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Charles C. Green v. County School Board of New Kent County, U.S. Supreme Court decision

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NEW KENT SCHOOL AND THE GEORGE W. WATKINS SCHOOL: FROM FREEDOM OF CHOICE TO INTEGRATION

By Jody Allen, Brian Daugherty, and Sarah Trembanis

*The New Kent School and the George W. Watkins School, located in New Kent County, Virginia, are associated with what many say is the most significant public school desegregation case decided by the U.S. Supreme Court after *Brown v. Board of Education* in 1954. While *Brown* determined that separate schools were inherently unequal, it did not define the process by which schools would be desegregated. The 1968 *Charles C. Green, et al., v. County School Board of New Kent County, Virginia, et al.* decision defined the standards by which federal courts would judge whether a violation of the U.S. Constitution existed in school desegregation cases. Henceforth, a decade of Massive Resistance to school desegregation in the South from 1955–64 would be replaced by an era of massive integration from 1968–73, as the Supreme Court placed an affirmative duty on school boards to integrate schools.*

Background

In the mid-1950s life in New Kent County was divided by a “color line.” Blacks and whites were born in separate hospitals, raised and educated in separate schools, and buried in separate cemeteries. Such separation had been legalized by the U.S. Supreme Court’s *Plessy v. Ferguson* decision in 1896, but only if facilities for the two races were equal.

During the 1930s and 1940s, the Virginia State Conference of the National Association for the Advancement of Colored People (NAACP) filed numerous lawsuits to force Virginia to “equalize” public facilities, especially schools, used by blacks and whites. These suits were generally successful; however, the rulings applied specifically to the districts involved instead of addressing the overall problem. In the 1950s NAACP lawyers switched tactics and began attacking segregation outright; arguing that separation of the races was itself unconstitutional. In 1954 this new legal strategy led to the consolidation of five cases under one name, to be argued before the U.S. Supreme Court—*Oliver Brown et al. v. the Board of Education of Topeka*. One of the five cases came from Virginia: *Davis v. Prince Edward County, Virginia* (1952). The *Brown* decision by the U.S. Supreme Court held that segregation in public schools was unconstitutional because separate schools could never be truly equal.

Following this historic ruling, however, most southern states sought to delay school integration. Virginia, in particular, resisted in several ways. Virginia legislators chose to pass a “Resolution of Interposition” in early 1956. This resolution declared that the Supreme Court’s decision to integrate schools was incompatible with the state constitution and therefore inapplicable in Virginia. Virginia also led a “Massive Resistance” movement among southern political leaders, during which several Virginia localities chose to close their public schools rather than integrate them under federal court orders. After Prince Edward County chose to close its schools, white students attended private schools while many African-American students moved elsewhere to attend school or did not attend school at all. For years black parents fought through the courts to reopen the schools on an integrated basis. In *Griffin v. County School Board of Prince Edward County* (1964), the Supreme Court ordered the county to reopen its schools on an integrated basis and to desist from operating a whites-only private school system.



Handouts on
the internet.

In the small, rural, eastern Virginia county of New Kent, ten years after *Brown*, blacks and whites continued to attend separate schools: the all-black George W. Watkins and the all-white New Kent. Moreover, blacks in New Kent County attended school in a building controlled and funded by an all-white school board and all-white county politicians that was inferior in a variety of ways. The black school lacked a gymnasium and sports fields, and textbooks and school equipment were substandard.

