NAVIGATING THE "VIRGINIA WAY": HENRY L. MARSH, III, CIVIL RIGHTS, AND MOVEMENT LEADERSHIP

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ABSTRACT

This dissertation explores the legal work, political career, and leadership of Henry L. Marsh, III from the 1950s into the early years of the twenty-first century. The project investigates how Marsh navigated the complex politics of genteel Virginia, referred to as the "Virginia Way." The study also explores the leadership strategies Marsh used to negotiate Virginia's racial politics. Drawing on archival materials, oral history interviews, and other primary sources, I argue that Marsh skillfully worked within and in opposition to "Virginia Way" politics and masterfully maneuvered around and challenged Virginia's discriminatory laws, systems, and policies. Virginia's response to resist the ruling in *Brown v. Board of Education* placed Virginia at the forefront of the legal battles that would help fuel Massive Resistance. It also placed Marsh in the middle of civil rights politics and paved the way for his political career as the first black mayor of Richmond and as a Virginia state senator.

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APPROVAL OF THE DISSERTATION

This dissertation, "Navigating the 'Virginia Way': Henry L. Marsh, III, Civil Rights, and Movement Leadership," has been approved by the Graduate Faculty of the Curry School of Education in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

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This work is dedicated to:

The individuals, stories told and untold, who have fought in Virginia's battle for civil rights.

The lawyers and movement leaders who stood up to Massive Resistance in Virginia. Their persistent efforts paved the way for this and future generations to continue the fight for justice and civil rights.

My committed mother, Davida Nannette Wingfield. Throughout my life's journey she has crafted strategies to help me navigate healthcare and educational systems to the completion of this dissertation. I will forever be grateful for her nurture, love, and support from secondary school, through law school, and during my dissertation writing. This project embodies the spirit of her perseverance.

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CHAPTER ONE

INTRODUCTION AND OVERVIEW OF THE STUDY

This dissertation is a historical and legal analysis of Henry L. Marsh's work to desegregate Virginia's public schools and his leadership as an activist and politician in Virginia. Despite the legal and political challenges Marsh faced as a black lawyer and politician from the civil rights era of the 1960s through the early years of the twenty-first century, he attained high levels of success by leveraging a multiplicity of social and political interests in the Commonwealth. To a great degree, it was his legal and political maneuvering rather than direct "on-the-ground" tactics used by many civil rights activists and organizations that helped establish him as central figure in Virginia civil rights history.

Despite the legal acumen of Marsh and other Virginia lawyers and movement leaders during the years of school desegregation and Massive Resistance (1954-1982),¹ there are few studies about African American lawyers' and politicians' work on school desegregation in Virginia and not even one academic study exists on Henry Marsh. The

¹ These years cover the period immediately after the *Brown* decision to the end of Marsh's term as mayor of Richmond, Virginia.

lack of a comprehensive study of black lawyers' and movement leaders' in Virginia leave a void in the academic literature that hinders a deep understanding of the complicated legal and political strategies black lawyers and politicians often employed to bring about school desegregation and greater racial equality in Virginia.² This study addresses this oversight by examining the legal work and leadership of Henry Marsh, one of Virginia's most influential black leaders.

Born in 1933 in Richmond, Virginia, Henry Marsh was a protégé of legendary Virginia civil rights attorney Oliver Hill, who was a member of a civil rights legal team with Spotswood Robinson and commissioned by Thurgood Marshall to investigate school inequalities and prepare a legal strategy for dismantling segregationist laws.³ Growing up in Virginia during the 1930s, 40s and 50s, Marsh was reared in the apartheid culture of Jim Crow society. Later, under the mentorship of Oliver Hill and Samuel W. Tucker, he studied Virginia's legal and educational systems and learned how to navigate Virginia's seemingly tranquil Jim Crow politics called "The Virginia Way." Marsh is an ideal figure to study to understand how black lawyers and politicians navigated the Virginia Way because his career intersected law, politics, and black leadership in Virginia from the 1950s into the early years of the twenty-first century.

² Diane Ravitch, *The Death and Life of the Great American School System: How Testing and Choice are undermining Education* (New York: Basic Books, 2011).

³ Henry L. Marsh, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*, Jonathan K. Stubbs and Danielle Wingfield-Smith, Eds. (GrantHouse Publishers, 2018). See also Margaret Edds, *We Face the Dawn: Oliver Hill, Spottswood Robinson, and the Legal Team That Dismantled Jim Crow* (Charlottesville: University of Virginia Press, 2018). Edds argues that no one contributed more to the school desegregation efforts in Virginia than Oliver Hill and Spottswood Robinson.

Virginia's historic role in the Civil Rights Movement is important because it is where the monumental case, *Brown v. Board of Education*, had its roots.⁴ It is also where major movement leaders were born and where the foundational strategies for the advancement of black people were tested. As this dissertation explores systems of educational injustice and the laws that influenced those systems, it should be noted that Virginia was a significant battleground in the fight for educational equality in the United States.⁵

There are a several factors that make Virginia's educational and civil rights history essential to understand the national Civil Rights Movement. To begin, Virginia was a battleground for *Brown*, with *Dorothy Davis v. County School Board of Prince Edward*⁶ later being incorporated as one of the five cases that comprised this landmark Supreme Court decision. In the aftermath of *Brown*, Virginia filed more lawsuits than any other state. Many landmark decisions originated out of Virginia, and as a matter of

⁴ See James T. Patterson and William W. Freehling, *Brown v. Board of Education: A Civil Rights Milestone and its Troubled History* (Oxford University Press, 2011). One of the five cases heard by the Supreme Court that together is comprised *Brown v. Board of Education* (1954) included plaintiffs from Prince Edward County in Virginia. Barbara Johns and other students at the all-black Moton High School sparked the school desegregation efforts in Virginia.

⁵ See Jill Ogline Titus, Brown's Battleground: Students, Segregationists and the Struggle for Justice in Prince Edward County, Virginia (Chapel Hill: University of North Carolina Press, 2011) and Brian Daugherity, Keep on Keeping On: The NAACP and the Implementation of Brown vs. Board of Education in Virginia (Charlottesville, University of Virginia Press, 2016). See also Robert A. Pratt, "New Directions in Virginia's Civil Rights History," The Virginia Magazine of History and Biography 104 (Winter 1996): 151 and Brian Daugherity and Charles C. Bolton, eds., With All Deliberate Speed: Implementing Brown v. Board of Education (Fayetteville: University of Arkansas Press, 2008), vii.

⁶ On May 23, 1951 attorneys Oliver Hill and Spottswood Robinson sued Prince Edward County for the abolition of segregation on behalf of the parents of Prince Edward students in the suit *Dorothy Davis v. County School Board of Prince Edward*.

fact, fifteen years before freedom rides, a Virginian woman named Irene Morgan filed the first lawsuit to desegregate bus transportation systems.⁷ Some of the best legal minds in the movement came to combat Virginia's subtle, yet impactful, discriminatory system. Yet, there is a paucity of scholarship on lawyers and the Civil Rights Movement in Virginia. In addition, the scholarship on civil rights, education, and Massive Resistance in Virginia have focused on state-level political developments and judicial rulings, Prince Edward County and the effects of the larger *Brown* decision, and several well-known historical Virginia figures of the movement. As such, historians have studied Virginia's desegregation process and some of its key leaders, but few have studied black Virginia lawyers, leaders, and their strategies to fight Massive Resistance.⁸

This dissertation analyzes Henry Marsh's legal work and leadership in civil rights state politics in Virginia from 1952 to the first decade of the twenty-first century. I argue that Marsh crafted and executed strategies of jurisprudence that thwarted seemingly insurmountable discriminatory laws, systems, and policies. His approach, I contend, allowed him to maneuver the tenuous relationship between the educated black citizenry in Richmond and the genteel "Virginia Way" politics of the white politicians in the state. This study examines not only Henry Marsh as a civil rights lawyer, politician, and leader,

⁷ Virginia History Explorer Collection, "Jim Crow to Civil Rights in Virginia," Virginia Museum of History and Culture, https://www.virginiahistory.org/collections-and-resources/virginia-history-explorer/jim-crow-civil-rights-virginia.

⁸ Matthew D. Lassiter and Andrew B. Lewis, *The Moderates' Dilemma: Massive Resistance to School Desegregation in Virginia* (Virginia: University Press of Virginia, 1998). See Daugherity, *Keep on Keeping On*. See also Robert Pratt *The color of their skin: Education and race in Richmond, Virginia, 1954-89* (Virginia: University of Virginia Press, 1993).

but it also explores the unique set of circumstances surrounding school desegregation, Massive Resistance, and Virginia's complex racial politics.

Several questions guide this study:

- 1. What was the social-political environment in Virginia during Marsh's time as a lawyer, politician and leader?
- 2. What influenced Marsh's thinking about education and the law?
- 3. How did Marsh navigate the legal and political terrain of Virginia in his efforts to desegregate schools?
- 4. What leadership strategies did Marsh use to traverse Virginia's racial politics?

Recent cases like *Fisher vs. University of Texas at Austin*,⁹ newly implemented education policies,¹⁰ and social movements like Black Lives Matter,¹¹ reflect the ongoing struggle for racial equality in education. Exploring the work and leadership of Marsh and

⁹ See *Fisher v. University of Texas at Austin* (Fisher II), 576 U.S. (2016), which declared that policies created to right the wrongs of educational disparity are no longer necessary.

¹⁰ These policies include No Child Left Behind and Common Core that cite goals of closing achievement gaps and the promotion of equality in education, which are indicative of issues that are not new.

¹¹ Black Lives Matter began as a social media campaign speaking against the police brutality of African Americans; it has since emerged into a movement of black empowerment and social justice as it concerns the violence that many Blacks face at the hand of corrupt systems daily. See Sue Edwards Bradford and Duchess Harris, *Black Lives Matter* (ABDO, 2016).

others might offer insight into ways we might address racial inequality in education today.

Overview of the Literature

This study situates Henry L. Marsh within national and Virginia school desegregation and civil rights historiographies. Over the past decade and a half, the literature on civil rights lawyers has grown. However, much of this work focuses on the role that lawyers and the legal system played in dismantling Jim Crow. Not as much work has been done to document the history of individual black lawyers, like Marsh, their role in school desegregation in general, and the role they played as political leaders. This biographical case study of Marsh will provide a complicated and nuanced understanding of black lawyers, politicians, and leaders in Virginia during and after the Civil Rights Movement. The secondary literature helps situate Marsh in the context of legal histories of civil rights.

Massive Resistance and the Virginia Way

While the scholarship regarding the response to the *Brown* Supreme Court decision in the South is vast, historical accounts of Virginia's response to *Brown*, coined the "Massive Resistance" movement, is fairly limited. Even more limited are historical accounts of Virginia's civil rights lawyers' role in leading the fight against Massive Resistance. In 1951, Barbara Johns brought attention to the deplorable condition of the black school system in Prince Edward County, VA. At a meeting with NAACP lawyers her complaints were placed in context with the new NAACP policy to stop taking cases

seeking to enforce separate but equal education, but rather were seeking to make segregation in the school system unconstitutional.¹² A motion was filed contesting the constitutionality of segregation in Prince Edward along with four other cases, which together served as the basis for the *Brown v. Board of Education* case.¹³ In one of the cases, *Corbin v. Pulaski*, the district court ruled against the plaintiff. The case was appealed to a higher court and the decision was reversed. Despite this victory, nothing was done to comply with the court's ruling. Consequently, a meeting was held with a judge to discuss the issue, who himself vehemently refused to enforce the law.

Ultimately, *Brown v. Board of Education* ruled in favor of desegregated schools. Despite the ruling, Democratic Senator Harry F. Byrd, Sr. of Virginia began a campaign he called "Massive Resistance," which instituted new policies and laws in Virginia and other states to prevent the desegregation of schools.¹⁴ There are few detailed histories published on the specific subject of Virginia's Massive Resistance. The earliest scholarship was written in the 1960s. Benjamin Muse was one of the first scholars to contribute in-depth analyses on the movement in *Virginia's Massive*

¹² Shmoop Editorial Team, "Civil Rights Movement: Desegregation Timeline of Important Dates," *Shmoop University, Inc.*, 11 November 2008, http://www.shmoop.com/civil-rights-desegregation/timeline.html (accessed January 13, 2015).

¹³ Brown v. Board of Education, 347 U.S. 483 (1954).

¹⁴ Numan Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950s* (Louisiana State University Press, 1999).

Resistance.¹⁵ Robbins L. Gates published his study of the subject three years later.¹⁶ Muse, a journalist, used mainly journal articles and other primary sources to discuss the political machine behind Massive Resistance, denouncing this machine as white supremacist politics. Gates, expanding upon the perspective of Muse, notes that the plans behind Massive Resistance could not, for the most part, be attributed to legislators across the board, but rather to a subgroup driving the movement from Southside Virginia, an area with high concentrations of black residents.

As with Muse and Gates, many books on the subject were published in the 1960s and 1970s, with some scholarship thereafter. Most authors focused on local conservative political machines, their inner workings, and motives for orchestrating the plans behind the blatant obstruction of the *Brown* decision.¹⁷ New perspectives on the issue have shifted from Gates and Muse's classic perspectives now including the theory that Massive Resistance was driven primarily by a few extreme racist conservatives and highlights the role of moderates who stood in opposition to Massive Resistance rather than focusing on conservative politics as a whole.¹⁸

¹⁵ Benjamin Muse, Virginia's Massive Resistance (Bloomington: Indiana University Press, 1961).

¹⁶ Robbins L. Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation*, 1954-1956 (Chapel Hill: University of North Carolina Press, 1964).

¹⁷ For examples of this conservative perspective, see Muse, *Virginia's Massive Resistance*; Gates, *The Making of Massive Resistance* and Andrew Buni, *The Negro in Virginia Politics* (Charlottesville: University Press of Virginia, 1967).

¹⁸ For examples of dissenting perspectives from classic accounts, see Bob Smith, *They Closed Their Schools: Prince Edward County*, Virginia 1951-1964 (Chapel Hill: University of North Carolina Press, 1965); J. Harvie Wilkinson III, *Harry Byrd and the Changing Face of Virginia Politics, 1945-1966* (Charlottesville: University Press of Virginia, 1968); James W. Ely, *The Crises of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance* (Knoxville: University of Tennessee Press,

Bob Smith, also slightly dissenting from the status quo, presents an interesting argument that Virginia's Massive Resistance was not representative of the height of power within the ranks of white supremacy, but rather a last-ditch effort to maintain control.¹⁹ Interestingly, in the 90s, commentaries took a completely different approach focusing on white moderates who courageously spoke out in opposition to Massive Resistance.²⁰ Missing from the conversation are the voices of black leaders who fought for desegregation and justice within Virginia's school systems. In studying Marsh, I seek to add insight on the work of black lawyers, politicians, and leaders in Virginia.

Black Lawyers and Politicians in the Movement

In *Representing the Race*, Kenneth Mack states that black lawyers struggled to position themselves within the legal vocation.²¹ In making his case, Mack provides biographies of civil rights lawyers spanning from the mid-nineteenth century to the early twenty-first century. He argues that John Mercer Langston's admission to the Ohio bar in 1854 sparked the drive in black American lawyers to practice law in a way that reflected well on their race. Mack suggests that lawyers' roles in civil rights is inherent

^{1976);} and Alexander Leidholdt, *Standing Before the Shouting Mob: Lenoir Chambers and Virginia's Massive Resistance to Public-School Integration* (Tuscaloosa: University of Alabama Press, 1997).

¹⁹ Smith, They Closed Their Schools.

²⁰ See Leidholdt, *Standing Before the Shouting Mob* and Lassiter and Lewis, *The Moderates; Dilemma*.

²¹ Kenneth Mack, *Representing the Race: The Creation of the Civil Rights Lawyer* (Cambridge: Harvard University Press, 2012).

just by the weight of the race on their shoulders, despite their specialty in law. The lawyers followed by Mack in his book include John Mercer Langston, Thurgood Marshall, Cecil B. Moore, Curtis Carson, Loren Miller, Pauli Murray, among others. Absent from Mack's work are southern black lawyers, especially those from the Deep South. Mack suggests that lawyers in places like Atlanta, Nashville, and southeastern Virginia lived in a world strikingly different from civil rights lawyers in other parts of the country.²² Despite this omission, *Representing the Race* provides invaluable contribution to civil rights history scholarship focusing on both legal and social history.

While many histories focus on major cases and are court-centered, there are several biographical examinations of black lawyers during the civil rights era and beyond.²³ At the heart of Mark Tushnet's civil rights history is Thurgood Marshall and other NAACP lawyers.²⁴ Tushnet traces the NAACP in its pursuit to challenge segregation in education using the law, and in doing so pays particular attention to the strategies employed and ways those strategies were modified or affected. This study

²² Ibid., 9-10.

²³ For other civil rights lawyers' biographies, see Morris Dees and Steve Fiffer, *A Season for Justice: The Life and Times of Civil Rights Lawyer Morris Dees* (Touchstone, 1992); Carl Thomas Rowan, *Dream Makers, Dream Breakers: The World of Justice Thurgood Marshall* (Little, Brown & Company, 1993); and Kenneth Mack, "A Social History of Everyday Practice: Sadie T. M. Alexander and the Incorporation of Black Women into the American Legal Profession, 1925-60," 87 Cornell Law Review 1405 (2002).

²⁴ Mark V. Tushnet, *The NAACP's Legal Strategy Against Segregated Education*, 1925-1950 (1987). Mark V. Tushnet, *Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961 (New York: Oxford University Press,* 1994).

focuses on legal and political strategies in a manner similar to Tushnet's attention on the legal and political strategies of the NAACP.

Maurice Daniels situates Georgia's history of civil rights around the life of black lawyer Donald L. Hollowell in *Saving the Soul of Georgia* and shows the role that black lawyers played behind the scenes to bring about equality for African Americans.²⁵ Likewise, Genna Rae McNeil's contribution to American legal history with *Charles Hamilton Houston and the Struggle for Civil Rights* documents Houston's role in desegregating schools.²⁶ McNeil moves beyond merely situating Houston in the civil rights struggle, but also places Houston within the context of civil rights leaders in the three decades before the 60s. In this biography, McNeil chronicles Houston's work as a civil rights attorney and analyzes his legal methods and intellectual thought. Daniels work on Hollowell and McNeil's work on Houston, in many ways, represents what this study attempts to do for Marsh. Still, there are stories yet to be told as it relates to the work of lawyers in different aspects of the Civil Rights Movement.

This dissertation seeks to also explore Marsh's leadership and political maneuvering as a mayor and senator. Several historians have explored how politicians crossed the terrain of urban America and the South in the civil rights and post-civil rights

²⁵ Maurice Daniels, *Saving the Soul of Georgia: Donald Hollowell and the Struggle for Civil Rights* (Athens: The University of Georgia Press, 2013).

²⁶ Genna Rae McNeil, *Charles Hamilton Houston and the Struggle for Civil Rights* (Philadelphia: The University of Pennsylvania Press, 1983).

era.²⁷ The Civil Rights Movement in the 1960s would be the first opportunity for any substantial work on black males in movement leadership. While historians often recount the historic triumphs and missteps of social activists, lawyers, educators, politicians and other important historical movement leaders, a theoretical assessment of the role that political leadership plays in social movements like the Civil Rights Movement is not always the context that the history is placed within.

According to sociologist Aldon Morris, "Current social movement theory has made little progress in the analysis of social movement leadership. Movement scholars have too readily assumed that movement leadership is a matter of common sense not requiring theoretical analysis. The Civil Rights Movement reveals, however, that movement leadership is a complex phenomenon that remains unexplored..."²⁸ This dissertation seeks to add understanding to the "complex phenomenon" of black leadership through its exploration of the life of Henry Marsh. Famous black leaders like A. Philip Randolph, Booker T. Washington, W.E.B. Du Bois, Martin Luther King, Jr., Malcolm X, and Thurgood Marshall are often the topic of study as it involves the Civil Rights Movement. While some scholars begin to uncover the contributions of leaders in the movement, there is a space for a deeper historical analysis of how black elected

²⁷ See Maurice J. Hobson, *The Legend of the Black Mecca: Politics and Class in the Making of Modern Atlanta* (Chapel Hill: University of North Carolina Press, 2017).

²⁸ Aldon Morris, A Retrospective on the Civil Rights Movement: Political and Intellectual Landmarks, Annual Review of Sociology Vol. 25:517-539, 537, 1999, https://doi.org/10.1146/annurev.soc.25.1.517.

movement leaders and lawyers furthered the black agenda with regards to how they advocated for civil rights and social justice.

Significance of the Study

The fight for equal education has historically been ground zero in Blacks' struggle for equal rights. Studying Marsh as a lawyer, movement leader and politician provides insight into complicated and complex strategies and leadership styles of black lawyers during Virginia's Civil Rights Movement. It also provides a complicated understanding of leadership styles that may have been necessary for a black person to successfully assume leadership in the civil rights and post-civil rights era Virginia.

Other research efforts related to Massive Resistance and the fight for educational equality avoid a historical analysis of black lawyers and politicians as social movement leaders. This historical lens is also a useful exploration as it concerns the leadership and inner workings of social movements and may provide important notes for today's social activists and leaders of emerging social movements. By examining the legal and political maneuvering of Henry Marsh, this dissertation will investigate the varied legal and political approaches that movement leaders took in the Civil Rights Movement to dismantle desegregated schools and counter Massive Resistance in Virginia. Marsh is a biographical case study of black lawyers and movement leaders during the Jim Crow era and can provide great insights into how activists and organizers might engage the political system today regarding various social movements and issues.

Methodological Approach

This study is a historical and legal analysis. It draws on both primary and secondary sources to provide a complete picture of the Civil Rights Movement. The primary sources include: Marsh's personal papers; over fifty oral history interviews; The Byrd Collection, Byrd Papers, and Massive Resistance Collection at the Albert and Shirley Small Special Collections at the University of Virginia; NAACP papers at the Library of Congress; archives at the Valentine Museum; and interviews from the digital archives of the University of Virginia and Virginia Commonwealth University. Further, I explore case law that includes more than fifty school desegregation cases Marsh handled as well as hundreds of other cases in which Marsh was involved.²⁹ Additionally, this

²⁹ See Adams v. School District Number 5, Orangeburg Co., SC, 444 F.2d 99 (4th Cir., 1971); Bell v. School Board of Powhatan County, Virginia, 321 F.2d 494 (4th Cir., 1963); Beckett v. School Board of City of Norfolk, Virginia, 269 F.Supp. 118 (E.D. Va., 1967); Beckett v. School Board of the City of Norfolk, 302 F.Supp. 18 (E.D. Va., 1969); Beckett v. School Board of City of Norfolk, 308 F.Supp. 1274 (E.D. Va., 1969); Betts v. County School Board of Halifax County, Virginia, 269 F.Supp. 593 (W.D. Va., 1967); Bowman v. County School Board of Charles City County, Va., 382 F.2d 326 (4th Cir., 1967); Bradley v. School Board of City of Richmond, Virginia, 317 F.2d 429 (4th Cir., 1963); Bradley v. School Board, City of Richmond, Va Gilliam v. School Board, City of Hopewell, Va, 382 U.S. 103, 86 S.Ct. 224, 15 L.Ed.2d 187 (1965); Bradley v. School Board of City of Richmond, Virginia, 345 F.2d 310 (4th Cir., 1965); Brown v. Board of Education, 347 U.S. 483 (1954); Brewer v. School Board of City of Norfolk, Virginia, 397 F.2d 37 (4th Cir., 1968); Brewer v. School Board of City of Norfolk, Virginia, 434 F.2d 408 (4th Cir., 1970); Brewer v. School Board of City of Norfolk, Virginia, 456 F.2d 943 (4th Cir., 1972); Brewer v. School Bd. of City of Norfolk, Va., 500 F.2d 1129 (C.A.4 (Va.), 1974); Buckner v. County School Board of Greene County, Virginia, 332 F.2d 452 (4th Cir., 1964); Calhoun v. Cook, 487 F.2d 680 (5th. Cir., 1973); City of Richmond v. Croson Company, 488 U.S. 469, 109 S.Ct. 706, 102 L.Ed.2d 854 (1989); Copeland v. School Board of City of Portsmouth, Virginia, 464 F.2d 932 (4th Cir., 1972); Dillard v. School Board of City of Charlottesville, Va., 308 F.2d 920 (4th Cir., 1962); Downing v. School Board of City of Chesapeake, Virginia, 455 F.2d 1153 (4th Cir., 1972); Franklin v. County School Board of Giles County, 242 F.Supp. 371 (W.D. Va., 1965); Gilliam v. School Board of City of Hopewell, Virginia, 345 F.2d 325 (4th Cir., 1965); Griffin v. Board of Supervisors of Prince Edward County, 322 F.2d 332 (4th Cir., 1963); Griffin v. Board of Supervisors of Prince Edward County, 339 F.2d 486 (4th Cir., 1964); Griffin v. State Board of Education, 239 F.Supp. 560 (E.D. Va., 1965); Green v. School Board of City of Roanoke, Virginia, 428 F.2d 811 (4th Cir., 1970); Greene v. School Bd. of City of Alexandria, 494 F.Supp. 467 (E.D. Va., 1979); Hart v. County School Board of Arlington Cty., Virginia, 329 F. Supp. 953 (E.D. Va., 1971); McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950); Medlev v. School Board of City of Danville, Virginia, 350

research uses the Afro-American, Daily Press, Richmond Sunlight, Richmond Times Dispatch, Washington Post, New York Times, and other newspapers as primary sources.

I have drawn extensively from the ideas of historian Tomiko Brown-Nagin who analyzes how the Civil Rights Movement overlaps with education law and policy. Brown-Nagin advises that there is a need to address the gap in literature concerning "whether the election of representatives and the reality that Blacks now had an electoral voice substantially furthered the agendas of African-American leaders in areas of policy such as education, employment, housing, health care, public accommodations, and transportation." This study provides a deeper analysis of this issue by offering an indepth understanding about the legal and political activism and leadership of Henry Marsh.³⁰ An historical analysis will help understand the climate in which Marsh and other civil rights lawyers and political leaders were working while trying to manage the

F.Supp. 34 (W.D. Va., 1972); Medley v. School Board of City of Danville, Virginia, 482 F.2d 1061 (4th Cir., 1973); Morgan v. Commonwealth of Virginia, 328 U.S. 373 (1946); Norris v. State Council of Higher Education, 327 F.Supp. 1368 (E.D. Va., 1971); Pettaway v. County School Board of Surry County, Va., 230 F.Supp. 480 (E.D. Va., 1964); Riddick by Riddick v. School Bd. of City of Norfolk, 627 F.Supp. 814 (E.D. Va., 1984); Riddick by Riddick v. School Bd. of City of Norfolk, 784 F.2d 521 (C.A.4 (Va.), 1986); Shelley v. Kraemer, 334 U.S. 1 (1948); Smith v. Allwright, 321 U.S. 649 (1944); Sweatt v. Painter, 339 U.S. 629 (1950); Thompson v. County School Bd. of Hanover County, 252 F.Supp. 546 (E.D. Va., 1966); Thompson v. School Board of City of Newport News, Va., 465 F.2d 83 (4th Cir., 1972); Thompson v. School Board of City of Newport News, Va., 363 F.Supp. 458 (E.D. Va., 1973); Thompson v. School Board of City of Newport News, Va., 498 F.2d 195 (4th Cir., 1974); Turner v. County School Board of Goochland County, Va., 252 F.Supp. 578 (E.D. Va., 1966); United States v. Nansemond County School Board, 351 F.Supp. 196 (E.D. Va., 1972); Walston v. County School Board of Nansemond Ctv., Va., 492 F.2d 919 (4th Cir., 1974); Walston v. School Bd. of City of Suffolk, 566 F.2d 1201 (C.A.4 (Va.), 1977); Wilder v. Johnson Pub. Co., Inc., 551 F.Supp. 622 (E.D. Va., 1982); Wright v. County School Board of Greensville County, Va., 252 F.Supp. 378 (E.D. Va., 1966); Wright v. County School Board of Greensville County., VA., 309 F. Supp. 671 (E.D. Va., 1970).

³⁰ Tomiko Brown Nagin, *Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement* (New York: Oxford University Press, 2011).

perpetual conflict to strike a balance in the precarious relationship between state's rights and Black's educational rights.

Historians like Brown-Nagin blend the methodologies of legal and social history to push past the traditional understanding of legal history and the Civil Rights Movement as revealed by court cases and legislation by digging deeper into the revelations and narratives constructed from stories lived out by lawyers and leaders on the ground.³¹ Brown-Nagin suggests that "the stories that scholars tell about the past define future by opening or closing our eyes to the ways in which our socio-legal structures can contribute to the betterment of the nation-state..."³² Blending legal and social history enables the exploration of Marsh's leadership style within the context of Richmond's politics. Additionally, as V.P. Franklin suggests, this approach makes it possible to document the pragmatism of movement leaders such as Marsh, exposing the thought processes of black legal and political strategists.

In 1952, two years before the *Brown* ruling was handed down, Marsh graduated from high school. Already steeped in cases, bequeath him by his mentor, he embarked on a journey that would lead him to the forefront of the Civil Rights Movement. This was a time of unprecedented obstructionary tactics by white supremacists seeking to counter laws mandating segregation. Within the context of this narrative, this study seeks to utilize Marsh's life as a historical reference that will lend in-depth insight for more

³¹ See Ibid. for an example of this methodological approach.

³² Tomiko Brown-Nagin, "The civil rights canon: Above and below," Yale LJ 123, (2013): 2698.

accurate conclusions regarding: the state of education for black Americans, previous to the Brown ruling; an assessment of the political climate in Virginia where the foundations of educational reform and the resistance of those reforms were laid; how laws impacted educational opportunities for black people; and the identification of successful methods and tools for educational achievement among black people and the achievement of educational equality in general.

Researcher as Instrument

As a native of Prince Edward County, Virginia, I have been closely associated with the aftermath of Virginia's Massive Resistance. Prince Edward County, Virginia was ground zero of Massive Resistance in 1956 where the schools closed rather than desegregate. As a child of the region, I witnessed firsthand the disparities that exist between Blacks and their white counterparts and my grandparents and other relatives were denied access to public schooling as a result of school closings in Prince Edward County.

As an attorney with specializations in family and education law, my interests intersect the history of education and defending the rights of underprivileged persons and children in Virginia. University of Richmond Law Professor Jonathan Stubbs and Danielle Wingfield-Smith edited Marsh's memoirs, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*. My close association with Dr. Stubbs and Senator Marsh have created the opportunity to receive firsthand accounts of leaders in the movement that I would not otherwise have had access to, particularly as it relates to leaders based in the State Capital and in Southside, Virginia.

As an African American legal historian of education, I am cognizant of the challenges I face studying an individual that I admire and whose work I respect. As a result, I am aware of the tendency to engage in hagiography rather than serious historical analysis. To address this issue, I employ several strategies suggested by historian Derrick P. Alridge as they relate to subjectivity and objectivity for the historian studying her or his own community. In "The Dilemmas, Challenges, and Duality of an African American Educational Historian," Alridge argues that the researchers studying their own community should employ Sandra Harding's concept of "strong objectivity," which entails being forthright in admitting my subjectivities, but to also triangulate my sources to obtain the most objective interpretation of Marsh as possible.

I also approach this study "understanding the self" and that components of this research requires filtering and scripting oral history through my personal experiences. I, as the researcher, am the research instrument in oral history and "just as the dancer stretches to sharpen technique, the oral historian sharpens and stretches the research instrument" as well.³³ It is important to realize that we [historians] want to "hear the stories of these individuals, take pains to record on tape and even type transcripts of stories about the past because we want to understand the lives of those whom we

³³ Valerie J. Janesick, Oral History for the Qualitative Researcher: Choreographing the Story (New York: Guilford Press, 2010).

interview in order to understand ourselves and our world... we are regularly documenting multiple individuals to make sense of our world."³⁴ As a historian and native of Virginia, I approach this work with understanding of my subjectivity while also striving to be as objective as possible.

Organization of Chapters

Chapter One begins with an introduction and overview of the study including: historiographical context, purpose of the study, significance of the study, methodological approach, assumptions, and the organization of chapters. Chapter Two details Marsh's early life and education discussing the historical and socio-political context of Virginia, Marsh's elementary years and early cognitive development in Isle of Wight County, high school in Richmond, Virginia, and college years at Virginia Union and Howard University Law School. Chapter Three delves into Marsh's years as a young attorney, his fight against Massive Resistance and his making into a civil rights lawyer. Chapter Four presents the story of Marsh's political career detailing his terms as the first black mayor of Richmond, Senator, and Commissioner. Chapter Five considers Marsh's evolving leadership approach for navigating the "Virginia Way." Chapter Six summarizes and offers findings and implications for contemporary education.

