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THE APPLICATION OF THE DECISION IN
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NON-JUDICIAL DETERMINANTS INVOLVED IN THE IMPLEMENTATION OF A JUDICIAL DECISION WITH SPECIAL REFERENCE TO THE APPLICATION OF THE DECISION IN BROWN V. BOARD OF EDUCATION IN TWO LOUISIANA PARISHES

DISSERTATION

Presented in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy in the Graduate School of The Ohio State University

By

Rodney Alphonzo Burrows, B.S., A.M.

The Ohio State University 1969

Approved by

[Signature]

Adviser
Department of Political Science
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VITA

February 15, 1930 . . . . Born--Bahamas, British West Indies

1953-1955 . . . . . . . . Military Service, United States Army, USA, Japan

1958 . . . . . . . . . . . B. S. Hampton Institute, Hampton, Virginia, Major: History

1960 . . . . . . . . . . . A. M. University of Illinois, Champaign, Illinois, Major: Political Science

January-June 1960 . . . . Instructor, West Charlotte Senior High School, Charlotte, North Carolina

1960-1966 . . . . . . . Instructor, Southern University, Baton Rouge, Louisiana

1966- . . . . . . . . . . Assistant Professor, Southern University, Baton Rouge, Louisiana

FIELDS OF STUDY

Major Field: Constitutional Law

Public Law. Professors Francis R. Aumann and Jack Peltason

Political Theory. Professors Austin Ranney, David Spitz, Harry Jaffa and David Kettler

Public Administration. Professor Harvey C. Mansfield

Legislation. Professor Harvey Walker

Political Parties, Pressure Groups and Public Opinion. Professors Austin Ranney, Allen Helms, Lawrence Herson, James Christoph and Charles Hagan

Comparative and Foreign Governments. Professors James Christoph, Louis Nemzer, Kazuo Kawai and Robert Scott.

State and Local Government. Professor Clyde Snyder

Methodology. Professors Charles Hagan and Lawrence Herson
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CHAPTER I

INTRODUCTION

Importance of the Problem

In 1954, the United States Supreme Court decided the case of Brown v. Board of Education, holding that segregation in public education was unconstitutional. For more than a decade, the task of implementing this decision has been a difficult national problem. The decision was hailed by civil rights advocates as a great step in the right direction. They saw the problem of school desegregation and integration as but one phase of a broader problem, the struggle for equal justice and opportunity for minority groups—particularly the Negro—which marks the latest in the long struggle of America toward a genuine working democracy. They also thought that the key to solving the whole range of national problems arising from racial prejudice was to be found in a fair solution to the problem of inequality of education. To them without educational equality, there could be neither equal opportunity in employment nor real equality at the ballot box. Moreover, if equal educational opportunity was to be established, the desegregation and integration of American schools was an indispensable step.¹

Foes of the Court's decision were vociferous in their criticism of the decision and of the Court for rendering it. In a foreward to a book written on the subject by W. E. Michael, Senator Richard Russell of Georgia spoke for the critics of the decision as follows: "For the first time in its history, our highest court abandoned law and precedent as a basis of legal ruling and undertook to wipe out the constitutions and laws of many states by a decision based on writings and reasoning of psychologists and pseudo-psychologists." In 1956, a group of representatives and senators from eleven Southern states presented to Congress a statement strongly criticizing the Supreme Court for its 1954 ruling. This Manifesto, as it came to be called, expressed the sentiments of the 101 signers on the Court's decision, and it served as a "part of the plan of massive resistance" sponsored by the segregationists.

Some members of the legal profession criticized the decision for the confusion it would cause by its lack of demand for uniform application and for its invitation to evasion and delay. Others criticized the Court for legislating in an area that was traditionally the domain of local jurisdictions. The criticism, controversy and discussion continued in both legal and educational circles.

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3 Humphrey, *op. cit.*, p. 32.
In the state of Louisiana prior to 1960, there had been no desegregation in the public schools below the college level. That fall, after constant litigation for the implementation of the Brown case, the Orleans Parish School Board was ordered to desegregate the first grade. Although the school board had resisted diligently prior to 1960, when the Federal district court desegregation order became final, four of the five elected board members agreed to go along with the order and began to make preparations for orderly desegregation. Mayor de Lesseps S. Morrison backed by various and substantial citizens of the city, agreed to go along, also. Those willing to concur counted on Federal support. They also hoped that when President Kennedy took office he would throw the weight and prestige of his office behind any desegregation efforts. They also had the support of the Roman Catholic Church, which counted more than half of the white citizens of the city as members. In addition they had the backing of white Protestant civic and religious leaders of the city. But at the state capital, legislative leaders demanded that the governor and other state officials act to prevent New Orleans from desegregating. The legislature was called into special session and adopted a package of segregation laws, all designed to maintain segregated schools. Despite legislative and group opposition some desegregation has taken place in Orleans and East Baton Rouge Parishes.


Scope and Purpose.

The investigation made in this study will concentrate on the activities involved in desegregating the public schools in Orleans and East Baton Rouge parishes since the early 1960's. Accordingly, all of the relevant activities of the Federal courts, of governmental bodies at the national, state and local levels and of non-governmental groups, which significantly affected the process of devising and implementing a desegregation policy and the policy that was finally devised and its progress, will be described and analyzed.

Secondly, any other relevant factors, ecological, biological, psychological and social of the specific milieu of these cities, which operated to affect the kind of policy that was made, will also be examined.

Through an investigation of the school desegregation problem in these two cities, the writer hopes to be able to make some kind of conclusions and generalizations concerning the following:

1. The proper role of the Federal courts in the policy-making process generally, and the extent to which the lower Federal courts were involved in implementing the Brown decision in two Louisiana parishes, specifically.

2. The extent of non-judicial governmental influence in the implementation of the Brown decision in Orleans and East Baton Rouge Parishes.

3. The degree of non-governmental involvement in the implementation of the Brown decision in Orleans and East Baton Rouge Parishes.
4. The status of school desegregation, its success or failure, through 1968 in these two parishes.

Some Assumptions

1. The assumption is made in this paper that change in the structure, function and procedure of the American educational system, or in any of the fundamental American institutions, cannot be accomplished by government alone. The efforts then, of one branch of one level of the American Federal government—the Federal judiciary—was not sufficient to bring about a change in the structure, function and procedure of the public educational system below the college level in the South. The "token" desegregation that was to come later throughout the South was the result not only of judicial efforts of the Federal judges in this area, but also of the efforts of other governmental authorities at the national, state and local levels.

2. The solution of social problems anywhere, as evidenced by the efforts to improve racial problems in the South generally, and to bring about a change in the educational system of the South to accommodate all of its children without regard to race, inevitably involves non-authoritative participation. In the case of school desegregation, this participation included groups, individuals and institutions with economic, political, ethnic and religious interests and biases.

3. In addition, any success in desegregating the schools was dependent upon the economic and educational development and the political social and psychological maturity of the communities to be desegregated.
4. In spite of the fact that those who fought against desegregation had more resources to employ in their cause and seemed to work harder against desegregation than those favoring it—desegregation—school and otherwise, even in the Deep South, will continue to make some progress, because those forces—economic or political—which were responsible for breaking the symbol of segregation should continue to be influential in coping with and bringing about some resolution of the problem of desegregation not only in the schools but elsewhere.

Methodology

Implementation viewed as decision making.—When the Supreme Court decided that the practice of school systems segregating children on the basis of race was unconstitutional and should be stopped, it rendered a decision in which it committed the nation to an objective—desegregation. But decisions or commitments are not worth the paper on which they are written unless they are implemented. The job of implementation was left by the Court partly to the school systems to be accomplished "with all deliberate speed." If an analogy is made here with a determination in a criminal decision, the Court allowed the school systems to pay their fines and serve their sentences when it was most convenient for them to do so. Some school systems in the Border States agreed to comply voluntarily, some in the South said maybe, but in the Deep South they said "never," and had to be forced into compliance.

Implementation was an objective that occasioned decisions by more bodies than the courts. It necessitated decisions on the part of
school systems and communities as to whether they would comply or refuse to comply and "fight."

This study provided an opportunity to observe the policy-making process, generally, and how it operated in the making of this specific decision. The systemic approach widely discussed by political scientists like David Easton and others will be utilized as a method for analyzing the decision-making activity involved in the implementation of Brown in these two parishes. In short, the activity involved in this specific decision making process will be viewed as a system of interactive and interrelated behavior.

Unites included in the system of behavior.--Preliminary research involved the identification of the most relevant units comprising such a system. Included are all the official and unofficial actors, groups, institutions, and agencies such as the NAACP, school boards, lower federal courts, White Citizens Councils, the state legislature and other participating groups. They are included because their activities of demanding, opposing, supporting, devising and supervising—all designed to frame some positive or negative policy regarding the implementation of the Brown decision in these two parishes were relevant to the outcome of implementation. The school boards were included

because they, with their administrative agencies and personnel are the officials who were really supposed to frame and implement a policy. The lower Federal courts were included because they, in their capacity as supervisors of the making and implementing of this decision, were to see that the decision and the implementation thereof by the boards adhere to certain prescribed legal standards.

The activities of the NAACP, the White Citizens Councils, the state legislature, the federal government and other groups, are viewed as either "demands" or "supports" that will affect the outcome of the policy made by the authorities. The prime demanding group, of course, was the NAACP which acted in the name of its clientele—Negro students, who demanded that the authorities change the educational system of these parishes to accommodate them without regard to race. Support for their demands came from federal officials and other groups. The White Citizens Councils and the state legislature's activities were geared toward supporting the educational system as it then existed—at maintaining the status quo, and opposing the NAACP and its demands. The study will attempt to determine and explain the specific effect of each of these opposing forces.

A system of political activity is influenced by its environment. A system of political activity, like any political system, it is assumed here, is subject to environmental influences, and in return affects its environment. An attempt will also be made to see what influence or effect certain environmental factors, such as economic, social, political and psychological, had on this system of action.
An attempt will also be made to determine, what effect, if any, an operating desegregation policy has had on these communities, in the way they have accepted and adjusted to desegregation, if there has been any integration.

**Political activity viewed as group activity even before the judiciary.** Although a system of political behavior is constituted by elements other than groups, political behavior is to a great extent, group behavior. It can be seen as the behavior of individuals, singly or in numbers, representing organizations or groups. The system of activity designed to bring about change or reach specific goals within a social or political system, is usually group activity. The activity designed to bring about a policy whereby the educational system of the schools of these two parishes were to be changed so as to accommodate all students without regard to race was group activity.

Arthur F. Bentley observed long ago that the policy process could be clearly understood only if it is looked at through the activity of specific groups which are insisting on the passage or defeat of a particular policy. This approach is not only fruitful in observing interest groups which bring pressure upon the two political branches of government—the legislative and executive—but, also, in observing interests which bring pressure upon the judiciary and the bureaucracy. According to Bentley, the influence of groups on the judiciary can be detected with relative ease in exceptional cases, as when the Court strikes out on a new line of precedent, or gives a decision of a kind
which ten years earlier could not possibly have been rendered. He
saw most of the early principles set forth by the Marshall Court as group
principles. 7

For some time now, contemporary scholars have been studying the
extent of group pressures on the judiciary. Studies by Jack W.
Peltason, Gordon Patric, Frank Sorauf and Clement Vose are among some
of the more notable. To them, the political process can be looked at
as group process or group conflict. Judicial cases, in their way of
thinking, began as a result of conflict among social groups for whom
certain individuals may be spokesmen and in whose name they act. More­
ever, a legal struggle, for them, is a continuous process. They see
the interaction out of which a lawsuit arises as merely one stage in
this process. What happens after a court announces a final decision
in a case, to them, is of equal importance to the resolution of the
conflict between the real parties. They suggest that attention should
be paid to this phase of the judicial struggle, also, since groups at
this stage continue their efforts to manipulate the judiciary. 8

Professor Peltason, in his studies, found that groups have many oppor­
tunities to make their influences felt in the enforcement of a court's

7Arthur F. Bentley, The Process of Government (Bloomington,

8Glendon Schubert, Judicial Decision-Making (New York: The Free
decision. To him "all the activity--enforcement, postdecisional inter-
pretation, possible reversal by some other agency or the judges them-
selves--which follows a judicial decision is part of the story of group
conflict, the story of the political process." He reiterates this
concept in the concluding chapter of his, Fifty-Eight Lonely Men.

Gordon Patrie, in his study of the activities involved in implementing
the decision in the McCollum case, found that the degree of compliance
with the decision was determined by the environment and the group it
was intended to affect immediately. Frank Sorauf found that the im-
pact of a decision will depend on many individuals and circumstances
far beyond the confines of the Court. For example, he found that the
Zorach precedent "represented a continuation and extension, rather than
a resolution, of conflict in the arena of church-state relations. By
altering the balance among the contending interests, the decision re-
framed the issue, shifted somewhat the focus of conflict, triggered
new interest group activity, and brought other policy-making organs
into action." 

It is the assumption of this paper that the payoff for groups
who influence policy is to a great extent a result of the resources

9 Jack W. Peltason, Federal Courts in the Political Process (New

10 Gordon Patrie, "The Impact of a Court Decision: Aftermath of

11 Frank J. Sorauf, "Zorach v. Clauson: The Impact of a Supreme
Court Decision," American Political Science Review, LIII, (1957),
777-791.
they employ—the strategy they use. Clement Vose has made some extensive studies of the attempts of groups to influence courts. As a result of his study of the activities of the American Liberty League, The National Consumer's League, the National Association for the Advancement of Colored People, he concluded that the important place of judicial review in the American system of government and the attention demanded by litigation dealing with large issues of public law have drawn organizations into many important court cases. He also found that groups participate openly, filing briefs as "friend of the court," aiding individuals in whose name "test cases" have been brought, and providing assistance to government attorneys defending statutes in which they had interests. In this paper an attempt will be made to determine the extent of the use of similar and additional strategy by the NAACP, school boards and other groups in their attempts to influence the federal courts in Louisiana to go along with their particular demands—desegregation or segregation.

Although the school boards of Orleans and East Baton Rouge parishes are formally agencies designed to formulate educational policies for their parishes, they were the main adversaries of the NAACP in the desegregating struggle before the federal judges. Moreover, it does not seem unrealistic to look at the school boards as agencies which reflected mainly, at the beginning of these struggles, the interest

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tendencies of the majority of the white population on the issue of desegregation. It is assumed here that school boards and school administrative agencies not only formulated and administered school policy but often resembled and behaved like pressure groups. They attempted to influence public opinion and the actions of other levels of policy makers in promoting the interests of their members and of related groups.\[^{13}\]

For the purpose of this study then, these school boards will be viewed as interest groups, as adversaries who utilized all their resources,—such as their finance, prestige, leadership, relations with other organized groups, with national, state and local organs of government,—in an attempt to influence the federal judges to sanction their demands, either for the maintenance of segregation or a temporary postponement of desegregation. It is also assumed that the NAACP utilized all of its resources to influence the federal judges to sanction its demands for a liberal desegregation policy. The study will attempt to identify and analyze the kind of resources these groups employed and how effectively they were used. In addition, an attempt will be made to determine the kind of support that was marshalled either for segregation or desegregation.

Activities of judges seen as group activities.--The judiciary itself could be looked at as indirectly having group leanings, or leanings that happened to be favorable to one side or the other. C. Herman Pritchett has studied the attitudes of judges on public issues. To him their choices, like those of other human beings, are significantly affected by their attitudes toward the issues of public policy and by other psychological stimuli presented by cases which they are asked to decide. There are sufficient alternatives available to allow judges to write their particular predilections into the law without being arbitrary. Walter Murphy has outlined a persuasive catalogue of the alternatives available to judges who desire to render decisions based on their personal philosophies. On the basis of this writer's preliminary acquaintance with the desegregation issue and the role of the courts therein, especially the role of Federal district judges, it is assumed that many of their decisions and actions in the conduct of their duty are the result of their predilections for the economic, political and social ideology of specific groups. This writer will attempt to detect and analyze any group interests and ideologies which influenced the supervising activities of the Federal judges as they attempted to solve the desegregation controversy in Orleans and East Baton Rouge parishes.


Sources.—In studying this problem, the contemporary written records of what went on were the major sources depended upon. All the pertinent official records—state and national—were utilized.

Three sources, Race Relations Law Reporter, a publication devoted to reporting the legal progress in race relations, New South, devoted to problems in race relations generally, and Southern School News, a newsletter devoted primarily to reporting the progress in school desegregation, published monthly since 1954, have all been very helpful. In addition, the local newspapers of the two parishes under study were utilized.

From the voluminous body of literature on the subject, any theories, scholarly critiques, or knowledgeable accounts by judges and public officials, regarding the proper role of the federal courts, especially the role of the Supreme Court in the American system of government, that seemed appropriate, were utilized.

The attitudes of the Negro leaders of these two parishes regarding school desegregation specifically, and the solution of the racial problem generally, seemed important as an indicator of the pattern of race relations. A questionnaire designed to capture this attitude was sent to a representative sample of the Negro leaders in both parishes. This questionnaire was necessary because the Negro's version of the story was the only one not widely publicized in the news media.

The Negro leaders who were polled in this study were selected by the following procedure. A list of the Negro leaders in these communities was obtained by sending an opinionnaire, which is included in
the Appendix, to the commonly recognized leaders. They were asked to list the Negroes they considered leaders in six areas, business, education, labor, law, medicine and religion. There was an almost perfect corresponding of the commonly recognized leaders and those who were named as real leaders. The Baton Rouge respondents to the opinionnaire, named a total of twenty leaders while the New Orleans respondents named a total of twenty-five, making an overall total of 45 Negro leaders for both parishes.

Questionnaires were sent to 15 leaders in each parish. Twenty of these leaders, ten from each parish, responded by answering all the questions. Any of their responses will be referred to and utilized throughout the study, when they are appropriate to a particular segment of the study. The results will be presented in percentages.

In addition to the questionnaire, mimeographed materials received from some of the Negro organizations and the Superintendents' offices in both parishes were utilized.
CHAPTER II

THE JURISDICTION AND OBLIGATION OF THE COURT
IN THE SOLUTION OF THE NATION'S SCHOOL
SEGREGATION PROBLEM

The Court's Role Criticized and Defended

The Supreme Court's decision invalidating segregation in public school education brought varied reactions. Americans varied from the enthusiastic, to those mildly disposed, to those with mixed feelings, to the extreme and violent anti-court crowd. There were questions about what the Court really did, why it did it, the reasonableness and efficacy of the decision, and from the anti-court criticizers, its lawfulness.

The kind of violent disagreement and debate which followed the Brown decision is not new in American Society. J. Patrick White has pointed out that:

...on four occasions in the past history of the United States the role of the Courts in American life has been an issue of bitter controversy: in the early years of the nineteenth century when Chief Justice Marshall's nationalistic pretensions and assertions of judicial authority aroused the ire of President Jefferson and his followers; on the eve of the Civil War when the Supreme Court attempted to resolve the slavery question on terms unsatisfactory to the popular majority; during the progressive era from 1901 to 1917 when the decisions of the state and federal courts threatened the movement for social justice, and during the mid-1930's when much of the economic and social legislation
of the New Deal temporarily foundered on the rocks of judicial conservatism.¹

These landmark decisions always seem to provoke a new debate on the proper role of the Supreme Court in American society. They center on the intent of the framers toward the particular problem at hand, and whether the Court overstepped its authority in deciding the issue. In most cases the disagreement has been over the way the Court decided, not its right to decide. Both the plaintiffs and the defendants in the School Segregation Cases, revived this debate. A review of this debate seems important to this study first, because it points up the role of the federal judicial system in American society and second, because it might help determine whether that role justified the Court's attempt to help solve the segregation issue to the extent that it did in the Segregation Cases.

Hamilton's conception of the Court's role.--One of the foremost authorities writing on the meaning of the Constitution and its intention before it was adopted was Alexander Hamilton. His views are respected and used by both opposers and defenders of the Court. They are important because some of the questions he grappled with are still being asked about the Court today. Hamilton in Numbers 78-83 of the Federalist, gives one of the most informed accounts of the proposed judicial system, ever presented. He was in a good position to know

generally what was intended and what the place of the Court would be.
He predicted in a general way both its weaknesses and its strengths.
He conceived of a Court with certain powers, functions, duties, and
qualities, but bounded by restrictions. As to its powers, in "No. 78"
he stated that the Court was the least powerful and dangerous branch
of the new government. It had neither force nor will, but merely
judgment. The powerful factors of influence in the society--"the
sword and the purse"--were under the control of the other two
branches.

But the Court, according to him, did have the power of review
and herein lay its importance. First, he saw as the Court's main
duty, the protection of the Constitution. He wrote in "No. 78 of
the Federalist:

A Constitution is, in fact, and must be regarded by
the judges as, a fundamental law. It therefore belongs
to them to ascertain its meaning as well as the meaning
of any particular act proceeding from the legislative
body. If there should happen to be an irreconciliable
variance between the two, that which has the superior
obligation and validity ought, of course, to be preferred
to the statute, the intention of the people to the in-
tention of their agents.\(^2\)

This seems to mean, in Hamilton's way of thinking, that while the
Constitution is the will of the community, in fits of passion even
the community can forget its objectives decided on in times of reason.
In such instances of madness on the part of the citizenry, the Court's
role was to guard the people's Constitution even from themselves.

\(^2\) Alexander Hamilton, James Madison and John Hay, The Federalist
Papers (New York: A Mentor Book Published by the New American
Again in "No. 78" of The Federalist he wrote:

...until the people have, by some solemn and authoritative act, annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge of their sentiments, can warrant their representatives in a departure from its prior to such an act.3

This seems to be the situation which obtains today. Moreover, this is in essence what the Court insisted on in Brown when it demanded that the nation adhere to its constitutional objective of equality.

If the judges are to guard the Constitution from the other agents of the government and even sometimes from the community itself, who are to guard the guardians, the Court? To some extent, the other branches, by constitutional and political restrictions would assume this role. Hamilton anticipated for the Court, because of its special and uncommon nature, a special role in American society. So he thought that the nature of the judicial function, the special training necessary for this function, the judges' conception of their special role in the society, the special qualities and character of the men who would be appointed to the bench and most importantly, the rules and procedures that they must follow, would be sufficient to keep them in check. 4

The argument of the opposers.—Reputable scholars, legal and academic, have endeavored to show that judicial review either was or was not intended. Opponents of the present Court's role range from those who believe that judicial review was intended but limited, to

3Ibid., p. 470.

4Ibid., No. 78.
those who think that the Court's present power is a result of a
deliberate coup by members of the judiciary. One of the staunchest
anti-judicial-review-critics was Louis Boudin, a New York lawyer.
According to him, judicial review was not intended by the constitu­
tional fathers because judicial review of legislation regularly
enacted by the legislature did not exist at the time of the American
Revolution and because neither the Constitution nor the members of the
Convention who wrote it, give any evidence that the judiciary was to
have control over federal legislation. In addition he contends that
there was no evidence to suggest that the framers intended to confer
upon the judiciary anything approaching the degree of control over
state legislation which in later times the judges came to exercise.
The modern status of judicial review, as he saw it, had reached a
proportion completely out of bounds. All restraints had been abandoned
and there was judicial despotism with no rules of interpretation.\(^5\)
Since Brown and other liberal decisions dealing with individual rights,
similar and harsher charges have been leveled against the Court.

The legitimacy of the practice of judicial review is still
questioned by contemporary scholars such as Professor Charles S. Hyneman.
After reviewing all the arguments pro and con to be found in the litera­
ture and elsewhere, he is still not convinced that the practice of judi­
cial review as it is presently exercised was contemplated by the makers
of the Constitution.\(^6\)

\(^5\) Louis Boudin, "Government by Judiciary," *Political Science Quarterly*, XXVI (June, 1911), 238-270.
Some statements in support of judicial review.--The role of the Court in the exercising of judicial review has its defenders as well as critics. For example, Charles Beard, a leading political scientist has set forth much circumstantial evidence that members of the Constitutional Convention were aware that the judicial power might involve considerable control over legislation. He could not agree with those who thought otherwise since, (1) the essence of judicial control was that the judiciary, rather than the legislative or executive department was best fitted to pronounce the final word of interpretation on the Constitution; (2) the great justice, John Marshall, who made the theory of judicial review operative had an excellent opportunity to discover first hand the intentions of those who were instrumental in framing the Constitution; (3) the doctrine of judicial control was a familiar one in legal circles throughout the period between the formation of the Constitution and the year 1803 when Marshall decided the case. Moreover, review by the Judiciary Committee of the Privy Council of Appeals from the colonies was a strong precedent from colonial times.\(^7\)

William W. Crosskey supports this thesis. According to him, the popular notion at the time of the framing of the document was that the Court would have this authority.\(^8\)


Charles Black, a modern advocate of an active Court, points to phrases and clauses of the Constitution to support his contention that judicial review was intended. According to him, if the Constitution is accepted as law, then the doctrine of judicial review, if not a logically necessary consequence, is at least a strongly suggested consequence. Moreover, he points out that it is stated in the Constitution quite unequivocally that the Constitution is to be regarded as the supreme law of the land. It commences as law, its language is the language of legal command. He concluded that if it is law then it must be applied by judges. And so the arguments go.

Legitimate or illegitimate, it is a fact that judicial review and an active role by the judiciary in the policy making process were established long ago and any argument surrounding the circumstances of its conception at this stage is largely academic.

For those examining the judicial system at this stage, a more fruitful line of endeavor would seem to be to examine what the courts really do and why they do it than to concentrate on what they should do. An examination of what the Court has done and how and why it did it, may give us some basis for evaluation of what the Supreme Court did in the Segregation Cases.

Powers of the Court.—The Constitution is considered law, "the supreme law of the land." 10 In addition, it is stated and has been

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10 U. S., Constitution, Art. VI.
accepted that the judicial power should extend to all cases, in law and equity, arising under the Constitution and the laws of the United States.\textsuperscript{11} The Court's present-day power then, is not necessarily a result of a deliberate power-grab on the part of the Court. Marshall and his fellow judges long ago did much to expand the meaning of the constitutional phrases and clauses and to set the Court's power base and get it firmly established. Its present-day status results rather, indirectly, from its power to judge, which necessarily involves the power to interpret. In performing this function, frequently the Court has to deal with cases in which the meaning of the law is not clear. In such instances the Court has had wide discretion.\textsuperscript{12} It also has available a wide range of alternative interpretations by which it can incorporate the policy views of a majority of its members.\textsuperscript{13} The history of the federal judiciary indicates that the courts have been participating in the policy-making process since their beginning. So while the judiciary has been limited in theory by the Constitution and the jurisdiction it confers, in practice, it has been able by various techniques to adapt the Constitution to the ends it considered necessary. Its increasing policy-making role has been due in no

\textsuperscript{11} Ibid., Art. III, Sec. 2.

\textsuperscript{12} Francis R. Aumann, \textit{The Instrumentalities of Justice: Their Forms, Functions, and Limitations} (Columbus, Ohio: The Ohio State University Press, 1956), p. 34.


small extent to congressional default.\textsuperscript{15} The Court had to take the lead in solving the school segregation problem partly because of congressional default.  

The Court As a Member of the Federal Team  

Although there has been disagreement and conflict over the Court's proper role, there has been cooperation among the three branches of the federal team. That the Court has been able to solidify its position in the American system is due in no small part to this cooperation. As a member of the federal team, it has been looked to by the citizens and by the other branches of the federal government as a leading participant in the development of the nation's Constitution. So not only by judicial review but also by presidential practices and congressional elaboration the process of adapting the law to the demands of the times has gone on. If the Court at times assumes the leading role in this process, as it has done in the case of school segregation, it has not been without the knowledge and consent of the other branches and the people. Very early in the operation of the American system of government the judiciary, especially the Supreme Court, was called upon to settle disputes and was even considered as a kind of testing ground for political attitudes of all sorts.\textsuperscript{16} In

\begin{itemize}
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this role the Court has performed a useful function. According to
Robert Jackson, the Court has played a useful role as guardian of
individual liberties and of the balance between the branches. 17
Cooperation by the three branches of the federal government is
responsible for some success in school desegregation.

The present role of the federal judiciary is due, also, to the
present role of the federal system itself. For some time now there
has been a widespread acceptance of a more liberal use of govern­
mental power to accomplish social ends and social changes. The
judiciary like the legislative and administrative branches has shared
in the task of accomplishing social change and social ends with govern­
mental power. In many instances because of its semi-immunity from
political pressures the Court has had to take the initiative in sol­
ving some sensitive issues as it did in the case of segregation in
the schools. The Court's seemingly more active role merely proves
that it has come to accept this new role as a proper one. It has even
attempted to devise a philosophy of judicial action that has induced
it either to accomplish the necessary changes or at the very least, to
refrain from blocking the efforts of others from accomplishing them.

According to C. Herman Pritchett, there has been substantial support


for the Court in this role. He also suggested that the Court, without departing from constitutional fundamentals or impairing expectation of judicial stability, should accept this as a legitimate role. Others go as far as to suggest that judges have a duty to adjust old principles to new conditions. Sometimes the Court is accused of using its role in a conservative cause and sometimes in a liberal cause. But the Court has found it possible to sanction or not to sanction either of these causes by finding new judicial remedies or doctrines when necessary to achieve goals which it considers to be constitutionally justified, but which seems out of reach on the basis of existing law.

Court action demanded by the American people and protected by the working of the political system.--The Court's present role in the American system is also a result of political and demographic factors in the American life. For example, for a number of complex social and institutional reasons, political power in the American society is fragmented and political demands are made on all branches, including the Court. This is a kind of protective mechanism for the Court. It makes it difficult to assemble a combination of political groups to punish


20 Westin, The Supreme Court: Views from Inside, pp. 80-6.

the Court or to prevent its decisions from being carried out. Moreover, psychologically, the average American is proud of the Court which is seen as a kind of symbol of certainty and a protector of the American tradition of constitutionality. As the final conferer of legitimacy, groups have been eager to rush to it when they could not achieve their goals through legislative and administrative processes. Those desiring to end the practice of racial segregation in the schools rushed to the Court because they thought that they would be more successful before it than before the other branches of the federal government.

The American public looks to the Court as it does the other branches of the government for resolutions of their problems for the most commonplace of reasons. The Court is performing a necessary function. It is legally and sometimes morally obliged to render a decision. Then it is legally obliged to render a decision in cases where existing statutes offer no remedy and is morally obliged to do so

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as John Frank has pointed out, when the other branches, because of the possibility of committing political suicide, are unable to act.\(^26\) John P. Roche comes to a similar conclusion and suggests that there are instances when the court has no choice even though physically, it cannot defend or effectuate its decision, for example when the Court knows that a majority opinion is not in sympathy with a minority right.\(^27\) Others are fearful because the Court may carry this kind of discretionary action too far.

**Judicial restraints.**—In spite of its power, the Court has been and can still be restrained. Constitutionally, the Court may be restrained by both the Congress and the President. Congress could control the Court by controlling its structure and jurisdiction. A president may keep the Court in check by refusing to enforce its decisions. The hostility between Marshall and Jefferson, Jackson and Marshall and Roosevelt and the conservative Court attest to the importance of presidential sympathy for the Court's decisions.

More consistently applied and more effective, are the political restraints in the form of pressures which can be generated by other governmental organs and public opinion. The Court may not "follow the election returns" but it cannot long ignore the force of public opinion. Therefore, when the nation expressed its approval of the New Deal policy, the judiciary's attitude toward that policy changed, even


though President Roosevelt was unsuccessful in his 1937 Court packing attempt. Pressures generated by present-day conservative attacks on the Court, partly because of the Brown decision, have affected several of the Court's civil-liberty decisions since the mid-1950's. Judicial review has been affected then by the storms which have raged about the Court and the American judicial system is subjected to the same forces and influences that affect the other branches of government and when a case presenting a great constitutional issue arises, powerful and contending pressure groups merely transfer their struggles from the legislative to the judicial halls.  

The potency of these constitutional and political restraints has led the Court to impose restraints on itself, as is shown by the cautionary consideration set forth by Mr. Justice Brandeis in Ashwander v. T. V.A. In addition there are restraints to be found in the doctrines of stare decisis and political questions.  

Potential for some abuse of power by the Court is ever present, so another safeguard has been for the appointing authorities, mainly the President, to appoint to the bench those of impeccable legal stature and temperament. Behavioralists have attempted to pinpoint the factors responsible for the decisions of judges. They list judicial attitude, 


Hirschfield, loc. cit.
social background, the judges' conception of their role, legal and political experience, political affiliation and opinions, intellectual and temperamental traits and so on. Carl Brent Swisher's account of the kind of men selected for appointment to the bench seems to be an accurate description of the way the average judge approaches the task of decision making. According to him:

...almost every man likely to be chosen for a judicial position is the product of the central stream of our culture, with the result that his lawmaking activities consist of projections of the sentiments of the dominant beliefs of the community as what ought to be, with an anchor on the side of conservatism in the essence of law itself which implies stability and established connections with the past.

Supposedly, if the President selects judges with the right combination of these factors, the judiciary can be controlled and their decisions predicted with precision. While we must respect these attempts, for they have brought us far toward the goal of determining judicial trends, they are but efforts to measure conceptual averages based on empirical reality. Judging is a human endeavor, therefore, in any individual case, a majority decision is the result of individual decisions of judges each of whom at the time of his decision might or


might not have been motivated by any one factor like the central stream of culture, but by a combination of, or any one of a myriad of other factors of his culture, of which the judge himself, consciously, might not be aware. For as Jung, the psychiatrist, has pointed out, "the unconscious collaborates too and often makes decisive contributions. So it is not conscious effort alone that is responsible for the result; somewhere or other the unconscious, with its barely discernible goals and intentions, has its finger in the pie."32

It appears that the best that could be hoped for in getting the right kind of personnel on the Court is for the President, Congress and the public to pay greater attention to the personal, political and economic affiliations of the men to be appointed. As Charles Evans Hughes has pointed out, the high standards of integrity exemplified by the members of the Court, justifies the conclusion that the method of appointment, the dignity of the office and the force of public opinion have proved to be adequate guarantees against breaches of duty which could be regarded as warranting removal. He further points out that the demand that is usually heard for change, sometimes under the guise of proceedings to remove or recall, often has been motivated by the desire to obtain political control of decisions and not to get rid of an unfit judge. All the shouting that one hears from politicians and all the propaganda that is seen written on billboards about impeachment since the Brown decision could also be seen

as a design to keep a "juicy" issue before the public. More than a few politicians with nothing else to criticize have attempted to make political gain from this issue.  

Robert S. Hirschfield's account of the way the Court has performed its role over the years seems to be an accurate appraisal of what the Court really does. According to him:

While it has on occasion attempted to block popularly supported policy decisions, taken as a whole its record of response to democratic aspirations compares favorably with the records of its elected counterparts. Indeed the Court has continued to exist and to command respect of the nation because it has consistently interpreted the Constitution so that it would meet the nation's needs and conform with the popular will."  

Brown: The Resumption of a Postponed Effort

The legal and moral obligation.--Many contend that the Court was wrong to involve itself in the school segregation controversy. The answer to this is obvious; the Court had a legal and moral obligation to do so. In fact, the Court was merely resuming the nation's efforts, which were begun in the 1860's, to solve its racial problems, to which the Court was, even then, an active but negative partner. In the area of the protection of Negro rights, the Court resumed the task of the Reconstruction Congress. The same problems which that Congress attempted to solve, then, and which were shelved later, were again, in the 1930's and 1950's, before the nation for resolution. The Brown

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decision was merely an attempt to re-examine one segment of this problem—a segment in which the Court has always been involved and hence had a moral obligation not to abandon.

It is interesting to note that both adversaries in the Brown case returned to the arguments of the 1860's when the Congress did attempt to resolve the issue, for arguments to support their contentions. A good deal of their pleadings before the Court concentrated on the historical and constitutional intentions of segregated education. The adversaries were not unmindful of the fact that the Court had already ended segregation in other areas of activity on the basis of the Fourteenth Amendment and that it might end it in education at the lower grades. Hence the arguments turned around the meaning and the intent of those who wrote and passed the 14th Amendment and some of the supplementary legislation designed to effectuate that amendment.

The segregationists contention.—The main argument of the supporters of segregation was that the Court had no authority over education. Some of their arguments were as follows: (1) the Constitution acknowledged the lawfulness of the "separate-but-equal" rule, (2) that, if the Constitution permitted the national government to terminate segregation, the authority to do so was not vested in the judicial branch; (3) that segregated education was permitted in the District of Columbia when the Fourteenth Amendment was debated and passed; (4) the conduct of education was essentially a legislative matter; and (5) that the Constitution forbade the federal government to

35Hyneman, op. cit., pp. 189-197.
enter this local domain. Moreover, they argued that subsequent decisions of the highest state courts, inferior federal courts, and the United States Supreme Court had settled the question by ruling that segregation in public was lawful. It is significant to note here that those who argued that the Court had no jurisdiction over the issue, used as part of their support for the continuation of segregation a prior Court decision—Plessy. Some of them did admit, however, that there was need to make an attempt to equalize facilities.  

The desegregationists contention. — To those desiring the Court to end segregation there was no doubt about the intentions of the framers. The debates on the issue of civil rights for Negroes just prior to, and during the passage of the Fourteenth Amendment convinced them that it did provide for educational equality. By looking at the problem historically they could point to the fact that when Taney reasoned in the Dred Scott decision that "the men who framed the Declaration of Independence...knew that it would not, in any part of the civilized world, be supposed to embrace the Negro race, and that the Negro was not a citizen," the Court was severely criticized and the Congress and the nation responded with the Fourteenth Amendment which provided that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United


37 Hyneman, loc. cit.; Plessy v. Ferguson, 163 U.S. 537 (1896).

38 Dred Scott v. Sanford, 19 Howard 393 (1857).
States and of the states wherein they reside." They could further point to the fact that this amendment along with the other Civil War Amendments provided a further basis for judicial protection of civil rights. In addition, they argued, between 1866 and 1867, Congress passed seven statutes which in a collective sense were designed to give specific meaning and reality to these three Civil War Amendments. By all these Acts, too, they could argue, that Congress attempted on a broad scale to provide federal protection of the civil rights of individuals against interference either by public officers or by private individuals. If those who wrote the Declaration of Independence did not include the Negro as a beneficiary of the rights outlined there, the Fourteenth Amendment seemed to have been written specifically to amend that oversight. But the Supreme Court was to interpret the Amendment and the legislation to effect it so narrowly as to frustrate this attempt, especially in the Civil Rights Cases of 1883.

A national compromise with the South in 1877 and the renunciation of federal responsibility for the protection of the Negro, gave the South encouragement to enact severe and repressive laws. C. Vann Woodward has pointed out that:

...the policies of proscription, segregation and disfranchisement that are often described as immutable 'folkways' of the South, impervious alike to legislative reform and armed intervention, are of a more recent origin. The effort to justify them as a consequence of Reconstruction


and a necessity of the times is embarrassed by the fact that they did not originate in those times. And the belief that they are immutable and unchangeable is not supported by history.\textsuperscript{41}

Woodward's thesis is that law does bring about change, or at least helps to solidify a system of social relations. At least the Southern States thought it did, since they found it necessary to pass laws to accomplish just this. When Negroes attempted to test them, the Supreme Court, again, possibly influenced by the prevailing political climate, decided to render a decision which squared with the prevailing official political philosophy of the time. In \textit{Plessy v. Ferguson}, \textsuperscript{42} it sanctioned the pattern of forced segregation established in the South.\textsuperscript{43} With few exceptions, newspapers both North and South, endorsed the Court's opinion. The South was quick to justify segregation in all race relations including education, on the basis of \textit{Plessy}. The majority opinion in the \textit{Plessy} case admitted, however, that the object of the Fourteenth Amendment was undoubtedly to enforce the absolute equality of the two races before the law and, also, to enforce political equality. But, that laws requiring separation, when reasonable and enacted in good faith, such as for the promotion of the public good and the preservation of the public peace and
good order were valid. Here again the Supreme Court helped to aggravate and postpone a solution of the problem, consequently, it seems that if the problem still was open to governmental solution in the 1950's, the Court was obliged to accept some of the responsibility.

The erosion of a principle.--In time, Plessy was interpreted so as to bring about a change in the operation of the system of higher education in America and to lay the foundation for the attack on segregation at the secondary and elementary levels. The erosion of the old separate and unequal practice should have foreshadowed all which was to come. Since 1938, the equal protection clause has been invoked with greater frequency in cases involving racial discrimination. A successful attempt was made to force observance of the "equal" aspect of the doctrine in the field of higher education in the case of Missouri, ex rel Gaines v. Canada. But the crucial court decisions in the historic chain of desegregation events proved to be those against the University of Oklahoma and against the University of Texas. Those were the cases that cracked the barrier of segregation in the state universities and led to the admission of Negroes to truly Southern

45 Plessy v. Ferguson, 163 U.S. 537 (1896).
46 305 U.S. 337 (1938).
institutions for the first time. The Sweatt and McLaurin cases resulted in either voluntary or legally enforced desegregation of public graduate and professional education in all but a few of the hard core Southern states (Alabama, Florida, Georgia, Mississippi and South Carolina). Many private institutions followed suit. Even if the separate but equal doctrine of Plessy was upheld, it was interpreted so that segregation in graduate and professional education became impossible. It was clear from the Sweatt case that no separate law school for Negroes could ever equal a white law school.  

The Court Responds to a Demand for a Solution

The Court gauges public opinion.—When the Court decided to move in the direction of outlawing segregation in education, there was some evidence that there would be substantial support for such a move. At least the evidence indicated that the American public would tolerate such a decision. Historically, this was indicated by a trend which had been under way for more than two decades. This trend is summed up adequately by Robert Hirschfield. He wrote:

...as America moved from its attachment to the 19th century conception of rugged individualism to its more socially conscious attitudes of the mid-20th century, the illogic and illiberalism of racial discrimination became more apparent to white as well as colored citizens. And, finally, in the later 1930's, the government of the United States itself, and the Supreme Court in particular, underwent significant changes as

a result of the Great Depression and the New Deal response to it.

The major problems of the Depression were, of course, economic rather than racial; but the approach adapted to meet them had two results of great importance for future developments in the fields of racial relations: (1) it established a pattern for the national assumption of traditional state power, and (2) it brought forth a liberalized Court, more concerned with the protection of individual and minority rights than with property and states' rights, and more attuned to the implementation of national policies than to strict maintenance of the federal system.50

Moreover, by the 1950's the intellectual and popular opinion on racism had become more tolerant. I. A. Newby found that:

The years from 1930 to 1954 were years of transition for both the Negro and anti-Negro thought. By 1930 the popularity and respectability of racist ideas in intellectual circles were diminishing. Scientific and scholarly authority was now distinctly against the racist, and the appeal of extremists diminished even in the South. Popular opinion in the North continued to be largely indifferent to the Negro, but where Northerners had once condoned the repressive policies of an earlier period, they now accepted, at least indirectly, moderately pro-Negro changes wrought by the New Deal... In the process, racists lost not only their intellectual authority but also the apathy or indifference of the federal government and a public opinion outside the South.51

The Court could not have been unmindful of these changes even in education itself, for example, of the relative smoothness with which desegregation in higher education had been taking place in some states.

But of course the Negro himself for years had continued to pressure the Court for some kind of solution to the problem of

50 Hirschfield, op. cit., pp. 71-72.
segregated education. Negro groups and organizations at that time still could not get any satisfaction from the Congress for their demands, mainly because of intense feelings held by individual congressmen. Their only hope for a major policy commitment on the issue was with the Court. In addition to their own pressure on the Court, Negroes were fortunate to get the backing of leading educators and social scientists who testified to the gross inequalities in the quality and quantity of education for Negroes. They attempted to impress upon the Court and the nation harmful effects of segregated education.  

