Litigation and Its Aftermath

Curtis Holt versus the City

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

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

After this successful undertaking, Holt turned to the surrounding public housing projects and began enlisting the residents in voter registration drives. In 1966, he and his supporters registered over three thousand new voters and
proceeded to endorse candidates for the 1966 councilmanic election, including Henry Marsh and Howard Carwile.1

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

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

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

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

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

Before Holt took action, the U.S. Supreme Court, on January 14, 1971, made a decision that had a direct bearing on the Richmond annexation. Ruling in Perkins v. Matthews, the Supreme Court said that municipal annexations fall under the provisions of Section 5 of the 1965 Voting Rights Act. The Voting Rights Act was designed by the Congress to strengthen its powers to monitor voting discrimination and thereby to more effectively enforce the Fifteenth Amendment which proscribes the denial of the vote “on account of race, color, or previous condition of servitude.” Section 5 stipulated that designated states, including Virginia, must receive federal clearance before they can implement any voting related change. The affected states, or political subdivisions of a state, are those which maintained any discriminatory voting test or device on November 1, 1964, and where less than 50 percent of the voting age population was registered to vote on November 1, 1964, or where “less than 50 per centum of such persons voted in the presidential election of November 1964.” Specifically, Section 5 requires the state to submit any change in voting “standard, practice, or procedure” to the U.S. Attorney General for approval and, barring his approval, to permit the state to institute an action before the three judge U.S. District Court in Washington, D.C., “for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.” Given the Perkins decision, it is necessary for any local jurisdiction in a designated state to acquire approval of a municipal annexation from the attorney general or, if necessary, to seek a declaratory judgment from the Washington district court that the annexation is not discriminatory in purpose or effect.
Richmond had not sought approval from the Justice Department when it annexed the Chesterfield territory and the question, therefore, was what the city would do since the Supreme Court had rendered the *Perkins* decision. City Attorney Conard B. Mattox, Jr., was quoted in the press on the day following the high court ruling that the decision “. . . should have no bearing on our recent Chesterfield annexation.” A few days later he still seemed relatively unaffected by the court’s action, saying, “I don’t intend to take any action; it is a state matter, it seems to me.” Virginia Attorney General Andrew P. Miller had stated earlier that he intended to file suit, as outlined in the Voting Rights Act, in an effort to seek removal of Virginia from special coverage of the act. (Two years later, in 1973, the Virginia General Assembly passed a resolution directing the state’s attorney general to do what was necessary to have the commonwealth exempted from the 1965 act. Accordingly, Attorney General Miller, on behalf of Virginia, filed a suit before the federal district court in Washington, D.C., making the commonwealth the first state to seek exemption from the Voting Rights Act. The court refused to exempt Virginia, declaring that Virginia blacks still suffered from the effects of past discrimination and that the state’s inferior system of public education for blacks was indirectly responsible for their having higher illiteracy and lower voter registration than the state’s whites. The U.S. Supreme Court upheld the decision in *Virginia v. United States*.) Given the *Perkins* ruling, however, Miller had also said that it was his belief that the 1970 Richmond annexation was a matter subject to federal approval. Meanwhile, after having carefully reviewed the *Perkins* case and considered its implications, Mattox decided to clear the air about the 1970 annexation by writing U.S. Attorney General John N. Mitchell on January 28, 1971, to inform him of the annexation and to determine “whether the [Perkins] decision has a retroactive effect upon annexation cases that have become final prior to the Supreme Court’s decision.” Over three months would transpire before Mattox would receive a reply to his letter. (Actually, the Voting Rights Act requires the U.S. Attorney General to either approve or reject a voting change within sixty days. Although Mattox mailed his letter on January 28th, which was received on the 29th, the Justice Department asked the city attorney for additional information. Having received the additional material on March 8th, the Justice Department, therefore, considered that the sixty-day period for making a decision began on March 8th with the decision to be made no later than May 8th.)

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

The second major event occurring between Mattox’s letter to the Justice Department and its reply was set in motion by Curtis Holt. On February 24, 1971, Holt filed a class action suit in the U.S. District Court in Richmond which
contested the 1970 annexation on constitutional grounds. He charged that the addition of large numbers of white citizens from Chesterfield County to the city’s population diluted the black vote and thus violated Section I of the Fifteenth Amendment. Moreover, Holt argued that the annexation constituted a violation of his due process rights protected by Section I of the Fourteenth Amendment. His objective, therefore, was to have the court (1) declare the annexation null and void; (2) void the 1970 councilmanic election and order new elections which excluded the participation of annexed area residents; (3) declare “the present City Government of the City of Richmond unconstitutionally convened and place all affairs of said government into the care of a receiver appointed by this Court to manage the affairs of the City till a constitutionally elected body can be secured to assume such responsibilities”; and (4) enjoin the city from exercising any authority over the annexed area.19