³⁴ Ibid., 6.

CHAPTER TWO MARSH'S EARLY LIFE AND EDUCATION

This chapter examines Marsh's early life and education in Southeastern Virginia, during his elementary years and early cognitive development in Isle of Wight County, High School in Richmond, and college years at Virginia Union University and Howard University School of Law. His educational experiences in Southeastern Virginia during the Great Depression and World War II periods had a profound impact on his development as a future civil rights attorney and leader. The chapter discusses how these experiences formed a foundation for his future work as an activist, lawyer, and political leader.

Historical Context

Born into the Age of the "New Negro"

Marsh was born in the era of the "New Negro." According to philosopher Alain Locke, the "New Negro" emerged between 1920 and 1940. This period was the beginning of black Americans' greater focus on creative expression of black culture, equal rights, and self-determination. "¹ After World War I many Blacks moved from the South to the upper states. This shift northward was a segue into what is known as "the New Negro Movement." ² In 1916 the New Negro Movement commenced. This marked a period of time when Blacks decided to speak out against the injustices ushered into society under Jim Crow. Blatant discrimination and inequity in all its forms was not to be tolerated any longer. A new order was instituted in American democracy centered on the foundations of black power; it was the birth of the New Negro.³

As the country shifted from agriculture and the simplicity of rural living, the urbanization of America took hold. The early 1920s marked a boon in the stock market, more than doubling the total wealth of Americans. As remarkable as the boon was, it came to an abrupt halt with the stock market crash of 1929.⁴ The crash had come as a result of the credit explosion, the practice of taking out loans to purchase stock, the overproduction of goods, profit losses in the agricultural sector, and unrealistic expectations relative to investment strategies which leaned heavily on the stock market.⁵ The crash marked the beginning of the Great Depression.

¹ Alain Locke, *The New Negro* (New York, NY: Simon & Schuster, 1997).

² Ibid., 285.

³ Locke, *The New Negro*.

⁴ Earl Lewis, *In their own interests: race, class, and power in twentieth-century Norfolk, Virginia* (Berkeley: University of California Press, 1991). "The Roaring Twenties," History.com, 2010, accessed February 08, 2017, http://www.history.com/topics/roaring-twenties.

⁵ Eugene N. White, "The Stock Market Boom and Crash of 1929 Revisited," *Journal of Economic Perspectives* 4, no. 2 (1990): 67-83.

The New Negro Movement, also known as the Harlem Renaissance, was also affected. Even Locke, who is known as the father of the Harlem Renaissance, acknowledged that in spite of the success of The New Negro, there had been no way to insulate upwardly mobile Blacks, also noting that the Crash of 1929 and the ensuing Depression had "effectively destroyed" the New Negro Movement. However, for many Blacks, the 1920s had been a time of extreme poverty all along and many did not even realize the Great Depression had begun.⁶

Not only was the economic situation not new for many Blacks, but using legislation to control and reinforce the racial hierarchy of Jim Crow South continued. In the 1920s, Virginia led the way in using laws to subjugate undesired populations.⁷ Jim Crow laws were instituted by social order and the law enforced racial segregation and "preserved whiteness" in the South between the end of Reconstruction in 1877 and the Civil Rights Movement (in the 1960s). In January of 1924 nearly two thousand Virginians petitioned the General Assembly to legislate racial purity, which resulted in the Racial Integrity Act that forbade a white person to marry outside of his race.⁸ Despite the fact that people of different ethnicities had participated in "race mixing" since the first European settlement in Jamestown, VA in 1607, there was an asserted effort to classify "white" as a person with a pure Western European bloodline, devoid from blood from

⁶ Lewis, In their own interests, 111.

⁷ Lisa Lindquist Dorr, "Arm in Arm: Gender, Eugenics, and Virginia's Racial Integrity Acts of the 1920s," *Journal of Women's History* 11, no. 1 (1999): 150.

⁸ Ibid.

any other people group. This became known as the one drop rule.⁹ Interestingly, John Smith, an English settler, and Pocahontas, a Native American, were legally married only seven years after settlers arrived in Jamestown. Yet, Virginia was the first state to bar interracial marriage and interracial sex. This law would persist until the 1967 *Loving* decision that said that forbidding mixed marriages was unconstitutional.¹⁰

While Virginia's political elite worked hard to improve conditions within the manufacturing industry, Blacks remained the object of racially charged violence under Jim Crow and lynching continued to increase during the Depression.¹¹ In the 1920s Whites continued to legislate discriminatory policies forcing Blacks to migrate northward in an effort to escape oppression.¹² This period marked the emergence of black political militancy that would continue into the 1930s. Examples of such laws included the Public Assemblages Act of 1926, which said that all meeting places had to be segregated, and "the one drop rule," which was codified by the Code of Virginia in 1930 (a revision of the code from 1887).¹³

⁹ Brendan Wolfe, "Racial Integrity Laws (1924–1930)," (November 4, 2015, accessed February 08, 2017, http://www.encyclopediavirginia.org/racial_integrity_laws_of_the_1920s).

¹⁰ Loving v. Virginia, 388 U.S. 1 (1967).

¹¹ J. Douglas Smith, *Managing White Supremacy: Race, Politics, and Citizenship in Jim Crow Virginia* (Chapel Hill: University of North Carolina Press, 2002), 32.

¹² Ibid.

¹³ Colored persons and Indians defined, Code of Virginia (1930), § 67, "—Every person in whom there is ascertainable any negro blood shall be deemed and taken to be a colored person, and every person not a colored person having one-fourth or more of American Indian blood shall be deemed an American Indian; except that members of Indian tribes living on reservations allotted them by the Commonwealth of Virginia having one-fourth or more of Indian blood and less than one-sixteenth of negro blood shall be

From the Great Depression to the New Deal

The Depression spanned from 1929 to 1939 and affected the entire world. Outside of the huge financial losses that bankrupted many millionaires as well as half the lending institutions in America, the Depression was primarily marked by a great loss of jobs. The United States and Germany experienced the most significant unemployment with rates reaching fifteen percent. The poor were harshly affected.¹⁴ By 1932 some places were experiencing unemployment rates up to fifty percent; many lost their homes, farms, and jobs.¹⁵ Franklin Delano Roosevelt was sworn in as president in the spring of 1933. Henry L. Marsh, III was born in December of the same year. Primarily through government programs and reforms, in conjunction with pre-war efforts, the Gross National Product was restored to its pre-depression level and the depression came to an end.

Prior to World War II in 1939, the Roosevelt administration enacted social programs to address the economic state of emergency that had crippled a once thriving America.¹⁶ Though equality for Blacks was not the primary focus of the New Deal, the empathetic posture of the Roosevelt administration and of his wife humanized the plight

deemed tribal Indians so long as they are domiciled on said reservations." See *Loving v. Virginia*, 388 U.S. 1 (1967).

¹⁴ Studs Terkel, *Hard times: An oral history of the Great Depression* (The New Press, 1970).

¹⁵ Ibid.

¹⁶ Ronald L. Heinemann, *Depression and New Deal in Virginia: the enduring dominion* (Charlottesville: University Press of Virginia, 1983).

of Blacks. This began to set the stage for a national discourse that allowed black people and their allies to organize communications and protest strategies that would ensue a decade after the war. In the meantime, the New Deal programs benefited both Blacks and Whites alike. During the Depression Whites had begun to take the menial jobs formerly reserved for Blacks, further pressing Blacks into the economic margins of American society.¹⁷ With the New Deal even Blacks made gains in the area of employment. Programs like the ones administered by the Works Progress Administration (WPA) employed about 350,000 black people per year.¹⁸ The Civilian Conservation Corps enrolled an approximate total of 350,000. The National Youth Administration provided aid to over 300,000 black youth during the Depression. The Public Works Administration (PWA) provided black citizens skilled employment opportunities.¹⁹ Blacks also benefited from the Federal Music Project that underwrote performing arts opportunities.

Educational programs under the New Deal provided literacy training to over one million black people, teaching them to read and write; this served as a segue for more black children to attend primary school. During President Roosevelt's administration more Blacks were appointed to government leadership than during any other presidency before. Such positions included presidential advisors, federal judges, and high ranking

¹⁷ Ibid., 36-38.

¹⁸ Roosevelt Institute, "African Americans and the New Deal: A Look Back in History," Roosevelt Forward, February 05, 2010, accessed February 08, 2017, http://rooseveltforward.org/african-americans-and-new-deal-look-back-history/.

positions in the military. President Roosevelt was the first president to label lynching as "murder." Mary McLeod Bethune, member of President Roosevelt's "Black Cabinet," once noted that the Roosevelt era represented "the first time in their history" that African Americans felt that they could communicate their grievances to their government with the "expectancy of sympathetic understanding and interpretation."²⁰ Meanwhile, though much can be said for FDR's New Deal regarding anti-poverty initiatives and the humanization of black people, Blacks were still very much the underclass and the object of great discrimination. Segregation and Jim Crow were still prevalent, especially in the South.

Henry L. Marsh, III was born into a difficult world for black Americans. Although Virginia was not as blatantly violent as Mississippi, Alabama, Arkansas and other states in the Deep South in regards to race relations, it was still the South and life was hard for Blacks.²¹ Virginia was a tobacco state and cities like Richmond and Danville employed Blacks during the "tobacco selling season." They were hired at lower wages and, as in the North, had no Union affiliation as unions generally did not allow the participation of Blacks. During the Depression there were significant cutbacks in work, even for cheaper black labor. Other mainstream jobs for Blacks at the time included

²⁰ Ibid.

²¹ For example, in Virginia, the infant mortality rate for Blacks was fifty percent higher than for Whites; Blacks were four times more likely to die from diseases like tuberculosis and three times more likely to die from syphilis. Jobs for Blacks were sparse and the housing that existed often lacked water, electricity and gas. Further, in 1930 literacy rates for Blacks was almost four times lower than for Whites. See Heinemann, *Depression and New Deal in Virginia*, 36-38.

laundry workers, barbers, and domestic workers. With the depression came a financial stress for employers, most of which could no longer afford to pay domestic workers and laborers. Many of the undesirable jobs started to go to Whites who were hurting for work.²²

The President's response was the New Deal, but Virginia's political leaders opposed it. Despite their opposition, Virginia took advantage of the opportunities presented through various federal programs. Such programs included the Federal Emergency Relief Administration (FERA) that addressed the need for food housing and jobs. The program employed more than 40,000 Virginians who worked on various building projects such as schools, roads, and the public works infrastructure of cities. In two years the FERA programs provided assistance to over 500,000 Virginians. Civilian Conservation Corps, or CCC, was the biggest federal program to assist Virginians during the time of economic recovery. The program employed previously unemployed males in the state forests. Home ownership opportunities were made available through the Home Owners Loan Corporation and the Federal Housing Administration. The Farm Credit Administration provided farm mortgages.

Although the Roosevelt administration was sympathetic to the plight of Blacks, the administration of programs was often skewed to prefer Whites. In the case of housing, there were most often rules that precluded Blacks from benefiting from programs like the unwritten policy that said realtors would lose their license if they sold

²² Ibid.
houses to Blacks in particular neighborhoods. When Blacks were allowed to purchase in non-white neighborhoods, they were still subjected to tremendous hikes in prices and interest rates. Even with non-discrimination policies imposed by the federal government, discrimination in lending was pervasive, with lenders declining loans to Blacks even when they qualified. The effects of this can still be felt today as Whites were able to build their net worth and purchase affordable homes eventually giving them more liquidity and an inheritance for their children. Blacks have yet to close the economic gap that was partly caused by housing inequity created during the New Deal. Virginia also benefited from other programs that were enacted including Social Security. Though many were helped, economic and social challenges persisted. True recovery did not set in until the economic boost that came with World War II.²³

The Coming of the Civil Rights Movement

In the early 1930s the NAACP's main focus was challenging and dismantling segregation. Further, in 1930, the NAACP used its developing political power to launch and win a campaign against Supreme Court nominee Judge John J. Parker. By 1931, the NAACP continued taking segregation cases and, under the attorneys Charles H. Houston and Nathan Margold, launched a legal campaign against de jure segregation specifically challenging inequality of public schools. By the end of 1932, the NAACP added employment discrimination to its agenda. By this point there was a growing need for

²³ Heinemann, Depression and New Deal in Virginia.

black attorneys to help the NAACP with its political goals. Understanding the urgency of training the next generation of legal minds, the Chief Strategist of the NAACP, Charles H. Houston, in 1932 transformed Howard law school from a part-time evening school to a fully accredited law school and training ground for civil rights attorneys. In 1935, Houston joined the NAACP's staff as the first full-time salaried Special Counsel, leading the NAACP's Legal Department. Houston would often be referred to as the "Moses of the Civil Rights Movement" as a pioneer strategist against segregation.²⁴

The period of regeneration for the NAACP continued into 1933 as leaders of the organization met with emerging movement leaders to forge a strategy at the Amenia Conference called by then president, Joel Spingarn that would impact civil rights activism from the Great Depression, World War II, and into the present.²⁵ Some of the leaders present at this meeting believed it beneficial to the movement "to move beyond the NAACP's legal and political focus to build an economic movement that reached across the racial divide to challenge the capitalist system that had collapsed so devastatingly."²⁶ Historian Eben Miller argues that in 1933 a generation of African American leaders, who were "born along the color line," should be remembered for their

²⁴ For a discussion on the NAACP's strategy to legally challenge segregation see August Meier and John H. Bracey, "The NAACP as a Reform Movement, 1909-1965: To Reach the Conscience of America," *The Journal of Southern History* 59, no. 1 (1993): 3-30. "NAACP Legal History," NAACP, accessed February 08, 2017, http://www.naacp.org/pages/naacp-legal-history. See also "NAACP: A Century in the Fight for Freedom The Great Depression," Library of Congress, accessed February 08, 2017, https://www.loc.gov/exhibits/naacp/the-great-depression.html.

²⁵ Eben Miller, Born along the Color Line: The 1933 Amenia Conference and the Rise of a National Civil Rights Movement (Oxford University Press, Feb 1, 2012).

early contributions to the Civil Rights Movement.²⁷ It was also at this conference were long time leaders like W.E.B. Du Bois and new activists would debate the direction of the NAACP.²⁸ A focus of the discussion centered on the projected impact that the Depression would have and whether or not the organization should shift more of its energies toward promoting economic opportunities for Blacks. The discussion was prompted because the NAACP was under scrutiny by insiders and outsiders about its decision to keep fighting for civil equality instead of narrowing its focus to economic stability.²⁹ In 1933, arguably one of the NAACP's most intimidating teams in the fight for equality was formed.³⁰

Life improved for Blacks both in the South and in the North with what would be the deadliest military conflict in human history. The United States entered the Second World War in 1941 after Japan bombed a U.S. military fleet at Pearl Harbor, Hawaii. It was during the 1940's that black Americans would make the most significant economic advancements since the Civil War. It was after the Civil War that black people were released from slavery and it was during World War II that the value of a black person

²⁷ Ibid.

²⁸ For insightful details regarding this debate see Derrick P. Alridge, "On the Education of Black Folk: W.E.B. Du Bois and the Paradox of Segregation," *Journal of African American History* 100, no. 3 (2015): 473-493.

²⁹ "NAACP: A Century in the Fight for Freedom, The Great Depression," Library of Congress, accessed February 08, 2017, https://www.loc.gov/exhibits/naacp/the-great-depression.html.

³⁰ "Brown v. Board at Fifty: 'With an Even Hand' A Century of Racial Segregation, 1849–1950," Library of Congress, accessed February 08, 2017, https://www.loc.gov/exhibits/brown/brownsegregation.html.

increased. Workers and soldiers were needed so much so that eventually pay differentials based on race were abolished.³¹ During the same period (1941), A Philip Randolph, a national career activist/labor organizer working to desegregate unions and the military and for fair treatment of black workers, had organized the first March on Washington by black people. He threatened to gather 100,000 persons to march in Washington, D.C. in protest if President Roosevelt did not sign an executive order ending segregation in defense factories. The President conceded and signed the order. The first Fair Employment Practices Committee was also established.³² Henry Marsh, just a child, was in grade school at the time.

Segregation in Education

According to Marsh, his early schooling shaped his view of the world. He entered school just before the Depression hit; this was a time when education epitomized everything good and bad about segregation. As many Blacks reflect on having attended segregated schools they admittedly assert that school represented a place of love and caring where teachers adopted the cause of black children, teaching lessons with passion in hopes of securing the life, safety, and ultimate success of those he or she taught. Morality was a force behind much of what teachers propagated in the classroom. A code

³¹ "Prologue: Special Issue on Federal Records and African American History," National Archives and Records Administration, accessed February 08, 2017, http://www.archives.gov/publications/prologue/1997/summer/american-labor-movement.html#note150.

³² Jervis Anderson, *A. Philip Randolph: A Biographical Portrait* (Univ of California Press, 1973), 256-263.

of conduct was superimposed on children as the teacher knew that this would be the foundation students would have to fall back on when hit with the harsh realities of life as a black person in a white man's world. The children were told that they would have to work twice as hard and be twice as smart to even achieve any level of success. Yet, they were not socialized to be victims.³³

The educational system for Blacks encouraged children to believe that they truly could be twice as good as their white counterparts. This was partly because of a social order that focused on manners, pride in dress, athleticism (i.e. football, baseball, golf, and tennis), and cultural enrichment through competition (i.e. chess club, talent shows) and through music (i.e. band and choir). In many schools opportunities were not readily available, yet alumni of such schools tend to speak fondly of those days noting that they made the best of what little they had.³⁴ If they had one dress, they kept it clean. They may not have had much food, but their mother took time to provide a filling lunch even if it was just hoecakes and jelly; they often laugh about the greasy brown paper bag. All this was in spite of the fact that segregation in and of itself was an oppressive system.³⁵

³³ See *Interview with Wyatt Tee Walker*, Teachers in the Movement, March 18, 2015. See also the Teachers in the Movement project that studies teachers' ideas and pedagogy in their classrooms and communities during the Civil Rights Movement, https://teachersinthemovement.com/.

³⁴ Horace Mann Bond, *The Education of the Negro in the American Social Order* (New York: Prentice-Hall Co, Inc., 1934), 501. Bond states "The South is the section of the country least able to support even a single system are discriminated against universally in states with a heavy Negro population, all available funds being devoted as far as possible to the needs of white school children."

³⁵ On the oppressive nature of black schooling see Ibid. Carter G. Woodson, *Education of the Negro Prior to 1861* (New York: G. P. Putnam's, 1915).

In segregated schools, Whites had educational supports that Blacks did not have.³⁶ Many black children did not attend school because their families were so poor that they had to stay home to work to help the family. Also, fewer schools were available for black children than there were for white children; this also impacted attendance. Marsh speaks with contempt of the fact that he could not attend the school closest to him, but rather had to walk for miles to another school. Often white children had buses to transport them to school, whereas black children had to walk. Whites had new books, and Blacks were forced to use outdated books and too few of them. Whites had age specific classrooms, while Blacks were educated in one room school houses for all ages that were often without plumbing; some even had windows with no glass. Black teachers were paid a fraction of what white teachers were paid. During the Great Depression the poor conditions Blacks endured were exacerbated. Not only did people lose their income causing homelessness and food insecurity to sky rocket, but more students were forced to drop out because of budget cuts and lack of books and supplies. Even transportation was no longer provided and parents became responsible for getting their children to and from school. They just couldn't afford it. More children went hungry because what little they had was gone because there were no jobs to support their families.³⁷

Additionally, some poor school districts in rural areas actually closed; this affected Blacks more as they tended to be poorer, go to poorer schools and to live in rural

³⁶ Ibid.

³⁷ Terkel, Hard times, 23, 39.

areas more than urban areas where Whites tended to live. The cutbacks were also devastating to programs that teachers had spent building over a period of time. As a result, new ideologies in education sprang up with new types of schools that focused on social change. This was perceived as a threat to the establishment by the white elite and was called communist by opponents. With the new militant approach to education, more money was reallocated to schools through the New Deal. The worst years for schools were between 1932 and 1936. By 1939 educational trends had begun to swing in a positive direction.³⁸ By this time Marsh was in about the 6th or 7th grade.

Segregation has been a far reaching issue impacting virtually all areas of American life. Segregation has been the one fundamental social issue that has solidified the position of Blacks as the underclass in America. Lack of representation in education, politics, business, sports, entertainment, and media placed Blacks at the mercy of these oppressive systems that pervaded throughout society. It was in 1896 that the *Plessy v*. *Ferguson* ruling established the concept of "separate but equal."³⁹ It was in the 30s, guided by the legal strategies of Attorney Nathan Margold, that the NAACP began to address the issue by commissioning a study, "The Margold Report." It was Attorney Charles Hamilton Houston that would take the findings and suggestions outlined in the

³⁸ "Education 1929-1941," Historic Events for Students: The Great Depression, *Encyclopedia.com*. (February 7, 2017), http://www.encyclopedia.com/education/news-and-education-magazines/education-1929-1941.

³⁹ *Plessy v. Ferguson*, 163 US 537 (1896). "A landmark constitutional law case of the US Supreme Court. It upheld state racial segregation laws for public facilities under the doctrine of "separate but equal."

Margold Report and form the "Equalization Strategy."⁴⁰ This resulted in a series of lawsuits. Houston surmised that the white schools could not financially afford to support black schools at the same level as they supported white schools; thus, the strategy was aimed at forcing integration. The strategy was successful in forcing the University of Maryland's Law School to integrate and the admittance of one black student into the Law School and the University of Missouri.⁴¹ Margold would go on to mentor Thurgood Marshall who would take the reins from Houston as Special Counsel for the NAACP. It was the strategic savvy of the NAACP's legal team of the 30s and 40s that would help pave the way for attorneys like Marsh who would have to craft genius-level strategies to ultimately dismantle segregation among other racist policies.

The College-bred Negro

The College-bred Negro, according to W.E.B. Du Bois, would take the helm of social, economic, and political experiences for many Blacks, therefore making the type of training Blacks received all the more important.⁴² Du Bois argued that there was little need to debate about the fact that people of color needed social leadership more than any other group of people because "they have no traditions to fall back upon, no established

⁴⁰ "NAACP Legal History," NAACP, accessed February 08, 2017, http://www.naacp.org/pages/naacp-legal-history.

⁴¹ See *Missouri ex rel. Gaines v. Canada* (1938).

⁴² See William Edward Burghardt Du Bois, *The talented tenth* (New York, NY: James Pott and Company, 1903), "[The college-bred Negro] is, as he ought to be, the group leader, the man who sets the ideas of the community where he lives, directs its thoughts and heads its social movements." See also Vincent P. Franklin, "Whatever Happened to the College-Bred Negro?," (1984): 411-418.

customs, no strong family ties, no well-defined social classes. All these things must be slowly and painfully evolved.⁴³ In 1865 only forty Blacks had graduated from a college or university.⁴⁴ At the time Du Bois penned this essay in 1903, lawyers made up 4.7 percent of the 1,312 Blacks who graduated college surveyed; 53.4 percent were teachers.⁴⁵ It was not until the 1900s, however, that historically black colleges and universities begin to offer post-secondary degree programs.⁴⁶ These same colleges and universities enrolled a little over three thousand students in graduate programs providing education for teachers, ministers, lawyers, and doctors during the height of racial segregation.⁴⁷

While law schools at institutions like Harvard, Stanford, Yale, University of

Virginia, University of Missouri, and others refused entrance to people of color,

historically black colleges were created to accommodate and nurture black minds.⁴⁸

⁴⁶ See U.S. Department of Education Office for Civil Rights, "Historically Black Colleges and Universities and Higher Education Desegregation," (March 1991), https://www2.ed.gov/about/offices/list/ocr/docs/hq9511.html. "By 1953, black private institutions such as Fisk University, Hampton Institute, Howard University, Meharry Medical College, Morehouse College, Spelman College, and Tuskegee Institute, and other smaller universities hosted 32,000 students and more than forty thousand at public black colleges and universities."

⁴⁷ Ibid.

⁴⁸ See "JBHE Chronology of Major Landmarks," which says "In 1950 The U.S. Court of Appeals requires the University of Virginia School of Law to admit Gregory Swanson, a practicing lawyer. Swanson, the first black admitted to UVA, did not complete his studies due to the inhospitable treatment he received" and "In 1938 *Missouri ex rel. Gaines v. Canada* is decided by the U.S. Supreme Court. The ruling required the state to either allow Lloyd Lionel Gaines to attend the University of Missouri School of

⁴³ Du Bois, *The Talented Tenth*.

⁴⁴ "JBHE Chronology of Major Landmarks in the Progress of African Americans in Higher Education," The Journal of Blacks in Higher Education, https://www.jbhe.com/chronology/, accessed July 2, 2018.

⁴⁵ Du Bois, *The Talented Tenth*, 52.

Historically black institutions were created to counter Jim Crow and separate but equal laws, which were created to maintain the status quo and subordinate people of color by controlling the access of education to the black intellectual elite. Even after the Court required law schools to accept black students,⁴⁹ they would often be required to take tests that white students were not required to take in order to show the proper aptitude.⁵⁰ The law was not favorable to Blacks seeking to become lawyers, especially in Virginia. Virginia Union University was the first law school open to Blacks in Virginia in 1922 and Blacks were not able to become admitted to the Virginia Bar as a member until 1967.⁵¹

Keeping Blacks from a white education backfired. The concentration of Blacks at schools like Howard Law resulted in the creation of a national center for civil rights activity. Black leaders and activists were birthed out of schools like Howard. The

Law or create another school that would provide the same education for him. In response, the university builds a black law school. Three months after the ruling, Lloyd Gaines left his apartment to buy some postage stamps. He was never seen again."

⁴⁹ See *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 where the U.S. Supreme Court required the state to either create a new school that would offer Lloyd Lionel Gaines the same education or allow him to attend the University of Missouri School of Law. The university decided to create a separate black law school. See also *Sweatt v. Painter*, 339 U.S. 629 (1950) where the U.S. Supreme Court ruled that the University of Texas School of Law to admit Heman Marion Sweatt. Sweatt enrolls, but does not graduate due to receiving poor grades. These cases created the precedent necessary for the U.S. Court of Appeals to order the University of Virginia School of Law to integrate by admitting its first black student, Gregory Swanson, a practicing lawyer. Swanson cited the poor treatment he received at the school as the reason he was unable to complete his studies.

⁵⁰ See Henry L. Marsh, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*, Jonathan K. Stubbs and Danielle Wingfield-Smith, Eds. (GrantHouse Publishers, 2018), 10. Marsh looked into the University of Virginia for law school, but UVA responded that he would have to spend \$100 to take an entrance exam to be considered for admittance.

⁵¹ Virginia's Judicial System, "Reforming the Judiciary," 2013, accessed July 02, 2018, http://www.courts.state.va.us/courts/scv/hc/resources/1888 2013 the bar at work.pdf.

nearest legal training for Blacks coming from Virginia was Howard University, located in Washington, D.C. The first documented black lawyer in Virginia, Withal Wynn, graduated from Howard.⁵² Howard University School of Law produced many notable leaders such as Thurgood Marshall, Douglas Wilder, Roland Burris, Oliver Hill, Damon, Keith, Vernon Jordan, Jr., Henry Marsh, III, and a host of others. This generation of intellectuals and activists together created a superpower that fueled the Civil Rights Movement.

Marsh and his Formative Years

Henry L. Marsh, III was born on December 10, 1933 in Richmond, Virginia to parents Henry Jr. and Lucy. Marsh was sent to live with his Aunt and Uncle in Rescue, Virginia when Marsh's mother, Lucy, passed away when he was five years old.⁵³ Marsh's uncle was an oysterman and also owned a store. Marsh, Jr. stayed in Richmond to support his family, working in the restaurant industry where he would continue working for twenty-five years.⁵⁴ Marsh credits these early school years in rural Virginia as his first real experience with segregation; the first part of childhood that Marsh could

⁵² Ibid.

⁵³ See Marsh, (Interview for Marsh Memoirs (Unpublished)), interview by Jonathan Stubbs and Danielle Wingfield-Smith, General Assembly "Marsh Memoirs Interviews," *Memoirs of Henry L. Marsh, III*, Record, 2013. See also James Branch Cabell Library Special Collections and Archives, "Interview with Sen. Henry L. Marsh, III." Voices of Freedom, VCU Libraries Digital Collection, March 20, 2003, accessed February 08, 2017, http://dig.library.vcu.edu/cdm/ref/collection/voices/id/6. Ariana Westbrook, "Marsh, Henry L., III (1933-) | The Black Past: Remembered and Reclaimed," accessed February 10, 2017, http://www.blackpast.org/aah/marsh-henry-l-iii-1933.

⁵⁴ Marsh, Interview for Marsh Memoirs.

remember was the racial segregation he experienced as a child in public schools.⁵⁵ This is the very same segregation that NAACP attorneys Houston, Marshall and others committed to fight against at the time.

From grades one to five, Marsh had to wake at 6:00 am to walk the three to five miles it took to arrive to a segregated schoolhouse every day on time because there was no public school buses to transport the students. Marsh would return home around dusk every evening.⁵⁶ While the black children from Marsh's neighborhood would travel in all weather conditions to journey to school by foot, the training school for white children transported its students by bus.⁵⁷ "Separate but equal"⁵⁸ was an illusion for Marsh and his peers as the differences in segregated public schools did not stop there. Marsh recalls,

"I went to a one-room school with one teacher and seven grades of 76 pupils. The white children went to a training school with multiple rooms for each grade and multiple teachers for each grade. They rode on the bus and I walked. It particularly impressed on me during the winter months when it was cold. I started [going to school that way] at age five and a half...at the time I didn't really think much of it. I thought that was the way things were supposed to be. I mean, I didn't think of the fact that I'm being mistreated because I'm walking. That's the way things were... I learned before I left the county that it was an unfair situation. It was a situation that the law, as interpreted, required me to do because I was of one race. It permitted the white children to have a different experience because they were of another race. I learned that as I got older." ⁵⁹

⁵⁵ Cabell Library, "Interview with Sen. Henry L. Marsh, III."

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Plessy v. Ferguson (1896).

⁵⁹ Cabell Library, "Interview with Sen. Henry L. Marsh, III."

As one could imagine, with over seventy students in a one room schoolhouse, the summers were hot and the winters cold. Teachers would commute to Smithfield from nearby cities in the Tidewater region. Marsh remembers that his teacher, Ms. Jordan, would commute from Newport News stating, "The bus stopped at Suffolk and she would walk from there. We would meet her on Monday morning, and carry her bags to school which was about 2 miles. During the school week, she would stay with someone who lived near the school. On Fridays, she would go back on the bus to Newport News. Ms. Jordan was a small woman."⁶⁰ Because there were so many students in one classroom, the ages would range from young kids to much older children who were likely too old for elementary school. Still, the teacher would keep order and engage the students in learning. While in school, Marsh abstained from any behavior too egregious; eventually, Marsh would make friends and forge relationships with the students in his class. To this day, the one room school is still standing.

Marsh left Rescue, Virginia and moved back to Richmond, Virginia to live with his father in the fifth grade. He and his siblings, including his older sister Marion who was then old enough to help take care of the family, all returned to continue school in Richmond. Upon Marsh's return, he was enrolled in the all black George Mason Elementary School.⁶¹ Marsh's school experience in Richmond mirrored that of his experience in rural Virginia; the school consisted of all black children and all black

⁶⁰ Ibid.

⁶¹ Ibid.

teachers. Fortunately, Marsh lived across the street and he didn't have to walk a long distance to school. The white children in the neighborhood were bussed to an all-white school.⁶² It was in the Richmond Public School System that Marsh attended a school in which each grade was taught in its own designated section of the school.



Smithfield, VA Black School House - Picture Credit⁶³

High School Years

Marsh went directly from elementary school to Maggie Walker High School because there were no middle schools at the time. During this period, Marsh began to see school as more than a place of segregation and unfair practices. He began to see it as a place of opportunity. Marsh's account of his high school years included insights into the

⁶² Ibid.

