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PIMPING BROWN V. BOARD OF EDUCATION: THE DESTRUCTION OF AFRICAN-AMERICAN SCHOOLS AND THE MIS-EDUCATION OF AFRICAN-AMERICAN STUDENTS

IRVING JOYNER*

I. INTRODUCTION

Etched in the annals of civil rights and education law is the landmark United States Supreme Court decision in *Brown v. Board of Education (Brown I)*.¹ This decision was monumental as it boldly overruled the “separate but equal” mandate the Supreme Court previously announced in *Plessy v. Ferguson*.² The decision in *Plessy* was relied upon by many states for support of its legal directives that African-American children should not be allowed to attend schools and other social and business institutions along with White children. This doctrine of “separate but equal” was the legal crutch and authorization utilized by segregationists to maintain a perverse system of state-sponsored racial segregation in the United States. Without a doubt, the “separate but equal” mandate was the legal cornerstone of an era of “Jim Crow” which subjugated African-Americans and other racial minorities and typecast them as “second class” citizens.³ As such, the Court’s opinion in *Brown I* was a major victory against the forces of racist repression and discrimination in America.

In *Brown I*, the Supreme Court, in an opinion authored by Chief Justice Earl Warren, declared that the doctrine of “separate but equal” had no place in the field of education and was unconstitutional because of the imposition of feelings of racial inferiority it cast upon

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1. *Brown v. Bd. of Educ. (Brown I)*, 347 U.S. 483 (1954).

2. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

3. See, e.g., OPHELIA DE LAINE GONA, *DAWN OF DESEGREGATION: J.A. DE LAINE AND Briggs v. Elliott*, 7 (2011) (discussing the doctrine in relation to the further disenfranchisement of African Americans in southern states).

African-American children.⁴ The immediate assumption when the decision was announced—which remains the assumption today—was that segregated African-American schools were inferior in the quality of the education provided to their students and that these students were functional illiterates or sub-par.⁵

The remedial premise, which developed from this thinking, was that African-American children could only receive a quality education or have a chance to succeed in America if they were educated in the same facilities that White children attended.⁶ This thinking intentionally ignored the reality that African-Americans communities were doing an excellent job in providing high quality education to their children.

In its opinion, however, the Court made passing reference to the fact that most of the schools in the challenged school district, although segregated, were virtually equal with respect to the quantifiable factors used by the Court at that time.⁷ In addition, the Court noted the existence of a large number of outstanding African-Americans who had excelled in a variety of professions and occupations and that these individuals were the product of a segregated education.⁸

The *Brown I* litigation strategy, however, was not designed to praise and explain the value of African-American schools, their history, culture and outstanding achievements. At no point in this case did the litigants discuss the superior results of African-American schools despite the absence of comparable funding or how a dedicated teaching core of African-Americans personally compensated for these inadequacies to create schools of excellence. Rather, the focus in *Brown I* was the elimination of segregation and the educational setting was the venue chosen to illustrate the evils of state-sponsored discrimination.⁹ As such, the Court's discussion did not raise that issue. The truth of the matter is that segregation was meant by its originators and sup-

4. *Brown I*, 347 U.S. at 494-95.

5. See Vanessa Siddle Walker, *Valued Segregated Schools for African American Children in the South, 1935-1969: A Review of Common Themes and Characteristics*, 70 REV. EDUC. RESEARCH 253, 253 (2000).

6. See, e.g., Sarah J. Reber, *From Separate and Unequal to Integrated and Equal? School Desegregation and School Finance in Louisiana*, 93 REV. ECON. & STAT. 404, 404-415 (2011), available at <http://11.ccpr.ucla.edu/papers/REStat-LA-Finance-Reber.pdf>.

7. *Brown I*, 347 U.S. at 492 (“Here . . . there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other ‘tangible’ factors.”).

8. *Id.* at 490 (providing that several African-Americans have been successful “in the arts and sciences as well as the business and professional world” despite segregated schools).

9. *Id.* at 488 (“The plaintiffs contend that segregated public schools are not ‘equal’ and cannot be made ‘equal,’ and that hence they are deprived of the equal protection of the laws.”); see also, e.g., Sabrina Zirkel & Nancy Cantor, *50 Years After Brown v. Board of Education: The Promise and Challenge of Multicultural Education*, 60 J. SOC. ISSUES, 1, 3-4 (2004), available at <http://www.mills.edu/academics/faculty/educ/szirkel/50years04jsi.pdf>.

porters to be a destructive force for African-Americans, but that “bad intent” was turned on its head as African-Americans seized the opportunity to turn the segregated African-American schools into models of academic excellence.

The *Brown I* litigants and Justices also recognized that the Federal Constitution did not mandate a right to an education; therefore, the quality of African-American schools was not a proper issue for the Court to consider.¹⁰ To this point, the Court reasoned that, “it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”¹¹ By the use of “equal terms,” the Court was speaking to the legal mandate imposed by many states that required the segregation of school children based upon their race.¹² This analysis completely ignored previous conclusions by lower courts that the schools, which were being challenged in this litigation, were equal in their delivery and provision of education to children.¹³ In the Court’s view, legally mandated segregation implied inferiority and was a step toward reducing African-Americans “to the condition of a subject race.”¹⁴

In Chief Justice Warren’s decision, the Court acknowledged, but the point was generally ignored, that “many [African-Americans had] achieved outstanding success in the arts and sciences as well as in the business and professional world.”¹⁵ Although this point was made, the fact that these accomplished and outstanding individuals were most probably educated in segregated schools was definitely not a part of the Court’s discussion or thinking. At the time, the Court should have been aware of the outstanding academic accomplishments of African-

10. See John David Fassett, Earl E. Pollock, E. Barrett Prettyman Jr., Frank E.A. Sander & John Q. Barrett, *Supreme Court Law Clerks’ Recollections of Brown v. Board of Education*, 78 ST. JOHN’S L. REV. 515, 539 (2004).

11. *Brown I*, 347 U.S. at 493 (emphasis added).

12. *Id.*

13. See *Brown v. Bd. of Educ.*, 98 F. Supp. 797, 798 (D. Kan. 1951) (providing that “curricula, courses of study, qualification of and quality of teachers, as well as other educational facilities in the two sets of schools are comparable” to each other); *Briggs v. Elliott*, 103 F. Supp. 920, 922 (E.D.S.C. 1952) (providing that “the curricula of the [W]hite and [African-American] schools have already been equalized” and that “beginning of the next scholastic year, physical conditions will be equalized”); *Davis v. Cnty. Sch. Bd.*, 103 F. Supp. 337, 340-41 (E.D. Va. 1952) (providing that “in [twenty-nine] of the even hundred counties in Virginia, the schools and facilities for the [African-Americans] are equal to the [W]hite schools, in [seventeen] more they are now superior” but that inequality does exist “in respect to buildings, facilities, curricula and buses”); *Gebhart v. Belton*, 33 Del. Ch. 144, 145-49 (1952) (providing that certain components of the educational offerings were equal while others were not).

14. *Brown I*, 347 U.S. at 490 n.5 (quoting *Strauder v. W. Virginia*, 100 U.S. 303, 307-08 (1879)).

15. *Brown I*, 347 U.S. at 490.

Americans because the prior cases heard by the Court challenging aspects of the “separate but equal” doctrine involved African-Americans who possessed outstanding academic credentials and who were demonstrating academic excellence.¹⁶

In *Brown I*, the Supreme Court reviewed lower court decisions from four separate jurisdictions: Topeka, Kansas; New Castle County, Delaware; Clarendon County, South Carolina; and Prince Edward County, Virginia.¹⁷ In those cases, the lower district trial courts concluded that the segregated African-American schools were equal to White schools “with respect to buildings, curricula, qualifications and salaries of teachers, and other ‘tangible’ factors.”¹⁸ In the Delaware, South Carolina, Virginia and Kansas cases, the lower courts also determined that the school systems were nearly or completely equal in certain respects.¹⁹ These findings were adopted in Chief Justice Warren’s opinion.²⁰ Nevertheless, the Court concluded that segregation, as a legally mandated doctrine in the public school system, had a detrimental effect upon African-American children.²¹ The irony of the *Brown (I)* decision was that, despite this judicial determination, most segregated African-American schools were doing an outstanding job educating, training and preparing their students to confront and overcome the racism which they would be subjected to and forced to confront in their future.

II. FRINK HIGH SCHOOL HISTORY

When *Brown I* was decided in 1954, I was an elementary school student at Frink High School in the Town of LaGrange in Lenoir County, North Carolina. LaGrange was located in the eastern rural part of the state, which was widely known and celebrated for its specially cultivated tobacco crops.²² In that town, I was a part of a nurturing and insulated African-American community that successfully sought to protect its children from the dangers of the racial terror and bigotry that controlled these and other eastern North Carolina communities. Frink High School was staffed by a dedicated cadre of highly educated, competent, and motivated teachers and principals. Mem-

16. See *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938); *Sipuel v. Bd. of Regents of Univ. of Okla.*, 332 U.S. 631 (1948); *Sweatt v. Painter*, 339 U.S. 629 (1950); *McLaurin v. Okla. State Regents for Higher Educ.*, 339 U.S. 637 (1950).

17. *Brown I*, 347 U.S. at 486 n.1.

18. *Id.* at 492.

19. See *supra* note 13.

20. *Brown I*, 347 U.S. at 492.

21. *Id.* at 494.

22. Patsy M. Boyette, *A Brief History of La Grange*, LA GRANGE, NORTH CAROLINA, <http://lagrangenc.com/history> (last visited Jan. 13, 2013).

bers of this staff were also victims of the same racial discrimination and bias that they sought to help their students escape.

Frink was one of more than 5,000 Rosenwald schools created in the South and 800 created in North Carolina as a result of the philanthropy of Jewish financier Julius Rosenwald, the Chief Executive Officer of Sears, Roebuck and Company.²³ The school opened in 1920 in a five-room building with four teachers and 200 students.²⁴ Originally named the LaGrange Colored High School, Frink was one of many schools in North Carolina that was named after a local African-American educator or leader.²⁵ Dr. E.B. Frink, an acknowledged educator and the school's fifth principal, was responsible for significantly upgrading the school's facilities, staff and curriculum.²⁶

The school was destroyed by fire in 1930,²⁷ and it was rebuilt by local African-American residents who were determined that its children needed and would have a quality education.²⁸ After the school was rebuilt, Dr. Frink was hired as principal in 1932 and served in that capacity for nineteen years.²⁹ During that time, he oversaw the school's growth from a staff of five teachers and 200 students into a rural institution with thirty-four teachers and over 1100 students.³⁰ After his sudden death in 1951, the local African-American community demanded the school be named in his honor because of his successes and the outstanding academic, civic and community contributions he made during his tenure.³¹

I knew many of the teachers who taught at African-American schools in LaGrange, Goldsboro and Kinston because they lived in or around my little town and community or were members of my family. In fact, some of my aunts, uncles and cousins were teachers or had

23. Tom Hanchett, *Rosenwald School History*, HISTORY SOUTH, <http://www.historysouth.org/schoolhistory.html> (last visited Mar. 3, 2013); see also *North Carolina Rosenwald Schools*, HISTORY SOUTH, <http://historysouth.org/schoolsnc.html#l> (last visited Mar. 11, 2013) (identifying La Grange as one of the numerous North Carolina Rosenwald Schools).

24. *About E.B. Frink*, E.B. FRINK MIDDLE SCHOOL, <http://schools.lenoir.k12.nc.us/ebfrink/about.htm> (last visited Mar. 11, 2013); see also Justin Hill, *School has Remained Vital for La Grange Students for 90 Years*, FREE PRESS (Kinston, N.C.), Nov. 18, 2010, at 1 (providing that the school expanded between 1930 and 1950 by adding several buildings and new faculty members).

25. *About E.B. Frink*, E.B. FRINK MIDDLE SCHOOL, <http://schools.lenoir.k12.nc.us/ebfrink/about.htm> (last visited Mar. 11, 2013).

26. *Id.*

27. *Id.*

28. See generally *The History of E.B. Frink Middle School*, FREE PRESS (Kinston, N.C.), Nov. 18, 2010, at 1 (providing that renovations were made to the school after it burned down in 1930).

29. *About E.B. Frink*, E.B. FRINK MIDDLE SCHOOL, <http://schools.lenoir.k12.nc.us/ebfrink/about.htm> (last visited Mar. 11, 2013).

30. *Id.*

31. *Id.*

prepared themselves academically to teach. For these teachers and their cohorts, who regularly visited with my family, teaching was a special calling to which they committed their lives. They took their chosen profession seriously and viewed it as a “special calling” because they knew the salvation of African-Americans rested in their ability to become educated, trained and prepared to confront the evils of segregation and racism to which they were accustomed and knew intimately. They also knew that they were the only ones who would be willing and able to provide this education.

As a rule, teachers knew the students, their families and special circumstances or experiences that impacted their ability to become good students. As students progressed from grade-to-grade, teachers followed and encouraged their academic development. In a very real sense, each teacher, as a part of a teaching team, was invested in the students and regularly contributed to the learning process even after the student was no longer assigned to their classroom.