Before Holt filed his suit, Chesterfield County had requested the reconvening of the three judge annexation court to consider two items. (State law required annexation courts to remain in existence for five years following the effective date of an annexation order or the date of any decision of the state supreme court affirming such an order. On motion of the court, city, county, or fifty freeholders, the court could be reconvened.)20 First, Chesterfield officials contended that Richmond owed the county money for school tuition and related fees. Since the annexed area did not include a sufficient number of schools to accommodate the number of additional school children brought into the city, the county had to provide the education with the city paying the tuition. Second, county leaders claimed that the city was not complying with the provision of the annexation decree that ordered the city to construct three schools in the annexed area. Richmond denied that it had failed to pay the proper tuition and said that it was unable to construct the schools because the city was under a federal court order not to undertake school planning or school construction in the annexed area.21 (The latter was in reference to court desegregation initiatives.) But at the pretrial conference designed to establish the scope of the trial and to schedule a trial date, Chief Judge Earl L. Abbott announced that hearings would be postponed “until court litigation now pending in the city of Richmond has been determined one way or the other.”22 Abbott was referring to the Holt suit. Chesterfield was elated by the action, with County Executive Secretary Melvin W. Burnett and Board Chairman Irvin G. Horner interpreting the postponement as an indication that the annexed area might be “deannexed.”
Attention to the Holt suit was growing. Following a request by the city that U.S. District Court Judge Robert R. Merhige, Jr., dismiss the case on the grounds that the court lacked jurisdiction,23 the South Richmond Council of Civic Associations sponsored a “mass meeting” of annexed area residents. The featured speaker was Holt’s attorney, W. H. C. Venable. He had been contacted earlier by the council’s president, Arthur R. Cloey, Jr., who had informed Venable that the South Richmond Council of Civic Associations and the Broad Rock Council of Civic Associations had voted to provide financial support for the suit. In his letter to Venable, Cloey noted that “thousands of annexed citizens . . . are dedicated to fight this undesired annexation.” Moreover, he wrote, “we recognize the expense of litigation and are prepared to underwrite the cost . . . Stating on behalf of the Councils, ‘WE WANT DE-ANNEXATION.’ ”24 Actually, the civic associations had originally wanted Venable to file a suit in their behalf before the federal district court, but Venable had been approached earlier by Holt and, consequently, told the annexed area representatives that he already had a client.25 On May 3, 1971, at Huguenot High School, between eight hundred and a thousand citizens living in the annexed area attended the meeting called by the coalition of civic associations. Venable explained the deannexation suit as well as a petition he had filed in the Chesterfield Circuit Court and directed to the annexation court on behalf of seventy-two property owners requesting the creation of an escrow account for taxes collected by the city from annexed area residents. As Venable phrased it, the tax money would be held in escrow “till it can be determined who owns you.” Venable expressed his confidence that Holt would prevail and, in reference to the Justice Department review of the annexation, the lawyer said he was not informed what action the U.S. Attorney General might take, “but if I were a betting man,” he added, “I wouldn’t put any bets on the city of Richmond.”26

Venable should have placed his bets because on May 7, 1971, the Justice Department objected to the annexation. Prior to the decision, representatives from the city and from the annexed area had traveled to Washington to speak with lawyers in the Justice Department. City officials, including City Attorney Mattox, met first with the Justice Department, elaborated upon the materials submitted earlier and provided a rationale for the attorney general to approve the 1970 action against the county. Having heard that Richmond officials had spoken with people in the U.S. Attorney General’s office, Roger Griffin and Ronald Livingston also went to Washington and talked with David L. Norman, the Acting Assistant Attorney General in the Civil Rights Division, and
outlined the general course of events leading up to the annexation and the reasons why the federal government should not affirm the boundary expansion. Venable, too, had talked with and supplied information to the Washington lawyers. Obviously, when the Justice Department reached its decision, the civic associations and the county were jubilant. The city was stunned. It was the first setback the city had suffered since the compromise efforts began in earnest in the spring of 1969. The State of Virginia had supported the city’s move throughout the ordeal and, in fact, had considered amending its constitution to accommodate the city. But the U.S. Justice Department, on the other hand, was not supportive. Its position was even more significant when one considers that its chief officers were appointed by President Nixon, who had made many statements about the need to curb the “interference” of an overly zealous national government in state and local affairs. Indeed, his personal friend and confidant, John N. Mitchell, headed the Department.

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

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

The Justice Department ruling was announced the same day as its ruling on the state’s legislative reapportionment plan. The latter also fell under the provisions of the 1965 Voting Rights Act and, like the Richmond annexation, was opposed by the U.S. Attorney General. Speaking at a hastily arranged news conference once he had received word from Washington about the denial of
the reapportionment plan, Virginia Governor Linwood Holton addressed both the reapportionment and the annexation issues. He noted that he had discussed the annexation decision with Assistant U.S. Attorney General Jerris Leonard and, based on the conversation, Holton urged “caution against optimism” by annexed area residents. He opined that deannexation would be unreasonable since the boundary expansion had occurred over a year earlier and laws had been passed on the basis of the annexation. He concluded by saying that he did not believe “the egg will be unscrambled.”

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

Chesterfield County officials also conferred with Justice Department representatives and were told that should the U.S. District Court in Richmond (which would be hearing the Holt suit) rule that the annexation was racially motivated, such a decision, according to Commonwealth’s Attorney Oliver D. Rudy, “would raise serious questions and would, perhaps, lead to a deannexation.” From the Chesterfield contacts with Washington, it was clear that the Justice Department would be watching the Holt suit very carefully.
Richmond officials began preparing ward plans, including a particularly popular plan that called for five wards and four at-large seats on council. And, once again, they met with representatives from the Department of Justice to discuss the plans and the possibilities of a charter change. At roughly the same time, U.S. District Court Judge Robert Merhige denied the motions by the city to dismiss the Holt suit and proceeded to set September 20, 1971, for the court hearings. And in Chesterfield County, the annexation court convened upon request of county officials. Given the U.S. attorney general’s ruling, Chesterfield officials wanted the annexation court to determine whether the city or the county should provide services in the annexed area. County supervisors also wanted the court to take measures for protecting the taxpayers living in the annexed area and to make a determination of the annexed area residents’ voting status. The court, however, proved uncooperative. Judge Earl Abbott ruled that “annexation entered by this court is in full force and effect, and will continue until some court has the proper jurisdiction” to override the annexation court. Moreover, the annexation court denied a petition which Holt’s attorney, W. H. C. Venable, had filed to establish an escrow account for the taxes collected from annexed area residents.

