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**THE PARADOX OF MASSIVE RESISTANCE: POLITICAL  
CONFORMITY AND CHAOS IN THE AFTERMATH OF  
*BROWN v. BOARD OF EDUCATION***

KEVIN M. KRUSE\*

I. INTRODUCTION

In the aftermath of *Brown v. Board of Education*, Southern politicians defiantly declared that they would never submit to that “intolerable” and “monstrous” decision of the U.S. Supreme Court. Instead, they promised to stage a fierce political campaign of “massive resistance” to court-ordered desegregation. Indeed, for the remainder of the 1950s, the defiance of these segregationists dominated the political, social, and legal landscape of the region and choked off all progress towards meaningful integration.

These leaders of massive resistance claimed they were defending the individual rights of Southerners, but in truth their movement was one based first and foremost on the concept of conformity. Hoping to maintain white supremacy through white solidarity, segregationists pushed through a wide array of legislation that severely restricted the range of political and social discourse in the region. Not content merely to shore up their segregationist base, the forces of massive resistance also targeted the small numbers of white liberals and black activists in their midst, effectively marginalizing them from the Southern scene for the better part of a decade. Ironically, however, this sweeping campaign of top-down political pressure precluded any meaningful attempt at organizing ordinary white Southerners. In the end, as the combined power of the courts and the civil rights movement dismantled the machinery of massive resistance across the South, these politicians found that the whites whom they purported to lead were nowhere to be found.<sup>1</sup>

This, then, was the fundamental paradox of the massive resistance movement. The region’s leading segregationists succeeded in their quest for rigid political conformity, only to find that their actions did nothing to get

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1. See generally NUMAN V. BARTLEY, *THE RISE OF MASSIVE RESISTANCE: RACE AND POLITICS IN THE SOUTH DURING THE 1950’S* 67-81, 190-236, 341-43 (1969).

ordinary whites organized for their cause. This problem played itself out in all the Southern states, to one degree or another, but it is perhaps most clearly observed in Georgia. There, the state's segregationists created a comprehensive political program of massive resistance, overseen by major officeholders and official watchdog groups like the Georgia Commission on Education. These forces not only succeeded in enforcing conformity for the vast majority of white Georgians, but also managed to identify and isolate all "threats" to the racial status quo, real or imagined. In the end, however, the work of these segregationists resulted in only a hollow victory. They had hoped to get the white population both enraged and engaged in the "defense" of segregation, but their actions, in fact, encouraged those same whites to remain uninterested in segregationist organizations and uninvolved with their activities. Assured that the state's leadership had the problem well in hand, they felt no need to join the grass-roots groups supporting the segregationist cause. The States' Rights Council of Georgia, for instance, had been established as an avenue for marshalling the anger of segregationist whites behind the massive resistance movement, but in the end it proved unable to attract many members, or much interest, for that matter. And without a broad political constituency behind it, massive resistance lost its relevance as a mass movement.

## II. ENFORCING CONFORMITY: THE GEORGIA COMMISSION ON EDUCATION

When he first heard about the *Brown* decision, Governor Herman Talmadge was in the small town of Lafayette, Georgia. Just as the governor was about to begin his stump speech—in a touch of irony, his topic that day was the state's successes with separate-but-equal education—a friend told him that the *Atlanta Journal* had been frantically trying to reach him.<sup>2</sup> "I immediately knew what had happened," Talmadge recalled. "Within minutes, I had borrowed a DC-4, and in less than an hour I was back in Atlanta."<sup>3</sup> His staff met him at the Governor's Mansion with the latest wire releases on the decision. As Talmadge prepared his statement, his aides frantically arranged a press conference on the lawn of the Governor's Mansion, bundling microphones together with rubber bands, and hurrying to get the press in line.<sup>4</sup> In spite of the rush, Talmadge seemed well-prepared. Speaking without notes, the governor stared directly into rows of newsreel, television, and newspaper

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2. FREDERICK ALLEN, *ATLANTA RISING: THE INVENTION OF AN INTERNATIONAL CITY 1946-1990* 52-53 (1996); HERMAN E. TALMADGE WITH MARK ROYDEN WINCHELL, *TALMADGE: A POLITICAL LEGACY, A POLITICIAN'S LIFE* 154-55 (1987).

3. TALMADGE & WINCHELL, *supra* note 2, at 155.

4. Telex Report, *NEWSWEEK* (May 17, 1954) (on file with Emory University, Atlanta, Woodruff Library, Special Collections, Newsweek Atlanta Bureau Files, Box 16) [hereinafter NAB].

cameras, denouncing the ruling in no uncertain terms.<sup>5</sup> “The court has thrown down the gauntlet before those who believe the Constitution means what it says when it reserves to the individual states the right to regulate their own internal affairs,” Talmadge thundered.<sup>6</sup> “Georgians accept the challenge and will not tolerate the mixing of the races in the public schools or any of its public tax-supported institutions.”<sup>7</sup> His statement delivered, the governor strode back into the mansion, sat down in an overstuffed maroon armchair, and began taking calls from across the nation. He chatted with reporters for a while, defending segregation strongly but with as much Southern charm as he could muster. After a while, however, he tired of it all and told his wife to inform future callers that the governor was busy inspecting the Confederate troops outside.<sup>8</sup>

The press still found choice comments from other Georgian politicians, who echoed the governor’s tone and temper. U.S. Senator Richard Russell, for instance, released a stern statement denouncing the Court’s “flagrant abuse of judicial power.”<sup>9</sup> The Justices, he charged, had destroyed the rights “plainly guaranteed” by the Constitution for states “to direct their most vital local affairs.”<sup>10</sup> Lieutenant Governor Marvin Griffin, then beginning a successful gubernatorial campaign, seconded these sentiments. He lamented that “[t]he meddlers, demagogues, race[-]baiters and Communists are determined to destroy every vestige of states’ rights.”<sup>11</sup> Under his administration, the future governor promised the races would not be mixed, “come hell or high water.”<sup>12</sup> A defiant Attorney General Eugene Cook, meanwhile, claimed the ruling did not apply to Georgia and predicted that segregation would continue in the state’s schools “until we are forced to abandon it by legal action applied to every school unit in the state.”<sup>13</sup>

In spite of their professed shock, Georgia’s legislators had long anticipated that the Supreme Court would make a ruling along the lines of the *Brown* decision. At the start of the 1950s, for instance, Governor Talmadge realized that the blatantly unequal distribution of school funding could bring the charade of “separate but equal” education in Georgia to an ignominious end.

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5. Interview by Harold Paulk Henderson with Herman Talmadge, Georgia Governor (June 26 and July 17, 1987) (transcript on file with Georgia State University, Atlanta, Georgia Government Documentation Project) [hereinafter GGDP].

6. *Talmadge Text*, ATLANTA CONST., May 18, 1954, at 9.

7. *Id.*

8. ALLEN, *supra* note 2, at 53-54.

9. GILBERT C. FITE & RICHARD B. RUSSELL, JR., SENATOR FROM GEORGIA 331 (1991).

10. *Id.*

11. BARTLEY, *supra* note 1, at 68.

12. *Id.*

13. *Ruling Doesn’t Apply to Georgia, Cook Says, Pledging Long Fight*, ATLANTA CONST., May 18, 1954, at 1.

Frantically, he tried to paper over the problem. In 1951, he pushed through a sales tax to finance the Minimum Foundation Program for Education, which equalized the pay of white and black teachers and provided other benefits for black schools.<sup>14</sup> A year later, he created a State School Building Authority to sell bonds for new school construction across the state.<sup>15</sup> In Atlanta, for example, a new school bond called for the creation of eleven new black schools—called “Supreme Court schools” because they had been hastily built in anticipation of the likely desegregation decision.<sup>16</sup> On paper, at least, such steps narrowed the gap between white and black schooling. In 1940, for instance, each black student received approximately thirty-one percent of what each white student received in state funding; by 1952, the percentage had more than doubled to sixty-eight percent.<sup>17</sup> Such expenditures, however, did little to make up for the incredible disparities in educational funding during the previous half century. In any case, Georgia made it abundantly clear that it was only making its schools “equal” to keep them “separate.” Both the state constitution and the appropriations act stated that any school that served both black and white students would be immediately stripped of its funding.<sup>18</sup>

As an added measure, Governor Talmadge proposed in November 1953 a controversial constitutional amendment to grant the General Assembly the power to privatize the state’s entire system of public education.<sup>19</sup> In the event of court-ordered desegregation, school buildings would be closed and students would instead receive grants to attend private—and therefore still segregated—schools.<sup>20</sup> The “private school plan,” as it was commonly known, was openly acknowledged to be a segregationist scheme.<sup>21</sup> “We can maintain separate schools regardless of the U.S. Supreme Court,” Talmadge promised, “by reverting to a private system, subsidizing the child rather than the political

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14. BARTLEY, *supra* note 1, at 41-42.

15. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), Sept. 3, 1954, at 5.

16. RONALD H. BAYOR, RACE AND THE SHAPING OF TWENTIETH-CENTURY ATLANTA 219 (1996).

17. *Georgia*, *supra* note 15.

18. *Id.*; W. D. Workman, Jr., *The Deep South*, in WITH ALL DELIBERATE SPEED: SEGREGATION-DESEGREGATION IN SOUTHERN SCHOOLS 88, 92 (Don Shoemaker ed., 1957) [hereinafter WITH ALL DELIBERATE SPEED].

