BROWN v. BOARD OF EDUCATION (1954)
IN THE STREAM OF U.S. HISTORY:
THE VIEW FROM VIRGINIA, 1930s-1960s

Peter Wallenstein
Department of History
Virginia Polytechnic Institute and State University


ABSTRACT

A half-century after the Supreme Court handed down its 1954 decision in Brown v. Board of Education, an account of segregation and desegregation in the history of one state can provide perspective on the relationship between race and schooling in American history and the significance of Brown in curtailing the policy and practice of segregation in the public schools. Virginia was a fairly representative southern state, both before and after Brown, especially among states of the former Confederacy. And it is one of the states from which came the cases that were decided together and are collectively known under the name of one of them. This article, synthesizing as it does my own work as well as that of other scholars, is chiefly intended to assist the teaching of the story of school segregation, school desegregation, and Brown in K-12 as well as in undergraduate classes.

INTRODUCTION

The U.S. Supreme Court decided the case of Brown v. Board of Education some fifty years ago. Looking back now, it is hard to comprehend how much changed—how very different the world became—as a result. Yet it is hard, also, to comprehend how much difficulty it took to secure even a little change. Why this paradox? If we take a tour of Virginia through the 1930s, 1940s, 1950s, and 1960s, we can get some idea of how the 1954 decision came about and also how much of a challenge there was to make the court victory produce real change in the schools.

FROM THE 1830S TO THE 1930S: FROM EXCLUSION TO SEGREGATION

Before the Civil War and the Reconstruction that followed, Virginia had no system of public schools. In fact, beginning in the 1830s Virginia had a law against permitting black Virginians—slave or free—to attend any school at all. In 1854 a white woman in Norfolk, Margaret Douglass, went to jail for a month as her punishment for the crime of holding classes for a small group of free black children.

During the 1860s the Civil War, emancipation, and postwar federal legislation transformed educational policy and practice across the South. In
areas controlled by Union forces, schools for black southerners began operations even while the Civil War was going on. Late in the war, Congress created the Freedmen's Bureau, which assisted with the establishment of schools for African Americans across the South. The abolition of slavery, followed by the Civil Rights Act of 1866, brought an end to some legal obstacles to black opportunity. And in 1867, Congress imposed conditions for readmitting ten former Confederate states to full participation in national governance. The resulting state constitutions—including the Virginia state constitution of 1869—not only recognized the right of black men to vote but also committed the state to establishing a system of public schools with space for black children as well as white children. Finally, the Fourteenth Amendment, ratified in 1868, required that states give all citizens the "equal protection of the laws."

In 1870 the Virginia legislature, during its first session under the constitution of 1869, authorized a system of public schools. Although the new system's schools were open to black students and to white students, from the very beginning they remained absolutely segregated, with white students attending one set of schools and black students attending another set. The 1870 Virginia law declared: "White and colored children shall not be taught in the same school." Teaching the white students were white teachers, never black teachers. At first, many of the teachers in the black schools were white, but in time all the teachers and principals in the black schools were black.

In 1902, Virginia placed the segregation requirement, even the very language of the 1870 law establishing public schools—separate schools for black students and for white students—in the state constitution. In the years to come, far more money was spent on public schools than before, but the increase was very unevenly shared. The state divided state money for schools according to the number of school-age people in each county. When the money arrived in each county, the school board divided it up among the schools. In the western counties, where the black population was generally small, the black schools received almost as much money per black student as the white schools received per white student. East of the Blue Ridge, though, where the black population was large (and in some counties a substantial majority), the school boards took much of the money that had been apportioned on the basis of black students and gave it instead to the white schools. So the schools with the most state money per student were the white schools in the east—far more than the black schools in the east or any of the schools, black or white, in the west.

With far less money available for black schools in the east—where most black Virginians lived—black teachers there were paid far less than white teachers were; the school year was shorter; the average class size was larger; the facilities were more limited; and—certainly in the higher grades—the course offerings were more restricted. Making these sizeable differences possible was the fact that schools were segregated, combined with the fact that, though the money was apportioned on the basis of the total number of children, white school boards got to decide how to spend the money, so black taxpayers had no say. In the city of Richmond in the early 1940s, the highest paid black teacher—a man who had an advanced degree and many years of experience and

VSSI - WINTER 2004 also served as school principal—was paid at least one dollar less than the least experienced white female teacher. (Teachers, white or black, were paid considerably more in those days if they were men than if they were women.)

