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Virginia's Pupil Placement Board and the Massive Resistance Movement, 1956-1966

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Virginia's Pupil Placement Board and the Massive Resistance Movement, 1956-1966

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts at Virginia Commonwealth University

By

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Vita

Sara Kathryn Eskridge was born on November 1, 1980 in Kilmarnock, Virginia. She graduated from Northumberland High School, Heathsville, Virginia in 1998 and subsequently received her Bachelor of Arts degree in History, as well as a Bachelor of Science degree in Psychology, from Mary Washington College in 2003. She is currently a graduate teaching assistant at Virginia Commonwealth University.

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Abstract

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Virginia's Pupil Placement Board was the most enduring vestige of the state's "massive resistance" movement in the 1950s. Following the example of other Southern states, the state's General Assembly passed the Pupil Placement Act in 1956 as part of a package of legislation designed to counteract the Supreme Court desegregation ruling. The Act, and the Pupil Placement Board that enforced it, lasted a decade, much longer than any of the other legislative initiatives born during that session, longer than the massive resistance movement itself.

Whites, including many of Virginia's leaders, considered the Board to be ineffective at stemming the onslaught of integration, while African-Americans felt that the agency breeched their constitutional rights. From its inception to its dissolution in 1966, the Pupil Placement Board had to defend itself in a slew of desegregation cases all over Virginia, and the General Assembly changed the law several times to comply with court orders. Despite this adversity, the Board was consistently effective in stemming desegregation in Virginia throughout its tenure.

Introduction

With very few exceptions, the historical community has virtually ignored or dismissed the story of the Virginia Pupil Placement Board. Conceived as a part of the larger massive resistance campaign, the pupil placement laws do not receive much attention except in that context. However, the story is much more complex than the current historiography would have us believe. Although a number of historians have briefly mentioned the Pupil Placement Board in their works, Robert A. Pratt's *The Color of Their Skin: Education and Race in Richmond, VA, 1954-89* is the only book to acknowledge that the Pupil Placement Board has its own story, simultaneously intertwined with and independent from the massive resistance movement.

This is not necessarily the fault of historians, as the records of the Pupil Placement Board have been exceedingly difficult to access. As of now, I am the only researcher with access to those documents, and this feat took four months of wrangling to achieve. With the records under such tight restrictions, historians have had much difficulty assessing the role of the Pupil Placement Board in the massive resistance movement, in local school systems, and in the minds of Virginia citizens. Having the records available has given me a wealth of information to draw from, since they contain the Board meeting minutes, transcripts from hearings between the Board and pupils, and correspondence between the Board and local school boards regarding placement and recommendations. Containing close to one million documents, these records are truly a treasure trove, and have been an excellent supplement to the secondary sources and other more readily available archival materials.

Unfortunately, this access comes at a price. Though the Library of Virginia granted me full access to the papers of the Pupil Placement Board, the institution placed a number of other restrictions on how I could and could not utilize the material. In discussing these limitations, I hope also to provide a clearer insight into my research methods. One of the major stipulations was that I could not contact any of the people mentioned in the records. This meant that I could not verify any information with the people who either worked for the Pupil Placement Board or had dealings with the agency. The pupils placed by the Board were also off-limits for interviews and verification. I had to depend on the agency records to give an accurate description of the events described. Since the Pupil Placement Board had a very specific purpose that often conflicted with the goals of those it served, there is doubt as to the accuracy of its version of events. Whenever possible, I verified the information I found in the records with other sources, including the records of local school boards, newspapers, court cases, and the papers of vital officials.

The Library also insisted that I not use any names or any identifying information that appeared in the restricted records, either within the body of the text or in the footnotes. The records often list the pupils under case letters, and I recorded them under those letters in this paper. However, there were often instances where the Board recorded information with the child's name as a heading. In these cases, the name will not appear in the footnote. There *are* instances where I will use the name of a student or parent. In these cases, I am using the names because they were a matter of public record, either in unrestricted archival sources or in secondary literature. My research agreement did not

extend to these areas, so it is appropriate to use names under these circumstances. However, when I am referring to the grades, test scores, and intelligence quotients of specific students, I did not use names in order to protect the privacy of the pupils. Instead, I normally refer to them by numbers or letters (i.e. "Case A").

Any other names that appear in this text fall into a different category. While it was necessary to remove the names of parents and their children from the text, I could use names of school board officials, lawyers, and superintendents who corresponded with the Pupil Placement Board. The Library of Virginia designed the research agreement to protect the families who dealt with the Board, not those who advocated and defended the agency and its causes. Although these documents do not always paint these men in the most positive light, I have certainly not tried to portray any one person as more guilty of injustice than another. In this situation, these men acted as a unit as opposed to being disconnected individuals with separate agendas, and I think the text will bear this out.

Lastly, the restrictions on these records mean that anyone wishing to verify the information I have recorded here will have to obtain a research agreement to do so. Although the Library of Virginia has adjusted its policy in reference to these records, they remain difficult to access. For those who cannot spare the time and effort necessary to see the records first-hand, I can only state that I have done my best to record the information as accurately and faithfully as possible.

As the first person to tell the full story of the Pupil Placement Board, I want this thesis to be a valuable contribution to the existing body of research. Historians have thus far focused on either the machinations of massive resistance at the state level or else

examined resistance to desegregation on a local level. The Pupil Placement Board is one of few ways in which the localities and the state worked together to resist desegregation, thus connecting the two forms of research previously conducted. In addition, the Board also provides a connection between the racial policies of the 1950s with those of the present, and this connection has never been explored in a historical context. My hope is that it will enable historians to move beyond examining massive resistance in Virginia as a whole and begin to examine its components instead.

Chapter I

The Origins of Massive Resistance and Pupil Placement

Before the Supreme Court handed down the *Brown v. Board of Education* decision in May 1954, there were several indicators that Virginia would lead the Southern states in desegregating public schools and public life. In many ways, the state behaved more like a northern state than a southern one, and it had already taken several token steps toward integrating and equalizing the position of African-Americans within its society. Race relations in Virginia were better than those in most other Southern states, and a few blacks even held positions on local governing bodies, including school boards and city councils. Unlike most Southern states, any black persons who paid the poll tax could vote. By 1954, there were even black students attending previously all-white public colleges and universities, most notably the University of Virginia, the Medical College of Virginia, and Richmond Professional Institute. While the public grade schools remained completely segregated, Virginia's black teachers were on the same pay scale as the white teachers, and the amount of funding and property granted to black students was relative to their percentage of the school population.[1] Since Virginia's race relations within the educational system were far more advanced than those in the rest of the South, certainly desegregation of the public school system could not be far behind.

When the court announced the *Brown* decision on May 17, 1954, Virginia's reaction was more composed than that of many other Southern states. While the black

[1] Benjamin Muse, *Virginia's Massive Resistance* (Bloomington: Indiana University Press, 1961), 3.

community rejoiced and declared the decision "comparable to the Declaration of Independence,"[1] Governor Thomas B. Stanley called for "cool heads, calm study, and sound judgment,"[2] and there were no immediate acts of rage or protest by angry white citizens. Several political leaders publicly predicted the demise of public education[3], and many major newspapers protested the decision and called for resistance to the court's ruling, but no unruliness or discord emerged because of these statements. For the first few weeks after the decision, it seemed as though most of Virginia had resigned itself to an integrated future.

It soon became apparent that Virginia had not been calmly resigned, but in a state of paralyzed shock. The state was in no way prepared to deal with a ruling that so greatly influenced its long-standing traditions, and so reacted to the *Brown* decision more out of disbelief than acceptance. As soon as the shock wore off, there were collective calls for resistance across the state. The most adamant resistance came from the Southside, otherwise known as the Black Belt. Located in the areas below and surrounding Richmond, the Black Belt consisted of 32 counties that, while comprising only 15% of Virginia's total citizenry, contained more than 40% of the state's black population. Desegregation would have the biggest impact on this part of Virginia, and the white population of this area was in an uproar at the thought of having mixed schools.

The Southside ultimately became the force behind Virginia's massive resistance to school desegregation. This was a strange location for a political juggernaut, as it was

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[1] *Richmond Afro-American*, May 22, 1954.
[2] *Richmond Times-Dispatch*, May 18, 1954.
[3] Muse, 3. Those Virginia politicians who publicly spoke out against the Brown verdict included Senator Harry Byrd, Congressman Bill Tuck, Attorney General and future governor J. Lindsay Almond.

the most sparsely populated and rural area in the state. Its power came entirely from its overwhelming support of Harry Flood Byrd and his political organization. Byrd, who came to power as governor in 1925, had been an institution in Virginia politics since that time. By the late 1950s, he was such a strong influence in Virginia politics that no politician, no matter how respected, had a chance of obtaining any major public office without his approval. As Byrd's constituency, the Southside and its representatives enjoyed a power that it could have never attained on its own merits. Once Southside politicians gained office, they enjoyed a tenure averaging 12 years, much higher than the state average of 8.2 years.[4] It had once been the kingpin of Virginia's agricultural economy in the 19th and early 20th centuries, but with its soil now depleted and it population stagnant and in decline, the Southside had to rely on its political connections to remain prominent.

It is not surprising that Byrd was able to arouse such intense support for massive resistance, a term he himself had coined.[5] What is shocking is the fervency with which the senator attacked the idea of desegregation. While he often used race baiting in his political campaigns, he had never personally championed or approved any legislation designed to denigrate black Virginians. During his term as governor, he even proposed a strong anti-lynching law that all but eliminated the practice in Virginia. His home was in the Shenandoah Valley, which had a very low black population, and white supremacy

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[4] Patrick E. McCawley, "Be It Enacted," in Don Shoemaker (ed.) *With All Deliberate Speed: Segregation-Desegregation in Southern Schools* (New York, 1957), 134-136.

[5] The term was first coined by Harry F. Byrd in a February 24, 1956 speech advocating interposition. I will discuss the event in more detail further in the paper. Excerpts of the speech can be found in the February 25, 1956 editions of the *Richmond Times-Dispatch* and the *Richmond News Leader*.

had never been the basis of his political philosophy.[6] However, Byrd had consistently championed states' rights and a static society since the 1920s, and he may have considered the Supreme Court's *Brown* decision to be a direct infringement on a sacred state tradition.

It now also seems apparent that massive resistance provided salvation for the Byrd organization, which was on the verge of floundering at the time of the *Brown v. Board* decision. Traditionally committed to government led by the aristocracy of Virginia gentlemen that provided a bare minimum of public services, the Byrd organization was threatened by a progressive Republican gubernatorial candidate in the 1953 campaign and only barely scraped through with a victory for Democrat Thomas Stanley. By 1954 it had also lost control of the General Assembly on a major issue for the first time in years. The vengeance with which Byrd and his cronies fought desegregation is easily explained when taking into account that it was massive resistance alone that extended their political influence for almost another decade.[7]

On June 20, 1954, twenty Byrd-supported Southside politicians gathered in Petersburg to discuss the ramifications of the *Brown* decision. Led by Garland Gray, a state senator representing a number of Southside counties, the group made a united resolution expressing their doubts over the constitutionality of the ruling. The group was uniformly segregationist, but the men decided that the state should wait for the Supreme Court's implementation decree before making any rash decisions. They, along with much of white Virginia, believed that such a decree could take years to develop, and even

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[6] Muse, 26.

[7] James Latimer, "Virginia: A Sense of the Past." *States in Crisis*, James Reichley, ed., (Chapel Hill: University of North Carolina Press, 1964), 15-16.

longer to implement, and so they believed there was plenty of time to develop a strategy against desegregation.

Their statements put Governor Stanley in a tough position, given his previous public calls for rational and deliberate compliance with *Brown*. Although Stanley strongly supported the cause of segregation, he did not want to engage in a constitutional battle with the federal court system. However, as a career politician of nearly 25 years, he also understood that having the support of the Byrd organization was crucial for his continued political success in Virginia. Perhaps understanding the futility of crossing Byrd and his legion of loyal followers, Stanley quickly and publicly changed his stand toward school integration. On June 25, he stated that the General Assembly should consider repealing Section 129 of the state's constitution: the section that guaranteed a free public school system.[8] He then appointed a thirty-two person Commission on Public Education to investigate how Virginia should best respond to the Brown decision. Stanley chose nineteen General Assembly delegates and thirteen state senators to serve on the commission. By only appointing legislators to the commission, Stanley ensured that black citizens had no chance to participate the decision-making process. In addition to being all white, the commission members were all male, all Democrat and, not surprisingly, all fervently segregationist. Although each district was given only two representatives, the representatives from Southside were given the most influence, ostensibly because that area would feel the strongest impact of whatever the commission

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[8] Robbins L. Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation, 1954-1956* (Chapel Hill: University of North Carolina Press, 1964), 31.

decided as the best course of action.[9] Because he presided over the original meeting in Petersburg, Southside's own Garland Gray served as chairperson of the group. The public quickly came to know them as the Gray Commission.

The make-up of the Gray Commission caused an immediate uproar with many factions of anti-Byrd Virginians. The NAACP, Republican Senator Ted Dalton, and several newspapers criticized the governor for excluding black members from the commission. The *Norfolk Virginian-Pilot,* consistently one of the most liberal and progressive newspapers in the state, criticized the group for being all male. Others had concerns about the individuals chosen to serve on the commission. The Republicans, although they were a small fraction of the Virginia electorate, believed they should have had at least one representative in the group. They felt that, as some of the few pro-integration voices in Virginia politics, Ted Dalton and Armistead Boothe, a democratic state senator from Alexandria, should have a place on the commission.[10] However, even if Boothe and Dalton had been on the commission, there is no indication that their voices would have yielded any influence over the group. As anti-Byrd democrats, they had multiple disadvantages. Not only did they lack the power of a strong political machine, the minorities that would have backed them at the polls had few rights as voters. As the matter stood, not only did neither man receive a place on the commission, each ultimately went on to concede further political defeats to Byrd and his selected candidates.[11]

There were only these few protests to temper the enthusiasm of the Gray

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[9] *Richmond Times-Dispatch*, August 29, 1954.
[10] Gates, 35.
[11] Ted Dalton ran unsuccessfully against Byrd machine politicians in the gubernatorial race in both 1953 and 1957. Armistead Boothe lost to Harry Byrd himself in the Democratic primary for the U.S. Senate in 1966.