19. BARTLEY, *supra* note 1, at 54.

20. *Id.*

21. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), Nov. 4, 1954, at 10. Indeed, many of the plan’s supporters preferred to call it “the segregation amendment,” because they felt the stress on “private schools” sounded elitist. *Id.*

subdivision.”<sup>22</sup> The General Assembly agreed, quickly passing the amendment and arranging for its ratification on the next year’s ballot.<sup>23</sup>

To drum up public support for the private school plan, the state legislature created the Georgia Commission on Education (“GCE” or “Commission”) in January 1954.<sup>24</sup> Officially, the GCE was established to “make plans for the state to provide adequate education consistent with both the state and federal constitutions.”<sup>25</sup> In practice, however, the Commission acted solely to protect segregated education in Georgia. Its membership included the state’s leading advocates of massive resistance—not just politicians like Governor Talmadge, Lieutenant Governor Griffin, Attorney General Cook, and Talmadge’s appointees to state educational posts, but also private citizens, such as constitutional expert Charles J. Bloch and noted campaign manager Roy V. Harris.<sup>26</sup> Durwood T. Pye, an Atlanta attorney, was chosen as Executive Secretary.<sup>27</sup> Like the other GCE members, Secretary Pye was a fervent segregationist.<sup>28</sup> Under Pye’s direction, the GCE led the public campaign for passage of the “private school plan.”<sup>29</sup> In the months before the November 1954 vote on the constitutional amendment, for instance, the Commission spent \$13,000 on mass mailings alone, using additional money for newspaper ads.<sup>30</sup> Individual members also spoke out for the amendment. Lieutenant Governor Griffin, for example, hailed the measure as “a second Bill of Rights” for the people of Georgia.<sup>31</sup> The governor and attorney general also campaigned actively, and the state Democratic Party sponsored television ads in support of the amendment.<sup>32</sup> When Georgians went to the polls, they passed the proposal by a margin of 210,488 to 181,148.<sup>33</sup> “I hope it will never become necessary to use the amendment,” Governor Talmadge announced

22. Susan Margaret McGrath, *Great Expectations: The History of School Desegregation in Atlanta and Boston, 1954–1990*, at 59 (1992) (unpublished Ph.D. dissertation, Emory University) (on file with the James G. Kenan Research Center Archives, Atlanta History Center, Atlanta).

23. *Georgia*, *supra* note 15.

24. *Id.*

25. *Id.*

26. See GEORGIA COMMISSION ON EDUCATION, REPORT TO THE MEMBERS OF THE GENERAL ASSEMBLY BY THE GEORGIA COMMISSION ON EDUCATION, at i (1954) [hereinafter EDUCATION REPORT].

27. Paul Douglas Bolster, *Civil Rights Movements in Twentieth Century Georgia* 136 (1972) (unpublished Ph.D. dissertation, University of Georgia).

28. A contemporary remembered him as “a stern, formal, and fanatical man, whose wont it was to sniff and twitch.” MORRIS B. ABRAM, *THE DAY IS SHORT: AN AUTOBIOGRAPHY* 97 (1982).

29. See Thomas O’Brien, *Georgia’s Response to Brown v. Board of Education, 1954–1961*, in PROCEEDINGS OF THE SOUTH CAROLINA HISTORICAL ASSOCIATION (1992), at 56.

30. Bolster, *supra* note 27, at 136.

31. *Georgia*, *supra* note 21.

32. BARTLEY, *supra* note 1, at 54.

33. Workman, *supra* note 18, at 98.

after the vote, “but this should put the Supreme Court of the United States and the people of this nation on notice that the people of Georgia are determined to preserve segregation.”<sup>34</sup>

In addition to working for the passage of the private school plan, the GCE made sure that a “true segregationist” would sit in the governor’s office after Herman Talmadge’s term ended. During the summer of 1954, candidates made formal appearances before the Commission to outline their plans for preserving segregated schools.<sup>35</sup> Spectators packed the Senate chamber of the statehouse, along with cameras from both the local television stations and the networks, to watch as competitors for the Democratic nomination sketched out their plans.<sup>36</sup> A lesser-known candidate offered a direct solution to the desegregation decision—they should simply abolish the Supreme Court.<sup>37</sup> But the front-runners were no less inventive. Agricultural Commissioner Tom Linder, for instance, proposed that officials canvass the state, asking parents to swear under oath whether they wanted segregated or integrated schools for their children.<sup>38</sup> Those few who chose integrated schools, he explained, would simply be turned over to a psychiatrist and promptly committed to the state’s mental institution. They would have to be crazy.<sup>39</sup> But Marvin Griffin stole the show. The son of a Klansman, Griffin took great pains to appear as the most dedicated segregationist in the election.<sup>40</sup> He proudly proclaimed himself “the white man’s candidate” and spent a good deal of time lashing out against the National Association for the Advancement of Colored People (NAACP), “Yankee carpetbaggers,” and other “meddlers” as he stumped across the state.<sup>41</sup> School officials, he told the Commission, should “hold the line” and not “permit[] [the entry of] any Negro in white schools.”<sup>42</sup> The races, he repeated over and over again, would never be “mixed” during his administration, “come hell or high water!”<sup>43</sup> Not surprisingly, that fall, Griffin swept into the governor’s office, guaranteeing that the “defense” of segregated schools would continue at the highest levels of state government for another four years.

34. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), Dec. 1, 1954, at 8.

35. See BARTLEY, *supra* note 1, at 68.

36. ATLANTA J., June 9, 1954.

37. BARTLEY, *supra* note 1, at 68.

38. *Id.* at 68-69.

39. *Georgia*, *supra* note 15; BARTLEY, *supra* note 1, at 69. See Bolster, *supra* note 27, at 137 n.9.

40. See Robert W. Dubay, *Marvin Griffin and the Politics of the Stump*, in *GEORGIA GOVERNORS IN AN AGE OF CHANGE: FROM ELLIS ARNALL TO GEORGE BUSBEE* 101, 110-11 (Harold P. Henderson & Gary L. Roberts eds., 1988).

41. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), Oct. 1, 1954, at 10.

42. Albert Riley, *Attorneys Hint Board Favors Private School Plan for Segregation*, ATLANTA CONST., June 10, 1954, at 1.

43. BARTLEY, *supra* note 1, at 68.

During Griffin's administration, the GCE continued to lead the state's defense of segregated education. When the legislature convened in January 1955, Durwood Pye placed the problem directly before them: "How may the people of Georgia be protected against this decision?"<sup>44</sup> The main means of protection would be the private school plan, of course.<sup>45</sup> Such a plan, Pye claimed, only required money for tuition, buildings for classes, a little state regulation, and a provision that the schools would be free from the interference of the federal courts.<sup>46</sup> But as added measures against desegregation, the GCE authored a number of other proposals for the legislature's approval. One suggestion, for instance, was a bill to make it a felony—punishable by two years imprisonment and a heavy fine—for any school official in the state to spend tax money on "mixed" schools.<sup>47</sup> It easily became law.<sup>48</sup> Support in Georgia's House was so strong that the measure succeeded by a simple show of hands, 105 to 2.<sup>49</sup> Other proposals from Pye's commission were routed onto the legislative calendar to ensure that the assembly had enough opportunities to rail against the Court's ruling as the year wore on.<sup>50</sup>

Though Pye's proposals were appreciated, the Georgia General Assembly did not need any prodding. In the first month of its 1955 session alone, the legislature demanded that public school teachers take oaths refusing to teach "mixed classes," considered a proposal to fine anyone taking part in integrated sporting events, called for a federal constitutional amendment against the integration of the armed forces, urged Congress to make states alone responsible for matters of education, and tighten the requirements for Justices of the Supreme Court.<sup>51</sup> The most memorable measure of defiance, however, was a simple one. In February 1956, the legislature changed the state flag, replacing its three red and white stripes with the St. Andrew's cross, commonly known as "The Battle Flag of the Confederacy."<sup>52</sup> Legislators claimed the change was simply a way to mark the upcoming centennial of the Civil War.<sup>53</sup> House leader Denmark Groover claimed the state needed to "replace those meaningless stripes with something having deep meaning in the

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44. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), Feb. 3, 1955, at 6.

45. *See* EDUCATION REPORT, *supra* note 26, at 7-16.

46. *Georgia*, *supra* note 44.

47. *Id.*

48. *See Georgia*, S. SCH. NEWS (Nashville, Tenn.), March 3, 1955, at 7.