SEIZING MORE OF THE "EQUAL" WITHIN "SEPARATE BUT EQUAL"

The Fourteenth Amendment, with its Equal Protection Clause, made it clear that no state could have a public school system for white children and simply exclude all black children. But the schools were not integrated. What replaced the pre-Civil War policy of black exclusion was a policy of strict racial separation. The Supreme Court's decision in an 1896 case about segregation on passenger trains in Louisiana, <i>Plessy v. Ferguson</i>, is often said to have inaugurated segregation. But it did no such thing. That court decision said state governments could require that public transportation be racially segregated, and the policy was understood to apply to schools as well.

What <i>Plessy</i> did with regard to segregation in schools was two-fold. On the one hand, it provided a constitutional argument—a defense—that supporters of segregation used when segregation came under challenge. The nation's highest court, people could say, had ruled that segregation was all right, that it did not violate the Fourteenth Amendment. On the other hand, the formula of "separate but equal" buttressed the argument that schools, even if segregated, should offer equal opportunities in all tangible respects. So the Fourteenth Amendment supplied the language of the debate over race and public school policy.

By the late 1930s and the 1940s, black Virginians began to develop a strategy to get a larger share of the school money. In the city of Norfolk, a teacher named Aline Black, from Booker T. Washington High School, went into state court in 1939 to sue to get paid as much as she would be paid if she were white. Instead of winning her suit, she lost her job, when the school board refused to renew her teaching job. Then her colleague Melvin Alston stepped in. He sued, but he went to federal court, where in 1940 he eventually won, and over the next few years the school board put a new salary schedule into place, so that black teachers and white teachers—if they had identical education, experience, and responsibilities—would earn the same salaries. During the 1940s, similar changes took place elsewhere in Virginia, at least in the cities, including Richmond.

But salary differences were hardly the only examples of racial discrimination, and they were hardly the only areas in which black Virginians went into federal court in the 1940s to try to get things changed. If the white school had a gymnasium, and a cafeteria, and indoor plumbing, and a library full of books, people in the black community argued that they should have the same in the black school. If white students could go to a high school where they could take courses that would prepare them for college, black parents thought their children should too. If school buses took white children to white schools, black parents and students thought there ought to be buses that took black children to
school, too. As it was, school buses picked up white children but drove right past black children, and those black children sometimes had to walk past the white schools on their way to more distant black schools.

So, again and again in the 1940s, black Virginians went to court. The people who were involved in these actions in court included the teachers, who wanted higher pay—they argued that it was not right that they be paid a lower salary just because they were black. They also included other members of the community, like the parents who feared for the safety of their children walking to school—and who resented the privileges their children were denied solely because they were black instead of white. And they included black civil rights lawyers like Thurgood Marshall and Oliver Hill, classmates at Howard University Law School who graduated in 1933. Marshall sometimes came to Virginia from his office in New York City with the National Association for the Advancement of Colored People (NAACP), the nation's leading civil rights organization of the time. Hill lived in Richmond.

District Court Judge Sterling Hutcheson, a native white Virginian, ruled the way he saw the U.S. Constitution requiring under the rules of "separate but equal." Years later, after Brown, he balked at pushing the process of desegregation along. But in March 1948 he ruled, for example, that the school board in Surry County was discriminating in teachers' salaries, bus transportation, physical facilities, and curricular offerings. There was more than one way to equalize, though. Ordered the next month to remedy such a deficiency in King George County, the school board there equalized the white high school and the black "training school" by cutting chemistry, physics, biology, and geometry from the white high school's curriculum. Then it was white students and their parents who protested the school board's actions.

By 1950, Thurgood Marshall, Oliver Hill, and their colleagues had fought many court cases over racial discrimination in the Virginia schools. Often they won, but they had to keep fighting. Although some equalization under "separate but equal" did take place, the changes were difficult to obtain and uneven in practice. Always there were more issues to fix—and many remaining places that had not yet begun to equalize opportunities for black and white teachers and students. Regardless, the policy of segregation—the "separate" in "separate but equal"—continued to grate.