⁶³ "The Schoolhouse Museum," Find Family Roots, accessed February 08, 2017, https://findfamilyroots.com/Schools.html. See also The Schoolhouse Museum Smithfield Virginia, "Welcome to The Schoolhouse Museum," African American Museum, Black School House History Virginia, accessed February 08, 2017, http://www.theschoolhousemuseum.org/Home.aspx.

school system, the experience of black students and intricate details of his time as a pupil in secondary school. Marsh recalls how in Richmond there were two choices of high schools that black children to matriculate into, Armstrong High and Maggie Walker High. Armstrong was the more academic choice where the sons and daughters of black professionals and middle class Blacks attended and Maggie Walker was for students who were interested in vocational training and not planning to go on to college. Marsh noted in one interview that near the conclusion of his elementary school education, the teacher went around the room asking what high school each student would choose to attend.⁶⁴ When asked, some students said Maggie Walker and others said Armstrong. When the teacher got to Marsh, she did not ask him, but rather stated that "of course" he would be going to Armstrong. That didn't sit well with Marsh because he didn't get to make his own decision. So, he responded by saying, "I'll be attending Maggie Walker." Marsh chose this school firstly, because the teacher assumed he would be going to Armstrong and secondly, because often the kids that went to Maggie Walker were beat up by other kids and so he didn't want to be seen as "afraid" to attend the school. Marsh also thought that he would be able to succeed at Maggie Walker. As Marsh had anticipated, once he started school at Maggie Walker he was faced with being bullied by the other children. Marsh reported the incident to his uncle who was six foot six inches tall and weighed over two hundred and fifty pounds. His uncle could have easily handled the situation for

⁶⁴ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond, University of Virginia, accessed February 7, 2017, http://www.virginia.edu/publichistory/bl/index.php?fulltranscript&uid=22.

Marsh, but refused. He told Marsh he would have to deal with it himself. Marsh made up his mind that the next time a bully challenged him, he would fight. Inevitably, he got into a fight with one of the biggest guys at school. He fought the kid so hard that the teachers had to pull him off. He never had problems with bullies after that.

From these experiences Marsh says that he learned that "you're always going to have bullies and you have to stand up to them. Bullies, the big guys, the tough guys, will always attempt to jump on the little guys." Marsh took this mindset with him into his life as a lawyer and politician where he gained a reputation as a fearless advocate who stood ready to take on the 'big guys,' but he changed his strategy from the time he was in high school. Marsh noted,

Fighting in the political arena requires a different approach. Some elected officials would try to block their opponents from the opportunity to accomplish anything; whereas, others would try to bring their enemies close. I've always liked the second approach better. I tried to bring potential enemies closer to me. In some cases they turned out not to be enemies at all. I like to try to work with people; if I can't agree with them, at least I can gain a better sense of what's going on and can position myself to better watch them.⁶⁵

Regarding the history of Maggie L. Walker High School, the following should be noted. Partially funded by Roosevelt's Administration of Public Works, Maggie Walker was the first vocational high school built for the city's black youth, the only high school named for a Richmonder, and the first school in Richmond to have an African American principal and faculty. Throughout much of the period of segregated public education,

⁶⁵ Marsh, Memoirs of Hon. Henry L. Marsh, III, 33.

Richmond had only one high school to serve African Americans, Armstrong High School. The 1920s and 1930s were a period of rapid growth for the city's population, and the Richmond Public School System responded by building new school facilities. One of these was the Maggie L. Walker High School. It continued as a high school after the desegregation of public education in Richmond in 1964. Because of the slow pace of integration and the school's location in a neighborhood of African Americans, most of its students continued to be African American until 1979, when it ceased operating as a comprehensive high school. In 2002, after a major renovation, the building became the home of the Maggie L. Walker Governor's School for Government and International Studies, a regional school for gifted children.⁶⁶

In a 1995 interview with nationally renowned Civil Rights Leader, the late Julian Bond, Marsh discussed the impact that his teachers had on his life. ⁶⁷ He spoke of instructors whose insightfulness served to ensure that he was well prepared to enter the real world. Marsh recalled three teachers that made the largest impact on his life. He mentioned Miss Owens his fifth grade teacher, Miss Woods his sixth grade teacher, and in particular his principal, Mr. Joseph Bright. Marsh credits Principal Bright for placing him in the correct grade level when he moved to Richmond from Rescue, VA where he'd been skipped grades for being smarter than the other children. Principal Bright wanted to

⁶⁶ United States. National Park Service, "--Richmond: A Discover Our Shared Heritage Travel Itinerary," National Parks Service, accessed February 10, 2017, https://www.nps.gov/nr/travel/richmond/MaggieWalkerHighSchool.html.

⁶⁷ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

make sure Marsh could compete at high levels with his peers. Though at first, Marsh thought he'd been cheated out of a year, when he got to high school he realized that Principal Bright was committed to his success and had helped him to make the right decision. Marsh appreciated that extra year when he got to high school and college. Marsh always remembered Principal Bright for being concerned and smart enough to know he was just a young boy coming from a country school who needed some additional preparation before moving on.⁶⁸

The disparities between the academic opportunities at black schools and white schools in the City of Richmond, Virginia where remarkable to say the least. While the white schools were offering various advanced subjects and a number of foreign languages, advanced subjects were limited at Maggie Walker and only one foreign language was offered. At the white schools students had different teachers for different classes. At the black schools a single teacher would teach different classes, like Chemistry and Physics, in the same room at the same time. Factors like these hampered learning. Moreover, Marsh had additional challenges to overcome. While attending school, He worked in restaurants at night, doing his homework in the bathroom whenever he could get a break. On nights when he got off late the buses would have stopped running; he would have to walk for miles to get home. As a result he would be tired in school and at times fall asleep in class. Marsh had this comical story to tell,

⁶⁸ Marsh, *Memoirs of Hon. Henry L. Marsh, III.* "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

My civics instructor would catch me sleeping at times and would ask me a question. I would always have the right answer. This amused the class to no end and they would laugh when I got the answer correct. I never felt that he was picking on me. My teacher was merely concerned about my ability to learn the information.⁶⁹

Maggie Walker turned out to be a very good decision for Marsh. Being drawn to the mission of the group he joined the NAACP, eventually becoming the president, at that time NAACP Chapters were allowed in black schools. During his time there, he wrote the school poem, the school song, and served as the editor of the school newspaper. He also served as vice president of the student body.⁷⁰ Marsh was also a member of the tennis team receiving his letter. Marsh graduated with honors from Maggie Walker High School in 1952, ranking number six in his class of seventy, and was awarded scholarships for his academic excellence.⁷¹

Finding Oliver Hill: College Years

Marsh decided in high school that he wanted to pursue a career as a lawyer.

Consequently, he attended the all black Virginia Union University majoring in sociology.

As in high school, he was a very involved student.⁷² He worked on the school

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⁶⁹ Marsh, Memoirs of Hon. Henry L. Marsh, III, 30.

⁷⁰ Marsh, interview by Jonathan Stubbs and Danielle Wingfield-Smith. See Marsh, *Memoirs of Hon. Henry L. Marsh, III.*

⁷¹ Stelle Clark, 1952, Richmond Social Activities, *New Journal and Guide (1916-2003)*, Jun 21, 1952,

http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/568071308?accountid=14678 (accessed October 13, 2017).

newspaper, was an active member of a fraternity and even served as the president of student government. Despite his extensive activities, he continued to work a fulltime job. The *Brown v. Board of Education* ruling came down in 1954 while Marsh was in college. At the time he was a participant in activities sponsored by the National Council of Christians and Jews wherein students would discuss race relations and issues confronting Whites and Blacks. Before the ruling there was a lot of activity, bringing the races together to socialize and have discussions and forums. After the ruling, the groups disbanded. This was disappointing, nevertheless, Marsh went on to try his wings as an activist during his undergraduate years.⁷³

An article in the newspaper revealed that the General Assembly had scheduled a joint session for the purpose of changing a law in order to divert public funds to private schools (both sectarian and nonsectarian). Marsh knew that if the law was passed this would basically be a means by which public funds would go to support segregation. As a president of the student body of Virginia Union, he made the choice to attend the session and to testify against the plan. He was the only student of approximately thirty-six speakers. To his surprise, his picture landed in the newspaper. It was the first time he had been recognized publicly for anything.

While at the General Assembly session, Marsh met his future mentor, Attorney Oliver Hill. Before attending the session, he admits, he never knew much about how the government worked. When asked, he recalled that "All the political might of the State of

73 Ibid.

Virginia was in one room." There were one hundred forty people, of whom most were elderly and white. He went on to remember that there were more than thirty persons speaking out to urge legislators not to change the law. Of them all, he said, "Oliver Hill was the star."

Hill was present representing the NAACP legal staff and was the main speaker. Hill was angry that the General Assembly was even considering such a proposal and made his case powerfully, as Marsh recalls it. Hill was at his peak at the time and made a great impression on Marsh, just a youngster in undergraduate school. After the meeting was over, Hill went over to Marsh to tell him he had done a good job on his speech. Marsh responded saying that Oliver Hill, too, had done a good job. Hill asked Marsh what he wanted to be when he grew up and Marsh told him that he was going to be a Lawyer just like Hill. Right there in that conversation, Hill offered Marsh a job to work with him in his law firm after finishing law school. Marsh remembers this as one of the greatest moments of his life. Marsh was astonished that a black man would stand up to such powerful white men.

As a result of being in the paper, young Marsh was called into the office of Virginia Union's president.⁷⁴ Dr. Thomas Henderson was his name. He and Marsh were friends and unbeknownst to Marsh at the time, Henderson was also friends with Hill. Dr. Henderson confronted Marsh about representing the University in such a capacity, warning Marsh to check in with him first before doing things like that in the future. He

⁷⁴ Ibid.

noted that he had gotten a number of calls from trustees who had seen Marsh in the newspaper. Thankfully, all of the remarks were favorable. Dr. Henderson told Marsh that the trustees were quite impressed.⁷⁵

Going to the General Assembly was Marsh's way of standing up to segregation on behalf of himself and his fellow students. They had grown up with segregation and they didn't like it. In fact, they resented it; they were disgusted by it.⁷⁶ Marsh and his contemporaries had accepted it because it was the law. Marsh lived in a time when he and his sister had to move to the back of the bus when white people got on. He said that it didn't bother him too much when he had to move, but utterly infuriated him when his sister had to move.

Marsh lived in a time when black people were forbidden to shop in certain stores or to use public restrooms. He reflected on a time when he and his fraternity brother went on a trip to Miami. It was 1954. On the way they stopped at a gas station to go to the restroom only to hear the owner say, "Nigger, niggers don't use these restrooms. Get out of there. Don't you go in that restroom."⁷⁷ Before that time, Marsh had never faced that type of aggression for being Black. He says it was "shocking." They had to hold it until they could get to a place in the woods. This would be funny if it were not so disturbing. At a point, Marsh worked as a chauffeur to the owner of a tobacco company.

⁷⁵ Cabell Library, "Interview with Sen. Henry L. Marsh, III" and "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

⁷⁶ Ibid.

⁷⁷ Ibid.

Together they went to the finest places. The person he was driving would often tell the chef to give him (Marsh) the best food in the restaurant, despite the fact that the food was great, Marsh was still required to eat in the kitchen away from the rest of the patrons. As they traveled from place to place he was provided boarding with the finest African American families, but was not allowed to stay in hotels.⁷⁸ Marsh graduated from Virginia Union University, Cum Laude, in 1956.⁷⁹

As it relates to the collegiate environment in the country, the top white colleges had not yet opened up to Blacks at the time Marsh was entering law school. He decided to go to Howard University School of Law. There he would be among the top graduate students in the country. Many were older people who had careers and had decided to go to law school later in life. L. Douglas Wilder, who became the first African American to be elected as governor in the United States and who served as Virginia's Governor from 1990 to 1994, was among them. Wilder had been in the army for three years and had worked a while before going back to law school. The group as a whole was very sophisticated. At the beginning of law school, Marsh and those entering with him were told, ". . . half of you won't be here because you're not law school material. Our job is to determine which of you can survive."⁸⁰ The group started at sixty and dwindled to

⁷⁸ Marsh, *The Memoirs of Hon. Henry L. Marsh, III.* "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

⁷⁹ Virginia Senate Democratic Caucus, "Our Senators, Senator Henry Marsh," accessed March 3, 2018, http://www.vasenatedems.com/senators/henry-marsh.

twenty-eight.⁸¹ Marsh was among the group who successfully navigated law school, graduating in 1959.

Summary

Marsh's experiences during his early education had a profound impact on his development as a civil rights attorney and political leader. A product of the Great Depression, born into the underclass of American society, he did not readily recognize the oppressive nature of his circumstances. The twenties represented a pinnacle pentacle of hay days for white investors, business owners and urbanites who flourished financially during the short lived period. The Depression would come and Whites too would feel the pain of economic suffering across the board.

By the 1930s, America had become a superpower after laying the foundation a hundred years prior by using the economically progressive nature of slavery. Later, the Industrial Revolution would give rise to economic options outside of slavery, but the economy of the South still leaned heavily on agricultural enterprises that depended on slave labor. With the outcome of the Civil War all that changed. Slavery was no longer legal; to rebuff the apparent victory for Blacks, the Jim Crow caste system was institutionalized and ultimately codified with the outcome of *Plessy v. Ferguson*, which upheld racial segregation. The depressed reality for Blacks was economically,

⁸¹ Ibid.

religion, music, a sense of community and family to survive. They formed their own culture off the beaten path of the mainstream and created their own places to belong. Those places included the church and one room school houses. Children like Marsh formed relationships along the long trek that was taken to get to class in the cold and the rain. His teachers prodded him to be his best. He learned how to stand up to bullies in life. His father was a preacher; through his example he learned the sacrificial nature of servant leadership.

By the time Whites felt the all-encompassing blow that would follow the Stock Market crash of 1929, Blacks had already been conditioned to survive. Though life for Blacks became that much harder with fewer jobs and little to no chances of finishing school, they braced themselves knowing they were fit to persist. The New Deal offered not only a reprieve to Whites, but hope for Blacks. It was a humanizing hope emanating from the kind words of the President and empathetic gestures from federal programs and policies that gave black America the shake awake needed to arise from a slumber induced by oppression.

Soon the NAACP had formed a legal dream team that over time would be succeeded by the likes of Marsh who would ultimately help to dismantle the segregationist policies of that day. It would be in 1944 when Marsh would graduate from a one room country schoolhouse in Rescue, VA to attend High School in Richmond, Virginia. Like the awaking that was occurring on the national stage within the NAACP and in black communities across the land, Marsh too was being shaken. His intellect and spirit would rise as he came to understand how to confront challenges and how to

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summon the courage and to craft intuitive strategies needed to win over them. He would excel in academics and become a leader among his peers, leaving his mark having written the school song, among other feats. Marsh also excelled in athletics; during his senior year of high school his achievements would include feeling the pride of earning his letter in tennis and making the Dean's List, all while working eight hours or more each day.

After Howard, Marsh would go on to become an attorney, immediately placed in the troughs of civil rights work, after inheriting the caseload of Hill upon his retirement. This would lead to a career in law that would leave Virginia and the United States of America different than he found it. When asked what his motivation was for taking up the fight for civil rights, Marsh responded, "I'm really not sure."⁸² He further notes that at some point he realized that the education he received was different from white children. He noticed that he was walking while they were riding the bus. He came to know that they had a teacher for each grade level while his teacher was obligated to teach more than seventy students of all ages in a single room. He noticed that the white students had new books, tables and chairs, while he and his peer had used ones. But he was not without hope.

Marsh's family and particularly his teachers were stakeholders in his future success. They knew that black students would have to be better prepared in life just to navigate a system that was strategically stacked against them, and so they did. They did everything in their power to make sure Marsh and others like him were better prepared.

82 Ibid.

From the mastery of academic subjects to the development of leadership and values, it was his teachers who were the gatekeepers of destiny, who rose to the occasion sacrificially. They didn't know that Marsh would make life better for people of color in America, but they knew in their hearts that he could. They knew that they had to follow through on their self-imposed mandate to protect and develop his potential. There was a light in Marsh and they had to help it shine.

CHAPTER THREE HENRY MARSH, CIVIL RIGHTS, AND MASSIVE RESISTANCE

Henry Marsh was a child of the Jim Crow South. He attended learning institutions that existed only because black students were denied the opportunity to learn elsewhere. What was the undoing of some was the making of Marsh and others like him. The young man who showed up at the door of the law firm Hill, Tucker, and Marsh in 1961 to begin a career in law was well motivated by the inequities that had framed much of his life. The journey Marsh started in a career of law, politics, and community leadership spawned out of a single interaction with a man that he greatly admired and who would become his mentor, Attorney Oliver Hill. Hill had helped begin the fight against laws that guaranteed the segregation of educational and other facilities. Though the fight had begun, it was a fight not yet won. Segregation of schools would continue long after the *Brown* ruling was passed deeming State-sanctioned segregation of public schools unconstitutional. Thus, the fight for equality was passed on to the young Marsh.¹

¹ See "Massive Resistance," Encyclopedia Virginia, accessed March 05, 2017, https://www.encyclopediavirginia.org/Massive_Resistance#start_entry where in the "mid-1930s Hill and Thurgood Marshall launched a legal campaign of 'equalization,' challenging the material inequalities between black and white schools."

This chapter begins in the early 1960s through the 1970s detailing and synthesizing the events in Virginia that encompassed Marsh's years as a young attorney, his fight against Massive Resistance and his making as a civil rights lawyer.

Historical Context

Backlash After Brown: 1950-1970

As previously discussed, the World War II era seemed to be a season of hopefulness. This hope was aroused by the fact that many of the black communities in southern cities during the early 1950s were being mobilized with the help of Negro Voters' Leagues.² Further, civil rights litigation during this era garnered some major wins. By 1950, the NAACP had won well over ninety percent of its cases in the Supreme Court.³ The Supreme Court overturned several precedents including changing rulings on restrictive covenants and the rules for white primaries,⁴ desegregating law schools,⁵ requiring states to offer Blacks access to in-state graduate and professional programs,⁶

² David R. Goldfield, *Black, White, and Southern: Race Relations and Southern Culture, 1940 to the Present* (Baton Rouge: Louisiana State University Press, 1991), accessed October 13, 2017.

³ Michael Klarman, From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality (New York: Oxford University press, 2004), 171-73.

⁴ See *Guinn v. Oklahoma*, 238 U.S. 347. See also Ibid.

⁵ Ibid.

⁶ See *Sweatt v. Painter*, 210 S.W. 2d 442 (Tex. Civ. App. 1948) and *Sweatt v. Painter*, 339 U.S. 629 (1950).

and requiring the desegregation of dining halls, libraries, and classroom facilities⁷. Segregation was tackled in other areas also including: housing, transportation, and criminal procedure.⁸ The courts were addressing many cases involving race by unanimously overturning legal precedent set in the 1930s that established segregation.⁹

The Court decided these cases against a social and political backdrop that appeared to be open to racial reform. While the good times were rolling for some in the 1950s, the reality for many Blacks, however, was that segregation was still a daily barrier generally, and in Richmond, Virginia particularly. The National Association for the Advancement of Colored People (NAACP) pushed forward during this period in its fight against segregation in the aftermath of *Brown*, much of its work remaining untold.¹⁰ One of the heavy hitters in the Virginia movement, Attorney Oliver W. Hill, spoke at the

⁷ Klarman, *From Jim Crow to Civil Rights*, 172 "The court applied Missouri ex rel Gaines v. Canada (1938) to require Oklahoma to provide qualified Blacks with in state legal education."

⁸ For a broader discussion see Klarman, From Jim Crow to Civil Rights, 171-73.

⁹ Grovey v. Townsend (1935) and Missouri ex rel Gaines v. Canada (1938) overturned in 1950 "Many of these civil rights decisions were unanimous—a noteworthy accomplishment for a Court that rarely managed to avoid dissent. Only in criminal cases, which were no longer as obviously about race, was the Court's record mixed. In other contexts, the justices seemed willing to vindicate nearly any claim for progressive racial reform, even if doing so required considerable legal creativity." See Klarman, From Jim Crow to Civil Rights, 171-73.

¹⁰ The 1950 NAACP National Convention in Boston decided as an organization to challenge legal segregation wherever it persisted. See Oliver W. Hill, *The Big Bang Brown vs Board of Education and Beyond: The Autobiography of Oliver W. Hill* (Jonesboro: GrantHouse Publishers, 2007). See also Mark Tushnet, *The NAACP'S Legal Strategy against Segregated Education: 1925-1950* (North Carolina: University of North Carolina Press, 1987). Five desegregation suits were launched throughout different states in 1950s. See also National Archives, "Brown v. Board of Education Timeline: Timeline of Events Leading to the Brown v. Board of Education Decision, 1954," August 15, 2016, accessed July 8, 2018, https://www.archives.gov/education/lessons/brown-v-board/timeline.html http://www.naacp.org/legal-department/naacp-legal-history/. Charles Eagles, "Toward New Histories of the Civil Rights Era," *Journal of Southern History*, 66, no. 4 (November 2000).

Virginia General Assembly to address the restriction of the NAACP efforts to end legal segregation; Hill passionately advocated stating that those in power were trying to "build a Wall of China around Virginia while segregation is breaking down outside the state."¹¹ Hill, Spotswood Robinson, Jessie M. Tinsley, Marsh, and others would start to penetrate this wall, especially in the 1950s where after World War II, fewer Blacks were willing to bow to prejudice. However, there was still much work to be done as the 1950s was a time where laws were put in place to support a white supremacist agenda to keep Blacks from voting and state legislatures proportioned in a way to support rural Whites.¹² The battles waged from the Black Richmond leaders during the 1950s would continue for years.

Litigation in the 1950s would also "win" with the 1954 decision in *Brown v*. *Board of Education*, which overruled the landmark *Plessy v. Ferguson* case. It was time to put an end to the 1896 *Plessy* precedent that embedded the "separate but equal" legal principle into the fabric of society. The idea that the inherently inferior black facilities could ever be equal to white facilities was very distant from the reality, especially concerning education. Further, school cases had a deep and extensive history dating back to the NAACP's first major litigation victory in the 1938 decision *Missouri ex rel. Gaines v. Canada* where the Supreme Court refused to uphold the "separate but equal" doctrine and allowed a black man to be admitted to the all-white University of Missouri Law

¹¹ Richmond Afro-American, September 15, 1956.

¹² Klarman, From Jim Crow to Civil Rights, 171-73.

School.¹³ Following this case, a movement of litigation began to fight for school equalization; however, in 1950 NAACP lawyer, Thurgood Marshall, made the decision to shift the focus of the NAACP and the Legal Defense Fund from supporting these equalization suits in Virginia and in other states for the purposes of moving towards attacking de jure segregation, which by definition is racial segregation practices which are enforced by law.¹⁴

The *Brown* case began in April 1951 after a group of students led a strike under the leadership of Barbara Johns protesting the unacceptable quality of Moton High School, an all-black school, in Prince Edward County.¹⁵ The student protests led to the first case *Davis et al. v. County School Board of Prince Edward County*, which legally challenged school desegregation led by NAACP attorneys Oliver Hill, Spottswood Robinson and Robert L. Carter of Richmond. There would eventually be four additional cases grouped with the *Davis* case that would all comprise the landmark *Brown v. Board of Education* case. On May 17, 1954, the Supreme Court handed down a unanimous ruling that racial segregation in public education was unconstitutional. Although the ruling was groundbreaking, the Court failed to delineate any details on the speed and manner of which desegregation would be realized. In efforts to enforce implementation of the *Brown* decision, there was a second case known as *Brown II* where the Supreme

¹³ See Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights* (University of Pennsylvania Press, 1983), 70-72.

¹⁴ Tushnet, *The NAACP'S Legal Strategy*.

¹⁵ Ibid.

Court once again offered a vague ruling on May 31, 1955 qualifying that the implementation of desegregation was to occur 'with all deliberate speed.'"¹⁶ Without a proper outlining of the implementation of desegregation, Virginia was free to engage in a movement of Massive Resistance.

Massive Resistance

In November 1955, not even six months after the *Brown II* ruling, Virginia state senator Garland Gray rolled out the "Gray Plan," which proposed to repeal the compulsory school attendance law to allow white students the ability to evade desegregation.¹⁷ This was after appointing a board called the Gray Commission to analyze *Brown* and determine a proper response.¹⁸ In February of the following year, the City of Richmond was empowered to resist *Brown* with the "Massive Resistance" strategy created by U.S. Senator Harry F. Byrd, Sr. and the Byrd political machine.¹⁹ NAACP Attorney Oliver Hill called this and the General Assembly's legislation that allowed the governor to close schools wherever courts ordered them desegregated "pervasive silliness." Hill also attributed "this statewide mania" in part to "the backward

¹⁶ James H. Hershman, Jr., "Massive Resistance," *Encyclopedia Virginia*, Virginia Foundation for the Humanities (June 29, 2011), accessed October 13, 2017.

¹⁷ Ibid.

¹⁸ Robin Gates, *The Making of Massive Resistance: Virginia's Politics of Public School Desegregation*, 1954-1956 (Chapel Hill: University of North Carolina Press, 1964), 34-35.

¹⁹ J. Harvie Wilkinson, *Harry Byrd and the Changing Face of Virginia Politics, 1945-1966* (Charlottesville: University Press of Virginia, 1968).

leadership of people like Senator Harry Byrd, Sr. and the infamous Byrd political machine."²⁰

On March 13, 1956, Harry F. Byrd along with ninety-eight other members of the 84th United States Congress authored the "Southern Manifesto," also known as the Declaration of Constitutional Principles. The document laid out its opposition to court mandated desegregation brought about by the *Brown* decision and the resulting goal of the Civil Rights Movement to overthrow the southern caste system known as Jim Crow.²¹ The Southern Manifesto would become the catalyst for "the single worst episode of racial demagoguery in the era of postwar America (1948-1973)." Harry Byrd, Sr. of Virginia and J. Strom of South Carolina would be its principal authors.²² John Day, Professor in the Social Science department at University of Arkansas at Monticello, Arkansas quoted historian Numan Bartley who makes the point that Byrd "originated the term 'Massive Resistance' and that Byrd played a crucial role in its evolution in his home state and in the attempt to create a South-wide effort."²³ Bartley goes on to say that, "No man did as much to move the front lines of opposition from the Deep South to Washington, D.C., and the Potomac River."²⁴

²² Ibid.

²³ Ibid.

²⁰ Hill, *Big Bang*, 166.

²¹ John Kyle Day, *The Southern Manifesto: Massive Resistance and the Fight to Preserve Segregation* (Jackson: University Press of Mississippi, 2014).

²⁴ Day, *The Southern Manifesto* citing Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950's* (Baton Rouge: Louisiana State University Press, 1969), 117.

Oliver Hill recounted the reaction to *Brown* in his autobiography remembering how when Byrd came back in town to hear about the Court's decision, Byrd "rallied segregationists to fight against the law of the land."²⁵ There are several histories that shed light on efforts on the part of white leadership who were in defiance of segregated schools, which continued past Byrd to those who vowed to maintain the Massive Resistance initiative like Governor Thomas B. Stanley's Massive Resistance legislation, the Stanley Plan, which was signed into law in 1956 by Virginia Governor J. Lindsey.

Almond would later close Warren County High School, Lane High School and Venable Elementary in Charlottesville, and white Norfolk elementary schools to prevent desegregation.²⁶ The methods and strategies of the Massive Resistance movement are well documented. However, there are few comprehensive studies that give voice to the unique role that the Commonwealth of Virginia and its key movement leaders played in the fight to dismantle the very heart of this movement that sought to derail the progress of justice for Blacks in the United States.

Some historians argue that much can be learned from Virginia, a southern State that is situated further north, but yet is still on the front line of the battlefield for equal education in the post-*Brown era*. Richmond historian, Brian Daugherity, makes a case for this, pointing out Sarah Boyle's statement that Virginia "was the backbone of the South, which was the backbone of the nation, which was the backbone of the world," and

²⁵ Hill, *Big Bang*, 179.

²⁶ Hershman, "Massive Resistance."

Senator Harry Byrd's statement, "if Virginia surrenders, if Virginia's line is broken, the rest of the South will go down, too."²⁷ The *Washington Post* quoted Benjamin Muse in placing Virginia's unique position as being the forerunner in this struggle in context by saying,

Virginia, with its glorious role in the early history of the republic and again in the struggle for the great lost cause-- also with its genteel and honored political leadership of the day-- was surely indicated to carry the banner of the South in this latest conflict.²⁸

In September of 1959, schools were still closing in Virginia. This time, it was Prince Edward County Schools where it all began. Prince Edward was closing despite the fact that Massive Resistance had lost steam. When Hill's protégés, Samuel W. Tucker and Henry Marsh, emerged on the scene in the 1960s, there were a host of school cases that would require litigation before meaningful school desegregation could take place in Virginia.

School Desegregation Cases

In 1956 there were several victories in federal courts that ordered the reopening of schools in Arlington and Charlottesville.²⁹ In the early 1960s, the NAACP did not back down, and the organization continued its crusade to desegregate schools. By 1964

²⁷ Brian J. Daugherity and Charles C. Bolton, eds, *With all deliberate speed: Implementing brown v. board of education*, University of Arkansas Press, 2008.

²⁸ Muse, Virginia's Massive Resistance, 159.

²⁹ Hershman, "Massive Resistance."
Prince Edward County's public schools had been closed for five years. *Griffin v. School Board of Prince Edward County* constituted a major win for Prince Edward students. The Court ruled that the county must reopen its doors as it was in violation of student's rights to an education.³⁰ Another landmark case in Virginia occurred in 1968 in *Charles Green et al. v. County School Board of New Kent County*, which ruled New Kent's "freedom of choice" plan unconstitutional.³¹ New Kent, a rural county in Southeastern Virginia, was trying to evade the *Brown* ruling by using this "freedom of choice" plan where in students could decide which of the two schools in the county they wished to attend.³² Although the school district was not preventing the white students from enrolling in the all black school, and vice versa, this choice plan actually undermined the Court's goal of desegregated schools. The NAACP attorneys who were on the case for the petitioners were Oliver W. Hill, Samuel W. Tucker, and Henry Marsh, with Tucker being the attorney actually argued the case.

³⁰ *Griffin v. School Board*, 377 U.S. 218 (1964) stating, "closing the Prince Edward County schools while public schools in all the other counties of Virginia were being maintained denied the petitioners and the class of Negro students they represent the equal protection of the laws guaranteed by the Fourteenth Amendment."

³¹ Green v. County Sch. Bd. of New Kent County, 391 U.S. 430 (1968) stating "The New Kent School Board's 'freedom of choice' plan cannot be accepted as a sufficient step to 'effectuate a transition' to a unitary system. In three years of operation, not a single white child has chosen to attend Watkins school, and, although 115 Negro children enrolled in New Kent school in 1967 (up from 35 in 1965 and 111 in 1966) 85% of the Negro children in the system still attend the all-Negro Watkins school. In other words, the school system remains a dual system. Rather than further the dismantling of the dual system, the plan has operated simply to burden children and their parents with a responsibility which *Brown II* placed squarely on the School Board. The Board must be required to formulate a new plan and, in light of other courses which appear open to the Board, such as zoning, fashion steps which promise realistically to convert promptly to a system without a 'white' school and a 'Negro' school, but just schools."

The conduct of segregationist school boards trying to evade the law was often so outrageous that Marsh and other attorneys would argue for attorneys' fees to be paid to civil rights lawyers.³³ Marsh helped establish this precedent in one of the first cases on the issue occurring in 1963 in the case Bell v. Powhatan, where a school board hid the pupil assignment forms to make the process for black parents wishing to register for a school where their student would not have been able to register pre-Brown nearly impossible. The Fourth Circuit ruled in *Bell* that the school board would have to pay the attorney fees for the plaintiffs because of the board's blatant refusal to comply with state law.³⁴ The very idea that the General Assembly would require black parents to "make application" for their children to attend an all-white school rather than allowing the children to register just like all the other students was in and of itself was proof positive of the entire systems insolence toward desegregation. Often, this Pupil Placement Board, which took the power from the school boards to decide which "Negro students" could attend the previously all white schools, would deny the black students application altogether.³⁵

Pupil placement forms were born out of another significant case *Bradley v. School Board of Richmond* (1963), which mandated that the school board create a policy that would erase patterns of discrimination often involved in these school cases. The

³³ Henry L. Marsh, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*, Jonathan K. Stubbs and Danielle Wingfield-Smith, Eds. (GrantHouse Publishers, 2018), 46.

³⁴ Bell v. School Board of Powhatan County, Virginia, 321 F.2d 494 (4th Cir., 1963).

³⁵ Hill, *Big Bang*, 181.

"freedom of choice" policy was the idea school boards created to "comply" with the law.³⁶ However, the administration of the "freedom of choice" principle was found discriminatory in nature and overturned by the *Green v. New Kent County* case as discussed above.³⁷ Additional *Bradley* cases were brought before the Courts in a series of two separate cases, one known as *Bradley I* (1973) and the other *Bradley II* (1972 and 1974). The first of the Bradley litigation proposed a new plan to bring three Richmond districts together to force desegregation. However, the Court ruled that it did not have the authority to enact this plan.³⁸ In *Bradley II*, which made it to the Supreme Court, the ruling reversed the attorneys' fees that had been awarded to the plaintiffs at the trial level.³⁹ Attorneys for the plaintiffs involved in the earlier Bradley cases were Tucker and Marsh; the later appeals cases were taken over by the Legal Defense Fund.⁴⁰

The *Bell* case is another example of case law and other pieces of the civil rights history that does not get the same attention that the well-known sit-ins or bus boycotts have. It, however, was a case that was responsible for the precedent that implemented a punitive consequence for school board's participation in this type of criminal behavior. This school district, like many others in Virginia and across the country, was still actively

³⁶ Bradley v. School Board of Richmond 317 F.2d 429 (4th Cir. 1963).