Commission and Byrd politicians. Unfortunately, they were not fully representative of the feelings of most Virginians. It is widely speculated that, despite the ardent right leanings of the Byrd politicians, a sizeable number of Virginians were actually willing to accept minimal desegregation. According to a 1956 poll by the American Institute of Public Opinion, as many as 20% of white Virginians were favorably disposed toward some level of integration. The same poll also found that although the majority of Virginians would prefer to maintain segregation, very few were willing to give up the benefits of public education to achieve that goal.[12]

Very few of those people gave public voice to their opinions. In this racially charged socio-political environment, white citizens with even the most moderate views kept quiet for fear of being labeled "nigger lovers" or possibly even denounced by the white community. Democrats excused Republican leaders for taking conciliatory tones toward the Supreme Court decision, given their marginal place in Virginia's political landscape. Very few Democrats advocated desegregation, but any who did had to remain silent and toe the party line for fear of denunciation by the Byrd organization.[13] Because of this fear, no major political figure in Virginia ever publicly advocated anything but a total state-wide condemnation of the Brown decision during the massive resistance years.

Though the courage of moderate politicians failed, a number of ordinary citizens found they could voice their opinions through letters to Governor Stanley. Though not a public venue, the letters allowed citizens from all over the country to vent their

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[12] Numan V. Bartley, *The Rise of Massive Resistance; Race and Politics in the South during the 1950s* (Baton Rouge: Louisiana State University Press, 1969), 14.)

[13] Robert Pratt, *The Color of Their Skin: Education and Race in Richmond, VA, 1954-89* (Charlottesville, VA: University of Virginia Press, 1992), 4.

frustrations about the "school problem" and offer their views and suggestions to the governor. Most of these letters were supportive of the Gray Commission, and thanked Stanley for trying to prevent the "greatest crime ever imposed upon a nation."[14] However, there were a number of people, from both Virginia and other parts of the country, who voiced strong opposition to the Gray Commission and its goals. This minority had a multitude of reasons for disagreeing with segregation. Some felt that because black citizens had fought beside white men in the two World Wars, it was only right that the state take a "Christian attitude" toward desegregation. Others thought that desegregation would demonstrate democratic American ideals, and some simply felt that the Commission was in the wrong trying to circumvent the law.[15] Regardless of their rationales, these letters represented a largely unheard and unrepresented voice in Virginia politics.

With these voices of dissent safely under wraps and a seemingly unanimous outward display of support from the public, the commission proceeded with its research on how best to react to the court's decision. They researched the issue for fourteen months, during which time the Supreme Court issued its implementation ruling for the *Brown* decision, known as *Brown II*. Before the decision, Southern states submitted input for how they thought the court should implement the original decision. The NAACP had submitted a request that the implementation be under specific guidelines, but most of the

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[14] Mrs. Margaret Keeley to Governor Thomas Stanley, October 1955. Virginia. Governor (1954-1958: Stanley) Accession #25184, Box 20, Library of Virginia, Richmond, VA.

[15] These ideas are taken from letters by Miss Jennie Clarkson, Mrs. Lyndall McCloud, and Mr. and Mrs. Harry and Virginia Howard to Governor Thomas Stanley in October 1955. To read these specific letters, or other letters from citizens to the governor both in favor of and in opposition to desegregation, see the Thomas B. Stanley Executive Papers, Accession #25184, Boxes 20 and 21, Library of Virginia, Richmond, VA.

Southern states had asked that guidelines be vague and variable. As it turned out, Southern politicians could not have asked for a ruling more favorable to their agenda. The court determined that the district courts would be responsible for integrating the schools. They did not set any deadlines or provide any guidelines for how the courts should proceed. Citing "varied local school problems," the court's only order was that the district courts should enforce full compliance, implementing the change with "all deliberate speed."[16] Southern politicians understood that with this lenient ruling, they now had plenty of time with which to find the weaknesses in the ruling and exploit them. Civil rights activists also understood that the *Brown II* decision struck a blow against the original *Brown* precedent. Martin Luther King, Jr. considered the ruling to be a "keystone in the structure that slowed school desegregation to a crawl."[17]

Interposition gave the segregationists their first great hope that they could overcome the *Brown* decision. A political idea stemming from the 18th century and last used before the Civil War, interposition was a theory that a state could "interpose" itself between its citizens and any law it considered unconstitutional. A Southside attorney named William Olds came across the theory and quickly shared it with editorial editor of the *Richmond News-Leader*, James J. Kilpatrick. Kilpatrick quickly made interposition a term on the lips of every Virginian. Countless articles and editorials advocating interposition immediately filled the pages of the *News-Leader*. Kilpatrick also consistently printed portraits and old speeches of John C. Calhoun and Thomas Jefferson,

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[16] Brown v. Board of Education (1955), in *Race Relations Law Reporter* (February 1956), 11-12.
[17] Martin Luther King, Jr., *Where Do We Go From Here: Chaos or Community?* (New York: Harper and Row, 1967), 11.

both proponents of interposition.[18] Even though its opponents felt that the federal government had dismissed interposition with the end of the Civil War, its supporters used it as a means to defy the *Brown* ruling. The General Assembly even went as far as to pass a Resolution of Interposition, though it was in no way an enforceable piece of legislation.

Interposition did not catch on in the rest of the South and by September of 1955, many of the Southern border states, including Arkansas, Texas, Washington D.C., and Kentucky began to integrate their public schools to some degree. However, Virginia was becoming increasingly distant from her fellow border states and developing similarities with the Deep South states. The state had become increasingly more radical in its commitment to interposition and segregation. While a number of private and religious schools integrated and even some white colleges admitted black students, the public grade schools remained defiantly segregated. Several Virginia counties began dispensing the funds for their public schools on a month-to-month basis, in case the courts ordered them to integrate and the schools had to close immediately. In one case, a citizen wrote to Governor Stanley inquiring about purchasing public school land in his county for private use, indicating that the town wanted to have accommodations ready if and when the public schools closed.[19]

In another move mirroring the Deep South states, Virginia developed its own

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[18] Joseph J. Thorndike, ""The Sometimes Sordid Level of Race and Segregation": James J. Kilpatrick and the Virginia Campaign Against Brown," *The Moderates' Dilemma: Massive Resistance to School Desegregation in Virginia*, ed. Matthew D. Lassiter and Andrew B. Lewis (Charlottesville: University Press of Virginia, 1998), 57.

[19] Joseph Williams to Thomas Stanley, November 12, 1956, Virginia. Governor (1954-1958: Stanley), Executive Papers, 1954-1958. Accession 25184, Box 64, State government records collection, Library of Virginia, Richmond, VA.

version of the Citizens' Council. Citizens' Councils had popped up in Mississippi immediately following the first *Brown* decision, designed to intimidate and bully any person, black or white, who defended the cause of desegregation and civil rights. Like their Deep South counterparts, the Defenders of State Rights and Individual Liberties developed in the interim period between the two Brown decisions, on October 26, 1954 in Farmville, Virginia. Created by local newspaper editor J. Barrye Wall and Robert B. Crawford, the Defenders also resembled other Southern Citizens' Councils in their vehement opposition to desegregation. Despite these similarities, the Defenders eschewed some of the more violent and garish tactics used by their counterparts in Mississippi and Alabama. Instead, the Defenders relied on strong rhetoric and aggressive recruiting to spread their message of white supremacy. They frequently held large rallies for their cause, and members of the Gray Commission were not shy in their support of the group, and often spoke on their behalf. Governor Stanley himself appeared as a guest at a meeting of the Charlottesville chapter of the Defenders in October 1957.[20] He also maintained correspondence with founder J. Barrye Wall, who in turn published a number of pro-Stanley editorials in his newspaper, the *Farmville Herald*.[21]

It was in this spirit that the Gray Commission released its recommendations to Governor Stanley on November 11, 1955. The Gray Plan, as it became known, included the first proposal for pupil placement laws. The Commission had based its recommendations on the Texas case *Sweatt v. Painter*, a decision pre-dating *Brown v.*

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[20] Mrs. Morris Brown to Governor Thomas Stanley, September 22, 1957. Virginia. Governor (1954-1958: Stanley), Executive Papers, 1954-1958. Accession 25184, Box 110, State government records collection, Library of Virginia, Richmond, VA.

[21] Virginia. Governor (1954-1958: Stanley), Executive Papers, 1954-1958. Accession 25184, Box 109, Folder 2- "J. Barrye Wall", State government records collection, Library of Virginia, Richmond, VA.

Board by four years. At first glance, it seems unusual that the segregationist Gray Commission would utilize a decision that stated separate schools are inherently unequal. However, what caught the Commission's attention was the way that Southern states had manipulated the decision and its meaning. South Carolina, in particular, took liberties with the ruling. The state decided that if it could somehow keep school *voluntarily* segregated, then they would not in violation of federal law. Utilizing this interpretation of the *Sweatt v. Painter* decision, the Gray Commission determined that segregation was only illegal if it were forced, not if it were by choice.

The plan, consisting of three parts, allowed for both segregation and integration, and allowed options on multiple levels for all parents. The first part of the plan allowed state-sponsored tuition grants for any white child who elected to attend a private segregated school instead of a public integrated one. The second part of the plan called for a pupil placement law, which is the antecedent to what would become the Pupil Placement Act. The Gray Commission probably looked to Louisiana for their inspiration for this proposal, as that state had successfully passed such a law in 1954.[22] In addition, North Carolina, Florida, Alabama, and Mississippi were all in the stages of creating their own pupil placement laws.[23] Under this type of law, students would attend their original (segregated) schools. Then every new and transferring student would apply to the school board for admission to the school of their choice. The board would then place the pupil accordingly. There would be three categories of schools: white, Negro, and integrated. Under this plan, white parents could keep their children in segregated schools or allow

[22] Act 556, Louisiana Legislative Acts, 1954 Session, in *Facts on Film*, Roll 3.
[23] Bartley, 77.

integration. This portion of the plan was to help control the use of tuition grants. The members of the Gray Commission felt that with the pupil placement law in place, white students would utilize tuition grants only if a segregated white public school were not available to them. The third part of the plan provided a "local option," which meant that counties, cities, and towns could opt out from the jurisdiction of the pupil placement law and integrate at their own pace. Local option had become a popular solution to the desegregation problem, particularly in the upper-South, and it appeared to be the closest that white Virginians could come to compromise.[24]

While these proposals seemed suitable for Virginia's needs, there was a major obstacle in getting them through the General Assembly and into law. Only days before the Gray Commission had submitted its findings, the Supreme Court of Appeals of Virginia determined that the state constitution, specifically a passage entitled Section 141, barred appropriation of public funds to support private schools, including tuition and fees. This meant that unless the voting public permitted a change in the state constitution, the Gray Plan, which centered on tuition grants, was worthless. Governor Stanley put the proposals from the Gray Commission before the General Assembly in a special session during the fall of 1955. During this session, Stanley worked hard to ensure that the assembled legislators would vote for a public referendum, going as far as to declare "the future of the whole educational system is in dire jeopardy."[25] The Assembly decided that Virginians would hold a special vote in order to decide if they

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[24] Ibid.

[25] Address to Speaker, President, and Members of Joint Assembly, November 30, 1955. Virginia. Governor (1954-1958: Stanley), Executive Papers, 1954-1958. Accession 25184, Box 64, State government records collection, Library of Virginia, Richmond, VA.

were willing to change the constitution in order to allow the General Assembly to make the Gray Plan into law. However, as the referendum neared, the Byrd organization became more concerned over the tuition grants, and believed that Virginians would vote for the plan even without the local option. They began promoting the plan without the local option, though they did not indicate that they planned to remove that portion of the proposal. When Virginians voted on having a limited constitutional convention to approve the Gray Plan in January 1956, they approved the plan with a landslide of 304,154 to 146,164.[26]

Even though voters had made their decision based on a plan including the local option, Byrd and the other members of the General Assembly and the Gray Commission believed this vote demonstrated Virginia's commitment to interposition. When the General Assembly met for its regular session in January 1956, legislators were brainstorming ways of legally maintaining segregation in the public schools without violating federal law. However, none of these plans actually involved desegregation. Even Republicans Ted Dalton and Armistead Boothe, who had spoken out against the Gray Commission, introduced a bill that would have kept schools segregated "to the fullest possible extent within the framework of the law," demonstrating that even the so-called "liberals" in Virginia politics were only willing to tolerate token desegregation.[27]

One of the major proposals taking shape at the General Assembly was for a pupil placement law. Although this bill did not closely resemble what would become the Pupil

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[26] Gates, 85.

[27]Virginia. Governor (1954-1958: Stanley), Executive Papers, 1954-1958. Accession 25184, Box 64, State government records collection, Library of Virginia, Richmond, VA.

Placement Act only a few months later, it did contain many of the elements for which the Pupil Placement Board would become infamous in the following years. The primary elements of the law included a system of administrative appeals and allowed the state to pay the legal expenses of any local school board handling a desegregation lawsuit. The bill also included placement criteria, which are similar to the ones used later by the Pupil Placement Board. In the careful wording of these criteria, we can see the beginnings of attempts by white Virginia leaders to disallow desegregation by means of carefully constructed and obtuse legal jargon. Governor Stanley and most of the legislators made clear before the Assembly that the laws would preclude desegregation, yet this proposal made no mention of race. Instead, the proposal declared that the school boards would place pupils by determining the amount of space in classrooms, the safety of the child, and whether the child being in that school would cause a problem. Using these excuses, school boards could prohibit black children from attending white schools because the child would not be safe and that it would cause upheaval within the school.

