make its presence felt in the Richmond black community. These younger blacks—some of whom were doctors, lawyers, and university professors who taught at Virginia Union University—were frustrated by the lack of political coordination within the black community. They saw the need for a new sociopolitical orientation, one that was more aggressive than the leadership heretofore provided by the Richmond Civic Council.[24] These blacks contended that the Civic Council had many weaknesses and therefore lacked the elements that would serve as a catalyst for black advancement. These young turks, no doubt, rejected the posture of the black ministers who generally set the policies for the Civic Council; they wanted a more systematic approach to black politics, an approach that essentially discouraged racial rhetoric and emphasized highly organized precinct-level leadership. Speaking of the formation of the Crusade in 1956, Dr. William Thornton, one of the founders and a graduate of Virginia Union and the Ohio College of Podiatry, said, "We were originally the revolutionaries."[25] With the missionary zeal akin to W. E. B. DuBois's conception of the "talented tenth,"[26] these young professionals set out to alter Richmond's political mosaic by first increasing the political consciousness of blacks and then translating that consciousness into voting power.

When she was asked about the success of the Crusade, Edwina Clay Hall, former president of the organization, replied that the Crusade had made it possible for the number of registered black voters to increase from 8,500 in 1956 to 32,500 in 1966.[27] The secret of this success stemmed from the very structure of the Crusade. The organization was tightly organized and governed by the officers and the executive board, a structure that permitted the Crusade to weather the storm of personal as well as political infighting. Its highly centralized structure, therefore, permitted it to make quick decisions on important matters. On the grass-roots level, the Crusade operated as an effective umbrella group. Each predominately black precinct was organized around a precinct "club" which served as problem-solving agent for the precinct. The predominately black precincts elected representatives who sat on

the board of the Crusade. The Crusade also kept an updated list of all the major black social, civic, fraternal, and religious groups and the leaders of these groups. When major issues arose that required broad-based community discussions, these individuals were contacted and asked to attend public forums. The major decisions of the Crusade, however, were not made by those groups included under the umbrella; rather, they were made by the governing board, the chairman, and the group's officers. For example, during elections, when tempers and political jockeying were usually high, the question of whom to endorse was not thrown open to the at-large membership. Instead, the chair appointed a research committee composed of four members: the chair, the president, and two at-large members. This committee evaluated each prospective endorsee and then made a recommendation. To maximize the Crusade's political clout, the organization announced its approved slate the Sunday prior to the election, usually in black churches.[28]

Both the timing and the location of these announcements attest to the Crusade's awareness of the position of the black church in black communities and the necessity to not tip the organization's hand to those who might attempt to penalize some persons endorsed. The decisive power of the Crusade is more clearly viewed when its activities are analyzed later in this chapter.

The Richmond-Henrico Merger Attempt

In enumerating the racial factors that may have precipitated Richmond's efforts to merge with Henrico County in 1960, we see these important forces at work: racial population shifts within Richmond; the U.S. Supreme Court's desegregation mandate of 1954 and 1955, *Brown I* and *Brown II*; the emergence of black sociopolitical organizations, and the increase in black voting strength. By the 1950s the black geographical and political presence had arisen phoenix-like from almost out of nowhere. The white response to this emergence, given the image of blacks in the mind of many whites, was one of terror.[29] Now the seemingly harmless quest by many Richmond white leaders for a "greater Richmond" that would rival Atlanta, Charlotte, and New Orleans as a regional economic, political, and cultural center was accompanied by and largely outdistanced by overt concern with the politics of race whose importance was often cloaked in subtleties and coded in nonracial terms. These code terms could, on the surface, be viewed as virtues and, therefore, acceptable for those not yet initiated into the art of racial coding.[30]

By 1960, the Richmond black population was already 42 percent of the total population. Black voting registration rose from 12,486 in 1957 to 16,396 in 1961. With white flight already in high gear, and with blacks exerting their political power at the polls, it was clear that the latter had become a major force in the city's electoral politics.[31] The idea to consolidate the governments of Richmond and Henrico County in 1961 came at a time when numerous other cities throughout the United States were trying to induce their surrounding counties to merge. Consolidation, the argument went, would "simplify the local government structure, provide a more realistic framework for approaching common problems, eliminate duplications of functions and services, facilitate the establishment of uniform levels of services, provide a sound tax base . . . [and] establish a governmental structure capable of coping with urban development."[32]

The Richmond-Henrico merger plan was designed and shaped by a six-member joint Richmond and Henrico Consolidation committee which met between August, 1960 and July, 1961. The agreement reached by the Consolidation Committee called for the creation of a five-borough system consisting of the county's four magisterial districts plus the old city of Richmond. The committee also proposed the formation of an interim government to become effective on January 1, 1963. The interim city council would consist of eleven members with four members elected from each of the four "county" boroughs, four elected at-large in the old city of Richmond, and three elected at-large from the consolidated city. Following the five-and-a-half-year interim period, the council membership would be reduced from eleven to nine, all of whom would be elected at-large, though at least one councilperson would have to reside in each of four boroughs (the four boroughs consisted of the old magisterial districts whose boundaries were extended into the old city since the old city no longer was to constitute a separate borough).[33] In addition, special provisions were made for the county area added to the city. For example, county real estate would be assessed at 90 percent of market value and county tax rates would gradually increase over fourteen years until they reached the city rates. Also, county personnel, including teachers and principals, were assured of a job with Richmond at a pay rate no lower than the rate then in use.

Christopher Silver's analysis of Richmond's effort to merge with Henrico County points to the importance of race. According to Silver, race "remained at the heart of the controversy over merger." In subtle tones consolidation supporters sought to convince county residents that it was in their mutual interest

to prevent a black takeover of Richmond.[34] Silver cites a memorandum by the Richmond First Club in which race was highlighted as a major factor underlying the consolidation effort. The memorandum emphasized the dramatic consequences of population shifts during the 1950s: whites were fleeing the city in record numbers, while the black population was steadily increasing. The report added that the Richmond public school system was predominately black. Finally, the report noted that the decline of the white population and the increase in the black population jeopardized the city's tax base in that "the city tax base is automatically lowered when the black population increases."[35] The racial nexus became the unspoken theme and the hidden agenda, and white leaders, while refraining from introducing race as a topic for public discussion, understood the importance of consolidation for its economic as well as its racial advantages to the white political and business sectors.

On the other hand, there was very little support for consolidation among Henrico County's residents. S. A. Burnette (Chairman of the Henrico Board of Supervisors), other Henrico officials, and many Henrico citizens argued that the city was indeed pushing for merger because it sought to exploit county lands and resources.[36] They countered the city's claim that the county was unable to provide adequate services for its citizens or that county residents would be equal to city residents under the merger plan. Opponents of merger also attacked the Richmond business community which generally supported the merger. The *Merger Opposition Reporter*, a periodical initiated to spearhead opposition to the merger, informed its readers that all the talk of gains for Henrico citizens was merely propaganda by Richmond's business sector which wanted to use the county's resources in order to further its own business interests.[37]

Case studies of consolidation attempts demonstrate that black support for city-county mergers was basically situational. In unsuccessful merger attempts in St. Louis, Cleveland, and Newark, blacks voted overwhelmingly against the idea since black representation under the existing city government was higher than it would have been under the proposed consolidation government. In cities where blacks supported city-county merger, blacks either were not represented in the present government or had minimal representation. Consequently, they felt there was little chance of increased representation unless some kind of reform was instituted. It was explained earlier that Richmond blacks had used a similar logic when they supported the 1948 charter change

from ward to at-large elections because the wards were gerrymandered to insure that there would be no chance of a black winning ward elections.

By the time the Richmond-Henrico consolidation issue came up for a special vote in December of 1961, the Richmond Crusade for Voters had already begun formulating its political agenda for Richmond's blacks. The new black professional class which founded the Crusade had, in effect, staged a "double revolution"—one against the minister-led traditionalist group, the Richmond Civic Council, and the other against the traditional black-white relationship in which the black political leadership took its cues from the white leadership structure. Now this well organized, highly educated, close-knit group was eager to tackle more problems and demonstrate its political sophistication and strength.

The Crusade, unlike the Civic Council, chose to participate in the political process rather than merely engage in protest voting. This meant that it had to enter alliances with white power brokers on certain issues. In adopting this strategy the Crusade ran a grave risk: "[The] endorsement of a former white racist might lead some Negroes to label them an 'Uncle Tom' or accommodationist leadership, thus undermining any prestige or influence they might have in the black community."[38] This, in fact, was the case presented against the Crusade years later by Curtis Holt after he failed to get the Crusade's endorsement in an election he had lost. On the other hand, the Crusade reasoned that this possible negative reaction by the black community could be offset by playing the political game and thus incurring "political" debts which could be paid off with the enactment of sympathetic legislation, the weakening of racial barriers and the procurement of better jobs in the city government.[39] Using this logic, the Crusade decided to support the Richmond-Henrico merger on several conditions: The new consolidated government should include single-member districts or wards rather than the at-large system; it should retain the nine-member city council, as well as the city manager form of government. When it became clear to the Crusade that the most important of these provisions was not going to be adopted, election of council members by single-member district or ward elections, it decided to oppose the consolidation effort since it knew that under at-large elections the black vote would be greatly diluted and black political leverage and participation greatly diminished. Richmond city officials sought to offset the arguments by blacks against the merger by appointing five blacks to the steering committee of the Greater Richmond

Committee in July, 1961, but this did not reverse the black opposition to the merger which was now viewed by the Crusade as an attempt to insure continued white control in Richmond.

When the votes were tallied for the consolidation referendum held on December 12, 1961, it was clear that the city was not able to persuade the majority of Henrico voters to merge. County voters opposed the merger 13,647 to 8,862. Only one district, Tuckahoe, voted in favor of the merger. The City of Richmond supported the merger 15,051 to 6,700.[40] An analysis of voting precincts also showed that the city did not convince its black citizens that consolidation was in their collective political interest for 100 percent of the black voter precincts voted overwhelmingly against the merger. Sixty-eight percent of the mixed precincts voted against the merger, while 95.7 percent of the white voter precincts supported it. Proconsolidation forces in the city, however, saw a few bright spots in the county's response, namely the support which was registered in Tuckahoe, the county's most affluent district.[41] At least these Henrico citizens, it was argued, recognized the long-standing interdependence which existed between Richmond and the surrounding counties and were willing to merge the two jurisdictions. Though this argument kept the hopes of merger advocates alive and increased the hopes for those wanting to annex the area, it was clear that the county as a whole did not want the merger and that the city would have to seek other means to expand its boundaries.

Richmond's pro-merger vote delivered by its white voters meant several things, not necessarily mutually exclusive. It meant that some whites were now aware of the potential political threat posed by blacks and were now moving to offset that threat. It meant that the subtle racial messages had been received and the white elite were now acting to preserve their special interests. The vote also demonstrated the effectiveness of the "Crusade Machine" and its ease in getting its message down to the precinct level on issues affecting blacks. Though the black anti-merger vote was not enough to spell defeat for pro-merger forces in the city, it was another example to Richmond's white leadership of one of the grave consequences of black political power: the inability of the white leadership to determine the policies and direction of an independent black constituency. Silver noted that Richmond's urban elite, however, did secure a victory from the merger defeat: they were able to forge a new consensus among Richmond's white population on the elite's perception of a "Greater Richmond." Whereas such projects in the 1950s as urban renewal and highway construction had engendered much rancor and had caused splits

among whites, the merger attempt and the idea of a "Greater Richmond" were less divisive.[42]

Henrico officials and those Henrico voters who opposed consolidation were elated over their victory. S. A. Burnette, the Chairman of the Henrico Board of Supervisors who bitterly opposed the consolidation, issued a conciliatory statement two days after the defeat of the referendum. He said that Henrico was "wide open so far as any cooperation in support of the metropolitan area is concerned . . . [We] would entertain any proposal, but we are not in a position to instigate one right now."[43] According to the *Richmond Times-Dispatch*, Burnette had not squashed all future consolidation efforts, but merely contended that "another and better consolidation plan was possible."[44] Meanwhile a member of the Richmond Citizens Association (RCA), the organization that initiated the charter revision of 1948, probably spoke for the pro-merger forces when he said that the anti-merger vote showed that people had voted "with their hearts instead of their heads."[45] Throughout the merger negotiations and the discussions leading up to the December 12 vote, Richmond city officials kept an agenda that was not so hidden. The city sought to convince county residents that consolidation was the best option for Henrico. Failing a vote for consolidation, Richmond officials had made it known that Richmond would follow the annexation route.[46] Indeed, just before the referendum, Richmond City Manager Horace H. Edwards advised Henricoans to vote for the merger lest they face a city-initiated annexation that would not require their consent. According to several city and county officials interviewed by the authors, while some county leaders viewed the city threat as a bluff, practically all the leaders saw Edwards's efforts as counterproductive inasmuch as they created a backlash among the county voters, thus increasing the number of opposition votes to the consolidation. Nevertheless, as Edwards had predicted, the city council, on December 26, 1961, passed two annexation ordinances, one against Henrico County and one against Chesterfield County.

The Henrico and Chesterfield Annexation Suits

With the defeat of the consolidation proposal, city officials thought it best to move quickly with annexation. Thus, the day after the city council passed the two annexation ordinances, the city filed the annexation suit against Henrico and asked the Virginia Supreme Court of Appeals to designate two judges to sit with one of the Henrico circuit court judges on an annexation court.[47] The

following week a suit was instituted against Chesterfield County. The city's speed in filing these suits was prompted by the city's fears that the 1962 General Assembly might enact legislation to make future annexations difficult. City officials thought that county members of the General Assembly might make an effort to change the annexation laws in favor of counties. For example, the Association of Virginia Counties favored a law that would permit voters in the areas to be annexed to decide whether or not they wanted to be annexed. This was in contrast to judicially determined annexations.[48] Filing the suits under the existing annexation laws would allow the city to gain its objectives without a long and protracted battle. Also, city officials thought it better to proceed against Henrico and Chesterfield simultaneously since its case in court might be hurt if it tried to justify the annexation of adjacent land in Henrico without including land from another adjoining area, Chesterfield. The ordinance directed at Henrico proposed to annex 152 square miles which included a population of 115,000. This would leave Henrico with a land area of only ninety square miles and a population of a little more than two thousand. By seeking such a large area from Henrico, Richmond was actually seeking to acquire the entire county since "the latter area [the ninety square miles] would hardly have sufficient population and resources to support a county government and public schools."[49] The city sought fifty-one square miles of Chesterfield County with a population of 40,000. By annexing territory from both counties, the city's boundaries would expand from forty to 312 square miles and its population increase from 219,000 to 376,000. With its increased square miles, Richmond would become the sixth largest city in land area in the country. (The figures in Table 4 depict Richmond's growth through annexation.)[50]

Richmond's annexation arguments were similar to its merger arguments, the chief among these being that a community of interest existed between the city and its county suburbs. The annexation ordinances declared that "Richmond must expand or decline." If the latter occurred the entire metropolitan area would be affected since the city was the community's economic, financial, cultural, educational, medical, and recreational center.[51] Annexation, the ordinance continued, would provide for a "political union" between the city and its suburbs, and "present new opportunities for community progress."[52] Richmond further contended that the counties could not economically and adequately provide the necessary urban services. It cited the suburban areas' dependence on Richmond for water and sewerage services.[53] The city's

Table 4. Richmond Annexations, 1742–1942

Date	Population Before Annexation	Area Annexed (in Square Miles)	Total Area After Annexation
1742	250	0.20	0.20
1769	574	0.54	0.74
1780	624	0.34	1.08
1793	4,384	0.41	1.49
1810	9,785	0.91	2.40
1867	38,710	2.50	4.90
1892	83,000	0.38	5.28
1906	105,000	4.45	9.73
1910	127,628	1.02	10.75
1914	145,244	12.21	22.96
1942	208,039	16.93	39.89

Source: The *Richmond News Leader*, June 10, 1959.

annexation petition also cited the services in Richmond that were crucial to the metropolitan area—city employment, postal facilities, libraries, recreation facilities, parks, museums, hospitals, and cemeteries. The people in the territory designated for annexation, the city argued, "make no substantial contribution to the cost of providing the municipal services and the management and administrative functions necessary to keep such institutions available for their well-being, comfort, safety, health, enjoyment and welfare."[54] Richmond's proposal to annex all of Henrico County was unprecedented in Virginia's long tradition of annexations.[55] While many of Richmond's administrative and legal officials viewed the city's arguments as valid, many others, including lawyers, were convinced that the annexation court would not permit Richmond to annex an entire county.[56] Henrico appealed to Richmond to drop its annexation suit against it, but the city refused.[57] The Richmond business community, with the Chamber of Commerce and the Central Richmond Association in the forefront, either sent letters to the city council or appeared before the council in support of the annexation.[58] Several council members opposed Richmond's annexation suit. One councilman, Robert C. Throckmorton, objected to what he considered the "threatening manner in which the city was proceeding." Comparing Richmond's attempt to annex all of Henrico

County to Indian Premier Nehru's annexation of the Portuguese colony of Goa, he said: "We can't pull a Nehru on the county."[59] He further contended that the city was "seeking more territory than it could provide with municipal services."[60] As inadequate as county services may have been, Henrico was not then over the barrel as it was when Richmond annexed portions of the county in 1941. Then, when county residents complained about being annexed Richmond simply "threatened to curtail public utilities and fire protection."[61]

Meanwhile, other legal maneuvering took place. On January 30, 1962, W. Stirling King, a former Richmond mayor, filed a petition before the state supreme court at the city's request, in a test case, questioning whether Richmond was right in filing separate suits against the counties or whether Richmond should have consolidated the suits. Fearful that it might win the cases only to have them thrown out on technical grounds, Richmond wanted the issue clarified before the case went to court.[62]

The city was given some legislative encouragement when city officials found out that the antiannexation legislation pending before the 1962 General Assembly "would be amended—if enacted at all—" so that the city's suits against Henrico and Chesterfield counties would not be affected. The first bill would declare a two-year moratorium on annexation pending a special study of the annexation issue; the second bill would empower residents of the areas proposed for annexation to approve or disapprove the annexation; the last bill would require the annexing city to give conclusive proof that it could provide the area to be annexed with the needed services.[63] These measures were all under discussion in various committees, and there was talk that they might not even emerge from their committees for consideration by the total legislative body. In the meantime, Richmond's annexation suit against Chesterfield County was postponed on a motion by Chesterfield Commonwealth's Attorney Ernest Gates. The postponement was made in order to await the results of the King appeal which sought to make a test case of the annexation procedure.[64] Since the city had been given assurances that it had nothing to fear from the annexation legislation in the General Assembly, and since the Chesterfield circuit court had postponed the Chesterfield suit, the city was in a position to actively pursue the Henrico case while the Chesterfield case was on the back burner. But each county was struggling to make sure that it would not be the first to confront Richmond in the annexation court.

Chesterfield and Henrico filed separate appeals to the Virginia Supreme

Court of Appeals on March 12, 1962, but each used different arguments to support its respective claims. In requesting the court to force Richmond to proceed against the counties separately, Chesterfield County officials believed that if Richmond succeeded in annexing considerable territory from Henrico, the pressures on Chesterfield to grant large land concessions to the city would abate. Lawyers for Chesterfield also reasoned that Richmond, having annexed parts of Henrico County, would find it difficult to prove that it needed yet more land from Chesterfield County.[65] Since Richmond filed its annexation suit against Henrico a week before it filed the suit against Chesterfield, Chesterfield wanted the Henrico case to be the first on the docket. Henrico argued that the question of the single versus the consolidated annexation suit should first go to the three judge annexation court, and, therefore, sought to get the case dismissed on procedural grounds.[66] Were this to happen, Richmond, according to Virginia's annexation law, would be prohibited from resuming an annexation suit against Henrico for five years. On June 11, 1962, the Virginia Supreme Court rejected the Henrico County petition which asked that both annexation cases be dropped because of improper procedures.[67]

The Henrico annexation trials convened in June, 1963. After ten months of arguments by each side the annexation court finally reached a verdict. The city's request for 152 square miles of the county was denied. Instead, Richmond was awarded seventeen square miles and 45,000 people (98.5 percent of whom was white).[68] The land won by Richmond did not include as much undeveloped and commercial land as the city cited for its present and future needs. The city filed an appeal to enlarge the area given in the award, but this motion was denied by the annexation court.[69] Ironically, the Richmond officials waited more than a year before deciding to reject the award which they did on March 8, 1965. In the meantime, the fact that the city received less than it requested shifted the battleground to Chesterfield. Chesterfield officials reacted to the Henrico decision with some dismay, though they began to refocus their arguments as a result of the Henrico award.[70] Some believed that Chesterfield County had a better case in fighting annexation by the city and they cited the differences between their county and Henrico: Chesterfield had always been a more self-sustaining county, less dependent upon the services of Richmond than Henrico. These officials knew that they could not keep Richmond at bay forever. What they really sought was more breathing space to enable them to sharpen their arguments against the city.[71]

Municipal Elections 1960–1964

The Crusade had to contend with the major white political organization that had long dominated electoral politics, the Richmond Citizens Association (RCA), the group that had played the leading role in the charter reform movement of the late 1940s. Though there were other groups such as the Harmony Efficiency Progress (HEP) Organization and the Civic Economy Association (CEA), the Richmond Citizens Association clearly exerted the primary influence in Richmond's councilmanic elections. By the June 14, 1960, election, there were some 13,000 registered black voters in the city.[72] In an effort to ascertain how council candidates felt about some issues vital to blacks, the Crusade sent each candidate an eight-part questionnaire. Only one of the twenty-two candidates for the nine council seats, Howard H. Carwile, refused to answer the questionnaire.[73] This refusal was strange in light of the endorsements he had received from blacks in previous elections. Most of the candidates approached the questions with caution. One, Chandler A. Simpson, Jr., a member of the HEP ticket responded to the Crusade's inquiry regarding a biracial commission to handle problems between blacks and whites by saying that he would be in favor of such a commission if he could be assured that blacks would approach the problems "fairly and intelligently, giving due consideration to the full impact of recent decisions of the United States Supreme Court on the civilization and culture of the people of Richmond and Virginia."[74] Though there were no black candidates running for city council, the Crusade had agreed to recommend a full slate of nine white candidates rather than continue its previous policy of using "the single-shot approach." The Crusade believed that the "single-shot," in which blacks would be asked to vote for only one person, did not permit blacks to play "balance of power" politics. Even if nine thousand blacks cast their votes for any one candidate, that would not be sufficient to elect the candidate since a minimum of 14,000 votes was necessary for election. However, reasoned the Crusade, if these nine thousand votes were cast for nine candidates (each of whom got a minimum of five thousand votes from whites), the nine thousand votes cast by blacks would be decisive and act as a balance of power. Likewise, if all nine thousand black votes were cast for the same nine candidates in a field of twenty-two candidates, it would put these candidates ahead of the thirteen others.[75]

The Crusade's "full slate" strategy paid off at the polls. By playing "balance of power" politics, it was able to elect seven city council candidates and to unseat

two incumbents who had received unfavorable ratings from the group.[76] The *Richmond Afro-American* noted that of the three major groups which had recommended a slate of candidates, the Crusade, the Richmond Citizen Association (RCA), and Harmony-Economy-Progress (HEP), the Crusade received a .777 "batting average" since seven of its nine candidates were elected; RCA received a .666 average because six of its nine slate of candidates were elected; and HEP acquired a .250 rating inasmuch as only two of its eight candidates were elected.[77] Opposition to the Crusade's slate emerged from a group of black Richmonders. Calling their group the Human Rights Crusade, four ministers and two physicians sought to influence blacks to revert to the "one-shot vote" in order to elect Howard Carwile who, because he refused to respond to the questionnaire sent out by the Crusade for Voters, was not given its endorsement.[78] Carwile was defeated.

The 1960 election results clearly revealed the power of blacks at the ballot. Likewise, it demonstrated how a highly organized well-disciplined organization could effectively channel the black vote and thus increase black political leverage in municipal elections.[79] The Crusade's awareness of its importance in Richmond electoral politics was expressed by its president, then George A. Pannell:

> We . . . would like to thank the many organizations and individuals . . . [who] made it possible for us to be a more potent force in our city government. The mere fact that seven of the nine persons recommended by the Research Committee [of the Crusade] were elected is a high tribute to all concerned. The riddance of two of the foes of the Negro in Richmond is a step in the direction of harmony. There were no deals made with other organizations or individuals . . . we shall not be deterred by the theory that we are divided in our aims for first class citizenship . . . Let those who say we are divided and are trying to divide us at the same time—take heed. The colored voters of today will not be long fooled by anyone.[80]

On the eve of the June, 1962, councilmanic election, there were some 11,000 black voters. When one of the councilmen supported the Crusade's fair employment practices resolution presented before the city council in May, 1962, he was accused of doing so to curry the favor of the black vote. His response was: "Ninety thousand of our citizens are Negroes, and we can only be fair with them as we are with other citizens."[81] Such discussions were the order of the day as the black vote became a potent force that could neither be denied

nor circumvented. Prior to the 1962 councilmanic elections, the Crusade made its concerns known. It announced support of (1) a compulsory school attendance ordinance, (2) a local pupil assignment plan that would divorce the Richmond School Board from the state Pupil Placement Board, (3) a $1.15 minimum hourly wage, and (4) a change in the term for which council members are elected from two to four years.[82] The Crusade's role in electoral politics was recognized by its friends and foes, but white politicians were wary of openly soliciting the black vote. One commenter noted that whereas none of the white political organizations would publicly seek the black vote because of the possible reaction of white voters, "each accuses the other of making secret deals with Negro political leaders."[83] The Crusade's petition to the city council for equal job opportunities for blacks and its list of four concerns were not the only areas that received its attention. It continued to express its disapproval of any city-county merger plan that did not assure the election of at least one black to the council of the consolidated city. Likewise, it opposed the city's attempt to annex surrounding county areas for fear that the black vote would be diluted.[84]

Two blacks, Clarence Newsome, an attorney, and Mrs. Esther Smith, a housewife, were among the twenty-five candidates who ran for city council in 1962. Both lost, however. Only Newsome had the support of the Crusade. Newsome's eleventh place position for one of the nine council seats was attributed by the *Richmond Afro-American* to the light voter turnout which was partially blamed on the rain.[85] The Crusade suffered only two losses in this election in that two of its nine endorsees went down to defeat. Even with these losses, however, the Crusade was able to repeat its 1960s winning electoral rating of .777.

Three blacks entered the race for the 1964 council election. Two of them, Ronald Charity and Neverett Eggleston, Jr., ran on the slate of a new black organization, The Voter's Voice. The third, B. A. Cephas, Jr., was endorsed by Richmond Forward and, unlike the other two, also by the Crusade. By 1964, the Richmond Citizens Association (RCA) had disbanded and a new political organization, Richmond Forward (RF), had been formed. Many whites, including vice-mayor Phil Bagley and councilman Robert Heberle, viewed the group as "anti-democratic and controlled." Bagley said that the candidates put forward by the group for the 1964 city elections were inexperienced and thus susceptible to "political manipulation of the string pullers who think

Richmond begins and ends at Sixth and Broad Streets."[86] There was much infighting among white city officials as to the status of Richmond Forward. Many accused the organization of acting like a political party in that it was attempting to control city government through the election of its candidates to office. This, critics said, was in violation of the 1948 city charter which banned political parties from participation in the election of city councilmen.[87]

The Crusade was also subjected to criticism from some blacks. Two of the three losing black candidates for council seats, Eggleston and Charity, attacked the Crusade for "working hand-in-glove with RF." They accused the group of sacrificing two council incumbents, Herrink and Smithers, on the altar of expediency. Also, the Crusade was warned by a local black minister that other black organizations were rising to challenge its power.[88] The Crusade was subjected to heavy criticism from predominately black groups because it failed to back all of the black candidates. Under the umbrella of the West End Council of Leagues these groups included the Leagues of the 19th and 24th precincts, the West End Improvement League, the West End Nonpartisan League, the Randolph Street Neighborhood Organization, and the PTA units of Amelia, Randolph, Maymont, and West End Schools.[89] The Crusade had been aware of the challenge and kept urging black voters to "keep our vote solid. This is the only way we can have political influence. Solidarity is more important than one election or any candidate. We can always vote out a bad candidate, but we can't do this if we don't keep our solidarity."[90]

The Crusade again proved its strength at the polls in the 1964 elections. Eight of the nine persons on the Crusade's slate won council seats.[91] The Richmond evening newspaper had seen the Crusade as "the balance of power" in the campaign, and noted that all citizens were eager to know the Crusade's slate.[92] After the election results were known, the same press viewed the winners as the combination of dual efforts by the "better-to-do white business community, centered in the West End, and the Negro leadership."[93] It was also conceded that the Crusade played a major role in determining the outcome of the elections. Moreover, the election of B. A. Cephas, a black realtor, was viewed by a few whites as ushering in a new era of good relations between the races. He was to be the first black to sit on city council since Oliver Hill won election in 1948.

The annexation question had not been discussed publicly during the 1964 councilmanic election, but it was deemed important by a majority of council

candidates. The League of Women Voters sent a questionnaire to all twenty-one candidates prior to the June election. All seven incumbents seeking re-election cited boundary expansion as the most important issue facing city council in 1964. Five others mentioned decisions and problems stemming from the Henrico annexation court's decision to award seventeen square miles to Richmond and how such a small award might pose a handicap to the city.[94]

THREE

Action/Reaction

Annexation and the Struggle for Power

Section 1.
The Chesterfield Drama and the Role of the Commonwealth

The year 1965 was one of transition. Richmond declined the award of the Henrico annexation court that year, and the Chesterfield suit, which had been held in abeyance while the city pressed its case against Henrico, was activated the same year. The year was transitional in still another sense. Since the inception of the annexation moves in 1961, the dominant reasons for boundary expansion were largely economic, administrative, and physical in nature, not that race was unimportant. Race was a factor, but it was clearly subordinate to the other factors. In 1965, however, the rationale for annexation, at least privately among some politicians, began to change. Publicly, the city administrators and planners continued to justify annexation on the basis of the city's lack of vacant land, its declining tax base, and the rising costs of service delivery. Yet, other city officials and some leaders in the business community also began to view annexation as an effective tool for maintaining the political status quo. One city official, not wanting to be identified, noted in an interview that in 1965 "you could feel a political change."[1] His comment was prompted by a request he received that year from a member of the city council to prepare a "projection on when the city would become fifty percent black." That request was not an isolated incident. It came the same year in which a series of highly confidential meetings were initiated involving representatives from Richmond and Chesterfield and during which increasing attention was given to the city's changing population. In short, 1965 can well be viewed as a turning point both in terms of the target of the annexation suits and the rationale for the annexations. In regard to the latter, the race factor did not become paramount in the minds of some city officials until after two very racially bitter

council campaigns in 1966 and 1968; however, by 1965 race had ceased to be a peripheral issue.

Rejection of the Henrico Annexation Court Award

In early 1965, Richmond and Henrico were at loggerheads over the financial terms of the Henrico annexation court's 1964 decision permitting the city to acquire seventeen square miles and approximately 45,000 people from the county. On January 20, 1965, the court arrived at a compromise figure of $42 million. The $42 million included over $12 million Richmond would have to pay Henrico for public improvements in the area to be annexed, about $15 million required of the city over a five-year period to compensate the county for its loss of tax revenue, and almost $15 million of the county's debt which the city would have to assume. In addition, the court ruled that to accept the award the city would have to initiate a five-year capital improvement program in the annexed area that would cost over $13 million. In summary, the bill for the annexation amounted to $55 million.[2]

The city was in a bind. If it rejected the award, state law prohibited it from instituting another annexation suit against Henrico County for an additional five years. That would be deferring gratification for too long a period, during which time unforeseen circumstances might arise which could make the need for boundary expansion even more pressing. Also, by rejecting the award, the city would be responsible for paying the total legal costs of the case, including those of the county's. Appealing the decision to the Virginia Supreme Court of Appeals might result in a reduction of the financial settlement, but it would also, in all likelihood, delay the effective date of annexation from January 1, 1966, to January 1, 1967, since under state law annexations are effective at midnight on December 31 of the year in which the order is finally issued. Consequently, according to an editorial writer for the *Richmond Times-Dispatch*, "for an additional year, Richmond would be without the tax revenue from the 17-square mile area and without the talents and brains of the 45,000 residents of that area."[3] Worse yet, as subsequent news stories pointed out, the state supreme court could prescribe terms less attractive than those of the annexation court.[4] Under existing laws governing annexation appeals, if the appeal were accepted by the high court after the lower court issued a final order, the appealing jurisdiction had to accept the verdict of the supreme court with no option to reject.[5] This prospect, plus the doubt over what gains, if any, the city

might achieve from an appeal, also prompted the city's annexation lawyers to advise against such a move.

In many respects, the *Times-Dispatch* editorial echoed the sentiment of many city officials. They, too, thought the $55 million bill was too high. In addition, they believed the seventeen square mile award itself was inadequate, particularly given the fact that (1) Richmond had sought 151 square miles of Henrico (which represented about 62 percent of the county) and (2) even indicated that it would accept the whole county if the court awarded it. To add insult to injury, the area contained insufficient developable vacant land, one of the major reasons underlying the city council's 1961 initiative to seek annexation. Indeed, the city administrators pointed out that only 10 percent of Richmond's land was vacant and that the acquisition of the annexed area would have increased the amount of vacant land to only about 13 percent.[5a] Still another obstacle was the city charter. Even if city officials had been predisposed to accept the award, they would have had to overcome a charter provision which prohibited the city from borrowing money to pay the costs associated with annexation. Consequently, only money from general revenues could be used and the costs of the Henrico award far exceeded the funds available in the city's operating budget. (In interviews with the authors, many of Richmond's leaders note that the charter provision was not a stumbling block, that the city could have gotten the money had it wanted to accept the award. Moreover, they indicated in the interviews, as some did earlier in a federal district court, that had the city sought in 1965 to annex white citizens of Henrico in an effort to dilute city black votes, it would have accepted the Henrico award. Yet, none of those interviewed explained how the city could have financed the annexation without the power to float bonds. Raising taxes would have been politically infeasible. What is a matter of record, however, is that later in its efforts to annex 50,000 from Chesterfield County, the city was successful in guiding legislation through the Virginia General Assembly enabling the city to float bonds "to defray the costs in the extension of the boundaries of the city.")[5b] In addition to the problems of costs, lack of vacant land, and charter restrictions, there was still another. Some advisors argued that accepting the award would damage the city's case in the Chesterfield suit, which had been put aside during the Henrico hearings, and that the city should drop the Henrico award and pursue the objective of acquiring a more favorable award from the Chesterfield court. Otherwise, accepting the Henrico award might

prejudice the Chesterfield court such that it, too, would grant a small award or else none at all.

While many Richmond opinion makers agreed with the *Times-Dispatch* that the price of the award was excessive, other individuals or organizations (such as members of the city council, City Manager Horace H. Edwards, and even the afternoon newspaper, the *Richmond News Leader*) did not share the position of the morning paper that acceptance of the award was more desirable than the other two options. The *News Leader* ran an editorial which argued that rejection was "the best of the poor choices."[5c]

On February 1, the same day as the *News Leader* editorial, the Richmond City Council unanimously agreed to reject the award. After the council meeting, Mayor Morrill M. Crowe noted simply that "the prevailing opinion was that title acreage awarded is not sufficient to justify the price."[6] Edwards used stronger language, commenting that to have accepted the area would have been "an unconscionable thing to do." He pointed out that newly annexed citizens would have been paying twice for facilities and programs since as county residents they helped finance those projects and as city residents they would be taxed to support the city's payments to the county.[7, 7a]

In regard to the purpose of the Henrico annexation, insufficient evidence of racial motive precludes one from associating that factor with the annexation. Nevertheless, reporter Charles Houston did make one telling statement. Following his observation that (according to the recollection of the lawyers) the rejection was the first one in a major suit since 1902 when the revised state constitution called for judicial determination of annexations, Houston also noted that the rejection could lead to state action since:

> City officials have disclosed no plans for future action, but feels confident that the General Assembly will not allow the Capital City to be eternally thwarted in its efforts to procure room to grow in.
>
> The city has been losing population since the 1960 census, *and the proportion of Negro residents has increased substantially while the city's growth has taken place in the open areas beyond the boundaries.* [8] [italics added]

In addition, the city official who had been asked to prepare a projection on when the city would become 50 percent black noted privately in a March 1981 interview that if he had undertaken the projection before, the city would have annexed the seventeen square miles from Henrico.

Chesterfield County Annexation Suit Activated

Having refused the Henrico award, the city turned to Chesterfield County. Initially, the city sought to settle the case amicably, through compromise, and thereby avoid an annexation court hearing. Barring success at the negotiating table, however, the city was prepared to activate its suit against the county and resolve the annexation question through the courts. Accordingly, the city pursued both these routes. Soon after the council rejected the Henrico award and before the Chesterfield suit was officially activated, a few city representatives met privately with some Chesterfield County officials in an effort to arrange a peaceful settlement of the annexation issue. Andrew J. Brent, an influential attorney who practiced law in the city, but who lived in Henrico County, served as the mediator between the two jurisdictions. Mayor Morrill M. Crowe and City Manager Edwards (a former Richmond mayor and city attorney) represented the city. The county representatives were Irvin G. Horner and Melvin W. Burnett, the Chairman of the Chesterfield Board of Supervisors and the Board's Executive Secretary, respectively. In 1965, Horner had served seventeen years as the Clover Hill district representative on the board (twelve years as Board Chairman). He retained a seat on the board until 1975 when he was defeated. Burnett had served as Executive Secretary to the Board since 1949 (he retired in 1976 after twenty-seven years as the county's top administrator). His reputation for having an encyclopedic knowledge of the county's political labyrinths was widely established as was his penchant for taking detailed and voluminous notes of the scores of private meetings he attended.

As Burnett recalled, the meeting "was more or less an exploratory situation. They [the city representatives] wanted to see if we [Chesterfield representatives] were possibly in the mood to negotiate a settlement, more like a feeler type of meeting."[9] The thrust of the testimony taken several years later in federal court where the constitutionality of the annexation was challenged was that the primary concern of the city officials at the Brent meeting was people. The exchange between Burnett and the plaintiffs' attorney was particularly revealing:

Question: What was the emphasis of the conference?
Answer: It was always people, the number of people.
Question: How much discussion was centered around land and economics?

Answer: Very little, actually . . . Mr. Horner and I would talk about schools and land, vacant land, for expansion, but Mr. Edwards and Mr. Crowe would always come back eventually to the number of people they needed.

Question: What was significant about that, so I will get it straight, as you understood it?

Answer: Well, it was common knowledge, Your Honor, that the City of Richmond was going black.

Question: When you talk about people, you are talking about race?

Answer: Yes. It was common knowledge they were going black. The city realized this. We realized it. They claimed they had to have people from Chesterfield to offset the growing black race in the city. This was the basis of their negotiations as far as I am concerned.[10]

Horner also testified about the meeting and simply noted who attended and where the discussion occurred. Beyond commenting that the meeting was exploratory, Horner said little. Edwards, Crowe, and Brent did not testify. (Edwards was one of the attorneys representing the city in the federal courts following the annexation, a subject treated in more detail in Chapter Four.) Edwards could not recall the discussion at the Brent meeting. Crowe, while recalling the meeting, did not remember any mention of race per se in the negotiations, but did state his concern that the city needed a better citizen mix.[11] Speaking generally about the need for annexation and not specifically about the meeting, Crowe made the following comment:

> I expressed myself often when I was mayor that we did not have a proper citizen mix for economic value in the community. Being an old core city, we had a predominance of poor people who required, and properly so, more municipal services than their taxes would pay for, plus some rich, middle class people. . . . In our discussions, race was a very minor factor. I say race in the sense that poor people were a factor. Now the fact that most of the black citizens, or a much higher percentage of the black citizens, were poor, you would have a right to say that race entered into it because it, poverty, fell more heavily in the black community and, of course, we were attempting to overcome a predominance of poverty stricken people.[12]

Andrew Brent, in a March 6, 1981, interview with one of the authors, placed the emphasis of the meeting on still another subject. Noting that if the federal

courts had asked him to testify about "those discussions out there" [the meeting took place in a guest cottage behind Brent's home], he would have said that he "never heard the race issue raised once. Never! It was primarily tax revenues and land that would be available to create tax revenues and services, the kind of thing you would expect to go in that kind of discussion."

The interpretation of what happened at the private session varied among the participants. What is clear, however, is that efforts were undertaken to settle the Chesterfield annexation through private negotiation. Inasmuch as the county, to quote Horner, "naturally did not want to give up anything,"[13] the meeting, as did one other that summer (also at Brent's home), ended without the jurisdictional differences being resolved.

In 1965, City Manager Edwards had requested the preparation of a map, perhaps in conjunction with the Brent negotiations, which outlined a compromise target area. Known as "the green line map," inasmuch as George R. Talcott (Richmond's Boundary Expansion Coordinator) had used a green pen in demarcating the suggested compromise zone, the map was available for the two meetings, but how much attention, if any, was given to the map cannot be ascertained either from court records or from interviews.[14]

Given the city's willingness to resort to legal action, it was not surprising that when the first negotiation effort proved unsuccessful, the city council on July 19, 1965, voted unanimously to activate immediately the city's annexation suit against Chesterfield County.[15] The county responded quickly, stating its intention to fight the city by using all possible means to delay or dismiss the case. The annexation court itself (consisting of Chief Judge William Old, Circuit Court Judge from Chesterfield County, Circuit Judge Elliott Marshall of Front Royal, and Circuit Court Judge Vincent L. Sexton, Jr., of Bluefield) faced a problem of docketing the case before the spring of 1966 since each of the circuit court judges had full court calendars.