The city’s preparations for instituting a change in its electoral system were temporarily suspended once Richmond learned of the U.S. Supreme Court decision, *Whitcomb v. Chavis*. When the Justice Department objected to the annexation, David Norman noted in his letter to City Attorney Mattox that the city might consider single-member districts as a remedial measure. In so doing, Norman pointed to an Indiana federal district court ruling that inner-city blacks of Indianapolis were the victims of racial gerrymandering in the creation of multimember state legislative seats and that, as a consequence, they were entitled under their Fourteenth Amendment rights to their own single-member district. The multimember district included a large number of whites, thereby diluting the voting effectiveness of ghetto blacks. The decision of the federal district court was appealed, however, and after Norman wrote Mattox, the U.S. Supreme Court overturned the ruling of the lower court. Justice Byron R. White, writing for the majority, acknowledged the findings of the lower court that the proportion of legislators residing within the concentrated black population of the multimember district was not commensurate with the districts’ black population or with the proportion of legislators which blacks could have elected with single-member districts. But, White opined that these findings did not constitute “invidious discrimination.” “The mere
fact that one interest group or another concerned with the outcome of Marion County [Indianapolis] elections have found themselves outvoted and without legislative seats of its own,” White wrote, “provides no basis for invoking constitutional remedies.”

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

Prior to the meeting in Washington on August 2, Mattox again wrote John Mitchell, resubmitting to the attorney general “on behalf of the City of Richmond the City’s request for approval of the election of councilmen for the City-at-large.” It was becoming clearer that at least seven members of the Richmond City Council preferred at-large representation to wards. (Marsh and Carpenter, however, still were holding out for a nine ward system.) Since the Justice Department had removed the option of any modified ward plan which involved some at-large seats, the city attorney was arguing strongly for the
retention of the at-large system. Mattox based his appeal on the *Whitcomb* case, noting as well that the multimember state legislative districts of Hampton, Newport News, Portsmouth, and Richmond which had earlier been opposed by the Justice Department were now acceptable to the attorney general. Mattox quoted Mitchell’s June 10th telegram to Governor Holton:

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

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

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

> It is unrealistic to suggest that black participation will not continue to be strong and effective following the Chesterfield annexation. The relatively small shift in black-white ratio will still leave the black population possessing
the single most cohesive and influential ‘block’ [sic] of voters within the city. No politician could — even if he desired — afford to ignore their views or their welfare.

It is understood that some black leaders now prefer a ward system, or a hybrid system with wards plus some at-large representation. Whether this would result in some short-term political advantage to blacks is not clear. It is more likely to have adverse consequences, as any type of ward system tends to divide — not unite — a municipal population. Greater racial divisiveness is the last thing any city needs at this troubled time in our history.\(^{44}\) [italics added]

The Washington meeting between Mitchell and Richmond leaders was reported in the press, thus informing the opponents of the annexation and opponents to at-large elections. Consequently, they too, arranged through the governor’s office a meeting with Mitchell. Included in the contingent opposing the city were Venable, Vice-Mayor Marsh, Crusade representative Dr. Philmore Howlette, civil rights attorney Armand Darner, Roger Griffin, and Roger Livingston.\(^{45}\) They presented their reasons why the Justice Department should affirm the decision. They also spelled out their arguments in a letter that Marsh and Derfner addressed to Mitchell on the same day as the meeting (August 16th). In the letter, they reminded the attorney general that under Section 5, the burden of proof that the annexation did not have a discriminatory purpose or effect was not on the plaintiff, but on the defendant, in this case, the city. Moreover, they argued that the Whitcomb case did not apply to the issues of district representation in postannexation Richmond since the Indiana situation involved the election of only a portion of the state legislature from multimember districts, whereas “the situation here involves electing the entire governing body of a large city in one grand multimember, winner-take-all election.” “The Supreme Court has never upheld such a system where possible discrimination was an issue,” they contended, “nor has it said anything in any case to imply that multi-member districts are to be as much tolerated in situations like this as they are in state legislatures.” Quoting from another Supreme Court decision (Burns v. Richardson), the two writers suggested that the “all-pervading, at-large system” in Richmond fits all three criteria used by the high court in the Burns case to determine whether at-large representation was discriminatory. The relevant portion of Burns to which Marsh and Derfner referred reads:
It may be that this invidious effect can more easily be shown if . . . districts are large in relation to the total number of legislators, if districts are not appropriately subdivided to assure distribution of legislators that are resident over the entire district, or if such districts characterize both houses of a bicameral legislature rather than one.\textsuperscript{46}

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

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

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

After five days of testimony, Judge Robert R. Merhige, Jr., issued his findings on September 29, 1971, though his legal conclusions were to come later.
He found that the 1970 annexation did violate the voting rights of Richmond blacks. More specifically, he stated that while the initial annexation moves against Henrico and Chesterfield counties were not essentially racially motivated, racial motivation was a major factor underlying the later stages of the Chesterfield annexation. The compromise agreement, in particular, was engineered out of a fear that blacks might assume control of Richmond. Given the judge’s findings, the city was obviously now fighting a rear guard action. As far as the city was concerned, the only salvation to Merhige’s comments was that he expressed a hesitancy to use deannexation as a remedy and, in fact, indicated his desire to explore any other legal means of providing relief to Richmond’s black community.48