The Court, undoubtedly, was cognizant of the fact that any decision it rendered would not be successful unless there were some support for it in the other branches of the government. There were some signs that the federal government's apathy on the race issue had changed. This was due, undoubtedly, to wartime pressures which resulted in action, especially by the presidency. For example, by executive order President Truman instituted policies of desegregation in the Armed Forces and nondiscrimination in industries operating under defense contracts. Immediately after the war in 1946, he created the President's Committee on Civil Rights. This was the same committee which found that in respect to education, the separate but equal rule had not been obeyed in practice. In addition, the Negro's own

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52 Vose, loc. cit., p. 125.

53 To Secure These Rights, pp. 62-63.
economic, social and political position was becoming significant and, in time would become a factor in pressuring the Congress, also, for a commitment.

It was inevitable that since the Court did pay attention to private and community interest that it pay attention to Negro interests, also. By 1954, the Court had shown that it, too, was sympathetic to Negro demands. In the area of civil liberties and civil rights, especially the civil rights of the Negro, the Vinson and Warren Courts had been very liberal. They were referred to as "pre-eminently civil liberties courts." In fact, one observer suggested that in this area "the Court has functioned as a slow but persistent legislature." Most of the Justices at the time of the decision were said to be pro-civil rights. One observer has pointed out that "with one or two possible exceptions all the judges appointed to the bench since 1937 shared a general civil rights ethos."

But most of all, the Court recognized that many groups within the American population were arrayed on one side or the other waiting for a national decision on the issue. In a sense the nation seemed to demand some kind of determination. The Court had a moral obligation to act.

54 Samuel Krislov, The Supreme Court in the Political Process (New York: The Macmillan Company, 1965), Chapter V.


It is not clear whether these were some of the major considerations which prompted the Court to move. But whether it realized this or not, it did move tactfully and involved, in addition to the immediately interested adversaries, other groups and agencies, by asking them to present their thoughts on some preliminary questions which it posed for consideration. For example, the Court wanted answers to, among other questions: (1) whether the Congress, which submitted the Fourteenth Amendment, and the state legislatures and conventions which ratified it contemplated or understood that it would abolish segregation in public schools or did they contemplate future Congresses under section 5 doing so; (2) whether the Court, in light of future conditions, could construe the amendment to abolish segregation; (3) if the framers did not make it clear, was it within the judicial power, in construing the amendment to abolish segregation in public schools, and (4) in case the Court did end segregation, should it be immediate or gradual and who should supervise it?57

NAACP lawyers and their friends went to the Court with evidence that, according to them, showed that the framers of the Fourteenth Amendment did mean to abolish segregation in education. They first sought to show that segregation in education was contrary to the spirit and purpose of the nation. To them a nation founded on the proposition that all men are created equal was not honoring its commitment to grant due process of law and the equal protection of the laws to all, when it,

57 Hill and Greenberg, op. cit., pp. 110-111.
or one of its constituent states, confers or denies benefits on the basis of race. As to the intent of the framers, NAACP counsel asserted that:

The substantial intent of the Fourteenth Amendment's proponents and the substantial understanding of its opponents (were) that the Fourteenth Amendment would, of its own force, proscribe all forms of state-imposed racial distinctions, thus necessarily including all racial segregation in public education.

Moreover, they argued that the Court did have power to order the end of segregation on the basis of its many earlier decisions in which exclusion or discrimination had been outlawed. The government's brief substantiated the NAACP's argument somewhat but on the question of intent, in connection with outlawing segregated education, it stated that the framers were too concerned with securing the Negro freedmen the fundamental rights of liberty and equality, to pause to enumerate in detail all the specific applications of the basic principles which the Amendment incorporated into the Constitution. Besides, specific references to education were too few to justify any definite conclusion.

The Court Decides, Justifies, and Outlines the Method of Relief

In four of its school desegregation decisions the Court attempted to justify why it outlawed segregation in education. It also outlined, first, certain basic principles to which public educational systems had

58 Ibid., p. 112.
59 Ibid., p. 113.
60 Ibid.
to adhere to be considered constitutional, and second, the methods of achieving adherence to these principles. In short, these four decisions give some understanding of what the Court wanted to accomplish and how. These cases are: Brown v. Board of Education, (1954), Bolling v. Sharpe, Brown v. Board of Education, (1955), and Cooper v. Aaron. In the 1954 Brown case and the Bolling v. Sharpe case, the Court handed down the long awaited decisions in two short, unanimous opinions, one for the states, the other for the District of Columbia. These cases stated the principle that separate education was unconstitutional. The two other decisions give further clarifications.

Justifications.—First, the Court made it clear that as far as it was concerned, all the evidence, that of the adversaries and its own, were at best 'inconclusive,' as to what the framers' intentions were regarding education. In fact, it continued, the status of education at that time might have precluded them having any definite ideas on the subject. In the first Brown decision the Court thought that it was justifiable to look at education in a new light and said that:

...in approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when Plessy v. Ferguson was written. We must consider public education in the light of its full development and its present place in American life throughout the nation.65

Public education in the Court's way of thinking was very important and "where the state has undertaken to provide it, it is a right which must be made available to all on equal terms." Second, it thought that it was justified in outlawing it on psychological terms and said:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to (retard) the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system.

It, therefore, stated the following principles on the subject, first that:

...segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities.

Secondly, it stated that:

...in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.

_Bolling v. Sharpe_ challenged the validity of segregation in the public schools of the District of Columbia. When this case is studied,

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66 Ibid.
67 Ibid.
68 Ibid.
69 Ibid.
it becomes evident why it would not have been logical legally to allow the outlawing of segregation to depend upon the intention of the framers of the Fourteenth Amendment, since the District of Columbia case had to rest upon the "due process clause" of the Fifth Amendment, an amendment which was adopted when the Negro was not legally considered a citizen. The Court hinted that discrimination in any form may be so unjust as to be unconstitutional. The significant principles set forth in this case were that: (1) the concepts of equal protection and due process, both stemming from our American ideal of fairness, are safeguards against prohibited unfairness, (2) classifications based solely upon race must be scrutinized with particular care, since, they are contrary to our traditions and, hence, constitutionally suspect, and, (3):

...liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.70

The problem of securing relief.--The 1955 Brown decision outlined how relief was to be had. The Court, perhaps, realized that segregated schools were in part a Court created problem, mainly, as a result of the Plessy decision. In many areas no immediate relief was forthcoming. The Court, in attempting to provide relief had to take into consideration the complexities involved in a transition from a

70 Bolling v. Sharpe.
segregated system to a desegregated one. In addition, all the varied local problems that could arise had to be anticipated. The Court itself could not oversee the problems, hence, it gave school authorities the primary responsibility for elucidating, assessing, and solving them. The district courts in these local areas were to determine whether the action of the school authorities constituted good faith implementation of the constitutional principles set forth in the May 17th decision. In furnishing and effectuating the decrees, the courts were to be guided by equitable principles, taking into account both the public interest and the interests of the plaintiffs.

By 1958, some desegregation had taken place but there was still much resistance. Opponents were pressing the Court for postponement and even an abandonment of the Brown ruling. But instead, the Court laid down a few more principles as guidelines for the district courts. It, also, hinted to those administering the law and other officials, that it would stand by its May 17th ruling. The Plessy decision seemed to have given public peace and good order precedence over the constitutional rights of the individual and many of the southern leaders banked upon violence, which might possibly occur as a justification for postponement. The Court was cognizant of this fact and warned that this tactic of delay would not be tolerated. In the Cooper v. Aaron case it said:

_Desirable as this is, and important as is the preservation of public peace, this aim cannot be accomplished by laws or ordinances which deny rights created or protected by the Federal Constitution. Thus, law and_
order are not here to be preserved by depriving the Negro children of their constitutional rights.\textsuperscript{71}

The Court showed in the Cooper case that it wanted to move equitably, taking into consideration the interests of both the community and the plaintiffs. Time was granted, obstacles were ironed out, public opinion on the issue was gauged, and the school board and the district court, in Little Rock, seemed to be moving in accordance with the 1955 Brown ruling. But again, desegregation was too big a political plum for individual politicians and groups, still hostile to the decision, to bypass.

The Cooper case was important because, for the first time, the Court spoke as if it thought those in official capacities—including itself—had a responsibility to stop the nation from forgetting "its objectives decided on in the calm of reason." It, also attempted to show that political officials—again including itself—had the power to bring about social change in the direction that the majority should proceed in accomplishing its principles. It wrote:

Local customs however hardened by time, are not decreed in heaven. Habits and feelings they engender may be counteracted and moderated. Experience attests that such local habits and feelings will yield, gradually though this be, to law and education. And educational influences are exerted not only by explicit teaching. They vigorously flow from the fruitful exercise of the responsibility of those charged with political official power and from the almost unconsciously transforming actualities of living under law.\textsuperscript{72}

\textsuperscript{71} Cooper v. Aaron.

\textsuperscript{72} Ibid.
Professor Daniel Thompson, writing about the role of the federal courts in the changing status of Negroes since World War II, pointed out two roles which courts may play in social relations. According to him, they may, (1) legitimize patterns of social relationships which have been already established by custom and state laws. And, (2) they may determine the direction in which incipient social patterns may develop. 73

In Plessy, the decision merely legitimized patterns of social relations among the races. In Brown, the Court definitely determined the direction of the pattern the educational system was to develop. In attempting to help solve the school desegregation problem, the Supreme Court seemed hopeful that its decision would eventually succeed, but it realized that it had to move with tact. The Court's handling of school desegregation problems seems to square with Llewellyn's theory of what government can do about accomplishing social change. According to him:

...the machinery of law-government has no need to lag behind or to lag with or to uncreatively just fit into the existing ways of people in their race relations, whether inside a nation or between nations. On the contrary, the machinery of law-government can be built ...to set up ideals still far from full attainment, to set up tension, steady or sudden, in the direction of those ideals, and in some degree to block off or to beat down obstruction. But the second thing is no less clear: put tension on too suddenly, too sharply, too hard, and your wire can snap, can even snap back into

that devastation called destruction and reaction. It is a fine trite truth that the art of statesmanship lies in finding workable measures, in introducing them with patient skill, in following them through with firmness, and with courage, and also with tact.74

Those who argue that the Court had no jurisdiction over education and, hence, no authority to attempt to end racial segregation in education below the college level did not give up. They used as part of their defense in arguing for a continuation of segregation, a prior Court decision, the Plessy case. The position taken in this paper is that the Court did have a legal right to consider the problem of segregation in education. Moreover, that in the prior court decisions, the Civil Rights Cases of 1883 and the Plessy case, the Court was the institution most responsible for the aggravation and postponement of a solution to the problem of racial segregation in both education and other areas. If the problem was a proper one for governmental consideration and solution in the 1950's, it seems that the Court was obliged to accept some of the responsibility for its solution.

In the area of public education, the Court in Brown merely amended Plessy so as to extend the meaning of equality to include an absence of segregation. But, it was not really the Plessy decision which was under consideration, rather it was whether an educational practice violated the constitutional right of equal protection of the law and due process of law, by denying Negroes the right to take equal advantage of the educational facilities of a school district. Neither

the purpose for which the Constitution was ordained nor the Constitution itself seems to deny the Court the right to consider such a fundamental question.

Once the Court did decide to make an attempt to help solve the problem, the thorny question was how to achieve relief. Having the benefit of hindsight it could be said that when all the difficulties experienced by local communities in the Deep South to get their schools desegregated are taken into consideration, it is difficult to see how any other course of action by the Court would have been more successful than the one it did outline to be followed, mentioned in the four cases above.
CHAPTER III

ENVIRONMENTAL FACTORS THAT COULD INFLUENCE
THE DESSEGREGATION PROCESS

The Economy as an Influence

It is the contention of this study that the economic, social, and political factors of the environment--the state and the two parishes of this study--had a significant influence on the desegregation process. The purpose of this chapter is to identify and explain the nature of some of these relevant factors and to indicate how they could influence the desegregation process. In later chapters an attempt will be made to show their actual influence.

The nature, organization, function and control of the Louisiana economy are interwoven with the total society of the state. Consequently, the economy influences political, legal and social attempts to resolve the school desegregation crisis. Books and other printed matter on Louisiana extol the economic potential of the state. In recent years, state agencies and leaders have painted an optimistic picture of the state's economic potential.

A diversified agriculture.--When the Brown decision was rendered, Louisiana had passed recently from a predominantly rural to a predominantly urban state with a moderately balanced industrial and agricultural economy. Agriculturally, the state is blessed with those
factors which favor bountiful products from the land—soil fertility, infiltration of water into the soil, reproductive ability of forests, favorable rainfall and an ample supply of usable water, beneficial wildlife and fish and abundance of mineral fuels. It ranks high among the states of the nation in cotton production, first in sugar cane and sweet potatoes and second in rice. It has scores of specialty crops and is said to yield the most diversified agricultural products grown anywhere in the nation.¹

Rich in natural resources.---Louisiana ranks high among the states of the nation in the production and manufacture of minerals. It ranks second in production of sulphur and natural gas, second in natural gas liquidified, third in crude petroleum, fourth in salt, second in manufacture of petrochemicals, fifth in the manufacture of all petroleum products, and twelfth in chemicals and related products. There are oil and gas wells in practically all the state's sixty-four parishes and in 1947 drilling was begun in the offshore or tidelands area of the Southern coast in the Gulf of Mexico. This has led to a controversy with the federal government over the ownership of this offshore water and land. This controversy still rages and elements of it have affected the federal-state controversy over civil rights.² It has been


suggested that the natural resources of Louisiana might justify its being called a modern land of Canaan. It has also been said that if a wall were built around the state, cutting it off from the rest of the world, the people of Louisiana still could live comfortably because of the number and abundance of natural resources.\footnote{Louisiana Legislative Council, \textit{loc. cit.}}

**Industrial and commercial development.---**The two parishes which are the main subject of this study, Orleans and East Baton Rouge, are both urbanized, metropolitan areas with highly developed industrial and commercial complexes. The increase in population in these parishes, in recent years, gives some indication of their growth. One writer has described Baton Rouge as a "boom town."\footnote{A. J. Liebling, \textit{The Earl of Louisiana} (New York: Ballantine Books, 1961), p. 90.} The influx of people into the parish seems to substantiate his statement. For example, between 1940 and 1950, the population of Baton Rouge increased 268.8 per cent.\footnote{Davis, \textit{Louisiana: A Narrative History}, p. 357.} This increase was due, partly, to the expansion of Baton Rouge as a part of the petrochemical complex and the increase in other industries. By the mid-1960's it had over 150 industries, most of them manufacturing petroleum, chemical and aluminum products. In addition, it is the thirteenth largest port in the nation.\footnote{The Louisiana State Department of Agriculture, \textit{loc. cit.}} New Orleans, of course, has long been famous as a cosmopolitan city with an important tourist business. It is famous, also, as a city where international businessmen meet and as the nation's second largest shipping port.

\begin{thebibliography}{99}

\bibitem{3}Louisiana Legislative Council, \textit{loc. cit.}
\bibitem{5}Davis, \textit{Louisiana: A Narrative History}, p. 357.
\bibitem{6}The Louisiana State Department of Agriculture, \textit{loc. cit.}
\end{thebibliography}
**Below per capita income.**—Though the economic situation of the average Louisianian had improved somewhat by the early 1960's, it was still below average. Despite the state's economic potential, in the late 1940's one observer wrote that "wretched poverty was the lot of most Louisianians....Only five other states, none of them anywhere near Louisiana's high rank in natural resources, had lower per capita income."  

Table 1 illustrating per capita income for a ten-year period, 1954-1964, shows the state losing ground instead of pulling up to the national average.

**TABLE 1.**—Louisiana per capita income compared with the national average

<table>
<thead>
<tr>
<th>Year</th>
<th>Louisiana</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954</td>
<td>$1296</td>
<td>$1766</td>
</tr>
<tr>
<td>1960</td>
<td>$1605</td>
<td>$2217</td>
</tr>
<tr>
<td>1964</td>
<td>$1864</td>
<td>$2550</td>
</tr>
</tbody>
</table>


There are several reasons for the low per capita income, reasons that, also, have implications for the status of the civil rights of the Negro. First, the state's industries are still, basically, raw material oriented, which means that Louisiana has an inadequate share

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of the kind of manufacturing that adds most to the value of the product made but also the least to the income of the workers employed. Second, it has been suggested that it is due to the fact that the state was still a colony, with its economy being controlled by absentee owners; the great commercial, banking, oil, shipping, rail and utility corporations that "own" the state. It has also been suggested that neither the owners nor the local managers, who run these corporations, are interested in the workers. In addition to this, these corporations are given special tax privileges by the legislature, depriving the state of a tax base for needed public services. A third reason was said to be the instability of Louisiana's politics. This instability was blamed for a 15-year period of decline of industrial expansion in the state. Louisiana did not look favorable to investors. During the entire post-war period from 1947 to 1962, it held an unenviable position as the only state of the South that had not gained in industrial jobs. It was estimated that Louisiana lost 20,000 industrial jobs during that 15-year period, while every other state of the South gained industrial jobs.  

The present governor seems to be concerned with improving the state's political image and eliminating its industrial lag. He has been enticing investors to the state to enable it to come up to its

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9 O'Leary, loc. cit.
economic potential. Both the present governor and businessmen have conceded, finally, that the improvement of the economic status of the state cannot take place without the participation of the Negro.\textsuperscript{10}

Louisiana's Negro population, before and during this period of controversy, declined proportionately, indicating that the Negro did not foresee a bright economic future there. In recent years, leaders have been making statements encouraging qualified Negroes not to migrate.\textsuperscript{11}

Sectional Differences in Race, Religion and Politics as an Influence

Religion, like race, has always been a significant factor in Louisiana politics. Southern Louisiana is predominantly Catholic while Northern Louisiana is predominantly Protestant. Politically, the Southern part tends to manifest moderate tendencies while the North is very conservative. On racial issues the Protestant North is less tolerant than the Catholic South. Always, there has been, according to one observer, an undercurrent of anticlericalism, particularly in rural Northern Louisiana, which became manifest whenever the clergy attempted to act contrary to popular attitudes and established political tendencies. This anti-Catholic sentiment is also said to have led to the defeat of more than one Catholic candidate for state office. Anti-Catholicism, also, merges with segregation to form a strong force,


particularly in the North. Bernard Cosman found that religion and race played an important role in the 1960 presidential election. For Catholics, their religion was an important factor; for non-Catholics, both race and religion were important with race seeming to be of greater significance in parishes heavily populated by Negroes.  

For several reasons, Catholicism was a very influential factor in the first efforts at desegregating the schools in New Orleans. First, it is a highly represented faith in South Louisiana, especially New Orleans, claiming a large following from all classes and races. Secondly, it is very heavily involved in education at all levels in the state, but, especially so at the elementary and secondary levels. Therefore, any action on the part of the Catholic leadership was bound to have some effect on the public schools. Thirdly, it always has been influential in all aspects of life in South Louisiana, and fourthly, it had a fairly good record in race relations.

It was only natural, then, that in the battle over the civil rights of Negroes and the desegregation of the schools, that antagonism against Catholic officials and their stand would rise. This was quite obvious even in the legislature.  

When punitive bills were introduced in the legislature in 1954 to punish any public school that desegregated, they were also made applicable to Catholic schools; however, because of

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effective Catholic and other group pressures, they were removed. But when Archbishop Rummel disclosed a plan to integrate the parochial schools opposition came not only from legislators in Baton Rouge, but also, from some Catholic parishioners.

The importance of Catholic education and the influence of Catholic officials were too significant for their plan of desegregation not to be carried out, eventually. The importance of Catholic education can be seen from the extent and value of Catholic education vis-a-vis the public schools. The dollar value of Catholic grade and high schools in Louisiana was estimated to be $140 million, and the cost of replacing the school facilities for 120,920 Catholic students in Louisiana would approximate $100,760,000, exclusive of property cost. The cost to take over and operate these schools for a year would amount to $142,477,000.

Socio-economic and Occupational Influences

Opinion studies, for years now, have shown that a man's occupation is an important determinant of his attitudes on racial and other social issues. Assuming that this is true, a glance at the occupational composition of Louisiana's workers generally, and those of the two parishes dealt with in this study, specifically, is relevant.

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In 1960, the state had a total labor force of 1,092,385. This constituted 33.5 per cent of the 3,257,264 persons in the state. By comparison the national labor force was 40 per cent of the national population.\footnote{Department of Rural Sociology, Louisiana State University, \textit{Louisiana's Human Resources}, Bulletin No. 562 (February, 1963), p. 27. Hereafter quoted as, \textit{Louisiana's Human Resources}.}

The region in South Louisiana in which the two parishes of this study are located, the area along the Mississippi between Baton Rouge and New Orleans, around the city of Lafayette in southwest Louisiana, and in the coastal marshes of Plaquemines, Jefferson and La Fourche parishes, can be looked at as a unit, occupationally, for purpose of analysis. In this area, a rural-industrial working class, as well as an increase in the proportion of "white collar" workers in private enterprise and government service has developed in the last quarter-century. These classes are recruited largely from rural areas and small towns; this is especially true of the industrial workers in manual occupations--they are largely migrants from rural areas or the children of such migrants, who are likely to maintain close contact with the farm from which they came. In addition, there is, also a significant percentage of people, especially in Baton Rouge, from Northern Louisiana and Mississippi, who are of the white Protestant Anglo-Saxon stock. Moreover, in industry and at the universities, there is a significant proportion from the Middle Atlantic coast and the Middle West.\footnote{Havard, Heberle and Howard, \textit{op. cit.}, p. 28.}
The professional population, especially those in education, of these parishes are also significant. Baton Rouge for example has three institutions of higher learning, Trinity Christian College, Southern University and Louisiana State University with an approximate combined population of almost forty thousand students and faculty. In addition, there are 136 public and 29 nonpublic secondary and elementary schools. New Orleans has a total of 14 institutions of higher learning. There are, also, 136 public and 123 nonpublic secondary and elementary schools in the parish.\(^\text{19}\)

Very significant, for these two parishes, is the fact that they have a disproportionate number of labor force commuters who live in adjacent rural parishes. This means that while they are primarily urban, they are still influenced by conservative, country thinking people, first because of their proximity to the rural parishes and second, because of the constant going and coming of the rural inhabitants from neighboring parishes. But it is important to note, also, that a study conducted by the National Opinion Research Center which covered white attitudes on racial integration between the 1940's and the 1960's, in addition to showing that there had been significant changes on the part of whites from anti to pro integration leanings, made a few conclusions that have significant implications for race relations in Louisiana, especially for desegregation of schools. This study showed that Louisiana was not among the most intransigent

states against desegregation of the schools. It also found that of all groups in the South, Catholics were the most pro-integrationists. This means, simply, that the massive resistance to desegregation for which the state became so notorious, does not reflect the true attitude of the population of these two parishes on this issue.

Public Education in Louisiana at the Time of the Brown Decision

In 1954 public education in Louisiana had come a long way in a relatively short period of time. It had made little progress before 1900, but after about 1910, the development was extraordinary. Until 1900, free public schools did not exist outside of the larger cities and, even then, most of the secondary education was carried on in private academies conducted by religious denominations. In addition, residents of the local communities contributed most of the financial support. This meant that prosperous districts had good schools and modern buildings while poorer districts made do with less. This late start was reflected in educational achievement. As late as the end of World War II, Louisiana as a state was at the very bottom in the literacy of its adults.... Nearly thirteen per cent of those over twenty-five years of age had not completed even the first grade of school. For the nation as a whole, this figure was slightly below four per cent. This meant, also, that since the growth and


22 O'Leary, loc. cit.
development of higher education was dependent upon the elementary and secondary school systems, it too, tended to lag. This lag, or slow start, shows up in the scarcity of native skilled manpower, which has forced Louisiana to look beyond the state for all but a fraction of the engineers, scientists, and subprofessional personnel it needed in the early 1960's.

Gains have been made in the development of the educational system and in the interest shown in education in general. To bring the system up to par, compulsory attendance laws were passed to get more educables into the schools; poor parents had the burden of education lightened for them by the free school book law; automobiles and good roads made possible the consolidation of schools so that better trained teachers, and modern library, laboratory and classroom facilities are available generally. In addition, the legislature provided an equalization fund to aid the poorer districts and parishes in their efforts to maintain educational standards.

Since Louisiana got a late start, she had to "run faster" than some of the more advanced states, just to keep up, educationally. Its educational budget gives some indication of what it was doing at the time of the Brown decision. In 1954, the current expenditure per pupil in average daily attendance for public elementary and secondary

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23 McGinty, loc. cit.
25 McGinty, loc. cit.
day schools for the nation ranged from $362 in New York to $123 in Mississippi. The average for the United States was $265; Louisiana was spending $247 and ranking 33rd. By 1962, the money spent for education in Louisiana represented nearly one-third of all monies spent by the state, and it exceeded that of any other department.

Some of the local districts and parishes were beginning to do more on their own, also. For example, during the 1950-51 school year the City of New Orleans began an extensive school building program with a two-fold purpose—to provide schools in new residential areas and to replace obsolete buildings in older sections. In teacher salaries, the state was progressing fairly well; it was hovering right around the national average and ranking 21st among the states in this category. This state support has lifted a large part of the burden of education from the local taxpayers, and today, the average person regards education as one of the chief functions of the state.

Almost one-half of the expense of operating the public schools is borne by the state through a per-educable-child fund, an equalization fund, and a teacher pay fund. It has, always, been "common

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29 "Public Employees' Pay Raises," Par Analysis, No. 150 (April, 1968), p. 3.
30 Louisiana Constitution, Art. XII, secs. 1-14.
practice" for Louisiana's school boards to look to the state for funds to improve local education. Presently, Louisiana ranks second among the states in terms of the percentage of financial support given elementary and secondary education by the state government. In 1966, the state was providing 69.2 per cent of all school board operating revenues, far above the national average of 40 per cent. While some school boards have taken it upon themselves to levy additional taxes to improve their own programs, no system has yet used all the revenue sources available to it under state law.31 When the Supreme Court rendered its decision, all elements of the population in Louisiana were proud of their educational achievement and were hoping for more improvements. This was fortunate for the desegregating process because there was never any serious effort to do away with the public educational system, despite the possibility of integration. But the dependence upon the state for most of the educational budget meant more state control over local educational affairs. Because of this and other reasons, local systems were prevented from taking any independent action in desegregating their schools. Though the state's school system is theoretically autonomous at the local level, the State Board of Education holds two strong strings—teacher certification and financing. As will be indicated in a later chapter, the legislature did not fail to use them as punitive weapons against Orleans Parish during the first few years of school desegregation there.

The Negro's Educational, Economic and Political Status at the Time of the Brown Decision

Economic status.--It was implied long ago by Booker T. Washington and it is implied often in some of the more recent civil rights pronouncements, that with Southern economic changes and with Negro educational and economic gains, full political and social freedom for the Negro will follow. Some idea of the Negro's economic status throughout the state and in the two parishes of this study, can be gotten from his participation in the labor force. Earlier, and as late as the early 1960's, the Negro constituted approximately 32.1 per cent of the total population of the state. But between 1940 and 1960, while the white labor force increased from 61.8 per cent to 70.9 per cent, the nonwhite labor force decreased from 38.2 per cent to 29.1 per cent. In New Orleans, Negroes constituted 37 per cent of the total population but only 35.5 per cent of the labor force. In Baton Rouge, the situation was a little better. Negroes constituted 31 per cent of the population and 30.1 per cent of the labor force. 

In addition to being underemployed, Negroes live in dwellings which are poor and insufficient. Because New Orleans is a city sandwiched between Lake Ponchartrain and the Mississippi River, land is

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34 Louisiana's Human Resources, p. 28.
scarce and expensive. The result of this is that the highly mixed residential patterns of the city, developed long ago, still obtain. Those who can afford it, move to the newly developed sections of the city or out of Orleans into an adjoining parish, such as Jefferson or St. Bernard. Because of his low wages and the high home and land cost, most Negroes not only cannot move but are forced to become tenants. Fewer than one Negro in four owns his own home, and more than four-fifths of all Negro dwellings were dilapidated or lacked essential sanitary facilities. More than 40 per cent of the Negro-rented dwellings and nearly a third of the owner-occupied dwellings were crowded.35

In East Baton Rouge Parish, the situation was a little different, residentially. There are four areas of large concentrations of Negroes. The remainder of the Negroes are scattered throughout the city and parish. Sixty-five per cent of the Negroes own their own homes. But, with the exception of three middle-class subdivisions, and a scattering of homes within the city proper, the Negro areas and homes are below standard. Housing for Negroes is insufficient and substandard all across the state. In the state at large, it was found that 67.4 per cent of the Negro households had seven or more members.36


Two other categories, dependence on welfare and employment in domestic service, give some indication of the Negro's economic status. In 1965, 89.5 of all the welfare cases were Negroes. In East Baton Rouge Parish, for example, out of a total of 556 cases reported, 518 were Negro. 37 In the domestic household work category, Louisiana was more than double the national average, 6.4 per cent to 3.0 per cent. 38 All this means that a substantial number of Negroes were unemployed, underpaid or welfare recipients, hardly the kind of positions from which to agitate for school desegregation.

Educational status.--According to the 1960 census, the educational status of the Louisiana Negro was low. For example Negroes in the "25 years and over" category terminated school on the average at the ninth grade. Among Negroes in this "25 years and over" category, 41.0 were classified as "functional illiterates," completing fewer than five years of school. Another indication of the educational status of the Negro may be gotten from accreditation of secondary schools. In 1960, while 89.39 per cent of white students enrolled in high school were in accredited schools, only 28.4 per cent of the Negroes enrolled in high schools were in accredited schools. 39 The lag could be seen, also in the facilities and in the overcrowding of Negro schools. In New Orleans,


38 Louisiana's Human Resources, p. 28.

39 Eunice S. Neuton and Earl H. West, "The Progress of the Negro in Elementary and Secondary Education," The Journal of Negro Education, XXXII (Fall, 1963), 466-84.
for example, one school board member in the early 1950's revealed that there were 7,800 Negro children on the platoon (half-day) system. Overcrowding applied, mainly, to Negro schools. But it could be said, in all fairness, that the board was trying to equalize facilities.

In 1955 the state had to undertake a mammoth state school building program which was designed to equalize facilities. Even the most rabid of segregationists were admitting that it would take $225 million to bring all the schools up to par and to equalize Negro schools with white schools. A great lag in Negro schools showed up as late as 1962. For example, a 1962 study of the New Orleans school situation, showed that while only 12.1 per cent of the white school classes had more than 35 pupils each, 62.6 per cent of the Negro schools were over that figure, which is considered as the maximum number for effective teaching. An idea of the lag of the Negro schools could be gotten from the amount that has been spent since the early 1950's to bring them up to par. Since 1952, 28 million dollars, or 65 per cent of the system's total construction outlay, was spent for schools to be attended by Negroes.

Political status.--When the Brown decision was rendered, and until the early 1960's, Negro political power, even from the standpoint of voting, was insignificant, in spite of the fact that Negroes

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41 Southern School News, April, 1955, p. 8.
represented a significant percentage of the total population. For example, in 1960 nonwhites in Louisiana numbered 1,045,307 and whites 2,211,715. This was a white percentage of 67.9 and a nonwhite percentage of 32.1. But it was felt that the Negro could become significant politically, especially in the urban areas such as the two parishes of this study. While large numbers of Negroes are still concentrated in the plantation areas, the North Louisiana Delta, the Red River Valley area, and the Sugar Cane Area of South Louisiana, where there is the highest percentage of Negroes among the population, there has been a general trend toward urbanization on the part of the Negro, also. In the two parishes of this study, for example, the Negro population is significant. In 1960, nonwhites in Baton Rouge constituted 38.1 per cent of the population. In Orleans Parish, nonwhites constituted 37 per cent of the total population.

It has been posited, often, that with the acquisition of political power will come more civil rights for Negroes and that if Negroes were given the opportunity they would participate on a wider scale. In the 1940's when Supreme Court rulings removed some of the legal restrictions to voting, it was felt by whites that Negroes would rush to the registration offices. These fears were unfounded. Racial apathy was

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44 Havard, Heberle and Howard, op. cit., p. 10.
46 Laviolette, op. cit., p. 130.
said to be the main hindrance to voting. In 1952 for example, Negroes comprised but 10.2 per cent of the total registered voters, a figure which represented less than 25 per cent of the Negro voting age population. In 1954, Negroes represented but 13.6 per cent of the total registered voters. In 1956, the total number of Negroes registered were 155,460, but by 1959 the number had dropped to 150,236. This drop was due to a "purge" conducted by White Citizens Councils in some North Louisiana Parishes.

Since the early 1960's, some of the more militant civil rights groups have been conducting voter registration drives throughout the state. Now, the big question is over whether Negroes will use their voting power wisely. Rumors are rampant that the Negro leaders are susceptible to bribes. Negro leaders say they need money to run their organizations and voter registration drives and would not turn down economic support. But the appraisal of one observer, made some years ago, still seems nearer the truth of the matter. According to him, Negroes are not wedded to either the Long faction, or to labor or anyone else. But, they are loyal to the pursuit of certain racial and class goals, the achievement of which requires a maximization of their political power through bloc voting. A Negro organization's endorsement of a candidate is preceded by searching investigation of all candidates and is concluded by agreement with the endorsee.

47 Sindler, op. cit., p. 257.
The Immediate Reaction to the Brown Decision

Although there had been some cracks in the wall of legal separation and legal denial of fundamental civil rights, such as voting in the white primaries and admission to graduate schools on a small scale when the Brown decision was handed down, the belief that the Negro should not and would not have freedom to take advantage of the public facilities and services to the same degree that whites could, was so ingrained in the majority of Louisianans that their immediate reaction seems to justify such a generalization.

By the time schools reopened for the fall 1954 session, there was some conscious uneasiness among some groups in the state. In November, 1954, the voters of Louisiana went to the polls and voted on a series of constitutional amendments—one of which gave legal sanction to segregation in the schools under the inherent police powers. Voters from all the parishes of the state voted for the amendment to maintain segregation. The vote was 219,992 for 46,929 against. Beyond this, the citizenry of the state did not seem to become involved on any significant scale. Many indicated that they would become involved only if it affected them personally, either through their children or through their pocketbook.


52 The New Orleans School Crisis, p. 47.
Louisiana's legal and political leaders who felt, also, in early 1954 that the decision would not have any serious and immediate effect on public school segregation, began in late 1954 and early 1955, to show signs of concern. This was manifested first in the decision of Louisiana's Attorney General to boycott the arguments in the 1955 implementing decision by refusing to file briefs requested by the Supreme Court. His thinking was that since the state was not a party to any of the segregation suits then before the Court, if the state did file a brief, it possibly would be bound by the decree rendered in the case; whereas if it did not file, it would not be bound directly by the decree. The state, in fact, was not bound directly or immediately by this implementing decree, and before any desegregation would occur in the state, additional suits had to be filed against school boards. This was manifested in some of the comments of political leaders, at the time that the Court issued its implementing decision. Even the most rabid of segregationists, at that time, while foreseeing no immediate desegregation, felt that it would come eventually. Their adamant opposition against the decision was to increase with time. Desegregationists, while decrying a lack of a timetable, praised the decision. Others found solace in the fact that it would happen gradually, and still others in the fact that the then segregated system could be maintained by what the state's attorney general called, the "litigate and legislate technique."

In New Orleans, with its cosmopolitan tradition and its absence of strict residential segregation, there was a feeling among elements of the community that desegregation would occur anyway. It is the contention of this writer that despite the understandable resentment that surrounded the issue, desegregation could have occurred in New Orleans without the amount of friction and hostility that did surround it there.

School Desegregation Influenced by Factionalism, Gubernatorial Politics, Economic Conservatism and Racism

The fact that school desegregation did not proceed quietly can be explained, partially, by its importance as a political issue, an issue which held great potential for ambitious and shrewd politicians. Through it, personal ambition could be realized; to it, specific interests grievances could be tied and aired, and old philosophies and prejudices could be revived and dramatized. Undoubtedly, some candidates for office would have preferred keeping the issue in a "low key" and continued to stress economic and welfare issues. But, of course, the White Citizens Councils, and other segregationist groups that sprang up after the Brown decision, kept the issue before the people as a burning one. Soon, every politician, from United States Senator to tax collector, was seeking office on the promise to preserve segregation in the public schools.\(^{54}\)

Factionalism.—Success in school desegregation was delayed because different groups and interests saw in it an opportunity to

\(^{54}\)Opotowsky, loc. cit.
further their own causes. Before the ascendance of the Longs in Louisiana politics, the absentee owners who controlled the Louisiana economy and their managers were said to control the politics of the state. They also were said to have had little interest in the constructive development of the state or in economic policies that would benefit all of its citizens. But with the ascendance of Huey P. Long, in the late 1920's and early 1930's, this situation was changed somewhat. Though he did little to break the monopolies, he did envision and capture the political potential offered by the conditions of the common man of Louisiana, with himself as their liberator and leader. He made promises and kept them. He instituted reforms such as better roads and bridges, better schools, better hospitals and larger sums for welfare. This system of public spending, started long ago, has been taken for granted and the people of Louisiana have come to expect, and even demand, additional appropriations for these services from each new governor. An indication of what Louisiana was spending, of its budget, can be gotten from the fact that only large states, like California and New York, surpassed her in welfare benefits. The per capita expenses for three state budgetary items for fiscal year 1957-58, as compared with the adjoining states and the national average, give some indication. Table 2 below illustrates this expense.

TABLE 2.—The per capita expenses for three state budgetary items for fiscal year 1957-58, as compared with the adjoining states and national average.

<table>
<thead>
<tr>
<th></th>
<th>Education</th>
<th>Welfare</th>
<th>Health &amp; Hospitals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Louisiana</td>
<td>$64.68</td>
<td>$46.50</td>
<td>$14.19</td>
</tr>
<tr>
<td>Arkansas</td>
<td>$30.30</td>
<td>$19.05</td>
<td>$6.75</td>
</tr>
<tr>
<td>Mississippi</td>
<td>$35.19</td>
<td>$17.44</td>
<td>$5.77</td>
</tr>
<tr>
<td>Texas</td>
<td>$41.61</td>
<td>$16.83</td>
<td>$6.02</td>
</tr>
<tr>
<td>National Average</td>
<td>$39.37</td>
<td>$16.64</td>
<td>$11.46</td>
</tr>
</tbody>
</table>


The trend started by Huey Long allowed him to build a following that split the Democratic party in the state into two factions—the Long faction and the anti-Long faction. By sticking to the economic and welfare issues, Long was able to "counterpoise" his own organization to that of the old conservative merchant-planter alliance, and he was able to build a solid core of popular support around his personality and his programs. This was the same Long faction which was inherited by Huey's brother, Earl K. Long. It was the same faction which the anti-Longs and the segregationists were trying to defeat with the help of the school desegregation issue. The school desegregation controversy provided an opportunity to a group of anti-Long politicians, who, previously had little success to mount an effective opposition program or statewide organization, to challenge the Long faction.

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Proper manipulation of this issue was successful in diverting blocs of Long votes from the issues that had proved attractive formerly; it also had the effect of introducing a sort of "fear-paralysis" among the members of the legislature. 57

Gubernatorial politics.--The office of governor in Louisiana commands great respect among the voters and politicians alike; in fact, the incumbent is almost universally acknowledged to be the dominating political power in the state despite many legal circumscriptions on the office. 58 It was only natural then, that it would be the office to which the citizens of the state would look for indications of the way desegregation would go. The views, attitudes and positions of gubernatorial candidates during this crisis period, then, were very important, especially in the 1959 gubernatorial primary. But, resolution of the issue was secondary to victory in the case of all the serious candidates. The serious ones in the 1959 primary, those polling significant percentages of votes, were Earl K. Long, Jimmie Davis, De Lesseps Morrison, and Willie Rainach.

Earl K., like his brother Huey, was twice governor of the state. Like his brother, also, he had stressed welfare and economic issues, and when pressed about desegregation, stated that he believed in segregation but hoped that both "extremists"--the NAACP and the White Citizens Councils--would leave the issue alone. But, to the Council,

57 Ibid., p. 56
58 Havard, Heberle and Howard, op. cit., p. 38.
Long was not tough enough on the desegregationists. They accused him of being soft on agitators and with courting the Negro vote. Because of these accusations and other reasons, he lost the election.

Jimmie ("You Are My Sunshine") Davis, who had been governor from 1944-1948, represented the traditional anti-Long group. He won the governorship again in 1960 by beating Morrison in the run-off primary. Davis was the candidate most favorable, to those favoring conservative economic policies, by a new administration. After the first primary, he was quick to state that he did not want any NAACP votes, a statement that was calculated to solidify conservative and segregationist support.

Another anti-Long candidate was De Lesseps S. Morrison, who represented something of a new departure in Louisiana politics. He was a highly successful reform mayor of New Orleans, who had been mayor since 1946. He was different, however, from the typical anti-Long candidate inasmuch as he demonstrated liberal proclivities, particularly in giving support to the National Democratic party. His attitude and record on the race issue in New Orleans won him the label of being a moderate. But his ambition to become governor overrode his making any forthright statement for or against school desegregation. In spite of this neutral stand, he was criticized by both liberals and segregationists. Besides, his progressive record in New Orleans made him distasteful to economic conservatives. It was felt that he would be too progressive as governor.
Willie Rainach was an obscure North Louisiana state senator until he became the presumptive leader of the segregationist cause in the state. He was a conservative, but his effective appeal was to racism. He became president of the White Citizens Council and was to serve as chairman of the joint legislative "watchdog" committee on segregation from its inception until he ran for governor. From these positions, he was able to command both the political and the legal struggle against school desegregation.

The legislature usurps control of the school issue.—Another individual, not a gubernatorial candidate, but important for this discussion, was Leander Perez. Together with Rainach, he whipped up with the various local demagogues who were also enemies of Earl K. Long cooperating, the fear of integration. Earl's poor whites, steeped in generations of bigotry, would be rabidly for segregation. Earl's intellectuals, liberals and Negroes, would be for desegregation, but they were not sufficient for victory. Raise the race issue and Earl had to lose half of his voting bloc no matter which way he swung. Along with Perez, Rainach organized a network of White Citizens Councils and with this they set out to ride the race issue and school desegregation for all they were worth. With the defeat of Earl Long and the election of Davis, official leadership on the race issue passed to a few segregationists who held key positions in the legislature. It

Excellent accounts of these personalities are found in: Havard, Heberle and Howard, op. cit., pp. 39-40; Opotowsky, op. cit., pp. 168-170; O'Oleary, loc. cit., pp. 249-253 and Liebling, op. cit., pp. 131-143.
was only natural, then, that the greatest opposition to school desegregation in the state would come from the legislature.

On a closer look, this legislative and political opposition to Brown came first from economic conservatives with latent Dixiecrat tendencies who were still dissatisfied with the state's liberal welfare policies and with the federal government's policy on offshore oil and its then increasing participation in matters that were traditionally the domain of state and local government. Secondly, it came from those politicians who saw in the school desegregation issue an opportunity to further their own political careers. Both groups were able to tie their causes to school desegregation by appealing to the dissatisfaction, fears and pride of the average white. Consequently, a coalition based on economic conservatism, political ambition and racism was formed under the guise of one objective—opposition to school integration.