The Dismissal of the Chesterfield Suit

Almost four months after the council action, the annexation court held its first session on November 6, 1965, to discuss dates and procedures for trying the case. As expected, at the pretrial session Chesterfield County asked the court to dismiss the case. The county's lawyers claimed that the ordinance passed by city council did not comply with the provisions of the Virginia code in that the area sought for annexation had not been properly described in terms of metes and bounds and that the future uses of land in the area had not been properly

established.[16] Chesterfield's motion to dismiss the case was viewed as an action that Virginia counties generally take in their defense. Indeed, Henrico County had filed a similar motion before the Henrico annexation court in 1962 and had used essentially the same arguments; namely, that the city had not properly described the boundaries of the target area. But in the Henrico suit, the motion was denied. Such was not the case in the Chesterfield annexation, however.

On November 27, after hearing the arguments for and against Chesterfield's motion, two of the three judges (Judges Old and Sexton) voted to accede to the county's request to dismiss the annexation suit. The annexation court ruled that Richmond "had made substantial compliance" with code provisions requiring annexation ordinances to describe the target area in metes and bounds. On the issue of future land uses, however, the court opined that because the city had failed "to state any possible future uses of the area, the city did not comply with the mandatory requirements of the statute."[17] As a consequence, the court asserted that it did not have jurisdiction in the case and, therefore, had "no alternative other than to sustain the motion of the county and dismiss the proceedings."

The dismissal of the suit was a serious blow to the city, prompting one of the local state legislators, Delegate T. Coleman Andrews, Jr., to suggest that, given the representation of urban areas in the General Assembly due to reapportionment, the time was ripe for changing the state's "antiquated annexation laws" since "the law is being used to hamper the logical expansion of Virginia's cities."[18] Andrews's comments reflected the sentiments of most city leaders, but changing state annexation laws would take time and the city had an immediate problem on its hands—how to overcome the latest obstacle thrown up by the annexation court. Should the city appeal the decision to the Virginia Supreme Court of Appeals, or, assuming that it was legally permissible, should it institute a new suit against Chesterfield which would target a larger area for annexation than that outlined in the original suit? Pursuing the latter option depended on whether the state law prescribing a five-year waiting period before a city could institute a second suit against the same county was applicable in the Richmond/Chesterfield situation. Lawyers for the city argued that the law did not apply. They reasoned that since the court dismissed the case due to a faulty annexation ordinance, and since the initiation of annexation proceedings requires a legally correct ordinance, the city was prevented from instituting annexation proceedings against Chesterfield and, therefore, not subject to the five-year waiting period.

Given this opinion of the city's special annexation counsel, David J. Mays and John S. Davenport, III, city council authorized the city attorney to draw up a new annexation ordinance that did not include the flaw the court noted in the initial ordinance. Before council could act on a new ordinance, however, it had to wait on the annexation court to issue a final order dismissing the suit—an order "properly" worded which, in essence, declared that Richmond never officially instituted annexation proceedings against Chesterfield since the city's annexation ordinance was faulty. Judge Old had asked Chesterfield's chief defense lawyer, Commonwealth's Attorney Ernest P. Gates, to prepare the court's final order. Naturally, this move triggered a new debate between the two jurisdictions over the wording of the order. Unless the order were worded favorably, Richmond would have to wait five years before instituting another annexation suit against Chesterfield.[19] Chesterfield, hoping to block the city from instituting a new suit, wanted an order which stated that the annexation proceeding was dismissed; whereas, the city held that the court in its opinion of November 6, 1965, asserted that the court did not have jurisdiction in the case and ordered that the annexation proceeding be removed from the docket. Several weeks lapsed before Richmond and Chesterfield were able to agree on the wording. Through a compromise that enabled the county to keep its word "dismissed" and enabled the city to retain its position that the court removed the proceeding from the docket, the adversaries suggested the following wording for the final order: that the annexation proceeding "be dismissed and stricken from the docket of this court." Whether this exercise in legal semantics would accomplish the objectives of the city would be known only if the city attempted to institute another suit against the county. Only then could the city's interpretation of the Virginia code in light of the city's understanding of the court's ruling be tested.

The disagreement over the wording of the final order was only part of the problem. Disagreement also ensued over the question of who would pay for the costs associated with the annexation proceedings. The city argued that the court did not have jurisdiction to levy costs; the county disagreed. The city was fearful that if the court, because it had dismissed the city's suit, mandated that the city pay the costs then the city's attempt to immediately institute a new suit against the county would be damaged since payment would suggest that annexation proceedings had been instituted.[20]

Finally, on March 25, 1966, almost four months after the court dismissed the suit, the court issued its final order. The order incorporated the compromise

language that the proceeding "be dismissed and stricken from the docket . . . ," but added the phrase, "at the cost of the City of Richmond. . . ."[21] Now that the final order was in, the city had to make a decision about its intentions. Not wanting to abandon its annexation efforts, the city still retained the option of appealing the court's decision or perhaps levying a second annexation suit against Chesterfield. The latter alternative, however, was a gamble inasmuch as the compromise language of the final order and the fact that the city had to pay the costs of the annexation proceedings placed Richmond in a position vulnerable to attack from the county. Chesterfield officials had already indicated their intent to challenge an attempt by the city to institute new annexation proceedings. The county argument was simply that the city, having initiated one annexation suit against Chesterfield, would have to wait five years before moving to initiate a second suit. Appealing the annexation court's decisions also involved some risk. The Virginia Supreme Court of Appeals might not accept the appeal or, if it did, might simply affirm the decision of the lower court.

Richmond took some comfort in the knowledge that the law of averages was on its side. It was common for counties to move for the dismissal of annexation proceedings on technical grounds, but it was not common for the motions to be granted. As noted earlier, Henrico had undertaken an unsuccessful effort to squash Richmond's suit on grounds similar to Chesterfield's 1965 dismissal motion. Of greater importance was the fact that the decision by the Chesterfield annexation court to approve the county's dismissal motion was not unanimous. Judge Marshall had dissented and even wrote a dissenting opinion. In short, the city was coming more to the position that it could successfully appeal the decision of the court and that this alternative was less of a gamble than the one involving a new suit.

Accordingly, on May 20, Richmond filed notice of appeal, with the thrust of the appeal based largely on the argument outlined by Judge Marshall in his dissenting opinion. Two months later, the city's petition of appeal was submitted to the clerk of the State Supreme Court of Appeals. It was to be another three months during the October session of the state supreme court before Richmond would know whether the high court would accept the case.[22] Having done all it could legally to continue its case against Chesterfield, the city had no choice but to wait.

Meanwhile, the local political environment was continuing to change. It was becoming clearer that these changes were leading to the erosion of the

city's traditional power base and that nothing short of expanding the base to include additional population was necessary to ensure the continuity of the existing political leadership.

The 1966 Councilmanic Election

The most drastic change to occur since the poll tax was eliminated for federal elections was that which came through a U.S. Supreme Court decision. Less than three months prior to the 1966 city council election, the nation's high court ruled in *Harper* v. *Virginia Board of Electors* that the state poll tax for state and local elections was unconstitutional.[23] The fears that the establishment whites had expressed after the ratification of the Twenty-fourth Amendment were now becoming hard realities, namely, the local rules of the game were changing such that larger numbers of blacks who traditionally had been excluded from participating in the political process were now faced with fewer impediments.

The 1966 councilmanic election proved to be laden with racial overtones. The polite references to race, characteristic of previous elections, were quickly abandoned as the tension between Richmond Forward and the Crusade for Voters increased. After all, the black population was continuing to grow and it was estimated that in 1966 blacks represented 48 percent of the population. Only two years earlier, blacks constituted 46 percent of the city's population.[24] Furthermore, the number of black voter registrations swelled. In 1964, 18,161 blacks were registered to vote. By 1966, however, the number grew to 29,970—a 65 percent increase! White registrations during this two-year period rose from 52,179 to 58,827—only a 13 percent increase. Put more dramatically, the proportion of black registered voters expanded from a little over one-fourth of the total number of registered voters in 1964 to over a third in 1966.[25] It was obvious that while black voting strength was not proportionate to the black population in the city, it was increasing at a significant rate. Much, if not most, of the augmentation of black registrations could be attributed to the Supreme Court decision, but the federal enforcement in Virginia of the Voting Rights Act (enacted a year earlier in 1965), and the 1966 spring registration drive of the Crusade for Voters, were also key factors. The Crusade, particularly with its precinct-based organization, was proving most effective in mobilizing the black community.

The Richmond establishment began preparing for the 1966 election as early as the fall of 1965. The Legislative Committee of the Richmond City Council,

consisting of Henry R. Miller, III, Eleanor P. Sheppard, and James C. Wheat, Jr., recommended a change in the charter to replace the system of electing nine members of the council for two-year terms with a system of staggered terms. According to the plan, the four candidates in the 1966 election receiving the highest number of votes would serve four years and the five candidates with the next highest votes would serve two years. From 1968, the five vacant seats would be filled with the four candidates receiving the most votes serving four years and the candidate placing fifth serving two years.[26] The public rationale for the plan was that it would provide continuity on the legislative body by having a mixture of newcomers and experienced legislators each two years. Obviously, however, by having at-large representation and reducing the vacancies on council from nine to five, the proposed arrangement would better enable Richmond Forward to retain control and, by the same token, make it more difficult for blacks to acquire control.

The committee's plan was adopted by city council on December 13, 1965, by a narrow five to four majority. Support for the plan was registered by the Richmond Chamber of Commerce, the Richmond Jaycees, the Richmond First Club, and the Richmond Federation of Parent-Teacher Associations.[27] Both the *Times-Dispatch* and *News Leader* endorsed the idea in their editorials.[28] The black community, viewing the plan as a technique to counter the rising black population and its growing electoral power, opposed the plan. The Crusade for Voters, the NAACP, the *Richmond Afro-American*, even the People's Political and Civic League (a conservative organization oriented toward the Byrd machine) took a dim view of the proposal.[29]

Once the council endorsed the plan, the state legislature had to act on the matter since legislative approval is necessary for charter revisions. Normally, when a local delegation to the Virginia General Assembly is solidly behind a local measure, the legislature defers to that delegation's judgment and proceeds to grant the enabling legislation. In this case, however, the delegation was not united. The *Richmond News Leader* ran an editorial on the subject and stated that the local members of the Virginia House of Delegates "are balking, and ducking and bobbing and weaving at the prospect of seeking enactment" of the bill since they "fear retaliation from the city's Negro voters if they endorse the four-year plan."[30] Another reason for the hesitance of the local delegation to endorse the plan was that Richmond's eight members of the House also represented Henrico County. Owing their election in large part to constituents in the county who opposed merger with Richmond, and perceiving the staggered

term idea as an eventual aid in merger since members of the Henrico County delegation were elected for four-year terms, they were naturally concerned about being identified with any bill that might damage their political future.

The strongest opponent in the House was Delegate J. Sargeant Reynolds, a young liberal Democrat, son of Richard S. Reynolds, Jr., and heir to the aluminum empire. He sought a compromise and was successful in getting majority support in the body for legislation that would allow Richmond to hold a referendum on the proposed amendment. Richmond Forward leaders were furious with Reynolds.[31] They wanted the legislature to amend the charter without recourse to a referendum.[32] Reynolds, however, correctly sensed the political and social climate and wrote a letter to the editor of the *News Leader*, commenting that, if nothing else, the issue of staggered terms "brought to the surface what may become a tragic lack of trust between the white and Negro leadership of this city."[33] Perley A. Covey, an independent candidate for city council and an endorsee of the Crusade for Voters, noted during a candidates night sponsored by the North Side Civic Association, a black neighborhood organization, that actually he was the one who originated the idea for a referendum and he urged Delegate Junie L. Bradshaw to push for it in the General Assembly. He also pointed out that "Richmond Forward did everything they could to keep you from having the right to vote."[34] While it is difficult to clearly identify the one most responsible for the referendum, it is easy to identify the group not responsible—Richmond Forward. Nevertheless, once the bill calling for the referendum cleared the legislature and was signed by the governor, candidates endorsed by Richmond Forward lost little time in urging citizens to support staggered terms and, in accordance with the provisions of the act, city council, on May 9, passed a resolution requesting Hustings Court to schedule a referendum for June 14 on the question: "Shall the members of the City Council serve staggered terms?"[35] Richmond Forward itself, on June 4, ten days before the councilmanic election, also formally embraced the proposed amendment with RF President Carlton P. Moffatt, Jr., urging voters "to approve this charter amendment for staggered terms on June 14."[36] The staggered term proposal officially became a part of the ballot only after the Hustings Court authorized the referendum, though no one seriously doubted that the court would rule otherwise. The proposal was treated as a major issue throughout the councilmanic campaign. An NAACP attorney and Crusade candidate for city council, Henry L. Marsh, III, asserted in a Crusade meeting that "this is the most important election we've ever faced. It takes a lot of

nerve for the RF candidates to tell us we should have four-year terms and that we should elect their nine candidates; they are actively trying to put our government into the hands of a small group. . . ."[37] Earlier when speaking before council in December and before he declared his candidacy for council, Marsh said that regardless of whether the proposal was intended to dilute black votes, "certainly it would tend to have that effect."[38] Crusade candidate Howard H. Carwile, speaking at the same meeting, said that the question of overlapping terms was "the gravest and most fundamental issue confronting the citizens of Richmond"[39] and, at another gathering, charged that the proposal was the "consummation of a conspiracy that began with abolition of the ward system [in 1948 when Richmond adopted the council-manager government] and included the attempt to merge with or annex Henrico county."[40] One retired black attending a forum for council candidates may have best captured the sentiment of many black citizens who opposed the plan when he responded to incumbent James C. Wheat, Jr.'s defense of staggered terms. "Somebody looked down the road when they changed the form of government [from ward to at-large representation] and saw something coming that they didn't like," observed Louis Robinson, Jr. "I wonder if they see another day coming now and want to change it again. Every time we climb near the top it seems like someone blocks the way."[41]

The two daily newspapers and Richmond Forward candidates denied that racial motives prompted the attempt to change the term of office and argued that nonracial factors, in addition to providing continuity, led to the proposal. One editorial noted that reducing the number of people to be elected to council during a single election would also reduce confusion among the voters and would reduce the chances that a candidate with less than a majority vote would be elected. It also pointed out that in every county and virtually every other city in Virginia local legislators served four-year terms, that four-year staggered terms were also recommended by the National League of Cities, and that this reform measure would still insure voters an opportunity every two years to elect a majority on city council.[41a]

Doubtless, the staggered term proposal was the single most important issue in the councilmanic campaign. Boundary expansion was also an important issue, though it did not get as much press attention as the proposed amendment. Some council candidates, all of them Richmond Forward endorsed, said that the city's "need to expand is the top city problem."[42] Wheat, in particular, discussed this matter. In a discussion of city concerns at a meeting of

the Richmond Junior Chamber of Commerce, he urged the merger of Richmond area governments, observing that "we are one and we will never reach our potential without unification."[43] Little was said in the campaign about the Chesterfield annexation case. One incumbent councilman running for reelection as an independent, Robert C. Throckmorton, did voice his opinion that Richmond would fail in its attempt to appeal the annexation court's decision to dismiss the case because it had not prepared a proper case.[44]

The 1966 council election marked a change in Crusade strategy. When the Crusade was formed, it urged that blacks drop the "single-shot" technique often employed by black voters whereby one or a few candidates were singled out for support. In the pre-Crusade days when that tactic was used, single-shot candidates seldom won and those elected owed no debt to black voters and, therefore, could safely ignore black interests. The Crusade, from 1960 to 1965, endorsed a full slate of candidates. By endorsing the least objectionable whites, the Crusade sought to become a political creditor with its endorsees incurring political debts which could be cleared, assuming the endorsees were elected, with the enactment of favorable legislation.[45] Given the growth of the black population and the increase of black voter registration, the Crusade became a balance of power and was able to determine what white candidates would be elected to city council. Thus, it came as no surprise when white politicians actually began to seek black support. By 1966, the potential political strength of the black community had grown tremendously as a result both of demographic change in the metropolitan area and of the U.S. Supreme Court's action. Given these events and given its effectiveness in mobilizing black voters, the Crusade decided to depart somewhat from its previous practice of endorsing "safe" whites and to endorse several "long shot" candidates, candidates considered political activists and who the Crusade believed could be elected largely through black votes.[46]

Richmond Forward, meanwhile, knowing that it would be difficult to maintain its crucial majority without support from the black community, endorsed two blacks for council (one of whom was an incumbent who received RF support in 1964) and appointed a black as vice-chairman of its organization. Both black endorsees, B. A. Cephas, Jr., and Winfred Mundle, were businessmen who Raymond Boone, the editor of the *Richmond Afro-American*, described as "nice, gentlemanly, orderly . . . the Negro leaders made by the white power structure."[47] While on council, Cephas was closely allied with Richmond Forward and supported such municipal programs as inner-city expressways and

a coliseum. One significant break with the business-oriented group, however, was over the staggered term proposal. Cephas opposed it when council voted in December to recommend the charter amendment to the General Assembly. Later, however, he did vote with other RF members of council to support the resolution requesting Hustings Court to authorize a referendum on the matter. Winfred Mundle announced his support of staggered terms when he announced his candidacy for council. Richmond Forward selected as its vice-chairman Dr. Allix B. James, the vice president of Virginia Union University and the dean of the School of Religion. He was later elected president of the university. Like Cephas and Mundle, James was viewed as a "responsible" black who possessed the educational and business credentials that made him compatible with the white business leaders in Richmond Forward.

The campaign was bitter. Not only the staggered term issue, but also the perception by Crusade leaders that the white leadership structure was attempting to create confusion and disunity among black voters (and the perception of white leaders that the Crusade was arrogantly attempting to treat the diverse black population as a monolithic bloc of votes available to serve Crusade objectives) produced acrimonious disputes characterized by charges and counter-charges. Many political factions emerged within the black community. The Crusade, the People's Political and Civic League, the Baptist Ministers Conference (consisting of eighty-five black Baptist ministers), and the "West Enders" (an organization which emerged within a black section of near West End Richmond) all supported different slates of candidates. In addition, a disagreement broke out between the Crusade and the East End Federation which led the Federation to withdraw its support of the Crusade ticket. To what extent this factionalism was the product of a "divide and conquer" strategy employed by the white command structure or simply the product of a growing heterogeneity in the black community is subject to debate, though a more accurate explanation would involve a combination of these two factors. It is clear that Richmond Forward needed black support and rather than deal directly with the Crusade leaders, it established alliances with conservative blacks. It is also clear that as the black population continued to grow, the black community became increasingly pluralistic; the Crusade was inevitably encountering greater problems maintaining a black voting bloc.[48]

Meanwhile, racial tensions appeared to have increased as a result of the newspapers' coverage of the election. For example, on June 9, 1966, the *Times-Dispatch* included an editorial entitled "A Message to the Negro Voters of

Richmond" which attempted to draw a sharp contrast between the "public-spirited, responsible leadership of Richmond Forward" and the "private-regarding, autocratically controlled Crusade for Voters." The editorial read:

> You are to be told Sunday again, in effect, not to use your own intelligence in deciding how to vote. Forty-eight hours before Tuesday's councilmanic election, a handful of persons who run the strongest political organization in the Negro community will direct you how to vote, if previous practice is followed. . . . You are apparently expected to accept their recommendations without question. You apparently are not supposed to give any thought to the subject. Simply vote as they tell you to. Perhaps you may want to consider for yourself some of the charges you are hearing about the powerful, self-serving Richmond Forward groups. Who are these people who make up Richmond Forward? . . . (They) have been publicly identified. . . . They are the people who work for the best interest of this community in a hundred different ways. . . . They are the people who give time, talents and financial resources to more good causes than you can count. . . . They are the people who provide significant support for the Urban League and other community agencies. . . . *They are the people to whom leaders in your community turn when they want assistance in raising funds for predominantly Negro institutions of higher learning.* . . .[49] [italics added]

The editorial left little to the imagination. Instead of driving a wedge between the Crusade and its constituency, as intended, this statement, plus the general racial tenor of the campaign, specifically RF's efforts to "reform" the council election procedures, proved counterproductive. If anything, it reinforced black support of the Crusade. William S. Thornton, Crusade's President Milton Randolph and Franklin Gayles, both key strategists for the Crusade, responded to the *Times-Dispatch* statement by writing the editor. Originally entitled "A Message to the White Voters of Richmond," the letter was printed by the *Times-Dispatch* under the heading, "Statement from the Crusade for Voters." The Crusade representatives began the letter with the question, "Who are the Richmond Newspapers?" They responded to their question with the following statement:

> They are the champions of segregation. They cried No, No, Never to the U.S. Supreme Court Decision of 1954. They banned a Pogo comic strip that ridiculed segregation. These are the papers that have repeatedly attacked

> every organization that has fought for and gained Negro rights . . . and the Negro leaders of the demonstrations that secured many of these rights. . . . They attacked the NAACP; they attacked Martin Luther King; they attacked James Meredith; now they are attacking the Richmond Crusade for Voters. . . . (These newspapers) have repeatedly used statistics on illegitimate births and crime in an attempt to show that Negroes are inferior . . . (and) will not publish engagement announcements or publish wedding notices for Negroes on an equal basis with whites.

The letter concluded by noting:

> Long before any other group cared, the Crusade fought alone for Negro political rights in Richmond. . . . Its leaders are persons who have sacrificed time, money and effort in seeking to secure for Negroes a measure of political participation. . . . Why, Negro voters of Richmond, have the supporters of Goldwater and the opponents of every civil rights bill come to you with a message? They have come because you have gained a measure of political power. . . . We the leaders of your Crusade urge you to retain the power you have as you approach the threshold of full political participation. . . . We are confident that you will stand up behind your Crusade on June 14, 1966.[50]

The election on June 14 set a voter turnout record, surpassing the previous record established in 1964 by over five thousand votes.[51] The vast increase was attributed to the abolition of the poll tax for state and local elections, and the outpouring of black voters. Though there is no precise way to determine how many blacks or whites voted in the 1966 election, according to one analysis of votes from predominately black precincts, predominately white precincts, and the mixed precincts, it is estimated that blacks represented 39 percent of the voters. What is significant about the figure is that blacks represented 34 percent of the total number of registrants in Richmond![52]

The results of the election were as significant as the voter turnout. First, the staggered term proposal was defeated. Blacks voted overwhelmingly against the proposed charter change. Eighty-seven percent of the black voters in the predominately black precincts registered their opposition at the polls. Conversely, 57 percent of the voters in the predominately white precincts endorsed the proposal.[53] Obviously, the majority of the white voters supporting the measure was not large enough to override the large bloc of black voters opposing staggered terms. Notwithstanding the arguments to the contrary, it

was clear that the black community had perceived the "reform" effort as nothing more than a tactic to maintain a white majority on council. The second significant result of the election was that five Crusade candidates were elected including three blacks, Cephas, Mundle, and Henry Marsh, III. The major point, however, is that the black vote was primarily responsible for electing three members to council (Mundle, Marsh, and Howard H. Carwile) and for defeating three candidates, two of whom were incumbents who had received Crusade support in 1964—Henry R. Miller, III, and Robert C. Throckmorton.[54] Given the endorsement of Cephas and Mundle by Richmond Forward and the Crusade, it was not surprising that these two blacks were elected, though their political fortunes were destined to change in the next election as their close relationship with RF finally led to their loss of Crusade support.

What stunned Richmond Forward was the election of two Crusade "long shot" candidates, Marsh and Carwile. Marsh was an articulate young civil rights attorney whose commitments and constituency were considerably different from the moneyed-class in Richmond Forward. Carwile was white. His campaigns were largely populist in tone. He appealed to the white working class and blacks and attacked big business, the aristocracy, and the oligarchic power structure of Richmond. He was a perennial candidate who before 1966 had run at various times since 1944 for the U.S. Senate, governor, the Virginia House of Delegates, and the State Senate—and had lost on all eighteen occasions.[55] But in 1966, he won. Richmond Forward was clearly worried. The election results could have been worse for them, but the lack of solidarity among black leaders and the tendency of many blacks to still rely on single-shot voting were two factors which lessened somewhat the effectiveness of the Crusade to deliver the vote for its candidates. The fact remained that the Richmond elite was losing its political grip on the city and its future depended on expanding its electoral base. An article in the Norfolk-based *Virginian-Pilot* noted in rather explicit terms that:

> One hears whispers more and more these days that something must be worked out before June 1968. The June 1968 deadline is . . . the point, according to computations by experts on population shifts, when Richmond comes face to face with the possibility that Negroes could take over control of the City Council. This is the reason behind a hectic search, now under way, for a means to re-establish a white majority in the city's population.[56]

Indeed, shortly after the election, city officials began to discuss the possibility of renewing merger negotiations with Henrico County. One did not have to resort to the Norfolk paper for news accounts of the racial implications of boundary expansion. Only five days after the election, the *Times-Dispatch* ran a story which suggested that the election results might encourage a revival of consolidation efforts. The writer noted the following:

> Some observers believe that unless that [*sic*] the two communities merge within the next two or three years, they may never voluntarily unite. They believe a new political force now moving into a position of great power in Richmond may not favor such a union.
>
> This new force is the Negro voter. . . .
>
> The councilmanic election demonstrated the growing strength of the Negro voter . . .
>
> If present political trends continue in Richmond, Negro voters will grow steadily stronger, and within a very few years they may be able to elect a majority of Richmond's nine Councilmen.
>
> From a purely political viewpoint, it would be unreasonable to expect a Negro-controlled Council to favor a Richmond-Henrico merger. For such a union would bring thousands of new white voters into the city and that would dilute the Negro's political strength. . . .[57]

One Henrico official responded to the discussion about merger negotiations with this remark in a July 9, 1966, *Times-Dispatch* news story, "There's no sense in kidding ourselves, a merger move coming right on the heels of the city election would indicate to anyone that it is the result of the large Negro vote. It would appear to me to be an attempt to dilute the colored vote."

The discussion about renewing the merger effort never resulted in substantive negotiations between the two jurisdictions, although it did lead State Senator Edward E. Willey to introduce in the 1968 General Assembly a bill that would have joined Richmond and Henrico through unilateral action of the state. The bill did not pass. The need to expand the corporate boundaries, however, could just as easily be met through annexation.

The Resumption of the Chesterfield Case

While the city was waiting to hear whether its appeal of the annexation court's dismissal decision would be accepted by the state supreme court, Richmond officials began another round of highly confidential meetings with county leaders

as a means of settling the dispute. The next meeting, following by almost a year the two conclaves at Andrew Brent's home in 1965, was held in Farmville, Virginia, sometime in the summer of 1966. James C. Wheat, Jr., a Richmond councilman and one of the most powerful members of the local power structure, called the meeting at the home of his mother-in-law. Attended by Wheat, John S. Davenport, III (an attorney for the city), John H. Thornton (an attorney for the county), and Irvin G. Horner, the meeting was again exploratory in nature. They conferred to determine whether it was possible for the two opposing parties to settle their differences and to eliminate the need for adversary proceedings. It was at this meeting, according to Horner in testimony during a 1971 federal court hearing, that Wheat allegedly said that the city "needed 44,000 leadership type of white affluent people."[58] Both Wheat and Davenport, in interviews with one of the authors, denied that the city was seeking additional people to dilute the black vote, though Wheat in his court testimony and in the interview did discuss the city's need for more advantaged people and said, as well, that he could not recall exactly what he said in Farmville.[59] Like the Brent meetings, the meeting in Farmville was fruitless. But not all was lost.

Good news came to the city during the October session of the Virginia Supreme Court of Appeals. The high court agreed to hear Richmond's appeal. The only problem was that, given the court's crowded docket, the supreme court could not hear the case until spring or early summer of 1967. The city did request the court to expedite a hearing, but the request was denied. Richmond, therefore, entered 1967 without expanded boundaries, having to wait once again for a court decision.

The court did not hear arguments from the two jurisdictions until June 14, 1967, and a decision was not reached until September 8, 1967. Months had passed and the city could do nothing until the court acted, but when action came, the city was victorious. The court in a unanimous vote reversed the annexation court's ruling and ordered the reinstatement of the case against Chesterfield County. The wait had not been in vain. The high court essentially agreed with the dissenting opinion of annexation court Judge Elliott Marshall who asserted that the provision of the state code calling for the inclusion of information "deemed relevant" on future land uses in the target area was permissive, not mandatory. Consequently, the court reasoned, the city's failure to supply that information was not grounds for dismissing the case.

The roadblock to annexation had been removed, but the city could not move immediately. The three annexation court judges had to find open dates

on their calendars and agree on a time when the case could be rescheduled. Moreover, two of Chesterfield's lawyers, Frederick T. Gray and William F. Parkerson, Jr., were members of the Virginia House of Delegates and Senate, respectively, and state law authorized the suspension of litigation in which a state legislator was involved for thirty days before, during, and after a session of the General Assembly. In roughly four months, the 1968 Session of the General Assembly would convene and even in the unlikely event that the annexation case were to get underway during the fall of 1967, it would have to be suspended shortly afterward to allow Chesterfield Delegate Gray and Henrico Senator Parkerson to fulfill their legislative responsibilities.

Another irritant for the city's proannexation forces was the opposition to the annexation voiced by one of the freshman members of city council, Henry L. Marsh, III. Marsh was joined in challenging the city's pursuit of annexation by Howard Carwile and while neither posed a serious threat, they did air their views publicly, marking the first time that a liberal challenge to boundary expansion surfaced on council. Marsh, in a reply to a letter sent to members of council by newly appointed City Manager Alan F. Kiepper and City Attorney Conard B. Mattox, Jr., questioned the propriety of Kiepper's and Mattox's efforts to proceed expeditiously on the annexation. Marsh's position was that even though the Virginia Supreme Court of Appeals had reversed the lower court's decision, the Richmond City Council should make a fresh decision regarding whether or not to pursue the annexation case. "It seems clear that the 1961 council [which initiated the suit] cannot bind the present council," Marsh wrote, "and equally clear that the city manager and city attorney can only recommend a course of action to the present council and, of course, execute any decision that is made by the council."[60] The reporter who covered this story for the *News Leader* was quick to point out the city's changing political environment, noting that "Marsh's action appeared to be in line with gradually developing anti-merger and anti-annexation sentiment in the so-called 'activist' segment of the Negro community."[61] Kiepper, however, believed that the 1961 ordinance was clear enough and that unless the council should reverse the action it took six years earlier it was proper to proceed with the annexation.[62] Inasmuch as Marsh and Carwile were the only two legislators to call the continuation of the suit into question, the council was not predisposed to reverse its action. (It should be noted that both Cephas and Mundle, the other blacks on council in addition to Marsh, did support the annexation suit. This position, plus those taken by Cephas and Mundle on equally significant issues,

led to the Crusade's withdrawal of support for them in the 1968 councilmanic election.) Consequently, when Marsh called for a meeting of council to discuss the annexation question, the mayor refused.[63]

A few days after the state supreme court decision, the Richmond lawyers asked the annexation court to set an early date for a pretrial conference to discuss the ground rules and procedures of the case, to hear any pending motions, and to establish a date for the trial itself. Though the upcoming session of the General Assembly was to delay the start of the trial, the city did want to minimize the delay by completing the necessary preliminaries for the trial before the state legislature convened. But it appeared that for every forward step the city took to move the case along, it was pushed one step backwards. In early October, 1967, Judge Vincent L. Sexton, Jr., of Bluefield resigned from the annexation court for personal reasons and the city had to wait for the Supreme Court of Appeals to appoint a successor before any dates for pretrial conferences could be fixed. The high court acted quickly and within days the vacancy was filled by the appointment of Pulaski Circuit Court Judge Alex M. Harman. Before the end of the month, the annexation court had also acted and set November 4 as the date for the pretrial conference.

Unlike the 1965 pretrial conference between Richmond and Chesterfield, the 1967 pretrial session did not produce a motion from the county to dismiss the suit. Rather, the county indicated its desire to start the trial on October 15, 1968. The city countered with the suggestion that the trial date be set for May, 1968. The court's decision basically split the difference with the trial to begin on August 5.[64]

It was widely reported that the earliest the three judge court could enter an annexation order was December, 1969. The problem, however, was that even if the court ruled to award territory to the city, the court decision could be appealed, thereby throwing the effective date of annexation (assuming the city won the appeal) into the 1970s. Such a long-range effective date was dangerous to the political elite given the constantly growing black population and the "increasing militance" of the Crusade for Voters. Again, soon after the court set the date for the trial, the press began reporting that the 1968 council election might lead to a sentiment on council to drop the suit. Should blacks acquire a council majority, most local political analysts believed that "it would be highly unlikely that Richmond's Negroes would voluntarily yield political control of the city by pursuing a policy which would add as many as 50,000 white citizens to a city of 220,000 in which Negroes are now a bare majority."[65]

Another factor had also entered the picture by November, 1967. A blue-ribbon panel was established by the 1966 General Assembly to "make a comprehensive study of metropolitan area governmental problems and to undertake to develop solutions to such problems. . . ."[66] Consisting of fifteen members appointed by the governor, the panel was officially known as the Virginia Metropolitan Areas Study Commission and popularly called the "Hahn Commission," since Dr. T. Marshall Hahn, the President of Virginia Polytechnic Institute, served as chairman.[67] For over a year, the Hahn commission had been studying the growth of urban areas in Virginia and had devoted considerable attention to the problems facing the state's cities and suburbs, particularly problems associated with social and governmental fragmentation, lack of regional planning, and annexation. It appeared that the commission was sufficiently concerned about annexation to propose a new system of city boundary expansion. Though the major thrust of the commission dealt largely with the impact of urbanization on local governments and the role which state, regional, and local jurisdictions should assume in responding to this phenomenon, the commission did acknowledge that race, too, was an issue, at least in those urban areas where the black population was rising. In fact, one news story appearing in the *Times-Dispatch* noted that "it's no secret, as the Virginia Metropolitan Areas Study Commission has been told, that Richmond's growing majority of Negroes, now estimated at 52% of the total city population . . . is disturbing to the city power structure."[68] Moreover, in the first report the commission released, *Governing the Virginia Metropolitan Areas: An Assessment*, the panel examined, among other things, the government in each of six metropolitan areas and made this observation about Richmond:

> Two major factors underlie the divisions and disagreements over policy in the Richmond area. First, the counties feel seriously threatened by annexation, and all the local units calculate their policy choices in a large measure on the basis of the probable effect of regional arrangements on future annexation proceedings. Second, the steady concentration in the city of Negroes, the disadvantaged, and low income groups is a major concern not only to the city, but to the entire metropolitan area. If the governments of the Richmond area do not resolve this problem together, the effects will damage not only the Richmond area but the State as a whole. Any realistic approach to the problems of the Richmond SMSA must take these often unexpressed factors into consideration.[69]

The Crusade, upon reading the commission's report, responded with a statement from its Merger Study Committee:

> Our organization, though open to all people concerned about political justice, is a predominately Negro organization; and we are sensitive to the problems of the Negro communities. But we regret that this commission chose to lump the concentration of Negroes with the concentration of disadvantaged and low income groups thus conveying the connotation that Negro concentration is somehow inherently undesirable. . . .[70]

Yet beyond the commission's first report, a few news stories, and the comments of one Henrico County Board Member, Mr. B. Earl Dunn (who had indicated that, in his estimation, "the Hahn commission was established solely for the purpose of helping the City of Richmond in its racial situation"[71]), little information exists to suggest that race was the major subject of the panel's deliberations. When examined in the context of the whole range of concerns addressed by the commission and the emphasis it placed on the problems attendant to the delivery of public services in governmentally fragmented metropolitan areas and the need to develop more effective mechanisms for local service delivery and to strengthen regional planning, then the concern about race might be considered secondary. Indeed, one member of the commission, State Senator FitzGerald Bemiss of Richmond, took a decidedly progressive position on the subject of race by arguing that the commission should give attention to the employment problems, housing problems, and the political problems of minorities which give rise to racial tension. His views, however, did not prevail. The commission concentrated on physical problems such as sewers, water, air pollution, and traffic congestion, and on settling interjurisdictional conflict.[72]

Upon completion of its investigation, the Metropolitan Area Study Commission presented its recommendations to Governor Mills E. Godwin, Jr. One of the proposals was the creation of a Commission on Local Government, a three member body appointed by the General Assembly whose powers would vastly increase the role of the state in local and regional affairs. One of the responsibilities which would be given to the proposed Commission on Local Government, in addition to approving or disapproving all incorporations of towns and cities, special districts, and intergovernmental agreements, was to determine annexations in metropolitan areas. In short, the commission would replace the special annexation courts in Virginia's major population centers.

Another recommendation called for changes in existing consolidation procedures such that the state, through the Commission on Local Government, could initiate a referendum on merger in areas where consolidation might be beneficial or where local initiative did not materialize. A third major proposal of the blue-ribbon panel was to enable local jurisdictions to establish a new governmental unit called a "service district" that would be a vehicle for delivering services on a regional basis. Essentially, those jurisdictions within the same area wishing to have regional service delivery would draw up a plan that would be subject to a popular vote in each of the participating localities.[73]

Obviously, the annexation, consolidation, and service district proposals of the Hahn Commission received considerable attention in the Richmond metropolis given the state of jurisdictional relations within the region and, specifically, the fact that Richmond and Chesterfield were involved in an annexation suit. City officials were particularly anxious to move ahead as quickly as possible with the suit since this action could be Richmond's last opportunity to acquire land and people from Chesterfield before new laws were approved by the state legislature. And, of course, as the city's political environment became more unpredictable, the city's search for an expeditious and successful conclusion to the case became more resolute. Beyond their efforts to force the county to promptly submit pretrial data to the city for their use in preparing their case (which proved successful inasmuch as the annexation court mandated the submission by certain deadlines), Richmond officials could do little else since the year was coming to a close and the General Assembly was scheduled to convene in January, 1968.[74]

The 1968 General Assembly

The 1968 General Assembly was perhaps more attuned to the unique political needs of the capital city than any session of the state legislature since Richmond initiated the Henrico/Chesterfield annexation moves in 1961. By 1968 the shifts in the city's population and the incursion of what many whites viewed as "less responsive" blacks into white political sanctuaries had gained the attention of state officials. State legislators across Virginia began to share the concern of Richmond's white elite that unless swift measures were taken the capital city was in danger of falling into the control of blacks.

The capital city of any state usually enjoys a "first among equals" status among a state's localities. Certainly that is the case in Virginia. Aside from the fact that Richmond is the state capital, Richmond was the capital of the

Confederacy. Richmond, therefore, represented to Virginians a time on which the destiny of a nation depended and, though history went awry when the Yankees stormed the gates, Richmond still remained fixed in the minds and hearts of twentieth-century Confederates as a proud city whose honor never faded. Culturally, too, Richmond was special. As J. Harvie Wilkinson, III, noted in his description of Richmond:

> Behind its industry and trade lay a "land of gracious living" where the old manners and the old leisure still remained. Symbols of its golden age graced the streets, as in stately leaf-laced Monument Avenue where equestrian statues of Confederate greats still stalked the land. In central Richmond stood the state Capitol, designed by Thomas Jefferson, the White House of the Confederacy, and the homes of John Marshall and Edgar Allan Poe.[75]

In short, as Virginia's seat of power and as an exemplary reflection of the commonwealth's traditions and culture, Richmond was clearly "first among equals." Naturally, those Virginia politicians dedicated to the preservation of Richmond as a repository of the state's political traditions and as a symbol of "enlightened elitism" were prepared to defend their capital city as they would their own home.

A major concern of many state legislators in 1968 was the significant growth of the city's black population. They also feared that the black unrest in the nation's largest cities would spread to Virginia and into the capital city. Unquestionably, the nation's "long hot summers," the euphemism for the violence that erupted in such cities as Los Angeles, Newark, and Detroit, formed a backdrop against which the deliberations of the 1968 legislature occurred. Some state representatives spoke of these events and took the position that much of the urban disorder reflected underlying social and economic problems. They counseled the state to address these causal factors as a way of preventing violence in Virginia's cities.[76] Other representatives, however, assumed a siege mentality. They, too, were concerned about potential disorder in the state and believed that Richmond, in particular, was vulnerable. However, rather than work to change the circumstances leading to bitterness and resentment among urban blacks, these officials assumed a defensive posture with one state senator initiating legislation to protect Richmond's symbols of the old order.

Word began circulating in the legislative halls that if blacks were to acquire political control of Richmond they would proceed to destroy the monuments to Civil War heroes located prominently along one of the city's major

boulevards. Accordingly, one of Richmond's state senators, Edward E. Willey, introduced a bill to protect the monuments should they be endangered. Declaring that it was policy of this commonwealth "that the traditions and memorials of its history are in the public interest of the people of the Commonwealth as a whole," the bill vested with the attorney general the power of eminent domain to acquire the monuments from the city should such action "appear to him to be in the public interest."[77] The bill passed both houses, was signed into law by the governor, and currently comprises a portion of the Virginia code pertaining to Virginia historic landmarks. Asked about the legislation during an interview with one of the authors, Senator Willey discussed the bill's intent, saying that "there was a movement to remove the Confederate generals' monuments from Monument Avenue" inasmuch as they "were revolting to the black people of Richmond. . . ."[78]

This same Richmond senator also introduced Senate Bill Number 441 which provided for the merger of the City of Richmond with Henrico County.[78a] Under state consolidation laws, merger occurs only after voters in each of the affected jurisdictions approve the move in a referendum. Willey's bill, however, called for the union of the two jurisdictions on July 1, 1970, through unilateral action of the state. Though the bill died in committee, it did generate considerable discussion. All three black members of the Richmond City Council voted against a resolution that supported the bill, a significant action on the part of the three since Cephas and Mundle often voted a fairly conservative position with Marsh consistently taking the position the press characterized as "militant." Nevertheless, in this case, to quote the *Times-Dispatch*, the vote "apparently reflected their fears that Willey's measure was aimed at heading off an impending political dominance by Negroes in the city."[78b]

Another initiative assumed by Senator Willey in 1968 was a successful effort to create another state blue-ribbon panel, but this one was specifically charged with the responsibility of studying the capital city's boundary expansion problems. Obviously referring to the protracted and still unsuccessful attempts by the city to expand its boundaries either through annexation or merger, Senate Joint Resolution 71 read:

> Whereas, serious questions have arisen concerning the expansion of the boundaries of the city of Richmond; and
>
> Whereas, the future of the capital city should be of vital interest to every citizen of this Commonwealth, and a study should be made of the problem; now, therefore, be it

> Resolved by the Senate of Virginia, the House of Delegates concurring, That a commission is hereby created to study the problem of expanding the boundaries of the city of Richmond. . . .[79]

Seven members were to be appointed to the commission and, with the passage of the resolution in both houses, State Senator George S. Aldhizer, II, of Harrisonburg, was appointed by the president of the Senate as one of the two senate members and later selected by the other commission members as the chairman. Accordingly, the commission became known as the Aldhizer Commission. It was destined to play a leading role in the Richmond-Chesterfield annexation dispute and, as federal court testimony as well as the debates and proceedings of the 1969 General Assembly make clear, the commission was also attuned to the "political problem" of the city. The commission began its deliberations following the adjournment of the General Assembly and made its recommendation to the 1969 session of the state legislature in the form of an amendment to the *Constitution of Virginia*.