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

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

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

Finally, on November 23, 1971, Judge Robert Merhige made his decision.
His ruling that the annexation had infringed upon the constitutional rights of
blacks was not surprising since he had earlier presented his findings. But his
order was a surprise—to the city as well as Holt! Judge Merhige did not man-
date deannexation or either of the two remedies devised by the city. Rather,
he ordered a special councilmanic election (subsequently called for January
25, 1972) based on El-amin’s seven-two plan involving the at-large election of
seven candidates from the old city and the election of two candidates from the
annexed area (actually the annexed area plus a small portion of the old city
near the Deepwater Terminal in South Richmond). Both daily newspapers
criticized the remedy, the Times-Dispatch noting that “possibly its worst fea-
ture is the adverse psychological impact it is certain to have upon unification
of the old and new areas of Richmond,” and the News Leader commenting that
“few people are going to be ecstatic about the Greene Plan” and that perhaps
El-amin and Judge Merhige may be “the only two persons in Richmond who
honestly believe this jerry-built rig can get off the ground.” The city reacted
immediately and sought a stay of the election from the U.S. Court of Appeals
for the Fourth Circuit. The appeals court, on December 6, 1971, granted the
city’s request and the stay was ordered. The U.S. Supreme Court later affirmed
the stay. Meanwhile, both Holt and the city appealed the district court decision to the Fourth Circuit.54 The city appealed because of its dismay over Merhige’s contention that the annexation was racially motivated. Holt appealed because of Merhige’s refusal to order deannexation.

**Holt II and the City’s Suit**

In the meantime, Holt had brought another suit against the city. This suit (Holt II) was based, not on constitutional law as was the case in the first suit (Holt I), but on statutory law, namely Section 5 of the 1965 Voting Rights Act. In accordance with Section 5, which stipulated that “any action under this section shall be heard and determined by a court of three judges . . .,” the second suit (Holt II) was filed before a special three judge federal district court in Richmond.55 Holt sought to declare Richmond’s annexation invalid since the city had not acquired the necessary approval for the annexation as set forth in Section 5.56 Like Holt I, Holt II was designed to return the twenty-three square miles to Chesterfield County and to enjoin the city from exercising any jurisdiction over the annexed area. For the moment, however, Holt II was not the city’s chief concern since Richmond already had been charged with instituting an annexation on racial grounds and was facing a possible change in its electoral system in order to keep the annexed area. Holt, too, was concentrating on the appeal since, irrespective of Merhige’s findings of racial motive for the annexation, deannexation had not been ordered. It was no disappointment to either party, therefore, when Holt II was stayed pending the appeal of Holt I.

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

> What was done or not done had strong and legitimate reason. Under these circumstances, it far surpasses judicial power to strike down legislative action because some of the legislators may have been motivated by some impermissible reasons, found by the District Court, in effect, to be compelling, and which had set them on their consistent course.

> Under the circumstances, no violation of any Fifteenth Amendment right was worked by the annexation. . . .57
Two jurists disagreed. Both dissenters found that the annexation settlement was “dictated by invidious purposes.” Circuit Judge Harrison L. Winter, however, affirmed Merhige’s decision and remedy; whereas, Circuit Judge John D. Butzner, Jr. (who, incidentally, was a member of the annexation court in 1962 when Richmond was pursuing its suit against Henrico County) stated that “the only adequate remedy is to require Richmond to divest itself of the annexed area.” In support of his position, he made the following observation:

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

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

Venable now moved on two fronts. First, he appealed Holt I to the U.S. Supreme Court and, second, he filed a motion for a summary judgment in Holt II, meaning that he sought a quick disposition of the case since in his estimation there were no material facts in dispute and all that remained was an interpretation of the law in relation to the facts. Venable had already successfully used Holt II as a means for enjoining the 1972 councilmanic elections until the three judge district court could review the case; however, because the injunction was denied by the three judge district court, he had to go to the U.S. Supreme Court where Chief Justice Warren E. Burger, and Justices Harry A.
Blackmun and William H. Rehnquist granted the application on April 24th (Section 5 authorizes appeals directly from three judge panels hearing Voting Rights issues directly to the Supreme Court).

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

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

As in the past, the city had to wait for word from the attorney general, and as it did, Venable filed a notice in early August that on August 31, 1972, he was going to ask the special district court in Richmond to set a hearing date for Holt II. The three judges had already been selected, including Robert Merhige, Albert V. Bryan, Sr., a senior judge of the Fourth Circuit Court of Appeals, and U.S. District Court Judge Richard B. Kellam from Norfolk. With Venable building pressure on the city and with the city having been turned down twice by the Justice Department in its efforts to acquire approval and with the city still waiting for word from the Justice Department about its third overture, Richmond officials finally decided that it had little choice but to file its own suit, as it was allowed to do under Section 5. Hopefully, by acquiring a declaratory judgment from the U.S. District Court in Washington that the 1970 annexation had neither the purpose nor the effect “of denying or abridging the right to vote on account of race or color,” Richmond could settle its boundary problems once and for all. Meanwhile, Judge Merhige responded to Venable’s August 31st motion and established October 25th as the hearing
date for Holt II, but in so doing he expressed the wish that the Washington district court should assume the initiative in resolving the annexation issue. It was obvious that Merhige was growing weary of the annexation question, particularly since his alternative remedy proved such a bust and since his decision was ultimately overturned by the Fourth Circuit.63

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

The legal quagmire was growing daily. Two cases were now pending before separate three judge panels, one in Richmond and one in Washington. The question was which one of the federal courts should take the next step. Venable argued that the Richmond court should grant a summary judgment favorable to Holt, and Horace Edwards, representing the city, contended that Holt II should be stayed pending the outcome of the city’s suit in Washington. The Richmond court, which was hearing the debate on October 25th, was clearly
caught in the middle and Judge Merhige queried both parties about the damage that might occur if the Richmond court enjoined the annexation and the Washington court approved the annexation. Later, in December, the Justice Department also asked the Richmond court to delay any litigation until after the Washington court had ruled on Richmond’s suit.