49. *See id.*

50. BARTLEY, *supra* note 1, at 75.

51. *Georgia*, *supra* note 48. The teachers' oath proposal remained tabled in committee because many considered it a "superfluous" bill, given that the ban on spending tax money for integrated schools was already on the books. *See id.*

52. John Walker Davis, *An Air of Defiance: Georgia's State Flag Change of 1956*, 82 GA. HIST. Q. 305, 317, 323 (1998).

53. *See, e.g., id.* at 322.

hearts of all true Southerners.”<sup>54</sup> (If the General Assembly truly sought to honor the Confederacy, however, they should have left the original flag intact. The “meaningless stripes” that Groover mocked were actually the “bars” from the “Stars and Bars” flag of the Confederacy, which had, in turn, been incorporated into the Georgia flag by State Senator Herman H. Perry, a Confederate veteran who designed the state flag specifically as “a tribute to the Confederate dead.”)<sup>55</sup> In any case, despite the lip service paid to honoring the Confederate dead in 1956, most Georgians recognized the flag change as a declaration of war in a new battle to preserve segregation.<sup>56</sup> “It will serve notice” Groover acknowledged, “that we intend to uphold what we stood for, will stand for, and will fight for.”<sup>57</sup>

The private school plan remained the heart of that fight. During the 1956 legislative session, the Georgia General Assembly strengthened the plan with a number of new laws. The cornerstones—the governor’s power to close “mixed” schools and offer tuition grants to individual students—were reaffirmed.<sup>58</sup> As added measures, the legislature laid out a plan for the transfer of all public school property to private hands and ensured that all public school teachers would still be covered by the state retirement program when they started teaching at private institutions.<sup>59</sup> Not a single detail was left untouched. Procedures for fire marshal examinations of private schools, for instance, were reworded and made to conform to the standards for public schools.<sup>60</sup> If the courts ordered their schools to desegregate, the governor could now switch everything to a “private” system without missing a single beat.<sup>61</sup>

Even as they were preparing for the complete transfer of Georgia’s schools from public to private hands, however, the legislature continued to deny that the Supreme Court had any jurisdiction over those schools. Much like many other Southern states, Georgia asserted the doctrines of interposition and nullification—claiming, in essence, that a state could “interpose” its authority between the federal government and local citizens and thereby declare federally-made decisions “null and void” within the boundaries of the state.<sup>62</sup> “[T]he State of Georgia has at no time surrendered to the General Government

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54. *Id.* at 325.

55. *Id.* at 326.

56. *See id.* at 326-27.

57. Davis, *supra* note 52, at 327.

58. *Segregation Measures, Interposition Are Adopted in Georgia*, S. SCH. NEWS (Nashville, Tenn.), Mar. 1956, at 10 [hereinafter *Segregation Measures*].

59. *Id.*

60. *See Georgia Lawmakers Take Action on 6 Private School Measures*, S. SCH. NEWS (Nashville, Tenn.), Feb. 1956, at 13 [hereinafter *Georgia Lawmakers*]; *Segregation Measures*, *supra* note 58.

61. *See Georgia Lawmakers*, *supra* note 60.

62. *See BARTLEY*, *supra* note 1, at 127-28; *‘Interposition’ Weighed in Four States*, S. SCH. NEWS (Nashville, Tenn.), Jan. 1956, at 1.

its rights to maintain racially separate public schools and other public facilities,” a Georgia House resolution charged.<sup>63</sup> “[I]t is clear that [the] Court has deliberately resolved to disobey the Constitution of the United States, and to flout and defy the Supreme Law of the Land.”<sup>64</sup> The desegregation decision, legislators argued, was therefore “null, void, and of no force or effect.”<sup>65</sup> The Georgia Senate supported the nullification resolution unanimously, 39 to 0; the Georgia House passed it by a vote of 178 to 1.<sup>66</sup> “You have moved decisively to let the whole nation know that Georgia will stand firm for its traditions and ideals,” Governor Griffin noted, “come hell or high water.”<sup>67</sup> In case anyone missed the point, the legislature then resolved to impeach the six still-sitting Justices of the U.S. Supreme Court who had originally supported *Brown* and were, therefore, “guilty of attempting to subvert the Constitution of the United States and of [committing] high crimes and misdemeanors in office.”<sup>68</sup>

Not to be outdone, other state agencies pitched in with their own defense of school segregation. In 1955, State Board of Education Chairman George P. Whitman, Jr., another Talmadge appointee, announced that his board would stand shoulder-to-shoulder with the legislature.<sup>69</sup> “We do not plan, now or ever,” he thundered, “to bend or to comply with the nine men of the U.S. Supreme Court who have based their anti-segregation ruling on a volume compiled by 16 men who are members of Communist front organizations.”<sup>70</sup> Turning to other suspect texts, Whitman mounted a book-banning crusade throughout Georgia’s schools.<sup>71</sup> Any perceived insult to segregation or the South became grounds to reject a book. Whitman threw out a reader in American History, for instance, because it slighted the contributions of Southern colonists in the Revolutionary War.<sup>72</sup> Likewise, his board banned a sociology textbook because it supposedly taught that whites were unfair to blacks in elections.<sup>73</sup> Such a statement, the board concluded, followed “the NAACP line” and tried to “‘condition’ white children to the idea that color

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63. *Interposition and Nullification—Georgia*, 1 RACE REL. L. REP. 438, 438 (1956).

64. *Id.* at 440.

65. *Id.*; *Interposition vs. Judicial Power: A Study of Ultimate Authority in Constitutional Questions*, 1 RACE REL. L. REP. 465, 466 (1956).

66. *Segregation Measures*, *supra* note 58.

67. *Id.*

68. Patrick E. McCauley, “*Be It Enacted*,” in WITH ALL DELIBERATE SPEED: SEGREGATION-DESEGREGATION IN SOUTHERN SCHOOLS 130, 131 (Don Shoemaker ed., 1957).

69. See *Georgia Board Drops Teacher Ban, Leaves to Local Units*, S. SCH. NEWS (Nashville, Tenn.), Sept. 1955, at 16 [hereinafter *Georgia Board*].

70. See *id.*; McGrath, *supra* note 22, at 84-85.

71. JACK NELSON & GENE ROBERTS, JR., THE CENSORS AND THE SCHOOLS 175 (1963).

72. *Id.*

73. *Id.*

doesn't matter."<sup>74</sup> Whitman and his associates even found a student songbook, *Of Thee We Sing*, to be offensive because its editors had changed a word in Stephen Foster's "Old Folks at Home."<sup>75</sup> Distraught at these and other perceived outrages, the board decided to establish a more permanent textbook committee that could "prevent 'isms' from creeping into our schools."<sup>76</sup> In the end, the board created not one, but two, such committees.<sup>77</sup> They examined all literature in the Georgia school system for "anti-southern bias" and general merit.<sup>78</sup> Books deemed "un-Georgian" were removed from the stacks of school libraries and put where they could do no harm.<sup>79</sup> "There is no place in Georgia schools at any time for anything that disagrees with out [sic] way of life," Whitman solemnly announced.<sup>80</sup>

By "anything," George Whitman meant just that—even teachers. By this time, Georgia's educators were already obligated to take a number of oaths. In 1935, for instance, the legislature established a "Teachers' Oath," in which educators promised to "refrain from directly or indirectly subscribing to or teaching any theory of government or economics or of social relations which is inconsistent with the fundamental principles of patriotism and high ideals of Americanism."<sup>81</sup> This loyalty oath was buttressed in 1949 with another anti-subversive oath for all state employees, and again in 1953 with the passage of a "Security Questionnaire" in which teachers were asked about their memberships in suspect groups.<sup>82</sup> For segregationists who worried about keeping the teachers in line, this array of loyalty oaths was still not enough. Therefore, in August 1955, the State Board of Education adopted a resolution "to revoke 'forever' the license of any teacher who 'supports, encourages, condones, or agrees to teach mixed classes.'"<sup>83</sup> This, however, was seen as a step too far. The Board came under fire from a variety of religious and legal groups, and ultimately decided to retract the resolutions.<sup>84</sup> But they kept in place the earlier requirements that teachers sign oaths to "uphold, support and

74. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), June 8, 1955, at 18.

75. *Georgia*, S. SCH. NEWS (Nashville, Tenn.), May 4, 1955, at 3; see also NELSON & ROBERTS, *supra* note 71, at 175. Instead of "Oh, *darkies*, how my heart grows weary," the board noted with disgust, the revised version read "Oh, *brothers*, how my heart grows weary." See *Georgia*, *supra*.

76. *Georgia*, *supra* note 74.

77. *Georgians Ban 'Forever' Teachers of Mixed Groups; Strategy Mapped*, S. SCH. NEWS (Nashville, Tenn.), Aug. 1955, at 4 [hereinafter *Georgians Ban 'Forever'*].

78. See generally *Georgia*, note 74.

79. See generally *id.*

80. *Georgia*, *supra* note 75.

81. BARTLEY, *supra* note 1, at 218–19 (quoting Ga. Conference of the Am. Ass'n of Univ. Professors v. Bd. of Regents, 246 F. Supp. 553, 554 (N.D. Ga. 1965)).

82. *Id.* at 219.

83. *Georgians Ban 'Forever'*, *supra* note 77; see BARTLEY, *supra* note 1, at 219.