Meanwhile, the Hahn Commission had presented its proposals to the governor who, in turn, presented what he could support as an administrative bill to the 1968 General Assembly. The proposed commission on Local Government, together with the recommended changes in the state's consolidation laws, were not included in the legislative package since the Commission on Local Government was not a popular idea with local officials and since the proposed changes in merger laws could not take effect without the new commission. Moreover, with the rejection of the state agency on local government, the existing annexation procedures would remain intact, thereby putting to rest any anxiety which Richmond and Chesterfield officials may have had about the effect of new annexation laws for metropolitan areas on the designs of the other jurisdiction. The service district concept was adopted by the governor and included in his bill. With the most controversial elements of the Hahn recommendations removed, the administration bill was approved by the state legislature.[80]

Finally, the 1968 General Assembly supported Richmond's request to amend the city charter to enable the city to float bonds "to defray the costs in the extension of the boundaries of the city."[81] One of the factors that handicapped the city when it faced the decision of whether to accept the Henrico annexation court award in 1965 was the fact that the charter at that time prohibited the city from borrowing money to pay annexation-related costs. To remedy that problem, the city sought to amend its charter so that in the future

the government could resort to bonds if necessary to pay for an annexation award.

On balance Richmond fared well in the 1968 session of the state legislature. While an effort to have the state force a merger between Richmond and Henrico failed, efforts to create a special commission to study the city's boundary expansion problems and to empower the city to bond itself to cover the costs of annexation awards were successful. Also, the city faced a more certain future with the defeat of the Hahn Commission's idea for a powerful state agency to replace annexation courts in metropolitan areas and with state protection of its monuments.

The 1968 Councilmanic Election

If annexation was an issue of the 1966 councilmanic election and received some press attention during that election, then by 1968 it had become perhaps the most important issue in the campaign and received widespread press coverage. The concern, which Richmond Forward–endorsed candidates made explicit and which occupied the minds of editorial writers for the two daily newspapers, was that the annexation suit against Chesterfield would be dropped or at least delayed by a council controlled by the Crusade and that every effort should be made to maintain the political status quo. The Crusade and its candidates, on the other hand, were just as forthright in their position on annexation and the need to thwart what they perceived as a deliberate effort by the white power structure to dilute black votes through annexation. This opposition was not unconditional, however. Annexation would be acceptable only if the citizens in the county and the city voted favorably for the move in separate referenda and provided the city adopted a system of ward representation. Otherwise, Crusade leaders were adamantly opposed to annexation. Since neither condition could be met without state approval and since state approval was highly unlikely, the two sides were stalemated and poised for another direct confrontation. Whatever efforts either side may have once made to seek accommodation were quickly abandoned.

By 1968, it appeared that black voter registration had increased about 10 percent and that the proportion of black registered voters grew from 34.1 percent in 1966 to 44 percent two years later.[82] This trend, coupled with the fact that, based on the 1966 election results, a higher percentage of registered blacks were voting in local elections than registered whites, sent a clear signal to white political strategists. This election year could be the one which analysts

as early as 1965 had been predicting could produce a black majority on council, or, if not a majority, a four vote bloc which would have the power to defeat bond ordinances, supplemental appropriations, special use permits, and efforts to override certain Planning Commission decisions. (The city charter requires a six vote majority on these measures.[83] With the council comprising nine people, naturally only four votes are necessary to defeat such items.)

Accordingly, Richmond Forward mounted a precinct-based campaign designed to produce in predominately white sections of the city the same percentage of voter turnout as the Crusade in previous elections produced in the largely black precincts. Teams of volunteers manned telephones and each registered voter in the white precincts was contacted, an effort which, according to one reporter covering the election, "reached proportions seldom, if ever, undertaken in a Richmond political campaign."[84] This push was viewed by Richmond Forward as warranted, given the growth of black voter registrations and the political muscle of the Crusade, but the RF canvass was probably given added impetus by the circulation in the black community two weeks earlier of a slate of candidates called the "Poor People's Ticket" which listed the names of five council aspirants, the same candidates subsequently endorsed by the Crusade. The significance of the Poor People's Ticket was that shortly before the slate was distributed Dr. Martin Luther King, Jr., had been assassinated and the Poor People's Campaign which Dr. King helped create had stopped briefly in Richmond on its way to Washington. As the Executive Director of Richmond Forward noted in his postelection analysis, "The obvious suggestion was that persons supporting the Poor People's March and Dr. King should support the Poor People's Ticket."[85] An editorial appearing in the *Richmond Afro-American* lent credibility to the RF Executive Director's analysis when, in endorsing the five candidates whose names appeared on the Poor People's Ticket, it said:

> What has happened is that Richmond Forward, backed and controlled by the city's big money czars, has been so devoted to pushing its individual and corporate pursuits that it has grossly neglected the needs of the people, particularly the city's working man and disadvantaged. . . .
>
> In the terribly important area of human relations, the Richmond Forward record would have been impressive in the '40s. But this is 1968, when identity with "safe" colored folk [an obvious reference to B. A. Cephas, Jr., and Winfred Mundle], interracial cocktail parties and mushy smiles by the

> mayor don't get it. Today, what is needed is men with the guts to take effective action to eradicate racism and injustices which are about to destroy not only Richmond—but the nation. Richmond Forward has been unwilling to act against oppression. As a matter of fact, the record shows that it has sometimes tended to promote it. All one needs to do is recall Richmond Forward's race-baiting tactics on open housing and annexation to see that. . . .
>
> The continuation of the Richmond Forward regime can only breed explosive conditions which the President's Riot Commission warns against. We do not want Richmond to turn into a Watts. We do not have to let it happen.
>
> Fortunately we have a choice.
>
> That choice, we believe, is represented in five of the independent candidates. . . .[86]

The *Richmond News Leader* and the *Times-Dispatch* were just as aggressive in their editorial positions and tended to harden the RF defenses as much as the *Afro* strengthened the defenses of the Crusade. The *Times-Dispatch*, calling Election Day "one of the most important days in the history of Richmond," urged a heavy voter turnout since "historically, less than half of the eligible votes in Richmond have bothered to go to the polls in councilmanic elections" and since voter apathy could be tragic "if such indifference leads to the election of an irresponsible, inexperienced council to govern Richmond over the next two critical years." The editorial drew sharp contrasts between the "able, experienced and responsible candidates" of Richmond Forward, the organization which led the city in making "impressive and important strides, symbolized by Richmond's designation as an All-American City," and the less qualified independent [meaning not endorsed by RF] candidates, several of whom "have indulged chiefly in name-calling harangues. . . ."[87] The *News Leader*, in an editorial highlighting the candidacy of RF incumbent, James C. Wheat, Jr., also contrasted the two major slates by focusing on Wheat's statements about annexation:

> Throughout the Council campaign, Mr. Wheat perhaps has hit hardest at the issue of annexation. If the city cannot merge or annex, he says, "*Richmond will become a permanent black ghetto, a happy hunting ground for ambitious political opportunists*." He seeks "a dynamic, bi-racial community with opportunities for all citizens." And he vigorously denies the allegations of

certain independent candidates that Richmond Forward desires annexation only for racial purposes: He argues that if that were so, he would not have led the fight to turn down the award in the Henrico annexation decision. The area in Henrico that Richmond could have annexed, he says, had no growing room and would have been a financial drain on the city; in contrast, the land sought in Chesterfield has commercial, residential, and industrial room for growth.

A group of the independent candidates, he says, is "perpetrating a cruel, cruel hoax on the disadvantaged citizens of this city regarding the issue of annexation. The burden of boundary rigidity is going to fall hardest on the disadvantaged. The more affluent have more mobility. They can get out; the disadvantaged cannot. Now, if this group for which the broad base of the populace has little respect—takes control of Council, the normal exodus to the suburbs will accelerate. That will leave a lower tax base for the disadvantaged in a time of increased need." So, he concludes, annexation is in the interest of all the voters.[88] [italics added]

Other RF candidates followed Wheat's rationale for annexation. Thomas J. Bliley, Jr., making his first bid for council, was particularly concerned about annexation and his arguments in support of the suit mirrored those of Wheat. Yet, at a meeting of the West End Catholic Men's Association, veteran city hall reporter James E. Davis noted that Bliley "said that adding white voters is not the *only* reason the city wants to annex part of Chesterfield County." Bliley indicated that "we must have more land or else the city will stagnate . . ."[89] [italics added]. Either Bliley spoke with remarkable candor, given the sensitive nature of annexation in 1968, made an unfortunate slip of the tongue, or else James Davis inaccurately reported what Bliley said. One fact does emerge. Annexation was no longer a subject relegated to the board rooms. It had become the central focus of the election.

The Crusade took long shots in the 1966 race when it endorsed Henry Marsh, III, and Howard H. Carwile. It took even longer shots in 1968 when it endorsed five candidates, all of whom were attuned to the "grass-roots interests" of the black community and two of whom were white (Carwile and Rev. James G. Carpenter), and when it failed to endorse two blacks who in 1966 had received the blessings of the Crusade—B. A. Cephas and Winfred Mundle. The latter two continued to receive support from Richmond Forward. Indeed, that was the problem, at least for the Crusade. Cephas and Mundle,

though black, were too closely identified with Richmond Forward and, consequently, tended to take more of a conservative approach to the major issues facing the black population. Carwile and Carpenter, though white, were clearly identified as liberals. Carwile, in fact, would later in 1969 receive the American Civil Liberties Union of Virginia's first Bill of Rights award for doing "the most to advance the Bill of Rights in Virginia over the past decade."[90] He was particularly noted for his civil rights crusades and his efforts to reform penal institutions and mental hospitals. Carwile's views were problem enough for Richmond Forward, but his style was also a factor that created in the business community a visceral reaction to his presence on council and to his candidacy in 1968. He simply did not fit the mold of the Virginia gentleman. James Carpenter was running for the first time as a candidate for public office, but as a Presbyterian minister of a predominately black congregation, he had a sizable following among blacks and liberal whites. In response to Phil Bagley's statement before a group of citizens at a "meet the candidates" rally that the city is a $77 million corporation and that voters should exercise care in electing new "directors" for the corporation, Carpenter replied, "I believe we do not need corporation experts. I am a man for the people. I'm no expert, no corporation man. . . ."[91] He often talked of the need to build bridges between the rich and the poor, blacks and whites, once saying that "building bridges of understanding is an attempt to say politically what reconciliation says theologically. This does not mean running from fights or equating conflict with evil."[92]

The Crusade was now at the point that it was less interested in the color of the candidate and more concerned about the candidate's ideology. Allan S. Hammock, in a good account of black and white leadership in Richmond, touched on the 1968 election and made this observation, "If the Crusade endorsement was to mean anything, it would have to show that blacks could reject black candidates who were well-known incumbents (but not endorsed by the Crusade) and vote for Crusade endorsed white candidates."[93] The election results proved the point. Cephas and Mundle were defeated. Marsh, Carwile, and Carpenter were elected. What is particularly noteworthy is that in virtually every black precinct, the voters overwhelmingly preferred the Crusade-endorsed white candidates over the two black candidates not endorsed by the Crusade. Hammock compiled a table that graphically illustrated this phenomenon. The table indicates also that Walter Kenny and Milton Randolph, two of the three blacks endorsed by the Crusade, received strong support in the black precincts even though they were defeated in the general election (see Table 5).

Table 5. The 1968 Councilmanic Election

Precinct*	White Candidates Endorsed by Crusade		Black Candidates Endorsed by Crusade			Blacks Not Endorsed by Crusade	
	Carpenter	Carwile	Kenny	Marsh	Randolph	Cephas	Mundle
1	84	69	71	86	58	26	23
4	68	91	69	88	64	20	18
5	63	79	57	80	56	31	26
6	64	86	62	79	58	23	20
18	67	94	75	93	73	22	20
19	67	92	68	90	60	27	24
24	69	89	69	92	60	22	46
46	67	86	66	95	53	36	23
55	78	86	66	93	65	34	30
62	79	93	85	95	73	16	14
63	73	94	81	97	75	21	17
64	77	92	83	96	69	19	16
65	62	92	78	92	68	24	21
66	69	87	72	90	65	20	19
67	79	90	80	93	70	18	16

*Each of these precincts had at least 70 percent black voters. Collectively, they represented 78 percent of the city's black voters.

Source: Allan Statton Hammock, "The Leadership Factor in Black Politics: The Case of Richmond Virginia" (unpublished Ph.D. dissertation, University of Virginia, 1972).

Obviously, Marsh, Carwile, and Carpenter were elected because they received more support in the white precincts than did Kenny and Randolph. "Thus," observed Hammock, "a Crusade endorsement in and of itself does not assure election . . . the white vote must be taken into account and the individual campaigns of the various candidates running for office also must be considered."[94]

After the election, it was apparent that the Crusade had not acquired a majority of the seats on council, nor had it acquired the necessary four seats to block those measures requiring six votes. Yet, while Richmond Forward retained its control, three very important results did emerge. First, Howard Carwile received more votes in the city than any of the sixteen candidates! That result stunned Richmond Forward and even surprised the Crusade as well as

Carwile himself. Until 1966 he had not won any of his many attempts to acquire public office and in 1966 he placed ninth among the nine elected to city council. Even Carwile's critics had to concede that his dramatic jump from ninth place in 1966 to first place in 1968 was no mean achievement. His black support was considerable, but Carwile's backing from affluent white voters was also substantial, prompting Ed Grimsley of the *Times-Dispatch* to speculate that:

> He [Carwile] taunted Richmond Forward constantly, and it fought back vigorously. Naturally, the Carwile–Richmond Forward debates attracted a great deal of attention and probably gave Carwile more exposure in the campaign than he would have otherwise received. Also, the Richmond Forward majority on council helped Carwile by not giving him any committee assignments or important work to do. He complained about this throughout the campaign, and in the end many sympathetic voters supported him because they thought he was being picked on.[95]

While not particularly erudite, the Grimsley analysis comes as close as any in explaining what may have happened. Clearly, the Carwile landslide and his appeal even in the silk-stocking districts of the city was a political anomaly.

A second significant result of the 1968 election was that while RF kept its majority on council, the Crusade increased its voting bloc on council from two to three. The seven-two split had now widened to six-three.

The third important dimension of the election related to the voter turnout and the nature of the turnout. The voter turnout record established in 1966 was broken in 1968 when 44,880 citizens went to the polls—approximately 8,600 more than the number voting two years earlier.[96] John Ritchie, Jr., in his postelection analysis for Richmond Forward indicated that while the number of white voters in councilmanic elections had actually declined by six hundred from 1964 to 1966 (compared to an additional 5,320 black voters), it had increased by 4,574 from 1966 to 1968 (compared to an increase of 4,058 blacks). Moreover, Ritchie estimated that 44.2 percent of those voting in 1968 were black.[97] The proportion of black votes to the total was roughly the same as the proportion of black registrants to the total. The same was true for whites in 1968, though in 1966 the percentage of white voters was slightly less than the percentage of white registrants. The obvious conclusion to his analysis was that Richmond Forward's precinct canvassing program had achieved its goal of increasing white voter turnout.

In summary, the 1968 election contained mixed signals. Had the Crusade endorsed Cephas and Mundle, they probably would have been elected, along with Marsh, Carwile, and Carpenter, thus enabling the Crusade to acquire a majority on council. But the acquisition of a majority with Cephas and Mundle would have been a Pyrrhic victory inasmuch as the Crusade endorsees would have been internally split. In all likelihood Cephas and Mundle would have continued to side with Richmond Forward on major social issues. At least with Marsh, Carwile, and Carpenter the Crusade could rest assured that the legislators elected largely by black voters would speak with one voice. Clearly, the Crusade's effort to achieve a five seat majority with committed liberal candidates failed. But its goals to excommunicate two blacks with strong Richmond Forward sympathies and to strengthen the liberal voice on council succeeded. James E. Davis misread the results and came to an erroneous conclusion when he said in a news story following the election that the "results may spell the death of the Richmond Crusade for Voters as a major power in the city political structure."[98] Richmond Forward had won only by maintaining its majority. It had not prevented the Crusade from acquiring another seat. Richmond Forward was still fighting a defensive action. The Crusade was still on the offensive and 1970 would lead to the real victory for blacks unless the annexation occurred beforehand.

The Renewal of Annexation Negotiations and the Beginning of the Trial

The secret conclaves of the elite from the two embattled jurisdictions began in earnest following the 1968 Session of the General Assembly and the June 1968 councilmanic election. The election was inducement enough, but to add more incentive, the Aldhizer Commission was beginning its deliberations and local officials anticipated a commission recommendation that would resolve the city's boundary problems at the state level. The problem was that Richmond and Chesterfield officials remained jealous of their local power and were not anxious for the state to encroach on their prerogatives.

Just before the start of the 1968 General Assembly, the Chesterfield County representative on the annexation court, Circuit Judge William Old, died. Before the court could resume its activities, the Virginia Supreme Court of Appeals had to fill the Chesterfield seat on the court. It was not until after the 1968 General Assembly elected a successor to Judge Old that the high court made its appointment to the annexation court since the other Chesterfield Circuit Judge, Ernest P. Gates, was not a good choice for this delicate

case since he had previously served as Chesterfield Commonwealth's Attorney and had assisted in the county's defense in the annexation suit.[99] Once the state legislature elected David Meade White to the Chesterfield Circuit Judgeship, the Virginia Supreme Court appointed White to the annexation court. Yet, shortly after White's appointment, still another change in the composition of the court occurred. Judge Alex M. Harman of Pulaski, who only about six months earlier had been placed on the court, requested release from the case given the pressure of his normal duties as a circuit judge and because of his work as a member of the Virginia Commission on Constitutional Revision. So the state supreme court relieved him of his responsibility on the annexation court and replaced him with Smithfield Circuit Judge George F. Whitley, Jr.[100]

At least for the moment, the annexation court had a full complement of three judges. With the resumption of pretrial conferences following the termination of the spring session of the state legislature, Judge White suggested that Melvin W. Burnett, the Executive Secretary of the Chesterfield Board of Supervisors, and Alan F. Kiepper, the Richmond city manager, get together to seek grounds for establishing a compromise on the case.[101] The city was anxious to resolve the case amicably, having sought in previous private meetings a compromise agreement. The clock was running and the city believed that a compromise could resolve the dispute more expeditiously than litigation. The county was also amenable to private negotiation since an uncertain trial was imminent (a trial which could lead to a sizable award by the court) and since the county was fearful of what the Aldhizer Commission might do. The county was willing to gamble and settle out of court on an area smaller than the fifty-one square miles sought by the city. The alternative was a court mandated settlement involving the entire fifty-one square miles or even a larger area. Accordingly, during the summer of 1968, Burnett and Kiepper talked with each other about the case on eight occasions. Detailed information about the meetings (when the two men met, where they met, what they discussed) surfaced several years later in federal district court following the annexation. As noted earlier in this chapter, Burnett had the reputation for remembering details, a reputation probably established because of his habit for keeping written records. Scarcely a telephone conversation was completed without his making a notation of the communication. In an interview with one of the authors, Burnett said that after each meeting with Kiepper, he would return immediately to his Chesterfield office and commit himself to writing the

particulars of the negotiations.[102] Kiepper, too, made typewritten notes which he retained in his files.

One would think that, given the importance of the subject and the stakes involved, the two negotiators would have met in a quiet room in some building where traditionally major decisions affecting government were rumored to occur, namely, the Commonwealth Club (a fashionable men's club located a few blocks away from the famous Civil War monuments) or perhaps the Country Club of Virginia or even the Hotel John Marshall in downtown Richmond. Such was not the case. Wanting to meet in places where they would not be recognized, Burnett and Kiepper got together in surroundings unsuggestive of summitry. On July 16, 1968, they met at Mr. Donut, a coffee and donut shop at the Circle Shopping Center located in Chesterfield County. Thirteen days later they met at the Virginia Inn (a motel then known as Schrafft's Virginia Inn and located off Interstate 95 near the city–Henrico County boundary line), then twice at Burnett's house on Cogbill Road in Chesterfield County on August 5 and again on August 12. They returned to Mr. Donut where they met in Kiepper's automobile for the fifth session on August 21. Their sixth conference on August 26 consisted of a phone conversation and the next day they lunched together at Schrafft's for their seventh go-around. Their eighth and final meeting was about two weeks later on September 12 at Burnett's house once more.[103] Burnett's penchant for details is revealed in his notes. His notes (like Kiepper's) also clearly indicate that the dominant theme of the discussions was people.

> Monday, August 12, 1968 . . . He [Kiepper] gave me a map showing City's request—34.7 sq. mi. and 56,540 people. I told him this was not negotiating in good faith, that if this was the best the City could offer, then we were both wasting time.
>
> He seemed to want to continue negotiations but stated the City had to have 50,000 people.
>
> I said this was out of the question. If we had to give up this many, the court would have to order it. He was adamant in his demands. (We bet $10.00 on land and $10.00 on people—that the City would not get ½ of what they asked for.)[104]

Land, both industrial and vacant, was also discussed, but according to Burnett, land took a lesser priority.

> Mon. Aug. 26—Kiepper called—City would need: People, ind. [industrial] vacant land in that order; city would negotiate further on a figure between 36,000 and 50,000. Wants to see what the County proposes.
>
> Sat. Aug. 31—We met at 12:30 at Schrafft's. Very pleasant.
>
> I gave him map showing 21,358 people and said we could possibly find another 3000 or 3300 more. Again pointed out the divided feelings on the Board, that this was a hard-sell proposition, etc.
>
> He said—City would never accept that few with present council and lawyers. We had a frank discussion of things as they are . . . *3 members of council have not been told.* [The three members were Marsh, Carwile, and Carpenter.]
>
> I asked that City respond with a map showing what they would be willing to take. Pointed out that we had virtually offered 25,000, that he had agreed to come down to about 35,000—we weren't so far apart. He said that he did not think the council would settle for 35,000. . . .[105] [italics added]

Burnett testified in court that Kiepper's concern for people was concern for white people, although Burnett acknowledged that the city manager never discussed explicitly the racial makeup of the population. However, Burnett did say, "I discussed with him the composition of the people around the city, that at least . . . ninety-five percent of them was white, five percent black, and that any percentage of people he would get out of our county would be ninety-five percent white. So that race was not necessarily mentioned at every meeting, but we both knew what we were talking about."[106]

Kiepper disagreed with where Burnett placed the emphasis when the Executive Secretary recounted negotiations.

> Mr. Burnett made a number of references to the fact that we knew what we were talking about. I knew what I was talking about. It was not solely a matter of concern about race. It was a concern about balancing the population and the need for vacant land and vacant industrial land in particular. I think the note bears out the fact that we did discuss other matters, and there was considerable emphasis on other matters. . . .[107]

It should be pointed out that Kiepper believed that social and economic considerations were inextricably tied, that the out-migration of white middle-to-upper-income taxpayers from the city to the suburbs and the consequent growth of the city's low-income, largely minority population heavily dependent on public

services led to an erosion of both the city's tax base and its leadership base. To stem the erosion, Kiepper believed that the annexation of a sizable proportion of affluent suburbanites was essential. Moreover, the city's economic problems also could be reduced by the acquisition of more open space suitable for development. In regard to the latter, Kiepper's memoranda indicate that land was discussed with Burnett. Kiepper's memo to file regarding the August 31 meeting reads, "I repeated to Mr. Burnett my previous statement to him that the City would be willing to negotiate on something less than 50,000 provided that the area was a logical and sensible one and that adequate provision was made for not only people, but vacant industrial land and vacant land generally."[108] (See the comment in note 127 about Kiepper's use of the figure 50,000 and the role of his deputy manager, George R. Talcott, in the Burnett-Kiepper talks.)

Burnett and Kiepper also disagreed about references to the 1970 council-manic elections. When questioned about whether he discussed the election with Kiepper, Burnett replied:

> Yes, I think that during our discussions we pointed out that the council would have an election in 1970, that it would be nice to settle this case before January, 1970, so that [the area to be annexed] would go into the city, which would help the city at that time. Everybody knew that in 1968 the elections were right close. We expected they would be much closer in 1970, and I think that was the basis for all the negotiations, was to get more people in so they could keep the council of the City of Richmond white.[109]

Kiepper's version of what transpired differed, as the exchange between one of the attorneys representing the city and Kiepper reveals:

Question: Did you make any statement to Mr. Burnett to the effect that you wanted annexation effective on January 1, 1970, for the benefit of control in the 1970 elections?

Answer: No, sir, I did not.

Question: Have you read his [Burnett's] notes that have been filed in evidence?

Answer: I have. I would point out that we were talking in July and August, 1968. There had just been a council election in June of that year. So that the next council election was almost two years away. Discussions of council elections, from a common sense standpoint, were not particularly appropriate.[110]

Like the Farmville meeting and the even earlier Brent gatherings, the Burnett-Kiepper talks concluded in a stalemate. Simultaneous with the "donut caucuses" were more private conclaves in the Chesterfield School Board conference room. Irvin Horner, Frederick (Fritz) F. Dietsch, a Chesterfield supervisor from Manchester District, Mayor Phil J. Bagley, and James Wheat attended.[111] Once again, according to Horner's court testimony, the emphasis was on people—44,000 on this occasion. (The number of people which the city allegedly wanted tended to vary from meeting to meeting, though the range remained fixed between 36,000 to 50,000 with figures in the forty thousand bracket most often surfacing.) As Horner remembers the meeting, the engineering firm that the county had employed in the annexation case had prepared a large jigsaw puzzle map which had been cut into districts, each piece or district showing the number of square miles and the number of people within the district. Each piece of the map was magnetized and could be moved around the map so that the negotiations about land and people could be facilitated. Different combinations of districts could be put together to equal the square miles and people desired by the city.[112] Horner's version of the proceedings is perhaps best captured by the interaction several years later between him and the plaintiffs' attorney during federal court hearings:

Question: Did you in fact discuss geography at this meeting?
Answer: No, to the best of my knowledge geography was not discussed. We had the map there available to be used. To my knowledge it was not used. . . . We went to this meeting in this frame of mind, trying to find out from the city, if you want 44,000 people, do you have in mind anywhere they should come from.
Question: Did they have in mind where they should come from at this first meeting? [a subsequent meeting involving the same participants was held after the annexation trial began]
Answer: If they had it in mind they did not reveal it to us.
Question: Did they reveal to you how much vacant land they wanted?
Answer: No, sir.
Question: Did they reveal how many schools they wanted?
Answer: No, sir.
Question: Or how many utility facilities they wanted?
Answer: No, sir.

Question: Or how many assessables they needed?
Answer: No, sir.
Question: What percentage of industrial land they needed?
Answer: No, sir.
Question: The whole basis was people?
Answer: We pressed them for where the people should come from. They apparently were not prepared to answer it.[113]

Wheat, in his interaction with another one of the plaintiffs' attorneys, was not as definite about what transpired:

Question: What about at this meeting? What was developed? Did you talk about people, land, tax assessables, citizens?
Answer: I think at that particular meeting we were bound to have talked about land and people. I do not recall any conversation of specific numbers of lines. Again it was just trying to establish communications in what we believed then in good faith was the common interest of avoiding unnecessary expenses, avoiding unnecessary disruptions and discord, and to try to arrive at some equitable financial settlement. But as to what the specifics of that discussion was, I do not know because I didn't take any notes at any of these meetings.[114]

According to Fritz Dietsch, "We were in a meeting in which the mayor at that time, Bagley, made the statement that 'we don't want the city to go to the niggers. We need 44,000 white bodies.' " When one of the authors indicated to Mr. Dietsch that Bagley had denied making any such statement, Dietsch said that he heard Bagley make the comment and "he [Bagley] said he didn't, but you don't forget a remark like that."[115] (This was not the only time that people reported Bagley using the term "nigger" when expressing his views about annexation. Dietsch, in an April 3, 1981, interview, said that the late B. Earl Dunn heard Bagley make a remark similar to the one allegedly made at the school board meeting. Dunn was a member of the Henrico County Board of Supervisors and, according to Dietsch, heard Bagley's comment at a private meeting in Williamsburg involving members of the Aldhizer Commission and representatives from Richmond, Chesterfield, and Henrico. Dietsch also was in attendance and during a break Dunn turned to Dietsch and said, "Did you hear

Bagley make that statement?" On another occasion, Leland Bassett, in 1968 a member of the Board of Directors of the Westlake Hills Civic Association and later a member of the Executive Committee of the Team of Progress, the successor organization to Richmond Forward, was sitting next to Mayor Bagley at a football game in Charlottesville. Bassett had asked Bagley to speak about the annexation at a meeting of the civic association and it was during their conversation that Bagley, according to Bassett, stated, "As long as I am the Mayor of the City of Richmond the 'niggers' won't take over this town."[116] On still another occasion, Councilman James G. Carpenter noted that on September 12, 1971, while he and Bagley were attending a meeting of the Virginia Municipal League at Virginia Beach, the mayor drew him aside and at one point in their conversation indicated that the "niggers" were not qualified to run the city.[117] Bagley has consistently denied making these statements,[118] noting that "to the best of my knowledge, I have never met or talked with this gentleman [Leland Bassett]."[119] Regarding the conversation with Carpenter, who later resigned his seat on council to become a Presbyterian missionary to Ecuador, Bagley questioned Carpenter's credibility—"This gentleman has since resigned from city council stating, 'I heard voices telling me to go elsewhere.' ")[120]

A second meeting involving Horner, Dietsch, Bagley, and Wheat was as unproductive as the first. The city and the county could not break the impasse and it appeared that only the annexation court, which had the authority to mandate a solution, was capable of resolving the dispute.

The trial was to begin on September 24 rather than on August 5 as had been originally planned. The delay was due to the failure of the parties in the case to meet previously established deadlines for providing each other with technical information. Throughout the summer of 1968, numerous pretrial conferences were held with the opposing lawyers and to hear summaries of testimony which expert witnesses were expected to give later during the trial so as to reduce the possibility of filibustering by the witnesses and thereby to expedite the trial once it began.

The trial started on Tuesday, September 24, with a tour of the two jurisdictions by the judges and lawyers. After the tour, which consumed most of the first week, the courtroom battles began the following Monday, September 30. The county had earlier objected to the city's use of racial data and during the testimony of Richmond Planning Director, A. Howe Todd, who was discussing the correlation between a rising low-income population and a rising

nonwhite population, the court intervened and ruled against the use of racial statistics as evidence. (The court did say, however, that the city could insert such information into the official record for possible use by the appellate court, but only later in the afternoon after the annexation court had adjourned for the day.)[121] But if the county won that point, the city got a favorable ruling on another point. The court ruled during the trial that the city could informally seek more land than was requested originally in the 1961 annexation ordinance. The city had sought fifty-one square miles in 1961, but since that date the county had constructed a new high school just to the west of the line demarcated in the ordinance. The city indicated that the inclusion of the high school in any area awarded by the court would make more sense than an award without the facility, but which incorporated into the city additional school children living near the school.[122]

The case was progressing rapidly. Witnesses for the city had completed their testimony, and county witnesses were well underway with their presentations when Judge White entered the hospital on October 17 for diagnosis and treatment of a stomach ailment.[123] The case was suspended pending the presiding judge's return to the bench. The case was rescheduled for December 9. During the interim, the county issued a list of additional witnesses, a move which delayed the completion of the case even more. Already the city was uneasy with the knowledge that the annexation judges had allotted only five days for the case during the December session and that the possibilities were considerable that the case would have to be resumed sometime in 1969. That potential delay was bad enough, but to make matters worse, Governor Godwin had indicated his intention of calling a special session of the General Assembly for February, 1969, to consider the report of a commission which had been studying the need for constitutional revision. If such a session were called, it would lead to still another suspension of the case. What had happened in 1968 was likely to occur in 1969 as well. Henrico Senator William F. Parkerson, Jr., and Chesterfield Delegate Frederick T. Gray, two of the county's defense lawyers, were entitled under state law to place a moratorium on all litigation in which they were involved for the duration of the legislative session plus thirty days prior to and thirty days following the session.[124] As a consequence, the case could be shoved back to March or April, 1969. Appeals by either side could delay the effective date of annexation beyond 1970—too late for the next councilmanic election.

The trial resumed on December 9. As expected, the annexation court did not complete its work in the five days it had earlier scheduled for the December session, and consequently, had to plan for a January session.

Before the year ended, however, one additional secret meeting was convened. Congregating in Melvin Burnett's family room at his home, the Executive Secretary, Irvin G. Horner, Fritz Dietsch, and Mayor Phil J. Bagley met just prior to Christmas to discuss once again the feasibility of compromise. As on numerous prior occasions, the central theme was people. Horner testified that the figure was 44,000, the same number mentioned in the 1966 Farmville meeting and essentially the midway point between Kiepper's low of 35,000 and high of 50,000. In unrebutted testimony, Horner indicated that the city never specified how much land it needed, the number of schools desired, or the amount of roadway sought.[125] The meeting was simply another in a long series of futile efforts to negotiate a settlement.

The Mistrial and the Aldhizer Commission

The new year arrived and shortly thereafter, on January 7, the annexation trial got underway once again. But on the first day of what now was seen as a plagued case, Judge White ordered the city's information and research director, D. Brickford Rider, to stop making copies of the official court transcript available to the press. At each recess of the trial, Rider had been bringing a copy of the transcript, which the city had ordered and bought, to the press room located in one of the two mobile office trailers rented by the city and parked on a lot about a hundred yards behind the Chesterfield courthouse. When informed of the judge's intervention, Rider told the members of the press that he could "no longer pick up the transcript" and that Judge White had acted because the judge "had received complaints that I was using the transcripts to plant news stories about the trial." White's ban on the release of the official transcript triggered an editorial in the *News Leader* by Ross Mackenzie, stating:

> It requires a special sort of petulance to do what Chesterfield Circuit Court Judge David Meade White did yesterday. Judge White is chief of three judges hearing the Richmond-Chesterfield annexation case. Yesterday, in a moment of excessive irrationality, he forbade the City's information and research director, D. Brickford Rider, to make official transcripts of the trial testimony available to the press.

This is a neat little bit of nastiness. During each day of the proceedings since the annexation trial began, the City has supplied the news media with an extra copy of the official trial transcript. This has been a courtesy paid for by the City so that the public might be kept current about the case. At each recess in the proceedings, Mr. Rider would take a copy of the transcript to the press trailer near the courthouse. This was especially beneficial to afternoon newspapers such as *The News Leader* because they could take verbatim quotations from the transcripts of the morning proceedings in time to file their stories for the afternoon editions.

No more. Henceforth, Mr. Rider will have to keep his hands off and the press will have to get its transcripts in some other way. . . . Judge White is said to have told inquiring reporters that he considers it unseemly and unethical for an information officer of the City to supply the press with transcripts.

Now, if reports of what Judge White has said are correct, there are a lot of things wrong with his reasoning. How on earth can an official transcript be used to plant stories? Is Judge White implying that there is collusion between the city and the press to slant news in favor of Richmond? And how is it unseemly and unethical for a public information officer to give the press what is, after all, manifestly public information? Does Judge White consider it unseemly and unethical for a man to do his job? If Chesterfield does not choose to buy an extra copy of the transcript for use by the press, then that is all right, too. But thereby, Richmond's decision to provide a copy for the press hardly can be construed as unethical.

Now like Caesar's wife, judges should be above suspicion. We would remind Judge White that as the Chesterfield jurist in this case he is in an especially delicate position. He must go out of his way to divorce himself from any biases he might have—biases that might derive from his association with Chesterfield. That is the best way to encourage fair treatment in the press. Yet we cannot help but suspect that with his harassing order to Mr. Rider yesterday Judge White let his sympathies show. If that is so, it was a shabby way to do it. This is not a matter of law that Judge White was pronouncing upon yesterday; it is a matter of attitude and if Judge White's attitude is to control the news coming out of the annexation trial, then he should have gone all the way and ordered the press to write not a word. Then his edict would be recognized as the censorship that it really is.[126]

When Judge White read the editorial, he reacted bitterly, disqualified himself from the case, and declared a mistrial, saying that the editorial "impugned" the integrity of the court.[127] (Actually attorneys for the city had suggested earlier that Judge White resign inasmuch as he lived in the area that Richmond had targeted for annexation.) Richmond and Chesterfield officials were stunned. Mackenzie, recalling the event in an interview, asserted, "I was the most astounded person of all. I didn't expect that to happen. I don't think anybody did."[128] After seven years of trying, Richmond still had not annexed territory and, in January, 1969, still faced another trial—unless, of course, a compromise settlement were reached by the two jurisdictions. Shortly after Judge White declared a mistrial, officials from the county and the city spoke of the possibilities of renewing negotiations, although neither side made the first move since previous efforts had ended in failure. It would take the intervention of the Aldhizer Commission to bring the adversaries together and even then the parties would be unable to produce an agreement.

Meanwhile, the most pressing concerns were the scheduling of a new trial and the appointment of a successor to Judge White. The only other Chesterfield circuit court judge available to represent the county was Ernest P. Gates, but, as noted earlier, his appointment by the Chief Justice of the Virginia Supreme Court of Appeals might have raised serious questions. Gates had once served as the county's commonwealth attorney and had acted as Chesterfield's chief defense counsel in the annexation suit. The only alternative would be to appoint a judge from a remote circuit which would give Richmond an advantage that no other city in an annexation suit had enjoyed for years. The Chief Justice, faced with a no-win situation, conferred with his colleagues and decided to bypass Gates and select a circuit judge from outside Chesterfield. Accordingly, Judge Earl L. Abbott of Clifton Forge was asked to join the three judge court. The other two judges on the annexation court, Elliott Marshall and George Whitley, had already indicated their desire to begin a new trial on May 5 and when the Virginia Supreme Court approached Abbott about filling the vacancy, it asked him if he were available for a May 5 trial date. Abbott accepted the appointment and proceeded to reschedule his circuit court docket to clear space for the Richmond-Chesterfield annexation case.[129]

The city faced mounting bills related to annexation and had to appropriate additional funds to pay expenses and to provide for the future prosecution of the suit. By February, 1969, the total cost of the annexation since the inception of the suit in the early 1960s, including both city and county expenses,

exceeded $1 million. However, with a deeply divided city council, appropriating funds to cover annexation expenses was becoming increasingly difficult. A major battle ensued between the Richmond Forward and the Crusade factions over a $140,000 appropriation measure. Lacking the necessary six votes to pass the supplemental appropriation (James Wheat had left the meeting before the vote), Richmond Forward was unable to block the defeat of the legislation. The reaction of the RF council members was swift and abrasive. Upon hearing of the vote, Wheat, who was clearly the dominant figure among the RF legislators, exclaimed, "Apparently they [the minority faction] are willing to see the city converted into a black ghetto for their own purely political interests."[130] Nathan Forb, who had been appointed in November, 1967, to fill the unexpired term of Eleanor P. Sheppard (she had been elected to the Virginia House of Delegates) said essentially the same thing, commenting that "they have chosen this avenue to attempt to thwart Richmond's expansion. With present population trends and other indications, I fear Mr. Carpenter and Mr. Marsh [Carwile was absent from the meeting] might, if they are successful, achieve what they profess to abhor, a resegregated, almost totally black capital city."[131] Marsh and Carpenter were just as quick to reply. "If he [Wheat] had remained at the meeting," Marsh retorted, "he would have heard me request a delay in the voting until we could be adequately briefed by the city manager. The manager indicated that a two-week delay would do no harm. . . ." Marsh continued by expressing his concern about the secrecy surrounding the boundary expansion effort and added, "I read in the newspapers that Richmond is supposed to send three representatives to a conference in Williamsburg in a few days, but no member of council has discussed this matter with me."[132] (Marsh was referring to a meeting the Aldhizer Commission had called involving city, Henrico, and Chesterfield representatives.) Carpenter was equally disturbed, calling Wheat's remarks "false and malicious."[133] Carpenter also called for a special meeting of the council to discuss the annexation question, but Mayor Bagley denied the request. In so doing, Bagley observed that information discussed in executive sessions often appeared in the next issue of the newspaper. Moreover, he told Carpenter that the city attorney had cautioned city officials against making any public statements concerning the suit inasmuch as such statements could lead to another mistrial.[134]

The appropriation ordinance was not dead for long. Bagley had voted with Marsh and Carpenter to defeat the ordinance, but only as a tactical move. Knowing that with Wheat's absence the ordinance would be defeated, Bagley

voted with the prevailing side in order to reserve the right to reintroduce the measure later—which he did in March. The ordinance then passed by a vote of six to three.[135]

If there were any doubts among the citizenry by this time about the racial overtones of the annexation, they should have quickly vanished when, between the two votes on the appropriations ordinance, *Times-Dispatch* reporter James E. Davis ran a story with the headline, "Racial Balance Held Key Issue in Annexation." The lead sentence captured the gist of the story. "The current conflict among city council members over annexation costs has brought sharply before the public the real boundary expansion issue as several councilmen see it."[136] The story then proceeded to review James Wheat's "black ghetto" statement, cited the attempted use of racial statistics in the Henrico and Chesterfield trials as well as a consultant's report prepared for Henrico and Chesterfield counties in their presentation to the Hahn Commission. The latter, known as the SUA Report, reinforced what the city and the county had known all along: namely, that the city was becoming as heavily concentrated with blacks as the suburbs were with whites.