My favorite teacher and guardian angel was Mrs. Ruth Bell Bryant. She took a special interest in my education even before I entered the first grade as a teacher of my Sunday School classes at Ebenezer Missionary Baptist Church where she used Sunday School texts to teach me and other young members how to read. She also directed the three choirs (senior, youth and gospel), was a Mother (Deaconess) of the church, and coordinated the Easter, Christmas and other special programs. She lived around the corner from my family and was my mother’s first grade teacher when she started school. During my mother’s early years as a student at Frink, Mrs. Bryant was her teacher, biggest supporter, inspiration and advisor. In like fashion, she was the same for me and had my family’s permission to treat me as if I were her child. That meant that she could spank or otherwise discipline me when that became necessary.

Mrs. Bryant was not alone in her personal adoptions of various students at the school. She and other teachers took special pride in their students’ successes and encouraged them to actively engage in school and community activities. During those years of segregated schools and communities, many African-American teachers possessed similar or better academic qualifications and credentials than their White counter-parts and principals at all-White schools.³² In their own way, each of these teachers gave all they had for the students they taught and the communities they served. Even though African-American teachers were paid less on average than White teachers,³³ they used

32. See Walker, *supra* note 5, at 266.

33. See Davison M. Douglas, *The Rhetoric of Moderation: Desegregating the South During the Decade After Brown*, 89 Nw. U.L. REV. 92, 101 n.42 (1994).

their own funds and conducted fund-raising efforts to supplement the deliberately inadequate budgets and resources that were provided by the State of North Carolina through the Lenoir County School Board.³⁴ In addition, African-American teachers were held in high esteem within the community, and the profession commanded respect and admiration from students and their parents.

III. BENEFITS OF SEGREGATED AFRICAN-AMERICAN SCHOOLS

Doctor Gerrelyn Patterson, Assistant Professor at North Carolina Central University, surveyed former Hillside High School students from Durham, North Carolina, who attended the school during the days of segregation.³⁵ She concluded:

Black teachers held a special role in the community. They were revered and respected. They were a part of the community because they lived in the neighborhoods, attended local churches, and taught several generations within families. There was a powerful and unbreakable community, cultural, and spiritual connection that they held with the students and their families. . . . [J]ust as important was how Black teachers did not have to learn or “get to know” Black students and their inherent abilities. Black teachers already knew them and what they could accomplish, so no time was wasted building relationships before learning could begin.³⁶

In Patterson’s presentation, she also observed:

Before school desegregation, [B]lack culture was synonymous with school culture. There was no disconnect or need for [B]lack students to assimilate into the majority culture. School, home, and community were familiar and comfortable places where racial identity was not a challenge to be overcome. Moreover, school stakeholders gave explicit lessons on how to be a minority and succeed within the dominant culture. Alumni expressed frustration over the loss of overtly modeling and teaching these lessons to [B]lack students.³⁷

At the center of the success of African-American schools prior to desegregation were the personal, spiritual and communal relationships between African-American students, parents and teachers. During the many annual gatherings of Frink Alumni, participants have

34. See generally Walker, *supra* note 5, at 266 (discussing the financial sacrifices made by African-American teachers who “purchased school supplies for their classrooms, and helped to supply clothing for students whose parents had fewer financial resources and scholarship money” for those seeking to attend college).

35. Gerrelyn Patterson, Assistant Professor, North Carolina Central University, Panel Discussion at the School of Education of the University of North Carolina at Chapel Hill: School Desegregation: It Depends On Us (Sept. 24-25, 2010), available at http://soe.unc.edu/125years/patterson_essay.php.

36. *Id.*

37. *Id.*

evaluated and extolled the virtues and benefits of the personal and up-close relationships which they enjoyed with their teachers.

These relationships were particularly important in North Carolina where segregated schools were a central and celebrated part of the lives of African-Americans. The segregated communities in which these schools were located took great pride in supporting the schools and encouraging their students to make a better life for themselves. Usually this meant that the students, once they graduated from high school, had to relocate to some locale outside of North Carolina where racial discrimination and prejudice were not as widespread and woven into the local fabric of life.

For young African-Americans, this “moving-out and moving-on” experience became known as the “Great Migration.”³⁸ During this period of time, millions of young African-Americans left North Carolina and other southern states to seek employment and the promise of the American dream in the emerging industrialized north and in other parts of the country.³⁹ African-American school officials knew that their graduates were equally or better prepared academically than were similarly situated White students and that the biggest problem these students would encounter in the future would be racial bias, prejudice and discrimination from the larger American society. As such, students were imbued with the truism that they had to be three or four times better prepared than the White graduates against whom they would compete for jobs and other economic benefits.

With the exception of vocational education instructors, most of the teachers in the African-American schools were females and the principals were males.⁴⁰ These instructors and administrators represented the most stable economic contributors to the local African-American economy.⁴¹ For these highly trained and motivated professionals in North Carolina, teaching was the very best job available to them. In nearly every case, these teachers constituted a substantial portion of the aspiring African-American middle class community. They lived in the same community as the students, attended the same churches, shopped in the same stores and suffered the same impact of racism that other African-Americans were forced to endure. Instead of leaving these communities and migrating north, as so many graduates did,

38. See *Great Migration: The African-American Exodus North*, NAT'L PUB. RADIO (Sept. 13, 2010, 12:00 PM), <http://www.npr.org/templates/story/story.php?storyId=129827444>.

39. See *Id.*

40. See Linda C. Tillman, *(Un)intended Consequences? The Impact of the Brown v. Board of Education Decision on the Employment Status of Black Educators*, 36 EDUC. & URB. SOC'Y 280, 282 (2004). See generally *About E.B. Frink*, *supra* note 29 (providing that the first principals of LaGrange Colored High School included John Green, Carlyle Smith, and Emmett Bentley Frink).

41. See Tillman, *supra* note 40, at 282.

they personally fought racism and discrimination by preparing children for the many battles against racism that they would have to fight.

IV. IMPACT OF *BROWN V. BOARD OF EDUCATION I*

To understand the impact of the *Brown I* decision on African-American communities, it is important to recall that North Carolina was touted as a “racially moderate state” prior to 1954.⁴² In the field of education, North Carolina, to its credit, provided more economic support for its African-American schools when compared to other states in the United States.⁴³ In addition, African-Americans were empowered to manage and control the academic and budgetary operations of each school.⁴⁴ This moderation in racial matters was viewed, in hindsight, as a portion of North Carolina’s legal and public policy strategy to stay a step ahead of legal attacks by the National Association for Advancement of Colored People (NAACP).⁴⁵

As early as 1927, an NAACP study concluded that disparities in funding for teachers’ salaries, facility costs and other expenditures between African-American schools and all-White schools were smaller in North Carolina than in any southern state.⁴⁶ As a result of North Carolina’s political strategy, African-American schools enjoyed and achieved a level of academic quality that equaled or exceeded that of most of the White schools in the state.⁴⁷

An example of this strategy occurred in 1939 following the United States Supreme Court’s decision in *Missouri ex rel. Gaines v. Canada*.⁴⁸ In that decision, the Court ruled that Missouri unlawfully discriminated against an African-American citizen of that state when he sought admission to the University of Missouri Law School.⁴⁹ Consistent with the *Plessy* decision, which sanctioned state-imposed segrega-

42. Douglas, *supra* note 33, at 100.

43. See *id.* at 102-03 (discussing the North Carolina General Assembly’s efforts to increase teacher salaries for African-Americans and to appropriate larger sums of money for African-American schools).

44. See generally Douglas, *supra* note 33, at 102 (providing that NAACP challenges to unequal expenditures in schools “induced the North Carolina General Assembly to appropriate increasingly larger sums of money” for African-American schools).

45. Douglas, *supra* note 33, at 101-02.

46. W.E.B. Du Bois, *The Negro Common School in North Carolina*, 34 *CRISIS* 79 (May 1927).

47. See Douglas, *supra* note 33, at 101-02 (providing that the North Carolina General Assembly increased the salary of African-American teachers so that they earned “more than white teachers because of their higher qualifications” by 1945 and appropriated “increasingly larger sums of money” to African-American schools).

48. Charles E. Daye, *People African-American and Other Minority Students and Alumni*, 73 *N.C. L. REV.* 675, 678 (1995); see also *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938).

49. *Missouri ex rel. Gaines*, 305 U.S. at 352.

tion and legally mandated the doctrine of “separate but equal,”⁵⁰ the School of Law of the State University of Missouri denied admission to African-Americans.⁵¹ The Court in *Missouri ex rel. Gaines* found that Missouri provided a legal education for Whites, but did not provide a similar, although separate, opportunity for that state’s African-American citizens.⁵²

In response to the decision which over-turned Missouri’s admissions policy, the North Carolina General Assembly without a request or any effort by African-Americans to enter the segregated University of North Carolina Law School, established the south’s first African-American law school at North Carolina College.⁵³ The establishment of the law school occurred immediately after the *Missouri ex rel. Gaines* decision was announced. It happened so quickly and without any planning that officials at North Carolina College were unable to adequately advertise the program and seek students before the start of the 1939 academic year.⁵⁴ Legislators established the law school to protect the University of North Carolina Law School from a *Missouri ex rel. Gaines* inspired lawsuit by the NAACP on the grounds that the state did not have a law school African-Americans could attend.⁵⁵

In 1940, when the Fourth Circuit Court of Appeals ruled in *Alston v. School Board of Norfolk* that a Virginia school district violated *Plessy* and the Equal Protection Clause of the Fourteenth Amendment due to salary disparities between White and African-American teachers,⁵⁶ the North Carolina General Assembly increased the pay of its African-American teachers and principals.⁵⁷ As a result, the salaries for North Carolina’s African-American teachers were equalized with the salaries of White teachers.⁵⁸ By 1945, some African-Ameri-

50. See *Plessy v. Ferguson*, 163 U.S. 537, 551-52 (1896).

51. *Missouri ex rel. Gaines*, 305 U.S. at 344.

52. *Id.* at 349-50.

53. N.C. Cent. Univ. Sch. of Law, *History*, N.C. CENT. SCH. LAW, <http://law.nccu.edu/about/history/> (last visited Feb. 25, 2013) (providing that House Bill 18 enacted on March 1, 1939 by the North Carolina General Assembly “paved the way for a new generation of African-American lawyers” as it authorized the establishment of a law school at North Carolina College for Negroes, which subsequently became North Carolina Central University School of Law).

54. *Id.* (noting that only one student registered for law school for the fall of 1939).

55. *So Far 70th Anniversary Bulletin*, North Carolina Central University School of Law, (October, 2009) p. 9, available at <http://law.nccu.edu/wordpress/img/uploads/2010/09/so-far-2009.pdf>. See N.C. CENT. UNIV. SCH. LAW, NCCU SCHOOL OF LAW: SO FAR 70TH ANNIVERSARY 9 (2009), available at <http://law.nccu.edu/wordpress/img/uploads/2010/09/so-far-2009.pdf>.

56. *Alston v. Sch. Bd. of Norfolk*, 112 F.2d 992, 997 (4th Cir. 1940).

57. See generally N. C. Newbold, *Some Achievements in the Equalization of Educational Opportunities in North Carolina*, 9 EDUC. F. 451, 457-59 (1945) (providing that teacher salaries were equal by 1944).

58. Douglas, *supra* note 33, at 102.

can teachers, due to the higher academic qualifications they possessed, were earning more than White teachers.⁵⁹

By the same token, the NAACP directed litigation and threatened more lawsuits attacking unequal funding for academic programs and inadequate physical structures, which between 1945 and 1950 spurred the North Carolina General Assembly to appropriate additional funding to upgrade African-American schools.⁶⁰ As a result of these actions, North Carolina's African-American schools were better funded and better resourced than most segregated schools in the country.⁶¹ The success of the NAACP's filed lawsuits in other states and threatened lawsuits in North Carolina pushed the North Carolina General Assembly to stay a step ahead of the litigation to come and resulted in the creation of a "racially moderate" image for the state.⁶² These efforts to upgrade African-American schools were designed solely to avoid litigation over the "separate but equal" doctrine and to protect White schools from being forced to admit African-American students.⁶³ Obvious beneficiaries of these efforts were African-American students, teachers and the facilities in which these students were educated. These legislative enactments were used to improve the educational opportunities and accomplishments for African-American schools and communities.

During the many years of segregation, North Carolina's African-American communities were devoted and committed to improving educational opportunities for their children. African-American school facilities were adequate for the task. By the 1951-1952 school year, the State operated 1934 White elementary schools and high schools.⁶⁴ At the same time, there were 1162 African-American elementary schools and high schools.⁶⁵ In these segregated schools, 20,885 Whites and 8031 African-Americans were employed as teachers along with 1317 Whites and 443 African-Americans who were employed as principals.⁶⁶ In general, all of the schools were under the direction of a White superintendent, but an African-American served under that person as the superintendent of the "colored" schools.⁶⁷ Although the

59. *Id.*

60. *Id.* at 102-03.

61. *Id.* at 103.

62. *Id.* at 97.

63. *See id.* at 103-04.

64. STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1950-1951 AND 1951-1952, PART ONE, 24 (1952).

65. *Id.*

66. *Id.* at 39 (providing that this data represents the number of teachers for the 1951-1952 school year).