This type of obfuscation was a hallmark of the massive resistance laws that were beginning to take shape during this session of the General Assembly. In fact, Harry Byrd even coined the term "massive resistance" during this time period, thus giving a name to the solidifying of segregationist values in defiance of federal law. In a speech made on February 24, 1956, Byrd stated that he would use all legal means to ensure that segregated continued in Virginia. In addition, he urged other states to join the cause of massive resistance and pass laws that echoed Virginia's commitment to tuition grants and

interposition.[28] The acceptance of interposition meant that local option was no longer tolerable, so the Byrd organization devised a plan that eliminated any prospects of integration while simultaneously incorporating other aspects of the Gray Plan. As the Byrd organization moved increasingly toward fanatically segregationist policies, toleration of integration became less acceptable, even in the parts of the state with a negligible black population. Citizens began writing to Governor Stanley in strong support of segregation after hearing Byrd's fiery speeches on television and radio. When the Arlington County school board announced it had developed a plan to peacefully integrate its schools, the General Assembly responded by promptly removing its privilege as the only county in the state electing its own school board members.[29]

By the time the General Assembly met for a Constitutional Convention in August 1956, Virginia's legislators had moved irrevocably toward massive resistance. The NAACP had filed desegregation suits against school boards in Arlington, Norfolk, Charlottesville, and Newport News throughout that summer, and this only served to strengthen the resolve of the segregationists. The legislators and much of the public, which had been reluctant to pass the moderate Gray Plan in 1955, were now prepared to shut down entire county school systems if the district courts threatened them with even token integration.

Byrd legislators decided that the best action was to execute a number of delaying tactics and evasive maneuvers under the pretense of gradual compliance.[30] They

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[28] Pratt, 6.
[29] Muse, 24.

[30] Pratt, 20.

submitted a 13-bill anti-integration package that would have deterred desegregation all over the state, not just in those counties and cities in the Black Belt. Dubbed the Stanley Plan, the package quickly passed into law on September 29, 1956, despite the drastic consequences that would ensue should the governor choose to enforce any of the new laws. The package, which contained many elements of the old Gray Plan, now had a number of new features. In addition to tuition grants, the Stanley Plan allowed the governor to shut down any school that the court forced to integrate, and it gave the state the power to withhold funding from any school that practiced desegregation. There were also a number of laws meant to disable the NAACP, including one stipulating that it had to release the names and addresses of all its members to the public if the group continued sponsoring desegregation lawsuits against the state. The law also made it exceedingly difficult for the NAACP to collect money to fund desegregation cases.[31] Although the circuit courts quickly declared many of these laws unconstitutional, one remained active for almost a decade, outliving the massive resistance movement itself. At various times in its history, it was celebrated and hated, revered and despised. It simultaneously enforced segregation for whites while also serving as a lightening rod for change for the NAACP and the larger black community. This law was the Pupil Placement Act.

[31] The bill in question would technically affect any agency attempting to sway public opinions, politics, and beliefs. It would have required the NAACP to register as a business with the State Department of Commerce, which would have restricted its fundraising abilities. A number of white Virginians opposed this bill because it would have required the Defenders of State Sovereignty and Individual Liberties to register as well.

Chapter 2

The Pupil Placement Board

The Pupil Placement Act is one of the most vital parts of the 1956 massive resistance legislation because of its subtlety. The act made no specific mention of race and proposed no radical changes to the public school system, and these differences set it apart from laws with provisions for closing desegregated schools and tuition grants for private schools. This ambiguity made the Act the most difficult to overturn, thereby extending its influence. In terms of historical context, the Act also demonstrates one of the few instances in which state and local massive resisters were able to work together at length to prevent desegregation. Although this connection has not been well-documented by the historical community, it is vital not only to the understanding of massive resistance, but also the development of modern racial standards in Virginia.

The Pupil Placement Act became part of the Code of Virginia on December 29, 1956, as Article 1.1 22-232.1-22-232.17 in Chapter 12 of Title 22 under "Education." The state quickly established a headquarters in Richmond at 9 North 3rd Street, where the agency created to administer the Pupil Placement Act would reside throughout its tenure. Governor Stanley also immediately appointed three men, all ardent segregationists from Southside, to head that agency, called the Pupil Placement Board (PPB). Hugh V. White, the superintendent of Nansemond County Schools, was the first man appointed, followed by Richmond attorney Beverley Randolph, Jr., and Andrew Farley, the vice-president of

the Register Publishing Company in Danville, VA. The positions were not full-time, and the men received payment on a per diem basis, in addition to reimbursement for traveling expenses. As they would only meet a couple times a month, the pay was negligible. However, the men made clear in the following years that their motivation for accepting the positions was not monetary.[1] Since none of the men lived within the immediate vicinity of the Richmond office, G.F. Poteet, the Executive Secretary, was responsible for managing most of the Pupil Placement Board's daily affairs. In addition to running the office, Poteet was responsible for correspondence with local school boards and government officials, as well as with parents concerning pupil placement.

Officially, the Board claimed that its most important task was placing pupils indiscriminately while simultaneously ensuring the safety and welfare of students and the efficient operation of the schools.[2] Most Virginians knew this to be untrue. After its creation in 1956, even the local newspapers touted the Pupil Placement Act as the first line of defense against integration.[3] It is impossible to discount this, given that the Pupil Placement Act was in the same legislative package as the laws permitting the governor to withhold funding from or even close any school under threat of integration. The *Richmond Times-Dispatch* also noted that the state required "efficient" schools, which the constitution still defined as "segregated."[4] If it was technically illegal to integrate the schools in Virginia under the state constitution, then the Pupil Placement Act could not have been the first step to eliminating desegregation in the Commonwealth. In fact, if the

[1] Virginia Pupil Placement Board, Minutes, May 25, 1960.VPPB. Minutes, 1958-1966, Accession 26517, Box 178. State government records collection, Library of Virginia, Richmond, VA,.
[2] Letter from G.F. Poteet to Jack Rathborn, June 13, 1958. VPPB. Correspondence and subject files, 1958-1966. State government records collection, Library of Virginia, Richmond, VA.
[3] Pratt, 21.
[4] "Pupil Placement Law is Invalid, Judge Says," *Richmond Times-Dispatch*, 12 January 1957, p1.

Pupil Placement Board had placed even one black child into a previously all-white school, it would have been a violation of state law.

From the first, the Pupil Placement Board preserved segregation under the guise of creating and maintaining order while they determined how to administer the placement law. According to the Act, all pupils were to attend the schools where they had enrolled on or before December 29, 1956. These pupils were automatically ineligible to apply for transfers. This meant that no child in the public school system at that point had any hope of obtaining a desegregated education. Then, all students graduating to another school, entering the school system from the first time, or transferring from another school system had to fill out an Application for Pupil Placement at their local school administration office. The school systems forwarded these applications to the PPB, which would then make a determination on the placement of those children. Although the applications did not contain any mention of race or color, pictures and copies of birth certificates were required for submission with the application. In this way, the Board could decipher a child's place on the racial hierarchy and keep them segregated while simultaneously appearing to be indiscriminate.

The Board's mission was ostensibly a simple one, but it was also overwhelming. Previously the task of nearly 100 local school boards, the three PPB board members and their small full-time administrative staff were now solely responsible for placing all of Virginia's public school students. Although they had usurped the authority of local school administrations, the Board relied on their input and recommendations to accomplish this daunting task. In a memorandum issued by the Pupil Placement Board to

local school boards in February 1957, the Board assured them that "in making your recommendations, you may do so without legal responsibility, it being the sole responsibility of this Board to place and enroll pupils."[5] By relying so heavily on the recommendations of the local school boards, the PPB had found a way to lighten its burden and, when it later came under scrutiny by the federal court system, an excuse to deny accountability for any racially discriminate pupil placements it made based on those recommendations.

Faced with a job in which most of them had no experience, the Board created most of its rules as it went along. In its first meeting on January 9, 1957, the Board members appointed A.B. Scott, a lawyer from the firm Peyton, Beverley, Scott, and Randolph, as special counsel.[6] Scott worked together with the Board to create the placement applications and determine tentative rules. At a March 11, 1957 meeting, the Board determined that "no child, whose [sic] parent, guardian, or other custodian refuses to complete and file the required Application for Placement of Pupil, shall be permitted to attend or continue to attend school until such application shall have been completed and filed."[7] The Board's ability to establish such a rule, one that would impact every public school student in the state, reflects its confidence in the support it had from Virginia's lawmakers and leaders. It not only created the rule, but also attempted to enforce it.

There were a large number of Virginia residents ready to help the Pupil Placement

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[5] Virginia Pupil Placement Board to local school boards, February 1957. Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 47, Folder 9, State government records collection, Library of Virginia, Richmond, VA.

[6] VPPB, Minutes, January 9, 1957.Pupil Placement Board member Beverley Randolph was a partner at the law firm Peyton, Beverley, Scott, and Randolph. We can assume that it was Scott's connection to Randolph that got him the job as special counsel.

[7] VPPB, Minutes, March 11, 1957.

Board with this task. The Defenders of State Sovereignty and Individual Liberties reached the height of its popularity in 1956, and had more than 5,000 members. Although the Defenders were notably less aggressive and violent than other anti-integrationist groups in the South, this did not preclude any extremists from entering the fray. In August 1957, a woman from the Norfolk branch of the Defenders wrote a concerned letter to the PPB. Citing a picture of a family she had seen in the previous evening's newspaper, the woman feared some of the members of the family were not white, and were looking to secretly integrate the Norfolk school system. She declared that although the mother and two of the children looked "all white," the father and son pictured in the photo looked "suspiciously mulatto." The woman asked the PPB to be "on guard against any trick the enemy might try to play."[8] She asked that the PPB thoroughly investigate the family before the children could enter the school system. In examining the photograph the woman attached to her letter, one gets a sense of the distorted views and hysteria that pervaded during this period. The father and son in question, although they have dark hair and slightly darker skin than the other family members, do not appear to have any African-American facial characteristics. Given the heightened tensions and anxiety of the time, it is telling that a woman wrote a letter to the governor suggesting precautionary measures against a person simply because he had the misfortune of being tan.

The *Richmond News Leader* became briefly obsessed with the possibility of black pupils covertly infiltrating white schools. Just after the Board distributed the first

[8] Mrs. Edith Kellam to Governor Thomas B. Stanley, August 3, 1957. VPPB. Correspondence and subject files, 1958-1966, Accession 26517, Box 166. State government records collection, Library of Virginia, Richmond, VA.

placement forms, a reporter noticed that while the Board had required students new to the state, students graduating to a new school, and those transferring from a different district to submit placement forms, it had forgotten to include "the category of pupils the state is most concerned about": those students who wanted a transfer to a lateral school within the same district. [9] The reporter ominously mentions that this group includes any African-American students who wish to transfer to a white school within their district.

A couple months later, another reporter for the same paper mused about how the Board could determine the race of an out-of-state student. Local school boards knew the race of all the children submitting forms, he claimed, if only because of their name or the school they last attended. This omitted the need for overtly mentioning race on the application form. The reporter contended that since some states did not require race to be mentioned on school records or even birth certificates, the Board would soon have major problems on its hands if it accidentally allowed a black child to attend a white school.[10] Such musings were demonstrative of the fears that whites felt about the abilities of the Pupil Placement Board to maintain complete segregation within the bounds of federal law.

An opportunity to test its administrative mettle came only a few weeks after the PPB distributed applications to the local school boards. On April 30, 1957, Mrs. Theo T. Defebio, a woman who had recently moved to Annandale, Virginia, refused to sign an application for her son Dominic, declaring that her decision was "a matter of conscience and morals because the purpose of this placement program is to deny a segment of the

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[9] "Pupil Placing Unit Misses Main Category in Orders," *Richmond News- Leader*, 26 February 1957, p1.
[10] "Pupil Placement Board Faces Problem Soon," *Richmond News-Leader*, 2 April 1957, p1.

American population the right to equal education."[11] While Virginians had expected the new legislation to be tested, what made the case interesting was that the Defebios were a white family. Virginia newspapers followed the story closely, apparently amazed that a white person was the test case for the still-new placement laws. The *Richmond News-Leader* discovered that the Defebios had lost custody of their children several years previously because of refusal to obey the mandatory school attendance law, although it turned out that this was because the parents had wanted to home-school their children. Meanwhile, Virginians debated the significance of the case through editorials in the newspapers. It was through these editorials that white Virginians first began to express their distaste for the pupil placement law. One editorialist felt that the case was a welcome moment to recognize that "the [Pupil Placement] Act is a patchwork piece of flimflammery which can deceive no one," and proclaimed that "in the proliferation of new laws...none was more incongruous, more foolish, or more dangerous than this one."[12] Another felt that the refusal of school children who had not returned signed placement forms was a violation of the state's mandatory school attendance law.[13]

Ms. Defebio obtained lawyers, Albert I. Kassabian and C. Douglas Adams, Jr., who met with members of the PPB to discuss the problem. Mrs. Defebio did not feel she should have to sign the form, but the Board was correct in reminding her that the law required her to do so. Attorney General and future Virginia governor Albertis Harrison helped the Board with its case and subsequent appeals, saying that he did not understand why she was complaining since both of her children had been assigned to white

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[11] "First Test Shaping Up on Pupil Placing Law," *Richmond News- Leader,* 17 April 1957, p1.
[12] "A Fine Place for Pausing," *Richmond News Leader*, 20 April 1957, sec. A1, p12.
[13] "Pupil Placement Slips Unsigned for 300 Here," *Richmond Times-Dispatch*, 8 May 1957, Section 1, p1.

schools.[14] The district court sided with the Pupil Placement Board, a rare victory for the agency. In a precedent-setting compromise, the Board suggested that she sign the form, but "under protest." This meant that she was formally voicing her disapproval while also fulfilling her legal duty to sign the form.[15] However, Ms. Defebio declined the offer, instead choosing to appeal her case with the State Supreme Court.

