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THE QUEST FOR FREEDOM IN THE POST-BROWN SOUTH: DESEGREGATION AND WHITE SELF-INTEREST

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INTRODUCTION

The civil rights movement in the American South during the 1950s and 1960s produced one of the most profound political and social readjustments in this nation's history. Communities large and small throughout the South confronted new racial expectations occasioned by the Supreme Court's 1954 decision in *Brown v. Board of Education*,¹ the black freedom struggle of the early 1960s, and the federal civil rights legislation of the mid-1960s. Each of these events severely challenged the racial status quo and ultimately forced a transformation in longstanding racial patterns in the American South. Yet the speed with which southern communities adapted to changing racial expectations varied widely. Some communities engaged in racial desegregation only after federal interference and considerable public defiance, while others took action far more quickly.

Many scholars have examined the dynamics of racial change in the post-*Brown* South and have identified a wide variety of factors contributing to the speed with which southern communities desegregated their schools and public accommodations. Some scholars have focused on the role of national civil rights leaders, such as Martin Luther King,² or on the actions of national civil rights organizations, such as the National Association for the Advancement of Colored People (NAACP), the Congress of Racial Equality (CORE), the Southern Christian Leadership Conference (SCLC), and the Student Nonviolent Coordinating Committee (SNCC).³ Others have emphasized the

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1. 347 U.S. 483 (1954).

2. See, e.g., TAYLOR BRANCH, *PARTING THE WATERS: AMERICA IN THE KING YEARS, 1954-1963* (1988); DAVID J. GARROW, *BEARING THE CROSS: MARTIN LUTHER KING, JR., AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE* (1986).

3. See, e.g., CLAYBORNE CARSON, *IN STRUGGLE: SNCC AND THE BLACK AWAKENING OF THE 1960s* (1981); ADAM FAIRCLOUGH, *TO REDEEM THE SOUL OF AMERICA: THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE AND MARTIN LUTHER KING, JR.* (1987); AUGUST MEIER & ELLIOTT RUDWICK, *CORE: A STUDY IN THE CIVIL RIGHTS MOVEMENT, 1942-1968* (1973).

significant influence—or lack thereof—of political institutions, particularly the federal courts, Congress, and the President.⁴

In recent years, however, an increasing number of scholars have focused on the dynamics of racial change in individual communities, recognizing that much of the desegregation in the post-*Brown* South took place independent of the efforts of national civil rights organizations and political initiatives. Indeed, many of the most significant contributions to the literature of the civil rights movement in the past several years have been local studies.⁵ These studies of the dynamics of racial change in individual communities have examined both the methods employed by local black activists to make their desegregation demands and the response of white elites to these demands.

This Article contributes to this analysis of racial change in the post-*Brown* South by focusing on the campaign to desegregate the schools and public accommodations in Charlotte, North Carolina. The focus on Charlotte is deliberate. Charlotte, a bustling New South city, has been widely perceived as one of the South's most racially moderate cities during the post-*Brown* era. In 1957, Charlotte captured national attention when it became one of the first southern cities

4. See, e.g., CARL M. BRAUER, *JOHN F. KENNEDY AND THE SECOND RECONSTRUCTION* (1977); ROBERT F. BURK, *THE EISENHOWER ADMINISTRATION AND BLACK CIVIL RIGHTS* (1984); PAUL BURSTEIN, *DISCRIMINATION, JOBS, AND POLITICS: THE STRUGGLE FOR EQUAL EMPLOYMENT OPPORTUNITY IN THE UNITED STATES SINCE THE NEW DEAL* (1985); RICHARD KLUGER, *SIMPLE JUSTICE: THE HISTORY OF BROWN V. BOARD OF EDUCATION AND BLACK AMERICA'S STRUGGLE FOR EQUALITY* (1975); GARY ORFIELD, *THE RECONSTRUCTION OF SOUTHERN EDUCATION: THE SCHOOLS AND THE 1964 CIVIL RIGHTS ACT* (1969); JACK W. PELTASON, *FIFTY-EIGHT LONELY MEN: SOUTHERN FEDERAL JUDGES AND SCHOOL DESEGREGATION* (1961); FRANK T. READ & LUCY S. MCGOUGH, *LET THEM BE JUDGED: THE JUDICIAL INTEGRATION OF THE DEEP SOUTH* (1978); GERALD N. ROSENBERG, *THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE?* (1991); J. HARVIE WILKINSON, III, *FROM BROWN TO BAKKE: THE SUPREME COURT AND SCHOOL INTEGRATION: 1954-1978* (1979); Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 STAN. L. REV. 61 (1988); Michael J. Klarman, *Brown, Racial Change, and the Civil Rights Movement*, 80 VA. L. REV. 7 (1994).

5. See, e.g., JOAN T. BEIFUSS, *AT THE RIVER I STAND: MEMPHIS, THE 1968 STRIKE, AND MARTIN LUTHER KING* (1989); DAVID S. CECELSKI, *ALONG FREEDOM ROAD: HYDE COUNTY, NORTH CAROLINA AND THE FATE OF BLACK SCHOOLS IN THE SOUTH* (1994); WILLIAM H. CHAFE, *CIVILITIES AND CIVIL RIGHTS: GREENSBORO, NORTH CAROLINA, AND THE BLACK STRUGGLE FOR FREEDOM* (1980); DAVID R. COLBURN, *RACIAL CHANGE AND COMMUNITY CRISIS: ST. AUGUSTINE FLORIDA, 1877-1980* (1985); JOHN DITTMER, *LOCAL PEOPLE: THE STRUGGLE FOR CIVIL RIGHTS IN MISSISSIPPI* (1994); CHARLES W. EAGLES, *OUTSIDE AGITATOR: JON DANIELS AND THE CIVIL RIGHTS MOVEMENT IN ALABAMA* (1993); ROBERT J. NORRELL, *REAPING THE WHIRLWIND: THE CIVIL RIGHTS MOVEMENT IN TUSKEGEE* (1st ed. 1985); SOUTHERN BUSINESSMEN AND DESEGREGATION (Elizabeth Jacoway & David R. Colburn eds., 1982); J. Mills Thornton, III, *Municipal Politics and the Course of the Movement*, in *NEW DIRECTIONS IN CIVIL RIGHTS STUDIES* 38 (Armstead L. Robinson & Patricia Sullivan eds., 1991); J. Mills Thornton, III, *Challenge and Response in the Montgomery Bus Boycott of 1955-1956*, 33 ALA. L. REV. 163 (1990). See also Clayborne Carson, *Civil Rights Reform and the Black Freedom Struggle*, in *THE CIVIL RIGHTS MOVEMENT IN AMERICA* 19 (Charles W. Eagles ed., 1986); Steven F. Lawson, *Freedom Then, Freedom Now*, 96 AM. HIST. REV. 456 (1991).

to voluntarily desegregate its public schools—and with little conflict—in contrast to the simultaneous and tumultuous integration of the Little Rock schools.⁶ In 1962, the Charlotte School Board was one of the first boards in the South to adopt a pupil assignment plan based in part on geography rather than race.⁷ In 1963, the city again captured national attention by voluntarily desegregating its public accommodations a full year before the Civil Rights Act of 1964 required such action.⁸

This focus on Charlotte permits an examination of the process of racial change in the moderate South. Some scholars who have examined the black freedom struggle in the moderate South have concluded that expressions of moderation actually served to inhibit racial change by establishing a veneer of racial liberalism that helped defuse efforts to secure greater integration.⁹ Such conclusions are borne out in many moderate southern cities, where expressions of moderation masked a desire to preserve traditional racial patterns of separation and where early, but token, desegregation deflected attention to more recalcitrant southern communities.¹⁰

But the moderate southern community differed from its recalcitrant counterpart in at least one significant aspect. These communities understood that white self-interest demanded a certain degree of accommodation to integration demands. Thus, in many moderate southern cities, white elites, especially business leaders, played critical roles in facilitating limited racial integration as a means of preserving a strong business environment. At the same time, this need to appear racially moderate provided the black community with an important opportunity to challenge racial segregation that activists successfully exploited in many southern communities.

The desegregation experience in Charlotte confirms, in large measure, the conclusions of those who have noted the correlation between the success of desegregation initiatives and a community understanding that economic goals were more important than adherence to traditional racial patterns. Previous studies of the desegregation experiences in individual southern communities have suggested that those communities that desegregated schools and public accommoda-

6. See *infra* text accompanying notes 86-91.

7. See *infra* text accompanying notes 138-40.

8. See *infra* text accompanying notes 174-186.

9. See CHAFE, *supra* note 5, at 8-10; Davison M. Douglas, *The Rhetoric of Moderation: Desegregating the South During the Decade After Brown*, 89 Nw. U. L. REV. 92, 95-98 (1994).

10. See, e.g., Douglas, *supra* note 9, at 137-39.

tions relatively early were influenced by the support of a white business class that favored such action.¹¹ The experience in Charlotte is consistent with those findings. In each instance wherein Charlotte engaged in early desegregation, the city's black community threatened racial disruption through either litigation or public protest. Fearing the negative impact of racial strife on the city's strong economic climate, Charlotte's white business elite, closely allied with the city's elected officials, took action to fend off black protest by engaging in voluntary but token integration in advance of most other southern cities. What distinguished Charlotte and its moderate counterparts like Atlanta and Dallas from more obstreperous southern communities like Birmingham and New Orleans was not so much a philosophical embrace of racial integration but rather a calculated understanding that controlled desegregation could serve broader economic interests.

Yet the desegregation experience in Charlotte can be further distinguished from that of other moderate southern cities. The comparison of Charlotte with Greensboro, North Carolina, is particularly instructive. Like Charlotte, Greensboro captured national attention in 1957 when it joined Charlotte as one of the first southern cities to integrate its schools voluntarily without a court order. Moreover, both Charlotte and Greensboro are medium-sized cities located in the urban Piedmont section of a state that studiously avoided open defiance of the *Brown* decision.¹² Yet despite the presence in Greensboro of a better educated and more politically active black community that pressed its racial demands more aggressively than its counterpart in Charlotte, racial desegregation generally came sooner and with less conflict in Charlotte, particularly public accommodations desegregation.¹³ The difference between Charlotte and Greensboro is largely

11. See, e.g., SOUTHERN BUSINESSMEN AND DESEGREGATION, *supra* note 5; JAMES C. COBB, THE SELLING OF THE SOUTH: THE SOUTHERN CRUSADE FOR INDUSTRIAL DEVELOPMENT, 1936-1980 (1982); M. Richard Cramer, *School Desegregation and New Industry: The Southern Community Leaders' Viewpoint*, 41 SOC. FORCES 384 (1963); David A. Horowitz, *White Southerners' Alienation and Civil Rights: The Response to Corporate Liberalism, 1956-1965*, 54 J.S. HIST. 173, 188-89 (1988).

12. See Douglas, *supra* note 9, at 104-19.

13. In 1960, the percentage of blacks in Greensboro with a college education was more than twice that in Charlotte. U.S. BUREAU OF CENSUS, U.S. CENSUS OF POPULATION AND HOUSING: 1960 (1961). A black candidate in Greensboro won election to the city council in 1951, fourteen years earlier than in Charlotte. CHAFE, *supra* note 5, at 35-37; Randy Penniger, *The Emergence of Black Political Power in Charlotte, North Carolina: The City Council Tenure of Frederick Douglass Alexander, 1965-1974* (1989) (unpublished M.A. Thesis, University of North Carolina at Charlotte). Demonstrations seeking lunch counter desegregation in 1960 and public accommodations desegregation in 1963 began sooner in Greensboro than in Charlotte and with larger numbers. See *infra* text accompanying notes 102, 194-96. Black leaders in Charlotte were, for the most part, less militant than their counterparts in other North Carolina cities such as Greens-

due to the differing response of the white business and political elite—especially the mayor—to racial demands. Charlotte's white elite, under the direction of Mayor Stanford Brookshire, was considerably more active in resolving racial conflict and far more willing to expend its moral and political capital to those ends than was the white elite in Greensboro.¹⁴ The experience in other moderate southern cities confirms the positive correlation between an active white elite and the speed with which desegregation took place.¹⁵

At the heart of Charlotte's acquiescence in limited desegregation in the late 1950s and early 1960s lies its white business elite's desire to retain control over the city's carefully nurtured public image.¹⁶ When black activists mounted a serious threat to that image through threat of litigation or public demonstrations, the city's white elite quickly negotiated limited integration. The Charlotte School Board chose to engage in the voluntary integration of its schools in 1957 because it understood that allowing four black children to attend a white school—in a school system with over 50,000 students—could prevent judicial control over the school system and pupil mixing of an even greater magnitude. Similarly, in 1962, the city's school board adopted a pupil assignment plan based in part on geography because it understood that without such a plan, the system was vulnerable to legal challenge with uncertain results. In 1963, the city's business leaders capitulated quickly to black leaders' demands for integrated public accommodations, recognizing that to do otherwise could lead to widespread demonstrations that would paint an unflattering portrait of the city's race relations. By controlling the pace of integration in each of these instances, integration remained token and minimally intrusive, while the white business elite retained control over the city's economic and public life.

By the same token, the black community in Charlotte, as in other southern communities, understood that the white elite's need to pre-

boro, Durham, and Winston-Salem. ALEX COFFIN, *BROOKSHIRE AND BELK: BUSINESSMEN IN CITY HALL* 43-44 (1994). Yet they would enjoy greater success forcing racial desegregation.

14. See *infra* text accompanying notes 194-97.

15. See CHAFE, *supra* note 5; SOUTHERN BUSINESSMEN AND DESEGREGATION, *supra* note 5.

16. William Chafe, *Greensboro, North Carolina: Perspectives on Progressivism*, in SOUTHERN BUSINESSMEN AND DESEGREGATION, *supra* note 5, at 69 (noting that "older forms of [white] control had simply taken on a new appearance" during the post-Brown era in Greensboro); Steven F. Lawson, *From Sit-in to Race Riot: Businessmen, Blacks, and the Pursuit of Moderation in Tampa, 1960-1967*, in SOUTHERN BUSINESSMEN AND DESEGREGATION, *supra* note 5, at 258-59 (noting the way in which white elites had used racial segregation and disfranchisement as a means of social control in the early twentieth century and to lure new capital to the South).

serve a favorable public image provided an opportunity to challenge the racial status quo. The black community exploited that opportunity by embracing two effective strategies: judicial action and public demonstrations.¹⁷ Local black activists understood that the city's white leaders feared the intervention of external judicial authority, and that the city would compromise on race issues to avoid the intervention of such authority. Indeed, the courts, as they grew more receptive to the interests of black litigants during the early 1960s, provided an effective external authority that black activists could and did exploit. Similarly, the city's black activists understood that racial demonstrations exposed the city—and its image—to the whims of negative public opinion. Aware that Charlotte's business elite feared their city becoming another Little Rock or Birmingham, black activists skillfully used demonstrations and the threat of demonstrations in the early 1960s to force various forms of integration. Hence, the ability of the city's black community to challenge white control through both litigation and demonstrations proved highly effective during much of the post-*Brown* era.

Many studies of the dynamics of racial change in the post-*Brown* South conclude with the mid-1960s. Yet the process of racial integration in Charlotte is greatly illuminated by a consideration of the busing controversy of the late 1960s and early 1970s. The desire of the white elite to control integration was tested in an unparalleled manner in Charlotte by the demands for school busing. By the late 1960s, Charlotte operated one of the most thoroughly integrated urban school systems in the United States pursuant to a pupil assignment plan that had received the blessing of the federal courts.¹⁸ Thus, when confronted with additional integration demands in 1969 and 1970 that required extensive school busing to overcome residential segregation, the white business and political elite of Charlotte proved unrespon-

17. On a few occasions, the black community also successfully utilized a third source of external authority to challenge the racial status quo: the Kennedy Administration. The ability of the black community to access the power of the Kennedy Administration contributed to the successful desegregation of the city's hospitals. See *infra* text accompanying notes 160, 217.

Many scholars have debated the comparative efficacy of litigation and direct action as a means for securing racial change. The experience of Charlotte teaches that both methods of challenging segregation were effective and often worked in tandem with one another. In the early 1960s, the demonstrations challenging segregated public accommodations proved more effective because of the powerful negative public image associated with separate accommodations, while at the same time legal avenues challenging segregated accommodations were limited. In the late 1960s, when the issue shifted to the use of school busing to overcome residential segregation, litigation proved more effective because of a receptive judiciary and stronger resistance within the white community to this type of integration.

18. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 369 F.2d 29 (4th Cir. 1966) (en banc).

sive. For the first time in its history, the city's white elite ceded control over the pace of integration to an outside agency: the federal courts. This shift took place for two reasons: first, a significant portion of the city's white leaders remained convinced that the busing demands of the local federal judge were illegitimate and would be so demonstrated through the appellate process; second, massive urban school integration presented demands of an entirely different magnitude than did the desegregation of public accommodations or the admission of a few black children to white schools.¹⁹

Although eventually many of the city's business leaders came to accept the reality of school busing, their silence during the height of the busing controversy created a vacuum of authority and ultimately allowed other community groups and interests to gain legitimacy and political power. As a result, during the 1970s, Charlotte experienced a transformation in the city's political power structure, with a redistribution of power away from the white business class in the direction of community and neighborhood groups throughout the city. Thus, the integration demands of the late 1960s and early 1970s not only transformed the racial climate of Charlotte, they also transformed the distribution of political power in the city.²⁰

The desegregation experience in Charlotte is consistent with the experience in other moderate southern cities in which white elites helped facilitate limited integration in response to increased black demands.²¹ Yet the unique aspects of the Charlotte experience—in particular the city's eagerness to prevent racial unrest at all costs—further confirms the value of examining the dynamics of racial change in the post-*Brown* South through the lens of individual communities.

I. CHARLOTTE RESPONDS TO THE *Brown* Decision

A. *Charlotte and The Pursuit of Prosperity*

Throughout the twentieth century, Charlotte thrived as one of the fastest growing cities in the South.²² Unlike many other twentieth-

19. See *infra* text accompanying notes 253-55.

20. See *infra* text accompanying notes 294-95.

21. For example, in Atlanta, Dallas, and Tampa, local business leaders took leadership roles in facilitating racial change. Not surprisingly, each of these cities were vibrant "New South" cities that had experienced dramatic economic and population growth in the twentieth century and that valued continued economic prosperity over the preservation of complete racial segregation. Elizabeth Jacoway, *An Introduction: Civil Rights and the Changing South*, in SOUTHERN BUSINESSMEN AND DESEGREGATION, *supra* note 5, at 11.

22. In the eleven states of the old Confederacy—excluding Texas—eighteen towns and cities had a larger population than did Charlotte in 1900: Newport News, Norfolk, Richmond,

century southern cities of similar size, Charlotte was a relatively insignificant town for much of the nineteenth century.²³ In the latter years of the nineteenth century, the opening of a large number of cotton mills transformed Charlotte into one of the region's leading textile centers. By 1903, half of the looms and spindles in the South were located within a hundred miles of the city.²⁴ The growth of banking and the distribution of manufactured goods in the early twentieth century helped solidify Charlotte's status as the leading commercial center in the state. By the 1990s, Charlotte would become the third largest banking center in the United States and rival Atlanta as the retail and trade center of the Southeast. The favorable placement of roads and highways in the twentieth century facilitated the rapid growth of Charlotte's trucking industry; in time, the city would also become one of the leading trucking centers in the United States.²⁵ The city's economic prosperity of the twentieth century has been accompanied by extraordinary population growth. Since 1900—at which time about 20,000 people lived in Charlotte—the city's population has more than doubled every twenty years, with a current population of over 400,000.²⁶

Charlotte had prospered during this century as a result of an unflagging commitment to the development of new business and industry. Charlotte's leaders understood early on the value of business development, and hence, have consistently engaged in vigorous pro-

Roanoke, Columbia, Atlanta, Macon, Savannah, Jacksonville, Montgomery, Birmingham, Mobile, New Orleans, Little Rock, Knoxville, Chattanooga, Memphis, and Nashville. By 1960, there were only eight such cities: Richmond, Norfolk, Atlanta, Miami, Birmingham, New Orleans, Memphis, and Nashville. By 1990, there were only four: Jacksonville, New Orleans, Memphis, and Nashville. DONALD B. DODD, *HISTORICAL STATISTICS OF THE STATES OF THE UNITED STATES: TWO CENTURIES OF CENSUS, 1790-1990*, at 443-61 (1993).

23. Charlotte's economy in the early nineteenth century depended in significant measure on gold mining, but the discovery of gold in California in the 1840s undermined this aspect of the Charlotte economy. LEGETTE BLYTHE & CHARLES R. BROCKMANN, *HORNET'S NEST: THE STORY OF CHARLOTTE AND MECKLENBURG COUNTY* 267 (1961). Charlotte and its surrounding area had few substantial slaveowners during the ante-bellum era. In 1850, only three families in all of Mecklenburg County—home to Charlotte—owned more than fifty slaves. Damaris E. Leach, *Progress Under Pressure: Changes in Charlotte Race Relations, 1955-1965*, at 7 (1976) (unpublished M.A. thesis, University of North Carolina (Chapel Hill)).

24. Leach, *supra* note 23, at 4.

25. *Tournament Invigorates Charlotte*, N.Y. TIMES, Apr. 2, 1994, at 7A; Thomas Hanchett, *Sorting Out the New South City: Charlotte and Its Neighborhoods* 458 (1993) (unpublished Ph.D. dissertation, University of North Carolina (Chapel Hill)).