67. *See generally id.* at 23-4 (discussing requirements and responsibilities of superintendents).

state incrementally increased the funding for African-American schools from 1950 until 1970 in its yearly budgets, the per capita expenditures never matched the budgets that were allocated for White schools.⁶⁸

According to a report from the Southern Education Reporting Service, in 1960, only thirty-four of over 300,000 African-American students attended White schools.⁶⁹ By the 1961-1962 academic year, North Carolina employed more African-American teachers than any state in the union.⁷⁰ During that academic year, there were 11,255 African-American teachers and 29,009 White teachers.⁷¹ Of this number, more African-American teachers possessed higher education certifications and advanced degrees than White teachers in the state. During the 1949-1950 academic year, 278 of the 7,580 African-American teachers had less than a four-year college degree, but by the 1961-1962 academic year, that number decreased to only four out of the 11,149 African-American teachers.⁷² The number of White teachers who did not possess a four-year college degree was significantly higher.⁷³ A comparison of North Carolina principals in 1961-1962 showed that of the 554 African-Americans, 471 or eighty-five percent possessed a graduate degree while 1,292 or seventy-eight percent of the 1653 White principals possessed the same degree.⁷⁴ It is clear that African-American principals and teachers were not academically inferior to their White counterparts in any respect. Similar to other African-American schools, Frink's Principal and many of its teachers held master's and doctoral degrees.

Because of political pressure exerted by African-American communities, led by its teachers and principals, Frink and many other segregated schools in the state operated in adequate physical structures.

68. Vanessa Siddle Walker, *African-American Teachers in the South: 1940-1960*, AM. EDUC. RESEARCH JOURNAL, Vol. 38, No. 4, 751-79 (Winter 2001).

69. *Id.*

70. N.C. ADVISORY COMM. TO THE U.S. COMM'N ON CIVIL RIGHTS, EQUAL PROTECTION OF THE LAWS IN NORTH CAROLINA North Carolina 101 (1959-62).

71. *Id.*

72. STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1948-1949 AND 1949-1950, PART ONE, 24 (1952); STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1960-1961 AND 1961-1962, PART ONE, 37 (1962).

73. STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1948-1949 AND 1949-1950, *supra* note 72; STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1960-1961 AND 1961-1962, *supra* note 72, at 38-9.

74. STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1960-1961 AND 1961-1962, *supra* note 72, at 38-39.

While it is true that books and other transferrable supplies were “handed-down” from White schools,⁷⁵ African-American principals and teachers successfully utilized every resource at their disposal to provide a quality education for their students.

Although the schools were segregated, the African-American community — historically, politically, culturally and socially — embraced them as their own. There was a sense of community pride in the operation and presence of the schools as they were viewed as treasures that African-Americans operated and controlled to the maximum extent possible. Frink, like most segregated schools in North Carolina, had active parent-teacher associations that allowed both teachers and parents to participate in making decisions regarding the school’s growth and development. Thus, even though African-Americans were prohibited from voting for government officials or participating in the political franchise,⁷⁶ they exerted a large measure of control over their schools and their churches.

In this environment, parents placed faith in their schools and teachers. They looked to them to adequately prepare their children for a future that would be better than the daily reality their parents experienced. In addition, there was an absolute faith that teachers were making a significant contribution to the community and the community, in turn, entrusted their children into the teachers’ care and custody. Because of this trust, almost ninety percent of the children in the Frink High School area attended school dating back to 1933, which was long before mandatory attendance laws were enacted.⁷⁷ Few African-Americans students, despite living in a depressed economic rural community, dropped out of school. As evidence of this faith and trust, statistics from the 1944-1945 academic year indicate that only 5.8% of African-Americans students in comparison to 6.2% of White students dropped out of school.⁷⁸ By the 1961-1962 academic year, this percentage for African-Americans improved to 3.9% while the White dropout rate was 4.1%.⁷⁹

75. Robert Kelly-Goss, *Last of the One-room Schoolhouses*, DAILYADVANCE.COM (Nov. 14, 2012), <http://www.dailyadvance.com/features/last-one-room-schoolhouses-1368645>.

76. See N. Cal. Citizenship Project, *U.S. Voting Rights Timeline*, 3 (2004), <http://www.kqed.org/assets/pdf/education/digitalmedia/us-voting-rights-timeline.pdf> (addressing the inability to vote because “state officials refused to allow African Americans to register by using voting taxes, literacy tests, and violent intimidation” efforts).

77. Interview with Dr. Allen Mewborn, former Principal of Frink High Sch. in LaGrange, N.C. (Sept. 2012).

78. *Id.*

79. STATE OF N.C. SUPERINTENDENT OF PUB. INSTRUCTION, BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF NORTH CAROLINA FOR THE SCHOLASTIC YEARS 1960-1961 AND 1961-1962, *supra* note 72, at 35.

Once enrolled at Frink High School, students did not drop out. The few students who did not finish on time completed their education within a year of their scheduled graduation date. The principals and teachers would not allow students to fail to graduate, and they went the extra mile to ensure that graduation was an accomplishment in the life of every child who attended the school. During those years, graduation from high school was a “rite of passage” because it was the important minimum qualification that a person needed to compete for a decent job in the north. No matter how smart you were as an African-American, no amount of education was sufficient to overcome racial discrimination in the south. As a result, many of the smartest and brightest moved to the north.⁸⁰ However, a large number of them enrolled in college in order to return to their hometowns and local communities to teach or engage in other business activities.⁸¹

Both groups of students were evidence of the outstanding products African-American principals and teachers produced. On a yearly basis, literally hundreds of graduating students left LaGrange and other North Carolina schools to go north where they were able to compete on an equal basis with individuals from other parts of the country for jobs and entry into rewarding professions and activities. Graduates from the segregated Frink High School launched distinguished careers in education, the military, sports and entertainment, law, business, religion and other fields including crime. For example, one of the first five-star Generals in the United States Army, Ralph Wooten,⁸² graduated from Frink High School.⁸³ He regularly returns to the town to inspire young people to excel in their studies and prepare for life’s journey. By the same token, one of the most notorious “American Gangsters,” Frank Lucas, was a native of the town, but was not a graduate of the school.⁸⁴

80. See *Great Migration: The African American Exodus North*, *supra* note 38; see also RICHARD B. BAKER, BOSTON UNIVERSITY, THE GREAT MIGRATION’S IMPACT ON THE EDUCATION OF SOUTHERN-BORN AFRICAN AMERICANS 6 (2011), available at <http://isites.harvard.edu/fs/docs/icb.topic881224.files/Baker-%20The%20Great%20Migration%20and%20Schooling.pdf>.

81. See Shephard W. McKinley & Cynthia R. McKinley, *The Great Migration and North Carolina*, N.C. MUSEUM HISTORY, 3 (2006), <http://www.ncmuseumofhistory.org/collateral/articles/s06.great.migration.pdf>.

82. See *History of Fort McClellan 1917-1999*, TRANSITION FORCE, <http://www.mcclellan.army.mil/Info.asp> (last visited Mar. 1, 2013) (noting that Major General Ralph G. Wooten was the “Commanding General and Chemical School Commandant for the United States Army”).

83. Author notes that he was not a graduate, but attended the school until 1961. Author is an active supporter and member of the Frink-LaGrange Alumni and Friends Association. These notable alumni, the school’s history and other relevant issues are discussed on a regular basis at the Association’s meetings.

84. *Frank Lucas Biography*, BIO. TRUE STORY, <http://www.biography.com/people/frank-lucas-253710> (last visited Mar. 1, 2013) (providing that Lucas was born on September 9, 1930 in La Grange, North Carolina).

In addition, the school regularly graduated between ninety and ninety-five percent of its students.⁸⁵ This was a major accomplishment since many students resided on farms in the rural part of the county. Many students constantly struggled with the needs of their families to plant, grow and harvest the crops they grew and cultivated. Students from the rural parts of Lenoir County were bused, often past closer White schools, each day to Frink on buses that were provided by the state and driven by students who were enrolled in the upper grades. Despite the legitimate competing interests of these families, the teachers found a way to get the children out of the fields and into the school where they were academically prepared for the future. Comparative scores and evaluation results measured through the Iowa Achievement Test showed that students at Frink performed academically at a level that was comparable to other students in North Carolina and around the country who were evaluated by the same testing instrument.⁸⁶

A fundamental part of the segregated school experience was competitions against other African-American schools in the surrounding area. Whether the competitions were in basketball (where Frink excelled), football (where Frink did not excel), band, glee club or choir, interscholastic activities provided an opportunity for students to gain confidence and demonstrate pride in themselves, their school and their community. When Frink's basketball teams competed against surrounding African-American schools from Kinston, Goldsboro, Greenville, Bayboro, Clinton and other locales, supporters regularly organized car caravans to attend the games and cheered their schools on to victory. In this way, healthy rivalries were developed, encouraged and institutionalized. In those days, segregated White schools were prohibited from competing against African-American schools in any activities as a result of social convention and administrative rules.⁸⁷

My discussion up to this point has centered on Frink High School, a small county school in Lenoir County, North Carolina. The description of the school, its history, culture, activities, values and accomplishments applied to just about every other segregated African-American school in North Carolina during that time. Regardless of the specific town, city or county, graduates of segregated African-American schools can tell the same or similar stories. These graduates extol the importance and accomplishments of their schools, graduates

85. *Supra*, note 83.

86. *Supra*, note 83.

87. See Peter St. Onge, *Segregation in the South Extended to College Basketball Gyms* (Dec. 1, 2010, 1:13 PM), http://blog.cleveland.com/startingblocks/print.html?entry=/2010/12/segregation_in_the_south_exten.html.

and teachers as it relates to their education, growth and development in spite of the stifling and repressive racial environment in which they lived.⁸⁸

V. THE IMPACT OF *BROWN V. BOARD OF EDUCATION* ON AFRICAN-AMERICAN SCHOOLS

The decision in *Brown I* unleashed a racial furor within southern White communities. Southern elected officials strongly condemned the Supreme Court, its Justices and the decision. Southern politicians and racists organizations reacted with extreme anger and vowed to resist the desegregation of schools at all costs. As evidence of their opposition, southern Representatives and Senators in Congress, including those from North Carolina, joined in the creation of a “Southern Manifesto.”⁸⁹ The purpose of the “Southern Manifesto,” which was introduced in Congress, was to denounce the Court’s opinion and it was accompanied by calls for the impeachment of Chief Justice Earl Warren, the author of the *Brown* opinion.⁹⁰

The Supreme Court in *Brown I* did not discuss and resolve the remedies that would be imposed upon the many school districts that were actively operating segregated school systems. Instead, the Court ordered attorneys for the parties, in a separate hearing, to further advise the Court about appropriate remedies which might be used to address this new social and educational dynamic.⁹¹

In *Brown v. Board of Education (Brown II)*,⁹² the Supreme Court was confronted with the raw complexities associated with the task of desegregating the four affected school districts.⁹³ Although the desegregation decree announced in *Brown I* had national implications, the

88. See generally Patterson, *supra* note 35 (providing that alumni of the all-African American Hillside High School in Durham, North Carolina relected on the significance of their teachers and the importance of their school).

89. See 102 CONG. REC. 4459-61 (1956) (providing that politicians from southern states opposed “the decision of the Supreme Court in the so-called segregation cases” and, as a result, promulgated the Declaration of Constitutional Principles); see also *Historical Highlights: The Southern Manifesto of 1956*, U.S. HOUSE REPRESENTATIVES: HIST., ART & ARCHIVES, <http://history.house.gov/Historical-Highlights/1951-2000/The-Southern-Manifesto-of-1956/> (last visited Feb. 19, 2013) (providing that the Southern Manifesto was given the formal title, “Declaration of Constitutional Principles”).

90. See *Historical Highlights: The Southern Manifesto of 1956*, U.S. HOUSE REPRESENTATIVES: HIST., ART & ARCHIVES, <http://history.house.gov/Historical-Highlights/1951-2000/The-Southern-Manifesto-of-1956/> (last visited Feb. 19, 2013). See generally William G. Ross, *Attacks on the Warren Court by State Officials: A Case Study of Why Court-Curbing Movements Fail*, 50 BUFF. L. REV. 483, 506 (2002).

91. *Brown v. Bd. of Educ. (Brown I)*, 347 U.S. 483, 495 (1954) (The Southern Manifesto did not call for Warren’s impeachment, but various campaigns to impeach Warren were organized and promoted at the time and were supported by signers of the Manifesto).

92. *Brown v. Bd. of Educ. (Brown II)*, 349 U.S. 294 (1955).

93. See *id.* at 298.

remedy portion affected only the four school districts identified as defendants in the litigation since the Court did not have jurisdiction over other school systems.⁹⁴ With respect to those four districts, the Court noted that the defendants in Delaware, Kansas and the District of Columbia had made substantial progress toward implementing the Court's decree.⁹⁵ This was not the case for the defendants in South Carolina and Virginia who were awaiting precise directions from the Supreme Court.⁹⁶

In order to fashion appropriate remedies for the school jurisdictions named in the litigation, the Court reasoned that a variety of equitable principles would have to be employed.⁹⁷ According to the Court, those principles called for "elimination of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles set forth in [the Court's] May 17, 1954, decision."⁹⁸ The Court warned that the vitality of the announced constitutional principles would not be disregarded "simply because of disagreement with them."⁹⁹ As such, the Court directed that the named "defendants make a prompt and reasonable start toward full compliance with [the] May 17, 1954 ruling."¹⁰⁰

Despite anticipated problems, the Court remanded the cases to local courts for the development of appropriate remedies that would be compatible with the local conditions and needs.¹⁰¹ The Court reasoned that "[s]chool authorities have the primary responsibility for elucidating, assessing and solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles."¹⁰² Based upon the Court's directive, the appropriate resolution of the desegregation policies and practices would be left to the "good faith" determinations of the very same political forces, law-makers and administrators who were previously responsible for keeping the schools segregated. By this singular act, the Court dealt a cruel and bitter pill to African-American communities.