After the Supreme Court declined to overturn the decision of the district court, Defebio had no choice but to sign her children's placement forms "under protest". Over the next nine years, hundreds of parents would sign their children's placement applications "under protest." More than a year after her initial refusal to sign the placement form, her children, who had been forcibly removed from their schools in April 1957 after the initial uproar, were finally allowed to re-enter the public school system. They had received little in the way of education in the interim period. At the beginning of the court case, Ms. Defebio had attempted to obtain school books used in her sons' classes from the local library, but was told that the school superintendent did not allow public libraries to carry school books because "some parents are too anxious to push their children ahead."[16]

As it turned out, Ms. Defebio was only a test case for the uproar that would come from the black community, where parents had good reason to protest the pupil placement applications. The Pupil Placement Board easily approved the transfers of black students to other black schools, and quickly promoted them between lower and upper black

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[14] "Pupil Act Review is Refused," *Richmond News Leader*, 16 June 1958, sec. A1, p1.
[15] VPPB, Minutes, April 30, 1957.
[16] "First Test Shaping Up on Pupil Placement Law," *Richmond News Leader*, 17 April 1957, Section A1, p1.

schools. They were equally expeditious with white students transferring and graduating to other white schools. However, when a pupil requested a transfer to a white school, the Board created any number of excuses to reject the application. The local school board provided the first line of defense by creating a dossier on each student, including grades, test scores, and notes from interviews with the parents. If the student were black and trying to desegregate a white school, then the school board would provide any number of convoluted and often contradictory reasons why the student should not attend the white school.[17] Typical justifications included insufficient academic progress and transportation problems. Since the Board usually placed students based on the recommendations of the school boards, these reports were vital. This system also provided a shield against accountability. When confronted, the school boards could say that the Pupil Placement Board was responsible for all student placements, while the PPB could then say that it had made the placement based on the school board recommendations. It was a vicious circle that proved very effective in keeping Virginia school from desegregating for a couple of years.

In addition to establishing a web of relationships with local school boards, the PPB also attempted to bolster its transfer policies so that they would be strong and consistent enough to stand up in court. At the August 4, 1958 board meeting, the members created a list of vital information needed on each student in order to make him or her eligible for a transfer. In examining the list, one can easily make the case that the PPB wanted this information so that it could look for a legitimate reason not to allow

[17] Examples of this can be found in the City of Alexandria's correspondence related to applications, 1958-1966, located in the Pupil Placement Board records at the Library of Virginia.

black students into white schools. In addition to personal and family background, the PPB required health records, teacher observation records, test scores, and academic history. The Board then compared this information against the statistics of the students in the school where the student had requested a transfer. The PPB also wanted to know what school district the pupil lived in, and where they were attending school when the Pupil Placement Act took effect on December 29, 1956. They wanted a full comparison of the classroom capacity and facility conditions of the requested school and the school in which the child was currently enrolled, but only if the resulting data would "be of value." Given the PPB placement record and the type of transfer request it received, we can assume this means that the data was only desirable if it demonstrated that a black student would be better off in a predominantly black school than a predominantly white one. Finally, the Board wanted an interview with both the parents and the child. The local school boards would conduct the interview and then would forward the information to the PPB. The suggested procedure for the interviews included not allowing legal counsel for either the children or the parents to be present.[18] All of these requests stacked the odds of a transfer against the applicant. The minutes from later PPB meetings indicate that the Board mined the information for reasons to reject each applicant. The reasons for denial ranged from an absent parent at an interview with the superintendent to the Board's expressing concern for a child having to cross a busy intersection to get to the desired school.[19]

Although these rules were meant to reinforce the current PPB policy of

[18] The list of requirements and the ensuing discussions can be found in the Virginia Pupil Placement Board meeting minutes for August 4 and August 11, 1958.
[19] VPPB, Minutes, August 25, 1958.

compulsory segregation, one of them backfired tremendously in short order. Because of the PPB rule requiring test scores, the Norfolk school board began mandatory testing on all pupils requesting placement. We can assume that the original idea behind this rule was that black pupils would automatically score lower than white pupils would on these tests, thereby giving the PPB a legitimate academic reason for denying them admittance to white schools. However, the Norfolk school board quickly discovered that some of the black students scored well on these tests. The PPB admitted that given the quality of the students, the students' race was the only reason the Board could give for denying their transfer applications. Ultimately, the PPB rejected their requests, claiming that they would be vastly outnumbered in a hostile environment if they were to attend a white school, and that this would disrupt the administration of the school. They stated that they could not consider the needs of one black person over the needs of two thousand white children.[20] To the Board's relief, the school district was building a black school in the area where most of the students requesting transfer lived. The PPB believed that the new school would alleviate the need for transfers, and considered the matter closed.

The PPB, in conjunction with local school boards, frequently used this technique as a way to keep schools segregated. When black transfer applicants cited overcrowding as their primary reason for requesting a transfer to a white school, the PPB could place them in a newly built black school and consider the problem sufficiently solved. Rockingham County used the same technique in the fall of 1958, when instead of placing black children from an overcrowded school into an underutilized white school; they

[20] VPPB, Minutes, August 11, 1958.

simply built new black schools.[21] It was a clever technique, because not only did it keep schools segregated in a legal way, it technically solved the problems that the parents supposedly had with the old schools.

The City of Alexandria is an example of this system at its most effective, particularly in the use of grades as an excuse to deny transfers. When a group of black students applied for transfers to various white schools in the fall of 1958, the city's school board quickly repelled every application. Upon close inspection of these applications and the school board's subsequent recommendations, the reasons for their rejections are quite flimsy. The first applicant, referred to as "Case A," was a rising sixth grader asking for a transfer from the all-black Lyles-Crouch School to the all-white Patrick Henry School. Case A had an intelligence quotient of 114 and her test grades surpassed those of the students her age at both schools. Her teachers all felt that the child was gifted, and determined she would be an excellent candidate for transfer.[22]

It was at this point that the school board realized how to utilize test scores as an eliminator, even when the scores were not the pupil's own. The school board chose to argue semantics instead of reviewing the validity of her request. On her recommendation form, the school board argues that her teachers were incorrect about her giftedness because her IQ did not exceed 130. Since her IQ was well above the average score of the pupils at both schools, this hardly seems relevant. Despite also having standardized test scores well above the average at Patrick Henry, the school board doubted her ability to keep up with the students there. Relying on statistics demonstrating that the scores from

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[21] VPPB, Minutes, November 25, 1958

[22] VPPB. Correspondence relevant to applications, 1958-1966, Box 168, Folder "Alexandria-1958." Accession 26517. State government records collection, The Library of Virginia, Richmond, VA.

Lyles-Crouch were sub-par, the school board felt that while she was superior in her current school, she would probably only achieve at an average level at Patrick Henry. It ultimately recommended that the Pupil Placement Board deny her application for transfer.

Besides this convoluted argument about Case A's intellectual abilities, the Alexandria school board gave a plethora of administrative excuses for the dismissal of her application. Among other things, she did not live in the area serviced by Patrick Henry School. This was not surprising, since a cursory comparison of student residences and the schools demonstrates that both are racially segregated. The school board also declared that the Lyles-Crouch School had a lower pupil-teacher ratio than Patrick Henry School (26.2 at Lyles-Crouch versus 28.5 at Patrick Henry), even though both schools were under-enrolled. The final reason, and the most telling about the methods of the local school boards, was that if it enrolled Case A into a white school, the change would "result in too many transfers." The logic here is that if the board allowed one black student into the school, it would have to admit every black child who wished to go there. The Alexandra school board was obvious not willing to entertain that scenario as a viable possibility. When the school board sent Case A the rejection letter from the Pupil Placement Board, the "too many transfers" explanation was not among the Board's reasons for turning down her application.[23]

Case A also had two siblings, referred to as Case B and Case C, who applied to Patrick Henry School. Like their sibling, both pupils had grades and test scores that either matched or exceeded those in the classes they wished to enter at Patrick Henry.

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[23] Ibid.

Although the Alexandria school board acknowledged this, they still found a number of excuses for not allowing the children into the white school. Case B had an I.Q. that, at 128, exceeded the average score at Patrick Henry by twenty-five points and displayed the mental ability of a fifth-grader at age seven. Despite these prodigious statistics, the school board members only listed her as "average." Indeed, the school board did not consider any of the black applicants to white schools to be "above average," though several of them fit this qualification, including Cases A and B. The board denied Case B's application using the same reasoning as it had for her sister, while also adding that the Patrick Henry School no longer allowed new pupils in the middle of the term. Case C received a rejection letter that mentioned each of these excuses, with emphasis on his likely failure to keep up with the Patrick Henry students after excelling among the students at Lyles-Crouch. What is strange about this explanation is that Case C was applying for a transfer for first grade, after attending the Lyles-Crouch school for only a couple of weeks.[24] Their reasoning seems to be that any academic acumen the child may have had existed only when he was placed among other students of his race, and this effect would disappear if he were placed among white pupils. The other portion of this logic assumes that after only a few weeks in the first grade, the child must be accustomed to excelling and would therefore be irreparably damaged if taken out of that environment. That the board would consider the child's mental capacity somehow permanently impaired after such a limited exposure to the less-gifted students is indefensible.

The pupils' parents and their lawyer agreed with that estimation. After the Pupil Placement Board denied all fourteen children transfers to white schools, all on varying

[24] Ibid.

grounds, the parents hired local attorney Otto Tucker. The parents protested the grounds on which the PPB denied the applications. At this point, however, they were no match for the bureaucracy that was the pupil placement system. When the parents attempted litigation with the school board, they deferred to the Pupil Placement Board, which ultimately had the authority over where the pupils attended school. The PPB demurred, declaring that it only denied the applications on the recommendations of the local school board. It would take well over a year before the parents finally escaped that maddening cycle, sued the county, and obtained a court ruling in their favor.[25]

Although these cases exemplify the types of reasoning that the local school boards and the PPB utilized, Alexandria is hardly the worst offender. Other school districts used different justifications, which produced the same result. Charlottesville is an excellent example. In 1958, its school board rejected any number of students on the grounds of transportation difficulties. The school board recommended that the PPB deny one girl a transfer from black Burley High School to white Lane High School because she was closer to Burley, while the board rejected another student *despite* the fact that she was closer to Lane. The school board decided that, even though she was closer to the white school, the student had no transportation to get there, while a bus went from her area to the black school every day. The board did not even consider purchasing a bus to bridge the shorter distance to the white school. The Board rejected another child's application when it determined she would have to walk over railroad tracks to reach her requested

[25] T.C. Williams to School Board members, August 18, 1958. VPPB, Correspondence relating to applications, Box 168. The case in question is discussed further in Chapter 3.

school, even though it was closer to her home.[26] In many cases, the school boards, through the PPB, placed children in schools much further away than the closest school, just because the locality had that school zoned in the same area as the child's residence.

Lynchburg also frequently used the distance from a child's home to the requested school as a reason to deny an application, even if it was invalid. The map used by the Pupil Placement Board to differentiate their dual attendance zones for white E.C. Glass High School and black Dunbar High School is ample evidence of this injustice.[27] The map demonstrates that most students, both black and white, came from the same general neighborhoods, possibly even mere blocks from each other. Both high schools were located near the center of the city, with E.C. Glass approximately one mile north of Dunbar. Since most of the children are coming from south of the schools, the majority of them lived closer to Dunbar High School than to E.C. Glass. In this situation, most of the white children had to travel farther to their school than the black children did to theirs. However, the distance between a child's home and the school only became an issue when a black child applied to E.C. Glass. In most cases, the Pupil Placement Board rejected these applications because the child lived closer to Dunbar school. No one complained that the same was true of most of the white children enrolled at E.C. Glass.[28]

Even when distance was not an obstacle and the black child's grades were beyond reproach, school boards and the Pupil Placement Board still made it exceedingly difficult for students wishing to attend a desegregated school. The Board always found reasons to

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[26] VPPB, "Charlottesville, 1958," Correspondence relating to applications, 1958-1966. Box 168.
[27] Map of Lynchburg, 1958. VPPB. Correspondence relating to applications, 1958-1966,Box 168.
[28] There is not one specific record where this information can be found, but any number of rejection letters can be found in the approximately one dozen files for Lynchburg that are located in the Correspondence relating to applications, 1958-1966, Box 179, L-R, from the Pupil Placement Board records.

reject applications, usually out of context from the interviews with each pupil and parent, as required by the PPB guidelines. For instance, if a child stated he or she was happy at his or her current school, this was reason enough to reject the application. In other cases, if a child's home was equidistant from the school he or she currently attended and the school requested, school board would say that since distance was not a problem, it should not matter which school the child attended. One child was even dismissed from consideration after his mother had made statements that showed her "unreal conception of differences in facilities" between the black school and the white school, although this was not the reason given in the official letter from the Pupil Placement Board to the family.[29]

If a parent disagreed with the Board's decision about the child's placement, the parent had to seek redress in the form of a public hearing with the Board. The procedure for obtaining a public hearing was often enough to keep parents from taking that route. The parent would first submit a written request for a hearing and state the reason for needing a hearing. Then, according to the Code of Virginia, the Pupil Placement Board must advertise the public hearing in the local newspapers at least once a week for at least two consecutive weeks prior to the event. These advertisements not only contained the names of the parents and pupil protesting placement, but also their home addresses and the names of the pupil's current school and the school the child wished to attend. Each advertisement also reminded the public that anyone could attend the hearing and even speak if they chose. This meant that any person, regardless of their proximity or investment in the pupil's welfare, could speak and possibly influence the Board's

[29] VPPB, "Charlottesville, 1958," Correspondence relating to applications, 1958-1966, Box 178, A-L.

decision regarding that child's placement in a school. It also served to "call community attention to dissidence of black parents who want their children educated in a non-discriminatory way."[30] This must have exposed the family to all types of pressure, subtle and otherwise, from the community. As a result, many parents chose to skip the hearing, thus forfeiting their chance to defend a federally protected constitutional right.[31]

The Board knew that it could not achieve 100% voluntary compliance, given the high level of anger and distrust among the African-American parents over its methods and the constant threat of legal action. However, it also determined that there was certain information necessary for assigning children to the proper schools. After a court ruled in 1958 that the Pupil Placement Board could not deny placement to pupils because their parents had not signed the placement form, it became necessary to develop new ways to gather information on the students who did not submit placement applications.[32] The PPB, working with the Richmond City School Board, decided that it could gather the necessary information from the standard school registration form required by all students. The local school boards could simply send these registration forms directly to the PPB, complete with recommendations for the placement of each student. The PPB minutes explicitly state it should only utilize this procedure in the case of black applicants.[33]

These procedural changes were small compared to the onslaught of legal battles

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[30] Cecelia Jackson, etc., et al. v. School Board of the City of Lynchburg. Folder "Lynchburg Court Case, 1961." VPPB. Correspondence relating to applications, 1958-1966, Box 179. Library of Virginia, Richmond, VA.

[31] There is no specific place to find these, but they can be located under certain cities, particularly Lynchburg, in the Correspondence relating to applications, 1958-1966, located in the VPPB records at the Library of Virginia.