26. 2 U.S. BUREAU OF THE CENSUS, *CENSUS OF POPULATION: 1950: CHARACTERISTICS OF THE POPULATION: NORTH CAROLINA* Pt. 33 (1952); U.S. BUREAU OF THE CENSUS, *U.S. CENSUS OF POPULATION AND HOUSING: 1960: CHARLOTTE, N.C.* 13 (1960); U.S. BUREAU OF THE CENSUS, *1990 CENSUS OF POPULATION AND HOUSING: SURVEY POPULATION AND HOUSING CHARACTERISTICS: NORTH CAROLINA, 1990*, at 17 (1993); *Now We'll Be City*, CHARLOTTE OBSERVER, June 30, 1991, at 1D; Hanchett, *supra* note 25, at 191.

motion and protection of the city's image as a good place to do business. Although in the early years of the twentieth century Charlotte's economy depended in large measure on textile manufacturing, by the middle of the century the city's economy had considerably diversified, far more than had other North Carolina cities.

Throughout much of this century, the Charlotte Chamber of Commerce has functioned as the most powerful institution in the city. Particularly during the 1950s, the Chamber led a number of important city reform efforts including the expansion of the city's limits and the consolidation of the city and county school system.²⁷ Community initiatives that gained Chamber support generally succeeded. The Chamber also functioned as a keeper of the city's image, facilitating favorable coverage of the city in the national press.²⁸

The *Charlotte Observer* repeatedly cited the Chamber for its important role in civic affairs. In 1958, the paper noted: "[s]cratch beneath the surface of any local government program in Charlotte or Mecklenburg [County] these days and you're likely to find a Chamber of Commerce committee lending aid, comfort, and more than a little push."²⁹ Or, in a 1960 editorial entitled *Guess Who's Boss of Our Town*, the paper wrote: "Charlotte is run, primarily and well, by its Chamber of Commerce. . . . We are pleased to acknowledge its bossism and to wish it continued health."³⁰ Columnist Ed Yoder, then of Greensboro, described the Chamber's importance in a 1961 column: "[T]he Chamber of Commerce . . . is the mainspring of Charlotte, the clearing house for what is done politically and even culturally."³¹ The Chamber had performed this role for several decades; in 1933, *Charlotte News* reporter W.J. Cash claimed that "[n]owhere else in Dixie . . . is the Chamber of Commerce more an oracle" than in Charlotte.³²

The Chamber and the city's political leadership had always been closely linked. From 1935 through 1975, every Charlotte mayor, except one, had been a Chamber member and the president or owner of

27. As part of its activities, the Chamber frequently sponsored trips of premier business leaders to other American cities to study ways of resolving community problems such as urban renewal and park development. William T. Moyer, *Charlotte-Mecklenburg Consolidation: Metrolina in Motion* 165 (1975) (unpublished Ph.D. dissertation, University of North Carolina (Chapel Hill)).

28. BLYTHE & BROCKMANN, *supra* note 23, at 138-39.

29. *Between Soup and Nuts, Progress*, CHARLOTTE OBSERVER, Mar. 13, 1958, at 2B.

30. *Guess Who's Boss of Our Town*, CHARLOTTE OBSERVER, Feb. 12, 1960, at 2B.

31. Ed Yoder, *Comments from a Neighboring Town*, CHARLOTTE OBSERVER, Dec. 13, 1961, at 2B.

32. W.J. Cash, *Close View of a Calvinist Lhasa*, AMERICAN MERCURY Apr. 1993, at 443, 445.

his own business.³³ The Chamber presidency frequently led directly to the mayor's office. From the early 1960s until the late 1970s, the mayor of Charlotte was a former president of the Chamber of Commerce; and the chair of the Mecklenburg County Board of Commissioners during the late 1960s and early 1970s was also a former Chamber president.³⁴ The Chamber frequently approached local business leaders and encouraged them to run for office with a promise of financial support. Stanford Brookshire, for example, who served as the city's mayor for most of the 1960s, entered the mayoral race in 1961 at the Chamber's behest.³⁵ A strong Chamber of Commerce permitted Charlotte's business elite to speak with one voice and to exercise considerable control over the city's economic and political development. When confronted with the integration demands of the post-*Brown* era, the Chamber of Commerce facilitated a unified response that well served the city's economic interests. As a former Chamber president Ed Burnside commented in 1964: "Anything [the Chamber] back[s] goes over."³⁶ The influence of the Chamber of Commerce would prove to be an important factor in the city's resolution of racial conflict for much of the post-*Brown* era.

The presence of a strong and politically active Chamber of Commerce was not unique to Charlotte. Throughout the South, other cities that engaged in early desegregation with minimal public turmoil—such as Atlanta and Dallas—enjoyed the presence of a strong Chamber of Commerce that wielded influence over public opinion and chose to exercise that influence in support of desegregation. Where business leaders remained silent until conflict had escalated—as in Birmingham and New Orleans—bitter conflict was far more likely.³⁷

B. Charlotte Responds to Brown

When the Supreme Court decided the *Brown* case in 1954, Charlotte was a city of two very different worlds: one black and one white. Although Charlotte, for the most part, had escaped the racial conflict that had beset many other southern cities during the late nineteenth and early twentieth centuries,³⁸ the city's growth and development

33. Leach, *supra* note 23, at 11.

34. Moye, *supra* note 27, at 165.

35. *Brookshire May Run for Mayor*, CHARLOTTE OBSERVER, Apr. 5, 1961; Interview with William Sturges, in Charlotte, N.C. (Oct. 12, 1992).

36. PAT WATTERS, SOUTHERN REGIONAL COUNCIL, CHARLOTTE 21 (1964).

37. COBB, *supra* note 11, at 122-50.

38. Yet nineteenth-century Charlotte was not without its racial incidents. In April 1875, for example, shortly after the passage of the federal Civil Rights Act that guaranteed equal access to

during the half century before *Brown* proceeded along well-defined racial lines. Although Charlotte enjoyed a high degree of residential integration in the nineteenth century,³⁹ the city's rapid population growth in the twentieth century proceeded along well developed racial lines, encouraged in significant measure by racially restrictive covenants that accompanied the development of most new property during the first half of this century.⁴⁰ By the time the Supreme Court issued its *Brown* decision in 1954, Charlotte was one of the most residentially segregated cities in the United States—only thirteen of the one hun-

public accommodations, a black family traveling through Charlotte took a room at the downtown Central Hotel. An angry crowd of whites forced its way into the hotel and successfully demanded that the black family be required to leave. The Charlotte Daily Observer, the local newspaper, supported the mob's actions. JACK CLAIBORNE, *THE CHARLOTTE OBSERVER: ITS TIME AND PLACE, 1869-1986*, at 50-51 (1986).

39. During the nineteenth century, Charlotte, along with many southern towns, had a high degree of residential integration. As families clustered around the intersection of Trade and Tyron streets, wealthy white homeowners were likely to live on the same block with modest African-American laborers. By the turn of the century, certain blocks within the city were occupied exclusively by persons of one race, but very few neighborhoods had attained a racial identity. Hanchett, *supra* note 25, at 6, 103, 264.

40. NORTH CAROLINA ADVISORY COMMITTEE TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS, *EQUAL PROTECTION OF THE LAWS IN NORTH CAROLINA* 153 (1962). Gunnar Myrdal in his 1944 study of American race relations found that southern cities, such as Charlotte, that received the bulk of their black population after the Civil War, tended to be more segregated than those cities that already had a large black population before the war. GUNNAR MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* 620-21 (1944). Charlotte was certainly one of those cities.

Between 1900 and 1930, for example, developers created three new neighborhoods east and southeast of the downtown area—Elizabeth, Myers Park, and Eastover—that specifically excluded black as well as lower-income white families through racial and house-cost restrictive covenants, creating a haven for upper class whites. Hanchett, *supra* note 25, at 306-18. North Carolina courts enforced these racially restrictive covenants as did courts throughout the country until the Supreme Court's decision in *Shelley v. Kraemer*, 334 U.S. 1 (1948), declared them unconstitutional. See *Phillips v. Wearn*, 37 S.E.2d 895, 897 (N.C. 1946); *Vernon v. R.J. Reynolds Realty Co.*, 36 S.E.2d 710, 711 (N.C. 1945); *Sheets v. Dillon*, 20 S.E.2d 344, 347 (N.C. 1942); *St. Louis Union Trust Co. v. Foster*, 190 S.E. 522, 529 (N.C. 1937); *Eason v. Buffaloe*, 152 S.E. 496, 496-97 (N.C. 1930). The United States Supreme Court had expressly found that enforcement of racially restrictive covenants did not violate the Constitution in its earlier decision in *Corrigan v. Buckley*, 271 U.S. 323 (1926).

Other suburban neighborhoods developed in the early years of this century also assumed identities based on race and class even in the absence of racially restrictive covenants. For example, Wesley Heights, located west of the center of town, attracted middle class whites; Villa Heights, Belmont, and Optimist Park north of the center of town attracted white mill workers; and Biddleville and Washington Heights also west of the center of town near Biddle Institute, attracted black middle class homeowners. Biddle, a black college founded in the aftermath of the Civil War by the northern Presbyterian Church and renamed Johnson C. Smith University in 1923, would prove to be a strong draw for new black development in the area west of the center of town. Yet the most substantial African-American neighborhood in the early twentieth century was Second Ward, or Brooklyn, located immediately southeast of the town square. By 1920, Second Ward had developed its own commercial center complete with a large number of black-owned businesses. Hanchett, *supra* note 25, at 200-25, 271-302.

dred largest cities in the country had more residential segregation than Charlotte.⁴¹

Yet, the city's black and white communities were separated by more than mere geography. Blacks and whites lived in disparate worlds in terms of income, employment, education, and quality of housing. In 1950, over ninety percent of the employed black men in the city engaged in manual labor; only about seven percent held some type of white collar job. On the other hand, about half of the city's white men held a white collar job. Likewise, over half of the city's working black women held low-paying jobs as domestics in white homes; only about ten percent of the working white women were so engaged. These differences were reflected in the incomes black and white workers earned; in 1950, the median income of white workers in Charlotte was more than twice that of African Americans, a disparity greater than every other North Carolina city and greater than most other upper South cities.⁴² This dramatic disparity in employment and income was due to a range of factors, one of which was the remarkably different educational backgrounds of the two groups. Whereas the average white adult in Charlotte in 1950 had completed 12.2 grades of school, the average African-American adult had completed only 6.6 grades of school,⁴³ due in significant part to the fact that high school

41. KARL E. TAEUBER & ALMA F. TAEUBER, *NEGROES IN CITIES: RESIDENTIAL SEGREGATION AND NEIGHBORHOOD CHANGE* 31-34, 40-41 (1965); Analysis of Student Enrollment and Professional Instructional Staff of One Hundred Largest School Districts (1970) (unpublished manuscript, on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte). Those thirteen cities were Dallas, Flint, Fort Lauderdale, Jacksonville, Miami, Montgomery, Norfolk, Orlando, Richmond, Shreveport, Tampa, West Palm Beach, and Winston-Salem. *Id.*

By 1954, the various quadrants of the city had attained a certain racial and class identity: African Americans lived primarily in the northwest section of the city, lower middle class whites lived primarily in the northeast and southwest sections of the city, and upper middle class whites lived primarily in the southeast section of the city. Julius Chambers, the city's most prominent black attorney during the 1960s and 1970s, would later comment that Charlotte could teach Rhodesia "something about apartheid." *Chambers Will Push Integration*, *CHARLOTTE OBSERVER*, June 30, 1969, at 1B.

42. Charlotte, 2.2 to one; Asheville, 1.7 to one; Durham, 1.9 to one; Greensboro-High Point, 1.9 to one; Raleigh, 2.1 to one; Winston-Salem, 1.8 to one; Chattanooga, 1.6 to one; Memphis, 2.3 to one; Nashville, 1.8 to one; Norfolk, 1.8 to one; Richmond, 1.9 to one; Roanoke, 1.9 to one. The disparities in the deep South were worse than Charlotte: Mobile, 2.4 to one; Montgomery, 3.0 to one; Atlanta, 2.2 to one; Augusta, 2.3 to one; Savannah, 2.5 to one. U.S. BUREAU OF CENSUS, *CENSUS OF POPULATION: 1950: CHARACTERISTICS OF THE POPULATION: NORTH CAROLINA, TENNESSEE, ALABAMA, GEORGIA, AND VIRGINIA* (1952).

43. BUREAU OF CENSUS, *CENSUS OF POPULATION: 1950: CHARACTERISTICS OF THE POPULATION: NORTH CAROLINA* Pt. 33, at 62, 71 (1952).

education was not widely available for black students in North Carolina until the 1940s.⁴⁴

The *Brown* decision constituted a challenge of unknown proportions to these patterns of racial separation. Although much of the South reacted to *Brown* with cries of defiance, white Charlotte reacted to the decision in a muted fashion. None of the city's political and business leaders counseled defiance of the Court, and a few even endorsed the decision.⁴⁵ In addition, during the first few years following the decision, many of Charlotte's civic and business leaders helped facilitate the desegregation of certain aspects of the city's life. Following *Brown*, the Charlotte-Mecklenburg Council on Human Relations, a biracial organization of business and professional leaders, convinced managers of the city's largest department stores to open their restrooms to black customers and the board of directors of the Charlotte library to operate on a fully desegregated basis.⁴⁶ In 1954, the Mecklenburg County Medical Society became the first society in the state and one of the first in the South to desegregate its professional membership, a decision that ultimately forced the state chapter to do likewise.⁴⁷ Shortly thereafter, the city became one of the first southern cities to desegregate its bus service, in sharp contrast to the stormy bus boycott in Montgomery.⁴⁸ A few years later, in 1960, Charlotte received national attention by becoming the first city in the state and one of the first in the South to integrate a public swimming pool; other North Carolina cities had closed public swimming pools rather than allow them to operate on a desegregated basis.⁴⁹

44. JEFFREY CROW ET AL., *A HISTORY OF AFRICAN AMERICANS IN NORTH CAROLINA* 135 (1992).

45. For example, Claude Broach, minister at St. John's Baptist Church in downtown Charlotte, claimed that the Supreme Court in *Brown* had "echoed the conscience of the church." Claude Broach, Sermon 2 (1954) (unpublished manuscript, on file with the Frederick Douglass Alexander Papers, Box 121-86, Special Collections, Atkins Library, University of North Carolina at Charlotte).

46. Leach, *supra* note 23, at 37.

47. *Membership of Negroes Questioned*, CHARLOTTE NEWS, Apr. 28, 1955; *N.C. Doctors Admit Negroes*, RALEIGH NEWS AND OBSERVER, May 3, 1955; CLAIBORNE, *supra* note 38, at 247. The state granted black doctors "scientific" membership, but not "social" membership; full membership would not come until 1964. Edward C. Halperin, *Special Report: Desegregation of Hospitals and Medical Societies in North Carolina*, 318 NEW ENG. J. MED. 61-62 (Jan. 7, 1988).

48. *N.C. Negroes are Pushing Desegregation*, CHARLOTTE OBSERVER, July 19, 1957, at 9A; Southern Regional Council, Special Report on Charlotte, Greensboro, and Winston-Salem, North Carolina 12 (1957) (unpublished manuscript, on file with the NAACP Papers, Box III-A-105, Library of Congress, Washington, D.C.).

49. *Bathing Pool in Charlotte Integrated*, GREENSBORO DAILY NEWS, July 28, 1960, at 1A; Interview with Joseph Grier, in Charlotte, N.C. (July 8, 1992).

Much of this early desegregation was motivated by a desire to preserve a favorable business climate in the city. C.A. McKnight, the influential editor of the *Charlotte Observer*, was one of the first southerners to understand the negative economic impact of resistance to *Brown*.⁵⁰ At a March 1956 symposium on North Carolina public affairs, McKnight argued that deteriorating race relations in the wake of resistance to desegregation could potentially damage the state's economic future.⁵¹ The Charlotte-Mecklenburg Council on Human Relations repeatedly emphasized that smooth adjustment to *Brown* would benefit the city's economic prospects.⁵² The Council on Human Relations circulated a speech delivered by the executive vice-president of the Baton Rouge Chamber of Commerce in 1956 in which he predicted the economic costs of resistance to *Brown*: "Boycotts, economic reprisals, the possibility of abandoning our public schools, incidents of violence, irresponsible statements—these are new factors which will now be given consideration by industry and business when they consider a Southern location."⁵³ The Southern Regional Council called upon local chambers of commerce to find "'sensible' solutions to [school] integration petitions as a matter of long-range economic benefit to the region."⁵⁴ In time, many of Char-

50. The *Observer* had earlier had a mixed record of editorial support for racially progressive issues, having been a forceful proponent of white supremacy during the late nineteenth and early twentieth centuries. CLAIBORNE, *supra* note 38, at 50-51; JANETTE T. GREENWOOD, BITTER-SWEET LEGACY: THE BLACK AND WHITE 'BETTER CLASSES' IN CHARLOTTE, 1850-1910, at 189-90 (1994). The *Observer* had championed the constitutional amendment of 1900 that disfranchised black voters, heralding its passage as "one of the greatest days that ever dawned upon North Carolina." *Id.* at 212. Nevertheless, during the post-*Brown* era, the paper would publish some of the most racially liberal editorials in the South, particularly after McKnight became editor in early 1955. Under McKnight's leadership, throughout the various race-related crises that confronted the city over the course of the next two decades, the *Observer* usually favored desegregation efforts, serving as an important voice in a city confronted with the demands of racial change.

51. *Editor Sees Race Relations Hurt*, DURHAM MORNING HERALD, Mar. 12, 1956, at 8A. Other prominent newspaper editors in the state made similar claims. Reed Sarratt, executive editor of the *Winston-Salem Journal* and *Sentinel*, for example, noted that the state's failure to adapt to the *Brown* decision would cause "untold damage . . . to our economy." Charlotte-Mecklenburg Council on Human Relations, *Voices of Moderation* (July 1956) (unpublished manuscript, on file with Frederick Douglass Alexander Papers, Box 121-86, Special Collections, Atkins Library, University of North Carolina at Charlotte).

52. Charlotte-Mecklenburg Council on Human Relations, *What Would Public School Desegregation Mean to Charlotte* (1956); Charlotte-Mecklenburg Council on Human Relations, *Role of Business Leaders* (1956) (unpublished manuscripts, on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

53. Charlotte-Mecklenburg Council on Hum. Rel., *Role of Business Leaders*, *supra* note 52.

54. North Carolina Council on Human Relations, HUM. REL. BULL. 5 (Mar. 1956) (on file with the Frederick Douglass Alexander Papers, Box 121-86, Special Collections, Atkins Library, University of North Carolina at Charlotte) (quoting N.Y. TIMES, Mar. 13, 1956).

lotte's business leaders came to understand the value of token integration as a means of avoiding racial conflict. The tumultuous desegregation experience in Little Rock would loom large in the minds of Charlotte's business leaders for the next several years. Again and again, the desire to avoid becoming "another Little Rock" influenced the willingness of Charlotte's business elite to facilitate limited integration.

Notwithstanding the modest desegregation efforts during the first few years following *Brown*, school integration initially posed a far more difficult problem. Pupil mixing aroused passions of an entirely different order compared to the desegregation of medical societies and city buses. For the first three years after *Brown*, the Charlotte and Mecklenburg County school boards did little more than study the issue of school desegregation; during that time period, both boards continued their longstanding practice of assigning children to school on the basis of race.⁵⁵ At the same time, the NAACP, under the leadership of state president Kelly Alexander of Charlotte, sought to pressure the Charlotte and Mecklenburg County school boards to desegregate their schools.⁵⁶

Alexander had challenged the accommodationist attitudes of the state's traditional black leadership for several years.⁵⁷ Beginning in the late 1940s, Alexander argued that significant racial progress would not occur in North Carolina until the black community confronted the

55. In June 1955, the Charlotte School Board had become one of the first in the South to appoint a study committee to investigate methods of complying with *Brown*, having adopted a resolution that the board would seek to comply with the decision. *Two N.C. Cities Begin Studies on Compliance With Decree*, S. SCH. NEWS, July 6, 1955, at 6; *North Carolina: The Integration Issue*, RALEIGH NEWS AND OBSERVER, Mar. 15, 1956, at 4; *Pearsall Heads Schools Group; Governor Stresses Task Ahead*, RALEIGH NEWS AND OBSERVER, June 22, 1955, at 1.

56. Alexander served as one of North Carolina's leading civil rights figures for over forty years. Alexander founded the Charlotte branch of the NAACP in the early 1940s. In 1948, Alexander became statewide president of the NAACP, a position he held until 1984. In 1983, Alexander was elected national chair of the NAACP. NAACP State President, *Long Time Civil Rights Leader*, THE REVEALER (Raleigh, NC), Dec. 1975 (on file with Kelly Miller Alexander, Sr., Papers, Box 34-12, Special Collections, Atkins Library, University of North Carolina at Charlotte). Alexander's older brother Fred put his energies into politics, becoming the first black member of the Charlotte City Council in 1965 and, in 1974, one of the first two black members of the North Carolina Senate since Reconstruction. *Id.*

57. For example, in his NAACP presidential address in 1949, Alexander attacked North Carolina blacks' "complacency as to civil rights". Kelly Alexander, Address at the Annual North Carolina Conference of NAACP Branches (June 12, 1949) (unpublished manuscript, on file with the Kelly Miller Alexander, Sr., Papers, Box 1-3, Special Collections, Atkins Library, University of North Carolina at Charlotte). In 1951, Alexander attacked the "liberal" reputation of the state in race matters as unwarranted. These comments caused a stir in the state and precipitated appeals to other black leaders to oppose Alexander as too confrontational. Raymond Gavins, *The NAACP in North Carolina during the Age of Segregation*, in NEW DIRECTIONS IN CIVIL RIGHTS STUDIES, *supra* note 5, at 113, 117.

state's white political leadership in the courtroom with its claims for racial justice.⁵⁸ Under Alexander's leadership, the North Carolina chapter of the NAACP would be one of the most aggressive state chapters in the South: the organization petitioned more school boards and brought more school desegregation lawsuits during the 1950s than any other state chapter.⁵⁹

The NAACP initially sought to achieve its desegregation goals by appeals to school boards without resort to litigation. One week after the Court announced its decision in *Brown*, NAACP representatives from seventeen southern and border states met in Atlanta to discuss the organization's response. The representatives agreed to ask local NAACP chapters to petition local school boards to abolish school segregation without delay.⁶⁰ As a result, Alexander coordinated a petition effort throughout North Carolina; in Charlotte, the NAACP presented petitions requesting desegregation to the school boards of Charlotte and Mecklenburg County.⁶¹ Both boards rejected the petitions. In the meantime, the United States Court of Appeals for the Fourth Circuit held that black students could not legally challenge their assignment to segregated schools unless they filed a formal transfer request in accord with a newly enacted North Carolina state law.⁶²

In response, Alexander sought to stimulate interest among African Americans to seek transfers for their children to white schools. During the spring of 1957, Alexander held a number of public meetings in Charlotte advising parents on the necessity of filing transfer applications; Alexander also approached certain parents whose children were thought to be particularly good candidates for transfers and specifically encouraged them to seek assignment at a white school. Ultimately, Alexander persuaded forty African Americans to file

58. Augustus M. Burns, *North Carolina and the Negro Dilemma, 1930-1950*, at 47 (1968) (unpublished Ph.D. dissertation, University of North Carolina (Chapel Hill)); Gavins, *supra* note 57, at 117-18.