When it became evident that desegregation would take place anyway, the Louisiana legislature conceived of itself as the last bastion of hope against federal encroachment. A few solemn talks about those magical topics—constitutional government, states' rights, inherent police powers, the southern way etc., by segregationists in the legislature, were all that was necessary to convince the whole body that it had a sacred duty to maintain the status quo.

But it must be remembered, also, that these legislators were elected on the promise of maintaining segregation. They were not
allowed to forget this by the only effective appeal on the issue—that of the segregationists. Their emotional propaganda seemed to have been very contagious and effective on the whole legislature. The entire body was quick to agree with any suggestion offered by the segregationist leadership. And if any legislator, independently and consciously, perceived the unreality and futility of the whole endeavor, this was repressed soon by the pressure from the leadership, the fear of reprisals, the desire for political survival and the anonymity of the body. A few New Orleans legislators ceremoniously voiced their doubt about the whole affair but even they voted for all segregation bills, many times without even knowing what they contained, save that they dealt with school segregation.
CHAPTER IV

THE ADVISORY ROLE OF DISTRICT JUDGES IN THE DESEGREGATION PROCESS

Judicial Independence of the Supervising Judges

The background of the supervising judge.—The United States Supreme Court, in its May 17, 1954 Brown ruling, held that segregation in public education was unconstitutional. It indicated in this decision, and made it more explicit in the 1955 Brown ruling, that the process of desegregation was to be, primarily, the responsibility of the individual local school boards under the supervision of southern federal judges.

The main objective of the Brown decision, as conceived here, was to make an attempt to solve a small but important aspect of America's historical and persistent racial problem—school segregation. This attempt was to be made with a reasonable regard for traditional and modern local difficulties and objectives. The purpose of this chapter is to examine and attempt to discover whether the federal judges, in supervising the desegregation process in Orleans and East Baton Rouge Parishes inclined more toward a solution of the problem or toward a maintenance of the status quo. Second, the degree of success or failure of the desegregating process under these judges will be evaluated. Third, some reasons for the success or failure of the desegregating process will be suggested.
The district judges for the Eastern District of Louisiana who figured prominently in the Louisiana desegregation story were Herbert W. Christenberry, J. Skelly Wright, E. Gordon West and Frank Ellis. Circuit judges, who also figured in the story, were Chief Judge Richard T. Rives, John Minor Wisdom and Elbert P. Tuttle.

Judge Herbert W. Christenberry is a native Louisianian, a graduate of Loyola Law School in New Orleans and a Democrat. He served as U.S. District Attorney from 1937 to 1947, when he was appointed to the bench by President Harry Truman.

The judge who figured most prominently in the New Orleans desegregation story and in initial desegregation in the state, was J. Skelly Wright. A native New Orleanian, he taught school for two years after graduation from Loyola University Law School in New Orleans. He was appointed to the bench in 1949, by President Truman, after serving as U.S. Attorney in New Orleans. \(^1\)

The district judge in charge of the Baton Rouge desegregation process was E. Gordon West. Unlike the other judges, he grew up in Massachusetts. He later moved to Beaumont, Texas, where he was a salesman for a utility company and where he attended college. He moved from Texas to Baton Rouge and got his law degree from Louisiana State University. In Baton Rouge, he was at one time the law partner

of Senator Russell Long, who was said to be influential in his 1961 appointment to the bench. 2

Also figuring in the Orleans Parish desegregation story was Frank B. Ellis, a successful New Orleans attorney. Before coming to the bench in 1962, he had been director of the United States Office of Emergency Planning. As a former Democratic national committeeman from Louisiana, he had directed the Kennedy campaign in Louisiana in 1960. 3

Some of the prior judicial experiences and statements of the three circuit judges, who figured in the desegregation story in these two parishes, was such that it could be reasonably expected that they would not tolerate delaying tactics in order to uphold local customs; they would require that the Brown principles be followed.

Before coming to the bench, Richard T. Rives was a former president of both the Montgomery and the Alabama Bar Associations. He had the reputation of being impatient with delaying tactics and often reminded his colleagues that they must obey the law in its instructions for desegregation whether they liked it or not. In the continuing battle with the Orleans Parish School Board, many instances arose which


3Southern School News, May, 1962, p. 3.
required the immediate convening of a three-judge court. Judge Rives along with Christenberry was always available to hear these cases.

Elbert E. Tuttle moved to Atlanta from the North in 1923. In Atlanta he became active in Republican circles and community affairs; he served as a member of the board of trustees of Atlanta University, a Negro institution.

John Minor Wisdom was appointed to the bench by President Dwight Eisenhower. Prior to his appointment he was very active in political circles. He was former Republican national committeeman from Louisiana, a member of the New Orleans Urban League, which promotes job opportunities for Negroes, and, also, a member of the President's Committee on Government Contracts, which is responsible for federal contractors' compliance with the nondiscrimination clause on hiring.4

Kenneth Vines, in his study of southern Federal judges, outlines some personal information about them which may have some significance for an analysis of their activities in supervising the desegregation of the schools. He found that 51.3 per cent were born in the districts they serve; the state and regional law schools they attended, particularly the state universities, have strong ties with the political system, and they were either segregationists, moderates or integrationists with few significant differences between the three groups.

He also found that background was an influential factor in the judging process and stated: "We do not exclude the possibility of the legal environment upon the behavior of judges, but suggest that if

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legalistic influences are operative they must be considered along with social and political factors."\(^5\) Peltason believes likewise and further suggests that in analyzing their backgrounds it is important to keep in mind the fact that they came from the same social, economic, and political environment as do southern elected officials and hence are subjected to some of the same pressures as these officials. Second, that social acquaintances which a judge may wish to maintain after he becomes a judge may, also, be an influential factor.

**Free agents or culture bound?.--**Both Vines and Peltason rightly stress that the federal judge does have a certain amount of freedom as he goes about the business of judging. For example, while predominantly local influences prepare and bring federal judges into office, they are not necessary to keep them there. The judge who wishes to be an individualist is free to do so. Because of his freedom from the politics and pressures of elections, from dependence on cooperation with local politicians and groups in order to perform his duties, the federal judge has a certain operating independence that can insulate him from the effects of local and regional political values and practices, if he desires.\(^7\) By the same token, the judge who would like to, is often free to give weight to local considerations. In doing so, he must remember that he is an officer of the national government and


\(^{6}\)Peltason, *Fifty-Eight Lonely Men*, pp. 9-10.

\(^{7}\)Vines, *loc. cit.*, p. 344.
as such, is subjected to the claims of a national constituency. He must, also, guard his professional reputation as a federal judge, and follow the rulings of his judicial superiors. But, the rulings of superiors are not always explicit. When this is the case, the federal judge is even freer to use his discretion in rendering decisions. In addition, the district judge has at his disposal various doctrinal and procedural techniques which are supposed to enable him to render informed decisions, but which may be used as excuses for inaction, postponement and delay. Some judges in the Fifth Circuit have been accused of using delaying tactics in the disposition of civil rights cases.

Explicit instructions.—The two Brown rulings did furnish directions for school boards and federal judges to follow in administering and supervising the process of changing southern school systems from a segregated to a desegregated basis, but they left to their determination the meaning of such ambiguous terms as "all deliberate speed," "good faith compliance" and the "earliest practicable date."

The instructions to the school boards lacked firmness and, hence, were open to divergent interpretations. For example, the Court in the 1955 Brown ruling said, in essence, to the school boards that:

1. Full implementation of the constitutional principles of the May 17, 1954 ruling could wait until varied local school problems were solved.

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2. School authorities have the primary responsibility for elucidating, assessing, and solving these problems.

3. School authorities must make a prompt and reasonable start toward full compliance with the May 17, 1954 ruling.

4. The pace of full compliance will be left up to the boards as long as it is done in good faith.

The Court told the district courts that:

1. They were to be guided by equitable principles.

2. Admission to public schools as soon as practicable on a nondiscriminatory basis may call for the elimination of a variety of obstacles.

3. They may properly take into account the public interest in the elimination of such obstacles in a systematic and effective manner.

4. In determining whether boards' actions constitute good faith compliance, the courts may consider problems related to administration arising from the physical condition of the school plants, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems.

5. They were to consider the adequacy of any plans proposed by boards.

6. During the period of transition, they were to retain jurisdiction of the cases.\footnote{349 U.S. 294 (1955).}
The Court, also, had some words of caution for state and local lawmakers. In Cooper v. Aaron, it reminded them that while laws promoting the public peace are desirable and important, public peace cannot "be accomplished by laws or ordinances which deny rights created or protected by the federal Constitution." In essence, law and order was not to be had at the expense of depriving the Negro children of their constitutional rights. The Court warned the citizens in general that the constitutional rights of Negroes to attend schools on a nondiscriminatory basis were not to be sacrificed to violence and disorder. And to those states that were contemplating interposition rather than obeying the Brown ruling, it said again in the Cooper case that: "no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it."

Were these firm instructions? They may not have been originally, but by 1960, the trend implementation would take was clear. There was considerable success in implementation in the Border and Upper Southern states. In the Deep South, Houston, Atlanta, and New Orleans were to lead the way in 1960. In addition to the implementing decision, Cooper v. Aaron was an indication that the Supreme Court would stand firm.

It was rumored, often, that federal judges still had wide latitude in dealing with desegregation cases. With a broad and liberal

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interpretation of the Supreme Court's rulings, they could speed up desegregation, but on the other hand, by narrowly construing these rulings, and giving greater weight to local conditions, they could postpone desegregation. Either of their choices could be supported by precedent and procedures.

The district judge's decisions, however, are undoubtedly affected by some influential and power factors in the total political system. He must consider what his superiors will affirm or reverse, how much desegregation the community will tolerate, what the school boards could and would do, what state officials would allow, what the nation and the law demanded, what the opposition could effectively oppose and what Negro plaintiffs could effectively demand. In short, the thesis may be posited that whatever decision he chooses to render would be a political decision based on his conception of its prospective success in the political arena.

The New Orleans Story: Counteracting the State's Legal Techniques

From 1956 to 1962, the District Court for the Eastern District of Louisiana was busy supervising the desegregating process in Orleans parish. It was not until 1963 that the court was satisfied with the status of desegregation there. It was not until then that it could secure some of the demands of Negro plaintiffs, stop the inaction and delaying tactics of the school board and blunt the interference of the state legislature. This was a negligible, but relieving success because for more than a decade the district court had struggled unsuccessfully with the issue.
A liberal judge with a national and progressive outlook.--By 1960, the objectives of the Brown decisions did seem clear. The most that any district judge could do was to follow the law or to delay desegregation because local conditions and objections demanded it. For the conservative judge, inclined toward giving local conditions and the peace and good order of local communities greater weight than the constitutional rights of Negro children, or the solution of the race problem generally, there was no difficulty in showing that local conditions and objections in New Orleans, and throughout the state of Louisiana during the early 1960's, demanded postponement and delay. By 1960, Judge Skelly Wright, a liberal judge, thought that sufficient time had been allowed for local objections to be aired and local obstacles to be ironed out. In that year, he ordered desegregation, beginning with the first grade. Judge Wright had spent his entire life in New Orleans and he did not think that the conditions there were such that the city would not tolerate "token" desegregation. Before ordering desegregation, he had spent much time convincing influential and reluctant moderates of this and apparently he thought he had succeeded. Later he said, "several years ago I was almost like a voice crying in the wilderness. Today we have support, substantial support, among the responsible people here in the city. Lots of people don't like what I have done, but more and more are willing to understand that it is something we must do."12

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While he understood the necessity of giving great consideration to local problems, he indicated that, eventually, the community had to face the problem of desegregation. He saw his role and the role of federal district judges not only as legal and firm enforcers of the principles in Brown, but also, as social engineers with a social and moral obligation to help solve the problem. When he issued the first preliminary injunction against school segregation in 1956, he said:

The granting of a temporary injunction in this case does not mean that the public schools in the Parish of Orleans would be ordered completely desegregated overnight, or even in a year or more. The Supreme Court, in ordering equitable relief in these cases, has decreed that the varied local school problems be considered in each case. The problems attendant desegregation in the Deep South are considerably more serious than generally appreciated in some sections of our country. The problem of changing people's mores, particularly with an emotional overlay, is not to be taken lightly. It is a problem which will require the utmost patience, understanding, generosity and forbearance from all of us, whatever race. But the magnitude of the problem may not nullify the principle. And that principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God.13

He believed like Llewellyn, but more boldly, that government can initiate and cause changes in directions in social relations. He believes that the Court should participate in this initiation. Before leaving New Orleans for a seat on the Appeals Court in Washington, D.C., in a speech at Tulane University in which he outlined and defended his rulings, he gave some idea of what he conceived the role

of the Court to be. He said that the United States Supreme Court,

...is more than a law court—it is a policy court, or, if you will, a political court .... It is an instrument of government, and while most judges have the habit, through long years of precedent, of looking backward, the Supreme Court must look forward through a knowledge of life, of people of sociology, of psychology.

The Supreme Court is the final interpreter of the Constitution, a living document. It should not be interpreted with reference to the time in which it was written but rather in reference to the present, or better still, the future.\textsuperscript{14}

After moving to Washington, he again voiced his belief that the courts and government in general could do much to solve social problems. He implied that a multi-angled approach, by government in general and the courts specifically, would have to be followed in order to solve the school segregation problem. For example, in 1965 in a law review article he said:

Progress in desegregation can be accelerated, however, if courts refuse to countenance gerrymandering as a substitute for segregation compelled by law. It is becoming increasingly clear that as Southern school boards change from dual, that is, separate Negro and white, operation to a single school system, segregation in the schools can remain virtually as before. By careful drawing of neighborhood school boundary lines, the formerly all-white school remains all white, or almost so, and the formerly all-Negro school remains, for all intents and purposes, all Negro. The fact that the segregation is no longer, in terms, compelled by law does not eliminate or remedy the inequality. Thus the interdiction of all state statutes compelling racial segregation in public schools is but a short first step on the road to desegregation.

Historical gerrymandering is a common cause of \textit{de facto} segregation; restrictive covenants in land

\footnote{\textit{Southern School News}, May, 1962, pp. 3-4.}
titles segregating neighborhoods is another common cause. But more and more it is becoming apparent that perhaps the primary cause of de facto segregation in urban schools is the socio-economic condition of the Negro. The inability of many Negroes, because of overt and covert job discrimination, to find proper employment, drives them and their families into the segregated slums which disgrace many of our metropolitan areas.15

In 1960, when it was quite obvious to everyone that the Orleans Parish School Board, for various political reasons, would not begin desegregation, Judge Wright decided to take the lead. In accord with his liberal philosophy and spirit, he attacked the problem in New Orleans. For two years he led with conviction and firmness and was fairly successful in counteracting the state's massive techniques of litigation and legislation. The dedication with which he was to pursue his task and his attitude toward the state's legal tactics was indicated by him in his answer to the school board's contention that Negroes did not exhaust all the administrative remedies and, hence, could not be admitted to the schools of their choice. He thought that Negroes had exhausted their administrative remedies and answered in part that:

As a practical matter, plaintiffs here have exhausted their administrative remedies. They have petitioned the Board on three separate occasions asking that their children be assigned to nonsegregated schools.... To remit each of these minor children and the thousands of others similarly situated to thousands of administrative hearings before this Board, to seek the relief to which the Supreme Court of the United

States has said they are entitled, would be a vain and useless gesture, unworthy of a court of equity. It would be a travesty in which this court will not participate.16

In 1958, when the school board sought to vacate the preliminary injunction by relying on a 1956 act which took away the classification of schools from it, Judge Wright, in denying the motion for dismissal, gave some indication about how he felt concerning the state's legislative techniques which could be employed to avoid desegregation. He saw this state statute as a mere legal artifice and stated that "any legal artifice, however cleverly contrived, which would circumvent the Brown ruling and others predicated on it, is unconstitutional on its face."17

After desegregation did take place, he continued his firmness by seeing that the board did conform to the Brown ruling. When the main battle with the legislature was over, he could turn his attention to the administration of his order. After two years of operation, it was again obvious to everyone that desegregation was not working. Negroes petitioned for a ruling against discriminatory use of the pupil placement technique. In 1962, Judge Wright ruled that administration of the Pupil Placement Act was unconstitutional and that 12 Negro first graders out of 13,000 over a two-year period was not a good start. In addition to preventing discriminatory use of the pupil placement technique, he ordered the first six grades desegregated beginning with the 1962-63 school year. In this decision he said:


The board maintains that it was justified in applying the pupil placement law to the desegregation order of this court in an effort to make certain that the children applying to transfer were intellectually and psychologically acceptable in the schools they sought to attend. The Board makes no explanation for its failure to test all children seeking to enter the first grade, or any other grade, in an effort to determine whether or not they were intellectually and psychologically acceptable in the segregated schools to which they were automatically assigned. This failure to test all pupils is the constitutional vice in the Board's testing program. However valid a pupil placement act may be on its face, it may not be selectively applied. Moreover, where a school system is segregated, there is no constitutional basis whatever for using a pupil placement law. A pupil placement law may only be validly applied in an integrated school system, and then only where no consideration is based on race. To assign children to a segregated school system and then require them to pass muster under a pupil placement law is discrimination in its rawest form.18

In this same decision, he seemed to show some concern for the prestige of the Court and for the respect of the decision it rendered in Brown. He seemed to fear that this respect would diminish if judges were to wait any longer for local problems to be ironed out. There was, also, some reason to be suspicious of the intentions of educational officials. Continuing in the same decision, he said:

The Board states that in the next two or three years, when its present building program is completed most of the platooning and the crowded conditions in the Negro schools will be eliminated. But the Board's projection gives no facts or figures, nor does it make allowance for the increase in the school population to be anticipated, based on the current birth rate. The Board also suggests that in two successive elections property owners of New Orleans have voted down proposals for the increases to defray the increased cost of operating the public schools in New Orleans, and that this failure has caused the crowded conditions in the Negro schools.

Whether New Orleans will have adequate public schools is, of course, the responsibility of her taxpayers. But whatever is provided, inadequate as it is, must at least be made available on an equal basis to all children.\(^{19}\)

He had praise for the board and sympathy for its plight, but he indicated that the board's other difficulties could not stand in the way of a solution of the problem and said:

The School Board here occupies an unenviable position. Its members, elected to serve without pay, have sought conscientiously, albeit reluctantly, to comply with the law on order of this court. Their reward for this service has been economic reprisal and personal recrimination from many of their constituents who have allowed hate to overcome their better judgment. But the plight of the Board cannot affect the rights of school children whose skin color is no choice of their own. These children have a right to accept the constitutional promise of equality before the law, an equality we profess to all the world.\(^{20}\)

Judge Wright did not move unrealistically. There were indications that his efforts would succeed. His efforts to go ahead were taken only when there was considerable community support for his action. In 1960, there was also experience with desegregation in other Southern cities, and there was reason to believe desegregation would continue there. The Little Rock experience seemed to portend that the federal government would not be as hesitant to lend support as it was during the early days of that crisis. In addition to substantial moderate support he could expect, then, some federal support. In a limited way, support did come. From the very outset of the New Orleans crisis, the Attorney General, Mr. Rogers, had been an active

\(^{19}\) Ibid.

\(^{20}\) Ibid.
participant. He warned that any resistance, obstruction, or interference with federal court orders would be in violation of federal law, and he deployed federal marshals who would be ready to co-operate with the city.\textsuperscript{21} There was also good reason to believe that the new administration, about to take office, would give him active support.

Judge Wright realized that he could not succeed with his program unless there was substantial support from the other judges who would have to participate in the solution of the problem. In the running battle with the school board and the legislature, many occasions arose when a three-judge federal court was required. Judge Wright was fortunate; two judges, Rives and Christenberry, who also felt that the law in \textit{Brown} had to be enforced rather vigorously, always were available. Fortunately, most of the judges on the Fifth Circuit Court of Appeals, before whom the case was to come, were strong advocates of upholding the \textit{Brown} ruling. They functioned, especially during the early period of the legal battle, as backers of Wright's decisions and patient explainers of what the law demanded.

\textbf{Counteracting legislative resistance}.--By early 1960, Judge Wright with the support of his fellow judges, both district and circuit, had succeeded in checking the litigation phase of Louisiana's massive resistance. From here on, the legislature took control of the struggle, personally. Judge Wright was as firm with the legislators as he had been with the administrators. When a legislative committee took over and tried to run the Orleans Parish Schools, it was

ordered to leave them alone. When the entire legislature decided to act as the school board, Judge Wright ordered it not to interfere with court-ordered desegregation. Undeterred, the legislature went right on legislating. It created a new school board, withheld funds from the two desegregated schools, and re-enacted a body of laws designed to prevent desegregation of Orleans Parish Schools. It based all this action on the questionable doctrine of interposition. The legislature sought to convince the citizens that it had interposed its authority between the usurping federal courts and the people, and by so doing, it had relieved them from any obligation to obey the federal court. A three-judge federal court, again consisting of Rives, Christenberry and Wright, would have none of it. They said of interposition: "If taken seriously it is illegal defiance of constitutional authority.... Without the support of the interposition act the rest of the segregation 'package' falls of its own weight...." \(^2^2\)

The appeals court demands affirmative action from school officials.--When Judge Wright left his post in New Orleans in 1962, Judge Ellis modified his order to desegregate the first six grades, both Negroes and the school board appealed to the Fifth Circuit. The Fifth Circuit modified the plan by calling for less desegregation than Wright had ordered but more than Ellis' order had asked. The appeals court was accused of usurping a function that was given by the Supreme Court to the district courts. The court agreed with Wright that, "the

\(^2^2\) Orleans Parish \textit{v.} Bush; \textit{United States v. Louisiana}, 5 RRLR, 1008 (1960).
transfer of twelve Negro children to white schools over a two-year period is not the institution of a gradual plan for a non-racial school system. It is not even a good start."23 The court did, however, act realistically and firmly. It had some praise for the board, and it showed that it did understand its problem. However, it spoke of the Pupil Placement Act in a compromising but firm tone. It said:

When a case involves the administration of a state's schools, as federal judges we try to sit on our hands. But we must serve notice that the Act is not a desegregation plan and that this Court cannot tolerate discrimination in the name of the Act. The key to the problem is the elimination of dual or biracial school zones. The limiting principle is clear: the Act may not be used discriminatorily. The touchstone is good faith.24

The boldest and firmest action on the part of the Fifth Circuit came in 1966, in the famous Jefferson County case. In this case, the Fifth Circuit set forth some of the kinds of firm instructions that NAACP lawyers wanted from the Supreme Court in the 1955 Brown case. In the Jefferson County case, Negro children in two Alabama cities and one county and in four Louisiana parishes brought separate class actions in the appropriate district courts to desegregate the public schools. In each case, the court, during the summer or fall of 1965, entered an order requiring the defendant school officials to implement a gradual desegregation plan set out by the court. In most of these cases, the United States entered as a party-plaintiff, after the suits

23 7 RRLR, 701 (1962).
24 Ibid.
had been filed. The three-judge panel sought to bring its decision in line with HEW's guidelines issued under Title VI of the 1964 Civil Rights Act. The court thought that great weight should be given the guidelines since they represented the best system available for uniform application, they were the best aid to the court in evaluating the validity of desegregation plans, and they outlined the proper speed for progress. Furthermore, since schools automatically qualified for federal financial assistance when the boards agreed to comply with final court desegregation orders, unless judicial standards were substantially in accord with guidelines, school boards could resort to the court to avoid complying with the guidelines. In addition, the court thought that courts had a duty to cooperate with the Congress and the executive department in enforcing congressional objectives. For these reasons, it thought that court-supervised desegregation should not be any lower than those for HEW-supervised desegregation. The court held that federal court decisions should compel school officials in the states in the Fifth Circuit to take affirmative action to reorganize their school systems by integrating the students, faculties, facilities and activities; decisions in other sections, which may seem contrary to this position, either failed to reflect the existing state of the law or were inapplicable to the situation then before the court because they dealt with segregation in a de facto context. 25 The Court also said that "adequate redress therefore calls

for much more than allowing a few Negro children to attend formerly white schools; it calls for liquidation of the State system of *de jure* school segregation and the organized undoing of the effects of the past segregation." Furthermore, the court said that the only desegregation plan that meets constitutional standards was one that worked.

On rehearing before all the judges of the Fifth Circuit, the full court, composed of 12 judges, adopted with clarifications, the opinion of the three-judge panel. It held that school officials in the States, which compelled segregation by law, were under affirmative duty to bring about an integrated unitary school system "in which there are no Negro schools and no white schools--just schools."

Thus, with this holding that the 14th Amendment lays down an affirmative duty upon school boards and officials to "bring about an integrated unitary system," the full court overruled prior cases within the circuit which approved the dictum in the *Briggs* ruling which held that the Supreme Court, in *Brown*, did not require states to mix persons of different races in the schools, but that it merely required them not to discriminate.

Though the circuit judges in the Fifth Circuit functioned during the early controversy primarily as explainers to the state and the school board, of what the law was, in time, as the above case attests, they became more active participants. They were always firm in their

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26 Ibid.
27 372 F. 2d 836 (5th Cir. 1966), aff'd on rehearing *en banc*, C.A. No. 23345, 5th Cir., March 29, 1967.
28 Ibid.
stand that the principles in Brown be followed. But as time went on, they showed that they too were impatient with the board's inaction and the state's obstructionist techniques. They showed that they thought more effort should be made toward some resolution of the problem. One observer states that only one of the seven judges on the Fifth Circuit was considered a segregationist. In fact, the Fifth Circuit has been referred to as the "trail blazing court which has often kept the Constitution alive in the South."  

Only moderate success. — After all this effort on the part of Judge Wright, when he left his post in 1962, only 12 Negro students had been admitted to previously all-white schools. One of the main reasons for this lack of success in actual desegregation was the stiff opposition on the part of state officials. Judge Wright got sidetracked from the main task of supervising the desegregation process, into one of the most frustrating battles in the whole history of the school desegregation struggle. The sketch of that struggle, outlined below, gives some indication of the little that the judiciary can achieve when there is active opposition to its objectives from other levels or agencies of government. This merely bolsters the contention of this paper that for the desegregation process to succeed there had to be either active support for it, or an absence of opposition to it, by other levels or agencies of government.

The Legislature and School Officials Frustrate Desegregation Efforts

Maximum use of the legal technique by school officials.--Efforts to desegregate the public schools of Orleans Parish were started in November, 1951 when Negro children, through their parents, petitioned the Orleans Parish School Board to desegregate the schools. Subsequently, they brought their demands to the federal court; on September 4, 1952, they filed a school desegregation suit against the board. At that time, there were five school segregation cases pending in the United States Supreme Court. The plaintiffs and the school board agreed to suspend litigation until the Supreme Court decided the constitutional issues in the School Segregation Cases.

It was not until 1956 that Negro plaintiffs, in earnest, started their fight to be admitted to Orleans Parish public schools on a non-discriminatory basis. That year, they filed a class action in the federal district court against the board, seeking injunctive and declaratory relief as to their right to be admitted. On February 15, 1956, Judge Wright declared state school segregation laws unconstitutional and issued a preliminary injunction requiring desegregation "with all deliberate speed." Up to that time, the board's opposition to desegregation had been dictated, for the most part, by long standing customs and laws on the statute books. 30

For the next four years, the school board took no positive action to bring about a 'prompt and reasonable' start. The action that the board did take was negative--designed to delay and evade.

30 7 RRLR 694 (1962).
It took full advantage of all the legal procedures to delay, as long as possible, any positive action. It also took advantage of state interference aimed at nullifying the Brown decision and could plead lack of jurisdiction, since the state legislature had passed statutes taking control of school classification, and other matters, out of its hands.

The New Orleans desegregation legal battle is a good example of the legal delays that could ensue in an attempt to get a school system desegregated in the South. It also illustrates the difficulty with which poor and uninformed litigants were confronted. After Judge Wright issued the preliminary mandatory injunction in 1956, ordering the school board to desegregate, the board could move to vacate the injunction and to have it dismissed on the ground that it was not a proper party defendant because of a 1956 statute which transferred the board's control of classification of public schools to a state agency.\textsuperscript{31}

On July 1, 1958, the court denied the motion, made the injunction permanent and stated that the statute was "nothing but a legal artifice contrived to circumvent the ruling of the Segregation Cases."\textsuperscript{32} This ruling was appealed. The Fifth Circuit Court of Appeals affirmed the judgment, holding the constitutionality of the 1956 Act to be immaterial because it left the operation of the parish schools with the parish board, which was properly subjected to an injunction prohibiting segregated operation. From this ruling, the board petitioned

\textsuperscript{31} RRLR 927 (1956). \hspace{1cm} \textsuperscript{32} RRLR 649 (1958).
for rehearing, and on June 9, 1959, the court held that the principle of federal court abstention did not apply because it was unnecessary to construe state laws, since it was beyond the power of any state law to make permissible the segregated operation of public schools by defendants (the school board). On July 15, 1959, the district court, with Wright presiding, ordered the school board to present a plan by March 1, 1960. The deadline was extended to May 16, 1960.

About this time, the state interfered again. The state's Attorney General sought an interpretation of a 1956 statute, dealing with the classification of public schools in "any city" of more than 300,000 population. A state district court concluded that the Act reserved to the state legislature the right to classify schools as all white, all Negro or mixed. This holding was affirmed by the state appeals court. The Attorney General also asked the state court to enjoin the school board from reclassifying Negro and non-Negro public schools. This court granted the injunction, holding that the federal court action was no obstruction to subsequent action in another jurisdiction. It also ruled that the act which permitted the governor to intercede in reclassification was constitutional.

Caught in the middle between Louisiana courts and the federal courts, the board was empty handed on May 16, 1960, the day on which it was supposed to present a plan. On that very day, having received

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33 RRLR 581 (1959).

34 Ibid.


36 RRLR 659 (1960).
no plan from the board, Judge Wright ordered the New Orleans schools desegregated under his own plan of desegregating a year at a time according to a step ladder program, beginning September, 1960.

Again on August 18, 1960, the school board could claim inability to act because the state was running interference for it. This time, the governor intervened. He announced that he was taking over the administration of Orleans Parish schools. However, this was not allowed. At the request of Negro plaintiffs, a three-judge federal court on August 27, 1960 enjoined the governor, the attorney general, the state judge who issued the injunction against the board, the school board and its superintendent from acting under the authority of the state injunction. In addition, several enactments of the legislature were declared unconstitutional, and the state's Attorney General was cited for contempt for his conduct during the hearing.

On request of the four moderate members of the school board, the effective desegregation date was delayed. They told Judge Wright that they were prepared to desegregate, but because of the state's interference, they had not been able to make preparations. Judge Wright was asked to postpone the effective date of his decree until November 14, 1960, the beginning of the second quarter. Judge Wright, convinced of the board's sincerity, granted its request, over the objections of Negro plaintiffs.  

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37 RRLR 694 (1962).

The legislature takes over.--In late August, the state's Attorney General announced that the state had exhausted its legal techniques. This appeared to have been the end of the struggle. But it was not. Shortly before the scheduled desegregation, the Louisiana legislature met in special session and approved a number of acts, relating to the operation of the schools, which were designed to take control of the schools from the board and consequently, to block desegregation. On November 10, 1960, the plaintiffs in one of the segregation suits, Williams v. Davis, asked the district court for an injunction against enforcement of certain of these new acts. They felt that they were merely replacements for the statutes already declared unconstitutional. The court granted a temporary restraining order against the governor, attorney general, state treasurer, comptroller, state Superintendent of Education, the public safety director and parish schools.\(^{39}\) This time, it seemed that desegregation would take place without any more state interference, but days before the scheduled reopening of schools, the state superintendent of education declared a holiday. The plaintiffs in the Bush case again petitioned the court for a temporary restraining order against this action. The court granted the motion. It also restrained state officials from acting under Louisiana House Joint Resolution 23 of the same date. This resolution deprived the Orleans Parish School Board of control over the schools, dismissed the Parish Superintendent and the Parish

\(^{39}\) RRLR 1001, 1177 (1960).
Attorney. The legislature also created an eight-man legislative committee to run the New Orleans schools. This committee rehired the superintendent and instructed him to open schools in compliance with the newly enacted segregation laws.

After Judge Wright ordered the legislative committee to leave the Orleans Parish schools alone, the legislative plan was to have the entire legislature serve as the school board for the Orleans Parish schools. But this, too, was not allowed. The night before desegregation was to take place, on a motion from the Department of Justice and the Orleans Parish School Board, Judge Wright ordered the entire legislature to make no attempt to enforce laws passed that day or to take any other action interfering with, or circumventing his orders dealing with the Orleans Parish schools.

On November 30, 1960 a three-judge federal court, composed of Chief Judge Rives, District Judges Christenberry and Wright, considered the resolutions and enactments of the legislature, dealing with the Orleans Parish school situation, and declared 23 of them unconstitutional. Specifically, the court struck down a resolution of interposition, issued a temporary injunction against the governor, the attorney general, the legislature and the State Superintendent of Education from interfering in any way with the operation of Orleans Parish schools by the school board. On December 12, 1960, the United States Supreme Court refused to stay the injunction issued by the three-judge court on November 30, 1960.

40 Ibid.

41 5 RRLR 1017 (1960).
Indirect efforts to maintain segregation.—The federal courts had blunted most of the obstructionist efforts of school and state officials. They had stopped the school board's legal barrage and the legislature's mass of bills, but the legislature thought that it could still accomplish, by indirect means, what it could not achieve directly. It had, so it thought, certain local techniques which were invulnerably insulated from federal judicial review. For example, it had control over its school finances and its personnel; it could fire and hire at will and it could prosecute its citizens criminally for breaking state laws. So after the federal court opinion, invalidating most of the segregation acts, the legislature enacted other measures, setting up a new school board with nothing but fiscal powers. Copies of these enactments were served on the banks where the old school board had its accounts. These banks subsequently refused to honor checks drawn on the board's account. The city, also held taxes as they were collected. This did not work. The elected school board filed a claim to have its funds released. A three-judge federal court enjoined the state from enforcing the new acts, the banks were enjoined from refusing to honor checks drawn on the board's accounts, and the city was directed to turn over taxes collected for the schools.\(^42\)

In an attempt to control the school officials who decided that they had to cooperate with the federal courts, the legislature passed three enactments: Act 5 of the Extraordinary 1960 session which

\(^{42}\) 5 RRLR 1020 (1960).
removed the Orleans Parish School Board Attorney; Act 4 of the Third Extraordinary 1960 session which removed the entire Orleans Parish School Board; and Senate Concurrent Resolution 7, of the Third Extraordinary 1960 session, which removed from office the superintendent of schools. On March 3, 1961, a three-judge court, again composed of Rives, Christenberry and Wright restrained these enactments. 43

Two other acts, 3 and 5 of the Second Extraordinary 1961 session were punitive measures to prevent citizens from taking advantage of desegregation. Act 3 for example, provided punishment for the giving to, or accepting by, parents of anything of value as an inducement to sending a child to schools operated on a desegregated basis in violation of state law. Act 5 forbade anyone from influencing another to violate state school segregation laws. The Court observed that while courts of equity do not ordinarily restrain criminal prosecutions, the acts in question were not ordinary criminal statutes, but rather, "emergency" measures designed solely to stop the program of limited desegregation. 44 Relying on the Cooper v. Aaron case, the court, in essence, said that however local acts might be or appear, if they discriminate against Negro children by interfering with court-ordered desegregation they were invalid. 45

44 RRLR 413 (1961).
45 RRLR 1020 (1960).
This account of legislative activity is by no means the only anti-desegregation legislation passed by the Louisiana legislature. This was merely the "emergency" legislation, most of which grew out of the legislature's direct confrontation with the federal courts. Most of it was passed during late 1960 and early 1961. The chapter dealing with governmental support for, and opposition to, desegregation, shows that Louisiana had been legislating against desegregation for six years. But for all practical purposes, this "emergency" period was the beginning of the end of the legislative struggle.

But in spite of this, for two years little progress was made in getting Negroes into previously all-white schools. In fact, it was not until 1962 that the board, for the first time, presented a plan. So it was not until thirteen years after Negroes filed the first suit to have New Orleans schools desegregated, nine years after Brown, seven years after constant pressure by Negro applicants and twelve Negro children were admitted to previously all-white schools, after vigorous and sometimes firm action by the federal courts to uphold the principles of Brown, that the district judge was reservedly satisfied, and reluctantly agreed to leave the Board alone. He could then say:

The epic struggles are over.... The record at this stage convinces this court that the plan for desegregation is proceeding with all deliberate speed--faster and slower than some would wish, but generally in the best interests of the parties and the community.46

46 7 RRLR 539 (1963).
The Baton Rouge Story

Unlike Judge Wright who was sometimes accused of going further than the Brown decision allowed, Judge West, who supervised the desegregation process in Baton Rouge, was often accused of acting only when forced to do so by a higher court. His actions and attitude left no doubt as to what side of the legal issue he was inclined. In approving the school board's plan in 1963, over the objections of Negroes, he said:

When formulating a plan of desegregation, the greatest weight should be given, whenever possible, to the opinions and recommendations of the local school board, and when these opinions and recommendations do no violence to the constitutional principles involved, they should be accepted and followed by the Court. In this case, there is no valid reason whatever for this Court to ignore the recommendations of the School Board that desegregation of East Baton Rouge Parish School system commence at the twelfth grade level.47

He did not approve of any active role on the part of the Court in solving the country's racial problem and he was critical of the Supreme Court and the Fifth Circuit Court of Appeals for assuming such a role. About the Brown decision he said:

I could not, in good conscience, pass upon this matter today without first making it clear for the record, that I personally regard the 1954 holding of the United States Supreme Court in the now famous Brown case as one of the truly regrettable decisions of all times. Its substitution of so-called 'sociological principles' for sound legal reasoning was

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unbelievable. As far as I can determine, its only real accomplishment to this date has been to bring discontent and chaos to many previously peaceful communities, without bringing any real attendant benefit to anyone.\(^4\)\(^5\)

He got his opportunity to criticize the Fifth Circuit Court of Appeals after it decided that certain counties in Alabama and parishes in Louisiana and other schools in the circuit's jurisdiction had to desegregate their schools under strict "guidelines," established by the Department of Health, Education, and Welfare. He thought that freedom of choice should be the policy followed by the courts and that if de facto segregation occurred it would simply be an example of the community's natural desire with which courts should not interfere. In his comments on the case he said, in part:

It is far too late for anyone to take issue with the fact that the established law of the land now requires that there be no forced segregation in public schools. But it is equally well established in law that neither the Constitution nor the laws of the United States of America require forced integration of the races in public schools. The law is clear. It requires that public schools be maintained and operated, not as Negro schools and not as white schools, but as public schools. It requires nothing more nor nothing less than that within the bounds of proper school administration all students have a free and unfettered choice of the school he wishes to attend, and that he has the right to be assigned to the school of his choice without regard to his race, color, religion, or national origin. If the plan adopted by a school system employs this criteria, and if the freely exercised choice of students or parents results in de facto segregation, that is merely an example of freedom of choice in operation. It is just as important that one's freedom to choose a school that does not happen to suit the fancy of the court be protected, and respected as it is to protect the rights of those

who elect to attend the schools which the Court, in its
infinite wisdom, thinks they should attend. The
majority opinion handed down in this case gives one
the impression that the Courts are the guardians of
the educational process employed in this country....

While Judge West considered himself dutybound to take into
account local feelings and prejudices in handling desegregation
cases, civil rights advocates say that this preoccupation with giving
prime consideration to local objections has resulted in too much delay,
and, hence, a denial to litigants of their civil rights. He has been
accused of frustrating civil rights forces by simply doing nothing.

The St. Helena case is one example.

St. Helena Parish borders Mississippi and is not far from the
birthplace of the White Citizens Councils. In the parish Negroes
constitute a majority of the total population. In 1962, they filed
a petition asking Judge West's newly created court to enforce a de-
segregation order previously handed down by another judge. They also
filed motions in 1963 and 1964 to compel the school board to begin
desegregation. The third motion was brought to a hearing on March 4,
1964, but Judge West declined to enter any order and indicated that
he did not intend to rule before the commencement of the 1964-65 school
year. Negro plaintiffs did not wait; they petitioned the United States
Court of Appeals for the Fifth Circuit for a writ of mandamus to compel
action by the district judge. The court of appeals thought that

60 (E.D. La. 1967).

50 Greene, loc. cit.; pp. 274-78.
Judge West's actions were without justification and demonstrated a startling ... lack of appreciation of pronouncement of the United States Supreme Court and the court of appeals, concerning the duties of school boards at that time with respect to desegregation. The court told Judge West that it was the clear duty of the district court to require the school board to submit a plan for approval, or for the court to fashion its own plan and order it put into operation. 51

Civil rights advocates also accused the judge of stymieing Negro litigants by ignoring legal precedent. For example, in a 1964 case he ruled that the Louisiana board of education was a state agency, immune from suit, when several Negro students filed a suit charging they were denied admission to a state college. The judge cited a state law and a 1907 Supreme Court decision, but he failed to take into account five more recent appeals court cases in which it was held that the agency could be sued. 52

Whenever the judge was forced to act, he did not fail to let the record show first, his distaste for doing so and second, that he often had some aspect of the community's interest in mind. In ordering the East Baton Rouge School Board to present a plan in 1963, he said:

It is to be hoped that the parties to this suit, as well as their counsel, will recognize the fact that an orderly, well-planned resolution of this problem, within the

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52 Greene, loc. cit.
framework of the law as presently interpreted by the United States Supreme Court, is both desirable and necessary if the peace, tranquility, and economic welfare of this community are to be preserved. This can only be accomplished by the good faith cooperation of everyone concerned, the parties, their counsel, and the citizens of Baton Rouge. The people of many other cities throughout the South have met this challenge with dignity, by use of reason and common sense, without resort to force or passion, and have thus avoided strife and unrest in their communities.53

He also seemed to apologize to the community for rendering these decisions and thought it necessary to let the record show that he had no other alternative. In ordering the board to submit a plan in 1963, again he said:

However, regardless of my personal opinion as to the incorrectness and inadvisability of the conclusions reached by the United States Supreme Court in the Brown case, I have no choice, however distasteful it might be, under the 'Supremacy Clause' of the Federal Constitution but to follow the holding in that case.54

When Negroes petitioned for additional desegregation on the basis of the Jefferson ruling, he said:

On December 29, 1966, the United States Fifth Circuit Court of Appeals, by a two to one decision, handed down a most unusual decision--unusual because of its glaring inconsistencies, ambiguity, and sheer unconstitutionality. I refer to the case of United States v. Jefferson County Board of Education ... with which six other cases were consolidated for hearing .... The East Baton Rouge Parish School case was not involved in that decision. But by some magic, with no motion ever having been filed for consolidation, the Baton Rouge case suddenly appeared consolidated with the other seven cases when the matter

54 Ibid.
came up for rehearing before the court sitting en banc .... But since the District Courts in the Fifth Circuit seem now to have been completely stripped of all discretion insofar at least as the cases directly involved in the Jefferson decision are concerned ... this Court has no alternative but to comply with the mandate issued therein. 55

In spite of his unsympathetic attitudes and delaying tactics, Judge West did order desegregation in East Baton Rouge Parish in 1963. On a grade-a-year, "reverse stairstep" plan, 28 Negro pupils were enrolled in four high schools. 56 Moreover, desegregation there was not attended by the hostility which surrounded it in New Orleans, and it has progressed fairly well since then. Negroes in Baton Rouge were not confronted with the mass of delaying legal appeals from the school board, either.