[32] The case was brought by Oliver W. Hill in Richmond, VA after students were removed from schools on the grounds that their parents had not signed their placement forms. I will discuss this case, along with the other important legal battles, in Chapter 3.

[33] VPPB, Minutes, June 13, 1958.

developing all over the state in the summer of 1958. The NAACP had filed desegregation suits in counties and cities all over Virginia, and the district courts were on the verge of requiring integration in several schools. It appeared that Governor Stanley would soon have to make good on his promise to close schools integrated by court order. Furious at the possibility of the governor closing white schools because of a few black students, several chapters of the Defenders of State Sovereignty and Individual Liberties formulated plans of action. When the district court forced the Norfolk school board to admit seventeen black students into formerly all white school in 1958, the Norfolk Chapter of the Defenders adopted a resolution that the Pupil Placement Board should no longer recognize the validity of that board.[34] In a letter to the Chairman of the Arlington County School Board, Jack Rathborn, the chairman of the Arlington Chapter of the Defenders, stated the Defenders' intention to place some of their own children into black schools at the start of the new school term. This would force Governor Stanley to close black schools as well as white schools. Rathborn stated that this plan would serve as retaliation against the NAACP for stirring up trouble.[35]

In this same letter, Rathborn also asked for the complicity of the PPB. He requested the names and addresses of all the black students who had applied to white schools, stating that by keeping them confidential, the Board was encouraging more to apply. He also requested that instead of distributing the placement forms at all local

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[34] Resolution of the Norfolk chapter of the Defenders of State Sovereignty and Individual Liberties, August 31, 1958. Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 87, Folder 2, State government records collection, Library of Virginia, Richmond, VA.
[35] Letter from Jack Rathborn to James Stockard, May 28, 1958. VPPB, Minutes, June 13, 1958.

schools, that they be placed at one central location, such as an administrative building.[36] Ostensibly, this would make them more difficult to get and would make it easier for groups like the Defenders to single out black families applying to white schools. Though we can only guess what the Defenders would have done had the PPB complied with their wishes, it is certain that intimidation would have been involved. Though the Defenders were not as brash and violent as the Citizens' Councils of the Deep South, they were still capable of aggressive action.

Fortunately, the PPB did not acquiesce to the Defenders' demands, no matter how sympathetic it may have been to their cause. After the Arlington School Board forwarded Rathborn's request to the PPB, Executive Secretary G.F. Poteet responded by saying that the board could not provide the information he requested because the placement forms did not make reference to race. Poteet went on to say that he was forwarding Rathborn's letter to the press. We are left to speculate whether the Board released this letter to the press as a demonstration of the Defenders' methods, or as a way to prove that massive resistance was alive and well in Virginia. In either case, the Board's records do not indicate any further correspondence with the Defenders.

Though the Defenders obviously thought that the PPB was playing a vital role in preserving segregation, the agency's validity was consistently in question after the Norfolk ruling in June 1958. In a 1958 article from the *Norfolk Virginian-Pilot*, writer Luther T. Carter indicated that the city of Charlottesville completely ignored the authority of the PPB to place pupils within its school system. According to Carter, the Charlottesville school board considered itself fully empowered to assign pupils, even

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[36] Ibid.

though the Pupil Placement Act expressly forbade this very action.[37] This impudence also concerned the PPB, which sent any number of letters to the Charlottesville school board asking it to comply with the state laws. Most of these requests went unanswered and unheeded. Although Charlottesville finally agreed to utilize the pupil placement forms on a voluntary basis later in the summer, the power struggle between the school board and the PPB continued for several years. [38]

That the PPB had to ask school districts to acknowledge its authority indicates its inability to command respect, particularly in non-Black Belt areas of the state. It also demonstrates that the state was not as united as the leaders would have liked to believe. These areas, including Charlottesville, had most favored the local option for integration, and would have taken umbrage at the PPB usurping their local authority. Charlottesville had another valid reason for being concerned, as it was then at the center of one of the desegregation court battles. The school board knew that if the courts allowed the black students into a white school, Governor J. Lindsay Almond would have the power to close that school under the state law. Although some citizens in Charlottesville supported the school closings, others wrote letters to Governor Almond begging him to keep the schools open.[39] These fears made the Charlottesville school board reticent to comply with the Pupil Placement Board, even when the compliance was mandatory. When the courts ruled that filling out placement forms became voluntary, this further diluted the power of the PPB over these communities.

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[37] *Norfolk Virginian-Pilot*, July 10, 1958.
[38] Virginia Pupil Placement Board, Minutes, August 4, 1958.
[39] Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 47, Folder 3. This file contains letters both for and against the school closings.

Despite constant legal setbacks, discussed later in this paper, the PPB was processing several thousand applications every month, from approximately one-third of the state's counties and cities. The Board apparently gave no regard to the precedents set by the recent court rulings, as it continued processing applications in the same old fashion. They still had yet to place a black child into a white school, and apparently did not intend to do so. In reviewing the applications of six black pupils requesting transfer to white schools in Newport News, they looked for excuses to deny them. The Pupil Placement Board consistently singled out those children who had lower test and IQ scores, while the other children who had above average grades and scores go unmentioned. Ultimately, they denied every application, regardless of merit. It almost seemed to regard the summary denials of these applications as a challenge to the parents. In rejecting the Newport News transfer requests, the Board stated that it closed the cases from further action until dissatisfied parents appeared before them and stated their reasons for believing that the Board had discriminated against them based on race.[40] By taking this stance, the PPB could completely dismiss most applications, and then deal only with the handful of applicants who chose to file a complaint. Even then, the applicants were at a disadvantage, as the burden of proof was on them. With restrictions such as these in place, it is no wonder that the Board was so willing to flout the current court precedents and continue denying black transfer applications en masse.

The PPB not only went against court precedent, it publicly railed against it, as proven by a press release issued on June 24, 1959. Reacting to a bevy of bad publicity, court decisions, and proposed legislation put forward during the General Assembly which

[40] VPPB, Minutes, May 25, 1959.

would make local adherence to the Pupil Placement Act optional, the statement said that the Board recognized its duty not to discriminate, but it also claimed the agency was within its rights to maintain voluntary segregation. It felt that it "was under no duty to take any positive action to mix or accelerate the mixing of the races in public schools." The release further stated that had any of the Board members believed that the Supreme Court had decreed integration, none of them would have taken their positions on the Board, knowing that they would have to integrate public schools.[41] It cited itself as a raging success, having placed over 419,000 pupils with only .03% signed under protest. If these numbers were accurate, it could only conclude that the public had advocated and supported the Board's decision to maintain segregation. Given this perceived overwhelming public support, the members of the Pupil Placement Board felt they expressed the sentiments of all Virginians when they expressed irrevocable opposition to the Supreme Court's "unconstitutional exercise of power." [42]

The Pupil Placement Board's reasoning for disputing desegregation was not uncommon in the South, and most states had used that excuse at some point since 1954. However, as the U.S. Commission on Civil Rights elucidated in its 1959 report, such logic was a deliberate misreading of the ruling. While Southerners saw the ruling as overstepping federal power by asking states to do something they did not want to do, the Commission believed the truth was exactly the opposite. Rather than asking the states to give rights to African-Americans, the ruling stated that African-Americans already had

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[41] VPPB, Press release, June 24, 1959.
[42] Report from the Pupil Placement Board of the Commonwealth of Virginia to His Excellency, J. Lindsay Almond, Jr., Governor, May 25, 1960. J. Lindsay Almond Executive Papers, Accession 25184, Box 47, Folder 9.

those rights as given by the Constitution, and that the states must stop interfering with them.[43] Although it was a subtle difference, it was also a profound one because it clarified the position of not only the Supreme Court, but also of the district courts presiding over the barrage of desegregation cases under way all over the South. However, this explanation fell on deaf ears, and the Pupil Placement Board members along with much of the rest of the white South continued to operate according to their original assumptions.

Despite its recognition that Virginia's bureaucracy upheld customs and laws that directly defied the Supreme Court decision, the Commission apparently saw Virginia as a leader in the quest for integrated school systems in the South. The Commission found Virginia to be one the most progressive states in terms of school integration, though it had many of the laws that other "non-compliant" states had. Like seven other states, Virginia had a school-closing statute, and it also joined five other states in approving tuition grant laws. The state was also among the eight that enacted pupil placement laws.[44]

Although Virginia's status as a compliant state seems incongruous given the extent of massive resistance in the state, there were a number of reasons for this conclusion. Virginia did have a small number of black students attending formerly all-white schools, and even though most of those placements were under court order, it was still more than most of the Deep South states could claim. Secondly, the Commission claimed Virginia had allowed more desegregation because it had a relatively low

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[43] The Report of the United States Commission on Civil Rights- 1959. J. Lindsay Almond Executive Papers, Accession 25184, Box 157, Folder 2- Commission on Civil Rights.
[44] Ibid.

population of blacks compared to the states in the lower South. Unlike Alabama and Mississippi, which had black populations approaching fifty percent, Virginia's African Americans composed only twenty-two percent of the total citizenry. The Commission contended that states with fewer blacks had fewer problems with desegregation.[45] When making its observations about Virginia's commitment to desegregation, the Commission obviously did not take into account the Southside Virginia counties, where the black population sometimes exceeded fifty percent and the resistance was still quite strong.

That the Civil Rights Commission would consider Virginia to be an integrationist leader despite the fact that its fraction of compliant schools was almost negligible demonstrates how completely the South had disregarded and disobeyed the Brown decisions up to that point. The Commission estimated that by 1959, only a quarter of total school districts in eleven segregated states had even begun the process of desegregation, and three percent of those had been forced to comply because of a court order.[46] All of the other school districts simply hid behind massive resistance legislation, or did nothing and simply waited for the district courts to force action.

Virginia counties utilized both of these tactics, which were effective in slowing integration of public schools to a crawl. However, both methods usually invited lawsuits, and county school boards all over Virginia were enveloped in this sort of litigation throughout the late 1950s and early 1960s. The Pupil Placement Board figured into each and every one of these cases. As of 1959, the PPB had been named as a defendant in no fewer than eleven desegregation lawsuits, with countless others in the development

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[45] Ibid.
[46] Ibid.

stages. The verdicts were rarely positive for the Board, and consistently undermined its authority and the validity of its existence.

The combined efforts of the district courts forced the PPB to gradually integrate schools all over the state. The Board rarely did anything to help its legal defense, instead choosing to continue its public condemnation of desegregation. In doing so, it secured its tenuous position as a government agency by standing by the principles of the Byrd politicians. If the Board lost a case, then it could place black children into white schools and still have the support and sympathy of most of the white community. If the court looked upon the PPB favorably, then it would have legal vindication for its methods. For the Board, maintaining strong public support for white supremacy and continued segregation was a no-lose situation. However, this strategy was a miscalculation, as it backfired in the courtroom. The NAACP and its lawyers consistently used the Board's open hostility to desegregation to demonstrate that no black child could receive fair treatment under such a system.

Chapter III

Seeking Legal Solutions for the "School Problem"

The NAACP strategy of using the rules of the Pupil Placement Board against the agency in court consistently proved to be a winning one. By persistently involving the Board in various desegregation cases around the state, the district courts ensured that the agency would be consistently under duress throughout its existence. Although not involved with every single case, the Pupil Placement Board was plagued with legal woes and questions about its legal validity practically from its inception.

After the pupil placement law became effective on December 26, 1956, the lawyers for the defendants in the school desegregation cases *Adkins v. School Board of the City of Newport News* and *Beckett v. School Board of the City of Norfolk* asked that the case be dropped on the grounds that the creation of the Pupil Placement Board invalidated the plaintiffs' charges. This was an important test of the legal validity of the PPB, and it failed miserably. On January 11, 1957, just a few weeks later, Judge Walter Hoffman, who presided over the two cases, overruled the defendants' motion. Declaring that there was a plain pattern of the legislature adopting procedures to defeat the Supreme Court decision, he ruled that the agency was invalid because it had no administrative procedure for changing placements.[1] Under the standing law, any parents wanting to challenge the Board's placement of their children had to appeal directly to the governor,

[1] "Pupil Placement Law is Invalid, Judge Says," *Richmond Times-Dispatch*, 12 January, 1957, p1.

and then to the state Supreme Court, a process that could take up to 105 days. While he did not explicitly declare the Pupil Placement Board to be illegal, his ruling was certainly not the nod of judicial approval it had hoped for. Although the lawyers for the defense went through the appeals process, the Court of Appeals for the 4th circuit upheld the decision in July 1957, stating that the Pupil Placement Board did not provide a remedy for the plaintiffs because of the fixed policy of school authorities in favor of segregation and because of the new laws that supported that policy to the extent that schools could be closed and funds withheld if said policy were violated.[1] The Supreme Court also refused to overturn the decision in October 1957. The courts anticipated that it would be at least six months to a year before the General Assembly could make the appropriate changes and the PPB could become fully operational again. Already the state had to drastically change the placement laws just to keep the agency afloat.

Only a few weeks after that initial verdict and shortly after the PPB first distributed placement forms to local school systems, the parents of 85 (predominantly white) students had refused to sign the forms in Alexandria alone. This occurred in other areas of Northern Virginia as well, and most of the parents claimed they resisted signing the forms, not because they were concerned about where their children would be placed, but because the placement law had already been declared unconstitutional and should therefore not be forced on the public.[2] With thousands of applications pouring in from all over the state and non-compliance creating problems in Richmond as well, the Board tried to find a solution for dealing with the problems in Northern Virginia. In addition to

[1] "Pupil Placing Ruled Unconstitutional," *Richmond News-Leader*, 13 July 1957, p1.
[2] "White Student Sent Home: No Forms Signed," *Richmond News-Leader*, 3 September 1957, p1.

uncooperative parents, the Arlington Chapter of the Defenders of State Sovereignty and Individual Liberties had become a thorn in the side of the Board. Before the start of the 1957-58 school year, the Board voted to open a branch office of the Pupil Placement Board in Arlington. Headed by Mr. B.S. Hilton, the PPB gave this office temporary approval to place pupils in Northern Virginia schools, pending a final approval from the Richmond office. The Arlington branch was also responsible for intercepting and accepting any correspondence relating to the Board that came from the northern part of the state.