59. *Desegregation Spotty as Schools Open*, S. SCH. NEWS, Sept. 1955, at 1; Peter Gilpin, *N.C. Leads South in Desegregation Cases Pending or Proposed, NAACP Told Here*, ASHEVILLE CITIZEN, Oct. 10, 1959, at 10.

60. Atlanta Declaration (May 23, 1954) (unpublished manuscript, on file with the NAACP Papers, Box II-A-227, Library of Congress, Washington, D.C.).

61. *North Carolina*, S. SCH. NEWS, Sept. 1954, at 10; *Immediate School Integration Urged*, RALEIGH NEWS & OBSERVER, Aug. 12, 1954, at 21; *NAACP Will Seek Integration in Fall*, CHARLOTTE OBSERVER, July 9, 1955, at 1A.

62. *Carson v. Warlick*, 238 F.2d 724, 727-28 (4th Cir. 1956), *cert. denied*, 353 U.S. 910 (1957). In the spring of 1955, the North Carolina General Assembly had enacted a new pupil assignment statute in which local school boards were given the authority to make initial pupil assignments. The statute further provided that those students dissatisfied with their initial assignment could request a transfer to a different school by filing a request with the school board. N.C. Gen Stat. § 115-176 (1955).

transfer requests during the summer of 1957 with the Charlotte School Board.⁶³

Not everyone in the African-American community, however, favored school desegregation. Many black parents did not wish to subject their children to the harassment they feared would accompany attendance at a white school.⁶⁴ Others did not perceive the benefits of a desegregated education and did not care to risk the retaliation that could accompany a transfer request. The Charlotte branch of the NAACP ultimately concluded that “[p]arents find it difficult to understand the harmful, detrimental psychological and educational effects of segregation. It is essential that we continue to educate them as to the meaning of [the *Brown* decision].”⁶⁵ African Americans throughout North Carolina who had sought entry for their children into white schools had suffered economic consequences for their actions; more than once, the national office of the NAACP had been called upon to help a black family suffering a foreclosure or some other adverse action occasioned by a transfer request.⁶⁶

At the same time, a few white leaders supported modest school desegregation efforts. The bi-racial Charlotte-Mecklenburg Council

63. *These are 5 Negro Children Who'll Go to White Schools*, CHARLOTTE OBSERVER, July 24, 1957, at 1A.

64. *Id.*; *On Sept. 4, 1957, Four Young Charlotte Students Braved Fear and Uncertainty to Take Their Place in History as School Desegregation Pioneers*, CHARLOTTE OBSERVER, Apr. 12, 1992, at 1C; FRYE GAILLARD, *THE DREAM LONG DEFERRED* 4 (1988).

65. Charlotte Branch, NAACP, *Implementing an Effective NAACP Program in Charlotte*, North Carolina 18 (July 10, 1961) (unpublished manuscript, on file with NAACP Papers, Box III-C-112, Library of Congress, Washington, D.C.).

66. Letter from Conrad Pearson to Roy Wilkins (Nov. 20, 1959) (on file with NAACP Papers, Box III-A-279, Library of Congress, Washington, D.C.) (NAACP offers collateral for mortgage of parent who had unsuccessfully sought a transfer for his children in order to forestall foreclosure). Some claimed that they had lost their jobs upon filing transfer requests. Testimony of Reginald Hawkins 25, *Swann v. Charlotte-Mecklenburg Bd. of Educ* (July 25, 1965) (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

Throughout the 1950s and 1960s, one of the most prominent black Charlotteans, Nathaniel Tross, criticized school desegregation efforts. Tross, who had been born in the Caribbean and educated at various American and English universities including Harvard and Oxford, was one of the most influential black ministers in the city from the 1930s until his death in 1971. Tross was a firm opponent of pupil mixing. When North Carolina Governor Luther Hodges proposed voluntary segregation in August 1955 as a means of dealing with the demands of *Brown*, Tross endorsed the Governor's plan: “We can avoid racial friction on the whole question of integration only on a voluntary basis. . . . I think the governor was right in castigating the false prophets of the NAACP.” *Negro Leaders Differ on Hodges' School Talk*, CHARLOTTE NEWS, Aug. 9, 1955, at 1A. Throughout the 1950s and early 1960s, Tross opposed desegregation efforts, bringing him into public conflict with other African-American leaders. The Western North Carolina Conference of the AME Zion church, Tross's denomination, ultimately passed a resolution criticizing him “for the part he has played in behalf of those who would stave off integration.” Leach, *supra* note 23, at 64.

on Human Relations supported the NAACP's integration efforts. The Council argued that school desegregation would bring "great prestige [to] Charlotte throughout the nation and the world" and would be "good for business."⁶⁷ The Council insisted that only a fraction of the black population would actually attend white schools in Charlotte because of the city's extensive residential segregation. At the same time, Harry Golden, the outspoken and sardonic editor of the *Carolina Israelite* and one of the city's leading social critics, urged desegregation coupled with the removal of all chairs from the public schools, noting that whites seemed to object only to sitting, not standing, with blacks. Golden's "Vertical Negro Plan" received national attention.⁶⁸

Eventually the Charlotte School Board decided that allowing a few black students to transfer to white schools served the city's interest in controlling the pace of desegregation without judicial interference. Beginning in 1955, the Charlotte School Board met secretly with the school boards of Greensboro and Winston-Salem to discuss the eventual desegregation of their respective school systems.⁶⁹ During the summer of 1957, the school boards of Charlotte, Greensboro, and Winston-Salem agreed to accept the transfer requests of a few African Americans to white schools for the 1957-1958 school year. The boards decided that each would announce on July 23 that the transfer requests of twelve black students in the three cities had been granted. In Charlotte, five students who requested a transfer were successful.⁷⁰

In agreeing to voluntary desegregation in the summer of 1957, the Charlotte School Board operated with the understanding that this action would fend off more extensive court-ordered desegregation. The Board announced that in granting the transfers, it had acted to "pre-

67. Charlotte-Mecklenburg Council on Human Relations, What Would Public School Desegregation Mean to Charlotte, *supra* note 52.

68. *Golden Rule*, TIME, Apr. 1, 1957, at 62.

69. 3 N.C. Cities Assign 12 Negroes to Previously All-White Schools, S. SCH. NEWS, Aug. 1957, at 3. The school boards brought media representatives into the discussions to solicit their advice and cooperation; the media cooperated by declining to report on the negotiations. UNITED STATES COMMISSION ON CIVIL RIGHTS, CIVIL RIGHTS U.S.A.: PUBLIC SCHOOLS, SOUTHERN STATES, 1962, at 73 (1963).

70. 3 N.C. Cities Assign 12 Negroes to Previously All-White Schools, *supra* note 69, at 3; City Hears School Appeals, CHARLOTTE OBSERVER, Aug. 8, 1957, at 1C.

Of the five Charlotte students who received a transfer to a white school, one moved out of the school district prior to the start of school, reducing the number to four. N.C. Courts Block Efforts to Prevent Desegregation, S. SCH. NEWS, Sept. 1957, at 15. All of the students whose transfer applications were granted lived closer to a white school than to the black school to which they were initially assigned and were among the top students in their black schools. Among those rejected were NAACP president Alexander's children. 3 N.C. Cities Assign 12 Negroes to Previously All-White Schools, *supra* note 69, at 3.

serve the public schools of Charlotte.”⁷¹ Both of the city’s newspapers and a number of respected business and professional leaders articulated this perspective. The *Charlotte Observer* described the voluntary desegregation as a “legal and effective instrument for keeping desegregation a limited and selective process” thereby avoiding “an inevitable court order for mandatory desegregation,” and enhancing “the progressive tradition of the three communities and of this state.”⁷² The *Charlotte News* was more direct: “The Charlotte City School Board has acted to preserve the schools. It has acted to prevent massive, court-decreed integration.”⁷³ The Board understood the power of the courts to take control of the desegregation process through judicial order. Unwilling to cede such control and recognizing the social and economic havoc that such an effort could entail, the Board engaged in token integration to prevent judicial intervention.

This token school desegregation, however, sparked opposition from parts of the white community. Representatives of a white segregationist organization, the Patriots of North Carolina, sought to foster opposition to the Charlotte School Board’s decision to admit black children into white schools.⁷⁴ Yet the Patriots had little success. In 1957, they mailed letters to the parents of over 1000 students at Charlotte’s Central High School, one of the schools slated to receive a black student, encouraging them to pull their children out of Central. The organization received only one favorable response, which was later withdrawn.⁷⁵ By the following summer, the Patriots had disap-

71. *Id.*

72. *Wisdom, Courage, and Law Dictate a School Decision*, CHARLOTTE OBSERVER, July 24, 1957, at 2B.

73. 3 N.C. Cities Assign 12 Negroes to Previously All-White Schools, *supra* note 69, at 3. The Charlotte Chamber of Commerce also supported the School Board’s actions; one year earlier, the Chamber’s president, Stowe Moody, had asked the Board to form a bi-racial committee to forge a “moderate approach” to the resolution of the city’s racial problems. N.C. Assembly Approves Referendum on Tuition, School Closing, S. SCH. NEWS, Aug. 1956, at 16.

74. A group of prominent North Carolinians had organized the Patriots in August 1955 for the purpose of maintaining “the purity and culture of the white race and Anglo-Saxon institutions.” *Patriot Group Establishes Early Meet*, CHARLOTTE OBSERVER, Aug. 26, 1955, at 8A; Southern Regional Council, Patriots of North Carolina, Inc. (1956) (unpublished manuscript, on file with the North Carolina Collection, University of North Carolina (Chapel Hill)); NEIL R. McMILLEN, THE CITIZENS’ COUNCIL: ORGANIZED RESISTANCE TO THE SECOND RECONSTRUCTION, 1954-64, at 111 (1971).

75. *Here’s An Insight Into Integrated Schools in N.C.*, RALEIGH NEWS AND OBSERVER, Apr. 11, 1958, at 17; North Carolina Council on Human Relations, HUM. REL. BULL. 6 (Mar. 1958) (on file with the Frederick Douglass Alexander Papers, Box 121-86, Special Collections, Atkins Library, University of North Carolina at Charlotte).

peared from the scene in North Carolina, the most short-lived of all southern segregationist organizations.⁷⁶

The Patriots failed because of the unwillingness of the state's urban areas to engage in a "resistance at all costs" response to desegregation. Significantly, in Charlotte, unlike other parts of the state and other parts of the South, few business or professional persons of prominence ever associated with segregationist groups.⁷⁷ White segregationist organizations ran counter to the business sensibilities that dominated the city. The Patriots' leader in Charlotte, Kenneth Whitsett, a local artist, later complained that the leading business leaders in Charlotte refused to support his organization, fearing that such support would be bad for business.⁷⁸ Whitsett noted that his organization never had more than thirty-five members in Mecklenburg County and that it ultimately wielded little influence.⁷⁹

The most strident reaction to the Charlotte School Board's decision came from outside the city. Shortly before the Charlotte schools opened, John Kasper, an itinerant New Jersey segregationist who traveled the South inciting opposition to school desegregation, arrived in Charlotte from Clinton, Tennessee, where he had just served a six-month jail sentence for interference with that city's school desegregation efforts.⁸⁰ Kasper addressed a crowd of about 300 on the courthouse steps on Sunday, September 1, 1957, three days before the Charlotte schools were scheduled to open. Using inflammatory language, Kasper urged the community to pressure the Board to reverse its decision to desegregate: "we want a heart attack, we want suicides, we want flight from persecution." He distributed leaflets featuring a photograph of a black man kissing a white woman and urged his white

76. McMILLEN, *supra* note 74, at 111-12. Unlike resistance groups formed in other southern states, the Patriots did not originate in the heavily agricultural "black belt" section of the state, but rather in the urban Piedmont. In time, the organization disbanded as the Piedmont cities came to understand the advantages of token desegregation. A second statewide segregationist organization, North Carolina Defenders of States Rights, Inc., never established a presence in Charlotte. Leach, *supra* note 23, at 21.

77. Leach, *supra* note 23, at 13. Although a few Charlotteans were among the Patriots' founders, the organization was dominated by residents of Greensboro. McMILLEN, *supra* note 74, at 111.

78. Leach, *supra* note 23, at 14.

79. *Id.* at 21. To be sure, a group of white parents did seek a school closing vote in accordance with state law. The Charlotte School Board, however, refused to grant the election request and a state judge would not order it. *Charlotte Parents Initiate Moves Aimed at Utilizing Pearsall Plan's Provisions*, S. SCH. NEWS, Aug. 1958, at 15. Charlotte's leadership was not prepared to allow the abandonment of the public schools over token desegregation.

80. RICHARD A. PRIDE & DAVID J. WOODARD, *THE BURDEN OF BUSING: THE POLITICS OF DESEGREGATION IN NASHVILLE, TENNESSEE* 55-56 (1985).

followers to "load your shotguns."⁸¹ Yet Kasper's effect on Charlotte was minimal. He announced the formation of a Mecklenburg White Citizens' Council but could recruit only fifteen members; the organization disbanded within weeks. He encouraged a student strike and picketing of schools, but to no avail.⁸² Kasper left Charlotte a few days later never to return.⁸³

In large measure, Kasper's failure to foster resistance to the token desegregation in Charlotte was due to his conflict with local sensibilities. The majority of Charlotteans did not favor desegregation, but most were repelled by Kasper's extremist language and tactics. When Kasper first announced that he might come to Charlotte to stir up opposition to school integration, Whitsett, the leader of the segregationist Patriots, announced that any Patriot who had anything to do with Kasper would be "drummed out of the group."⁸⁴ The *Charlotte Observer* dismissed Kasper as a "hate-monger."⁸⁵

The initial desegregation of the Charlotte schools was relatively peaceful.⁸⁶ This success, particularly in comparison with the simulta-

81. *Id.* at 56; *Kasper Raps School Decision; Has Run-In With Littlejohn*, CHARLOTTE OBSERVER, Sept. 2, 1957, at 1B.

82. *White Citizens' Council Organized by Kasper*, CHARLOTTE OBSERVER, Sept. 2, 1957, at 1B.

83. PRIDE & WOODARD, *supra* note 80, at 56; *Kasper Free Momentarily*, CHARLOTTE OBSERVER, Sept. 13, 1957, at 1A.

84. Leach, *supra* note 23, at 18.

85. *Kasper Oil*, CHARLOTTE OBSERVER, Sept. 5, 1957, at 1C.

86. There was, however, one significant exception to the peaceful desegregation of the Charlotte schools. On Wednesday, September 4, the same day that nine black students made their first attempt to enroll at Central High School in Little Rock, Dorothy Counts enrolled at Harding High School in Charlotte. Several white students spit on Counts and threw sticks at her. *Negro Girl is Jeered at Harding*, CHARLOTTE OBSERVER, Sept. 5, 1957, at 1A. Police ultimately arrested two students for disorderly conduct. Leach, *supra* note 23, at 22. The harassment continued for the next several days and Counts eventually withdrew from Harding and enrolled in an integrated school in Philadelphia. *Negro Girl Quits White High School*, CHARLOTTE OBSERVER, Sept. 13, 1957, at 1A.

Counts' experience received nationwide and even worldwide attention as photographs of her walking through the hostile crowd were transmitted throughout the world. Counts received hundreds of letters of support from across America and from more than a dozen foreign countries. North Carolina Council on Human Relations, HUM. REL. BULL. 3 (Oct. 1957) (citing article on Counts in Lima, Peru newspaper) (on file with the Frederick Douglass Alexander Papers, Box 121-86, Special Collections, Atkins Library, University of North Carolina at Charlotte); BENJAMIN MUSE, TEN YEARS OF PRELUDE: THE STORY OF INTEGRATION SINCE THE SUPREME COURT'S 1954 DECISION 114-15 (1964); Telephone Interview with Darius Swann, in Atlanta, Ga. (Dec. 6, 1994); GAILLARD, *supra* note 64, at 8.

Although the simultaneous and far more tumultuous integration of Central High School in Little Rock eventually overshadowed Counts' experience, the extensive publicity of Counts' ordeal had a profound impact on Charlotte and particularly on its leadership. A city jealous of its public image as a moderate southern city had been embarrassed before the world. Henceforth, having learned their lesson, the city's leaders would strive to avoid any negative publicity on racial matters. As one community leader later explained: "There was a resolve it would never happen again." WATTERS, *supra* note 36, at 46.

neous and far more tumultuous school desegregation in Little Rock, another moderate southern city, was due primarily to the fact that no statewide or local leader, such as North Carolina Governor Luther Hodges, chose to exploit the issue for political advantage. More than any other southern governor of the 1950s, with the possible exception of Florida Governor LeRoy Collins, Hodges aggressively recruited new business to his state and sought to avoid any conduct that might discourage such activity.⁸⁷ Hodges, like his southern counterparts, clearly favored segregation, but unlike governors such as Orval Faubus of Arkansas, he was unwilling to prevent token integration at the expense of a strong business climate.⁸⁸ Hodges, joined by a significant number of state and local leaders,⁸⁹ made the case for token desegregation as a means of avoiding judicial intervention in the operation of the schools and preserving the state's reputation for positive race relations.

The desegregation of the Charlotte schools, although only token, was hailed as a success. In the fall of 1957, the *Voice of America* contrasted the Charlotte and Little Rock desegregation experiences, citing the Charlotte experience as illustrative of the nation's peaceful transition to an integrated society.⁹⁰ Two years later, an Atlanta television station made arrangements to film a documentary on school desegregation in Charlotte.⁹¹

During the next several years, a time when many southern cities reported downturns in business growth as a result of racial problems,⁹² the Charlotte Chamber of Commerce reported generous increases in new business in the city.⁹³ The comparison between Charlotte—along with the two other North Carolina cities to engage in token desegrega-

87. COBB, *supra* note 11, at 123.

88. Douglas, *supra* note 9, at 120-21.

89. For example, in a widely-publicized speech to the North Carolina State Bar in November 1956, William Joyner, the vice-chair of the Pearsall Committee and a distinguished Raleigh attorney, noted that several other southern states had vowed never to admit a black child to a white school. According to Joyner, those states would eventually face either the abandonment of public education or court-mandated integration; neither option was acceptable. *The Middle Road is Best*, CHARLOTTE OBSERVER, July 28, 1957, at 2B; 3 *N.C. Cities Assign 12 Negroes to Previously All-White Schools*, *supra* note 69, at 3.

90. Marion Wright, *Integration and Public Morals*, 12 *NEW SOUTH* 7 (Nov. 1957) (on file with the North Carolina Collection, University of North Carolina (Chapel Hill)).

91. *Charlotte May Be Used as Integration Model*, CHARLOTTE OBSERVER, Dec. 2, 1959, at 8B.

92. *Business in Dixie: Many Southerners Say Racial Tension Slows Area's Economic Gains*, WALL ST. J., May 26, 1961, at 1.

93. Charlotte Chamber of Commerce, CHARLOTTE (Jan. 1962), (Jan. 1963), (Aug. 1963) (on file with the Frederick Douglass Alexander Papers, Box 114A-1, Special Collections, Atkins Library, University of North Carolina at Charlotte).

tion in 1957—and other southern communities that chose to resist integration is striking. For example, no new industrial plants located in Little Rock in 1958 and 1959 as a result of that city's tumultuous desegregation experience during the 1957-1958 school year. During the previous eight years, an average of five new plants had located annually in Little Rock bringing with them about 300 new jobs per year.⁹⁴ Preston Holmes, a Richmond banker, contrasted North Carolina's "moderation" with Arkansas's defiance in a 1959 article: "North Carolina, with legal compliance with the Supreme Court decision and little social unrest, had new plant investment in 1958 totaling \$253 million, while Arkansas, with its massive resistance and unsettled conditions, had only \$25.4 million in 1958 compared with . . . \$131 million in 1956."⁹⁵

But the initial desegregation of the Charlotte schools in 1957 was truly token. Having deflected possible court intervention through its preemptive desegregation, the Charlotte School Board assigned no additional black students to white schools in 1958 and approved only two out of 23 transfer requests filed by black students; only four black students attended a white school in Charlotte that year. In 1959, the Charlotte School Board denied every transfer request, continuing its policy of denying the transfer requests of black students who lived closer to their assigned black school than to the desired white school. Only one black student attended a white school in Charlotte during the 1959-1960 school year.⁹⁶ In the meantime, the Mecklenburg County Board of Education continued to deny every request by a black student to attend a white school, notwithstanding NAACP-sponsored litigation seeking to force the integration of an elementary school.⁹⁷ Led by its business and professional leaders, Charlotte had

94. ANTI-DEFAMATION LEAGUE, *THE HIGH COST OF CONFLICT: A ROUNDUP OF OPINION FROM THE SOUTHERN BUSINESS COMMUNITY ON THE ECONOMIC CONSEQUENCES OF SCHOOL CLOSINGS AND VIOLENCE* 11-12 (1963) (quoting *NASHVILLE TENNESSEAN*, May 31, 1959).