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

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

When lawyers for Richmond, the Crusade, Holt, and the Justice Department (Justice, at this point, had still not affirmed the city’s annexation) met with the three judges of the Washington district court during a pretrial conference,
Chief Judge Skelly Wright brought up the *Petersburg* case and told the lawyers that, in his opinion, there was close similarity between the Petersburg and Richmond suits. Richmond and Justice attorneys agreed, but the others viewed the cases as dissimilar inasmuch as the Petersburg case, in their opinion, was not racially motivated. They claimed Richmond’s was.71

After the pretrial conference and before the beginning of the trial itself, Richmond’s counsel was sufficiently swayed by the Supreme Court’s affirmation of the *Petersburg* ruling that it approached the city council and recommended the adoption of a nine ward election system. The city had already drafted various ward plans, including the modified ward/at-large plan proposal, which were used in earlier discussions with the Justice Department and U.S. District Court Judge Robert Merhige. Four plans calling for nine single-member districts were eventually presented to the Richmond City Council.72 (The responsibility for drafting the plans fell largely to Senior Planner Dallas Oslin.) On May 1, 1973, the council on a five-three vote directed its lawyers “to petition the District Court of the District of Columbia to enter an order dividing the city into nine wards for future elections.”73 Marsh abstained from voting since his law firm was assisting the Crusade for Voters as an intervenor in the suit. The three who voted against the petition were committed to the principle of at-large representation, although they indicated a preference for ward representation over deannexation. Yet they believed that somehow Richmond could have it both ways—annexation and at-large representation. With instructions from council, City Attorney Mattox submitted a ward plan to the Justice Department consisting of four wards with a majority black voting age population and five wards with a majority white voting age population. After consultations with the Justice Department, however, the plan was revised to create four majority black wards, four majority white wards, and one swing ward with “a substantial number of blacks and whites of voting age.” Mattox argued later that the revised plan “reflected accurately, to the greatest extent reasonably possible, the black-white ratio of voting age population, as it existed before annexation”74 (the ratio was 44.8 percent to 37.3 percent). The plan was then approved by the Justice Department and finally adopted by the Richmond City Council on August 25, 1973.75 The problem, however, was that even with the Justice Department’s endorsement of the plan and its decision to now support the city’s effort in court to remedy the racial effects of the annexation by adopting a system of single-member districts, the court had its own decision to make and two intervenors were calling for different remedies.
Holt was calling for deannexation and the Crusade for Voters was calling for a ward plan that was weighted more favorably to blacks, specifically a plan that would insure five black and four white districts. A weighted plan, they argued, would compensate for the voter dilution created by the annexation. Moreover, Venable was cynical about the city’s ward plan, asserting that it was merely an effort “to buy time” until the 1965 Voting Rights Act expired, thus enabling Richmond to revert to at-large representation. He made his charge partially on the basis of a phone call which Curtis Holt received from a member of council who told Holt, “You better take your ward now, because if the law (Voting Rights Act) is changed . . . the city will go back to at-large [elections].” Venable also said the caller was pressing Holt to accept a ward system rather than deannexation.

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

When the court appointed magistrate presented his findings and his recommendations, the results were greeted with euphoria and shock. The city experienced the latter. On January 28, 1974, Margolis filed his opinion, concluding that “although an annexation may be benignly conceived, racial intent may later permeate the annexation plan so as to obviate the initial benign purpose.” And such was the case in the Richmond-Chesterfield annexation. The city was not so stunned by the finding of racial motive (though it obviously disagreed with Margolis) since already it had been charged with impermissible motive in the U.S. District Court in Richmond. What stunned Richmond
was the recommendation—deannexation! The magistrate had found the ward system that the city and the U.S. attorney had submitted an unsatisfactory remedy for the dilution of black votes brought about by the annexation. “Ward plans, no matter how equitably drawn,” Margolis said, “cannot serve to cure an impermissible racial purpose.” Thus, he reasoned, “... in view of the finding that de-annexation will not prove unduly burdensome or costly, de-annexation is the only method by which the instant impermissible racial purpose may be cured.”

As one might expect, the Times-Dispatch and the News Leader had a field day. The former editorialized that deannexation should be “no cause for joy.” It suggested that Margolis’s recommendation “illustrates the offensive restrictions that have been imposed upon self-government in Virginia and, indeed, in most of the South.” The News Leader editorial argued that the deannexation recommendation could “seal the fate of this city with indisputable finality” since the magistrate urges nothing less than rendering Richmond a vast ghetto whose residents—the poor and the black—would know only endless dark streets of trouble, calamity, and squalid isolation... deannexation would mean giving up $435 million worth of taxable property—or nearly one-fourth of the taxable property in Richmond. It would mean returning to Chesterfield 50,000 persons who are helping greatly to provide the services that Richmond’s existing poor and blacks demand. Take away those people, and you devastate Richmond’s revenue source.

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

The Crusade, too, objected to the Margolis report. It was still holding out
for a weighted ward plan. In response to Venable’s argument that a council- 
manic ward system would not address the citywide election of constitutional 
oficers, the Crusade conceded that black votes “would be diluted to some ex-
tent with the so-called ‘constitutional officers’ in the enlarged city.” It added, 
however, that “this is of little significance since blacks historically have not run 
for those posts, preferring to concentrate on the politically significant City 
Council . . . .” Furthermore, according to the Crusade:

. . . there is no reason to think that anyone would be advantaged by such 
a course [deannexation], with the possible exception of white citizens in 
the annexed area. Even if black voters stood a chance of gaining signifi-
cant political power from de-annexation, [it] would give them precious lit-
tle because of the difficulties facing the city within its old boundaries . . . 
If . . . black voters can obtain significant political power in an expanded 
city, they will be able to direct city government so as to benefit both blacks 
and whites to a significantly greater degree than has the entrenched power 
structure.

Both expansion and a political voice . . . are necessary. [Also the] Rich-
mond public schools would instantly be transformed from a black majority 
system to a virtually all-black system with staggering implications for the 
course of desegregation efforts in which Richmond blacks have been in-
volved for more than a decade. . . .