The problems in Richmond soon proved to be as difficult as those in Northern Virginia. The PPB finally released its statement on August 5, 1957 declaring that children who did not sign the placement forms could not be admitted into schools. Within a few weeks, the PTA at Baker Elementary School and the black newspaper, the *Richmond Afro-American*, had urged black families not to comply with the rule.[3] A large number of parents refused to sign the forms, with the result that those children were removed from their schools. Out of the total 300 children removed from schools for this offense, only six were white.[4]

Several of the parents obtained legal representation from black Richmond attorney, Oliver Hill. Hill was well known in the black community as a defender of civil rights. He had come to prominence after heading the legal team for the Prince Edward County desegregation case that eventually became part of the consolidated *Brown v. Board of Education* lawsuit. Following that victory, he became a civil rights leader in

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[3] Pratt, 23.
[4] "Pupil Placement Slips Unsigned for 300 Here," *Richmond Times-Dispatch*, 8 May 1957, p1.

Virginia, helping the NAACP file lawsuits all over the state. By the time the case involving the Pupil Placement Board developed, Hill had already filed a desegregation suit in Charlottesville.[5] Though by now Hill was well-versed in civil rights litigation, attacking Virginia's massive resistance laws was a new venture for him. By attacking the Pupil Placement Board, he could actually break down the means by which the state maintained segregation, as opposed to simply attacking the institution of segregation itself. In his statement against the PPB, Hill declared that the agency was in clear violation of the *Brown* decision, since the Board had not placed a single black child into a white school during its tenure of almost one year.[6] Mirroring the earlier concerns of newspaper editorialists, he also questioned whether the Board's policy of not allowing children without signed placement forms to attend school conflicted with the state's mandatory attendance law, which stated that all children between ages 7 and 16 must attend school or be taught by a qualified instructor. The Pupil Placement Board responded to Hill's inquiry by stating that its only job was to uphold the Pupil Placement Act and it could not be held responsible for enforcing attendance laws.[7]

District Court Judge Sterling Hutcheson granted an order that temporarily halted the use of the Pupil Placement Act in Richmond. This meant that until the next school year, the Richmond School Board was responsible for the placement of the pupils in its system. Ironically, Hutcheson, like many other judges of the period, had achieved his position on the court through the recommendations of Harry Byrd. Hutcheson's position

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[5] Oliver W. Hill, Sr. *The Big Bang: Brown v. Board of Education and Beyond* (Winter Park, FL: Four-G Publishers, Inc., 2000), 175.
[6] Ibid.
[7] "School Laws Conflict Appears in Making," *Richmond News-Leader*, 10 September 1957, p1.

is indicative of all district court judges involved in desegregation suits during the 1950s and early 1960s. These judges, mostly born and raised in the South and very active in social and political life, were now legally bound to uphold a law with which eighty percent of white persons in that region disagreed. They were required to dismantle segregation without the benefit of precedent, or even the assurance that the governor would uphold their decisions.[8] Hutcheson was a particularly broad target, since he was judging a high- profile desegregation case and the current governor was a rabid segregationist. However, until his retirement from the bench in 1959, Hutcheson would make a number of major decisions in favor of school desegregation, particularly in Prince Edward County, Virginia. However, this particular court order was only a limited victory for the integration movement, given the firmly segregationist bent of the Richmond School Board. During the 1957-58 school year, the local school board did not place any black children into white schools, or vice versa. The outcome would have been the same had the PPB been in control of Richmond's pupil placement.

In reality, the ruling did very little to interfere with the normal administrations of the PPB. It continued to receive tens of thousands of placement applications every month, and so it used the remainder of the school year to hone its operations and methods. By the end of the 1957-58 school year, the Board had processed 187,760 placement applications. Forty-one counties and fifty-eight cities had submitted applications, indicating that a large portion of the state had accepted the validity of the Pupil Placement Board as a state

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[8] Gary Orfield, *The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act* (New York: Wiley-Interscience, 1969), 16-18.

agency.[9] The General Assembly had also made a number of changes to the Pupil Placement Act in order to meet the criteria set by the 1957 district court ruling, including the addition of an administrative remedy for parents.

In June 1958, the Board met its first major legal challenge. The U.S. District Court had finally made a ruling on Oliver Hill's complaint from the previous year and the decision proved to be a small hurdle. The judges had determined that, effective June 27, 1958, the Pupil Placement Board and the local school boards could not keep children out of schools simply because their parent or guardian did not sign a placement application. The decision was not a disastrous one, as it did not undermine the Board or its right to collect information on pupils to determine placement. It only eliminated the necessity of a parental signature, not the form itself. However, the Board quickly took measures to implement new rules that would conform to the court rulings while concurrently maintaining the essence of its previous regulations. PPB Executive Secretary G.F. Poteet and Assistant Richmond City Attorney John P. McGuire, Jr. corresponded on how to best handle the issue. Until that point, only black students had to apply for placement with the PPB. Poteet and McGuire quickly determined that the best way to get black parents to comply with the application process was to require white parents to fill them out as well. They would require white parents to submit and sign applications, while requesting the same from black parents on a voluntary basis.[10] If they could achieve voluntary compliance, then this would not violate the court ruling.

In July 1958, Richmond attorney Oliver Hill prepared for his second assault on

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[9] VPPB, Minutes, June 13, 1958.
[10] Letter from G.F. Poteet to John P. McGuire, Jr., June 13, 1958. VPPB, Minutes, June 13, 1958.

the PPB. Hill was the representative for Onslow Minnis, Jr., Sylvester Smith, and Jerome Smith; all black children requesting transfer to white Nathanial Bacon Elementary School in Richmond. The PPB summarily denied the transfer requests, even though the children lived closer to the Nathanial Bacon School than their current all-black schools.[11] Hill filed a complaint with the Richmond City School Board. The school board ignored Hill's complaint and redirected him to the PPB to address his grievances.[12] The PPB evaded Hill's complaint by establishing new rules concerning transfer pupils. They created a cut-off date after which no applications for transfers within the same district would be permitted. All three of Hill's clients fell into this category. The Board responded to Hill, stating that the children had applied after the cut-off date, and they would not be allowed to apply again until the next school term. Hill countered by filing a lawsuit in U.S. District Court against the Richmond School Board.

The Pupil Placement Board had little reason to be concerned about the new lawsuits. The agency seemed to be at the height of its power, and had the backing of some of the most powerful people in Virginia. Not the least of these was Harry Byrd, who still remained a vital force in state politics and gave Virginians every reason to believe that the fight to maintain segregation could still be won. At his annual apple orchard picnic, he lashed out at the Supreme Court and proclaimed that "illegal decisions breed frustration" and that Virginians should continue to "fight for our position with dignity, but with every lawful means at our command."[13]

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[11] Pratt, 24.
[12] Letter from J. Elliot Drinard to Richmond City School Board, July 15, 1958. VPPB, Minutes, July 18, 1958.
[13] "Byrd Urges No Yielding in Segregation Stand," *Richmond News-Leader*, 30 August 1958, p1.

Byrd's good graces, combined with the perceived power of the new and improved Pupil Placement Act, gave the Pupil Placement Board so much confidence that it voluntarily injected itself into several desegregation suits on behalf of the local school boards. Newspaper editorials indicate that the public supported that maneuver, and even questioned why the Board had not taken the step sooner. One writer stated that the revised Pupil Placement Act had made the PPB more powerful, but had also made it more vulnerable to attack. The writer proclaimed that the Board needed to enter the fight in order to uphold its integrity and to prove that it could now constitutionally hold its weight in court.[14]

Those who were concerned about the viability of the Pupil Placement Board soon had more important things to worry about. When a number of court cases decided in early 1959 changed or invalidated most of the school-related laws passed during the 1956 special session of the General Assembly, the massive resistance movement took a major fall. On January 19th, the Virginia Supreme Court of Appeals ruled on *Harrison v. Day*, deciding that the state's school-closing statute violated Section 129 of the Virginia State Constitution, which stated that the state must "maintain an efficient system of public free schools throughout the state." In 1958, following a string of desegregation suits launched by the NAACP, schools in Norfolk, Charlottesville, and Warren County had closed under that statute, and had remained so for several months. Following the *Harrison v. Day* decision, the court forced each of these schools to re-open. On the same day, the Norfolk District Court ruled in *James v. Almond* that the school-closing statute was a violation of the 14th amendment of the Constitution and therefore illegal. Less than two weeks later,

[14] "An Unused Weapon in the Fight," *Richmond News-Leader*, 30 August 1958, p6.

Norfolk and Arlington schools integrated under court order. Twenty-one black students entered white schools without incident. Although the Defenders of State Sovereignty and Individual Liberties passed a resolution demanding that the Pupil Placement Board no longer recognize the validity of the Norfolk School Board, the group no longer commanded the attention it once had.[15] The integration of Norfolk and Arlington public schools marked the beginning of the end for the massive resistance in Virginia.

That same year, the District Court for the Western District of Virginia heard a group of cases that directly affected the future of the Pupil Placement Board. Black parents in Floyd County, Grayson County, and the city of Galax had filed separate desegregation suits against their respective localities, but the court had consolidated the cases because they had similar complaints. The suit claimed that the Pupil Placement Board refused to place black children into white schools, even though no separate schools existed for black students. Lawyers for the school boards and the Pupil Placement Board claimed that the suit should be dropped because the parents had not gone through the proper administrative channels to seek redress for their complaints. The judges disagreed, ruling that all children must automatically attend the white schools, since no separate facilities were available. The ruling further decreed that any town having only one functioning public school did not require the services of the Pupil Placement Board, since all children would automatically have to attend that school.[16] The ramifications of this ruling were incalculable for the Pupil Placement Board, as it prevented the agency from

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[15] Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 87- General Correspondence- Defenders of State Sovereignty, Folder 2.
[16] Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 47, Folder 1.

intervening in the placing of pupils in the large number of rural Virginia counties where those conditions existed.

These landmarks were a blow to the larger movement, but it was a direct change to the Pupil Placement Act that dealt the most serious blow to the PPB. The Pupil Placement Act of 1959 stated that, effective June 1, 1960, the PPB was the sole placement agency, except in those counties, cities, or towns that chose to have their pupils placed by local school boards. The General Assembly had finally chosen a local option plan, three years after the original decision. This meant that any locality that wanted to place its own pupils merely had to adopt an ordinance by a local governing body pursuant to recommendation of the local school board. From that point forward, cities and counties utilized the Pupil Placement Board on a voluntary basis. The Board's role in the public school system was no longer certain. Even the Attorney General, Albertis S. Harrison, could not define the purpose or goal of the Pupil Placement Board.[17]

Although the amending of the Pupil Placement Act to local option came as a shock to the PPB, the change seemed inevitable in view of the events of the 1958-1959 school year. Parents that had previously been adamantly segregationists now stood shocked while their children's schools closed in Norfolk, Warren County, and Charlottesville. As the legal battle for the constitutionality of the school closing statute raged throughout the fall of 1958, 13,000 Virginia children went without any formal education.[18] The theory of segregation at any price initially had seemed attractive, but the

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[17] Albertis S. Harrison to G.F. Poteet, April 30, 1959. Harrison asked PPB Executive Secretary Poteet for clarification on the exact role of the Pupil Placement Board in the public school system, after being asked by several local school boards for information. Poteet resigned shortly thereafter.

[18] Orfield, 210.

reality of having their children deprived of education for months or even years was another matter. There remained a sizeable contingency of fervent massive resistance supporters who still advocated segregation under any circumstances. However, this group quickly shifted to the minority.

Realizing that halting integration also meant stopping education, most parents decided they would rather allow token integration than have no public school system at all. Governor Almond received a large number of letters from parents begging him to revert to local option, and many of those letters came from towns where the public school system had been shut down.[19] Only Prince Edward County bucked conventional wisdom, electing instead to close its public school system all together rather than face the possibility of desegregation. White children were placed into a publicly funded private school, while the county's black children received little or no instruction. Prince Edward did not re-open its school system until 1964, when the district court ruled that the county could not use public funds to maintain a private school.

The PPB immediately saw the impact of local option. In Alexandria, four black pupils had applied to white elementary and high schools, but they did not use the pupil placement forms. When the Board complained to Superintendent T.C. Williams, he replied that the court precedent did not recognize the state's authority to assign pupils. He stated that the court had forced the school board to come up with a local plan and they had no choice but to comply. Williams sounded as though he had been reluctant to do so, and sent the PPB applications with the students' information as an act of good faith.

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[19] Letters to the governor both endorsing and opposing local option can be found in the J. Lindsay Almond Executive Papers, Accession 25184, Box 47, Folder 4, State government records collection, Library of Virginia, Richmond, VA.

However, he also stated that Alexandria had not required the forms since the court ruling, because Attorney General Harrison and others had advised him it was no longer necessary. Harrison was directly quoted in saying that the "PPA was of little or no help to a school division before a court."[20] While Alexandria had never been a hotbed of segregationist fervor, it was an inconvenient moment to lose its support. It did not bode well for the PPB as a state agency that the attorney general was telling local school boards that it was meaningless before a court of law.

. With *Leola Pearl Beckett v. The School Board of the City of Norfolk*, the court decided that while the Pupil Placement Act was constitutional, it had been administrated by the Pupil Placement Board in an unconstitutional manner. The evidence was damning. The prosecution successfully argued that the PPB rejected all black applications to white schools based on the recommendations of the local school boards, while rejecting every white application to a black school, regardless of the recommendation. It had also determined that out of 450,000 applicants, the PPB had not placed a single child into a school not populated by members of their own race. The Board also subjected children seeking transfer to a school of another race to burdens and requirements not expected of other children transferring or entering school.[21]

The members of the PPB did nothing to enhance their position in the hearings. One member even testified that he could not even conceive of circumstances that would make him place a black child in a white school, while the other two members said they

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[20] VPPB, Report on Alexandria, April 27, 1959.
[21] Findings of Fact from Leola Pearl Beckett v. The School Board of the City of Norfolk, Virginia (1959), 2.

would only do so under perfect circumstances with a perfect child.[22] Given such blatantly segregationist testimony, the court swiftly determined that the four plaintiffs had been denied due process of law and equal protection guaranteed under the 14th amendment. The court's final decree dealt the worst blow to the PPB: that the city of Norfolk was not to utilize PPB procedures or feel legally obligated to follow PPB rules as long as the agency acted in such an unconstitutional manner. With this swift blow, the court removed Pupil Placement Board power in the state's largest population center.