95. *Id.* at 1. Similarly, Virginia, which adopted a statewide policy of massive resistance to the *Brown* decision, experienced a sharp decline in new business growth. During the first three years of the 1950s, Virginia added approximately 31,000 manufacturing jobs per year; during the last three years of the 1950s, after implementation of the state's widely publicized program of massive resistance, Virginia added approximately 5,000 new manufacturing jobs per year. *Id.* at 8.

96. *Three Localities Begin Desegregation; Total Now Stands at Seven*, *S. SCH. NEWS*, Sept. 1959, at 10.

97. In February 1959, eight black students whose transfer requests in both 1957 and 1958 to a white elementary school had been denied, filed suit in federal district court against the Mecklenburg County School Board. The School Board had assigned the children to Torrence Lytle School, a black "union" school in the county that educated children from grades one through twelve and that would be forced to close within a few years due to inadequate facilities. Each child lived about ten miles from Torrence Lytle and within walking distance of Derita Elemen-

shrewdly captured national publicity as a pioneering southern city on race issues for the token integration of its schools in 1957 without any real commitment to school desegregation. The Charlotte-Mecklenburg Council on Human Relations chastised the Board in 1959 for its actions: "it seems increasingly clear that initial token desegregation, rather than paving the way for future compliance, is becoming a means of evasion of the law."⁹⁸

By 1960, Charlotte had demonstrated that it was prepared to engage in token racial integration to avoid judicial intervention and to preserve control over the pace of desegregation. No litigation challenging racial discrimination in Charlotte would succeed until 1969. In the context of the late 1950s, a handful of black children in white schools was all that was required to prevent litigation and to forge a reputation for racial moderation. By 1959, even though only one black child attended a desegregated school in the entire city, Charlotte was perceived throughout the country as a model of racial moderation and enjoyed the fruits of that reputation through the attraction of new business to the city. Token integration had permitted the city's leaders to retain careful control over the process of integration by taking the issue away from the courts. Communities that failed to do likewise, such as New Orleans and Newport News, Virginia, found them-

tary, the white school to which the transfers were sought. Moreover, many of the white students assigned to Derita lived much further away from the school than did the black plaintiffs. *Morrow v. Mecklenburg County Bd. of Educ.*, 195 F. Supp. 109, 111-12 (W.D.N.C. 1961).

Federal Judge Wilson Warlick of Statesville ultimately considered the case at a hearing in Charlotte. Warlick concluded that he did not think the School Board had violated the Constitution:

After a careful study of the evidence, the court is of the opinion that the defendant Board has conscientiously complied with the requirements placed upon it, and that the plaintiffs have failed to show wherein they were discriminated against because of their race. In their requests for reassignment, the plaintiffs all state as their reasons therefor that they lived closer to the Derita School than to the Torrence Lytle School, and that they desired a desegregated education. It has been defendant's position throughout that *distance from a school has never been a determinative factor in the assignment of pupils* because of the extensive use of busses throughout the State and the county

Id. at 114 (emphasis supplied). Confronted with the delicate question of how it could justify requiring these black children to ride a bus twenty miles a day instead of walking to school solely because of their race, the School Board had argued that school busing had a long and distinguished history in North Carolina and that a child's physical proximity to a school was hardly decisive in terms of pupil assignment. Judge Warlick agreed, elaborating at great length on the extensive use of school busing throughout the state, noting that some North Carolina children rode buses 40-50 miles a day. *Id.* at 112. Warlick's decision was difficult to justify. The Board's initial assignment decisions were obviously race-based and hence unconstitutional. Nevertheless, the decision was indicative of the fact that the courts were not yet a receptive forum for black parents seeking to realize the promise of the *Brown* decision.

98. Statement by Charlotte-Mecklenburg Council for Human Relations, *School Board Must Move Toward Full Compliance*, NEW SOUTH, 11 (Dec. 1959) (on file with North Carolina Collection, University of North Carolina (Chapel Hill)).

selves on the losing end of litigation that demanded far more extensive integration than Charlotte voluntarily embraced.⁹⁹

II. CHARLOTTE CONFRONTS THE CIVIL RIGHTS MOVEMENT

During the late 1950s and early 1960s, the dynamics of racial protest in America changed, as black leaders increasingly turned to direct action as an alternative to litigation to challenge racial discrimination. Civil rights leaders in Charlotte embraced this new strategy. During the 1950s, the city's black community, led by the NAACP, had utilized petitions and an occasional lawsuit to encourage greater desegregation; during the early 1960s, however, the city's black leadership supplemented this litigation strategy with public demonstrations as a means of pressuring the white community to yield to additional desegregation demands. To a certain extent, this shift from petitions and litigation to public demonstrations reflected a diffusion of leadership in the black community away from the NAACP and toward other community groups.¹⁰⁰

Charlotte's white business leaders responded to this new pressure by drawing on the city's experience with token school desegregation in the 1950s: voluntary but token integration could fend off unwanted public demonstrations, control the pace of desegregation, and preserve the city's progressive national image as a good place to live and do business. By 1963, Charlotte had once again received national acclaim for its integration efforts, this time for its restaurants and hotels.

A. *The Lunch Counter Sit-ins*

Since the 1940s, African Americans had conducted a handful of racial demonstrations in Charlotte. In the 1940s, a group of black protesters, led by a reporter from the *Pittsburgh Courier*, picketed the Charlotte Post Office to challenge the postal service's discriminatory employment practices. Similarly, in 1953, several black men sat down at the Dogwood Room at the Charlotte airport and demanded service; as a result, the restaurant began operating on a nondiscriminatory basis.¹⁰¹ Neither of these incidents, however, led to a sustained use of

99. *Adkins v. School Bd. of Newport News*, 148 F. Supp. 430, 446 (E.D. Va.), *aff'd*, 246 F.2d 325 (4th Cir.), *cert. denied*, 355 U.S. 855 (1957); *Bush v. Orleans Parish Sch. Bd.*, 138 F. Supp. 337, 341 (E.D. La. 1956), *aff'd*, 242 F.2d 156 (5th Cir.), *cert. denied*, 354 U.S. 921 (1957).

100. This shift has been recognized in communities throughout the South, as students and black clergy assumed a greater role as tactics broadened from litigation to include direct action. See DOUG MCADAM, *POLITICAL PROCESS AND THE DEVELOPMENT OF BLACK INSURGENCY 1930-1970*, at 132-37 (1982).

101. Interview with Reginald Hawkins, in Charlotte, N.C. (Oct. 12, 1992).

public demonstrations to challenge patterns of racial segregation in Charlotte.

The first sustained demonstration challenging racial segregation in Charlotte began on February 9, 1960, when Charles Jones, a theological student at Johnson C. Smith University, led a group of over one hundred students in a sit-in protest at several downtown Charlotte lunch counters that refused service to black customers.¹⁰² The Charlotte sit-ins came on the heels of similar protests that had begun in Greensboro a few days earlier and which spread throughout the state and the South during February 1960. These sit-in protests helped change the dynamics of racial change in the American South. In the wake of the protests, black southerners began to challenge the racial status quo more aggressively.

Jones would prove himself to be a savvy leader of the nascent protest movement. Though only twenty-two years old, Jones, the son of a Presbyterian minister father and an English professor mother, had considerable worldly experience. As a regional officer of the National Student Association, Jones traveled to the Vienna Youth Festival during the summer of 1959 where he extolled the benefits of American democracy to students from around the world. In early February 1960, Jones testified before the House Committee on Un-American Activities to counter an appearance by Paul Robeson, Jr. While driving home from Washington following his congressional appearance, Jones heard a radio report describing the Greensboro sit-ins which began just a few days earlier. Moved by the courage of the Greensboro students, Jones decided to initiate similar action in Charlotte. Jones, who was vice-president of the Smith student council, announced at a council meeting his plan to conduct a sit-in the following day. The next morning, over two hundred Smith students joined him, sitting down and demanding service at the lunch counters in eight Charlotte stores.¹⁰³ Each of these stores permitted black customers to take food away from the lunch counters to eat elsewhere but denied

102. *7 Lunch Counters to Desegregate*, CHARLOTTE OBSERVER, July 9, 1960, at 1A. Johnson C. Smith University students would play an important role in much of the city's public demonstration activity over the course of the next several years. Located near downtown Charlotte, Smith had been established in the wake of the Civil War by the northern Presbyterian Church to educate black students. Although Smith did not have a tradition of civil rights activism as did, for example, Howard University, an increasing number of both students and faculty had become committed to pressing for racial change. Few racial demonstrations would take place in Charlotte during the early 1960s without a substantial contingent of Smith students.

103. Telephone Interview with Charles Jones, in Charlotte, N.C. (Dec. 14, 1994); MARTIN OPPENHEIMER, *THE SIT-IN MOVEMENT OF 1960*, at 117-24 (1989).

them the opportunity to sit down and eat in the store.¹⁰⁴ In the following days and weeks, the number of protesting students steadily increased. Like the sit-ins in many other southern communities, the Charlotte protests were triggered by local students and were not part of a coherent and organized effort to spawn protest throughout the South.¹⁰⁵

The students enjoyed considerable support in the African-American community. Although many blacks had been cautious about civil rights activism, the courage of the students attracted support throughout the black community. Black professionals and business leaders organized a caravan of Cadillacs to transport the students from the Smith campus to the downtown stores. Black women who worked as domestics in the homes of prominent white families overheard conversations at work concerning the sit-ins and reported them to Jones. Many African Americans wore old clothes at Easter church services in April 1960 as a show of support.¹⁰⁶

The students also enjoyed some support from the white community. The *Charlotte Observer* backed the students in its editorial pages and helped apply pressure on the recalcitrant storeowners by publicizing the results of a survey that indicated that most Charlotteans would patronize a store that operated an integrated lunch counter.¹⁰⁷ Many white shoppers canceled their credit cards at stores targeted by the protesters.¹⁰⁸ In March, the Mecklenburg Christian Ministers Association unanimously resolved for an end to racial discrimination in the city and county.¹⁰⁹

104. This refusal to permit black patrons to sit with their white counterparts was a well-established part of the southern color line. A few stores in some upper South communities removed their lunch counter stools and permitted black patrons to stand and eat their lunch following the first several weeks of the sit-in protests. The *Charlotte Observer* commented: "some future logician will be baffled by an ancient logic that it was all right for a man to stand up and eat next to a person of another color but all wrong to eat sitting next to him." Daniel H. Pollitt, *Dime Store Demonstrations: Events and Legal Problems of First Sixty Days*, 1960 DUKE L.J. 315, 322 n.43 (1960) (quoting CHARLOTTE OBSERVER, Mar. 13, 1960, at 2).

105. See OPPENHEIMER, *supra* note 103, at 121; Paul E. Wehr, *The Sit-Down Protests: A Study of Passive Resistance in North Carolina* (1960) (unpublished M.A. thesis, University of North Carolina (Chapel Hill)).

106. Telephone Interview with Charles Jones, *supra* note 103. Not everyone in the black community, however, endorsed the sit-in protests. Black minister Nathaniel Tross sharply criticized the students for their actions. The students responded by hanging Tross in effigy on the Smith campus. *Id.*; OPPENHEIMER, *supra* note 103, at 119.

107. OPPENHEIMER, *supra* note 103, at 120.

108. Telephone Interview with Sidney Freeman, in Charlotte, N.C. (Dec. 15, 1994).

109. *Ministers; Racial Fight Must End*, CHARLOTTE OBSERVER, Mar. 16, 1960, at 1B. One white minister, Sidney Freeman of the Unitarian Church of Charlotte, joined the student demonstrators. Freeman taught English and speech classes at Johnson C. Smith University; several of the student protesters were his students and solicited his involvement in the sit-ins. Freeman, an

Jones carefully distanced his group of demonstrators from national civil rights organizations such as the Congress of Racial Equality, which had identified with the sit-in movement in other cities. Anxious to defuse the typical white view that racial unrest was the result of "outside agitators," Jones emphasized that all his group wanted was to "sit down and eat" when they were tired.¹¹⁰

Mayor James Smith and Chamber of Commerce president Stanford Brookshire met in February 1960 to discuss the potential impact of the protests on Charlotte's image and business climate. Smith was entering his last year as mayor; Brookshire would take his place in the mayor's office in 1961, a position he would hold until 1969. During those eight years, Brookshire would emerge as one of the central figures in Charlotte's desegregation efforts.¹¹¹ Prior to entering public life, Brookshire said very little about issues of racial discrimination and did not enjoy significant black support in his first election bid. During the course of his tenure as mayor, however, Brookshire would become increasingly outspoken about the evils of racial discrimination, characterizing it as both immoral and bad for business. On several occasions, Brookshire would request the city and his fellow business owners to hire more black workers.¹¹² Indeed, Brookshire was one of the first Charlotte business leaders to favor non-discriminatory hiring, and promoted such action at the Chamber of Commerce board meetings in the 1950s.¹¹³ To Brookshire, expanding job opportunities made good economic sense; in his view, many of Charlotte's black citizens were an "economic liability" to the city and in-

affable Wisconsin native who had come to Charlotte in 1957, would become a familiar white face in racial demonstrations throughout the early 1960s. Telephone Interview with Sidney Freeman, *supra* note 108; *Pastor-Activist Saw Some Tumultuous Times*, CHARLOTTE OBSERVER, Jan. 29, 1989, at 1B.

110. OPPENHEIMER, *supra* note 103, at 121; Telephone Interview with Charles Jones, *supra* note 103. Jones would later identify with national civil rights efforts, however, becoming a leader in the Student Non-Violent Coordinating Committee. *Id.*

111. Brookshire, a native of Troutman, just north of Charlotte, had moved to the city in the late 1920s after graduating from Duke University. Brookshire would eventually become president of his own business, Engineering Sales Company, and for much of the 1950s and 1960s functioned as perhaps the city's leading business, civic, and political leader. In addition to serving as president of the Chamber of Commerce and mayor, Brookshire headed the city's United Appeal and chaired the board of one of the city's most prominent churches, Myers Park Methodist. Stanford Brookshire, *Brookshire Lives* (1980) (on file with the Stanford Brookshire Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

112. See, e.g., *Mayor Asks Businessmen to Open Jobs to Negroes*, CHARLOTTE OBSERVER, Jan. 7, 1963, at 7A; *Mayor: City Has Duty to Negroes*, CHARLOTTE OBSERVER, Oct. 10, 1962, at 1E.

113. WATTERS, *supra* note 36, at 7.

creased employment would enable them to make a stronger contribution to the economic health of the community.¹¹⁴

Brookshire and Mayor Smith agreed on the need for the mayor's office to take a prominent role in the resolution of the sit-ins. Within several weeks, Smith announced the establishment of a bi-racial community organization, known as the Mayor's Committee on Friendly Relations, devoted to improving race relations. Both Smith and Brookshire perceived significant advantages to be gained from taking preemptive action to control the demonstrations. Brookshire in particular relied quite heavily on this bi-racial committee during his tenure as mayor to resolve racial disputes out of the public eye. Public demonstrations, Brookshire believed, "set up tensions and create ill-will which . . . retard progress."¹¹⁵ Negotiating racial conflict in private committee meetings permitted the city's white leadership to retain tight control over the pace of integration without any significant damage to the city's carefully nurtured moderate image.

The Mayor's Committee managed to secure a hiatus in the sit-ins while it attempted to negotiate a settlement with the merchants. In June, when the negotiations bore no fruit, the students resumed their protests, coupled with a boycott of the entire downtown business area that won broad support among black customers.¹¹⁶ A threatened July 4 demonstration proved decisive. The owners of the targeted businesses requested a meeting with the Mayor's Committee that resulted in a settlement providing for integrated lunch counters. On July 9, black students were served at seven Charlotte lunch counters for the first time; by agreement, the local newspapers did not report the desegregation until after the fact to avoid conflict.¹¹⁷ Charlotte thereby became one of the first southern communities to integrate its lunch counters.¹¹⁸

114. Letter from Stanford Brookshire to J.K. Clontz (Feb. 14, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

115. Stanford Brookshire, Unpublished Address (1961) (transcript available with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte).

116. Stanford Brookshire, Charlotte's Response to the Civil Rights Movement (Jan. 22, 1979) (unpublished manuscript, on file with the Stanford Brookshire Papers, Box 36-1, Stanford Brookshire Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte); OPPENHEIMER, *supra* note 103, at 118-22; *Lunch Counter Protests Resumed*, CHARLOTTE OBSERVER, June 28, 1960, at 1B.

117. OPPENHEIMER, *supra* note 103, at 122.

118. Not only did Charlotte desegregate its lunch counters sooner than did most other cities, there were also fewer arrests in Charlotte. OPPENHEIMER, *supra* note 103, at 91-93.

The success of the sit-ins flowed in large measure from their perceived and actual economic disruption. The students ability to sustain their protests and to threaten the business climate of the city caused the merchants to relent. Chamber of Commerce president Brookshire later conceded that the city's business leadership evaluated the desegregation issue in economic terms: "[i]t seems odd now that Mayor Smith and I and, I think, the rest of the white community throughout the South, were overlooking both the legal and moral aspects of the problem"¹¹⁹—focusing instead on the economic impact of the protests. Brookshire later noted: "The Chamber was aware of and concerned about the boycotts and disruption of business in [other cities], apprehensive that Charlotte might suffer in a like manner unless the protest movement could be contained here."¹²⁰ The *Charlotte Observer* saw it the same way: "Charlotte merchants have now made their decision after full consideration of both their economic and moral position."¹²¹ The ability of the students to apply economic pressure on the merchants proved decisive.¹²²

Charlotte was not the only southern city to integrate its lunch counters in response to the sit-ins of 1960. By August, over twenty-five upper South cities—in North Carolina, Tennessee, Texas, and Virginia—had opened some public lunch counters on a non-racial basis. Lunch counter protests in deep South states failed, however, as merchants in those communities proved more willing to withstand economic pressure.¹²³

The sit-ins during the spring of 1960 unleashed several years of direct action protest throughout the South, a supplement to much of the litigation-orientation of earlier civil rights activity. In some measure, the courts' weak enforcement of *Brown* signaled that direct action would be required to force racial change. The NAACP would continue its desegregation litigation with increasing success, but with the sit-ins of the spring of 1960, the dynamics of racial protest in the American South had shifted. In cities like Charlotte, which were acutely aware of their national image on racial issues and the eco-

119. Brookshire, *supra* note 116, at 5.

120. *Id.*

121. *The Merchants Have Made the Only Possible Decision*, CHARLOTTE OBSERVER, July 10, 1960, at 2E.

122. The success of the student protests may also have been influenced by the growing political strength of the black community. In May 1960, during the sit-in protests, political moderate Terry Sanford defeated segregationist Beverly Lake in the Democratic primary for Governor of North Carolina; it was widely understood that black voters had provided important support for Sanford. OPPENHEIMER, *supra* note 103, at 124.

123. *Id.* at 179-80.

conomic consequences of a reputation for poor race relations, demonstrations would be highly successful at forcing city leaders to take action.

B. The Irwin Avenue School Boycott

During August 1961, public demonstrations erupted over a separate issue: school segregation. In April of that year, the Charlotte-Mecklenburg School Board had decided to convert white high school, Harding, into an all-black junior high school, renaming it Irwin Avenue Junior High School. As part of the conversion, the Board transferred all of the white students and faculty at Harding High School to a newly constructed building and then moved over 800 African-American students and teachers from Northwest Junior High School to Irwin Avenue. The new Harding High School was slated to operate as an all-white school whereas Irwin Avenue would educate only black students. Although traditionally a white school, old Harding High School, located near the downtown area of the city, was the closest school to a number of black residential areas. Over the years, a number of nearby black students had sought transfers to the white school. Although the School Board denied most of these requests, pressure to desegregate Harding High School increased in light of its proximity to black neighborhoods.¹²⁴

The School Board's actions engendered protest in both the black and white communities. About 150 white parents, who lived in neighborhoods close to Harding, petitioned the School Board to make Harding available to both white and black children at the junior high level, although requiring black children to pass an entrance examination before being admitted. The unexpected white push for a neighborhood desegregated school was motivated largely by economic considerations. The decision to change Harding from a white to a black school caused a drop in property values in white neighborhoods near the school; white residents believed that it was better to have a neighborhood desegregated school than a neighborhood black school.¹²⁵

At the same time, a group of black parents, calling themselves the Westside Parents Council, under the leadership of Dr. Reginald Hawkins, a local dentist and Presbyterian minister, complained that the

124. *NAACP Leader Criticizes Use of Placement Act*, S. SCH. NEWS, May 1961, at 9.

125. *Id.*; *Negro, White Delegation Air Views on New School*, CHARLOTTE OBSERVER, Apr. 18, 1961, at 1B.

white students from old Harding were being provided a new school, leaving the black students with an old school. They asked the School Board to operate old Harding High School as an integrated facility.¹²⁶

During the early 1960s, Hawkins emerged as the leading black activist in Charlotte. Born in Beaufort, North Carolina, Hawkins had been educated at Johnson C. Smith University, where he quarterbacked the football team, and at Howard University's dental school. Hawkins' years at Howard were particularly significant, as he was exposed to a community that took seriously the need to challenge the discriminatory treatment of African Americans. Hawkins spent the early 1950s in the army, during which time he developed an awareness of the potential of organized religion to influence the political development of black Americans. One of Hawkins' army colleagues, a Jewish psychologist, spent much time explaining to Hawkins the significance of religion in the political and social development of the Jewish people. Upon leaving the army in 1953, Hawkins returned to Charlotte to open a dental practice and to enroll in the theological seminary at Johnson C. Smith. Upon completing his theological degree, Hawkins did not enter the fulltime pastorate—choosing instead to maintain his dental practice—but did begin a long history of close work with the United Presbyterian Church around issues of racial discrimination.¹²⁷

In 1959, Hawkins organized his own political group—the Mecklenburg Organization on Political Affairs (MOPA).¹²⁸ Consistent with the actions of black activists in many other southern communities, Hawkins did not affiliate his new organization with any national civil rights organization.¹²⁹ Although MOPA initially focused its attention on increasing black voter registration, in the early 1960s, the organization began to challenge various aspects of racial segregation in the city—particularly in the schools and hospitals—through public demonstrations. At the same time, Hawkins established close contacts with both the Sanford Administration in Raleigh and the Kennedy Administration in Washington which enabled him to supplement his public demonstrations against segregation with governmental pres-

126. *NAACP Leader Criticizes Use of Placement Act*, *supra* note 124, at 9.