84. See *Georgia Board*, *supra* note 69.

defend the constitution and laws' of Georgia," all of which, of course, called for segregated schools.<sup>85</sup>

Though its licensing scheme failed, the State Board of Education remained watchful of individual teachers who went against the grain of segregation. In 1956, for example, the Board tried to discontinue the retirement benefits for Dr. Guy Wells, a well-known educator.<sup>86</sup> At that time, Wells was serving as director of the Georgia Committee on Interracial Cooperation.<sup>87</sup> Many segregationists complained that he was being a little *too* cooperative with other races and demanded that he be punished.<sup>88</sup> As Governor Griffin put it, for someone who was drawing a monthly pension from the state, Wells was acting "a little ugly."<sup>89</sup> Confronted by his critics, the educator denied any "radical" activity.<sup>90</sup> "I did deplore the passage of the so-called 'private school' laws which most people believe are unconstitutional," he wrote in response to the attacks.<sup>91</sup> "At no time did I recommend violence or extreme measures, but suggested cooperation between the two groups to work out a satisfactory solution."<sup>92</sup> That, it seemed, was still too much. Though the governor pushed for the end of Wells' pension package, the trustees of the fund refused.<sup>93</sup> Undaunted, Griffin managed to convince the Regents of the University System to strip the educator of his title as Emeritus President of the Georgia State College for Women, solely because of his views on segregation.<sup>94</sup>

In a further attempt to chill all discussion of desegregation in the state, the Georgia Commission on Education was granted new powers in early 1957. The GCE now had the authority to hold hearings and subpoena witnesses.<sup>95</sup> Furthermore, the Commission was granted a budget of \$376,000 to spread the word about the "Georgia way of life."<sup>96</sup> By this time, Durwood Pye had been rewarded for his work on the Commission with an appointment to the Superior Court of Fulton County, but his replacement as the GCE's executive

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85. *Id.*

86. *Georgia Educator Loses Title Over Pro-Integration Views*, S. SCH. NEWS (Nashville, Tenn.), Apr. 1956, at 7 [hereinafter *Georgia Educator Loses Title*].

87. *Id.*

88. *See generally id.*

89. *Id.*; *see Bolster, supra* note 27, at 181.

90. Letter from Guy H. Wells, Director, Georgia Committee on Interracial Cooperation, to Eugene Cook, Georgia Attorney General (Feb. 25, 1956), *microformed on* Southern Regional Council Microfilm Reel 19 (on file with Atlanta University Center, Atlanta, Woodruff Library, Special Collections) [hereinafter SRC].

91. *Id.*

92. *Id.*

93. *Georgia Educator Loses Title, supra* note 86.

94. *Id.*

95. *See Georgia Legislature at Work on More Bills to Keep Segregation*, S. SCH. NEWS (Nashville, Tenn.), Feb. 1957, at 9; *see also Bolster, supra* note 27, at 139.

96. *See Bolster, supra* note 27, at 141.

secretary—T. V. Williams, Jr.—was up to the challenge.<sup>97</sup> Armed with a “dreamy assortment of private-eye equipment,” including several thousand dollars in telephone wiretaps, an assortment of pocket microphones, and “a camera with a telescopic lens,” Williams set out to uproot the integrationist conspiracy in the South.<sup>98</sup> Money was apparently no object in his crusade. According to a state audit, the Georgia Commission on Education spent more than \$100,000 during the 1957–58 fiscal year alone.<sup>99</sup>

The greatest success of Williams’ many investigations came on the Labor Day weekend of 1957. A photographer on the state payroll, Ed Friend, triumphantly announced that he had “made contact and infiltrated” a civil rights conference at the Highlander Folk School in Monteagle, Tennessee.<sup>100</sup> In truth, the conference was a public meeting open to everyone. Friend simply showed up, asked to sit in, and proceeded to take pictures of folk singers and workshop sessions.<sup>101</sup> To commemorate the event, Highlander’s Director, Myles Horton, asked the photographer to take a picture of the more notable participants—Aubrey Williams, the former head of the National Youth Administration, meeting chairman John Thompson, and Rosa Parks and the Rev. Martin Luther King, Jr., both fresh from the bus boycott in Montgomery.<sup>102</sup> As soon as Friend could make it back to Atlanta with the negatives, the GCE began churning out copies of the photograph in a pamphlet titled *Communist Training School*.<sup>103</sup> “The meeting of such a large group of specialists in inter-racial strife under the auspices of a Communist Training School, and in the company of many known Communists,” the GCE charged, “is the typical method whereby leadership training and tactics are furnished to the agitators.”<sup>104</sup> The pamphlet became an instant success, and Friend’s photograph soon appeared on billboards across the South.<sup>105</sup> “I tell you,” Roy Harris marveled later, “I think we published a million copies of that paper at state expense.”<sup>106</sup>

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97. See BARTLEY, *supra* note 1, at 182.

98. See Dubay, *supra* note 40, at 111; BARTLEY, *supra* note 1, at 223-24; Bolster, *supra* note 27, at 141.

99. *Ardent Foe of Integration Winner in Governor’s Race*, S. SCH. NEWS (Nashville, Tenn.), Oct. 1958, at 18.

100. BARTLEY, *supra* note 1, at 182.

101. *Id.* at 182 n.55. See Press Release, Myles Horton (Oct. 5, 1957), *microformed on SRC*, *supra* note 90, at Reel 20.

102. HOWELL RAINES, *MY SOUL IS RESTED: THE STORY OF THE CIVIL RIGHTS MOVEMENT IN THE DEEP SOUTH* 397 (1983).

103. Bolster, *supra* note 27, at 142.

104. BARTLEY, *supra* note 1, at 188-89.

105. See RAINES, *supra* note 102, at 398.

106. *Id.* at 395. According to notes from a Commission meeting in January 1958, the GCE authorized Williams “to mail copies of the Highlander Folk School publicity to all box-holders in Georgia.” See Memorandum from Harold Fleming to John Constable, Meeting of Georgia

## III. SILENCING PROTEST: GEORGIA'S CRUSADE AGAINST THE NAACP

Although Georgia's segregationists delighted in "exposing" Martin Luther King, Jr., their favorite target by far was the NAACP. There had been no love lost between the state's segregationists and the NAACP, known to the segregationists as an organization of "outside meddlers" that led the fight against school segregation. After the *Brown* ruling, however, this mutual resentment escalated into open conflict.

The declaration of war came in October 1955, when Georgia's Attorney General, Eugene Cook, addressed the annual convention of the Peace Officers' Association of Georgia. As the state's top law enforcement officer, Cook praised the troopers and city policemen for their role in "protecting the rights and liberties of the people" against a host of threats.<sup>107</sup> "It is because of your demonstrated discernment in this regard that I have chosen this occasion as the proper forum for revealing, for the first time, the authenticated details of the most ominous of these threats to arise during our lifetime," the Attorney General announced with a great deal of gravity.<sup>108</sup> "I refer to the subversive designs behind the current crusade of the misnamed National Association for the Advancement of Colored People and its fellow-traveling fronts to force upon the South the Communist-inspired doctrine of racial integration and amalgamation."<sup>109</sup> He then rattled off a list of "citations" of un-American activities against individuals associated with the NAACP.<sup>110</sup> "[E]ither knowingly or unwittingly," Cook concluded, "[the NAACP] has allowed itself to become part and parcel of the Communist conspiracy to overthrow the democratic governments of this nation and its sovereign states."<sup>111</sup> "The Ugly Truth About the NAACP," as the speech was thereafter known, became a holy text for segregationists throughout Georgia, the South, and the nation. Attorney General Cook distributed copies from his office, and gladly allowed other segregationist groups to reprint the speech themselves.<sup>112</sup> The National Citizens Protective Association, based in St. Louis, Missouri included Cook's speech on a list of "Crusading Literature for White Americans" available by

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Commission on Education (Jan. 10, 1958), *microformed on SRC, supra* note 90, at Reel 20, Part 692.

107. Eugene Cook, Georgia Attorney General, *The Ugly Truth About the NAACP* (Oct. 19, 1955) (transcript *microformed on SRC, supra* note 90, at Reel 50).

108. *Id.*

109. *Id.*

110. Weldon James, *The South's Own Civil War*, in *WITH ALL DELIBERATE SPEED, supra* note 18, at 15, 20.

111. *Id.*

112. *See id.*

mail. Likewise, the Patriots of North Carolina, an organization akin to the Citizens' Councils, reprinted the speech for its members.<sup>113</sup>

Cook's charges that the NAACP was a radical, dangerous organization only confirmed what most whites already believed. "In the white Southern mind the NAACP is very definitely an enemy organization," noted a *Newsweek* reporter from Atlanta.<sup>114</sup> "Politicians have equated [the NAACP] with the Klan and Citizens Councils as being extremist; most Southerners would see the Association as being more extreme than the Councils and, possibly, less extreme than the Klan."<sup>115</sup>

Even whites who held no sympathy for segregationist groups regarded the NAACP with a special suspicion. "I don't believe in Ku Klux Klan, Black Shirts or National Association for the Advancement of the Communist Party," one man complained.<sup>116</sup> "The latter is the worst of all, for they use the Colored people as dupes just to carry out their dirty points, then the poor Negro can go jump in a lake."<sup>117</sup> "Can't something be done to stop the NAACP?," asked a typical letter.<sup>118</sup> "It seems to me we have more to fear from them than we do from the Russians. If something isn't done to stop the negroes they are in the not too distant future going to run this country and the white people will be the ones looked down upon."<sup>119</sup> Other white Georgians agreed. "I think it is high time for us to be up and doing something to resist the diabolical efforts of NAACP and other subversive influences," an angry man wrote, "instead of just letting things drift, and thereby inviting future generations to rise up and curse the day that gave us birth for not doing something about it."<sup>120</sup>

The politicians in the state capital, however, needed little prodding. In January, 1956, Attorney General Cook officially launched the state's counterattack against the NAACP.<sup>121</sup> "I want to assure you that the people of Georgia are completely fed up," he privately told the Attorneys General from

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113. Mailing from States Rights' Council of Georgia, (Oct. 9, 1956), *microformed on* Papers of the National Association for the Advancement of Colored People Microfilm Edition Group III, Series A, Part 20 (on file with Atlanta University, Atlanta, Woodruff Library, Special Collections, Atlanta Urban League Papers, Box 24) [hereinafter NAACP].