The suit asking for the desegregation of the East Baton Rouge Parish school system, was filed, originally, in 1956. Following the usual legal maneuvers and proceedings, the district court, in May, 1960, entered an order enjoining the school board from requiring segregation. As of 1963, no order had been issued directing the board to present a plan within any specific time for the implementation of the mandate. That year, Negroes asked for such an order. The court ordered the board to present a plan not later than July 5, 1963. 57

On June 28, 1963, the board submitted a plan which for the first time, allowed desegregation to begin at the twelfth grade

55 269 F. Supp. 60 (1967).
level, during the 1964-65 school year. Lawyers for the Negro students objected to the board's plan because it required initial assignment to segregated schools and only allowed Negro students to transfer to previously all-white schools after they met certain criteria. The court found the plan to be generally acceptable but stated that since desegregation plans based on transfers after initial assignment on the basis of race had been held discriminatory in previous decisions, the court required that, commencing with 1964-65, all initial pupil assignments should be made on the basis of the individual choice of the pupils. It also ordered desegregation to begin in 1963, instead of 1964. Thus revised, the plan was approved; the court retained jurisdiction during the entire period of transition to complete desegregation.\footnote{219 F. Supp. 876 (1963).} In 1965, Negroes asked for stepped up desegregation. The board presented, and the district court approved, a revised plan by which all grades were to be desegregated by 1969. The Fifth Circuit Court of Appeals later (1966) ruled that the Baton Rouge plan failed to meet standards established by the Jefferson County case.\footnote{12 RRLR 748 (1967).}

A Comparison of the Attitudes and Success of Two Supervising Judges

Though the two judges in these two communities had relatively the same set of legal principles to apply and, relatively, the same set of local circumstances and the same environment to which these principles were to be applied, there was a discernible difference in
the degree of relief they attempted to secure for the plaintiffs and the demands they made on the defendants—the school boards.

First, they differed in their conception of the rightfulness of the Brown decision. To Judge Wright, the United States could not turn the clock back; it was something America had to do legally and morally in the light of the times. To him, the Court had to move forward. The spirit of the times and the American creed demanded it, and the Court was a proper agency to help initiate social change. His decisions seemed highly influenced by liberal constitutional principles and a personal, national, and progressive outlook.

To Judge West, Brown was one of the 'truly regrettable decisions of all times.' In addition, he saw it as bad law. It substituted so-called 'sociological principles' for sound legal reasoning. There was no uncertainty as to where his sympathy lay. To him, greater weight should always be given to local and regional considerations. His decisions on school desegregation seem to be influenced by the contemporary anti-civil rights political jargon peculiar to the South. Some of the language in his decisions sounded as if it could have been right out of the "Southern Manifesto" of the speeches of southern segregationists running for office.

Despite his firm efforts to get school desegregation started and operating on a solid basis in New Orleans, Judge Wright had little success in this venture before he left in 1962. Similarly, despite Judge West's delaying tactics, he did not succeed in delaying desegregation in Baton Rouge. The desegregating process in these two communities, then, seems to demonstrate that success or failure is due
not only to the attitudes and actions of the judge but also to other non-judicial factors. For example, Negroes who sought relief under the supervision of Judge Wright, who seemed rather sympathetic to their cause, were relatively less successful than those Negroes who sought relief under the supervision of Judge West, who by his attitude and action, seemed far from sympathetic to a solution of their problem.

Why was this the case? It seems fairly safe to conclude that the degree of success or failure of the desegregating process in these two communities was due mainly to the status of government, community and group, support and opposition. In attempting to fashion a program in New Orleans, Judge Wright's efforts were beset by massive state legislative opposition. At the same time, federal support was not active and substantial. When desegregation came to Baton Rouge, state opposition had slackened considerably; at least the bulk of the opposing legislation had been passed and had been found invalid by the federal courts. By then, federal participation, especially on the part of the Department of Justice, was substantial; it had already participated in the desegregation of trade schools in Baton Rouge. Moreover, by then, the appeals court was taking a more active role; it was not reluctant to order district judges to speed up desegregation.

And, of course, by the mid-1960's HEW was active under Title VI of the 1964 Civil Rights Act.

Secondly, responsible elements of the New Orleans community waited too long to assert moral and social leadership. They acted only

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after the situation got out of hand. In Baton Rouge, there was some prior planning for desegregation. A few days before desegregation was to take place, community leaders called for law and order. For example, the Sunday before desegregation, most of the churches called on the citizens of the community to help make it work.

Thirdly, segregationist groups were not as vociferous in Baton Rouge as they were in New Orleans. The "token" desegregation they had worked so hard to prevent there had taken place anyway. There was no reason for them to believe that they could stop it in Baton Rouge in 1963 when they could not in New Orleans in 1960.

The next two chapters will attempt to identify, analyze and explain the dynamics of this support and this opposition, on the part of government, of groups and the community.
CHAPTER V

GOVERNMENTAL SUPPORT FOR, AND RESISTANCE TO, SCHOOL DESEGREGATION

Congressional Action

Congress' poor record and unfavorable response.--The implementation of any governmental policy, whether it be a court decision, congressional enactment, or presidential proclamation, depends upon the cooperation of all levels and agencies of government. The extent to which the decision in the Brown case was implemented in Louisiana, was, to some degree, a result of the presence, or absence, of resisting or cooperating pressures which were brought to bear on the desegregation process by all levels of government.

In some of the Border States, school boards, the agencies saddled with the primary responsibility for implementing the Brown ruling, were the only agencies that had to become involved, to any significant extent, in the desegregation process. In the majority of school districts throughout the South, however, desegregation came only after substantial resistance on the part of school boards. Communities and legislatures were overpowered by Negro demands, district court commands, Department of Justice support and in some instances, congressional legislation.
Efforts toward some degree of solution of America's racial problem could have come from any branch of the federal government. Any favorable official or unofficial congressional response would have been of considerable help to those attempting to carry out the Brown ruling. By 1954, the Congress was the only branch of the federal government that had not made any substantial contribution toward the solution of the racial problem, since the 1870's. In fact, for the first forty years of the twentieth century there was a silent agreement among the sectional factions in Congress not to irritate each other by raising the issue. So during and immediately after World War II when the issue came to the attention of the American public, the racial extremists, who guarded the southern position on civil rights in Congress, demanded that a rigid posture of opposition to any change in race relations in the South be taken by Southern congressmen.

A few individual congressmen responded with favorable statements after the Brown ruling, but the only organized congressional response was unfavorable. The same group of congressmen who had taken the lead in preventing the Congress from undertaking any positive action on civil rights were the ones who protested the action the Court took, in 1954, to eliminate segregated education in America. They immediately launched a campaign to discredit the Court and to make the Brown

1Frank E. Smith, Look Away from Dixie. (Baton Rouge: Louisiana State University Press, 1965), pp. 31-44.
decision ineffective. On March 12, 1956, a group of senators and representatives presented to the Congress a statement of their position on the Segregation Cases. The statement was called the "Southern Manifesto" and was presented on behalf of 19 senators, representing eleven states, and 77 House members, representing a considerable number of states.

A word or two about the statement. First, the "Manifesto" was nothing but a reiteration of the South's brief in the Segregation Cases. Second, it sought to persuade Southern citizens, and others, to believe that the decision would have serious effects. Specifically, the statement pointed out that the Brown decision would cause confusion where there was certainty and amicable relations between the races, would destroy ninety years of patient effort by the good people of both races, would plant hatred and suspicion where there was friendship and understanding and, that it would allow outside agitators to bring immediate and revolutionary changes in the public school system, which, if successful, were certain to destroy the system of public education in some of the states.

Another round of congressional attack came from individual congressmen in influential positions in Congress. For example, on May 26, 1955, the South's leading and most powerful legal official in the Congress, Senator Eastland, Chairman of the Senate Judiciary Committee, delivered a speech which was, in essence, an attempt to discredit the evidence on which the Court based its decision. To him, there was no question about it, the Court had been indoctrinated and brainwashed by
left-wing pressure groups. According to him, patriots were obliged, morally and legally, to disobey a decision whose authority rested not upon the law but upon the writings and teachings of pro-Communist agitators and people who had a long record of affiliation with anti-American causes. These collective and individual statements by Southern congressmen became part of the basis for Southern propaganda against the Brown decision. They were to be intermingled with the more vociferous rhetoric of the anti-civil rights groups and spread across the South during the early years of the school desegregation crisis.

A third congressional attack on the Court for its desegregation decision, was combined with the grievances of other sections. Though the Court was subjected to constant attack in Congress, from 1954 on, by Southern legislators who questioned the ability, motives and patriotism of the justices, they could expect only scattered support from their colleagues in other sections of the country on the direct merits of their segregation stand. Southerners were, therefore, alert to the need to find a broader base for their opposition to the Court, on which they might be joined by other allies. Their opportunity came in 1957. That year, as a result of Supreme Court decisions, congressional power to investigate communist activities and courts' powers to

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3 U.S., Congressional Record, 84th Cong., 2d Sess., 1956, CII, Part 4, 4460-4464.
prosecute them were limited. In some quarters, these decisions were regarded as a threat to national security, and in 1958, the attack on the Court was made more potent because of a merger between the national security alarmists and the segregationists. In 1958, these forces introduced a number of measures which were intended to "curb" the Court.

It has been suggested that this attack on the Court failed to produce curbing legislation, mainly for two reasons: first, because of the national respect for the Court and second, because of the character and motives of the instigators of the attack. It was obvious that, to a considerable degree, this legislative opposition to the Court's security decisions was recruited from among the Southern members of Congress whose main concern was retaliation for the Court's segregation ruling. The nature of the attack was so exaggerated and violent that it was self defeating. But this rhetoric in Congress did give the advocates of the status quo on civil rights, in general, and school desegregation, in particular, back at the state and local levels, encouragement in their campaign of resistance to any change and even to put roadblocks in the path of civil rights. Eventually, Congress did pass some legislation that was to have a significant effect on school desegregation.

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Favorable congressional response.--From 1957 to the mid-1960's, Congress did take some action that indicated that, when given a favorable political climate, it too could act in a positive way in helping to eliminate some of the legal obstacles from the path of the minorities' journey to full enjoyment of those rights taken for granted as fundamental by most Americans. This legislation was encouraging to those seeking to expand the participation of Negroes in American life. It was encouragement for those seeking to participate, without fear of reprisals, in the political process, especially the right to vote. To those who sought for years to enjoy some of the basic accommodations that the society had to offer, without discrimination, the 1964 Civil Rights Bill was a kind of milestone. But most important, it was to give encouragement to those who were advocating compliance with the 1954 Brown ruling.

In 1957, after a summer of extensive debate, Congress passed the first civil rights legislation since Reconstruction. The 1957 Civil Rights Act was "to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States." Though weak, it was an important and positive step in the right direction--toward protection of equal rights. For the success of school desegregation, the establishment of a commission on civil rights, to study the whole problem of civil rights in America, was an important step, indeed. The Commission was important because, for the first time, those Negroes with grievances were allowed to air them before an

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671 Stat. 634.
official body which was not local. It was important also because it had the effect of causing some uneasiness, however small, on the part of local officials. Before the Commission, subjects which local politicians considered closed and above questioning, could be aired and dramatized nationally and locally.

In 1960, Congress passed another Civil Rights Bill. Its primary purpose was to strengthen federal protection for the right to vote. But it also included a provision that had implications for school desegregation. It was the first indication that Congress was about to give school desegregation its support. The law allowed the federal government to provide its own educational facilities when there was segregation in communities with a substantial number of dependents of federal employees.

The 1964 Civil Rights Act was the most positive attempt by Congress to help make the Brown decision effective. With its passage, federal responsibility for school desegregation was to be shared by the Department of Justice and the Department of Health, Education, and Welfare. The financial sanctions provided under Title VI of the Act were to become most significant. Title VI prohibited racial discrimination against beneficiaries of federal financial assistance. Each federal agency giving financial assistance—including aid to education—was required to effectuate this policy by issuing regulations. Failure to comply with such regulations was made punishable by termination of the assistance, after a hearing.

With the enactment of the Elementary and Secondary Education Act of 1965, federal aid to education reached a significant stage and sanction of withdrawal of federal assistance acquired increasing importance. With the passage of this legislation, then, all branches of the federal government have committed themselves to the task of helping to solve the school segregation problem.

Presidential Action

The making of a judicial decision will sometimes depend not only on supporting congressional legislation but most importantly on presidential support and enthusiasm. With the ever increasing importance of the presidency, this support is most important for its success. An issue as intense as school desegregation, that holds potential for radical social change, and an issue tied to the hopes and fears of so many Americans as this one was and still is, the presidential attitude in regard to it, is most significant. As such, it was an issue which should have occasioned considerable presidential involvement. How a president deals with this issue will undoubtedly help to determine history's rating of him.

According to Clinton Rossiter:

A successful President must do a great deal more than stand quiet watch over the lottery of history: he must be a forceful leader--of Congress, the Administration, and the people; he must make the hard decisions that have to be made, and make most of them correctly; he must work hard at being President and see that these decisions are carried out.10

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9 79 Stat. 27.

Presidential action on the school desegregation issue over the years, while not negative and while it did improve with time, could be characterized as passive, cautious, hesitant and even politically expedient.

The Eisenhower years.—The years immediately following the Brown ruling were significant ones because of the lack of presidential leadership and concern, in regard to public school desegregation. President Eisenhower's attitude was that school desegregation was, primarily, a legal problem, to be dealt with by the courts and the Justice Department. Even when disorder was imminent as a result of impending desegregation of a specific school, (as in Little Rock) he never placed himself squarely behind school desegregation. Furthermore, it was his belief that any change in this area should be gradual.

Legal, political and religious moderates were said to be looking for executive leadership. In most cases, it was not to be found at the local and state levels; they looked to Washington in vain. They doubted that any magic compliance would have occurred as a result of the President speaking up for it, but they believed that there could have been less bitterness associated with early efforts at desegregation if he had spoken out. They further believed that the result of this "hands off" policy was plain: more violence, the capturing of the initiative by extremists and segregationists and more specifically, the Little Rock crisis.

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But the Little Rock situation, and the problems connected with it, had a beneficial effect for school desegregation in future cases. These problems impressed upon the Eisenhower Administration, and succeeding administrations, that school desegregation, however distasteful, was a problem which would demand the attention of Presidents in the future. The extremists, the segregationists, and some politicians, in some communities, would see to that.\textsuperscript{12} Little Rock was probably the high point of the segregationists' resistance to school desegregation at the lower levels throughout the South, but it was, also, the beginning of the end of their violent resistance. In sizeable cities throughout the South, the cry of the moderates and others, after 1958 was, "we don't want another Little Rock." The efforts spent in federal money, time and manpower, to desegregate the schools there, convinced the Eisenhower Administration that it could not afford another one, either. So when desegregation was about to take place in New Orleans, in the fall of 1960, the Department of Justice and the administration did show some interest.\textsuperscript{13}

The Kennedy years.--The new administration that took office in 1961 showed that it had benefitted from the mistakes of the Eisenhower Administration in regard to school desegregation. President Kennedy's attitude on the issue seemed a positive one. In 1963, he sent a special message to the Congress on civil rights. In it, he seemed to state his


conviction on the subject of school desegregation. He thought that the Brown decision was "good law and good judgment—it was both legally and morally right."\(^{14}\) He also gave, in other speeches, some indication as to his approach to a solution of the problem. He preferred working directly, with responsible communities without fanfare or publicity to bring about desegregation in a calm and peaceful way. His administration did succeed in obtaining some voluntary desegregation in some districts. He also indicated that neither violence, nor legalistic evasion as means of thwarting court-ordered desegregation would be tolerated. In addition, his civil rights program recommended to Congress, which later became law, was to have a significant impact on the pace of school desegregation. He recommended: that federal technical and financial assistance be made available to school districts in the process of desegregation, that segregation in Teacher Training Institutes financed by the National Defense Education Act and the National Science Foundation, beginning in 1963, be eliminated, and, also, that the Department of Health, Education, and Welfare initiate a program of providing on-base facilities so that children living on military installations would no longer be required to attend segregated schools at federal expense.\(^{15}\) All of this persuaded many of those who were resisting school desegregation that their efforts probably would be less successful in the future.


\(^{15}\) Kennedy, *The Public Papers of the Presidents 1963*, pp. 223-6.
But President Kennedy made some judicial appointments in the South, and to the Fifth Circuit, that resulted in setbacks in the pace of desegregation. These appointments seem inconsistent with his stated conviction on the issue and could only be explained as an example of patronage politics in operation. For example, in the two parishes of this study, two Kennedy appointees, District Judge Frank Ellis and District Judge E. Gordon West, fall into this category. Ellis managed Kennedy's campaign in the state in 1960. West was Senator Russell Long's one-time law partner. West was appointed in 1961 to fill a vacancy on the court at Baton Rouge and Ellis was appointed in 1962 to fill the vacancy created by Wright's elevation to a higher court. Ellis' appointment was hailed as a mild concession for the segregationists. Judge Ellis modified Judge Wright's desegregation plan for New Orleans in such a manner, that had his modification been allowed to stand, it would have delayed desegregation there for two years. Fortunately, the plan was rescued by the appeals court which modified Ellis' order. Judge West is famous for his criticism of his superiors, for openly stating his distaste for rendering decisions favorable to civil rights advocates and for his delaying tactics to prevent disposal of civil rights cases. In spite of this the Kennedy administration did seem sincere in its efforts to help solve the problem.

The Johnson years.--Johnson's policy on school desegregation was similar to Kennedy's. He pushed vigorously for the passage of the Kennedy civil rights program. He appealed to leading public school officials across the country and urged them to exercise influence in
their communities in behalf of peaceful compliance with the 1964 Civil Rights Act, insofar as it applied to school desegregation. He also invited many of them to a White House Conference on the subject. In the same speech in which he made this invitation, he impressed upon the educators his conviction that in the mid-1960's the climate was most conducive to some solution of the race question, especially school integration. The 1964 Civil Rights Act, passed during his administration, proved to be the most effective federal support for school desegregation.

Department of Justice enforcement.---Judicial decision, congressional legislation and presidential support needed vigorous administrative enforcement if any degree of success were to be attained in bringing about change in the public school systems. The Department of Justice and the Department of Health, Education and Welfare played significant roles in this process. Prior to the adoption of the 1964 Civil Rights Act, the responsibilities of the Department of Justice was limited to enforcement of the court orders and amicus participation. With the passage of the Civil Rights Act of 1964, the Department's authority was increased. Three portions of the Act---Title IV, Title VI and Title IX---added greatly to its responsibilities. Of prime significance was the authority the Act gave the Department to initiate suits where no desegregation was forthcoming. Title IV of the 1964 Civil Rights Act authorizes the Attorney General to bring a school desegregation suit when he

receives a meritorious written complaint of discrimination from a
parent of the alleged victim and he certifies that a complainant is
unable, on his own, to commence and maintain legal proceedings. 17
Title IX, authorized the Attorney General to intervene in existing
lawsuits brought by private parties to secure public school desegrega-
tion, if he certifies that the case is of general importance. 18

During the years immediately after the Brown ruling, the Depart-
ment seemed reluctant to act. It did not intervene unless difficulties,
such as violence or disobedience to a court order, developed. But after
the Little Rock experience, the Department became more interested, and
it did participate whenever violence erupted. It performed an inter-
ested, but limited, role in the New Orleans desegregation process at
the beginning of the crisis there. 19

Under the Kennedy administration the Department first approached
the problem by working quietly with responsible leaders in specific
communities. But it did not hesitate to make it plain that it would
use the legal tools available to it when efforts to get voluntary
desegregation failed. 20 And, it did become actively involved; it did
take some action that was to be important for the success of school
desegregation generally; it could not but have some impact on desegre-
gation below the college level. Its very active participation in the
struggle to get Negroes admitted to the University of Alabama, and also

17 78 Stat. 248.
18 Ibid., p. 266.
19 Rogers, loc. cit.; The States-Item, November 14, 1960, p. 6 B.
20 Kennedy, The Public Papers of the Presidents 1961, p. 591.
to the University of Mississippi, could not but impress upon school officials across the South that the Department was determined to act. It also pressed for elimination of segregation in the schooling of children of personnel stationed or employed at the various military installations throughout the country.21

By 1962, Department of Justice policy in regard to public school desegregation had changed from abstention, except during crisis, to affirmative anticipatory action. Its justification for this more active role was that it would prevent violence.22 In the New Orleans school crisis, Judge Wright made it easier for the Department to participate. Resistance had gotten to a stage where he thought it necessary to have the views and support of the government. Under its authority to protect the orders of the courts, the Department asked for enjoinment of emergency legislation and other acts of Louisiana officials which were designed to obstruct the operation of the Orleans Parish schools. This participation, on the part of the Department of Justice, was significant in blunting segregationists' and legislative, direct and indirect, obstructionist designs.23 For example, Department officials felt that it was useless to try to desegregate schools in New Orleans if the children from these desegregated schools could go elsewhere. In September 1961, it asked for an injunction to stop the state of Louisiana and the St. Bernard Parish School Board from operating a

school at Arabi, populated by white children who boycotted the desegregated schools of Orleans Parish. 24

Again, in 1962, the Department participated as amicus curiae in a federal court action seeking desegregation of public schools in Orleans, St. Helena and East Baton Rouge Parishes. 25 The personal intervention of the Attorney General was said to have been very instrumental in the desegregation of the high schools in East Baton Rouge Parish and the grade schools in Lake Charles. 26 In 1965, the Department filed a school desegregation suit against Bossier Parish— one of the first such actions under the Civil Rights Act of 1964. This suit was brought only after efforts to get voluntary action had failed. 27

HEW's guidelines and enforcement.—HEW was given extensive authority under Title VI of the 1964 Civil Rights Act. The Health, Education and Welfare Department wasted no time before warning school districts and others that it would vigorously enforce Title VI. The usual communication was sent to all concerned, warning them that no person in the United States, because of race, color, or national origin, would be excluded from participation in, or denied the benefits of, or otherwise subjected to discrimination under any program or activity


receiving federal financial assistance from the Department of Health, Education, and Welfare.

The Department's initial approach was similar to what the Brown decision had anticipated. It attempted to get voluntary and individual action from school districts by encouraging them to submit satisfactory plans. But it soon became evident that the Department did not have the staff to police enough school districts. It was evident, also, that proceeding on a district by district basis, was not only impracticable but that most of the plans submitted by districts which had maintained segregated schools clearly were inadequate to eliminate dual school systems. In 1965, the Office of Education found it necessary to issue its first set of uniform, generally applicable standards implementing Title VI in the area of school desegregation. Desegregation, since the issuance of these guidelines, has been both encouraging and discouraging, encouraging because when a comparison is made with the first decade after the Brown ruling, more Negro children had entered all-white schools than in the ten previous years, but discouraging because in spite of these guidelines, there were still many areas of non-compliance.

By 1968, then, the federal government's commitment to school desegregation was rather substantial. Two presidents had put the prestige


of their office behind it; Congress had passed effective legislation
to support it; the Justice Department had begun to support litigants
in their suits against school boards, and HEW had outlined some flexible,
but fairly definite guidelines, which, if followed, could go far in
dis-establishing the rigid practices of school segregation in the South.
The fulfillment of this commitment, however, will depend upon the degree
to which Congress will fund its commitment, the vigor with which the
Administration will enforce the law, and very importantly, the degree
to which school systems can operate without federal funds. In the
state of Louisiana in 1968, there were some districts which were still
not complying with HEW's guidelines, but in the two parishes included
in this study, federal support for desegregation has had a substantial
impact on school desegregation, in recent years. The result of this
impact is demonstrated in Chapter VII.

State Action

States categorized according to their response to the Brown
ruling.--When the 17 states that required segregated public school edu-
cation prior to 1954 are categorized according to their response to the
Brown ruling between 1954 and 1960, they fall into four categories:
desegregating states, divided states, resisting states and hard core
states. By the early 1960's, substantial desegregation had taken place
in the desegregating states, some in the divided states, and a little
in the resisting states, for example in Florida and Virginia. But in
Alabama, Mississippi, Louisiana and South Carolina—the hard core states—the prospect was still dim.

The major governmental opposition to the Brown ruling came from the state houses of the Deep South. Immediately after the school segregation ruling, legislatures in this region began to pass a continuous stream of legislation aimed at delaying, controlling or preventing school desegregation. During the first three years after the decision, (1) public placement laws were enacted in at least eight states to control the amount and pace of desegregation, (2) abolition of public schools was authorized in six states as a last resort, (3) financial aid to students who wished to attend segregated, private, non-sectarian schools in the event public schools were either closed or mixed was provided for in six states, (4) curtailment of court attacks on segregation laws was the aim of laws in four states, (5) miscellaneous statutes have been enacted affecting compulsory attendance, teacher tenure, transportation, and use of funds for desegregated education in some states, and (6) resolutions of interposition, nullification or protest against the Supreme Court's decision were adopted in all the states resisting desegregation.  

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Louisiana: The Champion Resister

The Louisiana legislature passed numerous laws which were designed to maintain segregated schools. However, it did not pass any to abolish public schools. In addition to being credited with having put up the biggest legal barrier to school desegregation, the state's massive resistance laws were described, often, as the toughest in the South. In the first ten years after the Brown ruling, the legislature had enacted 131 measures dealing with the subject. The ultimate and prime objective of this legislative program of resistance was, of course, to stop any school desegregation, but the school desegregation issue gave some politicians an opportunity to achieve other objectives. They were able to merge personal grievances, ambitions and other issues to this one.

The whole thing was called resistance to "integration." The main body of this pile of inflammable legislation was designed to punish, reward and support. Any activity that favored, or could be interpreted as favoring, school desegregation on the part of school systems, school personnel, students, parents, individual citizens, organizations and groups was made punishable, either politically, financially or criminally. For those who would actively support segregation, there was legislation to reward and support them, and also, resolutions of praise. Some of this legislation was repetitious and questionable from the standpoint of its reasonableness, but it becomes understandable when it is seen as

a propaganda campaign which was designed to further the objectives of political factions and the ambitions of legislators.

The financial strategy.—A combatant's success in a political struggle is, often, the result of the kind of power strategies he can employ. In dealing with its citizens, a state has many that it can employ, but they must be constitutional. In the school desegregation struggle, Louisiana used various ones and employed them indirectly and directly.

It was demonstrated in Chapter III that the state, is extensively involved financially in public education. It was shown, also, that a state agency, the State Board of Education, has extensive control over the administration of the schools. These are powerful weapons which could be used to bring uncooperative school systems and personnel in line. They were employed by the legislature anticipatorily and defensively to counteract federal court moves. Most importantly, of course, was the financial power. From the beginning, the legislature indicated that it would use this power against school systems if they did not toe the line on school segregation. It gave the State Board of Education authority to punish any school which violated the constitutional provision demanding elementary and secondary public school segregation. They were not to be approved, were to have their school supplies and funds for operation and their school lunch programs removed. And to the students, desirous of entering desegregated schools, came the warning that if they did, their free books would be taken away. 34

34 La., Acts (1954), No. 55.
When the first grade schools were desegregated in New Orleans, the legislature made its financial threat bigger. From the time it began its running battle with the Orleans Parish School Board and the federal court in November, 1960, the legislature tied up funds and blocked the Orleans Parish School Board in its efforts to borrow money to operate. Periodically, the legislature released enough money to meet the payrolls, except of course, for those teachers at the two desegregated schools and the school administrative staff. It adjourned, December 22, 1960, for the Christmas holiday without granting promised pay to New Orleans' 4,000 teachers, principals and school secretaries whose pay was due December 23. The legislature excused itself for this action by stating that its hands were tied in the matter by the federal courts. It vowed that no pay would be forthcoming until federal judges modified restraining orders against its members.35 But when the federal district court cited the Lieutenant Governor, the Speaker of the House and the State Superintendent of Education for contempt for their refusal to pay the salaries of the administrative school personnel and the teachers at the two desegregated schools, the state treasurer indicated that funds would be transferred from the state treasury to the city government. The city government would then give the $1.7 million to the Orleans Parish School Board to meet its February payroll. The plan offered a means by which teachers could get their salaries without

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the legislature being placed in the embarrassing position of recognizing the school board it was battling in court.  

As it used its financial and official power to punish those who on their own seemed to favor desegregation, and those unfortunates such as superintendents, principals, teachers, and school boards, who in the performance of their duties found themselves obliged to obey federal court orders, it also used it to reward and encourage those whose actions tended to frustrate the court's order. For the parents who boycotted the two desegregated schools, there was an official commendation.  

For the students who boycotted the desegregated schools in New Orleans, there would soon be all-white private schools to attend. The legislature, back in 1958, authorized the setting up of educational cooperatives. This was not taken advantage of until after desegregation took place in 1960. Soon it became evident that merely allowing educational cooperatives to be set up was not sufficient. There was serious consideration of abandoning public education and creating a state-wide system of private schools. But, later, it was decided, that instead of abolishing public schools, Louisiana would experiment with a dual school system.  

37 State Department of Louisiana, Official Journal of the Proceedings of the Senate (Fifth Extraordinary Sess., 1960), H. C. R. 1, p. 15; The States Item, November 16, 1960, p. 3.  
38 La., Acts (1958), No. 258.  
On November 17, 1960, the legislature received from the governor a proposal for a one-cent sales tax increase, which he said would finance the start of a grant-in-aid private school program. This proposal was defeated by a coalition of senators allied with labor and business. This action by business and labor was not taken because of any genuine opposition to the segregationists in the legislature, but rather because they felt that it would not stop desegregation anyway and because of its possible damaging effect on business. This did not deter the segregationist forces in the legislature from taking care of an immediate problem—the children displaced by desegregation of the two New Orleans schools. The State Board of Education approved on December 15, 1960, a total of $103,343 in grant-in-aid funds for the Ninth Ward Private School at New Orleans, a school organized in protest against public school desegregation. Funds were made available, also, for the St. Bernard Parish School Board which operated a school for white children who boycotted the two desegregated schools in New Orleans. By early 1961, the first grant-in-aid bill did pass. It provided tuition for students, thereby making it easy for anyone to start a cooperative private school.

Though the program was intended, originally, for those students who boycotted desegregated schools in New Orleans, it was available to

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students throughout the state. The program was available to Negro students attending private schools, too. By the 1966-67 school year, 950 Negro students at 12 segregated schools were taking advantage of the program. It also went to students attending the most exclusive private schools. These parents indicated that they were taking advantage of the program because they hoped to wreck it. Since the Brown decision, the number of segregated private schools, exclusively for whites, has increased rather extensively. Prior to the Brown decision in 1954, there were only 16 private white schools in the state. From 1954 to 1967, 63 additional private schools for white students had been established. All of the non-sectarian segregated private schools which maintained classes during the 1966-67 school year were located in nine school districts in which the public schools had been ordered to desegregate by federal courts. By the 1966-67 school year, state tuition grants of $2,095,028 had gone to 15,177 recipients.

The creation of private schools did give those extremists who decided not to send their children to schools with Negroes a sense of victory and an opportunity to soothe their tempers. In the long run, however, the use of private schools did not mean the wholesale withdrawal of white students to private schools, and hence, a defeat of the

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desegregation plan completely. Private schools might have given those assigned the task of desegregating the public schools, a temporary breathing spell. The extremists who could send their children to the newly created private schools could feel victorious and did not have to be reckoned with. In addition, it meant that their departure to white private schools left more space in the previously all-white public schools to absorb the thousands of Negro students who were on double shifts.

The problems of running a school are so numerous and difficult, that it was virtually impossible for these schools to do a successful job without substantial state help. Funds for these schools were challenged immediately. It was discovered that the tuition charged by them was the exact amount paid to the students by the state. In some instances, the tuition went directly from the state to the schools where the children were enrolled. The constitutionality of the grant-in-aid program was questionable all along, and it was challenged in 1966. In 1967, it was found to be unconstitutional. It was not completely successful even before this for various reasons. By the 1967-68 school year, all non-public schools were feeling an economic pinch. For example, even the Catholic schools which have been well established in New Orleans, were finding it difficult to keep up with the economic demands to maintain their status as adequate educational institutions.

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46 The Baton Rouge (La.) Morning Advocate, October 1, 1967, p. 3-B. Hereafter quoted as, The Morning Advocate.

Some have had to close. By 1967 and 1968, Catholic officials were lobbying throughout the state and in the legislature for public aid to parochial schools. If these established and respected schools found it difficult to keep going, it is difficult to see how the makeshift private schools could be successful. Secondly, parents who could afford to, and did send their children to private schools before the Brown decision, were against the program and applied for the funds also, hoping to wreck it. Thirdly, some of the better pre-Brown white private schools that had been in operation for generations announced an open policy of admittance of all students, including Negroes. In addition, the Catholic schools had agreed to desegregate when the public schools were ordered to do so. Also, there was some question as to whether the segregated private schools could qualify for the tax deductions under Title VI of the 1964 Civil Rights Act. The creation of private schools did allow students to boycott, temporarily, the first few desegregated schools, but in the long run, it was ineffective in stopping desegregation.

Punitive and political strategies.--Besides financial pressures, punitive measures could be taken against those who did not cooperate with the legislature. For example, for those students who violated school segregation laws, and refused to boycott desegregated schools,

48 Planer, loc. cit.
49 12 RRLR, 1396 (1967).
there would be denial of promotion and graduation credits.\textsuperscript{51} For those school employees belonging to organizations like the NAACP, which advocated desegregation, there was the threat of removal. For any private and courageous soul who, because of personal conviction, spoke out against the legislative tactics, there was legislative rebuke and a certainty that an investigation would follow. For example, when a Louisiana State University professor wrote the legislature telling it that its actions were a disgrace and a national scandal, a letter which got the support of many of his colleagues, there were angry charges from the legislature that he must have been a communist. And the authorization of a full-scale investigation of L.S.U., by the legislature's Un-American Activities Committee, followed. The professor resigned his post.\textsuperscript{52} Whether he did so voluntarily, or as a result of pressure, is anybody's guess.

Those attempting to persuade parents to send their children to desegregated schools, and those parents acquiescing in this persuasion, could be prosecuted under a law which prevented offering or accepting bribes.\textsuperscript{53} To those school officials in a dilemma as to what law they should obey, the federal or the state, there was a warning from the legislature to the effect that to disobey the state law was much more severe than disobeying a federal law. They were reminded that all they could get for disobeying a federal law was a citation, but they were

\textsuperscript{51} \textit{Ibid.}, pp. 80-82.
\textsuperscript{52} \textit{Southern School News}, January, 1961, p. 11.
\textsuperscript{53} \textit{La., Acts} (Second Extraordinary Sess., 1961), No. 3
assured that if they disobeyed a state law, the punishment would be much more severe. This meant that school boards and administrative officials did nothing until forced to do so, in 1960, by the federal district court. Soon, it became evident to the legislature that, in spite of all the legislation supporting school officials in their legal fight against desegregation, and its punitive legislation against them, and others, for attempting to carry out court-ordered desegregation, desegregation could be stopped no longer. It was necessary, then, that the legislature itself become more directly involved in the struggle.

More direct involvement by the legislature.--In mid-November, 1960, the legislature found it necessary to become both lawmaker and law enforcer—that is to become more involved if desegregation were to be stopped. It did, eventually, assume more control. This line of action, however, was anticipated far in advance by the leaders in the legislature and they were prepared for anything. They began, right after the Brown ruling to divest local school boards of control of their schools. As early as 1954, a 10-man legislative committee, aided by a number of volunteer attorneys, began to make a study of integration—desegregation. One of the moves by segregation forces was to get from the State Board of Liquidation $100,000 to pay attorneys fees. The attorneys were to be used to defend segregation in local parishes. It was felt that the state should step in and assist

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local school boards everywhere in defending themselves against suits by the NAACP.\textsuperscript{55}

It was believed, generally, that if desegregation came, it would come first to New Orleans. As early as 1956, Louisiana segregationist leaders in the legislature were planning to preempt control of the schools there in order to avoid any more court fights. Their aim was to make the state responsible for all segregation of public facilities, instead of such agencies as school and college supervisory boards. The idea was that the state could refuse to let them be sued. But this legislation was discriminatory to the large cities, more specifically New Orleans. It gave the legislature the right of classification of public schools— as white, colored or mixed— in any city of more than 300,000 population.\textsuperscript{56} New Orleans was the only city in the state at that time that fell into the 300,000 category. Whether or not it became evident that this tactic would not work either, the legislature prepared for more direct control. It provided for legislative take-over of the New Orleans Schools and for the appointment of an eight-man committee to operate them. When it became evident that 700 state and local administrative officials and the eight-man committee could be enjoined, the entire legislature was put in charge of the operation of the schools, with power to hire and fire.\textsuperscript{57}


\textsuperscript{56}La., Acts (1956), No. 319.

There was fear by the segregationists in the legislature that the citizens of New Orleans would go along with court-ordered desegregation. The majority of them did just that. They preferred desegregated schools to no schools. They decided in favor of open schools with "token" desegregation. This was indicated by their overwhelming support for a school board member who advocated desegregation to no schools. In Baton Rouge, the legislature would have none of it. Promptly, it rescinded the law under which New Orleans voters had the authority to elect school board members. This tactic failed, too, because of federal court action. By 1961, the legislature was ready to return some authority to local areas. It did so in such a manner as not to lose face in the process. It passed "a local option plan" which permitted school boards to close their schools and sell public schools when local voters approved. Very few districts had referenda to maintain segregated schools, and the one or two that did pass them, had them disallowed by the federal courts.

Political Objectives Tied to the Desegregation Struggle

The pile of anti-desegregation legislation and the seemingly unrealistic and stubborn resistance of the legislature, made it appear

58 The States-Item, November 28, 1960, p. 11.
59 La., Acts (First Extraordinary Sess., 1960), No. 25.
60 La., Acts (Second Extraordinary Sess., 1961), No. 2.
as if the average Louisianian was racist at heart and forever set against any civilized relations between the races, in any area, including public education. Throughout this paper the writer has attempted to suggest that the average citizen in the state, especially in South Louisiana, while being against desegregation, was not prepared to go to the extent that the legislature did to avoid "token" desegregation. An explanation of the legislature's intransigence and resistance is found in more than its desire to maintain segregation. It has been suggested that other objectives, such as personal ambition, factional struggle for control of the state government and the state Democratic party were reasons, also. To these could be added the defensive attitude toward outside interference, and the rather natural tendency in Louisiana toward flamboyance in politics. Usually, issues are terribly exaggerated.

There was, undoubtedly, sincerity in the legislature's determination to fight school desegregation. The cultural experience of the legislators on the subject made this almost inevitable, but the rigid and beligerent attitude on the part of the leaders and their determination to fight on, when it was clear to all that desegregation would occur anyway, may indicate not only poor judgment but more. First, the school desegregation issue furnished an excellent opportunity for a conservative, and even reactionary faction of the state's Democratic party, which for years had been irritated by what it saw as an ever increasing federal control over more activities at the local and state
level, to increase its power. For example, federal control over offshore oil and its interference in matters of voting could be tied to the desegregation issue.

At the state level, the conservatives were dissatisfied with those moderate Democrats who seemed too friendly with federal officials and the National Democratic Party's leadership. These disgruntled conservatives teamed up with some politicians from Northern Louisiana who also saw federal activity, especially its efforts to get Negroes registered, as a threat to their personal political positions. And there were those who saw the dissatisfaction on the part of the general public with court-ordered desegregation, as an opportunity to realize their own political ambitions. These economic conservatives, segregationists and politically ambitious politicians, were able to organize and channel these feelings, and the dissatisfaction with court-ordered desegregation, and use it in their battle with the federal administration and all moderate state and local politicians. In addition to preventing any school desegregation, they sought to gain control of the state government and the state party machinery. Their belligerence in the legislature was but part of their campaign toward this goal. They used the opportunity to impress upon the average citizen the federal threat to that emotion--working principle--states' rights--which everyone understood to mean a threat to the way the state dealt with the Negro.

By 1960, their campaign to gain control was well under way. They campaigned for office on strong anti-civil rights planks. It was only
natural that they continue this in the legislature. Their rise to power in many instances was a result of their roles as strong opponents of civil rights. By the time of the 1959 gubernatorial primary, segregationist politicians in the legislature, in local governmental positions around the state, and in key positions in the state Democratic party structure, were sufficiently strong to make power deals. State Senator Willie Rainach is a case in point. He made a strong showing in the first gubernatorial primary and was said to have thrown his support to Davis in the runoff in exchange for Davis' support for him as the chief opponent of any civil rights advancement in the state. As chairman of the Legislative Committee on Segregation, he led, free from any legislative or executive interference, the determined and often bellicose, struggle with the federal courts, the NAACP and the city of New Orleans. 61

In 1960, when the real crisis came, legislators, who perhaps saw that desegregation was inevitable, were trapped by the race issue into a conformity demanded by their fellow segregationists in the legislature. This did not present much of a problem for them, however, since most of them understood what the issue demanded of them and how it would affect them if their actions and attitudes deviated from the segregationist norm. By 1960, a substantial number of them had voiced their opposition to school desegregation. In fact, many were elected on that basis, because right after the Brown ruling, almost all

61 The States-Item, November 11, 1960, p. 13.
politicians in the state began to tie their political futures to it. The school desegregation issue was tied to every campaign for elective office from the lowest parish level to the race for the governor's office. Every candidate was for segregation in varying degrees, "100% and up." They campaigned against Negroes by advocating that they be removed from the registrar rolls, especially in the Northern parishes, for the outlawing of Negro organizations like the NAACP and by ridiculing any politician who seemed to show any degree of tolerance and common sense on the race issue. The politician who could show that he was more anti-Negro than his opponent was sure to be elected.  

When the showdown really came in 1960, the legislative leadership on segregation had no real effective opposition in the legislature or anywhere else in the state. This meant that all the anti-desegregation legislation was drafted and pushed through by a few in the legislature, for example, like the chairman of the State Sovereignty Commission and the Joint Legislative Committee on Segregation. The majority of the legislators, like most citizens in the state, were in the dark as to what the legislation contained. Since Davis (the governor) had campaigned against school desegregation, he did not refuse to call a special session to deal with court-ordered desegregation, when asked to do so by the segregationists. He not only called a special session,  

but he left the matter completely in the hands of the anti-civil rights Citizens Councilmen in the legislature. When the struggle started between the legislature and the federal courts, a few days before desegregation, Davis could not be found. It was rumored that he had gone fishing or hunting.

Every opportunity to gain support for their ascendance to power was pounced upon by the coalition of economic conservatives, ambitious politicians and plain racists in and out of the legislature. Any politician who showed the least inclination for support for national policies on civil rights had to face a determined effort at his removal by this group. Its aim was to replace him with someone sympathetic to states' rights. For example, the Louisiana State Democratic committeeman who supported the national party's civil rights plank came under severe criticism and had to fight off a campaign for his removal, initiated by this states' rights element of the party. When this move failed, because the national party leadership did not go along with this request, there were threats of opposing the national party. In 1964, this same group campaigned against congressman Hale Boggs because he supported federal aid to education. As time approached for the selection of 1964 presidential electors, there was a move against Kennedy for his stand on civil rights. During the month of September, 

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1963, the state was invaded by leading governors and other proponents of the free electors movement. Mississippi's Ross Barnett, and Alabama's George Wallace were in the state in connection with attempts to unite Southern states in support of independent presidential electors. Lieutenant Governor Johnson of Mississippi joined in the battle against Kennedy. He outlined a plan that, according to him, would throw the election in the House of Representatives. In September, 1963, the Louisiana State Democratic Committee did vote 52-43 to keep Kennedy's name off the Louisiana presidential ballot in 1964. The conservative states' rights crowd hailed this a victory.