127. Interview with Reginald Hawkins, *supra* note 101; Gregory Davis, *A Multi-Disciplinary Critique of the Protest-Accommodationist Analysis of the Black Church and Black Leadership Styles with an Analysis of the Leadership Styles of Dr. Reginald Armistice Hawkins 86-89* (1985) (unpublished Ph.D. dissertation, Union Graduate School).

128. *Local Negro Political Group Forms*, *CHARLOTTE OBSERVER*, Apr. 23, 1959.

129. Carson, *supra* note 5, at 24.

sure.¹³⁰ In time, Hawkins would alienate much of the city's white power structure. Moreover, many blacks while respecting Hawkins' courage to take on the white establishment, kept their distance from Hawkins because of his outspoken nature.¹³¹ Unquestionably, however, Hawkins' confrontational actions profoundly influenced the pace of racial desegregation in Charlotte.

During the summer of 1961, Hawkins argued that the School Board, in converting Harding High School from a white to a black school and providing a new school for the Harding white students, was simply continuing its practice of closing certain white schools that were under pressure to admit neighboring black students and replacing those closed schools with newly constructed ones in distant white neighborhoods. Hawkins had a legitimate point. Earlier, the Board had closed a white high school and junior high school that had desegregated in 1957 and that were located near a significant black population and built in their stead new schools in white neighborhoods. At the elementary school level, the Board converted three schools from white to black in response to changing neighborhoods.¹³² Hawkins complained at the time: "when a neighborhood begins to desegregate and its Negro residents become eligible under the Pupil Assignment Act to apply for admission to an all-white school, the school is abandoned, moved somewhere else, to suburbia."¹³³

To publicize his complaints, Hawkins organized a student boycott of the newly-named Irwin Avenue Junior High School. When the school opened on the morning of August 30, 1961, picketers greeted the arriving African-American students, urging them to return to Northwest Junior High, their previous school. Hawkins marched at the head of the line, carrying a sign that read "Desegregate on a Geographical Basis." The boycott won broad support; approximately 500 of the 800 students assigned to Irwin returned to their old school—Northwest—and attempted to enroll. When they were denied admis-

130. Ultimately Hawkins would run for Governor of North Carolina in both 1968 and 1972. Ironically, Martin Luther King was assassinated in April 1968 when he postponed a campaign appearance with Hawkins to remain in Memphis in support of a sanitation strike. *King May Postpone NC Tour with Hawkins*, CHARLOTTE OBSERVER, Apr. 2, 1968, at 1C; Interview with Reginald Hawkins, *supra* note 101; Davis, *supra* note 127, at 95-100.

131. Interview with Raymond Worsley in Charlotte, N.C. (Oct. 15, 1992).

132. *Only 300 Attend Irwin First Day*, CHARLOTTE OBSERVER, Sept. 1, 1961, at 1B; *School-Boycott Leaders Seek More Public Support*, CHARLOTTE OBSERVER, Sept. 8, 1961, at 4A.

133. *School Unit Told it is Evading Desegregation Opportunities*, CHARLOTTE OBSERVER, Apr. 19, 1961, at 1A.

sion to Northwest, a number of the students simply stayed home from school.¹³⁴

Hawkins understood that to be successful, he needed to gain the attention of the city's white business leaders. Charlotte was scheduled to host the North Carolina World Trade Fair in October 1961 and Hawkins announced plans to use the Fair to publicize the city's discriminatory practices. Hawkins told a newspaper reporter that he planned to write letters to President John Kennedy and the presidents of Mexico and Finland, each of whom might attend the Trade Fair, explaining his protest and telling them that all was "not fair in Charlotte." Hawkins conceded that the city's white business leadership had warned him against causing the city "embarrassment during the Trade Fair," but he made it clear that he would ignore those warnings: "what do they know of embarrassment? We have been embarrassed all our lives."¹³⁵

Confronted with the ugly specter of an ongoing school boycott and potential disruption and embarrassment in connection with the Trade Fair, school board chair David Harris agreed to meet with Hawkins. At the same time, Brookshire's Mayor's Committee on Community Relations¹³⁶ passed a resolution urging an end to the boycott and authorizing the appointment of a permanent subcommittee on education to assist with racial problems in the public schools. In the meantime, the School Board announced plans to build a new junior high school that would operate on an integrated basis. Following these actions, Hawkins called off the boycott.¹³⁷

Although the boycott was ostensibly a failure because the transformation of Harding from a white high school to a black junior high was not rescinded, it increased pressure on the Charlotte-Mecklenburg School Board to eliminate race-based assignment practices. In response to Hawkins' complaints about race-based pupil assignments, during the summer of 1962 the Board adopted a limited geographic assignment scheme pursuant to which pupils of both races would for the first time be assigned to the same school.¹³⁸ Eight years after the

134. *Only 300 Attend Irwin First Day*, *supra* note 132, at 1B.

135. *Hawkins Heaps Abuse on School Officials*, CHARLOTTE OBSERVER, Sept. 4, 1961, at 1C.

136. Brookshire's Mayor's Committee on Community Relations was the successor to Mayor Smith's earlier Mayor's Committee on Friendly Relations.

137. *Negroes Call Off School Boycott*, CHARLOTTE OBSERVER, Sept. 14, 1961, at 1B; UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 69, at 87-88. Hawkins was subsequently appointed to the new subcommittee on education. *Id.*

138. Following a pattern it had established with the initial desegregation in 1957, the Board consulted with the editors of the *Charlotte Observer* and the *Charlotte News* as well as representatives of local television stations in order to get a sense of the community's willingness to accept

Brown v. Board of Education decision, the Charlotte-Mecklenburg School Board became one of the first school boards in the South to assign a few children to school on some basis other than their race.¹³⁹ During the 1962-1963 school year, 41 of the school system's 18,596 black students attended a majority white school; although only a fraction of the total black student population, that number was roughly equal to the total number of black students who had ever attended a white school in Charlotte.¹⁴⁰

The Charlotte-Mecklenburg School Board converted to a limited geographic attendance plan in 1962 in response to Hawkins' pressure and because of its concern that the courts would order more extensive desegregation if the Board failed to act voluntarily. Although the Board had successfully defended a suit challenging its failure to allow a few black students to transfer to a white school in 1961,¹⁴¹ the Board recognized that the courts would eventually demand greater desegregation. Paul Ervin, one of the Board's attorneys, advised Board members that they could not continue to expect the federal courts to uphold race-based pupil assignments and that the Board would ultimately have to abandon such assignments to satisfy judicial requirements.¹⁴²

further desegregation. UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 69, at 89. Again following the 1957 pattern, the media representatives agreed not to report the Board's deliberations on the desegregation issue. Ultimately, the Board voted to try geographic pupil assignments on a limited basis for the 1962-63 school year. *Charlotte Changes Placement Policy; More Negroes Assigned*, S. SCH. NEWS, June 1962, at 7.

139. UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 69, at 86. The Chapel Hill, North Carolina, school system a year earlier had become the first school system in the South to make all pupil assignments based solely on geography. *Charlotte Changes Placement Policy; More Negroes Assigned*, *supra* note 138, at 7.

140. UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 69, at 50.

141. *Morrow v. Mecklenburg County Bd. of Educ.*, 195 F. Supp. 109 (W.D.N.C. 1961).

142. Paul Ervin, A National Day of Mourning (June 9, 1968) (unpublished speech in possession of author); Telephone Interview with Paul Ervin, Jr., in Atlanta, GA (Jan. 25, 1992). Ervin's advice was a correct read of the law. In September 1960, a federal court had ordered the Yancey County School Board in western North Carolina to allow African Americans to attend a white high school, since the Board did not operate a black high school. *Griffith v. Board of Educ. of Yancey County*, 186 F. Supp. 511 (W.D.N.C. 1960). In August 1961, another federal judge ordered the admission of an African-American student to a white school in Chapel Hill, finding that he had been excluded from that school in favor of a black school solely because of his race. *Vickers v. Chapel Hill City Bd. of Educ.*, 196 F. Supp. 97 (M.D.N.C. 1961). It was the first such decision in the state's history. One year later, the United States Court of Appeals for the Fourth Circuit found that the Durham School Board had unconstitutionally assigned African-American students to black schools because of their race and ordered the Board to cease its discriminatory practices. *Wheeler v. Durham City Bd. of Educ.*, 309 F.2d 630, 633 (4th Cir. 1962). With these decisions, the school desegregation jurisprudence in North Carolina had shifted. The courts were no longer dismissing desegregation challenges on the grounds that administrative remedies had not been exhausted or that school boards had acted within their discretion. Now, the courts were paying closer attention to the realities of school board actions and were prepared to strike down race-based assignment plans.

At the same time, the African-American community had stepped up its demand for integrated schools. In May 1961, three months before the boycott of old Harding High School, NAACP national legal counsel Thurgood Marshall visited North Carolina and told a statewide NAACP rally that it was time for a massive assault by the black community on segregated education in North Carolina.¹⁴³ Immediately thereafter, the Charlotte chapter of the organization initiated an intensive campaign to persuade black parents to seek transfers for their children to white schools. In response, the Charlotte-Mecklenburg School Board granted more transfer requests that summer—26—than ever before; one year earlier, the Board had granted only one transfer request.¹⁴⁴ Over the course of the next few years, the demands of black Charlotteans for integrated schools would dramatically increase.

In the early 1960s, the black community in Charlotte effectively employed two convergent strategies to gain greater school desegregation: litigation and direct action protest. Certain local NAACP leaders favored litigation; Hawkins, on the other hand, recognized that litigation alone would be too slow and that direct action should be used in addition to lawsuits. When Hawkins first threatened the school boycott in the summer of 1961, NAACP leader Kelly Alexander criticized him, commenting that the black students in question should request transfers and exhaust their administrative remedies as a prelude to litigation. According to Alexander, Hawkins was “steering his own course, and it is not one charted by the NAACP.”¹⁴⁵ Hawkins, however, perceived the need to do more than file lawsuits, given the lack of success of previous litigation efforts.¹⁴⁶ “We feel that this matter has gone beyond the courts,” Hawkins explained. “The city and state can keep cases like this in the courts for ten years,” and “we haven’t got ten years.”¹⁴⁷

143. *Thurgood Marshall Calls for Broader Desegregation Drive*, S. SCH. NEWS, June 1961, at 5. At the time of Marshall’s address, fewer than one hundred black students attended white schools in North Carolina. *Id.*

144. UNITED STATES COMMISSION ON CIVIL RIGHTS, *supra* note 69, at 86.

145. *NAACP, Schools Vie on Harding*, CHARLOTTE NEWS, Aug. 2, 1961, at 1C.

146. Nevertheless, Hawkins filed several lawsuits in the early 1960s challenging racial discrimination with the assistance of the NAACP Legal Defense Fund’s national office. For example, Hawkins filed a successful lawsuit desegregating the North Carolina Dental Society. *Hawkins v. North Carolina Dental Soc’y*, 355 F.2d 718 (4th Cir. 1966). He also sued the Mecklenburg County Hospital Authority and the local YMCA, claiming unlawful racial segregation. See *infra* text accompanying notes 159 & 223.

147. ‘*Old Harding’ Fight to Start*, CHARLOTTE OBSERVER, Aug. 16, 1961, at 1B; Interview with Reginald Hawkins, *supra* note 101.

C. Desegregating the City's Hospitals

In the meantime, Hawkins expanded his focus by challenging the city's segregated hospitals. During the 1950s, the only hospital in the city that would admit black patients was Good Samaritan, an inadequate facility that had been established by the Episcopal Church in the late nineteenth century.¹⁴⁸ A study in the 1950s by United Community Services concluded that efforts to modernize Good Samaritan would be futile; at the same time, the *Charlotte Observer* ran a series of stories detailing the inadequacies of Good Samaritan.¹⁴⁹ Yet neither Memorial Hospital, the publicly owned facility, nor two other privately owned hospitals founded by religious organizations—Presbyterian Hospital and Mercy (Catholic) Hospital—admitted black patients.

In response to complaints about the poor condition of Good Samaritan, the Charlotte Hospital Authority proposed in early 1960 the issuance of \$800,000 in bonds to renovate the hospital. The Charlotte Medical Society, an organization of black health care professionals under the leadership of Hawkins, opposed the bond issuance, requesting instead that black patients be admitted to Memorial Hospital, and threatened litigation if Memorial failed to act.¹⁵⁰ Memorial Hospital appeared divided over the desegregation issue. The director of the city's Hospital Authority, Rush Dickson, who was responsible for the operation of Memorial, claimed that the hospital did not have ade-

These disagreements between Hawkins and Alexander would continue. In 1963, Hawkins' political organization, MOPA, threatened to withhold support for a school bond issue unless the School Board adopted a far more ambitious desegregation plan. Alexander disagreed with Hawkins, explaining that "the need for expanding educational programs and facilities for the total community is so great that the matter of desegregation should not be used to hobble an educational bond issue at this time." *First Job of Both Races: To Retain Public Schools*, CHARLOTTE OBSERVER, Nov. 14, 1963, at 2B. See also *Hawkins' Group Asks School Board for Integration Plan*, CHARLOTTE OBSERVER, Nov. 13, 1963, at 7A; *School Bonds Get Support of NAACP*, CHARLOTTE OBSERVER, Nov. 13, 1963, at 7A; *Negroes: Desegregate Now*, CHARLOTTE NEWS, Nov. 12, 1963, at 1B.

Once again, Alexander announced that the NAACP preferred to pursue its desegregation goals through a legal challenge to the School Board's assignment system. *School Bonds Get Support of NAACP*, *supra*. Hawkins would remain a member of the NAACP and would perform an active role in much of the organization's litigation efforts of the 1960s, including the challenge to segregated schools, but he would retain certain differences with Alexander over appropriate strategy.

148. Leach, *supra* note 23, at 128-29.

149. *Memorial Hospital Bond Issue Vital*, CHARLOTTE OBSERVER, May 5, 1957, at 1C; *Hospital Need Overshadows Attempt to Confuse Issue*, CHARLOTTE OBSERVER, May 7, 1957, at 2B; Leach, *supra* note 23, at 129.

150. *Negro Doctors Want Hospitals Desegregated*, CHARLOTTE OBSERVER, July 18, 1961, at 5A.

quate facilities to treat both white and black patients.¹⁵¹ The hospital's medical staff, however, opposed efforts to renovate Good Samaritan and urged that Memorial operate on a desegregated basis. Dickson rebuked the staff, noting that it was the hospital board and administrators—not the medical staff—that were charged with the responsibility for operating the hospital.¹⁵² Ultimately, however, Memorial agreed to set aside a small percentage of its beds, all located on one floor of the hospital, for black patients.¹⁵³

Subsequently, in 1962, Hawkins increased pressure on Memorial to admit additional black patients by announcing that he would commence public demonstrations outside Memorial Hospital unless it fully desegregated its facilities. In response to the threat of demonstrations, Memorial agreed to open an additional twenty beds to black patients. Hawkins rejected the hospital's compromise gesture: "This appeasement by allocation of Negro beds isn't the answer. They don't show good faith by continuing segregation."¹⁵⁴ In late February 1962, Hawkins initiated public demonstrations protesting racially exclusionary policies at all four of the city's hospitals, including Good Samaritan, since none of the four operated on a fully desegregated basis.¹⁵⁵

Brookshire, who had moved to the mayor's office in 1961, attacked Hawkins. Brookshire issued a statement in March 1962 that accused Hawkins of destroying the city's climate of good race relations:

These belligerent acts of pressure will result in building resentments and antagonisms. Such acts tend to destroy the good will so necessary to any progress which this community has been working to establish. For these reasons I regret that the students and their leaders have resorted to coercion, instead of lending their support and cooperation to the community leadership, both white and Ne-

151. *Dickson Syas Memorial Can't Admit Negroes*, CHARLOTTE OBSERVER, Oct. 20, 1959, at 1B; Leach, *supra* note 23, at 131-32.

152. *Doctors Stymie Samaritan Project*, CHARLOTTE OBSERVER, Mar. 17, 1960, at 1C; *Resolutions Criticized by Dickson*, CHARLOTTE OBSERVER, Mar. 17, 1960, at 1C.

153. Edward C. Halperin, *Special Report: Desegregation of Hospitals and Medical Societies in North Carolina*, 318 NEW ENG. J. MED. 58, 61 (1988).

154. *Negro Patients Get Additional Beds*, CHARLOTTE OBSERVER, Feb. 21, 1962, at 1B; Leach, *supra* note 23, at 136.

155. When Good Samaritan finally admitted its first white patient, Hawkins called off the picketing there. In time, the picketers won some white support, primarily that of Sidney Freeman, pastor of the Charlotte Unitarian Church who had been involved in the lunch counter demonstrations in 1960. *4 Whites Aid Negro Picketers*, CHARLOTTE OBSERVER, Mar. 11, 1962, at 6A.

gro, which seeks peaceful solutions to these problems through constructive efforts.¹⁵⁶

Brookshire attempted to isolate Hawkins as a radical, claiming that his actions did "not meet with the general approval of the masses or leaders of either race in Charlotte."¹⁵⁷ Hoping to contain the demonstrations, Brookshire attacked Hawkins for taking his grievances to the streets rather than to the Mayor's Community Relations Committee:

Furthermore, these actions are in violation of agreements expressed by the leaders involved, who had previously agreed before witnesses to work through the Mayor's . . . Committee. I am convinced that this strong biracial committee, composed of leaders of both races, can do more in a quiet way that any biased group can do by exploitation and/or public exhibitions.¹⁵⁸

Hawkins understood, however, that engaging the white elite in the public square would be far more effective than doing so in a private conference room. Consequently, Hawkins refused to back down.

When the demonstrations had little immediate impact, Hawkins initiated other actions to force the full integration of the city's hospitals. First, with the assistance of NAACP Legal Defense Fund attorneys, he filed suit seeking an injunction to prevent the city's Hospital Authority from spending additional funds to renovate Good Samaritan.¹⁵⁹ Second, he contacted both United States Attorney General Robert Kennedy and the federal Department of Health, Education, and Welfare to complain about the discrimination at Memorial in the admission of black patients.¹⁶⁰ Hawkins' complaint triggered a federal investigation of the hospital; the investigators eventually concluded that the hospital did discriminate on the basis of race in its maternity and dental clinics.¹⁶¹ One year later, in 1963, Memorial Hospital agreed to operate on a fully desegregated basis. Hawkins' combination of both demonstrations and threatened litigation—coupled with federal pressure—had again forced racial change in Charlotte. By refusing Brookshire's offer to go immediately to negotiation, Hawkins

156. *Brookshire Says He Regrets Pickets' Use of 'Coercion'*, CHARLOTTE OBSERVER, Mar. 4, 1962, at 16C.

157. *Id.*

158. *Id.*

159. *Injunction is Sought on Rebuilding Funds*, CHARLOTTE OBSERVER, July 24, 1962, at 1B.

160. *Probe of Hospital 'Collusion' Asked*, CHARLOTTE OBSERVER, June 23, 1962, at 3A; *Memorial Hospital About to Get Second U.S. Investigation*, CHARLOTTE OBSERVER, Aug. 11, 1962, at 1B.

161. *Discrimination May Be Cited at Memorial*, CHARLOTTE OBSERVER, Aug. 16, 1962, at 1D; Halperin, *supra* note 153, at 61.

challenged white control over the desegregation process and greatly enhanced his prospects for success.

D. Desegregating Charlotte's Public Accommodations

Hawkins enjoyed his greatest success when he forced the desegregation of Charlotte's public accommodations. These desegregation efforts placed Charlotte in the national spotlight and helped define the city's race relations for the rest of the decade.

Following the sit-ins of 1960, Johnson C. Smith University students engaged in a few sporadic demonstrations in 1961 and 1962 to challenge the exclusion of black patrons from local restaurants, but had limited success. Mayor Brookshire had again intervened, helping to persuade two department stores to desegregate their restaurants in exchange for a promise from the students to bring future racial complaints to the Mayor's Community Relations Committee before resorting to public demonstrations.¹⁶²

During the spring of 1963, civil rights marches protesting discrimination in public accommodations spread throughout the South, including a number of North Carolina cities. No marches were held in Charlotte during the first several months of 1963, but Hawkins announced that he would lead such protests if the city's restaurants and hotels persisted in their failure to serve black patrons.¹⁶³ Charlotte again planned to host the North Carolina World Trade Fair during April 1963. Recognizing the importance of the Trade Fair to the city's local economy, Charlotte's business leaders sought to avoid any controversy surrounding the Trade Fair, as they had in 1961.¹⁶⁴ City leaders well understood that protests and confrontation during that week would sully the city's business reputation. Moreover, Martin Luther King was scheduled to speak in late May at the graduation exercises of the city's six black high schools, bringing a national spotlight to the city on racial issues.¹⁶⁵

Shortly before the opening of the Trade Fair and in the face of threatened demonstrations by Hawkins, Brookshire's Mayor's Community Relations Committee announced that several of the city's ho-

162. *Chamber Action Significant One*, CHARLOTTE OBSERVER, May 28, 1963, at 1A; NORTH CAROLINA AND THE NEGRO 52-53 (Capus M. Waynick et al. eds., 1964); Leach, *supra* note 23, at 120.