114. Telex Report, NEWSWEEK (Oct. 5, 1957) (on file with NAB, *supra* note 4, at Box 10).

115. *Id.*

116. Letter from E.A. Ville to Ralph McGill (Sept. 1957) (on file with Emory University, Atlanta, Woodruff Library, Special Collections, Ralph McGill Papers, Box 24).

117. *Id.*

118. Letter from Mrs. C. H. Epps to Representative James C. Davis (Mar. 10, 1959) (on file with Emory University, Atlanta, Woodruff Library, Special Collections, General Correspondence Series, James C. Davis Papers, Box 37) [hereinafter JCD].

119. *Id.*

120. Letter from R. E. Douglas to Charles L. Cox (Oct. 9, 1956) (on file with JCD, *supra* note 118, at Box 31).

121. *See* Letter from Eugene Cook to Southern Attorneys General (Jan. 10, 1956) (on file with JCD, *supra* note 118, at Box 31).

other southern states, “and are determined to make the NAACP and its allied organizations fight for every inch they gain in their efforts to destroy State sovereignty and to bring about a mulatto race.”<sup>122</sup> Publicly, Cook enlisted the support of the Georgia legislature to help him fight the NAACP’s “ruthless . . . drive . . . to destroy constitutional government and our traditional pattern of racial segregation.”<sup>123</sup> Though he hoped to have the organization outlawed completely, Cook was willing just to cripple it.<sup>124</sup> To hamstring the legal staff of the NAACP, for instance, Cook pushed through new laws that redefined and constricted the old common law offenses of barratry, champerty, and maintenance.<sup>125</sup>

The segregationists at the state capital found even greater opportunities in their war against the NAACP. When the Alabama legislature effectively outlawed the organization in 1956, the NAACP relocated its Southern Regional Office to Atlanta.<sup>126</sup> NAACP Regional Director Ruby Hurley, realizing that Georgia’s segregationists would welcome her associates about as warmly as Alabama’s had, wisely decided to ship all of the important records to New York for safekeeping.<sup>127</sup> Just as she feared, two weeks after the Atlanta office opened, Georgia tried to seize the group’s regional membership lists.<sup>128</sup> T. V. Williams, the State Revenue Commissioner and, importantly, father of the Georgia Commission on Education’s T. V. Williams, Jr., demanded that the non-profit group turn over its records to show why it had failed to pay any state taxes.<sup>129</sup> Instead of filing the letter through normal channels, Williams displayed the same flair for dramatics as his son. Two of his agents surprised Hurley at her home in November 1956 and presented her with their demands.<sup>130</sup> They then accompanied her to the office, where another

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122. *Id.*

123. Bolster, *supra* note 27, at 179.

124. *Id.*

125. Barratry was commonly defined as the “habitual stirring up of quarrels and suits.” Walter F. Murphy, *The South Counterattacks: The Anti-NAACP Laws*, 12 W. POL. Q. 371, 374 (1959). Champerty referred to the actions of someone with no legitimate interest in a lawsuit who assists one of the parties “in return for a share of the expected proceeds of the case.” *Id.* More broadly defined, maintenance covered “officious intermeddling in a suit which in no way belongs to one, by maintaining or assisting either party, with money or otherwise, to prosecute or defend it.” *Id.*

126. Bolster, *supra* note 27, at 181.

127. *Id.*

128. *Id.*

129. *Georgia Governor Weighs ‘Segregation Strategy’ Meet for South*, S. SCH. NEWS (Nashville, Tenn.), Dec. 1956, at 10; Letter from T. V. Williams, Georgia Revenue Commissioner, to Ruby Hurley, Southern Regional Director, NAACP (Nov. 20, 1956), *microformed on NAACP*, *supra* note 113, at Group III, Series A, Part 20.

130. Ruby Hurley, *Georgia Move Against NAACP* (Nov. 1956), *microformed on NAACP*, *supra* note 113, at Group III, Series A, Part 20.

eight men and an assistant attorney general stormed the room “in a manner suggesting the hunt for a criminal.”<sup>131</sup> Though she maintained a watchful eye on the proceedings, Hurley allowed the agents to look through her office’s files and take notes, knowing that much of the information they sought was already gone.<sup>132</sup>

Still looking for the membership lists, Williams’ agents decided to search the separate Atlanta branch office. Unlike Hurley, local branch president John Calhoun did not want the agents to have free rein with his papers. “I do not object to the financial records,” he wrote, “but I hate the idea of their ‘rummaging’ through our files, picking up things that can later be twisted to their purposes.”<sup>133</sup> Unsure of what to do, Calhoun stalled for time, hoping to contact the national headquarters or, at the very least, speak with his lawyer. Williams refused to grant him any reprieve, however, and instead strode down to the Fulton County courthouse to file for contempt charges against Calhoun and the other officers of the local NAACP.<sup>134</sup> In what was either an amazing coincidence or a prearranged plot, the presiding judge turned out to be none other than Durwood T. Pye, the man who had only recently been replaced by Williams’ son as head of the GCE.

The NAACP was not impressed by the supposed coincidence. Citing the judge’s “repeated denunciations [sic] of the colored race in general and these defendants in particular,” they claimed Pye could not try the case impartially and therefore should recuse himself.<sup>135</sup> The man who at one time led Georgia’s segregationist resistance professed to be “amazed” by the allegations.<sup>136</sup> “I have never denounced the colored race,” he told the courtroom.<sup>137</sup> “I have strong views with respect to the identity of the races and the preservation of their separate and individual accomplishments. The Court has strong personal views against a mongrelization of the races.”<sup>138</sup> The motion was denied.<sup>139</sup> After a six-day trial, Judge Pye made his supposed

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131. *Id.*

132. *Id.*

133. Letter from John Calhoun, Local NAACP Branch President, to Henry Lee Moon, Director of Publicity, NAACP (Dec. 16, 1956), *microformed on NAACP, supra* note 113, at Group III, Series A, Part 20.

134. Along with John Calhoun and Ruby Hurley, four other officers of the Atlanta branch were brought up on contempt charges: L. D. Milton, Eunice Cooper, V. W. Hodges, and D.L. Hollowell. See NAACP, Press Release, *Georgia Fine, Jail Sentence Denounced as “Vindictive”* (Dec. 14, 1956), *microformed on NAACP, supra* note 113, at Group III, Series A, Part 20.

135. Plaintiff’s Motion, *Williams v. NAACP*, (No. A-58654), Fulton County Super. Ct., *microformed on NAACP, supra* note 113, at Group V, Series B, Part 23.

136. Transcript of Proceedings, *Williams v. NAACP* (No. A-58654), Fulton County Super. Ct., *microformed on NAACP, supra* note 113, at Group V, Series B, Part 23.

137. *Id.*

138. *Id.*

139. *Id.*

impartiality clear. He levied a \$25,000 fine against the Atlanta branch of the NAACP for contempt.<sup>140</sup> As an added measure, he refused to certify the trial records, effectively stalling any appeal of the fine.<sup>141</sup> Meanwhile, T. V. Williams piled it on, using Judge Pye's predictable ruling to hit the non-profit group with an additional assessment of more than \$17,000 for eleven years of unpaid income taxes.<sup>142</sup>

In a more personal attack, Judge Pye leaned on John Calhoun. He ordered the branch president imprisoned until he agreed to turn all of the requested files over to the state.<sup>143</sup> After a night in jail, Calhoun grudgingly gave in.<sup>144</sup> Tired of all "this cloak and dagger stuff," he granted the agents access to his office.<sup>145</sup> But, Pye was still not done with him. The judge released Calhoun on the contempt charge, yet kept the threat of imprisonment over his head for years afterward. He had sentenced the NAACP leader to twelve months incarceration at the trial, generously agreeing to suspend the sentence "so long as he behaves himself."<sup>146</sup> For years thereafter, Calhoun lived with that threat. When an NAACP attorney appeared before Pye in another case, he asked the judge to lift the probation.<sup>147</sup> Pye refused: "I am not ready to release him."<sup>148</sup> Apparently, he never was. The probationary threat was still in place when Pye died.<sup>149</sup>

The NAACP tried to remain defiant in the face of Georgia's massive campaign of propaganda and harassment. "You can't kill, outlaw or legislate away the desire of a people to be free," the Reverend L. H. Pitts of Atlanta

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140. *Question of Academic Qualifications Raised in Georgia University Suit*, S. SCH. NEWS (Nashville, Tenn.), Jan. 1957, at 16 [hereinafter *Question of Academic Qualifications*].