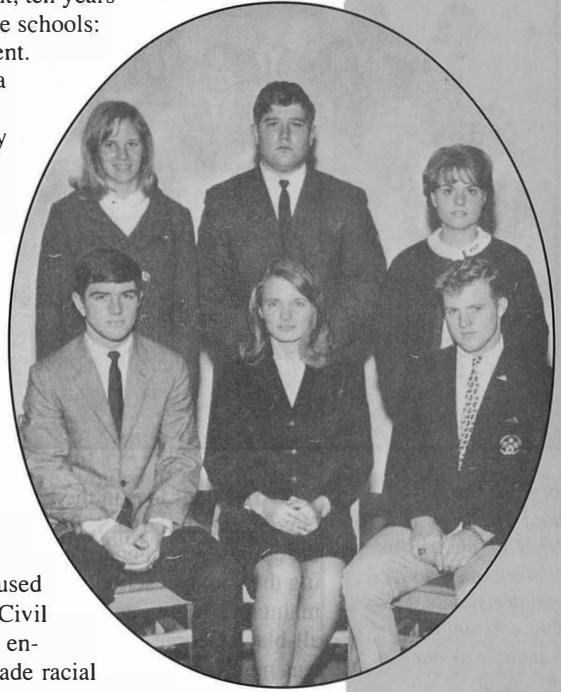
In 1956 Calvin Coolidge Green moved to New Kent County from nearby Middlesex County to join his wife, who had been teaching at the G. W. Watkins School since 1954. Almost immediately Dr. Green became active in the local branch of the NAACP, becoming president in 1960. Partly because of his three school-age sons, Green pressured the local school board to comply with the *Brown* decision in the early 1960s, to no avail. Then in 1964, at a meeting in Richmond, Green heard attorneys from the State Conference of the NAACP explain that the recently passed Civil Rights Act of 1964 threatened to cut off federal funding to localities which refused to develop a plan to integrate their schools. Passage of the Civil Rights Act of 1964 laid the groundwork for greater federal enforcement of school desegregation. Title VI of the act forbade racial discrimination in any program receiving federal funds. This was a powerful new weapon for the NAACP, and the association sought to use it in Virginia (and other southern states) to bring about the integration of public schools. First, NAACP lawyers needed determined and courageous individuals to sponsor lawsuits against their local school boards. Calvin Green, among others, volunteered.

Green started a petition drive that urged the New Kent School Board to integrate the schools as quickly as possible. Within a short time, Green obtained the signatures of 540 local black residents and submitted the petition to the school board, which refused to comply.

In response to the board's refusal, Green began meeting with attorneys from the state NAACP and in early 1965 helped develop a lawsuit to force the New Kent School Board to integrate the county's schools. *Charles C. Green v. County School Board of New Kent County, Virginia* was filed in the U.S. District Court for the Eastern District of Virginia in March 1965. The suit was filed in Calvin

Green's youngest son's name because he had the most years ahead of him as a student in the county and was most likely to still be in school if the case took a long time.

The lawsuit was organized and argued almost entirely by the lawyers of the state NAACP. Two of Virginia's preeminent civil rights attorneys, Samuel W. Tucker and Henry L. Marsh III, participated in the process. The U.S. District Court ruled against them in 1966, as did the Fourth Circuit Court of Appeals. Both courts ruled that a hastily developed desegregation plan, issued in August 1965 by the New Kent School Board, satisfied the requirement that it begin integrating the county's schools. Facing the lawsuit



Courtesy of New Kent County Public Schools

Student government officers, New Kent School Yearbook, 1967.



Courtesy of New Kent County Public Schools

Student government officers, New Kent High School Yearbook, 1970.



George W. Watkins School Yearbook, 1969. This photograph was taken after the Green decision and before combining the two schools as one high school.

After their loss in the Fourth Circuit Court of Appeals, the NAACP chose to take the Green case to the U.S. Supreme Court. In October 1967 NAACP attorneys argued that the county school board's "freedom-of-choice" plan illegally placed the burden of integrating the county's schools on blacks themselves. They also argued that the county sought to maintain a segregated school system by bussing some black students up to 20 miles to the all-black George W. Watkins School, though the predominantly white New Kent School was much closer to their homes.

On May 27, 1968, more than 14 years after the original *Brown* decision, the Supreme Court issued its ruling in *Charles C. Green v. County School Board of New Kent County, Virginia*. The Court found that the county had been operating a dual system of schools as ruled unconstitutional in *Brown*, down to "every facet of school operations—faculty, staff, transportation, extracurricular activities, and facilities." The justices noted that the 1954–55 desegregation decisions put an "affirmative duty" on school boards to abolish dual schools and to establish "unitary" systems. It disapproved the county's "freedom-of-choice" plan. Justice William J. Brennan, writing for the court, explained, "The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now." The court ordered the local school board to develop a new plan to "convert promptly to a system without a 'white' school and a 'Negro' school, but just schools."