³⁷ Larry M. Storm, "Comment: Desegregation--The Times They Are A-Changin'," *Fordham Urban Law Journal* 3, no. 2 (1975): 245.

³⁸ Bradley v. School Bd. of City of Richmond, 462 F.2d 1058(4th Cir.1972), aff'd by an equally divided court, 412 U.S. 92 (1973).

³⁹ Ibid.

⁴⁰ Marsh, The Memoirs.

keeping black students from attending schools with white students nine years after the law mandated the change. Sandra Morris Kemp, the first black graduate of Powhatan High School, took time to study Massive Resistance after she remembers "experiencing a lot of overt racism or hostility" being the only black student in a class of nineteen.⁴¹ It is her hope that these types of first-hand accounts of Virginia's desegregation will not be lost in history.⁴²

Subsequently, this precedent set by *Bell* not only was the legal standard, but Congress enacted a statutory provision in 1972 applying the *Bell* standard by authorizing discretionary awards of attorneys' fees in similar school desegregation cases.⁴³ This purposeful legal strategy by Virginia lawyers and other movement leaders was means of attacking Jim Crow in a place that had not been reached by other demonstrations the Civil Rights Movement had implemented.⁴⁴ Civil rights attorneys like Hill, Robinson, Tucker, and Marsh were charged with the task of taking Jim Crow down one case at a time. There is a legal record of the many lesser known, although significant, cases that these attorney's worked on during this period.⁴⁵

⁴¹ Emily Darrell, "Former Students Look Back on Struggle to Integrate Schools," *Richmond Times Distpatch*, February 26, 2013 http://www.richmond.com/news/local/central-virginia/powhatan/powhatan-today/former-students-look-back-on-struggle-to-integrate-schools/article_c4efc4e2-805d-11e2-9ba4-001a4bcf6878.html.

⁴² Ibid.

⁴³ Joan C. Koven, "Awarding of Attorneys' Fees in School Desegregation Cases: Demise of the Bad-Faith Standard," *Brook. L. Rev.* 39 (1972): 371.

⁴⁴ Darrell, "Former Students Look Back on Struggle to Integrate Schools."

⁴⁵ See generally: *Bradley v. School Board*, City of Richmond, Va *Gilliam v. School Board*, City of Hopewell, Va, 382 U.S. 103, 86 S.Ct. 224, 15 L.Ed.2d 187 (1965); *Bradley v. School Board of City of Richmond*, Virginia, 345 F.2d 310 (4th Cir., 1965); *Brown v. Board of Education*, 347 U.S. 483 (1954);

Civil Rights Generally

At the same time as desegregation cases, there were some other aspects of the

movement worth noting. First, work was being done to build up to the Civil Rights Act

of 1964 and the Voting Rights Act of 1965. The year of 1963 was a big year for the

movement with the March on Washington occurring in August of that year, which

arguably created a foundation for Congress to accept the Civil Rights Act of 1963.⁴⁶ A

⁴⁶ Marsh, *The Memoirs*.

Brewer v. School Board of City of Norfolk, Virginia, 397 F.2d 37 (4th Cir., 1968); Brewer v. School Board of City of Norfolk, Virginia, 434 F.2d 408 (4th Cir., 1970); Brewer v. School Board of City of Norfolk, Virginia, 456 F.2d 943 (4th Cir., 1972); Brewer v. School Bd. of City of Norfolk, Va., 500 F.2d 1129 (C.A.4 (Va.), 1974); Buckner v. County School Board of Greene County, Virginia, 332 F.2d 452 (4th Cir., 1964); Calhoun v. Cook, 487 F.2d 680 (5th. Cir., 1973); City of Richmond v. Croson Company, 488 U.S. 469, 109 S.Ct. 706, 102 L.Ed.2d 854 (1989); Copeland v. School Board of City of Portsmouth, Virginia, 464 F.2d 932 (4th Cir., 1972); Dillard v. School Board of City of Charlottesville, Va., 308 F.2d 920 (4th Cir., 1962); Downing v. School Board of City of Chesapeake, Virginia, 455 F.2d 1153 (4th Cir., 1972); Franklin v. County School Board of Giles County, 242 F.Supp. 371 (W.D. Va., 1965); Gilliam v. School Board of City of Hopewell, Virginia, 345 F.2d 325 (4th Cir., 1965); Griffin v. Board of Supervisors of Prince Edward County, 322 F.2d 332 (4th Cir., 1963); Griffin v. Board of Supervisors of Prince Edward County, 339 F.2d 486 (4th Cir., 1964); Griffin v. State Board of Education, 239 F.Supp. 560 (E.D. Va., 1965); Green v. School Board of City of Roanoke, Virginia, 428 F.2d 811 (4th Cir., 1970); Greene v. School Bd. of City of Alexandria, 494 F.Supp. 467 (E.D. Va., 1979); Hart v. County School Board of Arlington Ctv., Virginia, 329 F. Supp. 953 (E.D. Va., 1971); McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950); Medley v. School Board of City of Danville, Virginia, 350 F.Supp. 34 (W.D. Va., 1972); Medley v. School Board of City of Danville, Virginia, 482 F.2d 1061 (4th Cir., 1973); Morgan v. Commonwealth of Virginia, 328 U.S. 373 (1946); Norris v. State Council of Higher Education, 327 F.Supp. 1368 (E.D. Va., 1971); Pettaway v. County School Board of Surry County, Va., 230 F.Supp. 480 (E.D. Va., 1964); Riddick by Riddick v. School Bd. of City of Norfolk, 627 F.Supp. 814 (E.D. Va., 1984); Riddick by Riddick v. School Bd. of City of Norfolk, 784 F.2d 521 (C.A.4 (Va.), 1986); Shelley v. Kraemer, 334 U.S. 1 (1948); Smith v. Allwright, 321 U.S. 649 (1944); Sweatt v. Painter, 339 U.S. 629 (1950); Thompson v. County School Bd. of Hanover County, 252 F.Supp. 546 (E.D. Va., 1966); Thompson v. School Board of City of Newport News, Va., 465 F.2d 83 (4th Cir., 1972); Thompson v. School Board of City of Newport News, Va., 363 F.Supp. 458 (E.D. Va., 1973); Thompson v. School Board of City of Newport News, Va., 498 F.2d 195 (4th Cir., 1974); Turner v. County School Board of Goochland County, Va., 252 F.Supp. 578 (E.D. Va., 1966); United States v. Nansemond County School Board, 351 F.Supp. 196 (E.D. Va., 1972); Walston v. County School Board of Nansemond Ctv., Va., 492 F.2d 919 (4th Cir., 1974); Walston v. School Bd. of City of Suffolk, 566 F.2d 1201 (C.A.4 (Va.), 1977); Wilder v. Johnson Pub. Co., Inc., 551 F.Supp. 622 (E.D. Va., 1982); Wright v. County School Board of Greensville County, Va., 252 F.Supp. 378 (E.D. Va., 1966); Wright v. County School Board of Greensville County., VA., 309 F. Supp. 671 (E.D. Va., 1970).

tool that leaders like Hill argued was important in the passage of this legislation and others that would protect the rights for all citizens was increased political participation for Blacks.⁴⁷ This would require additional work that would be included as part of the movement as civil rights lawyers began to address voting discrimination, segregating in the bussing system, hotels, restaurants, courts, and places, along with other local segregation laws.

Marsh takes the time in his Memoirs and other interviews to highlight the important fact that there are many lawyers in the movement whose contribution goes undocumented. One of these lawyers is Samuel W. Tucker, Marsh's mentor, law partner, and friend. Tucker is known by the trailblazers who worked alongside him in the movement as a master strategist.⁴⁸ Until recently, when historian Nancy Silcox and a group of historians out of Alexandria, VA published histories on Tucker, there were few documented sources about his life and work. Marsh briefly recounts his version of Tucker's history in his memoirs. This lack of history on Tucker's role in the movement is striking considering he organized the earliest known sit-in for civil rights in Alexandria, Virginia when he was refused a library card at the local library.⁴⁹ Tucker's role in Marsh's life is significant because first, it had impact on the way Marsh thought

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⁴⁷ Hill, *Big Bang*, 337.

⁴⁸ See Char McCargo Bah, et. al, *African Americans of Alexandria Virginia: Beacons of Light in the Twentieth Century* (Charleston: The History Press, 2013) and Nancy Noyes Silcox, *Samuel Wilbert Tucker: The Story of a Civil Rights Trailblazer and the 1939 Alexandria Library Sit-In* (History4All, 2013) for similar arguments of Tucker as an unsung hero.

⁴⁹ Silcox, Samuel Wilbert Tucker.

about the law and desegregation and second, Tucker was a strategist, which influenced the way Marsh navigated the legal and political terrain in Virginia. Tucker's family were huge proponents of education as a means to make life's possibilities endless.⁵⁰

Tucker's role in the Civil Rights Movement generally, and as a major challenger to segregationist laws in Virginia, is not typically the headline in the scholarly discourse. Therefore, it is no surprise that there are many stories of lawyers and community leaders whose work has gone undocumented. Some lawyers and political leaders whose stories are lesser known include: Rueben Lawson, civil rights leader in Roanoke and lawyer on one of Lynchburg's main school desegregation cases, M.W. (Teedy) Thornhill who was a city councilman and first black mayor of Lynchburg, Hermanze Faunteleroy, city councilman the first black mayor of Petersburg, and Noel C. Taylor, the first black mayor of Roanoke, Virginia.⁵¹

A Case for Virginia as a Forerunner: Civil Rights "The Virginia Way"

Massive Resistance utilized the parameters given by the Court in *Brown* to move "with all deliberate speed" when it came down to desegregating schools.⁵² The indecisive nature of the language provided in the legislation did not specify time frames and define acceptable manner by which desegregation would happen left the door open

⁵⁰ Ibid.

⁵¹ For a brief discussion see Marsh, *The Memoirs*.

⁵² See Brown vs. Board of Education (1954).

for the mandates of the courts to be obstructed. This same obstructionism would go spill over into other parts of the Civil Rights Movement, and subsequently it would take decades of fighting for the deliberate speed of justice for black Americans. The Commonwealth of Virginia systematically created laws and policies to delay the inevitable: no more Negro schools, and no more white schools, but just "schools."⁵³ Even still, Massive Resistance, headed by the Byrd machine and maintained by much of the white leadership of the day, proved to be a force to be reckoned with. If black children somehow managed to find a way into these all-white schools, Massive Resistance found a way to cut the funding from these schools and in five cases shut the schools down completely.⁵⁴ On the other side of the "Virginia Way" that defined the strategic obstruction of desegregation was the Virginia way of black lawyers in the movement who made the effort to file many lawsuits as they could, eventually rendering many unjust practices of obstruction, educational inequality, and Jim Crow unconstitutional.

Richmond, the old Confederate capital, was almost as rigid and segregated as it could get in Virginia.⁵⁵ There was a difference between how change progressed in the capital of the Confederacy versus how changes were taking place with civil rights work

⁵³ Green v. New Kent (1968).

⁵⁴ See Hershman, "Massive Resistance." Schools were shut down in Charlottesville, Prince Edward, Arlington County, Norfolk, and Front Royal in Warren County.

⁵⁵ Virginia Museum of History and Culture, "Virginia History Explorer: Why Richmond?," Accessed March 18, 2017, http://www.vahistorical.org/collections-and-resources/virginia-historyexplorer/american-turning-point-civil-war-virginia-1/wh-1.

in the South generally. There is a case to be made that the Commonwealth of Virginia was a forerunner in the Civil Rights Movement, setting the tone for other States. One of Oliver Hill's most famous quotes came at a rally in Farmville following the backlash from the *Brown* decision where he said, "The whole world is watching Prince Edward."⁵⁶ In the game of politics, both white and black leaders knew if segregation was defeated in Prince Edward County, Virginia then it would be difficult for other states to maintain segregationist laws in the future.⁵⁷

Jill Titus, in her work, noted that "the Virginia Way" was coined by a noted historian and segregationist, Douglas Southall Freeman, and breaks down the powerful meaning that lies behind the commonly used description of Virginia white politics.⁵⁸ Resistance ingrained into the fabric of Richmond's politics by those like Governor Stanley and Harry Byrd was the Virginia Way. The Virginia Way is marked by the persuasive tactics that white elites and leaders at its helm used that "allowed Blacks a semblance of autonomy so long as they remained within the lines circumscribed by their white neighbors."⁵⁹

⁵⁶ Southern School News quotes the *Farmville Herald*, January 1960. Bob Smith, *They Closed Their Schools: Prince Edward County*, *Virginia 1951-1964* (Chapel Hill: University of North Carolina Press, 1965). See also Hill, *Big Bang*.

⁵⁷ Raymond Wolters, *Race and education*, 1954-2007 (University of Missouri Press, 2008).

⁵⁸ Jill Ogline Titus, Brown's Battleground: Students, Segregationists, and the Struggle for Justice in Prince Edward County, Virginia (Univ of North Carolina Press, 2011).

⁵⁹ Ibid.

While leaders in the Virginia movement like Hill, Marsh, and Spot did not want to overstate the role that Virginia played in the discourse of race and the law, others hinted at the fact that the responses on both sides of racial politics would dictate how other states responded. When the Brown decision was first announced, Marsh had a difficult time comprehending the plausibility of completely shutting down schools in order to defy the Supreme Court's ruling for segregation.⁶⁰ Marsh describes how he viewed the Virginia Way stating he "was brought up under the Virginia system with Virginia values. The Virginia way was that we respected the law."⁶¹ Marsh's initial plan to challenge segregation was founded on his concept of the Virginia model, where segregation had to be tolerated because "it was the law and [he and the people he knew] figured that everybody would go by the rules."⁶² After the law changed Marsh, other movement leaders, and the community at-large felt that sooner than later the majority of people would change their behavior to meet the demands of the law. Little did they know at the time, but segregationists in Virginia were determined to go to the greatest lengths necessary to thwart the supreme law of the land. It is argued that Massive Resistance began in Virginia and spread from there throughout the South.⁶³

⁶⁰ Marsh, *The Memoirs*.

⁶¹ Ibid, 3.

⁶² Marsh, The Memoirs.

⁶³ Mark V. Tushnet, Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961 (New York: Oxford University Press, 1994).

Marsh in the Legal Fight for Civil Rights

Marsh was a key legal advocate in the fight for civil rights; he was also an example of a lawyer and politician who also served as a community leader. He first emerges as a lawyer seeking constitutional rights for disenfranchised persons of color before landing in politics as an elected official. Marsh graduated from Howard Law School, cum laude, in 1959. His class produced "several of the early staff attorneys for the U.S. Commission on Civil Rights, the first African American governor in the United States, the first woman prosecutor in Kentucky, one of the first black members of the UCLA law faculty, and two retired justices who served on the Supreme Courts of New Jersey and Florida."⁶⁴ The Honorable Douglas L. Wilder was also a part of this graduating class. Even with this impressive group of attorneys coming into the field in the 1960s, there was a severe shortage of black attorneys in law school during this time.⁶⁵

This shortage of lawyers was a factor that greatly exacerbated the challenges that civil rights attorneys like Marsh would have to face. Work as an attorney requires some level of collaboration and mutual respect of the opposing attorneys and judges. These lawyers argued for justice for Blacks in segregated courtrooms. Black attorneys advocated for the rights of their clients after the lawyers had to sit on segregated busses

⁶⁴ Howard University School of Law, "The Jurist: Our 140th Year," News Journal 2009-2010, Vol 19, No 1 http://law.howard.edu/sites/default/files/related-downloads/2009_2010_Jurist.pdf.

⁶⁵ "Shortage of lawyers, Va. Bar Group Told," *New Journal and Guide (1916-2003)*, May 23, 1964.

http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/568800633?accountid=14678 (accessed October 13, 2017).

themselves. W.E.B. Du Bois suggests that "...while the work of a physician is largely private, depending on individual skill, a lawyer must have cooperation from fellow lawyers and respect and influence in court; thus prejudice or discrimination of any kind is especially felt in this profession."⁶⁶ Sadly, many of the conditions faced during the Du Bois era were still prevalent for lawyers in Marsh's day. Whereas other black lawyers in the country may have struggled to make a name for themselves in the legal profession, Marsh was able to have the benefit of the mentorship and tutelage of lawyers already steeped in the movement. Hill had become the chairman of the legal staff of Virginia's NAACP branch and Tucker was well on his way, having worked in the landmark Martinsville Seven and Swansboro cases.⁶⁷ Tucker would establish a firm in Emporia and also consult on cases with Hill.⁶⁸ By the time Marsh and Tucker began their collaboration, Tucker had been practicing for nearly twenty years.⁶⁹

Marsh never forgot the job offer he received from Oliver Hill after meeting him at the General Assembly after his speech against unjust policies that undermined the *Brown* decision. He also never forgot Hill's passion and zealous advocacy for civil rights. Marsh's passion was fueled by the fact that he was a black man who had lived through experiences of segregation in the Jim Crow South. Marsh recalls how during his time in

⁶⁶ William Edward Burghardt Du Bois and Isabel Eaton, *The Philadelphia Negro: A Social Study*, *No. 14* (Published for the University, 1899), 114-15.

⁶⁷ Marsh, *The Memoirs*.

⁶⁸ See Silcox, Samuel Wilbert Tucker. Marsh, The Memoirs.

⁶⁹ Marsh, The Memoirs.

college, it was common practice for persons of color not to be able to use restrooms or eat in restaurants while traveling.⁷⁰ Marsh remembers how it was to stop at a service station for gas and try use the restroom to only hear "Niggers can't use that room. You know better than that."⁷¹ Even though he was well aware of the political and social climate of the time, Marsh met every personal experience of discrimination with shock and disbelief, especially during the times when he traveled from the north to the south. He had grown accustomed to the diversity of the Washington D.C. area where he was in school. Traveling to the South, where racism was more blatant, was a startling reminder of the challenges faced by Blacks in general. It was these experiences that strengthened his desire to practice as a civil rights lawyer.

Marsh and Hill remained in contact while Marsh was in law school and even after Marsh graduated. After law school, before Marsh returned to Richmond, he worked for the Labor Department in Washington DC.⁷² During this time, Hill was campaigning for Jack Kennedy. Once Kennedy took an appointment, Hill would soon take a job in the Kennedy administration. For this reason, Hill had to take a break from his cases, so he pulled together Tucker from Emporia and Marsh from Washington to form the Hill, Tucker, and Marsh Law Firm.⁷³ When Hill told Marsh the office was ready for him to

⁷⁰ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond. Marsh, *The Memoirs*.

⁷¹ Ibid.

⁷² Ibid. Hill, *Big Bang*.

⁷³ Marsh, *The Memoirs*. James Branch Cabell Library Special Collections and Archives, "Interview with Sen. Henry L. Marsh, III," Voices of Freedom, VCU Libraries Digital Collection, March

come, Marsh quit work in D.C. immediately and returned to Richmond.⁷⁴ Hill's goal in pulling in Tucker and Marsh was to keep the Richmond, Virginia office going while he was away working in the public sector.⁷⁵

Tucker and Marsh hit it off well. Tucker, having practiced law for many years, took Marsh under his wing as a son and mentee. The first order of business, when Marsh arrived to the firm, was to come up with a strategy for Marsh to get paid. Marsh was new to practicing law and Hill would no longer be bringing in income to support the firm because he was about to leave to work with the Kennedy administration in the District of Columbia. Marsh was moved by the concern Tucker demonstrated for him and his family. He was touched by the fact that one of Tucker's top priorities was that he be able to support his family, despite the fact that the two had only just met. Marsh's goal from the beginning was to use any money that he earned to reinvest back into the firm. He had hoped that this would leverage his position, helping him establish himself as a partner. Since the Legal Defense Fund was not paying them, Marsh proposed they just split everything in half so that Tucker would not have to pay him out of his pocket. They both agreed to these terms and Marsh was immediately promoted to partner for his generous

^{20, 2003,} accessed February 08, 2017, http://dig.library.vcu.edu/cdm/ref/collection/voices/id/6 (This interview was conducted March 20, 2003 at the Virginia Historical Society in Richmond). Hill, *Big Bang*.

⁷⁴ Marsh, *The Memoirs*. Hill, *Big Bang*.

⁷⁵ Ibid.

contribution to the team. He went without pay for a while, putting everything into the firm so that he could show he was serious about contributing as partner.⁷⁶

Marsh recalled that one of the most difficult aspects of practicing the law during this period was keeping pace with the very demanding caseload. Many of cases required him to oppose opponents who were represented by some of the largest law firms in the Commonwealth.⁷⁷ Because Marsh was fighting from a smaller firm, with limited resources, and for clients with many odds against them, the cases had to be handled with savvy and little to no error.⁷⁸ Marsh also recalled how one edge they had over the opposition was "staying power," meaning Marsh and Tucker were able to outlast the defendants in these cases.⁷⁹ One of Marsh's Norfolk multi-year cases lasted almost twenty years, starting in 1963 and ending in 1982.⁸⁰ Marsh's strategy for agitating injustice of the time was securing rights and social justice by winning cases and creating new precedents. Whether or not litigation is an effective strategy for effectuating change prior to the 70s is arguable amongst scholars. Some scholars suggest that using litigation to secure rights is a "myth of rights" because even if the court's mandate social equality, it may not be able to be carried out by the other branches of government.⁸¹ On the other

⁷⁶ Ibid.

⁷⁷ Marsh, The Memoirs.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Marsh, *The Memoirs*, 58. The Norfolk case lasted from 1963-1982.

⁸¹ Ann Southworth, "Lawyers and the Myth of Rights in Civil Rights and Poverty Practice," *BU Pub. Int. LJ* 8 (1998): 469.

hand, there are scholars who show how litigation can ignite social change, stating how litigation is able to spark movements once the community reaches the understanding that their actual plight is incongruent with the rights mandated by the court. This type of mobilization can lead to political action, which can lead to real social change.⁸² Marsh, however, was not naive to the boundaries of the system. Marsh, a member of the bar, used his commitment to the law to spark change and would see it through in politics as a public official.

Marsh and Tucker would work every day of the week, sometimes taking Sunday off. This was common practice for many civil rights attorneys across the country.⁸³ For Marsh's firm, a strong work ethic with very few breaks was required to keep up with the demands of litigation. The breaks they did receive on occasion came in the form of time off to attend conferences a couple of times of year, which still involved work.⁸⁴ There were also other areas of practice outside of civil rights that Marsh and Tucker took cases for, but civil rights cases were the priority.⁸⁵ No one was getting rich; but, the doors were able to stay open and they stayed afloat. Marsh was proud that no matter what, they never failed to make payroll for their employees.⁸⁶

⁸² Steven C. Tauber, *Navigating the Jungle: Law, Politics, and the Animal Advocacy Movement* (Routledge, 2015).

⁸³ See generally Kenneth Mack, *Representing the Race: The Creation of the Civil Rights Lawyer* (Cambridge: Harvard University Press, 2012).

⁸⁴ Marsh, The Memoirs.

⁸⁵ Ibid.

⁸⁶ Ibid.

Little work has been done to document Samuel W. Tucker's role as a movement lawyer.⁸⁷ Marsh often discusses the impact that Attorney Tucker had on his life.⁸⁸ As aforementioned, Tucker was there to guide Marsh in his early stages in practice. Marsh states, "I had dreamed about being a civil rights attorney and Tucker was the perfect answer. His life was consumed with protecting the rights of everyone and ensuring equal protection of the law. He was the perfect influence for me."⁸⁹ The qualities that Marsh appreciated and learned from Tucker was the way in which Tucker could simplify the most complicated of cases, breaking down complex set of facts to quickly find the legal issue.⁹⁰ Not only that, but he was not easily intimidated and would not back down in a legal argument until the other attorney was completely demoralized.⁹¹ An example of Tucker's prowess was a letter he sent to the Alexandria Librarian after she denied him a library card to the library he applied to and instead offered him a library card to a library that did not yet exist. Tucker's response to Miss Scoggin stated:

> I refuse and will always refuse to accept a card to be used at the library to be constructed and operated at Alfred and Wythe Streets in lieu of a card to be used at the existing library on Queen Street for which I have made application. Continued delay -- beyond close of this month -- in issuing to me a card for use at the library on Queen Street will be taken as refusal to

90 Ibid.

⁸⁷ Hill, Big Bang. Marsh, The Memoirs.

⁸⁸ Marsh, *The Memoirs*. "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond. "Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

⁸⁹ Marsh, The Memoirs, 119.

⁹¹ Marsh, The Memoirs.

do so, whereupon I will feel justified in seeking the aid of court to enforce my right.⁹²

Marsh remembered Tucker for being energetic, a hard worker, and a close friend who was like a father.⁹³ "He was extremely energetic. Sometimes we would stay up all night working on cases and go to work the next day. When Tucker would stay up working through the night and could not drive back to his home in Emporia, he would often stay with Marsh and his family."⁹⁴ Marsh's mentor was a target, however, as Tucker was almost disbarred twice because of laws set in place to try to discourage lawyers from taking NAACP cases.⁹⁵ On one hand, civil rights attorneys were not getting paid much outside of the \$50 per diem offered by the NAACP that they usually did not receive to take the cases. On the other hand, Marsh knew that the lawyers on the opposing side were paid two hundred dollars or more to represent segregationist leaders who headed Massive Resistance to *Brown.*⁹⁶ After five years of being away from the firm, Hill resigned from his governmental job to rejoin the firm.

A good number of cases Marsh headed or participated on occurred starting in 1963. Many of these cases were school cases.⁹⁷ Several of these cases stand out. One of

⁹⁶ Marsh, The Memoirs.

⁹² Samuel W. Tucker, "Letter from Samuel W. Tucker to Alexandria Librarian," *Jim Crow Lived Here*, accessed November 6, 2017, http://jimcrowlivedhere.org/items/show/23.

⁹³ Marsh, The Memoirs. "Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

⁹⁴ Marsh, The Memoirs.

^{95 &}quot;Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

⁹⁷ See generally *Adams v. School District Number 5*, Orangeburg Co., SC, 444 F.2d 99 (4th Cir., 1971); *Bell v. School Board of Powhatan County*, Virginia, 321 F.2d 494 (4th Cir., 1963); *Beckett v. School*

these cases is the aforementioned second *Bradley* case. Marsh believed that a major dictator of success in the court is how well one can argue a case; and all lawyers are not effective in that area. Marsh attributed the lost in the Fourth Circuit on *Bradley II* to a weak argument in court and believed that Bob Ming⁹⁸ or Tucker would have been more successful.⁹⁹ The *Richmond Times Dispatch* and other papers often reported Marsh's civil rights work including his participation on the Prince Edward cases where Marsh called the budget for schools "inadequate."¹⁰⁰

Outside of school cases, Marsh also worked on employment and housing discrimination cases.¹⁰¹ Two of those cases *Quarles v. Philip Morris* (1967), an equal employment for minorities case, and *Gravely v. Robb* (1981), which established single-member districts for the General Assembly would put Marsh on the map for being "one

⁹⁹ Marsh, The Memoirs.

(accessed October 13, 2017).

¹⁰⁰ "Prince Edward's Jim Crow Plans Back in Court," New Journal and Guide (1916-2003), July 04, 1964,
http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/568773274?accountid=14678

¹⁰¹ See generally Marsh, *The Memoirs*. Library of Virginia, 2010 African American Trailblazers in Virginia History, *Henry Marsh, III*,

http://www.lva.virginia.gov/public/trailblazers/2010/honoree.asp?bio=7.

Board of City of Norfolk, Virginia, 269 F.Supp. 118 (E.D. Va., 1967); Beckett v. School Board of the City of Norfolk, 302 F.Supp. 18 (E.D. Va., 1969); Beckett v. School Board of City of Norfolk, 308 F.Supp. 1274 (E.D. Va., 1969); Betts v. County School Board of Halifax County, Virginia, 269 F.Supp. 593 (W.D. Va., 1967); Bowman v. County School Board of Charles City County, Va., 382 F.2d 326 (4th Cir., 1967); Bradley v. School Board of City of Richmond, Virginia ("the parents of ten black children who had been denied admission to white schools filed a class action suit in U.S. district court.)

⁹⁸ Jim McElhatton, "Standing on the 'Shoulders of Bob Ming'" *Washington Times*, December 7, 2008, http://www.washingtontimes.com/news/2008/dec/7/standing-on-the-shoulders-of-bob-ming/. Bob Ming was the first black professor at the University of Chicago School of Law and a partner in a private law firm. The NAACP honors lawyers with an award in Mr. Ming's name and describes Ming as one of the primary "architects in the Brown v. Board of Education litigation.

of the leading trial and appellate attorneys in Virginia."¹⁰² Marsh drew connections between the two contending that "the inability of a colored person to buy a home anywhere he pleases remains one of the nonwhite populace's 'biggest problems.' Refusal of realtors to sell colored persons homes in white communities preserve segregated housing and makes 'it more difficult to bring about integration in schools."¹⁰³ The fight for desegregation carried over from the schools into the court as Marsh fought against the "all-white face of Southern justice" in an effort to desegregate an all-white federal bench in the 4th Circuit Court of Appeals after the death of Judge Spencer Bell.¹⁰⁴

Even with the diverse types of cases Marsh accepted, in his first two years of practice the cases were few in number although meaningful.¹⁰⁵ As segregationist Massive Resistance efforts continued, Marsh's caseload would substantially increase between 1963 and the early 1970s.¹⁰⁶ These years represented the height of the modern civil rights era and Marsh's load of cases in federal courts all around Virginia was

¹⁰² Library of Virginia, 2010 African American Trailblazers.

¹⁰³ "Marsh, Carwile rip Omission," *Afro-American (1893-1988)*, Aug 27, 1966, http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/532308682?accountid=14678 (accessed October 13, 2017).

¹⁰⁴ "Break the Ice'," *New Journal and Guide (1916-2003),* Apr 08, 1967, http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/568957628?accountid=14678 (accessed October 13, 2017).

¹⁰⁵ Marsh, *The Memoirs*. "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond. "Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

¹⁰⁶ Ibid.

reflective of this fact. The cases expanded from school cases to include employment, public accommodations, and voting rights cases also.¹⁰⁷

Marsh in the fight against Massive Resistance

Marsh was a student at the historically black Virginia Union University when the Court's decision was handed down in the *Brown* case. Marsh recalls the excitement students felt as they learned of the court's unanimous decision. In that moment, Marsh believed that it would take no more than two years for Richmond and the rest of the nation to catch up with the consequences of the ruling. Marsh, fully aware as a college student of the extent of segregation in Richmond, still thought that employment and public accommodations discrimination and segregation would begin to dissolve along the same timeline as school desegregation. Marsh truly believed during this time of his life that four or five years would be a realistic timeframe for full equality to be achieved.¹⁰⁸ One of the immediate consequences of *Brown* felt on the campus of Virginia Union was the divisiveness of the Civil Rights Movement that did not exist in the same way prior to *Brown* as Marsh recollects.¹⁰⁹ Whereas there were many interracial gatherings to discussions were no longer regular.¹¹⁰

¹⁰⁷ Marsh, *The Memoirs*.

¹⁰⁸ Ibid.

¹⁰⁹ "Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

¹¹⁰ Ibid.

The day after the ruling the *Richmond Times Dispatch* headlined the decision along with Virginia's political leaders' responses. This is when Marsh first got a glimpse of the idea that his timeline for desegregation was inaccurate. He knew then that Virginia would put up a fight by engaging in what is now called Massive Resistance. The newspaper quoted Senator Harry F. Byrd saying that "the court's decision 'will bring implications and dangers of the greatest consequence."¹¹¹ At that time, talk of Massive Resistance and the rise of segregationist leaders all represented to Marsh the making of a serious fight ahead, which caused many to pause and think that the world as they had hoped for would never come to realization.¹¹²

Marsh explained Massive Resistance as the segregationists' "various and nefarious attempts" to reverse and of the practical outcomes of *Brown*.¹¹³ Marsh went to law school partly because he wanted to win against Massive Resistance, and this was exactly the first order of business at the newly established Hill, Tucker, and Marsh firm.¹¹⁴ During the height of Massive Resistance, the NAACP local branches functioned as a hub for churning out most of the civil rights agenda.¹¹⁵ Marsh remembers nearly forty of the almost seventy branches around the Commonwealth being very active. It was

¹¹¹ "School segregation ruled unconstitutional by the U.S. Supreme Court," *Richmond Times Dispatch*, May 18, 1954.