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

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

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

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

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

Calling the court’s ruling a “non-decision,” the *News Leader* asserted that
while a federal tribunal once again found “leaders of Richmond to have been, well, conspiring bigots” and while a federal court “once again” has declared “that Richmond violated the Voting Rights Act of 1965 by not clearing the annexation with the Justice Department prior to putting the annexation into effect,” the court “once again” has “done nothing” about these findings. Consequently, “the voters of Richmond—including the voters in the annexed area—will be denied their local franchise for, probably, at least another year.”

The writer reminded the readers that for “15 years the Richmond-Chesterfield annexation case has been in the courts. Fifteen years. Still there is no final disposition of the case. And what of Richmond’s voters? Oh, yes: the voters. For five years, in the name of protecting the voters, the federal courts have denied the voters’ right to—vote.”

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

And if the picture was not blurred enough by now, shortly after the court decision, Venable instituted a third suit in behalf of Curtis Holt, Sr. Also a class action suit, this new initiative (Holt III) before the U.S. District Court in Richmond was designed to dissolve the 1970 Richmond City Council to institute new elections in the old city, to remove city control from the annexed area, and to return the area to the county. The suit charged that the members of council were holding office illegally since the Washington court ruled that the 1970 councilmanic election was “illegally held” and constituted a violation of the 1965 Voting Rights Act. The new suit notwithstanding, it was doubtful that new elections would be forthcoming given the litigation still ahead on the city’s suit. Undoubtedly, however, the city’s political environment was deteriorating as a result of the injunction against local elections. Three of the council members elected in 1970, James Carpenter, William Daniel, and Howard Carwile, resigned. Daniel resigned due to compelling business reasons; Carpenter because of his decision to undertake missionary work in Ecuador; Carwile because of his desire to run for the Virginia House of Delegates. Though the courts had enjoined local elections, the city council was still authorized to fill any vacancies by appointing replacements. Two of the people appointed to council, Julius R. Johnson and Raymond Royall, had actually lost their bids for council seats in the 1970 election, with Johnson and Royall ranking 19th
and 21st respectively. Both had been endorsed by TOP. The third appointee was Willie J. Dell, a member of the Richmond Commission on Human Relations and supporter of the Crusade for Voters. The consequence of the resignations and appointments was that the council, once characterized by a six-three split between TOP and Crusade endorsees, was now characterized by a seven-two split. Clearly, the victim of the injunction against elections was, ironically, the black community.

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

Running parallel to the city’s moves to counter Holt II were its efforts to counter the decision of the Washington district court. Failing to acquire a stay of the court’s order, Richmond prepared an appeal of the order to the U.S. Supreme Court. And concurrent with the appeal was the city’s attempt to delay the hearings on Holt II (which had been scheduled for September 12th) until the U.S. Supreme Court acted, but that attempt also failed. As a consequence, while it looked to the Supreme Court to overturn the Washington court, it looked to the three judge district court in Richmond not to declare the annexation invalid. The city fared well once the Holt II hearings began. The court did not dismiss the suit or refrain from granting Holt’s request to declare the annexation null and void, but it did decide to continue the case until after the
resolution of the city’s suit. Now the city could concentrate strictly on its Supreme Court appeal.96

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

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

On June 24, 1975, the Supreme Court ruled. By a vote of five to three (Justice Powell did not participate) the court rendered a decision which enabled all parties to claim a victory of sorts. Writing for the majority, Justice Byron R. White held “that an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory violation as long as the postannexation electoral system fairly recognizes the minority’s political potential.”99 The court relied heavily on City of Petersburg v. United States in framing its opinion. In Petersburg, the Supreme Court affirmed the lower court’s ruling that the cure for that city’s annexation which had the effect of diluting black votes was the adoption of a ward plan. “We are also convinced that the annexation now before us, in the context of the ward system of election finally proposed by the city and then agreed to by the United States, does not have the effect prohibited by Section 5.”100 What is significant about the Supreme Court ruling is that while it was a split decision, all eight justices agreed that Richmond’s annexation was racially motivated. The majority found that “the annexation, as it
went forward in 1969, was infected by the impermissible purpose of denying the right to vote based on race through perpetuating white majority power to exclude Negroes from office through at-large elections. Justice William J. Brennan, representing Justices William O. Douglas and Thurgood Marshall in a minority opinion, was much blunter:

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

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

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

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

The city was relieved that the court had not ordered deannexation, although the court had not terminated the litigation and Richmond, to keep the land, would have to show that it was benefiting economically or administratively from annexation. Holt’s lawyer claimed a victory, calling the ruling “a great decision. It’s exactly what I wanted and asked for.” Actually Holt had asked for deannexation, but the court was not compliant. It did say, however,
that deannexation would “seem obvious if there are no verifiable economic or administrative benefits from the annexation. . . .” Given the court’s coupling of *Richmond v. U.S.*, and *Petersburg v. U.S.*, the Justice Department took heart since the Supreme Court sanctioned the use of single-member districts as an equitable remedy and specifically endorsed the ward plan proposed by the city and the attorney general. But, the court also ruled that a ward plan alone was insufficient. The Crusade was obviously disheartened by the court’s approval of the city’s ward plan, but inasmuch as the Crusade had indicated its approval of at-large elections in the old city, the organization was encouraged by the court’s favorable position on deannexation should Richmond be unable to prove economic or administrative gains from the annexed area. In short, if there were no clear-cut losers, there were also no clear-cut winners. *City of Richmond v. United States* had something for everyone and total victory for none. The one clear message from the Supreme Court, however, was that the original emphasis on the broad policy issues involved in the 1970 Richmond-Chesterfield annexation (issues pertaining to the Voting Rights Act and the U.S. Constitution) was to be replaced with an emphasis on such narrow subjects as cost-benefit analysis, administrative operations, and service delivery.