163. *Picketing Scheduled by Negroes*, CHARLOTTE NEWS, Apr. 19, 1963, at 1B.

164. Moye, *supra* note 27, at 172.

165. *King Addresses 7,500 at Charlotte Commencement*, S. SCH. NEWS, June 1963, at 13; *Charlotte Commencement Exercises Questioned*, S. SCH. NEWS, Mar. 1963, at 13.

tels had agreed to operate on a desegregated basis: "The latest step which we believe the community will accept as both morally and economically sound has been taken by a number of our hotels and motels in the opening of registration for the North Carolina Trade Fair on a non-restricted basis."¹⁶⁶ That announcement thwarted planned demonstrations. Within a few weeks, however, it became clear that the hotels, following the conclusion of the Trade Fair, had reneged on their agreement to serve black patrons, as Hawkins himself was denied service at the downtown Manger restaurant and hotel.¹⁶⁷ Shortly thereafter, Hawkins ascertained that only two Charlotte hotels—the Queen Charlotte and the Barringer—would serve African Americans.¹⁶⁸ Accordingly, Hawkins announced that he would lead a new round of public demonstrations. On May 20, Hawkins made good on his threat, leading a march of about 65 persons, most of whom were Smith students, through the downtown area, complaining of the exclusion of black customers from the city's hotels, restaurants, and theaters.¹⁶⁹ Hawkins promised additional demonstrations, including a massive demonstration in conjunction with King's visit to Charlotte.¹⁷⁰

Hawkins' activities deeply concerned the city's white business leaders. Mayor Brookshire, fearing that a season of racial unrest could inflict serious damage on the city's business climate, approached the president of the Charlotte Chamber of Commerce, Ed Burnside, to discuss ways of thwarting Hawkins' scheduled demonstrations. Both Brookshire and Burnside understood that the demonstrations in other parts of the state and the South had been "terrifically embarrassing [to] those cities" and economically damaging.¹⁷¹ The *Wall Street Journal* had reported in 1961 that business leaders throughout

166. *Hotels, Motels Open to Negroes*, CHARLOTTE OBSERVER, Apr. 24, 1963, at 1B. See also *Charlotte Picketing Postponed*, CHARLOTTE OBSERVER, Apr. 21, 1963, at 1B; *Chamber Action Significant One*, *supra* note 162, at 1A; Letter from Stanford Brookshire to Reginald Hawkins (May 10, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte); Interview with Reginald Hawkins, *supra* note 101.

167. *Manger Is Target of Integrationists*, CHARLOTTE OBSERVER, May 10, 1963, at 1C; Letter from John Cunningham to Stanford Brookshire (May 13, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

168. Charles Robson, *State Says Motel Within the Law*, CHARLOTTE OBSERVER, May 15, 1963, at 1B.

169. *J.C. Smith Students March Across Town*, CHARLOTTE OBSERVER, May 21, 1963, at 1B.

170. WATTERS, *supra* note 36, at 16.

171. *Id.* at 4. In early May, widespread demonstrations had taken place in a number of North Carolina cities—Greensboro, Durham, Wilmington, and Fayetteville—resulting in large numbers of arrests. *Demonstrations and Arrests Continue in Four N.C. Cities*, CHARLOTTE OBSERVER, May 19, 1963, at 2A.

the region feared a decline in new economic development as a result of racial problems. The *Journal* reported, for example, that Birmingham's violent resistance to the freedom riders during the spring of 1961 had cost the city potential new capital in excess of \$40 million.¹⁷² The *Charlotte Observer* noted that other southern cities, such as Greensboro, Raleigh, and Birmingham, were suffering adverse publicity from public demonstrations during the spring of 1963 and that Charlotte should act quickly to avoid a similar fate.¹⁷³

Brookshire proposed to Burnside that the Chamber orchestrate an effort to secure an agreement from Charlotte's restaurant, hotel, and theater operators to stop discriminating against black patrons.¹⁷⁴ If the entire business community acted in solidarity, no individual business would suffer on account of disturbing longstanding racial mores. Burnside agreed and arranged for *Observer* editor McKnight to draft a resolution recommending that all Charlotte businesses "be opened immediately to all customers without regard to race, creed, or color."¹⁷⁵ Two days after Hawkins' May 20 demonstration, the executive committee of the Chamber unanimously approved McKnight's resolution, and the full Chamber Board of Directors approved the resolution on the next day.¹⁷⁶ In the wake of the announcement of the Chamber's actions, Hawkins cancelled additional scheduled demonstrations.¹⁷⁷

The Chamber's action was clearly motivated by its perception of how a summer of racial protests would affect the city's national image and its efforts to attract new business. During the Chamber Board meeting at which the resolution was approved, one board member specifically noted that Little Rock had not recruited any new industry for a few years following the school integration turmoil in that city during the late 1950s.¹⁷⁸ By contrast, Charlotte had enjoyed an excellent record of recruiting new business; throughout the early 1960s, an

172. *Business in Dixie: Many Southerners Say Racial Tension Slows Area's Economic Gains*, WALL ST. J., May 26, 1961, at 1.

173. *Charlotte Needs No "D-Day" to Combat Discrimination*, CHARLOTTE OBSERVER, May 22, 1963, at 2C.

174. The Charlotte Chamber of Commerce had integrated its membership one year earlier. In 1962, the Chamber invited Secretary of State Dean Rusk to speak at its annual meeting. At this time, the Chamber was an all-white organization. Sensing the importance of the Secretary of State's visit to the city's image, the Chamber invited a few prominent black businessmen to join the organization and then carefully arranged them so that they would be seated near friendly white faces at the annual dinner. WATTERS, *supra* note 36, at 39.

175. *Charlotte C of C Asks Firms to Serve All*, CHARLOTTE OBSERVER, May 28, 1963, at 1A.

176. *Id.*

177. *8 Hotels, Motels Will Desegregate*, CHARLOTTE OBSERVER, May 30, 1963, at 1A.

178. *Charlotte Has Built its Integration Road*, CHARLOTTE OBSERVER, July 14, 1963, at 1A.

average of over sixty new businesses opened each year in the city, employing almost 2,000 new workers.¹⁷⁹ A season of racial unrest might damage that record. As one member of the Chamber board explained at the time, the desegregation initiative would serve as a “strong step toward encouraging new industry . . . [and] expansion of existing industry.”¹⁸⁰

The next issue for the Chamber was that of compliance with the resolution. One restaurateur, J.W. “Slug” Claiborne, suggested that white business leaders invite black leaders to lunch at various restaurants and hotel dining rooms to “break” the color line. The Chamber leaders agreed and invited several restaurant and hotel operators to a meeting to solicit their cooperation. Stressing both the economic and moral reasons for these actions—and mentioning the negative impact of racial unrest on Little Rock and Birmingham—the Chamber persuaded several hotel owners to desegregate their restaurants.¹⁸¹ From May 29-31, several white businessmen ate lunch at hotel restaurants with some of the city’s most prominent black leaders.¹⁸² By agreement, and consistent with past practice, the local papers did not specify the restaurants involved until after the fact to avoid any possibility of unseemly reactions. By the time the story broke in the local papers, many of the city’s leading restaurants had already desegregated a few days earlier.¹⁸³ Shortly thereafter, several hotels, theaters and about a third of the city’s restaurants were desegregated in a similar fashion.¹⁸⁴

Brookshire sought compliance with the desegregation resolution for the next few months, meeting individually with restaurant owners to win their support. As Chamber Executive Vice President Charles Crawford noted: “We wanted [restaurant owners] to know that the

179. Charlotte Chamber of Commerce, *supra* note 93.

180. *Charlotte C of C Asks Firms to Serve All*, *supra* note 175, at 1A.

181. NORTH CAROLINA AND THE NEGRO, *supra* note 162, at 54-57; WATTERS, *supra* note 36, at 4.

182. *Charlotte Has Built its Integration Road*, *supra* note 178, at 1A.

183. John Cunningham, Statement about Mayor’s Committee on Community Relations (June 1963) (unpublished manuscript, on file with the Charlotte-Mecklenberg Community Relations Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte). Although the Charlotte Observer did report the fact that desegregation had taken place at several of the cities’ hotel and motel restaurants, the paper waited three days before naming the restaurants. *8 Hotels, Motels Will Desegregate*, *supra* note 177, at 1A; *Unique Desegregation Plan Becomes Reality*, CHARLOTTE OBSERVER, June 1, 1963, at 1C. One restaurant date was changed to a new location to avoid a cameraman from a national television network. *Charlotte Has Built its Integration Road*, *supra* note 178, at 1A.

184. *Id.* At the same time, the Charlotte City Council met and repealed all outstanding provisions in the city code mandating segregation. *Race Progress Here Impressive to Bobby*, CHARLOTTE OBSERVER, July 7, 1963, at 2B.

business leadership of this community felt that this was the right thing to do.”¹⁸⁵ Of particular importance, Brookshire pressured Frank Sherrill, owner of the popular S & W Cafeteria, to operate his restaurant on a desegregated basis. Many other restaurant operators had waited to see what Sherrill would do before taking action themselves. Finally, in mid-July, Sherrill relented, leading the way for several other restaurants to open their doors on a desegregated basis.¹⁸⁶

The efforts of Brookshire and the Chamber to move the city forward on the public accommodations issue were facilitated by the fact that the city was not plagued by a large contingent of aggressive segregationists anxious to preserve the traditional racial order at all costs. Throughout the early 1960s, white resistance groups were largely quiet. To be sure, Brookshire received threats on his life and had a cross burned in his yard.¹⁸⁷ In addition, a Charlotte White Citizens' Council was formed in 1962 in response to earlier demands for public accommodations desegregation. Yet the Citizens' Council had little effect. Like earlier segregationist groups in Charlotte in the 1950s, no prominent business leaders, professionals, or politicians associated themselves with the Citizens' Council and it therefore was ineffectual during the 1963 desegregation efforts.¹⁸⁸ The *Charlotte Observer*, which criticized the Council's efforts to establish in Charlotte, claimed that the organization's views did not square with those of most Charlotteans: “[o]ur people, though opposed to radical, overnight changes, have been recognized throughout the nation for their accommodation to moderate, sensible change.”¹⁸⁹

Those southern cities that voluntarily desegregated their public accommodations before the Civil Rights Act, such as Charlotte and Atlanta, are distinguishable from those cities that did not desegregate in large measure by the posture of the business community and the mayor's office. In both Charlotte and Atlanta, the business community, under the leadership of moderate pro-business mayors, understood that desegregation would translate into increased economic

185. WATTERS, *supra* note 36, at 5.

186. Telegram from Stanford Brookshire to Sherrill (June 13, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte); WASHINGTON (D.C.) DAILY NEWS, July 25, 1963 (on file with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte); *Turning Point 25 Years Ago, Charlotte Began New Era in Race Relations*, CHARLOTTE OBSERVER, May 29, 1988, at 1D.

187. *Id.*

188. Leach, *supra* note 23, at 24-25.

189. *Our State Won't Go Backward*, CHARLOTTE OBSERVER, Sept. 12, 1962, at 2B.

growth and thus took the lead in promoting desegregation.¹⁹⁰ Historian James Cobb, in his 1982 study of the efforts of southern businessmen during the twentieth century to promote their region to outside investors, concluded that southern businessmen, "concern[ed] about a location's image in the eyes of new industrial investors," gave important support to desegregation initiatives in a number of southern cities.¹⁹¹

By contrast, white leaders in the cities of the deeper South that resisted public accommodations desegregation concluded that holding the line on segregation outweighed all other concerns. In St. Augustine, Florida, for example, a number of leading business leaders joined the John Birch Society, and proved to be more committed to maintaining the racial status quo than economic development.¹⁹² St. Augustine successfully resisted the desegregation of its public accommodations until the Civil Rights Act in July 1964 required such action. In other deep South communities, the business communities initially remained silent in the face of racial protest, allowing segregationists to control the public dialogue.¹⁹³

Yet even among moderate southern cities that chose to desegregate their public accommodations in 1963 in response to demonstrations, Charlotte's experience is distinctive. Black activists in Charlotte conducted one relatively small demonstration challenging segregated public accommodations in May 1963—with no arrests—well after demonstrations on a much larger scale had begun in other cities. Two days after that lone demonstration, Mayor Brookshire and the Chamber of Commerce resolved to end discrimination in all of the city's public accommodations and then aggressively sought compliance with that resolution. This rapid response distinguishes Charlotte from virtually every other North Carolina city and many other moderate upper South cities that confronted desegregation demands during the spring of 1963.

The comparison with Greensboro is particularly striking. In that city, black activists conducted a series of demonstrations between May

190. KENNETH K. BAILEY, *SOUTHERN WHITE PROTESTANTISM IN THE TWENTIETH CENTURY* 148 (1964); REED SARRATT, *THE ORDEAL OF DESEGREGATION: THE FIRST DECADE* 285-86 (1966).

191. COBB, *supra* note 11, at 149.

192. COLBURN, *supra* note 5; DAVID GOLDFIELD, *BLACK, WHITE, AND SOUTHERN: RACE RELATIONS AND SOUTHERN CULTURE, 1940 TO THE PRESENT* 133 (1990).

193. JACOWAY, *supra* note 21, at 8.

11 and June 7, 1963, resulting in over 1400 arrests.¹⁹⁴ Unlike Charlotte, where white leaders immediately complied with the demonstrators' demands, Greensboro's white elite instead tried to quell the demonstrations through a strict arrest policy. Greensboro Mayor David Schenck, unlike Brookshire, did not aggressively seek business support for desegregation. Moreover, when the Greensboro Chamber of Commerce did eventually resolve to end racial segregation in public accommodations in June 1963, it did not take meaningful action to insure compliance. As a result, the Chamber resolution was not widely followed and the demonstrations continued.¹⁹⁵ The example of Greensboro had a profound impact on Brookshire: "we did not want what was happening in Greensboro to happen in Charlotte."¹⁹⁶

Although virtually all public accommodations in Charlotte were desegregated by the fall of 1963, Greensboro would not enjoy full desegregation until after the passage of the Civil Rights Act the following summer. The ensuing turmoil hurt the city's economic prospects. John Parramore of the Greensboro Chamber of Commerce later noted that the city's difficulties in desegregating its public accommodations "severely crippled efforts to attract new industry to the city."¹⁹⁷

The difference between Charlotte and its moderate counterparts that reacted more slowly to desegregation demands lies primarily in the fact that Charlotte's white elite proved itself to be particularly willing to accommodate racial change in order to preserve its favorable business climate and progressive national image. Moreover, Charlotte possessed a strong leader—Mayor Brookshire—whose extensive contacts in the business community allowed him to secure compliance with his desegregation initiative in remarkably short order.

The quick resolution of the desegregation controversy in Charlotte received wide attention. When Martin Luther King arrived in Charlotte in late May 1963 to address graduation ceremonies at the city's black high schools, he applauded the city's actions, calling the

194. CHAFE, *supra* note 5, at 167; James Farmer, *Mass Action Makes N.C. Live Up to Liberal Reputation*, CORE-LATOR 1 (July 1963) (on file with the North Carolina Collection, University of North Carolina (Chapel Hill)). Between May 15 and 18 alone, 940 demonstrators were arrested in Greensboro. MEIER & RUDWICK, *supra* note 3, at 217.

195. CHAFE, *supra* note 5, at 167-214.

196. *Turning Point 25 Years Ago, Charlotte Began a New Era in Race Relations*, *supra* note 186.

197. *Greensboro Race Crisis: A Summing Up*, GREENSBORO DAILY NEWS, Sept. 15, 1963, at 1C.

desegregation developments "significant."¹⁹⁸ The media, led by McKnight's *Observer*, gave wide coverage to the city's desegregation action.¹⁹⁹ Ultimately, positive news stories about the Chamber's actions were carried throughout the nation and even the world. Both Radio Free Europe and Voice of America broadcasted special segments on the desegregation of Charlotte's public accommodations.²⁰⁰ In June, Attorney General Robert Kennedy began to correspond with Brookshire seeking the mayor's help in facilitating similar racial change in other southern cities through the use of bi-racial community committees; the *Observer* gave significant play to the interchange.²⁰¹ Two months later, President John Kennedy, with an implicit reference to Charlotte, urged U.S. mayors to establish bi-racial committees to resolve community problems.²⁰² In August, ABC News traveled to Charlotte to analyze the events of that summer as part of a documentary on civil rights; the network took its cameras to a meeting of the Mayor's Community Relations Committee.²⁰³ Brookshire was flooded with requests for information about how Charlotte had handled the desegregation crisis.²⁰⁴

This widespread publicity brought increased convention business and helped attract new industry to the city. Eastern Air Lines, for example, placed a major computerized reservations center in Charlotte within the next year.²⁰⁵ Presidents of major out-of-state corpora-

198. *King Addresses 7,500 At Charlotte Commencement*, *supra* note 165, at 13.

199. *Charlotte C of C Asks Firms to Serve All*, *supra* note 175, at 1A; *Chamber Action Significant One*, CHARLOTTE OBSERVER, May 28, 1963, at 1A.

200. Stanford Brookshire, *This Decade of Progress or Peril* (1963) (unpublished manuscript, on file with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte); WATTERS, *supra* note 36, at 9.

201. Letter from Robert Kennedy to Stanford Brookshire (June 24, 1963); Letter from Brookshire to Kennedy (June 28, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

202. Letter from Thomas Francis to Stanford Brookshire (Aug. 13, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

203. Memorandum from John Cunningham to Mayor's Committee (Aug. 23, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

204. See, e.g., Letter from Stanford Brookshire to Elwood Sachsenmaier (May 30, 1963); Letter from E.C. Brandon, Jr. to William Veeder (June 4, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collection, Atkins Library, University of North Carolina at Charlotte).

205. WATTERS, *supra* note 36, at 9, 22.

tions with existing facilities in Charlotte wrote Brookshire to express support for the city's actions.²⁰⁶

Many contemporaries attributed the desegregation of Charlotte's public accommodations to the city leaders' strong moral convictions on racial issues. To be sure, Mayor Brookshire, who played a major role in the desegregation efforts, was disturbed by the moral injustice of racial discrimination in employment, public accommodations, and education. In June 1963, Brookshire questioned the morality of American race relations in an address to a civic club: "Why should we members of the white race, because we happen to be in the majority, deny the freedoms, rights and opportunities we enjoy to members of minority groups? And yet, the social and economic patterns long accepted in this country do just that."²⁰⁷ For a southern white mayor in the early 1960s, it was an extraordinary statement. Yet Brookshire, motivated in significant measure by his religious convictions, had become personally convinced of the immorality of at least certain aspects of Jim Crow and sought to nudge his city towards greater integration.

Yet the desegregation of Charlotte's public accommodations must be understood in significant measure as a result of the business community's perception that extended public demonstrations would harm the city's moderate reputation and thereby subvert efforts to attract new industry to the city. The primary movers in the desegregation activities conceded as much.

Brookshire explained his views in a June 1963 article he was requested to write for the *New York Herald Tribune*:

[as a result of demonstrations,] the community's pocketbook is placed in jeopardy, as Birmingham and other cities have learned from experience. Whether we like it or not, we are pressed by circumstances to choose either resistance or to break with long accepted social and economic patterns. . . . [D]iscrimination based on the color of a man's skin is legally and morally wrong and economically unsound.²⁰⁸

Time and time again, Brookshire would explain to civic audiences the motives behind the desegregation of its public accommodations: "[Charlotte acted] out of social conscience, civic pride and economic

206. See, e.g., Letter from John Simon, President of APCO, Inc., to Stanford Brookshire (June 3, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

207. *Rights, Responsibility Called '2-Way Street,'* CHARLOTTE OBSERVER, July 6, 1963, at 1B.

208. N.Y. HERALD TRIB., June 16, 1963 (on file with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte).

considerations.”²⁰⁹ Editor McKnight, who drafted the Chamber of Commerce desegregation resolution, commented that although the moral motivation was present in the desegregation effort, economic realities were more important. Another Chamber board member tried to persuade his colleagues to support the desegregation resolution by arguing that it was not “a question of right or wrong . . . but whether you will be smart or stupid.”²¹⁰ The African-American community also perceived the importance of the economic motivations; as one black leader commented at the time:

I would like to say that there were moral motives (for the changes). I can't. There is some interested Christian leadership. But for most, I think they were looking at this thing in cold turkey, good business sense. Charlotte needs this good image to bring new industry. . . . And Birmingham is in the back of all this.²¹¹

Birmingham was indeed behind all of it. The violence of that city's desegregation conflict convinced Charlotte's civic leaders that action must be taken to prevent similar action. *Charlotte News* editor Perry Morgan commented in 1964 that the public accommodations desegregation would not have taken place “without Birmingham.”²¹² That view was widely shared among the city's leaders.²¹³

Many of Charlotte's business leaders probably did not personally favor racial mixing—Brookshire, for example, opposed interracial marriage and social mixing of the races²¹⁴—but for most leaders, the city's economic health was more important than the maintenance of certain racial traditions. Harry Ashmore's earlier description of the typical southern Chamber of Commerce had application in Charlotte:

It is not that the bustling gentlemen at the local Chambers of Commerce . . . are particularly concerned with race as a moral problem; on the contrary, they, like most of their fellow Southerners, wish the matter of integration would quietly go away. . . . But they also recognize that sustained racial disorder would be fatal to their effort to lure new industries and new capital. . . .²¹⁵

209. Stanford Brookshire, *Guidelines in Community Relations* (May 1963) (on file with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte).

210. *Charlotte Has Built its Integration Road*, *supra* note 178, at 1A.