¹¹² Marsh, *The Memoirs*.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Ibid. See also Tushnet, *The NAACP's Legal Strategy*.

through these active branches that lawsuits to implement desegregation and public accommodations cases were initiated all across the state.¹¹⁶ The NAACP used litigation to agitate things. Marsh played an active role in the NAACP's role in fighting Massive Resistance. Marsh remembers a NAACP pioneer, W. Lester Banks, the Executive Secretary of the NAACP during that time, as the person who really exuded everything that the NAACP stood for during this period. Banks led the Virginia State Conference of the NAACP in Richmond, which was also the state headquarters of the NAACP for Virginia.¹¹⁷ Some historians posit that the NAACP was the most important civil rights organization in Virginia during the movement.¹¹⁸ As such, the NAACP would use state conferences and annual meetings to create the synergy necessary to influence change. Marsh's aunt would make sure he attended the youth chapter events at state conferences; she would even go as far as paying to rent a bus to fill with children to send to these NAACP meetings. Marsh credits these conferences for "keeping things stirred up" and "the grassroots movement going."¹¹⁹

Marsh's work as a civil rights attorney fighting against Massive Resistance also meant that he would have to identify all of the cunning ways the Byrd Machine and other white leaders would try to skirt around school desegregation. These round about ways of

¹¹⁶ Tushnet, *Making Civil Rights Law*. Tushnet describes this period where the NAACP utilized litigation to secure desegregation as a "legislative movement toward Massive Resistance."

¹¹⁷ Marsh, The Memoirs.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

evading the law would include "freedom of choice," pupil placement programs, and tuition grant programs. Marsh was known by the community as a civil rights attorney who addressed these issues; one newspapers described Marsh arguing to a federal panel that an appeals court ban on tuition grants in two Virginia counties should be extended to the entire state's "freedom of choice" education program.¹²⁰ Marsh was a part of a team of NAACP lawyers who submitted papers to the Richmond U.S. District Court asking for tuition grant programs to be reviewed to determine whether or not the state program violated the Constitution.¹²¹ The NAACP lawyers argued that that Virginia's nine localities school boards along with the State Board of Education were in violation of the Fourteenth Amendment because of state-sponsored acts of discrimination.¹²² Marsh and Tucker therefore filed an injunction asking for the state to immediately cease and desist from paying tuition grants for the upcoming school year.¹²³ The three judge panel consisting of Judge John Butzner Jr., Judge Albert Bryan, and Judge Walter Hoffman all ruled in denial of the petition for injunction and instead scheduled a hearing for oral arguments for two months later in December.

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¹²⁰ "Court Asked to Ban all Tuition Grants," *New Journal and Guide (1916-2003)*, Dec 12, 1964, http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/568718594?accountid=14678 (accessed October 13, 2017).

¹²¹ Jeffrey L. Littlejohn and Charles H. Ford, *Elusive Equality: Desegregation and Resegregation in Norfolk's Public Schools* (University of Virginia Press, 2012).

¹²² Ibid.

¹²³ Ibid.

Although Tucker made a solid case about why tuition grants that ensured children were not forced to attend integrated schools violated the Constitution and the Supreme Court's ruling in *Brown*, the Court was not convinced and in March ruled tuition grants were "not unconstitutional on their face." It would take an additional four years before the same panel of judges would rule again on this principle. In *Griffin* (1969) the court ruled that it is illegal and against students' Fourteenth Amendment rights to have laws in place that preclude students from attending integrated schools.¹²⁴ Marsh was involved on *Griffin v. School Board of Prince Edward County* (1964) as discussed above and *Charles Green et al. v. County School Board of New Kent County* (1968).

Marsh and the team sought out a case to be used as a pilot to completely overhaul legal precedent and therefore lessen the number of individual cases they would have to take.¹²⁵ Of the choices, which included Charles City County and New Kent County, they chose New Kent because New Kent only had only two schools, one on each end of the county, with children of both races represented throughout the entire county. Marsh and the team chose New Kent because of the strict dichotomy represented with just two school choices, which showed that children were "bused past the schools which they could otherwise have attended except the children attending the schools for decades. The white kids were bused to the white school and black kids were bused to the black

¹²⁴ Littlejohn and Ford, *Elusive Equality*.

¹²⁵ Marsh, *The Memoirs*. "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond. "Interview with Sen. Henry L. Marsh, III," Voices of Freedom.

school." Marsh goes on to state that, "We looked upon Charles City County and New Kent as two pilot cases. It turns out that New Kent was the better one because the Court couldn't duck the issue of freedom of choice. We didn't win it like we wanted to in the Fourth Circuit. The case went to the Supreme Court."¹²⁶

Oral historical accounts given from actual persons in the movement helps to fill in parts of the historical narrative that is not easily ascertained by reading the transcript from the courts alone. For instance, in the *Green* case, through Marsh's account, it is learned that one reason why they were able to win the case involved the plaintiffs display of courage and the way they articulated their position.¹²⁷ This case would become known in scholarship and the community as equally if not more important than the *Brown* decision.¹²⁸ Further, the litigation strategy for the case was born from an all-night work session on other cases when Marsh and Tucker realized it may prove worthwhile to challenge racial segregation in the two New Kent schools.¹²⁹ Marsh recalled how the Department of Health, Education and Welfare (HEW) used the *Green* decision as a model, which Marsh advances dramatically sped up desegregation in Virginia and the rest of the South.

Another important part of Marsh's career as a civil rights lawyer in the fight against Massive Resistance involved work he and Tucker did in Norfolk, Virginia. The

127 Ibid.

¹²⁶ Marsh, *The Memoirs*.

¹²⁸ Tushnet, *Making Civil Rights Law*.

¹²⁹ Marsh, The Memoirs.

NAACP requested that the Hill, Tucker, and Marsh firm help with multiple cases across the Commonwealth. Tucker decided that they should split up cases by region, asking Marsh to take Norfolk, Virginia. Marsh was far enough into practice that he eagerly said he could take on the Norfolk cases without issue, only expecting the caseload to last for a couple years.¹³⁰ The work in Norfolk was much more substantial than Marsh realized at the time. Marsh and the NAACP's work to push the Norfolk desegregation plan began on January 3, 1966.¹³¹ This was in response to the Norfolk School Board's desegregation plan filed with the U.S. District Court on December 1, 1965, which raised concerns with proponents of *Brown* because it provided no room for desegregation of the school district's faculty.¹³²

The school population would be desegregated and students would no longer be assigned to either a white school or black school depending on their color. Additionally, any black children who elected to go to a white school would not be disallowed. This sounded fair enough, but Marsh, who served as the lead attorney, took exception to the proposal arguing that it was unconstitutional because the faculty was not required to be racially diverse. Further, under the school districts' proposal, it was highly unlikely that Whites would ever elect to go to a black school, leaving the black schools just as segregated as they had started.

¹³⁰ Ibid.

¹³¹ Littlejohn and Ford, *Elusive Equality*.

¹³² Ibid.

Initially a federal district judge, Walter Hoffman, had called for the desegregation of schools in Norfolk and only a few black students were admitted to the white school. Despite the sparse implementation of the desegregation ruling, there was a massive outcry by Whites in the community. When Marsh and his team went to tackle the issues regarding the integration of black and white faculty members working in the same schools and further integration of the student population, Hoffman would rule against them. Every year the team would bring a cases before the judge, not only regarding matters concerning the desegregation of Norfolk schools, but also schools in Chesapeake, Isle of Wight County, Newport News, Norfolk, and Suffolk, and he would shoot it down. But as it happened, there was a turn of events.

At one point Judge Hoffman went out of town to try a case in Nevada. As it happened, a case pertaining to desegregation came up on the docket. Marsh persuaded the presiding judge who was sitting in for Hoffman, Judge John MacKenzie, to rule in favor of desegregation, "with a ratio of 58% black to 42% white throughout the school system for both teachers and students."¹³³ This decision turned the tables for the entire school system marking one the most significant rulings to move the actual desegregation of schools forward.

As might be expected, Whites at high levels of leadership were conspicuously quiet when it came to the issue of desegregation. Possibly, they were afraid of the backlash, like in the case of Judge Hoffman, if they dissented from the status quo on the

¹³³ Marsh, *The Memoirs*, 63.

issue. This changed with Governor Linwood Holton, who served as Virginia's governor from 1970 to 1974. Marsh had supported his election. After his appointment as Governor, Marsh requested Holton's help with advancing the cause of desegregation. Holton did so by making an extraordinarily daring move. Marsh shared that, "He took his child, Ann, and personally enrolled her into the largest, poorest school in the city. It made the front page."¹³⁴

Another example of the types of desegregation cases Marsh took dealt with overturning taxpayer funding of segregated academies. In an effort to force litigation against the public financing of private all-white academies in Surry County, which served to allow Whites to skirt the mandate to desegregate public schools, he purposely had black students seek admission into the all-white academy. Of course they were denied. He then brought individual lawsuits on behalf of those black students. He and his team also brought legal action against the State Board of Education to oppose tuition grants and Pupil Placement Boards for denying entrance to black students seeking to attend white schools on fallacious grounds. Eventually, the pupil placement process was deemed invalid.

The Other Side of Desegregation

The black power structure in many Virginia cities including Roanoke and Richmond were not sold on desegregation; many wanted to preserve black schools.

¹³⁴ Ibid., 67.

Although the Virginia NAACP lawyers agreed on a common mission, it was still a challenge for the civil rights lawyers to persuade black community leaders.¹³⁵ This is not a novel idea, Booker T. Washington argued for a political and economic strategy that called Blacks to use self-help and racial solidarity to get ahead and create their own space as fully accepted citizens in society.¹³⁶ This was a strategy to maintain and centralize black power, building economic and material success within the black community.¹³⁷ W.E.B. Du Bois' strategy diverged from Washington's by arguing that Blacks should not accommodate racism and injustice. Although defenders of segregation's view was a controversial opinion that would differ from those that would align with W.E.B. Du Bois and the NAACP, many of these Blacks held the opinion during the height of school desegregation that there may be pros associated with black teachers teaching black students and schools remaining separate. Scholars wrote a series of essays in "The Role of Ideas in the Civil Rights South" exploring African American thought, including those who did not join the movement.¹³⁸ One 1966 study shows that "one in three 'Negroes is not committed to the goal of racial integration,' with 16% favoring 'strict segregation' and 15% favoring 'something in between strict segregation and integration."¹³⁹ Carter

¹³⁵ Marsh, *The Memoirs*.

¹³⁶ Booker T. Washington, "The Atlanta Compromise," In *Cotton States and International Exposition, September*, 1856-1901, 1895.

¹³⁷ Ibid.

¹³⁸ Ted Ownby, *The Role of Ideas in the Civil Rights South* (Jackson: University Press of Mississippi, 2002).

¹³⁹ Ibid., 158, quoting Donald Mathews and James Protho, *Negroes and the New Southern Politics* (New York: Harcourt, Brace and World, 1966), 340.

G. Woodson wrote in 1943 "there are a few [Negro] defenders who are doubtless sincere... One can cite cases of Negroes who opposed emancipation and denounced abolitionists."¹⁴⁰

Marsh's life work would fall in the DuBoisian conservative category that urged the Civil Rights Movement to move forward in a way that would disturb the current order to create a new order. However, Marsh was radical in his approach in the manner of which he would navigate politics by incorporating the white elite to push his agenda. Marsh's dissenters would argue against the end justifying the means, while Marsh would be satisfied that he was able to accomplish victories for the movement that benefited his constituency without selling out for money or other negative behaviors generally ascribed to politicians.

This idea is further supported by critical race theory (CRT) scholars who argue that even with numerous major civil rights successes, the black legal agenda actually disempowers instead of uplifting the race.¹⁴¹ Theorist Derrick Bell argues that "a commitment to racial equality merely perpetuates Blacks' disempowerment."¹⁴² Marsh noticed that there was this other side of desegregation where the community ideal was to preserve the power of the black community. Marsh, who still maintains his support of black schools, questioned whether or not a white teacher would have taken the time to

¹⁴⁰ Carter G. Woodson, *The Mis-Education of the* Negro (Book Tree, 2006), 66.

¹⁴¹ Jeffrey J. Pyle, "Race, Equality and the Rule of Law: Critical Race Theory's Attack on the Promises of Liberalism," *BCL Rev.* 40 (1998): 787, http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=2124&context=bclr.

¹⁴² Derrick Bell, "Racial Realism," 24 CONN. L. REV. 363, 377 (1992).

nurture his gifts and ability the same as his black teachers did growing up in a segregated one room schoolhouse.¹⁴³

There was an advantage to Marsh's work with the local counsel in Norfolk because whether or not they agreed with Marsh did not matter because he could go back home to Richmond. Marsh would go places where he would speak and the crowd would boo.¹⁴⁴ There may be no one correct answer or theory, but Marsh believed that the advantages of desegregation like more variety foreign languages, sciences, and access to resources, arguably outweighed those of the segregated schools.¹⁴⁵

Summary

Henry Marsh is a representative of the sheer courage and intellectual preeminence of black lawyers who fought on the front lines for desegregation of public schools and civil rights at-large. During the 50's the NAACP made sweeping strides for equality through overwhelming success in legal cases that would advance the causes of oppressed Blacks. Some major wins included: reversing restrictive covenants; changing rules for white primaries; more equal treatment in the judicial system; and desegregating law schools, other institutions of higher learning, and use of public facilities including libraries and dining halls, housing, and transportation. Despite these advances,

¹⁴³ Marsh, *The Memoirs*.

¹⁴⁴ Marsh was booed at parades and hockey games. See Marsh, *The Memoirs*, 104.

¹⁴⁵ Marsh, in conversation with Author, August 2017.

educational inequality still remained a challenge for black people. On May 17, 1954 segregation of public schools was deemed unconstitutional by the Supreme Court. Proponents of the ruling braced for a relatively slow transition of possibly two to five years to see real changes implemented after the ruling; they never dreamed that Whites would defy the court's ruling to the extent that they did.

Resistance began with the Gray Commission established by Governor Stanley to study the effects of the *Brown* ruling. The result was the Gray Plan that gave the recommendation that compulsory attendance at school be rescinded, giving white children a means of opting out of going to school with Blacks. The Gray plan morphed into what came to be known as "Massive Resistance" under the leadership of U.S. Senator Harry F. Byrd, Sr. Interestingly, a significant number of Blacks advocated against desegregation in favor of maintaining all black schools. Marsh and other proponents of desegregation felt that access to greater educational opportunities, which were not available in black schools, far outweighed the advantages of maintaining segregated learning environments.

Against all hope, Marsh and black attorneys like him bravely took up the cause, fighting within the court system for more than a decade. In doing so, Marsh and others took center stage and placed Virginia in the middle of what would be one of the most divisive issues to face the southern states since the civil war. Legal strategies and the many rulings made in favor of enforcing segregation set the precedent for dismantling segregation throughout the South. These victories came at a cost that only those on the front lines could ever know. But, it was their sacrifice that provided a shift into more

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equal treatment under the law and vastly improved opportunities for black people, particularly as it relates to equality in education.

It was not until 1970 that busing was approved. It was at that point that desegregation was implemented by at large. Though one-hundred percent desegregation has never been fully achieved, legal advocacy by black attorneys has played a major role in the historic advancements of educational opportunities for Blacks.

CHAPTER FOUR

MARSH, THE "POLITICS OF RESPECTABILITY," AND THE "VIRGINIA WAY"

"Without question, the increased activism of the 1950s and 1960s spilled over into politics as previously disengaged Blacks, emboldened by courtroom legislative triumphs, began to believe that 'black power' could be translated into meaningful reform." -Roger Biles¹

Marsh's career plan since he was a young boy did not involve becoming a civil rights lawyer or politician. Instead, Marsh planned to become a truck driver.² Through the eyes of a young boy who walked several miles to school one way in a racially segregated southern town, Marsh saw only three career options: becoming an oysterman like his uncle, farming, or driving trucks like those that traveled up and down the country back roads of Isle of Wight County.³

In most rural areas throughout the South, farming was the primary occupation for young men like Marsh, but farming required long hours of physical work. Oystering was also strenuous and required someone with a strong frame like Marsh's uncle who was

¹ Roger Biles, "Black mayors: A historical assessment," *The Journal of Negro History* 77, no. 3 (1992): 109-125, 114.

² Phyllis Leffler, Black leaders on leadership: Conversations with Julian Bond (Springer, 2014).

³ Henry L. Marsh, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*, Jonathan K. Stubbs and Danielle Wingfield-Smith, Eds. (GrantHouse Publishers, 2018).

6'8" and two hundred and sixty pounds; Marsh was a small framed young man.⁴ Marsh realized that he could not lift the forty foot wooden tongs in an out of the river multiple times in order to catch enough oysters to make a living.⁵ Therefore, as a young boy he knew that farming and oystering were not occupations for him. The next option was truck driving. It was not until high school that Marsh would consider becoming a lawyer and not until later in his legal career that he considered politics. Being a black boy in the South with aspirations beyond traditional occupations of black men in his community influenced how Marsh would eventually move into civil rights and politics and navigate the "Virginia Way." He engaged in a "politics of respectability"⁶ that adhered to the norms of traditional politics while also engaging in overt pro-black politics.

Black Political Independence

During the late 1960s the approach to dismantling Jim Crow laws focused on changing the law and creating a legal precedent that would guarantee and support the rights of black Americans. This strategy took shape in many forms. By the election of President Kennedy in 1960, civil rights had become a central issue in American politics.

⁴ Ibid.

⁵ Ibid.

⁶ See Evelyn Brooks Higginbotham, *Righteous Discontent: The Women's Movement in the Black Baptist Church, 1880–1920* (Harvard University Press, 1993) who coined the term "politics of respectability" or "respectability politics" as a way of explaining how minority groups adhere to standards that are widely agreed upon as "respectable," while simultaneously disassociating from negative stereotypes ascribed to their community.
With over 70 percent of Black votes, Kennedy was still hesitant to push for civil rights fearing he would alienate his Southern base. However, he still appointed record-breaking numbers of Blacks to high level positions. Further, Kennedy allocated resources to the Civil Rights Commission and pushed legislation without him having to take the lead. He was a proponent of school desegregation and gave special attention to many social issues facing black Americans like voting rights and employment discrimination.⁷

Although 1954 was a pivotal year in the Civil Rights Movement, 1963 ushered in an era of civil rights legislation. The March on Washington in 1963 helped lay the foundation for the Civil Rights Act of 1964, Voting Rights Act of 1965, and other demonstrations that took place all over the South. Led by King and the Southern Christian Leadership Conference (SCLC), Student Nonviolent Coordinating Committee (SNCC), Congress of Racial Equality (CORE), and other organizations the momentum of the movement had finally come to fruition.

It would not be until the mid to late 1970s that Blacks demonstrated or showed political independence in Richmond.⁸ Black elected officials were far from the majority in the early 1960s with fewer than 103 black elected officials holding office in 1964. This number would increase over the next two decades rising to 6,384 black elected

⁷ "Civil Rights Movement," John F. Kennedy Presidential Library and Museum, accessed March 17, 2018, https://www.jfklibrary.org/JFK/JFK-in-History/Civil-Rights-Movement.aspx.

⁸ Christopher Silver and John V. Moeser, *The Separate City: Black Communities in the Urban South*, 1940-1968 (University Press of Kentucky, 2015).

officials in 1986.⁹ Most of the political progress for black officials is seen at the state and local levels, including school boards, city councils, the mayoral level and state legislatures.¹⁰ Scholars have shown that the noticeable gains in black public office-holding were at the mayoral level, which is significant because the mayoral position is arguably the highest degree of local empowerment that most often signals high degrees of organization and control over local decision making among black elites.¹¹ To add to this suggestion, on the alternative, when there is a lack of black representation in public office, there is often a heightened distrust of the local government, which creates an unrest.¹²

One of the first steps in political progression for Blacks was securing voting rights. Garnering voting rights for Blacks was vital to the progress of the movement, especially for eradicating the resistance that black Virginians faced as they fought for change. In 1965, the same year that the Voting Rights Act was passed, there was a horrific event known as "Bloody Sunday" when non-violent protesters including Congressman John Lewis was brutally beat by Alabama police on national television while trying to cross the Edmund Pettus Bridge in Selma.¹³ This event served as an

⁹ Lawrence Bobo and Franklin D. Gilliam, "Race, sociopolitical participation, and black empowerment," *American Political Science Review* 84, no. 2 (1990): 377-393.

¹⁰ Ibid.

¹¹ Ibid.

¹² Glenn Abney and John D. Hutcheson Jr., "Race, representation, and trust: Changes in attitudes after the election of a black mayor," *Public Opinion Quarterly* 45, no. 1 (1981): 91-101.

¹³ Taeku Lee, *Mobilizing public opinion: Black insurgency and racial attitudes in the civil rights era* (University of Chicago Press, 2002).

impetus for even more support of the Voting Rights Act.¹⁴ Virginian used poll taxes, literacy tests, and "understanding" requirements to keep Blacks from voting. It was evident that Virginia had no intentions to adhere to the Voting Rights Act.¹⁵

There was a broader shift in politics on a national scale from the years President Johnson pushed the Voting Rights Act in 1965 to the early 1970s when the Watergate scandal unfolded.¹⁶ Therefore, there was a growing amount of public distrust towards the government nationally. However, research studying Blacks in southern states like Georgia showed that Blacks had more trust in government after a person of color became an elected official like mayor, pointing towards the idea that there are other factors that influence Blacks trust in the city government other than what is happening on a national scale.¹⁷

The Voting Rights Act in 1965 would come full circle twelve years after its ratification when Richmond would break all records by voting in a city council that was a majority Black.¹⁸ In this same year, 1965, Marsh became the first black mayor of Richmond. 1965 was also the same year that marked a historically significant moment of

¹⁷ Ibid.

¹⁴ Ibid.

¹⁵ Brent Tarter, "African Americans and Politics in Virginia (1865–1902)," *Encyclopedia Virginia*, Virginia Foundation for the Humanities, 21 Oct. 2015, Web. 3 Nov. 2017, https://www.encyclopediavirginia.org/African_Americans_and_Politics_in_Virginia_1865-1902#start_entry.

¹⁶ Abney and Hutcheson, "Race, representation, and Trust."

¹⁸ Julian Maxwell Hayter, "From Intent to Effect: Richmond, Virginia, and the Protracted Struggle for Voting Rights, 1965–1977," Journal of Policy History 26, no. 4 (October 2014): 534-67.

what some called "black political independence."¹⁹ Before then, which was directly after the Voting Rights Act was passed, Blacks were able to mobilize politically and freely exercise their rights to vote in a greater number once legal barriers at the state and local level impeding this 15th Amendment right were removed. The result was greater participation of Blacks in the 1966 election when Marsh ran for council.²⁰ Within a few years of the passage of the Act, in the South, the number of Blacks registered to vote increased exponentially. The Voting Rights Act, which Virginia was part of, was important because it provided a golden opportunity for more people to have a say in politics.

Richmond Politics

Richmond differed from other southern cities like Atlanta, where the first black mayor was elected in 1973, which was four years before Marsh was elected in Richmond.²¹ Another difference between the two cities is that Richmond, unlike Atlanta, did not experience the same type of "biracial partnerships" before or after 1977 and the major black political groups maintained a strict independence from the white business elite who held the power during the 1950s and 1960s.²² In Richmond the black political

¹⁹ Silver and Moeser, *The Separate City*, 2015.

²⁰ Marsh, *The Memoirs*.

²¹ Abney and Hutcheson, "Race, Representation, and Trust."

²² Silver and Moeser, *The Separate City*. Silver and Moeser discuss how the black political groups in Richmond included the Crusade for Voters; this was compared to the relationship in Atlanta between the Atlanta Negro Voters League and the Atlanta elite.

authority included the Crusade for Voters, an organization created to use voter registration drives to increase Blacks' political awareness and votes in Richmond, Virginia.²³

The Crusade for Voters was a byproduct of the school fight for desegregation and against Massive Resistance. The founding history of the Crusade states, "The Richmond Crusade for Voters grew out of an interracial group called 'the Committee to Save Public Schools, formed to oppose a January statewide referendum which would allow local government to block integration of public schools."²⁴ The mobilization of Blacks to vote was crucial in meeting the goals of the Civil Rights Movement. The creation of the Crusade also was an effort to create a self-contained politically empowered community. One of the Crusade's first initiatives was to rid of "single-shot voting" and recommended a vote for a full slate of candidates. The Crusade's strategy involved bolstering black voter registration and leveraging the growth of the black community in Richmond to help Blacks maintain political control. The Crusade also endorsed white candidates so that these candidates would be indebted to the black community whose vote helped the candidate to win.²⁵

By 1966, the objectives of the organization were well on their way as the city's black population was 48 percent and black voter registration had increased by 65 percent

²³ Richmond Crusade for Voters, "History," accessed March 17, 2018, https://richmondcrusadeforvoters.wordpress.com/history/.

²⁴ Richmond Crusade for Voters, "A Guide to the RADA Richmond Crusade for Voters Archives 1953-1995," accessed March 17, 2018, https://richmondcrusadeforvoters.wordpress.com/history/.

²⁵ Silver and Moeser, *The Separate City*.

in just two years from 1964 to 1966. Because of the Crusade's success, its members no longer had to carefully select "safe" white candidates to garner support. Instead, the Crusade shifted its strategy and relied on black voter turnout and selected progressive candidates of their choice.²⁶

The role of the Richmond Crusade for Voters in helping mobilize Blacks' political fervor and independence cannot be understated. From the time the organization was created in 1956 well into the 1960s, it was a major factor in determining which candidates were elected into office and by the late 1960s (which is during the time Marsh was running for office in 1966) the Crusade had garnered enough strength to elect its own candidates to city council based solely on black vote.²⁷

Henry Marsh was a long-shot candidate who would need to win with the black vote. He was first elected to the city council in 1966 and reelected both in 1968, and then in 1970. Tom Bliley won the mayoral seat in 1970 and Marsh was nominated and elected as Vice Mayor.²⁸ Another pivotal event occurred in 1970 when Curtis J. Hope, who some considered an "an unlikely hero"²⁹ filed a lawsuit against the city claiming that it had annexed about twenty-three miles of adjoining parts of Chesterfield County for the

²⁶ Ibid

²⁷ Ibid.

²⁸ Marsh, The Memoirs.

²⁹ Ron Harris, "Richmond: Former Confederate Capital Finally Falls to Blacks," *Ebony Magazine*, June 1980 says "Hope seems like an unlikely hero. Seated squarely atop a too-small chair in his tiny, cluttered apartment, in Richmond's Creighton Court projects, Hope-- unkempt hair, baggy pants, speech filled with misplaced infinitives and mispronounced words-- doesn't appear the man to totally transform a city."

purpose of limiting the influx and impact of black voters.³⁰ Although the annex was approved by the federal court, the court ordered that the city make changes to the current election system but it was unconstitutional. The Court held that the at-large system be broken up into wards.³¹ This was another key difference between Atlanta and Virginia politics, that Atlanta was unable to annex suburban parts of the city.³² The contested annexation suit in Richmond caused the 1972 and two subsequent elections to be enjoined.³³ Marsh suggested that this case filed by Hope, a man with a tenth-grade education, resulted in:

> a city whose foremost tourist attraction is a street lined with monuments to the men who battled the U.S. government in order to maintain white supremacy now [in 1980] has a black mayor, a black city manager, a predominantly black city council, a black school superintendent, a black fire chief, a black treasurer, a black personnel director, a black assistant city manager and a black assistant to the mayor.³⁴

³⁰ Ibid.

³² Abney and Hutcheson, "Race, Representation, and Trust."

³³ Silver and Moeser, *The Separate City*.

³⁴ Harris, "Richmond: Former Confederate Capital," 1980.

³¹ Ibid. See also Hayter, "From Intent to Effect." "The annexation took effect at midnight on December 31. On January 1, 1970, Chesterfield ceded 23 square miles and forty-seven thousand new citizens—ninety-seven percent of the annexed area was comprised of white residents. Annexation summarily reduced Richmond's black population from fifty-two percent to forty-two percent. The proportion of voting-age African Americans dropped from forty-five percent to thirty-seven percent. Annexation gutted Blacks' ability to elect a council majority—Marsh was the only black candidate to win in 1970 under the at-large election system."

The "Problem" of "Negro" Leadership

In 1977, Henry Marsh became the first black mayor of Richmond.³⁵ Marsh was in-part elected because the nine-member city council in 1977 was majority black for the first time in the history of Richmond. This racial shift in Richmond politics was the result of the city's growing black population, higher black voter turnout and registration, and legal remedies that handcuffed the hands of Jim Crow. With a black majority and Marsh at the wheel, the power shift signaled to the business and white elite that things were about to change.³⁶

Opposition to this progress took many forms. The Byrd organization, its leaders, and many of the white political elite resisted black progress and used legislation, news media, and other political maneuvering to block black power.³⁷ The larger picture involved more than a blockade to desegregation. It was the overarching objective of the Byrd Machine to systematically integrate the spirit of Massive Resistance into the fabric of society by using state politics and the media to promote their message of white supremacy, thus securing Virginia's conservative status quo. Marsh may have been elected as first Mayor, but not without being met with opposition from both the white elite and some Blacks. Marsh came under great attack from *The News Leader*. The *News Leader*, once known for the work of a Pulitzer-prize-winning historian Douglas Southall

³⁵ See Ibid.

³⁶ Silver and Moeser, *The Separate City*.

³⁷ "Massive Resistance: An Overview," *The Movement in the Archive*, accessed February 12, 2018, http://civilrights.woodson.virginia.edu/exhibits/show/massive-resistance/overview.

Freeman, was taken over in 1949 by James Kilpatrick. Kilpatrick called himself and the *News Leader* "the intellectual leadership of Massive Resistance."³⁸ Kilpatrick argued that Massive Resistance was constitutionally backed and had nothing to do with racism; the black community, however, did not buy this argument creating a lasting distrust between many in the black community and the *News Leader*.

Marsh was not immune from the *News Leader's* harsh criticisms. Kilpatrick's predecessor was Ross Mackenzie whose goal was to establish himself as an antisegregationist and against the Massive Resistance campaign.³⁹ However, he and the *News Leader* maintained hostility towards the Blacks who took office in 1977. Marsh was the target of criticisms and alleged misconduct in what Mackenzie called "Marshgate." Blacks were the majority and maintained power of City Hall. In 1980, the next opportunity to overthrow the black political slate, the *News Leader* described the previous three years with the black majority as: "Ineptitude. Embarrassment. Polarization. Duplicity. Skullduggery. Bickering. Recrimination."⁴⁰

³⁸ Michael Isikoff, "Virginia Tradition," *The Washington Post*, last modified September 19, 1982, accessed February 12, 2018, https://www.washingtonpost.com/archive/politics/1982/09/19/virginia-tradition/54f49892-5cf8-47dc-9e01-7882d293db57/?utm_term=.7dc798f7ab96.

³⁹ Ibid.

⁴⁰ Isikoff, "Virginia Tradition."

Marsh's Political Emergence: City Council and Vice Mayor

Marsh was elected to the city council June 14, 1966.⁴¹ On June 10, 1966 the *Richmond Times Dispatch* printed an editorial reporting readers' views of the City Councilmanic Campaign. One person described Marsh's candidacy as stating, "Henry L. Marsh, III is an independent candidate who will bring to a deliberative body new, progressive and provocative ideas which will inure to the great benefit of the people and, if he finds himself on a 'team', will make the plays which are called for him by the people."⁴² This was the tone with which Marsh began his political career. Years later some would point to his inability to work on a "team" as one possible reason his term as mayor ended.

The Richmond Crusade for Voters was a historically Black organization that was formed in response to laws created under Jim Crow to keep Blacks from being able to vote. Its mission was to educate voters and increase voter registration among African-Americans.⁴³ Marsh, a former member of the Crusade for Voters leadership, finished sixth in his bid for a seat on City Council, garnering a total of 17,812 votes. Of the seven

⁴¹ "Rights Atty. Aims to Give People Voice," *Afro-American (1893-1988)*, Apr 23, 1966, http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/532149203?accountid=14678; "Five win council seats in Virginia," *Afro-American (1893-1988)*, June 25, 1966, accessed October 13, 2017,

http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/532158394?accountid=14678.

⁴² "City Councilmanic Campaign Draws Readers Comments," *Richmond Times Dispatch*, June 10, 1966: 22, accessed February 12, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-

¹⁴⁸EDA51A3D7318E@2439287-148EC064F5A067B4@21-148EC064F5A067B4@?p=WORLDNEWS.

⁴³ See Kimberly A Matthews, *The Richmond Crusade for Voters* (Arcadia Publishing, 2017).

persons seeking seats on Richmond's City Council, two, other than Marsh, were black.⁴⁴ With two other Blacks running for council, there were those who had felt that there was no need for Marsh to run also. Without the full backing of the Black community, Marsh was forced to employ more creative strategies to outwit his opposition. Marsh's strategy consisted of two things he credits for his win. First, he galvanized pastors to encourage their congregations to vote.⁴⁵ Second, he supported the dismantling of poll taxes and paid his own poll workers.