The Supreme Court either failed to anticipate or failed to acknowledge that local school and other elected officials were intent on defying the Court's mandate in every way possible. In fashioning its ambiguous remedies' directive to the lower courts, the Supreme Court

94. *Id.* at 299-301.

95. *Id.* at 299.

96. *Id.*

97. *Id.* at 299-300.

98. *Id.* at 300.

99. *Id.*

100. *Id.*

101. *Id.* at 299.

102. *Id.*

added fuel to the “fire-storm” its decision would face throughout the south. In North Carolina, this “fire-storm” and opposition was no less vehement, but was more publicly muted by White political leaders than in other states.¹⁰³ *Brown II* was seen by many as giving flexibility to lower courts and local school officials to not rush the implementation of the decree.¹⁰⁴ In that decision, the Court directed the lower courts “to take such proceedings and enter such orders and decrees consistent with [the *Brown (I)* opinion] as [were] necessary and proper to admit to public schools on a racially nondiscriminatory basis with all deliberate speed the parties to these cases.”¹⁰⁵

The *Brown I* and *Brown II* decisions were received differently within African-American communities. While there was joy for victory against the doctrine of “separate, but equal,” African-Americans were suspicious and fearful of the consequences of this decision. There was considerable jubilation at the NAACP since its attorneys, led by Thurgood Marshall, began this litigation as a part of the campaign to over-turn the infamous *Plessy* decision.¹⁰⁶ The view from African-American communities was muted and elicited a cautious response.

Few African-Americans in North Carolina and in other parts of the South wanted to lose their beloved schools or their teachers. The widely held view by most African-Americans was that if the schools were desegregated, African-Americans would be made to suffer.

Consequently, from 1954 through 1971, there was no major push from North Carolina’s African-American community to desegregate the schools. There was an unsuccessful effort in Raleigh led by the Holt family to force the desegregation of the Raleigh school system.¹⁰⁷ There were also sporadic school desegregation efforts in Greensboro, Wilmington, Rocky Mount and Charlotte.¹⁰⁸ In every instance, Whites

103. See Douglas, *supra* note 33, at 93-97, 100-06; see also J. Michael McElreath, *The Cost of Opportunity: School Desegregation’s Complicated Calculus in North Carolina*, in WITH ALL DELIBERATE SPEED: IMPLEMENTING *Brown v. Board of Education*, 21, 23 (Brian J. Daugherty & Charles C. Bolton eds., 2008).

104. See, e.g., *supra* note 10 (acknowledging that one of the misconceptions of the phrase “all deliberate speed” was “that if those words hadn’t been used, implementation” would have occurred more rapidly).

105. *Brown II*, 349 U.S. at 301.

106. See NAACP Legal History, NAACP.ORG, <http://www.naacp.org/pages/naacp-legal-history> (last visited Mar. 15, 2013).

107. *An Episode in North Carolina History, Exhausted Remedies: Joe Holt’s Story*, JOE HOLT STORY, <http://www.joeholtstory.org/> (last visited Feb. 21, 2013); see also Heather K. McEntarfer, *Catching Hell: The Joe Holt Integration Story*, TERRAIN.ORG, <http://www.terrain.org/essays/22/mcentarfer.htm> (last visited Feb. 21, 2013).

108. See Douglas, *supra* note 33, at 130; McElreath, *supra* note 103, at 24; Ernie Murray, *School History: A Short History of Rocky Mount Senior High*, ROCKY MOUNT BLACKBIRDS, <http://rockymountblackbirds.com/school-history/> (last visited Feb. 23, 2013); Nicholas Graham and John Blythe, This Month in North Carolina History: February 1971 – The Wilmington Ten,

engaged in angry resistance and local school boards used every device they could create to attempt to maintain segregated schools.¹⁰⁹ Finally, in 1960, the Campbell family was successful in forcing the school board to admit second grader William Campbell into Murphy Elementary School in Raleigh.¹¹⁰ When Campbell and his mother, June Campbell, arrived at the school to register, they were confronted by a howling mob of Whites who attempted to physically prevent them from entering the school.¹¹¹ Once inside the school, other students in his class purposefully shunned young William Campbell.¹¹²

The reality within the state was that African-Americans did not possess any political power to either advocate for the full implementation of *Brown I* or to resist such efforts. At the time, only a few African-Americans had been elected as local school board members, very few were elected as county commissioners or city council members, and none had recently been elected to the North Carolina General Assembly or the United States Congress.¹¹³ This systematic and purposeful lack of political power, resulting from the long-lasting political disfranchisement of African-Americans, prevented this community from having a meaningful voice or from participation in the governance of political institutions within the state and local communities. In addition, the vast majority of African-Americans were legally unable or otherwise disinclined to vote for White political leadership within their local communities. The only place African-Americans could exercise any semblance of political power was within their segregated schools, and that power was restricted to efforts to improve the qual-

UNC University Libraries, <http://www.lib.unc.edu/ncc/ref/nchistory/feb2005/> (last visited Apr. 8, 2013) (In the late 1960s and early 1970s many African Americans in Wilmington were dissatisfied with the slow pace of school desegregation. Upon desegregation of the schools in the 1969-70 school year, violence erupted in the city of Wilmington.)

109. See, e.g., Douglas, *supra* note 33, at 130-31 (“By the summer of 1957, no school board in North Carolina had ever assigned a black child to a white school and no school board had ever granted a black child’s transfer request to attend a white school.”).

110. David Crabtree & Gerald Owens, *50 Years Later, Man Recalls Entering Raleigh’s All-White Schools*, WRAL.COM (Sept. 6, 2010), <http://www.wral.com/news/local/story/8246656/>.

111. *Id.* (Bill Campbell recounts how he felt unsafe everyday among the older, hostile students. Campbell told WRAL that his family told him that his role at the elementary school was important and he was going to have to endure the poor treatment.)

112. See Crabtree & Owens, *supra* note 110 (noting the unsafe and hostile environment at school that made Campbell’s life more difficult).

113. See Henry Frye, LEARN NC, <http://www.learnnc.org/lp/editions/nchist-recent/5084> (last visited Mar. 15, 2013) (providing that Frye was elected to the North Carolina General Assembly in 1968 and that he was the first African American to be elected since 1899); see also Clayton, *Eva M.*, U.S. HOUSE REPRESENTATIVES: HIST., ART & ARCHIVES, <http://history.house.gov/PEOPLE/DETAIL/11065?RET=TRUE> (providing that Clayton was the first African-American Representative from North Carolina since 1901) (last visited Mar. 15, 2013). Note that during the Jim Crow era, African-Americans were not elected. During Reconstruction and up to 1901, African-Americans were elected to many political posts, but that ended soon after the 1898 Wilmington rebellion.

ity of that educational product with the inadequate resources provided.

In addition to their lack of political power, most African-Americans did not mount a campaign to force compliance with *Brown I* because of widespread satisfaction with their schools. For distinctly different reasons, African-Americans and Whites in North Carolina were prepared to allow segregated schools to continue. However, Whites vigorously fought every effort made to implement the desegregation mandate.¹¹⁴ During this time, segregated African-American schools continued their successful efforts to educate African-American children.¹¹⁵ Where the litigation resources of the NAACP were available, a small number of parents joined lawsuits to challenge the continuing segregation, but these cases usually involved a small number of children.¹¹⁶

In spite of political deficiencies and inadequate resources, African-American educators were able to provide a quality education for their students. The unfortunate result was that, as these students graduated, many continued to migrate away from North Carolina to locations where employment and professional opportunities were available and where they were not confronted by the same vehement level of state-sponsored racism that was present in North Carolina.¹¹⁷ This resulted in a “brain-drain” in the state as many of the brightest graduates abandoned the State and made significant contributions elsewhere.

VI. CREATION OF THE PEARSALL COMMITTEE

An almost immediate response by the State of North Carolina to the *Brown I* decision was the creation of the Pearsall Committee by Governor William B. Umstead for the purpose of examining potential problems that might be encountered in North Carolina as a result of the *Brown I* decision.¹¹⁸ The Pearsall Committee, which included three African-Americans, concluded that the mixing of the races could not be accomplished in North Carolina and that the State should not attempt to comply with the *Brown I* mandate.¹¹⁹ Instead, the Committee recommended that the State of North Carolina seek to employ remedial means to comply with the requirements without al-

114. *Supra*, note 83.

115. *Id.*

116. *See generally* Douglas, *supra* note 33 (providing that attacks on the NAACP and its members “undermined the willingness of black plaintiffs to step forward and pursue legal remedies” such that the NAACP brought only eleven desegregation lawsuits in North Carolina by 1960).

117. *See Great Migration: The African-American Exodus North*, *supra* note 38.

118. Douglas, *supra* note 33, at 107.

119. *Id.* at 108.

tering the state's segregated structure.¹²⁰ As a way of making legal actions to achieve desegregation more difficult, the Committee recommended that control of local schools be transferred from the state to local county boards of education.¹²¹ This legislative ploy would require law suits challenging segregated schools to be filed in every county in order for the federal courts to be able to compel statewide compliance with the *Brown I* mandate.¹²² Other proposals were also made which would provide alternative approaches for Whites opposed to desegregation.¹²³

Following the unexpected death of Governor Umstead and before *Brown II* was decided in May 1955, Governor Luther H. Hodges successfully urged the North Carolina General Assembly to enact laws to implement the Pearsall Committee's recommendations.¹²⁴ In 1955, the North Carolina General Assembly enacted legislation that removed all racial references from the state's school law and divested the State Department of Public Instruction of any authority and power over any of the county and city schools.¹²⁵ In 1956, they enacted laws that provided funds to White citizens to assist them in paying for the education of their children in segregated private schools if they were compelled to attend a desegregated school and that authorized any local school board to suspend the operation of its public schools if desegregation was forced upon it by the federal courts.¹²⁶ These provisions were adopted as amendments to the North Carolina State Constitution in September 1956 when North Carolina citizens voted by a margin of four to one to maintain racial segregation in the state's public schools.¹²⁷ These provisions were declared unconstitutional by the federal court in *Godwin v. Johnston County Board of Education*.¹²⁸

The state then created a "freedom of choice" plan, which allowed parents to petition their local school board to admit their children to a

120. *See id.* at 108-09.

121. *Id.* at 108; *see also* An Act to Provide for the Enrollment of Pupils in Public Schools, ch. 366, § 1, 1955 N.C. Sess. Laws 309, 309-10 (providing that the North Carolina General Assembly gave complete control over student assignments to local school boards on March 30, 1955).

122. Douglas, *supra* note 33, at 110.

123. *See Chapter Three: A New Era in Education & Expansion and Improvement*, N.C. ST. BOARD EDUCATION, <http://stateboard.ncpublicschools.gov/about-sbe/history/chapter-three> (last visited Feb. 21, 2013).

124. *See* Douglas, *supra* note 33, at 108-09.

125. *See id.* at 109.

126. *Id.* at 112.

127. *Pearsall Plan Challenge Expected*, CAROLINA TIMES (Durham, N.C.), at 1, available at <http://library.digitalnc.org/cgi-bin/showfile.exe?CISOROOT=/newspapers&CISOPTN=64687&CISOMODE=print>; *see also* *County Voters Favor Pearsall Plan by Over 5-1*, THE DISPATCH (Lexington, N.C.), Sept. 10, 1956, at 1, available at <http://news.google.com/newspapers?id=ZHQBAAAAIBAJ&sjid=11AEAAAAIBAJ&pg=6032,3891547&dq=nc+adopts+pearsall+plan+by+4+to+1&hl=en>.

128. *Godwin v. Johnston Cnty. Bd. of Educ.*, 301 F.Supp. 1339, 1343 (E.D.N.C. 1969).

previously segregated school.¹²⁹ If successful, the parent had to provide for the student's transportation to and from school.¹³⁰ This plan also provided that White parents who opposed a decision to admit an African-American child could receive state tuition aid for the White child to attend a private school of their choice if that child could not be "conveniently" placed in a non-segregated public school.¹³¹

VII. DESEGREGATION UNDER FREEDOM OF CHOICE

During 1955 through 1967, token desegregation was attempted where a small number of African-Americans were allowed entry into a previously all-White school.¹³² These admissions followed the process that was created by the Pearsall Committee's "freedom of choice" plan, which allowed for any African-American or White student to voluntarily enroll in an opposite race school.¹³³ As the federal courts in other states struck down these plans, North Carolina sought to adjust and devise other plans and schemes to avoid desegregation. Finally, the State exhausted its ploys and pretenses and, around 1970, began an effort to desegregate all of its schools.¹³⁴

For those African-American children who were initially placed on the frontline of the desegregation struggle and sought to enter all-White schools under the State's Freedom of Choice statute, the experiences were traumatic and caused deep and lasting wounds. It is to be remembered that the children had to suffer through the abusive conduct that was inflicted upon them in the name of desegregation.¹³⁵

129. See *Coppedge v. Franklin Cnty. Bd. of Educ.*, 273 F. Supp. 289, 298 (E.D.N.C. 1967) aff'd, 394 F.2d 410 (4th Cir. 1968) (providing that "authorities in North Carolina generally have selected the 'freedom of choice' method for desegregating" schools).