141. Murphy, *supra* note 125, at 378; *U.S. Court in Georgia Refuses to Kill Suit by College Applicants*, S. SCH. NEWS (Nashville, Tenn.), July 1957, at 9 [hereinafter *U.S. Court in Georgia*]. Pye refused to certify the bill of exceptions, thereby preventing the court record from leaving his jurisdiction for review by the appeals courts. In an NAACP suit directed against Pye, the Georgia Court of Appeals ruled that the trial judge had every right to hold the record until it met with his approval. See *NAACP v. Pye*, 101 S.E.2d 609, 611 (Ga. Ct. App. 1957). A copy of case materials and related correspondence is available at NAACP, *supra* note 113, at Group V, Series B, Part 23. For years afterward, Judge Pye repeatedly refused to reconsider or reduce the fine. See, e.g., *Judge Pye Rejects Pleas by NAACP*, ATLANTA CONST., March 8, 1960, at 13; *Review of NAACP's Fine Here Denied*, ATLANTA CONST., June 2, 1959, at 1.

142. *U.S. Court in Georgia*, *supra* note 141.

143. Bruce Galphin, *NAACP Yields Records After \$25,000 Contempt Fine, Jailing of Leader*, ATLANTA CONST., Dec. 15, 1956, at 1.

144. *Id.*

145. *Id.*; NAACP, Press Release (Dec. 14, 1956), *microformed on NAACP*, *supra* note 113, at Group II, Series A, Part 20.

146. Order, *Williams v. NAACP* (No. A-58654), Fulton County Super. Ct., *microformed on NAACP*, *supra* note 113, at Group V, Series B, Part 23.

147. McGrath, *supra* note 22, at 101.

148. *Id.*

149. *Id.*

announced in early 1957.<sup>150</sup> “A year from now, it may be illegal to carry a NAACP membership card in your wallet, but you can carry it in your heart.”<sup>151</sup> In spite of this sentiment, Georgia’s campaign of intimidation did take a sharp toll on the NAACP. Membership dropped steadily in the years after 1957 and the organization’s public functions suffered as a result.<sup>152</sup> The state conference in 1959, for instance, was widely acknowledged to be the “worst in years.”<sup>153</sup> A mere twenty-seven adults registered.<sup>154</sup> As NAACP State Secretary Amos Holmes noted glumly, “no real interest was evident anywhere.”<sup>155</sup> Ruby Hurley agreed. In 1960, she warned that “the situation is serious,” with membership down, state contributions at a midyear total of just more than \$700, and a number of the local chapters being abandoned for lack of activity.<sup>156</sup>

Georgia’s political campaign of massive resistance had been exhaustive and, for its targets, exhausting. In the half-decade after the *Brown* ruling, Governors Talmadge and Griffin had erected an intricate defense of segregated education centered on the “private school plan.” Should the courts dare order the desegregation of Georgia’s public schools, the state would simply rid itself of them. The legislature surrounded this self-destruct mechanism with a host of other laws that strengthened segregation and discouraged any deviation from the norm. State officials at every level harassed and hampered the opposition, silencing all dissent and strongly encouraging white Georgians to conform to a common denominator of white supremacy. In spite of its apparent successes, however, this rather breathtaking campaign of massive resistance had essentially failed in one of its principal missions—uniting segregationist opposition at the grass-roots level. As the example of the States’ Rights Council of Georgia makes clear, whatever their feelings were about segregation and desegregation in the state, ordinary white Georgians essentially sat this fight out.

#### IV. FAILING TO ORGANIZE: THE STATES’ RIGHTS COUNCIL OF GEORGIA

As Georgia’s politicians worked to make the state’s white citizens conform to their political views and silence all dissent from white liberals and black activists, they assumed that another organization—the States’ Rights Council of Georgia (“States’ Rights Council” or “Council”)—would organize ordinary white segregationists and mobilize them in a grass-roots defense of white

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150. *Questions of Academic Qualifications*, *supra* note 140.

151. *Id.*

152. Bolster, *supra* note 27, at 184.

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.*

supremacy. Committed to using “every legal means” for “the preservation of the social, political, and economic institutions of our beloved Southland,” the Council was led by some of the state’s segregationist giants.<sup>157</sup> The first chapter, in Augusta, had been established in December 1954 by two leading figures in Georgia’s political scene—Roy V. Harris, the four-time Speaker of Georgia’s House and perhaps the most successful political operative in the state, and Hugh G. Grant, a diplomat who had served as Franklin D. Roosevelt’s minister to Albania and Thailand.<sup>158</sup> In spite of their prestige, however, the Council found only a small following in Augusta and even less success. Its greatest triumph, for instance, came when it forced the cancellation of the city’s Thirteenth Annual Soap Box Derby in July 1955 because a pair of black boys had dared to enter the competition.<sup>159</sup>

However, the States’ Rights Council gained new strength and scope when the rest of Georgia’s political establishment stepped in. In September 1955, Governor Griffin assembled two hundred of the state’s most prominent political and business leaders for a strategy session at Atlanta’s Biltmore Hotel.<sup>160</sup> Speakers included former Governor Herman Talmadge, Lieutenant Governor Ernest Vandiver, and two of the state’s top legal minds, R. Carter Pittman, a well-known constitutional lawyer, and Charles J. Bloch, past president of the Georgia Bar Association and the then-current chairman of the education committee of the Board of Regents of the University System of Georgia.<sup>161</sup> “The NAACP and every other left-wing group is organized,” Governor Griffin warned the dignitaries, “and it’s time for those of us who believe in Georgia’s traditional way of life to do some organizing.”<sup>162</sup> The States’ Rights Council of Georgia, as the group would thereafter be known, would reach out across the state to consolidate segregationist sentiment at the grass-roots level, Griffin promised.<sup>163</sup> With many of the Council’s members active as officers in state government and as officials with the Georgia Commission on Education, segregationists now believed that they presented a unified front of massive resistance.<sup>164</sup>

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157. NEIL R. MCMILLEN, *THE CITIZENS’ COUNCIL: ORGANIZED RESISTANCE TO THE SECOND RECONSTRUCTION, 1954–64*, at 81 (1971).

158. *Id.*

159. BARTLEY, *supra* note 1, at 101–02; MCMILLEN, *supra* note 157, at 81.

160. Southern Regional Council, *Pro-Segregation Groups in the South* (May 23, 1957), *microformed on SRC*, *supra* note 90 [hereinafter *Pro-Segregation Groups*]; see FRANCIS M. WILHOIT, *THE POLITICS OF MASSIVE RESISTANCE* 115 (1973).

161. MCMILLEN, *supra* note 157, at 82.

162. McGrath, *supra* note 22, at 67.

163. *See id.*

164. *See* BARTLEY, *supra* note 1, at 102.

The assembly selected Carter Pittman as president of the States' Rights Council of Georgia.<sup>165</sup> An outspoken segregationist and staunch anti-Communist, the attorney had already made a name for himself speaking out against the "non-legal, illegal and inadmissible sociological materials to sustain judicial legislation based on false Marxist propaganda secretly supplied to the [Warren Court] by [the] NAACP."<sup>166</sup> The articles he authored—with telling titles like *All Men Are Not Equal* and *The Supreme Court, the Broken Constitution, and the Shattered Bill of Rights*—were widely circulated in the more literate segregationist circles.<sup>167</sup> In his writings and public appearances, Pittman's command of constitutional history was matched only by his complete disdain for the Warren Court and its desegregation decision. (His article *The Law of the Land*, for instance, drew on four hundred years of English and American legal thought to discredit the authority of the United States Supreme Court. His final words, however, were a simple invocation of John Wilkes Booth: "'*Sic semper tyrannis.*'")<sup>168</sup> Time and again, Pittman insisted that segregation was not a problem. It was, instead, the solution. "The South has no racial problem and has had none for a half century," he told the Georgia Institute of City and County Attorneys a few weeks after his appointment. "Its racial problems were solved by segregation."<sup>169</sup>

Under Pittman's leadership, the Council set up offices in downtown Atlanta that fall, hiring a full-time clerical staff and appointing an executive director to oversee its statewide crusade.<sup>170</sup> For that post, the Council relied on the Reverend William T. Bodenhamer, a Baptist minister, representative in the General Assembly, and member of the State Board of Education who had served as a principal, superintendent, and president of a junior college.<sup>171</sup> Bodenhamer's credentials did not stop there. He was an active civic leader, holding memberships with the Rotarians, the Civitans, the Shriners, the Knights Templar, and the Sons of Confederate Veterans, and was a thirty-

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165. *Id.*

166. *Integration Ruling Laid to Deception*, ATLANTA CONST., October 22, 1955, at 12; see also MCMILLEN, *supra* note 157, at 83.

167. Copies of both can be found on NAACP, *supra* note 113, at Group III, Series A, Part 20.

168. R. Carter Pittman, *The Law of the Land*, 6 J. PUB. L. 444, 454 (1957). A reprint can be found on NAACP, *supra* note 113, at Group III, Series A, Part 20.

169. *Integration Ruling Laid to Deception*, *supra* note 168; *Georgia Official Says NAACP 'Subversive,' Charges Denied*, S. SCH. NEWS (Nashville, Tenn.), Nov. 1955, at 16. Pittman served as president of the States' Rights Council of Georgia until 1958, when he began devoting his efforts to other right-wing groups such as the Liberty Lobby, the John Birch Society, and Billy Hargis's Christian Crusade. See MCMILLEN, *supra* note 157, at 83–84.