The Crusade for Voters were among those who argued that two black people running for counsel was enough. Marsh may have agreed with the general consensus at a first thought, and was aware that it was being publicized in the news that civil rights for Blacks had been achieved and that the focus should be shifted to preparing Blacks to take advantage of their new found equality. ⁴⁶ But, Marsh knew that this was far from true, sensing that this was the time for Blacks to command the political field. This was something that had never happened before in the history of Richmond which was the seat of the confederacy and had always been white run. Interestingly, this "two is enough"

⁴⁴ "Registration Hours Said Factor In 'Lowering' Votes by Negroes," *Richmond Times Dispatch*, June 16, 1966: 1, accessed February 12, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-148EDA55D2D26126@2439292-148ED9EF5A96F6EA@0-148ED9EF5A96F6EA@?p=WORLDNEWS.

⁴⁵ Interview with Wyatt Tee Walker, Teachers in the Movement, March 18, 2015. Wyatt Tee Walker talks about how the Church played a pivotal role in the Movement saying, "I was not in the Baptist church. I was in the black church. And had the black church not been in the mood, there wouldn't have been a movement."

⁴⁶ Marsh, *The Memoirs*, 85. "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond, University of Virginia, accessed February 7, 2017,

train of thought created a sense of urgency in Marsh. This motivated him to encourage a number black leaders, who had at some point run for City Council in the past, to run again. Marsh recalls having a conversation with one of his old law school roommates, L. Douglas Wilder. Wilder was a criminal lawyer who was well known and well respected. While Wilder declined to run for city council, Marsh remembered Wilder telling him that he (Marsh) should just run himself. A number of other persons turned down Marsh's suggestion to run, also responding with the counter suggestion that he just run himself; it was then that Marsh decided he would.⁴⁷

The backstory leading up to Marsh's historic assent to Richmond's City Council began largely with the Crusade for Voters. At the time, the Crusade was the political force to watch. On the other hand, the Richmond Forward was the political counterpart to the Crusade for Voters, giving voice to the white political business elite. The Crusade had been known to endorse white candidates; this go 'round, the Richmond Forward organization borrowed that strategy and decided to endorse a black for city council, B.A. Cephas, Jr., a real estate broker. The business community chose Mundle and Cephas to run on the business team's slate. In response Milton Randolph, the President of the Richmond Crusade for Voters, released a statement that it would only endorse the two Blacks already on the slate.⁴⁸ An endorsement for Marsh by the Crusade for Voters would in essence be critically important because, as the *Richmond Times Dispatch* stated,

⁴⁷ Ibid.

⁴⁸ Marsh, The Memoirs.

"the Crusade for Voters is undeniably a force in the Negro Community."⁴⁹ At the time of the 1966 election, the black population represented 48 percent of the total population and 34 percent of registered voters. With poll taxes recently declared unconstitutional,⁵⁰ the Richmond Forward organization began to be uneasy with the Crusade's strength and threat to the existing state of political power. Therefore, the Richmond Forward pushed to change the election format, which in turn created a great urgency for the black community to take their voting efforts to the next level.⁵¹

Marsh knew that the Crusade would have poll workers supporting the two candidates that they had endorsed working outside the voting polls on the day of the election and that the Richmond Forward organization would have paid workers out pushing the candidates that they had endorsed. Marsh recounts that his strategy involved making sure he too had motivated poll workers. He knew that volunteers would not be properly motivated; therefore, he had to come up with money to pay them.⁵² Marsh recalled taking out a three-thousand dollar loan to cover the cost.⁵³ Marsh's strategy did not stop there. He invited the Crusade for Voters leadership team to attend a meeting the

⁴⁹ "No 'Core' of Power in Politics Found Among City Negroes," *Richmond Times Dispatch*, April 25, 1966: 3, accessed February 12, 2018,

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-148EDB1EE2A7321F@2439241-148ED7AB431D79B0@2-148ED7AB431D79B0@?p=WORLDNEWS.

⁵⁰ See Harper v. Virginia Board of Elections, 383 U.S. 663 (1966).

⁵¹ Silver and Moeser, *The Separate City*.

⁵² Marsh, *The Memoirs*.

⁵³ Ibid., 85. "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond, University of Virginia, accessed February 7, 2017, http://www.virginia.edu/publichistory/bl/index.php?fulltranscript&uid=22.

night before the election. When their leadership arrived, they saw a room full of zealous supporters who were determined to elect Marsh.⁵⁴ Marsh invited the leadership to see the momentum that he had going into the election. The poll workers Marsh paid worked tirelessly and positioned themselves so that his workers were the last people the voters saw before going into vote.⁵⁵ It worked, and when Marsh got elected he knew exactly what it was that helped him slide into office. The victory was not the end of Marsh's political plan. After winning, Marsh went to the Crusade for Voters and "praised them for endorsing [him] and for their support. From that point on [he] had no problem with them because [he] protected them by saying [they] deserve credit for this victory. [He] never exposed that they were really trying to get [him] defeated."⁵⁶

Marsh extended this tactic not only to the Crusade group, but also to the Byrd machine and the Democratic Committee. After winning the election, Marsh made it a point to go to a meeting sponsored by the Democratic Committee to thank them for their support saying that while they did not offer a full endorsement, they were in part responsible for his success.⁵⁷ Because of this preemptive gratitude for their support, Marsh secured their endorsement for future races.⁵⁸ Marsh credits future political success

⁵⁶ Ibid.

⁵⁷ Marsh, The Memoirs.

58 Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

to doing the unexpected like giving people credit who may not fully have earned it, but Marsh says "that's one way you win friends [and] it's how you win elections."⁵⁹

Marsh ran for City Council thinking that he would only serve for two years, but ended up staying in some form of public office for twenty-five years. One of Marsh's motivations for being dogmatically uncompromising on some social issues was his belief that there were black people serving on the City Council who claimed they were for the black community, but whose positions were often counter to their black constituency. One example Marsh recounts is when Dr. Martin Luther King, Jr. was assassinated on April 4, 1968, in Memphis, Tennessee. Marsh asked City Council to allow the school children view and hear Dr. King's televised funeral based on the assertion that King's assassination not only had a great effect on black children, but on all children countrywide. City Council, including the other two black Council members, voted down the proposal to allow students to watch King's funeral in the schools.⁶⁰ Marsh remembers the reason given for denying the proposal was because King was a Baptist, and watching the funeral would violate the separation of church and state. Marsh was confounded by their logic being that John Kennedy was a Catholic and students were allowed to watch his funeral after his assassination.⁶¹ It was obvious that the other black council members

⁵⁹ Ibid.

⁶⁰ James Woodson, "Council Backs Open Housing," *Richmond Times Dispatch*, April 09, 1968: 1, accessed February 12, 2018,

 $[\]label{eq:http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-140DE76FA8457CD6@2439956-140DE4095D1BF80F@0-140DE4095D1BF80F@?p=WORLDNEWS.$

⁶¹ Marsh, The Memoirs.

were not willing to pushback against double standards and the oppressive standards of the white majority.

Marsh was elected again in the 1968 elections and chosen for Vice-Mayor in 1970 before winning the mayor's seat in 1977. In 1970, Tom Bliley became the mayor and Marsh was recommended for Vice-Mayor; it was their practice that at-large City Council members elected the mayor and vice mayor from those already elected. As Vice-Mayor, Marsh represented the City at the state and national levels, by serving as a board member for the National League of Cities. After becoming Mayor, Marsh also chaired the Arts & Cultural Committee, one of the four standing committees for the United States Conference of Mayors.⁶²

Marsh, on getting more Blacks to vote in the runoff after a successful democratic primary that would be key to taking down the Byrd Machine says, "...the job ahead is for black people to form a coalition with low-income and average Whites to elect Henry Howell so that the government can be returned to the people."⁶³ Although Marsh's election to council was his debut in public office, he was able to win over many by his demonstrated knowledge of municipal affairs.⁶⁴

⁶² Ibid.

⁶³ "Byrd Political Machine Crumbles--Fergie Wins!," *Afro-American (1893-1988),* Jul 26, 1969, http://proxy.its.virginia.edu/login?url=https://search.proquest.com/docview/532213680?accountid=14678.

⁶⁴ "Council's Fine Choices," *Richmond Times Dispatch*, July 02, 1966: 12, accessed February 12, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-148F1F5CABF106C0@2439309-148EC05B91555323@11-148EC05B91555323@?p=WORLDNEWS.

In his new seat on City Council, Marsh began to fight against the system created by those like Mr. Byrd and Mr. Robertson who "fanatically opposed the progress of the colored man throughout their political lives."⁶⁵ Though only one of a number of his goals for social change, Marsh was purposeful in his focus to destroy the Byrd Machine. Marsh was made aware, while he was working at the Department of Labor, that following Kennedy's election there were checks to see if the federal government was indeed discriminating against Blacks.⁶⁶ Marsh made note that there were no such checks under the leadership of Kennedy's predecessor, President Eisenhower. This observation made clear to Marsh the realization that "who wins an election does matter." On the other hand, soon after taking his seat on Council, Marsh addressed those in the crowd who were under 50 at the dedication of the Bill Robinson Playground stating, "Just because we are able to put people on City Council doesn't mean our problems are over."⁶⁷

When Marsh first started practicing law in 1961 there were few opportunities for black lawyers to participate in politics.⁶⁸ Marsh had not purposefully made the shift into

⁶⁵ "Let's Vote as Citizens- Not as Whites or Negores," *Richmond Times Dispatch*, July 08, 1966: 24, accessed February 12, 2018,

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-148F1F6561D41F57@2439315-148EC05C6BFD7934@23-148EC05C6BFD7934@?p=WORLDNEWS.

⁶⁶ Marsh, *The Memoirs*. Oliver Hill later campaigned for President Kennedy's brother, Jack Kennedy.

⁶⁷ "Civic Involvement Urged by Councilman," *Richmond Times Dispatch*, July 29, 1966: 2, accessed February 12, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-149022A472884FDB@2439336-148EC05FC4C07879@1-148EC05FC4C07879@?p=WORLDNEWS.

⁶⁸ Biles, "Black mayors: A historical assessment." "Even after several small instances of Blacks matriculation in politics, Blacks continued to contribute little to politics and government, especially of large

politics from law. Rather, he was first introduced to the idea after his former classmate at Howard Law, Vernon Jordan, connected Marsh to the Southern Regional Council, which was based in Atlanta.⁶⁹ Jordan's idea was to have Blacks in some form of leadership with the Council.⁷⁰ The Southern Regional Council was a group of white leaders who advocated for disenfranchised persons of color.⁷¹ Therefore, one of Marsh's first orders of business, after being oriented into the practice of law with Tucker in Richmond, was to go to Atlanta to begin networking.

While in Atlanta with Jordan, Marsh became connected to what he called "the Atlanta Mafia," which was comprised of Senator Leroy Johnson and some of Atlanta's black leadership along with other "enlightened Whites."⁷² Senator Johnson played a role in ushering in a new wave of black politicians since the Reconstruction era and was known as a "modern day Moses who led his people to the Promised Land" and one who "set the world on fire."⁷³ Other black political leaders in Atlanta during the time Marsh frequented the area included Martin Luther King, Jr., A.T. Walden, Leroy Johnson, Lonnie King, Herschelle Sullivan, Q.V. Williamson, Grace Hamilton, and others. It was

70 Ibid.

cities. It wasn't until 1967 that the requisite factors coalesce in the nation's largest metropolises to open up the mayor's office to Blacks as well as Whites."

⁶⁹ Marsh, The Memoirs.

⁷¹ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

⁷² Marsh, The Memoirs.

⁷³ Tomiko Brown Nagin, *Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement* (New York: Oxford University Press, 2011), 254.

with the likes of these that Marsh learned the landscape of black politics. Marsh stayed with the Southern Regional Council for a number of years, learning that there remained an unfilled space for black elected officials who could advocate on behalf of people of color.⁷⁴

Marsh also participated as a Board member of the Voter Education Project under Wylie Branton's predecessor Vernon Jordan.⁷⁵ During Marsh's terms as a Councilman, he championed proposals for educational progress, including opposing a school budget cut and instead allocated two million dollars to build the city's educational program.⁷⁶ Marsh along with B. Addison Cephas Jr. pushed for an increase in pay for school custodial personnel, where wages started at less than \$2,500 per year.⁷⁷ During Marsh's terms on Council, he still fought for desegregation as a lawyer, taking school cases in many parts of Virginia.⁷⁸ The number of school cases began to come at an increasingly slower pace.⁷⁹ Marsh had already served as a member of the city council for eleven years and as Vice-Mayor from 1970 to 1977 when Marsh became the first black mayor of

⁷⁶ "City Budget May Draw Fire at Hearing Tomorrow Night," *Richmond Times Dispatch*, May 03, 1967: 16, accessed February 12, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-149014F6CE43917F@2439614-148ECCDB0D2A0CA0@15-148ECCDB0D2A0CA0@?p=WORLDNEWS.

77 Ibid.

⁷⁸ Marsh, The Memoirs.

79 Ibid.

⁷⁴ Leffler, *Black Leaders*.

⁷⁵ Marsh, *The Memoirs*.

Richmond. His mayorship was a pentacle in local and state politics as it was representative of a shift in politics for a city that had formerly served as the Capital of the Confederacy.⁸⁰

The Byrd Machine Crumbles: Years as Mayor

March 8, 1977, Marsh was elected as the first black mayor of Richmond by a unanimous vote of the nine-member city council. Newspapers shared similar headlines in states such as Oregon, Ohio, Louisiana, and others.⁸¹



Start Photo by Don Per New Mayor, Henry L. Marsh III, Holds Aloft Excedrin Given by Predecessor Ex-Mayor Thomas J. Bliley Jr. Warned Mrs. Diane Marsh That Job Takes Time

City's First Black Mayor Offers Goals for Action

⁸¹ See "Richmond Elects Black," *Oregonian*, March 09, 1977: 6, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:11A73E5827618330@WHNPX-131D9E7C49BEE721@2443212-131B65BD00F119CF@5-131B65BD00F119CF@?p=WORLDNEWS. See also *Plain Dealer*, March 09, 1977: 6, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:122AFBBA107AC9E4@WHNPX-12FCAA001C15E9D5@2443212-12FC6D3C1F4BC5A7@5-12FC6D3C1F4BC5A7@?p=WORLDNEWS. *Times-Picayune*, March 09, 1977: 2, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:1223BCE5B718A166@WHNPX-1304515632FDBF9D@2443212-1303ED7241ECC470@1-1303ED7241ECC470@?p=WORLDNEWS.

⁸⁰ "Capital Cities the Confederacy," American Battlefield Trust, November 2018, https://www.battlefields.org/learn/articles/capital-cities-confederacy.

Marsh's goal was to be more than a "ribbon-cutting mayor;" his desire was to shape power and politics in a pragmatic way that would benefit all people.⁸² In Marsh's mayoral address, he spoke to the significance of the moment:

I am fully aware of the significance of this occasion. Never before in the history of the city of Richmond has a majority of the City Council been black. Never before has the highest local elected official been black. This election also signals a return to a regularly elected council after a seven-year court struggle and this election has produced the first council with a majority of members who were not supported by the organized business community... I will caution all who expect miracles that miracles are rare indeed, and that the problems that confront us have existed for many years and have been reinforced by generations of neglect and discrimination. Similarly, I warn those who expect that we will maintain the status quo that we can do better than we have in the past, and that although we can't solve all of the tough problems, we can begin.⁸³

In his address, Marsh outlined his mayoral priorities which included: poverty, racial

understanding, racial polarization, a strengthened commitment to excellence in education,

and access to government for all people including focus areas such as increased voter

registration, and greater diversity on boards and commissions.⁸⁴

Witnesses to the swearing-in ceremony and major power shift in the former

'Capital of the Confederacy' was Maynard Jackson, Atlanta's first black mayor, and

Oliver Hill, Marsh's mentor and forerunner. Jackson commented on that day that "any

⁸² Hayter, *The Dream is Lost*. Brian J. Daugherity, "Keep on Keeping On": African Americans and the Implementation of Brown v. Board of Education in Virginia," (2008): 41.

⁸³ "City's First Black Mayor Offers Goals for Action," *Richmond Times Dispatch*, March 09, 1977: 15, accessed February 13, 2018,

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-144BE70243C13EB6@2443212-1449F4DE441ABD35@14-1449F4DE441ABD35@?p=WORLDNEWS.

change of administration is symbolic. There is a political symbolism that goes beyond race."⁸⁵ Both Marsh's and Jackson's remarks revealed that while it may be a proper assessment that electing the first black mayor of the city was a major victory for the black community, it was also a huge burden because any failure during such a tenure would be attributed to Blacks, especially when they hold the majority status. Marsh, putting this and the fact that he was not the business elite's choice, repositioned himself making clear what was at stake and what could be expected. Jackson, knowing all too well what was ahead for Marsh, acknowledged the symbolism in this historical event while at the same time knowing that the historical weight of the moment.

As such, Marsh took interest in the city's managerial duties.⁸⁶ One of Marsh's first controversial decisions as mayor involved a clash with the business community over the incumbent white city manager, William Leidinger. The council, headed by Mayor Marsh, was not too keen on Leidinger, as he was not loyal to the new majority on council and their desire to shift focus toward more social issues. Thus, they asked Leidinger to resign. Leidinger did not resign without publically pleading to the business elite in a separate meeting with all parties that he deserved to stay and was being forced to resign without cause. Marsh was then asked to report to the business and political elite regarding why Leidinger was being asked to resign. The business community further threatened to move their business out of the City if Leidinger was fired. Never-the-less,

⁸⁵ Ibid.

⁸⁶ Daugherity, Keep on Keeping On.

Marsh and the Council stood their ground. The headline ran on August 7, 1978, "Five on Council Ask Leidinger to Resign."⁸⁷ He was replaced that same year. Some scholars and onlookers suggest that this experience may have been one of the most humiliating in Marsh's tenure as mayor,⁸⁸ as Marsh was forced to explain his rationale for replacing the city manager in a way that no white mayor would have been forced to do. The issue polarized the City, and the media took opportunity to degrade Marsh and other black members of council through explicitly racist depictions.

The experience, however, was not one that was unfamiliar with black leadership. Historians who study the experiences of black leadership note how Marsh's experience was very analogous to the experiences of some other black mayors, like Maynard Jackson's.⁸⁹ Both Jackson and Marsh were in the business of disrupting the status quo and therefore felt the force of resistance from the business community.⁹⁰ Marsh did not downplay the importance of a stable economy for the city to thrive, but also felt that social issues like poverty, decaying neighborhoods, and employment issues should be given proper attention. By April 1982, the tables had turned and the news was calling for Marsh's recognition for providing strong leadership in the area of economic growth. An

⁸⁷ "Five on Council Ask Leidinger to Resign," *Richmond Times Dispatch*, August 07, 1978: 1, accessed February 13, 2018,

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-1497C3B9F6406C6E@2443728-149752835BA26E36@0-149752835BA26E36@?p=WORLDNEWS.

⁸⁸ Silver and Moeser, *The Separate City*.

⁸⁹ Ibid.

⁹⁰ Ibid.

outgrowth of Marsh's efforts was the formation of a non-profit organization called the "Richmond Renaissance." The Richmond Renaissance created an intersection where in the private and public sectors could unite in order to tackle some of the city's problems.⁹¹ The partnership would leverage the white economic power with the black political power to strengthen the city's economic center.⁹² Marsh and Jackson were similar in their mayoral positions in terms of them paying more attention to neighborhoods than their white predecessors, diverting community grants towards projects that benefited neighborhood.⁹³ They both were responsible for bringing diversity to government agencies.

Even with the remarkable success that Marsh experienced at the helm of council, not every black mayor and politician would tout the same goals for social progress. In 1982, Marsh was replaced as mayor after serving his second term by Roy A. West, "a black school principal and a political maverick with no links to Richmond's civil rights community."⁹⁴ West and Marsh were quintessential rivals with very different points of view. Even with the accomplishments Marsh experienced during his term, there were

⁹¹ Roland Ealey, "Mayor Due Recognition for Richmond Renaissance," *Richmond Times Dispatch*, April 12, 1982: 12, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-149E55745C6443EA@2445072-149C05868A2FF3CD@11-149C05868A2FF3CD@?p=WORLDNEWS.

⁹² Silver and Moeser, *The Separate City*.

⁹³ Ibid. Silver and Moeser draw a comparison between Marsh and Maynard. Under Marsh's regime Silver and Moeser find, "The percentage of capital budget allocations directed to neighborhood projects, for example, increased from 48 percent of the total to 75 percent" also "Between 1976 and 1981, Marsh and the city council increased the number of Blacks serving on boards and commissions by 43 percent and the number of women by 40 percent."

some who saw Marsh's impact in a negative light. The following quote, which is reflective of how some felt in 1982, says it best. "Marsh could have done everything he did, and if he had done it the proper way, he'd still be mayor."⁹⁵ Many others, including Marsh himself, contended that "[Marsh's] demise was engineered by the remnants of the of the old-guard white power structure that ruled Richmond for generations and the enigma of having a black leading the capital of the state and the capital of the Confederacy was just too much for some people."⁹⁶

Reports speculated that the Richmond Forward organization and the white minority Council faction tapped Roy West to "break up the Marsh-led black majority and align West with the Whites on council."⁹⁷ On July 2, 1982, Roy A. West's vote along with the votes of the four other white City Council members elected West as mayor, bringing Marsh's five year tenure to a close.⁹⁸ Marsh was now just another councilman having won a seat on council from his district. West made it clear from his first day on the job that he would be a different kind of mayor than Marsh was and desired the

⁹⁵ Ashley Halsey, "Mayor's Ejection Becomes Racial Issue," *Philadelphia Inquirer*, The (PA), July 13, 1982: A02, accessed February 14, 2018,

http://infoweb.newsbank.com/resources/doc/nb/news/0EB29400BAB20B3C?p=WORLDNEWS.

⁹⁶ Ibid.

⁹⁷ Tom Campbell, "West Apparently Could get Mayor's Job," *Richmond Times Dispatch*, June 16, 1982: 1, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-

¹⁴⁹F10CEE1C6DFFA@2445137-149C638098390D0D@0-149C638098390D0D@?p=WORLDNEWS.

⁹⁸ "Dr. West as Mayor," *Richmond Times Dispatch*, July 02, 1982: 1, accessed February 13, 2018, http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-149F1929EC474BC8@2445153-149F13B48668F6A0@0-149F13B48668F6A0@?p=WORLDNEWS.

ceremonial mayoral style.⁹⁹ Rather than shape the politics of the City with a strong leadership style like Marsh's, West opted to serve more as an ambassador of goodwill at ribbon cuttings, events, and the like. With West replacing Marsh as mayor, West noted that "Whites feel a ray of hope," stating "...Blacks may be rather disappointed because they've had what they perceived as their leader. Now the Whites feel a ray of hope in that they now will be brought into the governmental process."¹⁰⁰ West wasn't the only one throwing stones at Marsh's mayoral style. The *News Leader* and MacKenzie continued to posted racist propaganda referring to Marsh and Council members as "monkeys" and a "minstrel show."¹⁰¹ Mackenzie stated that Marsh "played by a 'double standard,' shouting racism at Whites who opposed them while using power to further exclusively push black interests."¹⁰²

Unlike the beginning of West's term as Mayor, which was supported by Whites and represented a reprieve from the political shake up that occured during Marsh's time as Mayor, Marsh's term as Mayor began with a lawsuit filed by one of the losing candidates in the 7th District Councilmanic elections, Curtis Holt, Jr., claiming that Mayor Marsh had obtained illegal votes because poll workers accompanied voters into

¹⁰² Ibid.

⁹⁹ Ibid.

¹⁰⁰ "Black Backed by Whites is Richmond Mayor," *New York Times*, July 04, 1982, accessed February 13, 2018, http://www.nytimes.com/1982/07/04/us/black-backed-by-Whites-is-richmond-mayor.html.

¹⁰¹ Isikoff, "Virginia Tradition."

the voting booth.¹⁰³ Three judges dismissed the case citing lack of sufficient evidence.¹⁰⁴ Another suit came from a charge that Marsh negligently caused a car accident in 1974, two years before Marsh became Mayor. The suit was against Marsh for \$20,000 and the plaintiff received \$2,500 in April of 1977.¹⁰⁵ Still, Marsh was re-elected to serve a second term on an 8-1 vote.

Senator and Commissioner

After Marsh completed his tenure as the Mayor of Richmond, he kept his seat on city council representing the seventh district for an additional decade until elected to represent the sixteenth district as a State Senator of Virginia. By 1992, Marsh had served on the Richmond City Council while also maintaining a law practice for a quarter of a century. The transition was not without controversy as Marsh decided he would try to again make history by his announcing in December 1991 that he would maintain seats on city council and senate until his term on council ended the following year.¹⁰⁶ Up until

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-

¹⁰³ Shelley Rolfe, "The Fruits of Labor," *Richmond Times Dispatch*, March 23, 1977: 17, accessed February 13, 2018,

http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-144C35B49B0509E6@2443226-1449F4F60BE9500D@16-1449F4F60BE9500D@?p=WORLDNEWS.

¹⁰⁴ Ray McAllister, "3 Judges Dismiss Holt Suit," *Richmond Times Dispatch*, April 14, 1977: 81, accessed February 13, 2018,

¹⁴⁴BA2458C1FA686@2443248-1449F50912DB5DD7@80-1449F50912DB5DD7@?p=WORLDNEWS.

¹⁰⁵ "Man Suing Marsh Wins \$2,500," *Richmond Times Dispatch*, April 08, 1977: 51, accessed February 13, 2018,

 $[\]label{eq:http://infoweb.newsbank.com/resources/doc/nb/image/v2:135B950C9F3CF0C6@WHNPX-144BA20FA4530561@2443242-1449F5062E4B2E90@50-1449F5062E4B2E90@?p=WORLDNEWS.$

¹⁰⁶ Jeff E. Schapiro, "Before Joining Senate, Marsh Will Leave Council," *Richmond Times-Dispatch*, December 18, 1991: A-1, accessed February 14, 2018, http://infoweb.newsbank.com/resources/doc/nb/news/0EB4F8A6EFFA405F?p=WORLDNEWS.

this point in history, no one had held seats on both the local and state levels simultaneously, and Marsh's announcement prompted the possibility of proposing legislation that would prohibit such dual office holding.¹⁰⁷ Marsh's stated goal was to keep Art Burton, a black politician endorsed by the white council members and Roy West, from being appointed to the council.¹⁰⁸ Marsh, faced with both parties in Senate threatening to refuse him a seat if he did not leave the council, decided to resign stating that he wished not "to cause consternation to members of the Democratic Party in the Senate or to (his) friends."¹⁰⁹

Marsh retired from the Virginia Senate in 2014 at 80 years old, after serving in public office for almost fifty years and Senator for twenty-two years.¹¹⁰ While in office he furthered some of the same goals he prioritized as mayor, including voting for and drafting bills relating to neighborhood revitalization, Virginia Public School Improvement Program, requiring background checks to purchase firearms, waiver of interest payments for incarcerated defendants, children, mental health, and many more agenda items.¹¹¹

¹⁰⁷ Ibid.

108 Ibid.

109 Ibid.

¹¹⁰ Jim Nolan and Andrew Cain, "Marsh Retiring After Years in Virginia Senate," *Richmond Times Dispatch*, July 1, 2014, accessed February 14, 2018, http://www.richmond.com/news/virginia/marsh-retiring-after-years-in-virginia-senate/article_b8132b0e-0146-11e4-8a5f-0017a43b2370.html.

¹¹¹ "Sen. Henry Marsh (D-Richmond)," *Richmond Sunlight* Tracking Virginia's General Assembly Since 2007, https://www.richmondsunlight.com/legislator/hlmarsh/.

When Marsh retired from the Virginia Senate, Governor Terry McAuliffe quickly appointed Marsh as a Commissioner on the State Alcoholic Beverage Control Board where he served until retiring in 2017.¹¹² Gov. McAuliffe commented on Marsh retiring from the Virginia Senate stating, "Marsh has been a devoted public servant for over 50 years . . . He has guided Virginia through its transformation from segregation to celebration of diversity, and without his contributions our Commonwealth would not be what it is today."¹¹³

Summary

During Marsh's time as an elected official, he significantly helped shape the political, cultural, and social landscape of Richmond, which influenced black politics throughout the Commonwealth. The *Richmond Times-Dispatch* reported "whether they love him or they hate him, nearly everyone who knows Marsh agrees that he is a remarkably astute politician who has been a central player in reshaping Richmond during two volatile decades."¹¹⁴ In the 1980s and 90s, the historic significance of such leadership may have been unclear. In 2015 the *Richmond Times Dispatch* remembered

¹¹² "A public servant retires from the Senate," *The Progress-Index* (Petersburg, VA), July 16, 2014, accessed February 14, 2018,

http://infoweb.newsbank.com/resources/doc/nb/news/14F1AD7369898B80?p=WORLDNEWS.

¹¹³ Ibid.

¹¹⁴ Rick Sauder, "Key Player In City Politics Soon to Act in State Arena," *Richmond Times-Dispatch*, January 04, 1992: 1, accessed February 14, 2018, http://infoweb.newsbank.com/resources/doc/nb/news/0EB4F8B2A7188B41?p=WORLDNEWS.

the historic 1977 election; it noted how it took almost 38 years for the city to officially recognize the significance of the history that was made during that election.¹¹⁵

Henry Marsh had a goal in mind when he entered Richmond's political scene, and that was progression. He did not want to be a ceremonial mayor, but one who was handson and helped push the city forward. Marsh shook things up, not only having to manage the expectation of Blacks as a "representative Negro," but also while proving to the white elite that he was the mayor of all people. Marsh was intentional about making "the pain of black leadership less difficult to bear."¹¹⁶

One way Marsh approached this balance was pushing the downtown redevelopment plan that the white business leaders were passionate about moving forward. Another example is how Marsh kept former Mayor Bliley's secretary to "ease the fears of the business community."¹¹⁷

The racial understanding that fueled Marsh's approach to his tenure as mayor did not always go as smoothly as planned. Often council sessions exploded in shouting matches in contradiction to the genteel culture of the South.¹¹⁸ Some were angry at the

¹¹⁵ Graham Moomaw, "'A turbulent time': Richmond remembers historic 1977 council election," *Richmond Times Dispatch*, Feb. 3, 2015, http://www.richmond.com/special-section/black-history/a-turbulent-time-richmond-remembers-historic-council-election/article_9303287c-d42d-5948-92c7-836bcb28f83f.html.

¹¹⁶ Ashley Halsey, "Mayor's Ejection Becomes Racial Issue," *The Philadelphia Inquirer* (PA), July 13, 1982: A02, accessed February 14, 2018, http://infoweb.newsbank.com/resources/doc/nb/news/0EB29400BAB20B3C?p=WORLDNEWS.

¹¹⁷ Marsh, *The Memoirs*.

¹¹⁸ Halsey, "Mayor's Ejection."

number of Blacks who received jobs under his leadership, and Whites refused to forgive Marsh for replacing the white city manager with a black person. It may have been that Marsh favored one side over the other. It is just as plausible, however, that Marsh represented the unseating of white power which made business leaders uneasy, to say the least.

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The media went out of their way to point out that Marsh was Black by using cartoons, including monkey depictions, minstrel commentary, and puppetry.¹¹⁹ Marsh was clear that he was ousted as mayor because of racism stating, "It was a combination of the fact that I was Black and that I asserted leadership... Otherwise, our policies were moderate, we were fiscally conservative, we protected our double-A credit rating at a time when a lot of cities were having great trouble" In essence, this quote conveys how Marsh saw himself as a politician, moderate, conservative, and responsible. He saw himself as having mastered the 'politics of respectability,' as he strategically brought light to the how the values of Blacks were in tandem with the with the mainstream.

Regardless, Roy A. West, also black, but with different motives, took Marsh's position as mayor. West wanted to serve as a placeholder, not using his position as mayor to push a black position, but to maintain the mayoral seat as a ceremonial one. Many in the black community mourned the loss of Marsh as the mayor. West had the support of Richmond's third district, where mostly middle-class Blacks lived, and almost

119 Ibid.

all of the voters in white neighborhoods.¹²⁰ Marsh lamented that the appointment of West to the mayorship had deprived the city of a veteran politician and the black community of its leader. In reality, West's placement was nothing more than a manifestation of the desires of "White Mainstreet." Marsh had been perceived as the resistance against social injustices, but West in the minds of many had restored the status quo.

