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A Former Governor'S Reflections On Massive Resistance In Virginia

Linwood Holton

A FORMER GOVERNOR'S REFLECTIONS ON MASSIVE RESISTANCE IN VIRGINIA

THE HONORABLE LINWOOD HOLTON*

"The Warren Court will outlaw segregation in the public schools of the South." Thus my father-in-law, Frank W. Rogers, a prominent Virginia lawyer whose offices were in Roanoke, chided me about the new Eisenhower Administration which I had, as Roanoke City Republican Chairman, worked so hard to help elect. Frank had already been disturbed by the new Postmaster General's proposal to abolish the small rural post office at Airpoint, Virginia where Frank got his mail in the summertime. That was bad enough, but the predicted action of the Supreme Court might to his mind be even worse!

"Not a chance!" I responded. I responded honestly, for my little world of collection cases, traffic court appearances, title examinations and insurance companies' subrogations didn't encourage regular reading of United States Supreme Court Reports, and I had no inkling that such a decision on school segregation might be imminent.

"Have you read the *Oklahoma* case?" he asked.[1] I had not.

"Have you read the *Texas* case?" he asked.[2] I had not. I remember that the look on his face told me that I should read both, but he said nothing more at the time.

Though forewarned, I was nonetheless totally shocked when I saw the *Roanoke World News* headline in the lobby of my office building on May 17, 1954: "Dual Schools Unlawful."[3] Then I read the *Oklahoma* case! And the *Texas* case! Frank's point was clear. The Court in those cases had given a gesture of approval to the doctrine of "separate but equal," but the factual situations indicated that any "separateness" based on color excluded any possibility of "equal." The Warren Court in *Brown v. Board of Education*,[4] by a nine to nothing vote, simply recognized existing reality and officially discarded the "separate but equal" doctrine for all time.

My instincts, essentially muted for the time being for pragmatic reasons, were of both commendation to the Court for its courage and relief that this official sanction of a set of second class citizens was over. But I knew that we were in for some exciting times!

The Governor of Virginia's reaction was quoted in the newspapers the very next day:

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* Linwood Holton served as Governor of Virginia from 1970 to 1974, and presently serves as President of Virginia's Center for Innovative Techology in Herndon, Virginia.

1. McLaurin v. Board of Regents, 339 U.S. 637 (1950).
2. Sweatt v. Painter, 339 U.S. 634 (1950).
3. ROANOKE WORLD-NEWS, May 17, 1954, at 1.
4. 347 U.S. 495 (1954).

> I am confident the people of Virginia will receive the opinion of the Supreme Court calmly and take time to carefully and dispassionately consider the situation before coming to conclusions . . . . I shall call together as quickly as practicable representatives of both state and local governments to consider the matter and work toward a plan which will be acceptable to our citizens and in keeping with the edict of the Court. Views of the leaders of both races will be invited . . . .[5]

There were various public indications that this calm approach, seeking both acceptability of the citizens of Virginia and compliance with the "edict of the Court," could gain general support from the people of Virginia. I detected a quite reasonable reaction, for example, from the members of the Roanoke Kiwanis Club, when in a luncheon speech I explained the background of the *Texas* and *Oklahoma* cases and suggested that the people of Virginia could be helped to understand the rightness of the Supreme Court decision.

I even suggested to the Sixth District Republican Convention, in a keynote speech in the early summer of 1954, that helping the people of Virginia adjust to these newly stated requirements of the Fourteenth Amendment was a leadership opportunity for the Republican Party of Virginia that might enable the Party to grow faster and sooner to obtain the needed status as part of a competitive two-party system. Not all of the delegates to that Convention agreed with my recommendation, but there was no open adverse reaction except for an editorial in one of the Lynchburg newspapers.

A deputation from the Virginia Council of Churches called upon the Governor in August to urge that he appoint a bi-racial commission composed of outstanding leaders from relevant professions, including men and women from our white and black colleges, and others who might "bring reasonable judgment to the situation."[6] The Baptist General Association of Virginia passed a resolution in November of 1955 declaring that "regardless of our own personal views, the decision of the United States Supreme Court declaring segregation of races in our public schools to be unconstitutional is the supreme law of the land . . . and as Christian citizens we should abide by this law."[7]

In June of 1955, the Richmond School Board, chaired at that time by Lewis F. Powell, Jr., recognized the "complicated problem of the changes in state law which may be necessary in view of the Supreme Court holding . . .," noted that the need for revision of local laws and regulations had been recognized by the Supreme Court, stated its intention to await establishment of State policy that would "undoubtedly leave a measure of discretion at the local level . . .," and made this emphasis, which it was to repeat in August of 1956:

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5. ROBIN L. GATES, THE MAKING OF MASSIVE RESISTANCE 28 (1962).
6. GATES, *supra* note 5, at 32.
7. GATES, *supra* note 5, at 51.