Segregationists, ever since the Brown ruling, had committed themselves to a fight; this meant that they could not back down. Early in 1960, when the pace for school desegregation quickened, the segregationists quickened their propaganda campaign. Leaders in the legislature did a good job of persuading the population that it could head off desegregation. But the campaigning was not only designed to show that the legislature was putting up a fight, but also, hopefully, to create hostile public opinion. One of the segregationists' main techniques was the exaggeration of the seriousness of desegregation.

The Legislature Exaggerated the Issue and Misled the Public

As early as the summer of 1960, legislative leaders set out to persuade the public that the legislature would put up a good fight,

and, somehow, it would avoid desegregation. The citizen was supposed to believe that the mere passage of a law would do the job, even though much of this legislation was questionable. For example, the Louisiana Constitution provided for the separation of the races in all public secondary and elementary schools in the state. \(^{67}\) But the legislature, one of a few in session when the Brown decision was rendered, passed an act which virtually repeated this constitutional language. \(^{68}\)

During the height of the crisis, it again passed some legislation that seemed ridiculous. For example, on November 8, an interposition act was passed declaring that the Brown decision was a usurpation of the constitutional powers of the states and the legislative powers of Congress. It merely repeated the rhetoric which had been heard throughout the South for years. But this one differed from some of the rest. There was a penalty section which provided that no federal judge, marshal or other officer of the federal government shall have the power to enforce school desegregation orders. A jail sentence of six months and a fine of up to $1000 was supposed to be given anyone who tried. A companion bill broadened the powers of the Louisiana state police to enforce the interposition act. \(^{69}\) Sergeants-at-arms were, in fact, dispatched to the schools and ordered to arrest anyone

\(^{67}\) La., Constitution, Art. XII, sec. 1.

\(^{68}\) La., Acts (1954), No. 555.

\(^{69}\) La., Acts (First Extraordinary Sess., 1960), No. 2; Southern School News, December, 1960, p. 8.
attempting to enforce the law to desegregate. There was even talk of 70
having Judge Wright arrested when he enjoined the legislature. Of
course, no arrests were made.

The legislature, also, went through the motion of soliciting
other governmental support for its anti-integration fight. To lend an
even greater air of urgency to the controversy, it passed on November
14, 1960, a resolution summoning Louisiana's two senators and eight
congressmen back home for a joint legislative session. The resolution
called upon these senators and representatives to join forces with them
in bringing an immediate halt to all attempts by federal forces to
interfere with the Louisiana legislature. Copies were to be sent to
the legislatures of all the other states. 71 There was, also, an effort
to get Kennedy's reaction. On November 19, the legislature dispatched
a three-man legislative committee to Florida to get Kennedy's views
on the "judicial tyranny of federal district Judge J. Skelly Wright
and interposition." 72

But the most dramatic move of all, was the calling of a statewide
holiday by the State Superintendent of Education on the day desegregation
was to take place in New Orleans, supposedly to avoid desegregation. How-
ever, Judge Wright restrained the two schools to be desegregated from
closing and desegregation did take place on November 14th as planned.

70 The States-Item, November 14, 1960, p. 1.
For the rest of the school population, teachers and children throughout the state, November 14 was a holiday. They could remain at home and watch the whole show, from New Orleans and from the floor of the legislature, on television.

Some Results of the Legislature's Resistance

All of this legislative resistance failed, eventually, to stop "token" desegregation. While it failed to stop it, it did have some impact on its amount and pace. Some of the laws, especially their punitive provisions, stifled all the early efforts by government, school personnel and even many parents and students that were calculated to bring about school desegregation. Legislative resistance made it especially difficult for Negro children to take advantage of the Brown decision on their own initiative. They were able to do so only tokenly, after many unsuccessful attempts and six years. The laws requiring exhaustion of administrative remedies, pupil placement, and others, discouraged all but a few.73

In addition to its impact on the degree and pace of school desegregation, the legislature also affected certain individuals who were closely involved in that controversy. There were what may be called some personal and political casualties as a result of the legislature's program of massive resistance. It does not seem purely coincidental that the National Democratic party failed to carry the state in neither presidential election since the school crisis. Hale Boggs,

73 La., Acts (1954), No. 556; La., Acts (1960), No. 492.
a moderate who represents the congressional district which comprises New Orleans, and who has a close attachment to the national party, had to fight twice for his political survival. Representative Morrison, a veteran of 18 years, who represented the district in which Baton Rouge is located, was defeated in 1966 by John Rarick, the candidate of the economic conservatives and the segregationists. Political forecasters throughout the late 1950's, were pretty much agreed that another Morrison, the Mayor of New Orleans, would win the governor's race in 1959. They were not altogether wrong. He did win the first primary, only to lose to Davis who was also the choice of the segregationists and the conservatives. The segregationist elements combined their forces, and if this was not sufficient, they effectively associated Morrison with the National Democratic party, the NAACP and a soft line on civil rights.

It does not seem coincidental either, that some of these officials who actively supported school desegregation in New Orleans and who were in the middle of the controversy when it became very heated, soon departed the city for cooler "climes." Archbishop Rummel, who pushed for Catholic school desegregation, departed for Chicago. Superintendent Redmond, who agreed to go along with the court on "token" desegregation, also left for Chicago to become Superintendent of Schools there. Judge Wright was elevated to the Appeals Court in Washington, D.C. in 1962. When it was rumored that Judge Wright was in line for a promotion to a seat on the Fifth Circuit Court of Appeals,
the Louisiana House adopted a resolution which opposed any promotion for the judge.\textsuperscript{74}

Since the passing of the "siege" of New Orleans by the legislature, more than half of those legislators of those stormy 1960 sessions have been replaced,--very unusual turnover, indeed. The legislature has not only returned control of the schools back to the local areas, but has indicated to local school boards, that it is unable to reimburse them for federal funds cut off as a result of noncompliance with HEW's guidelines. The legislature seems to have left the problem of segregation--desegregation of the schools--up to the local school boards and the courts and has confined itself to the task of providing better and more education. In the two parishes covered by this study, desegregation at the present time is progressing without federal prodding or state legislative interference.

Legislative resistance in Louisiana to court-ordered desegregation was stiff and sometimes ridiculous. It did stir up citizens' tempers, caused some opposition, and delayed desegregation for a while. But district court firmness in demanding that its order to desegregate be obeyed, Justice Department support, and persistent demands by Negroes that desegregation be carried out, prevailed. To those who believed that interposition was still a live and legal doctrine, which could be used by states to excuse them from obeying federal law, and who did not learn from the Little Rock experience that it was, at best, an old, but

\textsuperscript{74} \textit{Southern School News}, June, 1961, p. 9.
useless doctrine, must have come to the realization, after the New Orleans experience, that it was dead. In Arkansas, the governor tried it and failed; in Louisiana the state legislature tried it and failed, also. Now the history books can be more definite on the concept of interposition.
CHAPTER VI

SCHOOL DESEGREGATION DEPENDENT UPON DEMANDING,
OPPOSING AND SUPPORTING ACTIVITY OF GROUPS

The school desegregation issue gave impetus to the creation of new groups and the coalescing of old and new ones for the purpose of maintaining segregated schools. The intensity of the activities of groups during the initial stages of school desegregation, was indicative of their appraisal of the importance of this issue. This activity (by these groups) may be broken down into three categories: that which was designed to bring about desegregation, that which could be considered in favor of school desegregation and that which was, definitely, designed to stop any school desegregation whatever.

The extent to which the Brown decision was implemented in New Orleans and Baton Rouge by the mid-1960's, was to a great extent the resultant of the amount of favorable and adverse group activity that was brought to bear on the desegregating process. This chapter will attempt to examine the nature of this activity and its specific impact.

It is assumed here that all strata of the Negro community, because of similar social and psychological experiences with a system of racial prejudice, were pleased with the Supreme Court's announcement that segregation in public education was unconstitutional. By
1960, however, Negroes in Louisiana, as in other Deep South states, had come to a disappointing realization: that while the Supreme Court could announce what their rights were, it did not necessarily have the power to secure them these rights. If they did not know this at the time the Brown decision was rendered, they discovered it when they attempted to enroll in previously all-white public schools in Baton Rouge and New Orleans in the early 1950's. Negroes attempted to register in Baton Rouge schools as early as September, 1954. They, merely, showed up at the white school nearest their homes. They were turned away, of course. Negroes first filed suit in federal court to desegregate schools in Orleans Parish as early as 1952; they waited eight years for any positive results.

NAACP and Negro Activity

The legal approach.--During the early 1960's Negroes in Louisiana, and throughout the South, utilized the 'direct action' approach to bring about desegregation in many areas of public life. However this approach was not used in the school desegregation struggle in Louisiana. There was never any suggestion to close public schools or to boycott them made by Negro leaders, parents, or students.¹ Litigation was the main technique employed. While almost anyone can protest and demonstrate, very few individual Negroes were in a position to litigate. Litigation demanded resources, patience and a special kind of knowledge and

enlightenment. Moreover, the majority of the recent protest groups saw litigation as too slow and ineffective as a means for accomplishing their goals. The only national civil rights organization which was capable of conducting a successful legal campaign against school segregation and was willing to do so was the NAACP. For years it had borne the brunt of the legal battle against imposing segregation laws in housing, transportation and education. Its fight to get the Brown decision implemented throughout the country was but a continuing phase of this same battle.

Despite its concern and its record of success, the NAACP often has been criticized by some of the more militant protest Negro leaders, as being too conservative, middle class, and out of touch with the masses of Negroes it seeks to represent.\(^2\) There is some truth to the charge that it is a middle class organization. It was certainly true of the leaders of the Louisiana NAACP. A list of its 1956 leaders reads like a "Who's Who" among Negroes in Louisiana.\(^3\) One of the reasons given by the New Orleans branch for its refusal to disclose its membership list, when demanded to do so by state officials, was its fear for a great number of public school teachers, who would have had to give up their membership or lose their jobs.

It was, perhaps, an asset, rather than a liability, that the NAACP's membership was stacked with middle class people. They came


\(^3\) \textit{RLR}, 571 (1956).
to be very important to the success of the school desegregation fight. For example, the New Orleans branch was fortunate to have, in addition to some independent businessmen, a substantial number of lawyers, some of whom, including the lawyer who is the legal representative of the NAACP in the state, have had much success in handling federal cases, for which they are respected by the legal profession and the courts. Because of their contact with influential men in the community, they are in a sense the official and unofficial spokesmen on the civil rights of Negroes. Many of these lawyers were very concerned about school desegregation and became very much involved in the process of getting the schools desegregated in New Orleans.

In spite of all the criticism of the NAACP, and in spite of the fact that the Negro masses do not support the organization financially, nor are they enthusiastic enough to become members, they do think that what it does is for the benefit of all Negroes, and do express their confidence in it. All strata of the Negro community, then, seemed to be in sympathy with its goals. At least, there was no doubt of this in the minds of the leaders who were polled in this study. According to them, the NAACP and the methods it employed were the most effective used in the school desegregation struggle. Table 3 below illustrates the confidence in the NAACP.

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TABLE 3.--Effectiveness of Negro groups and techniques in the school desegregation process.

<table>
<thead>
<tr>
<th>Percentage of Negro leaders who believe that Negro lawyers were the most successful of all Negro groups in bringing about school desegregation.</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
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<tbody>
<tr>
<td>80%</td>
<td>60%</td>
<td></td>
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<tr>
<th>Percentage of Negro leaders who believed that the NAACP was the most active and successful organization in bringing about school desegregation</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>100%</td>
<td>60%</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Percentage of Negro leaders who believed that the most effective Negro technique in dealing with the school desegregation problem was working through the courts.</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>80%</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td>(10)</td>
<td>(10)</td>
<td></td>
</tr>
</tbody>
</table>

In addition to the NAACP, others (mainly local) groups were, also, doing their best to help bring about school desegregation. For example, when the NAACP was driven underground in New Orleans, as it was throughout the state, "a new, loosely organized group of citizens, the New Orleans Improvement League, ... carried on with some of the more essential projects in which the NAACP was interested."\(^5\) Others, such as Citizens for Concerned Action, the Urban League, League of Women Voters, the Organization for the Preservation of Public Schools and, of course, Negro ministerial groups, all did what they could.

The school desegregation drive in Baton Rouge had far less success in securing the help of Negro lawyers than did the New Orleans drive. But the few, mainly two, who were concerned, made up for their lack in numbers with their enthusiasm, determination and constant prodding of school officials. No special group, in addition to the NAACP, sprang up in Baton Rouge for the specific purpose of working for school desegregation; instead, certain "Negro betterment" groups and organizations, already in existence, were utilized. Those which gave significant help included, first, the few voter organizations, such as the Voter Education Project (VEP), First Ward Voters League and the Second Ward Voters League. Second, a Baton Rouge ministers' organization, the East Baton Rouge Ministerial Alliance and third, the East Baton Rouge Principals Association, were included. All of these organizations, as their titles suggest, exist for a specific purpose, but when an issue as important as school desegregation arises, all do what they can to help.

The Voter organizations are, primarily, concerned with instructing Negroes on registration and voting procedures, informing them of issues that are of interest to the Negro community, and persuading them to vote for specific candidates, who have all been, until fairly recently, white. The Baton Rouge Negro ministers, through their churches and ministers' organizations, have, on many occasions, actively participated in projects designed to benefit the Negro community. During the school desegregation controversy, from their pulpits and in their
speeches before groups, they again urged their congregations and Negroes, in general, to take advantage of the opportunity to attend previously all-white schools. While Negro principals did not support desegregation openly, they saw the controversy as an opportunity to press school officials for better facilities.

The role played by these small groups and organizations, was minor when compared with that of the NAACP. This was evident, in part, by the fact that little headway was made in desegregating the schools in Louisiana between 1956 and 1960. During these years, the NAACP was fighting another battle—the one to do business in the state. After February 1960, however, when the NAACP had won the right to conduct business in the state again, desegregating activity became more intense and, of course, token desegregation was achieved, late that year, in spite of overwhelming odds and determined resistance from segregationists.

The moderate degree of success, achieved in school desegregation in Louisiana, is due to a considerable extent to the persistence of the local NAACP leaders. This persistence was due, in turn, to a strong conviction on their part that the democratic spirit of freedom and equality of opportunity, can be made to work for the Negro, too, and that the embodiment of these principles in the Constitution and federal laws, offers the Negro the best hope for achieving first-class citizenship. With this conviction as their guide, they have worked against overwhelming odds, primarily by legal means, to achieve their goals—

6 RRLR, 467 (1960).
equal and unsegregated school systems in the long run, and during the transitional phase, an improving of quality education. Their long-range objective has always been, and still is, to achieve an educational system in their community in which Negro children would have the same opportunity to use the educational facilities as anyone else.

Elements of NAACP Legal Strategy

Securing plaintiffs.--A first and fundamental step in its strategy to have the Brown decision implemented in Louisiana, was to secure plaintiffs who could initiate test cases. Contrary to what the segregationists would have us believe, this was not too difficult a problem. Undoubtedly, NAACP officials had to interest and encourage students to apply, but it was not necessary to reward them to do so. Studies have indicated that there were far more applicants coming forward, than the NAACP could be successful in getting into white schools to make desegregation a reality. It was found that regardless of the class from which the children came, there was a desire on the part of parents to see their children advance. Moreover, parents believed strongly that their children would get a better education in a desegregated system. The fact that few Negro students got into previously all white schools was not due to parents' reluctance, but rather to a failure of school officials to let more in. The problem,

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then, seemed to be not a lack of desire, or a dearth of volunteers, but a tiny quota on admissions designed to control the amount of desegregation.

Secondly, the NAACP's job along this line was made easier by the efforts of some of the Negro organizations and groups mentioned above. They helped Negro parents and students become aware of, and interested in, the issue to the point where they wanted to apply. They did this in various ways: leaders of the voter organizations in Baton Rouge, through speeches before groups, the ministers from their pulpits and through their lectures, and Negro school principals through their talks to P.T.A. groups and their students. And, of course, the Negro news media, especially in New Orleans, helped, too. Radio station WYLD and the newspaper, Louisiana Weekly, did a fair job of informing and editorializing. Baton Rouge was not so fortunate in this respect. The radio station there which is geared mainly to the Negro audience, spends most of its time spinning jerky records. The newspaper is not much more than a social sheet.

While many students desired to attend and did volunteer as plaintiffs, not all were from families that had the patience and sufficient independence to withstand the potential pressures, economic and otherwise, that might follow. Those who did decide to continue the fight for admittance, were fortunate to have the support and encouragement of the local groups, mentioned above, and the legal advice of the NAACP. The NAACP was fortunate, also, to have among the ranks of its members and leaders, individuals who were rather independent
of white pressures and possessed of a kind of social sophistication and conviction about the civil rights cause that made them dedicated plaintiffs. The middle class status of its membership was very significant in this respect. Individual businessmen, doctors and lawyers, participated steadfastly and wholeheartedly, not only with moral and economic support, but as plaintiffs, by enrolling their own children.

Selecting the right community at the right time.--The NAACP, in its attempt to achieve implementation of the Brown decision throughout the country, proceeded as most pressure groups do; it followed the path of least resistance. Because of its limited resources and its seeming fear of a potential adverse impact in case of a complete failure of efforts to desegregate a school system, it followed a pattern of picking school systems that showed some potential for success. If desegregation were to occur in Louisiana, New Orleans was the most likely place to give it a try, since more than any other city in the state, it possessed the social elements that would make it tolerant of school desegregation. It was cosmopolitan and highly urbanized, one of the most literate areas in the state, had a substantial percentage of professional people, and a large percentage of Catholics, and most importantly, no rigid residential segregation.

According to the NAACP's way of thinking, by 1956 and certainly by 1960, school desegregation could not have any adverse effect on

the public interests of the city, and a delay for that reason, as asked for by school officials, had to be ignored. NAACP officials felt that they were moving in accordance with the principles of the implementing decision. They felt that the school board had had time, at least by 1960, to iron out or solve the local problems, and that it was not impracticable, to demand that the board make 'a reasonable start toward full compliance.' After all, Negroes had been petitioning the Orleans Parish School Board since 1951. So by 1956, and definitely by 1960, the issue had been before the board and the community long enough. In fact, it was actually felt by NAACP officials and Judge Wright, that the atmosphere of the community was such that desegregation could occur in 1960 without incident. With a seemingly ready community, a sympathetic judge, and a more active role by the Justice Department, by mid-1960, there was adequate reason for optimism by NAACP officials and Negro parents.

The second school system in the state to desegregate was East Baton Rouge. It is similar in some respects to New Orleans. It is an urban-industrial complex with a high percentage of professional people, the greatest number of whom are teachers, and it is supposed to have the highest literacy rate of any city in the state. NAACP officials felt that it was ready in 1960, and definitely so in 1963, when desegregation did take place there at the twelfth grade level.

The tendency for the national organization to press for desegregation where it was most likely to succeed, was evident by the way

9 Peltason, Fifty-Eight Lonely Men, p. 221.
it proceeded in the Baton Rouge case. Though a permanent injunction against school segregation had been issued against school officials there as early as 1960, desegregation did not take place until 1963. This delay, according to the Baton Rouge branch of the NAACP, was due to the national organization's reluctance to be more demanding of school officials. It was evident here that the national organization's reluctance was due to insufficient assurance that desegregation would succeed. After all, the disappointing and frustrating shadow of its 1960 nightmarish bout with the legislature still loomed in the background. But with local assurance that it could succeed, and a threat from the membership of the Baton Rouge branch that it would withhold contributions, the national organization did push for desegregation, which took place that year.\(^{10}\)

Negroes in Baton Rouge believed too, that the issue had been before the community long enough. They filed suit against the Baton Rouge school board as early as 1956, asking it to comply with the Brown ruling. In 1960, the federal district court issued a permanent injunction against continuing segregation.\(^{11}\) There was sufficient time then, nine years, for school officials to work out any local problems that might stand in the way of desegregation. Statements by the local NAACP leaders indicated that it was their feeling that if the board was not ready by 1963, it would never be ready. After all, by then, desegregation was no longer a remote possibility, but inevitable. In


\(^{11}\) RRLR, 78 (1963).
fact, it was taking place in an ever increasing number of districts throughout the Deep South. Moreover, Louisiana's public officials had not kept their promises—the governor had not gone to jail and the legislature did not stop desegregation. Desegregation did occur in Baton Rouge with less hostility than it did in New Orleans.

Negotiation.—In spite of all the controversy surrounding initial school desegregation in the state, NAACP and other Negro groups in New Orleans, in seeking school desegregation, as they did in seeking other services from city officials, did not make their demands in a hostile fashion. They followed the usual method of appearing before officials with defensible data. Over the years, this method did have limited success. Negro leaders, like those of the NAACP, through their contacts with unofficial and official "men of power" in the broader New Orleans community, have long worked behind the scenes, and were successful in getting some concessions for the Negro community. In the case of school desegregation, however, local school and government officials were not free agents, so very little was to be accomplished, politically, by way of negotiation with them.

What little was accomplished, was due to negotiation between non-official biracial groups working, behind the scenes, to create an atmosphere of tolerance. In 1961 Negroes attempted to negotiate openly with the community, especially the business community. They sought to impress upon it, their attitude toward the sorry performance of the

state legislature the previous November and, also, their attitude in regard to the community's inaction. They displayed their displeasure by suggesting some type of buyers' boycott. In early 1961, the Negro Mardi Gras clubs decided on a "blackout" (boycott) to dramatize their displeasure with the legislature's exhibition.¹³

The most fruitful bit of negotiating with whites took place quietly, without fanfare, behind the scenes. Interracial groups, for example, auxiliary Catholic groups, worked quietly and patiently to create a favorable opinion toward desegregation and a favorable climate in which it could take place. Most of the respondents, in this study, indicated that they participated on biracial groups in behalf of school desegregation. It is their opinion that these negotiations did have the effect of creating a more favorable climate for desegregation.

Unlike New Orleans at the height of the desegregation crisis there, Baton Rouge did have an official biracial committee when it decided to desegregate. Despite the criticism by the more militant elements of the community, that the Negroes on the committee were a clique of "Uncle Toms," handpicked by the mayor, it was a structure through which city officials and Negro leaders could convey their attitudes on school desegregation to each other. It undoubtedly did offer some suggestions and helped to make it possible for desegregation to take place there in relative quietude. This is, undoubtedly the kind of negotiation Judge West alluded to when he ordered the schools

¹³Ibid., pp. 104-105.
in Baton Rouge desegregated in 1963. He said in part:

The fact that forced desegregation of the public schools in this Parish has been delayed for many months following the stamp of finality placed by the Supreme Court of the United States upon the prior judgment in this case is to the everlasting credit of the local Negro leaders of this community. They have exercised restraint despite the proddings and agitations of outside elements. The resort to reason, common sense, and restraint by the people of this Parish, both white and colored, during these trying times, has benefited and will in the future continue to benefit all concerned.14

But any negotiation that did take place, was in a sense, a result of NAACP legal prodding, often referred to as "outside agitation." In the final analysis, then, litigation has been the most effective means.

The NAACP's Patient Legal Program

Years of effort to desegregate.—The NAACP's legal fight to desegregate Louisiana's public schools began with the usual filing of suits and waiting until they ran the legal obstacle course, which included, in addition to the normal innate sluggishness of the judicial process, numerous petitions for delays and appeals by school boards and state officials. In spite of this, however, NAACP officials continued, deliberately and persistently, for more than a decade and a half, with their legal efforts to force school officials to meet Negro demands regarding education; (1) to make a reasonable start toward elimination of dual school systems, and (2) at the same time, to provide a better education for Negro students in segregated schools during the transitional period from biracial to integrated school

A brief recapitulation of the NAACP's efforts to get the schools desegregated in these two parishes demonstrates its persistence.

The legal battle to get New Orleans to end segregation in its public school system, began in 1952 after Negroes' petitions to Orleans Parish School officials, in 1951 and the State Board of Education in 1952, to end the custom of segregation, were unsuccessful. The original complaint was filed in federal court on September 9, 1952. A survey of NAACP complaints and petitions since, will show that from its first filing on, it was not only interested in ending the custom of segregation _per se_, but also interested in quality education for Negroes.

Legal proceedings under the authority of Brown got under way in earnest in 1956 in both Baton Rouge and New Orleans. One of the first orders of business was to get the federal courts to void state constitutional provisions which provided for segregation in education. School boards had indicated that they would use these provisions as alibis for inaction. A second step was to ask the federal district court for declaratory judgments and injunctive relief on school boards' policies of continuing to deny to Negro children, on account of race, the equal protection of the laws guaranteed under the Fourteenth Amendment. On February 15, 1956, Judge Wright issued a preliminary injunction calling for desegregation with all deliberate

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15. RRLR, 305 (1956).
16. RRLR, 308 (1957).
speed. But, as the judge pointed out, this did not mean that desegregation was to take place right away. Baton Rouge Negro plaintiffs got a similar court reading in 1960. The injunction against the Orleans school board was made permanent in 1958. Subsequently, the board was ordered to present a plan by March 1, 1960.

Between 1956 and 1960, however, the NAACP was sidetracked in its efforts. First, it was busy fighting with state officials to do business in the state. It was outlawed because it had refused to disclose its membership list. Secondly, it was the victim of an old 1924 unused law, originally designed to curb Ku Klux Klan activities in the state. This law was dusted off, dressed up, and re-enacted so as to apply to the NAACP. Thirdly, it simply waited for the legal process of appeal and counterappeal to run the legal obstacle course.

From the time the NAACP won the right to do business in Louisiana again, in early 1960, the national organization and the New Orleans branch of the NAACP, persisted in their push for school desegregation. After Judge Wright ordered desegregation, NAACP leaders became ever more vigilant. When the legislature attempted to block desegregation,

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20 1 RRLR 571 (1956).
local NAACP officials and the national organization's best legal personnel, were waiting for any eventuality, and they continued to insist that no school board delays or legislative interventions be allowed to nullify Judge Wright's desegregation order. But, numerous laws which interfered with the school board's efforts to carry out the order were passed just the same. A steady stream of interferences came down to New Orleans, but the NAACP, with the cooperation of the Justice Department, was ready to ask Judge Wright to enjoin the legislature. This he did not hesitate to do. So, everytime an interference went down to New Orleans, an injunction came up to Baton Rouge. 22

After token desegregation took place, the NAACP continued its persistence. It did not relax its demand on the school board and the court until late 1962, when it was relatively satisfied with some of the decisions and the way desegregation was proceeding.

In addition to its protest of school board delays and legislative interference, it continued to protest the inequities in facilities for Negroes. Since World War II, New Orleans school officials had made substantial efforts to bring Negro schools in line with minimum requirements. But they were so grossly behind at the beginning, it would have taken far more than was done to bring them in line with minimum requirements, especially at the elementary level. The NAACP could quote figures to show inequality. 23


23 For an illustration of these inequalities, see Chapter III, notes 39-42 supra.
Guarded achievements and demanded progress.--When the NAACP had secured plaintiffs, legally battled school boards and state officials, and secured admittance for a handful of Negro students to previously all-white schools, its job was not complete. Its post-1960 activities have been carried on in an atmosphere equally vigilant. It has continued to demand that steady progress be made toward fulfilling the Brown ruling. It has asked, also, that no devious and sophisticated administrative techniques, no legislative schemes, be allowed to sabotage the little desegregation that had taken place. There were, mainly, two administrative techniques of the schools that had to be combatted: the unfair administration of the pupil placement law and the unfair administration of the "free choice" plan. Both, if they were allowed to go unchallenged, would have delayed the progress of school desegregation. In 1962, it was discovered that after two years of desegregation in New Orleans, under the Louisiana School Placement Law, desegregation was at a virtual standstill. The practice of assigning students to their segregated districts initially and only allowing transfers after a series of tests was, according to the court, far from "good faith" implementation.

The NAACP kept close watch over the pace of desegregation in Baton Rouge, also. When Negroes there, in 1965, asked for stepped-up desegregation, the school board responded with a "free choice plan," whereby students were given a choice on a first-come, first served, basis to attend any school within their district. This was to apply

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to grades 12, 11, 10, 1 and 2, during the 1965-66 school year, and
to be followed by an additional grade each year, until the 1968-69
school year when total desegregation was to be accomplished. This
did not work because students were assigned, initially, to segregated
schools. Since no whites desired to transfer from white schools,
there was usually little room left in white schools for Negroes, and
consequently segregation was maintained.\footnote{25} This, too, was attacked,
successfully by the NAACP.

Next, the private school operators and the financial aid programs
of the state were, to some extent, successfully attacked. It was felt
that desegregation could not progress if it were sabotaged by state
financial assistance that allowed private segregated schools to come
into existence and expand.\footnote{26}

\textbf{Some effects of NAACP legal activity.---}This persistent NAACP
activity, undoubtedly, is partly responsible for the pace and the
present status of desegregation. It was not only principally responsi-
bile for the end of segregation in these parishes, but also for
guarding its progress. Since it began its persistent activity to have
the schools in these two parishes desegregated in the early 1950's, it
has not only succeeded in bringing an end to desegregation, but it has
stood careful watch over its progress and has been able to prevail
upon the courts not to allow its orders for desegregation to be evaded.

\footnote{25}{12 RRLR 210 (1967).}

\footnote{26}{Poindexter v. Louisiana Financial Assistance Commission, 258 F.
Supp. 164 (E.D. La. 1966); 12 RRLR, 1396 (1967).}
For example, when "token" desegregation did not make reasonable progress in New Orleans, it asked Judge Wright for more desegregation in 1962. The judge responded by ordering the first six grades desegregated that year. This order was modified by a subsequent court, but it did succeed in getting the court to demand more desegregation than existed at that time, and to invalidate delaying administrative techniques. By 1963, a substantial amount of the overcrowding in New Orleans Negro schools had been alleviated, a high school for gifted children was desegregated, a year later kindergarten classes were also desegregated and a single-zone attendance system was started for the first time. But most encouraging, of course, was the Fifth Circuit Court of Appeals' announcement that public school officials in the Fifth Circuit had an affirmative duty to bring about desegregation.

As was stated in the introductory chapter, groups often attempt either to expand or to contract the meaning of a Supreme Court decision. The Briggs case seemed to have construed the Brown case in such a way as to make it seem less effective than the Supreme Court had intended. With persistent prodding, the NAACP was able to get the courts in the Jefferson County case to expand, seemingly, on the objectives outlined in Brown. Chapter VII will give a more detailed demonstration of some of the effects of NAACP, and other, activity.

27 RRLR 749 (1967).
Organized Group Opposition to School Desegregation

Whatever progress Negroes and the NAACP made, it was in spite of the long, determined, organized and boisterous protests and demands of the segregationists for the maintenance of the status quo. Most whites in the Deep South, at the beginning, opposed any change in the public educational system from a segregated to a desegregated basis. They fought, legally, for the continuance of a segregated school system, and gave sophisticated reasons why it should remain that way. When faced with a federal court order to desegregate, and determined Negro students and parents desiring desegregation, they gave in to "token" desegregation, rather than face the possibility of closed schools, violence and uncertainty about the future of their public schools. This is exactly what four members of the New Orleans school board did in 1960. But the staunch segregationists did not compromise; it was sometime before they stopped their active resistance to school desegregation.

Segregationist conviction.--They utilized the usual stereotypes about the Negro to justify their firm stand on segregation and to bolster their conviction about race relations. To them, there were moral, motivational and intellectual differences between Negro and white children which demanded that they be segregated. Since Negroes were lazy, lacked ambition and were intellectually inferior, to put them in classes with whites would mean the lowering of the moral and intellectual standards of white children. Since they were different,
the best, and certainly the most desirable, social system, was one that adhered religiously to the principles of racial segregation. Moreover, some argued that the rightness of segregation was justified by tradition and custom. It was not uncommon, also, to hear it said that these differences were the doings of God and hence justified on that basis, too. To this almost medieval philosophy, they could add the argument that control over the schools has been, always, a local function, and desegregation would mean the end of local control. Furthermore, the end of segregation in education would lead to the end of segregation in other areas of life, also.

Scientifically and rationally, this line of argument seems old fashioned. But anyone who lived in the Deep South during the late 1950's and the early 1960's, knows that these and similar arguments were expressed in reported meetings of the White Citizens Councils by many state and local officials, by numerous other individuals in other public meetings, and in "letters to the editor." In fact, it seemed to have been the unstated race relations editorial policy of many daily newspapers. In more recent years, however, there has been a toning down of this attitude.

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29 Thompson, The Negro Leadership Class, p. 61.
Proliferation of opposition groups.--The 1954 Supreme Court decision was the impetus for the formation of new segregationist groups, the revitalization of old ones, and a coalescing of all these groups for a common cause—to fight for the maintenance of public school segregation throughout the South. The most militant segregationist group, the Ku Klux Klan, which was said to be dormant prior to 1954, was said to have revived its activities. Secondly, there was, also, a phenomenal formation and spread of other groups. They were started, usually, in a specific state or local area of the South, but soon, they spread throughout the region, as for example, the National Association for the Advancement of White People (NAAWP), organized in Delaware, which spread throughout the region. It has been estimated that within a "three-year period," following the Court's 1954 decision, some 50 groups, organized for the primary purpose of maintaining segregation, were in existence at one time or another. Together, they were said to outnumber the civil rights groups.

Citizens Councils, the most widespread and effective.--As time passed, however, Citizens Councils organizations became the most potent and numerous groups throughout the South. Every time the NAACP filed suit for desegregation in a community, that community organized a unit of the Council to fight desegregation. First organized across the Louisiana-Mississippi border, in Indianola, Mississippi, on July 11, 1954, loosely affiliated units soon sprang up in Louisiana, Alabama,

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Arkansas, Florida, South Carolina, Tennessee and Virginia. Soon, 15 other states had organizations of a similar nature. Before long, the movement was organized into an Association of Citizens Councils of America with a national headquarters in Greenwood, Mississippi.  

The segregationists were not only well organized, but within their ranks, especially the Councils, were men of much political, economic and social influence in their states and communities. For example, the Association of Citizens Councils of America, the master organization for the region's multitude of segregationist groups, was formed by an assembly of the South's most influential white supremacists—including such men as Tom Brady of Mississippi, Roy Harris of Georgia, and Leander Perez of Louisiana. In addition, in its ranks were many professional men, clergymen, politicians, business leaders and middle class people. One Local WCC organization, for example, was said to be made up of bankers and physicians. These members even made some attempt to convince their communities that the WCC was a respectable organization, free of the hate and juvenile hocus pocus of the Klan. According to its own official pronouncements, it was supposed to be dedicated to honorable goals: the maintenance of peace and good order, domestic tranquility and the preservation of states' rights.  

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33 Ibid.  
An attempt to coordinate segregationist activity.--In 1955, an effort to coordinate the activities of all segregationists was called for by U.S. Senator James O. Eastland of Mississippi. This led to quick interstate organization of the Federation for Constitutional Government, headed by John U. Barr, a New Orleans industrialist. This new group invited:

...all patriotic organizations throughout the nation, to cooperate in a united movement for the preservation of America under a constitutional form of government. The organization from the beginning, had on its executive and advisory committee a large number of officials of other segregationist groups, as well as many participants in the 1948 States' Rights movement. On these committees, also, were 49 members holding either state or national public office (including U.S. Senator Strom Thurmond of South Carolina, Herman Talmadge of Georgia and Eastland of Mississippi, and Georgia's Governor Marvin Griffin). They ranged from circuit judges and state legislative leaders to several U.S. Congressmen. And among the total membership were several retired army officers, two doctors and one professor.35

The Opposition Groups in Louisiana

The bulk of the organized opposition to school desegregation in Louisiana came from the Citizens Councils. By 1960, they were well established in the state. There was the Southern Gentlemen Inc., a strictly Louisiana organization, and the Association of Citizens Councils of America. The chairman of the latter group was none other than State Senator Willie Rainach, who, as was pointed out in Chapter V led the fight against school desegregation from the legislature.

From a survey of those who attended Council rallies, those who spoke for the organization on various occasions, those indicted for purging Negroes from the registrar's roles, and those who led these organizations, segregationists fighting school desegregation were a curious combination, who, except for their opposition to civil rights in general, and school desegregation specifically, would be very unlikely bedfellows in the same organization. First the Councils were composed of those same influential and well-to-do conservatives, who, as was pointed out in Chapter V, were irritated by the federal government's intervention into what they considered state and local jurisdictions. They were the same politicians who campaigned against any state or local leaders, or politicians, who seemed to show some concern for doing something about the problems of the cities, education, or even civil rights, in a progressive and reasonable way. They also were the ones who campaigned against those who catered to the minority vote and those who catered to the national Democratic Party in Washington. Some of these were also the people who influenced state legislation on economic policy, who did all they could to protect privilege from federal intervention or from progressive state politicians.

Secondly, they were composed of those partly obscure politicians, on the make, who were influential at the local levels. They saw the

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school desegregation drive and the drive to get Negroes registered as threats to them, locally. 37

Thirdly, they were composed of rank and file, frustrated and economically insecure, whites, who could not afford to send their children to the private segregated schools, or escape to the racially pure suburbs to avoid Negro neighbors. Some of these, also thought that their jobs might be threatened by the institution of fair employment laws. 38 Among these were some of the most aggressive, and some who were most likely to be swayed by all the resurrected doubts and fears about race. 39

Opposition Tactics

Propaganda.--Propaganda is a very essential element in a group's strategy for success. Influential leaders to propagate it, and access to media through which it could be dispensed, are essential, also. WCC members were very fortunate. They had both the influential leaders and access to the media and other means, and hence, to the public. During the late 1950's and the early 1960's, many obscure politicians, and even some individuals who never had any intention of going into politics, noted, quickly, the power of the Citizens Council, jumped on its bandwagon, and rode it into some office, including the legislature. Both the campaign trail and the legislative hall became forums from which WCC members could air their ideas on race relations and

38 Cook, op. cit., p. 146.
their opposition to school desegregation. From the mid-1950's until the early 1960's, then, the Citizens Council, in Louisiana, on the issue of race, functioned not only as a protest pressure group, but, also, as a kind of a party.

The Councils, also, had, in addition to the mass media, open access to public parks and auditoriums. They had an almost virtual monopoly on the channels of communication denied to their opponents, the NAACP and other Negro groups. For example, the Citizens Councils never had any problem securing use of the New Orleans city auditorium, whenever they invited nationally known segregationists to the city for rallies, but Negro organizations, like the NAACP were denied, repeatedly, the use of these facilities when they invited speakers like Martin Luther King and Thurgood Marshall. Citizens Council propaganda was not only intended to influence the public, but also the state policy makers. It is no secret that most of those who framed, introduced and guided much of the school segregation legislation through the legislature were also Citizens Council members.\textsuperscript{41}

\textbf{Economic reprisals and harassment.}—When it became apparent that school desegregation could not be stopped legally, by the school board's filing of suits, or by the legislature's mass of bills, segregationists, 

\textsuperscript{40} The States-Item, November 16, 1960, pp. 21-22; Thompson, \textit{The Negro Leadership Class}, pp. 106-107.

led by WCC members used more direct means to stop those Negro students, and parents, who might take advantage of court-ordered desegregation, and any others, who refused to cooperate with a Citizens Council call for a boycott of the two desegregated New Orleans schools. Harassment and economic reprisal were the chief means employed. In New Orleans, Citizens Council leaders secured the names and telephone numbers of parents who refused to go along with the boycott. Some of them lost their jobs and many were harassed. The names of the four Negro girls who were to be the first to desegregate two New Orleans schools, were sought and economic reprisals against their parents and family called for. There was also a call for economic reprisal against the Catholic church for its support of school desegregation. At a meeting where he addressed about 1500, Leander Perez urged Catholics to withhold their support from the church. Whites were also asked to fire their Negro maids.

Instigating violence.—In 1958, in Cooper v. Aaron, the Supreme Court noted that Negro children should not be prevented from attending school because of violence and disorder. Some opposers of school desegregation, in New Orleans, in 1960, thought that perhaps they could still prevent desegregation by creating chaos and violence. Though Citizens Council leaders and other "respectable" segregationists often

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made pronouncements calling for law and order, their deeds did not always match their words. Segregationists in and out of the legislature were guilty of making irresponsible statements which encouraged disobedience to federal court-ordered desegregation. The legislature, in addition to urging parents to withdraw their children from the two desegregated schools, commended them, publicly, for doing so. It had inserted in New Orleans newspapers, an advertisement, at public expense, addressed to the parents of the students withdrawn from the two desegregated schools. It commended them for their courageous stand against the forces of "integration" and for removing their children from these schools.

Meanwhile, segregationists, not in the legislature, were actively doing all they could to stop desegregation. Dr. Emmett Erwin, chairman of the New Orleans Citizens Council and Leander Perez led a delegation of boycotting parents to the capital at Baton Rouge. They carried with them a coffin containing a blackened effigy of Judge Wright. The Louisiana House of Representatives responded with a standing ovation. Then, on Tuesday, November 15, 1960, in a three-hour rally at Municipal Auditorium, the same auditorium which only a few weeks earlier had been denied to Negro leaders, Citizens Council leaders urged several thousand men, women and children to fight the integration of four Negro girls into two New Orleans public schools. Specifically,

A series of speakers urged the Confederate flagwaving, sign carrying audience to:

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1. Join the scheduled mothers march... on the Orleans Parish school board, led by mothers from the William Frantz and McDonogh 19 schools which were integrated Monday.

2. Protest the integration of Catholic parochial schools.

3. Sign a petition urging Congress to institute impeachment proceedings against Judge Wright, who was labelled a "scalawag" a tool of the National Association for the Advancement of Colored People, and a betrayer of the South.

4. Consider a possibility the 'tactic of civil disobedience' to bring the runaway courts to their knees.

5. Use the 'scorched earth' policy by emptying classrooms of schools ordered to integrate.

6. Act now to damn the way—the Communist way—due to engulf you and destroy civilization.1

Rallies like these were credited, generally, with having abetted the riots that occurred after the first peaceful day of school desegregation. By Wednesday, those teenagers who were persuaded to stay away from schools had taken to the streets. At the same time, the stepped up boycott at the two schools was almost complete, and school attendance throughout the city was low. Parents, in addition to being congratulated for keeping their children away from the integrated schools, were reminded that the compulsory attendance law had been repealed and, therefore, they did not have to send their children to school anyway. In addition to a thousand or more high school students

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47 The States-Item, November 16, 1960, pp. 21-23.
48 Thompson, loc. cit.
49 The States-Item, November 16, 1960, pp. 21-23.
who roamed the streets, howling, jeering mothers lined the routes to the two schools. Only firm and quick response by police restored order.

The private school technique and the boycott.—Because of the firm stand by the New Orleans police, violence did not have the disrupting effect anticipated by segregationists. But to those disgruntled with desegregation, there was the possibility of private schools. This gave the boycotting students an alternative. Segregationists had anticipated this and when it was evident that desegregation would come, they busied themselves spreading the idea that the private school venture would be successful. The South Louisiana Citizens Council had suggested the sale of Orleans public school properties to private corporations to avoid desegregation. Segregationist leaders now busied themselves in organizing private schools and lobbying for tuition grants. They wanted to be ready in case schools were closed in the future. More than 25 such neighborhood groups were formed.

By Thursday of the week when desegregation began, a private school to accommodate pupils in the city's first two desegregated schools, William Frantz and McDonogh No. 19, was in the making. The school was to be conducted in the rooms of homes throughout the Ninth Ward area near the two desegregated schools. Leaders claimed that


they had the support of the State Superintendent of Education and were assured of free state textbooks and some funds.52

By Monday of the following week, November 28, 1960, an almost complete boycott was in effect at McDonogh 19. A parent boycott kept all but two of the 1038 white children out of McDonogh No. 19 and William Frantz Elementary schools. More than 400 of the white children began attending classes in the segregated schools provided by Perez in St. Bernard parish. Parents rushed plans for private co-operative schools which would care for the others. A total of 474 students from McDonogh 19 and Frantz were registered in St. Bernard schools, tuition-free.53 Early in 1961, segregationists began to lobby actively for grant-in-aid funds. A law was passed that year which allowed white parents to send their children to private segregated schools.