The SUA Report's statement that Richmond's racial imbalance was worse than most other metropolitan areas in the State of Virginia had not escaped the attention of the Aldhizer Commission. Indeed, some legislators and legislative observers suggested that the capital city's growing black population was one of the major reasons prompting the creation of the commission. The commission convened for the first time on June 17, 1968, in Senate Room 3 of the State Capitol for an organizational meeting. Richmond Senator Edward E. Willey and City Attorney Conard B. Mattox, Jr., also attended the meeting, though Mattox was later excused when the commission went into executive session. As a legislative courtesy to colleagues, Willey was allowed to stay. It was at this meeting that the seven commissioners elected Harrisonburg Senator George S. Aldhizer, II, as the Chairman, and Delegate Donald G. Pendleton from Amherst as the Vice-Chairman.[137] The rendition of what transpired at this meeting varies dramatically between Aldhizer and Pendleton. According to Pendleton, the city representatives brought to the commission's attention that, to quote Pendleton, "if certain elements in the City of Richmond were to take over the city government they would tear down all the monuments on Monument Avenue. . . ." Moreover, Pendleton indicated that the Richmond representatives were concerned about the 1970 councilmanic election, concerned "that the city council races in 1970 would go all black." And

as far as the purpose of the commission was concerned, the Vice-Chairman believed that it was designed "to prevent the City of Richmond from becoming another Washington," that is, a majority black city.[138] Aldhizer denied that any such discussions occurred. He asserted that, at least in his presence, no comments were made about race, the 1970 election, or the monuments. Regarding the latter, Aldhizer said, "I like Monument Avenue. If any statement had been made I would have remembered it. It is one of my favorite streets in the world." When asked to explain the rationale for the commission, Aldhizer said that the group was supposed to study and recommend a solution to the capital city's need for land, its dwindling tax base, and its rising educational and welfare expenditures.[139]

The June meeting was devoted to the internal organization of the commission and to a general discussion of the commission's charge. Beyond these two items, however, the commission did not undertake any substantive investigations. Not wanting to meet again while Richmond and Chesterfield were involved in the annexation proceedings lest such sessions might in some way negatively affect the activities of the annexation court or the city's position in the suit, the Aldhizer Commission did not reassemble until February 5, 1969. That proved to be a good time since Judge White had declared a mistrial and since it gave a month for the commission to complete its work by the deadline imposed by the authorizing resolution—March 1, 1969.

Between the June and February meetings, City Attorney Mattox traveled to Harrisonburg and visited with Senator Aldhizer in his office. Still later the two contacted the governor's office where the senator sought advice on how and when to proceed with the commission's investigation.[140] Mattox had supplied both Senator Aldhizer and the governor's office with an updated version of a report which had been prepared in 1959 by the Public Administration Service (PAS), a Chicago based consulting firm, entitled *A Plan of Government for the Richmond Region: A Survey Report*. The report was also distributed later to the seven members of the commission. The updated report provided data regarding the government, population, land use, economic development, and the nature of public service delivery in the Richmond metropolitan area and provided a rationale for boundary expansion. [In 1959 the PAS Report had included a recommendation calling for the consolidation of Richmond and Henrico and the creation of a unified governmental and service system.] The section of the forty-one page document focusing on the population of the central city included racial information, specifically the changing racial ratios of

the city's general population and of school enrollments plus birth and death rates for whites and nonwhites.[141]

Congregating once again at the capitol, the commissioners, on February 5, were briefed by their chairman on the state of the Chesterfield annexation, notably Judge White's self-disqualification and the scheduling of a new trial. During the meeting, Mattox gave the commissioners a twenty-five page report and read some of the report to the panel. The report included exhibits from the updated PAS study and from still another document entitled "Expand Richmond's Boundaries." (The latter was distributed in its entirety to the commissioners at their third meeting.) Again, racial data were used. When discussing metropolitan population characteristics, Mattox focused on the city's population loss.

> You will note that a vast majority of the population loss in the City is between the ages of 24 and 50. These people are also the most productive citizens. You will note also that while losing this productive group of white citizens, the City's population was increased in every age bracket on the Negro side. The more significant gains being in children between the ages of 19 and below. Therefore the City is losing the more active citizen and gaining more inactive citizens. . . .[142]

The commission deliberated following Mattox's presentation. There appeared to be general consensus that the people best qualified to solve the capital city's boundary expansion problems were the city and the two counties. "With that in mind," Aldhizer remarked, "we decided we would have a meeting, an executive meeting in Williamsburg to which would be invited a small group from the City of Richmond, from Chesterfield County and from Henrico County."[143]

The Williamsburg meeting on February 13 was strictly confidential, although the press had heard that the meeting was to occur. Many of the participants at the meeting, when interviewed, indicated that the Aldhizer Commission did not want to be publicly identified as the sponsor of the negotiations and, therefore, the representatives from the three jurisdictions, together with the seven commissioners, met under the name of some fictitious organization. All of the local representatives agreed that while the stated intent of the conference was to facilitate a local settlement of Richmond's boundary expansion difficulties, the actual purpose was to bring about what one of the conferees called a "shotgun marriage."[144] In short, the Aldhizer Commission

leaned heavily on the local representatives to resolve the issue, noting that if the localities could not formulate a compromise, then the state would solve the problem for them. Several of those attending, including Vice-Chairman Pendleton, were told by the city representatives that Richmond was in trouble and needed more whites from one or both counties. Pendleton claimed that while the city representatives discussed Richmond's need for additional tax assessables and its growing welfare rolls, they also discussed the city's growing black population and the 1970 election—with the basic issue involving power, "who is going to run the city. . . ."[145] It was in Williamsburg, according to Fritz Dietsch, one of the Chesterfield representatives, that B. Earl Dunn of the Henrico County Board was told in rather crude terms of Bagley's resolve to keep the city from falling to a black majority.[146] Aldhizer testified that such subjects as "race," "the 1970 councilmanic election," or "white control" were never discussed while he was present though he did concede that the meeting was informal and "people were going in and out of the halls from the room in which we were meeting. . . ."[147]

Court testimony also reveals that the participants in the Williamsburg negotiations generally agreed that the commission preferred a merger of all three jurisdictions, but knew that such an action was unrealistic. Consequently, the commissioners looked, first, to the localities for determining how much territory the two counties would be willing to relinquish to city control. During a lunch break, the members of the panel told the local representatives to sit down and come to an agreement. Chesterfield and Henrico officials, knowing earlier that the commission was to sponsor the negotiations, had received from their respective boards authorization to present a maximum population which the governing bodies would allow Richmond to take. The city had indicated its need for a minimum population of 45,000, though this need was never the subject of an official meeting of the Richmond City Council.[148] (The city's delegation did not include any of the three "troublemakers," to use one participant's description of the Crusade-endorsed legislators—Carpenter, Carwile, and Marsh.[149]) All three localities had come to Williamsburg with maps in order to facilitate the bargaining. The problem, however, was that the Virginia code treated partial mergers as annexation and state law allowed annexation proceedings to occur in one of three ways: (1) a city-initiated suit; (2) a petition requesting annexation brought to the county circuit court by 51 percent of the qualified voters living in territory adjacent to any city or town; or (3) a petition brought by the governing body of the county in which such

territory was located or by the governing body of a town desiring annexation by an adjacent city.[150] Richmond, in February, 1969, was still under a moratorium on any annexation effort aimed at Henrico. State law imposed a five-year waiting period on cities starting at the point of an annexation court's final order *or* a period of eight years dating from the filing of the suit. Either way, the city could not institute another suit against that county, at least not until December, 1969, the date when the eight-year moratorium expired. (That date came earlier than the one terminating the five-year period. The latter was to end in May, 1970.) Richmond, however, could use the Chesterfield annexation court as a vehicle for implementing an agreement with its southern neighbor. Also, it was impractical to think that Chesterfield and Henrico citizens, given county residents' hostility toward the city in 1969, would petition the circuit court to seek annexation. Finally, it was infeasible for the Board of Supervisors of either county to petition for annexation (the moratoria did not apply to counties) since such an act would be tantamount to committing political suicide.

The Williamsburg meeting concluded without a solution. A few days later, local representatives and commissioners met a second time, on this occasion at the Hotel Richmond across from the capitol.[151] Again, the three jurisdictions presented maps and discussion ensued, but, again, no politically feasible settlement was forthcoming. The Aldhizer Commission had no choice but to recommend to the General Assembly a solution to the capital city's dilemma—which it proceeded to do at its final meeting on February 25, 1969.[152] With the localities unable to find an answer, they had to face the prospect of a state imposed plan.

The state legislature had been called into a special session by Governor Godwin to consider the revision of the state constitution. It was during this special session that the Aldhizer Commission made its recommendation. The recommendation took the form of a constitutional amendment since there was some question whether legislation pertaining to only one locality by virtue of the locality meeting the narrowly prescribed population requirements established in the legislation would be constitutional. The Aldhizer Commission, after checking with the state attorney general, believed that while such legislation had been sanctioned in Virginia by habit or custom, the constitutionality of the legislation was still questionable and, therefore, subject to court challenge. Delegate Pendleton argued that special act legislation was clearly prohibited by Section 126 of the existing constitution and the use of

population brackets in general legislation to focus only on one locality could be considered a special act. By amending the constitution, therefore, the Aldhizer Commission could both provide a solution to Richmond's boundary problems and, at the same time, circumvent the legal problems which might arise over special legislation.[153]

The proposed amendment read:

> The Capitol of the Commonwealth of Virginia shall be located within the city of Richmond or within any other city the General Assembly may designate. The boundaries of the city in which the Capitol is located may be enlarged from time to time in any manner the General Assembly shall prescribe, and any and every adjacent county, city or town from which any territory may at any time be taken to so enlarge such boundaries shall be fairly and fully compensated therefor in such manner and in accordance with such judicial procedure as the General Assembly may prescribe.
>
> The power herein granted to the General Assembly to enlarge the boundaries of the capital city shall not be exercised more often than once in every ten years.[154]

Both the Richmond-Henrico state legislative delegation (at that time Richmond and Henrico shared representation in the Virginia House of Delegates) and a sizable number of city officials began an intensive lobbying effort in behalf of the proposed amendment. Delegate Pendleton, who introduced the amendment on the House side and was the floor leader during the discussions on the proposal, recalled seeing the city attorney and five RF-endorsed members of the Richmond City Council speaking with legislators about the measure.[155] Delegate Grady W. Dalton from Richlands, Virginia, was one legislator approached by a member of the Richmond-Henrico delegation. Responding in a letter to a questionnaire used by the authors in their interviews, Dalton said, "Someone from the Richmond delegation, I can't remember his name, remarked that I didn't have their problem, that there were no Negroes in my town of Richlands, Virginia, and very few in my legislative district of Tazewell County." Dalton later voted in support of the amendment, though he expressed sympathy "with the people of Chesterfield and Henrico—that annexation provides no permanent solution, just more nibbling in years to come."

Normally, verbatim proceedings of the General Assembly are not printed, but since the 1969 convening of the General Assembly constituted an extraordinary session to deal with major revisions to the state constitution, the

proceedings and debates were transcribed. Consequently, the debates which ensued over the proposed Aldhizer Amendment were made a part of the official record.

Pendleton led off the debates, explaining the rationale for formulating the recommendation as a constitutional amendment as opposed to a special act and outlining the process by which the Aldhizer Commission reached its conclusion to seek a constitutional remedy.[156] Richmond-Henrico Delegate Edward E. Lane then spoke in support of the amendment, noting that Richmond's boundary expansion problem was long-standing and briefly tracing the protracted nature of the annexation attempts. He brought the legislators to the present situation and indicated that only a few weeks earlier there had been an effort to effect a merger between Richmond and Henrico through state legislative action. Lane was referring to a proposed bill by Richmond-Henrico Delegate Thomas P. Bryan, Jr., to merge the two jurisdictions by action of the General Assembly, a measure similar to Senator Willey's 1968 proposal. The Bryan bill, however, never referred directly to Richmond and Henrico, although, given the language of the bill, the two jurisdictions were the only ones actually addressed. The bill would have added a provision to the state code calling for the automatic consolidation of any city and adjacent county which contained a prescribed population density. News about the Bryan initiative reached the Henrico County Board of Supervisors and, as Lane noted in his floor speech, the supervisors "became incensed and severely criticized the Henrico-Richmond delegation."[157] In an effort to determine whether any possibility existed for a compromise, Lane told his colleagues that the local legislative delegation called a meeting between the Henrico Board of Supervisors and the Richmond City Council. Held on March 28, 1969, in the House Appropriations Committee Room, the meeting ended in failure. "There was absolutely no indication of any solution to the problem by agreement," Lane said. He stressed that every avenue had been tried without success and, in closing, observed that while members of the Richmond-Henrico delegation would be justified in opposing the amendment since they were charged to represent both areas, he believed that it was "imperative that this constitutional amendment pass."[158]

Actually, the first meeting between the two governing bodies to discuss the Aldhizer and Bryan initiatives was three days earlier than the meeting Lane discussed. On March 25, 1969, the supervisors and council members met at the Henrico County Board Room. The meeting was held shortly after

news about the Bryan bill had surfaced. The purpose of the gathering, like the Aldhizer sponsored meeting in Williamsburg, was to discuss possible areas of agreement so as to nullify the need for any state action and to report the sentiments of supervisors and council members regarding the Aldhizer Amendment and the Bryan bill to the state legislature. Unlike the Williamsburg meeting, however, the meeting on the 25th was not sponsored by the commission and the three "dissident" members of council were not excluded. But like the Williamsburg affair, the negotiations on the 25th terminated with a stalemate. Henrico board members voiced strong objections to the proposed amendment and the bill. These sentiments, plus the anger which supervisors expressed toward the local delegates who were supporting the Bryan bill (including threats by some supervisors to run for the House of Delegates in the next election), and the questionable constitutionality of the bill (which some believed was comparable to special act legislation) led Delegate Bryan to the point of never officially introducing the bill before the General Assembly.[159]

Richmond-Henrico Delegate Junie L. Bradshaw spoke in opposition to the amendment during the special session of the state legislature and, in so doing, made an observation that years later would prove to be prophetic. He stated that the amendment, if passed, would enable the state legislature to expand the capital city's boundaries and, thus, deny "over 200,000 people in Henrico and Richmond their day in court, and we all know the underlying motive behind such action. *If this is not a prime question for our federal courts today, I do not know what is*."[160] [italics added] Richmond-Henrico Delegate William Ferguson Reid, the only black member of the 140 body state legislature, also spoke in opposition, asserting that "the Commission was created to come back with one idea, to do something to make Richmond larger so they could get a larger population."[161] The strongest statement in opposition to the amendment came from Chesterfield Delegate George Jones.

> We have heard it said on the floor this morning that the problem is one of economics. I am here to tell you it is not. The city of Richmond is interested in only one thing—white votes. Do not forget it. They are holding this resolution as a club over the head of the counties to force merger. They are, in essence, telling the counties that if you do not merge with Richmond, if something is not done, then the legislature is going to act. It is like sending a ball team on the field and telling them to go ahead and play the game, we

> do not care what the score is. If you do not win we will legislate the score for you at the end. . . .
>
> The city asked that the legislature take this up. I do not feel this is legislative matter. But if it is a legislative matter, ladies and gentlemen, then why do we not appoint the governing body of the city of Richmond? We will set it up like Washington, D.C., if that is what they want. We will appoint the city council if they cannot manage the city of Richmond and they need help from us. We will manage it for them.
>
> . . . As I said, they want white votes. . . .There is a group in Richmond that would like to continue the stranglehold control that they have over the city and the only way they can do it is to be sure they can keep more registered white voters than Negro voters.[162]

The supporters of the amendment did emphasize the city's economic needs and the fact that the problem was deteriorating not only because of the city's lack of assessables, due partly to the large land holdings of the state which were not subject to a local property tax, but also because of the inability or failure of the city to expand its boundaries since 1942. Richmond-Henrico Delegate Eleanor P. Sheppard took particular exception to Delegate Jones's comments.

> Disenfranchisement of the Negro? I deny that accusation. I believe I can do that without fear of contradiction. As a legislator for fourteen years, as a civic worker for many more, their interests and needs have been those of any constituent or any friend. In 1964 I campaigned with and for the first Negro elected to the Richmond City Council [B. A. Cephas]; and in 1966 I helped elect the second [Winfred Mundle] and was proud to serve with the third [Henry Marsh], also elected in 1966. In 1968 the first two were defeated, not by the white community of Richmond but by their own people. . . .[163]

Sheppard continued her statement by pointing out the economic and cultural linkages between the city and the suburbs and the need to arrest the physical and financial deterioration of the state's capital city.

The Senate debate on the Aldhizer Amendment followed the same themes, although less was said explicitly about race. Senator Aldhizer fulfilled the same role in the Senate as Pendleton in the House. Aldhizer briefed his colleagues on the history of the commission, the unsuccessful efforts to arrange a compromise among the three localities, and the thrust of the amendment itself.[164]

Richmond Senator Edward Willey, who supported the amendment, discussed the effect of changing population trends on the city's economy. When he discussed the city's loss of population, he left little room for class differences in the black community, noting simply that "here in Richmond we have about 215,000 people left. . . . Of this population, 85,000 are white, 120,000 approximately are in the disadvantaged group."[165] That race was not a subject often discussed openly should not mean that the subject was not the underlying theme of a considerable portion of the debate. It was. Senator Leslie D. Campbell, Jr., from Hanover County questioned, "But what is truly before us today, gentlemen? Is it a question of finance? Is it a question of financing the city of Richmond's government? . . . I say to you that it is not a financial problem. It is a problem of imbalance; all of you down deep know exactly what the problem is."[166] Senator George Warren of Bristol touched on the same issue though, unlike Campbell, Warren supported the amendment: "My friend for whom I have the greatest affection in the world . . . said that we all understand the real reason for expanding Richmond's boundaries. I understand it and think you do." Recognizing that a change in the political composition of the Richmond City Council could alter the city's position on the boundary expansion issue, Warren continued:

> . . . the day may soon come when the Richmond city council itself would not vote in favor of even submitting the issue of merger to the people. What are you going to do then, gentlemen? Where is your problem then? The problem is still there, and it has to be solved, and who is going to solve it unless this General Assembly does?[167]

Warren's comment caught the attention of the press. *News Leader* reporter Bill Sauder simply noted that the Hanover senator alluded to "the unspoken issue behind the boundary expansion question." Lest the reader was not informed, the reporter, following the Warren quote, commented that "this was an apparent reference to rapidly growing Negro voter strength in the city."[168]

Senate efforts to weaken the amendment were defeated. One unsuccessful move was to restrict any General Assembly–prompted boundary expansion to no more than 25 percent of any adjacent county's population. Another effort was to exempt counties subject to expansion by the capital city from annexation for ten years. And the attempt to defeat the amendment itself was also unsuccessful.[169] The Senate voted twenty-five to thirteen to pass the

amendment at this first of the three stage process.[170] (To amend the constitution, two successive sessions of the General Assembly must approve a change which then is subject to a statewide referendum.) The House, too, considered floor amendments to the proposal but the amendments failed. Accordingly, the House passed the measure with a large margin, sixty-two to twenty-nine.

In the final analysis, many state legislators supported the measure, not because of their desire to dilute the black vote, but to assist economically the capital city. And many of those who opposed the amendment were either self-deceived or else grossly naive to suggest that Richmond did not have financial problems. Some opponents argued that the dual threats of annexation and legislative remedies were too much of an obstacle to Henrico and Chesterfield counties, making it difficult for the counties to plan when they faced such uncertainty. Nevertheless, it is also clear that "the unspoken issue" guided the behavior of many other state legislators, both supporters and opponents, and that this issue was made explicit in the corridors of the capitol or hotel rooms where lobbying could be undertaken more discreetly. Moreover, it was also evident that with the action of the 1969 General Assembly, the Commonwealth of Virginia was prepared to step into the breach and resolve a matter which the two counties still preferred to resolve locally.

Section 2. The Horner-Bagley Line: The Compromise Agreement and the Annexation Court Decision

Irrespective of the first passage of the Aldhizer Amendment, the Richmond power structure was still anxious. The 1970 councilmanic election was approaching and a constitutional amendment would not be in place, together with appropriate legislative action, prior to the election. The Chesterfield annexation was the only effective short-term measure.

The new trial date had been set for May 5, but since the 1969 General Assembly did not adjourn until April 25 and since legislative immunity allowed the two county defense attorneys who were members of the legislature to postpone any litigation until thirty days following the adjournment of the General Assembly, the trial did not begin until later in May. Technically, the trial could not begin until May 25, assuming that the two legislators took advantage of their immunity, but Senator Parkerson and Delegate Gray waived the full thirty day immunity to enable the court hearings to get underway a few days earlier on May 20.[171]

Before the trial date, however, still more private meetings took place. All of them involved only Richmond and Chesterfield officials and all were convened with the intention of seeking a compromise settlement of the annexation. Now that the state legislature had acted, the county was more willing to discuss a compromise, knowing that it could better protect its interests through a negotiated decision than if it left the settlement strictly to the annexation court or, worse, to the General Assembly. Certainly the latter was becoming a very possible alternative with the 1969 passage of the Aldhizer Amendment.

The next meeting, involving James Wheat, Phil Bagley, and Irvin G. Horner, was in late April, after Wheat had resigned from the council in order to devote more time to his family and business. They met on the initiative of E. Angus Powell, a resident of Henrico County whose business was located in the city. (Powell was the brother of a Richmonder who later was appointed to the U.S. Supreme Court, Lewis F. Powell.) These three men got together in Powell's office at Lea Industries on a Sunday afternoon. Powell was playing the role of the mediator as Andrew J. Brent had done at his home in the summer of 1965. Horner recalled that the session was an attempt to produce an agreement "that would keep this case from going into what was to be a brand new retrial from scratch . . . to see if the city had any different thinking or we had any different thinking."[172] Evidently neither the city nor the county exhibited much "different thinking" since nothing of significance resulted.

A few days later, Bagley and Horner met together for lunch, but to no avail.[173] So it was, too, in early May, 1969, when the two came to Horner's office on Hull Street near Southside Plaza Shopping Center in Chesterfield. Both men brought maps.[174] Moreover, Melvin Burnett had supplied Horner with technical information for the meeting, as he had done for all of the Horner negotiations, and the city administration, particularly George Talcott and city planner Dallis Oslin, had prepared similar information for Bagley. Both negotiators, therefore, had information about schools, utilities, vacant land, population, and tax assessables. Yet, as Bagley and Horner both noted in court, the maps and the technical information were seldom used. Bagley justified his action on the grounds that as real estate professionals "both of us are well familiar with the whole metropolitan area."[175] Horner indicated that such information as land use, drainage basins, utilities, and roads was not necessary inasmuch as the major concern of Bagley was people, both school children and adults. "In these private meetings, Phil Bagley was much more bold and

forward and not as coy as Jim Wheat and other representatives had been at prior meetings," Horner wrote in an affidavit. "He made no bones that the City needed voters."[176] Chesterfield, needing to conclude the annexation through a negotiated settlement, was attempting to meet the demands of the city without endangering the county's large assets in DuPont and its utility and school systems. That it had to do and still maintain credibility with the county voters, thus making the negotiations difficult largely because Horner and the other members of the Board of Supervisors could not sanction the loss of "an unreasonable" number of Chesterfield citizens. The two men, however, were much closer to reaching a settlement than had been the case only a couple of weeks earlier at the Powell meeting and certainly closer than Burnett and Kiepper during their series of conferences in 1968. But, as close as they were getting, a final settlement continued to elude them. The early May meeting ended with the boundary question still unresolved.

One more effort was made. The results were the same. Mayor Bagley had phoned Horner on May 14 during a meeting of the county board to inform him that that the council majority (the Richmond Forward bloc) could not accept a settlement involving fewer than 48,000 people. Having heard previously that the minimum figure was in the lower 40s, with 44,000 being the number most frequently mentioned (an amount still too high for the county), Horner "told him that we could not agree and we may as well stop further talks."[177] The mayor was not dissuaded and voiced his desire to continue the negotiations.

Meanwhile, valuable time had been lost. It appeared that if boundary expansion were to occur soon it would have to come through a favorable ruling of the annexation court. The problem was that, beyond the uncertainty of what the court might do, a ruling could be appealed, thus delaying the effective date of the annexation and thereby jeopardizing the political status quo since the 1970 councilmanic election would likely precede the acquisition of additional citizens.

Suddenly, the breakthrough came. The results were as dramatic as the precipitating event was undramatic. On May 15, the day after Bagley had called Horner about the 48,000 minimum population, *Times-Dispatch* reporter James E. Davis was talking with Phil Bagley in the pressroom of City Hall. Davis recalled in an interview that it was common for reporters and the mayor to "sit and chat . . . in a very informal fashion." A reciprocal relationship had developed such that the reporters would approach Bagley for stories and Bagley

would approach the reporters about matters he wanted in the papers. As Davis remembered,

> . . . we were chatting one day and it had occurred to me that I had talked with the attorneys in the case about the possibilities of a compromise and I had talked with Bagley about the possibility of compromise and he suggested that it did not appear likely since Chesterfield, obviously, had employed good counsel and they were going to the bitter end. And it occurred to me that the opportunity to talk with Irvin Horner might be relished by Bagley on an informal basis. So I picked up the phone and said, "Let me call a friend here," and I called Irvin Horner and happened to catch him in and chatted with him and said, "There's a gentleman here who would like to talk with you about some very important matters."[178]

Had there been little or no history of confidential bargaining between Richmond and Chesterfield officials, the Davis initiative might not have been so prosaic. But for four years numerous bilateral conferences had been held in every conceivable environment and under the most pressing of conditions. And, yet, it was not until a local newspaper reporter in a casual, almost spontaneous fashion connected Bagley and Horner on a telephone line that a compromise began to take shape.

Bagley talked with Horner on the phone and they proceeded to establish an appointment for that evening at 8:00 in the mayor's City Hall office. For several months prior to the phone conversation, Horner, like Bagley, had been talking privately with his colleagues on the board. Unlike Bagley, however, Horner had included all the supervisors in his discussions. Most Chesterfield officials had already come to the position that the only way to break the stalemate and, at the same time, to diminish the possibilities of an adverse court award which would exceed the fifty-one square mile request of the city and also to slow the momentum which had carried the Aldhizer Amendment through the 1969 General Assembly was to authorize a compromise. Given the consensus of the board, Horner had reached the point where he was prepared to meet the city's population demand in excess of 40,000 people, but only on the condition that the schools, DuPont, and the utility network, particularly the Falling Creek treatment plant and reservoir, were protected. There was still the danger of a political backlash among county residents who would not agree to any out-of-court settlement, but Horner and the majority of the other supervisors were realistic enough to realize that they had to negotiate

while they still retained some leverage with the city lest with the passage of time they would have no choice but to accept the consequence of others' decisions. County officials knew that timing for the city was critical and that as long as the county could thwart a January 1, 1970 annexation, either by refusing to bargain or by appealing an unfavorable court ruling, it could still effectively defend its interests by threatening delay while meeting the city's population requirements.

Meanwhile, Bagley was not unaware of the pressures building on the county and the necessity for Chesterfield to seek a negotiated settlement. He was reasonably sure he could acquire a settlement which included the critical population figures. Also, Bagley, like his counterpart, was not certain what the results of the trial would be. If there were an award, it might be too small or too costly. He recalled the large price fixed to the seventeen square mile territory awarded by the Henrico court in 1965. Finally, Bagley figured that a compromise agreement, assuming it were ratified by the court and made a part of the court award, would cancel any possibility of an appeal by the county which could both delay the effective date of the annexation and increase the legal costs to the city.[179] In short, while each side needed to compromise, each side was not incapable of extracting concessions from the other. The time was ripe for a solution.

When Bagley and Horner met on the evening of the 15th, the mayor produced a map which included a proposed target area encompassing about 48,000 people. Horner reiterated the position of the county that 48,000 were too many and that "the Chesterfield Board would not go this far."[180] Bagley then lowered the ante to a figure of 44,000, telling Horner that he believed the council members with whom he had been conferring would agree to the lowered minimum. With that understanding, the area on Bagley's map was altered somewhat with Horner telling Bagley where to draw the line. "I said, 'Let me dictate a line to you of an area that will encompass this many people [44,000]. You write it down. . . .' The mayor then wrote out the line as I dictated it. . . ."[181] Needing verification that the adjusted boundaries included the necessary population, Horner called Melvin Burnett that same evening from the mayor's office and described to the Executive Secretary the boundaries which Bagley and Horner had agreed upon. Burnett confirmed the population figures, telling Horner that based on 1968 estimates, the area comprised 43,781 people. Upon request, Burnett also supplied Horner with the number of school children in the area.[182] With a confirmation that the territory just

negotiated met the minimum population and with the understanding that the two jurisdictions would agree on a financial settlement in subsequent meetings, the mayor initialed the map to register his approval.

The compromise area which Bagley and Horner negotiated was similar to one of the city's proposals made in a meeting with the Aldhizer Commission. Consequently, the territory negotiated on May 15 was not a complete surprise to the city, although it was surprising that Bagley did not seek technical information from the city manager or other administration sources before agreeing to the line. Bagley did have Horner call Burnett for verification of the territory's population, but the mayor relied in this instance on Burnett's figures and did not seek information about population from City Hall sources or information regarding other matters from either Burnett or City Hall. The following colloquy between Horner and the questioning attorney was particularly revealing:

Question: Did he want to know how much vacant land was in that area?
Answer: He only asked me to verify how many people were in the area of the line that we drew. . . .
Question: Did the Mayor request for you to tell him anything about utilities in that area?
Answer: No.
Question: Roads?
Answer: No, only the number of people that were in this line.[183]

Bagley testified that he relied on Horner's information about schools in the area and the number of school children and that information pertaining to utilities would be acquired later from technicians and engineers. He said, "We did not go into detail on the school operation or the utility operation or such. I don't think either one of us were qualified to do that." When the attorney asked, "You did not know very much else about what was in this line?" Bagley responded, "I certainly did. I am a realtor. I have pretty good knowledge of the Richmond metropolitan area."[184]

George Talcott, Richmond's annexation expert who was responsible for compiling much of the technical materials for the case, was not informed of the line until eleven days later on May 26 when City Attorney Mattox contacted him. The two men met that evening at Talcott's home and began preparing the financial conditions of the agreement. The mayor himself never approached Talcott directly for information about the territory for another week

and a half—twenty-three days after the agreement! In response to the mayor's overture, Talcott drafted a memorandum on June 7, dated June 9, which, in Talcott's words, was "an evaluation and comparison of general data of the area sought [in the 1961 annexation ordinance] and the compromise area consisting of area, total population, nonwhite population, school-age children, school capacity, total assessables, vacant land." The memorandum also included an analysis of developed industrial, commercial, and residential properties as well as sites suitable for development. Finally, the document noted the racial ratios of the city as well as the projected ratios of a new city comprising the original target area and a city comprising the compromise area.[185]

Following the May 15 meeting between the mayor and the Chesterfield board chairman, several sessions involving the city attorney, the city manager, the county executive secretary, and one of the county defense attorneys were convened to discuss a financial settlement. On June 11, Bagley phoned his counterpart and told Horner that the city would make a final offer of $27,169,000 including a cash payment in excess of $7,000,000 for the compromise territory. The county had wanted a $44,000,000 settlement, but Bagley's "final offer," which was $3 million more than the city had previously suggested, had the ring of a take-it-or-leave-it proposition. Horner quickly convened a meeting of the county board. The board instructed Horner and defense attorney John Thornton to talk with the mayor and whomever the mayor wished to include from the city in an effort to determine if the city was serious in wanting to settle the case by compromise and if it stood firmly behind its money offer. Accordingly, the two county representatives met with Bagley and John Davenport, one of Richmond's annexation lawyers, at 9:30 p.m. in City Hall that same day, June 11. There, the mayor verified the offer and stressed to Horner that "he had six councilmen [all but Marsh, Carpenter, and Carwile] committed to the proposition that if the county accepted it, there was nothing further for him or me to do but the lawyers would meet to work out the mechanics of settlement."[186] Bagley also indicated that the city would agree to the compromise and the financial settlement only if the county consented not to appeal and if the annexation could be effective by January 1, 1970. The latter was necessary so that the annexed citizens could vote in the 1970 councilmanic election. The city also suggested that the county officials use their influence to dissuade intervenors in the suit from appealing. The county lawyers said that the latter request was beyond their control and that the city should not expect any assistance from the county on this matter.[187] The county, however,

did agree to inform Richmond of its acceptance or rejection of the city's offer and conditions as soon as possible.

The next day, June 12, the Chesterfield County Board of Supervisors met and a majority of the legislators agreed to accept the city's offer and to endorse the compromise agreement.[188] Only Fritz Dietsch and A. R. Martin dissented.[189]

The process by which Chesterfield supervisors reached their decision differed considerably from that used by Richmond officials. Shortly after the Horner-Bagley agreement had been struck on May 15, the mayor called a meeting of the Richmond Forward bloc on council. All RF members attended, except Nathan Forb who was ill. They met at the home of David L. Shepardson, the councilman appointed to fill the vacancy created by James Wheat's resignation.[190] One of the participants at the meeting was Nell Pusey who had served a year on council after having been elected in 1968. She admitted in an interview that because she was relatively new to council she did not know as much about the finer points of the annexation as others. Nevertheless, she did say that at the meeting they were not given many technical facts about the compromise area.[191] Another newcomer to council, Thomas J. Bliley, Jr., also stated that while the Shepardson meeting was called to acquire the majority members' approval in principle of the compromise line, the meeting did not generate answers to Bliley's questions pertaining to such items as the amount of vacant land and the number and kind of improvements in the target area. In response to the lawyer's query, "Isn't it true that about the only definite fact you knew at this meeting was that you could see the line and you knew the number of people?," Bliley responded, "That is right."[192] Subsequent meetings were necessary to obtain information which Bliley desired at the Shepardson conclave. Yet, irrespective of incomplete data about the line, the Richmond Forward group consented to the line. Furthermore, when Bagley said later that "he had six councilmen committed to the proposition," he was referring to a proposition which had been discussed and agreed upon in a private meeting of council members exclusive of the three Crusade-endorsed legislators. Unlike Dietsch and Martin, who participated in the board discussions and who registered their opposition to the compromise in the context of a debate involving all supervisors, Carpenter, Marsh, and Carwile knew nothing of the discussions at the Shepardson home and, in fact, learned later about the compromise from reading the newspapers.

By June 25, 1969, all of the details surrounding the Horner-Bagley line had

been completed and, with each jurisdiction having agreed to the financial arrangements and the conditions noted in previous meetings, including the meeting of June 11 and another one on June 19 where the no-appeal condition was stressed, the two parties formally signed the agreement.[193] Again, the three Crusade-endorsed council members were confined to the periphery.

During the discussions that followed the May 15 drawing of the Horner-Bagley line, the second annexation trial had begun, convening on May 20. On the first day of the trial, Delegate Gray, who was one of Chesterfield's defense attorneys, argued for the dismissal of the case on the grounds that the state legislature, through the Aldhizer Amendment, "established in law that boundary expansion for the City of Richmond is no longer a matter to be determined by court proceedings. . . ."[194] Though the motion was not granted by the court, arguing that the amendment was not yet ratified, Gray's address to the three judge panel in support of the motion was noteworthy because of the explicit reference he made to the racial factor.

> The Legislature in dealing with this Aldhizer report heard a good deal about the racial problems of the City of Richmond which this Court determined at its last hearing was not a proper matter for determination in annexation and yet, your Honor, we found out that it was almost like a man talking to a friend of his who has just lost all of his hair overnight. He knows that the man knows that he knows he is bald and he knows that the man knows that he knows he knows it, and we all sat here and we went through this case and we all wouldn't talk about it, wouldn't think about it, and everybody knew that they knew that's what they were thinking about, and they knew we knew that's what they were thinking about, and we all knew that's what the Court knew we were thinking about.
>
> So it was like trying an iceberg, the 20 percent you could see we were talking about and the 80 percent that was most harmful to us was down there where you couldn't look at it. But the Legislature had this in mind, and that is just unavoidably tied up in this case and that is purely a political question, and you can't ferret it out, you can't possibly separate that from the considerations of the other matters which are going to come before you.[195]

Two additional motions were also raised. Chesterfield attorneys and lawyers for a group of civic associations located in the target area [the original area as outlined in the 1961 ordinance], which had intervened in the case, sought

unsuccessfully to have Judges Marshall and Whitley disqualify themselves from the case since they had heard most of the previous testimony of the first trial. Marshall and Whitley, however, ruled that they did not hold a personal bias in the case and could continue on the panel for the second trial. The second motion, like the other two, an attempt to scrap or at least delay the trial, was to have the court declare a stay of judicial proceedings pending the determination of the Aldhizer Amendment.[196] Also like the other two motions, the third motion was opposed by a unanimous court ruling.

The court began hearing testimony from city witnesses and during the process ordered the city to share the background material included in the Sartain Report with the county. The report was sponsored by the Richmond School Board which used federal money to support a study undertaken by five academicians of racial change in Northside schools. The annexation court stipulated that the county could see the report on the condition that the Chesterfield attorneys could not make notes from the report, make any portion of the report public, or question any witnesses about the report without acquiring approval from the three judges meeting in chambers.[197] An editorial in the *News Leader* charged the county was using the Sartain Report, which had recommended annexation as a means to reinstate racial balance in the city's schools and which had also recommended the construction of low-income housing throughout the city, "as a racial bugaboo to intimidate reason in the annexation proceedings." Taking a broadside against federally sponsored research, such as the Sartain study, and noting that the city "had nothing whatever to do with the preparation of this . . . project" and that the report's recommendations did not carry any official sanction from the city, the editorial writer then asserted that the study was nothing more than "an academic excursion into some liberal wonderland, where complex racial problems and attitudes can be permanently resolved through forced housing laws and the dispersal of slums throughout the suburbs." The writer apparently believed that, after having delivered such an attack on the federal government and the five professors employed "to advance racial integration," that it was necessary to remind his readers that "while it is now almost impossible anywhere in America to contemplate public policy or change without considerations of race, *this is not the basic motivation behind Richmond's efforts to break out of its strangling borders.*[198] [italics added]

It was while the county was presenting its witnesses and before the testimony of the several intervenors in the case that word came to the annexation

court of the Horner-Bagley compromise.[199] Irvin Horner was the person who made public the compromise agreement. After taking the stand, he informed the court of the settlement and chronologized the initial meetings he held with Mayor Bagley as well as the subsequent negotiations involving additional Chesterfield and Richmond representatives. Of course, once Horner made the announcement, the story became fair game for reporters. Until June 16, when Horner notified the judges of the agreement, nothing about the compromise negotiations had been mentioned in the press, although some reporters were aware that Horner and Bagley were involved in private meetings and, in James Davis's case, had actually participated in the instigation of the talks. Davis justified the decision he and his colleagues had made to omit any reference in news stories to the summitry on the basis that, given the "very delicate situation," the meetings needed to be strictly confidential.

Actually the judges had been notified of the compromise on June 16 before Horner took the stand. In fact, it was agreed in a private conversation among the judges and the county lawyers in the chambers of Chief Judge Earl L. Abbott that Horner's role was to make the public disclosure about the settlement, though Richmond counsel opposed the settlement and objected then and later in open court to Horner's testimony since efforts to compromise "have never been admissible as evidence."[200] Abbott, however, overruled the objection in chambers and the city withdrew its objection later in court. (City lawyers had been involved in the private negotiations over the Horner-Bagley line, but Conard Mattox, David J. Mays, and Horace Edwards [former City Manager Edwards had been retained by the city as its chief annexation lawyer] had expressed uneasiness about the compromise efforts since, they argued, their job was to represent the city in the suit and to continue in that role until the conclusion of the suit.) Everything that was agreed upon in the judge's chambers was not shared in open court. Indeed, the conversation and the decisions made confidentially in chambers constitute some of the most intriguing dimensions of the long history of annexation.

> Judge Abbott: Well, first, I would like to say that we are pleased that you have gotten together and settled your differences. I think it might in the end create good will and harmony between the people but I think mechanics is a question to consider.
>
> Now, you say you gentlemen have agreed. Does that mean the Board of

Supervisors themselves will have to take formal action on it? And what are we going to do about protestors? . . .

Just listening to what you have said this morning, it would be my suggestion that we just proceed with the case and then when the evidence is in, let us hear the protestors and then you can tell us what your agreement is and we can make our decision accordingly, and in that way the Intervenors won't feel like they have been kicked around or left out.

There would be no need for the City Council to have a meeting, it wouldn't be necessary for the Board of Supervisors to have a meeting. That would be a decision for the Court. . . .

Let us go ahead with the case and while we are hearing the Intervenors let the City and the County present to the Court in writing which we will hold here confidentially in the office when you have a proposition that you all have agreed upon, and then when we consider the case we will have it in mind. . . .

All right I am going to ask the reporter not to write this portion and if he does write it up not to make it accessible where the press and the radio can get it. When you write it, just hand it to me instead of laying it on the desk and I will give it to you gentlemen later on. *I just don't want the press getting ahold of what we have been talking about in here because the whole thing will just—it would be wrong.*

Mr. Thornton (representing Chesterfield County): I think you are in an area where—I pledged my word and nobody in this room has done any talking but already the newspapers have beat this thing to death, and I think this has got to go into open court and the chips have got to fall where they may.[201] [italics added]

As the conversation reveals, the presiding judge intended to keep the session in his chambers private and not part of the court record, although what occurred privately proved decisive as far as the ultimate action taken by the court was concerned. Indeed, it is somewhat a mystery how the court stenographer managed to slip into the chambers without one of the judges or lawyers calling attention to the stenographer's presence and politely excusing him or her. But not only did the court reporter attend the session, the reporter proceeded to record everything that was said and it appears that the only reason the discussions were later made a part of the public record was that the press

already knew about the compromise and the court, therefore, had little choice but to release the information.