Marsh continued his career for many years after serving his terms as mayor. Marsh believed that his time as a public servant expanded the influence of power for Blacks. Marsh also was firm in the fact that he refused to play the game of politics dirty; while others like the business elite made deals, Marsh refused.¹²¹ Marsh contends that his leadership was flexible, reasonable, and his priorities were for the benefit of all people.¹²² After spending many years in the Virginia Senate, Marsh ended his career serving on the Virginia Alcoholic Beverage Control Board from which he retired in 2017.

¹²⁰ Ibid.

¹²¹ Halsey, "Mayor's Ejection."

¹²² Marsh, *The Memoirs*.

CHAPTER FIVE

NAVIGATING THE "VIRGINIA WAY": MARSH, BLACK LEADERSHIP, AND POLITICAL STRATEGIES

Historians have long studied the leadership strategies of civil rights leaders. Even during the movement, a debate ensued regarding the question of which leadership model would best serve the black social agenda. The focus of such debates often involved some variation along the continuum of the concept of militancy.¹ From the accommodation and protest leadership model, scholars who study black leadership have developed various ways to categorize black leaders. This speaks to the need to address the nuances involved when trying to label leadership approaches under broad categories that fail to account for the subtleties that accompanied black leadership during the Civil Rights Movement.

Speaking to the diverse nature of black leadership, political scientists Ronald Walters and Robert Smith argued that Blacks as a community are as nuanced as any other

¹ Ronald Walters and Robert Smith, *African American Leadership* (SUNY Press, 1999), 18. In 1944 black leaders were being typed in terms of accommodation and protest in Myrdal's work. Walters and Smith argues that this simplistic view of leadership paradigms has continued through the years in one form or another in studies of black leadership. Ronald Walters is a Professor of Afro-American Studies and Government and Politics. Robert Smith is a Professor of Political Scientist.

sizable community in America, possessing a dynamic mixture of leadership qualities, which have contributed to the up building of the black community itself and America atlarge. Black leadership has been largely viewed through the lens of the majority, but an alternate focus should also take into consideration the fact that Black America is a "subset" of the overreaching culture, and the fact that the black community is also a "subordinate community."² Walters notes that the uniqueness of the Afro-American existence, within the larger scope, lends itself to correcting, as the very presence of the Black community causes a 'correction' of both principles and trajectory. Similarly, the Black community has a 'complimentary' effect on the American landscape with its rich culture, inventions, strength, resilience and contributions of every kind.

A study of Marsh demonstrates that a single leader can also contribute substantially, changing the landscape with a leadership mixture of dogmatic tenacity enshrouded in the look of respectability politics. Marsh's contributions highlight the point that change does not always occur within a melting pot of amalgamated ideas, but is also birthed out of a think-tank of the strategic prowess of a few. His life's work demonstrates that the contribution of the black leader need not be derived with the consent of the white majority when such a leader is wise enough to keep his "enemies close." In such a case, the white majority may perceive that they have given consent only to have played a role from a script that was given to them by the black leader who has learned to harness political power for social change. In both the Walters concept and the

² Ibid.

Marsh demonstration, nuances are played out in ways that broad brush categorizations are unable to convey.

Marsh appropriated a mix of several different leadership models. Thus, in assessing his leadership style this chapter utilizes existing civil rights and political leadership models conceptualized by civil rights historians. Marsh's leadership style is an amalgamation of the accommodationist and protest models. Politically, and within Virginia politics, some have viewed Marsh as radical, "patently racial," and retaliatory towards Whites.³ At the same time, he has been viewed as an accommodationist or conservative because of his cooperative behavior with Richmond's white business elite and other non-minority politicians. These dueling interpretations of Marsh's leadership reflect the complexity of the approaches of other movement leaders. This chapter explores Marsh's leadership approach within the context of civil rights and post-civil rights leadership models. Clearly, Marsh cannot be singularly defined, but an examination of him as a civil rights leader and politician will provide a sense Marsh's complicated leadership.

³ See Ashley Halsey, "Mayor's Ejection Becomes Racial Issue," *Philadelphia Inquirer*, The (PA), July 13, 1982: A02, accessed February 14, 2018, http://infoweb.newsbank.com/resources/doc/nb/news/0EB29400BAB20B3C?p=WORLDNEWS.

Leadership Models and Emerging Paradigms: An Analysis of Henry Marsh

Accommodationist-Moderate Approach

During the early twentieth century, black leaders cautiously navigated American society and institutions to bring about social change. On the one hand, they were pragmatic and accommodated some aspects of institutional and structural racism. On the other hand, they embraced a moderate stance in combatting structural racism and resisted some aspects of institutional and societal racism. Richard Keiser has coined this the Clientelistic-Subordinate leadership approach.⁴ This model is likened to what others have ascribed as Accommodationist-Moderate, conservative, Race Diplomat, and traditional-brokerage types⁵, but the general idea remains the same. The Accommodationist-Moderate leader garners conservative and progressive support, solicits and receives support of both Blacks and Whites, and therefore is often accused of being a "sell-out" as a result of the compromises he or she is willing to make.⁶ The Accommodationist-Moderate leader does not embark on the difficult path of social reform, but rather this leadership style lends itself toward maintaining the status quo. Accommodationist-Moderate leadership does not truly seek to empower the group.

⁴ Richard Keiser, Subordination or Empowerment? African American Leadership and the Struggle for Urban Political Power (Oxford University Press, 1997), 10.

⁵ Keiser, *Subordination or Empowerment* on the discussion of accommodationist or what he labels "clientelistic-subordinates." See Daniel C. Thompson, *The Negro Leadership Class* (Englewood Cliffs, N.J.: Prentice Hall, 1963). Donald L. Tryman, "A typology of black leadership," *The Western Journal of Black Studies* 1, no. 1 (1977): 18-22, 18.

⁶ Ibid., referencing two party system of Democrat and Republican.
Though he or she may refuse to acknowledge the fact, this type of leader is often motivated by personal gain. He or she will encourage the masses to go along with mainstream systems and policies, thus gaining favor among Whites who is likely to reward this leader with opportunities for personal advancement and a sense of greater influence among the majority population.

The Accommodationist-Moderate is often viewed as an enemy to his own people who seeks power at the expense of the greater good, thus leaving the black community in a subordinate status to Whites no better than they started.⁷ Nevertheless, some scholars resist the notion that this type of moderate is actually an enemy of his own people, but sees this leader as a "peacemaker" who has chosen peace as a preferred alternative to advancement.⁸

Booker T. Washington is perhaps the personification of the Accommodationist-Moderate model within the history of African American leadership.⁹ In the early 1900s, a period historians have called "the nadir" or low point for African Americans, Blacks were further disenfranchised as voters, the lynching of Blacks increased, and *Plessy vs. Ferguson* (1896) had solidified a "separate but equal" society that created apartheid in America for nearly a century. Despite these circumstances, Washington sought to accommodate White politicians and the South in hopes that laws would be passed to

⁹ Ibid.

⁷ Ibid., 10.

⁸ Ibid., quoting Oliver C. Cox, Leadership Among Negroes in the United States," 245.

protect Blacks. In Washington's famous "Atlanta Cotton States Exposition Address in 1895," he informed southern Whites that Blacks were not interested in social integration or in the pursuit of civil rights, but rather they desired to build their own communities, provide a labor source for agriculture and industry, and promote ideals of capitalism.¹⁰ Washington stated:

In many cases it seemed to me that the ignorance of my race was being used as a tool with which to help white men into office, and that there was an element in the North which wanted to punish the Southern white men by forcing the Negro into positions over the heads of the Southern Whites. I felt that the Negro would be the one to suffer for this in the end. Besides, the general political agitation drew the attention of our people away from the more fundamental matters of perfecting themselves in the industries at their doors and in securing property. The temptations to enter political life were so alluring that I came very near yielding to them at one time, but I was kept from doing so by the feeling that I would be helping in a more substantial way by assisting in the laying of the foundation of the race through a generous education of the hand, head, and heart. I saw coloured men who were members of the state legislatures, and county officers, who, in some cases, could not read or write, and whose morals were as weak as their education... But not all the coloured people who were in office during Reconstruction were unworthy of their positions, by any means.¹¹

Historian Michael West argues that Washington's accommodationist philosophy had an enduring impact on black leadership through the twentieth century, but especially during the Civil Rights Movement. West contends that while many scholars upheld

Washington's philosophy as an answer to racial oppression, the actual outcome was

¹⁰ Manning Marable, *Black Leadership* (Columbia University Press, 1988). Washington privately used his personal resources, influence, and money to fight for civil rights.

¹¹ B. T. Washington, *Up from slavery: The autobiography of Booker T*. (Hazleton, PA: Pennsylvania State University, 1901).

promoting a society without regard to the reality of the severity of segregationist laws at the expense of "racial peace."

Throughout his career Marsh exhibited characteristics of an Accommodationist-Moderate. Much of his community leadership was on display during his years as city councilman in the mid-1960s and as mayor in the late 1970s on through to the end of his career in the late 2000s. During the 1960s, when Marsh joined the city council, there was a shift within the Civil Rights Movement from litigation to marching in the streets and leveraging the right to vote as a means of welding political power and placing pressure on the white establishment.¹²

One of Marsh's first acts as mayor was to place a wreath at the Jefferson Davis monument. This act of accommodation was an attempt to temper the outgoing white government and the United Daughters of the Confederacy's concern that he would move or tear down the city's Confederate monuments. This was the first time that Whites had experienced a city council that was controlled by Blacks. In Marsh's words, "They really didn't know what to expect." With all of this, Marsh made it his goal to demonstrate that he was indeed "mayor of all the city" (i.e. all the people).¹³ In responding to concerns about Confederate statues located on Monument Avenue, Marsh committed to preserving

¹² Roger Biles, "Black Mayors: A Historical Assessment," *Journal of Negro History* 77, no. 3, 1992: 109-125.

¹³ "A Street of Divided Passions," The Washington Post,

thttps://www.washingtonpost.com/archive/local/1990/07/27/a-street-of-divided-passions/fbd49979-0e58-4b15-92b3-611328c2560e/?noredirect=on&utm_term=.f65bdd1466d3 and Jeanne Callahan, "Richmond's Divisive Monuments: A Look into ONe City's Debate Over Public Art, Memory, and History," Yale National Initiative, http://teachers.yale.edu/curriculum/viewer/initiative 15.03.01 u.

the monuments as they were and went on record endorsing the monuments, stating "the avenue is one of the great boulevards in the world."¹⁴

Along these same lines, Marsh decided to attend the massing of the Confederate flags in Richmond, hosted by descendants of persons who fought for the Confederacy. Every year the descendants of Confederate soldiers come from all over the South on the anniversary of the Confederacy to converge in the City of Richmond. Marsh received an invitation to attend. He decided to attend because the request came to him as the Mayor. Not only did he go, but he held conversations with those in attendance; Marsh believed that his presence could be an educational tool to them, helping them to see the humanity of a black man who happened to be their political representative.¹⁵ These types of actions solidified Marsh as an Accommodationist-Moderate because he was willing to do things like this. He refused to engage descendants of Confederate veterans as enemies, but rather took the opportunity to extend an olive branch in an effort to ease racial tensions. Marsh was very pragmatic in his approach, calculating how his interactions with Whites would affect the socio-political environment of the city.

After his appearance, the *Richmond Times Dispatch* ran an article titled, "'A Good Example' Cited of Improved Race Relations."¹⁶ The article seemed to indicate that Whites took his participation in the event and his perceived respect for historically

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¹⁴ Zinie Chen, "Another Look: Monument Avenue 100 Years Later," *AP News*, August 12, 1990, https://apnews.com/8d6a5f93a2374a245d69f8dcf38335cb.

¹⁵ Marsh, *The Memoirs*, 105-106.

¹⁶ Stephen A. Mann, "A Good Example' Cited of Improved Race Relations," *Richmond Times Dispatch*, June 14, 1979.

charged symbols of the Confederacy as a signal that black leaders were willing to be amicable, avoiding extremes by meeting in the middle. Blacks, on the other hand, had regarded Marsh as a militant, unafraid to take down the establishment. But, whenever Marsh went out of his way to placate White's, they felt a sense of betrayal. Blacks were disappointed and felt that Marsh focused so much trying to get along with Whites that he was not making Black issues a high enough priority.¹⁷

From the perspective of many Blacks and that of their allies, Confederate monuments have been seen as symbols of hate for black people and their freedoms from the very day they were erected. In prior times the prominently displayed monuments in Richmond were considered a representative part of a social landscape that was simply untouchable. Today, these reminders of the dark past of American slavery are being challenged and successfully removed; this would have been unthinkable in Marsh's day. Recently, Marsh has come out in support of Richmond's current mayor's attempt to take down the confederate monuments.¹⁸ Marsh's current support of the statue's removal appears to challenge the position he took while Mayor from 1977 to 1982. As a Civil

¹⁷ Interview with Carmen Foster with Author, October 16, 2018. An example of Blacks disapproval of Marsh's leadership decisions is Marsh's support of a proposal to combine Richmond's high schools called Plan G. Some Blacks were upset that Mayor Marsh would support Maggie Walker High, a majority black school and Marsh's former high school, being turned it into an open high school complex. The major concerns were that there wasn't clear evidence that the new pupil assignment plan (Plan G) would yield major benefits for students. Further, it would eliminate the very popular football rivalry game between Armstrong and Walker high schools. Marsh and other supporters of the plan felt strongly that the plan would result in greater student achievement and foster a better relationship between parents and schools. For a discussion of Plan G see Monte Young, "Plan to End Bussing Draws One Dissent but is Approved," *Richmond Times Dispatch*, March 5, 1986.

¹⁸ "Richmond Confederate Monuments, Mayor Stoney featured on '60 Minutes,'" *Richmond Times Dispatch*, March 12, 2018, https://www.richmond.com/news/richmond-confederate-monuments-mayor-stoney-featured-on-minutes/article_c1779c54-5b80-5c39-8435-db4bfcd01838.html.

Rights Attorney and on behalf of the NAACP, Marsh responded to a Commission established in November 1965 to consider the direction of Monument Avenue in Richmond by arguing that while the NAACP did not object to honoring "true heroes and founding fathers" that they did take issue with continuing the Confederate theme.¹⁹ While Marsh was Mayor he never considered removing the monuments.²⁰ As a state legislator, Marsh joined with Delegate Donald McEachin in proposing that the General Assembly "acknowledge with contrition" the state's role in slavery, but did not request the removal of statues on Monument Avenue.²¹

Marsh's aim for racial cooperation was in and of itself an accommodationist approach. Despite his efforts to quell Whites' fears, Marsh also worked within the system to methodically challenge the status quo. In so doing, Marsh built bridges of cooperation between the white establishment and black community. Marsh's campaign for racial cooperation epitomizes what it meant for a black leaders to take an Accommodationist-Moderate approach. When Marsh became mayor in 1967, he helped found the Richmond Renaissance, which was a group of community members comprised equally of Blacks and Whites created to advise the city council.²² Marsh's leadership

¹⁹ John Coski, "On Monument Avenue|Beyond Dali and Sally: Monument Avenue at a Crossroads, 1965-1966," The American Civil War Museum. https://acwm.org/blog/monument-avenue-beyond-dali-and-sally-monument-avenue-crossroads-1965-1966.

²⁰ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

²¹ Dionne Walker, "Virginia's Slave Apology Debate Opens Old Wounds," *Oscala Star Banner*, July 31, 2007, https://www.ocala.com/news/20070131/virginias-slave-apology-debate-opens-old-wounds.

²² Marsh, *The Memoirs*, 99.

strategy included Whites, thereby encouraging Whites to accept black leadership in other circumstances.²³ The result was accomodation from many Whites to acquiesce to the newly realized power shift and accommodation from many Blacks to submit to the fact that racial harmony required a less recialized view of politics, culture, and economic development.²⁴ While Marsh's erection of the Richmond Renaissance encouraged a working relationship between the Black bourgeoisie and white business communities to promote the downtown area and cultural events that would benefit all communities, Marsh's constituents from poorer black communities felt left out. There was arguably an absence of attention from working street lights, neighborhood redevelopment, better sidewalks, and other upgrades to lower income areas.²⁵

Similarly, Marsh's support of a white vice mayor was not well-received by. Marsh favored the idea because he thought it would lessen the racial tension in Richmond at the time. Marsh also kept the former mayor's personal secretary as his secretary, to "ease the fears of the business community and take advantage of her inside knowledge."²⁶ Accommodationist efforts like these brought him white electoral support. Marsh argued that he would be unable to effect any type of change for black people if he could not remain an elected official.

²³ Ibid.

²⁴ Willie Avon Drake and Robert D. Holsworth, *Affirmative Action and the Stalled Quest for Black Progress* (University of Illinois Press, 1996), 127.

²⁵ Ibid. Interview with Carmen Foster with Author, October 16, 2018.

²⁶ Marsh, *The Memoirs*, 105.

Marsh's political strategy was purposeful. The foundational principles of Marsh's approach are captured by an experience he recounts in his memoirs and other various interviews that shaped his political philosophy. Marsh went to North Carolina to attend summer school in Isle of Wight. Because he was one of the smallest children in the class and was often bullied. Marsh boldly confronted the largest bully and for the rest of the summer he was never harassed again. Back at Maggie Walker High School in Richmond, he again was bullied because he was from Church Hill. Again, Marsh confronted the biggest bully at Maggie Walker to put an end to the bullying. From this Marsh learned the value of courage. Marsh's also understood that in politics the approach should be different. In politics, there may not be an appropriate time to fight the opposition. However, there is the option of bringing "the enemy" close. Marsh learned that keeping his political opposition close worked better and even if they would never agree, Marsh would be better able to gauge their next steps.²⁷ While this may be an example of Marsh's philosophy of keeping "enemies" close and using "cooperation" as a means to an end for the betterment of black communities, cooperation with Whites in the leadership paradigms are often labeled as conservative, moderate or accommodationist.²⁸

²⁷ Ibid., 33.

²⁸ Keiser, Subordination or Empowerment?

Militant-Radical Approach

The Militant-Radical leadership approach is the opposite of the Accommodationist-Moderate approach. Under this approach, which Keiser refers to as separatist-messianic, leaders refuse to form any coalition with groups competing for political power and this group refuses to work within a racist political system.²⁹ At the core of this approach is the idea that in order to be unified as Blacks politically, there must be complete exclusion of Whites.³⁰ Other characteristics of this group include charismatic rhetoric, a strong emphasis on advancing the black agenda, and the reallocation of political power and capital to Blacks.³¹ Examples of Militant-Radicals include one of the most discussed foils to Washington, W.E.B. Du Bois,³² and others like Malcolm X, the Nation of Islam, Student Nonviolent Coordinating Committee (SNCC), the Blank Panthers, the Republic of New Africa, Angela Davis, Stokely Carmichael, Eldridge Cleaver, and Amiri Baraka.

Marsh used his political influence to help black people. He wasn't afraid to color outside of the lines or be an institutional rule breaker if it contributed to dismantling institutional racism. During Marsh's political leadership in 1977 as mayor, the black conservatives who encouraged Marsh to run for office stuck around resulting in two

³¹ Ibid.

²⁹ Ibid.

³⁰ Ibid, 12.

³² See Marable, *Black Leadership*.

conflicting political agendas from black progressives and black conservatives. He was often regarded by Whites and some conservative Blacks as radical and "too black" in his approach to leading the city.

Marsh was elected to the Virginia Senate, representing the 16th District, in 1991. He used his position as State Senator to memorialize the history of Blacks in Virginia, fight for Blacks' educational rights, and seek justice for all people.³³ Marsh sponsored the Senate Joint Resolution 333, which honored the first black mayor of Petersburg, who also happened to be the first black mayor in Virginia at-large, Hermanze Fauntleroy. Marsh also joined with Delegate Donald McEachin to sponsor a resolution that asked Virginia to express "profound regret" for the state's role in slavery. Passing such a resolution would be regarded as the first time a state would have made such a statement regarding remorse for the enslavement of brown and black people.³⁴ Even before Marsh began his 50-year career in politics, he fought for Blacks as a civil rights attorney handling hundreds of desegregation and employment cases.³⁵

³³ Jim Nolan and Andrew Cain, "Marsh Retiring After 22 years in Virginia Senate," July 1, 2014, https://www.richmond.com/news/virginia/marsh-retiring-after-years-in-virginia-senate/article_b8132b0e-0146-11e4-8a5f-0017a43b2370.html. Article states how Marsh served as chairman of the Courts of Justice Committee, pushed for stronger restraints on firearms, greatly opposed charter school, and fought against incursions on voting rights while in the legislature.

³⁴ Tim Craig, "In Va. House, 'Profound Regret' on Slavery," *Washington Post*, February 3, 2007, http://www.washingtonpost.com/wp-dyn/content/article/2007/02/02/AR2007020201203.html.

³⁵ For example, *Quarles v. Philip Morris* (1967) prohibited employers from penalizing black employees for moving into traditionally white departments. *Gravely v. Robb* (1981) created single-member districts in both branches of the General Assembly.

As Mayor, Marsh established his dominance as a leader early on, challenging the traditional form of Richmond politics by diverting power from the city manager to himself so that he could make more decisions as Mayor on behalf of the City. Many Whites critiqued Marsh as radical, including former Vice Mayor Henry Valentine,³⁶ who served on council until 1978 and said of Marsh's leadership style that "some of the stuff that they [city council] did was patently racial. You can say it was done in retaliation of what we did to them, so to speak, but I happen to think that Henry Marsh was treated a lot better as a minority of one than we were as a minority of four."³⁷ Marsh's major critiques about his leadership style was that he was too forceful, too unrelenting, too assertive and too black. One of former Vice Mayor Henry Valentine's contentions against Marsh was that he "sort of broke all the rules." Marsh knew, however, that some of these rules that institutionalized racism, disunity, and inequity for the majority of Richmond's population, needed to be broken. Valentine was not the only complainant.

³⁶ "The Path of Black Political Power," Alicia Patterson Foundation, April 6, 2011, http://aliciapatterson.org/stories/path-black-political-power, "Valentine, who served on the outgoing council and returned as vice-mayor during 1977, is a member of one of Richmond's most established white families. His ancestral home serves as a museum of the city's history and art. President in 1977 of a prosperous, downtown brokerage firm, Valentine grew up in the city's posh West End. In 1949, he won the city tennis championship and a few years later, he shared the title at the Country Club of Virginia. At the University of Virginia, he was president of the student body. Conservative, bluntly honest, highly civic minded, Valentine is an example of white Richmond's best and brightest."

³⁷ Ashley Halsey, "Mayor's Ejection Becomes Racial Issue," *Philadelphia Inquirer*, The (PA), July 13, 1982: A02, accessed February 14, 2018, http://infoweb.newsbank.com/resources/doc/nb/news/0EB29400BAB20B3C?p=WORLDNEWS.

the other members of council."³⁸ Councilwoman Carolyn Wake, a white member, said of Marsh's leadership, "instead of having a white slave master, we had a black one."³⁹

Marsh's display of the Militant-Radical approach also included his emphasis on advancing the black population and his desire to shift Blacks into power. One of his most controversial decisions was firing the white city manager, which resulted in an all-black power structure.⁴⁰ During his regime the number of Blacks serving on boards and commissions increased by forty-three percent.⁴¹ Under Marsh's tenure the black community benefited from his initiatives: significantly larger funding amounts were reallocated to neighborhood projects, ⁴² a human rights coalition was established, and downtown revitalization was a priority.⁴³ Even Marsh's predecessor Roy West suggested that Marsh devoted more attention to issues affecting Blacks any other issues stating, ""We tried white racism in this city and that didn't work," West says. "We tried black

³⁸ "The Path of Black Political Power," Alicia Patterson Foundation..

³⁹ Ibid.

⁴⁰ See discussion in Chapter 4 on firing of white city manager William Leidinger. "The council, headed by Mayor Marsh, was not keen on Leidinger not being loyal to the new majority who wanted to shift focus to more social issues. They asked Leidinger to resign. Leidinger did not resign without publically pleading to the business elite in a separate meeting with all parties that he deserved to stay and was being forced to resign without cause. Marsh was then asked to report to the business and political elite regarding why Leidinger was being asked to resign. The business community further threatened to move their business out of the city if Leidinger was fired; Marsh and the Council stood their ground and the headline ran on August 7, 1978, "Five on Council Ask Leidinger to Resign." He was replaced that same year. Some scholars and onlookers suggest that this experience may have been one of the most humiliating in Marsh's tenure as mayor."

⁴¹ Silver and Moeser, *The Separate City*.

⁴² Ibid.

⁴³ "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond.

racism to some extent and that didn't work. Everything in this town is not black. You don't look after the black interest and forget about everybody else."

Moderate-Militant Approach

The Moderate-Militant approach put forth here is expanded from historian August Meier's exploration of the Conservative-Militant. Using Martin Luther King, Jr.as an exemplar, Meier argues that King was a Conservative-Militant.⁴⁴ The Conservative-Militant displays characteristics of both groups, not precisely fitting in either one. A paradox exists that greatly resembles Du Bois's concept of Double Consciousness, where black leaders may feel their identity split into several parts, unable to pursue one unified identity.⁴⁵ In a 1966 interview, King spoke about this sensation stating, "I have to be militant enough to satisfy the militant… yet I have to keep enough discipline in the movement to satisfy white supporters and moderate Negroes."⁴⁶ Meier suggests that King was conservative because he was a democratic socialist in the manner he presented his arguments; he was not conservative in a political sense.⁴⁷ Critics of King rejected the

⁴⁴ August Meier, *Negro thought in America, 1880-1915: Racial ideologies in the age of Booker T. Washington*, Vol. 118 (University of Michigan Press, 1966). Manning Marable, *Black Leadership*. Manning Marable articulated that Militant-Radical leaders who contended that the political system cannot be used for black empowerment were "unaware of the major changes within the American economy that were taking place during the 1970s" and that "through a combination of affirmative action programs, the desegregation of the corporate middle-management positions, and federal block grants to corporations, the elites as a whole did not suffer nearly as much as the great black majority."

⁴⁵ W.E.B Du Bois, Souls of Black Folk (1903 ed., Brent Hayes Edwards, 2007).

⁴⁶ Peter Ling, *Martin Luther King, Jr.* (Routledge, 2015), 233.

⁴⁷ Meier, Negro thought in America.

notion of interracial consensus and felt it unnecessary to liaise with those who threatened black liberation for any reason.⁴⁸ This is not an implausible idea as other scholars have argued that having two extreme models of leadership disregards the complex nature of black leadership.⁴⁹ Further, historians suggest that King's ability to appeal to both leftand right- wing ideologies and bridge the gaps of understanding meant that King did not need to fit entirely into the militant or conservative camps.⁵⁰

Building on Meier's notion of the Conservative-Militant, I propose a third leadership style, which I call the Moderate-Militant leader. This leadership style refuses to embrace extremes in political and social ideology. Yet, the Moderate-Militant leader is willing to take bold steps for change, often summoning the courage to launch out into unchartered waters. The mark of a Moderate-Militant is that this leader gives each side of the socio-political coin the benefit of the doubt and listens with a willingness to validate opposing views in hopes of finding common ground.

A strategy employed throughout Marsh's career was to gain access to the innercircles in local and national politics. When discussing how he got his start in national politics, Marsh said "I got into the inner circle... in fact I have been in the inner circle all of my career. I was doing that at the same time I was handling my legal cases in Virginia." Marsh found himself on the inside of the NAACP, working with major

⁴⁸ Ibid.

⁴⁹ Keiser, Subordination or Empowerment? John Mccartney, Black Power Ideologies: An Essay in African American Political Thought (Temple University Press, 2010).

⁵⁰ Ling, Martin Luther King, Jr. Mccartney, Black Power Ideologies: An Essay in African American Political Thought. Meier, Negro thought in America.

influencers of the movement like Oliver Hill and others; inside of black politics more broadly by associating with Atlanta black activists like Vernon Jordan,⁵¹ Leroy Johnson, Grace Hamilton, Benjamin Mays, Maynard Jackson, and others who were at the center of civil rights activity. Marsh was a member of numerous boards and councils including: the Southern Regional Council, the Voter Education Project Board, member of the Crusade for Voters leadership team, National League of Cities, and the National Conference of Mayors. Marsh also served as the chair of the Arts & Cultural Committee of the United States Conference of Mayors. He leveraged his connection with Jimmy Carter, by involving Richmond in the economic recovery program chartered by President Carter. Through his insider associations on the national level, Marsh was able to identify political strategies to inspire more effective tactics that would work on the local level. Locally, his civic, social, and political involvements helped him to glean valuable insider information, which informed his strategies. As a person who served alongside Whites on various appointments and committees, Marsh was also able to convince them to be more sympathetic to the plight of Blacks and even lend support to his social agenda.

Marsh's political career lasted for decades in part because he knew how to win elections. In several interviews, he recounts stories about running around conferences, the city, various organization's meetings (including the Crusade for Voters), between both black and white groups, getting the support needed to get into office. Marsh was

⁵¹ See Marsh, *The Memoirs*. Vernon Jordan was Marsh's classmate and introduced Marsh to Atlanta politics.

energized to run for city council after reading an editorial in the newspaper where the President of the Crusade for Voters said there was no need for any additional Blacks to run for office. Marsh took this as the Crusade refusing to endorse his candidacy for city council; now he really wanted to win. Marsh created a strategy around hiring poll workers to help him win the election without the endorsement from the Crusade for Voters. The Crusade had just stopped hiring poll workers at \$50 a day and the Richmond Forward paid its poll workers \$75 for the day. Marsh knew that he would need paid poll workers to be successful. At that point, Marsh took out a \$3,000 loan and hired poll workers, some of whom probably would have worked for the Crusade had they continued paying. Marsh's poll workers worked tirelessly, making sure they were the first and last people the voters saw. Marsh won.⁵²

Marsh utilized both black and white political organizations to ensure he would win future elections. Although the Crusade for Voters⁵³ did not actively support Marsh's campaign, he still went to them after he won and "praised them" for endorsing and supporting him.⁵⁴ By doing this, Marsh said that the Crusade for Voters backed him from then on because he protected them from any negative push back for not supporting a winning candidate by giving them the credit for his victory and not exposing their true

⁵² Marsh, *The Memoirs*.

⁵³ The Crusade for Voters was the black political authority in Richmond and worked to mobilized black voters. See Richmond Crusade for Voters, "A Guide to the RADA Richmond Crusade for Voters Archives 1953-1995," accessed March 17, 2018, https://richmondcrusadeforvoters.wordpress.com/history/.

⁵⁴ Marsh, *The Memoirs*.

motivations.⁵⁵ Marsh did not just do this with the black constituency, but he also went to the meetings hosted by the Democratic Committee and run by the Byrd machine. While the Democratic Committee had not supported Marsh, he still thanked them for their endorsement and gave them undeserved credit for his success. By doing so, Marsh was able to gain future endorsements in future races. Marsh's strategy involved doing the unexpected as a way of making "friends" and winning elections.⁵⁶

Marsh's Moderate-Militant approach won him elections. Often, the militant approach alone negatively affects the electoral process because the position is so polarizing. Conversely, a strict accommodationist approach may be rejected by many members of the black community. Marsh intuitively balanced these two leadership models knowing the only way to push his agenda was to first get into office, and the only way to get into office was to galvanize support from as many people as possible. The duality comes with the weight of garnering criticism from both radical Blacks and the white elite.

Marsh respected the law and if working within the system and sometimes adopting what might have been conservative agendas helped in navigating the Virginia Way, he was willing to take that risk.

Whether Marsh's leadership style was successful is relative to the goal being measured. Marsh successfully shed a much needed light on black-white relations in

⁵⁵ Ibid.

⁵⁶ Marsh, The Memoirs.

Richmond, while at the same time carrying out the black majority council's agenda. Clarence L. Townes, Jr., the founder and leader of the Richmond Renaissance, successful business leader, and contributor to an increase of Black influence on national policies, said of the Marsh led council that "in 1977 there was an absolute need to demonstrate that Blacks had the ability to lead. I think they did a pretty good job."⁵⁷

Summary

As Marsh entered politics, he quickly transitioned into a strong movement leader. With each progression from lawyer, to councilman, to Mayor, to the Virginia Senate there was more and more top down autonomy, lending greater room for calculated decisions and for the consequences of those decisions. Marsh maintained his law practice during much of his term on city council. Civil rights litigation was on the rise from the 1960s to the 1980s, so much so that the Hill, Tucker, Marsh Law Firm grew from two lawyers to fifteen lawyers.⁵⁸ Marsh felt passionately about fighting segregation by attacking supporting laws not only because the "Virginia Way" required it or because the NAACP and LDF found the legal method as an indispensable strategy, but because it worked. Marsh cites the *Green v. New Kent County* case as so significant that it

⁵⁷ Halsey, "Mayor's Ejection."