THE VIRGINIA CASE IN BROWN V. BOARD OF EDUCATION

In 1950, the NAACP decided that it was not going to keep struggling to equalize segregated schools. Instead, the organization would take cases that argued against segregated schools at all. If they were successful, as they saw it, black students and white students would attend the same schools.

NAACP attorneys planned to argue that segregation itself violated the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. They anticipated that the state of Virginia would argue that much had already been accomplished in equalizing teachers' salaries; progress was being made in
legislature adopted policies designed to keep desegregation from occurring at all. For one thing, the legislature adopted a policy called Massive Resistance, according to which the governor was directed to close any school that a court ordered desegregated. Better no school, this policy declared, than a desegregated school. For another thing, the same legislature passed other new laws that were designed to destroy the ability of the NAACP to bring cases in the continuing efforts to get schools desegregated.

Nowhere in Virginia, in elementary school or high school, did black students and white students attend public school together in 1954 or 1955, or in 1956, 1957, or even 1958. Massive Resistance came directly into play in the school year 1958-1959. Most schools in Virginia remained open all that year, still segregated. Some schools, though, having been ordered desegregated—for example, in the city of Norfolk—had to close rather than open on a desegregated basis.

Then two things happened. The legislature’s policy of Massive Resistance was challenged in the courts. And people across the state—white and black alike—came to see that the issue was not so much whether schools would be segregated or desegregated. The issue had become whether there would be public schools at all. And many people, even if they had supported segregation when that was the core issue, determined that they would rather have some integration in the schools than have the schools closed down. They might do what they could to limit desegregation—and in many cases they were quite successful first in postponing it and then in minimizing its extent—but in most places, they were prepared to accept some racial change in the public schools rather than abolish the system.

In January 1959, two courts overturned the policy of Massive Resistance. A state court pointed out that the state constitution continued to require that Virginia maintain a system of public schools, so the state could not begin shutting schools down. A federal court ruled that the policy of Massive Resistance violated the Fourteenth Amendment and the ruling in Brown v. Board of Education. When the public schools reopened in the city of Norfolk, six high schools that had previously enrolled no African Americans now enrolled a total of seventeen black students. (It was rare that any white students began attending previously black schools.) Similar small changes took place in Charlottesville, in Warren County, and—before many months had passed—in a few other places too.

Well into the 1960s, though, many school systems in Virginia remained entirely segregated. The most flagrant example of defiance came in Prince Edward County, where Virginia’s share of the Brown case had originated. The state policy of Massive Resistance had been turned back by the courts, but white leaders and their followers in Prince Edward County acted out a local version of Massive Resistance during 1959. When a federal court ordered the schools desegregated, the county stopped funding public education. A private school, Prince Edward Academy, was established, and most white students attended it. For the remaining white students—and for all of the black students—no local

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schools were open. Suddenly, Prince Edward looked more like the time before the advent of public schools, even before black children could attend school at all, than like even the 1950s. Not until 1964 were the Prince Edward public schools reopened, under another court order. And when that happened, most white students continued attending Prince Edward Academy. Black students were able to return to school in the county, but the “desegregated” public schools were overwhelmingly black, so a dual system of schools resumed, one black and one white.

Resistance to desegregation did not end in 1964. Various jurisdictions in Virginia—the city of Richmond was one, New Kent County another—were still in the courts in the next few years over segregation and desegregation. Yet some change had taken place. Gone was the policy—in place throughout the state, for so many years—of absolute segregation in all the public schools. Moreover, playgrounds and other public facilities were often desegregated as a result of the logic of Brown. Yet the Prince Edward model prevailed at some recreation facilities, at least for a time; some public swimming pools, in particular, were closed instead of desegregated.

VARIATIONS ON A THEME: PUBLIC HIGHER EDUCATION

Although commentators often emphasize elementary and secondary schools—after all, these were the categories of institutions in controversy in the cases that made up Brown—the history of higher education is another important place to look. Let’s examine the parallel history of public higher education in Virginia as it relates to racial identity. By the 1950s, schools like Virginia Polytechnic Institute and Virginia Military Institute had long been admitting students of Chinese ancestry, so the so-called “white” schools were not in fact all-white. What they were was nonblack; African Americans were categorically excluded. The same can be said of so-called “white” high schools, as in the city of Norfolk.