Initially, the Pupil Placement Board refused to cooperate with the court order, denying transfer requests on the grounds that it only accepted voluntary recommendations, and that since the court was forcing the Norfolk school board to recommend the black pupils for white schools, these recommendations could not be considered voluntary.[23] The Board also claimed that it "could not recognize as valid any assignment of any pupil to any school in Virginia not made by it, in accordance with Virginia law," in what could only have been a misguided attempt to assert states' rights as the rightful usurper of federal jurisdiction.[24] Technically, the Pupil Placement Board was acting in accordance with Virginia state law, but the court swiftly reminded the Board that it could be charged with contempt if it did not place the students into the schools they requested. The PPB formally responded to the court, feigning ignorance as to the intent of the ruling and the larger meaning of *Brown v. Board* in general.

Their reply stated that the Board had not realized that the court order had been a

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[22] Ibid, 3.
[23] Virginia. Governor (1958-1962: Almond), Executive Papers, 1958-1962. Accession 25184, Box 47, Folder 9.
[24] "Negro Bids Here Due Court Action," *Richmond News-Leader*, 30 August 1958, p1.

formal instruction, as it had previously interpreted the law as an order not to discriminate based on race, not an affirmative order to forcibly desegregate. The Board went further with this convoluted argument, stating that if the law did not permit exclusion from school based on race, it conversely did not allow the PPB to admit black children into white schools simply because they were black. In a last ditch effort to defend its methods, the PPB stated that its appeals process demonstrated that it considered other factors besides race in the placement of pupils.[25] Since almost every appeal came from a black parent, and every appeal was denied, it is difficult to imagine how the Board could have expected the courts to see this process as an attempt at equal treatment. The court showed no sympathy for the Board, and the PPB finally had no choice but to assign the four black plaintiffs to white schools in Norfolk, per their request. The PPB also resolved to appeal the *Beckett* decision, in an attempt to have it overturned. In the meantime, the agency was forced to send a memo to all of the local school boards in the state as a reminder that it still existed, after a number of schools neglected to send in their placement forms following the Norfolk verdict and the change to local option in the Pupil Placement Law.[26] It was a sad statement about how little power the PPB now commanded.

These last legal battles took their toll on the PPB members. Hugh White, Andrew Farley, and Beverley Randolph had served on the Board since its birth in 1956, and had seen its power slowly chipped away by the ebb of massive resistance and the determination of the district courts to adhere to the *Brown II* decision. On February 24, 1960, the three men met and drafted a joint letter of resignation to the governor, citing

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[25] VPPB, Minutes, December 16, 1959.
[26] "Schools Reminded of Placement Law," *Richmond News-Leader*, 30 April 1959, p1.

their disagreement with the local option plan. In reality, the members probably just could not accept the possibility that they would eventually be forced to integrate Virginia's public schools. When the governor finally accepted the resignations in May, the members used their final board meeting to record what they considered to have been the main goals of the agency. Far from being a beacon of constitutional impartiality, the members stated that their only goal had been "to fight, by every legal and honorable means, any attempted mixing of the races in the public schools."[27] On June 1, 1960, the old guard of the PPB officially stepped aside, ushering in a new era, marking the beginning of the end of the Pupil Placement Board.

[27] VPPB, Minutes, May 25, 1960.

Chapter IV

From Massive Resistance to Minimal Compliance

After several months and any number of interviews with more than forty applicants, Governor Almond appointed successors for Hugh White, Andrew Farley, and Beverley Randolph on July 21, 1960. The new members of the PPB were Edward T. Justis and Alfred L. Wingo, both employees of the Department of Education, and E.J. Oglesby, a math professor at the University of Virginia. The three men were similar to their predecessors in that they were ardent segregationists, particularly Oglesby, who headed the Albemarle-Charlottesville chapter of the Defenders of State Sovereignty and Individual Liberties.[1] This is ironic, considering the level of integration that developed during their tenure at the PPB. For the most part, the men continued the established practice of placing a small number of black children into white schools, and even then, only when forced to by court order. However, one of the first acts of the new regime was temporarily to place two black students into formerly all-white Chandler High School in Richmond. It was not only the first instance of integration in Richmond, it also marked the first time in the Pupil Placement Board's four-year history that it had voluntarily placed black children in a white school without a court order. Including these two students, there were only 179 out of a total 204,000 black students attending school with

[1] Pratt, 25.

students of another race by the fall of 1960.[1] This meant that six years after the Brown decision, less than one percent of Virginia's black pupils were integrated.

The Board quickly erased the value of this historical act by maintaining only a semblance of integration throughout the entire state. Weeks after it placed the two black children in Norfolk, it went to stultifying lengths to prevent a black child from entering a white school in Richmond. Dr. and Mrs. William Calloway, accompanied by the indefatigable attorney Oliver Hill, met with the Board on September 12, 1960 to protest the Board's refusal of their son's transfer request. Wallace Calloway was currently attending the all-black Graves Junior High School and wanted to transfer to Chandler Junior High School, the same school that had become integrated only weeks before. The Board had denied Calloway's request on the grounds that Graves was closer to his home than Chandler. However, in their meeting with the PPB, the Calloways insisted that Chandler was slightly closer to their home. Since there was conflicting testimony, the Board decided to defer action on the case until a private civil engineer could do a survey to determine the actual distance from the Calloways' home to the two schools.

The Board hired Austin Brockenbrough and Associates, a group of private consulting engineers, to perform the survey. The engineers literally got down on their hands and knees and measured every inch between the Calloway home and the two schools in question. They determined that the Calloways were 8,150 feet from Graves, and 8,530 feet from Chandler. Based on this difference, the PPB rejected Wallace Calloway's transfer request on the grounds that he was already attending the school

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[1] *Southern School News*, September 1960.

closest to his home.[2]

Shortly after this incident, the Civil Rights Commission in Washington, D.C. invited the Pupil Placement Board to make a presentation for an education conference in Williamsburg, Virginia. The Board members decided they would attend the conference with prepared statements of the agency's legal aspects, administration, and statistical details. The members gave this presentation on February 25, 1961. In the prepared statement, the Board members discussed their standard procedures for placing pupils, including taking into account discipline, classroom availability and teacher availability. They also outlined their reliance on the recommendations of local school boards in determining the best location for each pupil. The PPB had processed 754,831 applications since 1957, with just over 1,100 parents refusing to sign or signing under protest. These procedures seemed reasonable, and the number of protests was relatively small, giving the PPB the benefit of doubt.

However, when the placement statistics were broken down by race, a different picture of the PPB developed. Virginia's public school system was technically integrated, but only by a hair's breadth. Out of the three-quarter million applications processed, we can assume that at least thirty percent of them were for black students, as this was the approximate percentage of black school-age children in the state at the time. Each of those students was applying for either admission or a transfer. Out of these, only forty-nine were currently attending formerly all-white schools, or approximately one in every 4,500 applicants. Of those forty-nine, eleven had been placed in their schools by court order, meaning the PPB had previously denied each of them access to those same schools

[2] VPPB, Minutes, September 26, 1960.

before the court intervened. This meant that in five years, the PPB had voluntarily placed only twenty-six black students in white public schools.

Out of 2,335 schools in the state, only twenty-six were integrated, or .01%. Of those twenty-six, each had previously been an all-white school and even now had no more than two black children enrolled. Only eight of 114 school districts had an integrated school, and only five of these had more than one such school. All but two of the schools were located in larger cities, including Arlington, Fairfax, Alexandria, Roanoke, Richmond, and Norfolk. The two smaller counties, Warren and Floyd, had been integrated by a court order. This presentation demonstrated not only the Board's overt unwillingness to integrate, but also its overwhelming success in maintaining segregation in 99% of the state seven years after the *Brown* decision.

Despite its obvious success at staving off integration, the PPB had begun experiencing a large drop-off in support. Since local option had been formally adopted in June 1960, the PPB had lost its powers in areas all over the state. Whereas almost every county and city had acquiesced to the PPB when it first developed in 1956, at least ten cities and fifteen counties were submitting very few or no applications by March 1961.[3] This is a full twenty percent of the school districts in Virginia, a drastic drop-off during a nine-month period. It is difficult to determine why these cities and counties decided to terminate their affiliation with the Pupil Placement Board. It is most likely that many counties simply wanted to resume their right to place pupils in their schools as they saw fit without the interference of an outside agency. Others may have felt the Pupil

[3] "Report of Divisions that have not Sent Applications Regularly to the Pupil Placement Board as of March 30, 1961," VPPB, Minutes, May 1961.

Placement Board was doing a poor job at staving off integration, and felt they could do a better job themselves. Another possibility is that some areas were tired of evading the law and endless legal battles, and determined that developing their own plan of integration was best for their locality. Whatever the reasons, these defections put further chinks in the already shaky defense of the Pupil Placement Board's validity.

Indeed the Board had started getting pressure to veer from its original hard-line values by the summer of 1961. School boards from the Shenandoah Valley and Northern Virginia began asking for limited desegregation in their schools, so as to relieve the financial burden of maintaining dual school systems.[4] The PPB began voluntarily placing a small number of black children into previously all-white schools. Chandler Junior High School in Richmond was among those to receive new black students. This was still the only integrated school in Richmond, and had become a dumping ground for any black child wishing to attend an integrated school. In July 1961, several black children were placed there for the 1961-62 academic year. Clues as to the Board's motives for this action may be taken from the name of one of the students it placed: Oliver Hill, Jr. Because he was the son of the famed civil rights attorney (and constant thorn in the side of the Pupil Placement Board), the Board was probably sidestepping a long and arduous legal battle with the senior Hill by simply placing him at an already integrated school. However, black pupils applying to Chandler could still not guarantee that their placement in the integrated school. The PPB had turned away more black students than it had accepted, and it had a plethora of tried and true excuses to explain its decisions.

The plaintiffs in the 1961 class action desegregation suit *Bradley v. Richmond*

[4] Pratt, 28.

School Board took aim at this system of accepting few while rejecting many. While the suit was technically filed against the school board, it was really aimed at the Pupil Placement Board. The plaintiffs took aim at the PPB's policy of assigning schools based on dual attendance zones, of promoting black pupils only to black upper schools, and of subjecting black transfer students to admissions criteria from which whites were exempt. They also claimed that white students who lived in an area were sent to white schools, while blacks who lived in the same area were forced to attend black schools.[5]

The judge agreed with the plaintiffs and ruled in their favor. The decision resulted in the Richmond School Board being reprimanded for shirking its responsibility to desegregate while complying with the segregationist policies of the Pupil Placement Board. The judge also referred to the PPB as "unlawful at worst, untenable at best."[6] However, the plaintiffs were not content to stop at a single victory. The plaintiffs not only wanted the ruling extended to other school districts similarly situated, they wanted the Pupil Placement Board permanently disbanded. Although many lawsuits had claimed that the Pupil Placement Board acted unlawfully, none had actually suggested that the agency be forced to disband.

Although nothing came of this request to have the agency disbanded, the court's consistent votes against the Pupil Placement Board's methods made it easy for local school boards to act independently of the agency and exert as much authority as they wished over the placement of pupils. Every time the PPB developed a new way to flout the desegregation orders, parents responded with new lawsuits against the local school

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[5] Ibid., 31.

board and the Pupil Placement Board. An excellent example occurred in Lynchburg. By the early 1960s, the Pupil Placement Board was bold enough to reject the applications of black students requesting transfer to white schools on the grounds that the court had not ordered the transfer. Not only did it use this logic privately, the Board frequently listed it as a reason on the letters to the children's parents. Given the number of lawsuits filed against the Pupil Placement Board in the previous years, blatantly stating that the agency needed a court order to proceed with an interracial transfer seemed like challenge to parents to seek legal action.

Although parents in Lynchburg did not take legal action for this reason, they found other ways to attack the Pupil Placement Board's methods. *Cecelia Jackson v. the School Board of the City of Lynchburg* was a class action suit against the school board, the school superintendent, and the Pupil Placement Board. The plaintiffs' primary goals were to get a court order to eliminate the law requiring the PPB to announce protest hearings in advance of the proceedings. In their bill of complaint, the parents claimed the law was meant to discourage people from asking for a hearing or questioning the placement choices of the Board. When the community found out that black parents were trying to desegregate local schools, those families came under tremendous pressure to forfeit their right to a hearing.

The parents also protested the part of the law requiring both parents and the pupil to be present at the hearing. These hearings were held on weekdays during normal business hours, meaning that parents often had to arrange to miss work to attend. Assuming the parent worked for a sympathetic boss who would allow them time to battle

segregationist policies, the family would still have to travel to the hearing. Attending the hearings typically caused a family much time and expense, and the plaintiffs in the Lynchburg case felt this was yet another built-in inducement for families to give up their quest for equal rights.[7]

Although most of the lawsuit attacked the Pupil Placement Board's rules for public protest hearings, the plaintiffs in *Cecelia Jackson v. School Board* also protested the Board's use of dual school zones. As we mentioned in a previous chapter, Lynchburg maintained separate school zones for black and white students, despite the fact that these areas overlapped in many places. The plaintiffs may have brought this issue into the case as a way to demonstrate that the school board had already established a precedent of institutionalized segregation practices in the public school system.

The district court, presided over by Judge Mitchie, ruled in favor of the plaintiffs on April 18, 1962. He ordered the Lynchburg schools to desegregate, pending approval of a plan from the school board. He also indicated that in the future, parents dissatisfied with the rulings of the school board and the Pupil Placement Board could bypass those agencies and appeal directly to the court. The ruling was seemingly a major victory for Lynchburg blacks, but the ruling was slow to take effect. The school board dragged its feet in creating a desegregation plan, and the plan it finally developed called for gradual integration. By the board's intended plan, they would begin desegregating the first through third grades in 1963 and then gradually desegregate the other grades several at a time. The final stage would not be complete until 1967, five years after the court order.