> The solution of these problems, in the best interest of all our people *and in a manner which will preserve the public school system under law* (emphasis supplied), is a matter of the utmost concern to the School Board, the administration and, we believe, to all citizens of Richmond.[8]

Indeed, it is significant that the report of Governor Stanley's Gray Commission itself must in retrospect be acknowledged to have advocated a moderate course in response to the Supreme Court's decision. That Commission was, contrary to the Governor's original statement, composed only of white, male legislators, but its assignment plan, which would leave decisions about admissions of children to specific schools largely to local school boards, and its tuition grant plan, which provided for tuition grants to any child assigned to an integrated school, implicitly recognized that there would be some integration in the public schools of Virginia. There was no suggestion in the report of the Gray Commission that public schools be closed to avoid integration, and there was no suggestion that section 129 of the Virginia Constitution, which required the maintenance of an "efficient system of public free schools throughout the State," be repealed or modified in any way.

There was other evidence in 1955, very convincing personally to me, supporting the proposition that some of the people of Virginia were not inclined to abandon their basic good judgment in response to the Supreme Court decision. I was a candidate that year to represent Roanoke in the House of Delegates. No Republican had ever run for that office before. Two strong Democratic incumbents were my opposition. And though I had publicly advocated compliance on some basis with the law of the land on the segregation issue, I was almost elected! Forty-nine percent of the vote, which I received, was most encouraging and was another positive step in the process of building a Republican Party that many of my friends and I had undertaken as early as 1952.

But on the other side, emotions and demagoguery were building. The "Defenders of State Sovereignty and Individual Liberties" was chartered by the State Corporation Commission on October 26, 1954. Its two major founders were residents of Prince Edward County, whose school board was one of the five defendants in the segregation cases. It was an organization that would pour no oil on the troubled waters of state.

The Defenders claimed a membership of about 12,000. Benjamin Muse in a 1957 *Harpers* magazine article correctly described this organization: "In Virginia 12,000 members of the Defenders of State Sovereignty have been more effective politically than 100,000 moderate citizens."[9] The group indeed was effective in selling its creed, and the following quotes from its June 1955 "plan for Virginia" forcefully articulate the essence of that creed:

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8. RICH. TIMES DISPATCH, Aug. 28, 1956, at 7.
9. GATES, *supra* note 5, at 174.

> We call upon the General Assembly to initiate procedures to amend Section 129 of the Constitution (which required the General Assembly to establish and maintain an efficient system of public free schools).
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> We call upon the General Assembly to . . . amend . . . the Constitution (so that) . . . state and local monies may be used to pay tuition . . . in private schools of children of localities in which it becomes necessary, as in Prince Edward, to close the public school . . . .
>
> We call upon the General Assembly to take out of our law all mention of compulsory education. We have yet to hear one single man advocate that compulsory education be retained in Virginia, and that any man be prosecuted and convicted who may elect to hold his child out of school rather than subject him to the degrading influences of an integrated school.
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> We call upon the General Assembly to enact such laws as may be needed to prevent the expenditure of one dollar of public monies, state or local, in the support and maintenance of any racially mixed public school.[10]

Some appreciation of the vigor and intensity with which these principles were advocated by the Defenders can be gleaned from a statement attributed to the State President of the Defenders given at a meeting of the Charlottesville Chapter in July 1955: "The worst obstacle we face in the fight to preserve segregated schools in the South is the white preacher. The patriots of Reconstruction had the preachers praying for them instead of against them."[11]

The tuition plan recommended by the Gray Commission required an amendment to the Virginia Constitution to permit tuition grants to be paid to private schools on behalf of children who might decline to attend an integrated public school. The referendum to call a constitutional convention to effect the required amendment was held on January 9, 1956. Though the campaign was rather spirited, only about three-fourths of the number of voters cast ballots as had voted in the Presidential election in 1952. The constitutional amendment called for by the Gray Commission was approved by a vote of 304,154 to 146,164.

It is not an overstatement to say that the advocates of continued segregated schools went wild! The editor of the *Richmond News Leader*, with full sanction of Governor Stanley and a number of prominent leaders in the General Assembly, "took off" on a tangent of interposition! The sovereignty of the Commonwealth of Virginia would be interposed against ". . . further encroachment by the Supreme Court, through judicial legis-

10. GATES, *supra* note 5, at 49.
11. GATES, *supra* note 5, at 50.

lation, upon the reserved powers of the state."[12] Resolutions of Interposition were approved by an overwhelming vote in both bodies of the General Assembly on February 1, 1956. The resolutions were of no substantive effect—Delegate Robert Whitehead quoted an anonymous member of the General Assembly: "The thunder roared, the lightning flashed and struck and a chigger was killed"[13]—but the appetites of the opponents of any integration increased and opportunities to reach reasonable solution dimmed. In an interview which Robin L. Gates conducted in August 1956 for his book, *The Making of Massive Resistance*, Senator Stuart B. Carter, of Fincastle, made the point that there had been no strong, white, state-wide leadership on behalf of maintaining an efficient system of public schools in Virginia, even if integrated.[14]