In the years before the Civil War, Virginia supported two public institutions of higher education. The University of Virginia, which opened its doors in 1825, and the Virginia Military Institute, which began operations in 1839, were open to white men. No public institutions of higher education catered to white women, and at a time when black children could not legally attend elementary school, there was no chance that any college, public or private, would enroll black students in Virginia.

As with elementary schools, that all changed in the early years after the end of slavery. Private institutions like Hampton Institute—open to black men and black women alike—began operations as early as the 1860s. In 1872, when the state legislature provided for the use of the funds that Congress had provided in the Morrill Land-Grant College Act of 1862, it divided the money, one-third for black students at Hampton and two-thirds for a new institution, for white men, in Blacksburg, the Virginia Agricultural and Mechanical College (later Virginia Tech). And in the 1880s, the state legislature funded an entirely new public school for black men and black women, known at first as Virginia
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Normal and Collegiate Institute and, after many changes over the years, today as Virginia State University.

By 1920 the state of Virginia had launched four schools to train white women as public school teachers: today's Radford University, Longwood University, James Madison University, and Mary Washington. By then, also, the state had taken over a struggling institution that had originated in colonial times, the College of William and Mary, and had opened it to white women as well as white men. Moreover, in 1920 the University of Virginia's law school and medical school were opened to white women. Also in 1920, the state switched the land-grant designation and funds for black Virginians from Hampton Institute to Virginia State. Changes in the years to come included the emergence of Old Dominion University, originally the Norfolk division of the College of William and Mary; Norfolk State University, at one time the Norfolk division of Virginia State; and George Mason University, previously a branch college of the University of Virginia.

Just as black Virginians, beginning around World War II, managed to obtain greater resources in elementary and secondary schools, they managed to secure new programs and funding for higher education at that time. Not long before, Virginia State was once again permitted—as it had at the beginning but not for many years after—to offer baccalaureate programs and degrees, and beginning in the late 1930s it offered some master's programs as well, especially in education.

In 1950, the first move toward any kind of desegregation of public higher education in Virginia came when Gregory Hayes Swanson won a case in federal court that permitted him to enroll at the University of Virginia law school. After that, a few black students entered certain graduate and professional programs not only at the University of Virginia but also at the College of William and Mary. If Virginia State offered such programs, however, black applicants in the 1950s to the "white" schools were directed to apply to the black school.

In this context—still "separate but equal" but no longer categorically segregated—a few black Virginians were permitted to enroll at Virginia Polytechnic Institute and at the University of Virginia. Virginia State did not offer an engineering program, so Virginia Polytechnic Institute felt compelled to admit Irving Peddrew in 1953 (the year before the Brown decision) as an undergraduate in electrical engineering. The next year, three more black engineering undergraduates enrolled at VPI, and in 1955 one more did, as did the first three black undergraduates at the University of Virginia—all of them in engineering, the only program of study that black undergraduates were permitted to follow at either school throughout the 1950s. The first black undergraduate to earn a degree at VPI was Charlie Yates, in 1958, and the first at the University of Virginia was Robert Bland, in 1959.

The changes were real, but they were extremely modest in magnitude and restricted in scope. In much the way that no black Virginians studied with white classmates in public elementary or secondary schools before 1959, and very few that first year, no black undergraduate was permitted to attend any public white college in Virginia before the 1960s, unless (beginning in 1953) it was to study engineering. In 1966, however, the number of black students at Virginia Polytechnic Institute suddenly jumped from single digits into double digits, six of the new students on the Blacksburg campus that year were black women, and members of the class of 1970 earned degrees in disciplines like history and sociology.

In higher education, as at the lower levels, Brown brought no immediate change to Virginia, although some change did eventually begin. Through the late 1960s and beyond, change continued to build. By 1972, even Longwood College had enrolled some black students, and that year Virginia Military Institute graduated its first class of cadets to include black men as well as white men.