130. *Id.* at 300 ("Every student must be transported to the school to which he is assigned, if that school is sufficiently distant from his home to make him eligible for transportation under generally applicable transportation rules.").

131. See Douglas, *supra* note 33, at 112.

132. See Brock Historical Museum of Greensboro Coll., *Desegregation*, J.C. PRICE SCH., <http://museum.greensboro.edu/jcpriceschool/desegregation.php> (last visited Feb. 21, 2013).

133. *Session 3: Tear Down These Walls: 1954-1980*, N.C. MUSEUM HISTORY, <http://ncmuseumofhistory.org/workshops/civilrights1/Session3.html> (last visited Feb. 19, 2013).

134. See *id.* (providing that the Pearsall Committee's plan was found to be unconstitutional by a federal court in 1969 and that desegregation of public schools in North Carolina began by the 1970s).

135. See e.g., Peter Wallenstein, *Youngest Combatants of the Second Civil War: Black Children on the Front Lines of Public School Desegregation*, NEWSL. SOC'Y FOR HIST. CHILD. & YOUTH (H-Net), Summer 2004, available at <http://www.h-net.org/~child/newsletters/newsletter4/Wallenstein3.html> (providing that fifteen-year-old Dorothy Counts withdrew from the all-White Harding High School in Charlotte, North Carolina, after four days of attendance because she was spit on by other students, ignored by teachers, targeted in trash throwing incidents, and endured racial slurs and threats); Kevin Sack, *For Civil Rights Pioneer, A Life of Quiet Struggle*, L.A. TIMES, May 9, 2004, available at <http://articles.latimes.com/2004/may/09/nation/na-josephine9> (noting that the children were the foot soldiers of the movement rather than the preachers and lawyers who initiated the movement).

While the NAACP lawyer promoted and litigated the cases, and some parents volunteered to offer their children as sacrifices, not one of the children attended one day in a desegregated school. As this first wave of brave sacrificial African-American students enrolled in segregated schools, they did not have the presence or protection of African-American teachers. The “freedom of choice” plan was only an opportunity for students to transfer to segregated schools.¹³⁶ African-American teachers were not a part of that mix; as such, when the students entered the segregated schools, they were on their own and could not rely upon White teachers or Principals, who did not want them in their schools anyway, to protect them.

In LaGrange, like in many African-American communities in the rural eastern portion of the State of North Carolina, no children or parents sought to enroll in an all-White school.¹³⁷ As such, student life at Frink High School continued unabated. Many parents and teachers felt that efforts by African-American parents to enroll their children in the all-White schools were elitist, disrespectful, arrogant and constituted treason to the African-American community.¹³⁸ Others felt that it was important to challenge the school board to comply with the prevailing desegregation mandate, but did not want to endanger the existence of African-American schools.¹³⁹ Nevertheless, many of the small town rural residents were also acutely aware of what was happening to those African-American children who sought and succeeded in gaining admission to an all-White school. That story was not encouraging and resulted in a lot of: “I told you so” and “What did they expect.”

Among the first children to become a focus in this struggle was Joseph Holt, Jr. who was involved in the early effort by his parents to transfer from Raleigh’s Ligon High School, the African-American school, which was highly regarded around the State, to the all-White Broughton High School.¹⁴⁰ The Holt transfer struggle began in the summer of 1957 when Holt’s parents, pursuant to the Pupil Assignment Act, filed a petition to allow their son to enter the all-White

136. See Jefferson Currie II, *With Deliberate Speed: North Carolina and School Desegregation*, N.C. MUSEUM HISTORY, <http://www.ncmuseumofhistory.org/collateral/articles/F04.deliberate.speed.pdf> (2005) (providing that the freedom of choice system allowed students to attend the school of their choice).

137. *Supra*, note 83.

138. *Id.*

139. *Id.*

140. Heather K. McEntarfer, *Catching Hell: The Joe Holt Integration Story*, TERRAIN.ORG, <http://www.terrain.org/essays/22/mcentarfer.htm> (last visited Feb. 22, 2013); see also N.C. State Univ., *Background Information: An Historically Black High School*, LIVING AND LEARNING AT LIGON HIGH SCHOOL, <http://www.ncsu.edu/ligon/about/history/esri/P7312.htm> (last visited Feb. 22, 2013) (noting that Ligon High School was Raleigh’s premiere high school and attracted the city’s best and brightest African-American teachers).

Broughton High School.¹⁴¹ The petition resulted in the Raleigh School Board refusing, by a five to one vote to allow Holt, a fifteen-year-old, to enter the school.¹⁴² At the time, the school board was composed of only one African-American, Attorney Fred Carnage.¹⁴³ In spite of the vocal dissent of Attorney Carnage, White Board members voted against the admissions application.¹⁴⁴ Legal efforts by the Holt family to challenge the decision in federal court ended unsuccessfully when the Fourth Circuit Court of Appeals ruled in favor of the school board.¹⁴⁵

In Charlotte, fifteen-year-old Dorothy Counts successfully petitioned the Charlotte School Board to allow her to attend the all-White Harding High School.¹⁴⁶ In September 1957, Counts entered the school in the midst of a large number of jeering White students who spat, threw trash and yelled racial epithets at her.¹⁴⁷ The brutal attacks upon Counts continued once she was in the school building and, after a week of this torment, Counts was withdrawn when her parents were informed by school officials and local police that they could not guarantee Counts's safety if she remained in school.¹⁴⁸ As a result, Counts relocated to Philadelphia where she was able to graduate from a de-segregated high school.¹⁴⁹

In 1957, six African-American students, led by Josephine Boyd, entered the all-White schools in Greensboro.¹⁵⁰ Boyd was admitted to Greensboro Senior High School as a transfer student from James B. Dudley High School.¹⁵¹ The other five students entered Gillespie Ele-

141. McEntarfer, *supra* note 140.

142. *Holt v. Raleigh City Bd. of Educ.*, 164 F. Supp. 853, 856, 858-59 (E.D.N.C. 1958).

143. See Raney Stanford, *Naming of Negro Lawyer to School Board Well Received in Tar Heel Capital City*, RALEIGH TIMES, May 26, 1949, available at http://web.co.wake.nc.us/lee/ncbios/ncbios_a-c/carnage/19490526nonl/19490526nonl.htm; see also An Act to Provide for Election of Members of the Raleigh City School Administrative Unit and to Fix Their Terms of Office, ch. 856, § 1, 1963 N.C. Sess. Laws 1038, 1038-39 (providing the composition of the Raleigh City School Board and noting that Carnage was still a member in 1963).

144. *Holt*, 164 F. Supp. at 860-61.

145. *Holt v. Raleigh City Bd. of Educ.*, 265 F.2d 95, 98 (4th Cir. 1959).

146. See, e.g., *Youngest Combatants of the Second Civil War: Black Children on the Front Lines of Public School Desegregation*, *supra* note 135.

147. *Id.*

148. *Where Are They Now?: Dorothy Counts*, CHARLOTTE MAGAZINE, (Aug. 2010), <http://www.charlottomagazine.com/Charlotte-Magazine/August-2010/Where-are-They-Now/Dorothy-Counts/>.

149. *Id.*

150. Karen Hawkins, *Desegregation and Integration of Greensboro's Public Schools, 1954-1974*, CIVIL RIGHTS GREENSBORO, http://library.uncg.edu/dp/crg/topicalessays/schooldeseginteg.aspx#_ftnref6 (last visited Feb. 22, 2013).

151. Lynn W. Zimmerman, *Reflections on Brown: Still Separate and Still Unequal?*, 33 AM. EDUC. HIST. J. 89, 91 (2006) (noting that although Josephine Boyd endured obscene phone calls, she graduated in the top ten percent of her class at Greensboro Senior High School); see also *Grimstey Senior High School*, GUILFORD COUNTY SCHOOLS, <http://www.gcsnc.com/education/components/scrapbook/default.php?sectiondetailid=77333&linkid=nav-menu-container-4>

mentary School.¹⁵² At the time, James B. Dudley High School, the African-American school, was one of ten schools in the state that had attained state accreditation and was considered to be one of the best high schools in the country.¹⁵³ Dudley also had a widely held reputation as having some of the best teachers in the state.¹⁵⁴

Boyd's mother, who was six months pregnant, walked her to the school's entrance.¹⁵⁵ As they walked to the entrance, White students lined both sides of the walkway and Boyd was subjected to racial slurs and taunts.¹⁵⁶ Once inside Greensboro Senior High School, Boyd was continually subjected to considerable ridicule, taunts and abuse as students spit on her food or dumped ketchup and other substances in her lap.¹⁵⁷ She experienced threats and physical assaults.¹⁵⁸ On one occasion when she responded to a physical assault directed against her, a teacher warned her that she would be sent home if there was another confrontation since she was the aggressor.¹⁵⁹ Despite the hostile environment, Boyd stayed at the school for that year and graduated with honors.¹⁶⁰ Along the way, she was befriended by four White female students who, despite suffering considerable abuse from fellow students, sought to support her during her enrollment at the school.¹⁶¹

In 1963, over 200 African-American students were enrolled in all-White schools in Greensboro compared to the nineteen African-Americans who had attended such schools during the years immediately following Boyd's enrollment.¹⁶² During this period, the vast majority of African-American students continued to attend Dudley High School.¹⁶³

In 1960, the parents of seven-year-old William Campbell successfully petitioned the Raleigh School Board to admit Campbell to the

1264561 (last visited Mar. 14, 2013) (providing that in 1962, the school's name was changed from Greensboro Senior High School to Grimsley Senior High School).

152. Hawkins, *supra* note 150.

153. *See id.*

154. *See id.* ("Dudley High School . . . enjoyed a reputation for having excellent teachers who inspired pride, instilled self-respect, and promoted awareness of racial issues."); *see also* WILLIAM H. CHAFE, *CIVILITIES AND CIVIL RIGHTS: GREENSBORO, NORTH CAROLINA AND THE BLACK STRUGGLE FOR FREEDOM* 23 (1980).

155. Kevin Sack, *A Brown v. Board Pioneer Tells Her Story*, AFRICANAMERICA.ORG, (May 9, 2004, 9:20 PM), <http://www.africanamerica.org/displayForumTopic/content/128788938051479360>.

156. *Id.*

157. *Id.*

158. *Id.*

159. Sack, *supra* note 155.

160. Zimmerman, *supra* note 151, at 91 (noting that Josephine Boyd graduated in the top ten percent of her class at Senior High School in Greensboro).

161. Sack, *supra* note 155; *see also* Sean Alfano, *Bravery in the Face of Bigotry*, CBS EVENING NEWS (Feb. 11, 2009, 6:37 PM), http://www.cbsnews.com/8301-500617_162-1482625.html.

162. Hawkins, *supra* note 150.

163. *See id.*

Murphey Elementary School.¹⁶⁴ When Campbell entered the school in September 1960, petitions circulated opposing his enrollment.¹⁶⁵ Campbell was the only African-American student at the school for the next five years and was verbally taunted and physically abused during this time.¹⁶⁶

In Kinston, North Carolina, the town adjacent to LaGrange, twelve-year-old Greg Hannibal became one of the first African-Americans to gain admission to the all-White Grainger High School in 1963.¹⁶⁷ His parents, who moved to the United States from the West Indies and became civil rights activists in Kinston, fought for his admission because they thought he would get a better education at that school.¹⁶⁸ Hannibal remembered waking up each morning hearing the local radio announcer enticing people to attack him and his family.¹⁶⁹ As he walked to school, people would drive by and splash water on him, or allow their dogs to attack him as he made his way to school.¹⁷⁰ Hannibal recalled teachers who would not speak to him or call on him in classes when he raised his hand to participate in class discussions.¹⁷¹ Even though he begged his parents to remove him from the school, he was forced to endure the torment for three years until his graduation.¹⁷² In hindsight, Hannibal said that he would not wish his experience on anybody's child.¹⁷³

During the twelve years in which the "freedom of choice" plan was in effect, in one form or another, no documented White students sought admission to a previously segregated African-American school and only a few African-Americans petitioned to be admitted to previously all-White schools.¹⁷⁴ It is easy to understand why African-American students were reluctant to venture into the all-White schools, since the vast majority of students were satisfied with the educational experiences at segregated African-American schools. The few Afri-

164. Crabtree & Owens, *supra* note 110.

165. Thomas Goldsmith & T. Keung Hui, *School Integration Enters its 50th year*, RALEIGH NEWS & OBSERVER, Sept. 6, 2010, available at <http://www.newsobserver.com/2010/09/06/667066/school-integration-enters-its.html>.

166. *Id.*

167. Jonathan Rodriguez, *Kingston Man Reflects on Integration Into Lenoir County Schools*, WNCT (Feb. 7, 2012, 5:37 PM), <http://www.wnct.com/story/21010332/kingston-man-reflects-on-integration-into-lenoir-county-schools>.