211. *Id.*

212. WATTERS, *supra* note 36, at 81.

213. School Board Chair David Harris, for example, noted in 1964 that “[w]e don't want to risk a Birmingham. We've avoided bombings. It only takes one to get you in trouble.” *Id.* at 68.

214. *Intermarriage Stand Attacked by Mayor*, *CHARLOTTE NEWS*, Feb. 25, 1963, at 1B; Letter from Stanford Brookshire to Charles Jones (Mar. 7, 1963) (on file with the Charlotte-Mecklenburg Community Relations Committee Papers, Box 1-5, Special Collections, Atkins Library, University of North Carolina at Charlotte).

215. HARRY S. ASHMORE, *AN EPIITAPH FOR DIXIE* 118 (1957).

The desegregation of the city's public accommodations provided an important lesson for the black community of Charlotte. Accommodation brought good personal relationships, but confrontation brought results. Mayor Brookshire, who was largely responsible for securing the support of Charlotte's business community for desegregation, acknowledged at the time that he would have preferred "peaceful gradualism" on the public accommodations issue, but that the pressure tactics of Hawkins had pushed him along faster than he wanted to go.²¹⁶ Litigation and demonstrations were confrontational and alienated the white power structure, but they forced changes in the racial status quo. There is no question that the desegregation of Charlotte's public accommodations would not have happened as soon as it did—one year prior to the Civil Rights Act of 1964 mandated such action—without the pressure tactics of Hawkins. Hawkins and his threat of demonstrations forced the white business community to act.

In June 1963, a few weeks after the Chamber of Commerce issued its desegregation resolution, Hawkins threatened additional demonstrations directed at the denial of hospital privileges to African-American physicians at Memorial Hospital. He urged the city's black doctors to boycott Good Samaritan as a way of protesting their exclusion from Memorial. Hawkins also threatened to seek assistance from the Kennedy Administration to halt construction of a new addition at Memorial if the hospital persisted in its discriminatory practices.²¹⁷

Brookshire was furious. He immediately sent a telegram to Hawkins claiming he would hold Hawkins responsible for any ill effect that might flow from such actions and charging that Hawkins had defaulted on his promise to bring all racial complaints to the Mayor's Committee on Community Relations.²¹⁸ Once again, however, the threatened protest worked. Within days, hospital privileges were extended to black physicians.²¹⁹

In the meantime, Hawkins filed yet another complaint with the federal government complaining that black patients had been denied admission to Memorial due to their race. Investigators from the Pub-

216. Stanford Brookshire, Unpublished Speech (1963) (transcript available with Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte).

217. *Hawkins Says He May Ask U.S. Action*, CHARLOTTE OBSERVER, June 24, 1963, at 4B.

218. Telegram from Stanford Brookshire to Reginald Hawkins, June 21, 1963, (on file with the Stanford Brookshire Papers, Box 26-4, Special Collections, Atkins Library, University of North Carolina at Charlotte).

219. *Memorial Staff Votes on July 9*, CHARLOTTE OBSERVER, July 2, 1963, at 1B.

lic Health Service concluded that Memorial was indeed discriminating against black patients in violation of federal law. Subsequently, in August 1963, Memorial pledged to open "all hospital services to Negroes on the same basis as for whites."²²⁰ Two years later, the NAACP complained to the federal government that two private Charlotte hospitals that received federal aid (Mercy and Presbyterian) discriminated on the basis of race. In May 1965, the United States Public Health Service announced that both hospitals would cease to receive federal aid on account of their discriminatory practices. Eventually, the hospitals agreed to operate on a nondiscriminatory basis.²²¹

Finally, in 1964, Hawkins used a combination of public demonstrations and litigation to desegregate the downtown YMCA. Although the YMCA had begun operating its cafeteria and meeting rooms on a non-discriminatory basis in response to the 1960 sit-ins, it continued to exclude African Americans from membership. In May 1964, Hawkins initiated demonstrations at the facility to challenge its exclusionary policies; the organization's general secretary criticized the picketing, claiming that it would only serve to hurt black interests.²²² Three months later, Hawkins filed suit pursuant to the public accommodations section of the newly enacted federal Civil Rights Act.²²³ One month later, the YMCA Board caved in, enacting a resolution providing for the complete desegregation of the facility.²²⁴ The litigation had proved decisive.

Charlotte desegregated its public accommodations before most other southern cities and before Congress required such action in 1964. Likewise, Charlotte began assigning students on the basis of geography rather than race long before most southern school districts did the same. White Charlotte took these actions to retain control over the integration process. Public demonstrations and litigation threatened to disturb the city's carefully nurtured image for racial moderation and preference for peaceful racial advances. The turbulent experience in Birmingham during the spring of 1963 had a profound influence on Charlotte's decisionmakers. Just as Little Rock had provided an important benchmark in the late 1950s and early

220. *Open-Door Policy Starts Immediately*, CHARLOTTE OBSERVER, Aug. 24, 1963, at 1B; *Hospital Race Bars Fall*, CHARLOTTE NEWS, Aug. 23, 1963, at 1B.

221. *Mercy Complies With Rights Act*, CHARLOTTE OBSERVER, July 21, 1965, at 1C.

222. *Hawkins-Led Force Slated to Picket Central YMCA*, CHARLOTTE OBSERVER, May 13, 1964, at 15A.

223. *FBI Checks 2nd Rights Protest Against YMCA*, CHARLOTTE OBSERVER, Aug. 16, 1964, at 1C.

224. *YMCA's Integration Steps Are Revealed*, CHARLOTTE OBSERVER, Apr. 20, 1965, at 1B.

1960s, Birmingham emerged during the spring of 1963 as a symbol for the error of resistance. The city's white business community, intimately linked with the city's power structure, understood the economic necessity of avoiding racial conflict even at the expense of token integration, an understanding that business leaders in other southern cities, such as Birmingham, St. Augustine, and New Orleans, lacked.

But the actions of Brookshire and the white business elite in 1963 would not have been forthcoming without the perseverance of the black activists, particularly Hawkins. As Brookshire later conceded, Charlotte engaged in no desegregation during the post-*Brown* era "without threat."²²⁵ This convergence of black activism and white self-interest contributed to the early and relatively peaceful desegregation of Charlotte's public accommodations.

III. CHARLOTTE'S RESPONSE TO THE DEMAND FOR SCHOOL BUSING

Charlotte's desegregation of its public accommodations did not signal a dramatic reordering in the patterns of racial separation in the city. Although Brookshire was undoubtedly one of the most racially liberal southern mayors during the 1960s and strongly supported improving the economic position of Charlotte's black underclass, the mayor remained a steadfast opponent of racial mixing on a social basis, and undertook no effort to challenge the city's well-entrenched patterns of residential segregation. Indeed, the city's urban renewal policies of the early 1960s under Brookshire's tenure only exacerbated patterns of residential segregation.²²⁶ Charlotte had been one of the first cities in the South to integrate its schools and public accommodations, but the city's basic patterns of physical and social separation remained intact: throughout the 1960s, the city remained one of the most residentially segregated cities in the United States. Brookshire, despite his liberal views on desegregating public accommodations, found no fault with these patterns of social and physical separation: "Our Negroes in Charlotte take considerable pride in their own race. . . . They prefer their own churches. There is no effort to cross to white churches. . . . They have some fine neighborhoods, and are anxious to preserve their quality."²²⁷

225. WATTERS, *supra* note 36, at 11-12.

226. *Birth of a Possible Ghetto*, CHARLOTTE OBSERVER, Dec. 26, 1966, at 1B; *The '60s in Charlotte a Decade of Challenge and Change*, CHARLOTTE OBSERVER, Jan. 15, 1989, at 1C.

227. WATTERS, *supra* note 36, at 10 (ellipses in original).

As a result of this residential segregation and the Charlotte-Mecklenburg School Board's practice of continuing to assign many students to school on the basis of their race,²²⁸ the schools remained largely segregated in the mid-1960s. When schools opened in Charlotte in August 1964, only about three percent of the more than 20,000 African-American children in the school system were assigned to a majority white school.²²⁹ The Board still assigned about half of the African-American students to school on a racial basis and most of those students assigned to school on the basis of geography attended single-race schools on account of the city's extensive residential segregation. As a result, the NAACP initiated litigation against the Board in January 1965 challenging the Board's pupil assignment practices.

The local NAACP retained attorney Julius Chambers, a new arrival to the city of Charlotte, to file the litigation. Though only twenty-nine years old at the time, over the course of the next decade, Chambers would establish himself as the preeminent civil rights lawyer in the South. Chambers had graduated from the University of North Carolina Law School in 1962 where he had compiled an extraordinary record, earning the top rank in his class and becoming the first African American to serve as editor-in-chief of the *North Carolina Law Review*.²³⁰ Following his law school graduation and a post-graduate year at Columbia Law School, Chambers joined the legal staff of the NAACP Legal Defense Fund in New York City handling race discrimination cases. After one year in New York, Chambers moved to Charlotte to open a civil rights law practice, working in close cooperation with the Legal Defense Fund's New York lawyers.²³¹ Chambers would have a profound impact on future desegregation efforts in Charlotte.

In response to the litigation, the Board eliminated all race-based pupil assignments and converted to an assignment system based exclusively on geography. Accordingly, the federal courts ruled that the

228. The Board did begin assigning some students to school on the basis of geography in 1962. See *supra* text accompanying notes 138-39. Still, by 1964, a majority of students were assigned to school on a racial basis.

229. *Desegregation: School Board Sees Some Changes*, CHARLOTTE OBSERVER, Feb. 3, 1965, at 1B.

230. *He Hopes He's Set Example*, CHARLOTTE OBSERVER, May 5, 1961, at 8A; *Negro Named Editor of Law Publication at State University*, S. SCH. NEWS, June 1961, at 5; NAACP Press Release, Top Law Student at University of North Carolina is Lauded by NAACP (on file with the NAACP Papers, Box III-A-288, Library of Congress, Washington, D.C.). Chambers was also the first black student to serve as editor-in-chief of a law review at a southern state law school. *Id.*

231. *How Did Attorney Earn Those Fees?*, CHARLOTTE NEWS, Mar. 18, 1975, at 1B.

Board's assignment plan passed constitutional muster.²³² Although the courts dismissed the NAACP's legal challenge, the filing of the suit had prompted the Board to finally eliminate all pupil assignments based exclusively on race. Board member William Poe acknowledged in 1966 that "everything we've done in integration has been done because of the threat of a court suit."²³³

In a city as residentially segregated as Charlotte, however, a pupil assignment plan based on geography left many schools segregated because most students lived in racially homogeneous neighborhoods. Yet most federal courts in the mid-1960s held that although school boards must eliminate race-based pupil assignments, they did not have a duty to take additional action to integrate schools in the face of extensive residential segregation.²³⁴ In 1968, in *Green v. County School Board*,²³⁵ the United States Supreme Court appeared to question that orthodoxy by holding that school boards had an affirmative duty to do more than simply establish a racially neutral assignment plan; instead, they must "convert promptly to a system without a 'white' school and a 'Negro' school, but just schools."²³⁶ The *Green* decision, however, dealt with a small rural school district; left unclear was whether the decision required urban school boards to overcome residential segregation through the use of extensive school busing.

Four months after the *Green* decision, in September 1968, Chambers and the NAACP reopened their litigation against the Charlotte-Mecklenburg School Board, arguing that *Green* compelled the Board to take additional action to overcome the city's residential segregation.²³⁷ In April 1969, federal district court judge James McMillan agreed, issuing an order directing the Board to devise a new assignment plan that would accomplish greater desegregation.²³⁸ The McMillan desegregation order, which contemplated the use of wide-

232. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 243 F. Supp. 667 (W.D.N.C. 1965), *aff'd*, 369 F.2d 29 (4th Cir. 1966) (en banc). Even though the Board's plan to eliminate all race-based pupil assignments would not take effect until the 1966-1967 school year, the federal district court ruled in 1965 that this prospective plan to eliminate racial assignments satisfied constitutional standards.

233. *Board of Education Wavers From True Academic Goals*, CHARLOTTE OBSERVER, May 19, 1966, at 2C.

234. See, e.g., *Bowman v. County Sch. Bd. of Educ.*, 382 F.2d 326 (4th Cir. 1967); *Kemp v. Beasley*, 352 F.2d 14 (8th Cir. 1965).

235. 391 U.S. 430 (1968).

236. *Id.* at 442.

237. Motion for Further Relief, *Swann v. Charlotte-Mecklenburg Bd. of Educ.* (Sept. 6, 1968) (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

238. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 300 F. Supp. 1358 (W.D.N.C. 1969).

spread busing, challenged racial attitudes at a far deeper level than had the desegregation efforts of the early 1960s. School busing, particularly the busing of white children to inner-city black schools, proved far more difficult for the white community to accept than had integrated restaurants and hotels. As one business leader later commented: "it was one thing to go to lunch with a Johnson C. Smith professor; it was quite another to send one's child to school in a black neighborhood."²³⁹

The McMillan desegregation order produced a groundswell of opposition in the white community. Board chair William Poe announced that the order had "revolutionary implications" and that the Board would use every legal avenue to fight it.²⁴⁰ Several other white Board members joined Poe in his attack on the judge and within weeks, about twenty thousand parents had signed petitions opposing "involuntary" busing of students to achieve desegregation.²⁴¹

Eventually, the Board decided to comply in part with the judge's order by closing several inner-city black schools and then reassigning those students to suburban white schools. The Board's plan left many schools segregated, but did increase the number of black children attending integrated schools. Not surprisingly, the announcements of the school closings provoked strident protests from the African-American community.²⁴² Confronted with opposition from both the white and black community, Judge McMillan permitted the Board to operate the schools pursuant to its partial desegregation plan for the 1969-1970 school year, but made it clear that further changes would have to be made in the coming year to satisfy constitutional standards.²⁴³

During the fall of 1969, the Board indicated to Judge McMillan that it would not produce an assignment plan that desegregated every

239. Interview with Robert Culbertson, in Charlotte, N.C. (Oct. 14, 1992).

240. *Poe Calls Court Rule Revolutionary*, CHARLOTTE OBSERVER, Apr. 25, 1969, at 1B.

241. *Courts Must Decide Schools' Racial Issue*, CHARLOTTE OBSERVER, May 25, 1969, at 1B.

242. *School Plan Attacked, Defended at Hearing*, CHARLOTTE OBSERVER, Aug. 6, 1969, at 1A. There were two strands to this opposition. One group, represented by the NAACP, favored integration but strongly objected to burdening exclusively black children with the extensive busing that desegregation required. A second group simply favored the retention of black schools, minimizing the value of integrated schools. This split in the Charlotte African-American community reflected a larger split within the national civil rights community over the wisdom of school integration. Although the national office of the NAACP remained steadfast in its commitment to racial integration, other civil rights groups, primarily the Congress of Racial Equality favored the retention of black schools. Derrick A. Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470 (1976); *Why School Busing is in Trouble*, U.S. NEWS AND WORLD REP, Oct. 13, 1969, at 42.

243. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 306 F. Supp. 1291 (W.D.N.C. 1969).

school in the system as he had ordered; as a result, McMillan appointed a special consultant to devise a desegregation plan that would do so.²⁴⁴ In February 1970, McMillan ordered the Board to implement his special consultant's desegregation plan, which eliminated every majority black school in the system through the use of extensive busing.²⁴⁵ No federal judge had ever ordered a school system to adopt as extensive a busing plan as McMillan had for Charlotte.²⁴⁶

Since the *Brown* decision, Charlotte had prided itself on its ability to adapt to changing expectations in matters of race. McMillan's busing order, however, tested the white community's resilience in an unparalleled manner. Within hours of the issuance of the order, a wave of opposition swept the community, soon spreading throughout the state and even the nation. On the evening on which the decision was announced, antibusing picketers marched outside of McMillan's home; the picketing eventually spread to the courthouse and the offices of the *Charlotte Observer*, which had endorsed the busing order.²⁴⁷ Within days, the Concerned Parents Association (CPA), a white antibusing group established the prior spring, organized an eighty-thousand-signature petition drive seeking a boycott of the court's order. The CPA's calling card—NO FORCED BUSING bumper stickers—appeared throughout the city.²⁴⁸ In the following weeks, the CPA called upon state and national leaders to intervene on their behalf to stop the threat of busing.²⁴⁹

In the wake of the widespread turmoil surrounding McMillan's busing order, the city's business community took no action to facilitate its implementation. The Chamber of Commerce, for example, so vital to Charlotte's earlier desegregation, remained silent, a fact noted by the *Charlotte Observer*: "Unfortunately, community leadership has not functioned in the sound tradition of the past decade's experience where the school desegregation crisis is concerned. The greatest sin

244. *Board Has Its Last Chance to Help Draw School Plan*, CHARLOTTE OBSERVER, Dec. 3, 1969, at 2D; *Interim School Plan May Be Drawn Soon*, CHARLOTTE OBSERVER, Dec. 5, 1969, at 1C; Letter from James McMillan to Jesse Riley, Nov. 18, 1969 (on file with the James B. McMillan Papers, Southern Historical Collection, Chapel Hill, N.C.)

245. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 311 F. Supp. 265 (W.D.N.C. 1970).

246. *Moderate Leaders Fall Silent in the South*, N.Y. TIMES, Feb. 23, 1970, at 1A.

247. *McMillan's Home Picketed*, CHARLOTTE OBSERVER, Feb. 9, 1970, at 4C; *Parents Picket Observer—Rap Anti-Busing Coverage*, CHARLOTTE OBSERVER, Feb. 14, 1970, at 5B.

248. Frank Barrows, *School Busing: Charlotte, N.C.*, 230 ATLANTIC MONTHLY 17, 18 (Nov. 1972).

249. *1700 Protest Desegregation, Busing Order*, CHARLOTTE OBSERVER, Feb. 9, 1970, at 1C; *Concerned Parents Propose Boycott*, CHARLOTTE OBSERVER, Feb. 6, 1970, at 19A.

among community spokesmen has been silence in this instance.”²⁵⁰ One business leader later commented on the significance of the Chamber’s reaction:

Had the Chamber gotten involved earlier, it would have made a big difference. . . . Had the Chamber and the presidents of the city’s major corporations come in and acted as a mediating force, there would have been an easier resolution of the problem.²⁵¹

But in the early 1970s, no Chamber leader emerged to facilitate resolution of the desegregation controversy as had Brookshire several years earlier. Mayor John Belk, another former Chamber president, remained virtually silent throughout the entire busing controversy. The local bar said little as well. The *North Carolina Law Record*, in a brief article entitled *Where Are You Charlotte?* criticized Charlotte lawyers for their refusal to defend McMillan against the personal attacks on his character, noting that “we have few attorneys rallying to the defense of a man crucified simply because he interpreted the law as he thought was right.”²⁵²

The Chamber’s differing reaction to the 1970 busing crisis and the 1963 public accommodations controversy was due to the very different demands that each placed on the city. Previous integration efforts had been largely token and involved limited social contact between the races. But McMillan’s busing order would require extensive mixing of black and white children, often in black neighborhoods. Accordingly, busing tested the willingness of the city’s white leadership to accept racial change in unprecedented ways.

Moreover, many of Charlotte’s white leaders believed that McMillan’s busing order exceeded constitutional requirements and that

250. ‘Charlotte Way’ Will Serve Us Again in School Crisis, CHARLOTTE OBSERVER, Jan. 30, 1970, at 2C.

251. Interview with Robert Culbertson, *supra* note 239.

252. *Where are You Charlotte?* N.C. L. REC., Apr. 1970, at 7. Some lawyers did write to McMillan to express their support. See, e.g., Letter from Louis Bledsoe to James McMillan (Aug. 20, 1969) (on file with the McMillan Papers, Southern Historical Collection, Chapel Hill, N.C.). But few lawyers spoke publicly in his defense, notwithstanding McMillan’s private pleas that his fellow lawyers help explain to a confused community the demands of the Constitution. McMillan wrote letters to several attorneys during the winter of 1970 seeking their help, telling one correspondent, for example, that “[CPA leader] Dr. Roberson and a lot of other people could understand this situation better if you lawyers would talk to them about law.” Letter from James McMillan to Samuel Williams (Feb. 10, 1970) (on file with the McMillan Papers, Southern Historical Collection, Chapel Hill, N.C.).

To be sure, a few community groups such as the League of Women Voters did support the busing order, as did the *Charlotte Observer*. But the most influential voices in the community remained silent. *School Busing Hearings Before Subcommittee No. 5, House Comm. on the Judiciary*, 92nd Cong., 2d Sess. 327-28 (1972) (statement of Lucy W. Benson, President, League of Women Voters); *School Decision Will Test Belief in System Here*, CHARLOTTE OBSERVER, Feb. 8, 1970, at 2B.

the appellate courts would reverse it. This belief was fueled by the fact that many other federal judges throughout the South, unlike McMillan, were approving desegregation plans that kept a large number of majority black schools in place. In city after city—Atlanta, Ft. Lauderdale, Ft. Worth, Jackson, Knoxville, Memphis, Miami, Mobile, Norfolk, Orlando, Winston-Salem²⁵³—federal judges required less desegregation than had McMillan. *Charlotte News* editor Perry Morgan consistently attacked McMillan for being out of the mainstream:

[A]lthough the court's right to hand down its interpretation of the law is indisputable, also indisputable is that Judge McMillan's interpretation is by no means universally shared. There is thoughtful opposition to the theory that racial balance is the ultimate and only talisman of quality education. There is from impeccable sources disagreement that the constitution requires racial balance in defiance of housing patterns.²⁵⁴

State and national politicians also criticized both McMillan and the use of busing to overcome residential segregation, which contributed to the view that McMillan's busing order would be reversed. North Carolina's senior United States Senator Sam Ervin sharply attacked McMillan: "I am incapable of comprehending why any American is opposed to a freedom of choice plan which grants equality of freedom to all parents of children of all races. Once again, we are confronted in America with the old issue of governmental tyranny versus liberty."²⁵⁵ North Carolina Governor Robert Scott expressed his opposition to busing as well:

I am personally committed to doing everything lawful to preserve our neighborhood schools. The neighborhood-school concept has

253. *Why the School Board Should Appeal and the Courts Should Answer*, CHARLOTTE NEWS, Feb. 7, 1970, at 14A (Atlanta); *Allen v. Board of Pub. Instruction*, 312 F. Supp. 1127 (S.D. Fla.), *rev'd*, 432 F.2d 362 (5th Cir. 1970) (Ft. Lauderdale); *Flax v. Potts*, 333 F. Supp. 711 (N.D. Tex. 1970), *rev'd*, 450 F.2d 1118 (5th Cir. 1971) (Fort Worth); *Goss v. Board of Educ. of Knoxville*, 320 F. Supp. 549 (E.D. Tenn. 1970); *Northcross v. Board of Educ. of Memphis*, 397 U.S. 232 (1970); *Robinson v. Shelby County Bd. of Educ.*, 311 F. Supp. 97 (W.D. Tenn. 1970), *rev'd*, 442 F.2d 255 (6th Cir. 1971) (Memphis metropolitan area); *Beckett v. School Bd. of Norfolk*, 308 F. Supp. 1274 (E.D. Va. 1969); *'Unitary' Plan Leaves 3 Schools All Black*, CHARLOTTE NEWS, Feb. 18, 1970, at 14A (Orlando); *Scott v. Winston-Salem/Forsyth County Bd. of Educ.*, 317 F. Supp. 453 (M.D.N.C. 1970), *Judge Denies Mixing Suit*, CHARLOTTE OBSERVER, Feb. 20, 1970 (Winston-Salem).