170. MCMILLEN, *supra* note 157, at 84.

171. *Id.*; Pro-Segregation Groups, *supra* note 160; see also Typewritten Manuscript, Citizens Council Activity Report (1956) (on file with Atlanta University, Atlanta, Woodruff Library, Special Collections, Atlanta Urban League Papers, Box 24).

second degree Mason as well.<sup>172</sup> With ties to virtually every group in Georgia, he seemed eminently qualified for the task of setting up local chapters of the States' Rights Council in each of Georgia's one hundred-fifty-nine counties and boosting the total membership to the goal of 150,000.<sup>173</sup>

In spite of the credentials of Pittman and Bodenhamer and the support of the entire state establishment, the Council actually accomplished very little. In fact, its first foray in defense of segregation brought the organization nothing but embarrassment. In late November 1955, the football team at Georgia Tech accepted an invitation to play against the University of Pittsburgh in the Sugar Bowl.<sup>174</sup> Tech had a strong football tradition, counting past legend John Heisman and present leader Bobby Dodd among its revered coaches.<sup>175</sup> At the time of the Sugar Bowl offer, the Tech squad was at the peak of its 1950s power and popularity, having won six bowl bids in a row.<sup>176</sup> But, with this latest invitation, there was a problem. The University of Pittsburgh had a single black player, a reserve fullback.<sup>177</sup> The executive committee of the States' Rights Council fired off a concerned telegram to Georgia Tech Coach Bobby Dodd, urging him to prevent "any breakdown of our laws, customs, and traditions of racial segregation."<sup>178</sup> Governor Griffin, always ready to steal the segregationist spotlight, soon joined in. "The South stands at Armageddon," the governor dramatically announced. He stated:

We cannot make the slightest concession to the enemy in this dark and lamental [sic] hour of struggle. There is no difference in compromising integrity of race on the playing field than in doing so in the classrooms. One break in the dike and the relentless seas will rush in and destroy us.<sup>179</sup>

The Sugar Bowl bid, the governor said, would have to be canceled.<sup>180</sup>

To Griffin's surprise, Georgia Tech's students were outraged. That night, they hung effigies of the governor from trees on campus and then took to the streets of Atlanta in protest.<sup>181</sup> With signs saying "Impeach Griffin" and "To Hell with Griffin," more than two thousand students stormed the State Capitol, scuffling with guards and agents of the Georgia Bureau of Investigation and

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172. McMILLEN, *supra* note 157, at 84.

173. Pro-Segregation Groups, *supra* note 160.

174. Robert W. Dubay, *Politics, Pigmentation, and Pigskin: The Georgia Tech Sugar Bowl Controversy of 1955*, 39 ATLANTA HIST. 21, 21 (1995).

175. *See id.*

176. *Id.*

177. *Id.*

178. Charles H. Martin, *Racial Change and "Big-Time" College Football in Georgia: The Age of Segregation, 1892-1957*, 80 GA. HIST. Q. 532, 553 (1996).

179. Dubay, *supra* note 174, at 24.

180. *Id.*

181. Martin, *supra* note 178, at 554.

causing a good bit of damage in the process.<sup>182</sup> Meanwhile, another five hundred showed up outside the governor's mansion, tearing up parking meters and tossing trash cans down the street.<sup>183</sup> As the Atlanta Fire Department stood by with canisters of tear gas, a wall of city policemen formed a barricade in front of the mansion.<sup>184</sup> Some students tried to break through the lines and reach Griffin, only to be dragged away by the police.<sup>185</sup> In the end, a full-blown riot was only averted because State Representative Milton M. "Muggsy" Smith, a former Georgia Tech player himself, showed up and calmed the crowd down.<sup>186</sup> In the end, Griffin and his allies backed down and allowed the game to go ahead as originally planned.<sup>187</sup> Segregation might be a revered Southern tradition, they realized, but it was no match for college football.

Hoping to recover from the Sugar Bowl embarrassment, the States' Rights Council began holding rallies across Georgia. In January 1956, the campaign got off to an auspicious start with a membership drive in Americus, a county seat with a population of roughly 11,000.<sup>188</sup> In an impressive show of support, Herman Talmadge, Marvin Griffin, Eugene Cook, Ernest Vandiver, Roy Harris, and R. Carter Pittman were all present to shake hands and recruit new members.<sup>189</sup> Speaking to the crowd, Governor Griffin called for the establishment of Council chapters in every town.<sup>190</sup> "The rest of the nation," he stated, "is looking to Georgia for the lead in segregation."<sup>191</sup> Talmadge, who was then about to begin his successful quest for the United States Senate, declared the rally "the beginning of a great crusade which will sweep the state and southern regions."<sup>192</sup> In the weeks thereafter, Bodenhamer and Pittman crisscrossed the state, trying to sell memberships and set up chapters of the segregationist group.<sup>193</sup> Bodenhamer boasted of personally holding twenty-eight different rallies in the month of March alone.<sup>194</sup> In spite of these efforts, the results were disappointing. By mid-summer, there were less than a dozen chapters linked to the Atlanta headquarters.<sup>195</sup>

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182. *Georgia Assembly Meeting to Strengthen Segregation Statute*, S. SCH. NEWS (Nashville, Tenn.), Jan. 1956, at 10.

183. *Id.*

184. *Id.*

185. *Id.*

186. Martin, *supra* note 178, at 554-55; see Dubay, *supra* note 174, at 25-28.

187. See Martin, *supra* note 178, at 558.

188. McMILLEN, *supra* note 157, at 84.

189. *Id.* at 84-85.

190. *Id.* at 85.

191. *Id.*

192. *Id.*

193. BARTLEY, *supra* note 1, at 102.

194. McMILLEN, *supra* note 157, at 85.

195. *Id.*

In an effort to drum up support, the Council then blanketed the state with propaganda. “WHITE AMERICAN CITIZENS UNDER ATTACK!” warned one piece.<sup>196</sup> “The Supreme Court on May 17, 1954, declared that racial segregation in the public schools of the nation is unconstitutional. THIS IS REVOLUTION!”<sup>197</sup> The only solution, the pamphlet continued, was to “ORGANIZE: There is a job to be done. Don’t be lulled into complacency by the soothing talk of ‘Gradual’ race integration. There must never be ANY racial integration.”<sup>198</sup> While whites across Georgia generally agreed with such sentiments, they still felt no need to join the Council. After organizers totaled up the membership lists in 1958, they were stunned by how little had been accomplished in more than three years of campaigning. “Total number of members in the active file is 2,450 for [the] entire state,” an official noted dejectedly.<sup>199</sup> “If only those members who have paid their dues for 1958 were counted, they would not exceed 500.”<sup>200</sup> For an organization that had assumed it could quickly and easily reach a total membership of 150,000,<sup>201</sup> these figures were startling, to say the least.

Publicly, leaders of the massive resistance movement attributed the weak membership in the Council to a vast left-wing conspiracy against segregation. Atlanta’s Congressman James C. Davis led the attack. At a Council meeting at the Atlanta Athletic Club, he thundered:

The left-wing press, left-wing columnists and writers, the left-wing commentators on television and radio, together with all of the left-wing organizations in the country beginning with the Communists and ending with organizations that are merely crackpot, are staging a massive campaign of super-brain-washing propaganda having a two-fold purpose.<sup>202</sup>

“These purposes are, first, to sell law-abiding American people the false idea that no one has the right to question a pronouncement of the Supreme Court, and second, that those who have any pride of race are bigoted, prejudiced, narrow-minded racists and hate-mongers.”<sup>203</sup> Congressman Davis then went on to dispel the notion that he himself was a “narrow-minded racist” by detailing the “obvious and well-known differences between whites and

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196. Pamphlet, States’ Rights Council of Georgia (n.d.) (on file with JCD, *supra* note 118, at Fact File Series, Box 4).

197. *Id.*

198. *Id.*

199. Map of States’ Rights Council of Georgia Membership (1958) (on file with JCD, *supra* note 118, at General Correspondence Series, Box 38).

200. *Id.*

201. MCMILLEN, *supra* note 157, at 84.

202. James C. Davis, Address to the States’ Rights Council of Georgia at the Atlanta Athletic Club (Nov. 28, 1956) (on file with Emory University, Atlanta, Woodruff Library, Special Collections, James William May Papers, Box 1, Accession Number 93-02-12).