168. *Id.*

169. *Id.*

170. *Id.*

171. *Id.*

172. *Id.*

173. *Id.*

174. See *School Desegregation and Equal Educational Opportunity*, THE LEADERSHIP CONFERENCE, <http://www.civilrights.org/resources/civilrights101/desegregation.html> (last visited Dec. 31, 2012) (noting that only "2.3 percent of African American children in the Deep South" attended schools that were integrated).

can-American students who were admitted to all-White schools primarily resided in the more urban cities like Greensboro,¹⁷⁵ Raleigh,¹⁷⁶ Rocky Mount,¹⁷⁷ Wilmington,¹⁷⁸ Charlotte¹⁷⁹ and Winston-Salem¹⁸⁰. The utilization of the “freedom of choice” plan was not an issue in rural areas or smaller towns within the state like LaGrange, Kinston and Goldsboro, the portion of the state in which the vast majority of African-Americans resided.¹⁸¹

Spurred on by the NAACP, several lawsuits were filed in local jurisdictions to contest the slow pace of desegregation. These challenges involved several counties and towns across the State.¹⁸² In each instance, the Freedom of Choice statute was attacked. These time-consuming legal actions were filed in: Anson County¹⁸³, Bladen County¹⁸⁴, Charlotte-Mecklenburg Schools¹⁸⁵, Cumberland County¹⁸⁶, Edgecombe County¹⁸⁷, Guilford County¹⁸⁸, Jones County¹⁸⁹, Nash-Rocky Mount Schools¹⁹⁰, New Hanover County¹⁹¹, Northampton County¹⁹², Union County¹⁹³ and Wilson County¹⁹⁴. Legal attacks were also launched in Bertie¹⁹⁵, Franklin¹⁹⁶ and Pitt¹⁹⁷ counties. In each of

175. See, e.g., Hawkins, *supra* note 150.

176. See, e.g., McEntarfer, *supra* note 107.

177. See, e.g., Murray, *supra* note 108 (Providing that “tentative steps toward integration took place in 1963” at Rocky Mount Senior High School when the very first African-American students chose to attend Rocky Mount Senior High School under the Freedom of Choice law. For the next few years, the student population included small numbers of black students while the vast majority continued to attend Booker T. Washington High School until the two schools merged in 1969.”).

178. See, e.g., Graham, *supra* note 108.

179. Dan L. Morrill, *The Emergence of Diversity: African Americans, Charlotte-Mecklenburg Historic Landmarks Commission*, <http://www.cmhpf.org/Morrill%20Book/CH12.htm> (last visited Dec. 28, 2012) (Charlotte-Mecklenburg Schools integrated for the first time in September 4, 1957 by Dorothy Counts).

180. *Five Communities: Their Search for Equal Education*, United States Commission on Civil Rights Clearinghouse Publication 37, 1 (Dec. 1972).

181. As a former resident of the small town of LaGrange, I could attest to several conversations between my classmates and our parents in which the “freedom of choice” plan was not discussed and, therefore, was not at issue.

182. There are legal challenges in fifteen counties of record across the state. These challenges are discussed in footnotes 183-198.

183. *Singleton v. Anson Cnty Bd. of Educ.*, 283 F. Supp. 895, 896 (W.D.N.C. 1968).

184. See *Smith v. N.C. State Bd. of Educ.*, 444 F.2d 6 (4th Cir. 1971).

185. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971).

186. *Ford v. Cumberland Cnty Bd. of Educ.* (1964).

187. See *Smith*, 444 F.2d 6.

188. See *id.*

189. *U.S. v. Jones Cnty Bd. of Educ.*, 295 F. Supp. 640 (E.D.N.C. 1968).

190. See *Smith*, 444 F.2d 6.

191. *Eaton v. New Hanover Cnty Bd. of Educ.*, 459 F.2d 684 (4th Cir. 1972).

192. *U.S. v. Northhampton Bd. of Educ.* (1967).

193. See *Smith*, 444 F.2d 6.

194. *Whitley v. Wilson City Bd. of Educ.*, 427 F.2d 179 (4th Cir. 1970).

195. *U.S. v. Bertie Cnty Bd. of Educ.*, 293 F. Supp. 1276 (E.D.N.C. 1968).

196. *Coppedge v. Franklin Cnty Bd. of Educ.*, 273 F. Supp. 289 (E.D.N.C. 1967).

these cases, only a small number of African-American students sought admission to all-White schools.¹⁹⁸

The “freedom of choice” plan applied only to the ability of students to transfer to an all-White school. At no point was there an effort to allow African-American teachers or Principals to transfer to one of those schools. This opportunity for student transfers always left them without a person of their race who was close by in order to advise and protect them from the many dangers that lurched within those all-White schools. These dangers were many and were liberally thrust upon the defenseless African-American child.

In 1968, the “freedom of choice” plan was declared unconstitutional.¹⁹⁹ By 1970, the North Carolina school districts had exhausted all legal options to avoid desegregation and deliberately chose to exact its revenge for this loss upon African-American schools and students.

VIII. SWANN V. CHARLOTTE-MECKLENBURG LITIGATION

Frustrated with the slow pace of desegregation, some Charlotte parents, under the direction of the NAACP, sued the Charlotte-Mecklenburg school system in 1965.²⁰⁰ After a series of hearings, which consumed five years, the District Court for the Western District of North Carolina ordered the school system to produce a plan that promised to realistically provide for student and faculty desegregation.²⁰¹ When the school board’s proposed plan was deemed unsatisfactory, District Court Judge James McMillan appointed an expert to draft a plan.²⁰² The plan adopted by the District Court, and finally approved by the U.S. Supreme Court, redistributed African-American students from the inner city into the previously all-Whites schools based on a desired ratio of 71% White students and 29% African-American.²⁰³ The District Court further ordered that: “no school (should) be operated with an all-[B]lack or predominantly [B]lack student body, (and) (t)hat pupils of all grades (should) be assigned in such a way that as nearly as practicable the various schools at various

197. *Teel v. Pitt Cnty Bd. of Educ.*, 272 F.Supp. 703 (E.D.N.C. 1967).

198. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 5-6 (1971) (where the court combined five cases).

199. *Boomer v. Beaufort Cnty Bd. of Educ.*, 294 F. Supp. 179, 182 (E.D.N.C. 1968).

200. *Swann*, 402 U.S. at 7.

201. *Id.* at 1, 13.

202. *Id.* at 8; *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 311 F. Supp. 265 (W.D.N.C. 1970) (where District Court Judge James McMillan appointed Dr. John A. Finger to advise the court how schools could be desegregated).

203. *Swann*, 402 U.S. at 23-24.

grade levels have about the same proportion of [B]lack and [W]hite students.”²⁰⁴

With respect to the issue of all or predominately one race schools, the *Swann* Court made clear that the “existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system that still practices segregation by law.”²⁰⁵ The Court warned, however that where the operation of one-race schools continued, the school board had a burden of showing that the student assignments were “genuinely nondiscriminatory.”²⁰⁶ “The court should scrutinize such schools, and the burden upon the school authorities will be to satisfy the court that their racial composition is not the result of present or past discriminatory action on their part.”²⁰⁷

Consequences of Swann

Frink, like other segregated schools in North Carolina, celebrated its last high school graduation with the class of 1970.²⁰⁸ That graduating class ended the existence of virtually every segregated African-American high school in the State. Each of these schools, whether it was C. H. Darden Middle School in Wilson²⁰⁹; Williston in Wilmington²¹⁰; J.T. Barber in New Bern²¹¹; Dillard²¹², Norwayne²¹³; Ligon²¹⁴ in Raleigh; Adkin²¹⁵ in Kinston; Carver²¹⁶ in Mount Olive and many more schools, which had stellar academic reputations and accomplish-

204. *Id.* at 23.

205. *Id.* at 26.

206. *Id.*

207. *Id.*

208. See The History of E.B. Frink High School, *supra* note 28 (noting E.B. Frink as a High School from 1951-1970).

209. See *History of Charles H. Darden Middle School*, CHARLES H. DARDEN MIDDLE SCHOOL, http://www.edline.net/pages/Darden_Middle/About_Us/History_of_Charles_H_Darden_M (last visited Mar. 15, 2013).

210. See generally WILLISTON SCHOOL OF MATH, SCIENCE & TECHNOLOGY, <http://www.nhcs.net/williston/> (last visited Mar. 15, 2013).

211. See generally J.T. BARBER ELEMENTARY SCHOOL, <http://www.craven.k12.nc.us/jtb/> (last visited Mar. 15, 2013).

212. DILLARD/GOLDSBORO ALUMNI AND FRIENDS, http://dgafinc.org/about_us.html (last visited Mar. 15, 2013) (noting that Dillard High School closed in 1969 and was reopened as Dillard Middle School for the seventh and eighth grade).

213. See generally NORWAYNE MIDDLE SCHOOL, <http://www.waycountyschools.org/360> (last visited Mar. 15, 2013).

214. See generally LIGON GT MAGNET MIDDLE SCHOOL, <http://ligon.wcpss.net/> (last visited Mar. 15, 2013).

215. KINSTON HIGH SCHOOL, <http://schools.lenoir.k12.nc.us/khs/About%20KHS.html> (last visited Mar. 15, 2013) (noting that the integrated Kinston High School opened in 1970 as a consolidation of the all-White Grainger High School and the Historically Black Adkin High Schools).

216. CARVER ELEMENTARY SCHOOL, <http://www.waycountyschools.org/domain/320> (last visited Dec. 29, 2012) (changed from Carver High School to Carver Elementary School).

ments, were either eliminated or downgraded to junior high schools. Exceptions to this rule were Hillside High School²¹⁷ in Durham, James B. Dudley²¹⁸ in Greensboro and Carver High School²¹⁹ in Winston-Salem.

These schools had regularly graduated strong cadres of loyal, supportive, highly educated, gifted and committed students who made significant contributions to the development and growth of North Carolina and the United States. The objective successes of the many African-American schools were meaningless when confronted with the raw racism of the day simply because Whites depreciated the value of anything connected with African-Americans and their schools. For African-Americans, structural deficiencies, if they existed, or inadequate resources were not fatal because the educational community stayed focused on the delivery of a high quality education no matter the cost.

The desegregation campaign implemented by the state and local school districts employed the intentional and abhorrent strategy of totally destroying virtually everything connected to the existence of previously segregated African-American schools. With rare exceptions, the African-American school designations along with the school's history and culture were totally destroyed and replaced with a new name, logo, student bodies and educational purposes. The rare exceptions occurred in those cities where African-Americans wielded some minimal level, yet significant semblance of political clout. The leadership of those communities forced the local school boards to continue to use the previously segregated African-American school's structure and name as a high school. This occurred primarily in urban cities with larger population bases such as in Durham with Hillside, Carver in Winston-Salem and Dudley in Greensboro.²²⁰ But, for the most part, in the other politically powerless communities, the funeral cortege and music were played for those African-American schools.

For example, at Frink, the school's building and name continued to be used, but it was downgraded to a junior high school (later, this was changed to a middle school) and the Principal, teachers and staff were

217. HILLSIDE HIGH SCHOOL, <http://www.hillside.dpsnc.net/department-pages/school-profile> (last visited Mar. 15, 2013).

218. See generally DUDLEY HIGH SCHOOL, <http://www.gcsnc.com/education/school/school.php?sectionid=11> (last visited Mar. 15, 2013).

219. See generally CARVER HIGH SCHOOL, <http://www.wsfcs.k12.nc.us/chs> (last visited Mar. 15, 2013).

220. See generally *Choices Mean Changes for Hillside*, NCCU Connection, THE DURHAM NEWS, <http://www.thedurhamnews.com/2010/09/18/v-print/203607/choices-mean-changes-for-hillside.html> (last visited 3/1/13) (listing Black high schools as feeder schools to North Carolina's Historically Black Colleges and Universities).

fired, transferred or demoted.²²¹ In addition, its mascot, logo, year-books, history and records of achievements were completely destroyed and discarded.²²² At Frink, all of the school's trophies and plaques were removed from display cases and tossed into the garbage.²²³ In other locations, the school's name did not remain in any form and those schools and their histories were simply eliminated.²²⁴ In so many of those instances, the African-American Principals and teachers possessed superior academic credentials than did their White counter-parts. Teaching ability was, of course, a subjective decision and that subjectivity always inured to the benefit of the White Principals and teachers.

In his seminal study of the Hyde County, North Carolina desegregation struggle, David Cecelski confirmed this widespread and systematic strategy by White political leaders to totally dismantle any traces of the history, culture, accomplishments and existence of the African-American schools.²²⁵ Blacks lost important symbols of their educational heritage in this process. "When [B]lack schools closed, their names, mascots, mottos, holidays, and traditions were sacrificed with them, while the students were transferred to historically [W]hite schools that retained those markers of cultural and racial identity."²²⁶ When former Black high schools did not shut down, they were invariably converted into integrated junior high schools or elementary schools.²²⁷ White officials would frequently change the names given to the school buildings by the Black community and would remove plaques or monuments that honored Black cultural, political, or educational leaders.²²⁸ They hid from public view trophy cases featuring Black sports teams and academic honorees and replaced the names of Black sports teams with those used by the White schools.²²⁹ The depth of White resistance lay in the flames of the dozens of these schools that were put to the torch as desegregation approached.

These acts affirmed what African-Americans had always suspected would happen if desegregation was to occur and caused a sense of mistrust and fear to concretize in their minds. Trust, a basic proposition that African-Americans had in their schools, was destroyed along

221. Mewborn, *supra* note 77.

222. *Id.*

223. *Id.*

224. *Id.*

225. DAVID S. CECELSKI, *ALONG FREEDOM ROAD: HYDE COUNTY, NORTH CAROLINA AND THE FATE OF BLACK SCHOOLS IN THE SOUTH* 7-8 (1994).

226. *Id.* at 9.

227. *Id.* at 162 (the Hyde County School Board decided to keep the names of the O. A. Peay School and the Davis School).