254. *Schools: Appeal Needed*, CHARLOTTE NEWS, Nov. 11, 1969, at 10A.

255. *1700 Protest Desegregation, Busing Order*, CHARLOTTE OBSERVER, Feb. 9, 1970, at 1C. Senator Ervin continued his attack on McMillan on the floor of Congress:

These policies and rules to bus students and to force integration which are being enforced in such a harsh manner are . . . rules and policies made out of the head and from the imagination of Federal judges exercising the most unbounded discretion that any judges have ever exercised at any time in the history of this Nation, and exercising a discretion which might be becoming to totalitarian countries.

116 CONG. REC. 3071 (1970).

been the strength of our public education system in North Carolina and our state has been committed to that policy for some time. It is sound educational policy and must be preserved.²⁵⁶

Shortly thereafter, Governor Scott joined the chorus of leaders seeking President Richard Nixon's intervention, reminding Nixon of his campaign pledge to limit school busing.²⁵⁷

Ultimately, the Nixon Administration responded. On March 24, 1970, President Nixon delivered a major address on school desegregation, setting forth his Administration's policy: "[t]he neighborhood school will be deemed the most appropriate . . . system," and "[t]ransportation of pupils beyond normal geographic school zones for the purpose of achieving racial balance will not be required."²⁵⁸ Nixon implicitly criticized McMillan's February order by labeling some recent court decisions as "untypical" and "beyond . . . generally accepted principles" and that "[u]nless affirmed by the Supreme Court" he would not "consider them as precedents to guide administration policy elsewhere."²⁵⁹ The statements of Senator Ervin, Governor Scott, and President Nixon all received extensive coverage and gave further legitimacy to those in Charlotte favoring resistance to the court.

The United States Court of Appeals for the Fourth Circuit considered McMillan's order in an expedited fashion and in May 1970 issued a split decision, affirming the order as it pertained to junior and high school students but remanding the order for further consideration as it pertained to elementary school students.²⁶⁰ Both sides in the case sought review before the Supreme Court which agreed in June 1970 to hear the case and which reinstated McMillan's busing order pending its decision.²⁶¹ Shortly thereafter, the city's leadership requested the Court to give the case immediate consideration. The Charlotte-Mecklenburg School Board, the Charlotte City Council, and the Mecklenburg County Board of Commissioners passed a joint resolution requesting such action because of the confusion in the city concerning the legitimacy of the McMillan busing order:

256. ADDRESSES AND PUBLIC PAPERS OF REOBERT WALTER SCOTT: GOVERNOR OF NORTH CAROLINA, 1969-1973, at 549 (Memory F. Mitchell ed., 1974).

257. *Id.* at 561.

258. 116 CONG. REC. 8880 (1970) (statement by the President on Elementary and Secondary School Desegregation).

259. Robert B. Semple, Jr., *Nixon Plans \$1.5 Billion to Improve Segregated Schools*, N.Y. TIMES, Mar. 25, 1970, at 1A.

260. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 431 F.2d 138 (4th Cir. 1970) (en banc).

261. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 399 U.S. 926 (1970).

Past experience shows that Charlotte-Mecklenburg will face up to its problems and will respond to the leadership of its elected officials once its citizens understand what must be done and why. However, the present posture of our local school desegregation case is such that neither the community nor its leaders know what ultimately will be required of them when the United States Supreme Court rules on our case.²⁶²

Shortly thereafter, the Charlotte Chamber of Commerce petitioned Fourth Circuit Chief Judge Clement Haynsworth to stay McMillan's busing order pending consideration of the case by the Supreme Court. Although not a party to the litigation, the Chamber told Haynsworth that the busing controversy had divided the city "in a way in which it has never been divided" and urged the judge to postpone implementation of the busing plan until the Supreme Court had the opportunity to resolve the matter.²⁶³ Haynsworth eventually denied the stay request, noting correctly that a stay would constitute a reversal of the Supreme Court's reinstatement order which exceeded his authority as a lower court judge.²⁶⁴ Similar efforts to secure a stay from the Supreme Court also failed.²⁶⁵

The focus of the Chamber of Commerce and other business leaders in Charlotte on securing review of the busing order rather than counseling community acceptance of the order proved significant. The Charlotte-Mecklenburg schools opened in September 1970 with a considerable degree of turmoil, and the 1970-1971 school year was marred by frequent school disruptions. Indeed, at least six schools were temporarily closed on the first day of school due to bomb threats; such temporary closures became a fact of life over the course of the next few years.²⁶⁶ To be sure, the Chamber of Commerce criticized a threatened school boycott and urged all citizens to "obey the law."²⁶⁷ But few political or civic leaders publicly endorsed the desegregation order and most contended, either privately or publicly, that the order was wrong and that all available legal appeals should be taken.

In April 1971, the United States Supreme Court unanimously affirmed McMillan's decision requiring the Charlotte-Mecklenburg

262. *Here's the Text of Resolution*, CHARLOTTE NEWS, July 14, 1970, at 3B.

263. *Haynsworth Asked to Stay Mix Order*, CHARLOTTE NEWS, Aug. 13, 1970, at 2A.

264. *Judge Haynsworth: No Authority to Postpone Desegregation Order*, CHARLOTTE OBSERVER, Aug. 18, 1970, at 1A.

265. *Four Cities Lose 11th Hour Appeal*, CHARLOTTE OBSERVER, Aug. 26, 1970, at 1A.

266. *The Legacy of Busing Hearings A Time for Remembering Charlotte's Past*, CHARLOTTE OBSERVER, Jan. 10, 1988, at 1C.

267. *C of C Urges Quiet School Opening*, CHARLOTTE NEWS, Aug. 31, 1970, at 1A.

School Board to engage in extensive busing to overcome residential segregation.²⁶⁸ The Court acknowledged that extensive school busing imposed a burden on the school system, but concluded that McMillan had properly decided that such busing was required to overcome the effects of past segregation:

All things being equal, with no history of discrimination, it might well be desirable to assign pupils to schools nearest their homes. But all things are not equal in a system that has been deliberately constructed and maintained to enforce racial segregation.

...

In these circumstances, we find no basis for holding that local school authorities may not be required to employ bus transportation as one tool of school desegregation.²⁶⁹

In the wake of the Supreme Court's decision, many of the city's leaders counseled acceptance of the Court's mandate. The *Charlotte Observer* editorialized that "all citizens who have based their opposition to Judge McMillan's orders on the grounds that they couldn't take the word of one man, now have the highest authority in the land saying the same thing."²⁷⁰ But many members of the community, with considerable representation on the School Board, still could not abide by the assignment of their children to schools in black neighborhoods. During the school board elections of May 1970, staunch anti-busing candidates had captured all three open seats, and even after the Supreme Court's decision, continued to oppose the court's busing plan.²⁷¹ Since most of the other political and business leaders in the city said little about the busing controversy during the early 1970s—and indeed, many had removed their children from the public schools in favor of private schools²⁷²—these anti-busing school board members dominated the public discourse and helped keep the city in turmoil for three more years. Congressional efforts in 1972 and 1973 to enact a constitutional amendment banning the use of school busing for purposes of desegregation, though unsuccessful, undermined efforts in Charlotte to secure community acceptance of the new re-

268. *Swann v. Charlotte-Mecklenberg Bd. of Educ.*, 402 U.S. 1, 28 (1971). For an excellent discussion of the Supreme Court's deliberations in the *Swann* case, see BERNARD SCHWARTZ, *SWANN'S WAY: THE SCHOOL BUSING CASE AND THE SUPREME COURT* (1986).

269. *Swann*, 402 U.S. at 28, 30.

270. *Charlotte's Day in Court 20 Years Ago This Week*, CHARLOTTE OBSERVER, Apr. 14, 1991, at 1C.

271. DENNIS J. LORD, *SPATIAL PERSPECTIVES ON SCHOOL DESEGREGATION AND BUSING* 26-27 (1977).

272. Interview with Robert Culbertson, *supra* note 239.

gime.²⁷³ "Just when we thought we had all that behind us," Charlotte-Mecklenburg School Superintendent William Self complained in 1972, "the political pot is astir with it again and threatens to set us back."²⁷⁴ Significantly, the staff of the Charlotte-Mecklenburg schools prepared a report during the 1971-1972 school year on student disruptions and placed much of the blame on the Board itself:

The prevailing attitude on the part of members of the Board of Education has been one of attempting to meet the letter of the court order rather than finding ways to implement the spirit of the orders. This attitude has generally been reflected throughout the community. There is an apparent need for more positive community leadership and support for the schools.²⁷⁵

In March 1972, the Mayor's Charlotte-Mecklenburg Community Relations Committee, a successor to Brookshire's earlier Mayor's Committee, issued its own report, concluding that the Board had failed the community in its leadership and had helped divide the community. The report called for responsible leadership from the city's elected and civic leaders.²⁷⁶

The Community Relations Committee had indeed identified the critical issue: failure of community leadership. Nine years earlier, Mayor Brookshire had met with the president of the Chamber of Commerce and the city's leading business owners and within a few months had quietly ensured the operation of the city's public accommodations on a nondiscriminatory basis, thereby retaining firm control of the city's desegregation agenda and thwarting considerable public disruption. Now, in 1972, the Chamber of Commerce, the mayor, and most other elected officials—with the exception of the School Board—did little while the schools were consumed with controversy over school busing. In the vacuum, a handful of obstreperous school board members dominated the public discourse and kept the schools enmeshed in turmoil.

273. Antagonism towards school busing to overcome racial balance had spread throughout the nation in response to the *Swann* decision. In early 1972, both Houses of Congress held widely publicized hearings that included consideration of a proposed constitutional amendment prohibiting busing for purposes of achieving racial balance. Although Congress ultimately rejected the anti-busing constitutional amendment, it continued to debate the busing issue for the next several years and did enact some legislation that limited busing in certain contexts. See Gary Orfield, *Congress, the President, and Anti-Busing Legislation, 1966-1974*, 4 J. LAW & ED. 81 (1975).

274. *Charlotte Busing Winds Up Historic Year*, DURHAM MORNING HERALD, May 28, 1972, at 2D.

275. Executive Staff of Charlotte-Mecklenburg Schools, Position Paper on School Disruptions 1 (Dec. 10, 1971) (unpublished manuscript, on file with the Charlotte-Mecklenburg Community Relations Committee, Charlotte, N.C.).

276. *Report Says School Board Must Lead*, CHARLOTTE OBSERVER, Mar. 15, 1972, at 1A.

In the meantime, Judge McMillan permitted the Board to substitute its own desegregation plan for the plan drafted by the judge's consultant in 1970. From the beginning, McMillan had strongly preferred a desegregation plan drafted by the Board rather than the court. Thus, in 1971, he allowed the Board to develop its own desegregation plan, but insisted that the Board ensure that no school would have a majority black population.²⁷⁷ The Board, however, remained embroiled in conflict, as some members favored a plan that excluded the wealthier neighborhoods of southeast Charlotte from the busing burden altogether on account of fears of white flight, some members favored a busing plan that distributed the burden evenly throughout the city, and some members favoring continued resistance to the court's intrusions. For the next three years, the Board remained badly divided as to what course of action to take.

In the fall of 1973, a coalition of neighborhood and community groups emerged that lobbied the Board to create a busing plan that would fairly distribute the busing burden on all segments of the community. This self-proclaimed "Citizens Advisory Group" represented an extraordinary array of disparate interests—black and white, busing champions and busing opponents—but they were united in the view that the time had come to forge consensus around an assignment plan that the entire community could live with.²⁷⁸ In time, this collection of community and neighborhood interest groups would shoulder the civic role long assumed by the Chamber of Commerce as the mediator of community conflict.

The coordinator of the Advisory Group, Margaret Ray, knew Judge McMillan personally and in early 1974 met privately with the judge to explain her group's views. Ray informed the judge that her group favored an assignment plan that would distribute the burden of busing as evenly as possible throughout the city, including the wealthier neighborhoods of southeast Charlotte that the Board had continued to protect. McMillan believed that the exemption of southeast Charlotte from the busing burden had contributed to the instability of

277. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 328 F. Supp. 1346, 1347 (W.D.N.C. 1971).

278. See, e.g., Citizens Advisory Group Report to the Court (Apr. 22, 1974) (unpublished document, on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte). Subsequently, the *Charlotte Observer* published the results of a survey of community attitudes towards desegregation that found that although two thirds of the respondents opposed busing, almost ninety percent favored the creation of a community group to assist the Board in making pupil assignments. *Parents Polls: Don't Bus Children for All 12 Years*, CHARLOTTE OBSERVER, Jan. 9, 1974, at 1A.

the Board's assignment plan and to the widespread belief that the plan was unfair. McMillan encouraged Ray to develop an assignment plan along the lines she had outlined.²⁷⁹

In a February 1974 report to the School Board, the Advisory Group set out in general language the proposal that Ray had communicated in private to McMillan.²⁸⁰ The Board, however, rejected the Advisory Group's recommendations. Although McMillan had directed the Board to devise an assignment plan that would include southeast Charlotte, the Board persisted in its refusal to do so.²⁸¹ Confronted with the Board's recalcitrance, McMillan, in April, ordered the Advisory Group to appear in court to set forth its recommendations for an assignment plan.²⁸² In doing so, McMillan gave enormous legitimacy to the Advisory Group's proposal as a serious alternative to that of the elected school board.

In response to the court's order, the Advisory Group presented its own pupil assignment plan to the court in late April which provided for large numbers of white students from southeast Charlotte to attend schools in black neighborhoods.²⁸³ School Board Chair Poe attacked the plan as "potentially disastrous" and predicted extensive white flight from the public school system if it were adopted.²⁸⁴ Yet the PTA presidents of several southeast Charlotte schools disagreed, predicting that southeast Charlotte would accept the plan. Moreover, County Commission Chair W.T. Harris weighed in with his support, announcing that he thought the entire city would support a busing plan that eliminated the inequities and instabilities of the past few years.²⁸⁵

Harris, one of the city's most prominent business leaders, grew increasingly frustrated with the Board's recalcitrance and increasingly vocal about his frustration. During the summer of 1973, Harris had told a reporter that "the Supreme Court has already ruled that Meck-

279. Interview with Margaret Ray, in Charlotte, N.C. (Oct. 15, 1992).

280. Minutes, Special Meeting of the Charlotte-Mecklenberg Board of Education (Feb. 11, 1974) (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

281. Two of the Board members proposed that the Board not devise an assignment plan and instead force the judge to impose his own plan. Minutes, Special Meeting of the Charlotte-Mecklenberg Board of Education (Feb. 27, 1974) (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

282. Unpublished Order, *Swann v. Charlotte-Mecklenberg Bd. of Educ.* (Apr. 3, 1974) (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte).

283. Citizens Advisory Group Report to the Court, *supra* note 278.

284. *Board's Cautious on Busing*, CHARLOTTE OBSERVER, May 23, 1974, at 1B.

285. *Harris Sees Support for "Fair" Pupil Plan*, CHARLOTTE OBSERVER, May 23, 1974, at 1B.

lenburg County is going to carry out Judge McMillan's order. I think we should get down and carry out the educational program."²⁸⁶ After the Advisory Group unveiled its proposed assignment plan to the Court, Harris met privately with McMillan to ascertain what must be done to put the desegregation controversy to rest. McMillan told Harris that the matter could not be resolved until the Board agreed to include southeast Charlotte in the busing plan.²⁸⁷ Thereafter, Harris contacted key community leaders, urging their support for the Advisory Group plan; as a result of Harris' efforts, the Chamber of Commerce announced its support for the plan.²⁸⁸

Confronted with growing community support for the Advisory Group plan, the Board decided in May 1974 to enter into negotiations with Ray to devise an acceptable plan. For the next several weeks, Ray met daily with a Board representative during which they hammered out an assignment plan along the lines proposed by the Advisory Group.²⁸⁹ Shortly thereafter, the NAACP endorsed the new assignment plan as did a majority of the Board members.²⁹⁰ In July 1974, McMillan approved the new assignment plan, thereby bringing an end to the school desegregation controversy in Charlotte.²⁹¹ Aided by the election of three new members in May 1974 who favored a conciliatory approach toward McMillan and accepted the reality of school busing,²⁹² the Board entered a new era. For the next several years, the Board aggressively pursued a policy of retaining integrated schools. Although no longer under the supervision of the court, the Board would continue to modify its pupil assignments to ensure the retention of a fully integrated school system.²⁹³

The Citizens' Advisory group played a critical role in the resolution of the busing controversy, entering a vacuum created by the silence of the city's traditional white leadership. In the process, the Advisory Group helped transform political power in the city of Charlotte.

286. *Most City Leaders Favor Equal Busing*, CHARLOTTE OBSERVER, June 24, 1973, at 6D.

287. GAILLARD, *supra* note 64, at 150.

288. *School Truce Took Painstaking Efforts*, CHARLOTTE OBSERVER, July 17, 1974, at 1A.

289. *Plan Would Bus Southeast Whites to West Charlotte*, CHARLOTTE OBSERVER, July 10, 1974, at 1A.

290. Plaintiff's Response to Final Report of the Citizens Advisory Group, June 7, 1974 (on file with the Julius L. Chambers Papers, Special Collections, Atkins Library, University of North Carolina at Charlotte); Interview with Julius L. Chambers, in Durham, N.C. (Aug. 16, 1993); *New Pupil Assignment Plan is Approved*, CHARLOTTE OBSERVER, July 10, 1974, at 1A.

291. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 379 F. Supp. 1102 (W.D.N.C. 1974).

292. *Candidates Give Goals for Schools*, CHARLOTTE OBSERVER, Apr. 18, 1974, at 1B.

293. *Local Schools May Undergo More Changes*, CHARLOTTE OBSERVER, June 5, 1977, at 1A.

During the 1950s and 1960s, Charlotte's politics had been dominated by a small group of white businessmen, most of whom lived in southeast Charlotte. Throughout that time period, the vast majority of the city's school board members, city council members, county commissioners, and members of the General Assembly resided in the southeast section of the city.²⁹⁴ Yet during the early 1970s, scores of community and neighborhood groups sprang up throughout the city and county, prompted by both the desegregation controversy and broader neighborhood preservation concerns. The Citizens Advisory Group gave a voice to these disparate groups.

This emergence of political activists throughout the city and county eventually led, in 1977, to the creation of a partial ward system for electing members of the city council replacing an at-large system. The days of the city's political domination by a small group of Chamber of Commerce leaders from the southeast had ended. The election of 1985 was indicative of this new state of affairs. That year, an African American, Harvey Gantt, won his second term as mayor, while the eleven-member city council consisted of six white women, two African-American men, one Jewish man, and two other white men; none of the members came from the old business elite of southeast Charlotte.²⁹⁵ Charlotte had survived a tumultuous transition to a new set of racial demands, but the default of the white business elite had led to a broadening of political and social power throughout the city.

CONCLUSION

In the late 1950s and early 1960s, Charlotte won a reputation as one of the most racially progressive cities in the South on account of its voluntary desegregation of its schools and public accommodations. But it would be a mistake to interpret this desegregation as indicative of a superior moral climate in Charlotte when it came to matters of race. Rather, these early desegregation efforts were due in large measure to the ability of the city's black community to use threatened and actual litigation and public demonstrations to pressure the white business elite into facilitating racial change. Although most of the city's white business leadership probably opposed racial mixing, hesitations about token integration were trumped by the desire to retain control

294. Hanchett, *supra* note 25, at 510-12.

295. MARGARET EDDS, *FREE AT LAST: WHAT REALLY HAPPENED WHEN CIVIL RIGHTS CAME TO SOUTHERN POLITICS* 199 (1987).

of the desegregation process and to avoid racial strife that might harm the city's favorable business climate.

The speed with which southern cities responded to the demands of the *Brown* decision during the late 1950s and early 1960s depended in significant measure upon the response of the white business community. In cities like Charlotte and Atlanta, the business community, under the leadership of a moderate pro-business mayor, understood that desegregation would translate into increased business opportunities and thus took the lead in desegregation efforts. But Charlotte's busing crisis of the late 1960s and early 1970s tested the city's business elite in an unparalleled manner. Although this elite would eventually embrace and promote the city's busing plan, their silence delayed resolution of the busing controversy and unwittingly contributed to an eventual transformation in the city's political structure.