203. *Id.*

blacks which no amount of glossing over and covering up by subversive so-called 'anthropologists' and pseudo-scientists can hide." He said that the differences included the uncleanness, mental inferiority, and natural criminality of blacks.<sup>204</sup>

In spite of such public pronouncements, Council officials privately admitted that their problems were internal ones. First, they had made a fatal step in selecting Reverend William T. Bodenhamer as head of the recruitment drive. "Our director was a member of the Legislature, a minister, and a member of the State School Board," Carter Pittman complained.<sup>205</sup> "In my opinion he did not average more than twelve hours a week in our Atlanta office and when he spent that time in our office, he was doing nothing toward serving our membership."<sup>206</sup> If anything, the minister from Ty Ty proved to be a tremendous drain on the office, using its funds for his own pet projects and personal needs.<sup>207</sup> ("When I learned that he installed a dictaphone in his car at the expense of the Council," Pittman told an associate, "I nearly had a heart attack.")<sup>208</sup> A complete failure, Bodenhamer was forced out in early 1958.<sup>209</sup> The Council tried to begin again, but the task seemed daunting. Pittman complained to Bodenhamer's replacement, "we are exactly where we were in the spring of 1955, we must start from there."<sup>210</sup>

However, more important than these personnel problems of the Council were its political problems. From its founding, the Council had been used by politicians solely as a sounding board for their own campaigns. With all of their effort spent puffing up their segregationist credentials before the voters, the Council leaders devoted little time to actual grass-roots organization.<sup>211</sup> After a few years, Hugh Grant had to admit that his Council had become "a political rather than a grass roots organization."<sup>212</sup> In case anyone missed that distinction, Bill Bodenhamer soon managed to make it perfectly clear. Immediately after being forced out of the organization, the minister launched a campaign for the governor's office, claiming that he alone was qualified to

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204. *Id.* Congressman Davis was long remembered by contemporaries as the embodiment of the far political right. "He was extremely a right-winger, we call them now," Judge Osgood Williams remembered. "Back in those days, I think we called them horses' asses, but he was certainly a right-winger." Interview by Cliff Kuhn with Judge Osgood Williams (May 12, 1998) (on file with GGDP, *supra* note 5).

205. MCMILLEN, *supra* note 157, at 86.

206. *Id.* at 86-87.

207. *See id.* at 87.

208. Letter from R. Carter Pittman to W.A. Lufburrow (May 10, 1958) (on file with JCD, *supra* note 118, at General Correspondence Series, Box 38).

209. *See* MCMILLEN, *supra* note 157, at 85.

210. *Id.* at 87.

211. *See* MCMILLEN, *supra* note 157, at 87.

212. *Office Seekers Contending Over Question of Race*, S. SCH. NEWS (Nashville, Tenn.), Sept. 1958, at 12 [hereinafter *Office Seekers*].

prevent the desegregation of Georgia's schools.<sup>213</sup> Absurdly, he claimed his main rival, Lieutenant Governor Ernest Vandiver, was somehow "'soft' on segregation."<sup>214</sup> To the contrary, Vandiver had asserted that "there is not enough money in the federal treasury nor enough federal troops to force us to mix the races in the classrooms of the schools and colleges of Georgia while I am your governor."<sup>215</sup> "You and I say to the United States Supreme Court," Vandiver shouted to applauding crowds, "that we will resist this tyranny at every crossroads, at every filling station, in every hamlet, in every militia district, in every town, in every city and in every county throughout the length and breadth of the State of Georgia until sanity is restored in the land."<sup>216</sup> In light of such statements, Bodenhamer's charges that Vandiver was the "NAACP's candidate" simply fell flat.<sup>217</sup> In fact, his charges backfired.<sup>218</sup> As voters compared Bodenhamer's rhetoric with his record, they were less than impressed. Segregationists across the state publicly blamed him for the failure of the States' Rights Council.<sup>219</sup> "The preacher candidate," Roy Harris charged, "sabotaged it by simply failing to do his duty. He did as little of nothing as a man could do when he held the office of Executive Director of the council."<sup>220</sup> While Bodenhamer should have been organizing the state's resistance network, Harris noted, he instead "used the office in Atlanta for his own personal and political benefit."<sup>221</sup> The Bodenhamer campaign was crippled by the counterattack, and Ernest Vandiver won the election in a landslide.<sup>222</sup> He carried one hundred-fifty-six of one hundred-fifty-nine counties, beating the preacher by a margin of more than four-to-one in the popular vote.<sup>223</sup>

As it turned out, the defeat of Bill Bodenhamer also marked the downfall of the States' Rights Council. After the factionalism of the 1958 campaign, the Council seemed more than ever to be simply a sounding board for segregationist politicians and their speechwriters. Not even the rise of an

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213. See McMILLEN, *supra* note 157, at 86.

214. *Id.* See *Office Seekers*, *supra* note 213; *Political Hassles Over Campaign Charges Causes Education Commissioner to Quit*, S. SCH. NEWS (Nashville, Tenn.), Aug. 1958, at 16 [hereinafter *Political Hassles*].

215. EARL BLACK, SOUTHERN GOVERNORS AND CIVIL RIGHTS: RACIAL SEGREGATION AS A CAMPAIGN ISSUE IN THE SECOND RECONSTRUCTION 66 (1976).

216. *Id.* at 68.

217. See Charles Pyles, *S. Ernest Vandiver and the Politics of Change*, in *GEORGIA GOVERNORS IN AN AGE OF CHANGE: FROM ELLIS ARNALL TO GEORGE BUSBEE* 146 (Harold P. Henderson & Gary L. Roberts eds., 1988); McMILLEN, *supra* note 157, at 86.

218. McMILLEN, *supra* note 157, at 86.

219. See *id.* at 86-87.

220. *Id.* at 87.

221. *Id.*

222. See *id.* at 86.

223. McMILLEN, *supra* note 157, at 86.

established, behind-the-scenes, segregationist like Roy Harris to its presidency changed that problem. Speaking out against the Council's political inclinations in 1960, Hugh Grant charged that Harris, with whom he had founded the first States' Rights Council six years earlier, had only given "lip service to the organization of the rank and file."<sup>224</sup> With no foundation of grass-roots support below and an abundance of political factionalism above, the organization simply withered away. In 1962, the States' Rights Council of Georgia—at one time seen as the greatest hope for a statewide defense of segregation—finally collapsed.<sup>225</sup>

At the same time, the infighting of the 1958 campaign also served to cripple the Council's unofficial counterpart, the Georgia Commission on Education.<sup>226</sup> In July 1958, Harvey H. Chandler, the assistant executive secretary of the GCE, resigned, charging that T. V. Williams, Jr. had turned the office into a publicity center for the Bodenhamer campaign.<sup>227</sup> Chandler claimed that GCE personnel had sent out 500,000 pieces of "false, scurrilous, malicious, doctored and defamatory pictures and literature" aimed at Ernest Vandiver's defeat.<sup>228</sup> Under intense pressure, Williams resigned and the GCE quickly fell from its former position of prominence.<sup>229</sup> Not surprisingly, after his election, Governor Vandiver disbanded the Commission.<sup>230</sup> He replaced it with a new agency, the Governor's Commission on Constitutional Government, but this organization quickly faded from view as well.<sup>231</sup>

The collapse of the Georgia Commission on Education and the States' Rights Council of Georgia meant that the segregationist politicians at the top of the state's massive resistance movement no longer had even the pretense of organizational support underneath them. To be sure, the vast majority of whites supported their "defense" of segregation and kept returning them to office on that basis. However, aside from giving them their votes, these whites were little involved in the practical campaign against desegregation. When court-ordered desegregation finally struck the state in 1961—at both the University of Georgia in Athens and the public high schools of Atlanta<sup>232</sup>—political posturing could do little to stop it. Ordinary segregationist whites watched in disbelief as the state's capital and flagship university "fell" to the

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224. *Id.* at 88.

225. *Id.* at 89.

226. *See Political Hassles*, *supra* note 214.

227. *Id.* *See Office Seekers*, *supra* note 212.

228. *Political Hassles*, *supra* note 214.

229. *See id.*; *see also Office Seekers*, *supra* note 212.

230. *See BARTLEY*, *supra* note 1, at 183.

231. *Id.*; Interview by Charles Pyles with Ernest Vandiver, Georgia Governor (Mar. 20, 1986 and July 28, 1986) (on file with GGDP, *supra* note 5).

232. *See McMILLEN*, *supra* note 157, at 90.

forces of integration.<sup>233</sup> As they were lost, so too was the cause of massive resistance.

#### V. CONCLUSION

From the beginning, the forces behind the political movement known as “massive resistance” had assumed that the key to maintaining white supremacy in the South was to first ensure white solidarity. However, instead of encouraging a grass-roots effort to mobilize rank-and-file segregationists in support of the larger cause, these politicians decided to pursue a top-down approach in which they told ordinary white Southerners how to act, while never giving them reasons or inspiration to mobilize themselves. These average segregationists had been assured all along that the state and regional campaigns of political massive resistance would hold the civil rights movement at bay, and they had thus given little thought about their own role in resistance until it was too late.

This account of the political failures of the massive resistance movement is not meant to imply that Southern whites offered *no* resistance to the civil rights movement. They did, of course. As activists in the civil rights movement pursued their campaigns of non-violent direct action in countless communities across the South, whites often reacted to their struggle with reprisals of intimidation, violence, and oppression. As brutal and often bloody as that strand of white resistance was, it essentially represented a localized reaction that was both unplanned and uncoordinated at either the state or regional level. As such, that kind of white resistance to civil rights change proved to be a much more chaotic and, ultimately, a much more ineffective “defense” of segregation than the coordinated campaign of “massive resistance” that had originally been plotted by the region’s political leaders.

In spite of their grand plans, massive resistance had essentially remained an operation of politicians alone. As such, it lacked the broad constituency and staying power it needed to survive. Its leaders had promised to “protect” the South from desegregation and indeed, for a short time, they did succeed in stalling the implementation of the *Brown* ruling. In the end, however, their actions lulled the white population into a false confidence, which made the inevitable desegregation of Southern society all the more shocking to their eyes. Massive resistance had not protected the old racial caste system of the South. It had, perversely, helped assure its failure.

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233. *See id.* at 90-91.