228. Mewborn, *supra* note 77.

229. *Id.*

with the dedicated and committed personnel who felt and acted as if they were entrusted with the development, care and future of the children, which they were sworn to educate. The almost total destruction of the segregated African-American schools destroyed that bond of support, which African-Americans had with the school system, and that sense of trust has never been restored. No longer did African-Americans trust the school system to promote and guide the educational development of their children and they realized the reality that they were being totally removed from any direct involvement in how their children would be educated.

Desegregation Experiences After Swann:

The primary principle that guided the desegregation of the schools was that Whites were not going to stand idly by and allow African-Americans to be in positions to exert any control over them, their institutions and their children. That principle is reflected in every decision North Carolina school boards made as they sought to comply with the North Carolina desegregation mandate. These decisions were made possible because the opinion in *Brown v. Board of Education* did not direct how the elimination of segregation was to occur.²³⁰ The opinion focused merely on the “so-called” larger constitutional vision and value that segregation violated Equal Protection and was to be eliminated “root and branch.”²³¹ Neither the Supreme Court nor the NAACP attorneys imagined the extent to which White political leaders, elected school officials and citizens would go to in order to keep school systems segregated. Clearly, *Brown v. Board of Education* became an empty victory for North Carolina’s African-American communities, children, teachers and principals.

In every school district or jurisdiction, those students who lived in African-American communities or attended racially segregated schools were divided up pursuant to an arbitrary mathematical formula and distributed to several different majority White schools, at every educational level, where they constituted a distinct and visible minority.²³² To satisfy this distribution formula, buses were used to transport African-American children to schools in outlying white neighborhoods.²³³ In many instances, these children were bused past the closest school and forced to be transported an inordinate long dis-

230. See *Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294, 300 (1955) (noting that a “prompt and reasonable start toward full compliance” for desegregation).

231. See *Green v. County Bd. of New Kent Cnty., Va.*, 391 U.S. 430, 438 (1968).

232. See generally BROCK HISTORICAL MUSEUM, *supra* note 132 (discussing how the City of Greensboro’s integration plan called for a 70/30 ratio of white to black in all public schools).

233. *Id.*

tance for the sake of achieving racial desegregation.²³⁴ Busing had been previously used when the schools were segregated except students were bused to the closest African-American school.²³⁵ Under this newly developed desegregation model, buses transported African-American students away from their local communities into a previously all-White school unlike similarly situated White students who were only bused short distances to attend school if they were bused at all.²³⁶

The widespread use of busing for the primary purpose of moving African-Americans from their communities in order to provide a numerical mix of students began in Charlotte and was followed by other school districts in North Carolina.²³⁷ This use of busing, the re-distribution of African-American students into majority White schools based solely upon prescribed ratios, and the wholesale transfer of African-American teachers and Principals into these schools for the sake of desegregation, was approved in *Swann*.²³⁸

IX. TREATMENT OF AFRICAN-AMERICAN TEACHERS AND PRINCIPALS DURING DESEGREGATION

While there was considerable resistance by Whites to the transfer of African-American students into all-White schools, they were considerably more resistance to the idea that African-American teachers and Principals would be introduced into those schools. In her seminal work, "Desegregating Teachers," Wake Forest University Law School Professor Wendy Parker reported that up through 1966, not one African-American teacher taught in a de jure White school even where these schools had admitted a few African-American students.²³⁹ Professor Parker's conclusions resulted from her study of the resistance of school boards from around the country to employ African-American teachers during and after the schools were desegregated.²⁴⁰ Along with White parents, White and African-American teachers often preferred to teach students who shared their race and ethnicity.²⁴¹

234. *Id.*

235. *Id.*

236. *Id.*

237. Liane Membis, *Arrests Highlight Education Busing Issues*, CNN (July 21, 2010, 2:30 PM), <http://www.cnn.com/2010/US/07/19/ncschools.resegregation.rally/index.html> (noting that Charlotte-Mecklenburg was the first school system to implement busing as a means to achieve desegregation and was followed by Wake County in 1999).

238. See generally *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971) (upholding busing as a means for promoting integration of the Charlotte-Mecklenburg School System).

239. Wendy Parker, *Desegregating Teachers*, 86 WASH. U. L. REV. 1, 9 (2008) (discussing how teachers were segregated just like students).

240. See generally *id.* at 52 (discussing the resegregation of schools as applied to both students and teachers).

241. *Id.* at 13.

Equally as abhorrent to many Whites was the idea that an African-American Principal, mainly males, would be placed in a position of supervision and authority over a predominately White female teaching staff.²⁴² “Resistance to [B]lack principals supervising white teachers [had] been far stronger than resistance to [B]lacks teaching white students. When desegregation [came], [B]lack principals [were] frequently the first to go.”²⁴³

Professor Parker made the point that transferring African-American teachers into all-White schools required “radical changes to many people’s ideas about the racial and ethnic distribution of power and about which teachers belonged where.”²⁴⁴ As was the thinking embraced by many Whites, “[t]eaching [was] a position of authority, and segregation was all about maintaining power and privilege for whites, including white children.”²⁴⁵ The very nature and entrenched thinking regarding African-Americans caused White parents to doubt the competency of African-American teachers and supported their resistance to giving these teachers power over their White children.²⁴⁶

It was this vocal and persistent resistance that resulted in many African-American teachers losing their jobs. While this did not occur on a widespread basis at Frink High School, it was the experience in other portions of Lenoir County and in most other school districts in the State. For example, in April 1971, officials at Department of Health, Education and Welfare (HEW) instituted administrative proceedings against the Lenoir County School Board and its Superintendent H.H. Bullock as a result of the widespread firing of African-American teachers and the hiring of poorer qualified Whites.²⁴⁷ These proceedings were directed against an all-Republican school board during the administration of Republican President Richard Nixon and sought to terminate the board’s receipt of federal funds.²⁴⁸

Because the teachers, who lost their jobs, lived primarily in small and cohesive communities, news of their terminations and/or transfers was not well received in those communities. This treatment to which African-American teachers and Principals were subjected incensed the community, but they knew that they were powerless to correct them since they had little or no political power.²⁴⁹ In fact, many peo-

242. See generally William Jefferson, *School Desegregation and the Black Teacher: A Search for Effective Remedies*, 48 TUL. L. REV. 55, 63 (1973).

243. *Id.*

244. Parker, *supra* note 239, at 12 (discussing teaching as a position of authority).

245. *Id.*

246. *Id.*

247. See Herald-Journal Newspaper, April 16, 1971, p. 6.

248. *Id.*

249. See Adam Fairclough, *Costs of Brown: Black Teachers and School Integration*, 91 J. AM. HIST. 43, 54 (2004) (discussing the firing or demotion of Black principals after integration).

ple expected this result and became disenchanted with the resulting desegregated school districts knowing that the interests of and concerns for African-American students and community would not be protected.²⁵⁰ The reality was that local White school boards, the courts and NAACP attorneys did not protect these vulnerable teachers.²⁵¹

It was estimated by one researcher that over 500 African-American teachers in North Carolina lost their teaching jobs in 1965.²⁵² It was also estimated that in 17 desegregating states, 38,000 African-Americans lost teaching positions.²⁵³ With respect to African-American principals, it was estimated that 90% of them lost their jobs and the remainder were demoted down to assistant principals.²⁵⁴

David S. Cecelski, in his study of desegregation in Hyde County, North Carolina, determined:

From 1963 to 1970, the number of [B]lack principals in the state's elementary schools plunged from 620 to only 170. Even more striking, 209 [B]lack principals headed secondary schools in 1963, but less than 10 still held that crucial job in 1970. By 1973, only three had survived this wholesale displacement.²⁵⁵

Cecelski also reported that "North Carolina was second only to Texas in the number of jobs lost by Black teachers: by 1972, an estimated 3,051 [B]lacks in North Carolina had lost teaching jobs after the merger of [B]lack and [W]hite schools."²⁵⁶

In approving the wholesale racial re-distribution and rationing of African-American teachers into the several majority White schools, the Court sanctioned the destruction of a dedicated teaching core of African-American who had successfully guided and elevated thousands of children into productive professional futures. The sanctioning of this re-distribution of teachers also resulted in the destruction of core, proven and unique teaching methodologies that African-American teachers had developed and successfully used for decades in segregated African-American schools.²⁵⁷ An important part of this teaching methodology involved the maintenance of discipline and the

250. *Id.*

251. *See generally id.* (discussing resegregation and disillusionment with public schools).

252. Frank M. Johnson, Jr., *School Desegregation Problems in the South: An Historical Perspective*, 54 MINN. L. REV. 1157, 1165 (1970).

253. *Horizons of Opportunities: Celebrating 50 Years of Brown v. Board of Education*, INFOUSA, <http://infousa.state.gov/education/overview/brown-nea.html> (last visited Mar. 15, 2013) (noting that more than 38,000 black educators lost their job between 1954 and 1965).

254. Russell W. Irvine & Jacqueline Jordan Irvine, *The Impact of the Desegregation Process on the Education of Black Students: Key Variables*, 52 J. NEGRO EDUC. 410, 417 (1983) (noting desegregation's effect on the professional status of Black educators).

255. Cecelski, *supra* note 225, at 8.

256. *Id.*

257. Mewborn, *supra* note 77.

teaching of respect of authority.²⁵⁸ In their new teaching assignments, African-American teachers would find that those methods, which had served them well in the segregated schools, were no longer useful or desired in teaching White children and were no longer available to teach African-American children.

X. STUDENTS' EXPERIENCES IN DESEGREGATED SCHOOLS

Once deposited into desegregated schools, African-American students found that they were not wanted or welcomed by White students or teachers. From the outset, the opportunities for these students to participate in the ongoing activities at the school were severely restricted.²⁵⁹ These restrictions also applied to the opportunity and privilege to participate in advanced academic classes and extra-curricular activities freely with White students.²⁶⁰ Efforts by these students to protest their exclusion and class assignments were dismissed by White teachers and administrators and the few African-American teachers assigned to the school were powerless to intervene on the students' behalf.²⁶¹

Not only were the students excluded from the total life of the schools, they became the target of physical attacks and were ostracized and punished when they dared to complain about the treatment that they received.²⁶² African-American students found that they were indeed attending a desegregated school building, but, on the inside, they were merely re-segregated into classes with other members of their race.²⁶³ Students, who had formerly participated in student government activities, participated in the band, the glee club, cheering squad or played basketball or football encountered significant resistance as White administrators intentionally prohibited or discouraged their participation.²⁶⁴ New rules were suddenly imposed which limited participation to those students who satisfied a certain grade point average or were enrolled in upper level academic classes.²⁶⁵ Usually, the students who satisfied these heightened requirements were White, although, in some instances, a token number of African-American stu-

258. *Id.*

259. Mewborn, *supra* note 77.

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. Alex Poinsett, *Last of the "Wilmington 10"*, *EBONY*, June 1979, at 66, available at <http://books.google.com/books?id=sItfPJ3ZtdQC&pg=PA66&lpg=PA66&dq=School+segregation+in+New+Hanover+County,+North+Carolina&source>.

265. Mewborn, *supra* note 77.

dents were chosen in order to give the appearance that the participants were being fairly chosen.²⁶⁶

For example, African-American students in New Hanover County participated in several demonstrations to protest the treatment and attitudes that they encountered when they entered the formerly all-White schools.²⁶⁷ While enrolled at Williston High School, the all African-American school, these students earned a statewide reputation and accolades for their academic, and athletic achievements and students were actively involved in extra-curricular and student government activities.²⁶⁸ When they entered the White schools, teachers and Principals sought to reserve these activities for White students and created rules and procedures which were designed to prohibit or severely limited participation by African-American students.²⁶⁹

When the students complained about and eventually protested these exclusions, they were quickly and publically disciplined, suspended and/or expelled.²⁷⁰ Finally in February 1971, the students at several of the high schools walked out of the schools and marched to the New Hanover County Board of Education to demonstrate their demands for equal and fair treatment.²⁷¹

The New Hanover County school system was one of those that aggressively sought to maintain its segregated status and fought a relentless battle in the courts to prevent the desegregation of its schools. When desegregation began in 1970, it began quickly, without significant planning and in response to a long series of court mandates, which dated back to 1968.²⁷²

African-American students in other counties and school districts had similar experiences and suffered the same fate when they protested their exclusion. Student protests occurred in Wilson, Rocky Mount, Goldsboro and other locales around the State.²⁷³

The African-American community did not vocally resist or rebel against this mockery of desegregation out of fear that opposition would be viewed as being “anti-desegregation,” but this process of ra-

266. *Id.*

267. Poinsett, *supra* note 264.

268. *Williston Senior High School—A Great School?*, THE WILMINGTON JOURNAL, (Mar. 17, 2012), available at <http://wilmingtonjournal.com/williston-senior-high-school-a-great-school/> (noting that students at Williston Senior High School scored higher than expected by the superintendent on a national test).

269. Mewborn, *supra* note 77.

270. Poinsett, *supra* note 264, at 66

271. *Id.*

272. *Eaton v. New Hanover Cnty. Bd. Of Educ.*, 330 F. Supp 78, 79 (1971).

273. See, *supra* note 209 (Historically African-American Darden High School closed and converted to a middle school); *supra* note 212 (Historically African-American Dillard High School closed and converted to an elementary school) and *supra* note 214.

cial change concluded the destruction of African-American schools and began the non-education of African-American students. As a result, a significant percentage of African-American students and parents lost faith in public education in North Carolina and in the fairness and equality of the desegregation process. It became clear to many in the African-American communities that their schools and children's educational futures were sacrificed in the name of *Brown v. Board of Education*.