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

It was not until January 12, 1976, that the testimony finally began. Each side presented expert witnesses in the fields of economics, planning, and public administration, all of whom presented technical data that supported their party’s arguments and challenged the arguments of the other party. With each side calling into question the research methodology of the other, the debate quickly turned into disagreements over highly complex formulas for ascertaining costs and benefits associated with the annexation. Perhaps the debate was made more complicated by the fact that both parties were venturing into areas where research methodologies were not highly refined and where no standard
instruments existed for measuring annexation-related costs and benefits. However, as one scholar noted, in their effort to prove the benefits of annexation, Richmond officials probably learned more about the costs and revenues associated with running a municipality than most other city administrators. And, indeed, one of the contributions of the Richmond case was the development of various models for analyzing the administrative and financial impacts of annexation.107

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

After the long and tedious hearing, Margolis amassed the volumes of information and prepared a report which he submitted to the district court on May 24, 1976. He found that the city’s benefits from annexation exceeded its losses and, consequently, concluded “that there are now objectively verifiable, legitimate economic and administrative benefits or advantages from the annexation now accruing to the City of Richmond.”111 The ruling was the best
news the city had received relative to the annexation since the July 1, 1969 decision of the annexation court. It appeared that the end was in sight, although Richmond lawyers knew that Margolis’s only power was to report to the district court.

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

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

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

The city’s long sought affirmation of the annexation had arrived. It now appeared that what the Roanoke Times classified as “the worst siege by the federal government since General Grant was choking Petersburg back in early 1865” was finally coming to an end. It also appeared that Richmond would once again begin holding local elections, an appropriate event inasmuch as the nation was celebrating its bicentennial. Barring an unlikely reversal by the Supreme Court, the decision of the Washington court ended the city’s suit, thus clearing the way for the city to seek the removal of court injunctions against local elections. The Washington court’s decision was obviously disappointing to Holt, but he also knew that the chances of now acquiring deannexation were
next to impossible. He also knew that the lack of local elections was extending the TOP majority. Indeed, as noted earlier, the TOP controlled council had actually increased its strength by appointing replacements for legislators who had resigned. Accordingly, after conferring with members of the city’s black community and deciding that appeals and other legal action were only delaying the reinstatement of councilmanic elections, Holt decided not to appeal the decision to the Supreme Court. Given the ward plan approved by the high court, the black population could be assured of at least four predominantly black districts within the nine district plan and possibly a fifth, given its almost 40 percent black population. Consequently, with ward elections, blacks could capture four and perhaps five seats on city council. Even without deannexation, it was conceivable that blacks for the first time since Richmond’s founding could acquire a council majority and elect their own mayor.

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

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

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

**The Aftermath**

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

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

Discussions of race were kept to a minimum, surfacing only in District 8 (the swing district), District 4 (a predominately white district), and District
5, originally one of the four black districts but which now became a potential swing district in 1978 since the black incumbent was confronted by both a white and a black challenger.

The Eighth District was the pivotal district that could swing the councilmanic race either towards retention of the black majority or the creation of a white majority. The black incumbent, Claudette B. McDaniel, was opposed by G. Richard Wainwright, a white. The gravity of the need to install a white majority was expressed by a white in the district. “We’re up against it out here in the 8th District. If we don’t put a white in this time, we probably never will again.”119 One of Wainwright’s flyers may have added fuel to this sentiment when it stated: “The right City Council . . . begins with the right city councilman for the 8th District.”120 Many blacks translated “right” as a code word for “white.” In the Fourth District race between two whites, candidate Perley A. Covey accused Mayor Henry L. Marsh and council members Willie J. Dell and Walter T. Kenny of injecting race into the campaign for their saying, “elect five of us.”121 He first characterized the statement as “racist,” but later apologized, calling the term rather strong and instead voiced his preference for the term “racial overtones.”122 He himself uttered remarks on the importance of race in the election by noting that there was very little interest in the Fourth District contest “because both candidates are white.”123 The Fifth District contest was the only race that pitted the incumbent, H. W. “Chuck” Richardson, against a black challenger, William R. “Randy” Johnson, Jr., and a white challenger, F. Wilson Craigie, Jr. Johnson ran against Richardson in the special 1977 election and lost to him by twelve votes.124 He ran in 1978 because he thought that a twelve vote margin was not a mandate from the district. Throughout the campaign, Johnson felt compelled to deny the rumor that he had entered the race merely to split the black vote with Richardson and thus allow Craigie to win.125 This fear among some blacks in the district may have intensified after it became public knowledge that five hundred new voters had registered in the Fifth District with more than four hundred of these registered by the Craigie camp.126 Johnson accused the Crusade of starting the rumor of his alleged scheme to split the black vote. He also accused the Crusade of introducing race into the Fifth District and noted that the “struggle for power” was also a part of the split between him and the Crusade. He urged citizens to vote on the basis of a candidate’s philosophy rather than his race.127 Richardson refrained from mentioning race during the campaign; Craigie made only an indirect reference to race when he said that the district needed an
“independent” who was neither closely linked to the predominately white Teams nor to the predominately black Crusades. Throughout the campaign the Crusade maintained that it would recapture the Fifth District. The election results supported their optimism.