As the conversation also reveals, the judges decided to proceed with the case, although they were knowledgeable of the compromise settlement and had immediate access to the settlement ("which we will hold here confidentially in the office") when the court was ready to make its decision. While Judge Abbott said that the court would not "be bound by" any agreement he also said "that chances are we are going to approve it . . ." and as the final outcome of the trial clearly showed the compromise agreement and the court decision were one and the same.[202] It was obvious from the discussion in chambers that the presiding judge was prepared, indeed anxious, to take the compromise and use it as the basis for a court award. By mandating the compromise as a decision of the court, the jurist reasoned, it would be unnecessary for either local governing board to act officially, although the Board of Supervisors, by a vote of four to two, had already gone on record of supporting the compromise. The Richmond City Council, on the other hand, had never taken an official stand regarding the compromise and, while the six Richmond Forward legislators had agreed to the Horner-Bagley line, their action was taken at a private meeting where Carpenter, Marsh, and Carwile had been purposely excluded. Nevertheless, Presiding Judge Abbott and Elliott Marshall were influenced by the fact that a majority of both governing bodies had approved the agreement. Marshall said, "that would hold great weight with me in my decision . . ."[203] Moreover, Abbott and Marshall argued that neither the city nor the county was authorized to compromise. The decision to annex would be that of the annexation court and the court alone. Consequently, according to Abbott, "We are not going to wait on the city council to pass that ordinance [a new annexation ordinance spelling out the details of the compromise which, if passed, would supersede the 1961 ordinance]. We are going on with the case."[204]

Judge Whitley, however, voiced some reservations about the sentiments expressed in chambers. "Now, what do we do about the minority of the council," asked Whitley, or "the minority of the Board of Supervisors [who] might not agree to this? I don't know what weight to give to it. That's what is troubling me."[205] City Attorney Conard Mattox and city annexation lawyer Horace Edwards also were concerned about any effort by the court to circumvent any official action by the council. "It can't be done," Edwards asserted. "This would be an awfully unwise thing to have. . . ."[206] Mattox claimed that just because six people on council agreed to compromise did not make the compromise a legal

agreement. He stressed that the city council, acting officially, was the only body that could give him instructions and while he had no quarrel with the fact that the mayor had been involved in the negotiations, the mayor remained simply one of nine councilmen. Abbott retorted, stating that even though the six could not bind council, the court could mandate the agreement, thereby obviating any role of council.[207] Obviously such action would insure that the three "dissident" members of council would not have an opportunity to review the Horner-Bagley compromise before the court acted. (The best they could do was to read about the compromise and the court activities in the newspapers.)

The presiding judge played an unusually aggressive role in the court. He apparently was not unduly bothered by legal technicalities or the most fundamental principles of due process. It was clear that he and others were quite willing to continue the case without seriously considering the testimony of additional witnesses who were yet to be heard. The scene in the judge's chambers hardly conforms to the textbook image of an annexation court which hears debate between attorneys, studies exhibits and documents, and gives attention to the examination and cross-examination of witnesses before rendering a decision based on the merits of the case. Judge Abbott had already indicated his desire to expedite the case and to reach a decision by July 1. In that light, what occurred both in chambers and later in open court followed the script to the letter. When the Chesterfield civic associations, which had intervened in opposition to annexation, presented their witnesses, Judge Abbott told them to put an end to repetitious testimony.[208] While the county was wedded to the compromise, as was evident when the county put Horner on the witness stand to testify about the details surrounding the Horner-Bagley line, the civic associations were not. (Neither was county defense attorney Fred Gray who said that he was not a party to any compromise.) James Davis reported that the "civic groups were trying desperately, if somewhat awkwardly, to block any annexation."[209] Already they had begun raising money to support an appeal of what everyone agreed was a certainty—a court award.

The expectation became reality when, again, according to script, the annexation court rendered its decision on July 1, 1969. The final order was entered on July 12. The court adopted verbatim the compromise settlement (including the financial arrangements) negotiated by Irvin Horner and Phil Bagley. For the first time in Virginia annexation history, a compromise between the opposing parties in an annexation suit was negotiated privately outside the court, introduced as evidence in an annexation court, and then approved without

variation by the court. Indeed, the court itself recognized this fact when, in Abbott's explanation of the decision, the following observation was made:

> So far as we can ascertain, a compromise between two governing bodies in an annexation case is unprecedented. While the City objected to the admission of evidence of the agreement and moved to strike it at the time of its presentation, the objection and motion were later withdrawn. Both sides admit that the agreement is not binding upon the Court.
>
> After mature consideration, we feel that the agreement is entitled to great weight. *It must be remembered that the parties to the agreement performed the legislative functions of their governments as duly elected representatives of the people. When they decide that their constituents are benefited by an action, such a decision should not be treated lightly.*
>
> Of course, it must not be overlooked that they have not acted officially by ordinance or resolution.[210] [italics added]

The italicized portion of the statement is also important in that the court obviously deferred to the political judgment of the majority members of each governing board. To suggest, however, that the "duly elected representatives of the people" were performing their legitimate legislative functions failed to take into account that the Richmond Forward representatives were meeting secretly in the home of a councilman when they approved the line and that the representatives who were largely accountable to the city black population, which stood in 1969 at about 52 percent of the population, were not privy to this or other strategic meetings and, consequently, never had the opportunity to discuss the compromise or participate in the decision relative to the agreement. The Richmond experience, in this regard, differed considerably from Chesterfield's where the opponents to the compromise met with their colleagues and expressed their dissent openly in the course of a board meeting.

The court award, which, obviously, the city accepted, enclosed twenty-three square miles containing a population of 44,000, 97 percent of whom was white. (The 1970 census revealed that the area actually comprised 47,262 people.) With this infusion of white suburbanites into the city's population, the proportion of blacks in the community would decline from 52 percent to 42 percent and the proportion of voting age blacks would drop from 45 percent to 37 percent. In the 1961 annexation ordinance, Richmond had sought fifty-one square miles which contained a 1969 population of approximately 73,000. The addition of the twenty-three square miles, though less than half

the area originally sought, represented an area practically the size of the entire city prior to Richmond's last annexation in 1942 when the city area was twenty-four square miles.[211] The problem, however, was that the area awarded by the 1969 annexation court excluded such economic and physical assets as large industry, water sources, and large areas of open space conducive to industrial, commercial, or residential development. DuPont was left in Chesterfield. DuPont had acquired counsel to fight the annexation in the court and it was widely rumored that if DuPont were annexed the industry would eventually close its Richmond operations and move them outside the metropolitan area. Most of those participants in the annexation who were interviewed by the authors, however, claimed that DuPont was bluffing and that it was very doubtful that the company would have undertaken such an action since it would have been financially imprudent.

A few years after the annexation of the twenty-three square miles, a major regional shopping center (Cloverleaf Mall) was constructed in the county just a few yards away from the city line near the intersection of Chippenham Parkway and Midlothian Turnpike. Finally, the Horner-Bagley line did not include a sufficient number of school buildings to house the number of children brought into the city and, as a consequence, the court ordered the following:

(1) County . . . shall provide space and instruction on tuition basis not to exceed net cost to the county . . . for all school children in the annexation area for whom the city is unable to . . . provide in 1960–70 and 1970–71 sessions;
(2) Chesterfield County . . . shall provide space and instruction on same basis for all junior and senior high school students in the area from whom the City is unable to so provide in the 1971–72 session;
(3) Chesterfield . . . shall acquire sites . . . to build three elementary schools to city specifications . . . and turn them over to the city by September 1, 1971.[212]

In retrospect, many city officials today regret the compromise agreement. In interviews with the authors, they indicate that had the city proceeded into open court without having arranged a compromise, the city would have probably received an award that would surely have exceeded the twenty-three square miles and perhaps included an area exceeding even the fifty-one square miles outlined in the 1961 annexation ordinance. After all, the city was in a rare position for municipalities that had faced annexation courts in that not one

of the three judges was a judge from the affected county. Chesterfield Circuit Court Judge David Meade White had been replaced with a circuit court judge from Clifton Forge, Earl Abbott. Conard B. Mattox, Jr., was perhaps the most outspoken critic of the compromise when the authors conducted interviews with those who played a role in the annexation dispute.

> I was extremely disappointed in the settlement. I think it was the most disappointing event of my entire legal career. I was just crushed. I knew nothing about it until it was too late [that is, until Horner and Bagley had drawn the line] . . . I knew that, at the minimum, the city was going to get every damn inch of the land that it had asked for and, most likely, an area . . . that we didn't even ask for.
>
> From a pure technical point of view, the annexation line is an abortion. It cuts across drainage areas. It's just bad, absolutely bad. And no judge in his right mind, Abbott certainly, could not have on his own taken all of the evidence that was before him and draw the line in a way where that line was actually drawn for him. He would not have done it. He's too smart. The line would have been somewhere else.[213]

Why, then, given the negative sentiment expressed today (as well as in 1969) regarding the compromise, was the settlement approved by the council majority? Beyond the rationale that the six legislators could not predict what the court might do was the concern for timing. The annexation had to be effective no later than January 1, 1970; otherwise, a new council majority might emerge after the spring 1970 election and call a halt to the entire process. There was an added fear for some. An antiannexation majority on council was a euphemism for either a majority black council or a council majority accountable to black constituencies. To ward off such a possibility, the annexation had to be accomplished immediately and the compromise was attractive since the county, in agreeing to the Horner-Bagley line, also had to agree to a no-appeal condition imposed by city politicians.

The Appeal

But just because the county had agreed not to appeal was no reason for the intervenors to assume the same position. The Chesterfield civic associations, which had fought the annexation in the three judge court, viewed the county acceptance of the settlement as a betrayal of the citizens living in the target area and saw the court ratification of the agreement as a miscarriage of justice. The

relationship between Horner and one of the leading figures in the appeal, Chesterfield Delegate George W. Jones, was bitter for a long while after the settlement. Jones now says that, after several years of reflection, he can "understand how Horner and some of the others felt. They believed that we could not win the case in court so it was best to strike a deal that would minimize Richmond's gains and minimize Chesterfield's loss." Moreover, he continued, "people just wanted to get this case behind them and move on with their lives."[214] Prior to his reflection, Jones was indeed bitter. In a rally held at the Southampton Citizens' Association Center where angry Chesterfield residents living in the target area gathered to hear appeals for money to support a challenge to the court decision, Jones denounced the compromise and the final court order, urging the citizens to support an effort to thwart a January 1 annexation since "a city council will be elected in June and it wouldn't bother me one way or the other to see Richmond Forward lose control."[215] Jones also mentioned that an effort would be undertaken soon to involve the federal courts. "There's no doubt in my mind," Jones told the residents, "that the single issue of the annexation trial was to dilute the Negro vote."[216] It was important, he added, to not delay any effort to reach the federal courts since an appeal to the Virginia Supreme Court of Appeals would likely push a final state decision regarding annexation near the end of the year. If action had not been taken in federal courts by then, it might be too late to block the January 1 annexation, assuming the state high court upheld the decision of the annexation court.

A steering committee comprised of representatives from the various civic associations fighting annexation had been formed to coordinate the associations' efforts. The committee's first action occurred prior to the court decision when former state assistant attorney general Paul D. Stotts was retained to represent the organizations as intervenors in the suit. Realistically, however, little could be done except for presenting some testimony which, of course, proved futile. As pointed out previously, even before the court made its ruling, the civic associations had begun raising money to support an appeal since Horner's June 16 disclosure of the agreement appeared to portend an award of some kind. After the trial, the civic groups acquired a copy of the transcripts and the record of the confidential meeting in the judge's chambers was read carefully whereupon the intervenors became convinced that in the words of one civic association member, "a deal had, in fact, been struck and that the defense [by the county] was nominal, the city being assured of a perfunctory defense and no appeal on the basis that the city would cut its demand for territory substantially."[217]

Roger L. Tuttle was selected as the steering committee's legal coordinator. Tuttle approached attorney L. Paul Byrne to head the appeal effort before the state supreme court. In addition, Byrne and Tuttle explored the possibilities of taking action in the U.S. District Court in an attempt, under the 1965 Voting Rights Act, to enjoin the annexation as a violation of civil rights. The problem, however, was that they would need a black plaintiff. Tuttle's recollection of what transpired is particularly interesting.

> To this end, we (Byrne, some of his associates, and me) met with Curtis Holt to attempt to persuade him to lead a group of black citizens in an action in [Federal District Court] Judge [Robert R.] Merhige's court. Why Curtis Holt? We, very frankly, did not trust the leadership of the Crusade and felt that, among black citizens who had political clout, Curtis Holt was the one black who could be trusted by the citizens of the annexed area and who could work cooperatively with us without raising the black/white confrontation issue. Unfortunately, you must remember also we had a very severe time limitation. My recollection being that the annexation court came down with its decision in the later summer/early fall of 1969 with the annexation date being January 1, 1970, and hence, we had to get to the [state] supreme court on an accelerated basis. Also, we had to pull together a civil rights suit, if we could, and get it filed and perhaps be in such a position to request the federal district court for a temporary restraining order or an injunction before January 1, 1970. For reasons that I did not understand at the time, and certainly do not understand today, although Holt met with us and gave us some encouragement, he never would actually agree to lead a group of his supporters to form the necessary class of disenfranchised black citizens to have standing to file the federal civil rights action. And thus that concept died. We were then left with nothing more than the straight out appeal.[218]

According to Holt, the problem was that, in 1969, he was not sure whether the civic associations were offering financial support for a class action suit (money in addition to that collected for supporting their own appeal) or whether the overture involved only moral support and the expectation that Holt would raise the money. Holt's income prevented any investment on his part and he was not in a position to undertake a fund raising drive of his own. As a consequence, given the uncertainty surrounding the financing of a suit, Holt did not pursue the matter.[219] Later, however, well after the annexation became effective, Holt did file suit against the city with some of the expenses borne by the annexed area civic associations. Indeed, the litigation generated by the Holt

cases, as they came to be called, would lead to some of the most complex court battles since the 1954 *Brown* decision of the U.S. Supreme Court.

The Crusade for Voters was also asked about its interest in joining the appeal to the state supreme court. Approached by Delegate George Jones and Ronald P. Livingston (an accountant active in the Broad Rock Council of Civic Associations),[220] the Crusade leadership expressed interest in an appeal and it subsequently met with Paul Byrne to explore the possibilities.[221] Dr. William S. Thornton and Philmore Howlette talked with Byrne one evening at Thornton's home and, as Thornton recalled, "we left with the impression that he would call us. We knew the deadline for intervening was close upon us, and I called Mr. Byrne and reminded him that he was to have called members of the Crusade for Voters. He said he would let us know. I heard nothing more from Mr. Byrne after that."[222] Byrne, however, thought that the Crusade was to get back to him. Byrne noted also that the Crusade indicated that it did not have the money to support an appeal and he, in turn, informed the Crusade that he could not represent both their interests and those of the whites in the civic associations since they might come "to a fork in the road and you would have to choose which side you were going down."[223] There still is some uncertainty as to what happened, but irrespective of the uncertainty the fact remains that, for whatever reason, the Crusade never did appeal the annexation court decision.

Virginia Supreme Court rules stipulate that appellants have sixty days after a lower court decision to file a notice of appeal and assignment of error.[224] On the fifty-ninth day, September 9, later in the afternoon, attorney L. Paul Byrne filed the notice. Byrne noted four issues:

(1) The Court was without jurisdiction to hear the case because insofar as enlargement of the boundaries of the City of Richmond is concerned, the matter is a legislative matter as a result of the adoption of the 1969 Special Session of the General Assembly of Senate Joint Resolution 28 (the so-called Aldhizer Amendment).
(2) A portion of the area included within the lines of annexation violates the provisions of Sec. 15.1–1042 (a) of the Code of Virginia requiring that the area annexed be "a reasonably compact body of land." [The plaintiffs contended that the annexation lines "were illogical" in that the portion of the target area forming a peninsula lying between Huguenot Road and the James River was an isolated appendage not connected with or contiguous to the city boundary and was not compact in relation to the city.]

(3) The decision was based, not upon an independent factual finding by the court of "the necessity for and the expediency of annexation" as required by Sec. 15.1–1041 (a) of the Code of Virginia,—but by arbitrary adoption by the Court of an unenforceable compromise agreement between the Mayor of the City of Richmond and the Chairman of the Board of Supervisors of Chesterfield County.

(4) Citizens of the area annexed were denied due process of law in that, with knowledge and consent by the Court, they were deprived of the right to effective representation by counsel in the case. [Byrne was referring to the county's acquiescence to the compromise and, therefore, its failure to mount a strong defense against annexation. Also, he was referring to the court's denial of a request by several additional civic associations to intervene in the case after the trial had started.][225]

Following the filing of the appeal notice, Horner denounced both the appeal and George Jones. Horner acknowledged that the Chesterfield Board of Supervisors had considered an appeal but it ultimately decided "to try to aid the court in arriving at a decision with which the county could live, rather than gamble unsuccessfully on an appeal from a decision that would have effectively killed the future of Chesterfield." He also stressed that an appeal would lead in one of three directions: (1) an affirmation of the annexation court ruling; (2) a return of the case to the annexation court for a retrial of part or all of the case; or (3) a ruling which might alter that of the lower court. The third alternative, Horner noted, could lead to an award equal to or in excess of the fifty-one square miles originally requested by the city. The high court could even award the entire county. Finally, he suggested that if the state supreme court were to grant a hearing to the appellants, assuming that the hearing were scheduled for sometime in 1970, it "would greatly enhance the passage by the 1970 General Assembly of the Aldhizer Amendment that would ultimately have the effect of Richmond expanding its boundaries each ten years." Horner also was highly critical of Jones, saying that Jones, "either through ignorance or desire to capitalize on the unfortunate position of those residing in the proposed annexation area, is misleading the citizens for a politically motivated reason—to try to get elected to the house of Delegates."[226]

Jones shot back. He requested the Chesterfield commonwealth's attorney to investigate Horner's role in the annexation negotiations and, specifically, to

determine whether "there is any conflict of interest on Mr. Horner's part when two elected officials, and both being land developers, negotiate a jurisdictional line affecting property values." Jones relayed to the commonwealth's attorney the reports that "both elected officials—either personally or their families—own property in the immediate vicinity of the negotiated line."[227] Jones pursued the conflict of interest issue after one of Horner's fellow board members, Frederick F. Dietsch, had also raised the question and announced his intention to contact the commonwealth's attorney.

The action-reaction sequence of events also involved Bagley who, like Horner, responded to the charges. Horner said that "sixty to seventy percent of my land assets were placed in the proposed annexation area," and Bagley indicated that "while a relative of mine owns property in the Old Gun area, the present annexation line in this section of Chesterfield is the exact and same line established by the engineers in 1961 in the dual annexation suits against Henrico and Chesterfield."[228] Bagley then proceeded to counter Jones's earlier remarks about the racial angle of the annexation.

> This is the same Mr. Jones who falsely alleged on the floor of the legislature that Richmond boundary expansion efforts were only to acquire white voters. When every knowledgeable person knows that if Richmond's main objective was to acquire white voters, the city would have accepted the verdict in the Henrico annexation case which awarded Richmond 45,000 additional citizens.[229]

During the debates among Horner, Bagley, Jones, and Dietsch, the city was getting anxious about the appeal. The concern had less to do with the uncertainty surrounding any action of the state supreme court than with the delay which the appeal was likely to create. Both the city and the county, particularly the city and even more so the Richmond Forward faction on city council, were committed to a January 1 annexation. Virginia Supreme Court rules in 1969 stipulated that appellants had four months from the date of the lower court's decision to file their petition before the high court.[230] The final order of the annexation court came July 12, 1969. Given the four-month rule, the last day to submit the petition was November 12. Furthermore, once an appeal was filed, it generally took about five months before the supreme court determined whether or not to hear an appeal. To compound the problem, the high court in the fall of 1969 had a very crowded docket. Cases the court had already accepted were being docketed as much as a year later in October, 1970.

News accounts indicated that supreme court officials viewed the prospects of a final resolution of the appeal by December 31 as "next to impossible."[231] The consequence, of course, was that the effective date of annexation would be January 1, 1971, or even January 1, 1972.

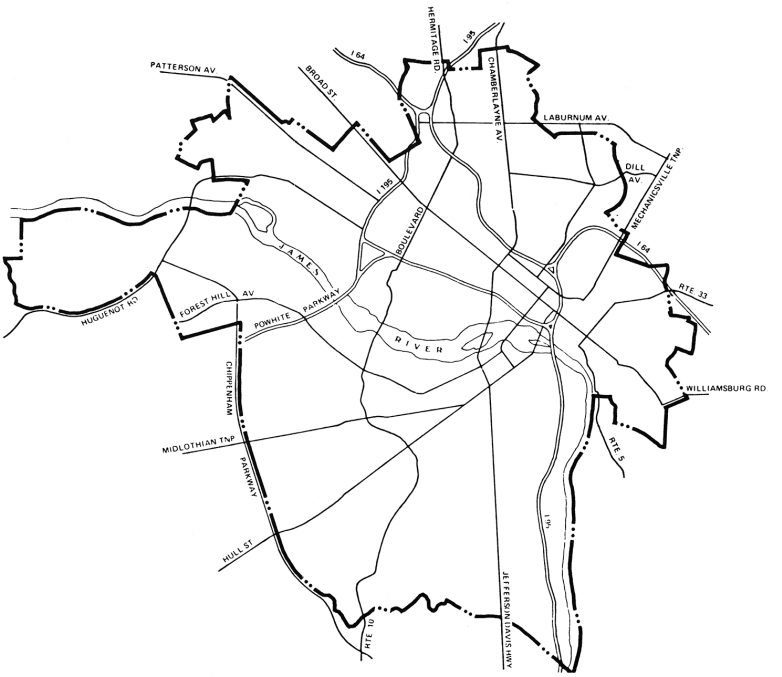
Obviously, the petitioners wanted to prolong the appeals process as long as possible. It was not surprising, therefore, when they waited until the last week to file their petition. Due no later than November 12, the petition was submitted on November 7. The fifty page document which Byrne filed explained each of the four points outlined in the assignment of error and asked the supreme court to consider taking one of the following steps: (1) to dismiss the city's petition for annexation; (2) to reverse the decision of the annexation court and remand the case to the lower court where the issue would be held in abeyance pending the outcome of the proposed Aldhizer Amendment; or (3) to redraw the annexation line to create a reasonably compact area or return the case to the court with instructions to redraw the line and to permit the appellants to intervene.[232]

Under the state supreme court rules, the city had fourteen days to file with the tribunal a reply to the appellants. Pressed for time, however, the city filed only five days later on November 12. When submitting its twenty page reply brief, the city also urged that "in the public interest . . . a prompt disposition be made of this petition." The city's position was that the annexation court had properly denied some potential intervenors from entering the case after the trial had started since the court was merely exercising its proper authority to establish a cut-off date. The city also contended that the enactment of the Aldhizer Amendment did not affect the jurisdiction of the annexation court and that the twenty-three square mile target area conformed to the state code requirements that the territory be reasonably compact. Finally, the city argued that court evidence suggested that the judges arrived at their decision independently of an agreement between Richmond and Chesterfield officials and that county residents were effectively represented by defense counsel in the closing states of the annexation, even after the compromise agreement had been disclosed.[233]

Throughout the annexation case, certainly from the mid-sixties on, the Commonwealth of Virginia had been watching the growing political pressures in the city with concern and, therefore, began charting a course which would reinforce the city's boundary expansion moves. All of the efforts to pass legislation that would enable the capital city to expand into the counties ran parallel to the annexation suit and by the end of the decade there was little question that state legislators and other Virginians holding high office were

committed to preventing Richmond from becoming another "Washington, D.C." While courts are more protected from direct political pressures than are legislative bodies, courts remain political institutions that interact with their political environments. This is no less true for Virginia courts and the high court is no exception among commonwealth courts. As one former member of the state supreme court (but who served during the annexation appeal) said in an interview,

> There are things that influence judges. Every judge is influenced by things that are very strong and, yet, are not subjects for disqualification. A person is bound to be influenced by his environment. . . . I rather suspect that the race question was on the minds of lots of people even though it had been ruled out as relevant, but how much, I can't say and, you see, it never got to the test because they really settled the damn thing to the extent that you can ever settle an annexation. . . . Well, you know, you're bound to know, that people in the City of Richmond, by and large, the white population, was very much concerned that there might be a majority of blacks in the city council. . . . I don't know to what extent that prompted the bringing of the suit. I really don't. I don't know to what extent that would have prompted the decision of the judges.[234]



No definitive statement can be made regarding the degree to which the state supreme court was attuned to the capital city's political needs, though, to repeat, the judges were human and, therefore, subject to bias and, as appointed officials serving on the state's highest court, not immune to the opinions and aspirations of those elite occupying other seats of power. What is very clear, however, is that the court was amenable to the city's request to expedite the appeals process and what appeared as "next to impossible" occurred with apparent ease. The appellants submitted a written response to the city's brief on November 20; the next day the appeal court notified the lawyers that they were to argue before the court on the following Monday afternoon. Following the conclusion of the oral arguments that Monday, the court, only two days later on Wednesday, November 26, 1969, denied the petition to appeal.[235] Only six days transpired from the day when the last brief was filed. Only six days lapsed when normally five months were necessary before the court even determined its position on hearing an appeal! On December 19, 1969, the appellants filed before the Virginia Supreme Court a request for a stay of the annexation decree until a decision regarding an appeal could be made by the U.S. Supreme Court. The stay was denied the same day.[236] An application for a stay was then submitted to the U.S. Supreme Court. As Tuttle remembered, "Working frantically, we were able to get together the necessary petition and writ and, with the cooperation of the clerk of the U.S. Supreme Court, went first to the supervising justice of the 4th Circuit [Chief Justice Warren Burger] and this, I recall, was during the Christmas holidays of 1969."[237] Burger was of no help in that he reportedly was in Florida on vacation. Justice Thurgood Marshall acted in Burger's place and, on December 30, denied the stay. The petitioners were persistent, approaching Justice William J. Brennan on the 30th and Justice William O. Douglas on the 31st. In both instances, the justices denied the stay.[238] Time had run out. Consequently, at midnight on December 31, in accordance with state law, the Richmond-Chesterfield annexation became effective.

The 1970 Councilmanic Election

The 1970 councilmanic election was important because the eligible residents in the annexed area could vote, but it was important for another reason as well. Richmond Forward dissolved and the leadership core of RF, plus some of the leaders in the coalition of civic associations now in the newly annexed area, united to form a new organization which took the name of the south Richmond group, Team of Progress (TOP).

Roger L. Tuttle considered himself a pragmatist. Although the civic associations were continuing their fight by appealing to the U.S. Supreme Court, Tuttle also believed that it was important to accept the fact that, at least for the moment, the annexed area was a part of the city and that the annexed citizens should maximize their political clout at the ballot box. Accordingly, the leaders of the civic associations that had been active in fighting the annexation came together to construct an electoral organization that was designed to protect the interests of annexed area residents through endorsing candidates for city council. The organization called itself the "Team of Progress." (Some confusion exists over who coined the term, "Team of Progress." George Jones assumes credit and Roger Tuttle credits his wife.)[239]

One of the first major decisions the new organization had to make was whether it should seek alliance with another organization or proceed on an independent course. To explore the merits of each option, the leaders of the annexed area coalition decided to talk with representatives from the Crusade for Voters and Richmond Forward. On Friday, January 23, 1970, three leaders from the Team of Progress, Robert T. Fitzgerald, Roger C. Griffin, and Ronald P. Livingston, met with Dr. William Thornton of the Crusade. Griffin compiled a report outlining the thrust of the meeting and its conclusions. The report also contained a recommendation to the new organization. Griffin informed Dr. Thornton of the composition of TOP and the alternatives that TOP was considering, including an alliance with the Crusade. Following a general discussion of the political realities facing both the Crusade and TOP, several conclusions emerged. There was a consensus that "neither TOP nor CV [Crusade for Voters] would benefit from a formal alliance." The representatives also agreed that "TOP should reach its decision [regarding the most appropriate course of action] on principle rather than reasons of political expediency." Finally, both parties concurred that "defeat at the polls is not necessarily a failure, for it can lead to greater influence on those in office." From the report, it appeared that the Crusade was particularly skittish about entering into an alliance with any group since, according to Thornton, Richmond Forward had once approached Crusade members and invited them to participate on a basis similar to that offered by TOP. The Crusade, however, never found the relationship with RF to be mutually benefiting; the Crusade, he observed, was seldom on an equal footing. Accordingly, Griffin made the following recommendations: (1) that TOP maintain an informal liaison with the Crusade while not establishing any formal ties; (2) that no formal ties be

established with Richmond Forward since "there are no assurances that we could exert an effective influence which would be of benefit to the people of the annexed area or the people of the city at large"; and (3) that TOP chart an independent course.[240]

Roger Tuttle, however, was less interested in charting an independent course than in developing a relationship with Richmond Forward.

> To this end, I approached several of the leaders of the Richmond Forward organization, principally Joseph C. Carter, Jr., managing partner of the law firm Hunton and Williams, and Henry Valentine, Chief Executive Officer of Davenport Company, a stock brokerage house, and suggested to them that it might be to the best political interests of those business and professional leaders of the Richmond community as well as the citizens of the annexed area to form a new political organization which would encompass the old Richmond Forward group and the leadership of the civic associations in the annexed area, my argument being that we already had built a viable political base in the annexation legal battle and with this and the existing economic structure and voting interest of Richmond Forward *we could dominate city politics for a considerable period of time.* This argument had interest to Carter and Valentine and they discussed it with their colleagues who were the leadership of the Richmond Forward organization. . . .[241] [italics added]

As it had been with the Crusade, TOP also met with Richmond Forward. One of the most interesting meetings, at least one which received considerable attention later in the federal courts, was one on February 10, 1970, at the Willow Oaks Country Club. Included in the TOP contingent were Tuttle, George Jones, Livingston, Griffin, and Aubrey Thompson, the latter of whom was elected a few months later to the Richmond City Council. The Richmond Forward representatives included several members of council plus a cadre of leading businessmen, among whom were Henry L. Valentine, II, the president of RF; William Daniel, president of Metropolitan National Bank (both he and Valentine were also elected to council in the 1970 race); Thomas Bliley; and Nathan Forb; the latter two were already on council. Bliley perhaps best summarized the purpose of the meeting when he noted, "I specifically remember discussing the point that they [TOP] had three options. One, they could go it alone. Two, they could join forces with the Crusade, or three, they could join forces with us."[242] Henry Valentine opened the meeting. He told the

TOP representatives that whether they liked it or not they were citizens of the city and, therefore, "the question became where did they go from there, politically." Valentine, knowing that TOP represented close to 20,000 registered voters, was anxious to unite the two organizations and told annexed area leaders that, alone, they would not be able to elect people to the city council and, consequently, they "would have to pitch in with some other group."[243] Bliley acknowledged that discussion ensued to the effect that if TOP did not join with Richmond Forward then the Crusade could gain a majority on council.[244] The unspoken fear, of course, was that an independent effort by TOP might split the white vote, thereby throwing the election to the Crusade—this in spite of the annexation. Court testimony strongly suggests that Richmond Forward leaders were eager to prove to their TOP counterparts that the RF *incumbents* controlled the Richmond City Council, although several TOP participants at the meeting understood that Richmond Forward controlled the council and, indeed the whole government; that it was the "power behind the throne." Griffin, who took notes at the meeting, indicated that the TOP representatives "wished to have some evidence this group [RF] was capable of being influential in the affairs of the city government." The proof, according to Griffin and Livingston, was the assurance from the RF leaders at Willow Oaks that several members of the TOP group would be appointed by the city council to an advisory body comprising citizens from the annexed area and the subsequent appointment of TOP participants (including Griffin and Livingston) to the advisory body.[245]

Court testimony also indicates that the recent annexation was discussed and, more particularly, the purpose of the annexation. Jones, Griffin, and Livingston all said that several RF representatives, including Henry Valentine, commented that the annexation was undertaken to keep the city from going majority black and to keep political control from slipping into the hands of blacks.[246] Valentine acknowledged in his testimony that he may have made such a statement . . . "I think that I said that, and I don't mind saying again that I don't want to see Richmond become an all-black city." Valentine claimed he was speaking primarily in economic terms and that he equated blacks with the disadvantaged. The questioning attorney, however, asked if he were alone in holding that opinion, specifically whether Valentine knew any blacks who felt the same way. The answer was "Henry Marsh."[247] Once again, it appears that Richmond and Washington, D.C. were discussed with the RF leaders expressing fear that the former could become the latter. Valentine and Daniel

both said that such comments were made. However, Daniel added that when he spoke about Richmond and Washington, and the "fear of the city going black . . . I don't translate that to mean control of council to meaning political control. I mean I translate to the fear of the, the economic fear that is involved for our city. [*sic*] And I would add, beyond just economics, a cultural fear. This relates very much to the present school crisis we have."[248]

Following the Willow Oaks meeting, a major split occurred in the Team of Progress leadership. The Board of Directors met at the Hotel Jefferson to consider a merger with Richmond Forward. Roger Tuttle was desirous of uniting TOP with the Main Street group and when the vote was taken on the merger question, Tuttle and seven other TOP board members supported the union. Four others, however, including Robert Fitzgerald, Ronald Livingston, George Jones, and Roger Griffin, opposed the move. Upon learning of the vote, Richmond Forward leaders were elated and decided to drop their name and adopt the name of the south Richmond organization, Team of Progress. Griffin and Livingston, however, reacted angrily to the merger since they had earlier recommended that TOP maintain an independent position relative to both the Crusade and Richmond Forward. Along with Fitzgerald, both Griffin and Livingston resigned from the Board of Directors of TOP and Jones, though never publicly resigning, quietly withdrew. Livingston, in his letter of resignation to Tuttle (the President of TOP), explained his reason for initially joining TOP and then proceeded to explain his reason for resigning:

> When I joined TOP, I was under the impression that this group would seek to change the present power structure to allow for more representative government by the people. As you know, I urged that we work toward an independent slate of candidates, representing the whole spectrum of the people, and, hence, worthy of their support. The vote of the majority of the Board of Directors for a merger of TOP with Richmond Forward works against both of these aims.
>
> . . . I now feel that TOP . . . offers only a continuation of the present power structure. I am opposed to government by an elite clique conducting the affairs of the city behind closed doors beyond the reach of the public.
>
> Just as we all abhorred the sellout of the citizens of the annexed area by the infamous Horner-Bagley deal, I cannot in good conscience stomach a sellout of these same people by TOP, therefore, I must submit my resignation as a Director of that organization.[249]

Griffin and Livingston were instrumental in creating another organization that would endorse a slate of candidates independent of TOP/RF. Known as Richmond United, the group slated seven people for council, including Carpenter, Marsh, and Carwile, the three Crusade-endorsed members of council who had been consistently excluded from major policy discussions among councilpersons and other city officials prior to and following the drawing of the Horner-Bagley line.[250] TOP, meanwhile, had endorsed a full slate of eight candidates among whom were Forb, Bliley, Valentine, Daniel, Aubrey H. Thompson, and J. M. Orndorff, Jr. The latter two were members of the pre-merger TOP Board of Directors.[251]

True to form the newspapers began to editorialize in support of the business-oriented Team of Progress and, in so doing, attempted to discredit the newly formed Richmond United. The campaign itself was not as racially divisive as those in 1966 and 1968, irrespective of a few charges by independent candidates that TOP had injected racism into the campaign and the fact that the large and varied field of twenty-nine candidates contributed to a scrappy campaign that annoyed those Richmonders who preferred polite, statesman-like debates. Essentially, the election pitted two points of view against each other. The TOP candidates, as a rule, focused on the city's fiscal needs, particularly the need for economic development, improved financial management, and the need for greater state financial assistance. Forb proposed the formation of a regional airport authority to own and operate Byrd Field, a move that could save the city large sums of money each year. Valentine urged the creation of a general management study commission, which would be charged with the responsibility of finding areas where the city could cut costs. Thompson called for the elimination of the city sergeant position, an elective office, and the transfer of responsibility of the city jail to the Richmond Bureau of Police. Other TOP candidates focused on the need for supportive state legislation and for more intensive lobbying at the state legislature in behalf of the commonwealth's urban areas. Wayland W. Rennie, a prominent realtor also endorsed by TOP, argued that the formula for determining the distribution of state sales tax revenue should be changed to enable Richmond to acquire a larger share. He also advocated a metropolitan area government as a possible solution to the city's financial problems.[252]

Meanwhile, candidates not endorsed by TOP, the candidates the press consistently labeled "independent" (although they were usually endorsed by an organization other than TOP), tended to stress "quality of life" issues. Marsh

and Carpenter, particularly, focused on these issues, with Marsh calling for an effort to develop and utilize the human potential of the city and Carpenter urging the construction of human bridges of "care, concern and cooperation between the old and the new citizens of Richmond."[253]

Murel M. Jones, Jr., in an analysis of the 1970 election, notes that the election partially involved a "re-examination of the question of the efficacy of council-manager governance and at-large council elections" in Richmond. Team of Progress candidate Thomas Bliley called for a referendum on the questions of district representation, four-year councilmanic terms, and partisan elections for city council. Richmond United candidate Howard H. Carwile, who later in the campaign was endorsed by the Crusade, supported the return to an expanded council with a popularly elected strong-mayor form of government.[254] (In 1948, Richmond eliminated the strong-mayor government with a bicameral council and adopted the council-manager government).

In short, while the campaign was lively with the candidates discussing a wide range of issues, the 1970 race did not reach the same level of racial animosity characteristic of the sixties except perhaps toward the closing when Crusade officials charged TOP with using scare tactics in white areas to increase the white vote and dissuade whites from voting for black candidates.[255] One reason may have been the defeat blacks suffered when the city successfully engineered the annexation of 47,000 residents. Whites and blacks alike acknowledged that the annexation was a serious blow to black power and, with the stakes already settled, the sense of urgency that prevailed in 1966 and 1968 was not as evident in 1970.

As always, the Crusade waited late in the campaign to make its endorsements, though not as late in 1970 as it had in previous elections. Ten days before Election Day, the Crusade announced a full slate of nine candidates, including Carpenter, Carwile, and Marsh. In addition to Marsh, two other blacks slated by the Crusade were Walter T. Kenny, a postal employee who made an unsuccessful election attempt in 1968, and Curtis Holt, Sr., the president of the Creighton Court Civic Association. The slate was an obvious effort to appeal to annexed area citizens inasmuch as a third of the endorsees were annexed area residents, Robert E. Shiro, Ronald P. Livingston, and Oates McCullen.[256]

June 9 was Election Day. After the 51,408 votes were counted (of which approximately nine thousand votes represented annexed area citizens), it became apparent that the Richmond power structure maintained its control

of council.[257] The balance of power did not change from the 1968 election when Richmond Forward won six seats and the Crusade won three. Ironically, however, the three candidates receiving the most votes were Howard Carwile, Henry Marsh, and James Carpenter with their occupying the first, second, and third place positions, respectively. The Crusade elected only three of its nine endorsees; whereas, TOP elected six of its eight. Richmond United elected three of its seven—Carwile, Marsh, and Carpenter. Clearly, the Crusade's efforts to appeal to annexed area voters by endorsing three annexed residents were not successful, though the Richmond United–Crusade cross-endorsements of Carpenter, Marsh, and Carwile were one factor leading to their strong electoral support.[258] In fact, the latter led one editorial writer to say:

> . . . a quick analysis of the returns shows that Carwile, Marsh and even Carpenter can attribute their impressive showing in yesterday's election to "negative" votes they received from an alliance of Negro "antis" in the old city and white "antis" in the newly annexed area. Negroes voted against TOP candidates because they represented the community power structure, the "establishment." Many whites in the newly annexed area showed their resentment at having been acquired by the city by voting against TOP candidates and for Carwile, Marsh, and Carpenter. . . .[259]

The effect of the annexation on the 1970 vote is evident both in terms of the black percentage of the total vote and the election results. Without the annexed area, it is estimated that blacks represented approximately 42 percent of the total vote (as compared with 44.2 percent in 1968). With the annexed area, however, the black percent of the total vote was reduced to 34.5 percent.[260] Of course, no one can predict what the results would have been without the annexation. Had the Crusade been able to elect a fourth candidate to council, the Crusade bloc, while not an absolute majority, would have been able to defeat any measure requiring an extraordinary majority of six votes. To reiterate, to predict with complete assurance how many seats each of the two major competing campaign organizations would have won had annexation not occurred is impossible. Nevertheless, it is a fact that the percent of black residents, the percent of black eligible voters, the percent of black registered voters, and the percent of blacks who actually cast a ballot in the 1970 election were all depressed by the annexation.

The Defeat of the Aldhizer Amendment

Nothing of consequence was said in the campaign about the Aldhizer Amendment, which had to be discussed and acted upon by the 1970 General Assembly meeting in regular session. Councilmen Nathan J. Forb and James G. Carpenter did make brief statements before the campaign became serious. Forb expressed his support for the amendment and Carpenter regarded the amendment as "massive resistance in 1970 form" because of the dilutive effect the proposal would have on the black population and voting power.[261] The city power structure continued to urge its adoption. However, the amendment never went far in the 1970 session. City Attorney Conard B. Mattox, Jr., said that the measure was killed in the House committee by a coalition comprised of Henrico, Chesterfield, and the rural interests in the state.[262] Most other observers claim that, with the successful annexation, state legislators saw the Aldhizer initiative as moot and no longer necessary. What the amendment sought to achieve had been accomplished by the annexation of about 47,000 whites.

The Aldhizer Amendment was not the only unsuccessful venture. So, too, was the appeal by the civic associations to the U.S. Supreme Court. Like the Aldhizer Amendment, the appeal of the annexation court decision died a quick death. On April 20, 1970, the nation's high court turned down the writ without comment.[263]

FOUR

Litigation and Its Aftermath

Curtis Holt versus the City

One of the defeated candidates in the 1970 councilmanic election was Curtis Holt, Sr. He argued that he would have won a seat on city council had Richmond not annexed the 47,000 residents from Chesterfield County. However, by eliminating the eight candidates who lived in the annexed area and redistributing the votes which they received among the other twenty-one candidates, and by throwing out the ballots of the nine thousand voters in the annexed area, it is doubtful that Holt would have been among the top nine candidates. Nevertheless, it was clear to Holt and other Richmonders that the annexation had depressed black voting strength and it was that factor which prompted Holt's challenge to the boundary expansion.