Citizens Council and other group opposition activity did not persuade the courts to rescind or postpone their orders, nor did it persuade the NAACP to reduce its demands, but it did have some effect on the school board's administration of the court's order, on Negro students' willingness to enroll and on those white parents who were willing to go along with desegregation. The school board and school officials were constantly harassed and hence not free agents to administer court-ordered desegregation. Economic pressure and some threats of violence did cause some Negro parents to change their minds.

52 The States-Item, November 17, 1960, p. 23.
about registering their children for previously all-white schools, and many white parents who, otherwise, would have kept their children in the two desegregated schools, removed them after being harassed and because of their fear for the safety of their children. There is no doubt that Citizens Council activity was partly responsible for the two-year delay in the progress of school desegregation in New Orleans.

Group Support for Desegregation

From the moderates.--The pace of school desegregation would have been slower, had it not been for the activity of some moderates in both New Orleans and Baton Rouge. The following quotation from Professor Thompson's book seems to approximate, in part, the stand of the moderates in the two cities covered by this study. With specific reference to the moderate in New Orleans, he said:

Actually he has no definite, defensible philosophy of race relations. Sometimes his racial views on certain issues are similar to those of the avowed segregationist. At other times, even on the same issues, the moderates may take a stand very much like that of the other integrationist. Therefore, the moderates are usually indefinite and vacillating when it comes to the question of equal citizenship rights.54

Their initial reaction to the Brown decision was one of inaction. Except for the usual statements of religious leaders, supporting the decision immediately after the ruling, the bulk of the moderates in these two cities, remained silent and inactive until forced to act.

Dissatisfaction with the segregationist antics in and out of the legislature did force some moderates to action. For example, when

54 Thompson, The Negro Leadership Class, p. 64.
segregation committees indicated that they would recommend the closing of public schools, a majority of the Louisiana School Boards Association let it be known that they would oppose any school closing legislation. When the crisis really came in the fall of 1960, other groups in New Orleans showed their displeasure, too. Teachers at the two desegregated schools indicated their support for desegregation by staying on the job. White parents also showed their displeasure with the antics of the segregationists in and out of the legislature. One group of white parents at the height of the controversy in New Orleans, filed suit in federal court against legislative interference with their schools. Other citizen groups joined in also, to counter Citizens Council activity. SOS (Save Our Schools) conducted an active and partly successful campaign to break the boycott of the two desegregated schools. New Orleans business groups in late 1960, and throughout 1961, conducted a late, but fairly successful law and order campaign, supporting token desegregation. When desegregation was about to take place in Baton Rouge, educators,

56 The States-Item, November 8, 1960, p. 34.  
parents, businessmen and ministers had their modest law and order campaign, also. They appealed through the press, to parents to maintain law and order by staying away from the schools.60

Most of this moderate activity, however, was not voluntary. It was either a reaction to potential local violence or to outside interference, either from the state or the federal government. Most moderates in these cities seemed to believe that modest reforms in the educational system along racial lines, should be worked out within the local framework of reaching decisions free from state or federal interference.

From religious groups.--The American Negro has always had great faith in the efficacy of religion as a soother of his woes and as a moral guide for his actions. It was also the institution to which he looked when moral leadership was needed in solving social problems. It was only natural, then, that Louisiana Negroes were disappointed with the equivocation of most of the religious denominations on the school desegregation issue, when their deeds fell far short of their pronouncements.

Right after the Brown decision the majority of religious groups in the South went on record in support of the decision as being in harmony with Judeo-Christian principles. Most of the churches in the South appealed to their Christian statesmen and leaders to use their leadership in positive thought and planning to end the crisis

60 The Morning Advocate, September 2, 1963, p. 10-A.
in segregation. Few religious denominations or organizations in Louisiana responded to this appeal. One of the most positive proposals during the early days, right after Brown, came from Rabbi Julian Fielbeman. He presented to the Orleans Parish School Board a petition signed by 180 persons asking the board to study the local school situation with the purpose of drafting a plan by which integration or desegregation in the schools of Orleans Parish may go forward as soon as possible. Nothing came of this appeal either.

The special role of the Catholic church.--The Catholic church became a major element of concern for the segregationists and an element of hope for Negroes during the years immediately following the Brown ruling. This was the case because more than any other religious organization, the Catholic church had the capacity to influence the outcome of the desegregating process directly. It was very significantly involved in the process of educating youngsters in the state, especially in the New Orleans area. For instance, in the diocese under Archbishop Rummel's control 75,000 students were attending Catholic schools in the early 1960's.

Reasons for concern on the part of segregationists, and reasons for hope on the part of Negroes, were confirmed when right from the start it appeared that the Catholic church in Louisiana would do more than merely appeal for moderation and remain silent. There were some moves by the Catholic church that were encouraging and could be

interpreted as favorable toward implementation of Brown in Louisiana. First, immediately after the Brown decision, Archbishop Rummel condemned segregation as morally wrong and sinful. According to him, the church had tolerated it only to avoid greater evils, but that such toleration could not be permanent. Second, as early as 1955, Catholic spokesmen actually asked for compliance with the Brown ruling. Third, the Catholic church campaigned against a constitutional amendment which gave the legislature the power to maintain segregated schools. And fourth, not only did Catholic officials ask for compliance on the part of public schools, but they decided to go ahead with their own desegregation in 1956. In fact, there was some confusion as to whether some Catholic school desegregation had not taken place quietly in 1956 anyway. The confusion arose when a pastoral letter of August 5th, which was read in all the Catholic churches, indicated that wholesale desegregation in a particular school system was being postponed another year. Segregationists were enraged and asked for the parish in which the desegregation had taken place. When this information was not received the White Citizens Council threatened to observe all the schools when the children showed up.

But the hopes of those who thought the Catholic church would lead the way by desegregating its schools first, were shattered. Hostile

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reaction from influential Catholics and segregationists to Archbishop Rummel's announcement was so intense that he later announced that the Catholic church would make no move toward integration in advance of similar steps in the public schools.

The intensity of the opposition to the Catholic church's stand grew stronger as the years went on and manifested itself in many ways. In heated debates between church officials and segregationists, church leaders were accused of being unpatriotic, and creating disorder with their pro-integration leanings. They were also the victims of pranks. For example, pranksters went as far as to burn crosses outside the Roman Catholic Prelate's residence.

A more organized form of protest against the church's stand came from some of the church's own membership. Within a month of Rummel's pastoral letter condemning segregation as sinful, several dozens of his flock joined together to organize an Association of Catholic Laymen. Eventually, a membership in the thousands was claimed. According to its official charter, membership in the association was "limited to persons of the Caucasian race who profess the faith of the Holy Roman Catholic church." Its stated purpose was to fight forced integration and find and denounce the communists responsible for it. Letters were sent not only to the Archbishop but, also, to the Pope. This organization even went as far as to ask Pope Pius XII to overrule Archbishop Rummel who termed racial segregation "sinful." The Pope replied by indicating that the group was in error.

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68 Ibid.
Most Negro leaders believed that the church should have desegregated regardless of what the public schools did. In fact they insinuated that the church had a moral duty to do so. From a practical standpoint, however, it is understandable why Catholic officials did not go ahead with desegregation as originally planned. It was stated that they feared that desegregation at that time, would have disturbed the delicate balance which existed between the two school systems. Desegregation in one, it was feared, would have meant a shift of the school population to the other. Neither was equipped with either space or money to shoulder any new registration.\textsuperscript{69} It could be said that they acted out of a sense of community responsibility. But it was felt that segregationist opposition was the main cause of the Church's decision to delay desegregation.\textsuperscript{70}

In 1957 after intense opposition, it was feared that time was needed before the church could go ahead with its desegregation. It was decided that while the Supreme Court's ruling was thoroughly in accord with the principles and teachings of the Catholic Church, immediate integration would not be prudent or practical. The Archbishop outlined what Catholic policy was to be on desegregation, when he said:

> It has been considered wise and necessary to allow time for a fuller explanation of Catholic teaching on this subject and for the physical adjustment that integration will require.

\textsuperscript{69} \textit{Southern School News}, May, 1962, p. 3.

\textsuperscript{70} \textit{Southern School News}, September, 1957, p. 7.
During the intervening year, pastoral letters and other instructive communications will serve to prepare the way for the most propitious plan to be followed.\textsuperscript{71}

The church's strategy, then, was to continue to support public school desegregation while it prepared the way for its own desegregation. Desegregation of the public schools would mean almost automatic desegregation of Catholic schools but not necessarily the other way around, so it was important that Catholic officialdom worked for both. In working for public school desegregation, it was at the same time working for the desegregation of its own schools. The plan of the Catholics, during the intervening years, between 1957 and 1960, was attempting to achieve through education and persuasion what they could not achieve directly in 1956 and 1957, desegregation of Catholic schools as an example for the community. During these years, many conferences, negotiations, and speaking sessions went on between Negro and white laymen and the Catholic hierarchy. Both Negro and white professionals, who were also Catholics, were utilized as forum speakers. Negro and white speakers usually worked in teams, speaking and meeting with both white and Negro groups in an attempt to educate both groups on what was to come and how they should cope with it.

There were, however, other considerations in the Catholics' strategy in working for public school desegregation first. First, if Catholic schools were to desegregate before the public schools did, white students could have easily transferred to the public schools.\textsuperscript{71}

\textsuperscript{71} Ibid.
Second, if the public schools were to be closed, and no desegregation took place, it would simply mean a proliferation of nonsectarian private schools, which could compete with Catholic schools because of financial support from the state, a support which the parochial schools would not get. Third, immediate desegregation might have isolated many traditional Catholics whose influence and economic support were very significant to the church. If these Catholics were given time to understand Catholic policy on the issue, in time, they too, could come to tolerate desegregation. And fourth, Catholic officials were undoubtedly concerned about the church's image in the eyes of 50,000 Negro Catholics who lived in New Orleans and in the eyes of the nation.

New Orleans is sometimes referred to as a Catholic city. Some of the blame for a major disruption of the operation of the school system there, would certainly have been laid at the feet of Catholic officials. So when the real crisis came in 1960, moderate Catholic organizations attempted to do their share to prevent disorder and restrain some of the inflammable activity on the part of some of their fellow Catholics. For example, on Tuesday, November 29, 1960, the Josephite Fathers made an appeal to Catholics asking them to do all they could to prevent the city from becoming a disgrace. They specifically called on moderate Catholics to take leadership from the hate-mongers and to stand firm for tolerance, and respect the country's courts. Catholic officials had to take some drastic action against some influential Catholics who

\[72\] The States-Item, November 29, 1960, p. 19.
were persuading other Catholics to rebel against Catholic authority
and school desegregation. Some of them were excommunicated, including
Leander Perez and Mrs. B. J. Gaillot Jr., president of Save Our Nation,
Inc., who contended that the Bible supported segregation and that her
interpretation rather than the Archbishop's was correct on the issue.

But church officials had to do more than just talk of what they
would do. So on March 27, 1962, the Archbishop announced that:

...effective at the time of registration for the
1962-63 school session, all Catholic children may
apply for admission to the Catholic schools of the
archdiocese, both elementary and secondary, paro­
chial and private, according to the accepted edu­
cational standards.  

Desegregation of the New Orleans parochial schools did take place without
incident in 1962. One New Orleans resident referring to this desegrega-
tion, wrote:

This summary action on the part of the Roman Catholic
hierarchy desegregating all of its schools stands as
the most significant gain Negroes have made in their
all-out bid for equal, unsegregated education.

Catholic officials in Baton Rouge followed a similar policy of
desegregating the Catholic schools only after the public schools did
so first. So the Catholic schools in Baton Rouge desegregated in 1964,
a year after the public schools began desegregation. The Sunday before
desegregation was to take place in the public schools, Catholic and
Protestant churchmen appealed for peace and public tranquility on the
day when 28 Negro students were to enter white schools. In a special

75 Thompson, The Negro Leadership Class, p. 150.
message, Bishop Robert E. Tracey of the diocese of Baton Rouge said:

I appeal to all members of the Catholic family in Christ to provide right-minded leadership in our community, as our school board goes about its duty of carrying out the legitimate doctrines of the U.S. District Court.76

CHAPTER VII

EVIDENCES OF SOME SUCCESS IN THE IMPLEMENTATION
OF THE BROWN DECISION

The degree of success of the objectives anticipated by the Brown decision was a result of certain inherent and traditional, as well as contrived, societal, institutional, group and individual factors. Some of these factors operated to maintain the status quo in the public school systems of the South, and others were responsible for certain changes in these systems—changes which can be construed as a degree of success. Previous chapters attempted to identify, describe and explain some of these factors. This chapter will attempt to show how they tended to contribute to some success.

Success is viewed, in this study, as more than the number of Negro students in previously all-white schools. It is viewed, also, in terms of the obstacles surmounted by the advocates of school desegregation, the degree of support that was generated for implementation, the change in attitude on the part of many white southerners, as well as white Louisianians, in regard to school desegregation and the change in attitude on the part of the Negroes of these two parishes about their chances of participation in the public affairs of their communities.

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Some Traditional and Inherent Factors which Inhibited Success

The tradition of segregation which inhibited white and black--
The difficulty most southerners have, of breaking out of the tradi-
tional habits of segregation, has been one of the overriding obstacles
to change in the educational systems of the South. But this difficulty
is not hard to understand when the history of southern segregation is
reviewed. For almost a century, this deliberate program of dis-
franchisement and segregation had been put into effect to keep the
races apart and to stifle the full development of the Negro as a
citizen.¹ It was a program justified by propaganda by white racists
which exaggerated Negro deficiencies, inferiorities and stereotypes,
enforced by the police, the courts and in many instances, violence,
until this system of segregation, based on an inferiority-superiority
syndrome, had become a part of the "southern way," woven into the in-
stitutional fabric of southern culture.²

As far as segregation in education was concerned, the basic argu-
ment, frequently offered by the Southern press in its defense, was the
one that there were extreme motivational and intellectual differences
between Negro and white children. Since most Negroes, the argument
continued, were lazy, lacked ambition, and were intellectually inferior
to whites, they did not deserve intermingling with them. To educate

them in the same schools would mean lowering white academic standards. Until the early 1950's, this was the predominant philosophy preached and practiced throughout most of the South regarding education, especially below the college level.

Immediately after the Brown decision, influential politicians and segregationists in the Deep South, instituted a campaign to reinforce these theoretical justifications for segregation, lest they be seen by some whites as questionable. Habituated to this kind of belief system and subject to constant pressure from contemporary politicians and segregationists for loyalty to this system, it was only natural that a majority of white southerners reacted in a hostile manner to any law designed to change or modify any institutional structure or function that would change this arrangement of segregation of the races.

As the traditional system of segregation had conditioned whites to resist the change automatically, it had, also conditioned Negroes to the point where they did not automatically insist on its implementation. Though a majority of Negroes were, undoubtedly, enthusiastic about the possibility of the success of the Brown decision, for psychological, social, economic and educational reasons, few were willing, immediately after the ruling, to pioneer and take the action that was necessary to make it a success.

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Psychologically, the Negro was a product of a lifetime of segregation. As such, he was unable to pass, immediately, from the
dark night of segregation into a new day of desegregation with the
writing of a court opinion. It would take time for him to adjust his
vision to the new legal day and to ward off the evil and obstructionist shadows of segregation.

Socially, while he possessed many of the peculiarities of the
larger culture, there were unique peculiarities of the Negro's sub-
culture which operated, unconsciously, against his wanting integra-
tion with whites on any level.⁵ NAACP lawyers in New Orleans, for
example, indicated that in some instances Negroes refused to take
advantage of opportunities to attend desegregated schools. Some ele-
ments of the white community often used this cultural indifference as
a defense against desegregation. The system of segregation was respon-
sible, also, for the low economic status of the majority of Negroes,
a position which inhibited them from taking advantage of the decision.
Educationally, there was no question about the system's effect on the
Negro; this showed up most glaringly in his misunderstanding of the
decision, and his false hopes about its effectiveness.

In spite of this, the Brown decision can be seen as a success.
It was a success first, because it offered Negroes an opportunity to
challenge this rigid system of segregation and some of the attitudes
on which it was based, and second, because it removed the law which

⁵Southern School News, November, 1964, p. 4.
served as a prop for segregation. Third, it did bring about a sag in the rigidity of some of the attitudes held by southern whites regarding segregation in education.

Negroes, like other Americans, realized the importance of education as a means to the realization of a better socio-economic status, and their efforts at desegregation could be seen as one effort at this goal. But in their pursuit of this goal, they discovered most convincingly the reality and impotence of their position. They discovered that their low socio-economic position not only prevented them from responding, immediately, for relief under Brown, but it was, also, responsible for the little success of the few who ventured, initially, to implement that ruling. First, they discovered that their low educational preparation, was in many instances, the cause of their low socio-economic status. It did not prepare them to better themselves in an age of automation. Secondly, their low economic, social and political position prevented them from securing implementation of their legal status. They discovered, quickly, that they did not have the economic means to institute suits, nor the political power to force politicians to work in their behalf.

The Negro's own fears, some well founded and some unfounded, and his feeling of inferiority, all said to be a result of his environment, also inhibited him from going to a desegregated school when the

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opportunity did present itself. One of his fears was of academic failure. This is understandable when it is remembered that many of those students who were possible candidates for transfer to a previously all-white school, came from the lower class and in many instances, were living in impoverished circumstances. Moreover, many who did desire to go to these schools came from home backgrounds with parents who did not always understand the situation, and consequently, could not give them the sympathetic understanding and assurance they needed to boost their confidence. It was only natural, then, that few of them would leave a school where there were usually a high degree of failures, drop-outs, and students with reading and learning difficulties for a desegregated one, even if they wished to do so. All of these reasons prevailed, in some degree, to slow down desegregation in the two parishes covered by this study. But, there were fears which seemed even more real and more potent. There was the fear of social ostracism by white teachers and students and the fear of potential and real violence. For example, in both New Orleans and Baton Rouge there were instances of harassment and intimidation of Negro students who first attended formerly all-white schools.


Despite all the early frustrations, disappointments and discouragements, there is a sense in which the Brown decision has been a success. When it brought Negroes to the realization that it was necessary to have more than legal means to achieve demands, it was a sort of success. It brought them face to face with the fact that political organization, and sometimes even political retaliation, was necessary to achieve certain demands. Negro parents, and students, along with their friends and neighbors, were able, for the first time, to use a legal weapon to achieve a specific demand from state and local policy makers and administrators. But their initial confrontation with these officials on the basis of legal means alone, was relatively unsuccessful. This rather unsuccessful experience, had the effect of opening their eyes to the need for organized activity as a supplemental means for achieving what they could not achieve via the legal route alone.

Before the Brown decision and the 1957 and 1960 Civil Rights Acts, it was unheard of for Negroes to challenge state and local policy makers in Louisiana for anything on any organized and significant scale. The general rule was that a few "Negro leaders" usually went, "hat in hand," to the power structure in search of "crumbs" for the Negro community. Presently, they are able, on an ever-increasing scale, to confront policy makers with legal and political weapons to support their demands. The Brown decision was a sort of success, then, because it involved, for the first time since the rigid program of segregation was instituted, a representative number of Negroes in the political process where they began to do things for themselves.
The hostility, indifference and timidity of the different classes of whites.— The sociologists tell us that all classes of Americans are constantly striving for status, that they strive to become a part of the group above theirs. They also tell us that all classes of whites think that all Negroes, in spite of the comfortable economic status of many of them, constitute not only a lower class but a lower caste. If this be so, a case could be made for the thesis that in addition to outright prejudice, the opposition to desegregation on the part of many southern whites was a natural defense of their socioeconomic status. Even the lower class was said to feel that to have their children, for whom they had high hopes, integrated with Negroes, was a step backward.  

There was naturally a certain amount of class indifference that helped to account for a lack of success during the early post-Brown years at the time of initial desegregation in the state. Many people of means, whose action could have made a difference, remained inactive. According to James Graham Cook, a "large number of white people of affluence and influence in the South just did not give a damn about the integration--segregation controversy." It simply did not touch them. Prosperity and the safety of segregated housing that almost invariably accompanies it, kept them away from Negroes just as surely as if they lived in San Francisco. But, all segments of the upper class cannot be dismissed this easily. In Louisiana, for example, most of

15 Ibid., pp. 347-351.
them were leaders. While some people of means might have been indifferent, the leaders were not. They had power and influence to either effectuate or stifle change. In the early days after Brown, most of them used it to achieve the latter. The legislature and many Citizens Council members who vehemently opposed desegregation, were the top people in their communities. Negro leaders who were polled, placed the blame for opposition to school desegregation on all segments of the white population, but they were hardest on the upper class. Of the 20 leaders who responded to the questionnaire of this study, 40% thought the upper class was most opposed to desegregation, 35% thought the lower class was, and 25% thought middle class whites opposed school desegregation most vehemently.

There was a significant segment of the white Southerners who were not active proponents either of segregation or desegregation. These were the rather passive adherents of the status quo, and as such, not very different from a majority of Northerners. On the question of segregation, as on most questions of general interest to their communities, they usually acquiesced to whatever existed and to whatever the leaders suggested. On the race issue, though, they were, also, cowards, but understandably so. Their passivity was nothing more than an attempt to safeguard their safety, their social relations and their economic security. There was always the threat of social ostracism, of economic reprisals, and even violence. Those who attempted to take a stand for

16 Peters, The Southern Temper, pp. 41-42.
desegregation soon discovered this tragic fact. Those like the LSU
professor and his colleagues who criticized the legislature's stand
on school desegregation, discovered this when they suffered the full
wrath of the legislature. The Baptist seminary student who defied
the segregationist boycott against the two desegregated New Orleans
schools, discovered it when he had to withdraw his children from one
of these schools because of telephone threats on the lives of his
family and because of the warning that he would lose his part-time
job. These, and others, made tragic examples for any who dared to
challenge the status quo. 17

The decision did have the effect, eventually, of forcing all
classes in these two communities to come to grips with the issue. In
spite of all the uneasiness it caused and the tensions it created,
with the passing of the first two traumatic years of desegregation,
the situation has not worsened. These communities have not become
more hostile as a result of the decision, as many had predicted.
Eighty-five per cent of the Negro leaders who responded to the ques­
tionnaire of this study, did not think that hostility has increased
toward the Negro since the Brown decision.

Residence.--Residential segregation has been referred to as the
biggest reason for the natural development of segregated public schools.
This was certainly not the chief reason for its development in New
Orleans, nor for the slow pace of school desegregation in that city,
since it has never had a rigid segregated residential policy. 18

18 Karl E. and Alma F. Taeuber, Negroes in Cities (Chicago: Adline
Residential segregation was not a good excuse for the slow pace of desegregation in Baton Rouge, either. First, many Negroes lived near the four high schools which were first desegregated there. Secondly, bussing students was a thriving concern in Louisiana long before the Brown ruling, and thirdly, Louisianians do not seem to have the qualms about bussing that some parents in some of the Northern suburbs have about it. The possibility of residence as a means of stagnating the desegregating process has been realized since Brown. More deliberate and natural racial gerrymandering has occurred since the decision than prior to it. Seventy per cent of the New Orleans leaders say more has occurred, and forty per cent of the Baton Rouge leaders think more has occurred since Brown.

This, together with socioeconomic status, could possibly influence both the degree of desegregation which will occur in the future and the quality of education which will be offered. Anyone who has lived in these cities in the last decade can see that there has been, definitely, more residential segregation recently. Private and public housing projects and developments have been increasing rapidly. All those who can, both white and Negro, are continually moving out of the older neighborhoods to completely segregated ones. The better schools and teachers follow them. Those who cannot afford to move and, hence, remain in the poorer inner city schools, are Negroes, usually. J. Skelley Wright, a jurist who is familiar with the problems of desegregating urban schools, both in the North and the South, was right a
couple of years ago when he suggested that substantial success of school desegregation would depend on better employment opportunities for more Negroes and effective open housing policies.\textsuperscript{19}

The sluggishness of the law.--A prime obstacle to success of the objectives in the Brown decision, as it is in the implementation of any decision, was the sluggishness of the law itself. Besides the fact that the "mills of the law" grind slowly, a particular law is not always imperative; it may not ask for immediate obedience. While the law may not tolerate outright disobedience, it does make allowance for avoidance, evasions and delays. The big problem with the Brown decision was that it provided maximum allowance for the utilization of all these techniques of non-observance. Since this decision was very unpopular with a majority of white southerners, these opportunities for temporary delay proved to be useful tension-escape valves.

The sluggishness of the law was not only responsible for the lack of immediate acceptance and implementation of the Brown decision, but it also prevented the speedy disappearance of the habit of obeying state and local segregation laws. During that long period of legal sparring between the state and the federal courts, both the citizen and the local official had valid excuses not to obey either, or merely to continue obeying the state law. In most instances, in Louisiana, they did the latter. Thus it was very difficult for the advocates of Brown

\textsuperscript{19}Wright, \textit{loc. cit.}, pp. 285-309.
to have much success, since they had two battles to fight—the one against state prosecution and the one for the implementation of Brown. Local and state officials fully realized the allowances for delay and, for years after the Brown decision, showed little apprehension about desegregation. When the injunctions prohibiting segregation were issued, they used all the legal and extra-legal tactics they could find or invent to avoid obeying them. Louisiana's attempts at evading the Brown ruling have been described, adequately, by Professor Roche. He compared Louisiana's evasive tactics to a tennis match, with the federal judge always on the defensive—always defending new attempts to circumvent his ruling and waiting for a new smash.  

The Southern tradition of defensive response. Most southern whites undoubtedly knew that Negro schools were inferior. In fact, it has been demonstrated that they believed this to be the case even with the few Negro schools which were actually not inferior. Some moderate southerners were even said to be uneasy about the discrepancies in the education offered the races. But, while they realized that these discrepancies were inconsistent with the personal, moral, religious and civic sentiments and ideals of themselves and the broader American community, many of them could not face the "psychic burden" of admitting this to themselves. To do so publicly and to accept desegregation

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20 Roche, Courts and Rights, p. 20.
without a fight, would have been admitting that the South, which had 
vehemently insisted that Plessy was the law of the land, and which 
had always insisted that law and order be observed, was not itself 
observing the law. But it would also have meant bowing to "outside" 
pressure, and "outsiders," who the southerners say, lack understanding 
of the race problem.

This defensive reaction, to some extent, was nothing more than 
the result of a wounded vanity, characteristic of a victim of criticism 
and defeat. The South, in spite of many changes, is still smarting 
from its Civil War defeat and its humiliating experience during 
Reconstruction, as Cash found some years ago. 23

Any effort, or indication of effort, to solve the race question, 
or improve the status of the Negro that comes from "outside" is suspect 
and is looked upon as an attack on the South itself and its position 
that relations were fine between the races. Southern communities 
usually respond by pointing out that their race problems can best be 
solved by the community itself, instead of by "outsiders" who come in 
to "stir up trouble." However, this is usually merely a justification 
for inaction on their part.

In addition to this defensive reaction, some of the South's re-
action does stem from a feeling of being abused, by being singled out 
for criticism and reform for many of the nation's ills in the area of 
race relations. 24 Usually, the result is that they often project their

23 Cash, op. cit., pp. 61-70.

24 Peters, op. cit., p. 265.
faults unto the "outside." Southern leaders often comfort themselves by pointing out that there are worse conditions elsewhere--up North.

This was part of the spirit in which the Brown decision was received in the state. During the early post-Brown years and during the New Orleans school crisis, some of the leading and influential segregationists, who were also masters of throwing men into passion, helped to revive and perpetrate this attitude of defiance and inaction in the state. Initial desegregation, and every new order for school desegregation in the state, was interpreted by them for the community in this light, as an "outside slap at the state." Judge Wright's last decision, before leaving New Orleans, which called for desegregation of the first six grades during the 1962-63 school year, was seen by leading politicians as a final slap at the state of Louisiana by Judge Wright, "a tool of the outside." There was some rejoicing when he was removed and a new judge took his post. This was interpreted as a mild concession to the state.

These, then, were some of the traditional factors that influenced school desegregation in the South and Louisiana.

Some Contrived and Deliberate Attempts to Inhibit Success in Desegregation

The endless administrative remedy requirement.--In addition to all the plans of the Louisiana legislature which went astray, there

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25 Smith, Look Away from Dixie, p. 4.
were some administrative procedures designed and put into operation by school administrators, especially those in New Orleans, that had a tremendous effect on retarding of school desegregation. This administrative strategy was calculated to maintain the status quo. One of the first of these tactics was the requirement that Negroes exhaust a long series of administrative remedies. This was set in motion in 1954 with the passage of a constitutional amendment\(^2^8\) which made segregation, through the exercise of "police power," part of the constitutional law of the state. To implement this provision, Act 555 of 1954 was passed. It held that "all public elementary and secondary schools in the state of Louisiana shall be operated separately for white and colored children."\(^2^9\) Act 556 of 1954 did not speak of segregation, specifically, but it detailed the means by which segregation was to be achieved. It provided that: "each Parish Superintendent of Schools, throughout this State, shall, each year, determine the particular public school within each Parish to be attended by each school child applying for admission to public schools."\(^3^0\)

The Act, also, provided for a hearing before the board for students and parents who were dissatisfied with a particular assignment. This procedure was mere fiction since it was not intended to allow dissatisfied Negro parents and students any relief. The language of the Act anticipated this since it stated that persons aggrieved by the

\(^{2^8}\) *Louisiana Constitution* (1921), Art. 12 Sec. 1.


\(^{3^0}\) *Louisiana Acts* (1954), No. 556.
ruling of the board might apply to the state courts for relief.

That the board did not really intend to give any relief is evidenced, partly, by the fact that when the federal district court ordered a preliminary injunction against segregation in the New Orleans school system, Negroes had already petitioned the board on three occasions. The board had refused on each occasion. In addition, the board frankly stated its attitude against desegregation when it stated:

"It is not only the manifest interest of this Board and in accord with its expressed policy, but also in furtherance of the public welfare of this community that this suit and others that might be instituted with the same objectives be vigorously, aggressively, and capably defended."32

For four years, the board vigorously defended segregation, mainly by appealing all desegregation orders. By making full use of the appeal, it was able to hold up desegregation in New Orleans, and the state, until 1960.

**Discriminatory use of the Pupil Placement Act.**—When it was forced to desegregate, the board was still consistent with its anti-desegregation stance. If it could not stop desegregation completely, it could control its amount and pace. Discriminatory use of the pupil placement technique accomplished this purpose for a while. The act gave each child an unrestricted option to attend the school nearest his home, whether it was a formerly all-white or all-Negro school.33

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31 Race Relations Law Reporter 308 (1956). Hereinafter cited as RRLR.

32 Ibid.

33 La., Acts. (1960), No. 492.
But the board did not allow the children to exercise this option. Instead, it assigned all children to racially segregated schools in their residential area. Then, placement tests were used for applications for transfers. Of course, these tests were given only to Negro students who applied for transfers to white schools. This technique was very successful in accomplishing the board's aim. Only four Negro children succeeded in getting transfers to white schools during the first year of desegregation. By three school-years later, only 12 had made it. The purpose of the board was stated, adequately, by Circuit Judge John Minor Wisdom in a decision in which the court prohibited discriminatory use of the pupil placement technique. He said in that decision:

This Court, like the district court, condemns the Pupil Placement Act when it is hailed as an instrument for carrying out a desegregation plan while all the time the entire public knows that in fact it is being used to maintain segregation by allowing a little token desegregation.  

Ineffective free choice plans.---Another method instituted to accomplish desegregation, but which in its early operation resulted in re-segregation, was the free choice concept. Under the freedom of choice plan, a pupil, in a grade reached by the plan, was supposed to have a choice of attending any school in the system or any school within a geographic attendance area, subject in either case to limitations of space. For example, in 1962, the Fifth Circuit approved an option plan

for New Orleans under which children could attend the formerly all-white school nearest their homes or the formerly all-Negro schools nearest their homes, at their option. By early 1965, both the federal courts and HEW had approved the freedom of choice method of desegregation. In Louisiana and throughout the Fifth Circuit where resistance to desegregation was most significant, this was the plan most widely employed. The majority of the plans accepted by HEW from the Deep South in 1965 to meet its guidelines were free-choice plans. But after the school year got under way, it was discovered that many of the systems which complied on paper, or promised to comply, were not complying in fact; in fact, under the free choice plan, there was a tendency toward resegregation.

The success of the freedom of choice method required the cooperation of the community at large, school administrators and both white and Negro parents, teachers and students. It, also, required stiffer demands from HEW and the federal courts and a lack of interference from anti-desegregation forces. Freedom of choice was not an immediate success during the first year because it did not get the cooperation of white students; very few of them transferred to all-Negro schools. It also failed in part because of a lack of adequate classroom space in white schools near Negro students' homes. Another reason for a lack of

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35 Bush v. Orleans Parish School Board, 308 F. 2d 491, 495 (5th Cir. 1962).
success, was the failure to eliminate the racial identity of schools. A U.S. Commission on Civil Rights report points out that freedom of choice plans "operated to discriminate against Negro pupils by perpetuating the vested 'rights' of white pupils deriving from then existing racial assignments."\(^{37}\) Freedom of choice plans placed too much of the burden for their effectuation on Negro parents and students, who were reluctant to assert their rights because of fear of economic reprisal, intimidation and harassment. Moreover, where the plan did operate with any degree of success, it created another problem--it displaced many Negro teachers.

By early 1966, it was perfectly clear to HEW that free choice plans had not disestablished the dual and racially segregated school systems and that new and stiffer guidelines had to be written. On March 7, 1966, new guidelines governing desegregation, during the school year commencing in the fall of 1966, were issued.\(^{38}\) The guidelines called for: nondiscriminatory treatment of teachers in the event of desegregation and for the desegregation of staff, elimination of unequal facilities, nondiscrimination in the operation of services and programs and, very importantly, the elimination of geographic biracial zones. Fortunately, for the advocates of desegregation, the Department of Justice sought and successfully obtained from the Fifth Circuit Court a uniform and detailed desegregation decree which was to be generally applied. The decree substantially incorporated the standards of the "1966 guide-

\(^{37}\) Ibid., p. 55.

lines" and were to be used in all districts operating free choice plans, under court order, within the Fifth Circuit. This was an unusual, but significant, decision. The federal judges were asked by the Department of Justice to approve HEW guidelines which would, in effect, accomplish what the judges themselves were supposed to accomplish under Brown. The result of this agreement with HEW, and the Department of Justice, to institute HEW's stiffer requirements was reflected in a substantial increase in school desegregation during the 1966-67 school year over the 1965-66 school year.

The selection of neighborhoods unfavorable for success to begin desegregation.--A very effective technique which was used to sabotage the success of the desegregation process was the one employed by the New Orleans school board when desegregation was ordered in that city. The board picked two schools in areas where desegregation was least likely to succeed. They were in lower economic level areas where the white inhabitants were most intolerant to anything not white. It was felt, as indicated by a majority of the leaders responding to the questionnaire of this study, that there would have been less friction and more progress during the first few years of desegregation if some of the more mixed areas, with more middle-class inhabitants, had been selected. The choice of these two areas meant, first, that fewer of the Negro students could survive the rigid psychological, social and intelligence tests that seemed to have been designed, specifically to

favor more middle and upper class white students. Secondly, the type of Negro who lived in these areas was defenseless, economically. Thirdly, because of the unfulfilled lives of most of the white inhabitants of these areas, they were frustrated and overly aggressive. They were the kind of folk most likely to vent their aggression on the Negro.

Segregationists and leading politicians in high official positions were quick to recognize the economic defenselessness of the type of Negroes who were chosen to be the pioneers. State legislators, from the televised floor of the legislature, urged employers to fire their maids. This was very significant since domestic work is a calling followed by more people in Louisiana than any other state in the nation. Significant numbers of Negroes were also on welfare. Welfare payments were terminated, temporarily, during the desegregation controversy in 1960.

The following table gives some indication of the importance of welfare to Negroes in these two communities and of its importance to public officials as a weapon against Negroes for desegregation activity.

TABLE 4.--Aid to Dependent Children caseload by parish and race, March, 1965

<table>
<thead>
<tr>
<th>Parish</th>
<th>Total</th>
<th>White Number</th>
<th>White Per Cent</th>
<th>Nonwhite Number</th>
<th>Nonwhite Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Baton Rouge</td>
<td>881</td>
<td>147</td>
<td>16.7</td>
<td>734</td>
<td>83.3</td>
</tr>
<tr>
<td>Orleans</td>
<td>4,534</td>
<td>478</td>
<td>10.5</td>
<td>4,056</td>
<td>89.5</td>
</tr>
</tbody>
</table>


The private school venture.--Another relevant factor, specifically designed to inhibit desegregation, was the private school venture. Though it had some temporary success, it was, insofar as it did not accomplish its intended purpose, a failure. Because of the importance of education and the extensiveness of the educational undertaking, the private school venture, in the long run, became a futile effort at stopping desegregation. It was but a "drop in the ocean." The private school venture, as late as 1964, was only providing accommodations for 11,000 students out of 800,000. In addition, persistent and eventually successful legal attacks on the program by Negroes, insufficient state assistance and mismanagement helped to lead to its impotence.

Factors which Tended to Favor Desegregation: Inherent, Traditional and Inevitable Factors

Fortunately for school desegregation supporters, certain innate and traditional factors, peculiar to the American society, and certain inevitable changes which occurred prior to, and during the decade in which the Brown decision was rendered, operated in their favor. The Brown decision merely served as a catalytic agent which brought them into sharper focus, quickened their pace and, thereby, aided in its own success.

The tendency toward law observance and respect for the Supreme Court.--One of the first factors which operated in favor of school

41 The Baton Rouge (La.) State Times, June 20, 1964, p. 7.

desegregation, was the tendency toward the observance of law made by the Supreme Court. While the Congress and the Presidency derive some of their power from the fact that they control the "purse" and the "sword," respectively, the Supreme Court derives some of its strength from the fact that it is a symbol of the nation's conscience. Attempts are sometimes made to avoid, evade and delay its decrees, but even as the Brown experience shows, there is often uneasiness about disregarding them. While it is difficult to measure, this respect for the Court was, undoubtedly, an important factor in helping to sustain the decision in spite of all the hostility against it.

Respect for ideals.--One of the guiding principles of social conduct, the equality of opportunity, a norm peculiar to American society, was also a factor. Though mouthed casually, it is nevertheless unconsciously internalized by most Americans, and in this situation, acted as a kind of social superego which tempered the hostile tensions of most Louisianians at the height of the controversy.

To the Louisiana politician, almost any issue regardless of its lack of importance, is worth "raising hell" about. It was only natural, then, that as controversial an issue as Brown would create a hostile and defiant attitude. But some of this hostility on the part of the whites of the Deep South including Louisiana, was a result of their embarrassment because of public scolding and because of their own inconsistencies and uneasiness on the issue of equality. Repressed during the long period of the theoretical rule of Plessy, which was
characterized by segregation without equality, the Brown ruling forced the question of equality for all to the surface and caused Americans to rethink their dedication to it.

An examination of the statements and speeches made by Louisiana moderates and others, during the desegregation controversy, revealed their uneasiness about the issue. To them, it would have been better if the issue had not been brought up at all. Their uneasiness was evident, also, in their response to those pushing the civil rights movement. Civil rights advocates during those early post-Brown days, were referred to by moderates and others as "a nuisance," agitators, people who stirred up things. Pro-Negro forces realized this uneasiness and worked, diligently, to focus the nation's conscience on this suppressed moral conflict.

The importance and necessity of public education.--By 1960, when the desegregation controversy boiled over into a triangular contest between the legislature, Judge Wright and the city of New Orleans, the consensus throughout the country, and in the state, was that public education was too important and too necessary to the country to tolerate its abandonment, merely because a handful of Negro children were to desegregate a school system. The importance of education was demonstrated by the fact that all important activities and undertakings of the American society demanded it. It was demanded by an ever-increasing and complex technology and economy, for service in the

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43 Myrdal, op. cit., p. ix.
Armed Forces, and for good citizenship. The idea that "you could not make it without it" had, also, become widespread.

This desire for education, and this conviction of its necessity and importance, was national. While quality education did not develop as rapidly in the South as in the rest of the nation, it has for sometime been making tremendous strides forward. It evolved from where it was, mainly the concern of religious and private organizations, to one of the leading responsibilities and concerns of state governments and is said to be drawing closer to the educational standards of the rest of the nation.

This same desire for education and this awareness of its importance, were felt by Negroes as well as other Americans. In the beginning, after Reconstruction, there was opposition to any sort of education for Negroes, but Negro education did get started and evolved from where it was primarily the concern of the Federal government, charitable and religious organizations to where it, too, became an obligation of state governments. But this education was allowed only nominal support from the public treasury and was put under the control of persons who saw to it that it did not endanger "white supremacy" or allow the Negro to forget "his place."

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The comparative achievement of the races demonstrates that this education was never intended to go very far over the years. For example, as late as the 1960's nearly four out of every ten adult Negroes in the South were considered functional illiterates. On the average, Negro adults in the South had attained only a 7th grade education, compared to nearly 11 grades attained by the southern white adults. In Louisiana, on the average, Negro adults have attained only a 6th grade education, compared to 10½ grades attained by white adults. One educator was led to state that: "It was not the process of education that had failed. It was segregated education which failed." Throughout America, it was felt that Negro education was inferior. John H. Fischer found in one of his studies that any school enrolling predominantly Negro students, regardless of class size, facilities and quality of the teachers, was regarded by the children of both races as inferior. The thrust for desegregated education began, then, when the Negro, like everyone else in America, began to realize the importance of education as a means of advancing socioeconomic status.

Inevitable political and economic changes.--By 1960, certain inevitable political and economic changes were occurring which aided the forces of desegregation. Politically, the majority of southerners were not as adamant against Negro political participation as they were prior


49 Fischer, loc. cit.
to the 1940's, before the Smith v. Allright decision eliminated the white primary. By 1954, the white South had already made some adjustment in race relations. Southern whites had adjusted to the return of Negroes to the polls, to their appearance on juries, on school boards, in white collar jobs and even in colleges and universities. The migration of large numbers of Negroes to large Northern cities, and their consequent pressure on Congress and the administration for concessions for Negroes, had an effect on improvement of the Negro's position in both North and South. For example, in Southern Louisianas, the location of the two parishes of this study, Negroes were beginning to vote in considerable numbers. This vote became important in close races, especially in New Orleans, and it did have some impact on candidates' stands on the desegregation issue.

Industrially and economically, many changes have taken place in the South since the 1930's. With ample raw materials, an abundant supply of potentially skilled workers, a moderate climate, and tax incentives, the South has become a favorite location for many national industries. New factories have not only provided employment for surplus farm populations, but in turn have found a rapidly expanding market for their products in the South itself. As a result of all this, new opportunities for employment of every kind opened up on every side. The South could not supply all the manpower needed, particularly in

50 321 U.S. 649 (1944).
51 Roche, Courts and Rights, pp. 87-89.
technology and management. Consequently, the outward wave of migra-
tion turned and began to flow the other way—from North and West back
into the newly industrialized areas of the South. Many Americans who
were not born in the Old South are now living and working there.
Along with this industrial growth and agricultural adjustment has gone
a new appreciation of the importance of public schools and universities
and a demand for their expansion, improvement and continuation in
spite of desegregation. All of this had a favorable effect on race
relations—in the South generally, and desegregation, specifically.