Enter Senator Harry Flood Byrd. "Passive resistance is the best course for us to take. The South should join together . . . I am strongly in favor of all the Southern States uniting. I hope they will. I believe they will."[15] Thus he was quoted in the *Richmond Times Dispatch* of February 15, 1956. It was based on a casual interview in a hotel lobby in Richmond before he made a scheduled speech which did not refer to the segregation question. But "passive resistance" became "massive resistance" in a statement issued by Senator Byrd on February 24, and the phrase became the banner under which the pro-segregation troops rallied. Governor Stanley's calm, careful and dispassionate consideration, advocated in his May 1954 statement, became on July 23, 1956:

> However, I cannot endorse or recommend any legislation, or action, which accepts the principle of integration of the races in the public schools. . . . I shall recommend enactment of an amendment to the appropriation act authorizing and directing the Governor to withhold from a locality certain state school funds whenever it is determined the public interest, or safety, or welfare so requires. . . .[16]

Obviously, in his view, the public interest, safety or welfare precluded the admission of one black child to the white schools of Virginia.

Massive resistance prevailed officially until January 19, 1959. The Virginia Supreme Court of Appeals on that day held that school closings and withholding of state funds to schools were in violation of the Virginia Constitution. A Norfolk federal district court on that day ruled that school closings pursuant to the "Stanley Plan" violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

Massive resistance thus served mostly to exacerbate emotions arrayed in a lost cause. The "Organization" headed by Senator Byrd survived for

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12. GATES, *supra* note 5, at 110.
13. GATES, *supra* note 5, at 116.
14. GATES, *supra* note 5, at 153.
15. GATES, *supra* note 5, at 117.
16. GATES, *supra* note 5, at 130.

a few more years. Republican Ted Dalton lost the 1957 Governor's race decidedly, whereas he had in 1953 run a very close race against Governor Stanley. Part of the wide margin by which Governor Almond won in 1957 was attributable directly to his support for "massive resistance" ("I'd rather lose my right arm than to see one nigra child enter the white schools of Virginia."[17]). I was defeated pretty soundly in a second race for the House of Delegates in 1957, after President Eisenhower found it necessary to send the 101st Airborne Division to Little Rock on September 24 to protect the constitutional right of black children to enter a formerly all white school.

On a personal note, I guess I was lucky. My participation in the 1958 debates in the General Assembly on the school closing issue might well have been such as to preclude my election as governor. But I came out all right.

What a sad occasion for Senator Byrd! He alone could have ensured that Virginia steer the original course recommended by Governor Stanley—calm, careful, dispassionate consideration to work toward a plan acceptable to our citizens and in keeping with the law of the land. He was urged to do so by Lewis Powell, who made a trip to Washington early in the massive resistance crisis in an unsuccessful attempt to persuade Byrd to abandon his position.[18] I think it fair to speculate that Stuart Saunders, CEO of Norfolk & Western Railway, and J. Harvie Wilkinson, Jr., CEO of State Planters Bank, who joined with Lewis Powell and others to form the Virginia Industrial Group, which is widely credited with convincing Governor Almond on economic grounds to support public education even if integrated, also sought a reversal from Senator Byrd. But he held out to the end, declining even to accept a telephone call from the Governor of Virginia, when he tried to call the Senator to report his decision to continue state support for public education.[19]

The archives which will repose in the building we dedicate this weekend at an appropriate occasion in the future reveal some detail of Senator Byrd's response to these entreaties. We know only that it was a negative response, and we know that the cost of massive resistance was terribly high and that we continue to pay part of the price for it.

The aftermath of Massive Resistance continued long after the Courts ruled that its key provisions were unconstitutional. Segregationists continued defiance; courts sought every means to force compliance with the requirements of the Constitution. The ultimate device, bussing to achieve racial integration, engendered a pinnacle of the bitterness that had accumulated through the years. Final decrees requiring cross-town bussing in Richmond

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17. Governor J. Lindsay Almond, Campaign statement, Jefferson High School, Roanoke, Va. (Fall 1957).

18. Robert A. Pratt, *A Promise Unfulfilled*, VA. MAG. OF HIST. AND BIOGRAPHY 423 (1991).

19. Governor Almond confirmed this report, which I have heard many times from various political reporters in Virginia, when Mrs. Holton and I visited Governor and Mrs. Almond in their home during the fall of 1985.

took effect in the summer of 1970—the summer of my first year as Governor of Virginia. Thus developed the particular challenge that integration presented to me and my family. We complied with the letter and the spirit of those decrees. Our children attended the public schools, substantially all black, to which they would have been assigned under those decrees if we had lived on private property. We set an example which I believe helped Virginians carry out their responsibilities to the system of laws embodied in our Federal and State Constitutions.

Our children were very special. They accepted their unique challenge to help achieve an integrated society and a climate of true racial harmony. They today recognize that racism and bitterness continue, but all now continue the effort in their respective fields of medicine, law, academia and government. The goal, stated in my inaugural address—to make Virginia a "model of race relations" based on an "aristocracy of ability"—was our goal then and is our goal today.