In many ways, Holt was an unlikely challenger. He did not have the backing of a civil rights organization to support his efforts. He was not embraced by the black legal establishment and neither was he a favorite of the city's white liberals. He was not formally schooled in the law or the political process and he was not especially gifted as a public speaker. Rather, Holt was an unemployed high school dropout who lived on a social security disability pension after he was injured in 1941 while working at Virginia Union University as a member of a construction crew. The accident left him unconscious for almost a year and hospitalized for two years. Later, Holt and his family moved into a city public housing project run by the Richmond Redevelopment and Housing Authority. It was there that Holt gained a following among the residents and a reputation among city officials. He organized the tenants and established the Creighton Court Civic Association, although the task was not easy.

After this successful undertaking, Holt turned to the surrounding public housing projects and began enlisting the residents in voter registration drives. In 1966, he and his supporters registered over three thousand new voters and

proceeded to endorse candidates for the 1966 councilmanic election, including Henry Marsh and Howard Carwile.[1]

Following the 1970 annexation, Holt turned first to the state branch of the NAACP, but the organization was unresponsive, as were the black lawyers to whom he next appealed. "They gave me the runaround," he said. "You know, 'they're all so busy,' they said. Some didn't even return my calls."[2] Holt was a deeply religious man and his statement about what next occurred is poignant:

> I just felt so frustrated. I didn't know which way to turn. Then one day I was walking home from a meeting, and I asked the Lord to help me, to show me the way to move with this problem. And right then something told me to go home and simply go down the list of lawyers in the yellow pages of the phone directory. Well, I did that. By the time I got to the letter "G," all of the lawyers had turned me down, but a couple of them had urged me to contact a young lawyer named Venable. I had never heard of him before and was hesitant to take such a big case to an unknown lawyer. Well, I did contact Venable [W. H. C.]; we had a meeting in his office. He agreed to take the case without pay. Of course, I didn't have any money to give. He and I then agreed. . . .[3]

Cabell Venable was a young lawyer, just getting started in his law practice shortly after he had served as a law clerk with federal district court judge Robert R. Merhige, Jr. In some respects, Venable was as unlikely a counsel for Holt as Holt was a challenger of the annexation. Coming from an old line Virginia family and having worked in the 1966 and 1970 campaigns of U.S. Senator Harry F. Byrd, Jr. (whose father created what came to be known in Virginia as "the organization" and nationally as the "Byrd machine"), Venable was not the typical anti-establishment lawyer bent on social and political reform.[4] Indeed, just before Holt approached him, Venable had been retained by some southside Virginians associated with the KKK to represent a group of Richmonders charged under the state truancy laws for pulling their children out of school.[5] (Richmond schools, in the early seventies, were under a federal district court order mandating a unitary school system and involving crosstown busing.)[6] A combination of legal responsibility and an eye for a case that had the potential for launching his legal career attracted him to Holt. Venable has talked openly about both interests. He wanted visibility and at the same time, he noted the responsibility for lawyers to accept cases which promised little financial reward. "I don't want to sound like I'm on a soapbox," he once remarked, "but

the legal profession has a duty to the community . . . to help the little guy at the bottom of the pyramid . . . I thought the black people of Virginia had played by the rules and now the law was depriving them. . . ."[7]

As it turned out, an unlikely plaintiff and an unlikely lawyer united in a fight that, perhaps as no other, constituted a frontal assault on the city's established center of power. Both men were shunned by the elite of their respective communities, Holt by the middle-class blacks who traditionally provided the leadership for the Crusade and Venable by the upper income whites who traditionally held the reins of political and economic power of the capital city.

Holt I and the City's Appeal to the Justice Department

Before Holt took action, the U.S. Supreme Court, on January 14, 1971, made a decision that had a direct bearing on the Richmond annexation. Ruling in *Perkins* v. *Matthews*, the Supreme Court said that municipal annexations fall under the provisions of Section 5 of the 1965 Voting Rights Act.[8] The Voting Rights Act was designed by the Congress to strengthen its powers to monitor voting discrimination and thereby to more effectively enforce the Fifteenth Amendment which proscribes the denial of the vote "on account of race, color, or previous condition of servitude."[9] Section 5 stipulated that designated states, including Virginia, must receive federal clearance before they can implement any voting related change. The affected states, or political subdivisions of a state, are those which maintained any discriminatory voting test or device on November 1, 1964, and where less than 50 percent of the voting age population was registered to vote on November 1, 1964, or where "less than 50 per centum of such persons voted in the presidential election of November 1964."[10] Specifically, Section 5 requires the state to submit any change in voting "standard, practice, or procedure" to the U.S. Attorney General for approval and, barring his approval, to permit the state to institute an action before the three judge U.S. District Court in Washington, D.C., "for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. . . ."[11] Given the *Perkins* decision, it is necessary for any local jurisdiction in a designated state to acquire approval of a municipal annexation from the attorney general or, if necessary, to seek a declaratory judgment from the Washington district court that the annexation is not discriminatory in purpose or effect.

Richmond had not sought approval from the Justice Department when it annexed the Chesterfield territory and the question, therefore, was what the city would do since the Supreme Court had rendered the *Perkins* decision. City Attorney Conard B. Mattox, Jr., was quoted in the press on the day following the high court ruling that the decision ". . . should have no bearing on our recent Chesterfield annexation."[12] A few days later he still seemed relatively unaffected by the court's action, saying, "I don't intend to take any action; it is a state matter, it seems to me."[13] Virginia Attorney General Andrew P. Miller had stated earlier that he intended to file suit, as outlined in the Voting Rights Act, in an effort to seek removal of Virginia from special coverage of the act.[14] (Two years later, in 1973, the Virginia General Assembly passed a resolution directing the state's attorney general to do what was necessary to have the commonwealth exempted from the 1965 act. Accordingly, Attorney General Miller, on behalf of Virginia, filed a suit before the federal district court in Washington, D.C., making the commonwealth the first state to seek exemption from the Voting Rights Act. The court refused to exempt Virginia, declaring that Virginia blacks still suffered from the effects of past discrimination and that the state's inferior system of public education for blacks was indirectly responsible for their having higher illiteracy and lower voter registration than the state's whites. The U.S. Supreme Court upheld the decision in *Virginia* v. *United States*.)[15] Given the *Perkins* ruling, however, Miller had also said that it was his belief that the 1970 Richmond annexation was a matter subject to federal approval. Meanwhile, after having carefully reviewed the *Perkins* case and considered its implications, Mattox decided to clear the air about the 1970 annexation by writing U.S. Attorney General John N. Mitchell on January 28, 1971, to inform him of the annexation and to determine "whether the [*Perkins*] decision has a retroactive effect upon annexation cases that have become final prior to the Supreme Court's decision."[16] Over three months would transpire before Mattox would receive a reply to his letter. (Actually, the Voting Rights Act requires the U.S. Attorney General to either approve or reject a voting change within sixty days. Although Mattox mailed his letter on January 28th, which was received on the 29th, the Justice Department asked the city attorney for additional information. Having received the additional material on March 8th, the Justice Department, therefore, considered that the sixty-day period for making a decision began on March 8th with the decision to be made no later than May 8th.[17])

While Mattox waited, two significant events occurred. First, the city sought

to annex all of Henrico County and a sizable portion of Chesterfield County. This move was in response to efforts by the two counties to seek city charters in the 1971 General Assembly. Obviously, by incorporating, the counties would no longer have to worry about future annexations. Also knowing that to be the case, Richmond took the offensive. State annexation law permitted the city to institute annexation proceedings against a county only after eight years had passed since the municipality had filed suit against the same county. The city had filed suits against Chesterfield on December 27, 1961, and against Henrico on January 2, 1962, so by 1971 the eight-year waiting period had concluded. The state legislature was caught between the opposing factions and rather than side with one faction or the other, it took a middle course and declared a five-year moratorium on annexation and the granting of city charters to counties only in those areas where counties adjoined cities having a population of more than 125,000. Inasmuch as only four cities had 1970 populations exceeding 125,000 and since two of them (Norfolk and Virginia Beach) could not annex because they were surrounded by other incorporated areas and since annexation/incorporation issues were not involved in another area (Newport News), the legislation pertained only to the Richmond metropolitan area. The legislation calling for a moratorium until January 1, 1976, also created the Commission on City-County Relationships, better known as the Stuart Commission since it was headed by Delegate G. R. C. Stuart from Washington County. Though the Stuart Commission was established to explore the status of relations between Virginia's cities and counties and to specifically consider such items as the utility of annexation as a means of adding territory to cities and towns, possible changes in the state's annexation laws, the value of granting counties the right to incorporate, and the value of modifying or abolishing the state's system of independent cities, the commission was particularly concerned about the interjurisdictional warfare which had broken out in the Richmond metropolis. When establishing the panel, the General Assembly expressed its concern regarding "the situation currently confronting the Commonwealth involving the counties of Henrico and Chesterfield and the city of Richmond . . ." and charged the commission to "give particular consideration to the complexities and essential implications of the Henrico-Chesterfield-Richmond county-city problem. . . ."[18]

The second major event occurring between Mattox's letter to the Justice Department and its reply was set in motion by Curtis Holt. On February 24, 1971, Holt filed a class action suit in the U.S. District Court in Richmond which

contested the 1970 annexation on constitutional grounds. He charged that the addition of large numbers of white citizens from Chesterfield County to the city's population diluted the black vote and thus violated Section I of the Fifteenth Amendment. Moreover, Holt argued that the annexation constituted a violation of his due process rights protected by Section I of the Fourteenth Amendment. His objective, therefore, was to have the court (1) declare the annexation null and void; (2) void the 1970 councilmanic election and order new elections which excluded the participation of annexed area residents; (3) declare "the present City Government of the City of Richmond unconstitutionally convened and place all affairs of said government into the care of a receiver appointed by this Court to manage the affairs of the City till a constitutionally elected body can be secured to assume such responsibilities"; and (4) enjoin the city from exercising any authority over the annexed area.[19]

Before Holt filed his suit, Chesterfield County had requested the reconvening of the three judge annexation court to consider two items. (State law required annexation courts to remain in existence for five years following the effective date of an annexation order or the date of any decision of the state supreme court affirming such an order. On motion of the court, city, county, or fifty freeholders, the court could be reconvened.)[20] First, Chesterfield officials contended that Richmond owed the county money for school tuition and related fees. Since the annexed area did not include a sufficient number of schools to accommodate the number of additional school children brought into the city, the county had to provide the education with the city paying the tuition. Second, county leaders claimed that the city was not complying with the provision of the annexation decree that ordered the city to construct three schools in the annexed area. Richmond denied that it had failed to pay the proper tuition and said that it was unable to construct the schools because the city was under a federal court order not to undertake school planning or school construction in the annexed area.[21] (The latter was in reference to court desegregation initiatives.) But at the pretrial conference designed to establish the scope of the trial and to schedule a trial date, Chief Judge Earl L. Abbott announced that hearings would be postponed "until court litigation now pending in the city of Richmond has been determined one way or the other."[22] Abbott was referring to the Holt suit. Chesterfield was elated by the action, with County Executive Secretary Melvin W. Burnett and Board Chairman Irvin G. Horner interpreting the postponement as an indication that the annexed area might be "deannexed."

Attention to the Holt suit was growing. Following a request by the city that U.S. District Court Judge Robert R. Merhige, Jr., dismiss the case on the grounds that the court lacked jurisdiction,[23] the South Richmond Council of Civic Associations sponsored a "mass meeting" of annexed area residents. The featured speaker was Holt's attorney, W. H. C. Venable. He had been contacted earlier by the council's president, Arthur R. Cloey, Jr., who had informed Venable that the South Richmond Council of Civic Associations and the Broad Rock Council of Civic Associations had voted to provide financial support for the suit. In his letter to Venable, Cloey noted that "thousands of annexed citizens . . . are dedicated to fight this undesired annexation." Moreover, he wrote, "we recognize the expense of litigation and are prepared to underwrite the cost . . . Stating on behalf of the Councils, 'WE WANT DE-ANNEXATION.' "[24] Actually, the civic associations had originally wanted Venable to file a suit in their behalf before the federal district court, but Venable had been approached earlier by Holt and, consequently, told the annexed area representatives that he already had a client.[25] On May 3, 1971, at Huguenot High School, between eight hundred and a thousand citizens living in the annexed area attended the meeting called by the coalition of civic associations. Venable explained the deannexation suit as well as a petition he had filed in the Chesterfield Circuit Court and directed to the annexation court on behalf of seventy-two property owners requesting the creation of an escrow account for taxes collected by the city from annexed area residents. As Venable phrased it, the tax money would be held in escrow "till it can be determined who owns you." Venable expressed his confidence that Holt would prevail and, in reference to the Justice Department review of the annexation, the lawyer said he was not informed what action the U.S. Attorney General might take, "but if I were a betting man," he added, "I wouldn't put any bets on the city of Richmond."[26]

Venable should have placed his bets because on May 7, 1971, the Justice Department objected to the annexation. Prior to the decision, representatives from the city and from the annexed area had traveled to Washington to speak with lawyers in the Justice Department. City officials, including City Attorney Mattox, met first with the Justice Department, elaborated upon the materials submitted earlier and provided a rationale for the attorney general to approve the 1970 action against the county. Having heard that Richmond officials had spoken with people in the U.S. Attorney General's office, Roger Griffin and Ronald Livingston also went to Washington and talked with David L. Norman, the Acting Assistant Attorney General in the Civil Rights Division, and

outlined the general course of events leading up to the annexation and the reasons why the federal government should not affirm the boundary expansion.[27] Venable, too, had talked with and supplied information to the Washington lawyers. Obviously, when the Justice Department reached its decision, the civic associations and the county were jubilant. The city was stunned. It was the first setback the city had suffered since the compromise efforts began in earnest in the spring of 1969. The State of Virginia had supported the city's move throughout the ordeal and, in fact, had considered amending its constitution to accommodate the city. But the U.S. Justice Department, on the other hand, was not supportive. Its position was even more significant when one considers that its chief officers were appointed by President Nixon, who had made many statements about the need to curb the "interference" of an overly zealous national government in state and local affairs. Indeed, his personal friend and confidant, John N. Mitchell, headed the Department.

The letter written by David L. Norman to Conard Mattox began by noting the *Perkins* decision and then proceeded to point out that while Section 5 of the Voting Rights Act is not addressed to annexations per se, it is concerned with the voting changes produced by an annexation. Thus, given Richmond's system of at-large representation and its population "approximately evenly divided between whites and blacks," the annexation's addition of eligible white voters "inevitably tends to dilute the voting strength of black voters." Accordingly, the letter indicated, "the Attorney General must interpose an objection to the voting change which results from the annexation."[28] In terms of what eventually occurred in Richmond, the last paragraph of Norman's letter was particularly noteworthy:

> You may, of course, wish to consider means of accomplishing annexation which would avoid producing an impermissible adverse racial impact on voting, *including such techniques as single-member districts* . . . Moreover, section 5 permits seeking approval of voting changes by the United States District Court for the District of Columbia irrespective of any previous submission of the Attorney General.[29] [italics added]

The Justice Department ruling was announced the same day as its ruling on the state's legislative reapportionment plan. The latter also fell under the provisions of the 1965 Voting Rights Act and, like the Richmond annexation, was opposed by the U.S. Attorney General. Speaking at a hastily arranged news conference once he had received word from Washington about the denial of

the reapportionment plan, Virginia Governor Linwood Holton addressed both the reapportionment and the annexation issues. He noted that he had discussed the annexation decision with Assistant U.S. Attorney General Jerris Leonard and, based on the conversation, Holton urged "caution against optimism" by annexed area residents. He opined that deannexation would be unreasonable since the boundary expansion had occurred over a year earlier and laws had been passed on the basis of the annexation. He concluded by saying that he did not believe "the egg will be unscrambled."[30]

The question that arose immediately after the Justice Department's decision was whether the 1970 annexation was null and void. Mattox did not believe it was, commenting at a city council meeting held a few days after the ruling that the attorney general's objection was "not self-executing." "His objection," Mattox continued, "by no means should be considered as voiding the annexation court's decree of July 12, 1969, nor affecting the obligations imposed upon the city. . . ."[31] Mattox also suggested that a possible remedy to the city's annexation dilemma might be a ward system of representation as noted in the Justice Department's letter to Mattox. It was obvious, however, that Mattox could not definitively answer questions pertaining to the annexation or the attorney general's objection without further clarification from the Justice Department. Accordingly, Mattox and five members of the Richmond City Council (Mayor Thomas Bliley, Vice-Mayor Henry Marsh, Howard Carwile, James Carpenter, and Aubrey Thompson) traveled to Washington to discuss the finer points surrounding the action of the Justice Department. (Council members attended at the insistence of Marsh.) Following the meeting with David Norman, Aubrey Thompson said that his main question, "Does the annexation stand?" was answered affirmatively by Norman. But, it appeared that the city could maintain its current boundaries only by amending the city charter, which required the approval of the state legislature, and adopting a ward system of representation to minimize the dilution of black votes.[32]

Chesterfield County officials also conferred with Justice Department representatives and were told that should the U.S. District Court in Richmond (which would be hearing the Holt suit) rule that the annexation was racially motivated, such a decision, according to Commonwealth's Attorney Oliver D. Rudy, "would raise serious questions and would, perhaps, lead to a deannexation."[33] From the Chesterfield contacts with Washington, it was clear that the Justice Department would be watching the Holt suit very carefully.

Richmond officials began preparing ward plans, including a particularly popular plan that called for five wards and four at-large seats on council. And, once again, they met with representatives from the Department of Justice to discuss the plans and the possibilities of a charter change. At roughly the same time, U.S. District Court Judge Robert Merhige denied the motions by the city to dismiss the Holt suit and proceeded to set September 20, 1971, for the court hearings.[34] And in Chesterfield County, the annexation court convened upon request of county officials. Given the U.S. attorney general's ruling, Chesterfield officials wanted the annexation court to determine whether the city or the county should provide services in the annexed area. County supervisors also wanted the court to take measures for protecting the taxpayers living in the annexed area and to make a determination of the annexed area residents' voting status.[35] The court, however, proved uncooperative. Judge Earl Abbott ruled that "annexation entered by this court is in full force and effect, and will continue until some court has the proper jurisdiction" to override the annexation court. Moreover, the annexation court denied a petition which Holt's attorney, W. H. C. Venable, had filed to establish an escrow account for the taxes collected from annexed area residents.[36]

The city's preparations for instituting a change in its electoral system were temporarily suspended once Richmond learned of the U.S. Supreme Court decision, *Whitcomb* v. *Chavis*. When the Justice Department objected to the annexation, David Norman noted in his letter to City Attorney Mattox that the city might consider single-member districts as a remedial measure. In so doing, Norman pointed to an Indiana federal district court ruling that inner-city blacks of Indianapolis were the victims of racial gerrymandering in the creation of multimember state legislative seats and that, as a consequence, they were entitled under their Fourteenth Amendment rights to their own single-member district. The multimember district included a large number of whites, thereby diluting the voting effectiveness of ghetto blacks. The decision of the federal district court was appealed, however, and after Norman wrote Mattox, the U.S. Supreme Court overturned the ruling of the lower court. Justice Byron R. White, writing for the majority, acknowledged the findings of the lower court that the proportion of legislators residing within the concentrated black population of the multimember district was not commensurate with the districts' black population or with the proportion of legislators which blacks could have elected with single-member districts. But, White opined that these findings did not constitute "invidious discrimination." "The mere

fact that one interest group or another concerned with the outcome of Marion County [Indianapolis] elections have found themselves outvoted and without legislative seats of its own," White wrote, "provides no basis for invoking constitutional remedies."[37]

City officials were anxious to know whether the *Whitcomb* decision would have any bearing on the Justice Department's position relative to the Richmond annexation and its suggested remedy. Traveling again to Washington and conferring with Justice officials, Mattox got his answer and notified Mayor Bliley from Washington that the attorney general's office stood firm and that it could accept nothing less than a nine ward plan, meaning, of course, that the combination ward/at-large plan that the majority of the Richmond City Council had come to favor was not acceptable.[38] Yet, the city had to move fast if it intended to amend its charter. The Virginia state legislature was in special session grappling with the redistricting plan also disapproved by the Justice Department and Richmond had to acquire legislative authorization for any charter change before the legislature adjourned. However, because the city attorney and other city leaders wanted to explore the implications of the *Whitcomb* ruling more closely, the Richmond City Council, on June 28, 1971, voted to keep open all of its options and asked the General Assembly to change the city charter so that it would permit the council to adopt an at-large system, a combination at-large/ward system, or a nine ward system of representation.[39] Richmond's efforts, though, were for naught. Richmond Senator Edward E. Willey was to have introduced the bill in the General Assembly but abandoned his attempts when it became clear that the House of Delegates was not predisposed to pass a charter change which was so open-ended. Yet, Richmond's plight, which had already captured the attention of Governor Holton, was now at the point where the governor intervened (at Mayor Bliley's request) and arranged a meeting between Attorney General Mitchell and city officials to determine exactly what course of action the city should take.[40]

Prior to the meeting in Washington on August 2, Mattox again wrote John Mitchell, resubmitting to the attorney general "on behalf of the City of Richmond the City's request for approval of the election of councilmen for the City-at-large." It was becoming clearer that at least seven members of the Richmond City Council preferred at-large representation to wards. (Marsh and Carpenter, however, still were holding out for a nine ward system.) Since the Justice Department had removed the option of any modified ward plan which involved some at-large seats, the city attorney was arguing strongly for the

retention of the at-large system. Mattox based his appeal on the *Whitcomb* case, noting as well that the multimember state legislative districts of Hampton, Newport News, Portsmouth, and Richmond which had earlier been opposed by the Justice Department were now acceptable to the attorney general. Mattox quoted Mitchell's June 10th telegram to Governor Holton:

> In accordance with your request, we have reconsidered our objection to the multi-member aspects of the plan of reapportionment of the Virginia House of Delegates. Inasmuch as our objection was based on the decision of the United States Supreme Court in *Whitcomb* v. *Chavis*, and that decision was reversed on June 7, 1971, by the Supreme Court, our objection to the House multi-member district is hereby withdrawn.[41]

Accordingly, Mattox reasoned, "it does not seem that there should be an objection to the election of nine councilmen from the same geographical area. . . ."[42]

The meeting between Justice and Richmond officials took place in John Mitchell's office on August 4, 1971. Representing the city were Mayor Thomas Bliley, City Attorney Conard Mattox, Charles Ryne (special Washington counsel for the city) and, most interesting, Lewis F. Powell, Jr., a well-known Richmond attorney who, at that time, was a Nixon nominee to the U.S. Supreme Court. Powell defended the 1970 annexation on economic grounds, stating that the boundary expansion was not prompted by racial motives.[43] He also elaborated upon the points raised in Mattox's August 2nd letter to Mitchell and, after the session with Mitchell, wrote a nineteen-page memorandum to the attorney general in still another effort to persuade the Justice Department to approve the annexation with at-large elections. Powell stressed that he was "not acting as counsel for the City of Richmond, but as an interested citizen and as the former Chairman of the Special Commission which proposed the city manager form of government (including elections 'at large') adopted by Richmond in 1948." Included in the memorandum was a section which dealt with the need for at-large representation and another which addressed black political participation. In the latter section, Powell said, among other things, that

> It is unrealistic to suggest that black participation will not continue to be strong and effective following the Chesterfield annexation. The *relatively small shift in black-white ratio* will still leave the black population possessing

> the single most cohesive and influential 'block' [*sic*] of voters within the city. No politician could—even if he desired—afford to ignore their views or their welfare.
>
> It is understood that some black leaders now prefer a ward system, or a hybrid system with wards plus some at-large representation. Whether this would result in some short-term political advantage to blacks is not clear. It is more likely to have adverse consequences, as any type of ward system tends to divide—not unite—a municipal population. Greater racial divisiveness is the last thing any city needs at this troubled time in our history.[44] [italics added]

The Washington meeting between Mitchell and Richmond leaders was reported in the press, thus informing the opponents of the annexation and opponents to at-large elections. Consequently, they too, arranged through the governor's office a meeting with Mitchell. Included in the contingent opposing the city were Venable, Vice-Mayor Marsh, Crusade representative Dr. Philmore Howlette, civil rights attorney Armand Darner, Roger Griffin, and Roger Livingston.[45] They presented their reasons why the Justice Department should affirm the decision. They also spelled out their arguments in a letter that Marsh and Derfner addressed to Mitchell on the same day as the meeting (August 16th). In the letter, they reminded the attorney general that under Section 5, the burden of proof that the annexation did not have a discriminatory purpose or effect was not on the plaintiff, but on the defendant, in this case, the city. Moreover, they argued that the *Whitcomb* case did not apply to the issues of district representation in postannexation Richmond since the Indiana situation involved the election of only a portion of the state legislature from multimember districts, whereas "the situation here involves electing the entire governing body of a large city in one grand multimember, winner-take-all election." "The Supreme Court has never upheld such a system where possible discrimination was an issue," they contended, "nor has it said anything in any case to imply that multi-member districts are to be as much tolerated in situations like this as they are in state legislatures." Quoting from another Supreme Court decision (*Burns* v. *Richardson*), the two writers suggested that the "all-pervading, at-large system" in Richmond fits all three criteria used by the high court in the *Burns* case to determine whether at-large representation was discriminatory. The relevant portion of *Burns* to which Marsh and Derfner referred reads:

> It may be that this invidious effect can more easily be shown if . . . districts are large in relation to the total number of legislators, if districts are not appropriately subdistricted to assure distribution of legislators that are resident over the entire district, or if such districts characterize both houses of a bicameral legislature rather than one.[46]

Again, the parties waited for the Justice Department's decision. On this occasion, however, they did not have to wait as long. Just over a month from the August 16th meeting with the city's opposition, on the very day when the Holt suit began to be heard in the U.S. District Court, Assistant Attorney General for Civil Rights, David L. Norman, wrote Mattox to inform him that "we find no basis for withdrawing our objection." Norman indicated again that the Justice Department's ruling pertained only to the electoral dimensions of the annexation and, therefore, did not necessarily invalidate the entire annexation. He also reiterated the attorney general's suggestion that "one means of minimizing the racial effect of the annexation and still allowing for the city's growth and expansion would be to adopt a system of single-member, nonracially drawn councilmanic districts in place of at-large voting."[47]

The City of Richmond was not finding the national government as compliant as the State of Virginia, at least in regards to annexation. To make matters worse, the city faced Holt's constitutional challenge in the federal courts and the object of this effort was nothing less than deannexation! Given the ruling of the Justice Department, the city officials were no longer viewing the Holt initiative as a frivolous action. Rather, the suit took on a new dimension and what was once dismissed lightly as "frivolous" was now being considered as a serious threat.

The federal district court hearings involved all of the major participants in the events of the 1960s leading up to the January 1, 1970, annexation, as well as those involved in the formation of TOP. City administrative officials, members of the Richmond City Council, state legislators, Chesterfield leaders, and annexed area citizens testified about their role in the annexation. It was this testimony which produced much of the information used earlier in this book about the secret meetings that took place from 1965 to 1971 between city and county officials and between Richmond Forward and Team of Progress representatives.

After five days of testimony, Judge Robert R. Merhige, Jr., issued his findings on September 29, 1971, though his legal conclusions were to come later.

He found that the 1970 annexation did violate the voting rights of Richmond blacks. More specifically, he stated that while the initial annexation moves against Henrico and Chesterfield counties were not essentially racially motivated, racial motivation was a major factor underlying the later stages of the Chesterfield annexation. The compromise agreement, in particular, was engineered out of a fear that blacks might assume control of Richmond. Given the judge's findings, the city was obviously now fighting a rear guard action. As far as the city was concerned, the only salvation to Merhige's comments was that he expressed a hesitancy to use deannexation as a remedy and, in fact, indicated his desire to explore any other legal means of providing relief to Richmond's black community.[48]

Two days after Merhige's announcement from the bench, the Richmond City Council, on a seven-two vote, approved a modified ward system calling for five single-member districts and four at-large seats and proceeded to seek approval of the plan from the U.S. District Court. Vice-Mayor Marsh and Councilman James G. Carpenter were the two voting against the move since they were supportive only of nine single-member districts.[49] The council majority, however, did express a preference for a nine ward plan over deannexation and instructed the city's lawyers to continue their fight against deannexation. The council's arguments were bolstered by a nineteen-page report prepared by City Manager Alan F. Kiepper entitled "The Problems Posed by Deannexation," which concentrated on the financial and planning dimensions of deannexation.[50] W. H. C. Venable, on the other hand, stressed to the court that deannexation was the only effective remedy to black voter dilution created by the annexation and that the problem of deannexation was no more complicated than that faced by any Virginia county whose property is essentially deannexed when an adjoining city expands its boundaries.

With all of the new information converging on the court in the wake of Merhige's findings, and upon request of the city to present more evidence, the federal judge scheduled additional hearings. Meanwhile, the Chesterfield County Board of Supervisors authorized the county's executive secretary, Melvin W. Burnett, to testify during the hearings that Chesterfield was "capable of assuming any legal obligations" accruing as a result of deannexation and that the county "would welcome the opportunity to reassume jurisdiction of the annexed area."[51]

On the final day of the hearings, and before Merhige rendered his decision, Merhige told Richmond lawyers that he was unimpressed with either the

modified ward plan or the full ward plan offered by the city as possible remedies; however, he stopped short of suggesting what the solution of annexation-induced voter dilution might be. Roughly the same time as Merhige's comments, Sa'ad El-amin, a black lawyer (nè JeRoyd W. Greene), filed a motion to enter the case as a friend of the court. Greene had developed an alternative to either of the city's two remedies, namely a seven-two plan whereby seven members of the city council would be elected at-large in the old city and two would be elected at-large from the annexed area. His proposal had been shared with the city council and was greeted by Councilman Aubrey Thompson, the only council member who lived in the annexed area, with less than enthusiasm, calling the plan "stupid and asinine." El-amin's position was that another proposal needed to be aired since deannexation, in his estimation, was unacceptable and since the city's two plans had not received much support from the court. In his motion, which was approved by the court, Greene said that "as a citizen, taxpayer and an appointed official of this city" (he was a member of the Richmond Commission on Human Relations), he had a duty "to file this amicus brief in order to bring to the attention of this court a plan which has not yet been presented."[52]

Finally, on November 23, 1971, Judge Robert Merhige made his decision. His ruling that the annexation had infringed upon the constitutional rights of blacks was not surprising since he had earlier presented his findings. But his order was a surprise—to the city as well as Holt! Judge Merhige did not mandate deannexation or either of the two remedies devised by the city. Rather, he ordered a special councilmanic election (subsequently called for January 25, 1972) based on El-amin's seven-two plan involving the at-large election of seven candidates from the old city and the election of two candidates from the annexed area (actually the annexed area plus a small portion of the old city near the Deepwater Terminal in South Richmond). Both daily newspapers criticized the remedy, the *Times-Dispatch* noting that "possibly its worst feature is the adverse psychological impact it is certain to have upon unification of the old and new areas of Richmond," and the *News Leader* commenting that "few people are going to be ecstatic about the Greene Plan" and that perhaps El-amin and Judge Merhige may be "the only two persons in Richmond who honestly believe this jerry-built rig can get off the ground."[53] The city reacted immediately and sought a stay of the election from the U.S. Court of Appeals for the Fourth Circuit. The appeals court, on December 6, 1971, granted the city's request and the stay was ordered. The U.S. Supreme Court later affirmed

the stay. Meanwhile, both Holt and the city appealed the district court decision to the Fourth Circuit.[54] The city appealed because of its dismay over Merhige's contention that the annexation was racially motivated. Holt appealed because of Merhige's refusal to order deannexation.

Holt II and the City's Suit

In the meantime, Holt had brought another suit against the city. This suit (Holt II) was based, not on constitutional law as was the case in the first suit (Holt I), but on statutory law, namely Section 5 of the 1965 Voting Rights Act. In accordance with Section 5, which stipulated that "any action under this section shall be heard and determined by a court of three judges . . .," the second suit (Holt II) was filed before a special three judge federal district court in Richmond.[55] Holt sought to declare Richmond's annexation invalid since the city had not acquired the necessary approval for the annexation as set forth in Section 5.[56] Like Holt I, Holt II was designed to return the twenty-three square miles to Chesterfield County and to enjoin the city from exercising any jurisdiction over the annexed area. For the moment, however, Holt II was not the city's chief concern since Richmond already had been charged with instituting an annexation on racial grounds and was facing a possible change in its electoral system in order to keep the annexed area. Holt, too, was concentrating on the appeal since, irrespective of Merhige's findings of racial motive for the annexation, deannexation had not been ordered. It was no disappointment to either party, therefore, when Holt II was stayed pending the appeal of Holt I.

The Fourth Circuit held hearings on the appeal in February and on May 3, 1971, the court sided with the city. In a split decision, the court majority found "the 'unconstitutional motivation' too remote from the judicial annexation decree, which firmly rested on nonracial grounds, to warrant a grant of any relief." Moreover, the majority wrote:

> What was done or not done had strong and legitimate reason. Under these circumstances, it far surpasses judicial power to strike down legislative action because some of the legislators may have been motivated by some impermissible reasons, found by the District Court, in effect, to be compelling, and which had set them on their consistent course.
>
> Under the circumstances, no violation of any Fifteenth Amendment right was worked by the annexation. . . .[57]

Two jurists disagreed. Both dissenters found that the annexation settlement was "dictated by invidious purposes." Circuit Judge Harrison L. Winter, however, affirmed Merhige's decision and remedy; whereas, Circuit Judge John D. Butzner, Jr. (who, incidentally, was a member of the annexation court in 1962 when Richmond was pursuing its suit against Henrico County) stated that "the only adequate remedy is to require Richmond to divest itself of the annexed area." In support of his position, he made the following observation:

> Although the city professed that it was seeking vacant land for business and industry, it settled for only 475 acres (.74 of a square mile) of potential commercial land. Developed industrial and commercial land amounted to even less—312 acres industrial, and 352 commercial. On the other hand, residential land, of which almost half was already developed, aggregated 12,356 acres, or more than 19.5 of the 23 square miles annexed. Indeed, the population density of the area annexed was so great that the city acquired approximately one-third of Chesterfield's school children and found itself with 3,000 more pupils than its then existing classrooms could accommodate.[58]

The press reports, even the editorials, following the appellate court's reversal of Merhige's ruling were subdued, with one reporter noting "that the legal road toward a final resolution of challenges to Richmond's 1970 annexation . . . still seemed long and uncertain," and an editorial writer commenting that, the reversal notwithstanding, "it is difficult to know where to begin, so mired is the annexation mess becoming."[59] The editorialist did find one ray of hope. "At least a majority on the Fourth Circuit has indicated that Richmond is not run by a bunch of bigots."[60] One reason for the caution expressed by observers and by participants as well was that the appellate court took pains to point out that it was dealing with the Fifteenth Amendment issues surrounding the annexation, not with the Voting Rights Act issue, the subject of Holt II.

Venable now moved on two fronts. First, he appealed Holt I to the U.S. Supreme Court and, second, he filed a motion for a summary judgment in Holt II, meaning that he sought a quick disposition of the case since in his estimation there were no material facts in dispute and all that remained was an interpretation of the law in relation to the facts. Venable had already successfully used Holt II as a means for enjoining the 1972 councilmanic elections until the three judge district court could review the case; however, because the injunction was denied by the three judge district court, he had to go to the U.S. Supreme Court where Chief Justice Warren E. Burger, and Justices Harry A.

Blackmun and William H. Rehnquist granted the application on April 24th (Section 5 authorizes appeals directly from three judge panels hearing Voting Rights issues directly to the Supreme Court).

Any hopes for deannexation through the use of constitutional issues in Holt I were dashed when the Supreme Court denied the writ on June 26, 1971, thus affirming the decision of the Fourth Circuit. As is customary, the high court did not issue a written opinion though it did note that Lewis F. Powell, who, by now, had been appointed as an Associate Justice, did not participate in the decision.[61]

With their spirits rekindled by the Supreme Court, Richmond officials proceeded to approach the Justice Department for the third time. Going again to Washington and submitting once more a letter to the attorney general (now Richard Kleindienst since Mitchell had resigned to work for Nixon's reelection), City Attorney Mattox pleaded the city's case by briefly tracing the course of events leading up to the Supreme Court's decision not to hear the Holt I appeal. He suggested that the Voting Rights Act was "a codification of the rights guaranteed by the Fifteenth Amendment" and "in view of the purposes stated in the Act and in view of the findings of the Fourth Circuit Court of Appeals, [and] the denial of the Writ by the Supreme Court," he requested that "the objection interposed by the Justice Department by letter dated May 7, 1971, be withdrawn."[62]

As in the past, the city had to wait for word from the attorney general, and as it did, Venable filed a notice in early August that on August 31, 1972, he was going to ask the special district court in Richmond to set a hearing date for Holt II. The three judges had already been selected, including Robert Merhige, Albert V. Bryan, Sr., a senior judge of the Fourth Circuit Court of Appeals, and U.S. District Court Judge Richard B. Kellam from Norfolk. With Venable building pressure on the city and with the city having been turned down twice by the Justice Department in its efforts to acquire approval and with the city still waiting for word from the Justice Department about its third overture, Richmond officials finally decided that it had little choice but to file its own suit, as it was allowed to do under Section 5. Hopefully, by acquiring a declaratory judgment from the U.S. District Court in Washington that the 1970 annexation had neither the purpose nor the effect "of denying or abridging the right to vote on account of race or color," Richmond could settle its boundary problems once and for all. Meanwhile, Judge Merhige responded to Venable's August 31st motion and established October 25th as the hearing

date for Holt II, but in so doing he expressed the wish that the Washington district court should assume the initiative in resolving the annexation issue. It was obvious that Merhige was growing weary of the annexation question, particularly since his alternative remedy proved such a bust and since his decision was ultimately overturned by the Fourth Circuit.[63]

With the Holt II suit scheduled for hearings, Venable also sought to intervene in the city's suit to be heard in Washington by U.S. Circuit Court of Appeals Judge J. Skelly Wright, U.S. District Judges William B. Jones and Mrs. June L.Green.[64] The Richmond Crusade for Voters also asked to intervene, with Marsh explaining that "we've learned we can't put all our eggs in one basket" (referring to Holt's second suit).[65] However, the Crusade's desire to participate in the city's case triggered an angry response from Holt, denouncing the Crusade's move as a "Johnny-come-lately" maneuver to get "involved in other people's matters." Noting the 1970 councilmanic election, Holt said, "Henry L. Marsh won his election—I was the man who was denied."[66] Holt, too, was obviously reacting to the fact that a few months earlier, before the 1972 councilmanic was enjoined, he had filed as a candidate but his candidacy was not endorsed by the Crusade. He and others charged the Crusade with having lost "its soul" and for having turned increasingly away from the concerns of poor blacks. Yet, irrespective of the feud between Holt and the Crusade, both opponents to the city were eventually granted permission to intervene in Richmond's case pending before the three judge court in Washington. And, in October, Venable again successfully used the Holt II suit as a basis for approaching Judge Merhige and the other two judges on the Richmond court and requesting them to enjoin local elections for a new clerk of Richmond Chancery Court as well as to enjoin all future local elections for city council and constitutional officers (sheriff, commonwealth's attorney, commissioner of revenue, and treasurer). Speaking for the panel and citing the Supreme Court ruling which halted the 1972 councilmanic election, Merhige granted Venable's request for a wider injunction.

The legal quagmire was growing daily. Two cases were now pending before separate three judge panels, one in Richmond and one in Washington. The question was which one of the federal courts should take the next step. Venable argued that the Richmond court should grant a summary judgment favorable to Holt, and Horace Edwards, representing the city, contended that Holt II should be stayed pending the outcome of the city's suit in Washington. The Richmond court, which was hearing the debate on October 25th, was clearly

caught in the middle and Judge Merhige queried both parties about the damage that might occur if the Richmond court enjoined the annexation and the Washington court approved the annexation.[67] Later, in December, the Justice Department also asked the Richmond court to delay any litigation until after the Washington court had ruled on Richmond's suit.