Louisiana also has been sharing in this change. By the early
1960's, industrial leaders in the state were beginning to realize
that one of the big problems standing in the way of the state's economic
growth was the backwardness of the Negro. Since he was poorly educated,
he was only marginally productive and, hence, a heavy drag on the
economy. Since the early 1960's however, there is ample evidence to
indicate that most major industries have been making diligent efforts
to try to employ qualified Negroes. In a state like Louisiana, where
many industrial plants are opening each year, this means that many new
jobs are available for the qualified Negro applicant. For example,
Southern University, the largest all-Negro university in the country,
situated in Baton Rouge, has been a compulsory stop for industrial and
other recruiters every Spring during the past several years. The big
problem seems to be finding sufficient qualified graduates to fill the

Francis Pickens Miller, "Down in the South," in Norris (ed.)
We Dissent, pp. 122-124.
positions available. Local and statewide industries have, to a considerable extent, come to the realization that everyone, black and white, should be productive. Industry and labor are coming to realize that Negroes form too large a segment of the population to be on the outside looking in. The idea, that the Negro should be fully utilized in the economic growth of the state, was summed up by the President of the Louisiana, AFL-CIO in 1967 when he said:

...more rapid transition and improvement must be made in our educational system—with emphasis being placed on the better quality education for Negroes...

More effort must go into making better employment opportunities available to qualified Negroes.

Programs of employment must be especially designed to encourage the educated Negro youth to remain in Louisiana and not migrate to other states...thereby leaving, in the majority in Louisiana, the uneducated, unskilled, unqualified.

In addition, because of the recent expansion of the National Space Program to the state, the ever-increasing complexity and amount of industrial technology required and the efforts of the governor to attract industry and other business to the state on a large scale, this problem of insufficient skilled manpower has become very acute. Louisiana has to import from other states a big percentage of its skilled manpower. But those who come do not always remain, because, among other reasons, they cannot continue their education in the state. The increased demand for skilled manpower, for educational and service

53 Par Analysis, No. 141 (1967), pp. 5-6, 16.
54 Ibid., p. 11.
personnel, and the recent efforts of the state to attract more visitors and to become a major sports and entertainment area have also had a favorable effect on the school desegregation process. Rigid demands for school segregation, specifically, and segregation, in general, in the state of Louisiana, on the part of state officials and other leaders, had to be tempered for the sake of progress.

Brown Generates Its Own Support: from the Educational Community, from the Nation at Large and from the Negro Himself

Education's ills tied to school desegregation.—Long before the early 1960's, when reluctant compliance was secured from local leaders and school officials in Louisiana, the Brown decision had generated reciprocal and active support from the educational community, which attempted, and in a sense succeeded, in tying the interest of education in general to the issue of school desegregation. This was, of course, favorable to the success of the desegregating process.

The Brown decision gave educators the opportunity to dramatize to the nation and to the federal government, the unstable financial status of education generally and the plight of Negro education and education for the poor specifically. They dramatized the poor conditions of certain rural and urban schools, especially those in the South. Since Negro students formed a majority in these kinds of schools, this amounted to a dramatization of the poor conditions of Negro education and a call for its improvement. During the latter part of the 1950's and throughout the 1960's, educational research panels and groups proliferated.
One such group reported that:

By all known criteria, the majority of urban and rural slum schools are failures. In neighborhood after neighborhood across the country, more than half of each age group fails to complete high school, and 5 per cent or fewer go on to some form of higher education. In many schools the average measured I.Q. is under 85, and it drops steadily as the children grow older. Adolescents depart from these schools ill-prepared to lead a satisfying useful life or to participate successfully in the community. As a result, in school these children show disproportionately high rates of social maladjustment, behavioral disturbance, physical disability, academic retardation, and mental subnormality. In addition, this background accounts for the low level of aspiration. 55

This situation, according to some, was perpetuated by a cycle of ill-prepared Negro teachers, who received their training in these same schools. They proposed that this cycle be broken. 56 Some even suggested that socio-economic integration was necessary if the Negro were to break out of his educational lag. 57 If this problem of low educational achievement was to be solved, the low socio-economic status, the undesirable family patterns and the low aspiration level of Negro youngsters would also have to be attacked. 58 Some, like


Conant and others, suggested that efforts at providing desegregated education and quality education in all-Negro schools, because of the reality of the residential situation, would have to go on together. Conant, also, suggested that school programs should look to, or emphasize, a transition from full-time schooling to a full-time job, whether that transition be after ten years of school or after graduation from high school, college or university.  

Most importantly, educators clamored for greater mobilization of private, municipal, state and federal resources, and for a higher proportion of the gross national product to be devoted to educational purposes. This kind of proposal was received rather sympathetically, even at the federal level, where it was justified on the assumption that it would return greater dividends to the individual, the democratic process, the economy and to the stature of the United States.

Federal involvement was secured. It meant not only more aid for education but it also brought federal pressure for school desegregation at all levels. While this lobbying was favorable to school desegregation, it was, also, favorable for education, generally. Since the early 1960's, there has been a continuous rush to Washington with proposals for grants. A rash of Summer, and other institutes for high school teachers and others on a nondiscriminatory basis, have proliferated across the country. Then, with the passage of the Civil Rights Act of

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59 Conant, loc. cit.

1964, which prohibited discrimination in programs receiving Federal financial assistance, and with the passage of the Elementary and Secondary Education Act of 1965, federal involvement became most significant, especially for school desegregation. In addition, a call did go out from leading educators to educators throughout the country, asking them to make a genuine effort to support desegregation and to do all they could to raise the Negro students' educational achievement and aspiration level.

National public opinion favored desegregation.--One reputable historian, C. Vann Woodward, tells us that the rigid development of race relations in the South was, to a great extent, the result of the rigid laws passed by the Southern states after Reconstruction. His contention is that had race relations been left alone to develop they would have been more favorable for the Negro. This contention, that laws foment changes in social systems and that these changes in social systems often result in changes in attitudes, is somewhat substantiated by the change in attitudes regarding race relations since the Brown ruling.

Since that decision, there has been an increase in the concern, awareness and involvement of many southerners with the race problem. Most importantly, by the early 1960's, there was a change in attitude, even in the Deep South, regarding school desegregation. Two researchers, who compared the attitude of the nation on the issue since Brown

61 Harris, loc. cit.
62 Woodward, loc. cit.
with the attitude during the years just prior to the decision, found a marked improvement in favor of school desegregation. They found that in 1942 only a third of all whites favored the integration of schools. At that time only 2 per cent expressed support for integration. Among Northerners in that period, integration was endorsed by only 40 per cent of white adults. By 1956, two years after the Supreme Court's decision against racial segregation in public schools, national approval of integrated schools had risen to approximately half the total white population; in the North it had become the majority view, endorsed by three out of five white adults. Even the South was far from immune to the changing situation. Earlier, only one person in 50 had favored school integration; in 1956, the proportion was one in seven. By the early 1960's, it was found that a substantial majority of all white Americans endorsed school desegregation. In the North, the figure stood at approximately three out of every four adults. 63

A change in attitude was indicated, also, by the relative absence of violence connected with school desegregation after Little Rock and New Orleans. However it was not until the fall of 1960 that violence had subsided. 64 This absence of violence in Deep South communities could be considered a victory for desegregation.

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63 Hyman and Sheatsley, loc. cit., pp. 16-23.
Local citizens favor desegregation to closed schools.--The importance of public education to Americans and the change in attitude toward school desegregation, even in the Deep South by 1960, was indicated by a series of actions by the citizens of New Orleans during the school desegregation crisis. These actions indicated that when the alternatives are between desegregation and closed schools, the citizens would prefer desegregation.

First, New Orleans voters indicated this when they re-elected Matthew R. Sutherland, a school board member, who campaigned for open schools. Sutherland won overwhelmingly over three other candidates who campaigned for continued segregation. This was interpreted, also, as a vindication of the four candidates of the five-member board who implemented a pupil placement plan of "token" desegregation to comply with a federal court order that schools be desegregated. 65

Secondly, these four members who yielded to "token" desegregation, rather than face the prospect of closed public schools, got even more encouragement from the citizens, after four months under the lash of the legislature. Some 1650 New Orleanians turned out for a mass testimonial to them for helping to keep New Orleans public schools open.

Thirdly, this was demonstrated by the way the taxpayers of New Orleans responded to an appeal by the school board president and Mayor Morrison for early payments of 1961 property taxes, due in May. The early payment was necessary so that the overdue January payment to

teachers could be met. With favorable response from several large corporate taxpayers and the aid of small property holders, the school was able to meet its January payment.

When the Baton Rouge school board decided to go ahead with desegregation, 363 responsible leaders backed this plan. This action was taken because of their concern with the long-range effect that hostile resistance would have on the area, especially its economy and welfare. They, along with others in the community, signed a "declaration of principles" which outlined the course of action they thought the community should follow in the desegregation controversy. They stated in that declaration that:

Public education must be preserved. Our children are entitled to a schooling uninterrupted by violence and danger.

Law and order must be maintained. This requires compliance with the final decisions of our courts. Any other course would result in violence and chaos. The right of parents to send their children to private schools should be recognized.

However, we believe that a private school system cannot become an adequate substitute for the public system.

When desegregation did take place, violence was isolated and almost negligible. The school superintendent had high praise for the way the students at the four desegregated schools conducted themselves.

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Other public officials and leaders concede the inevitability of desegregation.--The mayors of both of these cities, and eventually the governor who succeeded Davis, attempted to communicate to the citizens of these communities and the state the fact that desegregation was inevitable. During its 1960 fiasco with the federal courts, the legislature disappointed the segregationists, isolated the moderates, disgusted the Negroes but, also, discredited itself. As a result, it has since slumped in prestige and influence. There was a 51.1% turnover of members who served in those 1960 sessions. The result of all this was a resurgence of executive influence which has always been strong in the state, but which was in abeyance during the Davis administration. This was especially true in matters concerning segregation, which were dominated by a few segregationist leaders in the legislature.

Before he took office, Governor-elect John McKeithem indicated that he would continue the fight to keep the schools segregated. In March 1964, he reasserted this resistance to school esegregation by taking the oath that was making the rounds at State Houses throughout the Deep South. He vowed:

I am prepared to make the sacrifice of standing in a school house doorway to resist attempts...should it be considered beneficial to the State by our finest constitutional lawyers.

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Soon, Governor McKeithen realized that the success of his pro-
gram of industrial expansion for the state meant to some extent
cooperation with the federal government, a toning down of the kind
of belligerent politics which surrounded the New Orleans school dese-
gregation crisis and the development of the state's natural and human
resources. He was quick to realize the importance of education to the
economic development of the state. Consequently, during his first
administration, he became an active advocate of better education for all
the state's citizens.\textsuperscript{71} For example, in one of his addresses he said:

\ldots certainly we need to look to education to equip
our youth with the basic knowledge required to
make them good citizens and productive members of
society.\textsuperscript{72}

Since taking office, Governor McKeithen has played a cautious,
moderate and relatively successful role in handling race relations
issues. This has been favorable, also, to desegregation. Negro leaders
rate him high on his reasonableness toward the Negro. Seventy per cent
of the Negro leaders polled in this study thought the governor, more
than any other public official or agency, including the mayors and the
city-parish councils of both parishes of this study, had done more,
in the fairly recent past, to promote equal treatment for Negroes. His
handling of the race question, and other issues, pleased a majority of
the citizens of the entire state. He had done so well that when he
proposed a constitutional amendment which allowed him to succeed himself,


\textsuperscript{72} "Meeting Louisiana's Manpower Needs," Par Legislative Bulletin,
XIV, No. 1 (May 13, 1966), 1.
it passed with a substantial majority, and he won re-election by a landslide. Some of his statements to a group of Negro newspapermen, whom he personally invited to hold their 1968 workshop in New Orleans, give some indication of his present attitude on the issue. He said to them at this workshop that he thought "the enlightened southerners had made up their minds to forget past hurts and to look to a future of racial co-operation." He, also, warned Negroes not to retard their own progress by nursing old hurts instead of taking advantage of the opportunities open to them all over the country.

Realistic action which was favorable for implementation of Brown, and which could be interpreted as success, came from the business community at the height of the desegregation crisis. For example, after some violence erupted as a result of desegregation in 1960, 105 business and professional men, many of them civic leaders of New Orleans, cautioned the city on December 14th that Louisiana's legal position on segregation had become "untenable." They called for an immediate end to the threats, defamation and resistance of those who administer the laws. Doctors, dentists, architects and businessmen from every facet of the New Orleans economy, signed a three-quarter page advertisement in the local newspapers asking citizens to back the Orleans Parish School Board in its administration of an 118-school public educational program in which there was "token" desegregation. The public appeal was distributed throughout the nation in an effort

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73 The Columbus (Ohio) Call and Post, February 1, 1969, p. 6B.
74 Ibid.
to counteract school desegregation publicity which had curtailed trade and business in New Orleans. This was done in spite of the expected repercussions from segregationists. Immediately after publication of the advertisement and accompanying news stories, many signers of the statement began receiving harassing telephone calls and on Thursday, December 15, they were soundly criticized at a Citizens Council Rally.

When the legislature proposed an additional one-cent sales tax to finance a grant-in-aid program for private, segregated schools, groups which had not expressed themselves before, did so. For example, International House, the city's leading foreign commerce association, made up of the most influential men in the community, said without reference directly to the issue of schools—that it was unalterably opposed to any increase in taxation. The Chamber of Commerce of the New Orleans area, also, adopted a resolution against the tax.75

Negro Hopes, Aspirations and Activity Raised

Raised hopes.--The civil rights activity on behalf of the principles of the Brown decision, throughout the country in the early 1960's, could be considered a success because of the effect it had on the Louisiana Negro. In addition to expanding economic opportunities, it had the effect of raising the aspiration level of more Negroes to the point where they became sufficiently dissatisfied with their educational and

economic status to want to better them. That same desire for middle-
class status, which is often said to be the goal of a majority of
Americans, could be said, if psychologists and others are correct, to be the goal of Negroes, too.\textsuperscript{77} This tendency to see education as
a kind of conveyor belt to social status, has had the effect of
causing more and more Louisiana Negroes to seek, if not immediate
desegregated education, at least better education. This desire for
education, at least better education, has increased since it has be-
come more meaningful economically and socially. There is some truth
in the following statement by the Reverend Eugene P. Mannus SJ, of
St. Augustine High School, New Orleans, regarding the hopes of Negroes.
He said:

\begin{quote}
\ldots many men of good will believe that doors will open
up for the Negro when he becomes qualified. The con-
verse is true. A Negro youngster will become qualified
when the doors open up. Before he will hope and strive
and study for any vocation, he must believe it is
possible for him.\textsuperscript{78}
\end{quote}

The responses in Table 5 indicate that Negroes in these two par-
ishes, at least the leaders, have hopes that race relations, including
school desegregation, and also opportunities for Negroes, will improve
in the state in the near future.

\textsuperscript{76} Vance, \textit{loc. cit.}, pp. 40-42.

\textsuperscript{77} Erich Fromm, \textit{The Sane Society} (Greenwich, Conn.: Fawcett

\textsuperscript{78} \textit{Par Analysis}, No. 141 (1967), pp. 3-4.
TABLE 5.—Responses by Baton Rouge and New Orleans Negro leaders to questions concerning their hopes for the future of Negroes in their parish and in Louisiana.

<table>
<thead>
<tr>
<th>Per cent Who Agree That:</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>The amount and pace of school desegregation in their parish will increase in the near future.</td>
<td>80%</td>
<td>70%</td>
</tr>
<tr>
<td>Public officials in their parish would pay attention to what they had to say concerning Negro problems.</td>
<td>60%</td>
<td>70%</td>
</tr>
<tr>
<td>Negroes in their parish will increase their political participation in the near future.</td>
<td>100%</td>
<td>90%</td>
</tr>
<tr>
<td>Negroes from their parish will be elected to political office in the near future.</td>
<td>100%</td>
<td>70%</td>
</tr>
<tr>
<td>Hostility toward the Negro in their parish has not hardened despite school desegregation.</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Opportunities for trained Negroes will get better in Louisiana in the near future.</td>
<td>80%</td>
<td>80%</td>
</tr>
</tbody>
</table>

Hopeful but dissatisfied.—Professor Peltason in his Fifty-Eight Lonely Men, observed that "until those favoring integration fight as hard for civil rights as segregationists are fighting against them, southern schools will remain segregated." The contention here seemed clear. It was that Negroes would make little progress in their desegregation efforts until they increase their political activity. One

Peltason, Fifty-Eight Lonely Men, p. 250.
observer, who studied Negro leadership in Baton Rouge, found it fractionalized on the basis of ideology and personality, weak and irresolute in time of crisis, uninformed and uncoordinated. And he concluded by saying, in essence, that in Baton Rouge, things were done for Negroes and not by them; when there was action on the Negro's behalf, it was usually a result of the federal government. Some even went as far as to suggest that Negroes were satisfied with their plight.

A New Orleans sociologist, who studied Negro leadership in that city in the early 1960's, described it as powerless insofar as Negroes possessed any community-wide power. He did give Negroes in New Orleans credit for getting some things done. In addition, he found that their advice was usually sought on problems of general community concern as well as on strictly racial matters. Occasionally, according to him, a Negro was appointed to some "citizens advisory committee" where special problems such as housing, welfare and delinquency were discussed. He found that they had worked together with white moderates, in terms of mutual respect, despite their unequal social power. Operating within this pattern of race leadership, New Orleans Negroes were able to achieve some notable changes.

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81 Thompson, The Negro Leadership Class, pp. 165-171.
The responses in Table 6 indicate that Negroes were not satisfied with the pace of school desegregation, specifically, nor with

TABLE 6.—The level of satisfaction of Negro leaders with desegregation and activity favorable to desegregation.

<table>
<thead>
<tr>
<th>Per cent Who Agree That:</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Negro leadership in their parish is united and effectively represented the Negro population.</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td>The amount and pace of school desegregation is satisfactory.</td>
<td>20%</td>
<td>10%</td>
</tr>
<tr>
<td>The state of Louisiana is making an adequate effort to better the educational opportunities of its Negro population.</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>That the elected officials in their parish are aware of the educational problems of Negroes and how to solve them.</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>That the school board and other officials do a good job of preparing their community for desegregation.</td>
<td>30%</td>
<td>30%</td>
</tr>
<tr>
<td>*That the parochial schools in their parish should have desegregated whether the public schools did or not.</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*The Catholic officials in Louisiana agreed to desegregate when the public schools did.

desegregation, generally. Moreover, they were not satisfied with their own actions in bringing about desegregation, nor with the actions of the official and unofficial groups or agencies such as school boards in this regard.
Negro participation increased.--In recent years, Negro political participation in both cities, as well as throughout the state, has increased. This participation has taken many forms. On an ever increasing basis, Negroes have litigated, negotiated and even used the boycott in behalf of their school desegregation drive. There were instances when they demonstrated before and petitioned all levels of government for services, initiated and extended voter registration drives, conducted mass meetings where Negro issues and grievances were discussed, increased their voter-turnout and they have entered the Democratic primaries as candidates.

Until fairly recently, there was some truth to the statement that Negro leadership, especially in Baton Rouge, was fractionalized and weak. This was due to the fact that Negro leaders with different interests all vied for the position of spokesmen for the Negro community. Hertofore, the Negro preachers, the school principals, and the college presidents of Negro state institutions were the most prestigious individuals in the Negro community. They often sought preferential treatment from the white power structure for their business, their church, their school or educational institution, but in most instances, not for the Negro community as a whole. Since the late 1950's, and during the early 1960's, these leaders lost prestige among the masses.

More recently, however, as a result of the prodding of Negro militants, spontaneous and independent voter groups, and the demonstrations conducted by students at the local universities, these leaders
have come to realize that their continuance as leaders depends upon
their confronting the white power structure as representatives of the
Negro groups with demands that would benefit the entire Negro community,
as most of them did in school desegregation. For good or ill, these
leaders have not been abandoned, however. They serve on the official
and unofficial biracial committees that have been created, since the
school desegregation crisis, and curiously, have been accepted by both
the white power structure and the militant elements in the Negro com-
munity. They have been accepted by the white power structure as
advisors and by the militants and the rest of the Negro community as
request bearers.

In spite of all the recent militancy on the part of some Negro
leaders, the observations of two writers about Negro leadership, in
general, seem accurately descriptive of the goals and strategy of
Negro leaders in these two parishes. C. Eric Lincoln observed that
Negro leadership "is dedicated to the principle of cooperation with the
white man in any attempt to relieve the Negro's condition." And as
Hugh H. Smythe said, the Negro leader is merely attempting to convince
the local white leadership that gains for the Negro will be advantageous
to both the region and the nation.

Negroes, in these two parishes, learned the importance of political
power as a result of their early efforts to desegregate the schools.

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82 The Black Muslims in America (Boston: Beacon Press, 1961),
pp. 135-137.
83 Hugh H. Smythe, "Changing Patterns in Negro Leadership," Social
Forces, XXIX (December, 1950), 191-197.
They undoubtedly realized that the contention of some of their critics that the Negroes would make little progress in their desegregation efforts until they increased their political power and activity, was partly true. This experience impressed upon the Louisiana Negro the importance of political power and since then he has taken many steps to reach and utilize both his political and economic potential. This political potential was great even in the 1950's and would have been very significant even then for school desegregation had it been realized at that time. In 1960, it was reported that Louisiana had over a million Negroes. Table 7 indicates how significant the Negro potential could have been to school desegregation in Louisiana and throughout the South during the 1950's, had it been possible to mobilize it.

TABLE 7.--Per cent of Negro registered voters of potential Negro voters in eight Southern States, 1950.

<table>
<thead>
<tr>
<th>State</th>
<th>Potential Negro Voters</th>
<th>Registered Negro Voters</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>516,245</td>
<td>53,336</td>
<td>10.3</td>
</tr>
<tr>
<td>Arkansas</td>
<td>232,191</td>
<td>67,851</td>
<td>29.2</td>
</tr>
<tr>
<td>Georgia</td>
<td>633,697</td>
<td>163,389</td>
<td>25.6</td>
</tr>
<tr>
<td>Louisiana</td>
<td>510,090</td>
<td>161,410</td>
<td>31.6</td>
</tr>
<tr>
<td>Mississippi</td>
<td>497,354</td>
<td>19,367</td>
<td>4.0</td>
</tr>
<tr>
<td>South Carolina</td>
<td>390,024</td>
<td>98,890</td>
<td>25.3</td>
</tr>
<tr>
<td>Virginia</td>
<td>422,670</td>
<td>84,931</td>
<td>20.0</td>
</tr>
<tr>
<td>Texas</td>
<td>550,992</td>
<td>209,297</td>
<td>38.0</td>
</tr>
</tbody>
</table>

The Negro population of the city of New Orleans could become very significant, especially in a close city-wide election, and it is becoming even more significant with time. In 1960, out of a population of 627,527, there were 253,514 Negroes or 37.2% of the total population. This is a population which has been increasing faster than the white population. For example, the population increase of New Orleans between 1950 and 1960 was 57,080; of these 52,300 were non-white and 4,780 were white. The future political potential of the Negro in this city can also be gotten from the relative size of the public school population of the area. Table 8 illustrates this comparison.

TABLE 8.--Public School Enrollment or Registration in East Baton Rouge and Orleans Parishes, 1963-64.

<table>
<thead>
<tr>
<th>Parish</th>
<th>Number of Schools</th>
<th>Pupil Registration</th>
<th>Total Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1 - 8</td>
<td>9 - 12</td>
</tr>
<tr>
<td>East Baton Rouge (white)</td>
<td>57</td>
<td>22,657</td>
<td>9,865</td>
</tr>
<tr>
<td>Orleans (white)</td>
<td>70</td>
<td>29,262</td>
<td>12,191</td>
</tr>
<tr>
<td>East Baton Rouge (Negro)</td>
<td>35</td>
<td>16,622</td>
<td>6,113</td>
</tr>
<tr>
<td>Orleans (Negro)</td>
<td>62</td>
<td>51,351</td>
<td>11,913</td>
</tr>
</tbody>
</table>


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84 Southern School News, April, 1961, p. 5.
85 Southern School News, May, 1961, p. 3.
The Negro political potential seems even more promising when statewide school registration requirements are made. For example, registration figures for the 1964-65 school year for the entire state showed these interesting figures: that there were 489,000 white students registered and 321,000 Negroes, with the Negroes representing 39.6% of the school-age population. The Negro potential and Negro efforts to desegregate schools had an effect on Citizens Council leaders in the state. They were quick to grasp the significance between the Negro's attempts to desegregate the schools and his efforts to attain political power. It was only after the Negro's efforts to desegregate the schools that the segregationists began their active campaign to purge Negro voters from the registration rolls and to make it difficult for new registrants to get on these rolls.

Through their Joint Legislative Committee on Segregation, a governmental organization, and their Citizens Councils, the segregationists were able to use legal and political retaliation against the advocates of school desegregation. Right after the school desegregation decision, the Association of Citizens Councils of Louisiana and the local councils dusted off an old election law, unused for 30 years, and used it to purge Negroes from the registration rolls. The law allowed any registered voter to challenge the legality of the registration of any other registered voter. Citizens Council members worked in cooperation with the parish registrars to spot errors in spelling, blank spaces where information

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should have been supplied, or other technicalities that could support the claim that the original registration had been fraudulent. This law was applied only to Negroes, of course. In addition, in some Northern parishes, the state's constitutional-interpretation requirement test was applied meticulously in the case of Negroes attempting to register for the first time. This had the effect of stopping all but a handful of new Negro applicants from getting registered.

Fortunately, with the aid of the Department of Justice and Federal Registrars operating under the authority of the Civil Rights Act of 1960, segregationists were thwarted in their efforts to use state election laws discriminatorily, as part of their retaliatory tactics against Negroes for pushing school desegregation. This example merely serves to bolster the thesis that the success of Brown, or any court decision which calls for some sort of social change, will depend in part, upon the cooperation and support it will be able to muster from the other branches of the government. Success of Brown, also, depended upon the determination of hundreds of Negroes who continued with their registration activities, and at the same time, their efforts to desegregate the schools. Winning the right to register in large numbers, was one of the biggest and most important segregationist-hurdles to defeat.

Negroes in both cities took other action that was directly or indirectly favorable to implementation. New Orleans Negroes, needless


to say, were like Negroes throughout the state, unhappy with the legislature's anti-Negro campaign during its 1960 segregation-sessions. They showed their displeasure with the legislature's antics and their support for desegregation by calling for a 1961 carnival (blackout) boycott. This brought favorable response from the New Orleans business community. It issued a plea calling on the city to observe law and order and to accept "token" desegregation. In February 1961, before a proposed tax increase which was to finance segregated private schools was defeated, the New Orleans NAACP and other Negro organizations of the city suggested a city-wide buyer's strike. Then in 1963, the New Orleans Parent-Teachers Association Council, a Negro organization, presented the school board with a 5,000-signature petition requesting it to relieve the overcrowding in Negro schools by utilizing the 5,300 vacant seats in predominantly white schools. As a result of some desegregation and the availability of more classroom space for Negro students, most of this overcrowding has since been alleviated.

Because they reside at the capital city, perhaps no other group of Louisiana Negroes felt the wrath of the legislature during its 1960 "segregation-sessions" as poignantly as those in Baton Rouge. One thing seems clear, however, and that is that it helped to impress upon them even more sharply the significance of political power and activity. Since the early 1960's, organized and spontaneous Negro groups in Baton

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Rouge have carried on yeoman service in the cause of civil rights. For example, concerned student groups from Southern University have worked with the community on both voter education projects and voter registration drives. The organized voter groups, like the First and the Second Ward Voters' Leagues, have been active, also, especially just prior to elections. Usually, they hold open meetings where issues, candidates and candidate stands on issues are discussed and recommended lists of candidates are passed out to those in attendance.

Some of these groups and organizations have negotiated directly with the white community and school officials for increased school desegregation. For example, in 1967, the President of the First Ward Voters League communicated with all the East Baton Rouge Parish principals, asking them to pledge that they would take action to bring about desegregation.

The most significant aspects of this increased activity show up in the increased activity of Negro voters and Negro leaders. Tables 9 and 10 illustrate this increase.

If the attitude and activity of Negro leaders in these two parishes indicate anything, it is that the majority of Negroes there are dissatisfied with the present status of desegregation but they are hopeful that it will improve and are actively engaged in helping to make

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91 Letter from First Ward Voters League to East Baton Rouge Principals Calling on them to Support Total Integration, Baton Rouge, Louisiana, May 26, 1967.
TABLE 9.--Participation by Negro leaders for school desegregation and Negro improvements.

<table>
<thead>
<tr>
<th>Per cent who:</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belonged to the NAACP.</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Knew of an unofficial biracial group working for solution of racial problems.</td>
<td>80%</td>
<td>70%</td>
</tr>
<tr>
<td>Attempted to influence school desegregation by contacting leaders by letter or through face to face meetings.</td>
<td>60%</td>
<td>90%</td>
</tr>
<tr>
<td>Have personal contact with public officials or other influential groups or individuals in their parish.</td>
<td>90%</td>
<td>60%</td>
</tr>
<tr>
<td>Belonged to an all-Negro organization which worked for solution of problems of general interest to Negroes.</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Spoke before Negro gatherings and urged them to prepare themselves academically, politically and economically.</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Urged Negro students to attend all-white schools.</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>Enrolled their own children in all-white schools.</td>
<td>50%</td>
<td>40%</td>
</tr>
<tr>
<td>Have, personally, entered into negotiation with white leader(s) to gain concessions for Negroes.</td>
<td>50%</td>
<td>70%</td>
</tr>
<tr>
<td>Campaigned for political office.</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td></td>
<td>(10)</td>
<td>(10)</td>
</tr>
</tbody>
</table>
TABLE 10.--Registered Democrats by race.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total North Louisiana</td>
<td>285,820</td>
<td>315,219</td>
<td>10.3%</td>
<td>23,242</td>
<td>71,496</td>
<td>207.6%</td>
</tr>
<tr>
<td>South Louisiana:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East Baton Rouge</td>
<td>68,696</td>
<td>74,879</td>
<td>9.0%</td>
<td>11,100</td>
<td>19,722</td>
<td>77.7%</td>
</tr>
<tr>
<td>Orleans</td>
<td>158,552</td>
<td>146,297</td>
<td>-7.7%</td>
<td>34,279</td>
<td>55,017</td>
<td>60.5%</td>
</tr>
<tr>
<td>Total South Louisiana</td>
<td>721,073</td>
<td>771,633</td>
<td>7.0%</td>
<td>135,005</td>
<td>195,411</td>
<td>44.7%</td>
</tr>
<tr>
<td>State Total</td>
<td>1,006,893</td>
<td>1,086,852</td>
<td>7.9%</td>
<td>158,247</td>
<td>266,907</td>
<td>68.7%</td>
</tr>
</tbody>
</table>


this hope a reality. The following table illustrates this. It illustrates that when hope is high and satisfaction is low, participation is high.

TABLE 11.--The status of the desegregation situation as seen by Negro leaders in two Louisiana parishes.

<table>
<thead>
<tr>
<th>Situation</th>
<th>New Orleans</th>
<th>Baton Rouge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hope</td>
<td>86.6%</td>
<td>63.3%</td>
</tr>
<tr>
<td>Satisfaction</td>
<td>45.0%</td>
<td>42.0%</td>
</tr>
<tr>
<td>Participation</td>
<td>71.0%</td>
<td>70.0%</td>
</tr>
</tbody>
</table>

(10) (10)
Brown Brings Response to Plessy

In addition to the obstacles surmounted by the forces of desegregation and the change in attitude on the part of the white South regarding school desegregation, some success was achieved in terms of gains made in providing quality education, or "equality education" in terms of facilities. It took the Brown decision to get the states to even think about beginning to implement Plessy. One of the arguments against segregated schools was that they were not equal, physically; since the middle 1950's throughout the South, attempts have been made to provide Negroes with more attractive buildings and better facilities. It was thought that, perhaps, if Negroes were given more attractive buildings and better facilities, they would be satisfied. This has not been the case. Some have even contended that had more attention been paid to this aspect of the Negro schools, the demand for segregation would not have been as persistent as it was.2 However, Negroes in Louisiana seem to want complete desegregation, ultimately, and better education during the transition period.

Since the Brown decision, Louisiana officials have been attempting to provide better education for the Negro population. In early 1955, for example, Louisiana state officials admitted that the state had not done well by the Negro, educationally. The state, then, undertook a mammoth school building program designed to equalize facilities. Even

the most rabid of segregationists admitted that it would take $225 million to bring all the schools up to par and to equalize Negro schools with white schools. 93

In the 1950's, the city of New Orleans began its own extensive building program to alleviate the problem. 94 It, too, was more interested in eliminating overcrowding than in presenting a plan for desegregation. 95 It worked on this program throughout the 1950's, when it provided additional accommodations for 30,836 Negro pupils. It was not until after extensive Negro prodding for a decrease in platooning and the conversion of three previously all-white elementary schools into all-Negro schools that this problem was reduced in 1963. 96 Negro education in the state until fairly recently, was so far behind that it had become too expensive to "catch up." Hence, even the New Orleans school officials had to accept as a goal the achievement of ultimate desegregation and quality education. In 1964, the board set out its goals along this line on the basis of what it thought feasible administratively, financially and educationally. They were:

   (a) to raise the achievement level, and the quality of instruction, and to improve the curriculum in all the public schools of the parish;

96 RLR 537 (1963).
(b) to increase the number of consultants, and assistant principals at the junior high school level and in the larger elementary schools;

(c) to alleviate overcrowded conditions which exist in some of the schools;

(d) to find the additional financial support necessary to accommodate the anticipated continued growth of the public school system, and

(e) to accomplish all the foregoing while continuing to comply with the orders of the Federal court to desegregate the public schools with all deliberate speed.97

In 1964, Baton Rouge school officials decided to change two schools from white to Negro; the local NAACP protested the transfer of Negroes to other Negro schools. Its president asked, instead, for Negro students to be transferred to nearer underutilized white schools and that complete desegregation would solve the problem. As a result of this protest, the school board decided not to go ahead with the change.98

More Tangible Success

Throughout the state.—Louisiana was the first Deep South state to begin public school desegregation. In addition, it had desegregated its graduate schools and some of its undergraduate schools since the early 1950's. By the 1966-67 school year, it had desegregated all of its public institutions of higher learning. All of this took place without the official resistance, or the violence and fanfare that

97 Southern School News, April, 1964, p. 12.
surrounded desegregation of higher education in Mississippi and Alabama or many of the other southern states. If its start before the rest of the Deep South is considered, it can be concluded that public school desegregation here, has been less successful than in any other state in the entire South. In actual desegregation, Louisiana was, in 1966, second from last, with 3.5% of its Negroes in desegregated schools, followed only by Mississippi with 3.2%. As late as 1967, 21 of its 67 school districts had funds either deferred or cut off for noncompliance with HEW guidelines.\footnote{"Desegregation Guidelines and a New Court," \textit{Southern Education Report}, II, No. 6 (1967), 30.} In spite of a shaky and negligible start, and its snail's pace during its first few years of operation, some success has been realized especially since 1965. Table 12, reproduced from the Southern Education Reporting Service, \textit{Statistical Summary} illustrates this success.

\textbf{In New Orleans.}--Though desegregation began in New Orleans in 1960, it was 1964 before any substantial amount of success was achieved. Prior to this time, because of strict administrative procedures, rigidly administered by school administrators under the Pupil Placement Act and because of the failure of the freedom of choice methods, few Negroes were able to get into previously all-white schools. For example, only 5 of the 137 who applied for transfer to white schools in 1960 made it, and only 8 of the 66 who applied in 1961 made it. Table 13 summarizes the paramount reasons for rejection.
<table>
<thead>
<tr>
<th>School Year</th>
<th>Total</th>
<th>Desegregated</th>
<th>Segregated</th>
<th>Enrollment White</th>
<th>Enrollment Negro</th>
<th>Number</th>
<th>Per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960-61</td>
<td>67</td>
<td>1</td>
<td>66</td>
<td>422,181</td>
<td>271,021</td>
<td>1</td>
<td>.0004</td>
</tr>
<tr>
<td>1961-62</td>
<td>67</td>
<td>1</td>
<td>66</td>
<td>450,000</td>
<td>295,000</td>
<td>12</td>
<td>.004</td>
</tr>
<tr>
<td>1962-63</td>
<td>67</td>
<td>1</td>
<td>66</td>
<td>459,778</td>
<td>301,433</td>
<td>107</td>
<td>.035</td>
</tr>
<tr>
<td>1963-64</td>
<td>67</td>
<td>2</td>
<td>65</td>
<td>460,589</td>
<td>301,433</td>
<td>1,814</td>
<td>.602</td>
</tr>
<tr>
<td>1964-65</td>
<td>67</td>
<td>3</td>
<td>64</td>
<td>472,923</td>
<td>313,314</td>
<td>3,581</td>
<td>1.14</td>
</tr>
<tr>
<td>1965-66</td>
<td>67</td>
<td>5</td>
<td>62</td>
<td>483,941</td>
<td>318,651</td>
<td>2,187</td>
<td>.69</td>
</tr>
<tr>
<td>1966-67</td>
<td>67</td>
<td>6</td>
<td>60</td>
<td>502,870</td>
<td>317,785</td>
<td>9,350</td>
<td>3.5</td>
</tr>
<tr>
<td>1967-68</td>
<td>67</td>
<td>8</td>
<td>60</td>
<td>403,906</td>
<td>259,394</td>
<td>17,394</td>
<td>6.7</td>
</tr>
</tbody>
</table>


TABLE 13.--Request for transfer from Negro to white Schools in New Orleans, tabulated by paramount reason for rejection.

<table>
<thead>
<tr>
<th>Paramount reasons for not receiving approval:</th>
<th>1960</th>
<th>1961</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not of proper age.</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Distance from home to school.</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Lack of available room and teaching capacity of school.</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Inadequate scholastic aptitude.</td>
<td>52</td>
<td>14</td>
</tr>
<tr>
<td>Inadequate readiness score in comparison with group to which transfer is sought.</td>
<td>22</td>
<td>10</td>
</tr>
<tr>
<td>Psychological effect upon the student</td>
<td>8</td>
<td>1</td>
</tr>
<tr>
<td>Failure to comply with established procedure (failure to report for testing)</td>
<td>39</td>
<td>24</td>
</tr>
<tr>
<td>Total not recommended</td>
<td>132</td>
<td>58</td>
</tr>
<tr>
<td>Total recommended to Board</td>
<td>5</td>
<td>8</td>
</tr>
</tbody>
</table>


Since 1964, there has been a gradual yearly elimination of biracial zones and operation under the single zone system. By the 1967-68 school year, the Orleans Parish school system was operating under the single zone system for grades K-10. Grades 11 and 12 were still operating under the free choice plan. In addition, a high school
for superior students and the Delgado Trade School were desegregated. Table 14 illustrates the desegregation progress.

In Baton Rouge.—In the Summer of 1963, under federal court order to submit a desegregation plan, the board adopted a reverse stairstep plan to begin with grade 12 and to progress downward a grade a year. In April, 1964, the East Baton Rouge Parish Board of Education approved new school zoning which gave Negro students a choice of attending either the white or Negro school in their respective districts. In 1967, the district court was requested by the Fifth Circuit to issue a final order calling for desegregation of all grades in the East Baton Rouge Parish School System to be desegregated entirely by the 1968-69 school year. 100 Table 15 illustrates the progress of desegregation in East Baton Rouge Parish for the years 1963-1968.

Success: A Result of Federal Involvement

Throughout the Deep South and Louisiana.—The active involvement of the two other branches of the federal government in the desegregating process proved to be one of the most significant determinants for its success.

The action of Congress was very significant. A series of civil rights acts, the 1957, the 1960, the 1964, the Voting Rights Act of 1965, were all, in varying degrees, of some significance to the civil rights movement generally and to the desegregating process specifically. They all seemed, in varying degrees, to inhibit certain discriminatory

100 Davis v. East Baton Rouge Parish School Board, 12 RLR 748 (1967).
### TABLE 14.--Public School Desegregation in Orleans Parish 1960-68

<table>
<thead>
<tr>
<th>Year</th>
<th>Enrollment</th>
<th>White</th>
<th>Negro</th>
<th>Number of Negroes applying for admission to formerly white schools</th>
<th>Number of Negroes admitted to formerly white schools</th>
<th>Reasons for rejection</th>
<th>Negroes in schools with whites</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960-61</td>
<td>38,112</td>
<td>52,575</td>
<td>137</td>
<td>5</td>
<td>See Table 13</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>1961-62</td>
<td>37,843</td>
<td>55,820</td>
<td>66</td>
<td>12</td>
<td>See Table 13</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>1962-63</td>
<td>38,728</td>
<td>59,223</td>
<td></td>
<td>Freedom of choice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Grade 1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1963-64</td>
<td>38,645</td>
<td>62,598</td>
<td>107</td>
<td></td>
<td></td>
<td>107</td>
<td></td>
</tr>
<tr>
<td>1964-65</td>
<td>39,314</td>
<td>64,893</td>
<td></td>
<td>Single Zones</td>
<td></td>
<td></td>
<td>1,903</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Grades 1-2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1965-66</td>
<td>38,785</td>
<td>67,387</td>
<td></td>
<td>Single Zones</td>
<td></td>
<td></td>
<td>2,399</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Kdg., Grades 1-3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1966-67</td>
<td>37,609</td>
<td>70,225</td>
<td></td>
<td>Single Zones</td>
<td></td>
<td></td>
<td>4,131</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Kdg., Grades 1-7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1967-68</td>
<td>36,773</td>
<td>72,028</td>
<td></td>
<td>Single Zones</td>
<td></td>
<td></td>
<td>11,314</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Kdg., Grades 1-10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Choice 11-12</td>
<td></td>
<td></td>
<td>17,962</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Prepared especially for this study by the Office of the Superintendent of Education, Orleans Parish School Board, New Orleans 12, Louisiana, June 2, 1968.
<table>
<thead>
<tr>
<th>Year</th>
<th>Enrollment White Negro</th>
<th>Number of Negroes applying for admission to white schools</th>
<th>Grades desegregated</th>
<th>Number of Negroes admitted to white schools</th>
<th>Number of Negro Students Rejected</th>
<th>Negroes in schools with whites No. Per Cent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963-64</td>
<td>31,034 20,800</td>
<td>45</td>
<td>12</td>
<td>27</td>
<td>18</td>
<td>27 .09</td>
</tr>
<tr>
<td>1964-65</td>
<td>32,301 21,495</td>
<td>100</td>
<td>11 &amp; 12</td>
<td>61</td>
<td>39</td>
<td>61 .18</td>
</tr>
<tr>
<td>1965-66</td>
<td>34,406 22,446</td>
<td>345</td>
<td>1,2,10,11,12</td>
<td>217</td>
<td>128</td>
<td>217 .66</td>
</tr>
<tr>
<td>1966-67</td>
<td>36,634 22,517</td>
<td>376</td>
<td>1,2,3,4,10,11,12</td>
<td>226</td>
<td>150</td>
<td>226 .62</td>
</tr>
<tr>
<td>1967-68</td>
<td>38,415 21,546</td>
<td>1,415</td>
<td>1 - 12</td>
<td>1,415</td>
<td>0</td>
<td>1,415 3.7</td>
</tr>
</tbody>
</table>

Source: Prepared especially for this study by the East Baton Rouge Parish Superintendent's Office, Baton Rouge, Louisiana; May 2, 1968.
practices. The most significant of the legislation, for the success of the school desegregation process, proved to be the 1964 Civil Rights Act. With the passage of Title VI of that act, according to a U.S. Commission of Civil Rights Report, the major federal role in Southern School desegregation shifted from the Federal Courts to the Department of Health, Education and Welfare. Title VI prohibited racial discrimination against beneficiaries of federal financial assistance. Each federal agency giving financial assistance, including aid to education—was required to effectuate this policy by issuing regulations. Failure to comply with such regulations was made punishable by terminating the assistance, after hearing. With the passage of the Elementary and Secondary Education Act of 1965, and the increase in aid to education which it provided, the threat of withdrawal of funds became more significant.