⁵⁸ Marsh, The Memoirs.

"dramatically sped up desegregation throughout the South."⁵⁹ Marsh also participated in other landmark segregation and discrimination cases that would provide legal relief that would greatly affect the quality of life for many Blacks.⁶⁰ Marsh noticed that when it came to leadership roles in the fight for Massive Resistance that white political and business leaders moved in silence.⁶¹ He surmised that if Blacks were to keep up in the fight against Massive Resistance, which was being led by Senator Byrd, Blacks would had to find a way to have a political voice.

After hearing on the radio one of the black political representatives saying that "black civil rights had been achieved," Marsh was even more motivated by this misinformed statement to take up the fight for equality. He took hold of his call to be a voice for social justice from both legal and political ends. ⁶² This was likely Marsh's first realization that as Blacks were finding their way to leadership roles in politics, not all black leaders looked at the state of the black community in the same light.⁶³ It was no secret that the motivation for Marsh's political career was to create social change. It was also no secret that as Mayor, Marsh did not want to merely hold a ceremonial position, but leverage his political capacity to uplift Richmond. He was clear that he wanted to be

⁵⁹ Ibid., 60.

⁶⁰ See Quarles v. Philip Morris, Inc., (1967),

⁶¹ Marsh, *The Memoirs*, 66.

⁶² Ibid., 85.

⁶³ Ibid., 89. Marsh stated, "One thing that motivated me to keep fighting [for additional black representation on Council] was that there were black people serving on the City Council who claimed to be speaking for the black community but who were saying things detrimental to their constituents."

the mayor for *all* people, landing him in the Accommodationist-Moderate category of leadership. However, Marsh's white constituents felt that Marsh was the mayor for black people, criticizing his leadership as radical and nationalist, which cast a Militant-Radical light on his leadership approach. This critique was made notwithstanding the fact that Richmond, VA had had a majority black population in 1977 and for most of its history.⁶⁴ In Marsh's mind, any social change that positively impacted black communities were also positively impacting the entire Richmond population, thus supporting the argument that Marsh best fits in the Moderate-Militant approach as a black leader.

This discussion draws on the work of Manning Marable and Richard Keiser who have written extensively on civil rights leadership models and black leadership models in order to assess Marsh's leadership style from the beginning of his career in 1961 to his retirement in 2014. Black leadership is very complex because not all black influential voices held homologous social and political views, objectives, or strategies. Richard Keiser's treatment of the dialectic that exists between Black leadership was spawned in part from Cornell's West giving attention to the subject in *Race Matters*, where he alludes to the fact that there is a crisis of black leadership.⁶⁵ While Keiser points to the

⁶⁴ See Lewis A. Randolph and Gayle T. Tate. *Rights for a season: The politics of race, class, and gender in Richmond, Virginia.* Univ. of Tennessee Press, 2003 ("The increase in Richmond's black population since 1960 can basically be traced to the steady migration of southern rural Blacks to the city in search of jobs and upward mobility, and to the out mitigation of the white middle class, which left the black city in large numbers between 1950 and 1980. For instance, since 1950, the city has been consistently losing an average of 5 to 10 percent of its white population…").

⁶⁵ Keiser, *Subordination or Empowerment*?, citing Cornel West, *Race Matters*, 39-40 "stunt progressive development and silence the prophetic voices in the black community by casting the practical mainstream as the only game in town."

fact that West did not elaborate on what made bad leaders "bad" or distinguish any attributes that made the second group better, other than general leadership character traits, this dissertation provides the opportunity to look at two common types of Black leaders by placing Marsh within Keiser's and Marable's discussion. Marable posits that any interpretation of the contemporary status of Blacks in the United States must consider the leadership paradigms of civil rights activists of the 1950s and 1960s.⁶⁶ These "contradictions" are examined in this chapter. The dominant discourse on black leadership paradigms have often dichotomized the typology of black leadership into two categories, Accommodationist/Moderate and Militant/Radical, with an emerging third approach called Moderate-Militant.

By grouping black political leadership in two dichotomized categories, black leaders are often lumped into one or the other, those who are willing to align with non-Blacks and those who reject even limited alliances with non-Blacks. Even if a black political leader aligns with Whites to meet a black community driven objective, they could still be considered an Accommodationist to those in the black community. Likewise, black political leaders who refuse to placate Whites are often regarded by the white community as nationalist or radical types of leaders. Neither positions are totally black or white, thus the assumptions are not necessarily true.

I contend that broadly categorizing black politicians into one of two groups without the context of the time period in which they were leaders creates a biased lens by

⁶⁶ Marable, *Black Leadership*, 150.

which we analyze the historical record. The historical context to be considered here is the fact that there were many black mayors elected for the first time all over the South around the time Marsh made history in Richmond in the 1970s. Black mayoral leadership was on the rise during Marsh's era of leadership. Marsh's transition into power in Richmond paralleled other southern cities. Nevertheless, it must be considered that Richmond had been the seat of the confederacy, making his rise to power all the more noteworthy. It should also be noted that his accomplishment seemed somewhat diminished by the cloud of white fury against him for his decision to fire the white city manager at the inception of his mayorship.⁶⁷ The response of many black mayors under these circumstances was to make every effort to temper the confrontation, which led to what some called racially accommodationist leadership.⁶⁸ Marsh distinguished himself from other Accommodationist-Moderate political leaders saying that he was a leader who pushed the "party's" agenda before his personal interests.⁶⁹ Marsh, aware that not

⁶⁷ Cabell Library, "Interview with Sen. Henry L. Marsh, III" and "Explorations in Black Leadership: Henry Marsh," interview by Julian Bond. A similar scenario played out in 1981 in Birmingham where Whites became uneasy after Mayor Richard Arrington endorsed an all-black slate for five council vacancies in 1981. Also, Mayor Maynard Jackson rattled the conservative base when he attempted to fire an Old South police chief in Atlanta. In fact, the resistance black mayors faced from white bureaucracies was to be expected and the stark reality was that "a black mayor, even in a city with a black majority or plurality, still had to deal with Whites acting as the primary source of the city's economic resources" (Biles, "Black mayors," 116). Richard Hatcher was elected Mayor in Gary, Indiana, Carl Stokes elected in Cleveland, and Walter Washington in Washington, D.C.

⁶⁸ See Biles, "Black Mayors."

⁶⁹ Marsh, (Interview for Marsh Memoirs (Unpublished)), interview by Jonathan Stubbs and Danielle Wingfield-Smith, General Assembly, "Marsh Memoirs Interviews," *Memoirs of Henry L. Marsh, III*, Record, 2013.

everyone agreed with his leadership style, used the opposition to fuel his political prowess.

CHAPTER SIX

FINDINGS AND IMPLICATIONS

In this final chapter, the research questions will be answered. The following sections offer concluding thoughts and implications that this research has for contemporary education and legal discourse.

Research Findings

1. What was the social-political environment in Virginia during Marsh's time as a lawyer, politician and leader?

Virginia's social-political environment provides a special case study because it serves as an example of the extremes of both justice and injustice. Virginia's sociopolitical environment, which was once welcoming to settlers and an example of a safe place for new beginnings for all people, became an example of a race-based justice system where laws discriminately punished people based on skin color during Marsh's time.¹

Virginia could be considered the birthplace of institutionalized racism and is identified in historiographical debates as a prime example among states who implemented such discriminatory systems to the point that the progression of these laws became the topic of great scholarly discussion beginning in the 1950s.² While colonial Virginia did not monopolize racism or slavery, Virginia's introduction of black laborers and the ensuing racial prejudice against them that would follow, makes the state a central player.³ The landmark *Plessy v. Ferguson* case ruling that legitimized segregation ushered in the era of legally mandating Jim Crow and segregationist laws. Virginia was not the first state to legalize black disenfranchisement in the early 1900s, likely because there was a small population of Blacks in the state and hardly no black political power during the Reconstruction period.⁴

Historically, the Deep South is generally regarded as the main battleground of the Civil Rights Movement, Virginia has often been overlooked in the discussion. However, Virginia was legally at the forefront of race debates throughout the movement, with the

¹ Jonathan Stubbs, "Concluding Essay," in Henry L. Marsh, *The Memoirs of Hon. Henry L. Marsh, III: Civil Rights Champion, Public Servant, Lawyer*, Jonathan K. Stubbs and Danielle Wingfield-Smith, Eds. (GrantHouse Publishers, 2018).

² Alden T. Vaughan, "The origins debate: slavery and racism in seventeenth-century Virginia," *The Virginia Magazine of History and Biography* 97, no. 3 (1989): 311-354.

³ Ibid., 311.

⁴ Michael Klarman, From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality (New York: Oxford University press, 2004), 171-73.

NAACP filing more lawsuits in Virginia than any other state. Many landmark decisions originated in Virginia, and as a matter of fact, fifteen years before freedom rides, a Virginian woman named Irene Morgan filed the first lawsuit to desegregate bus transportation systems.⁵

By the time Marsh entered the scene in the early 1960s Virginia's Massive Resistance effort had become the national model for southern states to resist integration. The segregationist socio-political environment that was so pervasive at the time that Marsh moved back to Richmond, VA to practice law in 1961 was the direct result of a history of institutionalized racism. Schools, juries, and busing were segregated. He would go on to have a hand at fighting to integrate them all.

Henry Marsh's engagement with Virginia politics required him to understand the Commonwealth's distinct racial dynamics. Marsh, an understudy of "the best local civil rights lawyers we had anywhere in the South" according to Judge Robert L. Carter and "the strongest team of civil rights lawyers working in the South" according to historian Patricia A. Sullivan, had the requisite training to tear down the vestiges of slavery case by case in a place where it refused to die.⁶ Virginia lawyers like Hill, Marsh's mentor, "filed, or oversaw the filing of, more lawsuits demanding equal schools than any other

⁵ Virginia Museum of History and Culture, "Jim Crow to Civil Rights in Virginia," Virginia History Explorer Collection, https://www.virginiahistory.org/collections-and-resources/virginia-history-explorer/jim-crow-civil-rights-virginia

⁶ Margaret Edds, *We Face the Dawn: Oliver Hill, Spottswood Robinson, and the Legal Team That Dismantled Jim Crow* (University of Virginia Press), 2018, 148.

grassroots legal team in the nation."⁷ Clearly, there was much work to be done in Virginia as it concerned school integration and the rest of the nation was looking.

While the 1954 *Brown* decision declaring state sanctioned desegregated schools illegal marked a shift from the historic *Plessy* "separate but equal" precedent, Virginia's white elite quickly focused its attention on the legal authority given by *Brown* that allowed states to end segregation with "all deliberate speed."⁸ As noted in Chapter Two, Harry F. Byrd who was a former Governor of Virginia and the state's eldest United States Senator, having served as a Democrat from 1933 until the mid-1960s, led the resistance campaign to fight the Court's ruling in *Brown*. The 1950s were the height of Byrd's political influence. The Byrd Organization, which served as the South's leader in Massive Resistance, was a direct product of the "Virginia Way." The genteel political protocol required those within Virginia's legal and political systems to follow the law. For segregationists, this meant that the *Brown* decision put the very foundation of Virginia's structural racism at risk.

In the aftermath of *Brown*, there was an urgency and desperation from segregationists to maintain control and push their agenda forward. While some southern states managed to desegregate peacefully, the result in some states like Arkansas, was violent resistance that required federal troops to maintain control. In contrast, Virginia's resistance was subtle. It was easy to give greater attention to the extreme violence that

⁷ Ibid., 168.

⁸ Brown v. Board of Education (1954).

Blacks faced in the Deep South, overlooking the understated racist agenda of those like Byrd who were organizing out of Virginia. Byrd organized at the legal level to create a resistance that would not impact nine students trying to enter one schoolhouse, but would be built into the structure of society, leaving a lasting impact on all little black children seeking to engage their right to attend integrated schools. It took Byrd only one month to garner the support of one hundred other politicians in the South to sign what became later known as the "Southern Manifesto," which made the argument to the Supreme Court that the Court's judgment mischaracterized its power concerning states' rights.

Virginia was a political machine that circumvented the supreme law of the land, using the power and influence of men who controlled the Virginia General Assembly and were in positions of authority to maneuver around federal laws and statues. While grassroots movement leaders like Martin Luther King and other pastors and organizations like SNCC and CORE rallied to demonstrate and against violence with marches and sitins, black lawyers were working in the background fighting the legal battles. These lawyers used legal cases to enforce the federal laws and statues that were being circumvented. As long as laws and policies institutionalized racism and discrimination against people of color, very limited tangible progress could be made.

Virginia school closings and the resistance in response to the *Brown* decision sent a strong message that to fight on the battleground for equality would require political power and legal strategies to counter a very strategic resistance. The subtle nature of Virginia's Massive Resistance was dangerous because it is able to produce and reproduce race-based inequality at many levels. The reinforcement of the pillars for the inhumane treatment of others for the purpose of uplifting one at the expense of another is dangerous because by it, the systematic oppression of people groups becomes a norm that is critical to the maintenance of an array of benefits only for those who are in the protected class. All of this proved to be a major challenge to school desegregation—and still is.

2. What influenced Marsh's thinking about education and the law?

At the root of Marsh's thinking about education and the law was Marsh's early experience with segregated schools during his formative years. He went to a one room school with one teacher and seven grades of seventy-six students in rural Rescue, Virginia. His teacher traveled across several cities to teach in rural Isle of Wight County during the week. He witnessed his white counterparts travel to school on a school bus while he and his black peers walked five miles (or less depending on the water levels and weather) to and from school. This story of Marsh's early school experiences is one that he tells in every one of his documented interviews.⁹

Marsh moved to Richmond, Virginia in the fifth grade when the city's schools were still segregated. He recounted walks to school in very harsh winter weather conditions because black students could not ride the bus like their white counterparts. He only realized after becoming a civil rights lawyer that those conditions were unfair. In

⁹ See Marsh, (Interview for Marsh Memoirs (Unpublished)), interview by Jonathan Stubbs and Danielle Wingfield-Smith, General Assembly "Marsh Memoirs Interviews," *Memoirs of Henry L. Marsh, III*, Record, 2013. See also James Branch Cabell Library Special Collections and Archives, "Interview with Sen. Henry L. Marsh, III." Voices of Freedom, VCU Libraries Digital Collection, March 20, 2003, accessed February 08, 2017, http://dig.library.vcu.edu/cdm/ref/collection/voices/id/6. Ariana Westbrook, "Marsh, Henry L., III (1933-) | The Black Past: Remembered and Reclaimed," accessed February 10, 2017, http://www.blackpast.org/aah/marsh-henry-l-iii-1933.

high school, Marsh's perspective broadened from seeing segregation as a detriment and saw it more as an opportunity due to the genuine concern and care that he experienced from his teachers who took the time to prepare him not only to be a good student, but to be a black man who could function successfully in the real world.

Marsh was profoundly influenced by several teachers and one principal. Dr. Bright, Marsh's principal, took the time to ensure Marsh was in the correct courses and grade levels. Educators such as Marsh's elementary school teacher in Rescue, Virginia, Ms. Owens and Ms. Woods went to great lengths to ensure that their students were wellprepared.¹⁰ Each approached teaching with a passion to help students master academic subjects, develop leadership skills, and cultivate good morals and values. According to Marsh and based on research on teachers during the movement, teachers were deeply invested in the success of their black students.¹¹ Such teachers held high expectations for Marsh; while they didn't know he would become a member of the legal and political front lines against school inequality, they knew that he was more than capable. In keeping with their standards of excellence, Marsh's teachers made the investment necessary to see that he would meet his full potential.

Marsh had to reconcile two competing perspectives. On one hand Marsh experienced being a student in a one room wooden school house where the educational and social disparities were grossly significant. On the other hand segregated schools

¹⁰ See the Teachers in the Movement project, which studies teachers' ideas and pedagogy in their classrooms and communities during the Civil Rights Movement, https://teachersinthemovement.com/.

¹¹ Ibid.

provided a community experience where Marsh could receive specialized care from teachers who knew what it meant to be Black in the Jim Crow South. Ultimately, Marsh could not get over the inequalities between the academic opportunities at black schools and white schools in Richmond. The black schools lacked resources, there were not enough teachers to offer separate classes for different subject areas, and Marsh knew that these types of differences limited learning.

Marsh's formative years not only shaped the way he framed the fight for integrated schools, but also framed the way he thought about political and legal strategies. After an experience with bullying in high school, Marsh learned that "you're always going to have bullies and you have to stand up to them. Bullies, the big guys, the tough guys, will always attempt to jump on the little guys."¹² Marsh took this mindset with him into his life as a lawyer, politician and community leader where he gained a reputation as a savvy advocate who stood ready to take on the "tough guys." Marsh successfully found ways to gain a seat at the table with those in positions of power, even the opposition. His ability to find his place in spheres of power came out of his experience with bullies. A more detailed analysis of this strategy is discussed below.

Aside from his formative school years and family rearing, which included his aunt taking him on a bus with other young black kids to NAACP meetings, his college years and mentors largely impacted the way he approached education and the law. The *Brown* decision was handed down while Marsh was attending Virginia Union University. Marsh

¹² Marsh, *The Memoirs*.

was an activist even during his undergraduate years. Having decided he wanted to be a lawyer in high school, he naturally gravitated to education, which was the most pressing issue at the time. Marsh saw that Virginia was trying to divert money from public to private schools to circumvent the *Brown* decision and Marsh knew that having public funds to support segregation was illegal and counterproductive. Marsh went to the General Assembly session where the law was threatened to be changed and spoke as the president of the Virginia Union student body. This was one of the earliest instances where Marsh is seen taking a stake in the fight for desegregation. This was also the first time Marsh would meet Oliver Hill, the person who would become his future mentor and would also be responsible for shaping his thinking about education and the law.

Hill was trained by Charles Hamilton Houston who believed that lawyers were one of two things, social engineers or parasites on society.¹³ Hill passed this philosophy to Marsh who took the task of engineering social change. Houston had conceptualized and led the legal strategy for the landmark *Brown* case. His mentees: Thurgood Marshall, Spottswood Robinson, Oliver Hill, and others carried the battle forward. Many of the leaders in the movement received their degrees from Howard University School of Law, which also had its part in shaping Marsh's philosophy on education and the law.

3. How did Marsh navigate the legal and political terrain of Virginia in his efforts to desegregate schools?

¹³ "Our History," Howard University School of Law, http://law.howard.edu/content/our-history.

The Founders of America often grappled with the issue of political corruption, especially as it concerned legal and political terrains.¹⁴ Virginia's political landscape was systemically corrupt to its core, as evidenced by the very way in which the system treated people of color. A prevailing view was that lawyers and politicians were swindlers. Marsh, aware of this, went into law and politics with the goal of being savvy enough to stay out of the sometimes scandalous nature of the trade.¹⁵ Marsh used the example of his father for the type of moral integrity he aspired to achieve in his career. Marsh's father, a pastor who received his degree in theology from Virginia Union, preferred pastoring rural churches because they "needed" him.¹⁶ He worked twelve hour days and weekends to support his family, and to also help the church, where he often used his personal funds to cover the cost of special projects and to make repairs.¹⁷ Marsh desired to go be a lawyer and politician of integrity. According to Marsh, successfully traversing the legal and political terrain of Virginia required "fighting for the correct result both morally and legally."¹⁸

The fight to desegregate schools and to challenge other injustices would mean taking on many cases, often unpaid or underpaid. Sometimes the Legal Defense Fund

¹⁴ John Joseph Wallis, "The concept of systematic corruption in American history," In *Corruption and Reform: Lessons from America's economic history*, 23-62 (University of Chicago Press, 2006).

¹⁵ See Marsh, *The Memoirs*.

¹⁶ Marsh, *The Memoirs*, 28.

¹⁷ Ibid.

¹⁸ Marsh, *The Memoirs*, 58.

(LDF) would provide support for these cases, but many times they would not. Marsh considered the overwhelming caseloads as being one of the most challenging aspects of his law practice between the 1960s and 1980s.¹⁹ Taking on a large number of cases was necessary to make a dent in segregationist activity in Virginia; the other piece of the strategy was choosing the right cases. Marsh and Tucker, his partner, were aware that they had the opportunity to set precedent with their cases, having an impact on the justice system for decades to come. This was often in the back of Marsh's mind. Marsh told the story wherein he had already won the case, but argued it for the sake of setting a precedent anyway.²⁰

Another instance where litigation strategy played a large role was in the *Green vs. New Kent County* case. There were times where the cases did not come to Marsh, but he had to choose cases to pursue that would aid in the goal of desegregation. This required foresight and ingenuity. The strategy for *Green* came to mind during in the middle of the night when Marsh and Tucker were working on other cases. This case led to a critical Supreme Court ruling on school desegregation that dramatically increased the number of school districts who would comply with the *Brown* mandate to integrate.

Mentorship was important factor in Marsh's success. Marsh says that "we [those who continue to stand on the front lines in the fight for justice] stand on the shoulders of

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¹⁹ Ibid.

²⁰ Ibid, 123.

giants."²¹ This is one of the first steps to carving out a strategy for social justice. Marsh suggests that one of the reasons he chose Hill as a mentor was because Hill was regarded as the "spiritual, intellectual, and moral leader of the movement" and Marsh suggests Hill should be a more emphasized figure in the movement.²² Another of Marsh's mentors and law partner was Samuel W. Tucker. One of Tucker's greatest qualities as a litigator was his ability to strategize. He possessed the ability to simplify extremely complicated cases, easily finding the legal issue and creating a plan of attack. Tucker was also a person unafraid; he was one who would never back down in the courtroom until the other side retreated. The two of them, Marsh and Tucker, navigated the legal concourse of Virginia together, defending cases from one end of the State to the other.

Other strategies that helped Marsh navigate Virginia's legal and political terrain where concepts like fearlessness, strong community leadership, and persistence. Marsh used the term "staying power" to explain how he and other civil rights attorneys' had the ability to outlast the opposition.²³ One Norfolk school desegregation case lasted from 1963 and did not end until 1982. Marsh said, "It was a multi-year battle, but we didn't give up. We kept fighting and wore them out. Perseverance."²⁴

²⁴ Ibid.

²¹ Marsh, *The Memoirs*, 125.

²² Marsh, *The Memoirs*, 126. See also Brent Tarter, Oliver Hill, Sr., December 30, 2007, *Richmond Times Dispatch* http://www.richmond.com/news/oliver-white-hill-sr/article_d81ff9e1-9742-5a8f-8378-6b5c8f6768ef.html.Marsh supports this claim stating "*The Richmond Times Dispatch* has historically been one of the least progressive newspapers in supporting human equality; however, it did an about face and in 2007, chose Mr. Hill as the most influential Virginia of the Twentieth Century."

²³ Marsh, *The Memoirs*, 58.

It is also necessary to see past superfluous and meaningless concessions, with resolve to not so quickly call the battle won. There were instances where, on its face, the school district had desegregated and the court mandated that the district would no longer be able to assign students to a school based on race. Moreover, it was conceded that black students could elect to go to whatever school they desired. However, Marsh saw this proposal unconstitutional because it still did not impose a desegregated faculty. It also didn't address the fact that white students were very likely not to elect to go to a black school. This proposal solved nothing, and Marsh perceived the problem and push back.

To the extent that Marsh's navigation was successful, he arrived at one intended destination, although not the final one. As noted in previous chapters, some scholars question whether or not litigation is effective for producing real social equality because it requires the other branches of government to carry out these hard fought rights.²⁵ However, other scholars show that litigation is a tool for sparking social movements, which can lead to mobilization and then, political action. Marsh had his hand in major Virginia cases that shifted segregation in the areas of bussing, school integration, and employment discrimination. *Green v. New Kent County* and *Bell vs. Powhatan* were among the cases that would set legal precedent thereby making a lasting impact.

4. What leadership strategies did Marsh use to navigate Virginia's racial politics?

²⁵ Steven C. Tauber, *Navigating the Jungle: Law, Politics, and the Animal Advocacy Movement* (Routledge, 2015).
Chapters four and five go into great detail about the leadership strategies Marsh used to navigate Virginia's racial politics. Some broad themes that were identified are outlined here. Marsh's proclivity for leadership showed up early in his life. He held leadership positions in both High School and College. At Union, the stunt he pulled speaking on behalf of the school as the President of the Student Union without getting permission first, speaks to the heart of Marsh's leadership style. An early activist, shaped by social ills created by the hand of Jim Crow laws, Marsh knew that being a trained lawyer would be one of his most powerful tools to navigate Virginia's racial politics. Thus, one of his first decisions was declining to pay and take an entrance test to get into the University of Virginia School of Law and going on scholarship to Howard University where some of the nation's most notable black leaders were trained.

Another foundational strategy employed by Marsh involved his commitment and respect to law and working within the confines of the "Virginia Way." Even after Marsh saw how segregationists reacted to the *Brown* decision, Marsh had hope that Virginia's white elite would obey the law. This was Marsh's first lesson at the sinister nature of the "Virginia Way" with the Byrd Machine leading the charge. He knew that fire had to be fought with fire, and if any substantial change was able to take place it would have to be through litigation and changing the law and having a seat at the table where the rights won in court are put into action. Marsh recognized that he would have to be several steps ahead, identifying all of the excuses white leaders would conjure up to avoid integrating schools. Therefore, Marsh used both the law and public office to combat Jim Crow and Massive Resistance.

During the 1970s when Marsh became Richmond's first black mayor, racial politics was very charged. Another political maneuver was finding a way to get into office. Research has shown that during this time some of the most noticeable progress made was indicated by Blacks winning positions in public office as mayors. This was an important shift because generally, the mayoral position is the "highest degree of local empowerment," which was a sign that Blacks had garnered a high degree of political clout.²⁶ For Marsh to become the Mayor of Richmond at the time that he did sent a message to the white elite that times were changing.

Getting into office also required maneuvering, which is one of the first times we see Marsh's Militant-Moderate leadership style emerge. Marsh faced opposition from black leaders at the helm of the Virginia Crusade for Voters as well as by the white elite. Marsh didn't let that deter him; he worked around the problem by first, garnering votes by galvanizing pastors and their congregations and second, by paying for poll workers. This demonstrated the idea is that often unconventional tactics and extra efforts may be necessary at times to achieve a goal. After Marsh secured the victory, he would purposefully give the credit for his win to those who opposed him, including the white elite. Marsh credits this tactic, giving people credit who have not earned it, for his future political success.

²⁶ Lawrence Bobo and Franklin D. Gilliam, "Race, sociopolitical participation, and black empowerment," *American Political Science Review* 84, no. 2 (1990): 377-393.

Marsh, after reflecting on his time in office, realized that navigating Virginia's racial politics, and political arenas in general, requires a thoughtful approach. Marsh was accommodationist as a leader because he was not afraid of working with all sides to meet his objectives. Occasionally, Marsh would find that his perceived "enemies" were not enemies at all; other times, he would find that there was no room for agreement, and in those cases he had them close enough to monitor their behavior to inform preemptive counterattacks. It was not unusual to find Mayor Marsh playing tennis with white politicians to gain their support, while at the same time rallying black support in order to pass legislation that would move his agenda for social progress forward. It was also often the case that Marsh found his way into affluent inner circles for the purpose of increasing his political reach. By doing so he aimed to give the white elite a false sense of power, freeing the black-majority council to focus on policy making and maintaining the real control.

Although Marsh's term was cut short as Mayor, he found his way to the table. Marsh was an independent thinker and when asked specifically whether or not he was conscious of these strategies during his political career, he was clear that he was thoughtful about his maneuvering and that he had to be as a black leader.²⁷ Marsh also suggested that his most important strategy, until now, has been to keep his strategies to himself. This was a lesson hard learned. After meeting with three other black leaders in a private meeting, in another city, to talk strategy, Marsh returned to Richmond to only

²⁷ Henry L. Marsh, in discussion with the author, May 2018.

receive a call from an outside person telling him that the strategies that were discussed in private had been leaked. Marsh decided then that in order for his plans to be successful, his political game plan must be kept to himself.²⁸

Implications for Contemporary Education and Legal Discourse

Educational justice is indispensable. It is education that fuels the contributions of individuals and allows for the advancement of a collective people. Injustice has eroded the underpinnings of great nations. The United States of America, recognized as one of the greatest of all nations, has ideologically stood as a beacon for human rights across the world, yet it has never lived up to its mantra of justice for all. Quite to the contrary, from her inception until today, America has systematically disenfranchised many. In doing so, educational injustice has been key to perpetuating the disadvantaged status of the burden bearing class.²⁹

Words like "racism" paint painful pictures that contemporary society would like to confine to the annals of times gone by. Yet, addressing the issue of educational injustice on the basis of race has been paramount to realizing a society wherein the American dream has come within arm's reach of a people who otherwise would have had

²⁸ Ibid.

²⁹ See Horace Mann Bond, *The education of the Negro in the American social order* (Octagon Books, 1934); Henry A. Giroux, *Theory and resistance in education: A pedagogy for the opposition*, 1983; and Howard Zinn, *A people's history of the United States: 1492-present* (Routledge, 2015).

no hope of seeing it at all. It was not so long ago that leaders in the black community would have to rise up in the face of seemingly insurmountable odds.

In 1776, the United State adopted the motto "out of many one," signifying the union of many people coming together to make one nation. Almost 200 years later, in 1964, ten years after the monumental *Brown vs. Board of Education* decision, it was necessary, more than ever, that the leaders of the Civil Rights Movement embark on yet another journey into the darkness of American injustice. Marsh's personal story highlights the nuances of the nefarious system that he would sacrifice much of his life to rectify. Sadly, the educational system and the condition of black people overall is still in a state of ill-repair. While the context of specific time periods are important to the historical perspective, the application of Marsh's legal and political insight can provide useful lessons to those fighting in the continuous battle for social justice.

The resistance in the aftermath of *Brown* speaks to the insidious nature of the ruling class' unwillingness to see Blacks as humans worthy of the basic entitlements that all men should share. Education is the foundation of mobility in society. To read, to write, to understand mathematics and to rightly comprehend the systems around which our country functions is of the utmost necessity. Education is the opportunity to explore spirituality, grow intellectually, and to secure the necessities of life. To deny Black's educational justice was indeed the key to maintaining the "Virginia Way." This entrenched notion that black people could never be educated alongside Whites, despite the laws that made segregation illegal, was the fear that black children and white children would come together. Regardless of the intellectual prowess of Marsh and those like

him, many Whites stood their ground. In the long run, this would prove futile as after many hard fought battles to force schools into compliance, educational systems in Virginia would be integrated. The legal precedent set by the cases tried by Marsh are worth revisiting to assess whether or not the spirit of the law is being upheld. Further, the strategies that Marsh used to leverage resistance by the white elite has lessons for today's social activists and movement leaders.

It has been over 60 years since *Brown vs Board of Education* handed down the ruling that Blacks and Whites would be educated together in the same facilities, yet the issue of race and equality are still at the forefront of the American conscience. Current events in the US include: the resurgence of the KKK in the form of the Alt-Right marches in Charlottesville, VA and elsewhere in response to removing confederate monuments, conversations about an attack on affirmative action in higher education in the *Fisher v*. *University of Texas at Austin* case, police brutality nationwide, the Federal government's paranoid response to the emergence of a new movement called *Black Lives Matter*, and the debate that is once again taking place regarding the impact of Charter Schools on the general population of students in Richmond, VA.

Many of these issues are reminiscent of issues Marsh and his contemporaries grappled with and fought against. This historical study may offer insight to those studying black politics, social movements, movement leaders, lawyers, and the ways racist pasts are memorialized. Marsh believes that the current charter school movement is troublesome considering the history of Massive Resistance. Marsh believes that "the Charter school is a way of separating out poor and black people from white people who don't want to be bothered with them. The Charter schools also drain funds from already poorly funded local schools." Using the past to inform contemporary issues like charter schools, helps to extend the purview of the positive and negative impact the choices and decisions we make today will have on our children's future.

As it concerns emerging social movements like the Black Lives Matter Movement, Marsh believes that one of the only ways that it will be able to have sustained success is if they are able to get the white elite and those in power involved.³⁰ This speaks directly to his strong feelings about the effectiveness of Militant-Moderate leadership. He also restated the importance of mentorship and placing an emphasis on movement leadership.

Marsh believes "There will always be a fight for equality; it will never end. However, we are closer now than we were before, but it is all at stake. Urgency is in order." The same fight that was passed from Hill to Tucker and then to Marsh is the same fight that is being passed to movement leaders today. The work of Marsh as a civil rights lawyer, politician, and leader can provide us with great insight into how to address the complex racial politics that confront us in 2018. Perhaps working within the system to change it, while aggressively fighting the system from the outside might work today as it did for Marsh in his time. At the least, history warrants that we consider Marsh and seriously consider his strategies as it concerns issues of social justice today.

³⁰ Henry L. Marsh, in discussion with the author, October 2017.

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