It was not until the next year, in February 1973, that the Richmond court made a move. It supported the city's request for a stay pending a decision from the D.C. district court. "For this court (Richmond) to take further action at this time," Judge Merhige said upon the court's granting the city's motion, "would be to run the unnecessary risk of a conflicting opinion."[68]

While Richmond and its opposition were debating before the Richmond court, the U.S. district court in Washington rendered a decision in another case which would eventually affect the outcome of the Richmond annexation-related suits. A few miles to the south of Richmond, Petersburg, Virginia, had also annexed territory and, like Richmond, the annexation had been disaffirmed by the Justice Department. Also like Richmond, Petersburg sought a declaratory judgment from the Washington court that the annexation of portions of Dinwiddie and Prince George counties did not deny or abridge the voting rights of city blacks. The court ruled in October 1972 that ". . . the annexation of an area with a white majority combined with at-large councilmanic elections and racial voting, created or enhanced the power of the white majority to exclude Negroes totally from participation in the governing of the city through membership on the city council." (The Petersburg City Council consisted of seven legislators, all elected at-large. The annexation added nine thousand whites to the city's population of roughly 36,000, thereby dropping the black/white ratio from 56/44 to 47/53.)[69] The court, however, ruled that the annexation could be approved if the city adopted "a ward system of electing its city councilmen." The Washington court decision was appealed to the U.S. Supreme Court and, on March 5, 1973, the high court affirmed by summary action the lower court's ruling and remanded the case back to the Washington court to fashion the remedy. The lower court directed Petersburg to devise a seven ward plan. The city complied and developed a plan which was subsequently approved by the court. In so doing, the city's annexation was approved.[70]

When lawyers for Richmond, the Crusade, Holt, and the Justice Department (Justice, at this point, had still not affirmed the city's annexation) met with the three judges of the Washington district court during a pretrial conference,

Chief Judge Skelly Wright brought up the *Petersburg* case and told the lawyers that, in his opinion, there was close similarity between the Petersburg and Richmond suits. Richmond and Justice attorneys agreed, but the others viewed the cases as dissimilar inasmuch as the Petersburg case, in their opinion, was not racially motivated. They claimed Richmond's was.[71]

After the pretrial conference and before the beginning of the trial itself, Richmond's counsel was sufficiently swayed by the Supreme Court's affirmation of the *Petersburg* ruling that it approached the city council and recommended the adoption of a nine ward election system. The city had already drafted various ward plans, including the modified ward/at-large plan proposal, which were used in earlier discussions with the Justice Department and U.S. District Court Judge Robert Merhige. Four plans calling for nine single-member districts were eventually presented to the Richmond City Council.[72] (The responsibility for drafting the plans fell largely to Senior Planner Dallas Oslin.) On May 1, 1973, the council on a five-three vote directed its lawyers "to petition the District Court of the District of Columbia to enter an order dividing the city into nine wards for future elections."[73] Marsh abstained from voting since his law firm was assisting the Crusade for Voters as an intervenor in the suit. The three who voted against the petition were committed to the principle of at-large representation, although they indicated a preference for ward representation over deannexation. Yet they believed that somehow Richmond could have it both ways—annexation and at-large representation. With instructions from council, City Attorney Mattox submitted a ward plan to the Justice Department consisting of four wards with a majority black voting age population and five wards with a majority white voting age population. After consultations with the Justice Department, however, the plan was revised to create four majority black wards, four majority white wards, and one swing ward with "a substantial number of blacks and whites of voting age." Mattox argued later that the revised plan "reflected accurately, to the greatest extent reasonably possible, the black-white ratio of voting age population, as it existed before annexation"[74] (the ratio was 44.8 percent to 37.3 percent). The plan was then approved by the Justice Department and finally adopted by the Richmond City Council on August 25, 1973.[75] The problem, however, was that even with the Justice Department's endorsement of the plan and its decision to now support the city's effort in court to remedy the racial effects of the annexation by adopting a system of single-member districts, the court had its own decision to make and two intervenors were calling for different remedies.

Holt was calling for deannexation and the Crusade for Voters was calling for a ward plan that was weighted more favorably to blacks, specifically a plan that would insure five black and four white districts. A weighted plan, they argued, would compensate for the voter dilution created by the annexation.[76] Moreover, Venable was cynical about the city's ward plan, asserting that it was merely an effort "to buy time" until the 1965 Voting Rights Act expired, thus enabling Richmond to revert to at-large representation.[77] He made his charge partially on the basis of a phone call which Curtis Holt received from a member of council who told Holt, "You better take your ward now, because if the law (Voting Rights Act) is changed . . . the city will go back to at-large [elections]." Venable also said the caller was pressing Holt to accept a ward system rather than deannexation.[78]

The three judges began considering several motions related to the city's suit in July and decided to appoint U.S. Magistrate Lawrence S. Margolis of Washington to hear the case and make recommendations to the Washington district court. Margolis scheduled the hearings to begin on October 15, 1973, and anticipated a three to five day trial. The purpose of the trial was twofold. It was to determine whether the 1970 annexation was designed to dilute black votes and also to ascertain the impact of a ward system on the black population. The Special Master concluded the hearings in three days and set final arguments in the case for late November, though they were postponed since one of the city's lawyers, Charles Rhyne, had to appear in the Washington district court while his client (President Nixon's secretary, Rose Mary Woods) testified in the Watergate hearings about the mysterious eighteen-minute gap which appeared in the White House tapes.[79] The final arguments were rescheduled for December 19th. After allowing one day for lawyers to make concluding statements, Magistrate Margolis began preparing his report to the district court and the parties waited anxiously for the results.

When the court appointed magistrate presented his findings and his recommendations, the results were greeted with euphoria and shock. The city experienced the latter. On January 28, 1974, Margolis filed his opinion, concluding that "although an annexation may be benignly conceived, racial intent may later permeate the annexation plan so as to obviate the initial benign purpose."[80] And such was the case in the Richmond-Chesterfield annexation. The city was not so stunned by the finding of racial motive (though it obviously disagreed with Margolis) since already it had been charged with impermissible motive in the U.S. District Court in Richmond. What stunned Richmond

was the recommendation—deannexation! The magistrate had found the ward system that the city and the U.S. attorney had submitted an unsatisfactory remedy for the dilution of black votes brought about by the annexation. "Ward plans, no matter how equitably drawn," Margolis said, "cannot serve to cure an impermissible racial purpose."[81] Thus, he reasoned, ". . . in view of the finding that de-annexation will not prove unduly burdensome or costly, de-annexation is the only method by which the instant impermissible racial purpose may be cured."[82]

As one might expect, the *Times-Dispatch* and the *News Leader* had a field day. The former editorialized that deannexation should be "no cause for joy." It suggested that Margolis's recommendation "illustrates the offensive restrictions that have been imposed upon self-government in Virginia and, indeed, in most of the South."[83] The *News Leader* editorial argued that the deannexation recommendation could "seal the fate of this city with indisputable finality" since the magistrate

> urges nothing less than rendering Richmond a vast ghetto whose residents—the poor and the black—would know only endless dark streets of trouble, calamity, and squalid isolation . . . deannexation would mean giving up $435 million worth of taxable property—or nearly one-fourth of the taxable property in Richmond. It would mean returning to Chesterfield 50,000 persons who are helping greatly to provide the services that Richmond's existing poor and blacks demand. Take away those people, and you devastate Richmond's revenue source.[84]

Of course, the Master's recommendations remained just that—recommendations. They would not have the force of law unless they were adopted by the U.S. District Court. Meanwhile, the city began filing exceptions to the report, focusing particularly on Margolis's dismissal of the city's ward plan as a remedy for the dilution of black voting power. The nine ward proposal, the city argued, "guarantees four black seats (on City Council) and a possible fifth. This corresponds to the voting age population prior to annexation. This is a simple mathematical fact."[85] Another point stressed by Richmond's lawyers was that the city's bonded debt would be dangerously close to the legal debt ceiling (established at 18 percent of the assessed value of property) if Richmond had to return the twenty-three square miles which contained 23 to 25 percent of the total taxable values in the city.[86]

The Crusade, too, objected to the Margolis report. It was still holding out

for a weighted ward plan. In response to Venable's argument that a councilmanic ward system would not address the citywide election of constitutional officers, the Crusade conceded that black votes "would be diluted to some extent with the so-called 'constitutional officers' in the enlarged city." It added, however, that "this is of little significance since blacks historically have not run for those posts, preferring to concentrate on the politically significant City Council. . . ." Furthermore, according to the Crusade:

> . . . there is no reason to think that anyone would be advantaged by such a course [deannexation], with the possible exception of white citizens in the annexed area. Even if black voters stood a chance of gaining significant political power from de-annexation, [it] would give them precious little because of the difficulties facing the city within its old boundaries . . . If . . . black voters can obtain significant political power in an expanded city, they will be able to direct city government so as to benefit both blacks and whites to a significantly greater degree than has the entrenched power structure.
>
> Both expansion and a political voice . . . are necessary. [Also the] Richmond public schools would instantly be transformed from a black majority system to a virtually all-black system with staggering implications for the course of desegregation efforts in which Richmond blacks have been involved for more than a decade. . . .[87]

Venable, Holt, and the annexed area residents were jubilant over Margolis's report. But Venable realized that the report was not law and knew, therefore, that he had to reinforce his position by replying to the city's and Crusade's comments. Venable again stressed (1) that deannexation was the only effective cure to black voter dilution, (2) that the court ought to enjoin the city from exercising jurisdiction over the annexed area, and (3) that elections ought to be called immediately without the participation "of the diluting annexed votes." He also denigrated the ward remedy of the city and the Crusade, noting that while districts guarantee blacks some councilmanic seats, wards also "guarantee a limit to the number of black seats on council and severely limit the potential growth of black voting influence on council." Also, he said that wards "are merely a second line defense of white supremacy and first line defense of personally motivated black political bosses who would insulate themselves in pocket boroughs." Moreover, he argued that the 1970 annexation "neither met nor satisfied either the need for growth or expansion room" and concluded

with the observation that deannexation "is not a voyage upon unchartered seas."[88]

Perhaps the people most excited about the magistrate's deannexation recommendation were the annexed area residents. They continued to raise money to support Holt's deannexation efforts, although it should be pointed out that the money consistently fell short of the actual expenses incurred by Venable. (Venable was also able to use unpaid college students to assist in the research, but, in the final analysis, he made a considerable investment of his own to support the suits.[89] Again, it should be stressed that although he was undertaking Holt's cases largely on a *pro bono* basis, the cases gave him statewide, indeed, national visibility and established him as one of the city's leading defense lawyers. In short, his "investment" paid off.) During a meeting of the South Richmond Council of Civic Associations, C. G. Loomer appealed to the residents to contribute to the fight, suggesting that it was only a matter of time before the annexed area would once more be part of Chesterfield County. "We have won!" he exclaimed. "We're gonna be deannexed . . . My children are going to go back to neighborhood schools," an obvious reference to the city's cross-town busing order promulgated by the U.S. District Court. He also said that deannexation would bring about reduced taxes. "Your utility taxes are going to be eliminated—I've stopped paying mine and I suggest you do the same thing!"[90]

On March 20, 1974, the U.S. District Court for the District of Columbia began hearing arguments relative to the suit and the Special Magistrate's report. On May 29, the court rendered its decision, concluding that

> Richmond's 1970 changes in its election practices following upon the annexation were discriminatory in purpose and effect and thus violative of Section 5's substantive standards as well as the section's procedural command that prior approval be obtained from the Attorney General or this court.[91]

Though the court did not approve the annexation, agreeing also with the Master that the ward plans were insufficient compensation for the dilution of black votes and that the city failed to provide acceptable economic or administrative reasons for the annexation, it did not agree with the Master's recommended remedy, deannexation. Rather, it determined that the remedy should be fashioned by the three judge court in Richmond where Holt II was still pending.

Calling the court's ruling a "non-decision," the *News Leader* asserted that

while a federal tribunal once again found "leaders of Richmond to have been, well, conspiring bigots" and while a federal court "once again" has declared "that Richmond violated the Voting Rights Act of 1965 by not clearing the annexation with the Justice Department prior to putting the annexation into effect," the court "once again" has "done nothing" about these findings. Consequently, "the voters of Richmond—including the voters in the annexed area—will be denied their local franchise for, probably, at least another year." The writer reminded the readers that for "15 years the Richmond-Chesterfield annexation case has been in the courts. *Fifteen* years. Still there is no final disposition of the case. And what of Richmond's voters? Oh, yes: the voters. For five years, in the name of protecting the voters, the federal courts have denied the voters' right to—vote."[92]

Neither of the primary adversaries was thoroughly pleased with the decision. Richmond failed to acquire its declaratory judgment stating that the city's boundary expansion was permissible under the Voting Rights Act. Holt failed to get his remedy, deannexation. The Crusade, too, was disappointed. It failed to persuade the court to adopt its plan for single-member districts.

And if the picture was not blurred enough by now, shortly after the court decision, Venable instituted a third suit in behalf of Curtis Holt, Sr. Also a class action suit, this new initiative (Holt III) before the U.S. District Court in Richmond was designed to dissolve the 1970 Richmond City Council to institute new elections in the old city, to remove city control from the annexed area, and to return the area to the county. The suit charged that the members of council were holding office illegally since the Washington court ruled that the 1970 councilmanic election was "illegally held" and constituted a violation of the 1965 Voting Rights Act.[93] The new suit notwithstanding, it was doubtful that new elections would be forthcoming given the litigation still ahead on the city's suit. Undoubtedly, however, the city's political environment was deteriorating as a result of the injunction against local elections. Three of the council members elected in 1970, James Carpenter, William Daniel, and Howard Carwile, resigned. Daniel resigned due to compelling business reasons; Carpenter because of his decision to undertake missionary work in Ecuador; Carwile because of his desire to run for the Virginia House of Delegates. Though the courts had enjoined local elections, the city council was still authorized to fill any vacancies by appointing replacements. Two of the people appointed to council, Julius R. Johnson and Raymond Royall, had actually lost their bids for council seats in the 1970 election, with Johnson and Royall ranking 19th

and 21st respectively. Both had been endorsed by TOP. The third appointee was Willie J. Dell, a member of the Richmond Commission on Human Relations and supporter of the Crusade for Voters.[94] The consequence of the resignations and appointments was that the council, once characterized by a six-three split between TOP and Crusade endorsees, was now characterized by a seven-two split. Clearly, the victim of the injunction against elections was, ironically, the black community.

The city attacked Holt's third class action suit, charging that Holt could not effectively claim that he represented blacks when his counsel, W. H. C. Venable, was receiving financial support from whites living in the annexed area. The city won that point in that Judge Merhige, during arguments before the court on June 25, 1974, stripped Holt III of its class action status. And, to compound the confusion, Venable himself asked the court to dismiss the suit since it was duplicative of Holt II. And, stranger still, the city opposed the motion. What was involved, however, was attorney's fees. The city had always viewed Holt III as an abuse of the judicial process but did not want the case dismissed until Judge Merhige ordered Holt to pay the city for the time it invested in the case. However, on July 11th, Merhige issued a conditional dismissal of the case. The condition was that Holt not institute additional litigation relating to the 1970 Richmond-Chesterfield annexation. To goad Holt into accepting the dismissal with the condition, Merhige said that Holt would face the prospect of paying legal fees to the city in connection with Holt III if he did not accede to the qualification. Obviously, Holt could not finance the city's defense. He was not even financing his own counsel. The condition was accepted and the case was dismissed.[95]

Running parallel to the city's moves to counter Holt II were its efforts to counter the decision of the Washington district court. Failing to acquire a stay of the court's order, Richmond prepared an appeal of the order to the U.S. Supreme Court. And concurrent with the appeal was the city's attempt to delay the hearings on Holt II (which had been scheduled for September 12th) until the U.S. Supreme Court acted, but that attempt also failed. As a consequence, while it looked to the Supreme Court to overturn the Washington court, it looked to the three judge district court in Richmond not to declare the annexation invalid. The city fared well once the Holt II hearings began. The court did not dismiss the suit or refrain from granting Holt's request to declare the annexation null and void, but it did decide to continue the case until after the

resolution of the city's suit. Now the city could concentrate strictly on its Supreme Court appeal.[96]

Good news came to City Hall on December 16, 1974, when the Supreme Court announced its decision to consider Richmond's appeal. The high court, however, did not set a date for hearing the appeal, but at least the city could count on stating its case and perhaps resolving the annexation issue favorably before the nation's highest court.[97]

The Supreme Court set aside April 23, 1975, to hear twenty minute arguments from each of the four parties; namely, the city, Curtis Holt, Sr., the Crusade for Voters, and the Justice Department which, as noted earlier, had joined the city in its efforts to remedy the annexation through single-member district representation. The one twist in the appeal was that the Crusade, in its oral arguments before the court as well as in its brief, now viewed deannexation as a "virtual inevitable consequence" of the Washington court's refusal to grant the city a declaratory judgment. Thus, the Crusade lawyer indicated the group's support for an "at-large election in the old city."[98] It was not so much that the Crusade had abandoned its drive for a racially sensitive system of single-member districts as much as its recognition of reality and its knowledge that at-large representation within the city's preannexation boundaries would serve its interests as well.

On June 24, 1975, the Supreme Court ruled. By a vote of five to three (Justice Powell did not participate) the court rendered a decision which enabled all parties to claim a victory of sorts. Writing for the majority, Justice Bryon R. White held "that an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory violation as long as the postannexation electoral system fairly recognizes the minority's political potential."[99] The court relied heavily on *City of Petersburg* v. *United States* in framing its opinion. In *Petersburg*, the Supreme Court affirmed the lower court's ruling that the cure for that city's annexation which had the effect of diluting black votes was the adoption of a ward plan. "We are also convinced that the annexation now before us, in the context of the ward system of election finally proposed by the city and then agreed to by the United States, does not have the effect prohibited by Section 5."[100] What is significant about the Supreme Court ruling is that while it was a split decision, all eight justices agreed that Richmond's annexation was racially motivated. The majority found that "the annexation, as it

went forward in 1969, *was infected by the impermissible purpose of denying the right to vote based on race through perpetuating white majority power to exclude Negroes from office* through at-large elections."[101] [italics added] Justice William J. Brennan, representing Justices William O. Douglas and Thurgood Marshall in a minority opinion, was much blunter:

> In my view, the flagrantly discriminatory purpose with which Richmond hastily settled its Chesterfield County annexation suit in 1969 compelled the District Court to deny Richmond the declaratory judgment. The record is replete with statements by Richmond officials which prove beyond question that the predominant (if not sole) motive and desire of the negotiators of the 1969 settlement was to acquire 44,000 additional white citizens for Richmond, in order to avert a transfer of political control to what was fast becoming a black population majority.[102]

If the court was united as to the purpose of the annexation, at least the latter stages of the annexation, it was divided over remedy. While the minority opinion "would affirm the judgment below [the Washington district court], and let the United States District Court for the Eastern District of Virginia set about the business of fashioning an appropriate remedy as expeditiously as possible,"[103] the majority took a different turn—one that baffled all four parties to the suit. Justice White opined that, impermissible purpose notwithstanding,

> . . . we are . . . persuaded that *if verifiable reasons are now demonstrable in support of the annexation,* and the ward plan proposed is fairly designed, the city need to do no more to satisfy the requirements of Section 5. . . . It would also seem obvious that if there are no verifiable economic or administrative benefits from the annexation that would accrue to the city, its financial or other prospects would not be worsened by deannexation.[104] [italics added]

Accordingly, the Supreme Court returned the city's suit to the Washington district court where the question of the annexation's economic or administrative benefits to the city was to be resolved.

The city was relieved that the court had not ordered deannexation, although the court had not terminated the litigation and Richmond, to keep the land, would have to show that it was benefiting economically or administratively from annexation. Holt's lawyer claimed a victory, calling the ruling "a great decision. It's exactly what I wanted and asked for."[105] Actually Holt had asked for deannexation, but the court was not compliant. It did say, however,

that deannexation would "seem obvious if there are no verifiable economic or administrative benefits from the annexation. . . ." Given the court's coupling of *Richmond* v. *U.S.*, and *Petersburg* v. *U.S.*, the Justice Department took heart since the Supreme Court sanctioned the use of single-member districts as an equitable remedy and specifically endorsed the ward plan proposed by the city and the attorney general. But, the court also ruled that a ward plan alone was insufficient. The Crusade was obviously disheartened by the court's approval of the city's ward plan, but inasmuch as the Crusade had indicated its approval of at-large elections in the old city, the organization was encouraged by the court's favorable position on deannexation should Richmond be unable to prove economic or administrative gains from the annexed area. In short, if there were no clear-cut losers, there were also no clear-cut winners. *City of Richmond* v. *United States* had something for everyone and total victory for none. The one clear message from the Supreme Court, however, was that the original emphasis on the broad policy issues involved in the 1970 Richmond-Chesterfield annexation (issues pertaining to the Voting Rights Act and the U.S. Constitution) was to be replaced with an emphasis on such narrow subjects as cost-benefit analysis, administrative operations, and service delivery.

The responsibility for determining whether Richmond could justify the annexation on the basis of "verifiable economic or administrative benefits from the annexation" was now that of the Washington district court. As they had earlier, the three judges referred the matter to Special Magistrate Lawrence Margolis who, again, was to hear the evidence, present his findings, and offer his recommendations to the court. Margolis was to have begun hearings on the case in October, 1975, but the three judge panel granted the city's request for a delay to enable Richmond officials to complete the collection of data. The hearings were then scheduled for November, but, this time, Venable requested (and received) a delay in order to study the city's evidence.[106]

It was not until January 12, 1976, that the testimony finally began. Each side presented expert witnesses in the fields of economics, planning, and public administration, all of whom presented technical data that supported their party's arguments and challenged the arguments of the other party. With each side calling into question the research methodology of the other, the debate quickly turned into disagreements over highly complex formulas for ascertaining costs and benefits associated with the annexation. Perhaps the debate was made more complicated by the fact that both parties were venturing into areas where research methodologies were not highly refined and where no standard

instrument existed for measuring annexation-related costs and benefits. However, as one scholar noted, in their effort to prove the benefits of annexation, Richmond officials probably learned more about the costs and revenues associated with running a municipality than most other city administrators. And, indeed, one of the contributions of the Richmond case was the development of various models for analyzing the administrative and financial impacts of annexation.[107]

Essentially, the city claimed that the annexed area produced a surplus. Richmond presented data indicating that it allocated about $15.2 million in expenditures in the annexed area and that it received about $20 million in revenue from the area.[108] The city also argued that the loss of the area would result in tax increases for citizens living in the old city. The Justice Department, too, showed that the city was benefiting from annexation. The national agency relied on a study it had commissioned, which was undertaken by Thomas Muller and Grace Dawson of the Urban Institute. The study's results differed somewhat from the city's conclusions, though the Muller/Dawson study also showed the annexed area generating a surplus, with annexed area residents "contributing $432 per capita in local revenue to Richmond, and incurring $361 per capita in expenditures."[109] Venable, however, using a different methodology, asserted that the city lost between $4.8 million and $6 million during the 1974–75 fiscal year as it serviced the annexed area. In making his argument, Venable indicated that the city's data were incomplete and failed to reflect the full range of government expenditures, particularly those in the old city which relied on revenues from the annexed area.[110] Such was the nature of the trial. Protracted debates broke out over attempts to gauge the impact of annexation on land, bonded indebtedness, capital projects, service delivery, administrative personnel, and management. To reiterate, the texture of the trial was significantly different from that of previous trials. Earlier, the major issue was local power—how annexation stemmed from and affected the political process. Now the focus was on municipal administration—how annexation affected the operational dimension of city government.

After the long and tedious hearing, Margolis amassed the volumes of information and prepared a report which he submitted to the district court on May 24, 1976. He found that the city's benefits from annexation exceeded its losses and, consequently, concluded "that there are now objectively verifiable, legitimate economic and administrative benefits or advantages from the annexation now accruing to the City of Richmond."[111] The ruling was the best

news the city had received relative to the annexation since the July 1, 1969 decision of the annexation court. It appeared that the end was in sight, although Richmond lawyers knew that Margolis's only power was to report to the district court.

As expected, Holt instructed Venable to file objections to the Margolis report. In announcing his intention, Holt said, "I can't see how [Margolis] can try an economic case that is based on discrimination. He has changed his whole attitude, after ruling in my favor two years ago." Moreover, Holt claimed that he would still seek deannexation and, in so doing, took a swipe at the Crusade. "The Crusade . . . didn't come to my rescue when I first filed an objection [to the annexation] in 1970. More blacks would love to see deannexation than annexation," he continued.[112] Meanwhile, the Crusade decided to drop its intervention in the city's suit. Crusade President Ralph Johnson noted that "we are just waiting for the decision of the three-judge panel," though adding that "we still hold our same position in favor of our ward system."[113] His comment did not quite jibe with that of Marsh who, in January of 1975, reluctantly indicated that deannexation was the only answer.[114] With the Justice Department continuing its support of the city, Holt was the lone opponent of the annexation.

On August 9, 1976, the Washington district court affirmed the annexation without specifically addressing the question of whether legitimate reasons existed for the annexation. It simply noted:

> Under the circumstances as required by the mandate of the Supreme Court, it is hereby declared that the plaintiff [Richmond] has complied with the Voting Rights Act of 1965 with respect to the annexation of 1970 in the context of the ward plan for councilmanic elections.[115]

The city's long sought affirmation of the annexation had arrived. It now appeared that what the *Roanoke Times* classified as "the worst siege by the federal government since General Grant was choking Petersburg back in early 1865" was finally coming to an end.[116] It also appeared that Richmond would once again begin holding local elections, an appropriate event inasmuch as the nation was celebrating its bicentennial. Barring an unlikely reversal by the Supreme Court, the decision of the Washington court ended the city's suit, thus clearing the way for the city to seek the removal of court injunctions against local elections. The Washington court's decision was obviously disappointing to Holt, but he also knew that the chances of now acquiring deannexation were

next to impossible. He also knew that the lack of local elections was extending the TOP majority. Indeed, as noted earlier, the TOP controlled council had actually increased its strength by appointing replacements for legislators who had resigned. Accordingly, after conferring with members of the city's black community and deciding that appeals and other legal action were only delaying the reinstatement of councilmanic elections, Holt decided not to appeal the decision to the Supreme Court. Given the ward plan approved by the high court, the black population could be assured of at least four predominantly black districts within the nine district plan and possibly a fifth, given its almost 40 percent black population. Consequently, with ward elections, blacks could capture four and perhaps five seats on city council. Even without deannexation, it was conceivable that blacks for the first time since Richmond's founding could acquire a council majority and elect their own mayor.

With the city's suit resolved, the injunctions against elections were lifted and a special councilmanic election was called for March 1, 1977. Furthermore, Holt II, which was stayed pending the outcome of the city's suit, was withdrawn by the Richmond district court upon request of both the city and Curtis Holt, Sr.[117] The legal battle was over. And on March 8th, the first local election involving councilmanic districts was held since the 1940s and, when the dust had settled, blacks had acquired five seats. During the first season of the newly elected council, Richmond's first black mayor (Henry Marsh, III) was elected.

One of the ironies of the Holt suits and the 1977 special election was that the man largely responsible for altering the city's political landscape was himself unsuccessful in his bid for council in 1977, never even getting the endorsement of the Crusade. The person victorious in Holt's district was Henry Marsh, III. Nevertheless, while Holt never acquired a seat on council, his suits led to a change in the electoral system whereby blacks captured a majority. True, the Crusade championed a ward system, but the organization came into the litigation after Holt had initiated the action. Furthermore, had it not been for Holt's press for deannexation and the effectiveness of Venable in advocating deannexation, the ward concept might not have been so attractive to the city since it knew that such a remedy was the only way to beat Holt's effort to return the annexed area to Chesterfield County. In short, had it not been for Curtis Holt and his attorney, the challenge in the federal courts (if it had *ever* materialized) might not have been such a serious assault on the city's power structure. Moreover, the challenge that was mounted was undertaken by an "outsider" to the

Crusade and one who found that the Crusade, while not supporting Holt, was quite willing to use his suits as a vehicle for pressing its own interests.

The Holt litigation, together with that surrounding the city's suit, captured the attention of lawyers, politicians, and students of public affairs across the nation. Never before in American history had a city gone so long without local elections as a result of federal court injunctions, and never before in recent American municipal annexations had a single boundary expansion acquired such notoriety. Beyond the fact that the litigation was extremely complex (involving the Richmond district court, the Fourth Circuit Court of Appeals, a special three judge district court in Richmond, the three judge district court in Washington, D.C., a Special Magistrate, the U.S. Supreme Court—not to mention the lengthy negotiations with the U.S. Justice Department), the litigation raised important questions related to annexation and constitutional/statutory law and to measurements for ascertaining the impact of annexation on municipal finance and administration. The 1970 Richmond-Chesterfield annexation, in short, was a landmark policy move, the consequences of which rippled through the city, the Commonwealth of Virginia, and, indeed, the nation as a whole.

The Aftermath

Given the convergence of the many issues that surrounded the annexation it is important to analyze the fallouts resulting from Richmond's boundary expansion. The resolution of the dispute through the courts did not necessarily end the debate among the parties. The federal court decisions merely ended the legal warfare; the political and economic conflicts between blacks and whites, city and counties, continued unabated.

In the regular 1978 councilmanic election, the battle was again between the Crusade and the white power structure. (By 1978, the Team of Progress had changed its name to Teams for Progress.) The Crusade, having become a majority "party" as a result of its success in the special election of 1977, was eager to retain its control of council. Its core slate consisted of the five incumbent black council members. The Team's core slate consisted of the four white incumbents who ran in the predominately white districts, and one white nonincumbent who ran in the swing district.[118]

Discussions of race were kept to a minimum, surfacing only in District 8 (the swing district), District 4 (a predominately white district), and District

5, originally one of the four black districts but which now became a potential swing district in 1978 since the black incumbent was confronted by both a white and a black challenger.

The Eighth District was the pivotal district that could swing the councilmanic race either towards retention of the black majority or the creation of a white majority. The black incumbent, Claudette B. McDaniel, was opposed by G. Richard Wainwright, a white. The gravity of the need to install a white majority was expressed by a white in the district. "We're up against it out here in the 8th District. If we don't put a white in this time, we probably never will again."[119] One of Wainwright's flyers may have added fuel to this sentiment when it stated: "The right City Council . . . begins with the right city councilman for the 8th District."[120] Many blacks translated "right" as a code word for "white." In the Fourth District race between two whites, candidate Perley A. Covey accused Mayor Henry L. Marsh and council members Willie J. Dell and Walter T. Kenny of injecting race into the campaign for their saying, "elect five of us."[121] He first characterized the statement as "racist," but later apologized, calling the term rather strong and instead voiced his preference for the term "racial overtones."[122] He himself uttered remarks on the importance of race in the election by noting that there was very little interest in the Fourth District contest "because both candidates are white."[123] The Fifth District contest was the only race that pitted the incumbent, H. W. "Chuck" Richardson, against a black challenger, William R. "Randy" Johnson, Jr., and a white challenger, F. Wilson Craigie, Jr. Johnson ran against Richardson in the special 1977 election and lost to him by twelve votes.[124] He ran in 1978 because he thought that a twelve vote margin was not a mandate from the district. Throughout the campaign, Johnson felt compelled to deny the rumor that he had entered the race merely to split the black vote with Richardson and thus allow Craigie to win.[125] This fear among some blacks in the district may have intensified after it became public knowledge that five hundred new voters had registered in the Fifth District with more than four hundred of these registered by the Craigie camp.[126] Johnson accused the Crusade of starting the rumor of his alleged scheme to split the black vote. He also accused the Crusade of introducing race into the Fifth District and noted that the "struggle for power" was also a part of the split between him and the Crusade. He urged citizens to vote on the basis of a candidate's philosophy rather than his race.[127] Richardson refrained from mentioning race during the campaign; Craigie made only an indirect reference to race when he said that the district needed an

"independent" who was neither closely linked to the predominately white Teams nor to the predominately black Crusades.[128] Throughout the campaign the Crusade maintained that it would recapture the Fifth District. The election results supported their optimism.

Ironically, the annexation issue that had blocked councilmanic elections for seven years was mentioned only briefly, once during the election and once immediately afterwards. Covey, whose district was in the annexed area, complained that property taxes had increased 300 percent in the annexed area since Thompson, the incumbent, has been on council.[129] Golding, the victor in the Ninth District, compared his district in the preannexation and postannexation periods and noted that the quality of the services rendered had declined.[130] Outside of the two scattered remarks the vast majority of the candidates simply saw the annexation as a *fait accompli* and ignored it. Even Curtis Holt, Sr., again a candidate in the 1978 race, refrained from mentioning the annexation.

The May 2, 1978, vote returned all the black incumbents to council in the Third, Fifth, Sixth, Seventh, and Eighth districts. White incumbents won in districts one, two, and four. Raymond D. Royall, an incumbent from the Ninth District and a Teams candidate, was the only incumbent not reelected. He was defeated by William I. Golding, who was not endorsed by Teams. The results of the election and the racial composition of the council are depicted in Table 6.

Dr. William S. Thornton, founder of the Crusade, hailed the election results as "the greatest victory" of the Crusade in its twenty-five-year history and noted that the results were "proof positive" that the Crusade had indeed become a force with which to reckon in city politics.[131] He added that the victory meant that the city's political leadership will be "more receptive to the needs of the city's poor residents," and will support more social issues and social programs including the public school system.[132] Mayor Marsh saw the results as a mandate from Richmond voters to continue a "people-oriented council" for two more years. He declared that the majority on council "has tried to provide clear and fair-handed leadership," and that he, along with others, will attempt to make Richmond such an exciting place that people will want to come back in.[133]

Table 6. The 1978 Councilmanic Election

(W = white; B = Black)

1st District Kemp (W): 4,312 Soulious (W): 914	*2nd District* Rennie (W): 2,611 Ambrose (W): 948 Troubetzkoy (W): 158	*3rd District* Dell (B): uncontested
4th District Thompson (W): 2,984 Covey (W): 1,041	*5th District* Richardson (B): 2,508 Craigie (W): 1,027 Johnson (B): 533	*6th District* Kenney (B): uncontested
7th District Marsh (B): 2,011 Holt (B): 422	*8th District* McDaniel (B): 2,617 Wainwright (W): 1,710	*9th District* Golding (W): 1,148 Royall (W): 1,006 Hall (W): 442

Source: Richmond Times-Dispatch, May 3, 1978.

The Leidinger Affair

The first confrontation between the five black majority and the four white minority council members centered around William J. Leidinger, the city manager appointed by the pre-1977 white majority council. On August 2, 1978, Mayor Marsh met with Leidinger and informed him that the five black council members were displeased with his performance and wanted him to resign so that they could choose a manager who they thought was more agreeable to the social programs and objectives of the council majority.[134] Leidinger immediately sought counsel among leaders of the white financial community who requested a meeting with Mayor Marsh and the four black council members shortly thereafter. At this meeting, the dozen or so business leaders who, it was said, "must have been worth more than $50 million," basically voiced their disapproval of the attempt to force Leidinger to resign.[135] The businessmen also attacked the move as racist and implied that they, too, had some aces up their sleeve: they threatened to scuttle Project One, the proposed downtown renewal program involving an office, hotel, and convention center complex; they threatened to halt downtown construction and improvement programs; some vowed to move their firms out of the city.[136]

According to one writer, the confrontation between the white business establishment and black elected officials was the "first clear indication that the imposition of the city's nine-ward council election plan last year and the resulting election of a majority black council have caused a shifting of power in Richmond."[137] Said one writer of the split between the black council members and white business leaders: "Economic power had run into political power and it had lost."[138] One businessman-politician saw the diversion as evidence that there were now two centers of power in Richmond. "Political power rests with the Crusade for Voters while economic power remains vested along Main Street."[139] Though several business leaders objected to the manner in which Leidinger's dismissal was being handled, they saw the situation as a routine power struggle between the "ins" and the "outs" since it was a normal procedure for the victorious political faction to oust the appointee of the defeated faction. Also, they indicated that it was normal for people in Leidinger's position to be asked to resign before being fired. A few businessmen noted that Leidinger was arrogant and should have gone to the council for support rather than seeking help from white business leaders. For his part, Marsh accused the white business community of unreasonableness and of reacting with hysteria. He recounted his support for the many projects initiated by the business leaders, some of which garnered him criticism from many blacks.[140]

The business leaders did not convince the black council members to back down in the Leidinger case and on August 14, 1978, a resolution was read in council to terminate the service of Leidinger as city manager as of October 6, 1978. The resolution was later passed by a vote of five to four. Its introduction to the council opened another phase of the warfare between black council members and the Richmond white power structure; this time the warfare was with the minority white council members. In a study supervised by one of the present authors entitled, "Conflict Among Richmond City Council Members," Jon Shaffer found that three of the four white council members viewed Leidinger's dismissal as purely racially motivated. The exception was Muriel H. Smith (a majority appointee who ironically was subsequently defeated by Leidinger in a 1980 council election. Smith had been appointed to fill the seat vacated by Wayland Rennie who resigned in 1979 for business and personal reasons.). Smith viewed the firing as a result of ideological, not racial, clashes.[141] Councilman Kemp believed Leidinger was fired so that the black majority could appoint a black city manager; Councilman Thompson believed the firing occurred because Leidinger could not get along with the

black majority; Mrs. Carolyn Wake, who was appointed to the council in December, 1978, to replace William Golding, Sr. (who, it was later revealed, had had an arrest record) stated that Leidinger was fired because the black council members did not like him.[142] Black council members viewed the Leidinger conflict as more philosophical and policy-oriented than racial. Speaking of Leidinger, one black councilman said: "I want to tell him it's not personal . . . I want to tell him it's professional, that while we have to deal with it in personal terms, it's not that. . . ."[143] Leidinger was characterized by black council members as not having "his vision of the city in line with the majority," "marching out of time with the desires and intent of the people," "not being effective enough," and of being "insensitive to the human needs of the community."[144] Richmond's evening newspaper called the situation "tawdry business" and saw it as a sign of irresponsibility and instability; it also viewed the Leidinger case as a threat to Project One, the middle class, the city's business future, and warned that the firing would affect the quality of the city administration.[145]

Conflict on City Council: Insiders Become Outsiders

The firing of Leidinger proved to be merely the beginning of a series of conflicts that saw council votes sharply divided along racial lines. In this sense Richmond was not unusual; several studies have shown that the level of tension and conflict increases whenever blacks become a majority on formerly all-white or majority white councils or when blacks become mayors and must deal with a majority white council.[146] The stakes are usually very high for black politicians because blacks under city governments that made no attempts to satisfy their political or economic needs often expect quick solutions (even miracles) to problems that have been festering for decades. For example, when Richard Hatcher became the first black mayor in Gary, Indiana, he was visited by blacks during his first week in office. These blacks demanded that he give them an account of why "all blacks did not have jobs and why all of Gary's slums had not been eliminated."[147] A new black political majority is, therefore, under immense pressure by its black constituency to prove itself and differentiate itself from the policies and practices of the previous white majority government. It is almost compelled, therefore, to attempt to alter the government's orientation and to focus more on human service programs.[148]

What happened in Richmond was a changing of the guard. The fact that blacks, the old outsiders, became the new insiders, and whites, the old political

insiders, became the new political outsiders, added fuel to the growing racial power clash. If we interpret, as some council members did, the black majority–white minority conflict purely along power supremacy lines, we ignore the crucial factor of race that precipitated the need to restructure the electoral system from at-large to single-member representation. If we ignore power and only account for race, we lose sight of an important dimension of traditional party and group perspectives that has helped to shape the politics, economics, and social fabric of American cities. Nevertheless, it does appear as if almost every issue that came before the Richmond City Council became one phase of a continuing black majority–white minority battle. The Leidinger case was only one example of the collective positions taken by each side. Similar collective positions were evident on other issues such as (1) councilmanic redistricting, (2) bonds for the city's capital improvement program, and (3) a no-strings expense account for council members.

On redistricting (required after the 1980 census was completed), white council members have argued that the 1980 plan proposed by blacks and adopted by a 5–4 vote along racial lines was racially and politically inspired in that it would guarantee continued black rule in the city.[149] The black council members' position on redistricting was mirrored in remarks made by lawyer Oliver W. Hill (the first black to win a council seat in this century when he was elected to the council in 1948) on the first day of public hearings to discuss the boundary lines of the nine council districts. In an emotional appeal before the council, Hill said:

> The real issue as I see it and as it is perceived by a large body of citizenry . . . is whether or not the minority bloc on council, the Richmond power structure, the Richmond newspapers and white citizens generally . . . have reached the level of maturity where they are able to accept the fact that blacks have a right to exercise the symbols of power . . . for centuries the city of Richmond was governed with very little, if any, regard for the sensibilities of its black citizens. While in more recent years some constructive efforts have been made . . . the local response is still unending resistance.[150]

On August 19, 1981, Richmond's four white city council members, along with a dozen civic group leaders and a dozen business people met in Washington with lawyers for the Justice Department to argue against adoption of the plan submitted by the council's black majority.[151] This meeting marked the first time that a group of white citizens had ever argued that a redistricting plan

discriminated against white citizens.[152] The group contended that the present city council does not adequately or fairly represent the city's white population, and that if the plan proposed by the majority is adopted, blacks would be able to maintain their edge in municipal elections for the next ten years, or at least until the next redistricting.[153] William L. Leidinger, former city manager who was fired by the black majority on council in 1978, and who won a council seat in 1980, was the general spokesman for the group. In addition to the four white council members, others who accompanied the group to oppose the black-majority redistricting plan were Henry L. Valentine, II, a businessman and a former council member; Thomas P. Bryan, Jr., retired vice president of Miller and Rhoads, a local department store; J. Harwood Cochrane, Overnite Transportation Co., chairman; Virginius Dabney, retired *Times-Dispatch* editorial page editor; Howard B. Cone, Universal Leaf Tobacco senior vice president; Charles E. Moore, United Virginia Bank vice president; Bruce B. Nolte, First and Merchants National Bank general counsel; Stuart Shumate, Richmond, Fredericksburg and Potomac Railroad, president. In addition, many other civic and political organizations were represented at the Washington meeting.[154] The Justice Department will review the two opposing redistricting plans and make a decision in October of 1981. This issue has divided the council along racial lines more than any other issue. The fact that the minority council members saw fit to take some of the major leaders of the Richmond business community with them to help press their case attests to the importance they placed on redistricting as a possible vehicle for recapturing city government from blacks.

The protracted battle over redistricting can be seen as one of the fallouts from the annexation dispute—the shift from at-large to single-member district elections. When the Shaffer study was conducted, three of the four white council members viewed the ward system as "petty politics," "perpetuating self-interest," and "helping to widen the gap between blacks and whites." Black council members saw the ward plan as "bringing the government closer to the people," and "making elected officials more accountable."[52]

Marsh blames most of the tensions on the Richmond newspapers. Also he insists that many whites still have not accepted the fact that five blacks are making policy decisions in the city.[155] At one point, black and white council members were warring to such an extent that whenever harmonious meetings took place they made the headlines. One headline read "Council Works in

Harmony"; however, the story informed the readers that the council meeting was harmonious due to "the lack of major issues."[156]

The 1979 Annexation Package

The strife between Richmond, Chesterfield and Henrico counties prompted the Virginia General Assembly to take a closer look at city-county relationships. According to the Report of the Commission on City-County Relationships, popularly known as the Stuart Commission, city-county disputes over annexation had "grave underlying implications which far transcend the local interests involved."[157] According to Thomas J. Michie, Jr., and Marcia S. Mashaw, the annexation disputes in the 1960s and 1970s highlighted the need for legislation that addressed four objectives: (1) developing alternatives to annexation that were less costly and divisive; (2) ending annexation in areas of the state where the procedure was no longer appropriate; (3) providing mechanisms for negotiation and cooperation between cities and counties involved in boundary disputes; and (4) reducing the fiscal pressures that prompted cities to initiate annexation proceedings.[158]

Legislation was introduced in the 1977 General Assembly which sought to address city-county concerns. The bills were direct results of the basic thrust of the Stuart Commission: Annexation was no longer feasible in the state's most highly urbanized areas.[159] The state legislation approved a key recommendation of the commission; namely, the counties with certain population characteristics could obtain complete or partial immunity from annexation. Complete immunity was possible for counties with a minimum population of 20,000 and a density of at least three hundred persons per square mile or a minimum population of 50,000 and a density of at least 140 persons per square mile. Partial immunity was available for those counties in specific areas if it were determined by the circuit court that adequate urban services were being provided.[160]

The 1970 General Assembly also provided financial aid to localities—a necessary measure for those cities like Richmond which were surrounded by counties eligible for annexation immunity. The legislation provided assistance for local police departments. A major concession to the state's large cities was the agreement to pay "75 percent of local cost for hospitalization and treatment of welfare receipts."[161] The legislation also provided money for the

maintenance and construction of city streets. Though this legislative package failed to solve all of the problems confronting large cities it did address the problems germane to city-county annexation disputes.