Very significant support came from the executive branch. The Eisenhower administration saw its role in the desegregation process as a limited one, confined to support for desegregation orders issued by district courts. This relinquishing of any direct responsibility for the solution of a major problem was an obstacle to the success of school desegregation during the early days of that controversy. Johnson and Kennedy let it be known that they thought the Presidency did have

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to share some of the responsibility for solving the problem. Both sought to put the power and prestige of their office behind the solution of the problem. It could be said that their administrations were partly responsible for the beginning of "token" desegregation even in the Deep South. Both Presidents, Kennedy in 1963 and Johnson in 1964, held White House Conferences on the issue for educators from throughout the country, even from the Deep South, and made a personal plea to them to seize the opportunity to solve the problem. 104

The Justice Department, under these two Democratic administrations, took a more active role in the desegregating process. This role increased after 1964. Title IV of the Civil Rights Act of 1964 authorized the Attorney General to bring school desegregation suits on behalf of parents and students who were unable to commence and maintain their own legal proceedings. 105 In addition, Title IV authorized the Attorney General to intervene in existing lawsuits brought by private parties to secure public school desegregation, if he certified that the case was of general public importance. 106 The Department of Justice also appeared in school desegregation suits as amicus curiae, or friend of the court. The New Orleans school controversy was one of the first instances of such action. The Department has used the authority given it under Title IV of the 1964 Civil Rights Act. For example, by March,

1967, it was a participant in 109 cases involving school desegregation.

The authority given the Department of Health, Education, and Welfare under Title VI, to issue guidelines, was most significant. Under that title, HEW issued a "Statement of Policies" which outlined three methods by which a school district may eliminate practices characteristic of dual or segregated school systems and, thus, qualify for federal financial assistance:

...(1) it may execute an assurance of compliance (HEW Form 441), (2) it may submit a final order of a court of the United States requiring desegregation of the school system, and agree to comply with the order without any modification of it; or (3) it may submit a plan for the desegregation of the school system which the Commissioner of Education determines is adequate to accomplish the purposes of the Civil Rights Act of 1964.108

Despite all the legal and political attacks on these guidelines, and the inadequate congressional funding of HEW's progress, there has been substantial progress since 1964.

There was a possibility of federal intervention by the Internal Revenue Service under Title VI and the Internal Revenue Code. This possible intervention was a threat to the private, segregated school venture. There was some question as to whether private segregated schools could meet the tax exemption requirement.109

Louisiana's reaction to HEW guidelines.--The announcement from Washington, in 1964, that funds might be withdrawn from school systems that maintained separate white and Negro schools caused much concern throughout the state. Louisiana School Boards Association members from throughout the state held regional meetings to discuss the problem. At that time, every parish in the state, except Plaquemines, where segregationist Leander H. Perez, Sr. is a powerful political force, received some funds from the federal government. It was estimated that in 1965 federal funds for education in the state would run between $30 to $42 million. In early 1965, the governor and the legislature bluntly revealed that the state did not have the money to make up for federal funds withdrawn because of noncompliance with HEW guidelines.

This demand for compliance was a dilemma for Louisiana officials. As is usual with an issue like this, they all wanted to "pass the buck" to someone else. For example, the State Board of Education, the highest agency with final control over educational policy in the state, put off action on the federal order, saying the question of compliance was one that concerned the state legislature. The Louisiana School Boards Association agreed with this, and in its annual convention on January 19, 1965 adopted a resolution asking Governor McKeithen to call a special session on the question of compliance. The governor insisted

that the matter was one for local school boards to resolve for themselves and that nothing could be gained by calling a special session. The state's Attorney General ruled that compliance by local boards would violate state law and that it was up to the State Board of Education to accept or reject funds.

In the meantime, there were other political and legal complications that had to be taken into consideration. First, the Citizens Council threatened to inaugurate recall action against any member of the State Board of Education who approved the nondiscrimination agreement. Second, the question of legality of using any public funds, including state money, to maintain segregated schools was raised by the NAACP. In February, 1965, it filed suit in federal court at Baton Rouge, which questioned the use of state funds for segregated schools. It asked in its suit that Article 12 Section 4 of the Louisiana Constitution Revised Statutes 16:14 (pertaining to allocation of state money) be declared in violation of the due process clause of the 14th Amendment to the U.S. Constitution.

Criticism of and resistance to HEW guidelines were so widespread that the State Board of Education was forced to assume a "face saving" attitude on the issue. On March 1, 1965, it declined to sign the nondiscrimination agreement required by HEW. Instead, the board issued a "policy statement" that, in effect, left it up to local school boards to qualify for continuation of federal aid. In May, 1965, HEW did

approve Louisiana's statement of policy issued in lieu of compliance with federal nonsegregation requirements. This permitted continuation of financial aid to state colleges, trade and special schools, and the local school districts complying with the federal regulations.  

All of the plans accepted by the Office of Education from Louisiana in 1965 employed the freedom of choice method. It was discovered that these plans did not bring about increased desegregation in the state or throughout the Deep South. It was necessary that HEW issue new guidelines to govern desegregation during the school year commencing in the fall of 1966.

As a result of these new guidelines, there has been a substantial increase for the 1966-67 school year over the prior year in the percentage of students transferring from segregated schools. Table 16 illustrates the progress in desegregation throughout the South since 1959 and the increased progress since HEW issued its 1966 guidelines.

Summary

The prime objective of this chapter has been to determine, if any, the degree of success of implementing the Brown decision in two Louisiana parishes. Before such success can be measured, a rough idea of what was intended in Brown seems in order. According to Judge Parker, a

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TABLE 16.—The rate of change, percentage of Negroes in schools with whites.

<table>
<thead>
<tr>
<th>School Year</th>
<th>South Per Cent Change</th>
<th>Border Per Cent Change</th>
<th>Region Per Cent Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959-60</td>
<td>.160</td>
<td>45.4</td>
<td>6.4</td>
</tr>
<tr>
<td>1960-61</td>
<td>.162 .002</td>
<td>49.0</td>
<td>3.6</td>
</tr>
<tr>
<td>1961-62</td>
<td>.241 .079</td>
<td>52.5</td>
<td>3.5</td>
</tr>
<tr>
<td>1962-63</td>
<td>.453 .212</td>
<td>51.8</td>
<td>-0.7</td>
</tr>
<tr>
<td>1963-64</td>
<td>1.17 .717</td>
<td>54.8</td>
<td>3.0</td>
</tr>
<tr>
<td>1964-65</td>
<td>2.25 1.08</td>
<td>58.3</td>
<td>3.5</td>
</tr>
<tr>
<td>1965-66</td>
<td>6.01 3.76</td>
<td>68.9</td>
<td>10.6</td>
</tr>
<tr>
<td>1966-67</td>
<td>16.8 10.8</td>
<td>71.7</td>
<td>2.8</td>
</tr>
</tbody>
</table>


respected jurist of the Fourth Circuit, the Constitution, as interpreted by Brown, did not require integration. "It merely forbids discrimination." Some have interpreted this to mean that the Brown decision called for desegregation and not integration. In its report to the U.S. Commission on Civil Rights, the Louisiana State Advisory Committee, also, attempted to make a distinction between the two terms. According to this report, "desegregation is an objective process in which legal barriers between the two races are removed, while integration is a subjective, complex, psychosocial process in which the emotional barriers are entirely (or almost entirely) removed." In spite of efforts at making distinctions, the two words are used interchangeably, generally.

118 U.S. Commission on Civil Rights, The New Orleans School Crisis, p. 49.
For the sake of measuring success and to facilitate the discussion, it is assumed here that the decision anticipated both desegregation and integration. Desegregation, then, will be seen as, primarily, a legal and administrative process with one group of public officials, federal judges, telling another group of public officials, school administrators, not to deny any student admission to a school in their system merely on the basis of race. Success of desegregation is determined by the ease with which Negro students are allowed to attend any school within these systems, as indicated by the number of Negroes who were allowed to apply for and actually got admitted to the schools of their choice. On the basis of these criteria, desegregation in both parishes of this study has become a mild success, in Orleans since 1966 and in East Baton Rouge in 1967, (see Tables 14 and 15). Throughout the state, success has been only negligible. But the rural conservative hold of the state legislature has been broken. Now, local school administrators are free agents who can no longer hide behind "state interference" as an excuse for disobeying a federal judge's order to desegregate. This, in itself, is a kind of success.

Integration, on the other hand, is viewed as a social and psychological process in which public officials, the community, students, and parents have come, whether by suggestion or order of a federal court, or as a result of the sanction of withdrawal of federal assistance, to accept school desegregation. It is, also, a situation where both races have come to accept desegregation as an ordinary and established policy.
of their communities and where the anxiety and enmity, and even hostility, prior to desegregation have disappeared or abated, and have been replaced by, (1) the realization that Negroes' desire for desegregation was nothing more than a modest request for participation in the educational benefits of the community and not a demand for intimate and personal relations, and (2) by a certain degree of mutual trust, especially between the Negro community and the power structure (the official and unofficial leaders of the community).

There has been some success then, in desegregation, but as far as integration is concerned, as defined here, there are but mild signs pointing in the direction of success. First, in spite of the former rigid system of traditional segregation, hostility toward the Negro has not increased, in fact gradual acceptance has come, even from some of the earlier opponents. They have come to realize that the decision did not bring what they had feared.

Second, there has been a realization on the part of state and local leaders, in government, industry, labor and education, of the importance of education for all citizens. They have accepted the idea, to some extent, that the educational system could be modified to accommodate the modest requests of Negroes that they be provided better education.

Third, those neutral, indifferent and timid citizens, who first acted out of self interest or interest for the community, have now come to accept desegregation as a rule. In the beginning, they made it
clear that they were not advocating desegregation, but were merely acting to save the community from violence and to maintain public education. For example, "Save Our Schools" (SOS), a New Orleans group of white upper class moderates and the Committee on Public Education (COPE), an organization of average white New Orleans parents, whose children attended public schools, and O.P.E.N., a group of L.S.U. faculty members and their wives concerned with the maintenance of education in Baton Rouge, finally went beyond merely advocating open schools and law and order. They eventually conducted a campaign designed to create favorable opinion for desegregation. In addition, the support which came from the faculty and students at both Tulane and L.S.U., and the support which came for parents who broke the boycott at one of the desegregated schools in New Orleans, in spite of all the fanaticism which the decision created, was significant. And fourth, there is a feeling on the part of the Negro that now desegregation has become a community policy.
CHAPTER VIII

SUMMARY

Only Modest Judicial Success

In 1955, in its implementing decision, the Supreme Court of the United States stated that Negro children should be admitted to public schools on a nondiscriminatory basis, with all deliberate speed, as soon as practicable. As early as 1956, Federal District Judge Wright issued a preliminary injunction prohibiting the school systems in both of these parishes from continuing the practice of segregation as soon as practicable. He continued to insist that these school systems make some effort to begin desegregation. The Fifth Circuit Court of Appeals firmly supported him in his insistence, and it, too, indicated that it would not tolerate evasion of the Brown ruling. But in spite of this firmness by both courts, ten years after the Supreme Court's original decision, court-ordered desegregation had barely got started in the two parishes covered by this study, and there was none anywhere else in the state. By May of 1964, only 1814 out of a total of 301,433 Negro students in the state had been admitted to previously all-white schools. The thesis of this study is that the success of a judicial decision often depends upon non-judicial factors.
Some Non-Judicial Determinants Involved in the Implementation of Brown in Two Louisiana Parishes

The preliminary thesis of this paper was that when a court decision, such as that in the Brown ruling, which is intended to change or modify an established institutional operation, which may affect the social relations of races or classes in a community, a region or the nation as a whole, the implementation of that decision will be greatly dependent upon non-judicial factors. The dissertation has attempted to identify and analyze the operation and results of some of these non-judicial factors in two Louisiana parishes. The remainder of this summary will identify some of the more prominent of these factors and show how they affected the success of the objectives outlined in the Brown ruling in New Orleans and Baton Rouge, Louisiana.

It was stated at the beginning of Chapter V that the implementation of all court decisions may depend upon the cooperation of all levels and agencies of government. A study of the efforts to get public schools desegregated in Orleans and East Baton Rouge parishes has demonstrated that one of the most significant determinants involved in the desegregation process there was the absence or presence of governmental cooperation, support and opposition. The study demonstrated that while the New Orleans School Board legally evaded and delayed desegregating as long as it could, when the final order for desegregation came, the board did agree to begin token desegregation. But, opposition to any desegregation came from the legislature. It attempted to use its financial, political and punitive power to punish any citizen, to
investigate or outlaw any organization or institution, or to prevent any school system from cooperating with court-ordered desegregation. Specifically, it also aided those individuals and organizations who opposed school desegregation by publicly condoning their opposition, encouraging their mischief and rewarding them with the laws and the financial support to establish private schools. Most significantly, it usurped control of the New Orleans school system and cut off some of its funds, to prevent it from cooperating with court-ordered desegregation. It, also, attempted to mislead the opponents of desegregation into thinking that it could excuse them from obeying federal court orders. Legislative opposition had the effect of aiding school board legal evasion for four years and delaying the start of effective desegregation in New Orleans for two years.

In Baton Rouge, there was an absence of legislative opposition to desegregation after the final order for court-ordered desegregation came. Desegregation took place there quietly without the fanfare and some of the demonstrating and violence that surrounded it in New Orleans. In both cities, the local governments remained relatively neutral throughout the desegregating struggle.

While state governmental opposition affected desegregation by delaying it, federal governmental cooperation and support was very instrumental in aiding its progress. The federal government was cooperative in New Orleans, first, through the action of the Department of Justice. It entered the struggle there by asking for injunctions
against legislative opposition and interference on behalf of Negro plaintiffs and the school board and for the maintenance of law and order. This action had the effect of, finally, breaking the "siege" of New Orleans by the legislature. But, the federal action which was to have the most significance for school desegregation was the support given it in the Civil Rights Act of 1964. The sanction of fund withdrawals under the act and the Louisiana legislature's announcement that it could not replace these funds if they were withdrawn, had the effect of stimulating court-ordered desegregation in these two parishes and getting it started in other districts across the state. In 1964, when this supporting federal legislation was passed, only two districts in the state were desegregated, with 1814 Negroes in schools with whites, but by the 1967-68 school year, 46 of the 67 districts were desegregated with 17,394 Negro students in schools with whites.

In the Introductory Chapter of this study, it was stated that political behavior was, to a great extent, group behavior. It was, also, stated that the effectiveness or success of a group's behavior is often determined by its power, its prestige, its tactics and in some cases the popularity and legitimacy of its demands. This study discovered that the degree of school desegregation which has been achieved in these parishes was, also, the result of another significant determinant: the system of demanding, opposing and supporting activity of groups.
The greater part of the demanding activity, of course, was by the NAACP and Negro groups. They persistently demanded that their very legitimate demand to be admitted to public schools on a liberal nondiscriminatory basis be granted. Negro students, with the aid of Negro groups, especially the NAACP, by litigating before the federal district courts, negotiating with the school boards and official and unofficial community leaders and even by threatening to carry out boycotts were able to secure some school desegregation. Their persistent demanding had the effect of offsetting and blunting some of the segregationist opposition which had caused the postponement in the start and progress of school desegregation.

The most effective group opposition to school desegregation in the South and in Louisiana came from the White Citizens Councils. Their effectiveness was due, first to the fact that by the time Negroes really began to push in earnest for desegregation, the Councils were well organized and established institutions in the community, ready and capable of opposing any desegregation demands. Second, their activity was effective because of their power and prestige. They were composed of influential people in all levels of government, in business and in the professions. Third, they had and were able to use effective methods to oppose school desegregation. Their representatives in the legislature were able to use the power of the state to attempt to block any effective progress in court-ordered desegregation for two years. From their positions of power in the party organizations, they threatened with political reprisal anyone who cooperated with the federal courts.
They, also, suggested economic reprisal against poor Negroes, who intended to send their children to previously all-white schools, and whites who spoke out in favor of desegregation. And by virtue of their access to the mass media and other forums, they were able effectively to get their message across to the citizens of the state and these communities and to stir up hostility and even some violence. This opposition, also, had the effect of deterring many citizens who, otherwise, would have gone along with desegregation.

Negroes did receive some support for their demands from some of the moderate groups in both of these communities, but with the exception of the support which came from Catholic officials and organizations, most of this group support was dilatory and indirect. Moderates in business, education, and local government often remained neutral. But when the court order for desegregation became final, and there was a threat of violence and closed schools, they did come out for token desegregation. They often acted to avoid violence, closed schools, and a decline in business probably because of a possible marring of the community's image rather than out of a genuine desire to see the schools desegregated. After desegregation did get started, some moderate groups worked to break the boycott of the desegregated schools in New Orleans, to oppose the legislature's efforts to make funds available for desegregated schools and for the acceptance of "token" desegregation rather than lose federal funds. This effort on the part of moderates was partly successful in breaking the school desegregating
efforts of the segregationists in New Orleans and, also, in blocking
effective use of grant-in-aid funds for private segregated schools.

A third important determinant which affected school desegrega-
tion in both New Orleans and Baton Rouge was the intensity of the
opposition by the total community. The pattern of reaction by the
total community to the school desegregation issue was expected to
follow one of three established patterns of dealing with race issues
in these communities. The total population, usually, reacted with
indifference, timidity, and hostility. The total community did
react, initially, with indifference. Most of the ordinary citizens
adopted a-wait-and-see attitude. They indicated that they would be-
come involved if it affected them personally, through their pocketbook
or by their children attending schools which were to be desegregated.
There was no spontaneous opposition against desegregation on the part
of the average citizen. The citizen opposition that was visible and
which manifested itself in boycotts and some demonstrations in New
Orleans on the day that desegregation occurred, was a result of Citizens
Councils and legislative agitation and encouragement.

The average citizen in these cities acted in a manner similar to
that of the moderate groups. At first, they were against desegregation
but when the order to desegregate became final, they, like the moderate
groups, accepted it rather than face closed schools and violence. The
average New Orleanian demonstrated this when he voted overwhelmingly
for Matthew R. Sutherland, who campaigned for token desegregation.
The average Baton Rougean, also, heeded the advice of local leaders to accept token desegregation quietly. This absence of intense opposition and mild acceptance of desegregation allowed modest progress to be made once the crisis stages had passed.

By the early 1960's, social, economic and political changes were taking place in the state that were to have implications for race relations, generally, and for school desegregation particularly. Socially, segregation restrictions were eliminated in recreational facilities, eating establishments, entertainment houses, public transportation, public libraries, and in both communities the churches, especially the Catholic churches, had long had a liberal attendance policy.

Economically, leaders in government, labor and business throughout the state, and especially in the two parishes of this study, have been, for some time now, emphasizing economic expansion. They have, recently, come to the realization that the Negro must share in this expansion. There have been some conscious efforts on the part of business and labor leaders to integrate the qualified Negro into this expansion. In recent years, federal establishments employing large numbers of people and national corporations in the state have been employing all the qualified Negroes they can find. The desire on the part of leaders in government, business and labor for economic expansion has meant that they have had to relax their demands for rigid race separation for the sake of progress.
In recent years, Negro political awareness and participation have increased very significantly. Since the late 1950's and early 1960's, Negroes have increased their political organizational participation in order to secure from the power structure action on certain demands; they have also increased their voter registration and participation. The importance of the Negro's recent political significance is evidenced by the fact that candidates for office no longer consider it politically dangerous to campaign openly for the Negro vote. By the early 1960's, Negroes were beginning to use their increased political power to bargain for services and to air their grievances, including their dissatisfaction with school desegregation and Negro education in general.

Educationally, many of the universities had been desegregated by the early 1960's. Louisiana State University, the largest university in the state, desegregated its graduate program in the early 1950's. By the early 1960's, Tulane University and all the institutions of higher learning in New Orleans had been desegregated. Most of the leaders of these communities agree that all the trained people, including Negroes, are needed for the progress of the state. It seems inconsistent that desegregation would be tolerated in higher education and not at the elementary and secondary levels. The tolerance of this increased political, social, economic and educational activity on the part of Negroes in recent years has meant that the hostility to school desegregation has diminished.

The Spanish philosopher Ortega stated in one of his books that, "the diagnosing of any human existence, whether of an individual, a
people, or an age, must begin by an ordered inventory of its system of conviction...."  

The rigid system of convictions on race relations held by many in these communities and the degree to which many still believe in the American ideals of freedom and equality did have some impact on the desegregating process although they were patently inconsistent with each other.

Though social, political and economic changes had caused some modification of segregationist convictions on race relations, when desegregation came, they still held them intensely enough to resist desegregation vigorously. In 1960, the year of the start of desegregation in the state, at various segregationist rallies, from the campaign trail and from the legislature, various statements on race relations were used by politicians and others to agitate and convince the ordinary citizen that he should resist any efforts at desegregation. Politicians and other opposers of school desegregation effectively and constantly bombarded the citizens with the idea that the motivational, biological, intellectual and psychological differences between the races were too great for desegregation to be successful. This justification, based on segregationist beliefs, did have the effect of stirring some to hostility. There were demonstrations and even some violence in connection with desegregation in New Orleans.

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Moderates in both cities have demonstrated some ambivalence in connection with the race issue. In both cities of this study, they have shown that they were not against the Negro's educational and economic advancement. In fact, influential moderate groups have on many occasions been sympathetic, though oftentimes paternalistically, toward Negro achievements. In education specifically, they have made in recent years some effort to fulfill the "equal" part of Plessy. But, they did show in both cities that they still have deep doubts about achieving social equality for the Negro on an integrated basis. By word and deed they have shown that social equality on an integrated basis is something that has to be earned by the Negro, gradually, with local leaders overseeing the process. They would have preferred that the Supreme Court stick to the 19th century law on the issue rather than follow 20th century sociology. But they are educated enough to know that desegregation was inevitable. Since they believe in law and order and respect for American institutions--including the Court, in spite of its desegregation ruling--they agree to go along with court-ordered desegregation.

The moderates' conviction that the race issue was one to be solved gradually, with the aid of local leaders, led them to act not only to avoid violence, but also to avoid outside, mainly federal, demands for too much desegregation. Their support for token desegregation had the effect of helping to prevent violence and to get desegregation started, but it also had the effect of allowing moderates, by the use of administrative maneuvers and technicalities, to hold up the progress of desegregation in New Orleans for four years.
Negro leaders, in their efforts to desegregate the schools in these parishes, have shown that they believe just as strongly as the whites that the American ideal and constitutional principles of freedom and equality can and should be made to work in their behalf, too. At least they have shown this in the persistence of their school desegregating activity. They also believe strongly in the rightness and efficacy of the judicial process as a means for achieving their goals. The majority of the leaders polled in this study indicated that they believed in the effectiveness of the negotiating and litigating methods of the NAACP. They believed so strongly in their cause that they were often intolerant of any efforts to compromise the school desegregation movement in the name of expediency. For example, though Catholic groups and officials were the most sympathetic and helpful in the Negro's drive to get schools desegregated in the state, all of the Negro leaders polled in this study criticized the Church for its decision not to desegregate ahead of the public schools. Their persistent legal push for school desegregation against overwhelming odds seems to attest to their conviction in the legal process.

While the Brown decision has not been realized to the extent to which its advocates had hoped, there has been some tangible success in Baton Rouge, New Orleans and the state. In addition, there has been some expansion of the desegregation objectives and the agencies responsible for achieving these objectives. For example, while the Brown
decision contemplated the desegregation of students, the 1964 Civil Rights Act went as far as to authorize the desegregation of faculty; moreover, the Brown ruling has been expanded to charge school officials with the duty of making some positive effort toward desegregating the schools in their district so as to eliminate some of the imbalance caused by former years of legal segregation. The responsibility of fulfillment of the objectives in Brown now is shared between the Courts, HEW and the Justice Department.

Governmental, group, individual, traditional, societal and psychological factors, then, with varying degrees of impact, formed the system of political behavior which was responsible for the degree of realization of the objectives outlined in Brown. The table which follows summarizes this activity. It is a summary of the extent to which institutions, agencies, groups and individuals used their power, prestige, and direct action to influence the desegregation process in East Baton Rouge and Orleans Parishes of Louisiana.
TABLE 17.—A Summary of Governmental, Group, Individual and Mass Media Activity in the School Desegregation Process in Two Louisiana Parishes

<table>
<thead>
<tr>
<th>Government, Groups, Individuals and Mass Media</th>
<th>Power</th>
<th>Influence</th>
<th>Prestige</th>
<th>Direct Action</th>
<th>Effect on Desegregation Process</th>
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<tbody>
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<td>F N A</td>
<td>F N A</td>
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<td>Government</td>
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<td>S</td>
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<tr>
<td>Presidency</td>
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<td>Eisenhower</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>W</td>
<td>L</td>
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<tr>
<td>Kennedy</td>
<td>M</td>
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<td>S</td>
<td>S</td>
<td>M</td>
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<tr>
<td>Johnson</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>G</td>
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<tr>
<td>National Administration</td>
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<tr>
<td>Dept. of Justice</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<td>M</td>
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<tr>
<td>HEW</td>
<td>S</td>
<td>M</td>
<td>N</td>
<td>S</td>
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<tr>
<td>Federal Courts</td>
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<tr>
<td>Fifth Circuit (Appeals)</td>
<td>S</td>
<td>S</td>
<td>S</td>
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<tr>
<td>District Court (B.R.)</td>
<td>N</td>
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<td>N</td>
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<tr>
<td>District Court (N.O.)</td>
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<tr>
<td>State Government</td>
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<tr>
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<td>L</td>
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<td>S</td>
<td>S</td>
<td>M</td>
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<tr>
<td>Local Government</td>
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<td></td>
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</tr>
<tr>
<td>Mayor (N.O.)</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>L</td>
</tr>
<tr>
<td>School Board (N.O.)</td>
<td>W</td>
<td>N</td>
<td>N</td>
<td>W</td>
<td>M</td>
</tr>
<tr>
<td>Government, Groups, Individuals and Mass Media</td>
<td>Power</td>
<td>Influence</td>
<td>Prestige</td>
<td>Direct Action</td>
<td>Effect on Desegregation Process</td>
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<tr>
<td>School Admin. (N.O.)</td>
<td>W N W</td>
<td>W N W</td>
<td>N</td>
<td>W N W</td>
<td>L</td>
</tr>
<tr>
<td>Mayor (B.R.)</td>
<td>N W</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>School Board (B.R.)</td>
<td>N M</td>
<td>N</td>
<td>N</td>
<td>N W</td>
<td>L</td>
</tr>
<tr>
<td>School Admin. (B.R.)</td>
<td>N M</td>
<td>N W</td>
<td>N</td>
<td>N W</td>
<td>L</td>
</tr>
</tbody>
</table>

**Groups**

| NAACP                                         | S      | S         | S        | S             | G                               |
| Local Negro                                   | M      | M         | M        | M             | M                               |
| White Citizens Councils                       | S      | S         | S        | S             | S                               |
| Segregationists                               | S      | S         | S        | S             | S                               |
| Religious                                     |        |           |          |               |                                 |
| Catholic                                      | M      | S         | S        | S             | G                               |
| Protestant                                    | N      | M         | M        | M             | L                               |
| Moderates                                     | N      | M         | M        | M             | L                               |
| Educational                                   |        |           |          |               |                                 |
| National                                      | M      | M         | S        | M             | M                               |
| Local                                         | N      | N         | N        | N             | L                               |

**Mass Media**

| N | N | N | N | L |

**Legend:**

- **Direction of Activity**
  - F - Activity for
  - N - Neutral
  - A - Activity against

- **Intensity of Activity**
  - W - Weak
  - S - Strong
  - N - Neutral
  - M - Moderate

- **Effect of Activity on Desegregation**
  - G - Great
  - M - Moderate
  - L - Little
APPENDIX A

LETTER SENT TO RECOGNIZED NEGRO LEADERS

Post Office Box 9407
Southern University Branch Post Office
Southern University
Baton Rouge, Louisiana 70813
May 9, 1968

Dear Sir:

As a leader in your community, you are being sampled in order to obtain a better understanding of the events and background which have been a part of school desegregation in your parish during the early sixties. The enclosed opinionnaire is designed to be used in establishing a list of Negro leaders in your parish.

Please complete the enclosed opinionnaire by listing the names of all the other Negro leaders in your parish.

The information is to be used in a doctoral study which is being made under the direction of Dr. Francis R. Aumann, professor of political science, The Ohio State University, Columbus, Ohio. I can assure you that under all circumstances this data will be treated confidentially and professionally.

Please complete and return the opinionnaire in the enclosed envelope. Thank you in advance for your cooperation.

Sincerely yours,

/S/ Rodney Burrows

Rodney Burrows
APPENDIX B

OPINIONNAIRE SENT TO RECOGNIZED NEGRO LEADERS

OPINIONNAIRE FOR RECOGNIZED NEGRO LEADERS

ON NEGRO LEADERS IN __________________________ PARISH

(Please write your parish in blank space)

I. PERSONAL DATA

Respondent's Name (optional) __________________ Date _________

Respondent's Occupation or Position _____________________________

II. DIRECTIONS: In the columns below, name as many Negroes as you can who, in your opinion, can be considered leaders in your parish in the following areas: business, education, labor, law, medicine and religion.

You may name anyone who, by his efforts, has brought about educational, economic and political achievements for Negroes of your parish, and (2) worked toward possible solutions to racial problems that have been beneficial to the Negro community, specifically, and to the parish, generally.

<table>
<thead>
<tr>
<th>BUSINESS</th>
<th>EDUCATION</th>
<th>LABOR</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
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</tbody>
</table>
APPENDIX C
LETTER SENT TO NEGRO LEADERS

Post Office Box 9407
Southern University Branch Post Office
Southern University
Baton Rouge, Louisiana 70813
May 9, 1968

Dear

As a leader in your community, you are being sampled in order to obtain a better understanding of the events and background which have been a part of school desegregation in your parish during the early sixties. The enclosed instrument is designed to obtain data on the attitudes and activities of "Negro leaders" regarding the desegregation process during this period.

This questionnaire is being sent to a select group of "Negro leaders" throughout your parish. The questionnaire is constructed so that it can be answered quickly; in most cases, a check mark is sufficient.

The information is to be used in a doctoral study which is being done under the direction of Dr. Francis Aumann, professor of political science, The Ohio State University, Columbus, Ohio. I can assure you that under all circumstances this data will be treated confidentially and professionally.

Please complete the questionnaire and return it in the enclosed envelope. Thank you for your cooperation.

Sincerely yours,

/S/ Rodney Burrows
Rodney Burrows
QUESTIONNAIRE

NEGRO LEADERS' ACTIVITIES AND ATTITUDES REGARDING THE DESSEGREGATION

OF THE PUBLIC SCHOOLS IN ______________________ PARISH
(Please write your parish in the blank space above)

DIRECTIONS: Please place a check beside the appropriate answer (s) for each question you answer.

1. Do you belong to any all-Negro organization or group in your parish which has worked, generally, for a solution of problems in your community?
   1 ___ yes
   2 ___ no
   If yes, what is its name?
   3 ___________________________________________ organization
   4 ___________________________________________ group

2. During initial desegregation in your parish, did you belong to any all-Negro group or organization which worked for desegregation of the schools?
   1 ___ yes
   2 ___ no
   If yes, what is its name?
   3 ___________________________________________ organization
   4 ___________________________________________ group
3. Do you believe that in your present position or occupation you have made a contribution to the solution of the racial problem and to the achievement of specific goals for Negroes?

4. Is the Negro leadership in your parish a united group which effectively represents the Negro population of your parish?

5. Do you believe that the Negro organizations played an adequate role in the school desegregation problem?

6. Have you done any of the following? (Check all which apply.)

1. __ contributed money to racial uplift groups
2. __ spoken before Negro gatherings urging them to prepare themselves academically, politically and economically
3. __ urged Negro students to attend all-white schools
4. __ enrolled your own children in all-white schools
5. __ contacted Negro parents and students and counseled them on proper behavior during the desegregation crisis
6. __ campaigned for political office

7. Which of the following Negro groups would you say was most active and successful in helping to bring about desegregation in your parish?

1. __ lawyers
2. __ businessmen
3. __ religious groups
4. __ labor leaders
5. __ doctors
6. __ educators
8. Which of the following organizations, in your opinion, was most active and successful in bringing about desegregation in your parish?

1 ___ the NAACP
2 ___ the Urban League
3 ___ SCLC
4 ___ CORE
5 ___ SNCC

9. The most effective Negro technique in dealing with the school desegregation problem was

1 ___ working through the courts
2 ___ negotiating with white leaders and groups
3 ___ peaceful protest

10. Do you believe that desegregation of all-white schools and the betterment of the remaining all-Negro schools will have to go on simultaneously if desegregation is to work?

11. Do you believe that a satisfying and adequate education can be provided in all-Negro schools through the expenditure of more money for needed faculty, staff and facilities?

12. Were the school buildings and equipment for the separate Negro and white schools comparable in quality at the time of desegregation?

13. Were the schools' faculties and curricula for the separate Negro and white schools comparable in quality and quantity per student?

14. Was there sufficient classroom space to make an efficient school desegregation possible?
15. Do you believe that the state of Louisiana is making an adequate effort to better the educational opportunity of its Negro population?

Yes No Don't Know

16. Do you believe that the elected officials in your community are aware of the educational problems of Negroes and how to solve them?

Yes No Don't Know

17. Do you believe that the amount and pace of school desegregation in your parish will increase in the near future?

Yes No Don't Know

18. Are you satisfied with the present amount and pace of school desegregation in your parish?

Yes No Don't Know

19. Do you believe that Negro public school teachers in your parish are as well trained as white teachers?

Yes No Don't Know

20. Do you believe that Negro public school teachers in your parish are as productive as white teachers?

Yes No Don't Know

21. It is necessary that segregation in education be eliminated before the Negro student can perform at his optimum.

1 ___agree strongly 2 ___agree somewhat

3 ___agree slightly 4 ___disagree slightly

5 ___disagree somewhat 6 ___disagree strongly

Yes No Don't Know

22. Do you believe that in due time the public schools in your parish would have been desegregated voluntarily?

Yes No Don't Know

23. Did the white school faculty (in general) attempt to prepare the white students for peaceful desegregation?

Yes No Don't Know
24. Prior to school desegregation, were Negro students instructed in behavior designed to promote peaceful desegregation?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
</table>

25. Prior to school desegregation, was there a course or workshop in intergroup relations for the white faculty?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
</table>

26. Do you believe that consolidation of the white and Negro teacher organizations would have minimized the obstacles to desegregation?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
</table>

27. Did the superintendent actively support desegregation on opening day?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
</table>

28. Did the school board and other officials in your parish do a good job in preparing your community for desegregation?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>Don't know</th>
</tr>
</thead>
</table>

29. The failure of Negro and white teacher organizations to consolidate was due to

1. white prejudice
2. Negro fear of white domination
3. Negro fear of competition

30. Consolidation of teacher organizations will be beneficial to

1. whites only
2. Negroes only
3. both whites and Negroes
4. neither

31. Do you believe that the school board would have desegregated earlier but delayed doing so until ordered by the courts because of certain fears?

1. yes 2. no  If yes, what were these fears?

3. 
4. 

During desegregation, did all the teacher organizations in your parish support desegregation?

1 ___ all supported desegregation
2 ___ none supported desegregation
3 ___ some supported desegregation
4 ___ I don't know if any supported desegregation

In your opinion, what local official(s) actively supported desegregation? (Check all which apply.)

1 ___ members of the school board
2 ___ the mayor
3 ___ the school superintendent
4 ___ none of these

During initial desegregation, what official group, body, or individual in your parish most actively opposed desegregation?

1 ___ the governor
2 ___ the state legislature
3 ___ the State Sovereignty Commission
4 ___ the city-parish council
5 ___ the mayor

During initial desegregation, the law enforcement agencies

1 ___ actively supported desegregation
2 ___ maintained law and order
3 ___ acted only when law and order broke down
36. The responsible leaders in your community did not take any positive action to bring about desegregation because

1 ___ they acted only when it was evident that desegregation would take place anyway

2 ___ they acted to avoid another "Little Rock"

3 ___ they acted only when it was safe politically, economically, and socially

37. What official agency, body or individual in the fairly recent past has done the most to promote equal treatment and progress for Negroes?

1 ___ the governor

2 ___ the mayor

3 ___ the city-parish council

4 ___ the state legislature

38. If you had some question or problem that you had to take to a government office, do you think the officials there would give your problem and what you had to say any serious attention, or do you think they would generally ignore your problem and what you had to say?

1 ___ give your problem and what you had to say serious attention

2 ___ give your problem and what you had to say little attention

3 ___ ignore your problem and what you had to say

4 ___ uncertain

39. In your opinion, what national policy-making body or organization was most effective in bringing about desegregation in your parish?

1 ___ the federal courts

2 ___ the Congress

3 ___ the President

4 ___ the Justice Department
40. The increased pace of desegregation in your parish in the last few years is due, mostly, to

1. the persistence of Negro students who wanted to go to all white schools

2. the realization, on the part of school officials, that desegregation was inevitable

3. the persistence of the federal courts in sticking to their desegregation orders

4. economic and political pressure from the federal government

41. Which of the following actions, in your opinion, has had the greatest influence on the promotion of equal treatment for Negroes in the last fifteen years?

1. the various civil rights bills passed by Congress

2. the 1954 Brown decision

3. the proclamations and actions of the various Presidents

4. How much effect do you think the 1954 Brown decision has had on bringing about desegregation in other areas of American life?

1. great effect

2. a little effect

3. some effect

4. no effect

43. Was there an official bi-racial committee in your parish during the initial stages of desegregation?

44. Are you a member of the official bi-racial committee in your parish at the present time?

45. Do you believe that an official bi-racial committee, during the initial stages of desegregation, would have minimized the obstacles to desegregation?
46. Do you know of any unofficial bii-
riacial group in your community 
at the present time? 

47. Are you a member of any unofficial bii-
riacial group in your community 
at the present time? 

48. Have you had any success in dealing 
with these officials or influential 
groups? 

49. Have you had any success in dealing 
with segregationist leaders on the 
issue of school desegregation? 

50. Prior to school desegregation, 
was there a specific community inte-
rracial committee which gave 
awice on general interracial problems? 

51. Prior to school desegregation, was 
there a specific advisory committee 
formed to help plan school desegre-
gation? 

52. Have you ever entered into negotia-
tion with any white leader(s) to 
gain concessions for Negroes? 

53. Did you attempt to influence the 
process of desegregation by directly 
contacting political leaders by letter 
or through face to face meetings? 

54. Do you have any personal contact with the public officials or 
other influential groups or individuals in your parish? (Check 
all which apply.) 

1__yes 2__no 3__the mayor 4__the council 
5__the parish party leader 6__labor leaders 
7__business leaders 8__the school board 9__religious leaders
55. Prior to school desegregation, did you, and/or an organization to which you belonged, negotiate for peaceful desegregation with (Check all which apply.)

1  the mayor
2  the school board
3  the school superintendent
4  white school principals
5  the chief of police
6  none of these

56. The difficulty experienced in desegregating the schools in your parish was due mostly to

1  a lack of responsible leadership
2  the strength of opposition
3  a lack of support from the general public
4  apathy on the part of Negroes

57. The greatest opposition to desegregation in your parish came from

1  upper class whites
2  middle class whites
3  lower class whites

58. During the desegregation crisis in your parish, active support for desegregation came from (Check all which apply.)

1  business
2  labor
3  the churches
4  all the colleges in the community
5  none of these
59. The most effective pressure exerted during initial desegregation in your parish came from

1 ___ liberals
2 ___ moderates
3 ___ segregationists

60. Prior to and during desegregation, were the leading newspaper(s) and television channels generally trying to promote peaceful desegregation?

<table>
<thead>
<tr>
<th>Newspapers</th>
<th>Television</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 ___yes</td>
<td>5 ___yes</td>
</tr>
<tr>
<td>2 ___no</td>
<td>6 ___no</td>
</tr>
<tr>
<td>3 ___ they didn't commit themselves</td>
<td>7 ___ they didn't commit themselves</td>
</tr>
<tr>
<td>4 ___ I don't know</td>
<td>8 ___ I don't know</td>
</tr>
</tbody>
</table>

61. Were some (one or more) local organizations (not predominantly Negro) such as the Rotary, Lions, Urban League etc., working for school desegregation?

1 ___ yes
2 ___ no
3 ___ I don't know

62. Prior to desegregation, were all the churches in your parish desegregated? (Check all which apply.)

1 ___ yes
2 ___ no If no, which ones were?
3 ___ all of the Catholic churches
4 ___ some of the Catholic churches
5 ___ some of the Protestant churches
6 ___ none of the Protestant churches
63. In your opinion, the parochial schools in your parish
   1 ___ should have desegregated whether the public schools did or not
   2 ___ did the most practical thing by waiting for the public schools to desegregate first

64. Prior to desegregation, were the churches in your parish
   1 ___ merely counseling moderation
   2 ___ actively supporting desegregation
   3 ___ neutral on the issue

65. In your opinion, the refusal of white parents to send their children to desegregated schools was mostly due to
   1 ___ their fear that academic standards would be lowered
   2 ___ their outright prejudice
   3 ___ their fear that the social position of their children would be lowered

66. Prior to desegregation, did some parents of white children come out in support of desegregation?
   1 ___ yes
   2 ___ no
   3 ___ I don't know

67. The violence connected with desegregation in your parish was due mostly to
   1 ___ a few rabble rousers
   2 ___ the hostility of a majority of whites in your parish
   3 ___ the inflammatory statements made by leading segregationists
68. Has residential segregation been a major cause of the slow pace of school desegregation in your parish?

69. Has there been more residential segregation in your parish since 1954 than prior to 1954?

70. Do you believe that Negroes in your parish will increase their political participation in the near future?

71. Do you believe that some Negroes from your parish will be elected to political office in the near future?

72. Do you believe that hostility toward the Negro in your community has hardened since school desegregation?

73. Do you believe that opportunities for trained Negroes in Louisiana will get better in the near future?

74. List, in order of importance, the most important persons, groups, or events which made a significant difference in your community's school desegregation and what kind of difference they made.

1. ________________________________________________________________

2. ________________________________________________________________

3. ________________________________________________________________

4. ________________________________________________________________

5. ________________________________________________________________

6. ________________________________________________________________

75. Describe any person, group, or event which you feel made a significant difference in your community's school desegregation.
PERSONAL DATA

Occupation or Position ________________________________

Male ___ Catholic ___

Age ____ Sex Religion Protestant ___

Female ___ Protestant ___

Name of your parish ________________________________

Number of years you have lived in this parish _____________

Educational Attainment

(Circle the number of years attained or check the appropriate degree.)

1 2 3 4 5 6 7 8 9 10 11 12 13 14
15 16 17 18 19 20

( ) Bachelors

( ) Masters

( ) Doctorate

( ) Other ___________________

Name (Optional) ____________________________________

Date ____________________________

THANK YOU FOR YOUR COOPERATION
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