By the time the court approved the school board's desegregation plan in 1964, the

[7] Bill of Complaint for *Cecelia Jackson v. School Board of the City of Lynchburg*, 1961.

Lynchburg school board had resigned itself to the inevitable. In addition to the constant threat of a re-opened legal battle with the district courts and the NAACP, the freshly minted Civil Rights Act of 1964 created a final, fatal threat to the already dying cause of segregation. Though it had continued to utilize the Pupil Placement Board after the court order and the subsequent appeal, the Civil Rights Act ensured that neither the school board nor the PPB would be able to exclude children from certain schools because of race. After the court's approval of its desegregation plan, the Lynchburg school board, along with many others, cut its ties with the Pupil Placement Board.

It was the Civil Rights Act that dealt one of the final, most fatal blows to the Pupil Placement Board. This bill was a signal that, at long last, the federal government would take seriously the task of desegregation and equal rights for all citizens. The legislation was a culmination of efforts that began with the Civil Rights Act of 1957, which abolished poll taxes, grandfather clauses, and other means of keeping African-American citizens from voting. White southerners had fought the original bill with ferocious resolve, calling it the result of communist influences that had infiltrated the black community and brainwashed black leaders. One Virginia man went as far as to claim that the bill would "degrade, demean, and dissolve the several states; to remove the governors and legislatures who now stand as road blocks to the total surrender of our republic to the United Nations' plans for One World Totalitarian Communistic Dictatorship."[8] Virginia's leaders, for their part, insisted that the bill was worthless, as they carefully protected the

[8] R.D. Compton to Albertis Harrison, Jr., March 14, 1964. Virginia. Governor (1962-1966: Harrison), Executive Papers, 1962-1966. Accession 26231 and 26833, Box 3, Folder 6, State government record collection, The Library of Virginia, Richmond, Virginia. Other letters from citizens to the governor expressing similar sentiments are found in the same folder.

rights of each and every citizen.

Despite southern protests, the Civil Rights Act of 1957 became a federal law. Its passage encouraged the civil rights movement, and black leaders began pushing for federal protections of other rights as well. When John F. Kennedy ran for president in 1960, he promised just such a comprehensive piece of legislation and received seventy percent of the African-American vote as a result. However, Kennedy did not introduce the first version of his bill to Congress until 1963, only after the televised images of police dogs mauling non-violent protesters in Birmingham, Alabama had shocked the American people into demanding action. The Birmingham travesty finally brought national attention to the inherent problems that arose from localities having control over the pace of desegregation. By this point, only Texas and Tennessee, the states with the smallest number of African-American pupils, had more than two percent of their African-American pupils enrolled in integrated schools.[9]

Kennedy sensed that the nation was ready for change and that Congress was now in a position where they could freely condemn providing federal funds to states that openly defied the Constitution.[10] He addressed the civil rights bill in a televised address in which he stated that " the Negro baby born in American today, regardless of the section of the nation in which he is born, has about one-half as much chance of completing high school as a white baby born in the same place on the same day; one third as much chance of completing college; one third as much chance of becoming a professional man; twice as much chance of becoming unemployed; about one-seventh as

[9] Orfield, 20.
[10] Ibid, 33.

much chance of earning $10,000 a year; a life expectancy which is seven years shorter; and the prospects of earning only half as much.[11] Although Kennedy was assassinated shortly thereafter, his successor, Vice-president Lyndon B. Johnson, took up Kennedy's cause.

When the President signed the Civil Rights Bill on July 2, 1964, the law had changed significantly since its initial conception. While Kennedy's 1963 proposal had given federal funds administrators the option of cutting off funds to segregated school systems, the new bill *required* that action. Schools also had to submit desegregation plans to the Office of Education and have them approved before any federal grants or assistance would be administered. Educators in school districts throughout Virginia and the larger South did not initially believe that the Civil Rights Act would affect them directly. Most planned to withdraw their bids for federal funding, since they typically only received a few thousand dollars to cover vocational training, audio-visual equipment and scientific equipment.[12]

However, there were several safeguards in place to prevent just such actions on the part of southern schools. The Department of Health, Education, and Welfare, which was responsible for creating the guidelines for implementing the Civil Rights Act, determined that schools that did not submit desegregation plans could be taken to federal court by the Justice Department. The Elementary and Secondary Education Act (ESEA), passed the year after the Civil Rights Act, also gave southern schools an excellent reason to submit to desegregation. The ESEA was a new program designed to provide financial

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[11] John F. Kennedy, televised speech, June 11, 1963.
[12] Orfield, 219.

aid and support to financially repressed areas of the country. Since most of Virginia's cities were currently under desegregation orders, they already qualified for the funding.

However, Virginia's mostly rural, and mostly segregated, school districts were desperately in need of more funding, a circumstance attributed to the Byrd leadership's decades-long commitment to minimal public spending. The program was offering the equivalent of ten percent of the state's current education budget, and in some of the Southside counties, the ESEA offered funds that amounted to almost one-third of the total school budget. By the summer of 1965, only four out of 138 school divisions in Virginia had approved desegregation plans, and the state faced losing twenty million dollars in federal aid if it did not further comply. Most school districts spent the entire summer scrambling to get a desegregation plan approved by the Office of Education, and almost all had succeeded by the fall. When the 1965-66 school year began, 11% of all African-American students in Virginia attended an integrated school, making Virginia third in the South in terms of percentage of desegregation.[13]

The Civil Rights Act and the ESEA made the Pupil Placement Board completely obsolete, not only in legal terms, but also in the eyes of Virginians. Although the PPB was still officially in existence, it received fewer and fewer applications by the month. Every school administration knew that the agency was now a joke in the eyes of the state's district and federal courts, and that its goals, although unstated, would now go permanently unfulfilled. The Lynchburg school board formally notified the Board of its wish to sever ties, but this was not a typical course of action after 1964. As the local authorities gradually decided to give up their association with the Pupil Placement Board,

[13] Orfield, 223-228.

they frequently did not even bother to notify the organization. It was often not until the Board contacted the local superintendent that it was notified of the locality's discontinued participation. This demonstrates the degree to which the PPB had fallen since its earlier days. When it first formed, the board was considered to be a bastion of segregationist strength against the evil forces of the Supreme Court and integration. Now, as the courts systematically attacked the PPB from every angle, the agency's power had fallen to almost nothing. Towns and cities that had once looked to the PPB for guidance and assistance now summarily dismissed its services without so much as notification. The fact that its former staunch allies were not even willing to send a note to the agency is a testimony to the lack of respect that the Pupil Placement Board now commanded from local governments.

Virginians, following the lead of other southern states, had by this time pushed aside massive resistance relics like the Pupil Placement Board in favor of a new tactic, "minimum compliance". This new system employed gradualism and tokenism instead of total resistance, and it was much more effective. In this manner, white Southern leaders could still leave most schools almost completely segregated, while still following federal mandates by allowing a few token black students into those schools. Civil rights leaders recognized the dangers of this token acceptance policy. Martin Luther King, Jr. lamented in 1963 that "the greatest stumbling block in his stride toward freedom is not the White Citizen's Councilor or the Ku Klux Klanner, but the white moderate…who paternalistically believes he can set the timetable for another man's

freedom....Lukewarm acceptance is much more bewildering than outright rejection."[14]

Despite Virginia's commitment to "minimum compliance," schools desegregated rapidly after 1964. While only 102 black students had been enrolled in integrated schools in 1961, almost one quarter of all black students were enrolled in such schools by 1966.[15] While the 1964 Civil Rights Act claimed much of the credit for this rapid change, there were other factors, particularly the removal of political barriers for black voters. The consistent legal battles fought by the NAACP helped to press the courts into producing actual desegregation where local administrators refused to do so. Also, the 1965 Voting Rights Act had removed political barriers for most African-Americans, and politicians found that their votes were now crucial.[16]

No one understood this change better than Mills Godwin, Jr., the 1965 democratic gubernatorial candidate. Although Godwin was a long-time member of the Byrd organization and had been a "massive resister," he also understood that hard-line racial rhetoric would no longer work in the changing political climate as it had in the past. Godwin steered the Democrats into a more moderate direction. His actions infuriated the fervent segregationists, who angrily split from the Democrats and started their own party, which received 80,000 votes in the election.[17] Godwin managed to win the election because of a heavy number of black and urban votes, but his moderate stance continued to provoke more "traditional" Virginians. In 1966, the Republicans denounced the Democrats for plotting with black leaders to destroy the constitutional freedom of white

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[14] John A. Kirk, "Massive Resistance and Minimum Compliance: The Origins of the 1957 Little Rock School Crisis and the Failure of School Desegregation in the South" in *Massive Resistance: Southern Opposition to the Second Reconstruction*, ed. Clive Webb (New York: Oxford University Press, 2005), 76.
[15] *Southern School News*, May 17, 1964.
[16] Orfield, 209.
[17] Orfield, 230.

students. In response, the Byrd organization leadership launched an attack on Washington in an attempt to have the new school regulations repealed, without success.

By the time the 1966 session of the General Assembly arrived, Godwin decided the time had come to give up the ghost. Thanks to the 1964 Civil Rights Act and the Elementary and Secondary Education Act, almost every school in Virginia had achieved some degree of desegregation. The Office of Education continuously released updated guidelines, letting every school system know in no uncertain terms that recalcitrance would no longer be tolerated. Even the segregationists and white supremacists had found an alternative education source by capitalizing on the original massive resistance idea of tuition grants. A private school system now flourished all over the state for all of the white families who did not want their children to attend desegregated schools. Twelve such schools were created in the fall of 1964 and accepted 5,700 students, and fifteen more opened up by 1966.[18] While this separated system still reflected the continued racial prejudices of the population, it also indicated a level of acceptance and adaptation on the part of most Virginians.

This acceptance meant the Pupil Placement Board no longer played a useful role in the Virginia government. Since 1960, local school boards had associated with the PPB on a voluntary basis, and by 1966, almost all had discontinued that relationship. The Board still received a small number of applications, but its placements were redundant since they had to use the same criteria that the local school boards used. The Board's entire purpose, to prevent racial desegregation, was now no longer possible, so when the 1966 House of Delegates offered up a bill calling for the demolition of the agency, there

[18] U.S. Commission on Civil Rights, *Public Education*, 277.

was very little opposition.

On February 21, 1966, the House of Delegates decided to "kill" the Pupil Placement Board by a vote of 91-2, with the sole dissenting votes coming Southside delegates C.W. Cleaton, of South Hill, and Lyman Harrell, of Emporia. Two weeks later, the Senate also passed the bill, this time by a vote of 38-0. The action received little in the way of public acknowledgement. The *Richmond News-Leader* mentioned it on the front page, but as part of a larger article on the legislative agenda of the General Assembly. Referring to the Board as a "relic" of the state's former massive resistance to desegregation, the paper gave devoted two sentences in the article to the decade-old agency before moving on to a discussion of a worker's compensation bill.[19] There were no editorials or public protests, nor did Governor Godwin or any state leaders come out in support of the Board, as they had so fervently in past years. The Pupil Placement Board would die quietly, discarded and unnoticed, on June 30, 1966, the end of the fiscal year.

The Board had its final meeting on June 24, 1966. The Board's chairman, Dr. E.J. Oglesby, made it known in the Board's final days that he was disgusted with the turn that Virginia politics had taken since he started with the agency in 1960. Stating that "economic blackmail has made the Board's existence purposeless," Oglesby declared that voluntary integration just had not worked in Virginia. Apparently content to ignore the multitude of court cases and angry black parents that had plagued the Board for years, Oglesby claimed that black children had simply not wanted to attend school with white children, at least not in numbers sufficient to please the federal government.[20]

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[19] "House Rejects Pupil Board," *Richmond News-Leader*, 22 February 1966, p1.
[20] "Virginia Pupil Placement Board Bowing Out," *Richmond News-Leader*, June 22, 1966, p13.

Although Oglesby's statements probably resonated with many Virginia whites, the real problem with voluntary integration was the white students. Throughout the late 1960s, as the state tried to institute freedom of choice plans that allowed children to choose the schools they attended, administrators found that virtually no white students applied to black schools and that when black students attended white schools, many of the white students transferred to private schools. Later attempts to enforce integration through quotas and busing failed miserably because of public outcry against what was termed an "undemocratic" system.[21] While most rural counties in Virginia ultimately ended up with relatively integrated public schools, the cities of Richmond and Norfolk gradually reverted back to almost completely re-segregated school systems, a condition that still exists today.

This course of events ultimately proved that E.J. Oglesby was wrong when he claimed that Virginians had succumbed to the federal government. The Commonwealth of Virginia had not sold out its belief in segregation for the sake of a few Federal dollars. The original proponents of massive resistance had done their jobs, for opposition to desegregation remained in the hearts of many Virginians long after the laws were struck down. From the time of the *Brown v. Board* decision, leaders of the Byrd organization, a group by every standard more conservative than the average Virginian, had declared that the state had a duty, a moral obligation, and a legal right to preserve its racial traditions. Most Virginians never considered another option, and no one in a public position of authority ever suggested one. Indeed, no politician could suggest compliance with the Brown decision, because that stance would have lost them the backing of the Byrd

[21] Orfield, 244.

organization, which was at that time tantamount to career suicide. Instead, the state spent more than a decade fighting legal battles, losing educational opportunities for its children by closing schools, and wrangling over state laws that would not hold up in federal court. Virginians eventually tired of these tactics, if only because the process was never-ending and they never gained anything from it.

The Pupil Placement Act set itself apart from the larger massive resistance movement because it offered a lesson on the importance of subtlety. Of all the 1956 massive resistance legislation, the Pupil Placement Act was by far the most inconspicuous, and it was by far the longest-lasting. Neither the law nor the Board that administered it explicitly stated that students would be placed in schools based on race, and this ambiguity made it difficult to overcome. Though it was maligned, frequently ignored, and even found to be unconstitutional almost from its inception, the Board still managed to stay afloat and keep almost all of Virginia's black children from attending school with whites for almost a decade. From the Pupil Placement Board, Virginians learned that the best policy was to change little but give an outward impression of full compliance. The Board, despite its ultimate failure and descent into obscurity, remains of vital importance because it represents a crucial link between Virginia's past racial policies and those of the present.

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