It also ordered that the U.S. District Court maintain oversight of the case to ensure that integration would occur in the near future. Shortly thereafter, the New Kent School Board converted the George W. Watkins School into New Kent Elementary School and shifted all the county's high school students to the formerly all-white New Kent School, making it New Kent High School.

Supreme Court Justice William H. Rehnquist later referred to the *Green* case (in 1972) as a "drastic extension of *Brown*." The case, though based in New Kent County, affected school systems throughout the nation. It was in *Green v. County School Board*



Senior class, New Kent High School Yearbook, 1970.

filed by Green and the possible loss of federal funds, the school board had fashioned a new strategy to address segregation. This plan, known as a "freedom-of-choice" plan, required that black students and their parents petition for admittance to the white schools in order to attend. Such a process invited the possibility of economic and physical reprisals from whites who opposed desegregation. As a result, the "freedom-of-choice" plan did not significantly alter the racial composition of the county's two public schools.

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Putting It All Together

The experiences of the New Kent County schools are emblematic of many other schools during the 1950s and 1960s. The following activities can help students understand some of the personal stories of those individuals who experienced segregation and desegregation in the U.S. and the history of their own local schools and communities in relation to the movement to end segregation.

Activity 1: Oral Interviews—Preserving a Piece of History

Unlike earlier time periods in history, we are fortunate enough to have many people alive and well with vivid memories of the 1950s and 1960s. Have students conduct oral interviews of community or family members who remember the desegregation struggles of the 1950s and 1960s. A website like the University of North Carolina at Chapel Hill’s Southern Oral History Program (www.sohp.org) can guide the students through the process. Decide as a class what questions you would like to have answered. If needed, have students refer to the readings as well as any relevant textbook materials for guidance. Have students document their accounts and offer them to the local library or historical society to preserve the history for future generations.

Activity 2: History of My School

Segregation was a national issue; however, local, regional, and state factors greatly influenced communities’ experiences with desegregation. Have students use newspapers, yearbooks, and other primary materials to construct a history of their school or a school in their community from 1954–70 (essentially from the *Brown* decision through implementation of the *Green* decision). Students could then write a paper comparing the situation in their community and school with the situation in New Kent County, Virginia. Was the school segregated or integrated during this time period? How was the situation similar or dissimilar to that in New Kent County? What local, regional, or state factors might contribute to these similarities or differences? What, if any, physical differences existed between local schools and the New Kent schools, and what, if any, significance do those differences have in the history of segregation and desegregation?

that the U.S. Supreme Court announced the duty of school boards to affirmatively eliminate all vestiges of state-imposed segregation, extending *Brown*’s prohibition of segregation into a requirement of integration. Within only a few years the nation witnessed the culmination of a key phase of the early Civil Rights Movement—the integration of the nation’s public schools.

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For More Information

Visit www.civilrightsteaching.org to read an interview with Dr. Green and some of the other participants in *Green v. County School Board*. For more lessons on historic places, visit the National Park Service website, www.cr.nps.gov/nr/twhp/index.htm.

This reading, teaching ideas, and the additional interviews on the website are based on the National Historic Landmark Nomination, “New Kent School and George W. Watkins School,” as well as oral interviews, newspaper accounts, and other primary sources. “New Kent School and the George W. Watkins School: From Freedom of Choice to Integration” was written by **Jody Allen, Brian Daugherty,** and **Sarah Trembanis**, Ph.D. candidates in U.S. History at the College of William and Mary in Williamsburg, Virginia, with assistance from Frances Davis, Na’ Dana Smith, and Megan Walsh, class of 2002 at New Kent High School in New Kent County, Virginia. The teaching ideas were edited by the Teaching with Historic Places staff, and are part of a series that brings the important stories of historic places into classrooms across the country.