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

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

Dr. William S. Thornton, founder of the Crusade, hailed the election results as “the greatest victory” of the Crusade in its twenty-five-year history and noted that the results were “proof positive” that the Crusade had indeed become a force with which to reckon in city politics. He added that the victory meant that the city’s political leadership will be “more receptive to the needs of the city’s poor residents,” and will support more social issues and social programs including the public school system. Mayor Marsh saw the results as a mandate from Richmond voters to continue a “people-oriented council” for two more years. He declared that the majority on council “has tried to provide clear and fair-handed leadership,” and that he, along with others, will attempt to make Richmond such an exciting place that people will want to come back in.
The first confrontation between the five black majority and the four white minority council members centered around William J. Leidinger, the city manager appointed by the pre-1977 white majority council. On August 2, 1978, Mayor Marsh met with Leidinger and informed him that the five black council members were displeased with his performance and wanted him to resign so that they could choose a manager who they thought was more agreeable to the social programs and objectives of the council majority.134 Leidinger immediately sought counsel among leaders of the white financial community who requested a meeting with Mayor Marsh and the four black council members shortly thereafter. At this meeting, the dozen or so business leaders who, it was said, “must have been worth more than $50 million,” basically voiced their disapproval of the attempt to force Leidinger to resign.135 The businessmen also attacked the move as racist and implied that they, too, had some aces up their sleeve: they threatened to scuttle Project One, the proposed downtown renewal program involving an office, hotel, and convention center complex; they threatened to halt downtown construction and improvement programs; some vowed to move their firms out of the city.136

Table 6. The 1978 Councilmanic Election

<table>
<thead>
<tr>
<th>District</th>
<th>1st District</th>
<th>2nd District</th>
<th>3rd District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Kemp (W): 4,312</td>
<td>Rennie (W): 2,611</td>
<td>Dell (B): uncontested</td>
</tr>
<tr>
<td></td>
<td>Soulious (W): 914</td>
<td>Ambrose (W): 948</td>
<td>Troubetzkoy (W): 158</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>District</th>
<th>4th District</th>
<th>5th District</th>
<th>6th District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Thompson (W): 2,984</td>
<td>Richardson (B): 2,508</td>
<td>Kenney (B): uncontested</td>
</tr>
<tr>
<td></td>
<td>Covey (W): 1,041</td>
<td>Craigie (W): 1,027</td>
<td>Johnson (B): 533</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>District</th>
<th>7th District</th>
<th>8th District</th>
<th>9th District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Marsh (B): 2,011</td>
<td>McDaniel (B): 2,617</td>
<td>Golding (W): 1,148</td>
</tr>
<tr>
<td></td>
<td>Holt (B): 422</td>
<td>Wainwright (W): 1,710</td>
<td>Royall (W): 1,006</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Hall (W): 442</td>
</tr>
</tbody>
</table>

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

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

Black council members viewed the Leidinger conflict as more philosophical and policy-oriented than racial. Speaking of Leidinger, one black councilman said: “I want to tell him it’s not personal . . . I want to tell him it’s professional, that while we have to deal with it in personal terms, it’s not that. . . .” Leidinger was characterized by black council members as not having “his vision of the city in line with the majority,” “marching out of time with the desires and intent of the people,” “not being effective enough,” and of being “insensitive to the human needs of the community.” Richmond’s evening newspaper called the situation “tawdry business” and saw it as a sign of irresponsibility and instability; it also viewed the Leidinger case as a threat to Project One, the middle class, the city’s business future, and warned that the firing would affect the quality of the city administration.

Conflict on City Council: Insiders Become Outsiders

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

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

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

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

On August 19, 1981, Richmond’s four white city council members, along with a dozen civic group leaders and a dozen business people met in Washington with lawyers for the Justice Department to argue against adoption of the plan submitted by the council’s black majority.\(^{151}\) This meeting marked the first time that a group of white citizens had ever argued that a redistricting plan
discriminated against white citizens. The group contended that the present city council does not adequately or fairly represent the city’s white population, and that if the plan proposed by the majority is adopted, blacks would be able to maintain their edge in municipal elections for the next ten years, or at least until the next redistricting. William L. Leidinger, former city manager who was fired by the black majority on council in 1978, and who won a council seat in 1980, was the general spokesman for the group. In addition to the four white council members, others who accompanied the group to oppose the black-majority redistricting plan were Henry L. Valentine, II, a businessman and a former council member; Thomas P. Bryan, Jr., retired vice president of Miller and Rhoads, a local department store; J. Harwood Cochrane, Overnite Transportation Co., chairman; Virginius Dabney, retired *Times-Dispatch* editorial page editor; Howard B. Cone, Universal Leaf Tobacco senior vice president; Charles E. Moore, United Virginia Bank vice president; Bruce B. Nolte, First and Merchants National Bank general counsel; Stuart Shumate, Richmond, Fredericksburg and Potomac Railroad, president. In addition, many other civic and political organizations were represented at the Washington meeting. The Justice Department will review the two opposing redistricting plans and make a decision in October of 1981. This issue has divided the council along racial lines more than any other issue. The fact that the minority council members saw fit to take some of the major leaders of the Richmond business community with them to help press their case attests to the importance they placed on redistricting as a possible vehicle for recapturing city government from blacks.

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

Marsh blames most of the tensions on the Richmond newspapers. Also he insists that many whites still have not accepted the fact that five blacks are making policy decisions in the city. At one point, black and white council members were warring to such an extent that whenever harmonious meetings took place they made the headlines. One headline read “Council Works in
Harmony”; however, the story informed the readers that the council meeting was harmonious due to “the lack of major issues.”

The 1979 Annexation Package

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

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

The 1970 General Assembly also provided financial aid to localities—a necessary measure for those cities like Richmond which were surrounded by counties eligible for annexation immunity. The legislation provided assistance for local police departments. A major concession to the state’s large cities was the agreement to pay “75 percent of local cost for hospitalization and treatment of welfare receipts.” The legislation also provided money for the
maintenance and construction of city streets. Though this legislative package failed to solve all of the problems confronting large cities it did address the problems germane to city-county annexation disputes.

City-County Relations

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

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

**Annexation and Elitist Politics**

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

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

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