LOOKING BACK AND LOOKING FORWARD: FIFTY YEARS AFTER BROWN

The rules that the Supreme Court announced in Brown v. Board of Education in 1954 were a long time coming—in Virginia a policy of school segregation had prevailed from 1870 to 1954. And by no means was the new policy, as announced by the Supreme Court, implemented right away. Massive Resistance died when the courts intervened—and when a majority of white Virginians decided that they would rather have desegregated schools than no public schools at all. Massive Resistance triumphed, however, to the degree that it postponed the beginnings of desegregation. And desegregation not only came later, but caused less change in the end, than had been expected by Oliver Hill, Thurgood Marshall, or the U.S. Supreme Court. No matter what change took place, it could prove disruptive to people, whatever their racial identity, who had been accustomed to other rules, other patterns, in the administration of schools.

How typical was Virginia on matters of race and schools? Virginia's record of inequality, striking though it was, was actually less than the norm across the South during the Age of Segregation. That is, teachers' salaries, for example, were less unequal in Virginia than they were in a number of other southern states. Regardless, compared with other southern states, Virginia supplies a fuller record of litigation challenging unequal schools in the 1940s, so it illustrates very well the discriminatory nature of segregated schooling in the years before Brown. The struggle after Brown ran much the same kind of course in Virginia as it did in the other southern states, in many of which Brown brought no change for the first several years—and not necessarily very much change thereafter.

Moreover, the persistence of largely segregated schools long after Brown could be found across the nation, outside the South as well as within the region. Even where some schools underwent considerable integration for a time, a process of resegregation in many instances reversed the tide of change. Fifty years after the Supreme Court's ruling in Brown v. Board of Education, many
white children had few black classmates, and many black children had few white classmates. Much had changed. Much had not.

SUGGESTED CLASSROOM EXERCISES

1) Play different roles—black or white, teacher or shop owner, elementary school student or high school student, college applicant or college graduate, migrant from farm to city in Virginia or from the South to the North—in considering the consequences of the great inequality that took place under "separate but equal," for example in the 1920s. What schooling was available for people in different groups? How might that matter in their lives? What have you learned?

2) Play different roles in handing out the state school fund in a segregated world in which schools are racially separate and black Virginians have no political say, for example in the 1930s. Make “dollar bills” to distribute to the school boards on the basis of school-age population, and take the exercise from there to see where the dollars go. Someone be the Virginia state school superintendent; a member of a local school board, one from the Blue Ridge and one from west of it; and a black teacher or a white teacher, one each in the east and the west. What have you learned?

3) Play different roles—arguing a case in federal court, for or against, a series of possible changes: equalizing salary schedules in the 1940s; equalizing curricular offerings in separate schools; equalizing physical facilities; or dismantling segregation in the 1950s or 1960s. What arguments do you deploy? How do you employ the Equal Protection Clause of the Fourteenth Amendment as regards "separate but equal"? What are the chances that you win? To be sure that everyone understands the debate, take turns on each side. As with the other exercises here, you are playing a role here, not necessarily projecting who you would want to be.

4) Assume that you are a high school senior in Virginia in early 1954. What is your racial identity? (Pick one, then another, in considering these questions.) What schools might you consider attending? Which schools are closed to you? What exceptions, if any, might there be to your exclusion? In your imagination, switch racial identities and consider your options again. If you keep changing the year you say you are graduating from high school—let ten years pass, then another ten—how might your answers to these questions change?

5) Play different roles, alternating between black and white, in a segregated school—is it black or white?—in the early 1940s and again a few years after the football quarterback, a cheerleader, the football coach, a math or French teacher (is there one?), the senior class president, the principal. Switch roles again, and play out these roles in a newly "de-segregated" formerly white high school in the 1960s. How do you feel? What do you see?

6) A half-century after the ruling in Brown, people speak of "re-segregation" in the public schools. What do you think they might mean by this term, what forces

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might explain such a development, and how is it brought about? How much, in your view, seems to have changed, in Virginia and elsewhere, in the schools and in other venues, as a consequence of the Brown decision?

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Peter Wallenstein teaches history at Virginia Tech and can be reached at <pwallens@vt.edu>. His books include The Encyclopedia of American Political History (2001; co-edited with Paul Finkelman); Tell the Court I Love My Wife: Race, Marriage, and Law—An American History (2002); and From VPI to State University: President T. Marshall Hahn Jr. and the Transformation of Virginia Tech, 1962-1974 (2004; co-authored with Warren H. Strother).