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.” 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. 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.” 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.”

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.” 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.

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. [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.” 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. 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.” 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.” 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. 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.

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 . . . .” 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. 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. 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. 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. 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. 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. Both the *Times-Dispatch* and *News Leader* endorsed the idea in their editorials. 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.

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.” 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. They wanted the legislature to amend the charter without recourse to a referendum. 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.” 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.” 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?” 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.” 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.” 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.

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. 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.

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.” 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. 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. 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.
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.

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.”

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. 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.” 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.” 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. 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. . . .”\textsuperscript{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.\textsuperscript{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 \textit{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.”\textsuperscript{68} Moreover, in the first report the commission released, \textit{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.\textsuperscript{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.

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. 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.” 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. . . .”

This same Richmond senator also introduced Senate Bill Number 441 which provided for the merger of the City of Richmond with Henrico County. 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.”

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. . . .

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.

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.” 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 Hen-
rico failed, efforts to create a special commission to study the city’s bound-
ary 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 pro-
tection 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 per-
haps 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 ef-
fort by the white power structure to dilute black votes through annexation.
This opposition was not unconditional, however. Annexation would be ac-
ceptable 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 an-
nexation. 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 per-
cent 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. 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.” 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.” 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.  

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 . . . ” 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.” 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….” 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.”

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.” 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).
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.”

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.” 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. 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.

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. 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. 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 summity. On July 16, 1968, they met at Mr. Donut, a coffee and donut shop at the Circle Shopping Center 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. 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.)

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 . . .

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.”

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 . . .

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. 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. 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 suc-
cessor 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 con-
versation 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.” On still an-
other 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. Bagley has consistently denied making these statements, noting that “to the
best of my knowledge, I have never met or talked with this gentleman [Leland
Bassett].” Regarding the conversation with Carpenter, who later resigned his
seat on council to become a Presbyterian missionary to Ecuador, Bagley ques-
tioned Carpenter’s credibility—“This gentleman has since resigned from city
council stating, ‘I heard voices telling me to go elsewhere.’ ”

A second meeting involving Horner, Dietsch, Bagley, and Wheat was as un-
productive 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 juris-
dictions 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 dis-
cussing 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.) 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.

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. 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. 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. 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.\textsuperscript{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.”\textsuperscript{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.\textsuperscript{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, appropriat-
ing funds to cover annexation expenses was becoming increasingly difficult. A major battle ensued between the Richmond Forward and the Crusade fac-
tions 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 will-
ing 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 Vir-
ginia 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 suc-
cessful, 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 re-
quest 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 Rich-
mond is supposed to send three representatives to a conference in Williams-
burg 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 ques-
tion, 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 cau-
tioned 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.\textsuperscript{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, \textit{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.”\textsuperscript{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.\textsuperscript{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. 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.

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. 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
The politics of annexation

territory was located or by the governing body of a town desiring annexation by an adjacent city. 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. 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. 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. Pendleton explained 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. 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." 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." 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.

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.” 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.” 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.” 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.” 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?”

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.”

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. 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.” 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. 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. 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.” 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.”

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’ de-
cisions. 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 compro-
mise 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. 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 pro-
duced 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.” 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 dic-
tated it. . . .” 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 popula-
tion 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. 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. Only Fritz Dietsch and A. R. Martin dissented.

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. Shepherdson, the councilman appointed to fill the vacancy created by James Wheat’s resignation. 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. Another newcomer to council, Thomas J. Bliley, Jr., also stated that while the Shepherdson 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.” Subsequent meetings were necessary to obtain information which Bliley desired at the Shepherdson 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 Shepherdson 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. 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…” 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.

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. 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. 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.” [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
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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. 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. 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.” 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 ad-
mission 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.\textsuperscript{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 agree-
ment. The Richmond experience, in this regard, differed considerably from
Chesterfield’s where the opponents to the compromise met with their col-
leagues 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 per-
cent 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 en-
tire city prior to Richmond’s last annexation in 1942 when the city area was
twenty-four square miles. 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 in-
dustrial, commercial, or residential development. DuPont was left in Chester-
field. DuPont had acquired counsel to fight the annexation in the court and it
was widely rumored that if DuPont were annexed the industry would eventu-
ally 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 ma-
jor 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 in-
clude 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 annex-
ation 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.

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
The Politics of Annexation

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.”

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.” 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.” 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.”
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.  

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. 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), the Crusade leadership expressed interest in an appeal and it subsequently met with Paul Byrne to explore the possibilities. 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.” 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.” 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. 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.” 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.” 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.

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. 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.” 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.

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.

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. 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. 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.” 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. 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.)

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 Biley; and Nathan Forb; the latter two were already on council. Biley 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.”

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. 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.

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. 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.” 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.”

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.
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. 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.

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.

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.”

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. (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. 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.

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. 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. 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. ...

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. 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