City-County Relations

In general, the relations between Richmond, Chesterfield and Henrico counties following the resolution of the Richmond-Chesterfield annexation suit can be best described as an "armed truce." The bitterness, frustration, and suspicion that characterized the county's fears that Richmond would attempt to annex their territories have been abated somewhat by the 1979 Annexation Laws. The fear of annexation, however, was only one of a multitude of concerns that served to exacerbate city-county conflict. The truth is that city-county relations have never been particularly warm due, in part, to the perception of county officials that Richmond wants to control and dominate the counties. Conversely, many city residents view the surrounding counties as economic parasites.[162] Despite these opposing positions, however, Richmond and the two counties are forced into administrative cooperation for their mutual support and survival. For example, there is city-county administrative cooperation in the regional planning commission.[163] Then there is the Metropolitan Economic Development Council which attempts to oversee the location of new industry into the region so as to benefit all jurisdictions.[164] Richmond and Henrico County are the only political jurisdictions that cooperate on the Capital Region Airport Commission, a group designed to study air transportation need and set standards for airports in the Richmond area. Chesterfield has steadfastly refused to join in this effort.[165]

Nevertheless, Richmond city officials are still troubled by the failure of the counties to assist in supporting those city-owned facilities used by county residents. Recently, however, the city has taken unilateral action in several areas that affect county residents. First of all, as of July, 1981, it has required county residents to pay a $2.00 fee to enter Bryan Park, a park located just inside the city along the Richmond-Henrico boundary line.[166] Secondly, as of July 1, 1981, county residents must pay a $15 yearly fee to use all city libraries.[167] County residents resent these city policies. Another irritant is the city's residence law which requires that city workers live within the city. County officials generally oppose the law as too arbitrary. The city sees the law as helping to protect jobs for city residents.[168] What is gleaned from these areas of city-county friction is that most of the splits evolve around economics and attitudes; namely, the

unwillingness of county residents to contribute to the city financially and the city's overbearing posture relative to the counties.

Annexation and Elitist Politics

The annexation conflict has to be seen as simply another phase of what historically has been a well-calculated strategy among Richmond's white leaders to circumvent any change in the political status quo. The 1970 annexation illustrated the degree to which key decision-makers were able to mobilize their vast resources—time, legal acumen, and economic influence—in an attempt to ward off what was for them a frightening reality, the emergence of a city government controlled by blacks. The annexation also revealed the common cause forged between the state and local elite to insure the continuity of an "enlightened role in the capital city."

Two important factors had to be considered by Richmond's elite in the late 1960s: (1) the increased involvement of the United States government in local discrimination cases due to the passage of civil rights legislation[169] and (2) the emergence of the Crusade for Voters as the major opposition in city politics.[170] For these reasons, racial politics had to be played slightly different, though the end—continued white political control—was always the objective. Nevertheless, new tactics and strategies had to be designed. Under this plan, the economics of annexation rather than its primarily racial premises were emphasized. Though they may deny it, the elite argued from the assumption that blacks were incapable of governing except under the constant guidance of whites. This racial assumption helps to explain why these elite reacted with horror at black population increases during the 1960s and the growth of the Crusade's political efficacy.

The Richmond experience also showed how urban electoral reforms mandated by the federal government were used to rectify the diluting effects of the annexation and how, ironically, the very fear that guided the behavior of the white elite, that of black-majority rule, became a reality in postannexation Richmond. Events in the late '70s and early '80s do not lead us to assume that the elite, having lost one battle, will fold up their tents. Having governed the city for decades prior to the current black majority on council and still adhering to a racial politics that blacks perceive as black subordination, the elite will, no doubt, continue to struggle for a return to white rule in Richmond.[171]

Chapter One

1. Richard L. Forstall, "Annexation and Corporate Changes Since the 1970 Census: With Historical Data on Annexation for Larger Cities for 1900–1970," *Municipal Year Book* (Washington, D.C.: International City Management Association, 1975), pp. 21–23.

2. See John C. Bollens and Henry J. Schmandt, *The Metropolis: Its People, Politics, and Economic Life*, 3d ed. (New York: Harper and Row, 1975), p. 244.

3. V. O. Key, Jr., *Southern Politics* (New York: Vintage Books, 1959), p. 19.

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5. See James A. Sartain and R. M. Dennis, "Richmond, Virginia: Massive Resistance without Violence." In *Community Politics and Educational Change*, ed. Charles V. Willie and Susan L. Greenblatt (New York: Longman Publishers, 1981).

6. A full description of the 1979 revision of Virginia annexation law is included in Chapter Four. Also, for a detailed account of Virginia's pre-1979 annexation procedures, see Chester W. Bain, *Annexation in Virginia: The Use of the Judicial Process for Readjusting City-County Boundaries* (Charlottesville: University Press of Virginia, 1966).

7. Glenn Frankel, "Curtis Holt: Working Class Hero," The *Richmond Mercury* 2 (June 5, 1974): 10.

8. Ibid.

9. Ibid., p. 20.

10. Hanes Walton, Jr., *The Political Philosophy of Martin Luther King, Jr.* (Westport, Connecticut: Greenwood Press, 1971).

11. Compare Holt's political "grass-roots" involvement with that of a labor union "grass-roots" involvement in John W. Alexander and Monroe Berger's "Grass-Roots Labor Leader," in *Studies in Leadership*, ed. Alvin Gouldner (New York: Russell and Russell, 1965).

12. See DuBois's account of this phenomenon which he labeled "double-consciousness" in his *Souls of Black Folk* (Chicago: A. C. McClurg, 1903).

13. This figure was cited by attorneys in the U.S. Department of Justice, Civil Rights Division.

14. Table 1 shows that the attorney general withdrew objections to annexations in fourteen localities, including Richmond. The objection to Richmond's annexation

came once the city developed an acceptable plan for single-member councilmanic districts.

15. *Annexation Task Force Report*, City of San Antonio, September, 1972, p. 3.

16. Ronnie Dugger, "Letter from San Antonio," *The Texas Observer* 71, no. 8 (April 27, 1979): 2.

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18. Ibid., p. 4.

19. Ibid., p. 8.

20. Quoted in Dugger, "Letter from San Antonio."

21. Charles L. Cotrell and Arnold Fleischmann, "The Change from At-Large to District Representation and Political Participation of Minority Groups in Fort Worth and San Antonio, Texas" (Paper delivered at the 1979 Annual Meeting of the American Political Science Association, Washington, D.C.: August 30–September 3, 1979), p. 5.

22. Ibid., p. 11.

23. Cotrell and Fleischmann, "Changes from At-Large to District Representation," pp. 8–9.

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27. *San Antonio Ordinance 47304*, October 26, 1976, p. 1.

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29. Cotrell and Fleischmann, "Change from At-Large to District Representation," p. 20.

30. Ibid., pp. 24–28.

31. "First Official Returns from 1980 Census," *U.S. News and World Report*, Dec. 29, 1980/Jan. 5, 1981, p. 8.

32. Untitled and unauthorized paper from the Justice Department file (hereafter called Exhibit A), p. 3.

33. Ibid.

34. Ibid., p. 2.

35. Letter from Chandler Davidson to Assistant Attorney General Drew S. Day, III, March 27, 1979, p. 10.

36. Brief for the U.S. as Amicus Curiae, *Greater Houston Civic Council* v. *Mann* (5th Circuit No. 77–2083), 1977, p. 35.

37. Post Trial Brief of Plaintiffs, *Greater Houston Civic Council* v. *Mann* (S. D. Tex.) C. A. No. 73–H–1650, 1977, p. 55.

38. Ibid., p. 53.

39. Ibid., p. 54.

40. Ibid., p. 59.

41. Post Trial Brief of Plaintiffs, *Greater Houston Civic Council* v. *Mann*, p. 70.

42. Brief for the U.S. as Amicus Curiae, *Greater Houston Civic Council* v. *Mann*, p. 30.

43. *Greater Houston Civic Council et al.* v. *Frank Mann et al., 440 Federal Supplement*, March 8, 1977, p. 703.

44. Complete Listing of Objections Pursuant to Section 5 of the Voting Rights Act of 1965, Department of Justice; Civil Rights Division, September 30, 1980, p. T5.

45. Davidson to Days, March 27, 1979; Richard Murray, Comments on the City of Houston Submission to the U.S. Department of Justice with Regard to Annexation and At-Large Election of Council, May 20, 1979, pp. 1–12; Richard Murray, Comments on the Population Estimates Provided by Dr. Pittenger for the Purpose of Drawing City of Houston Council Districts, September 16, 1979, pp. 1–9.

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1. James A. Sartain and Rutledge M. Dennis, "Richmond, Virginia," pp. 208–236.

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3. Karl E. Taeuber and Alma F. Taeuber, *Negroes in Cities* (New York: Atheneum, 1969), p. 5.

4. Virginius Dabney, *Richmond: The Story of a City* (New York: Doubleday, 1967), p. 349.

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8. Numan V. Bartley, *The Rise of Massive Resistance* (Baton Rouge: Louisiana State University Press, 1969), p. 108.

9. J. Harvie Wilkinson, III, *Harry Byrd and the Changing Face of Virginia Politics, 1945–1966* (Charlottesville: University Press of Virginia, 1968), p. 113.

10. Sartain and Dennis, "Richmond, Virginia," p. 211.

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12. Ibid.

13. "Richmond," *Black Enterprise* (Dec., 1970), p. 19.

14. A. J. Dickinson, "Myth and Manipulation: The Story of the Crusade for Voters in Richmond, Virginia" (Scholar of the House Paper, Yale University, 1967), pp. 12–15.

15. Ibid.

16. Ibid., pp. 16–17.

17. See Christopher Silver, "The Planning Function and the Politics of Reform: Richmond, Virginia's Charter Revisions of 1918 and 1948" (monograph, Virginia Commonwealth University, 1980), pp. 1–44.

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19. Ibid., p. 20.

20. Ibid.

21. Ibid.

22. Ibid.

23. Ibid., p. 25.

24. Ibid.

25. Ibid., p. 27.

26. Rutledge M. Dennis, "DuBois and the Role of the Educated Elite," *The Journal of Negro Education* 46 (Fall 1977): 388–402. DuBois saw the "talented tenth" as a highly educated segment of the black community dedicated to fighting prejudice and discrimination by unifying the black community around certain political, social, and economic goals.

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82. "Full Negro Vote Slate Expected," *Richmond News Leader*, May 24, 1962.

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91. "Cephas Is Elected to City Council," *Richmond Afro-American*, June 13, 1964.

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93. "Councilmanic Election Given Conflicting Interpretations," *Richmond News Leader*, June 12, 1964.

94. "Candidates Call Annexation City Council's No. 1 Problem," *Richmond Times-Dispatch*, May 13, 1964.

Chapter Three

1. Interview held in City Hall, March, 1981.

2. Ed Grimsley, "Annexation Would Cost Richmond 55 Millions," *Richmond Times-Dispatch*, January 21, 1965.

3. Editorial, "Should Richmond Accept," *Richmond Times-Dispatch*, January 21, 1965.

4. Ed Grimsley, "Annexation Appeal Issue Raises Uncertainties for City," *Richmond Times-Dispatch*, January 23, 1965.

5. State law was changed in 1979 to enable an appealing jurisdiction "within twenty-one days after the entry of the mandate in an appeal [to the state supreme court] which has been granted" to decline the annexation. See Code of Virginia, Section 15.1–1044.

5a. "Annexation Terms Unfair Edwards Says," *Richmond Times-Dispatch*, February 16, 1965.

5b. *Charter of the City of Richmond, Virginia*, Section 7.02(e).

5c. Editorial, *Richmond News Leader*, February 11, 1965.

6. Charles Houston, "9 Members Unanimous in Decision," *Richmond News Leader*, February 11, 1965.

7. "Annexation Terms Unfair Edwards Says."

7a. On May 19, 1965, the Henrico annexation court, acting in response to the city council decision to reject the award, dismissed the suit and ordered the city by July 1 to pay the county $341,953.52 for the costs Henrico incurred in its defense. In retrospect, many of those associated with the city now say that the council decision to reject the award was a mistake. The award included many of the most affluent districts of the metropolitan area; to have turned down the award on the basis of its $55 million price tag is now considered an example of poor judgment, particularly since the city later spent almost half that much for the construction of one facility, the city coliseum.

8. Charles Houston, "9 Members Unanimous in Decision."

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11. Morrill M. Crowe, personal interview in his home, March 11, 1981, and telephone interview, May 18, 1981.

12. Crowe, interview.

13. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 148.

14. Ibid., September 20, 1961, pp. 180–182; September 21, 1971, pp. 317–318.

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17. George T. Ashworth, "Court Dismisses Annexation Suit," *Richmond Times-Dispatch*, November 28, 1965.

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21. "Court Enters Annexation Suit Dismissal Order," *Richmond Times-Dispatch*, March 26, 1966.

22. See news stories by Bill Sauder in the *News Leader* for May 20 and July 19, 1966.

23. *Harper* v. *Virginia State Board of Electors*, 383 U.S. (1966). The poll tax was included as part of a new Virginia constitution during the 1902 Constitutional Convention. Allan Statton Hammock, in his "The Leadership Factor in Black Politics: The Case of Richmond, Virginia" (unpublished Ph.D. dissertation, University of Virginia, 1972), indicates that, according to reports available about the 1902 Convention, the poll tax was designed specifically to reduce black political participation. Drawing from Charles E. Silberman's *Crisis in Black and White*, Hammock points to the following quotation from Carter Glass, a major force in the convention: "Discrimination? Why that is precisely what we propose; that, exactly, is what this convention was elected for—to discriminate to the very extremity of permissible action under the limitations of the Federal Constitution, with a view to the elimination of every Negro voter who can be gotten rid of, legally, without materially impairing the numerical strength of the white electorate." Hammock, p. 52, quoting Silberman, *Crisis in Black and White* (New York: Random House, 1964), p. 23.

24. *City of Richmond* v. *United States of America*, No. 74–201, U.S. Supreme Court (1974), Appendix, Vol. I, p. 61.

25. Hammock, "The Leadership Factor in Black Politics," p. 50.

26. James Oliver Perry, "An Analysis of the Negro Influence in Richmond's 1966 Councilmanic Election" (unpublished M.A. thesis, University of Richmond, 1968), p. 26.

27. Ibid., p. 27.

28. See the *Times-Dispatch* editorials for January 10, 20, April 23, and June 14, 1966, and the *News Leader* editorials for January 20 and May 30, 1966.

29. Perry, "An Analysis of the Negro Influence," p. 27. See the front page news story in the *Afro-American* for April 9, 1966; Milton Randolph's column in the *Afro-American*, of June 11, 1966; and the *Afro* editorial of June 25, 1966.

30. Editorial, "A Time for Largeness," *Richmond News Leader*, January 20, 1966.

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32. James E. Davis, "Issues Are Termed Slipping in City Council Campaign," *Richmond Times-Dispatch*, June 12, 1966.

33. Dickinson, "Myth and Manipulation."

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35. See City of Richmond, *City Council Journal*, Resolution No. 66–R 31–32, May 9, 1966.

36. Bill Sauder, "RF Formally OK's Staggered Terms," *Richmond News Leader*, June 4, 1966.

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38. Ibid., December 14, 1965.

39. Ibid., May 17, 1966.

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41. "Four-Year Terms Scored," *Richmond News Leader*, May 31, 1966.

41a. Editorial, "For Four-Year Terms," *Richmond Times-Dispatch*, April 23, 1966.

42. "Council Candidates Answer P-TA Questions," *Richmond Times-Dispatch* May 10, 1960.

43. James E. Davis, "Wheat Urges Area Merger as Jaycees Hear Candidates," *Richmond Times-Dispatch*, May 18, 1966.

44. "Failure Is Seen in Annex Plea," *Richmond News Leader*, May 20, 1966.

45. Dickinson, "Myth and Manipulation," pp. 31 and 32.

46. Perry, "An Analysis of the Negro Influence," p. 13.

47. Dickinson, "Myth and Manipulation."

48. For a good discussion of the 1966 election, see Dickinson's "Myth and Manipulation," and Perry's "An Analysis of the Negro Influence."

49. Quoted in A. J. Dickinson, "Myth and Manipulation," pp. 84–85.

50. Ibid., pp. 88–89.

51. State of Virginia, General District Court for the City of Richmond. *Official Vote Tabulation by Precinct for the Richmond, Virginia, City Council Elections*, 1966.

52. See the thesis by Perry, "An Analysis of the Negro Influence," p. 37. Another observer, Mr. John Ritchie, Jr., Executive Director of Richmond Forward, estimated the percent of black voters among the total to be even higher at 43 percent. His analysis, however, does not provide a definition of white precincts, black precincts, and mixed precincts as does Perry's, and, thus, there is no way to make any comparison of the two reports. See John Ritchie, Jr., "An Analysis of the Voting in the Councilmanic Election, June 14, 1966," A Report by the Executive Director to Richmond Forward, Inc., 1966.

53. Perry, "An Analysis of the Negro Influence," p. 42.

54. Ibid., p. 43.

55. See John V. Moeser, "Back Rooms, Bargains, and Boundaries: How Annexation Saved the Richmond Oligarchy," *Commonwealth Times* 8, no. 3 (September 23–30, 1976): 13.

56. Quoted in Dickinson, "Myth and Manipulation," pp. 96–97.

57. Ed Grimsley, "Vote May Spur Merger Attempt," *Richmond Times-Dispatch*, June 19, 1966.

58. *Curtis Holt, Sr.,* v. *City of Richmond*, p. 151.

59. James C. Wheat, Jr., personal interview in his office, March 3, 1981. Also see *Curtis Holt, Sr.,* v. *City of Richmond*, September 24, 1971, pp. 11–12. John S. Davenport, III, personal interview in his office, March 19, 1981. (John H. Thornton is deceased.)

60. Bill Sauder, "City Delay in Annex Doubted," *Richmond News Leader*, September 15, 1967.

61. Ibid.

62. James E. Davis, "Kiepper Asserts Annexation Directive Clear," *Richmond Times-Dispatch*, September 16, 1967.

63. *The Charter of the City of Richmond, Virginia*, in Section 4.06, specifies that special meetings of the council can be called only by the mayor, the city manager, or any three members of council.

64. James E. Davis, "Annexation Judges Set Target Date," *Richmond News Leader*, November 5, 1967.

65. *Richmond News Leader*, November 6, 1967. The population figures reported in the story did not coincide with those compiled by the Bureau of Population and Economic Research at the University of Virginia. The Bureau estimated the city's population in 1967 to stand at 216,456, with the nonwhite population representing 49 percent of the total. See *City of Richmond* v. *United States of America*, No. 74–201, U.S. Supreme Court (1974), Appendix, Vol. I, p. 61.

66. State of Virginia, General Assembly, *An Act to Create a Virginia Metropolitan Area Study Commission, to Provide for its Composition and to Prescribe its Powers and Duties, Acts of the General Assembly of the Commonwealth of Virginia*, Regular Session 1966, April 4, 1966.

67. The name of the university was changed on June 23, 1970, to Virginia Polytechnic and State University.

68. "City, Chesterfield to Resume Annexation Battle Saturday," *Richmond Times-Dispatch*, October 31, 1967.

69. Virginia Metropolitan Areas Study Commission, *Governing the Virginia Metropolitan Areas: An Assessment* (printed by the Division of State Planning, May, 1967), pp. 43–44.

70. The statement of the Crusade to the Virginia Metropolitan Areas Study

Commission can be found in the appendix of an unpublished research paper written by a graduate student in urban and regional planning; see Charles W. Weston, "A Political Analysis of the Virginia Metropolitan Areas Study Commission" (unpublished term paper, Virginia Commonwealth University, 1976).

71. See *Curtis Holt, Sr.,* v. *City of Richmond*, September 21, 1971, p. 246.

72. Senator Bemiss noted his concerns in a draft memorandum to the Hahn Commission. For the complete text of the memorandum, plus an interesting letter written to him by Dr. William J. Boney, Associate Professor of Theology and Philosophy at Virginia Union University, see Charles M. Weston, "A Political Analysis of the Virginia Metropolitan Areas Study Commission," appendix. Also see p. 34.

73. Virginia Metropolitan Areas Study Commission, *Report of the Virginia Metropolitan Areas Study Commission to the Governor of Virginia and the Members of the General Assembly of Virginia*, Senate Document No. 16 (Richmond Department of Purchases and Supply, 1967), pp. 50–60, 64–76, 79.

74. See the story in the *Times-Dispatch* by James E. Davis, "City Wins Pre-Annex Skirmish," November 19, 1967.

75. Wilkinson, *Harry Byrd*, p. 177.

76. In his draft memorandum to the Hahn Commission (noted earlier in a footnote), Senator FitzGerald Bemiss discussed the riots which broke out in several American cities. He began his memo with this paragraph: "The urban problem most clearly in the minds of all is that of the riots in the slum areas of major cities across the country. Our Commission [Metropolitan Areas Study Commission], directed to study urban Virginia and to recommend action to equip the State and its localities to deal more effectively with urban problems, must ask itself, 'What should Virginia do to prevent the occurrence of riots in its cities?' " See Charles M. Weston, "A Political Analysis of the Virginia Metropolitan Areas."

77. See Code of Virginia, Section 10–145.1.

78. Edward E. Willey, personal interview in the capitol office of the Senate Finance Committee, March 25, 1981.

78a. State of Virginia, General Assembly, Senate, *A Bill to Provide for the Merger of the City of Richmond and the County of Henrico and to Create a Commission to be known as the Richmond-Henrico Merger Commission: Providing its Composition, Terms, Powers and Duties, and to Appropriate Funds*, Senate Bill No. 441, Regular Session 1968.

78b. *Richmond Times-Dispatch*, February 25, 1968.

79. State of Virginia, General Assembly, *Joint Resolution Creating a Commission to Study the Problem of the Expansion of the Boundaries of the City of Richmond*, Acts of the General Assembly of the Commonwealth of Virginia, Senate Joint Resolution No. 71, Regular Session 1968.

80. See Code of Virginia, Virginia Area Development Act, Chapter 34, Section

15.1–1403–15.11–1415. It should be noted that the service district concept produced considerable discussion. Nevertheless, it was endorsed by the state legislature even though it has not officially been implemented in any of the twenty-two regional planning districts also established by the state upon recommendation of the Hahn Commission.

81. See *Charter of the City of Richmond, Virginia*, Section 7.02 (e).

82. Allen Statton Hammock, "The Leadership Factor in Black Politics: The Case of Richmond, Virginia," p. 50.

83. *Charter of the City of Richmond, Virginia*, Sections 6.17, 7.06, 17.11, and 17.14.

84. Bill Sauder, "Voters Respond to RF's Canvass," *Richmond News Leader*, May 30, 1968.

85. John Ritchie, Jr., "An Analysis of the Voting in the Councilmanic Election, June 11, 1968," A Report by the Executive Director to Richmond Forward, Inc., 1968, p. 3.

86. Editorial, "RF Must Go!" *Richmond Afro-American*, June 8, 1968, p. 1.

87. Editorial, "Richmond's Most Vital Election in Decades," *Richmond Times-Dispatch*, June 11, 1968.

88. Editorial, "James C. Wheat, Jr.," *Richmond News Leader*, June 7, 1968.

89. James E. Davis, "Crowe Raps Carwile Vote Record," *Richmond Times-Dispatch*, May 17, 1968.

90. See the *Times-Dispatch*, December 16, 1969.

91. James E. Davis, "Crowe Raps Carwile Vote Record," *Richmond Times-Dispatch*, May 17, 1968.

92. Janis Fraser, "Pastor: Dialogue Is Not Enough," *Richmond News Leader*, September 28, 1970.

93. Allan Statton Hammock, "Leadership Factor in Black Politics," p. 66.

94. Ibid., pp. 66–67.

95. Ed Grimsley, "What Happened in Tuesday Vote," *Richmond Times-Dispatch*, June 14, 1968.

96. State of Virginia, General District Court for the City of Richmond, *Official Vote Tabulation by Precinct for the Richmond, Virginia, City Council Elections*, 1968.

97. John Ritchie, Jr., "An Analysis of the Voting in the Councilmanic Election, June 11, 1968," p. 1. Ritchie had estimated that in 1966, of the total number of votes cast, 43 percent were cast by blacks. James O. Perry, in his analysis of the 1966 election, had estimated the percent of black voters among the total at 39 percent, but, for reasons given earlier, there is no way to compare Perry's analysis with Ritchie's. (See note 52.) The point is that when one looks at both Ritchie reports, the black percentage of the total vote in 1968 increased by one percentage point over that in 1966.

98. James E. Davis, "RF Majority of Six Wins; Carwile, Bagley Lead Vote," *Richmond Times-Dispatch*, June 12, 1968.

99. *Richmond Times-Dispatch*, January 3, 1968.

100. Ibid., June 6, 1968.

101. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 96.

102. Melvin W. Burnett, personal interview at his home, March 9, 1981.

103. Plaintiff's Exhibit 32—Melvin W. Burnett Notes, *City of Richmond, Virginia,* v. *United States of America*, No. 74–201, U.S. Supreme Court (1974), Appendix, Vol. I, pp. 142–149.

104. Ibid., p. 146.

105. Ibid., pp. 147–149.

106. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 99.

107. Ibid., September 22, 1971, p. 545.

108. Alan F. Kiepper, "Memos to File on Meetings with Melvin Burnett," August and September, 1968. See Plaintiff's Exhibit #36 in *Curtis Holt, Sr.,* v. *City of Richmond*. (George R. Talcott, Richmond's deputy city manager who earlier wore the title of "Boundary Expansion Coordinator," supplied Kiepper with information for each of the city manager's sessions with Burnett. Kiepper's top figure of 50,000 people was derived, according to Talcott, by Talcott taking two-thirds of the 73,000 people encompassed in the fifty-one square mile area defined in the 1961 annexation ordinance. Having studied previous Virginia annexation cases, Talcott ascertained that two-thirds of the area sought by a city was the award usually granted by an annexation court. See *Curtis Holt, Sr.,* v. *City of Richmond*, September 21, 1971, pp. 316–317.) For Kiepper's court testimony regarding the tie between social and economic factors underlying annexation, see *Holt* v. *City*, September 23, 1971, pp. 580–646.

109. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, pp. 110–111.

110. Ibid., September 22, 1971, pp. 545–546.

111. At the first meeting of the 1968 council, Phil J. Bagley was elected mayor. His election angered Howard Carwile since, as the council member who received the largest number of votes in the general election, Carwile believed that he ought to have been selected mayor.

112. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 154.

113. Ibid., pp. 154–156.

114. Ibid., September 24, 1971, p. 168.

115. Frederick F. Dietsch, personal interview at his children's home in Brandermill in Chesterfield County, April 3, 1981.

116. *Curtis Holt, Sr.,* v. *City of Richmond*, September 24, 1971, p. 168.

117. Ibid., September 21, 1971, p. 230.

118. Ibid., September 22, 1971, pp. 386–388.

119. Phil J. Bagley, Jr., "Response to Civil Rights Commission Regarding Richmond-Chesterfield Annexation," in U.S. Civil Rights Commission, *The Voting Rights Act: Ten Years After*, January, 1975, p. 454.

120. Ibid., p. 455.

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122. James E. Davis, "City Can Expand Plea for Land, Court Says," *Richmond Times-Dispatch*, October 3, 1968.

123. "Annexation Trial Halted; Judge White Ill," *Richmond Times-Dispatch*, October 18, 1968.

124. Bill Sauder, "County Lists More Witnesses," *Richmond News Leader*, November 27, 1968.

125. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, pp. 158–160.

126. Editorial, *Richmond News Leader*, January 8, 1969; for Rider's comments, see *News Leader*, January 7, 1969.

127. Ibid., January 10, 1969.

128. Ross Mackenzie, personal interview in his *News Leader* office, March 24, 1981.

129. Bill Sauder, "New Annex Judge Wants Speedy Trial," *Richmond News Leader*, January 21, 1969.

130. James E. Davis, "Wheat Calls Fund Defeat Power Play,' " *Richmond Times-Dispatch*, February 12, 1969.

131. Ibid.

132. Ibid.

133. Ibid.

134. "Carpenter Criticizes Mayor for 'Double Talk' in Letter," *Richmond Times-Dispatch*, February 23, 1969.

135. "Annex Expense Item Approved," *Richmond News Leader*, March 10, 1969. (The rules governing the city council read: "No ordinance or resolution rejected by the council shall be again brought forward during the period for which the Council was elected; provided, however, when a motion is made for reconsideration of the ordinance or resolution by a member voting with the prevailing side and the motion is seconded and adopted by the vote of at least six members, the ordinance or resolution shall be reconsidered." See City of Richmond, *City Council Journal* Resolution No. 68–R42–42, July 1, 1968.

136. James E. Davis, "Racial Balance Held Key Issue in Annexation," *Richmond Times-Dispatch*, February 17, 1968.

137. *Curtis Holt, Sr.,* v. *City of Richmond*, September 23, 1971, pp. 664–666.

138. Ibid., September 21, 1971, pp. 211–213.

139. Ibid., September 23, 1971, pp. 667–669.

140. Ibid., pp. 689–690.

141. See Plaintiff's Exhibit #23 (b), 1969 Update of PAS Report: *A Plan of Government for the Richmond Region*, in *Curtis Holt, Sr.,* v. *City of Richmond.*

142. See Plaintiff's Exhibit #24, "Mattox Report to Aldhizer Commission" with Exhibits Dated February 5, 1969, in *Curtis Holt, Sr.,* v. *City of Richmond*, pp. 8–9.

143. *Curtis Holt, Sr.,* v. *City of Richmond*, September 23, 1971, p. 671.

144. Ibid., September 21, 1971, p. 217.

145. Ibid., pp. 219–220.

146. Frederick F. Dietsch, personal interview at his children's home in Brandermill in Chesterfield County, April 3, 1981.

147. *Curtis Holt, Sr.,* v. *City of Richmond*, September 23, 1971, p. 674.

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149. Ibid., September 21, 1971, p. 216.

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151. *Curtis Holt, Sr.,* v. *City of Richmond*, September 21, 1971, pp. 117, 165; September 22, 1971, p. 404.

152. Ibid., September 23, 1971, pp. 675–677.

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155. *Curtis Holt, Sr.,* v. *City of Richmond*, September 21, 1971, pp. 221–223.

156. *Proceedings and Debates* (House), pp. 516–520; also, letter from Grady W. Dalton to John V. Moeser, May 26, 1981.

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158. Ibid., pp. 522–523.

159. See the notes taken of the March 25 meeting by D. Brickford Rider, Richmond's Director of Research and Public Information, unnumbered exhibit in *Curtis Holt, Sr.,* v. *City of Richmond*.

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164. State of Virginia, General Assembly, *Proceedings and Debates of the Senate of Virginia pertaining to Amendment of the Constitution*, Extra Session 1969, pp. 315–316. (Hereafter referred to as *Proceedings and Debates* [Senate].)

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176. Affidavit of Irvin Horner, Chairman of Board of Supervisors, Chesterfield County, *Curtis Holt, Sr.,* v. *City of Richmond*, p. 6.

177. *City of Richmond* v. *County of Chesterfield*, Circuit Court of Chesterfield, Transcripts, Vol. 18, June 16, 1969, p. 3375.

178. James E. Davis, personal interview in the office of John V. Moeser, March 18, 1981.

179. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1961, pp. 173–174; September 22, 1971, pp. 408–410; 421–456.

180. *City of Richmond* v. *County of Chesterfield*, p. 3375.

181. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 174; *City of Richmond* v. *County of Chesterfield*, pp. 3375–3376.

182. *City of Richmond* v. *County of Chesterfield*, p. 3375; *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 175.

183. *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, pp. 175–176.

184. Ibid., September 22, 1971, pp. 427–428.

185. Ibid., September 24, 1971, pp. 141–142.

186. *City of Richmond* v. *County of Chesterfield*, pp. 3380–3381; *Curtis Holt, Sr.,* v. *City of Richmond*, September 20, 1971, p. 177.

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193. Ibid., September 24, 1971, p. 143.

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216. Ibid.

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218. Ibid.

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221. Ibid., September 20, 1971, pp. 48–49.

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225. Circuit Court of Chesterfield County, *City of Richmond* v. *County of Chesterfield,* Notice of Appeal and Assignment of Error, September 9, 1969.

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261. Jones, Jr., "The Impact of Annexation-Related City Council Reapportionment . . .," p. 198.

262. Conard B. Mattox, Jr., personal interview in his home, March 25, 1981.

263. "High Court Turns Down Annex Plea," *Richmond Times-Dispatch*, April 21, 1970.

Chapter Four

1. Lawrence Brown, "Holt Has Won Place in History of City," *Richmond Times-Dispatch*, September 23, 1974.

2. Curtis Holt, Sr., personal interview, December 26, 1980.

3. Ibid.

4. Shelley Rolfe, "Lawyer Speaks of *Pro Bono*," *Richmond Times-Dispatch*, May 12, 1976.

5. W. H. C. Venable, telephone interview, May 22, 1981. (Several years after the termination of the Holt cases, Venable and his family moved from Richmond to Jackson, Wyoming, where he is now practicing law.)

6. See the article by Gary C. Leedes and James M. O'Fallon, "School Desegregation in Richmond: A Case History," *University of Richmond Law Review*, 10 (Fall 1975): 1–61.

7. Shelley Rolfe, "Lawyer Speaks of *Pro Bono*."

8. *Perkins* v. *Matthews*, 91 S.Ct 431 (1971).

9. U.S. Constitution, Fifteenth Amendment, section 1.

10. U.S. Commission on Civil Rights, *The Voting Rights Act: Summary and Text*, Clearinghouse Publication No. 32 (September 1971), p. 3. It should be pointed out that

the states originally covered under the legislation were Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and parts of North Carolina, Arizona, and Hawaii. The 1970 amendments to the act changed the triggering date from 1964 to 1968 and brought the following new areas under the legislation's jurisdiction: Alaska, California, Idaho, New York, Wyoming, and additional counties in Arizona. Also, when the Voting Rights Act was renewed in 1975, the protected classes included not only blacks, but also Spanish-speaking Americans and other people whose native language is not English. Presently, the legislation covers the aforementioned states plus Texas, three counties in New Mexico, six in Florida, and one in Colorado, and applies to any language group whose population exceeds 5 percent of the subdivision's population and which has an illiteracy rate exceeding that for the United States. See Jones, "The Cities of Richmond and Petersburg," pp. 100–103.

11. 1965 Voting Rights Act, Section 5, see 42 USC sec 1973c.

12. *Richmond News Leader*, January 15, 1971.

13. Bob Brickhouse, "Richmond's Situation Unclear," *Richmond Times-Dispatch*, January 15, 1971.

14. To seek removal from special coverage, the Voting Rights Act requires designated states or subdivisions to file a suit before the three judge federal court in Washington, D.C., in an effort to acquire a declaratory judgment from the court that the jurisdiction has not used within a prescribed period of time a voting practice which is designated to discriminate or has the effect of discriminating. Jones, "The Cities of Richmond and Petersburg," p. 101.

15. Jones, Jr., "The Impact of Annexation-Related City Council Reapportionment . . .," pp. 82–83.

16. *City of Richmond* v. *United States of America*, No. 74–201, U.S. Supreme Court (1974), Appendix, Vol. I, p. 20. (It should be pointed out that even before the *Perkins* decision, some observers, including lawyers, believed that the annexation was subject to the provisions of the 1965 Voting Rights Act. More specifically, before the annexation itself became effective, some lawyers viewed the boundary expansion effort as a violation of the Voting Rights Act. For example, in a casual conversation outside the Chesterfield Court House during the trial, Thomas S. Winston, III, counsel for one of the intervenors, kept telling his colleagues that the annexation was a violation of the legislation, "but they laughed. No one took it seriously." [Telephone interview, April 4, 1981] There was certainly ample reason why some lawyers believed that the annexation was a matter covered under the 1965 Act. In the October term of 1968, the Supreme Court focused on Section 5 of the Voting Rights Act in *Allen* v. *State Board of Elections* [393 U.S. 544], ruling that the act be given "the broadest possible scope" to reach "any state enactment which altered the election law of a covered State in even a minor way. It is significant that Congress chose not to include even . . . minor

exceptions (e.g., changing from paper ballots to voting machines) in Section 5, thus indicating that all changes, no matter how small, be subjected to Section 5 scrutiny" [566–568]. Moreover, the high court established that "the right to vote can be affected by a dilution of voting power as well as by an absolute prohibition on casting a ballot." [539])

17. James E. Davis, "Annexation Ruling Is Due by May 8th," *Richmond Times-Dispatch* March 17, 1971.

18. State of Virginia, General Assembly, *An Act to Amend and Reenact Chapter 234 of the Acts of Assembly of 1971, Relating to the Creation of a Commission to Study City-County Relationships and Appropriating Funds, Acts of the General Assembly of the Commonwealth of Virginia*, 1971 Session.

19. *Curtis Holt, Sr.,* v. *City of Richmond, et al.*, No. 151–71–R, U.S. District Court for the Eastern District of Virginia, *Plaintiff's complaint* (1971). (Hereafter referred to as *Holt* v. *Richmond*, 151–71–R.)

20. See Code of Virginia, Section 15.1–1047.

21. Mike Hughes, "Complaints May Be Aired," *Richmond News Leader*, March 4, 1971.

22. "Annexation Court Puts Off Hearing," *Richmond Times-Dispatch*, March 14, 1971.

23. The city argued that the proper court to hear the case was a three judge district court since Section 5 of the Voting Rights Act called for such a court to hear "an action under this section" and since the city viewed Holt's suit as an action pertaining to the Voting Rights Act. Venable's retort was that the Holt suit was not based on the 1965 Voting Rights Act. See *Motion on Behalf of Defendant* and *Response in Opposition to Motion on Behalf of Defendant* in *Holt* v. *Richmond*, 151–71–R.

24. Letter from Arthur R. Cloey, Jr., to W. H. C. Venable, March 17, 1966.

25. W. H. C. Venable, telephone interview, May 22, 1981.

26. Jim Mason, "Lawyer Hopeful on 'De-Annex,' " *Richmond News Leader*, May 4, 1971; also see Ulrich Troubetzkoy, " 'The Greatest Deal Since Manhattan Island,' " *News-Journal*, May 6, 1971.

27. *Holt* v. *Richmond*, 151–71–R, Transcripts, September 21, 1971, pp. 286–288.

28. *City of Richmond* v. *U.S.*, No. 74–201, U.S. Supreme Court (1974), Appendix, Vol. I, pp. 23–24. (Hereafter cited as *Richmond* v. *U.S.*)

29. *Richmond* v. *U.S.*, p. 24.

30. *Richmond News Leader*, May 8, 1971.

31. James E. Davis, "Annexation Approval Is Sought by Mattox," *Richmond Times-Dispatch*, May 14, 1971.

32. James E. Davis, " '70 Annexation Still in Effect, U.S. Aide Says," *Richmond Times-Dispatch*, May 14, 1971.

33. "Issue Alive, Horner Says," *Richmond News Leader*, May 15, 1971.

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38. James E. Davis, "U.S. Agency Insistent on Nine Wards Here," *Richmond Times-Dispatch*, June 10, 1971.

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40. Steve Row, "D.C. Meeting Set on Annex," *Richmond News Leader*, July 9, 1971.

41. *Richmond* v. *U.S.*, p. 28.

42. *Richmond* v. *U.S.*, pp. 29–30.

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44. Memorandum from Lewis F. Powell, Jr., to Attorney General John N. Mitchell, August 9, 1971. (Filed with Plaintiff s materials in *Holt* v. *Richmond*, 151–71–R.)

45. *Holt* v. *Richmond*, 151–71–R, Transcripts, September 21, 1971, pp. 288–291; also "Area Delegations Await Decision from Mitchell," *Richmond News Leader*, August 18, 1971.

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48. *Richmond Times-Dispatch*, September 29, 1971.

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56. *Curtis Holt, Sr.,* v. *City of Richmond, et al.,* No. 695–71–R, U.S. District Court for the Eastern District of Virginia (1971).

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64. "Holt Seeks OK to Be Intervenor," *Richmond News Leader,* September 16, 1972.

65. "Crusade to Enter Annexation Suit," *Richmond News Leader,* October 17, 1972.

66. "Holt Raps Crusade on Plan to Intervene," *Richmond Times-Dispatch,* October 18, 1972.

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73. James E. Davis, "Council Backs Nine Wards Here," *Richmond Times-Dispatch,* May 2, 1973.

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83. Editorial, "No Cause for Joy," *Richmond Times-Dispatch*, January 22, 1974.

84. Editorial, "Empty Thanks," *Richmond News Leader*, January 22, 1974.

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92. Editorial, "Non-Decision," *Richmond News Leader*, May 30, 1974.

93. Jim Mason, "Preannex Area Election Asked," *Richmond News Leader*, June 7, 1974.

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