XI. THERE WAS RESISTANCE IN DURHAM

Every African-American community did not accept a decision by their school board to destroy their African-American school. For example in Durham, a politically impactful community, under the guidance of the Durham Community on the Affairs of Black People, successfully fought against the destruction of Hillside High School.²⁷⁴ Hillside was one of those African-American institutions that enjoyed a storied history and had produced graduates who made significant contributions within North Carolina and around the country.

The Durham African-American community had a history of political activism, economic independence and a large stable, educated middle class. It was the home of the North Carolina Mutual Life Insurance Company, Mechanic and Farmers Bank and was considered as the "Black Wall Street" of the south.²⁷⁵ Additionally, citizens from that community had regularly engaged in protest efforts to confront various instances of racial discrimination throughout its history.²⁷⁶

In 1950, the City of Durham had twenty-two public schools.²⁷⁷ Of those schools, fourteen (14) were for White students and eight were for African-Americans.²⁷⁸ Included in this number were two senior high schools and three junior high schools, which enrolled 10,665 students.²⁷⁹

274. See generally Durham Committee on the Affairs of Black People.

275. Mark Roberts, *Durham Home to Original "Black Wall Street,"* WRAL (Feb. 25, 1999), <http://www.wral.com/news/local/story/139037/>.

276. See, e.g., Violence Erupts During Durham, N.C., Protest; Negroes Demonstrate Over Orangeburg, S. C., Deaths — Three Men Arrested, N.Y. TIMES, Feb. 16, 1968 (200 Durham residents marching to protest the recent deaths of three African-American men in South Carolina); Over 1,200 Negroes Arrested in Greensboro and Durham, May 21, 1963, The Times-News, available at <http://news.google.com/newspapers?id=sQ0eAAAIBAJ&sjid=Qk4EAAAIBAJ&pg=4461,1005637&dq=durham+protests&hl=en> (More than 800 African-American protestors arrested during a city-wide sit-down in front of segregated restaurants).

277. Amanda Truelove, *The History of Education in Durham, NC, 1950*, DIGITAL DURHAM, 1 (2011), available at <http://www.duke.edu/web/digitaldurham/AmandaTruelove/1950DurhamSchoolsPaper.pdf>.

278. *Id.* at 2.

279. *Id.* at 1.

Soon after the *Brown v. Board of Education* decision, Civil Rights attorney Floyd McKissick unsuccessfully sought to enroll his daughter, Jocelyn McKissick, and Elaine Richardson, a classmate, in the segregated Durham High School.²⁸⁰ As a result of continuing political pressure, the Durham School Board relented in 1959 and allowed eight African-American students to attend previously all-White schools.²⁸¹ In 1960, Jocelyn McKissick and Henry Vickers became the first African-Americans to enroll in and graduate from Durham High School.²⁸² The other six African-American students were assigned to two junior high schools.²⁸³ Despite this effort, only a few African-American students chose to follow their lead by enrolling in all-White schools and no White student sought to enroll in one of the African-American schools.²⁸⁴

In response to the Freedom of Choice law enacted by the North Carolina General Assembly, the Durham School Board in 1965 advised African-Americans that they could now attend any school in the City and their requests to do so would be immediately honored.²⁸⁵ Nevertheless, it was not until 1970, following a successful lawsuit that desegregation began.²⁸⁶ By this time, the Durham population had shifted and African-Americans constituted a significant political force within the City. Not only did the African-American community have considerable political clout, its young residents were aggressively challenging every area of segregation that had been present in the City.²⁸⁷

With this background, it successfully halted efforts by the Durham Board of Education to destroy Hillside High School and re-distribute its students to previously all-White schools.²⁸⁸

Hyde County Resistance:

Without the political sophistication of Durham, the African-American community of Hyde County also fought a successful battle to pre-

280. See *McKissick v. Durham City Bd. Of Educ.*, 176 F. Supp. 3 (1959).

281. *Durham Civil Rights Heritage Project*, DURHAM COUNTY LIBRARY, <http://www.durhamcountylibrary.org/dcrhp/timeline.php> (last updated July 14, 2008).

282. JEAN BRADLEY ANDERSON, *DURHAM COUNTY: A HISTORY OF DURHAM COUNTY, NORTH CAROLINA* 434 (1990); see also Truelove, *supra* note 277, at 3-4 (noting a picture of Henry Vickers being escorted into Carr Junior High School by Evelyn McKissick).

283. Truelove, *supra* note 277, at 3.

284. Peter Wallenstein, *Youngest Combatants of the Second Civil War: Black Children on the Front Lines of Public School Desegregation*, NEWSLETTER OF THE SOCIETY FOR THE HISTORY OF CHILDREN AND YOUTH, Summer 2004, available at <http://www.h-net.org/~child/newsletters/newsletter4/Wallenstein6.html>.

285. Anderson, *supra* note 282.

286. See *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1971) (holding that state-imposed segregation needs to be eliminated).

287. See, e.g., *supra* note 281.

288. Durham Committee on the Affairs of Black People.

vent the destruction of its African-American high schools. Led by Golden Frinks, the field secretary for the North Carolina chapter of the Southern Christian Leadership Conference (SCLC), that community organized itself to resist the school board's efforts to close its two African-American schools, Peay and Davis.²⁸⁹

Soon after the 1964 Civil Rights Act was signed, HEW began to press the Hyde County School Board to desegregate its schools.²⁹⁰ In response, the school board enacted a "freedom of choice" plan, but no White students enrolled in the African-American schools and only a few African-American students enrolled in the all-White schools.²⁹¹ Those students who enrolled were confronted by aggressive efforts, led by the Ku Klux Klan (KKK), to discourage African-Americans from attending the White schools.²⁹² The Klan held public rallies, conducted night raids, issued death threats to African-Americans and physically intimidated those few Whites who favored desegregation.

In 1965, twenty-one (21) African-American students crossed the line and enrolled at the all-White school, Mattamuskeet High School.²⁹³ It became clear immediately that they were not welcomed as White students harassed them and White teachers ignored and supported efforts to intimidate the African-American students. As a result, some of the African-American students performed poorly academically and were expelled from school when they sought relief from the violence and intimidation that was directed toward them.²⁹⁴ It is reported that one student who stayed home from school to avoid this harassment by Whites was expelled for truancy.²⁹⁵ In the 1966-1967 academic year, only seven African-Americans attended Mattamuskeet High School and this number decreased to three for the 1967-1968 academic year.²⁹⁶

In 1968, HEW Officials sought to cut off federal funding to the school district and this threat convinced the school board to agree to a full desegregation plan, which called for the closing of both African-

289. Cecelski, *supra* note 225, at 130.

290. *Tear Down These Walls: 1954-1980*, NORTH CAROLINA MUSEUM OF HISTORY, <http://ncmuseumofhistory.org/workshops/civilrights1/Session3.html> (last visited Mar. 18, 2013).

291. *Id.* (eighty-five percent of Black students continued attending historically Black schools and no White students sought to transfer to those schools).

292. Cecelski, *supra* note 225, at 41.

293. See Cecelski, *supra* note 225, at 33 (detailing Hyde County's desegregation struggle).

294. *Background Essay: Hyde County School Boycott*, TEACHERS' DOMAIN, http://www.teachersdomain.org/resource/viewtext_printer_friendly/resource/2827 (last visited Mar. 18, 2013); see also Cecelski, *supra* note 225, at 35 (discussing Black students' performance below their abilities and uncharacteristic disciplinary problems).

295. *Background Essay: Hyde County School Boycott*, *supra* note 294; Cecelski, *supra* note 225, at 35.

296. Wallenstein, *supra* note 284.

American high schools.²⁹⁷ When the African-American community learned of this plan, they appealed to the local school board and when the school board refused to re-consider the plan, an appeal was directed to HEW.²⁹⁸ HEW refused to intervene.²⁹⁹ In response, the community organized a boycott of the schools, which lasted for the entire 1968-1969 academic year.³⁰⁰

During that year, parents and students engaged in sit-ins at the board of education and the local courthouse, and organized marches, which resulted in the arrests of large numbers of parents and students.³⁰¹ These protests resulted in a decision by the school board in 1969 to keep Peay and Davis High Schools open.³⁰² Thereafter, the African-American community's leadership worked with the local board to devise an acceptable plan to desegregate.³⁰³ A major part of this desegregation plan was created by a biracial committee of students and faculty who worked together to shape a plan, which involved every aspect of the school's life, and insured equality of opportunity for all of the students.³⁰⁴ For example, if a White student ran for student government president, he or she had to have an African-American vice presidential candidate and vice-versa.³⁰⁵

Although, African-Americans were able to prevail in the short-term in Hyde County, the long-term results were as devastating as it was in other parts of North Carolina.

Like Lenoir County, where Frink High School is located, the Hyde County School Board was all-White and had no interest in placating the restless, and by now resistant African-Americans, by seeking to appease them in any way. Because they had the power to do so, White school officials, administrators, teachers and students were determined to make African-Americans pay dearly for the perceived victory in *Brown v. Board of Education*. Leon Hall, a civil rights

297. *Background Essay: Hyde County School Boycott*, *supra* note 294.

298. *Id.*

299. *Id.*

300. *Id.*

301. *Id.*; see also Cecelski, *supra* note 225 at 141 (discussing the arrest of several young people for "blocking traffic" including one of the boycott's organizers, Golden Frinks, who was arrested for contributing to the delinquency of minors during the boycott's March to Raleigh).

302. Cecelski, *supra* note 225, at 158-59. (During a special election held on November 5, 1969, Hyde County voters voted down a bond referendum needed to expand Mattamuskeet High School in order to make room to move all Black students into that school. As a result, the School Board's second choice, was to convert O.A. Peay and the Davis school into elementary schools and have Mattamuskeet serve as the county's high school.).

303. *Id.* at 151, 160.

304. *Id.* at 151 (Then Superintendent Singletary appointed a biracial Better Education Committee to review desegregation possibilities with him along with HEW and various state officials).

305. *Id.* at 160-61.

organizer and writer for the "Southern Exposure" magazine summed up the White resistant strategy:

They have decided to handle desegregation in a way that makes the price [B]lack communities must pay so high that [B]lack citizens themselves will stop pushing for desegregation and ask: is it worth it? Many [B]lack parents are forced to raise this question when they look into the eyes of their children, eyes that once held gaiety, spontaneity and joy and that now show sadness, frustration and anger. Is it worth sending children to encounter teachers who don't respect their personhood? Is it worth having children tested in a way that labels them slow learners or educable mentally retarded or uneducable?³⁰⁶

XII. CONCLUSION

The foundation of the African-American school system was based on four basic and inseparable principles: (1) the schools were dedicated to maximizing the potential of every student who was enrolled in or assigned to that institution; (2) parents were strong, active supporters of the teachers and administrators because they had faith in and respect for their leadership and trusted them to prepare the students for life after graduation; (3) the African-American community was a prime stake-holder in the educational institution because it was able to progress through the leadership and knowledge which were provided to its children; and (4) African-American teachers were dedicated to providing the very best educational course of study for every student who came into the school and they served as extended family members to their communities.

The consequences of this deliberate and diabolic plan to destroy African-American schools were devastating to African-American communities, students, teachers, former administrators and for the future educational needs of the entire race. On this point, Cecelski summarized the results.

The consequences of losing [B]lack schools and educational leadership proved far-reaching. Though many white educators taught [B]lack students with dedication and without prejudice, southern school leaders in general acted determined to fetter [B]lack talents and aspirations within the desegregated institutions. They tracked [B]lack children into lower-ability, vocational, and special education classes at disproportionate rates, leading to virtual segregation within many schools. Many school districts even designed segregated bus routes and excluded [B]lack students from certain extracurricular activities. Black students also encountered other classroom problems, including hostile attitudes, high rates of suspensions and expulsions, low academic ex-

306. Leon Hall, *The Implementor's Revenge*, SOUTHERN EXPOSURE, Summer 1979, at 123.

pectations, and little encouragement to prevent them from dropping out.³⁰⁷

When faced with the common practices, which Cecelski described, African-American students rebelled and fought back. Already angered by the closing of African-American schools and the loss of teachers, administrators and coaches, the students who entered desegregated schools were not in a mood to accept the deliberate demeaning attitudes and racist conduct which they encountered. Because of this treatment and the aforementioned history, African-American students lost faith in and respect for the educational process. This loss of faith and respect has not been restored to date.

The destruction of the African-American schools permanently destroyed the bond that made the education of African-American children work. Prior to desegregation, everyone in the African-American community had a deep, abiding faith in and a profound respect for those who worked in the schools. The African-American community also knew that these individuals were dedicated to improving the lives of every African-American student. That bond was broken and the breach has never been restored.

As a result, the education process today suffers from and reports the exact same deficiencies, which arose as a result of the intentional efforts by White school officials to destroy African-American schools and retard future educational efforts for African-American students. Many scholars are beginning to recognize that something very valuable to African-American students was lost in the desegregation discussions and the subsequent changes thereof: the spirit of community, commitment and pride. Unless these very important features are restored in our African-American students, we will continue to see the negative consequences of the desegregation of public schools.

307. Cecelski, *supra* note 225, at 170.